

**METROPOLITAN WATER SUPPLY,
SEWERAGE, AND DRAINAGE.**

4° Elizabeth II., No. XXXIII.

No. 33 of 1955.

**AN ACT to amend the Metropolitan Water Supply,
Sewerage, and Drainage Act, 1909-1954.**

[Assented to 28th November, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Act, 1955.*

Short title
and citation.

(2) In this Act, the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1954—

Reprinted
Acts, Vol. 6,
1954.

Act No. 43 of 1909 as reprinted with amendments to and including Act No. 41 of 1951 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, and as further amended by Act No. 73 of 1954,

Approved
for reprint
9th October,
1953.

is referred to as the principal Act.

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(3) The principal Act as amended by this Act may be cited as the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1955.

S. 3
amended.

2. Section three of the principal Act is amended—

- (a) by substituting for the word, "DRAINAGE" in line fourteen, the word, "SEWERAGE"; and
- (b) by adding after line fourteen the following heading—

PART VIIA.—METROPOLITAN MAIN DRAINAGE,
ss. 71A-71E.

S. 5
amended.

3. Section five of the principal Act is amended—

- (a) by substituting for the words, "storm water" in line two of the first interpretation, "District", the words, "metropolitan main drainage";
- (b) by adding before the interpretation, "Minister" the following interpretations—

"metropolitan main drain" means the whole or portion of a pipe, conduit, channel, stream, or watercourse which is wholly or partly natural or artificial, which is wholly or partly on or below the surface of the ground, which has been, is being, or is intended to be, provided, constructed, adapted, or used for drainage of surplus water, and which is constituted a metropolitan main drain under this Act;

Cf. s. 71C
as to
constitution
of metro-
politan
main
drains.

"metropolitan main drainage works" means metropolitan main drains and things used in connection with metropolitan main drains, including treatment works, pumps, pumping stations, machinery, and fittings, and

land held, acquired, or used for or in connection with metropolitan main drains, by the Minister for the purposes of this Act relating to drainage of surplus water;

- (c) by deleting the interpretation, "Storm Water Drain";
- (d) by deleting the interpretation, "Storm Water Drainage Works";
- (e) by adding before the interpretation, "Water-course", the following interpretation—

"surplus water" means storm-water, surface-water, and ground-water, which unless removed by drainage, would accumulate to the detriment or disadvantage of persons in the area, or part of the area;

and

- (f) by substituting for the interpretation, "Works", the following interpretation—

"works" means waterworks, sewerage works, and metropolitan main drainage works.

4. Section six of the principal Act is amended— S. 6
amendec.

- (a) by adding before the word, "Area" in line two of subsection (4), the words, "respective parts of the";
- (b) by adding after the word, "Area" in line two of subsection (4), the words, ", which parts are served by a metropolitan main drain,";
- (c) by substituting for the words, "Storm Water Districts" in line two of subsection (4), the words, "metropolitan main drainage districts"; and
- (d) by substituting for the word, "Districts" in line three of subsection (4), the word, "districts".

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S. 7
amended.

5. Section seven of the principal Act is amended—

- (a) by adding after the word, “District” in line two of paragraph (a), the words, “or metropolitan main drainage district”; and
- (b) by adding after the word, “Districts” in line two and again in line three of paragraph (b), the words, “or metropolitan main drainage districts”.

S. 19
amended.

6. Section nineteen of the principal Act is amended—

- (a) by adding after the word, “construct” in line four of subsection (1), the word, “, provide,”; and
- (b) by adding after the word, “construction,” in line two of subsection (2), the words, “or provided or in course of being provided,”.

S. 20
amended.

7. Section twenty of the principal Act is amended—

- (a) by adding after the word, “construction” in line two, the words, “or provision”;
- (b) by adding after the word, “works” in line three, the words, “or other minor works”;
- (c) by substituting for the word, “may” in line three, the words, “exempts, and is hereby authorised to”;
- (d) by adding after the word, “constructed” in line two of each of subparagraphs (ii) and (iii) of paragraph (b), the words, “or provided”; and
- (e) by substituting for the words, “supplied with water or drained” in lines four and five of subparagraph (iii) of paragraph (b), the words, “served by the works”.

S. 22
amended

8. Section twenty-two of the principal Act is amended by adding after the word, “construction” in line two of subsection (1), the words, “or provision”.

