

FISH RIVER WATER SUPPLY ADMINISTRATION ACT 1945 No. 16

[Reprinted as at 5 November 1991]

UPDATED 21 JULY 1999

INCLUDES AMENDMENTS (SINCE DATE OF REPRINT) BY:

Statute Law (Penalties) Act 1992 No. 112

Local Government Legislation (Miscellaneous Amendments) Act 1994 No. 44

Energy Legislation (Miscellaneous Amendments) Act 1994 No. 82

Statute Law (Miscellaneous Provisions) Act 1995 No. 16

Electricity Supply Act 1995 No. 94

Statute Law (Miscellaneous Provisions) Act 1996 No. 30

Statute Law (Miscellaneous Provisions) Act 1999 No. 31

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NEW SOUTH WALES

[STATE ARMS]

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FISH RIVER WATER SUPPLY ADMINISTRATION ACT 1945 No. 16

Reprinted under the Reprints Act 1972

**[Reprinted as at 5 November 1991]
UPDATED 21 JULY 1999**

NEW SOUTH WALES

[STATE ARMS]

An Act to provide for the control and administration of certain works of water supply to be known as the Fish River Water Supply; to provide for the payment of contributions by certain councils towards the cost of constructing such works; to amend the Local Government Act 1919; and for purposes connected therewith.

PART 1—PRELIMINARY AND ADMINISTRATION

Short title

1. (1) This Act may be cited as the Fish River Water Supply Administration Act 1945.
(2) * * * * *

Definitions

2. In this Act, unless the context or subject matter otherwise indicates or requires:
 ``**Administrator**'' means the Administrator of the Fish River Water Supply.
 ``**Catchment area**'' means any lands for the time being proclaimed under section 18A to be a catchment area in connection with the supply of water by the Administrator.
 ``**Council**'' means a council within the meaning of the Local Government Act 1919 and includes a county council constituted under any Act.
 ``**Regulations**'' means regulations made under this Act.
 ``**Works**'' means the works of water supply mentioned in the First Schedule and all additions, amplifications, improvements and extensions whatsoever to and of such works constructed before or after the commencement of this Act.

Administration

3. (1) This Act shall be administered for and on behalf of the Crown by the Administrator, who shall be the Director of Public Works, and who shall have and may exercise and perform the powers, authorities, duties and functions by this Act conferred or imposed on the Administrator.
 (2) In the case of the illness, suspension or absence of the Administrator, the person for the time being acting in the office of the Director of Public Works shall have and may exercise and perform the powers, authorities, duties and functions of the Administrator.
 (3) The Administrator may, with the consent of the Minister and of the Public Service Board, by writing, delegate to any officer of the Public Service any of the powers, authorities, duties and functions conferred or imposed on the Administrator by this Act other than this power of delegation.

(4) The Administrator shall, for the purposes of this Act, be a corporation sole with perpetual succession and a seal of office under the name of "The Administrator of the Fish River Water Supply" and in that name may sue and be sued.

Works controlled by the Administrator

4. The works shall be controlled and administered by the Administrator.

Care and management of certain parts of the works

5. (1) Upon the completion or the partial completion of such part of the works as is used for or in connection with the reticulation of the supply of water to a council, or for or in connection with the supply of water to any person upon premises situated within the area of a council, or at any time thereafter, the Governor may by proclamation published in the Gazette charge such council with the care and management of any such part of the works as is mentioned in the proclamation.

(2) The part of the works mentioned in any proclamation published pursuant to subsection (1) shall be deemed to be works with the care and management of which the council is charged under Part 14 of the Local Government Act 1919, and the provisions of that Part, other than the provisions relating to the notification and repayment of the capital debt, shall mutatis mutandis apply to and in respect of any such part of the works.

(3) Each such council shall make and levy rates and charges under the Local Government Act 1919 to return an amount sufficient to meet all sums which become due to the Administrator for water supplied or under any contract made between the Administrator and such council and to meet such of the costs of administration of the council as may be prescribed.

