

HUNTER DISTRICT WATER, SEWERAGE AND DRAINAGE (ELECTIONS) AMENDMENT BILL, 1979

EXPLANATORY NOTE

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

This Bill is cognate with the Metropolitan Water, Sewerage, and Drainage (Elections) Amendment Bill, 1979.

The object of this Bill is to amend the Hunter District Water, Sewerage and Drainage Act, 1938 ("the Principal Act"), to provide for the election of a person to be a member of The Hunter District Water Board ("the board").

The Bill—

- (a) provides that one of the members of the board shall be a member of a union elected in the manner prescribed by the regulations, this member being in addition to 7 (instead of 8) non-elected members (Schedule 1 (2) and (3));
- (b) authorises the Electoral Commissioner for New South Wales to be the returning officer for any such election (Schedule 1 (3)—proposed section 12A (2));
- (c) confers an entitlement on employees of the board to vote at any such election (Schedule 1 (3)—proposed section 12A (3));
- (d) permits an employee of the board to continue as an employee if he is elected as such a member (Schedule 1 (3)—proposed section 12A (5));
- (e) enables the elected member to carry out his duties without any restrictions imposed by reason of his being an employee of the board (Schedule 1 (3)—proposed section 12A (6));
- (f) restricts the power of the board to appoint an elected member to a position in the pay of the board (Schedule 1 (4)); and
- (g) effects savings and transitional provisions (Schedule 2).

The Bill makes other provisions of a minor, consequential or ancillary nature.

EXPLANATORY NOTE

The Explanatory Note is intended to provide information to the public regarding the proposed amendments to the Bill. It is not intended to be a substitute for the Bill itself.

The Bill is intended to amend the law relating to the regulation of the financial services industry. It is intended to provide a framework for the regulation of the industry and to ensure that the industry is able to operate in a safe and sound manner.

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**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (ELECTIONS) AMENDMENT BILL,
1979**

No. , 1979.

A BILL FOR

**An Act to amend the Hunter District Water, Sewerage and
Drainage Act, 1938, so as to provide for the election of
a member of The Hunter District Water Board by officers
and workmen of the board.**

[MR FERGUSON—27 March, 1979.]

Hunter District Water, Sewerage and Drainage (Elections) 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 (Elections) Amendment Act, 1979". **Short title.**
- 2.** (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act. **Commencement.**
- (2) Section 5 and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- 10 **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.**
- 15 **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.**
- SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.**
- 5.** The Principal Act is amended in the manner set forth in Schedule 1. **Amendment of Act No. 11, 1938.**
- 6.** Schedule 2 has effect. **Savings and transitional provisions.**

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

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3, definition of "Elected member"—

After the definition of "Domestic purposes", insert :—

5 "Elected member" means the member referred to in
section 8 (1) (e).

(2) (a) Section 8 (1) (c) (ii)—

Omit "and" where lastly occurring.

(b) Section 8 (1) (d)—

10 Omit "three", insert instead "two".

(c) Section 8 (1) (d)—

Omit "appropriate.", insert instead "appropriate; and".

(d) Section 8 (1) (e)—

After section 8 (1) (d), insert :—

15 (e) one shall be a person elected as a member in
the manner prescribed by the regulations.

(3) Section 12A—

After section 12, insert :—

20 12A. (1) The regulations may, subject to this Act, make provision for or with respect to the election of a person to hold office as elected member. Provisions as to elected members.

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

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election, and shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on the returning officer by the regulations in relation to the election.

10 (3) Employees of the board are entitled to vote at an election in accordance with the regulations.

(4) A person's nomination as a candidate for election as elected member is invalid if—

15 (a) the nomination is not made by at least 2 persons who are employees of the board;

(b) he is not, at the time of his nomination, a member of an industrial union registered as such under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Conciliation and Arbitration Act 1904, as subsequently amended, of the Commonwealth; or

20 (c) the instrument of nomination is not accompanied by a statutory declaration to the effect that he is, at the time of his nomination, such a member,

25 and the returning officer is entitled to rely on the information contained in the statutory declaration.

