



ANNO VICESIMO NONO

ELIZABETHAE II REGINAE

A.D. 1980

No. 42 of 1980

An Act to amend the South-Eastern Drainage Act, 1931-1977.

[Assented to 19th June, 1980]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "South-Eastern Drainage Act Amendment Act, 1980".

(2) The South-Eastern Drainage Act, 1931-1977, is hereinafter referred to as "the principal Act".

(3) The principal Act as amended by this Act, may be cited as the "South-Eastern Drainage Act, 1931-1980".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of long title of principal Act.

3. The long title to the principal Act is amended—

(a) by inserting after the passage "control and management of the" the word "rural";

and

(b) by inserting after the word "South-East" the passage "the District Council of Millicent area and the Eight Mile Creek Settlement area".

Repeal of s. 2 of principal Act and enactment of section in its place.

4. Section 2 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Transitional provisions.

2. Any consent or licence in respect of the diversion of water or the construction of private drains or drainage works granted by the Minister under the Eight Mile Creek Settlement (Drainage Maintenance) Act, 1959-1979, and in force immediately prior to the commencement of the South-Eastern Drainage Act Amendment Act, 1980, shall, subject to this Act, remain in force and shall be deemed to be a consent or licence granted by the Minister under this Act.

5. Section 3 of the principal Act is amended—

Amendment of
principal Act,
s. 3—
Division of Act.

(a) by inserting after the item—

PART II—ADMINISTRATION

the following items:—

DIVISION I—ESTABLISHMENT OF THE BOARD:

DIVISION II—CONTROL OF DRAINS AND DRAINAGE WORKS
IN THE SOUTH-EAST BY THE BOARD:

DIVISION III—CONTROL OF DRAINS AND DRAINAGE WORKS IN
THE EIGHT MILE CREEK AREA BY THE
MINISTER:

DIVISION IV—CONTROL OF DRAINS AND DRAINAGE WORKS
IN THE MILLICENT AREA BY THE COUNCIL.;

(b) by inserting in the item commencing “PART III” after the passage
“maintenance of drains” the passage “and drainage works”;(c) by inserting in the item commencing “Division I” after the word
“drains” the passage “or drainage works”;(d) by striking out from the item commencing “Division II” the
passage “the drainage rate” and inserting in lieu thereof the
passage “drainage works”;

(e) by striking out the item—

DIVISION III—RECOVERY OF RATES AND GENERAL PROVISIONS
APPLICABLE TO RATES.;

(f) by inserting in the item commencing “DIVISION IV” after the
passage “maintenance of drains” the passage “and drainage
works”;

and

(g) by striking out the item—

PART IVA—DRAINAGE OF EASTERN AND WESTERN DIVISIONS
OF THE SOUTH-EAST.

6. Section 5 of the principal Act is repealed.

Repeal of
s. 5 of
principal Act.

7. Section 6 of the principal Act is amended—

(a) by inserting in subsection (1) after the definition of “appointed
member” the following definitions:—

Amendment of
principal Act,
s. 6—
Interpretation.

“area”—

(a) in relation to the board, means the South-East;

(b) in relation to the Minister, means the Eight Mile
Creek area;

(c) in relation to the Council, means the district of the
Council, within the meaning of the Local
Government Act, 1934-1979:

“authority”—

(a) in relation to the South-East, means the board;

- (b) in relation to the Eight Mile Creek area, means the Minister;
- (c) in relation to the area of the Council, means the Council;
- (b) by inserting in subsection (1) after the definition of "Commission" the following definition:—
- "the Council" means the District Council of Millicent;
- (c) by striking out from subsection (1) the definitions of "drains" and "drainage works" and inserting in lieu thereof the following definitions:—
- "drain" means any artificial channel, or any other device, designed for draining water from land, but does not include a town drain:
- "drainage reserve" means any Crown lands that are dedicated, reserved or set aside for drainage purposes:
- "drainage works" means any works that are connected with or incidental to a drain, and, in relation to the board and the Minister, includes water conservation works:
- "the Eight Mile Creek area" means the area of land comprising the sections—
- (a) numbered 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863 and 864 in the Hundred of McDonnell;
- and
- (b) numbered 634, 635, 636, 637, 638, 641, 642, 645, 646, 649, 650, 651, 652, 656, 657, 658, 661, 662, 663, 860 and 861 in the Hundred of Caroline;
- (d) by striking out from subsection (1) from the definition of "elected member" the word "ratepayers" and inserting in lieu thereof the word "landholders";
- (e) by striking out from subsection (1) the definition of "petition drains";
- (f) by striking out from subsection (1) the definitions of "private drain" and "private drainage work" and inserting in lieu thereof the following definitions:—
- "private drain" means any drain, whether constructed before or after the commencement of this Act, not being a drain constructed by or on behalf of the Crown or an authority:
- "private drainage works" means works, whether constructed before or after the commencement of this Act, that are connected with or incidental to any drain, not being works constructed by or on behalf of the Crown or an authority;
- (g) by striking out from subsection (1) the definitions of "proportionate rebate" and "scheme drains";
- (h) by inserting in subsection (1) after the definition of "South-East" the following definitions:—
- "town drain" means any drain that is within a municipality, town or township and that is used solely for the purpose

of removing water from land within that municipality, town or township:

“water conservation works” means works designed for the purpose of conserving or utilizing waters drained from any lands pursuant to this Act;

and

(i) by striking out from subsection (2) the passage “as defined for the time being” and inserting in lieu thereof the passage “or the Eight Mile Creek area”.