(4) * * * * *

(5) For the purposes of making and levying any such rate, a water pipe being part of any works with the care and management of which the council is, by or under this Act, charged, shall be deemed to be a water pipe of the council.

(6) (a) Where before the publication of any proclamation pursuant to subsection (1), the Administrator had entered into contracts with any persons to supply water from the works to any premises within the area of the council, the Governor may, by the proclamation charging the council with the care and management of the part of the works from which the supply is made, or by a subsequent proclamation published in the Gazette, transfer to the council as from a date specified in the proclamation, all the rights and liabilities of the Administrator under such contracts or any specified contracts or all such contracts other than specified contracts.

(b) On and from the date so specified the following provisions shall have effect:

- (i) all contracts so transferred shall be deemed to be contracts entered into by the council;
- (ii) any securities given to or by the Administrator in relation to any contract so transferred and in force immediately before the specified date shall be deemed to be securities given to or by the council;
- (iii) the council may enforce and realise any such security as if such security were existing in favour of the council.

PART 2—SUPPLY OF WATER

Administrator may supply water

6. The Administrator may supply water from the works to any person who enters into a contract with the Administrator to accept a supply of water. Any such contract may contain such terms and conditions as the Administrator thinks fit.

Supply for railway purposes

7. For the purpose of supplying any person with water pursuant to this Act, the Administrator may at all times use and repair any portion of the works notwithstanding that a council may be charged with the care and management thereof.

Power of council to enter into contracts

8. Any council may enter into a contract with the Administrator for the supply of water to such council upon such terms and conditions as may be agreed upon.

Fixing price of water

8A. (1) Notwithstanding the provisions of section 8 or any contract made thereunder the price to be paid for water supplied by the Administrator to any council, shall be at the rate of 2.2 cents per kilolitre. This subsection shall be deemed to have commenced upon the first day of January, one thousand nine hundred and fifty-six.

(2) The Governor may from time to time, by regulation vary the price per kilolitre to be paid by any council for water supplied by the Administrator in the year commencing on the first day of January, one thousand nine hundred and fifty-nine, and in each succeeding year commencing on the first day of January thereafter, and fix the minimum amount to be paid by any council in any one year irrespective of the quantity of water supplied.

Council not to supply outside area without consent

9. A council which is taking a supply of water from the Administrator shall not, except with the consent of the Administrator, supply water to any person upon premises situated outside the area of such council.

No compensation for failure of supply

10. (1) The Administrator shall not under any circumstances be liable to make any payments in compensation or for damages should the water supplied be at any time unfit for dietetic or industrial purposes, nor for total or partial failure or cessation of the supply arising from any cause whatsoever.

(2) The Administrator shall at all times be entitled to discontinue the supply to a council or other person whenever the Administrator deems it necessary in the interests of public health or for the purpose of ensuring a proper supply.

PART 3—FINANCIAL

Capital debt

11. (1) The Governor may at any time by proclamation published in the Gazette declare that the capital debt in respect of the Fish River Water Supply shall, as at a date to be specified in the proclamation, be such amount as is specified in the proclamation. Such proclamation shall specify what part (if any) of such capital debt shall and what part (if any) thereof shall not bear interest.

(2) The Minister shall, as soon as practicable after the thirty-first day of December immediately following the declaration of the capital debt pursuant to subsection (1), determine the amount by which the capital debt should be increased or decreased by reason of expenditure or receipts during the period commencing on the date as at which the capital debt was declared and ending on the said thirty-first day of December. Thereafter the Minister shall as soon as practicable after the thirty-first day of December in each succeeding year, determine the amount by which the capital debt should be increased or decreased by reason of expenditure or receipts during the period of twelve months immediately preceding.

The Minister shall notify in the Gazette the amount of such increase or decrease and shall in such notification state that the amount is to be added to or taken from that part of the capital debt which bears interest or that part of the capital debt which does not bear interest or that the amount is to be apportioned between such parts. Upon publication of such notification, the capital debt shall be deemed to be altered accordingly, and such alteration shall take effect as from the date specified in the notification.

