

CONCURRENCE COPY

WATER (AMENDMENT) BILL, 1984

EXPLANATORY NOTE

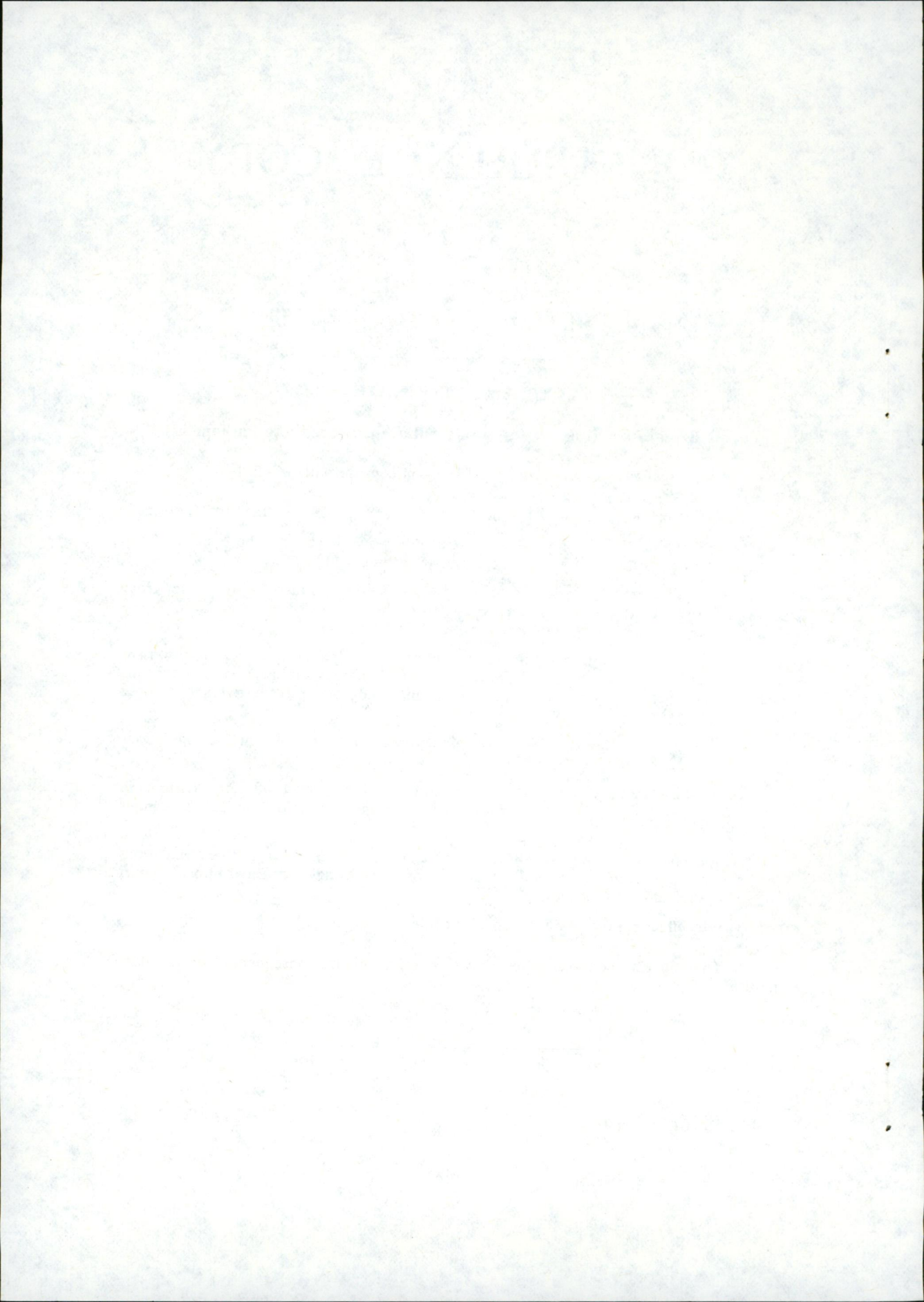
(This Explanatory Note relates to this Bill as introduced into Parliament)

The Irrigation (Amendment) Bill, 1984, is cognate with this Bill.

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

- (a) to enable fees to be prescribed for the issue of certain bore licenses for which fees are not presently charged (Schedule 1 (1));
- (b) to authorise the imposition of charges for the right to take and use water from bores situated in areas to be prescribed (the charges to be in addition to the fees payable for the bore licenses) (Schedule 1 (3));
- (c) to make, in respect of the charges referred to in paragraph (b), provisions in relation to the fixing and payment of the charges similar to the provisions applicable to the charges for taking and using water from rivers (Schedule 1 (3));
- (d) to increase the penalties for certain offences under the Act or the regulations made thereunder (Schedule 2);
- (e) 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 3 (2));
- (f) to provide that proceedings for offences under the Act or the regulations made thereunder may be taken before the Land and Environment Court (Schedule 3 (2)); and
- (g) to effect statute law revision (Schedule 4).

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



WATER (AMENDMENT) BILL, 1984

No. , 1984.

A BILL FOR

An Act to amend the Water Act, 1912, to enable charges to be made for the use of sub-surface water, 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.]

See also Irrigation (Amendment) Bill, 1984.

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 Short title.

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

Commencement.

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act.

10 (2) Schedules 2 (19) and (20) and 3 (6), and section 5 in its application to those provisions, shall commence on—

- (a) the date of assent to this Act; or
- (b) the commencement of Schedule 1 to the Water (Amendment) Act, 1983,

15 whichever is the later.

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:—

20 **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENCES AND CHARGES FOR USE OF SUB-SURFACE WATER.**

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

Water (Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS FOR OFFENCES.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

5 Amendment of Act No. 44, 1912.

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

Saving.

6. 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.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES AND CHARGES FOR USE OF SUB-SURFACE WATER.

15

(1) Section 115 (1)—

After “the application”, insert “and on payment of the prescribed fee”.

(2) Sections 116A, 116B—

20

After section 116, insert:—

License fees.

116A. (1) Fees prescribed for the purposes of sections 115 and 116 may differentiate according to—

(a) the areas in which bores are situated;

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

(b) the purposes for which bores are constructed;

5 (c) the purposes for which water taken from bores is to be used;
and

(d) such other factors as may be prescribed.

