



# River Improvement Trust Act 1940

Reprinted as in force on 24 November 2011

Reprint No. 2E

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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## Queensland

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# River Improvement Trust Act 1940

[as amended by all amendments that commenced on or before 24 November 2011]

**An Act to provide for the protection and improvement of the bed and banks of rivers, the repair and prevention of damage to the bed and banks of rivers, the prevention of flooding and the prevention or mitigation of inundation of certain land by flood waters from rivers; to provide for the constitution of trusts to discharge the foregoing functions; to make financial provision with respect to the discharge of trusts' functions and for related purposes**

## 1 Short title

This Act may be cited as the *River Improvement Trust Act 1940*, and shall be in force in and with respect to all river improvement areas.

## 2 Definitions

In this Act—

*approved form* see section 23.

*banks*, in relation to any river, includes all elevations or slopes confining or tending to confine waters flowing in, into, or out of that river during the period of any flood or cyclone to the bed thereof.

*land* includes any land the fee simple of which is subject to any trust or which is held from the Crown upon any tenure or subject to any trust under any Act relating to the alienation of Crown lands, and also includes any estate or interest in land (legal or equitable) and any easement, right, power, or privilege over, in, or in connection with land.

**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 improvement area** means a river improvement area constituted under this Act.

**security** includes a mortgage (legal or equitable), encumbrance, charge, lien, bond, debenture, debenture stock, floating charge, bill of sale, lien on wool, mortgage on livestock, lien on crops, guarantee or other written instrument duly issued or granted by way of security to a trust.

**trust** means a trust constituted under this Act.

**works** includes—

- (a) the whole or any part of any works, project, undertaking, or other matter or thing whatsoever undertaken or maintained under this Act for the purposes of repairing as far as may be damage occasioned to the banks of any river within a river improvement area prior to or after the passing of this Act by flood or cyclone or of preventing as far as may be the future occurrence of such damage; and
- (b) any trees, grass, or other plants planted or maintained for any of the aforesaid purposes; and
- (c) 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 or the bed or banks of a river or from any adjoining, adjacent or nearby lands, the placing or depositing of any such timber, or other vegetation or aquatic plants, or

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of silt, shingle, soil, sand, gravel, stone, rock or other matter or thing whatsoever, on any adjoining, adjacent or nearby land, including, in the case of removal from adjoining, adjacent or nearby lands hereinbefore referred to, on such lands, and the removal of or otherwise disposing of by burning (where appropriate, having regard to the nature of the matter or thing in question), or by any other means whatsoever, any such timber, or other vegetation or aquatic plants, or of silt, shingle, soil, sand, gravel, stone, rock or other matter or thing whatsoever placed or deposited as aforesaid; and

- (d) 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; and
- (e) preventing the erosion of the bed or banks of a river or of adjoining, adjacent or nearby lands by waters of or from a river; and
- (f) 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; and
- (g) preventing or mitigating the inundation of land by flood waters from a river whether the land abuts upon or is adjacent or nearby to the banks of the river; and
- (h) deepening, widening, straightening or improving the course of a river; and
- (i) preventing the inflow of sea water or saline water into the course of a river; and
- (j) preventing the erosion of lands by tidal waters or by the waters of any coastal lake or lagoon.

**year** means the period of time from and including 1 July in one calendar year to and including 30 June in the next following calendar year.

However, the period of time from and including the date of the constitution of a trust to and including 30 June next ensuing shall in relation to such trust, constitute a year.