8. Section 7 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 7 of principal Act and enactment of section in its place.

7. (1) The Governor may, by proclamation—

Proclamation of drains and drainage works, and closure of drains.

(a) declare any natural watercourse, or any private drain, in any area to be a drain for the purposes of this Act and vested in the authority for the area;

(b) declare any natural body of water, or any private drainage works, in any area to be drainage works for the purposes of this Act and vested in the authority for the area;

(c) declare that any drain in any area is closed and is no longer a drain vested in the authority for the area;

or

(d) declare that any drainage works in any area are no longer vested in the authority for the area.

(2) The Governor may, by further proclamation, vary or revoke any proclamation under this section.

(3) The Governor shall not exercise his powers under this section in relation to the area of the Council except pursuant to the request of the Council.

9. Section 7a of the principal Act is repealed.

Repeal of s. 7a of principal Act.

10. The following heading is enacted and inserted in the principal Act before section 8 thereof:—

Enactment of heading before s. 8 of principal Act.

DIVISION I—ESTABLISHMENT OF THE BOARD:.

11. Section 8 of the principal Act is amended—

Amendment of principal Act, s. 8—
Continuation of South-Eastern Drainage Board.

(a) by inserting in subsection (2) after the passage “holding,” the passage “dealing with”;

and

(b) by striking out from subsection (2) the word “lands” and inserting in lieu thereof the passage “real and personal property”.

12. Section 10 of the principal Act is amended—

Amendment of principal Act, s. 10—
Constitution of board.

(a) by striking out from paragraph (a) of subsection (1) the passage “landholders in respect of land situated in the South-East” and inserting in lieu thereof the word “persons”;

(b) by striking out from subsection (5) the word “elected” first occurring and inserting in lieu thereof the word “appointed”;

and

(c) by inserting in subsection (6) after the word “South-East” the passage “, the Eight Mile Creek area or the area of the Council, that is, in the opinion of the Minister, benefited by a drain vested in an authority”.

Amendment of
principal Act,
s. 10a—
Elections.

13. Section 10a of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) The Minister shall cause to be prepared and maintained a list of all landholders of land that is situated in the South-East, the Eight Mile Creek area or the area of the Council and that is, in the opinion of the Minister, benefited by a drain vested in an authority.;

(b) by striking out from subsection (3) the passage “landholder in respect of land situated in the South-East” and inserting in lieu thereof the passage “person whose name is on the list prepared and maintained by the Minister under subsection (1) of this section”;

(c) by striking out from subsection (5) the passage “Returning Officer for the State” and inserting in lieu thereof the passage “Electoral Commissioner”;

(d) by striking out from subsection (6) the passage “Returning Officer for the State” and inserting in lieu thereof the passage “Electoral Commissioner”;

(e) by striking out from subsection (8) the passage “Returning Officer” and inserting in lieu thereof the passage “Electoral Commissioner”;

and

(f) by striking out from subsection (10) the passage “Returning Officer” and inserting in lieu thereof the passage “Electoral Commissioner”.

Amendment of
principal Act,
s. 10b—
Directors, etc.,
of bodies
corporate are
eligible for
election.

14. Section 10b of the principal Act is amended by striking out the passage “the South-East” and inserting in lieu thereof the passage “any area”.

Amendment of
principal Act,
s. 12—
Chairman,
Deputy
Chairman and
other deputies.

15. Section 12 of the principal Act is amended—

(a) by inserting after subsection (1) the following subsection:—

(1a) Where a member of the board has been granted leave of absence by the Minister, the Minister may appoint a suitable person to be the deputy of that member during his absence.;

(b) by striking out from subsection (2) the last sentence thereof;

and

(c) by inserting after subsection (2) the following subsection:—

(3) In the event of an equality of votes on any matter arising at a meeting of the board, the person presiding at the meeting shall have a casting, as well as a deliberative, vote.

16. Section 13 of the principal Act is amended by striking out the passage “at least one is an appointed member” and inserting in lieu thereof the passage “one is an appointed member and one is an elected member”.

Amendment of principal Act, s. 13—
Quorum.

17. Section 15 of the principal Act is amended by striking out the passage “responsible to the Minister for the discharge of its duties and functions under this Part” and inserting in lieu thereof the passage “subject to the general control and direction of the Minister in the exercise or discharge of its powers, functions, duties and responsibilities under this Act”.

Amendment of principal Act, s. 15—
Board subject to control of Minister.

18. Section 17 of the principal Act is repealed.

Repeal of s. 17 of principal Act.

19. Sections 19, 20, 21 and 22 of the principal Act are repealed.

Repeal of ss. 19, 20, 21 and 22 of principal Act.

20. Section 23 of the principal Act is amended by striking out from subsection (1) the passage “four thousand dollars” and inserting in lieu thereof the passage “ten thousand dollars”.

Amendment of principal Act, s. 23—
Contracts for works.