10 (2) The power to prescribe fees for the purposes of section
115 or 116 includes a power to prescribe fees by reference to a
prescribed manner of calculation or a prescribed scale, or both.

(3) Where a license in respect of a bore is to be issued
or renewed on the application of a public authority as prescribed
for the purposes of this subsection, the license may, in the discretion
of the Commission, be issued or renewed at a nominal fee.

15 **Rejection of application.**

116B. If an applicant under section 113 or 116 fails to pay to the
Commission within the time prescribed the fee payable upon the
issue or renewal of the license, the Commission may at any time
thereafter reject the application.

20 (3) Sections 117B–117D—

After section 117A, insert:—

Charges.

117B. (1) In this section—

25 “financial year” means the period from 1st July in one year to
30th June in the next following year;

“prescribed area” means an area for the time being declared to be
a prescribed area under subsection (2);

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

5 “sub-surface water basin” has the same meaning as it has in section 117A.

(2) The Governor may, by proclamation published in the Gazette, declare that as from—

- (a) the date of publication of the proclamation; or
- (b) a later date specified in the proclamation,

10 any sub-surface water basin, or any part thereof, shall be a prescribed area for the purposes of this section.

(3) The Governor may, by proclamation published in the Gazette, at any time—

- 15
- (a) vary, whether as to the whole or any part, or revoke the proclamation of any prescribed area; or
 - (b) amend the boundaries of any prescribed area.

20 (4) The licensee of any bore within a prescribed area shall, subject to and in accordance with this section, pay a charge for the right to take and use water from the bore in addition to the fee payable for the license.

(5) The charge payable under subsection (4) shall—

- 25
- (a) subject to subsection (7), be fixed by the Commission from time to time;
 - (b) be paid—
 - 30 (i) in respect of each whole financial year during which the bore is within the prescribed area; or
 - (ii) where the bore is not within the prescribed area for a whole financial year—in respect of the part of a financial year during which the bore is within the prescribed area;

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

- 5 (c) be calculated at a rate not greater than the maximum rate
which shall be prescribed according to—
- (i) the area in which the bore is situated; or
 - (ii) the purpose for which the water taken from the bore
is used;
- (d) be paid at the prescribed times and in the prescribed manner;
- 10 (e) except as provided by paragraph (f), be on the basis of the
quantity of water taken from the bore; and
- (f) to the extent of a minimum annual amount to be fixed by
the Commission in each case, be payable irrespective of
whether the bore in respect of which the license is held is
15 used or not.

(6) The Commission may, under subsection (5), fix
different charges in respect of different bores or different charges in
respect of the same bore, as the case may require, having regard to
any one or more of the following factors:—

- 20 (a) the area in which a bore is situated;
- (b) the purpose for which water taken from a bore is used;
 - (c) the quantity of water taken from a bore.

(7) Where the Commission varies the amount it has fixed
as the charge payable under subsection (4), the variation shall take
25 effect on such date (being the immediately preceding 1st July or any
subsequent 1st July) as the Commission may determine.

(8) If the holder of a license fails to pay the charge required
under this section within the prescribed period, the Commission may
suspend the license until the charge is paid.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

- 5 (9) The Minister may, on the recommendation of the
Commission, remit or waive the payment in any financial year of
any charge paid or payable under this section.

Penalty for use of bore when license suspended.

10 117C. The holder of a license which has been suspended under
section 117B (8) who takes or uses water from the bore the subject
of the license while the license is suspended is guilty of an offence
and is liable, on conviction—

- 15 (a) where the offence was committed by a corporation—to a
penalty not exceeding \$20,000 and, in the case of a con-
tinuing offence, to a further penalty not exceeding \$2,000 for
each day the offence continues; or
- (b) where the offence was committed by any other person—to a
penalty not exceeding \$10,000 and, in the case of a con-
tinuing offence, to a further penalty not exceeding \$1,000 for
each day the offence continues.

20 **Water meters.**

117D. (1) A person who—

- (a) intentionally, fraudulently or by culpable negligence—
- 25 (i) damages a metering or measuring device fitted (in
compliance with a direction given under section 117A)
to a bore within an area which is a prescribed area
for the purposes of section 117B;
- (ii) prevents any such metering or measuring device from
recording the quantity of water taken from the bore,
or uses any means whereby water so taken is not
30 recorded by the metering or measuring device; or

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

5 (iii) without the consent of the Commission given in writing, interferes with any such metering or measuring device; or

(b) being the holder of the license in respect of the bore, suffers, permits or directs any other person to do any of the acts specified in paragraph (a),
10 is guilty of an offence and is liable, on conviction—

(c) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

(d) where the offence was committed by any other person—to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or both.
15

(2) In any prosecution for an offence under subsection (1), proof of the existence of—

(a) any means for preventing a metering or measuring device from recording the quantity of water taken from the bore to which the metering or measuring device is fitted; or
20

(b) any means whereby water is taken from the bore without being recorded by the metering or measuring device,

shall be admissible as evidence that the prevention or, as the case may be, the use of the means was caused by the holder of the license authorising the use of the bore.
25

(3) For the purpose of ascertaining whether an offence under subsection (1) has been committed, the Commission may, by any of its officers, employees or agents, enter on any land and dismantle for inspection a metering or measuring device referred to in that subsection.
30

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

(4) Section 119—

5 After “charges”, insert “(including charges for the right to take and use water from a bore)”.

(5) Section 129 (1) (d)—

10 Omit “of the same; and the fees payable in respect of licenses and renewals thereof; and”, insert instead “thereof, the fees payable in respect of licenses and renewals thereof and the time for, and manner of, payment of those fees;”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

15 (1) (a) Section 4c (2) (b)—

Omit “is guilty of failing”, insert instead “fails”.

(b) Section 4c (2)—

20 Omit “shall, upon conviction, be liable to a penalty not exceeding \$1,000 and a further penalty of \$100 for each day during which the offence continues after such conviction.”, insert instead:—

is guilty of an offence and is liable, on conviction—

25 (c) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

5 (d) where the offence was committed by any other person
—to a penalty not exceeding \$10,000 and, in the case
of a continuing offence, to a further penalty not
exceeding \$1,000 for each day the offence continues.

