

CONCURRENCE COPY

IRRIGATION (AMENDMENT) BILL, 1984

EXPLANATORY NOTE

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

This Bill is cognate with the Water (Amendment) Bill, 1984.

The object of this Bill is to amend the Irrigation Act, 1912 ("the Act"), so as—

- (a) to increase the penalties for certain offences under the Act or the regulations made thereunder (Schedule 1);
- (b) to limit the penalty that may be imposed by a court of petty sessions in respect of an offence under the Act or the regulations made thereunder (Schedule 2 (3));
- (c) to provide that proceedings for offences under the Act or the regulations made thereunder may be taken before the Land and Environment Court (Schedule 2(3)); and
- (d) to effect statute law revision (Schedule 3).

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

ORIGINAL COPY

1984

NOTE

(Introduced into Parliament)

(Amendment Bill 1984)

The Bill is based on the Bill (the Act) which

was introduced under the Act in the resolution

passed by a grant of leave to the members in

the resolution made (hereunder)

under the Act in the resolution

of the Land and Environment Commission

(a minor amendment of which)

IRRIGATION (AMENDMENT) BILL, 1984

No. , 1984.

A BILL FOR

An Act to amend the Irrigation Act, 1912, to increase certain penalties and to provide that certain proceedings may be taken before the Land and Environment Court; and for other purposes.

[Mrs CROSIO—16 May, 1984.]

Irrigation (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 **Short title.**

1. This Act may be cited as the "Irrigation (Amendment) Act, 1984".

Principal Act.

2. The Irrigation Act, 1912, is referred to in this Act as the Principal Act.

10 **Schedules.**

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

- 15 SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS FOR OFFENCES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 73, 1912.

- 20 4. The Principal Act is amended in the manner set forth in Schedules 1-3.

Saving.

5. Any proceedings for an offence under the Principal Act committed before the date of assent to this Act shall be taken, heard and dealt with as if the Principal Act had not been amended by this Act.

Irrigation (Amendment).

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) (a) Section 17A (1)—

5 Omit "not exceeding \$500.", insert instead:—

not exceeding—

(c) where the offence was committed by a corporation—
\$20,000; or

10 (d) where the offence was committed by any other person—
\$10,000.

(b) Section 17A (2)—

Omit "of not more than \$100", insert instead "not exceeding
\$1,000".

(c) Section 17A (3)—

15 Omit "not exceeding \$500.", insert instead:—

not exceeding—

(a) where the offence was committed by a corporation—
\$20,000; or

20 (b) where the offence was committed by any other person—
\$10,000.

(2) Section 17AA—

25 Omit "liable upon summary conviction to a penalty not exceeding
\$1,000 or to imprisonment for a term not exceeding three months:
Provided that nothing in this section shall in any way affect any
liability to which any person who commits a breach of this section

Irrigation (Amendment).

SCHEDULE 1—*continued.*

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

5 shall be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.”, insert instead:—

guilty of an offence and liable on summary conviction—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or
- 10 (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 3 months.

15 (2) Nothing in subsection (1) shall in any way affect any liability to which any person who commits a breach of that subsection is subject under any other Act or at common law but any such person shall not be liable to be punished twice for the same offence.

(3) (a) Section 27—

Omit “\$1,000”, insert instead “\$10,000”.

(b) Section 27—

20 Omit “\$100”, insert instead “\$1,000”.

(4) Section 28 (1)—

Omit “\$100”, insert instead “\$1,000”.

Irrigation (Amendment).

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS
FOR OFFENCES.

5 (1) Section 1—

From the matter relating to Part V, omit “30”, insert instead “31”.

(2) Section 30—

10 Omit “a penalty, or to pay any sum of money, whether as compensation or in any other way, such penalty or”, insert instead “pay any sum of money, whether as compensation or in any other way (not being as a penalty), the”.

(3) Section 31—

After section 30, insert:—

Proceedings for offences.

15 31. (1) In this section, “the Court” means the Land and Environment Court.

20 (2) Proceedings for an offence under this Act or the regulations made thereunder may be taken before a court of petty sessions held before a stipendiary magistrate, or 2 or more justices of the peace, or before the Court in its summary jurisdiction.

25 (3) If proceedings referred to in subsection (2) in respect of an offence are brought in a court of petty sessions held before a stipendiary magistrate, or 2 or more justices of the peace, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act—

(a) where the offence was committed by a corporation—\$5,000 (including any daily penalty); or

(b) where the offence was committed by any other person—\$4,000 (including any daily penalty),

*Irrigation (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING
TO PROCEEDINGS FOR OFFENCES—*continued.*

5 or the maximum penalty provided by this Act or the regulations made thereunder in respect of the offence, whichever is the lesser.

10 (4) If proceedings referred to in subsection (2) in respect of an offence are brought in the Court in its summary jurisdiction, the Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations made thereunder in respect of the offence.