21. Section 27 of the principal Act is repealed and the following headings and sections are enacted and inserted in its place:—

Repeal of s. 27 of principal Act and enactment of sections and headings in its place.

DIVISION II.—CONTROL OF DRAINS AND DRAINAGE WORKS IN THE SOUTH-EAST BY THE BOARD:

27. (1) Subject to subsection (4) of this section, all drains and drainage works—

Control of drains and drainage works by board.

(a) that are delineated on the plan lodged with the Minister under subsection (2) of this section;

or

(b) that are constructed by or on behalf of the board in the South-East after the commencement of the South-Eastern Drainage Act Amendment Act, 1980,

are vested in, and are under the care, control and management of, the board.

(2) The board shall, upon the commencement of the South-Eastern Drainage Act Amendment Act, 1980, lodge with the Minister a plan of the South-East delineating all the drains and drainage works constructed by or on behalf of the Crown or the board, and all drains declared under section 7 of this Act, that were in existence immediately prior to the commencement of that Act.

(3) For the purposes of correcting any error in the plan lodged under subsection (2) of this section, the board may, with the consent of the Minister, alter the plan, whether by the addition, deletion or variation of any drain or drainage works.

(4) The Minister may direct that any water conservation works constructed by or on behalf of the board shall be vested in, and under the care, control and management of, some other body than the board.

**DIVISION III—CONTROL OF DRAINS AND DRAINAGE WORKS IN THE
EIGHT MILE CREEK AREA BY THE MINISTER:**

Control of
drains and
drainage works
by the Minister.

27a. (1) Subject to subsection (2) of this section, all drains and drainage works in the Eight Mile Creek area constructed by or on behalf of the Crown, whether before or after the commencement of the Eight Mile Creek Settlement (Drainage Maintenance) Act, 1959-1979, are vested in, and are under the care, control and management of, the Minister.

(2) The Minister may direct that any water conservation works in the Eight Mile Creek area are vested in, and are under the care, control and management of, some other body.

**DIVISION IV—CONTROL OF DRAINS AND DRAINAGE WORKS IN THE
MILLICENT AREA BY THE COUNCIL:**

Control of
drains and
drainage works
by the Council.

27b. (1) All drains and drainage works—

(a) that are delineated on the plan lodged with the Minister under subsection (2) of this section;

or

(b) that are constructed by or on behalf of the Council in its area after the commencement of the South-Eastern Drainage Act Amendment Act, 1980,

are vested in, and are under the care, control and management of, the Council.

(2) The Council shall, upon the commencement of the South-Eastern Drainage Act Amendment Act, 1980, lodge with the Minister a plan of its area delineating all the drains and drainage works constructed by or on behalf of the Council and in existence immediately prior to the commencement of that Act.

(3) For the purposes of correcting any error in the plan lodged under subsection (2) of this section, the Council may, with the consent of the Minister, alter the plan, whether by the addition, deletion or variation of any drain or drainage works.

Amendment of
heading to
Part III of
principal Act.

22. The heading to Part III of the principal Act is amended by inserting after the word "DRAINS" the passage "AND DRAINAGE WORKS".

Amendment of
heading to
Division I of
Part III of
principal Act.

23. The heading to Division I of Part III of the principal Act is amended by inserting after the word "DRAINS" the passage "OR DRAINAGE WORKS".

Repeal of
ss. 28 and 29
of principal
Act and
enactment of
sections in
their place.

24. Sections 28 and 29 of the principal Act are repealed and the following sections are enacted and inserted in their place:—

Petitions for
drains and
drainage works.

28. (1) A petition may be presented to the authority for an area by one or more of the landholders of the area, requesting that a drain, or drainage works, specified in the petition be constructed by the authority.

(2) Where the Minister receives a petition for a drain or drainage works in the Eight Mile Creek area, he shall forward the petition to the board, together with any recommendations he may wish to make with respect to the petition.

(3) Where the Council receives a petition for a drain or drainage works in its area, the Council shall forward the petition to the board, together with any recommendations it may wish to make with respect to the petition.

29. A petition must be made in the manner and form approved by the Minister.

Petition must be made in the approved manner and form.

25. Section 30 of the principal Act is amended—

(a) by inserting in paragraph (a) after the word “drain” the passage “or drainage works”;

and

(b) by inserting in paragraph (b) after the word “drain” the passage “or drainage works”.

Amendment of principal Act, s. 30—
Preliminary enquiry.

26. Section 31 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “expedient to construct the drain” and inserting in lieu thereof the passage “necessary or desirable that the drain or drainage works be constructed”;

(b) by inserting in paragraphs (a), (b) and (c) of subsection (1) after the word “drain” wherever it occurs the passage “or drainage works”;

and

(c) by inserting in subsection (2) after the word “drain” the passage “or drainage works”.

Amendment of principal Act, s. 31—
Board's approval.

27. Section 32 of the principal Act is amended—

(a) by inserting in subsection (1) after the word “drain” wherever it occurs the passage “or drainage works”;

and

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) In this section, “value”, in relation to land, means the value of the land as determined in the prescribed manner.

Amendment of principal Act, s. 32—
Board to decide whether petitioners are majority of landholders and hold three-fourths in value of benefited lands.

