

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 22 November, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1977.

An Act to amend the Hunter District Water, Sewerage and Drainage Act, 1938, with respect to penalties for certain offences, hot water plumbing, water meters and the power of The Hunter District Water Board to inspect land.

BE

Hunter District Water, Sewerage and Drainage (Further Amendment).

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

5 **1.** This Act may be cited as the "Hunter District Water, Short title.
Sewerage and Drainage (Further Amendment) Act, 1977".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

 (2) Section 5 shall, in its application to a provision
10 of Schedules 1-4, commence on the day on which that
provision commences.

 (3) The several provisions of Schedules 1-3 shall
commence on such day or days as may be appointed by the
Governor in respect thereof and as may be notified by
15 proclamation published in the Gazette.

3. The Hunter District Water, Sewerage and Drainage Principal
Act, 1938, is referred to in this Act as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

20 **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL
ACT RELATING TO INSPECTION OF PROPERTY.**

**SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL
ACT RELATING TO OFFENCES AND PENALTIES.**

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CONTROL OF HOT WATER PLUMBING.

5 SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE UNLAWFUL TAKING OF WATER.

5. The Principal Act is amended in the manner set forth in Schedules 1-4. Amendment of Act No. 11, 1938.

SCHEDULE 1.

Sec. 5.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

(1) (a) Section 38 (1)—

15 Omit "may enter upon any land or building at any reasonable hour in the daytime and at any hour during which business is in progress or is usually carried on in the premises", insert instead :—

may—

20 (a) enter land or a building or premises other than a dwelling-house at any time ; and

(b) enter a dwelling-house at any reasonable time during the day,

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(b) Section 38 (1)—

5 Omit “ascertain the character and condition of
the land or building and of any pipe, sewer,
drain, or fitting in connection therewith.”, insert
instead :—

ascertain—

10 (c) the character and condition of the
land or any dwelling-house or
other building or premises on the
land;

15 (d) the condition or location of any
pipe, sewer, drain or fitting used
in connection with the land or
any dwelling-house or other
building or premises on the land;

20 (e) whether any waste, misuse or
undue consumption of water
supplied by the board is
occurring; or

25 (f) whether any offence against this
Act, the regulations or the by-
laws has been or is being com-
mitted.

(2) Section 38 (1A)—(1D)—

After section 38 (1), insert :—

30 (1A) Subject to subsection (1B), where the board
proposes by its officers or workmen to enter any land
or a building or premises it shall cause notice in

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

5 writing to that effect to be served on the owner or occupier of the land, building or premises before it attempts to enter the land, building or premises.

10 (1B) Where in the opinion of an officer of the board prescribed by a regulation for the purposes of this subsection undue delay would occur by reason of the serving of a notice referred to in subsection (1A), that officer may authorise the board's officers or workmen to enter the land, building or premises although that notice has not been served.

15 (1C) For the purpose of gaining entry to any land or a building or premises, not being a dwelling-house, the board may, by its officers or workmen, use reasonable force.

(1D) It is the duty of the board, where any land or a building or premises—

20 (a) has or have been entered without the notice referred to in subsection (1A) having been served; or

(b) has or have been forcibly entered under an authority given under subsection (1B),

25 to cause such persons or authorities as appear to it to be appropriate in the circumstances to be promptly informed of the action so taken.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(3) Section 38 (2)—

5 Omit the subsection, insert instead :—

10 (2) If a pipe, sewer, drain or fitting referred to in
subsection (1) is found on inspection to be made to
the satisfaction of the board and in proper order and
condition, and if no waste, misuse or undue consump-
tion of water supplied by the board is occurring, and if
no offence against this Act, the regulations or the
by-laws has been or is being committed, the board
shall cause the pipe, sewer, drain or fitting and the
land, building or premises to be reinstated and made
15 good as soon as practicable and the costs and expenses
of the inspection, reinstating and making good shall be
defrayed by the board.

(4) Section 38 (4)—

20 Omit “removal, alteration, or repair”, insert instead
“any entry and any inspection made under subsection
(1) following which a direction under this subsection
is given and of the removal, alteration or repair by the
board of any pipe, sewer, drain or fitting”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES.

(1) Section 39—

5 Omit “shall be liable, on summary conviction, to a
penalty not exceeding twenty dollars”, insert instead
“is guilty of an offence under this Act and liable, in
the case of a corporation, to a penalty not exceeding
10 \$5,000, or, in any other case, to a penalty not
exceeding \$500”.

(2) Section 46 (4), (4A)—

Omit section 46 (4), insert instead :—

15 (4) A person who acts in contravention of the
provisions of subsection (3) is guilty of an offence
under this Act and liable to a penalty not exceeding
\$200.

20 (4A) A person who knowingly employs another to
commence or perform work referred to in subsection
(3) in contravention of this section is guilty of an
offence under this Act and liable, in the case of a
corporation, to a penalty not exceeding \$2,000, or,
in any other case, to a penalty not exceeding \$200.

(3) Section 101 (6), (7)—

25 Omit “shall be liable to a penalty not exceeding ten
dollars” wherever occurring, insert instead “is guilty
of an offence under this Act and liable, in the case
of a corporation, to a penalty not exceeding \$1,000,
or, in any other case, to a penalty not exceeding
\$100”.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(4) (a) Section 130 (1) (a)—

5 Omit “but no such penalty shall exceed one hundred dollars”, insert instead “in the case of a corporation, not exceeding \$10,000, or, in any other case, not exceeding \$1,000”.

(b) Section 130 (1) (b)—

10 Omit “not exceeding ten dollars per day”, insert instead “, in the case of a corporation, not exceeding \$500, or, in any other case, not exceeding \$50”.

(5) Section 135A—

15 After section 135, insert :—

135A. (1) Proceedings for offences under this Act, a regulation or a by-law may be taken before a court of petty sessions or before the Supreme Court in its summary jurisdiction. **Proceedings for offences.**

20 (2) If proceedings in respect of an offence under this Act, a regulation or a by-law are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, the regulation or the by-law, as the case may be, 25 \$2,000 (including any daily penalty) or the maximum penalty provided by this Act, the regulation or the by-law in respect of the offence, whichever is the lesser.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

5 (3) If proceedings in respect of an offence
against this Act, a regulation or a by-law are brought
in the Supreme Court in its summary jurisdiction, the
Supreme Court may impose a penalty not exceeding
the maximum penalty provided by this Act, the
10 regulation or the by-law, as the case may be, in
respect of the offence.

(4) Proceedings in the Supreme Court in its
summary jurisdiction in respect of an offence against
this Act, a regulation or a by-law may be commenced
15 only within six months after the offence was
committed.

(6) Section 139 (1)—

Omit "shall for such offence be liable to a penalty
not exceeding ten dollars", insert instead "is guilty of
an offence under this Act and liable, in the case of a
20 corporation, to a penalty not exceeding \$1,000, or,
in any other case, to a penalty not exceeding \$100".

(7) Section 140—

Omit "to a penalty not exceeding ten dollars", insert
25 instead ", in the case of a corporation, to a penalty
not exceeding \$5,000, or, in any other case, to a
penalty not exceeding \$500".

(8) (a) Section 141—

Omit "If any person", insert instead "Any person
who".

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(b) Section 141—

5 Omit "he shall for such offence be liable to a
penalty not exceeding ten dollars and a further
penalty not exceeding ten dollars for each day
(if more than one) that such offence continues",
10 insert instead "is guilty of an offence under this
Act and liable, in the case of a corporation, to a
penalty not exceeding \$10,000, or, in any other
case, to a penalty not exceeding \$1,000 and,
15 where the offence continues, to a further penalty,
in the case of a corporation, not exceeding
\$5,000 and, in any other case, not exceeding
\$500, for each day during which the offence
continues".

(9) (a) Section 142—

20 Omit "shall be liable to a penalty of forty
dollars", insert instead "is guilty of an offence
under this Act and liable, in the case of a
corporation, to a penalty not exceeding \$5,000,
or, in any other case, to a penalty not exceeding
\$500,".