(2) Section 17B (1)—

10 Omit “conviction, to a penalty not exceeding \$1,000 and, in the case
of a continuing offence, to a penalty not exceeding \$100 for each day
the offence continues.”, insert instead:—

conviction—

15 (f) where the offence was an offence under paragraph (a), (b),
(c) or (d) committed by a corporation—to a penalty not
exceeding \$20,000 and, in the case of a continuing offence,
to a further penalty not exceeding \$2,000 for each day the
offence continues;

20 (g) where the offence was an offence under paragraph (a), (b),
(c) or (d) committed by any other person—to a penalty not
exceeding \$10,000 and, in the case of a continuing offence,
to a further penalty not exceeding \$1,000 for each day the
offence continues; or

25 (h) where the offence was an offence under paragraph (e)—to a
penalty not exceeding \$1,000 and, in the case of a continuing
offence, to a further penalty not exceeding \$100 for each
day the offence continues.

(3) Sections 18 (1), (2), 18R (1), 20D, 20T—

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

(4) Sections 18R (1), 148A (2)—

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

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

(5) Section 20HA (1)—

5 Omit “conviction, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a penalty not exceeding \$100 for each day the offence continues.”, insert instead:—

conviction—

10 (f) where the offence was an offence under paragraph (a), (b), (c) or (d) committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues;

15 (g) where the offence was an offence under paragraph (a), (b), (c) or (d) committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues; or

20 (h) where the offence was an offence under paragraph (e)—to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a further penalty not exceeding \$100 for each day the offence continues.

(6) Section 20SA (1)—

25 Omit “conviction, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a penalty not exceeding \$100 for each day the offence continues.”, insert instead:—

conviction—

30 (e) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

5 (f) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.

(7) (a) Section 20AC (1)—

10 Omit “Penalty: \$500.”, insert instead “Penalty: \$20,000 in the case of a corporation and \$10,000 in any other case.”.

(b) Section 20AC (2)—

Omit “conviction, to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or both.”, insert instead:—

15 conviction—

(c) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

20 (d) where the offence was committed by any other person—to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or both.

(8) Section 21B (1)—

Omit “conviction, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a penalty not exceeding \$100 for each day the offence continues.”, insert instead:—

25 conviction—

(d) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

- 5 (e) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.
- (9) Sections 22B (8), 148A (3A)—
Omit “not exceeding \$500.” wherever occurring, insert instead:—
10 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.
- 15 (10) Section 23—
Omit “shall be liable to a penalty not exceeding \$500, or to imprisonment for a term not exceeding three months.”, insert instead:—
is guilty of an offence and is liable, on conviction—
20 (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.
- 25 (11) (a) Section 27 (1) (e2)—
Omit “regulations;”, insert instead “regulations; and”.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

(b) Section 27 (1) (f), (g)—

5 Omit the paragraphs, insert instead:—

(f) the imposition of a penalty for any breach of the regulations—

10 (i) where the breach is committed by a corporation—
not exceeding \$20,000 and, in the case of a continuing breach, the imposition of a further penalty not exceeding \$2,000 for each day the breach continues; or

15 (ii) where the breach is committed by any other person—
not exceeding \$10,000 and, in the case of a continuing breach, the imposition of a further penalty not exceeding \$1,000 for each day the breach continues,

and generally for the purposes of carrying out the provisions of this Part and providing for the procedure thereunder.

20 (12) Section 71—

Omit “shall be liable to a penalty not exceeding \$500, and in the case of a continuing offence to a penalty not exceeding \$100 per day whilst the offence continues, and shall also be liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by his offence.”, insert instead:—

25 is guilty of an offence and is liable, on conviction—

30 (g) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

(h) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues,

Water (Amendment).

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

5 and is also liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by the offence.

(13) Section 74 (1) (m)—

Omit "\$200", insert instead "\$2,000".

(14) Section 112 (2)—

10 Omit ", on conviction, be liable to a penalty not exceeding \$500, and a further penalty of \$100 for each day during which the contravention continues after such conviction.", insert instead:—

be guilty of an offence and shall be liable, on conviction—

15 (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

20 (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.

(15) Section 118—

25 Omit "shall be liable to a penalty not exceeding \$500 and a further penalty of \$100 for each day during which the contravention or failure continues after such conviction, and in addition to the imposition of the said penalty, the license may, by notice in the Gazette, be cancelled.", insert instead:—

is guilty of an offence and is liable, on conviction—

30 (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

5 (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues,

and in addition to the imposition of such a penalty, the license may, by notice published in the Gazette, be cancelled.

10 (16) Section 124 (2)—

Omit "\$500", insert instead "\$10,000".

(17) (a) Sections 129 (1), 149 (2)—

Omit "\$500" wherever occurring, insert instead "\$10,000".

(b) Sections 129 (1), 149 (2)—

15 Omit "\$100" wherever occurring, insert instead "\$1,000".

(18) Section 148A (1)—

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

not exceeding—

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

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

(19) (a) Section 180 (1)—

25 Omit "Penalty: \$2,000.", insert instead "Penalty: \$20,000 in the case of a corporation and \$10,000 in any other case.".

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

(b) Section 180 (2), (3)—

5 Omit “Penalty: \$500.” wherever occurring, insert instead
“Penalty: \$20,000 in the case of a corporation and \$10,000 in
any other case.”.

(20) Section 185 (3)—

Omit the subsection, insert instead:—

10 (3) A regulation may impose a penalty for an offence against the
regulation not exceeding—

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

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

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS
FOR OFFENCES.

20 (1) Section 1—

From the matter relating to Part I, omit “4F”, insert instead “4G”.

(2) Section 4G—

After section 4F, insert:—

Proceedings for offences.

25 4G. (1) In this section, “the Court” means the Land and
Environment Court.

Water (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS
FOR OFFENCES—*continued.*

5 (2) Proceedings for an offence under this Act or the regulations made thereunder (not being an offence made punishable on indictment) may be taken before a court of petty sessions held before a stipendiary magistrate, or any 2 justices, or before the Court in its summary jurisdiction.

10 (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 justices, the maximum penalty that the court may impose in respect of the offence is, notwithstanding any other provision of this Act—

15 (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),

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

20 (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.