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9. Section twenty-three of the principal Act is ^{S. 23} amended—

- (a) by adding after the word, “out” in line one of paragraph (c) the words, “or provided”; and
- (b) by adding after the word, “construction” in the third last line, the words, “or provision”.

10. Section twenty-four of the principal Act is ^{S. 24} amended—

- (a) by adding after the word, “construction,” in line one, the word, “provision,”;
- (b) by adding after the word, “may” in line four, the words, “, without prejudice to the exercise under the Public Works Act, 1902 of any power conferred by that Act,”;
- (c) by adding after paragraph (d) the following paragraph:—
 - (da) Provide, construct, alter, and maintain, under any street, and through, across, or under any lands, metropolitan main drains, and metropolitan main drainage works’;
- (d) by deleting the word, “and” appearing before the word, “drains” in line four of paragraph (e);
- (e) by adding after the word, “drains” in line four of paragraph (e), the words, “, or constructing or providing metropolitan main drains,”;
- (f) by adding after the word, “sewers” in line one of paragraph (f), the words, “or metropolitan main drains”;
- (g) by deleting the word, “and” before the word, “drains” in line two of paragraph (g);
- (h) by adding after the word, “drains,” in line two of paragraph (g), the words, “or metropolitan main drains,”;

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- (i) by deleting the word, "and" in line five of paragraph (i); and
- (j) by adding after the word, "drains," in line five of paragraph (i), the words, ", or metropolitan main drains".

S. 29
amended.

11. Section twenty-nine of the principal Act is amended—

- (a) by deleting the word, "or" in line four of subsection (1);
- (b) by adding after the word, "drain" in line four of subsection (1), the words, ", or metropolitan main drain";
- (c) by deleting the word, "or" in line four of subsection (2);
- (d) by adding after the word, "drain" in line four of subsection (2), the words, ", or metropolitan main drain,";
- (e) by adding after the word, "down" in line four of subsection (2), the words, "or provided";
- (f) by deleting the word, "or" before the word, "drain" in line two of subsection (3); and
- (g) by adding after the word, "drain," in line two of subsection (3), the words, "or metropolitan main drain,".

S. 31
amended.

12. Section thirty-one of the principal Act is amended by deleting the words, "or storm-water drains" in line five.

Heading to
Part VII.
amended.

13. The principal Act is amended by substituting for the word, "DRAINAGE" in the heading to PART VII. preceding section fifty-eight, the word, "SEWERAGE".

14. The principal Act is amended by adding after section seventy-one the following Part—

PART VIIIA.—METROPOLITAN MAIN DRAINS. Part VIIA. added.

71A. In this Part—

“local authority” has the same meaning as in section five of this Act, and also includes a board constituted under the Land Drainage Act, 1925.

71B. The Minister has the control of metropolitan main drains and metropolitan main drainage works. Interpretation.

71C. (1) The Minister may in accordance with the provisions of this section constitute, as a metropolitan main drain, Minister has control of metropolitan main drains.

(a) the whole or part of an existing pipe, conduit, channel, stream, or water-course, which, whether vested in or under the control of the Minister or of a local authority immediately before being so constituted a metropolitan main drain, is within the Area; and

(b) a new drain which the Minister proposes to provide in the Area, whether wholly or partly by the construction of works or by the use or adaptation of the whole or part of a stream or water-course, or an existing pipe, conduit, or channel.

(2) The Minister may constitute a metropolitan main drain—

- (a) by assigning to it a name;
- (b) by determining the point of its commencement and the point of its termination;
- (c) by determining its course between those points; and
- (d) by causing to be published in the *Gazette* notice that thereby he constitutes the metropolitan main drain, specifying in the notice that name, point of commencement, point of termination, and course. Metropolitan main drains. power of Minister to constitute.

(3) From time to time the Minister may, by subsequent notice published in the manner prescribed by subsection (2) of this section, alter the name, point of commencement, point of termination, or course of a metropolitan main drain.

(4) Where the Minister constitutes as the whole or part of a metropolitan main drain, the whole or part of a pipe, conduit, or channel already in existence and under the control of a local authority, the local authority is not entitled to compensation from the Crown or the Minister in respect of that existing pipe, conduit, or channel.

Building line. Building within prescribed distance of metropolitan main drains may be restricted.

71D. (1) In this section—

“building line” means a building line prescribed under by-law made under this Act.

(2) The Minister if he has complied with the requirements of subsection (3) of this section may prescribe a building line in relation to either side, or both sides, of any part of a metropolitan main drain.

