

21 GEO. V. No. 4, 1930. *Water Act Amendment Act.*

UNEMPLOYED WORKERS INSURANCE.

See LABOUR.

UNEMPLOYMENT (PURCHASERS OF HOMES) RELIEF.

See REAL PROPERTY.

UNEMPLOYMENT RELIEF (STATE HOUSING).

See HOUSING.

UNEMPLOYMENT RELIEF TAX.

See LABOUR.

UNREGISTERED RACING.

See GAMING.

UPPER BURNETT AND CALLIDE LAND SETTLEMENT.

See LAND, CROWN.

WATER.

An Act to Amend "The Water Act of 1926" in certain particulars.

21 Geo. V.
No. 4.

[ASSENTED TO 25TH SEPTEMBER, 1930.]

THE
WATER ACT
AMENDMENT
ACT OF 1930.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "*The Water Act Amendment Act of 1930*," and shall be read as one with *"*The Water Act of 1926*" (as amended by †"*The Land Acts Amendment Act of 1927*"), herein referred to as the Principal Act.

* 17 Geo. V. No. 12, *supra*, page 11733.

† 18 Geo. V. No. 17, *supra*, page 11949.

This Act shall come into force on a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*.

The Principal Act and this Act may collectively be cited as "*The Water Acts, 1926 to 1930.*"

Amendments of the Principal Act.

Amendment
of s. 3.

2. Section three of the Principal Act is amended as follows:—

(i.) In the definition of "Area," the words "or sub-artesian well area" are repealed.

(ii.) In the definition of "Artesian well," after the words "water flows" the words "or has flowed" are inserted.

(iii.) The definition of "Minister" is repealed and a new definition is inserted in lieu thereof, namely:—

Minister.

" "Minister"—The Secretary for Public Lands or other Minister for the time being charged with the administration of this Act."

(iv.) In the definition of "Works," the words "sub-artesian wells" are repealed.

Amendment
of s. 4.

3. Section four of the Principal Act is amended as follows:—

(i.) Paragraph (a) of subsection one of the said section is repealed, and the following new paragraph (a) is inserted in lieu thereof:—

"(a) All watercourses which flow through or past the land of two or more occupiers and all lakes and springs which are situated within the land of two or more occupiers."

(ii.) In paragraph (c) of the said subsection one, the words "Any sub-artesian well and" are repealed.

(iii.) In paragraph (a) of subsection two of the said section, after the words "exercisable by" the words "The Commissioner for Railways or the Brisbane City Council or any Local Authority or joint Local Authority or any Water Authority, or by" are inserted.

Amendment
of s. 5.

4. In subsection two of section five of the Principal Act the word "adjacent" is repealed and the word "adjoining" is inserted in lieu thereof.

1930.

Water Act Amendment Act.

5. Section nine of the Principal Act is amended by omitting the words "one acre" and inserting in lieu thereof the words "three acres"; also by omitting all words after the words "exercise of that right" to the end of the said section, and by inserting the following provision in lieu thereof, namely:—

Amendment
of s. 9.

"The owner or occupier shall not be entitled to construct or use any work under the aforesaid right unless and until he has given the Commissioner notice of his intention to so construct or use such work and specifying particulars of such work, and has obtained the authority of the Commissioner to construct or use such work. Any occupier constructing or using a work under the provisions of this section without first giving the said notice to the Commissioner or without the authority of the Commissioner as aforesaid, as the case may be, shall, on conviction, be liable to a penalty not exceeding ten pounds and to a further daily penalty not exceeding one pound."

6. Section twelve of the Principal Act is amended as follows:—

Amendment
of s. 12.

(i.) In subsection five the words "Provided that a license shall be issued only upon payment of the prescribed fee" are repealed.

(ii.) Subsection six is repealed and a new subsection six is inserted in lieu thereof, namely:—

"(6.) Except in the case of a license granted to a Local Authority (including the Brisbane City Council) or to a joint Local Authority or to a Water Authority, no license shall be issued for a longer term than ten years, and such license may be renewed by the Commissioner from time to time on application of the person holding the license:

Provided that, except in the case of a license granted to a Local Authority (including the Brisbane City Council) or to a joint Local Authority or to a Water Authority, no renewal shall be for a longer term than ten years."