25 (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.

Water (Amendment).

SCHEDULE 3—*continued.*

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

(3) Section 24—

- 5 Omit “and penalties imposed by this Part, or any regulation made thereunder, may be recovered before, and charges in respect of offences under this Part (not being offences made punishable on indictment) may be heard and determined by,” insert instead “this Part, or any regulation made thereunder, may be recovered before”.

10 (4) Section 125—

Omit “and penalties imposed by this Part, or by”, insert instead “this Part, or”.

(5) Sections 149 (6), 164 (7)—

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

(6) Section 182—

Omit the section.

20

SCHEDULE 4.

(Sec. 5.)

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

(1) (a) Section 1—

- 25 From the matter relating to Division 2 of Part II, omit “6”, insert instead “7”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- (b) Section 1—
5 From the matter relating to Division 2 of Part III, omit “38”, insert instead “38A”.
- (c) Section 1—
From the matter relating to Division 5 of Part III, omit “Power”, insert instead “Powers”.
- (d) Section 1—
10 From the matter relating to Division 7 of Part III, omit “66–68”, insert instead “66, 67”.
- (e) Section 1—
Omit the matter relating to Division 8 of Part III.
- (f) Section 1—
15 Omit the matter relating to Divisions 1, 2, 3 and 4 of Part IV.
- (g) Section 1—
From the matter relating to Division 5 of Part IV, omit “93–104”, insert instead “100–102”.
- (h) Section 1—
20 From the matter relating to Division 3 of Part V, omit “111A–118”, insert instead “112–118A”.
- (i) Section 1—
Omit “SCHEDULES”, insert instead “SCHEDULE I”.
- (2) Section 4, definition of “Land district”—
25 Omit “, or any Act amending the same”.
- (3) (a) Section 4A (2) (a) (i), (ii)—
Omit the subparagraphs, insert instead:—
- 30 (i) The Metropolitan Water Sewerage and Drainage Board or any person by or under the authority of the Metropolitan Water, Sewerage, and Drainage Act, 1924;
- (ii) The Hunter District Water Board or any person by or under the authority of the Hunter District Water, Sewerage and Drainage Act, 1938;

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- 5 (b) Section 4A (2) (a) (iii)—
Omit “the Broken Hill Water Board”, insert instead “The Broken Hill Water Board”.
- (c) Section 4A (2) (a) (iv)—
Omit “, as amended by subsequent Acts”.
- 10 (d) Section 4A (3)—
Omit “unless the context or subject matter”, insert instead “, except in so far as the context or subject-matter”.
- (4) Section 4B (2)—
Omit “paragraph (a) of subsection (2) of section 4A”, insert instead “section 4A (2) (a)”.
- 15 (5) (a) Section 12 (1) (b)—
Omit “subsection (5) of section 11”, insert instead “section 11 (5)”.
- (b) Section 12 (2) (b)—
Omit “Act”, insert instead “Part”.
- (6) Sections 12 (3), 14 (1)—
20 Omit “the Commissioner for Railways, the Metropolitan Meat Industry Commissioner” wherever occurring, insert instead “the State Rail Authority, the Homebush Abattoir Corporation”.
- (7) Section 13A (2) (b)—
Omit “subsection (3) of section 10”, insert instead “section 10 (3)”.
- 25 (8) (a) Section 14 (2A)—
Omit “subsection (4) of section 13A”, insert instead “section 13A (4)”.
- (b) Section 14 (3A) (a)—
Omit “subsection (3) of section 13B”, insert instead “section 13B (3)”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- 5 (c) Section 14 (3A) (b)—
Omit “subsections (4) and (5) of section 13C”, insert instead “section 13C (4) and (5)”.
- (9) (a) Section 20B (1)—
Omit “subsection (1A) or (1B) of section 20A”, insert instead “section 20A (1A) or (1B)”.
- 10 (b) Section 20B (1)—
Omit “subsection (2) of that section”, insert instead “section 20A (2)”.
- (10) (a) Section 20CA (2)—
Omit “subsection (2) of section 20, paragraphs (c) and (e) of subsection (2) of section 13A and subsection (1), (1A), (1B), (1C) and (1D) of section 20A”, insert instead “sections 13A (2) (c) and (e), 20 (2) and 20A (1), (1A), (1B), (1C) and (1D)”.
- 15 (b) Section 20CA (5)—
Omit “subsection (5) of section 13A”, insert instead “section 13A (5)”.
- (11) Section 20CB (2) (b)—
Omit “subsection (4) of section 20CA”, insert instead “section 20CA (4)”.
- 20 (12) (a) Section 20E (4)—
Omit “paragraphs (c), (d) and (e) of subsection (2)”, insert instead “subsection (2) (c), (d) and (e)”.
- (b) Section 20E (4)—
Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.
- 25 (13) Sections 20I, 20L (3) (a), 20Q (2) (a), (3) (c) (i)—
Omit “and Water (Amendment)” wherever occurring.
- (14) Section 20L (3) (b)—
Omit “subsection (1) of section 34”, insert instead “section 34 (1)”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- (15) Section 20AC (3) (a)—
After “meter” where firstly occurring, insert “or measuring device”.
- 5 (16) Part III, Division 2, heading—
Omit “works,”, insert instead “works”.
- (17) Section 38A (3) (b)—
Omit “paragraph (c) of subsection (2)”, insert instead “subsection (2) (c)”.
- (18) Section 41 (4) (b) (ii)—
10 Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.
- (19) (a) Section 41A (1)—
Omit “subsection (10) of section 147 (paragraphs (b) and (h) excepted)”,
insert instead “sections 147B to 147I (sections 147B (1) (e) and 147C
excepted)”.
- 15 (b) Section 41A (1)—
Omit “subparagraph (iii) of paragraph (f) of that subsection”, insert
instead “section 147H (2)”.
- (c) Section 41A (2)—
Omit “subsection (1) of section 37”, insert instead “section 37 (1)”.
- 20 (20) Section 53 (d)—
Omit “Revenue”.
- (21) (a) Section 64—
Omit “the two last preceding sections”, insert instead “sections 62 and 63”.
- (b) Section 64—
25 Omit “the twenty-eighth day of December, one thousand nine hundred and
six”, insert instead “28th December, 1906”.
- (22) Part III, Division 8, heading—
Omit the heading.