25 (b) Section 142—

Omit "Such penalty may be recovered with full
costs in any court of competent jurisdiction.".

(10) Section 143—

30 Omit "shall, for every such offence, be liable to a
penalty of not more than forty dollars, and a further
sum of not more than twenty dollars for each day

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

5 during which the offence continues, after the expiration
of twenty-four hours from the service on him of notice
of such offence”, insert instead “is guilty of an offence
under this Act and liable, in the case of a corporation,
to a penalty not exceeding \$10,000, or, in any other
10 case, to a penalty not exceeding \$1,000 and, where
the offence continues after the expiration of 24 hours
after the service on him of notice of the offence, to a
further penalty, in the case of a corporation, not
exceeding \$5,000, or, in any other case, not exceeding
15 \$500, for each day during which the offence
continues”.

(11) Section 145—

20 Omit “shall be guilty of an offence and be liable to a
penalty not exceeding ten dollars”, insert instead “is
guilty of an offence under this Act and liable, in the
case of a corporation, to a penalty not exceeding
\$2,000, or, in any other case, to a penalty not
exceeding \$200”.

(12) Section 146—

25 Omit “shall be guilty of an offence and be liable to a
penalty not exceeding ten dollars”, insert instead “is
guilty of an offence under this Act and liable, in the
case of a corporation, to a penalty not exceeding
\$10,000, or, in any other case, to a penalty not
exceeding \$1,000”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING.

(1) Section 3, definition of "Hot water apparatus"—

5 Before the definitions of "Joint" and "jointly",
insert :—

10 "Hot water apparatus" means apparatus for heating
water, for storing hot water, or for both heating
water and storing hot water, being apparatus
connected to a water main of the board by a
water service pipe, but does not include any
water service pipe connected to the outlet from
any such apparatus.

(2) Section 129A—

15 After section 129, insert :—

129A. (1) For the purposes of section 128, hot water
water apparatus shall be deemed not to be an outlet ^{Hot water} plumbing.
from the water service pipes by which the apparatus
is connected to a water main of the board, and—

20 (a) a reference in section 128 (1) (j) to water
service pipes includes a reference to water
service pipes used or intended to be used
for hot water and to any safety discharge
pipe or overflow pipe connected to any hot
25 water apparatus; and

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

5 (b) a reference in section 128 (1) (j) or (u) to fittings includes a reference to fittings used or intended to be used for hot water and to fittings by which hot water apparatus may be connected to the water service pipes, but does not include a reference to hot water
10 apparatus.

(2) Section 128 does not authorise the making of by-laws—

- 15 (a) prescribing specifications for hot water apparatus; or
- (b) authorising or requiring the board to be concerned in—
- 20 (i) testing any hot water apparatus, other than fittings connected to hot water apparatus; or
- (ii) the connection of hot water apparatus to any source of heat energy, unless the source is heated water added to or mixed with water in the apparatus.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

5 (3) Nothing in this section affects any power, authority, duty or function conferred or imposed on the board (otherwise than by or under the by-laws) with respect to the regulation or control of the pollution, misuse or wastage of water.

SCHEDULE 4.

Sec. 5.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER.

(1) Section 147 (1), (1A)—

Omit section 147 (1), insert instead :—

15 (1) Any person who wrongfully alters the index of any meter or prevents any meter from duly registering the quantity of water supplied, or takes or uses water from any reservoir, aqueduct or pipe belonging to or under the control and management of the board, or from any pipe leading to or from any such reservoir,
20 aqueduct or pipe, or from any cistern or other like place belonging to or under the control and management of the board or supplied by it with water for the use of any consumer, is guilty of an offence under this Act and liable, in the case of a corporation, to a
25 penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER—*continued.*

5 (1A) The existence of artificial means for causing
such alteration or prevention or for taking or using
water as aforesaid shall when such means exist upon or
in connection with the pipes or other apparatus for
supplying water of the board to any land be prima
10 facie evidence that such alteration, prevention, taking
or use was wrongfully caused or effected by the
occupier of such land.

(2) Section 147 (2)—

15 Omit “shall be liable to a penalty not exceeding ten
dollars”, insert instead “is guilty of an offence under
this Act and liable, in the case of a corporation, to a
penalty not exceeding \$200, or, in any other case, to
a penalty not exceeding \$20.”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

[16c]

**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (FURTHER AMENDMENT) BILL,
1977**

No. , 1977.

A BILL FOR

**An Act to amend the Hunter District Water, Sewerage and
Drainage Act, 1938, with respect to penalties for certain
offences, hot water plumbing, water meters and the
power of The Hunter District Water Board to inspect
land.**

[MR FERGUSON—21 September, 1977.]

BE

Hunter District Water, Sewerage and Drainage (Further Amendment).

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

5 **1.** This Act may be cited as the "Hunter District Water, Sewerage and Drainage (Further Amendment) Act, 1977". Short title.

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

(2) Section 5 shall, in its application to a provision
10 of Schedules 1-4, commence on the day on which that
provision commences.

(3) The several provisions of Schedules 1-3 shall
commence on such day or days as may be appointed by the
Governor in respect thereof and as may be notified by
15 proclamation published in the Gazette.

3. The Hunter District Water, Sewerage and Drainage Principal
Act, 1938, is referred to in this Act as the Principal Act. Act.

4. This Act contains the following Schedules :— Schedules.

20 **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL
ACT RELATING TO INSPECTION OF PROPERTY.**

**SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL
ACT RELATING TO OFFENCES AND PENALTIES.**

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CONTROL OF HOT WATER PLUMBING.

5 SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE UNLAWFUL TAKING OF WATER.

5. The Principal Act is amended in the manner set forth in Schedules 1-4. Amendment of Act No. 11, 1938.

SCHEDULE 1.

Sec. 5.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

(1) (a) Section 38 (1)—

15 Omit “may enter upon any land or building at any reasonable hour in the daytime and at any hour during which business is in progress or is usually carried on in the premises”, insert instead :—

may—

- 20 (a) enter land or a building or premises other than a dwelling-house at any time ; and
- (b) enter a dwelling-house at any reasonable time during the day,

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(b) Section 38 (1)—

5 Omit “ascertain the character and condition of
the land or building and of any pipe, sewer,
drain, or fitting in connection therewith.”, insert
instead :—

ascertain—

10 (c) the character and condition of the
land or any dwelling-house or
other building or premises on the
land;

15 (d) the condition or location of any
pipe, sewer, drain or fitting used
in connection with the land or
any dwelling-house or other
building or premises on the land;

20 (e) whether any waste, misuse or
undue consumption of water
supplied by the board is
occurring; or

25 (f) whether any offence against this
Act, the regulations or the by-
laws has been or is being com-
mitted.

(2) Section 38 (1A)—(1D)—

After section 38 (1), insert :—

30 (1A) Subject to subsection (1B), where the board
proposes by its officers or workmen to enter any land
or a building or premises it shall cause notice in

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

- 5 writing to that effect to be served on the owner or occupier of the land, building or premises before it attempts to enter the land, building or premises.
- 10 (1B) Where in the opinion of an officer of the board prescribed by a regulation for the purposes of this subsection undue delay would occur by reason of the serving of a notice referred to in subsection (1A), that officer may authorise the board's officers or workmen to enter the land, building or premises although that notice has not been served.
- 15 (1C) For the purpose of gaining entry to any land or a building or premises, not being a dwelling-house, the board may, by its officers or workmen, use reasonable force.
- 20 (1D) It is the duty of the board, where any land or a building or premises—
- (a) has or have been entered without the notice referred to in subsection (1A) having been served; or
- (b) has or have been forcibly entered under an authority given under subsection (1B),
- 25 to cause such persons or authorities as appear to it to be appropriate in the circumstances to be promptly informed of the action so taken.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(3) Section 38 (2)—

5 Omit the subsection, insert instead :—

10 (2) If a pipe, sewer, drain or fitting referred to in subsection (1) is found on inspection to be made to the satisfaction of the board and in proper order and condition, and if no waste, misuse or undue consumption of water supplied by the board is occurring, and if no offence against this Act, the regulations or the by-laws has been or is being committed, the board shall cause the pipe, sewer, drain or fitting and the land, building or premises to be reinstated and made good as soon as practicable and the costs and expenses of the inspection, reinstating and making good shall be defrayed by the board.