(iii.) In subsection seven, the words "fee may be paid" are repealed, and the words "has been issued" are inserted in lieu thereof.

New section
[16A.]
Amendments
of "*The
Irrigation
Act of 1922.*"

7. Before section seventeen of the Principal Act the following new section is inserted (and such new section shall come immediately under the heading "Part III.—Commissioner of Irrigation and Water Supply") namely:—

"[16A.] The following amendments are made in *"*The Irrigation Act of 1922,*" namely:—

(a) In section two, the definition of "Commissioner" is repealed and a new definition is inserted in lieu thereof, namely:—

Commis-
sioner.

"Commissioner"—The Commissioner of Irrigation and Water Supply appointed under this Act."

Also, in the definition of "Minister" the words "The Treasurer" are repealed, and the words "The Secretary for Public Lands" are inserted in lieu thereof.

(b) Section three is repealed and a new section is inserted in lieu thereof, namely:—

Appoint-
ment of a
Commis-
sioner.

"[3.] (1.) The Governor in Council may from time to time appoint any person to be the Commissioner of Irrigation and Water Supply, who shall, under the Minister, administer this Act. Upon such appointment all the functions, duties, rights, liabilities, privileges, and powers imposed and conferred upon the Commissioner under this Act shall be vested in and be performed and exercised by such Commissioner under the Minister.

Commis-
sioner to
hold office at
pleasure.

(2.) The Commissioner shall hold his office at the pleasure of the Governor in Council, and shall during his continuance in office receive such annual salary as may from time to time be fixed by the Governor in Council.

Suspension.

(3.) The Commissioner may be suspended from his office by the Minister at any time the Minister is of the opinion that sufficient reasons exist for such suspension.

Vacancies.

(4.) On the occurrence of any vacancy in the office of Commissioner the Governor in Council may appoint a person to fill the vacancy.

Illness,
suspension,
or absence of
Commis-
sioner.

(5.) In the case of the illness, suspension, or absence of the Commissioner the secretary (or other officer appointed by the Governor in Council in that behalf) shall, subject and under the direction of the Minister,

1930.

Water Act Amendment Act.

during such illness, suspension, or absence have and exercise all the powers and authorities and perform all the duties of the Commissioner.

(6) In the case of the death of the Commissioner, the secretary (or other officer appointed by the Governor in Council in that behalf) shall, subject to and under the direction of the Minister, assume and exercise all the powers and authorities and perform all the duties of the Commissioner until a new Commissioner is appointed.” Death of Commissioner.

(c) Section four is amended by omitting the words “The Commissioner of Irrigation” and inserting in lieu thereof the words “The Commissioner of Irrigation and Water Supply.”

(d) Section five is repealed and a new section five is inserted in lieu thereof:—

“[5.] (1.) The Commissioner with the approval of the Minister shall appoint a secretary who, subject to the direction of the Commissioner, shall have power to execute documents on his behalf and affix the seal of the Commissioner thereto. He shall also have such other powers and perform such other duties as are from time to time appointed by the Commissioner. Employees.

(2.) The Commissioner with the approval of the Minister shall appoint and employ such engineers, officers, clerks, and other employees to assist in the execution of this Act as he thinks necessary.

The Commissioner may from time to time appoint a bailiff or bailiffs for the purpose of levying moneys due to the Commissioner by distress and sale.

A bailiff so appointed shall have power and authority to sell by public auction any goods and chattels seized under warrant of distress without taking out a license as an auctioneer.

(3.) Unless in any case the Minister otherwise directs, every employee shall hold office during pleasure only.

(4.) The Commissioner may with the approval of the Minister dismiss any employee; and may with the approval of the Minister discontinue the offices of or appoint other persons in the place of employees who are dismissed, or die, or resign, or vacate office.

(5.) The Commissioner shall pay such salaries, wages, and allowances to his officers and employees as Parliament from time to time appropriates for that purpose.

(6.) No employee shall without the permission of the Commissioner engage in any employment outside the duties of his office.

