

Hunter District Water and Sewerage (Amendment).

Act No. 33, 1906.

HUNTER DISTRICT
WATER AND
SEWERAGE
(AMENDMENT).

An Act to amend the Hunter District Water and Sewerage Acts, 1892-1897; to amend the law relating to water supply and sewerage; and for purposes consequent thereon or incidental thereto. [17th December, 1906.]

BE it enacted by the King'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:—

PART I.

PRELIMINARY, INTERPRETATION, AND REPEAL.

Short title.

1. This Act may be cited as the "Hunter District Water and Sewerage (Amendment) Act, 1906," and shall be construed with the Hunter District Water and Sewerage Acts, 1892-1897.

Its enactments are arranged under the following Parts:—

PART I.—PRELIMINARY, INTERPRETATION, AND REPEAL—*ss.* 1-4.

PART II.—POWERS AND DUTIES—SEWERAGE—*ss.* 5-11.

PART III.—DEFERRED PAYMENT SYSTEM—*ss.* 12-13.

PART IV.—RATES—*ss.* 14-16.

PART V.—BY-LAWS—*s.* 17.

PART VI.—MISCELLANEOUS—*ss.* 18, 19.

Interpretation.

Definitions.

2. In the construction of this Act, unless inconsistent with the context,—

"Drain" means any private drain for the drainage of one building only or of premises within the same curtilage, communicating, or intended to communicate, directly or indirectly, with any sewer of the board, and includes any drain for draining any group or block of houses.

"Hunter District Water and Sewerage Acts, 1892-1897," means the Hunter District Water Supply and Sewerage Act of 1892, so much of the Country Towns and Hunter District Water Supply and Sewerage Acts Amendment Act of 1894 as amends

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amends the firstmentioned Act, the Hunter District Water Supply (Partial Duplication) Act, 1895, and the Hunter District Water and Sewerage Act Amendment Act, 1897.

“Hunter District Water and Sewerage Acts, 1892–1906,” means the Hunter District Water and Sewerage Acts 1892–1897, and this Act.

“Person” includes a body politic or corporate and the council of a borough, municipal district, or shire.

“President,” and “vice-president,” mean respectively the president and vice-president of the board, or the person lawfully acting in such capacity for the time being.

“Principal Act” means the Hunter District Water Supply and Sewerage Act, 1892.

“Property” means land, whether vacant or otherwise, and premises.

“Sanitary fittings” means and includes any fittings, appliances, closets, urinals, sinks, traps, or apparatus whatsoever for the inspecting, ventilating, flushing, or cleansing of any drain, or for the flushing or cleansing of any sanitary fitting connected with any such drain, or for receiving and collecting the sewage from any property, and conveying same to such drain.

“Sewage” means and includes faecal matter, urine, household slops and liquid refuse, and such polluted waters from stables and yards, and such trade or manufacturing liquid refuse as the board may, from time to time, authorise to be discharged into any sewer.

“Sewered section” means that part of a sewerage district for which sewerage works have been constructed, and are ready for use.

“Sewered property” means a property situated within a sewered section from which, in the opinion of the board, the sewage could by means of drains be drained into any sewer not more than fifty feet from the nearest boundary of such property, whether such property is connected directly or indirectly with such sewer of the board or not; or where, in the opinion of the board, a portion only of such property could by means of drains be drained into any such sewer, such portion only of such property, whether such portion be connected directly or indirectly with sewer of the board or not.

3. Section five of the Country Towns and Hunter District Water Supply and Sewerage Acts Amendment Act of 1894 is hereby repealed.

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Application of definitions.

4. In the construction of the Hunter District Water and Sewerage Acts, 1892-1897, the definitions given in section two of this Act, and such of the definitions given in section two of the Principal Act shall, unless inconsistent with the context, be applied.

PART II.

POWERS AND DUTIES—SEWERAGE.

Construction of drains.

Boundaries of sewered sections to be published.

5. The board shall, from time to time, after sewers have been transferred to and vested in them, or constructed or acquired by them, cause a general notice in the form contained in the Schedule to this Act, or to the like effect, to be published in the Gazette and at least three times within three successive weeks in one or more newspapers circulating in the sewerage district, notifying that provision has been made for the sewerage of properties within the boundaries of the sewered section therein described. For the purposes of any such general notice it shall be sufficient to describe the outer boundaries of such sewered section.

