

WATER (AMENDMENT) BILL, 1979

EXPLANATORY NOTE

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

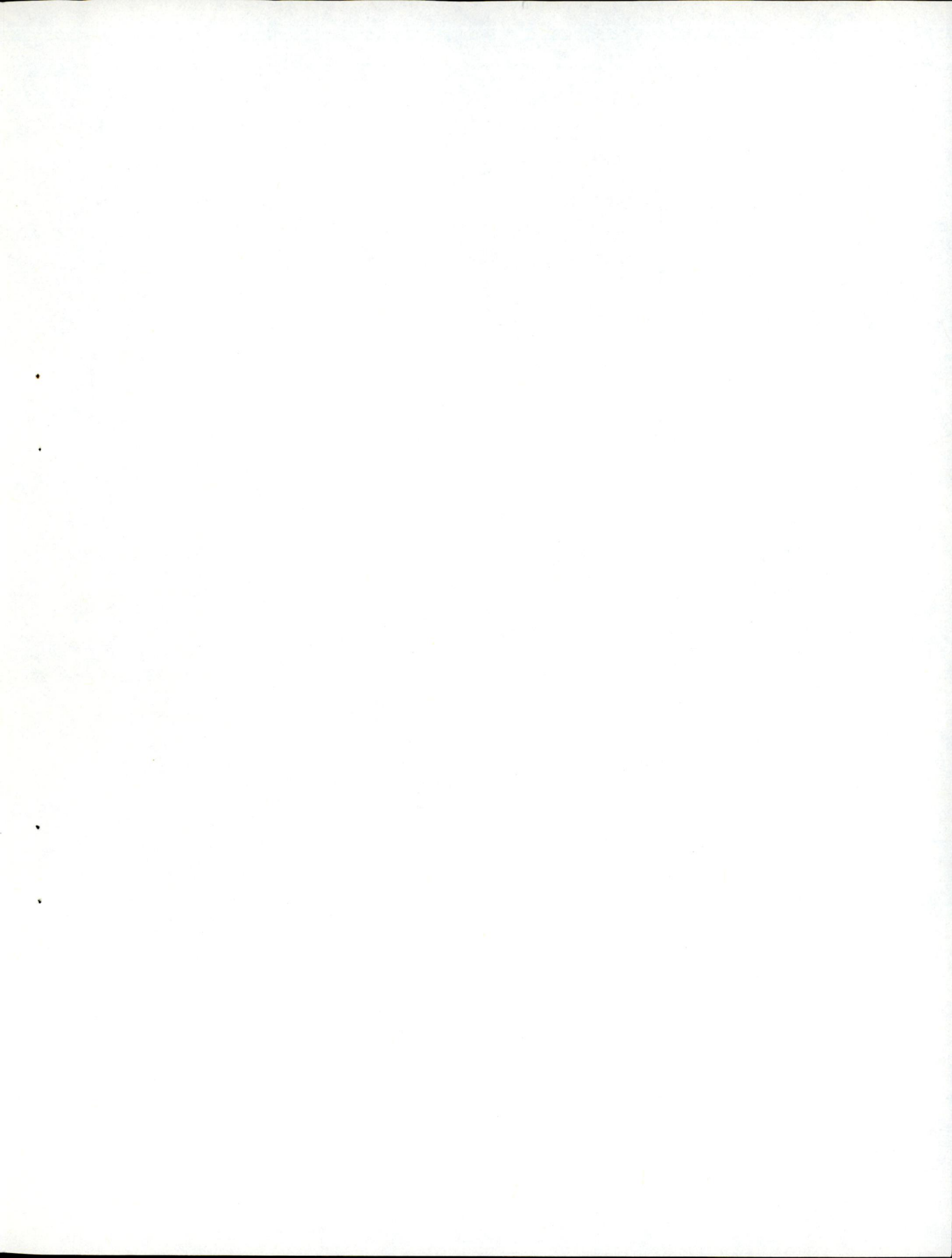
The following Bills are cognate with this Bill:—

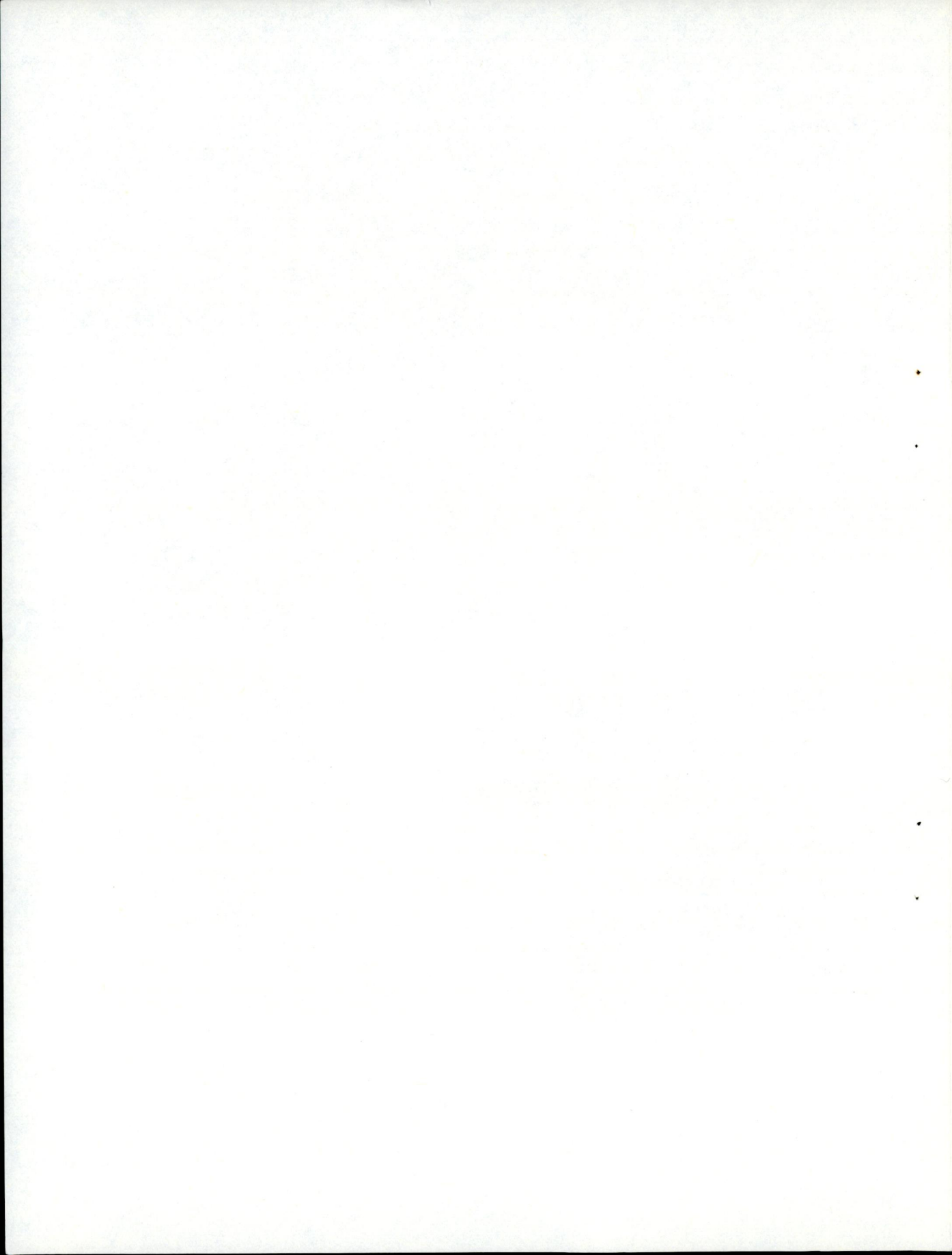
- Irrigation (Amendment) Bill, 1979;
- Wentworth Irrigation (Amendment) Bill, 1979;
- Coomella Irrigation Area Deep Drainage (Repeal) Bill, 1979.