Water (Amendment).

SCHEDULE 4—*continued.*

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

- (23) Section 74 (2)—
Omit the subsection, insert instead:—
5 (2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Part as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
- (24) Section 75 (2)—
Omit the subsection, insert instead:—
10 (2) Section 41 of the Interpretation Act, 1897, applies in respect of a by-law made under this Part as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
- (25) Section 115 (1)—
Omit “subsection (2) of section 113”, insert instead “section 113 (2)”.
- 15 (26) Section 115A—
Omit the section.
- (27) Section 128—
Omit “Revenue”.
- (28) Section 129 (2)—
20 Omit the subsection, insert instead:—
(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Part as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
- (29) Part VI, heading—
25 Omit “SUPPLY DISTRICTS,”, insert instead “SUPPLY DISTRICTS”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- (30) Sections 132 (1A), 133D (1)—
5 Omit “subsection (2A) of section 131” wherever occurring, insert instead
“section 131 (2A)”.
- (31) Section 133 (3A)—
Omit “subsection (1A) of section 132”, insert instead “section 132 (1A)”.
- (32) Sections 133D (2), 147 (9A)—
10 Omit “subsection (1) of section 133c” wherever occurring, insert instead
“section 133c (1)”.
- (33) Section 138 (2) (b)—
Omit “subsection (1) of section 131, subsection (1) of section 133 or subsection
(2) of section 134”, insert instead “section 131 (1), 133 (1) or 134 (2)”.
- (34) Section 138A (6)—
15 Omit “paragraph (b) of subsection (5)”, insert instead “subsection (5) (b)”.
- (35) Section 139 (2)—
Omit “subsection (3) or subsection (4) of section 147”, insert instead “section
147 (3) or (4)”.
- (36) (a) Section 139A (4)—
20 Omit “subsections (2) and (3) of section 139 and of section 143”, insert
instead “sections 139 (2) and (3) and 143”.
- (b) Section 139A (4), (5)—
Omit “subsection (1) of section 139” wherever occurring, insert instead
“section 139 (1)”.
- 25 (37) Section 143 (6)—
Omit “paragraph (a) of section 141”, insert instead “section 141 (a)”.

*Water (Amendment).*SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(38) (a) Section 147 (9A)—

Omit “subsection (1) of section 133D”, insert instead “section 133D (1)”.

5 (b) Section 147 (9A)—

Omit “subsection (2) of section 133D”, insert instead “section 133D (2)”.

(39) Section 150, definition of “Board”—

Omit “subsection (2) of section 30”, insert instead “section 30 (2)”.

(40) (a) Section 159 (1A)—

10 Omit “paragraph (c) of subsection (1)”, insert instead “subsection (1) (c)”.

(b) Section 159 (1A)—

Omit “subsection (1) of section 151, subsection (1) of section 154 or subsection (2) of section 155”, insert instead “section 151 (1), 154 (1) or 155 (2)”.

15 (c) Section 159 (5)—

Omit “subsection (2) of section 158”, insert instead “section 158 (2)”.

(41) Section 164 (4), (5)—

Omit the subsections, insert instead:—

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

(42) Schedules, heading—

Omit “SCHEDULES.”.

BY AUTHORITY

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

(\$1.50)

WATER (AMENDMENT) ACT, 1984, No. 66

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 66, 1984.

An Act to amend the Water Act, 1912, to enable charges to be made for the use of sub-surface water, 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.]

See also Irrigation (Amendment) Act, 1984.

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, 1984".

Commencement.

2. (1) Subject to subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedules 2 (19) and (20) and 3 (6), and section 5 in its application to those provisions, shall commence on—

- (a) the date of assent to this Act; or
- (b) the commencement of Schedule 1 to the Water (Amendment) Act, 1983,

whichever is the later.

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 RELATING TO BORE LICENCES AND CHARGES FOR USE OF SUB-SURFACE WATER.

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

Water (Amendment).

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS FOR OFFENCES.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 44, 1912.

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

Saving.

6. 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.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER.

(1) Section 115 (1)—

After “the application”, insert “and on payment of the prescribed fee”.

(2) Sections 116A, 116B—

After section 116, insert:—

License fees.

116A. (1) Fees prescribed for the purposes of sections 115 and 116 may differentiate according to—

(a) the areas in which bores are situated;

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

- (b) the purposes for which bores are constructed;
- (c) the purposes for which water taken from bores is to be used;
and
- (d) such other factors as may be prescribed.

(2) The power to prescribe fees for the purposes of section 115 or 116 includes a power to prescribe fees by reference to a prescribed manner of calculation or a prescribed scale, or both.

(3) Where a license in respect of a bore is to be issued or renewed on the application of a public authority as prescribed for the purposes of this subsection, the license may, in the discretion of the Commission, be issued or renewed at a nominal fee.

Rejection of application.

116B. If an applicant under section 113 or 116 fails to pay to the Commission within the time prescribed the fee payable upon the issue or renewal of the license, the Commission may at any time thereafter reject the application.

(3) Sections 117B–117D—

After section 117A, insert:—

Charges.

117B. (1) In this section—

“financial year” means the period from 1st July in one year to 30th June in the next following year;

“prescribed area” means an area for the time being declared to be a prescribed area under subsection (2);

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

“sub-surface water basin” has the same meaning as it has in section 117A.

(2) The Governor may, by proclamation published in the Gazette, declare that as from—

- (a) the date of publication of the proclamation; or
- (b) a later date specified in the proclamation,

any sub-surface water basin, or any part thereof, shall be a prescribed area for the purposes of this section.

(3) The Governor may, by proclamation published in the Gazette, at any time—

- (a) vary, whether as to the whole or any part, or revoke the proclamation of any prescribed area; or
- (b) amend the boundaries of any prescribed area.

(4) The licensee of any bore within a prescribed area shall, subject to and in accordance with this section, pay a charge for the right to take and use water from the bore in addition to the fee payable for the license.