Allocation of moneys

12. (1) An account shall be kept to be called the "Fish River Water Supply Working Account," in this Act referred to as the "**Working Account.**"

(2) (a) There shall be credited to the Working Account all revenue received by the Administrator in pursuance of this Act and such amounts as may from time to time be appropriated by Parliament for the purpose.

(b) There shall be debited to the Working Account the following charges, in the order set out hereunder:

Firstly, the cost of administration, operation, repair and minor renewal of the works by the Administrator;

Secondly, interest on the interest-bearing part of the capital debt declared pursuant to section 11 for any year at a rate or rates to be determined by the Treasurer, but not exceeding the average rate payable during such year by the Government for loan moneys and exchange at a rate or rates to be determined by the Treasurer, the amount of which interest and exchange shall be credited to the Consolidated Revenue Fund;

Thirdly, such contributions (if any) to a sinking fund as the Treasurer may direct.

(c) Any balance shall be applied in reduction of the capital debt or towards the cost of constructing the works or otherwise for any purpose connected with the administration of this Act as the Minister may direct.

The Minister shall notify in the Gazette the amount of any such reduction in the capital debt, and shall, in such notification, state that such reduction is to be made from that part of the capital debt which bears interest or from that part of the capital debt which does not bear interest, or that such reduction is to be apportioned between such parts. Upon publication of such notification, the capital debt shall be deemed to be altered accordingly and such alteration shall take effect as from the date specified in the notification.

13. * * * * *

Accounts to be kept in Special Deposits Account

13A. The Working Account shall be kept in the Special Deposits Account in the Treasury in an account to be called the "Fish River Water Supply Account".

Payments by Treasurer

14. When in any year the revenue received by the Administrator is insufficient to meet the charges referred to in section 12 (2), the Treasurer may, out of moneys provided by Parliament, pay to the Working Account the amount of such deficiency.

Any moneys so paid to the Working Account shall, after payment of the charges referred to in section 12 (2), be repaid to the Treasurer out of any balance remaining in the Working Account with interest at such rate and at such times and by such instalments as the Treasurer may determine.

PART 4—CONTRIBUTIONS AND BORROWING BY COUNCILS

Councils to contribute to cost of works

15. The Lithgow Municipal Council, the Blaxland Shire Council and the Oberon Shire Council shall pay to the Minister for Public Works on demand the respective amounts set out in the Second Schedule and such additional amounts as such councils may agree to pay to the Minister for Public Works in respect of constructing the works. Such amounts shall be applied by the said Minister towards the cost of constructing the works.

Adjustment of contributions by councils to cost of works

15A. (1) The Administrator shall, during the periods specified in the second column of the Third Schedule and applicable to the relevant council deduct from the annual accounts for water supplied by the Administrator to the Lithgow City Council and the Blaxland Shire Council the respective amounts set out in the third column of the Third Schedule opposite the periods so specified.

(2) The Oberon Shire Council shall for the period of forty-five years commencing on the first day of January, one thousand nine hundred and fifty-six, pay to the Administrator in respect of each year, in addition to its annual account for water supplied by the Administrator, the sum of six hundred and fourteen dollars, which sum shall be revenue received by the Administrator in pursuance of this Act.

(3) This section shall be deemed to have commenced upon the first day of January, one thousand nine hundred and fifty-six.

Councils may raise loans

16. (1) For the purpose of making the payments required by section 15 the Lithgow Municipal Council and the Oberon Shire Council may borrow by way of ordinary loan under the provisions of

the Local Government Act 1919 the respective amounts to be paid by such councils in pursuance of that section.

(2) For the purpose of making the payment required by section 15 the Blaxland Shire Council:

- (a) shall apply the sum of fifty-five thousand pounds borrowed in accordance with the Governor's approval of the twenty-first day of June, one thousand nine hundred and thirty-eight, for the purpose of the erection, construction and carrying out of works of water supply and works connected therewith, in part payment of the amount to be paid by the said council in pursuance of that section; and
- (b) may borrow by way of ordinary loan under the provisions of the Local Government Act 1919 the balance of the amount to be paid by the said council in pursuance of that section.