The objects of this Bill are—

- (a) to amend the Water Act, 1912 ("the Principal Act"), so as to make it clear that the word "drainage" includes surface drainage and subsoil drainage (Schedule 1 (2) (b));
- (b) to enable the Water Resources Commission ("the Commission") to prepare schemes for water supply works, schemes for drainage works or schemes for water supply works and drainage works in districts and provisional districts constituted under Part VI of the Principal Act (Schedule 1 (5)—proposed section 133AA);
- (c) to require that a person shall not construct a water supply work or drainage work in a district or provisional district constituted under Part VI of the Principal Act without the consent of the Commission (Schedule 1 (5)—proposed section 133AB);
- (d) to enable the Commission to reassess charges for additional water where an error has been made in the assessment of those charges (Schedule 1 (7));
- (e) to repeal section 147 (10) of the Principal Act (Schedule 1 (8) (e));
- (f) to enable the Commission to require the owner of a holding within a domestic and stock water supply and irrigation district or provisional district constituted under Part VI of the Principal Act to construct certain works and, where such an owner fails to construct those works, to enable the Commission to construct them (Schedule 1 (9)—proposed section 147AC);

- (g) to prevent the owner of a holding into which 2 or more holdings have been amalgamated from draining water from the holding other than into such works as are specified by the Commission (Schedule 1 (10)—proposed section 147A (2A));
 - (h) to insert new sections 147B–147J (in place of the repealed section 147 (10)) which relate to the subdivision of holdings (Schedule 1 (11));
 - (i) to revise and update section 148A of the Principal Act by extending the section to circumstances where a person permits or suffers another person to commit certain offences (Schedule 1 (13));
 - (j) to exclude the Commission, the Chief Commissioner and certain other persons from liability from certain claims except as expressly provided in Part VI of the Principal Act (Schedule 1 (14)—proposed section 148B);
 - (k) to extend the regulation making power so as to enable regulations to be made in respect of, among other things, the construction of drainage works and the discharge of water into the drainage works of domestic and stock water supply and irrigation districts and provisional districts constituted under Part VI of the Principal Act (Schedule 1 (15));
 - (l) to repeal Part VIII of the Principal Act (Schedule 1 (16));
 - (m) to deem the Commission to have had power on and from 28th November, 1930, to construct drainage works in domestic and stock water supply and irrigation districts and provisional districts constituted under Part VI of the Principal Act (Schedule 2 (2));
 - (n) to validate everything done in respect of the construction of drainage works in domestic and stock water supply and irrigation districts and provisional districts constituted under Part VI of the Principal Act (Schedule 2 (4));
 - (o) to deem certain drainage works constructed under Part VIII of the Principal Act to have been constructed under Part VI of the Principal Act (Schedule 2 (5));
 - (p) to enable the Commission to waive any rate, or the balance of any contribution, payable under Part VIII of the Principal Act (Schedule 2 (6)); and
 - (q) to enable the Commission to acquire certain privately owned drainage works (Schedule 2 (9)).
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WATER (AMENDMENT) BILL, 1979

No. , 1979.

A BILL FOR

An Act to amend the Water Act, 1912, to enable the Water Resources Commission to construct drainage works in domestic and stock water supply and irrigation districts and provisional districts constituted under Part VI of that Act; to repeal Part VIII of that Act; and for other purposes.

[MR GORDON—20 *November*, 1979.]

See also Irrigation (Amendment) Bill, 1979; Wentworth Irrigation (Amendment) Bill, 1979; Coomealla Irrigation Area Deep Drainage (Repeal) Bill, 1979.

Water (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 "Water (Amendment) Act, Short title. 1979".

2. (1) This section and section 1 shall commence on the date Commence- of assent to this Act. ment.

(2) Except as provided in subsection (1), this Act shall 10 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.

3. The Water Act, 1912, is referred to in this Act as the Principal Principal Act. Act.

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

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS.

5. The Principal Act is amended in the manner set forth in 20 Schedule 1. Amendment of Act No. 44, 1912.

6. Schedule 2 has effect.

Transitional, savings and validation provisions.

Water (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 1, matter relating to Part VIII—
Omit the matter.
- 5 (2) (a) Section 130, heading—
Omit “and general”.
- (b) Section 130, definition of “Drainage”—
After the definitions of “District” and “Provisional District”, insert :—
- 10 “Drainage” includes surface drainage and subsoil drainage.
- (c) Section 130—
After “machinery,”, insert “bore”.
- (3) (a) Section 131, heading—
15 Before section 131, insert :—
Proposals for constitution of districts.
- (b) Section 131 (1)—
After “supply” where firstly occurring, insert “and any existing or proposed works of drainage”.
- 20 (c) Section 131 (1) (ii)—
After “irrigation” where lastly occurring, insert “and in connection with drainage”.
- (4) Section 133 (1) (b)—
Omit “benefited, and”.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Sections 133AA, 133AB and headings thereto—

After section 133A, insert :—

5

Schemes.

133AA. (1) The Commission may—

**Schemes
for works.**

10

(a) in respect of a domestic and stock water supply district or provisional district, prepare a scheme for the water supply works of the district or provisional district; or

(b) in respect of a domestic and stock water supply and irrigation district or provisional district, prepare—

15

(i) a scheme for the water supply works;

(ii) a scheme for the drainage works; or

(iii) a scheme for the water supply works and drainage works,

of the district or provisional district.

20

(2) The Commission may, at any time, revoke or amend a scheme prepared pursuant to subsection (1).

Consent of Commission.

133AB. (1) A person who proposes to construct—

**Consent of
Commission.**

(a) a water supply work in a district or provisional district; or

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (b) a drainage work in a domestic and stock water supply and irrigation district or provisional district,

shall make application to the Commission, in such form as the Commission may require, for the consent of the Commission to the construction of the work.

