

8 ELIZ. II. No. 27, 1959. *River Improvement Trust Acts, Etc., Act.*

## EROSION, CONTROL OF.

### An Act to Amend "The Burdekin River Trust Acts, 1940 to 1956," in certain particulars.

8 ELIZ. II.  
NO. 27.  
THE RIVER  
IMPROVEMENT  
TRUST ACTS  
AMENDMENT  
ACT OF 1959.

[ASSENTED TO 16TH APRIL, 1959.]

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

1. (1.) This Act may be cited as "*The River Improvement Trust Acts Amendment Act of 1959.*" Short title.

(2.) \*"*The Burdekin River Trust Acts, 1940 to 1956,*" are in this Act referred to as the Principal Act. Principal Act.

(3.) The Principal Act and this Act may be collectively cited as "*The River Improvement Trust Acts, 1940 to 1959.*" Collective title.

2. Section one of the Principal Act is amended by repealing therein the words "*Burdekin River*" and by inserting, in lieu of those repealed words, the words "*River Improvement*". Amendment of s. 1.

3. Subsection one of section two of the Principal Act is amended— Amendments of s. 2.

(i.) By repealing the definition "Benefited Area" therein;

(ii.) By repealing the definition "Co-ordinator-General" therein, and by inserting, in lieu of that repealed definition, the following definition:—

" "Commissioner"—The Commissioner of Irrigation and Water Supply under and within the meaning of † "*The Irrigation and Water Supply Commission Acts, 1946 to 1949*" ; " ; Commissioner.

\* 4 G. 6 No. 5 and amending Acts.

† 11 G. 6 No. 11 and amending Acts.

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(iii.) By repealing the definition "Minister" therein, and by inserting, in lieu of that repealed definition, the following definition :—

Minister.

" " Minister "—The Minister for Public Lands and Irrigation or other Minister of the Crown for the time being charged with the administration of this Act ; " ;

(iv.) By inserting, after the definition "Prescribed" therein, the following definitions :—

River.

" " River "—Includes any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel artificially improved, or in an artificial channel which has changed the course of the stream of water and any affluent, confluent, branch, or other stream into or from which the river flows and, in the case of a river running to the sea or into any coastal bay or inlet or into a coastal lake, includes the estuary of such river and any arm or branch of same and any part of the river subject to the ebb and flow of the tide at ordinary spring tides ;

River  
Improve-  
ment Area.

" " River Improvement Area "—A river improvement area constituted under this Act ; " ; and

(v.) By repealing the third paragraph of the definition "Works" (being the paragraph commencing with the words "The term also includes, and it is hereby declared") and by inserting, in lieu of that repealed paragraph, the following paragraph :—

" The term also includes—

- (a) The removal of dead or growing timber, or other vegetation or aquatic plants, or of silt, shingle, soil, sand, gravel, stone, rock or other matter or thing whatsoever, from the bed, banks or foreshore of any tidal waters or coastal lake or lagoon, or from the water of the bed or banks of a river or from any adjoining, adjacent or nearby lands ;

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- (b) Changing or preventing the changing of the course of a river; defining and constructing the course of a river through a swamp or otherwise draining land;
- (c) Preventing the erosion of the bed or banks of a river or of adjoining, adjacent or nearby lands by the waters of a river;
- (d) Preventing the siltation of the course of a river where such work is confined to the bed or banks of a river and adjoining, adjacent or nearby lands;
- (e) Preventing the flooding of land by the waters of a river;
- (f) Deepening, widening, straightening or improving the course of a river;
- (g) Preventing the inflow of sea water or saline water into the course of a river; or
- (h) Preventing the erosion of lands by tidal waters or by the waters of any coastal lake or lagoon."

## 4. The Principal Act is amended—

Amendments  
of terms  
in Principal  
Act.

(i.) By, save where appearing thirdly in subsection three of section fourteen of that Act, repealing therein, wheresoever appearing, the words "benefited area", and by inserting, in lieu of those repealed words wheresoever repealed, the words "river improvement area";

(ii.) By repealing therein, wheresoever appearing, the words "Burdekin River Benefited Area", and by inserting, in lieu of those repealed words wheresoever repealed, the words "Burdekin River Improvement Area";

(iii.) By repealing therein, wheresoever appearing, the word "Co-ordinator-General", and by inserting, in lieu of that repealed word wheresoever repealed, the word "Commissioner"; and

(iv.) By repealing therein, wheresoever appearing, the words "Burdekin River Trust", and by inserting, in lieu of those repealed words wheresoever repealed, the words "Burdekin River Improvement Trust".

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Amendment  
of s. 3.

5. Section three of the Principal Act is amended by adding thereto the following subsection:—

“(5.) (a) “The Burdekin River Benefited Area” as constituted immediately prior to the passing of \**“The River Improvement Trust Acts Amendment Act of 1959,”* shall, as and from the passing of the said Act and without further or other constitution, constitute “The Burdekin River Improvement Area” under this Act.