### **3 Burdekin Shire Rivers Improvement Area and other river improvement areas**

- (1) The Burdekin River Improvement Area is continued in existence under the name the Burdekin Shire Rivers Improvement Area.
- (2) A local government may make an application and 2 or more local governments may make a joint application to the Minister for the constitution of a river improvement area comprising in the case of a local government its area or part thereof and, in the case of 2 or more local governments, their areas or parts thereof.
- (2A) Upon the application, the Governor in Council may, on the recommendation of the Minister, by regulation, constitute a river improvement area comprising the area or part or areas or parts of the local government or, as the case may be, local governments by which the application is made and assign to a river improvement area so constituted a name.
- (3) A regulation may add to the Burdekin Shire Rivers Improvement Area (the *principal area*) or to another river improvement area (also the *principal area*)—
  - (a) all or part of the area of 1 or more local governments (the *added area*); or
  - (b) all or part of 1 or more other river improvement areas (also the *added area*).
- (3A) In a regulation under subsection (3)—
  - (a) the whole of the Burdekin Shire Rivers Improvement Area may be the principal area but not the added area; and
  - (b) a part of the Burdekin Shire Rivers Improvement Area may be the added area; and
  - (c) if the added area is the added area under subsection (3)(a)—a river improvement area (other than the Burdekin Shire Rivers Improvement Area) may only be the principal area if each local government whose area, or part of whose area, is the whole or a part of the added

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area makes a written request that the regulation be made.

- (3B) A regulation made under subsection (3) may—
- (a) for a river improvement area other than the Burdekin Shire Rivers Improvement Area—change the name of the river improvement area (the *expanded area*) consisting of the principal area and the added area; and
  - (b) if the added area is only a part of a river improvement area—apportion the assets and liabilities of the trust for the river improvement area; and
  - (c) if the added area is the whole of a river improvement area—transfer the assets and liabilities of the trust for the river improvement area to the trust for the expanded area; and
  - (d) provide for any other matter necessary or convenient to give effect to the addition of the added area to the principal area.
- (3C) Subsection (3D) applies if—
- (a) an expanded area is established under subsection (3)(b); and
  - (b) the added area did not consist of the whole of a river improvement area; and
  - (c) a local government had representatives on the trust for the river improvement area (the *original area*) of which the added area was a part; and
  - (d) the part of the original area that is not the added area no longer contains any part of the area of the local government.
- (3D) When the expanded area is established, the representatives mentioned in subsection (3C)(c) go out of office as members of the trust.
- (3E) Subsection (3F) applies if—
- (a) an expanded area is established under subsection (3)(b); and

- (b) the added area consisted of the whole of a river improvement area.
- (3F) When the expanded area is established, the trust for the added area ceases to exist and all of the members of the trust go out of office as members of the trust.
- (4) Subject to subsection (4A), the Governor in Council may by regulation exclude from the Burdekin Shire Rivers Improvement Area or any other river improvement area the whole or portion of the area or part of the area of a local government which is for the time being included therein.
- (4A) Where the Governor in Council so excludes the whole of the area or part of the area of a local government, and within that area or part, works have been constructed by the trust concerned, the Governor in Council shall by regulation—
  - (a) notwithstanding subsections (2) and (2A), constitute the area of that local government or such part thereof as the Governor in Council thinks fit a river improvement area under such name as shall be therein set forth; and
  - (b) declare and apportion the assets and liabilities of the trust concerned in such manner as to the Governor in Council appears just and give such directions as in the Governor in Council's opinion are necessary to give effect thereto.
- (4B) A declaration, apportionment or direction made pursuant to subsection (4) shall be binding and effective on all persons and shall not be questioned in any proceedings whatever.
- (5) A regulation may—
  - (a) abolish a river improvement area other than the Burdekin Shire Rivers Improvement Area; and
  - (b) abolish the trust for the area being abolished; and
  - (c) provide for the vesting of the assets and liabilities of the trust being abolished; and
  - (d) provide for any other matter necessary or convenient to give effect to the abolition of the area and its trust.

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- (6) When the trust is abolished, the members of the trust go out of office as members of the trust.

#### **4 Burdekin Shire Rivers Improvement Trust and other river improvement trusts**

- (1) The Burdekin River Improvement Trust is continued in existence under the name the Burdekin Shire Rivers Improvement Trust.
- (2) The Governor in Council shall, by the regulation constituting any river improvement area other than the Burdekin Shire Rivers Improvement Area, or a later regulation, constitute a trust for such river improvement area.