10 (2) Upon application being made under subsection (1) for the consent of the Commission, the Commission may refuse its consent—

(a) where the proposed work to which the application relates is a water supply work and does not comply with—

15 (i) any scheme referred to in section 133AA (1) (a) or (b) (i) that, at the date on which the application is made, exists in respect of the district or provisional district within which the proposed work is to be constructed; or

20 (ii) any scheme referred to in section 133AA (1) (b) (iii) (in so far as the scheme relates to water supply works) that, at the date on which the application is made, exists in respect of the district or provisional district within which the proposed work is to be constructed; or

25 (b) where the proposed work to which the application relates is a drainage work and does not comply with—

30 (i) any scheme referred to in section 133AA (1) (b) (ii) that, at the date on which the application is made, exists in respect

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

of the district or provisional district within which the proposed work is to be constructed; or

(ii) any scheme referred to in section 133AA (1) (b) (iii) (in so far as the scheme relates to drainage works) that, at the date on which the application is made, exists in respect of the district or provisional district within which the proposed work is to be constructed.

(6) (a) Section 134 (2) (a)—

Omit “and” where lastly occurring.

(b) Section 134 (2) (d)—

Omit the paragraph, insert instead :—

(d) in the case of lands proposed to be added to a domestic and stock water supply and irrigation district or provisional district or to be transferred from a domestic and stock water supply district or provisional district to a domestic and stock water supply and irrigation district or provisional district—

(i) the holdings (if any) to which it is proposed to attach water rights;

(ii) the number of water rights to be attached to each holding; and

(iii) the type and extent of drainage works (if any) that are to be provided in respect of the additional or transferred lands.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 142 (3)—

After section 142 (2), insert :—

- 5 (3) Where an error has been made in the assessment of a charge referred to in subsection (1) or (2), the Commission may re-assess the charge and make any adjustment necessitated by the re-assessment.

(8) (a) Section 147 (2), proviso—

10 Omit “or on which”, insert instead “, on which”.

(b) Section 147 (2), proviso—

After “repair”, insert “or on which the drainage works are in the opinion of the Commission inadequate or in a bad state of repair”.

15 (c) Section 147 (9) (d)—

After “such works”, insert “or in respect of which, in the opinion of the Commission, adequate drainage works cannot be provided”.

(d) Section 147 (9) (f)—

20 After “Any”, insert “re-assessment or”.

(e) Section 147 (10)—

Omit the subsection.

(f) Section 147 (11)—

25 Omit “subsection (10)”, insert instead “sections 147B to 147J”.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Section 147AC and heading thereto—

After section 147AB, insert :—

5

Drainage.

147AC. (1) The Commission may—

Drainage.

10

(a) require the owner of a holding within a domestic and stock water supply and irrigation district or provisional district to construct on his holding such works as are, in the opinion of the Commission, suitable and adequate for—

15

(i) the storage of water on the holding prior to the discharge of the water into the drainage works of the district or provisional district; and

(ii) the regulation of the discharge of the water into the drainage works referred to in subparagraph (i);

20

(b) stipulate the location, design, form, dimensions and levels of and materials for any works required to be constructed under paragraph (a);

25

(c) require that water from a holding within a domestic and stock water supply and irrigation district or provisional district be stored in any works required to be constructed under paragraph (a) on the holding for such period, prior to its discharge into the drainage works of the district or provisional district, as the Commission may from time to time direct; and

30

(d) stipulate the time at which and volume in which water may be discharged from a specified holding or class of holdings within a domestic and stock

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 water supply and irrigation district or provisional district into the drainage works of the district or provisional district.

10 (2) Where the owner of a holding within a domestic and stock water supply and irrigation district or provisional district does not construct, or fully construct, any works that the Commission may require him to construct under subsection (1) (a), or constructs those works otherwise than in accordance with any stipulation made under subsection (1) (b) in respect of those works, the Commission may construct, or complete the construction of, such of those works as have not been constructed or fully constructed or reconstruct those works so that they comply with the stipulation (if any), as the case may require.

15 (3) The Commission may recover the costs and expenses incurred in constructing or completing the construction of the works referred to in subsection (2), or reconstructing those works so that they comply with any stipulation made under subsection (1) (b) in respect of them, in any court of competent jurisdiction as a debt from the owner of the holding on which those works are constructed, or on which the construction of those works has been completed, or on which those works have been reconstructed, as the case may be.

(4) Where—

30 (a) water is discharged into the drainage works of a domestic and stock water supply and irrigation district or provisional district from works constructed pursuant to a requirement made under subsection (1) (a) and the works have not been

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 constructed in accordance with any stipulation made under subsection (1) (b) in respect of them; or

(b) water is so discharged in contravention of a requirement made under subsection (1) (c) or a stipulation made under subsection (1) (d),
10 the water is discharged otherwise than under the authority of this Part.

(5) Where, but for this subsection, a person would not be permitted to discharge water into the drainage works of a domestic and stock water supply and irrigation district or provisional district, he may do so with
15 the permission of the Commission subject to compliance with such conditions, and payment of such charges, as are imposed by the Commission when giving that permission.

(10) Section 147A (2A)—

After section 147A (2), insert :—

20 (2A) Where a declaration has been made in accordance with subsection (1), in respect of holdings within a domestic and stock water supply and irrigation district or provisional district the Commission shall determine which
25 of the existing drainage works are sufficient to drain adequately the holding into which holdings have been amalgamated as referred to in subsection (1) and, after 1st July next following the declaration, nothing in this Part authorises the owner of that holding to drain water from
30 the holding into the drainage works of the district or provisional district other than into such works as are specified by the Commission in a notice in writing served on that owner.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(11) Sections 147B–147J and heading to section 147B—

After section 147A, insert :—

5 *Subdivision of Holdings.*

147B. (1) Where the owner of a holding within a district or provisional district proposes to subdivide the holding and dispose of any part of the holding, that owner shall construct, at his own cost, such works as are, in the opinion of the Commission, necessary, in respect of either the part of the holding to be disposed of or the part to be retained by that owner, to construct—

Construction
of certain
works on
subdivision.

- 10
- (a) means of conveying water from the water supply works of the district or provisional district;
- 15
- (b) means of regulating and measuring the supply of water;
- (c) means of access from roads in any case where access would not be available except by crossing a channel of the district or provisional district;
- 20
- (d) means of access across a channel of the district or provisional district where that means of access is required by reason of the subdivision of the holding; and
- 25
- (e) where that holding is within a domestic and stock water supply and irrigation district or provisional district—
- (i) means of drainage to the drainage works of the district or provisional district;
- 30
- (ii) means of storage as referred to in section 147AC (1) (a) (i); and

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(iii) means of drainage within any part of the holding.

5 (2) The Commission may stipulate the location, design, form, dimensions and levels of and materials for any works required to be constructed under subsection (1).