(4) Section 38 (4)—

20 Omit “removal, alteration, or repair”, insert instead “any entry and any inspection made under subsection (1) following which a direction under this subsection is given and of the removal, alteration or repair by the board of any pipe, sewer, drain or fitting”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OFFENCES AND PENALTIES.

(1) Section 39—

5 Omit "shall be liable, on summary conviction, to a penalty not exceeding twenty dollars", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500".

(2) Section 46 (4), (4A)—

Omit section 46 (4), insert instead :—

15 (4) A person who acts in contravention of the provisions of subsection (3) is guilty of an offence under this Act and liable to a penalty not exceeding \$200.

20 (4A) A person who knowingly employs another to commence or perform work referred to in subsection (3) in contravention of this section is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

(3) Section 101 (6), (7)—

25 Omit "shall be liable to a penalty not exceeding ten dollars" wherever occurring, insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$1,000, or, in any other case, to a penalty not exceeding \$100".

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(4) (a) Section 130 (1) (a)—

5 Omit “but no such penalty shall exceed one hundred dollars”, insert instead “in the case of a corporation, not exceeding \$10,000, or, in any other case, not exceeding \$1,000”.

(b) Section 130 (1) (b)—

10 Omit “not exceeding ten dollars per day”, insert instead “, in the case of a corporation, not exceeding \$500, or, in any other case, not exceeding \$50”.

(5) Section 135A—

15 After section 135, insert :—

135A. (1) Proceedings for offences under this Act, ^{Proceedings} a regulation or a by-law may be taken before a court ^{for offences.} of petty sessions or before the Supreme Court in its summary jurisdiction.

20 (2) If proceedings in respect of an offence under this Act, a regulation or a by-law are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, the regulation or the by-law, as the case may be, 25 \$2,000 (including any daily penalty) or the maximum penalty provided by this Act, the regulation or the by-law in respect of the offence, whichever is the lesser.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

5 (3) If proceedings in respect of an offence
against this Act, a regulation or a by-law are brought
in the Supreme Court in its summary jurisdiction, the
Supreme Court may impose a penalty not exceeding
10 the maximum penalty provided by this Act, the
regulation or the by-law, as the case may be, in
respect of the offence.

(4) Proceedings in the Supreme Court in its
summary jurisdiction in respect of an offence against
this Act, a regulation or a by-law may be commenced
15 only within six months after the offence was
committed.

(6) Section 139 (1)—

Omit "shall for such offence be liable to a penalty
not exceeding ten dollars", insert instead "is guilty of
20 an offence under this Act and liable, in the case of a
corporation, to a penalty not exceeding \$1,000, or,
in any other case, to a penalty not exceeding \$100".

(7) Section 140—

Omit "to a penalty not exceeding ten dollars", insert
25 instead "in the case of a corporation, to a penalty
not exceeding \$5,000, or, in any other case, to a
penalty not exceeding \$500".

(8) (a) Section 141—

Omit "If any person", insert instead "Any person
who".

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(b) Section 141—

5 Omit “he shall for such offence be liable to a
penalty not exceeding ten dollars and a further
penalty not exceeding ten dollars for each day
(if more than one) that such offence continues”,
10 insert instead “is guilty of an offence under this
Act and liable, in the case of a corporation, to a
penalty not exceeding \$10,000, or, in any other
case, to a penalty not exceeding \$1,000 and,
where the offence continues, to a further penalty,
15 in the case of a corporation, not exceeding
\$5,000 and, in any other case, not exceeding
\$500, for each day during which the offence
continues”.

(9) (a) Section 142—

20 Omit “shall be liable to a penalty of forty
dollars”, insert instead “is guilty of an offence
under this Act and liable, in the case of a
corporation, to a penalty not exceeding \$5,000,
or, in any other case, to a penalty not exceeding
\$500.”.

25 (b) Section 142—

Omit “Such penalty may be recovered with full
costs in any court of competent jurisdiction.”.

(10) Section 143—

30 Omit “shall, for every such offence, be liable to a
penalty of not more than forty dollars, and a further
sum of not more than twenty dollars for each day

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

5 during which the offence continues, after the expiration
of twenty-four hours from the service on him of notice
of such offence”, insert instead “is guilty of an offence
under this Act and liable, in the case of a corporation,
to a penalty not exceeding \$10,000, or, in any other
10 case, to a penalty not exceeding \$1,000 and, where
the offence continues after the expiration of 24 hours
after the service on him of notice of the offence, to a
further penalty, in the case of a corporation, not
exceeding \$5,000, or, in any other case, not exceeding
15 \$500, for each day during which the offence
continues”.

(11) Section 145—

Omit “shall be guilty of an offence and be liable to a
penalty not exceeding ten dollars”, insert instead “is
20 guilty of an offence under this Act and liable, in the
case of a corporation, to a penalty not exceeding
\$2,000, or, in any other case, to a penalty not
exceeding \$200”.

(12) Section 146—

25 Omit “shall be guilty of an offence and be liable to a
penalty not exceeding ten dollars”, insert instead “is
guilty of an offence under this Act and liable, in the
case of a corporation, to a penalty not exceeding
\$10,000, or, in any other case, to a penalty not
exceeding \$1,000”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING.

(1) Section 3, definition of "Hot water apparatus"—

5 Before the definitions of "Joint" and "jointly",
insert :—

10 "Hot water apparatus" means apparatus for heating
water, for storing hot water, or for both heating
water and storing hot water, being apparatus
connected to a water main of the board by a
water service pipe, but does not include any
water service pipe connected to the outlet from
any such apparatus.

(2) Section 129A—

15 After section 129, insert :—

129A. (1) For the purposes of section 128, hot **Hot water**
water apparatus shall be deemed not to be an outlet **plumbing.**
from the water service pipes by which the apparatus
is connected to a water main of the board, and—

20 (a) a reference in section 128 (1) (j) to water
service pipes includes a reference to water
service pipes used or intended to be used
for hot water and to any safety discharge
pipe or overflow pipe connected to any hot
25 water apparatus; and

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

5 (b) a reference in section 128 (1) (j) or (u) to fittings includes a reference to fittings used or intended to be used for hot water and to fittings by which hot water apparatus may be connected to the water service pipes, but does not include a reference to hot water
10 apparatus.

(2) Section 128 does not authorise the making of by-laws—

- (a) prescribing specifications for hot water apparatus; or
- 15 (b) authorising or requiring the board to be concerned in—
- (i) testing any hot water apparatus, other than fittings connected to hot water apparatus; or
- 20 (ii) the connection of hot water apparatus to any source of heat energy, unless the source is heated water added to or mixed with water in the apparatus.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

5 (3) Nothing in this section affects any power, authority, duty or function conferred or imposed on the board (otherwise than by or under the by-laws) with respect to the regulation or control of the pollution, misuse or wastage of water.

SCHEDULE 4.

Sec. 5.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER.

(1) Section 147 (1), (1A)—

Omit section 147 (1), insert instead :—

15 (1) Any person who wrongfully alters the index of any meter or prevents any meter from duly registering the quantity of water supplied, or takes or uses water from any reservoir, aqueduct or pipe belonging to or under the control and management of the board, or from any pipe leading to or from any such reservoir,
20 aqueduct or pipe, or from any cistern or other like place belonging to or under the control and management of the board or supplied by it with water for the use of any consumer, is guilty of an offence under this Act and liable, in the case of a corporation, to a
25 penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER—*continued.*

5 (1A) The existence of artificial means for causing
such alteration or prevention or for taking or using
water as aforesaid shall when such means exist upon or
in connection with the pipes or other apparatus for
supplying water of the board to any land be prima
10 facie evidence that such alteration, prevention, taking
or use was wrongfully caused or effected by the
occupier of such land.