28. Section 33 of the principal Act is repealed and the following section is enacted and inserted in its place:—

33. (1) Where the board is satisfied that the petitioners are a majority of the landholders whose lands will be benefited by the drain or drainage works and that the value of the lands of that majority is at least three-fourths of the value of the lands that will be so benefited, the authority for the area in which the drain or drainage works will be constructed shall, upon publication of the notice referred to in subsection (3) of section 32 of this Act, proceed to have plans and specifications drawn up for the proposed drain or drainage works and to call for tenders.

Repeal of s. 33 of principal Act and enactment of section in its place.

Construction of drains and drainage works.

(2) The authority shall forward to a petitioner, nominated by a majority of the petitioners for the purpose, a copy of the plans, specifications and tenders for the proposed drain or drainage works.

(3) If, within twenty-one days of the nominated petitioner receiving the tenders for the proposed drain or drainage works, a majority of the petitioners notifies the authority in writing that the drain or drainage works is not to be proceeded with, the authority shall not proceed with the construction of the drain or drainage works.

(4) Where, pursuant to subsection (3) of this section, a drain or drainage works is not proceeded with, the costs of or incidental to the preparation of plans and specifications and the calling of tenders, or such proportion of those costs as the Minister may determine, may be recovered by the authority from the petitioners (who shall be jointly and severally liable) as a debt in any court of competent jurisdiction.

(5) If the authority is not notified in accordance with subsection (3) of this section that the drain or drainage works is not to be proceeded with, the authority shall proceed to construct the drain or drainage works out of the moneys provided by Parliament for the construction of drains or drainage works in the area.

Amendment of principal Act, s. 34—

Recovery of costs of drain or drainage works from landholders.

29. Section 34 of the principal Act is amended—

(a) by striking out the passage “shall be deemed” and inserting in lieu thereof the passage “or drainage works shall, unless the Minister directs otherwise, be deemed”;

(b) by striking out the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;

(c) by inserting after the passage “benefited by the drain” the passage “or drainage works”;

and

(d) by inserting after the passage “such advance” the passage “, or such proportion thereof as the Minister may determine,”.

Amendment of principal Act, s. 35—

Final report.

30. Section 35 of the principal Act is amended—

(a) by inserting after the word “drain” wherever it occurs the passage “or drainage works”;

and

(b) by striking out the word “board” and inserting in lieu thereof the word “authority”.

Amendment of principal Act, s. 36—

Preliminary apportionment of the cost.

31. Section 36 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) Subject to any direction of the Minister, the authority shall, within three years after the date of completion of the drain or drainage works, make a preliminary apportionment of the cost of the drain or drainage works, or the proportion of that cost that the Minister determines must be repaid, between the landholders benefited by the drain or drainage works.;

- (b) by striking out from subsection (2) the word “board” and inserting in lieu thereof the word “authority”;
- (c) by striking out from the second sentence in subsection (2) the passage “may be in the form in the third schedule hereto” and inserting in lieu thereof the passage “must be in the form approved by the Minister”;
- (d) by inserting in subsection (3) after the word “drain” the passage “or drainage works”;
- and
- (e) by striking out from subsection () the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”.

32. Section 37 of the principal Act is amended—

- (a) by striking out the second sentence;
- and

- (b) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsections:—

(2) An objection must be made in the form approved by the Minister, and must be served upon the authority.

(3) Any objection received by the Minister or the Council under subsection (2) of this section must be forwarded to the board for determination by the board.

Amendment of principal Act, s. 37—
Objection to the apportionment.

33. Section 39 of the principal Act is amended by striking out the passage “the board shall” and inserting in lieu thereof the passage “the authority may”.

Amendment of principal Act, s. 39—
Adjustment of apportionment.

34. Section 40 of the principal Act is amended—

- (a) by striking out the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;
- and
- (b) by inserting after the word “drain” the passage “or drainage works”.

Amendment of principal Act, s. 40—
Final apportionment.

35. Section 41 of the principal Act is amended—

- (a) by striking out from subsection (1) the word “board” and inserting in lieu thereof the word “authority”;
- and
- (b) by striking out from subsection (2) the passage “may be in the form in the fifth schedule hereto” and inserting in lieu thereof the passage “must be in the form approved by the Minister”.

Amendment of principal Act, s. 41—
Notice of final apportionment.

36. Section 42 of the principal Act is amended—

- (a) by striking out from subsection (1) the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;

Amendment of principal Act, s. 42—
Repayment of cost of construction.

(b) by inserting in subsection (1) after the word "drain" the passage "or drainage works";

(c) by inserting in subsection (2) after the word "drain" the passage "or drainage works";

and

(d) by striking out from subsection (5) the word "board" and inserting in lieu thereof the word "authority".

Amendment of principal Act, s. 43—
Lessees to pay proportion of cost to landholder.

37. Section 43 of the principal Act is amended—

(a) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "authority";

(b) by striking out from subsection (3) the word "board" and inserting in lieu thereof the word "authority";

(c) by striking out from subsection (4) the word "board" wherever it occurs and inserting in lieu thereof, in each case, the word "authority";

(d) by striking out from subsection (5) the word "board" and inserting in lieu thereof the word "authority";

(e) by striking out from subsection (6) the word "board" and inserting in lieu thereof the word "authority";

(f) by striking out from subsection (6) the passage "ten dollars" and inserting in lieu thereof the passage "one hundred dollars";

and

(g) by striking out from subsection (7) the word "board" and inserting in lieu thereof the word "authority".