10 (3) The Commission may, at the request of the owner of a holding who proposes to subdivide and dispose of any part of it, by agreement with that owner and at his cost, undertake the construction of any works required to be constructed under subsection (1).

147C. A work constructed under section 147B or 147E is the property of the Commission. Works to be property of Commission.

15 147D. (1) Except as provided by subsection (2), any land that is, in the opinion of the Commission, necessary for a work that is required to be constructed under section 147B (1) shall be provided by the owner of that land and shall be transferred, free of charge, to the Commission. Lands to be transferred to Commission.

20 (2) Where the Commission is satisfied that an easement over any land referred to in subsection (1) is sufficient to enable the construction of any work required to be constructed under section 147B (1), the owner of that land shall grant the easement required by the Commission, free of charge, prior to the disposal by him of any part of the land that may be affected by the easement.

30 147E. Where the owner of a holding within a district or provisional district proposes to subdivide and dispose of any part of the holding and does not construct, or fully construct, any works that the Commission may require him Commission may construct certain works.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 to construct under section 147B (1), or constructs those
works otherwise than in accordance with any stipulation
made under section 147B (2) in respect of those works,
the Commission may construct, or complete the construc-
tion of, such of those works as have not been constructed
10 or fully constructed or reconstruct those works so that they
comply with the stipulation (if any), as the case may
require.

15 147F. (1) The Commission may recover the costs and
expenses, including the cost of acquisition of any land or
easement deemed by the Commission to be necessary for
the works required to be constructed under section 147B
(1), incurred in constructing, completing the construction
of or reconstructing those works, in any court of competent
jurisdiction as a debt either from—

- 20 (a) the owner of the holding who proposes to
subdivide and dispose of any part of the holding;
or
(b) any person who acquires the part of the holding
in respect of which the works are required to be
constructed,

as the Commission may determine.

25 (2) Where the Commission recovers the costs
and expenses referred to in subsection (1) from a person
referred to in subsection (1) (b), that person may, subject
to the terms of any agreement between himself and the
the person from whom he acquired the part of the holding,
30 recover those costs and expenses from the person from
whom he acquired the part of the holding.

*Water (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 147G. Where the Commission deems it necessary for any work to be constructed on any street, road or reserve, the Commission may authorise the construction of that work. Commission may authorise the construction of certain works.

147H. (1) A work constructed under section 147E by the Commission shall be deemed to be constructed as a work of the district or provisional district, as the case may be, in which it is constructed. Certain work deemed to be works of district, etc.

10 (2) The provisions of section 148 apply to and in respect of the construction of a work referred to in subsection (1).

15 147I. Where the owner of a holding within a provisional district proposes to dispose of any part of the holding prior to the construction by the Commission, in the vicinity of the holding, of any of the works of the provisional district, the Commission may, if it deems fit, relieve that owner from the obligation to construct on the holding any of the works referred to in section 147B (1). Relief from obligation to construct works.

20 147J. (1) If any works which are, in the opinion of the Commission, necessary to provide— Commission deemed to have power to construct works in certain lands acquired by the Crown.

(a) means of conveying water from the water supply works of a district or provisional district to lands within the district or provisional district; or

25 (b) means of drainage to the drainage works of a domestic and stock water supply and irrigation district or provisional district from lands within the district or provisional district,

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

being lands which have been acquired by the Crown—

5 (c) by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907; or

(d) by purchase or vesting under the provisions of the Closer Settlement Amendment (Conversion) Act, 1943,

10 or to or from, as the case may require, any part of any such lands, and those works have not been constructed, the Commission has, and shall be deemed always to have had, power to construct those works as works of the district or provisional district within which those lands are
15 situated.

(2) The provisions of section 148 apply, and shall be deemed always to have applied, to and in respect of the construction of any works referred to in subsection (1).

20 (12) Section 148 (7)—

Omit “the said land”, insert instead “the land or the provision under this Part of drainage works to the land”.

(13) (a) Section 148A, heading—

Omit the heading, insert instead :—

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 148A (1), (2), (3), (3A)—

Omit section 148A (1), (2), (3), insert instead :—

5 (1) A person who, except under the authority of
this Part or with the permission of the Commission—

(a) takes or uses, or suffers or permits to be
taken or used, water from any water supply
work of a district or provisional district; or

10 (b) interferes, or suffers or permits another
person to interfere, with the flow of water
in any work of a district or provisional
15 district by opening or closing, or by suffer-
ing or permitting the other person to open
or close, whether in whole or in part, any
valve, sluice, gate, meter or similar
regulator or by removing or placing in
20 position, or by suffering or permitting the
other person to remove or place in position,
any dropbar or similar appliance,

is guilty of an offence and is liable on conviction to a
penalty not exceeding \$500.

(2) A person who, except under the authority of
this Part or with the permission of the Commission—

25 (a) diverts or takes, or suffers or permits to be
diverted or taken, water supplying or
flowing into any work of a district or
provisional district; or

30 (b) does any act, or suffers or permits any act
to be done, whereby the water from any
work of a district or provisional district
may be drawn off or diminished in quantity,

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 is guilty of an offence and is liable on conviction to a penalty not exceeding \$100 for each day during the whole or any part of which the supply of water is diverted, taken, drawn off or diminished by reason of any act done by or at the direction of the person.

10 (3) A person who, except under the authority of this Part or with the permission of, or in accordance with a requirement or stipulation of, the Commission, drains, or suffers or permits to be drained, any water into the works of a district or provisional district is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

15 (3A) A person who destroys, damages or interferes with, or suffers or permits another person to destroy, damage or interfere with, any work of a district or provisional district, is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

20 (14) Section 148B and heading thereto—

After section 148A, insert :—

Exclusion from claims for damage, etc.

25 148B. Except as expressly provided in this Part, and notwithstanding any Act or other law to the contrary, a person does not have—

Exclusion from claims for damage, etc., except where express provision made.

(a) any right or claim to relief of any kind whatever in any legal or other proceeding in respect of any nuisance connected with or in any way arising out of—

30 (i) the design, construction, alteration, maintenance, non-maintenance, operation, repair, disrepair or non-repair of a work of a district or provisional district;

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (ii) the destruction or damage, or partial
destruction or partial damage, by flood,
storm, tempest or otherwise of a work of
a district or provisional district; or

10 (iii) the exercise (in respect of a work of a
district or provisional district) by the
Commission of any power, authority,
duty or function conferred or imposed on
the Commission by or under this Part;
or

15 (b) any right or claim to abate or remedy any
nuisance referred to in paragraph (a),
against the Crown, a Minister, the Commission, the Chief
Commissioner or a commissioner or any officer, servant,
employee or other agent of the Crown, a Minister, the
Commission, the Chief Commissioner or a commissioner.