(5) The charge payable under subsection (4) shall—

- (a) subject to subsection (7), be fixed by the Commission from time to time;
- (b) be paid—
 - (i) in respect of each whole financial year during which the bore is within the prescribed area; or
 - (ii) where the bore is not within the prescribed area for a whole financial year—in respect of the part of a financial year during which the bore is within the prescribed area;

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

- (c) be calculated at a rate not greater than the maximum rate which shall be prescribed according to—
 - (i) the area in which the bore is situated; or
 - (ii) the purpose for which the water taken from the bore is used;
- (d) be paid at the prescribed times and in the prescribed manner;
- (e) except as provided by paragraph (f), be on the basis of the quantity of water taken from the bore; and
- (f) to the extent of a minimum annual amount to be fixed by the Commission in each case, be payable irrespective of whether the bore in respect of which the license is held is used or not.

(6) The Commission may, under subsection (5), fix different charges in respect of different bores or different charges in respect of the same bore, as the case may require, having regard to any one or more of the following factors:—

- (a) the area in which a bore is situated;
- (b) the purpose for which water taken from a bore is used;
- (c) the quantity of water taken from a bore.

(7) Where the Commission varies the amount it has fixed as the charge payable under subsection (4), the variation shall take effect on such date (being the immediately preceding 1st July or any subsequent 1st July) as the Commission may determine.

(8) If the holder of a license fails to pay the charge required under this section within the prescribed period, the Commission may suspend the license until the charge is paid.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

(9) The Minister may, on the recommendation of the Commission, remit or waive the payment in any financial year of any charge paid or payable under this section.

Penalty for use of bore when license suspended.

117C. The holder of a license which has been suspended under section 117B (8) who takes or uses water from the bore the subject of the license while the license is suspended is guilty of an offence and is liable, on conviction—

- (a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or
- (b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.

Water meters.

117D. (1) A person who—

- (a) intentionally, fraudulently or by culpable negligence—
 - (i) damages a metering or measuring device fitted (in compliance with a direction given under section 117A) to a bore within an area which is a prescribed area for the purposes of section 117B;
 - (ii) prevents any such metering or measuring device from recording the quantity of water taken from the bore, or uses any means whereby water so taken is not recorded by the metering or measuring device; or

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

(iii) without the consent of the Commission given in writing, interferes with any such metering or measuring device; or

(b) being the holder of the license in respect of the bore, suffers, permits or directs any other person to do any of the acts specified in paragraph (a),

is guilty of an offence and is liable, on conviction—

(c) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

(d) where the offence was committed by any other person—to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or both.

(2) In any prosecution for an offence under subsection (1), proof of the existence of—

(a) any means for preventing a metering or measuring device from recording the quantity of water taken from the bore to which the metering or measuring device is fitted; or

(b) any means whereby water is taken from the bore without being recorded by the metering or measuring device,

shall be admissible as evidence that the prevention or, as the case may be, the use of the means was caused by the holder of the license authorising the use of the bore.

(3) For the purpose of ascertaining whether an offence under subsection (1) has been committed, the Commission may, by any of its officers, employees or agents, enter on any land and dismantle for inspection a metering or measuring device referred to in that subsection.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO BORE LICENSES
AND CHARGES FOR USE OF SUB-SURFACE WATER—*continued.*

(4) Section 119—

After “charges”, insert “(including charges for the right to take and use water from a bore)”.

(5) Section 129 (1) (d)—

Omit “of the same; and the fees payable in respect of licenses and renewals thereof; and”, insert instead “thereof, the fees payable in respect of licenses and renewals thereof and the time for, and manner of, payment of those fees;”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) (a) Section 4c (2) (b)—

Omit “is guilty of failing”, insert instead “fails”.

(b) Section 4c (2)—

Omit “shall, upon conviction, be liable to a penalty not exceeding \$1,000 and a further penalty of \$100 for each day during which the offence continues after such conviction.”, insert instead:—

is guilty of an offence and is liable, on conviction—

- (c) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

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

- (d) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.

(2) Section 17B (1)—

Omit “conviction, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a penalty not exceeding \$100 for each day the offence continues.”, insert instead:—

conviction—

- (f) where the offence was an offence under paragraph (a), (b), (c) or (d) committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues;
- (g) where the offence was an offence under paragraph (a), (b), (c) or (d) committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues; or
- (h) where the offence was an offence under paragraph (e)—to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a further penalty not exceeding \$100 for each day the offence continues.

(3) Sections 18 (1), (2), 18R (1), 20D, 20T—

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

(4) Sections 18R (1), 148A (2)—

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

Water (Amendment).

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

(5) Section 20HA (1)—

Omit “conviction, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a penalty not exceeding \$100 for each day the offence continues.”, insert instead:—

conviction—

- (f) where the offence was an offence under paragraph (a), (b), (c) or (d) committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues;
- (g) where the offence was an offence under paragraph (a), (b), (c) or (d) committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues; or
- (h) where the offence was an offence under paragraph (e)—to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a further penalty not exceeding \$100 for each day the offence continues.

(6) Section 20SA (1)—

Omit “conviction, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a penalty not exceeding \$100 for each day the offence continues.”, insert instead:—

conviction—

- (e) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

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

- (f) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.
- (7) (a) Section 20AC (1)—
Omit “Penalty: \$500.”, insert instead “Penalty: \$20,000 in the case of a corporation and \$10,000 in any other case.”.
- (b) Section 20AC (2)—
Omit “conviction, to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or both.”, insert instead:—
conviction—
- (c) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or
- (d) where the offence was committed by any other person—to a penalty not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or both.
- (8) Section 21B (1)—
Omit “conviction, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a penalty not exceeding \$100 for each day the offence continues.”, insert instead:—
conviction—
- (d) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

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

- (e) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.
- (9) Sections 22B (8), 148A (3A)—
Omit “not exceeding \$500.” wherever occurring, 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.
- (10) Section 23—
Omit “shall be liable to a penalty not exceeding \$500, or to imprisonment for a term not exceeding three months.”, insert instead:—
is guilty of an offence and is liable, on 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.
- (11) (a) Section 27 (1) (e2)—
Omit “regulations;”, insert instead “regulations; and”.

Water (Amendment).