Property in sewered sections ratable.

6. Upon the expiration of three weeks from the date of the publication of such general notice in the Gazette, the sewerage rates authorised to be levied by the Hunter District Water and Sewerage Acts, 1892-1897, or any Act amending the same, may be enforced and recovered in respect of each and every sewered property situated within such sewered section.

Properties to be provided with drains.

7. Upon the publication of such general notice in the Gazette, the board may, by a notice served on the owner, occupier, or mortgagee of any property within such sewered section, require such owner, occupier, or mortgagee, unless the existing drains or sanitary fittings, or any part thereof, are regarded by an officer of the board as such that can continue to be used, within one month from the date of service of such notice, or within such further time as the board may allow and specify in such notice, to provide, lay, and fit such proper drains and sanitary fittings to connect with such sewer or sewers of the board as may be prescribed by the by-laws, or as may be specified in such notice. The board may, upon the application of such owner, occupier, or mortgagee, allow in writing such further time, after the expiration of the time specified in such notice, as they may think fit, having regard to all the circumstances of each case, so that such person shall have a reasonable opportunity of complying with the requirements of any such notice.

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8. Within the time specified in such notice, or within such further time as the board may from time to time, upon the application of such person, allow and notify in writing, the owner, occupier, or mortgagee of each and every property within such sewered section on which there are any houses or buildings—

Procedure in respect of drains.

- (a) may submit for the approval of the board a plan for providing, laying, and fitting such drains and sanitary fittings for such property as may be prescribed by the by-laws of the board, or with such modification thereof as may be desired to meet special circumstances. Upon payment by the applicant of such fees as may be prescribed, the board shall examine such plan, approve or reject same, or indicate on such plan the alterations required to be made therein and return same to such applicant; or
- (b) may submit for examination by the board a plan as aforesaid, and in writing and upon payment of such fees as may be prescribed, may request the board, if they approve thereof, to give an estimate of the cost thereof, and thereupon it shall be the duty of the board so to do; or
- (c) may in writing, and upon undertaking to pay on completion of the same such fees as may be prescribed, request the board to prepare a plan as aforesaid, or to prepare a plan or give an estimate of the cost, and thereupon it shall be the duty of the board so to do.

9. Within seven days from the date the board returns such plan, furnishes such estimate, plan, or plan and estimate, as the case may be, such person shall—

Undertaking to carry out plan.

- (a) in writing undertake to carry out such plan within one month, or such further time as the board may allow, and in writing notify; or
- (b) shall, in writing, request the board to carry out the same at his cost for such estimated amount, and thereupon the board shall, upon payment by the applicant of all rates and charges due and owing to the board in respect of such property and of the fees prescribed to be paid for opening the sewer to connect such drain, and of the full amount of such estimated cost, or such portion thereof as the board may require as a preliminary deposit, carry out such plan, or, if so desired by such applicant and upon payment of all rates, charges, and fees as aforesaid, the board shall carry out the plan under the provisions of the deferred payment system: Provided that where in any such case the estimated cost of the work exceeds the amount authorised to be expended under the provisions of the said system the board shall require payment by the applicant of such difference before commencing such work:

Provided

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Provided further that where, in the execution of such work, the board shall find, in consequence of conditions unknown to the board when the estimate of cost for such work was prepared, or in consequence of conditions having altered since such estimate was prepared, it is necessary to make any additions to or alterations or modifications of such plan in order to secure the best sanitary results, the board shall notify such applicant in regard to same, and, with or without the consent of such applicant, may make such additions, alterations, or modifications, and the saving effected thereby, or additional expense thereby incurred, shall be deducted from or added to the estimated cost, and the sum so ascertained shall be regarded as the estimated cost within the meaning of this section.

Power to board to provide drains on default.

10. (1) If, within such one month, or such further time as the board may have allowed and notified in writing, any such person has failed to comply with any of the foregoing requirements, or if, after undertaking so to do, any such person has not within the time limit allowed and notified in writing provided, laid, and fitted such drains and sanitary fittings, and fully complied with the requirements of the board in respect of same, then the board may, without further notice, at the expense of such owner, occupier, or mortgagee, provide such drains and sanitary fittings as the board may consider necessary for the proper sanitation of such property, having due regard to efficiency and economy, or, where part of such work has been carried out, complete such work in such manner as the board may consider necessary, as aforesaid.