(7.) The provisions of **"The Public Service Acts, 1922 to 1924"* (or any amendments thereof) shall not apply to the Commissioner or to any officer or employee of the Commissioner."

Amendment
of s. 17.

8. Section seventeen of the Principal Act is amended as follows :—

(i.) Subsection one is repealed.

(ii.) Subsection two is repealed and a new subsection is inserted in lieu thereof :—

"(2.) This Act shall be administered by the Minister and under the Minister, the Commissioner is hereby authorised and empowered to carry out the provisions of this Act."

(iii.) Subsection three is repealed and a new subsection three is inserted in lieu thereof, namely :—

"(3.) Subject to and under the direction of the Minister, the Commissioner shall have and may exercise the powers conferred expressly by this Act, and the powers conferred upon him by †*"The Irrigation Act of 1922"* (as amended by ‡*"The Water Act Amendment Act of 1930."*)

Moreover, the Commissioner shall have and be charged with all the powers, privileges, and duties of the permanent head of a department; and the Corporation of "The Commissioner of Irrigation and Water Supply" shall be deemed to be a department of the State for the purpose of the proper administration of *"The Irrigation Act of 1922"* and any amendment thereof, and this Act, and under the administration of the Minister."

(iv.) In subsection five the words "or sub-artesian" are repealed.

* 13 Geo. V. No. 31 and 15 Geo. V. No. 24, *supra*, pages 10159 and 11089.

† 13 Geo. V. No. 29, *supra*, page 10218.

‡ This Act.

1930.

Water Act Amendment Act.

9. Section eighteen of the Principal Act is amended as follows :— Amendment of s. 18.

(i.) In paragraph (h) the words “ or sub-artesian ” are repealed.

(ii.) In paragraph (i), the words “ or sub-artesian ” are repealed.

10. Section nineteen of the Principal Act is amended as follows :— Amendment of s. 19.

Paragraph (e) of subsection two of the said section is repealed, and the following paragraph is inserted in lieu thereof, namely :—

“(e) A statement of the terms upon which the Board shall repay the cost of the works and interest, specifying whether

(i.) The payment of the charges for water supplied to the Board are to include the payment of the cost of the works and interest on such cost; or

(ii.) The cost of the works and interest on such cost are to be paid by provision of the sinking fund and payment of interest.

In the case of provision (i.) the proposal shall specify the charges to be paid by the Board for water to be supplied by the Crown, and the conditions of such supply, and where the payments of such charges are to include the payment of the cost of the works and interest on such cost the number of years during which such charges shall be paid.

In the case of provision (ii.) the proposal shall specify the number of years within which the cost of the works and interest on such cost shall be extinguished by a sinking fund:

Provided that in either case the proposal may specify therein any period of time within which interest payments only shall be payable.

11. Section twenty-four of the Principal Act is amended by repealing the proviso, being the words from Amendment of s. 24.

Water Act Amendment Act. 21 GEO. V. No. 4,

and including the words "Provided that" to and including the words "been completed," and inserting in lieu thereof the following provision, namely:—

"Where the cost of the works is to be repaid by a sinking fund, the cost of such works shall be determined by the Commissioner, and notified in the *Gazette* so soon as practicable after the works have been completed and taken over as aforesaid, and the cost of the works as so notified shall in such case be the cost repayable by the Board."

Amendment
of s. 27.

12. Section twenty-seven of the Principal Act is amended as follows:—

(i.) In subsection one, after the words "the Board shall" the words "subject to the provisos to paragraph (a) hereinafter set forth" are inserted.

(ii.) The following provisos are added to paragraph (a) of the said subsection one, namely:—

"Provided it shall be the duty of each occupier of any lands in the Area, and if such lands should at any time be unoccupied it shall be the duty of the owner thereof, to maintain in good repair and in efficient working condition, to the satisfaction of the Board, such works or machinery or any part or parts thereof as the Board may from time to time decide shall be so maintained by such occupier or owner. Any occupier or owner who fails to comply with the provisions of this proviso shall be liable to a penalty not exceeding fifty pounds and a daily penalty not exceeding one pound:

Provided further, the Board may, on being informed of any failure by an occupier or owner, as the case may be, to comply with the provisions of this proviso, require the occupier or owner, as the case may be, by notice in writing, to effect such repairs and do such things as the Board may consider necessary in order to put and keep the works and machinery or any part or parts thereof as aforesaid in efficient and working condition. If the occupier or owner, as the case may be, fails or neglects within the time stated in the aforesaid notice to comply with

1930.