(b) Any area or areas or part or parts of an area or areas constituted under this section as a benefited area and in existence as such an area immediately prior to the passing of \**“The River Improvement Trust Acts Amendment Act of 1959,”* shall, as and from the passing of the said Act and without further or other constitution, constitute a river improvement area under this Act.”

Amendment  
of s. 4.

6. Section four of the Principal Act is amended by adding thereto the following subsection:—

“(3.) (a) “The Burdekin River Trust” as constituted under subsection one of this section and in existence immediately prior to the passing of \**“The River Improvement Trust Acts Amendment Act of 1959,”* shall, as and from the passing of the said Act and without further or other constitution, constitute “The Burdekin River Improvement Trust” for the Burdekin River Improvement Area.

(b) The Trust constituted under subsection two of this section for any area and in existence immediately prior to the passing of \**“The River Improvement Trust Acts Amendment Act of 1959,”* shall, as and from the passing of the said Act and without further or other constitution, constitute the Trust for the river improvement area which the said area now constitutes.”

Amendments  
of s. 5.

7. Section five of the Principal Act is amended—

(i.) By, in subsection one thereof,—

(a) Repealing in paragraph (ii.) of that subsection the words “The chairman of” and inserting, in lieu of those repealed words, the words “The chairman of, or other member of the Local Authority appointed in that behalf in place of the chairman by,”; and

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\* This Act.

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(b) Adding to the proviso to that subsection the words "or other member of the Local Authority appointed under paragraph (ii.) of this subsection"; and

(ii.) By, in subsection two thereof, repealing the second and third paragraphs thereof, and by inserting, in lieu of those repealed paragraphs, the following paragraphs:—

"Any member of the Trust who holds office by virtue of being the chairman of a Local Authority shall continue in his office as member while he is such chairman unless the Local Authority sooner appoints another of its members in his place.

Any member of the Trust appointed thereto by a Local Authority shall continue in his office as member while he is a member of the Local Authority unless the Local Authority sooner revokes his appointment and appoints another of its members in his place."

8. Section seven of the Principal Act is amended— Amendments of s. 7.

(i.) By inserting in subsection two thereof after the words "power to take", the words "acquire by grant"; and

(ii.) By adding thereto the following subsection:—

"(5.) The name of any Trust (other than the Burdekin River Trust) incorporated under this section and in existence immediately prior to the passing of \**The River Improvement Trust Acts Amendment Act of 1959*," shall as and from the passing of the said Act, be changed by substituting the words "River Improvement Trust" for the words "River Trust".

The name of "The Burdekin River Trust" incorporated under this section and in existence immediately prior to the passing of \**The River Improvement Trust Acts Amendment Act of 1959*," shall as and from the passing of the said Act be changed by substituting the words "River Improvement" for the word "River".

The change in name of any such corporation shall not affect the continuance in office in terms of his appointment by or under this Act, of any member thereof, or the continuity of identity, or any rights and

\* This Act.

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obligations, of the said corporation nor render defective any legal proceedings by or against the said corporation, and any legal proceedings that might have been commenced or continued by or against the said corporation by its former name may be commenced or continued by or against it by its new name.”

Amendment  
of s. 9.

9. Section nine of the Principal Act is amended by repealing therein, wheresoever appearing, the words “Secretary for Public Lands”, and inserting, in lieu of those repealed words wheresoever repealed, the words “Minister for Public Lands and Irrigation”.

Amendments  
of s. 10.

10. Section ten of the Principal Act is amended—  
(i.) By adding to subsection one thereof the following proviso and paragraph :—

“ Provided that no such work shall be undertaken by the Trust in, on, over, through or across any foreshore or any land lying under the sea within Queensland waters or any land lying under any harbour (including any navigable river) without the joint approval of the Minister and the Minister administering \**“The Harbours Acts, 1955 to 1959,”* and †*“The Queensland Marine Act of 1958,”* previously had and obtained.

The provisions of subsection two of section eighty-six, sections eighty-seven to ninety, both inclusive, and subsection one of section ninety-one of \**“The Harbours Acts, 1955 to 1959,”* shall not apply to works undertaken for the purposes of this Act with the joint approval of the Minister and the Minister administering \**“The Harbours Acts, 1955 to 1959,”* and †*“The Queensland Marine Act of 1958.”*; and

(ii.) By adding thereto the following subsection :—

“(7.) The Commissioner or any person authorised in writing by him in that behalf or any member of the Trust or any of its officers or employees authorised in writing in that behalf by the Trust may enter, re-enter and occupy for so long as is necessary any land within the river improvement area for which the Trust is constituted with such assistants, vehicles, materials, equipment and things as may be necessary and on that land may make surveys, take levels and carry out works.