(3) Where the Minister proposes to prescribe a building line, the Minister—

- (a) shall cause to be prepared a plan of the locality for which he intends to prescribe the building line;
- (b) shall cause the proposed building line to be distinctly marked and shown on the plan;
- (c) shall cause the plan so marked to be available for inspection without charge at such place or places and at such time or times as he appoints;
- (d) shall cause to be published in the *Gazette* and in a newspaper generally circulating in that locality, notice of the proposal and of the appointed place or places where, and of the appointed time or times when, the plan is available for inspection without charge;

- (e) shall cause to be served on the owner, occupier, and lessee of land proposed to be affected a copy of the notice mentioned in paragraph (d) of this subsection; and
- (f) shall, if, within one month of the service of the notice, a person upon whom it is served gives written notice to the Minister of objection to the proposals, stating the grounds of objection, consider the objection.

(4) Where a by-law prescribing a building line is in force, no person shall erect a new building or structure wholly or partly nearer the centre of the metropolitan main drain than the building line, unless with the consent and under the conditions, if any, mentioned in subsection (5) of this section.

(5) The Minister may, upon such conditions, if any, as he thinks fit to impose generally or in the particular circumstances of the case, consent to erection on land of a new building or structure wholly or partly nearer the centre of the metropolitan main drain than the building line; and where the Minister imposes conditions, they bind the owner, occupier, and lessee of, and their respective successors in title to, the land.

(6) (a) A person who erects, or permits to be erected, a building or structure in contravention of subsection (4), or of a condition imposed under subsection (5), of this section, commits an offence.

Penalty: Twenty pounds.

(b) A Court, convicting a person on complaint of an offence mentioned in paragraph (a) of this subsection, shall order the person to remove the building or structure, the subject of the complaint, by such day as the Court appoints, and if the person does not comply with the order by the appointed day, he commits a continuing offence.

Penalty: Five pounds for each day during which the offence continues after the appointed day.

(c) The provisions of this subsection do not prejudice or affect any other right to proceed against a person to restrain him from a contravention of subsection (4) of this section, or to compel him to remove, wholly or partly, a building or structure erected in contravention of this subsection.

Compensation.

(7) (a) A person the value of whose estate or interest in land is depreciated by the prescription of a building line is entitled to compensation in accordance with the provisions of this section but not otherwise.

(b) The amount of compensation is a sum equal to the difference between the market value, on such of the days mentioned in paragraph (c) or paragraph (d) of this subsection as is applicable, of the estate or interest irrespective of the prescription of the building line, and that market value as depreciated by the prescription of the building line, less the value of the benefit, if any, accruing to the estate or interest from works constructed or about to be constructed by the Minister.

(c) If the by-law prescribing the building line is published in the *Gazette* on or before the thirtieth day of June in any year, the market value firstly mentioned in paragraph (b) of this subsection is that of the first day of January next preceding the publication of the by-law in the *Gazette*.

(d) If the by-law prescribing the building line is published in the *Gazette* after the thirtieth day of June in any year, the market value firstly mentioned in paragraph (b) of this subsection is that of the thirtieth day of June next preceding the publication of the by-law in the *Gazette*.

(e) The Minister may enter into agreements relating to compensation.

(f) Where there is no agreement, Part III. of the Public Works Act, 1902, as modified by paragraphs (b), (c), (d) and (g) of this subsection applies *mutatis mutandis* in respect of the compensation.

(g) For the purpose of the application of Part III. of that Act, section thirty-six of that Act, which prescribes the period within which a claim for compensation may be made, is modified so that reference in that section to the date of publication in the *Gazette* of the notice of taking land is deemed to be a reference to the date of publication in the *Gazette* of the by-law prescribing the building line.

71E. (1) In this section—

“local drainage area” means part of the Area constituted a local drainage area under this section.

Local
drainage
areas—power
of Minister
to constitute.

(2) Where the Minister is of opinion that surplus water is flowing or can be made to flow from any part of the Area to, and through, a metropolitan main drain, he may constitute that part of the Area a local drainage area in respect of that metropolitan main drain—

- (a) by assigning a name to that part;
- (b) by determining the boundaries of that part;
- (c) by assigning that part of the Area as a local drainage area to an appropriate metropolitan main drain; and
- (d) by causing to be published in the *Gazette*, a notice that thereby he constitutes the local drainage area, specifying in the notice, that name, those boundaries, and the name of the appropriate metropolitan main drain to which the local drainage area is assigned.