(3) The provisions of the Local Government Act 1919 applicable to ordinary loans, shall mutatis mutandis apply to and in respect of any borrowing by a council under this section: Provided that the Governor may notwithstanding any restrictions imposed by the Local Government Act 1919 or any other Act upon the granting of approval to loans for works of water supply, approve of a loan for any of the purposes of this section.

(4) (a) Any loan raised by a council under the provisions of this section shall be deemed to be a loan raised for the purpose of the erection, construction and carrying out of works of water supply of that council and upon payment of the amount of such loan to the Minister for Public Works such loan shall be deemed to have been applied by the council for such purpose. The provisions of the Local Government Act 1919 apply to and in respect of such loan in all respects as if such loan had been applied by the council for the purpose of the erection, construction and carrying out of such works.

(b) (i) Upon payment of the sum of fifty-five thousand pounds raised in accordance with the Governor's approval of the twenty-first day of June, one thousand nine hundred and thirty-eight, to the Minister for Public Works in accordance with the provisions of subsection (2) (a), the said loan of fifty-five thousand pounds shall be deemed to have been applied by the Blaxland Shire Council for the purpose of the erection, construction and carrying out of works of water supply of that council. The provisions of the Local Government Act 1919 shall apply to and in respect of such loan in all respects as if such loan had been applied by the council for the purpose of the erection, construction and carrying out of such works.

(ii) No action suit or other proceeding whatsoever shall be commenced prosecuted or maintained against the Blaxland Shire Council or any member thereof in respect of the failure of that council to proceed with the erection, construction or carrying out of the works for the purpose of which the said loan of fifty-five thousand pounds was raised.

PART 5—GENERAL

Default by a council

17. (1) In the event of a council making default for a period of three months in the payment of any amount due to the Crown or to the Administrator pursuant to this Act, or under a contract made with such council pursuant to this Act, the Governor may by proclamation published in the Gazette divest the council of the care and management of any portion of the works and vest the same in the Administrator.

(2) * * * * *

Vesting of care and management of works in Administrator

18. (1) The Governor may by proclamation published in the Gazette vest in the Administrator the care and management of any portion of the works.

(2) The Administrator shall, in respect of any works the care and management of which are vested in the Administrator pursuant to this Act, have all the powers of making, levying and collecting rates and charges as are conferred upon a council under the Local Government Act 1919.

(3) * * * * *

(4) For the purpose of making and levying any such rate, a water pipe being portion of the works the care and management of which are vested in the Administrator, shall be deemed to be a water pipe of the Administrator.

Catchment areas

18A. (1) The Governor may, by proclamation published in the Gazette, proclaim any lands to be a catchment area in connection with the supply of water by the Administrator.

(2) The Governor may, by like proclamation, at any time revoke and cancel the proclamation of any catchment area and reproclaim the boundaries thereof, and may, by like proclamation, amend the boundaries of any catchment area previously thereto proclaimed under this Act.

Proceedings for offences

18B. All proceedings for offences against this Act or the regulations shall be disposed of summarily before a Local Court.

Regulations

19. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out the provisions of this Act.

(1A) Without prejudice to the generality of subsection (1), the Governor may make regulations for or with respect to:

- (a) the marking of the boundaries of any catchment area;
- (b) the protection from pollution of any catchment area, or any stream or watercourse in any catchment area or any water contained or stored in or by the works, and the protection of the works from damage;
- (c) the inspection of land and buildings upon any catchment area;
- (d) the regulation or the prohibition of burials on any catchment area;
- (e) the authorising of the carrying out by the Administrator of any structural alteration of buildings or other works to prevent or minimise the danger of pollution of any catchment area;
- (f) requiring the removal of buildings or works on any catchment area;
- (g) the regulation or prevention of the keeping of animals on any catchment area;
- (h) preventing the diversion of or the taking of water from any natural or artificial stream or watercourse the water of which flows into the works except by or under the authority of the Administrator or of any statute;
- (i) the prevention of the destruction of trees, shrubs, herbage or other vegetative cover on any catchment area, and the authorising of measures necessary to preserve or provide arboreal cover on any catchment area.