(5) Subject to section 26, a person may be, at the same time, both the elected member and an employee of the board.

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

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (6) If the elected member is an employee of the board, nothing in any law, rule, direction or other requirement that—

(a) is applicable to him in his capacity as an employee of the board; and

(b) would not be so applicable if he were not such an employee,

10 operates so as to prevent or restrict the exercise or performance by him of any of his powers, authorities, duties or functions as elected member.

15 (7) If no person is nominated at an election or if for any other reason an election fails, the Governor may appoint a person nominated by the Minister to be a member of the board, and the person so nominated shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations.

20 (8) In this section “employee of the board” means an officer or workman appointed under section 26.

(4) (a) Section 26 (1A)—

After section 26 (1), insert :—

25 (1A) A member of the board shall not be appointed to any position in the pay of the board unless—

(a) he is the elected member;

30 (b) he was, immediately before he was declared elected, an officer or workman appointed under this section and he has not, after he was declared elected, ceased to be a person who is such an officer or workman; and

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

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) the Governor approves of the appointment.

(b) Section 26 (2)—

5 After “A”, insert “former”.

(c) Section 26 (3A)—

After section 26 (3), insert :—

10 (3A) Nothing in subsection (3) applies to the
holding of office, by an officer or workman referred
to in that subsection, as a member of the board or
any other public or local authority, being an office that
is to be filled by a person elected pursuant to this or
any other Act by officers or workmen appointed
15 under this section or by officers, employees, servants
or workmen of the other authority, as the case may be.

(d) Section 26 (4)—

Omit “All”, insert instead “Subject to section 12A (6),
all”.

SCHEDULE 2.

Sec. 6.

20 SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—

“appointed day” means the day appointed and notified under section
2 (2);

“board” means The Hunter District Water Board.

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

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

2. For the purposes of enabling the board to be constituted as provided by the Principal Act, as amended by this Act, and for any incidental
5 purpose—
- (a) section 5 and Schedule 1 shall be deemed to commence on the date of assent to this Act; and
 - (b) the person first appointed pursuant to section 8 (1) (e) of that
10 Act, as so amended, as the elected member shall (subject to that Act, as so amended) assume office on the appointed day.
3. If, immediately before the appointed day, 3 persons hold office as members of the board under section 8 (1) (d) of the Principal Act, those persons shall cease to hold office as such on the appointed day, but nothing in this clause prevents the re-appointment, or the election and appointment,
15 of any of those persons in accordance with the Principal Act, as amended by this Act.
4. Subject to clause 3, nothing in this Act affects the tenure of office of the members of the board holding office immediately before the appointed day.
- 20 5. The body corporate in existence under the Principal Act, as amended by this Act, on the appointed day is a continuation of, and the same legal entity as, the body corporate in existence under the Principal Act immediately before the appointed day.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