(2) Section 147 (2)—

15 Omit “shall be liable to a penalty not exceeding ten
dollars”, insert instead “is guilty of an offence under
this Act and liable, in the case of a corporation, to a
penalty not exceeding \$200, or, in any other case, to
a penalty not exceeding \$20,”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

[16c]

SCHEDULE 4—continued

AMENDMENTS TO THE ORIGINAL ACT RELATED TO THE UNLAWFUL TAKING OF WATER—continued

(1A) The existence of artificial means for causing such alteration or prevention or for taking or using water as provided shall mean such means existing or in connection with the pipe or other apparatus for supplying water of the kind to any land if there is evidence that such alteration, prevention or taking or use was wrongfully caused or effected by the occupier of such land.

(2) Section 147(2)

On a conviction for an offence under this Act and liable to a penalty not exceeding ten dollars, the court may, in the case of a conviction, order a penalty not exceeding \$500, or in any other case a penalty not exceeding \$200.

BY AUTHORITY

THE GOVERNMENT OF THE NEW SOUTH WALES

[100]

PROOF

**HUNTER DISTRICT WATER, SEWERAGE AND DRAINAGE
(FURTHER AMENDMENT) BILL, 1977**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

THE object of this Bill is to amend the Hunter District Water, Sewerage and Drainage Act, 1938—

- (a) to authorise The Hunter District Water Board, instead of being authorised to enter any land or a building or premises at any reasonable hour in the daytime or when business is in progress, to enter any land or a building or premises, not being a dwelling-house, at any time and to enter any dwelling-house at any reasonable time during the day, for the purpose of carrying out an inspection, and in connection with that entry—
 - (i) to require the board to give written notice that it proposes to enter the land, building or premises;
 - (ii) to authorise entry in certain circumstances where notice is not given;
 - (iii) to authorise the use of reasonable force to effect entry to land or a building or premises but not to a dwelling-house; and
 - (iv) to require notification to be given to such persons or authorities as appear to the board to be appropriate where forcible entry has been effected,(Schedule 1);

- (b) to—
 - (i) increase penalties for offences under the Hunter District Water, Sewerage and Drainage Act, 1938, in accordance with the Table set out at the end of this Explanatory Note (Schedule 2);
 - (ii) authorise the prescribing in a regulation made by the Governor and in a by-law made by the board of a maximum penalty of \$10,000 with a maximum daily penalty of \$500 in the case of a corporation and a maximum penalty of \$1,000 with a maximum daily penalty of \$50 in any other case (Schedule 2 (4)); and
 - (iii) provide that proceedings for offences may be brought before a court of petty sessions or before the Supreme Court in its summary jurisdiction and impose a maximum penalty of \$2,000 when the offence is dealt with in petty sessions (Schedule 2 (5));

- (c) by—
- (i) defining "hot water apparatus" (Schedule 3 (1));
 - (ii) authorising the board to make by-laws regulating hot water plumbing (Schedule 3 (2));
 - (iii) to exclude from the by-law making power matters relating to the specifications for, or testing of, or connection of power sources to, hot water apparatus (Schedule 3 (2)); and
- (d) to impose a penalty on a person who interferes with the operation of a water meter and to declare that the existence of any artificial means of altering a meter is prima facie evidence that the alteration has been effected by the occupier of the land (Schedule 4).

TABLE

Offence	Present maximum penalty		Proposed maximum penalty			
	Sub-stantive penalty	Daily penalty	Corporation		Person other than corporation	
			Sub-stantive penalty	Daily penalty	Sub-stantive penalty	Daily penalty
S.39.—Obstructing board's officers or persons acting under authority of board.	\$ 20	\$..	\$ 5,000	\$..	\$ 500	\$..
S.46 (4).—Unlicensed plumbing.	20	200	..
S.46 (4A).—Knowingly employing an unlicensed plumber.	20	..	2,000	..	200	..
S.101 (6).—Occupier of land giving false information.	10	..	1,000	..	100	..
S.101 (7).—Owner of land giving false information.	10	..	1,000	..	100	..
S.139 (1).—Misapplication of water.	10	..	1,000	..	100	..
S.140.—Bathing or washing or throwing dirt or filth into waterworks.	10	..	5,000	..	500	..
S.141.—Letting foul water into waterworks.	10	10	10,000	5,000	1,000	500
S.142.—Gasmaker fouling water with substances produced in making gas.	..	40	..	5,000	..	500
S.143.—Gasmaker fouling water with gas.	40	20	10,000	5,000	1,000	500
S.145.—Obstructing construction of works.	10	..	2,000	..	200	..
S.146.—Tampering with works.	10	..	10,000	..	1,000	..

PROOF

**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (FURTHER AMENDMENT) BILL,
1977**

No. , 1977.

A BILL FOR

An Act to amend the Hunter District Water, Sewerage and
Drainage Act, 1938, with respect to penalties for certain
offences, hot water plumbing, water meters and the
power of The Hunter District Water Board to inspect
land.

[MR FERGUSON—21 *September*, 1977.]

BE

Hunter District Water, Sewerage and Drainage (Further Amendment).

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

5 **1.** This Act may be cited as the "Hunter District Water, Sewerage and Drainage (Further Amendment) Act, 1977". Short title.

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act. Commencement.

(2) Section 5 shall, in its application to a provision 10 of Schedules 1-4, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1-3 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by 15 proclamation published in the Gazette.

3. The Hunter District Water, Sewerage and Drainage Act, 1938, is referred to in this Act as the Principal Act. Principal Act.

4. This Act contains the following Schedules :— Schedules.

20 **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.**

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OFFENCES AND PENALTIES.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CONTROL OF HOT WATER PLUMBING.

5 SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE UNLAWFUL TAKING OF WATER.

5. The Principal Act is amended in the manner set forth in Schedules 1-4. Amendment of Act No. 11, 1938.

SCHEDULE 1.

Sec. 5.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

(1) (a) Section 38 (1)—

15 Omit "may enter upon any land or building at any reasonable hour in the daytime and at any hour during which business is in progress or is usually carried on in the premises", insert instead :—

may—

- 20 (a) enter land or a building or premises other than a dwelling-house at any time ; and
- (b) enter a dwelling-house at any reasonable time during the day,

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(b) Section 38 (1)—

5 Omit “ascertain the character and condition of
the land or building and of any pipe, sewer,
drain, or fitting in connection therewith.”, insert
instead :—

ascertain—

10 (c) the character and condition of the
land or any dwelling-house or
other building or premises on the
land;

15 (d) the condition or location of any
pipe, sewer, drain or fitting used
in connection with the land or
any dwelling-house or other
building or premises on the land;

20 (e) whether any waste, misuse or
undue consumption of water
supplied by the board is
occurring; or

25 (f) whether any offence against this
Act, the regulations or the by-
laws has been or is being com-
mitted.

(2) Section 38 (1A)—(1D)—

After section 38 (1), insert :—

30 (1A) Subject to subsection (1B), where the board
proposes by its officers or workmen to enter any land
or a building or premises it shall cause notice in

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

5 writing to that effect to be served on the owner or occupier of the land, building or premises before it attempts to enter the land, building or premises.

10 (1B) Where in the opinion of an officer of the board prescribed by a regulation for the purposes of this subsection undue delay would occur by reason of the serving of a notice referred to in subsection (1A), that officer may authorise the board's officers or workmen to enter the land, building or premises although that notice has not been served.

15 (1C) For the purpose of gaining entry to any land or a building or premises, not being a dwelling-house, the board may, by its officers or workmen, use reasonable force.