(1B) Where any owner or occupier of land within a catchment area is prejudicially affected by the operation of any regulation made under subsection (1A), the owner or occupier shall be entitled to be paid compensation by the Administrator in respect of the damage sustained by the owner or occupier.

(1C) The regulations may impose a penalty not exceeding 1 penalty unit for any breach thereof.

(2), (3) * * * * *

FIRST SCHEDULE

(Sec. 2)

Works of water supply for Glen Davis National Oil Company and Glen Davis township, Lithgow, Portland, Wallerawang, Lidsdale and Oberon, comprising the construction of a concrete dam on Fish River Creek at Oberon, construction of a gravitation main, construction of concrete reservoirs, laying of reticulation systems and installation of a pumping station at Oberon, together with all works incidental thereto and in connection therewith.

SECOND SCHEDULE

(Sec. 15)

Lithgow Municipal Council £102,000

Blaxland Shire Council £60,350

Oberon Shire Council £5,150

THIRD SCHEDULE

(Sec. 15A)

Council	Period during which deductions are to be made	
(1) Lithgow City Council:	(a) Commencing on and	The annual instalment payable
	(b) Commencing on and	The annual instalment payable
(2) Blaxland Shire Council:	(a) Commencing on and	17170/55000ths of the instalment
	(b) Commencing on and	2610/13880ths of the instalment
	(c) Commencing on and	2610/13880ths of the instalment

NOTES

Table of Acts

Fish River Water Supply Administration Act 1945 No. 16. Assented to, 3.4.1945. This Act has been amended as follows:

Fish River Water Supply Administration (Amendment) Act 1957 No. 57. Assented to, 9.12.1957.

Country Water Supplies Administration and State Brickworks (Amendment) Act 1960 No. 24. Assented to, 19.4.1960. Date of commencement of sec. 2 (b), 1.1.1959, sec. 6.

Decimal Currency Act 1965 No. 33. Assented to, 20.12.1965. Date of commencement of sec. 4, 14.2.1966, secs. 1 (3), 2 (1) and the Currency Act 1965 (Commonwealth), sec. 2 (2).

Metric Conversion Act 1978 No. 67. Assented to, 6.4.1978. Date of commencement of Sch. 1, Items 50 and 51, 1.3.1982, sec. 4 (2) and Gazette No. 31 of 26.2.1982, p. 781. Amended by Metric Conversion (Amendment) Act 1978 No. 175. Assented to, 29.12.1978.

Fish River Water Supply Administration (Amendment) Act 1982 No. 141. Assented to, 16.12.1982.

Miscellaneous Acts (Special Deposits Account) Amendment Act 1985 No. 158. Assented to, 28.11.1985. Date of commencement of Sch. 1, 20.6.1986, sec. 2 (2) and Gazette No. 97 of 20.6.1986, p. 2796.

Statute Law (Miscellaneous Provisions) Act (No. 2) 1986 No. 218. Assented to, 23.12.1986.

Statute Law (Miscellaneous Provisions) Act (No. 1) 1987 No. 48. Assented to, 28.5.1987. Date of commencement of Sch. 32, except as provided by sec. 2 (13), 1.9.1987, sec. 2 (12) and Gazette No. 136 of 28.8.1987, p. 4809.

Statute Law (Penalties) Act 1992 No. 112. Assented to, 8.12.1992. Date of commencement, assent, sec. 2.

Local Government Legislation (Miscellaneous Amendments) 1994 No. 44. Assented to, 2.6.1994. Date of commencement of Sch. 19, 1.7.1994, sec. 2 and Gazette No. 80 of 17.6.1994, p. 2915.