(3) From time to time the Minister may, by subsequent notice published in the manner prescribed by subsection (2) of this section, alter

the name or boundaries of the local drainage area, or assign the whole or part of a local drainage area to a different metropolitan main drain.

(4) A local authority shall not drain or divert surplus water from one local drainage area to another, or from outside a local drainage area into a local drainage area.

(5) (a) A local authority may, with the written authorisation of the Minister, cause surplus water to drain into a metropolitan main drain.

(b) The Minister may grant written authorisation to a local authority to cause surplus water to drain into a metropolitan main drain in such manner, or by or through such works, as the Minister approves, and subject to such conditions as the Minister imposes.

(c) The Minister may by written notice to a local authority cancel a written authorisation, or from time to time alter conditions, mentioned in paragraph (b) of this subsection.

(d) A person who without, or otherwise than in accordance with, the authorisation of the Minister,

(i) causes or attempts to cause surplus water or other fluids to drain into a metropolitan main drain;

(ii) connect or attempts to connect any pipe, conduit, channel or other thing, whether of the same kind as, or a different kind from, things here specified, to a metropolitan main drain; or

(iii) stops, obstructs, alters, damages, or interferes with, a metropolitan main drain;

commits an offence.

Cf. No. 30 of 1918, s. 4, "Person" includes body corporate: Municipal Corporations Act, s. 19; and Road Districts Act, s. 21: both as reprinted with amendments in Vol. 4 of The Reprinted Acts, 1951.

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Penalty:

- (a) where the offence is a continuing offence, a sum not exceeding twenty pounds and in addition a sum not exceeding one pound for each day the offence continues; or
- (b) where the offence is other than a continuing offence, a sum not exceeding twenty pounds.

15. The principal Act is amended—

S. 74A added.

- (a) by adding after section seventy-four the following section:—

74A. Where the basis of valuation is the annual value and more persons than one are in separate occupation of a building erected on any portion of rateable land, each of them shall be deemed to be in occupation of a part of the land, and the annual value of the part shall be taken to bear the same proportion to the annual value of the whole of the land as the annual rental value of the part of the building occupied by him bears to the annual rental value of the whole of the building; and

Apportionment of annual value to separate occupations. Cf. s. 383 (d) Municipal Corporations Act, 1906, as reprinted with amendments in Vol. 4 of The Reprinted Acts, 1951

- (b) by substituting for the words, “the last preceding section” in line four of subsection (1) of section seventy-five, the words, “section seventy-four of this Act” and deleting the remainder of the subsection.

S. 75 amended.

16. The principal Act is amended by adding after section seventy-five the following section:—

S. 75A added.

75A. (1) The Minister may appoint a valuer or valuers who shall make valuations from time to time as required.

Appointment and powers and duties of valuers. Cf. ss. 229 and 230 Road Districts Act, 1919, as reprinted with amendments in Vol. 4 of The Reprinted Acts, 1951.

(2) A valuation so made may be adopted by the Minister and, when adopted, shall be the valuation, and rates imposed under this Act shall be assessed thereon.

(3) A valuer so appointed has, for the purpose of making the valuation, power to enter into and upon land without being liable to legal proceedings on account thereof, and also has power to search in the Office of Titles and Registry of Deeds, or any office of the Department of Lands and Surveys, or of the Department of Mines, and to inspect all plans, grants, transfers, Certificates of Titles, and memorials free of charge.

(4) A valuer may put to the owner, or agent of the owner, or any person in occupation or charge, or in apparent occupation or charge, of any lands which the valuer is authorised to value, any question necessary to enable him to state correctly the several particulars required to be stated in his valuation work with regard to the land.

(5) A person who, after being informed by the valuer of the purpose of putting the questions, and of his authority to put them, refuses or omits to answer them to the best of his knowledge and belief, or makes a false answer or statement in reply to a question, commits an offence.

Penalty: Ten pounds.

S. 92
amended

17. Section ninety-two of the principal Act is amended—

- (a) by substituting for the words, “storm water” in line one, the words, “metropolitan main drainage”; and
- (b) by substituting for the words, “District in which a storm water drain has been laid” in line three, the words, “metropolitan main drainage district”.

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18. Section ninety-three of the principal Act is amended— S. 93
amended.