(1D) It is the duty of the board, where any land or a building or premises—

20 (a) has or have been entered without the notice referred to in subsection (1A) having been served; or

(b) has or have been forcibly entered under an authority given under subsection (1B),

25 to cause such persons or authorities as appear to it to be appropriate in the circumstances to be promptly informed of the action so taken.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(3) Section 38 (2)—

5 Omit the subsection, insert instead :—

10 (2) If a pipe, sewer, drain or fitting referred to in
subsection (1) is found on inspection to be made to
the satisfaction of the board and in proper order and
condition, and if no waste, misuse or undue consump-
15 tion of water supplied by the board is occurring, and if
no offence against this Act, the regulations or the
by-laws has been or is being committed, the board
shall cause the pipe, sewer, drain or fitting and the
land, building or premises to be reinstated and made
good as soon as practicable and the costs and expenses
of the inspection, reinstating and making good shall be
defrayed by the board.

(4) Section 38 (4)—

20 Omit “removal, alteration, or repair”, insert instead
“any entry and any inspection made under subsection
(1) following which a direction under this subsection
is given and of the removal, alteration or repair by the
board of any pipe, sewer, drain or fitting”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES.

(1) Section 39—

5 Omit “shall be liable, on summary conviction, to a
penalty not exceeding twenty dollars”, insert instead
“is guilty of an offence under this Act and liable, in
the case of a corporation, to a penalty not exceeding
10 \$5,000, or, in any other case, to a penalty not
exceeding \$500”.

(2) Section 46 (4), (4A)—

Omit section 46 (4), insert instead :—

15 (4) A person who acts in contravention of the
provisions of subsection (3) is guilty of an offence
under this Act and liable to a penalty not exceeding
\$200.

20 (4A) A person who knowingly employs another to
commence or perform work referred to in subsection
(3) in contravention of this section is guilty of an
offence under this Act and liable, in the case of a
corporation, to a penalty not exceeding \$2,000, or,
in any other case, to a penalty not exceeding \$200.

(3) Section 101 (6), (7)—

25 Omit “shall be liable to a penalty not exceeding ten
dollars” wherever occurring, insert instead “is guilty
of an offence under this Act and liable, in the case
of a corporation, to a penalty not exceeding \$1,000,
or, in any other case, to a penalty not exceeding
\$100”.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(4) (a) Section 130 (1) (a)—

5 Omit “but no such penalty shall exceed one hundred dollars”, insert instead “in the case of a corporation, not exceeding \$10,000, or, in any other case, not exceeding \$1,000”.

(b) Section 130 (1) (b)—

10 Omit “not exceeding ten dollars per day”, insert instead “, in the case of a corporation, not exceeding \$500, or, in any other case, not exceeding \$50”.

(5) Section 135A—

15 After section 135, insert :—

135A. (1) Proceedings for offences under this Act, a regulation or a by-law may be taken before a court of petty sessions or before the Supreme Court in its summary jurisdiction. ^{Proceedings for offences.}

20 (2) If proceedings in respect of an offence under this Act, a regulation or a by-law are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, the regulation or the by-law, as the case may be, 25 \$2,000 (including any daily penalty) or the maximum penalty provided by this Act, the regulation or the by-law in respect of the offence, whichever is the lesser.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

5 (3) If proceedings in respect of an offence
against this Act, a regulation or a by-law are brought
in the Supreme Court in its summary jurisdiction, the
Supreme Court may impose a penalty not exceeding
10 the maximum penalty provided by this Act, the
regulation or the by-law, as the case may be, in
respect of the offence.

15 (4) Proceedings in the Supreme Court in its
summary jurisdiction in respect of an offence against
this Act, a regulation or a by-law may be commenced
only within six months after the offence was
committed.

(6) Section 139 (1)—

20 Omit “shall for such offence be liable to a penalty
not exceeding ten dollars”, insert instead “is guilty of
an offence under this Act and liable, in the case of a
corporation, to a penalty not exceeding \$1,000, or,
in any other case, to a penalty not exceeding \$100”.

(7) Section 140—

25 Omit “to a penalty not exceeding ten dollars”, insert
instead “, in the case of a corporation, to a penalty
not exceeding \$5,000, or, in any other case, to a
penalty not exceeding \$500”.

(8) (a) Section 141—

Omit “If any person”, insert instead “Any person
who”.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(b) Section 141—

5 Omit "he shall for such offence be liable to a
penalty not exceeding ten dollars and a further
penalty not exceeding ten dollars for each day
10 (if more than one) that such offence continues",
insert instead "is guilty of an offence under this
Act and liable, in the case of a corporation, to a
penalty not exceeding \$10,000, or, in any other
case, to a penalty not exceeding \$1,000 and,
15 where the offence continues, to a further penalty,
in the case of a corporation, not exceeding
\$5,000 and, in any other case, not exceeding
\$500, for each day during which the offence
continues".

(9) (a) Section 142—

20 Omit "shall be liable to a penalty of forty
dollars", insert instead "is guilty of an offence
under this Act and liable, in the case of a
corporation, to a penalty not exceeding \$5,000,
or, in any other case, to a penalty not exceeding
\$500,".

25 (b) Section 142—

Omit "Such penalty may be recovered with full
costs in any court of competent jurisdiction.".

(10) Section 143—

30 Omit "shall, for every such offence, be liable to a
penalty of not more than forty dollars, and a further
sum of not more than twenty dollars for each day

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

5 during which the offence continues, after the expiration
of twenty-four hours from the service on him of notice
of such offence”, insert instead “is guilty of an offence
under this Act and liable, in the case of a corporation,
to a penalty not exceeding \$10,000, or, in any other
10 case, to a penalty not exceeding \$1,000 and, where
the offence continues after the expiration of 24 hours
after the service on him of notice of the offence, to a
further penalty, in the case of a corporation, not
exceeding \$5,000, or, in any other case, not exceeding
15 \$500, for each day during which the offence
continues”.

(11) Section 145—

Omit “shall be guilty of an offence and be liable to a
penalty not exceeding ten dollars”, insert instead “is
20 guilty of an offence under this Act and liable, in the
case of a corporation, to a penalty not exceeding
\$2,000, or, in any other case, to a penalty not
exceeding \$200”.

(12) Section 146—

25 Omit “shall be guilty of an offence and be liable to a
penalty not exceeding ten dollars”, insert instead “is
guilty of an offence under this Act and liable, in the
case of a corporation, to a penalty not exceeding
\$10,000, or, in any other case, to a penalty not
exceeding \$1,000”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING.

(1) Section 3, definition of "Hot water apparatus"—

5 Before the definitions of "Joint" and "jointly",
insert :—

10 "Hot water apparatus" means apparatus for heating
water, for storing hot water, or for both heating
water and storing hot water, being apparatus
connected to a water main of the board by a
water service pipe, but does not include any
water service pipe connected to the outlet from
any such apparatus.

(2) Section 129A—

15 After section 129, insert :—

129A. (1) For the purposes of section 128, hot water
water apparatus shall be deemed not to be an outlet plumbing.
from the water service pipes by which the apparatus
is connected to a water main of the board, and—

20 (a) a reference in section 128 (1) (j) to water
service pipes includes a reference to water
service pipes used or intended to be used
for hot water and to any safety discharge
pipe or overflow pipe connected to any hot
25 water apparatus; and

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

5 (b) a reference in section 128 (1) (j) or (u) to
fittings includes a reference to fittings used
or intended to be used for hot water and to
fittings by which hot water apparatus may
be connected to the water service pipes, but
10 does not include a reference to hot water
apparatus.

(2) Section 128 does not authorise the
making of by-laws—

- (a) prescribing specifications for hot water
apparatus; or
- 15 (b) authorising or requiring the board to be
concerned in—
- (i) testing any hot water apparatus,
other than fittings connected to
hot water apparatus; or
- 20 (ii) the connection of hot water
apparatus to any source of heat
energy, unless the source is
heated water added to or mixed
with water in the apparatus.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

- 5 (3) Nothing in this section affects any power, authority, duty or function conferred or imposed on the board (otherwise than by or under the by-laws) with respect to the regulation or control of the pollution, misuse or wastage of water.