#### **5 Membership of trust**

- (1) Every trust shall consist of the following members, namely—
- (a) a representative of the government who shall be appointed by the Governor in Council and be chairperson of the trust;
  - (b) representatives of, and appointed by, each local government the area or any part of the area of which is included in the benefited area for which the trust is constituted;
  - (c) if, in the opinion of the Minister, the circumstances so require, not more than 2 persons appointed by the Governor in Council.
- (1A) The members of a trust representative of any local government shall be councillors of such local government and its chairperson may be appointed 1 such representative.
- (1B) A local government that may appoint representatives under subsection (1)(b) for a trust may appoint 2 representatives for the trust, unless a regulation prescribes that the local government may, for the trust, appoint a stated number of representatives greater than 2.

- (2) The representative of the government shall hold office as member and chairperson of the trust during the pleasure of the Governor in Council.
- (2A) Every member of the trust representative of any local government shall hold office as such during the pleasure of the local government.
- (2B) Each person appointed under subsection (1)(c) holds office during the pleasure of the Governor in Council.
- (3) If any member of the trust representative of any local government fails or refuses to act as such, or is absent without leave from 3 consecutive ordinary meetings of the trust, the member shall be deemed to have vacated office as such member.
- (3A) If the office of a member of the trust representative of any local government becomes vacant under subsection (3), or for any other reason whatsoever, such local government may appoint another of its members to such vacant office and, if such local government fails to do so within 7 days after being thereunto required in writing by the Minister, the Governor in Council may appoint a person (who need not be a councillor of such local government) to such vacant office.
- (3B) Any person appointed under subsection (3A) by the Governor in Council shall hold office as a member of the trust during the pleasure of the Governor in Council.
- (3C) Despite subsections (2) and (2B), a person appointed under subsection (1)(a) or (c) continues to hold office as a member of the trust after the person's term of office ends until the person's successor is appointed.
- (4) At any meeting of the trust not less than one-half of the full number of members thereof for the time being shall constitute a quorum.
- (5) The trust shall meet at such times and places and conduct its business in such manner as may be prescribed or, in so far as not prescribed, as it may from time to time determine.
- (5A) However, the chief executive must fix the time and place for holding the first meeting of the trust.

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- (6) The trust shall at its first meeting, and thereafter when and so often as a vacancy occurs in such office, appoint one of its members to be deputy chairperson.
- (6A) The deputy chairperson may act in the office of chairperson at all times when the chairperson is prevented by absence, illness, or otherwise from performing the chairperson's duties as such.
- (7) At all meetings of the trust every member present shall, save as otherwise provided by this Act, vote.
- (7A) If a member refuses to vote the member's vote shall be counted for the negative.
- (7B) In the event of an equality of votes the chairperson or (when the deputy chairperson is acting as chairperson) the deputy chairperson shall have a casting as well as a deliberative vote.
- (8) The *Local Government Act 2009*, chapter 6, part 2, division 5 applies to a member of the trust as if—
- (a) a reference to a councillor were a reference to a member of the trust; and
  - (b) a reference to a local government, or the chief executive officer of a local government, were a reference to the trust; and
  - (c) a reference to a local government's area were a reference to the trust's river improvement area; and
  - (d) all other necessary changes, and any changes prescribed by regulation were made.
- (9) The members present at a meeting may from time to time adjourn the meeting.
- (9A) If a quorum is not present within half an hour after the time appointed for a meeting, the members present or the majority of them or any 1 member if only 1 is present, or the secretary if no member is present, may adjourn such meeting to any time not later than 7 days from the date of such adjournment.
- (9B) However, nothing in subsection (9A) shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