- (a) by adding after the word, "District" wherever it appears, the words, "or metropolitan main drainage district, as the case may be";
- (b) by substituting for the words, "storm water" in lines four and five of paragraph (b), the words, "metropolitan main"; and
- (c) by adding after the word, "be" in line three of paragraph (d), the word, "provided,".

19. Section ninety-four of the principal Act is amended— S. 94
amended.

- (a) by substituting for the word, "storm-water" in line one of subsection (3), the words, "metropolitan main drainage"; and
- (b) by substituting for the word, "storm-water" in the last line of subsection (4), the words, "metropolitan main drainage".

20. Section ninety-six of the principal Act is amended— S. 96
amended.

- (a) by substituting for the words, "storm water" in line one, the words, "metropolitan main";
- (b) by adding after the words, "laid down" in line two, the words, ", or provided,"; and
- (c) by adding after the word, "payable" in line five, the words, "in accordance with the by-laws".

21. Section ninety-seven A of the principal Act is amended by adding after subsection (2) the following subsections:— S. 97A
amended

(3) Where the amount of rates is increased under subsection (1) of this section, the amount of the increase is payable in accordance with the by-laws.

(4) Where the amount of rates is reduced under subsection (1) of this section, but has

already been paid at the time of the reduction, the Minister shall refund or credit the amount of the reduction in accordance with the by-laws.

S. 98
amended.

22. Section ninety-eight of the principal Act is amended—

(a) by deleting the words, “half-yearly in advance” in lines one and two; and

Cf. ss. 96,
97A (3), and
112.

(b) by adding after the word, “being” in line three, the words, “and unless the by-laws provide otherwise, shall be payable half-yearly in advance”.

S. 112
amended.

23. Section one hundred and twelve of the principal Act is amended—

(a) by adding after the word, “District” in line two, the words, “or metropolitan main drainage district”; and

(b) by adding after the word, “extension” being the last word in the section, the words, “and shall be payable in accordance with the by-laws”.

S. 146
amended.

24. Section one hundred and forty-six of the principal Act is amended—

(a) by adding after paragraph (2) the following paragraphs:—

(2a) Preventing or minimising the pollution of streams and watercourses.

(2b) The regulation or prohibition of bathing in streams and watercourses.

(2c) The preservation of good order and decency on streams and watercourses and their banks. ;

(b) by adding before the word, “drainage” in line two of paragraph (4), the words, “metropolitan main”;

- (c) by adding after the words "sewerage works," in line three of paragraph (6), the words, "metropolitan main drainage works,";
- (d) by adding after the word, "pipes," in line four of paragraph (6), the words, "metropolitan main drains,";
- (e) by adding after the words, "sewerage works," in line one of paragraph (7), the words, "metropolitan main drainage works,";
- (f) by adding after the word, "pipes," in line two of paragraph (7), the words, "metropolitan main drains,";
- (g) by adding after paragraph (7) the following paragraph:—
 - (7a) Preventing or minimising interference with the flow of water in, or the silting up of, or injury to, streams, watercourses, and metropolitan main drains, including prohibiting or regulating the depositing in them, or within such distance from them or any part of them as the by-laws prescribe, of anything likely to cause the interference, silting up, or injury. ;
- (h) by deleting the word, "or" before the word, "sewers", in line two of paragraph (8);
- (i) by adding after the word, "sewers" in line two of paragraph (8), the words, ", or metropolitan main drains";
- (j) by deleting the word, "or" in line four of paragraph (9);
- (k) by adding after the word, "sewers" in line four of paragraph (9), the words, ", or metropolitan main drains"; and
- (l) by adding before the word, "drainage" in line two of paragraph (12), the words, "metropolitan main".

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s. 146A.
added.

25. The principal Act is amended by adding after section one hundred and forty-six the following section:—

Limitation
of time for
complaint
of certain
offences.
Cf. No. 11
of 1902, s. 51,
as amended.

146A. Where under paragraph (24) of section one hundred and forty-six of this Act by-laws are made and are in force prohibiting any other than licensed persons from fixing, altering, or repairing meters, pipes, sewers, drains, or fittings connected with the works of the Minister, the time limited for making complaint of an offence against the prohibition is one year from the time when the matter of the complaint arose.

S. 147
amended.

26. Section one hundred and forty-seven of the principal Act is amended by substituting for the word, "twenty" in line one, the word, "fifty".

S. 148
repealed.
Cf. No. 30 of
1918, s. 36, as
amended.

27. Section one hundred and forty-eight of the principal Act is repealed.