Board to maintain such works for one year.

(2) In the event of the board carrying out the work of providing, laying, and fitting such drains and sanitary fittings, whether upon the application or default of such owner, occupier, or mortgagee, it shall be the duty of the board, at their own cost and expense, to keep and maintain the same in good repair for a period of twelve months from the time of completing the said work, unless the necessity for such repair is caused by the wilful act or negligence of the owner, or occupier, or any other person whomsoever, or by fire, or by any accident not arising from faulty design or construction of the said work or the materials used therein.

Discharge of stormwaters may be prohibited.

11. No stormwaters or surface drainage of streets, rainwater from roofs or paved areas, shall directly or indirectly be discharged or permitted to discharge into any drain communicating with any sewer of the board, or into any sewer of the board, except with the express approval and consent of the board, and for such period as the board shall determine. And any person whomsoever, who so discharges or suffers or permits to be so discharged any such stormwaters, surface drainage, or rainwater into any such drain or sewer as aforesaid without such consent, shall be liable to a penalty not exceeding ten pounds, or, where the offence is a continuing one, to a penalty not exceeding five pounds for every day that the offence is continued.

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PART III.

DEFERRED PAYMENT SYSTEM.

12. (1) Where, under the provisions of the Hunter District Water and Sewerage Acts, 1892-1906, or any Act amending same, any owner, occupier, or mortgagee—

- Deferred payment system, when applicable.
- (a) becomes liable to do or to be required by the board to do any work whatsoever in connection with the water supply, sewerage, or stormwater drainage of his property ; or
 - (b) becomes liable for the costs, expenses, and interest in respect or any works, matters, or things which the board, on default of the owner or occupier, is authorised to carry out and has so carried out,

such owner, occupier, or mortgagee may make application in writing to the board for such works to be carried out by the board under a system of deferred payment, or, where such works have been already completed, may make application to the board to accept payment for same under the said system.

(2) Where the estimated or actual cost of such works does not exceed the sum of twenty pounds, it shall be lawful for the board to enter into an agreement with the applicant for the carrying out of such works, under the direction of the said board, at a price or sum and upon such conditions as shall be set out therein, and for the payment of such price or sum by the applicant, or the repayment of such costs, expenses, and interest by the applicant as the case may be, where the amount thereof does not exceed six pounds by not more than twelve quarterly instalments, and where the amount exceeds six pounds by not more than thirty quarterly instalments : Provided that no such quarterly instalments shall, exclusive of interest as hereinafter mentioned, be less than ten shillings. The first instalment shall become payable on the last day of the month in which the board notifies such applicant that such work has been completed. Interest at the rate of five per centum per annum on the amount remaining to be paid shall be added to each instalment. Notwithstanding anything contained in this section, the said applicant may, at any time, pay to the board such portion of the debt as then remains unpaid with interest thereon at the said rate to the date of such payment.

(3) Upon the execution of such agreement by the applicant, the board shall cause the works aforesaid to be carried out, and upon completion thereof shall forthwith give notice in writing to the applicant of such completion, the total cost of such work with such interest added, the due date of the first instalment, the quarterly days on which the remaining instalments shall fall due, and the amounts thereof respectively.

(1)

Board may carry out works for owner, &c.

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Recovery of instalments.

(4) If any such instalment is not paid within seven days after the due date thereof, the board—

- (a) may, without further notice, sue for and recover from such applicant such instalment or instalments before any court of competent jurisdiction; or
- (b) may without prejudice to any remedy which the board may have against such applicant, after seven days' notice, require payment of such unpaid and overdue instalment or instalments from the owner, occupier, or mortgagee, for the time being, of the property in respect of which such overdue instalment or instalments are owing, and if such demand be not complied with may sue for and recover from any such person the amount demanded in such notice before any court of competent jurisdiction.

In instalments unpaid, a charge on property.

(5) Any such instalment remaining unpaid after its due date shall, until recovery thereof, be and remain a charge upon the property in respect of which the debt was incurred, and together with interest at the rate of five per centum per annum from the due date of such instalment, shall be recoverable at any time from the owner, occupier, or mortgagee of such property for the time being, with full costs of suit.