(15) (a) Section 149 (1) (b)—

20 Omit the paragraph, insert instead :—

(b) for the prevention of injury to the works of a
district or provisional district or to any other
work used in connection with those works;

(b) Section 149 (1) (c1)—

25 After section 149 (1) (c), insert :—

30 (c1) prescribing the times at which water may be
discharged into the drainage works of a
domestic and stock water supply and irrigation
district or provisional district and the volumes
in which water may be discharged at any such
times;

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 149 (1) (g1)—

After section 149 (1) (g), insert :—

5 (g1) prescribing the location, design, form, dimen-
 sions and levels of and materials for works
 required to be constructed by the owners of
 holdings within a district or provisional district
10 so as to prevent the siltation, blockage or
 erosion of the drainage works of the district
 or provisional district, as the case may be;

(d) Section 149 (3), (4)—

Omit the subsections, insert instead :—

15 (3) Section 41 of the Interpretation Act, 1897,
 applies in respect of a regulation made under sub-
 section (1) as if this Act had been passed after the
 commencement of the Interpretation (Amendment)
 Act, 1969.

(16) Part VIII—

20 Omit the Part.

SCHEDULE 2.

Sec. 6.

TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS.

1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

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

Water (Amendment).

SCHEDULE 2—*continued*

TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

“Commission” means the Water Resources Commission constituted under section 4 of the Water Resources Commission Act, 1976;

5 “construction” includes acquisition, utilisation and partial construction, acquisition and utilisation;

“district” includes a provisional district;

“drainage work” means a work constructed for the purpose of supplying means of drainage;

10 “water supply work” means a work constructed for the purpose of supplying water;

“work” has the same meaning as it has in section 130 of the Principal Act.

15 2. The Commission shall be deemed to have had power on and from 28th November, 1930, to construct drainage works in any domestic and stock water supply and irrigation district constituted under Part VI of the Principal Act. Commission deemed to have had power to construct drainage works.

3. A district or provisional district constituted under Part VI of the Principal Act continues on and after the appointed day—

20 (a) where, immediately before that day, it was a provisional district —as a provisional district; or Continuation of Part VI districts, etc.

(b) where, immediately before that day, it was a district—as a district,

duly constituted under and subject to Part VI of the Principal Act, as amended by this Act.

25 4. Where, before the appointed day, any act, matter or thing was done in respect of the construction of drainage works in any domestic and stock water supply and irrigation district constituted under Part VI of the Principal Act, the act, matter or thing so done is validated. Construction of certain drainage works validated.

*Water (Amendment).*SCHEDULE 2—*continued*TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

5. Any drainage works except—
- 5 (a) drainage works constructed in the Coomealla Provisional Subsoil Drainage District; and
- (b) drainage works constructed in the Curlwaa Provisional Subsoil and Surface Drainage District,
- constructed, before the appointed day, under Part VIII of the Principal Act shall be deemed to have been constructed under Part VI of the Principal Act, as amended by this Act, as if that Part, as so amended, had been in force at the time they were constructed.
- 10
6. The Commission may, by notification published in the Gazette, waive any rate, or the balance of any contribution, payable under Part VIII of the Principal Act and outstanding immediately before the appointed day and the waiver has effect as if that rate or balance had been paid.
- 15
7. Nothing in this Act affects the validity of any notification or proclamation published, before the appointed day, under section 133 of the Principal Act.
8. Where any words in a notification or proclamation published in the Gazette, before the appointed day, under Part VI of the Principal Act, or in any brief reference published in a newspaper, before that day, to any such notification or proclamation, specify or necessarily imply, in respect of a domestic and stock water supply and irrigation district constituted under that Part, that—
- 20
- 25 (a) the district is constituted for the supply of water only;
- (b) water supply works only would be constructed in the district;
- (c) the district is not constituted for drainage purposes; or
- (d) drainage works would not be constructed in the district,
- those words shall be construed, on and after that day, as if they specified
- 30 or necessarily implied—
- (e) in the cases referred to in paragraphs (a) and (c)—that the district is constituted for the supply of water and for such drainage works as the Commission considers necessary; or

Certain works deemed to have been constructed under Part VI of the Principal Act.

Waiver of rates and contributions by Commission.

Validity of certain notifications and proclamations not affected.

Construction of certain words.

Water (Amendment).

SCHEDULE 2—*continued*

TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

5 (f) in the cases referred to in paragraphs (b) and (d)—that water supply works would, and drainage works may, be constructed in the district.

10 9. (1) Where there is in existence on the appointed day any privately owned drainage works in a domestic and stock water supply and irrigation district constituted under Part VI of the Principal Act, the Commission may acquire those drainage works subject to the payment of compensation by the Commission to the owner of those drainage works. Acquisition of drainage works by Commission.

(2) Before acquiring the drainage works under subclause (1) of this clause, the Commission shall give written notice to the owner of those drainage works at least 3 months prior to acquisition.

15 (3) The compensation referred to in subclause (1) of this clause is such amount as may be agreed upon between the Commission and the owner of the drainage works or, in the absence of agreement, as may be determined under subclauses (4), (5) and (6) of this clause.

20 (4) Where the Commission and the owner of the drainage works fail to reach agreement as to the amount referred to in subclause (3) of this clause within 3 months of the date of the notice given under subclause (2) of this clause, the matter shall be referred by the Commission or that owner to the Land and Valuation Court for determination of the amount of compensation.

25 (5) The Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it under subclause (4) of this clause.

(6) The determination of the Land and Valuation Court shall be final and shall be carried into effect by the Commission and the owner of the drainage works in respect of which the determination is made.

30 (7) The Land and Valuation Court may award such costs as it thinks fit in relation to any matter referred to it under subclause (4) of this clause.

Water (Amendment).

SCHEDULE 2—*continued.*

TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

10. Nothing in this Schedule derogates from any saving made by the Interpretation Act, 1897.

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WATER (AMENDMENT) ACT, 1979, No. 159

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 159, 1979.

An Act to amend the Water Act, 1912, to enable the Water Resources Commission to construct drainage works in domestic and stock water supply and irrigation districts and provisional districts constituted under Part VI of that Act; to repeal Part VIII of that Act; and for other purposes.
[Assented to, 10th December, 1979.]

See also Irrigation (Amendment) Act, 1979; Wentworth Irrigation (Amendment) Act, 1979; Coomealla Irrigation Area Deep Drainage (Repeal) Act, 1979.

Water (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 "Water (Amendment) Act, 1979".

Commence-
ment. **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act 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 Water Act, 1912, 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.—TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS.

Amendment
of Act No.
44, 1912. **5.** The Principal Act is amended in the manner set forth in Schedule 1.

Transitional,
savings and
validation
provisions. **6.** Schedule 2 has effect.

Water (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 1, matter relating to Part VIII—
Omit the matter.

- (2) (a) Section 130, heading—
Omit “*and general*”.

- (b) Section 130, definition of “Drainage”—
After the definitions of “District” and “Provisional District”, insert :—
“Drainage” includes surface drainage and subsoil drainage.