(5) Proceedings referred to in subsection (2) in the Court in its summary jurisdiction in respect of an offence may be commenced not later than 6 months after the offence was alleged to have been committed.

15

SCHEDULE 3.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION.

(1) Section 3, definition of "Valuer-General"—

20 Omit the definition of "Valuer-general", insert instead:—

"Valuer-General" means the Valuer-General appointed under the Valuation of Land Act, 1916.

(2) Part II, heading—

Omit "THE COMMISSION AND".

25 (3) Sections 5G, 20 (2), 25—

Omit the italicized headings appearing immediately above the respective sections and subsection.

(4) (a) Section 5G (2) (d) (ii)—

Omit "subsection (3) of section 3", insert instead "section 3 (3)".

*Irrigation (Amendment).*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

- (b) Section 5G (3)—
5 Omit “paragraphs (a), (c), (e) and (f) of subsection (2)”, insert instead
“subsection (2) (a), (c), (e) and (f)”.
- (c) Section 5G (6), (7)—
Omit “valuer-general” wherever occurring, insert instead “Valuer-General”.
- (5) Section 8BA (1)—
10 Omit “subsection (3A) of section 8B”, insert instead “section 8B (3A)”.
- (6) (a) Section 9 (1) (d)—
After “Act,” insert “1912,”.
- (b) Section 9 (3)—
15 Omit “paragraph (c) of subsection (2)”, insert instead “subsection (2)
(c)”.
- (7) Section 11A—
Omit “The following sections”, insert instead “Sections”.
- (8) (a) Section 11D (1)—
20 Omit “the thirty-first day of December, one thousand nine hundred and
thirty-two”, insert instead “31st December, 1932”.
- (b) Section 11D (1A)—
Omit “subsection (2) of section 34L of the Farmers’ Relief”, insert instead
“section 34L (2) of the Rural Assistance”.
- (c) Section 11D (1A)—
25 Omit “subsection (9) of section 11E”, insert instead “section 11E (9)”.
- (d) Section 11D (3) (c)—
Omit “subparagraph (ii) of paragraph (a)”, insert instead “paragraph (a)
(ii)”.
- (9) Section 11I (3)—
30 Omit “275”, insert instead “274”.

Irrigation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

- (10) Section 16A (2) (b) (vi)—
5 Omit “days;”, insert instead “days.”
- (11) (a) Section 18 (3)—
Omit “, Part VII and Part VIII”, insert instead “and Part VII”.
(b) Section 18 (3)—
Omit “the those” wherever occurring, insert instead “those”.
- 10 (12) Section 20 (4)—
Omit “section 16 (paragraphs (g) and (k)), section 21 (paragraphs (k), (q),
(r) of subsection (1) and subsection (2))”, insert instead “section 16 (g) and
(h) and section 21 (1) (k), (q) and (r) and (2)”.
- (13) Section 22—
15 Omit “Public Transport Commission of New South Wales”, insert instead “State
Rail Authority”.
- (14) Section 23 (1)—
Omit “of opinion”, insert instead “of the opinion”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

(50c)

IRRIGATION (AMENDMENT) ACT, 1984, No. 67

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 67, 1984.

An Act to amend the Irrigation Act, 1912, to increase certain penalties and to provide that certain proceedings may be taken before the Land and Environment Court; and for other purposes. [Assented to, 19th June, 1984.]

Irrigation (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 "Irrigation (Amendment) Act, 1984".

Principal Act.

2. The Irrigation Act, 1912, is referred to in this Act as the Principal Act.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS FOR OFFENCES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 73, 1912.

4. The Principal Act is amended in the manner set forth in Schedules 1–3.

Saving.

5. Any proceedings for an offence under the Principal Act committed before the date of assent to this Act shall be taken, heard and dealt with as if the Principal Act had not been amended by this Act.
-

Irrigation (Amendment).

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) (a) Section 17A (1)—

Omit “not exceeding \$500.”, insert instead:—

not exceeding—

(c) where the offence was committed by a corporation—
\$20,000; or

(d) where the offence was committed by any other person—
\$10,000.

(b) Section 17A (2)—

Omit “of not more than \$100”, insert instead “not exceeding
\$1,000”.

(c) Section 17A (3)—

Omit “not exceeding \$500.”, insert instead:—

not exceeding—

(a) where the offence was committed by a corporation—
\$20,000; or

(b) where the offence was committed by any other person—
\$10,000.

(2) Section 17AA—

Omit “liable upon summary conviction to a penalty not exceeding
\$1,000 or to imprisonment for a term not exceeding three months:
Provided that nothing in this section shall in any way affect any
liability to which any person who commits a breach of this section

Irrigation (Amendment).