Energy Legislation (Miscellaneous Amendments) Act 1994 No. 82. Assented to, 12.12.1994. Date of commencement of Sch. 6, 23.1.1995, sec. 2 and Gazette No. 5 of 20.1.1995, p. 374.

Statute Law (Miscellaneous Provisions) Act 1995 No. 16. Assented to, 15.6.1995. Date of commencement of the provisions of Sch. 1 relating to the Fish River Water Supply Administration Act 1945, 1.9.1995, Sch. 1 and Gazette No. 105 of 1.9.1995, p. 5048.

Electricity Supply Act 1995 No. 94. Assented to, 21.12.1995. Date of commencement of the provisions of Sch. 5 relating to the Fish River Water Supply Administration Act 1945, 10.5.1996, sec. 2 and Gazette No. 57 of 10.5.1996, p. 2123.

Statute Law (Miscellaneous Provisions) Act 1996 No. 30. Assented to, 21.6.1996. Date of commencement of Sch. 3, 3 months after assent, sec. 2 (3).

Statute Law (Miscellaneous Provisions) Act 1999 No. 31. Assented to, 7.7.1999. Date of commencement of Schs. 4 and 5, assent, sec. 2 (1).

This Act has also been amended pursuant to an order under secs. 8 (2) and 9 (3) of the Reprints Act 1972 No. 48. Order dated 8.6.1983, and published in Gazette No. 82 of 10.6.1983, p. 2609, declaring that the Fish River Water Supply Administration Act 1945 is an enactment to which sec. 8 (2) and sec. 9 (3) of the Reprints Act 1972 apply.

Table of Amendments

(No reference is made to certain amendments made by the Decimal Currency Act 1965, the Reprints Act 1972, and Schedule 3 (amendments replacing gender-specific language) to the Statute Law (Miscellaneous Provisions) Act 1996.)

Sec. 1—Am. 1999 No. 31, Sch. 5.40.

Sec. 2—Am. 1960 No. 24, s. 2 (a); 1982 No. 141, Sch. 2 (1).

Sec. 3—Am. 1957 No. 57, s. 2 (a); 1982 No. 141, Sch. 2 (2).

Sec. 5—Am. 1982 No. 141, Sch. 2 (3).

Sec. 7—Am. 1982 No. 141, Sch. 2 (4).

Sec. 8A—Ins. 1957 No. 57, s. 2 (b). Am. 1978 No. 67, Sch. 1; 1994 No. 82, Sch. 6; 1995 No. 94, Sch. 5.

Sec. 12—Am. 1982 No. 141, Sch. 2 (5); 1985 No. 158, Sch. 1; 1995 No. 16, Sch. 1.

Sec. 13—Am. 1960 No. 24, s. 2 (b); 1982 No. 141, Schs. 1 (1), 2 (6); 1985 No. 158, Sch. 1; 1986 No. 218, Sch. 46. Rep. 1995 No. 16, Sch. 1.

Sec. 13A—Ins. 1985 No. 158, Sch. 1. Am. 1995 No. 16, Sch. 1.

Sec. 14—Am. 1982 No. 141, Schs. 1 (2), 2 (7).

Sec. 15A—Ins. 1957 No. 57, s. 2 (c).

Sec. 16—Am. 1982 No. 141, Sch. 2 (8).

Sec. 17—Am. 1982 No. 141, Sch. 2 (9); 1994 No. 44, Sch. 19.

Sec. 18—Am. 1982 No. 141, Sch. 2 (10).

Sec. 18A—Ins. 1960 No. 24, s. 2 (c).

Sec. 18B—Ins. 1960 No. 24, s. 2 (c). Am. 1999 No. 31, Sch. 4.31.

Sec. 19—Am. 1960 No. 24, s. 2 (d); 1982 No. 141, Sch. 2 (11); 1992 No. 112, Sch. 1.

Sec. 20—Am. 1987 No. 48, Sch. 32.

Third Sch.—Ins. 1957 No. 57, s. 2 (d).