SCHEDULE 4.

Sec. 5.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER.

- (1) Section 147 (1), (1A)—

Omit section 147 (1), insert instead :—

- 15 (1) Any person who wrongfully alters the index of any meter or prevents any meter from duly registering the quantity of water supplied, or takes or uses water from any reservoir, aqueduct or pipe belonging to or under the control and management of the board, or from any pipe leading to or from any such reservoir,
20 aqueduct or pipe, or from any cistern or other like place belonging to or under the control and management of the board or supplied by it with water for the use of any consumer, is guilty of an offence under this Act and liable, in the case of a corporation, to a
25 penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER—*continued.*

5 (1A) The existence of artificial means for causing
such alteration or prevention or for taking or using
water as aforesaid shall when such means exist upon or
in connection with the pipes or other apparatus for
supplying water of the board to any land be prima
10 facie evidence that such alteration, prevention, taking
or use was wrongfully caused or effected by the
occupier of such land.

(2) Section 147 (2)—

15 Omit “shall be liable to a penalty not exceeding ten
dollars”, insert instead “is guilty of an offence under
this Act and liable, in the case of a corporation, to a
penalty not exceeding \$200, or, in any other case, to
a penalty not exceeding \$20,”.

THE UNITED STATES OF AMERICA

SCHEDULE 4—continued

AGREEMENT TO THE UNITED STATES OF AMERICA
TO THE UNITED STATES OF AMERICA

(1) The absence of sufficient means for the
 and operation or presentation of the
 was not intended to be a violation of the
 in connection with the above-mentioned
 of the Government of the United States and the
 and evidence of such violation, and the
 or means of such violation, and the
 means of such violation.

Section 11

(1) It is hereby declared to be the policy of the
 Government of the United States to
 the United States in the case of a
 person who is a citizen of the United States
 and who is a resident of the United States.

BY AUTHORITY

SECRETARY OF THE TREASURY

**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (FURTHER AMENDMENT) ACT,
1977**

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 115, 1977.

An Act to amend the Hunter District Water, Sewerage and Drainage Act, 1938, with respect to penalties for certain offences, hot water plumbing, water meters and the power of The Hunter District Water Board to inspect land. [Assented to, 9th December, 1977.]

BE

Hunter District Water, Sewerage and Drainage (Further Amendment).

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

Short title. **1.** This Act may be cited as the "Hunter District Water, Sewerage and Drainage (Further Amendment) Act, 1977".

Commence-
ment. **2.** (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–4, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1–3 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal
Act. **3.** The Hunter District Water, Sewerage and Drainage Act, 1938, is referred to in this Act as the Principal Act.

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OFFENCES AND PENALTIES.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CONTROL OF HOT WATER PLUMBING.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE UNLAWFUL TAKING OF WATER.

5. The Principal Act is amended in the manner set forth in Schedules 1-4. **Amendment of Act No. 11, 1938.**

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

(1) (a) Section 38 (1)—

Omit “may enter upon any land or building at any reasonable hour in the daytime and at any hour during which business is in progress or is usually carried on in the premises”, insert instead :—

may—

- (a) enter land or a building or premises other than a dwelling-house at any time ; and
- (b) enter a dwelling-house at any reasonable time during the day,

SCHEDULE

*Hunter District Water, Sewerage and Drainage (Further Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(b) Section 38 (1)—

Omit “ascertain the character and condition of the land or building and of any pipe, sewer, drain, or fitting in connection therewith.”, insert instead :—

ascertain—

- (c) the character and condition of the land or any dwelling-house or other building or premises on the land;
- (d) the condition or location of any pipe, sewer, drain or fitting used in connection with the land or any dwelling-house or other building or premises on the land;
- (e) whether any waste, misuse or undue consumption of water supplied by the board is occurring; or
- (f) whether any offence against this Act, the regulations or the by-laws has been or is being committed.

(2) Section 38 (1A)—(1D)—

After section 38 (1), insert :—

(1A) Subject to subsection (1B), where the board proposes by its officers or workmen to enter any land or a building or premises it shall cause notice in

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

writing to that effect to be served on the owner or occupier of the land, building or premises before it attempts to enter the land, building or premises.

(1B) Where in the opinion of an officer of the board prescribed by a regulation for the purposes of this subsection undue delay would occur by reason of the serving of a notice referred to in subsection (1A), that officer may authorise the board's officers or workmen to enter the land, building or premises although that notice has not been served.

(1C) For the purpose of gaining entry to any land or a building or premises, not being a dwelling-house, the board may, by its officers or workmen, use reasonable force.

(1D) It is the duty of the board, where any land or a building or premises—

(a) has or have been entered without the notice referred to in subsection (1A) having been served; or

(b) has or have been forcibly entered under an authority given under subsection (1B),

to cause such persons or authorities as appear to it to be appropriate in the circumstances to be promptly informed of the action so taken.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(3) Section 38 (2)—

Omit the subsection, insert instead :—

(2) If a pipe, sewer, drain or fitting referred to in subsection (1) is found on inspection to be made to the satisfaction of the board and in proper order and condition, and if no waste, misuse or undue consumption of water supplied by the board is occurring, and if no offence against this Act, the regulations or the by-laws has been or is being committed, the board shall cause the pipe, sewer, drain or fitting and the land, building or premises to be reinstated and made good as soon as practicable and the costs and expenses of the inspection, reinstating and making good shall be defrayed by the board.

(4) Section 38 (4)—

Omit “removal, alteration, or repair”, insert instead “any entry and any inspection made under subsection (1) following which a direction under this subsection is given and of the removal, alteration or repair by the board of any pipe, sewer, drain or fitting”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES.

(1) Section 39—

Omit "shall be liable, on summary conviction, to a penalty not exceeding twenty dollars", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500".

(2) Section 46 (4), (4A)—

Omit section 46 (4), insert instead :—

(4) A person who acts in contravention of the provisions of subsection (3) is guilty of an offence under this Act and liable to a penalty not exceeding \$200.

(4A) A person who knowingly employs another to commence or perform work referred to in subsection (3) in contravention of this section is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

(3) Section 101 (6), (7)—

Omit "shall be liable to a penalty not exceeding ten dollars" wherever occurring, insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$1,000, or, in any other case, to a penalty not exceeding \$100".

*Hunter District Water, Sewerage and Drainage (Further Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(4) (a) Section 130 (1) (a)—

Omit “but no such penalty shall exceed one hundred dollars”, insert instead “in the case of a corporation, not exceeding \$10,000, or, in any other case, not exceeding \$1,000”.

(b) Section 130 (1) (b)—

Omit “not exceeding ten dollars per day”, insert instead “, in the case of a corporation, not exceeding \$500, or, in any other case, not exceeding \$50”.

(5) Section 135A—

After section 135, insert :—

Proceedings
for offences.

135A. (1) Proceedings for offences under this Act, a regulation or a by-law may be taken before a court of petty sessions or before the Supreme Court in its summary jurisdiction.

(2) If proceedings in respect of an offence under this Act, a regulation or a by-law are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, the regulation or the by-law, as the case may be, \$2,000 (including any daily penalty) or the maximum penalty provided by this Act, the regulation or the by-law in respect of the offence, whichever is the lesser.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(3) If proceedings in respect of an offence against this Act, a regulation or a by-law are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act, the regulation or the by-law, as the case may be, in respect of the offence.

(4) Proceedings in the Supreme Court in its summary jurisdiction in respect of an offence against this Act, a regulation or a by-law may be commenced only within six months after the offence was committed.

(6) Section 139 (1)—

Omit “shall for such offence be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$1,000, or, in any other case, to a penalty not exceeding \$100”.

(7) Section 140—

Omit “to a penalty not exceeding ten dollars”, insert instead “, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500”.