Water Act Amendment Act.

such requisition of the Board, it shall be lawful for the Board to cause such repairs and things as aforesaid to be effected and done; and the Board may recover from the occupier or owner, as the case may be, in any court of competent jurisdiction the costs and expenses incurred thereby:

Provided further that, in any case where the Commissioner does not act as the Board, an appeal in respect of any such requisition of the Board may be had and taken by the occupier or owner, within such time as may be prescribed, to the Commissioner, and the Commissioner shall either allow the appeal or dismiss the appeal or allow the appeal subject to any modification or variation of the requisition, as he may in his discretion so determine. The decision of the Commissioner shall be final and without appeal."

13. Section twenty-eight of the Principal Act is ^{Amendment} amended as follows:— ^{of s. 28.}

(i.) Subsection two is repealed.

(ii.) Subsection three (as inserted by section thirty-six of **The Land Acts Amendment Act of 1927* ") is repealed.

(iii.) The following subsections are inserted in lieu of subsections two and three, namely:—

"(2.) The Board shall cause a return to be prepared, ^{Board to} once in every year or as often as it thinks necessary, ^{prepare a} setting out the names and addresses of the several ^{return of} occupiers and owners (so far as known) of the rateable ^{occupiers} property within the Area, and the area and description of the respective properties and the nature of the several benefits (whether directly or indirectly) received from the work, and the various rates to be charged in respect of those benefits for the water supplied. ^{and owners.}

(3.) Such return shall be entered in a book to be ^{Rate-book} called the "rate-book," and shall be submitted to the ^{and} Board for adoption; when adopted by the Board with ^{assessment.} such modifications or amendments as it thinks proper the rate-book shall be signed by the chairman of the

Board or any two members thereof, and dated, and thereupon the assessment shall be deemed to have been made on such day. The rate-book shall be open for inspection by any ratepayer without payment of any fee at any reasonable time during office hours.

Duration of
assessment.

(4.) Until any assessment is superseded by an assessment subsequently made, such first-mentioned assessment shall be deemed to be the assessment for the time being in force.

Amendment
of rate-book.

(5.) The Board may from time to time amend any rate-book by inserting therein the name of any person claiming and entitled or liable to have his name inserted therein as owner or occupier, or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated if such person has been under-rated or over-rated, or by making such other amendment as will make the rate conformable to this Act. No such amendment shall be held to avoid a rate; but no alteration or amendment in the rate-book shall be valid unless it is initialled by the chairman at a meeting of the Board at which the alteration or amendment is made, with the date of such alteration or amendment.

Notice to
ratepayer.

(6.) Notice in writing of every assessment of rates and of every alteration or amendment shall be forwarded by the Board, within fourteen days after making the same respectively, to every person appearing in the rate-book affected thereby. Such notice shall also state that the ratepayer may appeal against any assessment of rate upon giving notice of his intention so to do to the Board within one month of the date of such notice.

Appeal.

(7.) If any person thinks himself aggrieved in the amount of any rate assessed or by any alteration thereof or addition thereto he may appeal therefrom to the Land Court constituted under **"The Land Act of 1910"* and its several amendments. For the purposes of this subsection the Land Court shall consist of one member only, and such Court shall hear and determine the matter and may confirm or increase or reduce the amount of such assessment:

* 1 Geo. V. No. 15 and amending Acts, *supra*, pages 8775 *et seq*

1930.

Water Act Amendment Act.

Provided that an appeal shall lie from the Land Court as herein constituted to the Land Appeal Court constituted under **"The Land Act of 1910"* and its several amendments.