Evidence of work being carried out.

(6) The certificate in writing of the engineer, or such other officer as the Board may appoint for the purpose, shall be prima facie evidence in any court that the works, matters, or things have been performed or provided, as the case may be, in full compliance with the terms of such agreement, and shall be prima facie evidence as to the amount of the costs, expenses, and interest recoverable in respect thereof.

Pipes, drains, and fittings not distrainable.

13. Where any works have been carried out by the board for the owner, occupier, or mortgagee of any property under the provisions of the deferred payment system, such works or any part thereof—

- (a) shall not be subject to distress for rent of such property, or to be attached or taken in execution under any process of any court of law or equity, or under or in pursuance of any sequestration or order in bankruptcy, or legal proceedings against or affecting such owner, occupier, or mortgagee as aforesaid, or against any other person entitled to the possession of such property or in occupation thereof; or
- (b) shall not be removed by any person whomsoever until the whole amount owing in respect thereof has been paid to the board, unless by and with the written consent of the board.

Any person offending against the provisions of this section shall be guilty of an offence against this Act, and the board may recover from any such person, in addition to any penalty, the full amount owing to the board in respect of such works as aforesaid.

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PART IV.

RATES.

Recovery of rates and other revenue.

14. Where several properties in the separate occupation of several persons are drained by one common drain communicating with any sewer of the board, such several properties shall be liable to the payment of the same sewerage rates as they would have been liable to if each of such several properties had been connected with a sewer of the board by a separate drain.

Where several properties connected to common drain, each to pay.

15. It shall not be necessary for the board to serve separate rate notices in respect of water supply or sewerage for the recovery of such rates from one and the same property, and it shall be sufficient if such respective rates and all charges owing in respect of such property are separately shown on one notice.

One notice may include all rates and charges.

Recovery of charges for work done.

16. (1) In any case where the board provides any drains and sanitary fittings in connection with sewerage respectively, or performs any works in connection therewith whatsoever—

Board may recover cost of work done.

- (a) on the application and behalf of the owner, occupier, or mortgagee of any property; or
- (b) carries out any such work, or any work whatsoever, on the default of any such person, or any person or authority; or
- (c) where the board is authorised in cases of emergency to carry out any work without notice at the expense of any person or authority,

the full amounts of the costs and expenses thereof (or the balance owing where a deposit has been made) shall, with interest at the rate of five per centum per annum, be recoverable in any court of competent jurisdiction after the expiration of one month from the time the board notifies the owner, occupier, or mortgagee of such property, or such person or authority, that the same have been so provided, performed, or carried out, and of the amount of the costs and expenses thereof:

Provided that for all purposes of prohibition and appeal every judgment given under the authority of this section shall be deemed to be an order made by justices in their summary jurisdiction:

Provided further that if any party feels aggrieved by any determination or adjudication of any justice or justices made or given under the authority of this section, such party may appeal therefrom in the manner provided by section one hundred and sixty-six of the Principal Act.

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Cost of work done a charge on property.

(2) Until paid, such costs, expenses, and interest shall be and remain a charge upon the property in respect of which they were incurred, and may, after the expiration of such one month and after demand in writing therefor, be recovered in like manner as aforesaid at any time from the owner, occupier, or mortgagee thereof for the time being.

Recovery of cost of work from any subsequent owner, occupier, or mortgagee.

(3) Within seven days from the date of demand, any such owner, occupier, or mortgagee may request the board to extend the provisions of the deferred payment system to such debt or to the balance owing in respect thereof, and, where the sum owing does not exceed the amount authorised to be expended under the provisions thereof, the board may so do.

PART V.

BY-LAWS.

Board may make by-laws.