(8) (a) Section 141—

Omit “If any person”, insert instead “Any person who”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(b) Section 141—

Omit “he shall for such offence be liable to a penalty not exceeding ten dollars and a further penalty not exceeding ten dollars for each day (if more than one) that such offence continues”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000 and, where the offence continues, to a further penalty. in the case of a corporation, not exceeding \$5,000 and, in any other case, not exceeding \$500, for each day during which the offence continues”.

(9) (a) Section 142—

Omit “shall be liable to a penalty of forty dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500.”.

(b) Section 142—

Omit “Such penalty may be recovered with full costs in any court of competent jurisdiction.”.

(10) Section 143—

Omit “shall, for every such offence, be liable to a penalty of not more than forty dollars, and a further sum of not more than twenty dollars for each day

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

during which the offence continues, after the expiration of twenty-four hours from the service on him of notice of such offence”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000 and, where the offence continues after the expiration of 24 hours after the service on him of notice of the offence, to a further penalty, in the case of a corporation, not exceeding \$5,000, or, in any other case, not exceeding \$500, for each day during which the offence continues”.

(11) Section 145—

Omit “shall be guilty of an offence and be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200”.

(12) Section 146—

Omit “shall be guilty of an offence and be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

Sec. 5.

SCHEDULE 3.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING.

(1) Section 3, definition of "Hot water apparatus"—

Before the definitions of "Joint" and "jointly",
insert :—

"Hot water apparatus" means apparatus for heating water, for storing hot water, or for both heating water and storing hot water, being apparatus connected to a water main of the board by a water service pipe, but does not include any water service pipe connected to the outlet from any such apparatus.

(2) Section 129A—

After section 129, insert :—

**Hot water
plumbing.**

129A. (1) For the purposes of section 128, hot water apparatus shall be deemed not to be an outlet from the water service pipes by which the apparatus is connected to a water main of the board, and—

- (a) a reference in section 128 (1) (j) to water service pipes includes a reference to water service pipes used or intended to be used for hot water and to any safety discharge pipe or overflow pipe connected to any hot water apparatus; and

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

- (b) a reference in section 128 (1) (j) or (u) to fittings includes a reference to fittings used or intended to be used for hot water and to fittings by which hot water apparatus may be connected to the water service pipes, but does not include a reference to hot water apparatus.

(2) Section 128 does not authorise the making of by-laws—

- (a) prescribing specifications for hot water apparatus; or
- (b) authorising or requiring the board to be concerned in—
- (i) testing any hot water apparatus, other than fittings connected to hot water apparatus; or
- (ii) the connection of hot water apparatus to any source of heat energy, unless the source is heated water added to or mixed with water in the apparatus.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

(3) Nothing in this section affects any power, authority, duty or function conferred or imposed on the board (otherwise than by or under the by-laws) with respect to the regulation or control of the pollution, misuse or wastage of water.

Sec. 5.

SCHEDULE 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER.

(1) Section 147 (1), (1A)—

Omit section 147 (1), insert instead :—

(1) Any person who wrongfully alters the index of any meter or prevents any meter from duly registering the quantity of water supplied, or takes or uses water from any reservoir, aqueduct or pipe belonging to or under the control and management of the board, or from any pipe leading to or from any such reservoir, aqueduct or pipe, or from any cistern or other like place belonging to or under the control and management of the board or supplied by it with water for the use of any consumer, is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 4—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER—*continued.***

(1A) The existence of artificial means for causing such alteration or prevention or for taking or using water as aforesaid shall when such means exist upon or in connection with the pipes or other apparatus for supplying water of the board to any land be prima facie evidence that such alteration, prevention, taking or use was wrongfully caused or effected by the occupier of such land.

(2) Section 147 (2)—

Omit "shall be liable to a penalty not exceeding ten dollars", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$200, or, in any other case, to a penalty not exceeding \$20,".

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

Lawrence Waterbury, Secretary and Chairman (Philadelphia, Pa.)

SCHEDULE 4--continued.

Amendments to the National Act Relating to the Law of the Sea--continued.

Article 1. The purpose of this Convention is to provide a legal basis for the activities of States in the area of the law of the sea, and to ensure that such activities are carried out in a manner that is consistent with the principles of justice, equity and good faith, and that takes into account the interests of all States, both developed and developing, and that is based on the concept of common concern of humankind.

Article 2. (1)

Article 3. The States Parties to this Convention shall cooperate in a spirit of mutual trust and confidence in their mutual relations in the field of the law of the sea, and shall, where appropriate, enter into bilateral, regional or multilateral arrangements or agreements for cooperation and for joint and/or separate development of the law of the sea.

Article 4. The States Parties to this Convention shall cooperate in a spirit of mutual trust and confidence in their mutual relations in the field of the law of the sea, and shall, where appropriate, enter into bilateral, regional or multilateral arrangements or agreements for cooperation and for joint and/or separate development of the law of the sea.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of New South WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 November, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 115, 1977.

An Act to amend the Hunter District Water, Sewerage and Drainage Act, 1938, with respect to penalties for certain offences, hot water plumbing, water meters and the power of The Hunter District Water Board to inspect land. [Assented to, 9th December, 1977.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Hunter District Water, Sewerage and Drainage (Further Amendment).

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

Short title. **1.** This Act may be cited as the "Hunter District Water, Sewerage and Drainage (Further Amendment) Act, 1977".

Commence- **2.** (1) Except as provided in subsections (2) and (3),
ment. this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–4, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1–3 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act. **3.** The Hunter District Water, Sewerage and Drainage Act, 1938, is referred to in this Act as the Principal Act.

Schedules. **4.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO OFFENCES AND PENALTIES.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO CONTROL OF HOT WATER PLUMBING.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE UNLAWFUL TAKING OF WATER.

5. The Principal Act is amended in the manner set forth in Schedules 1-4. Amendment of Act No. 11, 1938.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO INSPECTION OF PROPERTY.

(1) (a) Section 38 (1)—

Omit "may enter upon any land or building at any reasonable hour in the daytime and at any hour during which business is in progress or is usually carried on in the premises", insert instead :—

may—

- (a) enter land or a building or premises other than a dwelling-house at any time ; and
- (b) enter a dwelling-house at any reasonable time during the day,

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(b) Section 38 (1)—

Omit “ascertain the character and condition of the land or building and of any pipe, sewer, drain, or fitting in connection therewith.”, insert instead :—

ascertain—

- (c) the character and condition of the land or any dwelling-house or other building or premises on the land;
- (d) the condition or location of any pipe, sewer, drain or fitting used in connection with the land or any dwelling-house or other building or premises on the land;
- (e) whether any waste, misuse or undue consumption of water supplied by the board is occurring; or
- (f) whether any offence against this Act, the regulations or the by-laws has been or is being committed.

(2) Section 38 (1A)—(1D)—

After section 38 (1), insert :—

(1A) Subject to subsection (1B), where the board proposes by its officers or workmen to enter any land or a building or premises it shall cause notice in

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

writing to that effect to be served on the owner or occupier of the land, building or premises before it attempts to enter the land, building or premises.

(1B) Where in the opinion of an officer of the board prescribed by a regulation for the purposes of this subsection undue delay would occur by reason of the serving of a notice referred to in subsection (1A), that officer may authorise the board's officers or workmen to enter the land, building or premises although that notice has not been served.

(1C) For the purpose of gaining entry to any land or a building or premises, not being a dwelling-house, the board may, by its officers or workmen, use reasonable force.

(1D) It is the duty of the board, where any land or a building or premises—

(a) has or have been entered without the notice referred to in subsection (1A) having been served; or

(b) has or have been forcibly entered under an authority given under subsection (1B),

to cause such persons or authorities as appear to it to be appropriate in the circumstances to be promptly informed of the action so taken.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO INSPECTION OF PROPERTY—*continued.*

(3) Section 38 (2)—

Omit the subsection, insert instead :—

(2) If a pipe, sewer, drain or fitting referred to in subsection (1) is found on inspection to be made to the satisfaction of the board and in proper order and condition, and if no waste, misuse or undue consumption of water supplied by the board is occurring, and if no offence against this Act, the regulations or the by-laws has been or is being committed, the board shall cause the pipe, sewer, drain or fitting and the land, building or premises to be reinstated and made good as soon as practicable and the costs and expenses of the inspection, reinstating and making good shall be defrayed by the board.