- (10) All notices of any meeting or adjourned meeting (other than of a meeting adjourned to a later hour of the same day on which such meeting was appointed to be held) shall be in writing, and shall be delivered or sent by post or otherwise to the address of each of the members previous to the meeting.
- (10A) Every such notice shall specify the time of meeting and, in the case of a special meeting, shall specify the object thereof.
- (10B) No business shall be transacted at any special meeting except such as is stated in the notice thereof.
- (11) If any member refuses or neglects to act or to attend any duly convened meeting of the trust, all lawful acts and proceedings of the trust shall be as valid and effectual as if they had been done or authorised by the full trust.
- (12) No proceedings of the trust or of any person acting as chairperson or member shall be invalidated by reason of any defect in the person's appointment or of any disqualification of any such person or by reason of there being any vacancy in the number of members at the time of such proceedings, provided that the number of members is not reduced below 2.

## **6 Secretary, officers, and employees**

- (1) The trust shall appoint a secretary and may appoint such other officers as it deems necessary.
- (1A) The trust may with the consent of any local government represented thereon appoint the chief executive officer of such local government to be its secretary, and such chief executive officer may hold both offices.
- (2) The secretary shall, subject to the trust, have power to execute documents on behalf of the trust and to affix the official seal thereto and shall also have such other powers and perform such other duties as may from time to time be prescribed or, in so far as not prescribed, appointed or directed by the trust.
- (3) The trust may retain or obtain the advice or services of such technical advisers and experts as it shall from time to time consider necessary.

- (4) The trust may employ such employees as it shall deem necessary.

## **6A Maintenance of a superannuation scheme**

- (1) A trust may, with the approval of the Governor in Council by regulation, institute and maintain a scheme or schemes for the provision of superannuation benefits to its officers and employees and for that purpose may provide in such manner as it considers appropriate for the establishment and maintenance of such funds as it considers necessary or desirable and may contribute to such funds.
- (2) A trust shall not amend a superannuation scheme maintained by it without the consent of the Governor in Council by regulation first had and obtained.
- (3) The Governor in Council may in the Governor in Council's absolute discretion approve or refuse to approve a proposal to maintain or amend a superannuation scheme.

## **7 Trusts are bodies corporate**

- (1) The Burdekin Shire Rivers Improvement Trust is hereby constituted a body corporate under the name and style of the Burdekin Shire Rivers Improvement Trust, and every other trust is hereby constituted a body corporate under the name and style set forth in the regulation constituting it.
- (2) The trust shall, by its corporate name, have perpetual succession and an official seal and shall be capable in law of suing and being sued and, subject to this Act, shall have power to take, acquire by grant, purchase, sell, exchange, lease, transfer, surrender to the Crown, and hold lands, goods, chattels and other property.
- (3) All courts, judges, justices, and persons acting judicially shall take judicial notice of the appointment of the chairperson and other members of and of the secretary to the trust and of their respective signatures and of the seal of the trust affixed to any document or notice or other writing, and until the contrary is proved shall presume that any such signature or such seal, as

the case may be, was duly affixed to any document or notice concerned.

- (4) Every document, notice, or other writing shall be sufficiently authenticated if it is signed by the chairperson or any 2 members of the trust or if it is sealed with the seal of the trust and signed by the chairperson or secretary of the trust.
- (4A) The chairperson shall be the executive officer of the trust.
- (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 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'.
- (6) 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 1959*, shall as and from the passing of the said Act be changed by substituting the words 'River Improvement' for the word 'River'.
- (7) The change in name of any such corporation shall not affect the continuance in office in terms of appointment by or under this Act, of any member thereof, or the continuity of identity, or any rights and 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.

## **8 Trusts are statutory bodies**

- (1) Under the *Financial Accountability Act 2009* and *Statutory Bodies Financial Arrangements Act 1982*, a trust is a statutory body.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which a trust's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

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**9 Compulsory acquisition of land**

- (1) In respect of any works or purpose with respect or in relation to which any right, power or authority is conferred or duty or obligation imposed upon the trust under this Act, the trust shall be a constructing authority under the *Acquisition of Land Act 1967*.
- (2) Where, land assigned to a sugar mill is taken the Central Sugar Cane Prices Board may, and is hereby empowered to, grant an assignment of other land to the same or another sugar mill in the stead of the assigned land so taken.
- (3) The value of any assignment so granted or proposed to be so granted shall be set off against the compensation payable.