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\* 4 Eliz. 2 No. 40 and amending Acts.

† 7 Eliz. 2 No. 37.

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Not less than seven days' notice in writing shall be given to the owner or occupier of the land of the intention to enter thereon. The notice shall state in general terms the use proposed to be made of the land and the approximate period during which such use is expected to continue.

Where the entry upon or occupation of any land pursuant to this subsection results in loss or damage to the owner or occupier of the land, the Commissioner or the Trust, as the case may be, shall pay compensation for such loss or damage.

If the amount of such compensation is not agreed upon it shall be determined by the court or tribunal which would be authorised under this Act to determine the compensation payable in the event of the Trust for the river improvement area within which the land is situated taking the land in question."

**11.** Section eleven of the Principal Act is amended by inserting in subsection three thereof, after the words "cultivated crop", the words "growing on the land". Amendment  
of s. 11.

**12.** Section fourteen of the Principal Act is amended— Amendments  
of s. 14.

(i.) By adding to subsection one thereof the following paragraph :—

"Where pursuant to section 14A of this Act an arrangement is entered into or deemed to be so entered into between the Trust and a Harbour Board whereby the Harbour Board undertakes to contribute in aid of the undertaking and maintenance, or undertaking or maintenance, of any works by the Trust under this Act then, for the purpose of ascertaining the sum liable to be contributed to the Trust by the Local Authority or Local Authorities, as the case may be, pursuant to this section, the amount of revenue estimated by the Trust in the budget adopted by it for the year in question shall be first reduced by the sum payable in that year by the Harbour Board to the Trust under the terms of the said arrangement." ; and

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(ii.) By repealing in subsection two thereof the words and figures “ “ *The Burdekin River Trust Act of 1940* ” ” and inserting, in lieu of those repealed words and figures, the words and figures “ “ *The River Improvement Trust Acts, 1940 to 1959* ” ”.

New s. 14A  
inserted.

**13.** The Principal Act is amended by inserting, after section fourteen thereof, the following section:—

Contribution  
by Harbour  
Board in aid  
of works.

“ [14A.] (1.) A Trust may make arrangements with a Harbour Board whereby, pursuant to the provisions of subsection two of section fifty-nine of \* “ *The Harbours Acts, 1955 to 1959,* ” the Board undertakes to contribute in aid of the undertaking and maintenance, or the undertaking or maintenance, of any works by the Trust under this Act.

The Harbour Board shall pay to the Trust in accordance with the terms of such arrangements all sums which it thereby undertakes to contribute.

(2.) Where a work is undertaken by a Trust under this Act which is or will be to the benefit of the harbour for which the Harbour Board is constituted and no arrangements under this section satisfactory to the Trust and the Harbour Board can be agreed upon, the Governor in Council may thereupon determine all matters respecting the proposed arrangement in dispute between the Trust and the Board and they shall accordingly proceed forthwith to complete arrangements in respect whereof the Governor in Council has made those determinations.

Where the Trust or the Board fails to complete the arrangement in accordance with the determination of the Governor in Council, the Harbour Board and the Trust shall be bound by the determination thereof and shall be deemed to have entered into an arrangement in terms thereof and the Harbour Board shall pay to the Trust all such sums as may be necessary to give effect to the determination.

(3.) Any sum payable by a Harbour Board to a Trust pursuant to this section shall be chargeable against the Harbour Fund or the Loan Fund of the Board and shall be recoverable in any court of competent jurisdiction by action as for a debt.”

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\* 4 Eliz. II. No. 40 and amending Acts.



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14. The Principal Act is amended by inserting, after section nineteen thereof, the following sections :—

New ss. 19A  
and 19B  
inserted.

“ [19A.] The Commissioner, or officer, or employee of the Commissioner, or any other person authorised in writing by the Commissioner, may, for the purposes of this Act, from moneys appropriated by Parliament for that purpose,—

Com-  
missioner  
may conduct  
research and  
experiments.

- (a) Conduct research and experiments into methods and types of river improvement work ;
- (b) Publish the results of any such research and experiments ; and
- (c) Advise Trusts in relation to river improvement works.

[19B.] Any notice, order or other document whatsoever under the provisions of this Act may be given or delivered to or served upon any person—

Service of  
documents.

- (a) By delivering the same to such person personally ; or
- (b) By forwarding the same by post in a prepaid letter addressed to such person at his usual place of business or address, or at his last-known place of business or address, in which case it shall be deemed to be so given, delivered or served upon receipt by that person of the letter ; or
- (c) By prepaid registered letter containing the same and addressed as aforesaid, in which case the production in evidence of the proper receipt from a post office for that letter shall, until the contrary is proved, be sufficient proof that it was so given, delivered or served upon the date when that letter would have been received by the person concerned in the ordinary course of post.”

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**FILLED MILK.**

*See MILK.*