For the purposes of this section all the powers, authorities, and jurisdiction of the Land Court and the Land Appeal Court and any Rules of Court thereunder shall apply and extend accordingly.

Any decision of the Land Court or of the Land Appeal Court under this provision shall be transmitted by the Registrar of the Land Court or of the Land Appeal Court to the Registrar or Deputy Registrar of the Supreme Court nearest the place where the matter was heard, to be filed in such Supreme Court.

Thereupon such decision shall have the effect of a judgment of the Supreme Court and may be enforced accordingly.

The fact that an appeal is pending shall not in the meantime interfere with or affect the power of the Board to proceed to recover rates in respect of assessments appealed from :

Provided that if any assessment is altered pursuant to such appeal a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded and amounts short-paid shall be recoverable in any court of competent jurisdiction.

(8.) Every rate shall become due and payable to the Board as soon as the assessment thereof is completed, as from the date of making of such assessment, but no rate shall be recoverable by action or otherwise from any person liable to pay the same until one month after notice of the assessment and the amount payable has been forwarded as hereinbefore provided."

14. In paragraph (a) of section twenty-nine of the Principal Act all words after the words "rate may vary" are repealed and the following words are inserted in lieu thereof, namely, "in accordance with the carrying capacity and grazing potentialities of the land."

* 1 Geo. V. No. 15 and amending Acts, *supra*, pages 8775 *et seq.*

Amendment
of s. 30.

15. Section thirty of the Principal Act is repealed and a new section inserted in lieu thereof, namely :—

Powers of
the
Commis-
sioner in
respect of
rates.

“[30.] If in the opinion of the Commissioner the rates made and levied by the Board are insufficient in amount for the purpose of raising the sums of money necessary to enable the Board during the period for which the rates are to be levied to carry on its operations and fulfil its obligations, the Commissioner may, by notice in writing to the Board, direct the Board within the time set out in such notice to make and levy rates to an amount which the Commissioner deems sufficient, and the Board shall forthwith make and levy rates in accordance with the direction of the Commissioner.”

Amendment
of s. 31.

16. Subsections one, two, and three of section thirty-one are repealed.

In subsection four all words from and including the words “Notice of any such alteration” to and including the words “made by the Board” are repealed, and section thirty-one shall commence from the words “All lands within an area,” and shall end at the words “meaning of this Act” accordingly.

Amendment
of s. 55.

17. Section fifty-five of the Principal Act is amended as follows :—

(i.) In subsection one, the words “and no sub-artesian well” are repealed; also the words “or sub-artesian well” are repealed.

(ii.) Subsection two is repealed and a new subsection two is inserted in lieu thereof, namely :—

“(2.) If any person contravenes this section, the said person and the owner of the artesian well in respect of which the contravention has occurred shall each be liable to a penalty not exceeding five hundred pounds and a further daily penalty not exceeding twenty-five pounds.”

(iii.) Subsection three is repealed.

(iv.) In the side-note to the section, the words “and sub-artesian” are repealed.

Amendment
of s. 56

18. Section fifty-six of the Principal Act is amended as follows :—

(i.) In subsection one, the words “or sub-artesian” where they twice occur are repealed.

1930.

Water Act Amendment Act.

(ii.) In subsection four, the words "Except in the case of a license to a Local Authority or to a joint Local Authority or to a Water Authority" are inserted before the words "the license" occurring at the commencement of the subsection.

(iii.) Subsection five is repealed.

(iv.) In subsection six, the words "or sub-artesian" are repealed.

19. Section fifty-seven of the Principal Act is amended as follows:— Amendment of s. 57.

(i.) In the said section, the words "or sub-artesian well" are repealed.

(ii.) In the side-note to the section, the words "and sub-artesian" are repealed.

20. In subsection one of section fifty-eight of the Principal Act the words "or sub-artesian" are repealed. Amendment of s. 58.

21. In subsection one of section fifty-nine of the Principal Act, the words "or sub-artesian" are repealed. Amendment of s. 59.

22. In section sixty of the Principal Act, the words "or sub-artesian" are repealed. Amendment of s. 60.

23. Section sixty-one of the Principal Act is amended as follows:— Amendment of s. 61.

(i.) In subsection one, the words "or sub-artesian" are repealed.