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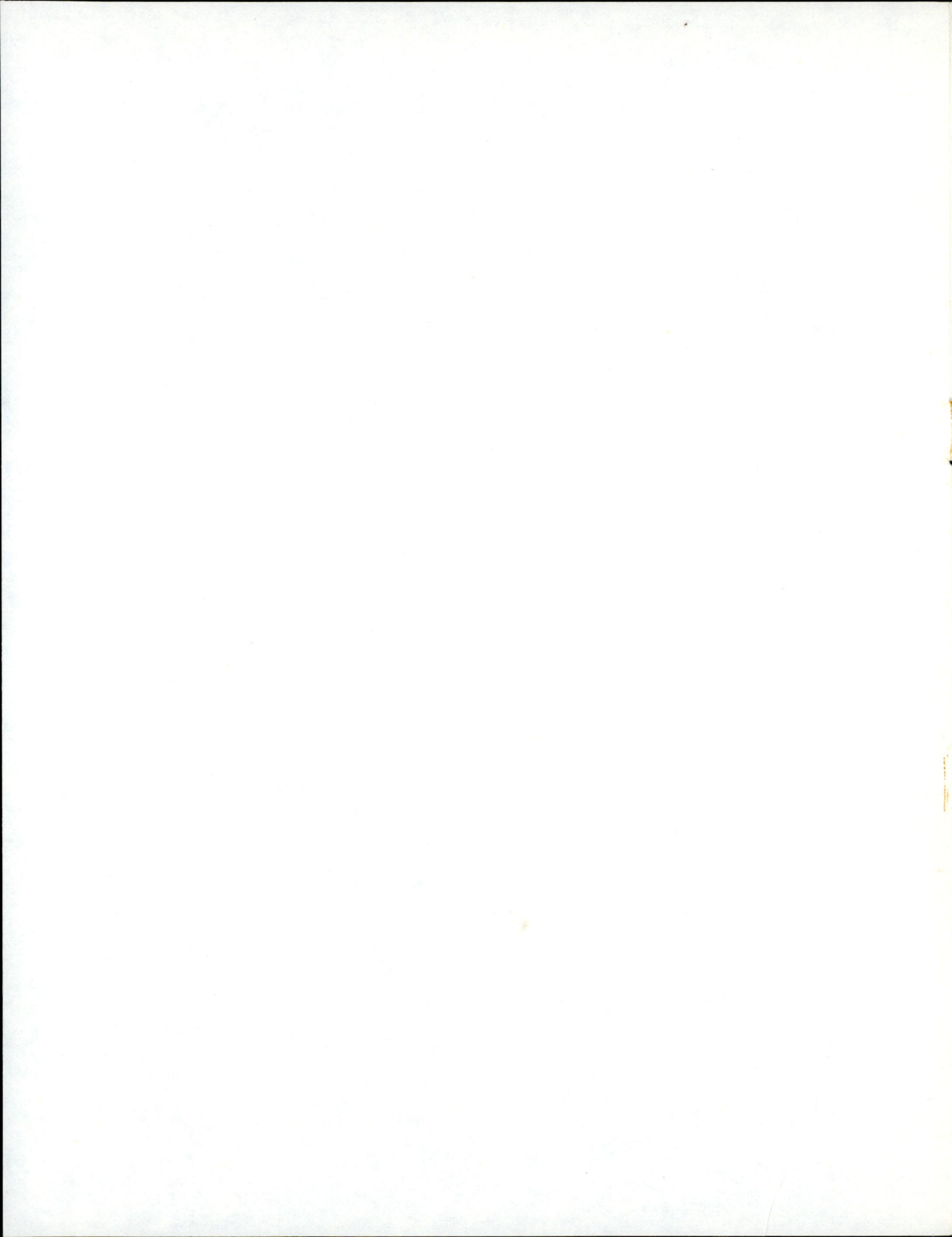
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**HUNTER DISTRICT WATER, SEWERAGE AND
DRAINAGE (ELECTIONS) AMENDMENT ACT,
1979, No. 55**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 55, 1979.

An Act to amend the Hunter District Water, Sewerage and Drainage Act, 1938, so as to provide for the election of a member of The Hunter District Water Board by officers and workmen of the board. [Assented to, 9th May, 1979.]

Hunter District Water, Sewerage and Drainage (Elections) 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 (Elections) Amendment Act, 1979".

Commence-
ment. **2.** (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 5 and Schedule 1 shall commence on such day 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.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

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

Savings and
transitional
provisions. **6.** Schedule 2 has effect.

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

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 3, definition of "Elected member"—

After the definition of "Domestic purposes", insert :—

"Elected member" means the member referred to in section 8 (1) (e).

(2) (a) Section 8 (1) (c) (ii)—

Omit "and" where lastly occurring.

(b) Section 8 (1) (d)—

Omit "three", insert instead "two".

(c) Section 8 (1) (d)—

Omit "appropriate.", insert instead "appropriate; and".