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

shall be subject under any other Act or at common law but such person shall not be liable to be punished twice for the same offence.”, insert instead:—

guilty of an offence and liable on summary conviction—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 3 months.

(2) Nothing in subsection (1) shall in any way affect any liability to which any person who commits a breach of that subsection is subject under any other Act or at common law but any such person shall not be liable to be punished twice for the same offence.

(3) (a) Section 27—

Omit “\$1,000”, insert instead “\$10,000”.

(b) Section 27—

Omit “\$100”, insert instead “\$1,000”.

(4) Section 28 (1)—

Omit “\$100”, insert instead “\$1,000”.

Irrigation (Amendment).

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS
FOR OFFENCES.

(1) Section 1—

From the matter relating to Part V, omit “30”, insert instead “31”.

(2) Section 30—

Omit “a penalty, or to pay any sum of money, whether as compensation or in any other way, such penalty or”, insert instead “pay any sum of money, whether as compensation or in any other way (not being as a penalty), the”.

(3) Section 31—

After section 30, insert:—

Proceedings for offences.

31. (1) In this section, “the Court” means the Land and Environment Court.

(2) Proceedings for an offence under this Act or the regulations made thereunder may be taken before a court of petty sessions held before a stipendiary magistrate, or 2 or more justices of the peace, or before the Court in its summary jurisdiction.

(3) If proceedings referred to in subsection (2) in respect of an offence are brought in a court of petty sessions held before a stipendiary magistrate, or 2 or more justices of the peace, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act—

- (a) where the offence was committed by a corporation—\$5,000 (including any daily penalty); or
- (b) where the offence was committed by any other person—\$4,000 (including any daily penalty),

Irrigation (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING
 TO PROCEEDINGS FOR OFFENCES—*continued.*

or the maximum penalty provided by this Act or the regulations made thereunder in respect of the offence, whichever is the lesser.

(4) If proceedings referred to in subsection (2) in respect of an offence are brought in the Court in its summary jurisdiction, the Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations made thereunder in respect of the offence.

(5) Proceedings referred to in subsection (2) in the Court in its summary jurisdiction in respect of an offence may be commenced not later than 6 months after the offence was alleged to have been committed.

 SCHEDULE 3.

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 AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
 STATUTE LAW REVISION.

- (1) Section 3, definition of "Valuer-General"—

Omit the definition of "Valuer-general", insert instead:—

"Valuer-General" means the Valuer-General appointed under the Valuation of Land Act, 1916.

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Omit the italicized headings appearing immediately above the respective sections and subsection.

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Omit "subsection (3) of section 3", insert instead "section 3 (3)".

Irrigation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

- (b) Section 5G (3)—
Omit “paragraphs (a), (c), (e) and (f) of subsection (2)”, insert instead “subsection (2) (a), (c), (e) and (f)”.
- (c) Section 5G (6), (7)—
Omit “valuer-general” wherever occurring, insert instead “Valuer-General”.
- (5) Section 8BA (1)—
Omit “subsection (3A) of section 8B”, insert instead “section 8B (3A)”.
- (6) (a) Section 9 (1) (d)—
After “Act,”, insert “1912.”.
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Omit “paragraph (c) of subsection (2)”, insert instead “subsection (2) (c)”.
- (7) Section 11A—
Omit “The following sections”, insert instead “Sections”.
- (8) (a) Section 11D (1)—
Omit “the thirty-first day of December, one thousand nine hundred and thirty-two”, insert instead “31st December, 1932”.
- (b) Section 11D (1A)—
Omit “subsection (2) of section 34L of the Farmers’ Relief”, insert instead “section 34L (2) of the Rural Assistance”.
- (c) Section 11D (1A)—
Omit “subsection (9) of section 11E”, insert instead “section 11E (9)”.
- (d) Section 11D (3) (c)—
Omit “subparagraph (ii) of paragraph (a)”, insert instead “paragraph (a) (ii)”.
- (9) Section 11I (3)—
Omit “275”, insert instead “274”.

Irrigation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

- (10) Section 16A (2) (b) (vi)—
Omit “days;”, insert instead “days.”.
- (11) (a) Section 18 (3)—
Omit “, Part VII and Part VIII”, insert instead “and Part VII”.
- (b) Section 18 (3)—
Omit “the those” wherever occurring, insert instead “those”.
- (12) Section 20 (4)—
Omit “section 16 (paragraphs (g) and (k)), section 21 (paragraphs (k), (q), (r) of subsection (1) and subsection (2))”, insert instead “section 16 (g) and (h) and section 21 (1) (k), (q) and (r) and (2)”.
- (13) Section 22—
Omit “Public Transport Commission of New South Wales”, insert instead “State Rail Authority”.
- (14) Section 23 (1)—
Omit “of opinion”, insert instead “of the opinion”.

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

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 19th June, 1984.*