(4) Section 38 (4)—

Omit “removal, alteration, or repair”, insert instead “any entry and any inspection made under subsection (1) following which a direction under this subsection is given and of the removal, alteration or repair by the board of any pipe, sewer, drain or fitting”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES.

(1) Section 39—

Omit “shall be liable, on summary conviction, to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500”.

(2) Section 46 (4), (4A)—

Omit section 46 (4), insert instead :—

(4) A person who acts in contravention of the provisions of subsection (3) is guilty of an offence under this Act and liable to a penalty not exceeding \$200.

(4A) A person who knowingly employs another to commence or perform work referred to in subsection (3) in contravention of this section is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

(3) Section 101 (6), (7)—

Omit “shall be liable to a penalty not exceeding ten dollars” wherever occurring, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$1,000, or, in any other case, to a penalty not exceeding \$100”.

SCHEDULE

*Hunter District Water, Sewerage and Drainage (Further Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(4) (a) Section 130 (1) (a)—

Omit “but no such penalty shall exceed one hundred dollars”, insert instead “in the case of a corporation, not exceeding \$10,000, or, in any other case, not exceeding \$1,000”.

(b) Section 130 (1) (b)—

Omit “not exceeding ten dollars per day”, insert instead “, in the case of a corporation, not exceeding \$500, or, in any other case, not exceeding \$50”.

(5) Section 135A—

After section 135, insert :—

Proceedings
for offences.

135A. (1) Proceedings for offences under this Act, a regulation or a by-law may be taken before a court of petty sessions or before the Supreme Court in its summary jurisdiction.

(2) If proceedings in respect of an offence under this Act, a regulation or a by-law are brought in a court of petty sessions, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act, the regulation or the by-law, as the case may be, \$2,000 (including any daily penalty) or the maximum penalty provided by this Act, the regulation or the by-law in respect of the offence, whichever is the lesser.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(3) If proceedings in respect of an offence against this Act, a regulation or a by-law are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a penalty not exceeding the maximum penalty provided by this Act, the regulation or the by-law, as the case may be, in respect of the offence.

(4) Proceedings in the Supreme Court in its summary jurisdiction in respect of an offence against this Act, a regulation or a by-law may be commenced only within six months after the offence was committed.

(6) Section 139 (1)—

Omit “shall for such offence be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$1,000, or, in any other case, to a penalty not exceeding \$100”.

(7) Section 140—

Omit “to a penalty not exceeding ten dollars”, insert instead “, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500”.

(8) (a) Section 141—

Omit “If any person”, insert instead “Any person who”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

(b) Section 141—

Omit "he shall for such offence be liable to a penalty not exceeding ten dollars and a further penalty not exceeding ten dollars for each day (if more than one) that such offence continues", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000 and, where the offence continues, to a further penalty, in the case of a corporation, not exceeding \$5,000 and, in any other case, not exceeding \$500, for each day during which the offence continues".

(9) (a) Section 142—

Omit "shall be liable to a penalty of forty dollars", insert instead "is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$5,000, or, in any other case, to a penalty not exceeding \$500,".

(b) Section 142—

Omit "Such penalty may be recovered with full costs in any court of competent jurisdiction.".

(10) Section 143—

Omit "shall, for every such offence, be liable to a penalty of not more than forty dollars, and a further sum of not more than twenty dollars for each day

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO OFFENCES AND PENALTIES—*continued.*

during which the offence continues, after the expiration of twenty-four hours from the service on him of notice of such offence”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000 and, where the offence continues after the expiration of 24 hours after the service on him of notice of the offence, to a further penalty, in the case of a corporation, not exceeding \$5,000, or, in any other case, not exceeding \$500, for each day during which the offence continues”.

(11) Section 145—

Omit “shall be guilty of an offence and be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200”.

(12) Section 146—

Omit “shall be guilty of an offence and be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$10,000, or, in any other case, to a penalty not exceeding \$1,000”.

Hunter District Water, Sewerage and Drainage (Further Amendment).

Sec. 5.

SCHEDULE 3.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING.

(1) Section 3, definition of "Hot water apparatus"—

Before the definitions of "Joint" and "jointly",
insert :—

"Hot water apparatus" means apparatus for heating water, for storing hot water, or for both heating water and storing hot water, being apparatus connected to a water main of the board by a water service pipe, but does not include any water service pipe connected to the outlet from any such apparatus.

(2) Section 129A—

After section 129, insert :—

Hot water
plumbing.

129A. (1) For the purposes of section 128, hot water apparatus shall be deemed not to be an outlet from the water service pipes by which the apparatus is connected to a water main of the board, and—

- (a) a reference in section 128 (1) (j) to water service pipes includes a reference to water service pipes used or intended to be used for hot water and to any safety discharge pipe or overflow pipe connected to any hot water apparatus; and

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

(b) a reference in section 128 (1) (j) or (u) to fittings includes a reference to fittings used or intended to be used for hot water and to fittings by which hot water apparatus may be connected to the water service pipes, but does not include a reference to hot water apparatus.

(2) Section 128 does not authorise the making of by-laws—

(a) prescribing specifications for hot water apparatus; or

(b) authorising or requiring the board to be concerned in—

(i) testing any hot water apparatus, other than fittings connected to hot water apparatus; or

(ii) the connection of hot water apparatus to any source of heat energy, unless the source is heated water added to or mixed with water in the apparatus.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO CONTROL OF HOT WATER PLUMBING—*continued.*

(3) Nothing in this section affects any power, authority, duty or function conferred or imposed on the board (otherwise than by or under the by-laws) with respect to the regulation or control of the pollution, misuse or wastage of water.

Sec. 5.

SCHEDULE 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER.

(1) Section 147 (1), (1A)—

Omit section 147 (1), insert instead :—

(1) Any person who wrongfully alters the index of any meter or prevents any meter from duly registering the quantity of water supplied, or takes or uses water from any reservoir, aqueduct or pipe belonging to or under the control and management of the board, or from any pipe leading to or from any such reservoir, aqueduct or pipe, or from any cistern or other like place belonging to or under the control and management of the board or supplied by it with water for the use of any consumer, is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$2,000, or, in any other case, to a penalty not exceeding \$200.

SCHEDULE

Hunter District Water, Sewerage and Drainage (Further Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO THE UNLAWFUL TAKING OF WATER—*continued.*

(1A) The existence of artificial means for causing such alteration or prevention or for taking or using water as aforesaid shall when such means exist upon or in connection with the pipes or other apparatus for supplying water of the board to any land be prima facie evidence that such alteration, prevention, taking or use was wrongfully caused or effected by the occupier of such land.

(2) Section 147 (2)—

Omit “shall be liable to a penalty not exceeding ten dollars”, insert instead “is guilty of an offence under this Act and liable, in the case of a corporation, to a penalty not exceeding \$200, or, in any other case, to a penalty not exceeding \$20.”.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 9th December, 1977.*

Chapter 117, Section 117, and Chapter 117, Section 117

SECTION 117-4 - continued

AMENDMENTS TO THE ORIGINAL ACT RELATIVE TO THE UNLAWFUL TAKING OF WATER - continued

(1A) The existence of such means for causing such damage or prevention for taking or using water shall be established when such means exist upon or in connection with the pipe or other apparatus for applying water to the land to any land for which there is evidence that such alteration prevention taking or use was wrongfully caused or effected by the occupier of such land.

(2) Section 117(2) -

Only shall be liable to a penalty not exceeding ten dollars, but shall be liable to a penalty not exceeding ten dollars and liable in the case of a corporation to a penalty not exceeding \$500, or in the other case to a penalty not exceeding \$200.

In the name and on behalf of Her Majesty I give to this

A. P. CUTLER
Governor

Government House
Spring, St. Vincent, 1977