Amendment of principal Act, s. 44—
Provision for apportionment of cost of drain or drainage works where land charged is subdivided.

38. Section 44 of the principal Act is amended—

(a) by striking out from subsection (1) the word "board" wherever it occurs and inserting in lieu thereof, in each case, the word "authority";

and

(b) by striking out from subsection (2) the word "board" and inserting in lieu thereof the word "authority".

Amendment of principal Act, s. 45—
Recovery by distress or by action for debt.

39. Section 45 of the principal Act is amended by striking out the word "board" wherever it occurs and inserting in lieu thereof, in each case, the word "authority".

Repeal of s. 46 of principal Act and enactment of section in its place.

40. Section 46 of the principal Act is repealed and the following section is enacted and inserted in its place:—

The authority may remit moneys due to it.

46. (1) The authority may remit the whole or any part of any moneys due to the authority by any person under this Division.

(2) Neither the board nor the Council shall exercise its powers under subsection (1) of this section without the consent of the Minister.

41. The heading preceding section 47 of the principal Act is amended by striking out the passage "THE DRAINAGE RATE" and inserting in lieu thereof the passage "DRAINAGE WORKS".
- Amendment of heading preceding s. 47 of principal Act.
42. Section 47 of the principal Act is amended—
- Amendment of principal Act, s. 47—
Duty of authority to maintain drains and drainage works in its area.
- (a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—
- (1) The authority shall maintain the drains and drainage works vested in it in a proper state of efficiency and safety at all times, and shall, when necessary, cleanse, repair, renovate or replace any part of those drains or drainage works for that purpose.;
- (b) by striking out from subsection (2) the passage "and repairing" and inserting in lieu thereof the passage ", repairing, renovating or replacing";
- (c) by inserting in subsection (2) after the word "efficiency" the passage "and safety";
- (d) by inserting in subsection (2) after the word "Parliament" the passage "to the authority";
- and
- (e) by striking out subsection (3) and inserting in lieu thereof the following subsection:—
- (3) The Council may discharge township stormwater into any of the drains vested in it under this Act, and the cost of any alterations or repairs to the drains or drainage works resulting from discharging those stormwaters shall be defrayed by the Council out of the funds of the Council that do not consist of moneys provided to the Council under subsection (2) of this section.
43. Sections 48 to 62 (inclusive) of the principal Act are repealed.
- Repeal of ss. 48 to 62 of principal Act.
44. Sections 63 to 67 (inclusive) of the principal Act and the heading preceding those sections are repealed.
- Repeal of ss. 63 to 67 of principal Act and heading thereto.
45. The heading preceding section 68 of the principal Act is amended by inserting after the word "DRAINS" the passage "AND DRAINAGE WORKS".
- Amendment of heading preceding s. 68 of principal Act.
46. The following section is enacted and inserted in the principal Act after section 68 thereof:—
- Enactment of s. 68a of principal Act.
- 68a. (1) The authority may construct such drains and drainage works in its area as it considers necessary or desirable for the purposes of providing an efficient drainage system for the rural lands in that area.
- General power of an authority to construct drains and drainage works.
- (2) The Council shall not exercise its powers under subsection (1) of this section without the consent of the Minister.
- (3) The board, or the Minister, may in its, or his, area construct such water conservation works that may, in its, or his, opinion, be necessary or desirable for the purposes of reducing the wastage of waters drained from any lands pursuant to this Act.

Amendment of
principal Act,
s. 69—
General powers
of the authority.

47. Section 69 of the principal Act is amended—

- (a) by striking out from subsection (1) the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;
- (b) by inserting in subsection (1) after the word “servants” the passage “, and any other person authorized by the authority for the purpose,”;
- (c) by striking out paragraph (a) from subsection (1) and inserting in lieu thereof the following paragraphs:—
 - (a) enter upon any land in the area of the authority;
 - (ab) survey and take levels on any such land;
 - (ac) examine and take samples of the soil or subsoil of any such land;
 - (ad) do anything necessary for ascertaining whether any such land requires, or is suitable for, drainage and for determining the position of any proposed drains or drainage works;;

and

- (d) by striking out from subsection (2) the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”.

Amendment of
principal Act,
s. 70—
Compensation
for damage.

48. Section 70 of the principal Act is amended—

- (a) by striking out from subsection (1) the word “board” and inserting in lieu thereof the word “authority”;
- and
- (b) by striking out from subsection (2) the word “board” and inserting in lieu thereof the word “authority”.

Amendment of
principal Act,
s. 71—
Power to
acquire land
and sell lands
not required.

49. Section 71 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage “board may, with the consent of the Minister,” and inserting in lieu thereof the passage “authority may”;
- (b) by striking out from subsection (2) the passage “board may, with the consent of the Minister” and inserting in lieu thereof the passage “authority may”;
- (c) by striking out from subsection (2) the word “board” lastly occurring and inserting in lieu thereof the word “authority”;

and

- (d) by inserting after subsection (2) the following subsection:—

(3) Neither the board nor the Council shall exercise its powers under this section without the consent of the Minister.