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

(b) Section 27 (1) (f), (g)—

Omit the paragraphs, insert instead:—

(f) the imposition of a penalty for any breach of the regulations—

(i) where the breach is committed by a corporation—
not exceeding \$20,000 and, in the case of a continuing breach, the imposition of a further penalty not exceeding \$2,000 for each day the breach continues; or(ii) where the breach is committed by any other person—
not exceeding \$10,000 and, in the case of a continuing breach, the imposition of a further penalty not exceeding \$1,000 for each day the breach continues,

and generally for the purposes of carrying out the provisions of this Part and providing for the procedure thereunder.

(12) Section 71—

Omit “shall be liable to a penalty not exceeding \$500, and in the case of a continuing offence to a penalty not exceeding \$100 per day whilst the offence continues, and shall also be liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by his offence.”, insert instead:—

is guilty of an offence and is liable, on conviction—

(g) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

(h) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues,

Water (Amendment).

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

and is also liable to be sued by the trustees or by any person for compensation on account of loss or damage caused by the offence.

(13) Section 74 (1) (m)—

Omit "\$200", insert instead "\$2,000".

(14) Section 112 (2)—

Omit " , on conviction, be liable to a penalty not exceeding \$500, and a further penalty of \$100 for each day during which the contravention continues after such conviction.", insert instead:—

be guilty of an offence and shall be liable, on conviction—

(a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

(b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues.

(15) Section 118—

Omit "shall be liable to a penalty not exceeding \$500 and a further penalty of \$100 for each day during which the contravention or failure continues after such conviction, and in addition to the imposition of the said penalty, the license may, by notice in the Gazette, be cancelled.", insert instead:—

is guilty of an offence and is liable, on conviction—

(a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000 and, in the case of a continuing offence, to a further penalty not exceeding \$2,000 for each day the offence continues; or

Water (Amendment).

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

(b) where the offence was committed by any other person—to a penalty not exceeding \$10,000 and, in the case of a continuing offence, to a further penalty not exceeding \$1,000 for each day the offence continues,

and in addition to the imposition of such a penalty, the license may, by notice published in the Gazette, be cancelled.

(16) Section 124 (2)—

Omit "\$500", insert instead "\$10,000".

(17) (a) Sections 129 (1), 149 (2)—

Omit "\$500" wherever occurring, insert instead "\$10,000".

(b) Sections 129 (1), 149 (2)—

Omit "\$100" wherever occurring, insert instead "\$1,000".

(18) Section 148A (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.

(19) (a) Section 180 (1)—

Omit "Penalty: \$2,000.", insert instead "Penalty: \$20,000 in the case of a corporation and \$10,000 in any other case."

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES—
continued.

(b) Section 180 (2), (3)—

Omit “Penalty: \$500.” wherever occurring, insert instead “Penalty: \$20,000 in the case of a corporation and \$10,000 in any other case.”.

(20) Section 185 (3)—

Omit the subsection, insert instead:—

(3) A regulation may impose a penalty for an offence against the regulation not exceeding—

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

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

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS
FOR OFFENCES.

(1) Section 1—

From the matter relating to Part I, omit “4F”, insert instead “4G”.

(2) Section 4G—

After section 4F, insert:—

Proceedings for offences.

4G. (1) In this section, “the Court” means the Land and Environment Court.

Water (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PROCEEDINGS
FOR OFFENCES—*continued.*

(2) Proceedings for an offence under this Act or the regulations made thereunder (not being an offence made punishable on indictment) may be taken before a court of petty sessions held before a stipendiary magistrate, or any 2 justices, 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 justices, 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),

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.

Water (Amendment).

SCHEDULE 3—*continued.*

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

(3) Section 24—

Omit "and penalties imposed by this Part, or any regulation made thereunder, may be recovered before, and charges in respect of offences under this Part (not being offences made punishable on indictment) may be heard and determined by," insert instead "this Part, or any regulation made thereunder, may be recovered before".

(4) Section 125—

Omit "and penalties imposed by this Part, or by", insert instead "this Part, or".

(5) Sections 149 (6), 164 (7)—

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

(6) Section 182—

Omit the section.

SCHEDULE 4.

(Sec. 5.)

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

(1) (a) Section 1—

From the matter relating to Division 2 of Part II, omit "6", insert instead "7".

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- (b) Section 1—
From the matter relating to Division 2 of Part III, omit “38”, insert instead “38A”.
 - (c) Section 1—
From the matter relating to Division 5 of Part III, omit “Power”, insert instead “Powers”.
 - (d) Section 1—
From the matter relating to Division 7 of Part III, omit “66–68”, insert instead “66, 67”.
 - (e) Section 1—
Omit the matter relating to Division 8 of Part III.
 - (f) Section 1—
Omit the matter relating to Divisions 1, 2, 3 and 4 of Part IV.
 - (g) Section 1—
From the matter relating to Division 5 of Part IV, omit “93–104”, insert instead “100–102”.
 - (h) Section 1—
From the matter relating to Division 3 of Part V, omit “111A–118”, insert instead “112–118A”.
 - (i) Section 1—
Omit “SCHEDULES”, insert instead “SCHEDULE I”.
- (2) Section 4, definition of “Land district”—
Omit “, or any Act amending the same”.
- (3) (a) Section 4A (2) (a) (i), (ii)—
Omit the subparagraphs, insert instead:—
- (i) The Metropolitan Water Sewerage and Drainage Board or any person by or under the authority of the Metropolitan Water, Sewerage, and Drainage Act, 1924;
 - (ii) The Hunter District Water Board or any person by or under the authority of the Hunter District Water, Sewerage and Drainage Act, 1938;

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- (b) Section 4A (2) (a) (iii)—
Omit “the Broken Hill Water Board”, insert instead “The Broken Hill Water Board”.
 - (c) Section 4A (2) (a) (iv)—
Omit “, as amended by subsequent Acts”.
 - (d) Section 4A (3)—
Omit “unless the context or subject matter”, insert instead “, except in so far as the context or subject-matter”.
- (4) Section 4B (2)—
Omit “paragraph (a) of subsection (2) of section 4A”, insert instead “section 4A (2) (a)”.
- (5) (a) Section 12 (1) (b)—
Omit “subsection (5) of section 11”, insert instead “section 11 (5)”.
- (b) Section 12 (2) (b)—
Omit “Act”, insert instead “Part”.
- (6) Sections 12 (3), 14 (1)—
Omit “the Commissioner for Railways, the Metropolitan Meat Industry Commissioner” wherever occurring, insert instead “the State Rail Authority, the Homebush Abattoir Corporation”.
- (7) Section 13A (2) (b)—
Omit “subsection (3) of section 10”, insert instead “section 10 (3)”.
- (8) (a) Section 14 (2A)—
Omit “subsection (4) of section 13A”, insert instead “section 13A (4)”.
- (b) Section 14 (3A) (a)—
Omit “subsection (3) of section 13B”, insert instead “section 13B (3)”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