(d) Section 8 (1) (e)—

After section 8 (1) (d), insert :—

(e) one shall be a person elected as a member in the manner prescribed by the regulations.

(3) Section 12A—

After section 12, insert :—

12A. (1) The regulations may, subject to this Act, make provision for or with respect to the election of a person to hold office as elected member. Provisions as to elected members.

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

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) The Electoral Commissioner for New South Wales, or a person employed in the office of the Electoral Commissioner and nominated by him, shall be the returning officer for an election, and shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on the returning officer by the regulations in relation to the election.

(3) Employees of the board are entitled to vote at an election in accordance with the regulations.

(4) A person's nomination as a candidate for election as elected member is invalid if—

- (a) the nomination is not made by at least 2 persons who are employees of the board;
- (b) he is not, at the time of his nomination, a member of an industrial union registered as such under the Industrial Arbitration Act, 1940, or an association of employees registered as an organization under the Conciliation and Arbitration Act 1904, as subsequently amended, of the Commonwealth; or
- (c) the instrument of nomination is not accompanied by a statutory declaration to the effect that he is, at the time of his nomination, such a member, and the returning officer is entitled to rely on the information contained in the statutory declaration.

(5) Subject to section 26, a person may be, at the same time, both the elected member and an employee of the board.

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

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) If the elected member is an employee of the board, nothing in any law, rule, direction or other requirement that—

- (a) is applicable to him in his capacity as an employee of the board; and
- (b) would not be so applicable if he were not such an employee,

operates so as to prevent or restrict the exercise or performance by him of any of his powers, authorities, duties or functions as elected member.

(7) If no person is nominated at an election or if for any other reason an election fails, the Governor may appoint a person nominated by the Minister to be a member of the board, and the person so nominated shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations.

(8) In this section “employee of the board” means an officer or workman appointed under section 26.

(4) (a) Section 26 (1A)—

After section 26 (1), insert :—

(1A) A member of the board shall not be appointed to any position in the pay of the board unless—

- (a) he is the elected member;
- (b) he was, immediately before he was declared elected, an officer or workman appointed under this section and he has not, after he was declared elected, ceased to be a person who is such an officer or workman; and

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

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) the Governor approves of the appointment.
- (b) Section 26 (2)—
After “A”, insert “former”.
- (c) Section 26 (3A)—
After section 26 (3), insert :—
(3A) Nothing in subsection (3) applies to the holding of office, by an officer or workman referred to in that subsection, as a member of the board or any other public or local authority, being an office that is to be filled by a person elected pursuant to this or any other Act by officers or workmen appointed under this section or by officers, employees, servants or workmen of the other authority, as the case may be.
- (d) Section 26 (4)—
Omit “All”, insert instead “Subject to section 12A (6), all”.

Sec. 6.

SCHEDULE 2.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule—
“appointed day” means the day appointed and notified under section 2 (2);
“board” means The Hunter District Water Board.

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

SCHEDULE 2—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

2. For the purposes of enabling the board to be constituted as provided by the Principal Act, as amended by this Act, and for any incidental purpose—

- (a) section 5 and Schedule 1 shall be deemed to commence on the date of assent to this Act; and
- (b) the person first appointed pursuant to section 8 (1) (e) of that Act, as so amended, as the elected member shall (subject to that Act, as so amended) assume office on the appointed day.

3. If, immediately before the appointed day, 3 persons hold office as members of the board under section 8 (1) (d) of the Principal Act, those persons shall cease to hold office as such on the appointed day, but nothing in this clause prevents the re-appointment, or the election and appointment, of any of those persons in accordance with the Principal Act, as amended by this Act.

4. Subject to clause 3, nothing in this Act affects the tenure of office of the members of the board holding office immediately before the appointed day.

5. The body corporate in existence under the Principal Act, as amended by this Act, on the appointed day is a continuation of, and the same legal entity as, the body corporate in existence under the Principal Act immediately before the appointed day.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 9th May, 1979.*