- (c) Section 130—
After “machinery,”, insert “bore”.

- (3) (a) Section 131, heading—
Before section 131, insert :—
Proposals for constitution of districts.

- (b) Section 131 (1)—
After “supply” where firstly occurring, insert “and any existing or proposed works of drainage”.

- (c) Section 131 (1) (ii)—
After “irrigation” where lastly occurring, insert “and in connection with drainage”.

- (4) Section 133 (1) (b)—
Omit “benefited, and”.

*Water (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Sections 133AA, 133AB and headings thereto—

After section 133A, insert :—

Schemes.

133AA. (1) The Commission may—

- (a) in respect of a domestic and stock water supply district or provisional district, prepare a scheme for the water supply works of the district or provisional district; or
- (b) in respect of a domestic and stock water supply and irrigation district or provisional district, prepare—
 - (i) a scheme for the water supply works;
 - (ii) a scheme for the drainage works; or
 - (iii) a scheme for the water supply works and drainage works,
 of the district or provisional district.

(2) The Commission may, at any time, revoke or amend a scheme prepared pursuant to subsection (1).

Consent of Commission.

133AB. (1) A person who proposes to construct—

- (a) a water supply work in a district or provisional district; or

Schemes
for works.

Consent of
Commission.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) a drainage work in a domestic and stock water supply and irrigation district or provisional district,

shall make application to the Commission, in such form as the Commission may require, for the consent of the Commission to the construction of the work.

(2) Upon application being made under subsection (1) for the consent of the Commission, the Commission may refuse its consent—

- (a) where the proposed work to which the application relates is a water supply work and does not comply with—
- (i) any scheme referred to in section 133AA (1) (a) or (b) (i) that, at the date on which the application is made, exists in respect of the district or provisional district within which the proposed work is to be constructed; or
 - (ii) any scheme referred to in section 133AA (1) (b) (iii) (in so far as the scheme relates to water supply works) that, at the date on which the application is made, exists in respect of the district or provisional district within which the proposed work is to be constructed; or
- (b) where the proposed work to which the application relates is a drainage work and does not comply with—
- (i) any scheme referred to in section 133AA (1) (b) (ii) that, at the date on which the application is made, exists in respect

Water (Amendment).

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

of the district or provisional district within which the proposed work is to be constructed; or

- (ii) any scheme referred to in section 133AA (1) (b) (iii) (in so far as the scheme relates to drainage works) that, at the date on which the application is made, exists in respect of the district or provisional district within which the proposed work is to be constructed.

- (6) (a) Section 134 (2) (a)—

Omit “and” where lastly occurring.

- (b) Section 134 (2) (d)—

Omit the paragraph, insert instead :—

- (d) in the case of lands proposed to be added to a domestic and stock water supply and irrigation district or provisional district or to be transferred from a domestic and stock water supply district or provisional district to a domestic and stock water supply and irrigation district or provisional district—
 - (i) the holdings (if any) to which it is proposed to attach water rights;
 - (ii) the number of water rights to be attached to each holding; and
 - (iii) the type and extent of drainage works (if any) that are to be provided in respect of the additional or transferred lands.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 142 (3)—

After section 142 (2), insert :—

(3) Where an error has been made in the assessment of a charge referred to in subsection (1) or (2), the Commission may re-assess the charge and make any adjustment necessitated by the re-assessment.

(8) (a) Section 147 (2), proviso—

Omit “or on which”, insert instead “, on which”.

(b) Section 147 (2), proviso—

After “repair”, insert “or on which the drainage works are in the opinion of the Commission inadequate or in a bad state of repair”.

(c) Section 147 (9) (d)—

After “such works”, insert “or in respect of which, in the opinion of the Commission, adequate drainage works cannot be provided”.

(d) Section 147 (9) (f)—

After “Any”, insert “re-assessment or”.

(e) Section 147 (10)—

Omit the subsection.

(f) Section 147 (11)—

Omit “subsection (10)”, insert instead “sections 147B to 147J”.

Water (Amendment).

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

(9) Section 147AC and heading thereto—

After section 147AB, insert :—

*Drainage.***Drainage.**

147AC. (1) The Commission may—

- (a) require the owner of a holding within a domestic and stock water supply and irrigation district or provisional district to construct on his holding such works as are, in the opinion of the Commission, suitable and adequate for—
 - (i) the storage of water on the holding prior to the discharge of the water into the drainage works of the district or provisional district; and
 - (ii) the regulation of the discharge of the water into the drainage works referred to in subparagraph (i);
- (b) stipulate the location, design, form, dimensions and levels of and materials for any works required to be constructed under paragraph (a);
- (c) require that water from a holding within a domestic and stock water supply and irrigation district or provisional district be stored in any works required to be constructed under paragraph (a) on the holding for such period, prior to its discharge into the drainage works of the district or provisional district, as the Commission may from time to time direct; and
- (d) stipulate the time at which and volume in which water may be discharged from a specified holding or class of holdings within a domestic and stock

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

water supply and irrigation district or provisional district into the drainage works of the district or provisional district.

(2) Where the owner of a holding within a domestic and stock water supply and irrigation district or provisional district does not construct, or fully construct, any works that the Commission may require him to construct under subsection (1) (a), or constructs those works otherwise than in accordance with any stipulation made under subsection (1) (b) in respect of those works, the Commission may construct, or complete the construction of, such of those works as have not been constructed or fully constructed or reconstruct those works so that they comply with the stipulation (if any), as the case may require.

(3) The Commission may recover the costs and expenses incurred in constructing or completing the construction of the works referred to in subsection (2), or reconstructing those works so that they comply with any stipulation made under subsection (1) (b) in respect of them, in any court of competent jurisdiction as a debt from the owner of the holding on which those works are constructed, or on which the construction of those works has been completed, or on which those works have been reconstructed, as the case may be.

(4) Where—

- (a) water is discharged into the drainage works of a domestic and stock water supply and irrigation district or provisional district from works constructed pursuant to a requirement made under subsection (1) (a) and the works have not been

Water (Amendment).

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

constructed in accordance with any stipulation made under subsection (1) (b) in respect of them; or

- (b) water is so discharged in contravention of a requirement made under subsection (1) (c) or a stipulation made under subsection (1) (d),

the water is discharged otherwise than under the authority of this Part.

(5) Where, but for this subsection, a person would not be permitted to discharge water into the drainage works of a domestic and stock water supply and irrigation district or provisional district, he may do so with the permission of the Commission subject to compliance with such conditions, and payment of such charges, as are imposed by the Commission when giving that permission.

(10) Section 147A (2A)—

After section 147A (2), insert :—

(2A) Where a declaration has been made in accordance with subsection (1), in respect of holdings within a domestic and stock water supply and irrigation district or provisional district the Commission shall determine which of the existing drainage works are sufficient to drain adequately the holding into which holdings have been amalgamated as referred to in subsection (1) and, after 1st July next following the declaration, nothing in this Part authorises the owner of that holding to drain water from the holding into the drainage works of the district or provisional district other than into such works as are specified by the Commission in a notice in writing served on that owner.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(11) Sections 147B–147J and heading to section 147B—

After section 147A, insert :—

Subdivision of Holdings.