**10 Works which trust shall undertake or maintain**

- (1) The trust shall undertake or maintain the following works—
  - (a) all such works as the chief executive from time to time directs or approves; and
  - (b) all such works as the chief executive directs the trust to maintain.
- (1A) To remove doubt, it is declared that the trust must comply with all laws in relation to undertaking or maintaining works mentioned in subsection (1).
- (1C) Without limiting subsection (1A) any such works which will interfere with, damage, or prejudice otherwise howsoever any works or undertakings of the Crown, any local government, any electric authority, or any corporation, instrumentality or authority created by or under any Act, or which are objected to by any of the aforesaid on the ground of interference, damage or prejudice as aforesaid shall not be undertaken by the trust without agreement as to the steps and things to be taken and done for preventing or minimising any such interference, damage or prejudice or, failing such agreement, until such steps and things have been determined by the Governor in Council.
- (2) Moreover, the trust shall before the expiration of each year plan a program of works for the following year and shall

submit such plan to the chief executive who, subject to the consent of the Minister, may approve of same either with or without modification.

- (2A) Subsection (2) shall not prejudice or limit the power of the chief executive to direct the trust to undertake or maintain any works.
- (3) The power of the trust to undertake works includes, but without limiting the ordinary meaning of that term, power, subject to the direction or approval of the chief executive, to construct, establish, carry out, manage, or control the works concerned.
- (4) The trust may enter into contracts for or with respect to the undertaking or maintenance of any works.
- (5) The trust may agree with any owner or, where the owner is not the occupier, with the owner and occupier of any land for or with respect to the undertaking or maintenance by the trust of works in or upon such land or any part thereof or for or with respect to the use by the trust of any land or any part thereof for the purposes of ingress, egress, and regress to and from such land or any other land upon or in which the trust is undertaking or maintaining any works.
- (5A) Upon production to the registrar of titles or, if some other authority is charged with registering instruments of title to the land concerned, then to such other authority, of any such agreement and the lodgment with the registrar or authority of a copy thereof the registrar of titles or such other authority shall register in relation to that land that agreement which thereafter shall, while it remains in force, be binding upon every person who had at the time of the making thereof, or who, at any time after the making thereof, becomes possessed of any estate or interest (legal or equitable) or any easement, right, power, or privilege over, in, or in connection with such land.
- (6) All contracts or agreements made by the trust under subsection (4) or, as the case may be, subsection (5) shall be effectual in law and shall be binding on the trust and all other parties thereto, their successors, executors, administrators, and permitted assigns, as the case may be, and in the case of

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default in the execution of any such contract or agreement, either by the trust or by any other party thereto, such actions may be maintained thereon and such damages and costs recovered by or against the trust or the other parties failing in the execution thereof as might have been maintained and recovered if the same contracts or agreements had been made between private persons only.

(7) The chief executive or any person authorised in writing by the chief executive in that behalf or any member of a trust or any of its officers or employees authorised in writing on that behalf by the trust may enter upon any land—

- (a) where an emergency exists, forthwith;
- (b) in any other case, upon 7 days notice in writing being given to the owner or occupier of that land;

for the purpose of—

- (c) examining whether any of the provisions of this Act or any requisition, notice or order issued pursuant to this Act is being complied with or is being contravened;
- (d) making any plan or survey or taking levels;
- (e) making any inspection or examination;
- (f) otherwise in or for carrying out any of the powers, duties or authorities conferred or imposed upon the trust by or pursuant to this or any other Act.