Amendment of
principal Act,
s. 72—
Power to make
roads.

- 50. Section 72 of the principal Act is amended by striking out the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”.**

51. Sections 73, 74 and 75 of the principal Act are repealed and the following section is enacted and inserted in their place:—

Repeal of ss. 73, 74 and 75 of principal Act and enactment of section in their place.

73. (1) The owner or occupier of land that is adjacent to any drain or drainage work vested in an authority shall not divert onto his land any water from that drain or drainage work unless he holds a licence to do so from the authority.

Power to divert water from drains or drainage works.

(2) The holder of a licence under this section shall not contravene, or fail to comply with, any condition of the licence.

(3) Any person who contravenes this section shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars, and a further penalty not exceeding one hundred dollars for every day during which the offence is continued.

52. Section 76 of the principal Act is amended—

Amendment of principal Act, s. 76—
Penalty for obstructions or nuisances.

(a) by striking out the passage “or other foul” and inserting in lieu thereof the passage “or foul”;

(b) by striking out the passage “without the consent of the board” and inserting in lieu thereof the passage “unless the written consent of the authority in whom the drain or drainage works is vested is”;

(c) by striking out the passage “forty dollars” and inserting in lieu thereof the passage “one thousand dollars”;

(d) by striking out the passage “four dollars” and inserting in lieu thereof the passage “one hundred dollars”;

and

(e) by inserting after the present contents, as amended by this section (which are hereby designated subsection (1) thereof) the following subsections:—

(2) The authority may grant its consent under subsection (1) of this section subject to such conditions as it thinks fit.

(3) If a person to whom consent has been granted under subsection (1) of this section fails to comply with or contravenes a condition of that consent, he shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars.

(4) The authority shall not grant its consent under subsection (1) of this section without the approval of the Minister responsible for the administration of the Water Resources Act, 1976.

53. Section 77 of the principal Act is amended—

Amendment of principal Act, s. 77—
Penalty for interference with regulators, etc.

(a) by inserting in subsection (1) after the passage “drainage works” the passage “vested in an authority”;

(b) by striking out from subsection (2) the passage “without the authority of the board (the proof of which authority shall be upon the defendant);

(c) by inserting in subsection (2) after the passage “drainage works” the passage “unless the written consent of the authority in whom the drain or drainage works is vested is first obtained”;

(d) by inserting after subsection (2) the following subsections:—

(2a) The authority may grant its consent under subsection (2) of this section subject to such conditions as it thinks fit.

(2b) A person to whom consent is granted under subsection (2) of this section shall not contravene or fail to comply with a condition of that consent.;

and

(e) by striking out from subsection (3) the passage “one hundred dollars” and inserting in lieu thereof the passage “one thousand dollars”.

Amendment of
principal Act,
s. 78—
Penalty for
removing
timber or
materials.

54. Section 78 of the principal Act is amended—

(a) by striking out the passage “, without the written consent of the board,”;

(b) by inserting before the word “reserve” the word “drainage”;

(c) by inserting after the passage “or drainage work shall” the passage “, unless the written consent of the authority in whom the drain or drainage work is vested is first obtained,”;

and

(d) by striking out the passage “of not less than four dollars nor more than forty dollars” and inserting in lieu thereof the passage “not exceeding one thousand dollars”.

Amendment of
principal Act,
s. 79—
Penalty for
cutting drain
through road,
etc.

55. Section 79 of the principal Act is amended—

(a) by striking out the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;

(b) by inserting in paragraph (a) before the word “reserve” wherever it occurs the word “drainage”;

(c) by inserting in paragraph (a) after the passage “drainage work” the passage “vested in the authority”;

(d) by inserting in paragraph (b) before the word “reserve” wherever it occurs the word “drainage”;

(e) by inserting in paragraph (b) after the passage “drainage work” the passage “vested in the authority”;

and

(f) by striking out the passage “of not less than four dollars nor more than forty dollars” and inserting in lieu thereof the passage “not exceeding one thousand dollars”.

Amendment of
principal Act,
s. 80—
Penalty for
building
unauthorized
bridges, etc.

56. Section 80 of the principal Act is amended—

(a) by inserting in subsection (1) after the word “drain” firstly occurring the passage “or drainage work”;

(b) by inserting in subsection (1) before the word “reserve” the word “drainage”;

- (c) by striking out from paragraph (a) of subsection (1) the word “board” and inserting in lieu thereof the passage “authority in whom the drain or drainage work is vested”;
 - (d) by striking out from subsection (1) the passage “one hundred dollars” and inserting in lieu thereof the passage “one thousand dollars”;
- and
- (e) by striking out from subsection (2) the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”.

57. Section 81 of the principal Act is amended—

- (a) by striking out from paragraph (a) of subsection (1) the passage “board so to do” and inserting in lieu thereof the word “authority”;
 - (b) by striking out from subsection (1) the passage “one hundred dollars” and inserting in lieu thereof the passage “one thousand dollars”;
 - (c) by striking out from the last two sentences of subsection (1) the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;
 - (d) by striking out from subsection (2) the word “board” and inserting in lieu thereof the word “authority”;
 - (e) by striking out from subsection (3) the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;
 - (f) by striking out from subsection (4) the word “board” and inserting in lieu thereof the word “authority”;
 - (g) by inserting in subsection (6) after the passage “into any drain or drainage work” the passage “vested in an authority under this Act”;
- and
- (h) by striking out from subsection (6) the passage “four dollars” and inserting in lieu thereof the passage “one hundred dollars”.