147B. (1) Where the owner of a holding within a district or provisional district proposes to subdivide the holding and dispose of any part of the holding, that owner shall construct, at his own cost, such works as are, in the opinion of the Commission, necessary, in respect of either the part of the holding to be disposed of or the part to be retained by that owner, to construct—

Construction
of certain
works on
subdivision.

- (a) means of conveying water from the water supply works of the district or provisional district;
- (b) means of regulating and measuring the supply of water;
- (c) means of access from roads in any case where access would not be available except by crossing a channel of the district or provisional district;
- (d) means of access across a channel of the district or provisional district where that means of access is required by reason of the subdivision of the holding; and
- (e) where that holding is within a domestic and stock water supply and irrigation district or provisional district—
 - (i) means of drainage to the drainage works of the district or provisional district;
 - (ii) means of storage as referred to in section 147AC (1) (a) (i); and

*Water (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(iii) means of drainage within any part of the holding.

(2) The Commission may stipulate the location, design, form, dimensions and levels of and materials for any works required to be constructed under subsection (1).

(3) The Commission may, at the request of the owner of a holding who proposes to subdivide and dispose of any part of it, by agreement with that owner and at his cost, undertake the construction of any works required to be constructed under subsection (1).

Works to be
property of
Commission.

147C. A work constructed under section 147B or 147E is the property of the Commission.

Lands to be
transferred
to
Commission.

147D. (1) Except as provided by subsection (2), any land that is, in the opinion of the Commission, necessary for a work that is required to be constructed under section 147B (1) shall be provided by the owner of that land and shall be transferred, free of charge, to the Commission.

(2) Where the Commission is satisfied that an easement over any land referred to in subsection (1) is sufficient to enable the construction of any work required to be constructed under section 147B (1), the owner of that land shall grant the easement required by the Commission, free of charge, prior to the disposal by him of any part of the land that may be affected by the easement.

Commission
may
construct
certain
works.

147E. Where the owner of a holding within a district or provisional district proposes to subdivide and dispose of any part of the holding and does not construct, or fully construct, any works that the Commission may require him

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

to construct under section 147B (1), or constructs those works otherwise than in accordance with any stipulation made under section 147B (2) in respect of those works, the Commission may construct, or complete the construction of, such of those works as have not been constructed or fully constructed or reconstruct those works so that they comply with the stipulation (if any), as the case may require.

147F. (1) The Commission may recover the costs and expenses, including the cost of acquisition of any land or easement deemed by the Commission to be necessary for the works required to be constructed under section 147B (1), incurred in constructing, completing the construction of or reconstructing those works, in any court of competent jurisdiction as a debt either from—

Recovery
of costs by
Commis-
sion.

- (a) the owner of the holding who proposes to subdivide and dispose of any part of the holding;
or
- (b) any person who acquires the part of the holding in respect of which the works are required to be constructed,

as the Commission may determine.

(2) Where the Commission recovers the costs and expenses referred to in subsection (1) from a person referred to in subsection (1) (b), that person may, subject to the terms of any agreement between himself and the person from whom he acquired the part of the holding, recover those costs and expenses from the person from whom he acquired the part of the holding.

*Water (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Commission
may
authorise the
construction
of certain
works.

147G. Where the Commission deems it necessary for any work to be constructed on any street, road or reserve, the Commission may authorise the construction of that work.

Certain
work
deemed to
be works of
district, etc.

147H. (1) A work constructed under section 147E by the Commission shall be deemed to be constructed as a work of the district or provisional district, as the case may be, in which it is constructed.

(2) The provisions of section 148 apply to and in respect of the construction of a work referred to in subsection (1).

Relief from
obligation
to construct
works.

147I. Where the owner of a holding within a provisional district proposes to dispose of any part of the holding prior to the construction by the Commission, in the vicinity of the holding, of any of the works of the provisional district, the Commission may, if it deems fit, relieve that owner from the obligation to construct on the holding any of the works referred to in section 147B (1).

Commission
deemed to
have power
to construct
works in
certain
lands
acquired by
the Crown.

147J. (1) If any works which are, in the opinion of the Commission, necessary to provide—

- (a) means of conveying water from the water supply works of a district or provisional district to lands within the district or provisional district; or
- (b) means of drainage to the drainage works of a domestic and stock water supply and irrigation district or provisional district from lands within the district or provisional district,

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

being lands which have been acquired by the Crown—

(c) by purchase or resumption under the provisions of the Closer Settlement (Amendment) Act, 1907; or

(d) by purchase or vesting under the provisions of the Closer Settlement Amendment (Conversion) Act, 1943,

or to or from, as the case may require, any part of any such lands, and those works have not been constructed, the Commission has, and shall be deemed always to have had, power to construct those works as works of the district or provisional district within which those lands are situated.

(2) The provisions of section 148 apply, and shall be deemed always to have applied, to and in respect of the construction of any works referred to in subsection (1).

(12) Section 148 (7)—

Omit “the said land”, insert instead “the land or the provision under this Part of drainage works to the land”.

(13) (a) Section 148A, heading—

Omit the heading, insert instead :—

Offences.

Water (Amendment).

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

(b) Section 148A (1), (2), (3), (3A)—

Omit section 148A (1), (2), (3), insert instead :—

(1) A person who, except under the authority of this Part or with the permission of the Commission—

- (a) takes or uses, or suffers or permits to be taken or used, water from any water supply work of a district or provisional district; or
- (b) interferes, or suffers or permits another person to interfere, with the flow of water in any work of a district or provisional district by opening or closing, or by suffering or permitting the other person to open or close, whether in whole or in part, any valve, sluice, gate, meter or similar regulator or by removing or placing in position, or by suffering or permitting the other person to remove or place in position, any dropbar or similar appliance,

is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

(2) A person who, except under the authority of this Part or with the permission of the Commission—

- (a) diverts or takes, or suffers or permits to be diverted or taken, water supplying or flowing into any work of a district or provisional district; or
- (b) does any act, or suffers or permits any act to be done, whereby the water from any work of a district or provisional district may be drawn off or diminished in quantity,

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

is guilty of an offence and is liable on conviction to a penalty not exceeding \$100 for each day during the whole or any part of which the supply of water is diverted, taken, drawn off or diminished by reason of any act done by or at the direction of the person.

(3) A person who, except under the authority of this Part or with the permission of, or in accordance with a requirement or stipulation of, the Commission, drains, or suffers or permits to be drained, any water into the works of a district or provisional district is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

(3A) A person who destroys, damages or interferes with, or suffers or permits another person to destroy, damage or interfere with, any work of a district or provisional district, is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

(14) Section 148B and heading thereto—

After section 148A, insert :—

Exclusion from claims for damage, etc.