- (c) Section 14 (3A) (b)—
Omit “subsections (4) and (5) of section 13C”, insert instead “section 13C (4) and (5)”.
- (9) (a) Section 20B (1)—
Omit “subsection (1A) or (1B) of section 20A”, insert instead “section 20A (1A) or (1B)”.
- (b) Section 20B (1)—
Omit “subsection (2) of that section”, insert instead “section 20A (2)”.
- (10) (a) Section 20CA (2)—
Omit “subsection (2) of section 20, paragraphs (c) and (e) of subsection (2) of section 13A and subsection (1), (1A), (1B), (1C) and (1D) of section 20A”, insert instead “sections 13A (2) (c) and (e), 20 (2) and 20A (1), (1A), (1B), (1C) and (1D)”.
- (b) Section 20CA (5)—
Omit “subsection (5) of section 13A”, insert instead “section 13A (5)”.
- (11) Section 20CB (2) (b)—
Omit “subsection (4) of section 20CA”, insert instead “section 20CA (4)”.
- (12) (a) Section 20E (4)—
Omit “paragraphs (c), (d) and (e) of subsection (2)”, insert instead “subsection (2) (c), (d) and (e)”.
- (b) Section 20E (4)—
Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.
- (13) Sections 20I, 20L (3) (a), 20Q (2) (a), (3) (c) (i)—
Omit “and Water (Amendment)” wherever occurring.
- (14) Section 20L (3) (b)—
Omit “subsection (1) of section 34”, insert instead “section 34 (1)”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(15) Section 20AC (3) (a)—

After “meter” where firstly occurring, insert “or measuring device”.

(16) Part III, Division 2, heading—

Omit “*works*.”, insert instead “*works*”.

(17) Section 38A (3) (b)—

Omit “paragraph (c) of subsection (2)”, insert instead “subsection (2) (c)”.

(18) Section 41 (4) (b) (ii)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

(19) (a) Section 41A (1)—

Omit “subsection (10) of section 147 (paragraphs (b) and (h) excepted)”, insert instead “sections 147B to 147I (sections 147B (1) (e) and 147C excepted)”.

(b) Section 41A (1)—

Omit “subparagraph (iii) of paragraph (f) of that subsection”, insert instead “section 147H (2)”.

(c) Section 41A (2)—

Omit “subsection (1) of section 37”, insert instead “section 37 (1)”.

(20) Section 53 (d)—

Omit “Revenue”.

(21) (a) Section 64—

Omit “the two last preceding sections”, insert instead “sections 62 and 63”.

(b) Section 64—

Omit “the twenty-eighth day of December, one thousand nine hundred and six”, insert instead “28th December, 1906”.

(22) Part III, Division 8, heading—

Omit the heading.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(23) Section 74 (2)—

Omit the subsection, insert instead:—

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

(24) Section 75 (2)—

Omit the subsection, insert instead:—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a by-law made under this Part as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(25) Section 115 (1)—

Omit “subsection (2) of section 113”, insert instead “section 113 (2)”.

(26) Section 115A—

Omit the section.

(27) Section 128—

Omit “Revenue”.

(28) Section 129 (2)—

Omit the subsection, insert instead:—

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

(29) Part VI, heading—

Omit “SUPPLY DISTRICTS,”, insert instead “SUPPLY DISTRICTS”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(30) Sections 132 (1A), 133D (1)—

Omit “subsection (2A) of section 131” wherever occurring, insert instead “section 131 (2A)”.

(31) Section 133 (3A)—

Omit “subsection (1A) of section 132”, insert instead “section 132 (1A)”.

(32) Sections 133D (2), 147 (9A)—

Omit “subsection (1) of section 133C” wherever occurring, insert instead “section 133C (1)”.

(33) Section 138 (2) (b)—

Omit “subsection (1) of section 131, subsection (1) of section 133 or subsection (2) of section 134”, insert instead “section 131 (1), 133 (1) or 134 (2)”.

(34) Section 138A (6)—

Omit “paragraph (b) of subsection (5)”, insert instead “subsection (5) (b)”.

(35) Section 139 (2)—

Omit “subsection (3) or subsection (4) of section 147”, insert instead “section 147 (3) or (4)”.

(36) (a) Section 139A (4)—

Omit “subsections (2) and (3) of section 139 and of section 143”, insert instead “sections 139 (2) and (3) and 143”.

(b) Section 139A (4), (5)—

Omit “subsection (1) of section 139” wherever occurring, insert instead “section 139 (1)”.

(37) Section 143 (6)—

Omit “paragraph (a) of section 141”, insert instead “section 141 (a)”.

Water (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(38) (a) Section 147 (9A)—

Omit "subsection (1) of section 133D", insert instead "section 133D (1)".

(b) Section 147 (9A)—

Omit "subsection (2) of section 133D", insert instead "section 133D (2)".

(39) Section 150, definition of "Board"—

Omit "subsection (2) of section 30", insert instead "section 30 (2)".

(40) (a) Section 159 (1A)—

Omit "paragraph (c) of subsection (1)", insert instead "subsection (1) (c)".

(b) Section 159 (1A)—

Omit "subsection (1) of section 151, subsection (1) of section 154 or subsection (2) of section 155", insert instead "section 151 (1), 154 (1) or 155 (2)".

(c) Section 159 (5)—

Omit "subsection (2) of section 158", insert instead "section 158 (2)".

(41) Section 164 (4), (5)—

Omit the subsections, insert instead:—

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

(42) Schedules, heading—

Omit "SCHEDULES".

*In the name and on behalf of Her Majesty I assent to this Act.*J. A. ROWLAND,
Governor.Government House,
Sydney, 19th June, 1984.