17. Subject to the provisions of the Hunter District Water and Sewerage Acts 1892-1906, or any Act amending the same, the board may from time to time make, alter, and repeal by-laws:

- (i) For regulating in respect of any drains—
 - (a) the number, design, dimensions, levels, materials, form, construction, arrangement, and ventilation of, and the alteration, removal, or closing of, and the maintenance, repairing, flushing, cleansing, or clearing of, any such drain, or of the sanitary fittings, which the board may direct or require to be provided and used in connection therewith;
 - (b) the purposes for which any such drain and fittings shall be used or applied;
 - (c) the inspection from time to time by officers of the board of any such drain and fittings;
 - (d) the disinfection, cleansing, or special treatment of any trade or manufacturing liquid refuse, or any liquid refuse whatsoever, or any gas or steam, prior to its discharge into any such drain, so as to effectually prevent any sewer of the board or the safe working of any such sewer, or the disposal or treatment of the sewage therefrom, being in the opinion of the board prejudicially affected thereby;
- (ii) For prohibiting or regulating the discharge, either directly or indirectly, into any sewer of the board, or any drain communicating therewith, of stormwaters or of surface drainage of streets, or of rainwater from roofs or paved areas,

or

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- or of polluted waters from paved areas, or of surface drainage of yards, or of any liquid refuse of any kind whatsoever, other than sewage ;
- (iii) for preventing the admission to or the discharge into any sewer of the board, or into any drain communicating therewith, of any dust, soil, rubbish, filth, or garbage;
 - (iv) for regulating the testing, stamping, or marking of fittings intended to be used with any drain communicating, or intended to communicate, with any sewer of the board ;
 - (v) for prescribing the fees to be paid for connecting any drain with any sewer of the board ;
 - (vi) for prescribing the form of any notices, orders, or directions which the board are authorised to issue, or of any applications or notices which must be made or given to the board in respect of any drain or sanitary fitting ;
 - (vii) for protecting any property of the board in connection with sewerage, or any sewerage works, from trespass or injury and for protecting the plant, machinery, buildings or material intended for use in connection with such works from injury or from removal without the consent of the board ;
 - (viii) for prescribing the fees to be paid for examining or preparing any drainage plan, or for preparing any estimate of cost in connection with such plan ;
 - (ix) for generally carrying into effect the several provisions, intentions, and objects of the said Acts in regard to sewerage.

PART VI.

MISCELLANEOUS.

18. (1) Where anything is by the Hunter District Water and Sewerage Acts, 1892-1906, or by any by-law, direction, order, or notice of the board made under the authority of the said Acts, directed to be done or forbidden to be done, or where any authority is given to the board or any of their officers to direct or forbid anything to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case the person making default as to such direction or prohibition respectively shall be deemed guilty of an offence against the said Act. Offences against Acts.

(2) Every person guilty of an offence against the said Act, not otherwise specially provided for by or under the authority of such Acts, shall be liable for every such offence, besides any costs or expenses which may be incurred in the taking of proceedings against such person guilty of such offence as well as any costs or expenses which Penalties for such offences.

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which may be incurred in remedying such default as particularly provided for in the said Acts, to a penalty not exceeding twenty pounds, and to a penalty not exceeding five pounds nor less than one pound for each day during which such offence is continued by any such person, and such penalty shall be recoverable notwithstanding that the board may not have chosen to exercise any power conferred on them by the said Acts to remedy such default.

Recovery of
damages, &c., where
not otherwise
provided for.

19. In every case in which it is by this Act, or any Act amending same, provided or directed that the amount of any damage, costs, expenses, or penalties shall be or may be ascertained or recovered in a summary way or before justices, and in every case in which no method of ascertaining the amount of any such damage, costs, expenses, or penalties or enforcing the payment thereof is provided, such amount, in case of dispute, or penalty shall or may (as the case may be) be ascertained and determined by and recovered before a court of petty sessions :

Provided that for all purposes of prohibition and appeal every judgment given under the authority of this section shall be deemed to be an order made by justices in their summary jurisdiction :

Provided further that if any party feels aggrieved by any determination or adjudication of any justice or justices made or given under the authority of this section such party may appeal therefrom in the manner provided by section one hundred and sixty-six of the Principal Act.

SCHEDULE.

General Notice to be published on completion of a Sewered Section.

Hunter District Water Supply and Sewerage Board.

It is hereby notified that provision having been made for the sewerage of properties within the boundaries of the [*here give the number*] section of the [*here name the area*] sewerage district, the sewerage rates authorised to be levied by the Hunter District Water and Sewerage Acts, 1892-1906, may be enforced and recovered in respect of each and every sewered property situated within the said sewered section on and after the day of 19 .

The [*here state the number*] sewered section hereinbefore referred to is [*here describe the outer boundaries*].

By order of the Board,

[*Here insert the date.*]

Secretary.