148B. Except as expressly provided in this Part, and notwithstanding any Act or other law to the contrary, a person does not have—

(a) any right or claim to relief of any kind whatever in any legal or other proceeding in respect of any nuisance connected with or in any way arising out of—

(i) the design, construction, alteration, maintenance, non-maintenance, operation, repair, disrepair or non-repair of a work of a district or provisional district;

Exclusion from claims for damage, etc., except where express provision made.

Water (Amendment).

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

- (ii) the destruction or damage, or partial destruction or partial damage, by flood, storm, tempest or otherwise of a work of a district or provisional district; or
- (iii) the exercise (in respect of a work of a district or provisional district) by the Commission of any power, authority, duty or function conferred or imposed on the Commission by or under this Part; or

(b) any right or claim to abate or remedy any nuisance referred to in paragraph (a),

against the Crown, a Minister, the Commission, the Chief Commissioner or a commissioner or any officer, servant, employee or other agent of the Crown, a Minister, the Commission, the Chief Commissioner or a commissioner.

(15) (a) Section 149 (1) (b)—

Omit the paragraph, insert instead :—

- (b) for the prevention of injury to the works of a district or provisional district or to any other work used in connection with those works;

(b) Section 149 (1) (c1)—

After section 149 (1) (c), insert :—

- (c1) prescribing the times at which water may be discharged into the drainage works of a domestic and stock water supply and irrigation district or provisional district and the volumes in which water may be discharged at any such times;

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 149 (1) (g1)—

After section 149 (1) (g), insert :—

(g1) prescribing the location, design, form, dimensions and levels of and materials for works required to be constructed by the owners of holdings within a district or provisional district so as to prevent the siltation, blockage or erosion of the drainage works of the district or provisional district, as the case may be;

(d) Section 149 (3), (4)—

Omit the subsections, insert instead :—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under subsection (1) as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(16) Part VIII—

Omit the Part.

SCHEDULE 2.

Sec. 6.

TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS.

1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-
tation.

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

Act No. 159, 1979.

*Water (Amendment).*SCHEDULE 2—*continued.*TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

“Commission” means the Water Resources Commission constituted under section 4 of the Water Resources Commission Act, 1976;

“construction” includes acquisition, utilisation and partial construction, acquisition and utilisation;

“district” includes a provisional district;

“drainage work” means a work constructed for the purpose of supplying means of drainage;

“water supply work” means a work constructed for the purpose of supplying water;

“work” has the same meaning as it has in section 130 of the Principal Act.

Commission deemed to have had power to construct drainage works.

2. The Commission shall be deemed to have had power on and from 28th November, 1930, to construct drainage works in any domestic and stock water supply and irrigation district constituted under Part VI of the Principal Act.

Continuation of Part VI districts, etc.

3. A district or provisional district constituted under Part VI of the Principal Act continues on and after the appointed day—

(a) where, immediately before that day, it was a provisional district—as a provisional district; or

(b) where, immediately before that day, it was a district—as a district,

duly constituted under and subject to Part VI of the Principal Act, as amended by this Act.

Construction of certain drainage works validated.

4. Where, before the appointed day, any act, matter or thing was done in respect of the construction of drainage works in any domestic and stock water supply and irrigation district constituted under Part VI of the Principal Act, the act, matter or thing so done is validated.

*Water (Amendment).*SCHEDULE 2—*continued.*TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

5. Any drainage works except—
- (a) drainage works constructed in the Coomealla Provisional Subsoil Drainage District; and
- (b) drainage works constructed in the Curlwaa Provisional Subsoil and Surface Drainage District,
- constructed, before the appointed day, under Part VIII of the Principal Act shall be deemed to have been constructed under Part VI of the Principal Act, as amended by this Act, as if that Part, as so amended, had been in force at the time they were constructed.
6. The Commission may, by notification published in the Gazette, waive any rate, or the balance of any contribution, payable under Part VIII of the Principal Act and outstanding immediately before the appointed day and the waiver has effect as if that rate or balance had been paid.
7. Nothing in this Act affects the validity of any notification or proclamation published, before the appointed day, under section 133 of the Principal Act.
8. Where any words in a notification or proclamation published in the Gazette, before the appointed day, under Part VI of the Principal Act, or in any brief reference published in a newspaper, before that day, to any such notification or proclamation, specify or necessarily imply, in respect of a domestic and stock water supply and irrigation district constituted under that Part, that—
- (a) the district is constituted for the supply of water only;
- (b) water supply works only would be constructed in the district;
- (c) the district is not constituted for drainage purposes; or
- (d) drainage works would not be constructed in the district,
- those words shall be construed, on and after that day, as if they specified or necessarily implied—
- (e) in the cases referred to in paragraphs (a) and (c)—that the district is constituted for the supply of water and for such drainage works as the Commission considers necessary; or

Certain works deemed to have been constructed under Part VI of the Principal Act.

Waiver of rates and contributions by Commission.

Validity of certain notifications and proclamations not affected.

Construction of certain words.

Water (Amendment).

SCHEDULE 2—*continued.*TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

- (f) in the cases referred to in paragraphs (b) and (d)—that water supply works would, and drainage works may, be constructed in the district.

Acquisition
of drainage
works by
Commission.

9. (1) Where there is in existence on the appointed day any privately owned drainage works in a domestic and stock water supply and irrigation district constituted under Part VI of the Principal Act, the Commission may acquire those drainage works subject to the payment of compensation by the Commission to the owner of those drainage works.

(2) Before acquiring the drainage works under subclause (1) of this clause, the Commission shall give written notice to the owner of those drainage works at least 3 months prior to acquisition.

(3) The compensation referred to in subclause (1) of this clause is such amount as may be agreed upon between the Commission and the owner of the drainage works or, in the absence of agreement, as may be determined under subclauses (4), (5) and (6) of this clause.

(4) Where the Commission and the owner of the drainage works fail to reach agreement as to the amount referred to in subclause (3) of this clause within 3 months of the date of the notice given under subclause (2) of this clause, the matter shall be referred by the Commission or that owner to the Land and Valuation Court for determination of the amount of compensation.

(5) The Land and Valuation Court shall have jurisdiction to hear and determine any matter referred to it under subclause (4) of this clause.

(6) The determination of the Land and Valuation Court shall be final and shall be carried into effect by the Commission and the owner of the drainage works in respect of which the determination is made.

(7) The Land and Valuation Court may award such costs as it thinks fit in relation to any matter referred to it under subclause (4) of this clause.

Water (Amendment).

SCHEDULE 2—*continued.*

TRANSITIONAL, SAVINGS AND VALIDATION PROVISIONS—*continued.*

10. Nothing in this Schedule derogates from any saving made by the Interpretation Act, 1897.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 10th December, 1979.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