(ii.) In subsection three, the words "or sub-artesian" are repealed.

24. Notwithstanding anything herein contained, in respect of the Inkerman Irrigation Area constituted under the Principal Act, the provisions of the Principal Act dealing with the control by the Commissioner of sub-artesian wells in the said Area shall continue in full force and effect and as if the amendments made to the Principal Act by this Act in respect of sub-artesian wells had not been made. Saving as to Inkerman Irrigation Area.

25. Section sixty-two of the Principal Act is amended as follows:— Amendment of s. 62.

In subsection one, the words "or supplied from a sub-artesian well" are repealed; also the words "or sub-artesian" occurring after the words "whereon the artesian" are repealed.

In subsection three, the words "or sub-artesian" are repealed.

Water Act Amendment Act. 21 GEO. V. No. 4,

In subsection five, the words “or sub-artesian” are repealed.

In subsection six, all words occurring after the words “twenty-five pounds” to the end of the said subsection are repealed.

Amendment
of s. 67.

26. Section sixty-seven of the Principal Act is amended as follows:—

The following proviso is added to paragraph (i.) of subsection four:—

“Provided that during the first three years of such period the applicant shall be liable for the payment of interest only.”

The following proviso is added to paragraph (ii.) of subsection four:—

“Provided that during the first two years of such period the applicant shall be liable for the payment of interest only.”

Amendment
of s. 73.

27. Section seventy-three of the Principal Act is amended as follows:—

(i.) In subsection one, the words “or sub-artesian well” where they twice occur are repealed.

(ii.) In subsection two, all words from and including the words “but in no case” to and including the words “satisfaction of the Minister” are repealed.

Amendments of the Schedule.

Amendment
of Schedule.

28. The Schedule of the Principal Act is amended as follows:—

Part I.

[14.] (1A.)

(i.) (a) Before *subclause fifteen of Part I. of the Schedule of the Principal Act, the following *subclause is inserted:—

Temporary
occupation
of land.

“[14.] (1A.) An authorised officer, with such attendants as he thinks fit, may temporarily occupy and use any land (not being a garden, orchard, or plantation attached to or belonging to a house, or a park, planted walk, avenue, or land ornamentally planted) for any purpose whatsoever, and may form and use on such temporarily occupied land such roads as may be considered necessary: Provided such authorised officer before occupying and using any land, shall give to the owner or occupier thereof not less than seven days’ notice in writing, and shall state in such notice the use proposed to be made of the land, and an approximate period during which such use is expected to continue: Provided further that no compensation shall be payable or shall be deemed to have been payable for the exercise of the right hereby conferred; but such authorised officer shall leave the land in as near the state as it was before being temporarily occupied and used as aforesaid.”

* *Sic in Gazette, semble “clause.”*

1930.

Water Act Amendment Act.

(b.) Subclause two of clause fifteen of the said Part I. of the Schedule of the Principal Act is amended by repealing in the said subclause the words “or sub-artesian well” where the words twice occur. Clause 15 (2).

(ii.) Part II. of the Schedule is amended as Part II. follows:—

In clause twenty-eight, the words “and sub-artesian” are repealed. Clause 28.

In clause thirty-one, the words “or sub-artesian” are repealed. Clause 31.

In clause thirty-two, the words “or sub-artesian” are repealed. Clause 32.

(iii.) In subclause one of clause forty-one of Part III. of the Schedule of the Principal Act, after the word “shall” occurring before the words “be liable,” the words “unless such person is able to satisfy the Court that any or either of the acts herein mentioned were effected without his authority, direction, or connivance” are inserted. Clause 41.

WEIGHTS AND MEASURES.

See LABOUR.

WHEAT POOL ACTS—AMENDMENT.

See PRIMARY PRODUCE.

WILD FLOWERS AND PLANTS.

See NATIVE PLANTS.

WORKERS' HOMES.

See LABOUR.

WORKERS' HOMES RELIEF.

See HOUSING.

WORKERS INSURANCE (UNEMPLOYED).

See LABOUR.