(7A) The power to enter upon any land includes power to—

- (a) remain upon that land for such time as is necessary to achieve the purpose of such entry and to place or deposit timber (whether dead or growing at the time it is removed as first hereinafter referred to), or other vegetation or aquatic plants, or silt, shingle, soil, sand, gravel, stone, rock or other matter or thing whatsoever, removed 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, on land adjoining, adjacent to or nearby such place of removal, including, in the case of removal from adjoining, adjacent or nearby lands as aforesaid, on

such lands, until it can reasonably be removed or otherwise disposed of by burning (where appropriate, having regard to the nature of the matter or thing in question) or by any other means whatsoever;

- (b) take such assistants, vehicles, materials, equipment or things as are necessary to achieve the purpose of such entry.
- (8) Where, consequent upon the exercise of a power conferred by subsection (7), loss or damage results to the owner or occupier of the land in respect whereof such power is exercised, the trust, or as the case may be, the State shall pay compensation therefor to the person or persons entitled thereto.
- (9) 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 or, where the State is to pay compensation, the trust constituted in respect of the river improvement area in which the land in question is situated, taking the land concerned.

## 11 Improvement notices

- (1) A trust may by notice in writing (in this section and section 11A called an *improvement notice*) prohibit a person from—
- (a) doing and executing or continuing to do and execute;
  - (b) suffering or permitting the doing and executing or suffering or permitting the continuance of the doing and executing of;
- any act, matter, or thing whatsoever which in the opinion of the trust—
- (c) was the cause of or contributed to any damage already done by flood or cyclone to any bank of any river within a river improvement area; or
  - (d) is likely to cause or contribute to any such damage in the future.

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- (1A) An improvement notice may be addressed to any number of persons and may be given to 1 of such persons on behalf of all of such persons and in such event shall be deemed to have been given to all the persons to whom it is addressed.
- (2) Where a person has done or executed or suffered to be done or executed any act, matter or thing which the trust constituted for a river improvement area is authorised by subsection (1) to prohibit then, notwithstanding that it did not impose such prohibition, the trust concerned may by an improvement notice direct that person to take and do such steps and things as the trust deems necessary to abate, remedy or prevent any damage so specified in subsection (1) already caused, or which in the opinion of the trust would be caused or contributed to in the future, by the doing of such act, matter or thing (which damage so directed to be abated, remedied or prevented shall be specified in the improvement notice) and to restore the surrounding area to its former condition as nearly as practicable.
- (2A) Such notice shall specify the time within which the directions specified therein shall be complied with.
- (3) A person to whom an improvement notice is given or is deemed to have been given pursuant to this section shall comply in every respect with such notice unless it has ceased to subsist or to operate.
- (3A) Where an improvement notice is given to the occupier of land in respect of which the improvement notice was given, a person who subsequently to the giving of that notice becomes the occupier of that land shall, whether or not the person had or would be deemed in law to have had notice of its existence, comply in every respect with the notice unless it has ceased to subsist or operate.
- (4) A person who is required by this section to comply with an improvement notice and who fails to comply in every respect with such notice shall be guilty of an offence and liable to a penalty of—
- (a) in respect of a first offence—not more than 20 penalty units;

- (b) in respect of a second or subsequent such offence (whether committed in respect of non-compliance with the same provision or any other provision of the improvement notice or with any subsequent improvement notice issued pursuant to this section)—not more than 100 penalty units.
- (5) Where, consequent upon the compliance with an improvement notice given to the occupier of land in respect of which the improvement notice was given, damage results to a cultivated crop growing on that land, the trust which gave the notice shall pay compensation therefor to the owner of the crop.
- (5A) If the amount of compensation cannot be 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 taking the land concerned.
- (6) If any person being required by this Act to so comply fails to comply with an improvement notice the trust concerned may do or cause to be done such acts as, in the opinion of the trust, are necessary to fully comply with such notice and, if it does so, such person shall be liable (and, in the case of more than 1 such person, jointly and severally liable) to pay to the trust the expenses reasonably incurred by the trust in effecting such compliance and such expenses together with costs may be recovered as a debt at the suit of the trust in any court of competent jurisdiction or by way of complaint under the *Justices Act 1886*.
- (6A) The provisions of subsection (6) or the recovery of any expenses or costs pursuant hereto shall not affect the liability of the person concerned to be prosecuted and penalised for the person's failure to comply with such a notice.
- (6B) For the purposes of subsection (6) the trust concerned and its employees and agents with such assistants as may be required for the purpose together with all tools, equipment and implements reasonably required for the purpose may enter and remain upon, pass and repass over any land.
- (7) Upon convicting any person of a failure to comply with an improvement notice a court may, in lieu of or in addition to