Amendment of
principal Act,
s. 81—
Licences to
construct
private drains
and private
drainage works.

58. Section 81a of the principal Act is amended—

- (a) by striking out from subsection (1) the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;
 - (b) by inserting in paragraphs (a), (b) and (c) of subsection (1) after the passage “into any drain or drainage work” wherever it occurs the passage “vested in the authority”;
 - (c) by striking out from subsection (2) the word “board” firstly occurring and inserting in lieu thereof the word “authority”;
- and
- (d) by striking out the proviso to subsection (2).

Amendment of
principal Act,
s. 81a—
Private drains
and drainage
works
constructed
without a
licence.

Amendment of principal Act, s. 82—
Power to remove or alter any insufficient bridges, etc.

59. Section 82 of the principal Act is amended—

- (a) by striking out the word “board” wherever it occurs and inserting in lieu thereof, in each case, the word “authority”;
and
(b) by striking out the passage “in the South-East”.

Amendment of principal Act, s. 83—
Power of authority to construct bridges.

60. Section 83 of the principal Act is amended—

- (a) by striking out the passage “in the South-East”;
(b) by striking out the passage “whenever constructed other than a petition drain” and inserting in lieu thereof the passage “vested in an authority”;
and
(c) by striking out the word “board” and inserting in lieu thereof the word “authority”.

Amendment of principal Act, s. 84—
Animals trespassing on drains, etc.

61. Section 84 of the principal Act is amended—

- (a) by striking out the word “board” and inserting in lieu thereof the word “authority”;
(b) by inserting after the passage “drainage works” the passage “vested in the authority”;
and
(c) by inserting before the word “reserve” the word “drainage”.

Amendment of principal Act, s. 85—
Authority may recover special damages.

62. Section 85 of the principal Act is amended by striking out the word “board” and inserting in lieu thereof the word “authority”.

Amendment of principal Act, s. 86—
Penalty for hindering work.

63. Section 86 of the principal Act is amended—

- (a) by striking out the passage “the board” and inserting in lieu thereof the passage “an authority”;
and
(b) by striking out the passage “forty dollars” and inserting in lieu thereof the passage “five hundred dollars”.

Amendment of principal Act, s. 87—
Authority may do certain acts and charge to defaulting party.

64. Section 87 of the principal Act is amended—

- (a) by striking out the word “board” firstly occurring and inserting in lieu thereof the passage “authority for the area in which the act was to be done”;
and
(b) by striking out the word “board” secondly occurring and inserting in lieu thereof the word “authority”.

Amendment of principal Act, s. 88—
Maintenance of private drains and drainage works.

65. Section 88 of the principal Act is amended—

- (a) by inserting in subsection (1) after the passage “private drain” wherever it occurs the passage “or private drainage work”;
(b) by inserting in subsection (1) after the passage “drains or drainage works” the passage “vested in an authority”;

- (c) by inserting in subsection (1) after the passage “shall keep such drain” the passage “or drainage work”;
- (d) by striking out from subsection (2) the passage “one hundred dollars” and inserting in lieu thereof the passage “one thousand dollars”;
- (e) by inserting in subsection (3) after the word “drain” wherever it occurs the passage “or drainage work”;
- and
- (f) by striking out from subsection (3) the word “board” and inserting in lieu thereof the passage “authority in whose area the private drain or private drainage work is situated”.

66. The following sections are enacted and inserted in the principal Act after section 88 thereof:—

Enactment of
ss. 89, 90 and
91 of
principal Act.

89. (1) Any consent or licence granted or issued by an authority under this Division may be subject to such conditions as the authority thinks fit.

Consents or
licences may be
conditional.

(2) A person to whom any consent or licence is granted or issued under this Division shall not contravene, or fail to comply with, any condition of the consent or licence.

(3) A person who contravenes subsection (2) of this section is guilty of an offence and, where no penalty is provided for such a contravention by any other provision of this Division, is liable to a penalty not exceeding one thousand dollars.

90. (1) An authority may fix fees for the granting of any consent or issuing of any licence under this Division.

Fixing of fees
for consents
and licences
under this
Division.

(2) The board and the Council shall, in fixing any fee, comply with any direction the Minister may give in relation to the fixing of fees for the purposes of this Division.

(3) Any amount due to an authority by way of fees under this Division may be recovered by the authority as a debt in any court of competent jurisdiction.

91. The costs incurred by an authority in exercising or discharging its powers, functions, duties or responsibilities under this Division shall be defrayed out of the moneys provided by Parliament to the authority for the purpose.

Costs to be
defrayed out
of moneys
provided by
Parliament.

67. Sections 103a, 103b and 103c of the principal Act and the headings preceding those sections are repealed.

Repeal of
ss. 103a, 103b
and 103c of
principal Act
and headings
thereto.

68. The following sections are enacted and inserted in the principal Act after section 105 thereof:—

Enactment of
ss. 105a, 105b,
105c, 105d and
105e of
principal Act.

105a. The Council shall be subject to the general control and direction of the Minister in the exercise or discharge of its powers, functions, duties and responsibilities under this Act.

Council
subject to
control of
Minister.

Council must establish a fund for the purposes of this Act.

105b. (1) The Council shall establish and maintain a fund into which all moneys received by the Council under this Act must be paid.

(2) The moneys in the fund may be expended by the Council only for the purposes of exercising or discharging its powers, functions, duties or responsibilities under this Act.

Duty of Council in relation to estimates, reports, accounts, etc.

105c. (1) The Council shall comply with any request made by the Minister to the Council in relation to furnishing him with estimates, reports, accounts and any other information, relating to the exercise or discharge by the Council of its powers, functions, duties and responsibilities under this Act.

(2) The Council shall cause proper accounts to be kept of the income and expenditure of the Council under this Act.

(3) The Council shall cause the accounts kept under this section to be audited at least once in each year.

(4) The Minister may request the Auditor-General to audit at any time the accounts kept by the Council under this section and, for that purpose, the Auditor-General shall have and may exercise, in relation to those accounts and to the officers and employees of the Council, the same powers as are vested in him by virtue of the Audit Act, 1921-1975, in relation to public accounts and accounting officers.

Plans of each area must be prepared and maintained.

105d. (1) Each authority shall prepare and maintain a plan of its area, delineating all the drains and drainage works vested in the authority, and all the lands that are, in the opinion of the Minister, benefited by those drains and drainage works.

(2) The plans prepared and maintained under this section shall be made available for inspection by members of the public at such places and in such manner as the Minister may direct.

Delegation by the Minister and the Council to the board.

105e. (1) The Minister may, by instrument in writing, delegate to the board any of his powers, functions, duties or responsibilities under this Act in relation to the Eight Mile Creek area.

(2) The Council may, by instrument in writing and with the consent of the Minister, delegate to the board any of its powers, functions, duties or responsibilities under this Act.

(3) A delegation under this section is revocable at will and does not affect the power of the Minister, or the Council, to act in any matter.

Amendment of principal Act, s. 106—
Regulations.

69. Section 106 of the principal Act is amended—

(a) by inserting in paragraph (a) of subsection (1) after the passage “drainage works” the passage “vested in an authority”;

(b) by striking out paragraph (b) of subsection (1) and inserting in lieu thereof the following paragraphs:—

(b) to ensure the proper maintenance, cleanliness and freedom from obstruction of private drains or drainage works that in any way affect the operation, either directly or indirectly, of the drains or drainage works vested in an authority:

- (ba) to ensure that the lands benefited by the drains or drainage works vested in an authority are adequately fenced, properly maintained and kept clean and free of any matter or thing likely to cause the obstruction of any of those drains or drainage works;;
- (c) by inserting in paragraph (c) of subsection (1) after the passage "drainage work" the passage "vested in an authority";
- (d) by inserting in paragraph (d) of subsection (1) after the passage "drainage works" the passage "vested in an authority";
- (e) by striking out from paragraph (d) of subsection (1) the word "board" and inserting in lieu thereof the passage "authority, and for providing for the recovery of those fees";
- (f) by inserting in subsection (1) after paragraph (d) the following paragraphs:—
- (da) to provide for the granting by the Minister, conditionally or unconditionally, of exemptions from any provision of this Act:
- (db) to establish a board to advise the Minister on the administration of this Act in relation to the Eight Mile Creek area, to provide for the election or appointment of members of the advisory board, and to prescribe the powers, functions, duties and procedure of the advisory board;;
- (g) by striking out from paragraph (e) of subsection (1) the passage ", and modifying any forms contained in any schedule to this Act";
- and
- (h) by striking out from subsection (2) the passage "one hundred dollars" and inserting in lieu thereof the passage "five hundred dollars".

70. Section 107 of the principal Act is repealed.

Repeal of
s. 107 of
principal Act.

71. Section 108 of the principal Act is amended—

Amendment of
principal Act,
s. 108—
Liability of
authority and
Crown.

- (a) by striking out from subsection (1) the passage "the board" firstly and secondly occurring and inserting in lieu thereof, in each case, the passage "an authority";
- (b) by inserting in subsection (1) after the passage "overflowing of any drain or drainage work" the passage "vested in an authority";
- (c) by striking out from paragraph (b) of subsection (1) the word "board" wherever it occurs and inserting in lieu thereof, in each case, the passage "authority";
- (d) by striking out from subsection (2) the passage "the board" wherever it occurs and inserting in lieu thereof, in each case, the passage "an authority";
- and
- (e) by inserting in subsection (2) after the passage "drainage work" the passage "vested in an authority".

Amendment of
principal Act,
s. 109—
Service of
notices.

72. Section 109 of the principal Act is amended by striking out from subsection (3) the word "board" wherever it occurs and inserting in lieu thereof, in each case, the word "authority".

Repeal of
second, third,
fourth and
fifth schedules
of principal
Act.

73. The second, third, fourth and fifth schedules to the principal Act are repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

K. D. SEAMAN, Governor