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any penalty for such failure, order such person to pay to the trust concerned the whole of the expenses proved to the satisfaction of such court to have been reasonably incurred by the trust in effecting compliance with such notice.

- (8) If any person being required by this Act to so comply fails to comply with an improvement notice the trust concerned may apply to the Supreme Court that a mandatory or restrictive injunction be issued directed to such person to compel the person to comply with such notice or, as the case may be, to refrain from contravening such notice and such court may grant any such remedy as it considers just.
- (8A) For the purposes of an application made pursuant to subsection (8) the trust concerned shall be deemed to possess a sufficient interest or right in law to support the grant of such a remedy.

- (9) In this section—

*occupier* means—

- (a) the person in actual occupation of land at the material time or, where there is no person in actual occupation the person entitled to possession of the land at that time; and
- (b) the owner of the land at the material time;

and includes the legal personal representative of a deceased occupier.

*owner* means the person who for the time being is entitled to the rents and profits of land or in the case of land held from the Crown for an estate less than freehold, the person who holds directly from the Crown, and includes the legal personal representative of a deceased owner.

*prohibit* includes control and regulate.

## **11A Notification of existence of improvement notice**

- (1) As soon as practicable after a trust has given an improvement notice to the occupier (within the meaning of section 11) of

land in respect of which the improvement notice is given, the trust shall furnish notification of the giving of the notice—

- (a) in the case of a notice relating to freehold land—to the registrar of titles at Brisbane or, as the situation of the land concerned may require, to the local deputy registrar of titles at Rockhampton or Townsville;
  - (b) in the case of a notice relating to land other than freehold land—to the registrar of dealings, Department of Lands, at Brisbane or, as the case may require, to any other person charged with the duty of recording in a public register dealings affecting the land.
- (2) The registrar or other person to whom sufficient notification of the giving of an improvement notice is furnished pursuant to subsection (1)—
- (a) in the case of land that is freehold land, shall—
    - (i) according to the request of the trust by which the notification is given, record in the register the fact of the giving of an improvement notice in respect of the land to which the improvement notice relates; and
    - (ii) after making the recording in the register as prescribed in subparagraph (i), cause any current instrument of title to the land produced to the registrar or subsequently issued by the registrar to have recorded thereon the fact of the giving of the improvement notice unless the registrar has, in the meantime, been notified that the improvement notice has ceased to subsist or to operate and the registrar has complied with subsection (3) so far as the registrar has been able in relation thereto;
  - (c) in the case of land that comprises a holding under the *Land Act 1962* shall—
    - (i) when a fresh instrument of lease is issued in circumstances specified in section 284(1) of that Act, endorse a memorial of the instrument of notification or make a noting that records the fact of the existence of an improvement notice in

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respect of the land (whichever record was theretofore made in respect of the land) in the new register kept of dealings in respect of that land;

- (ii) when a grant of the land in fee simple is made, shall transmit to the registrar of titles a copy of any subsisting entry in the register kept in the Department of Lands that relates to the improvement notice given in respect of the land, together with the original or a copy of the notification furnished to the registrar of the giving of the improvement notice and the registrar of titles shall comply with paragraph (a) in respect of the deed of grant and any other instrument of title to the land or part thereof as if the notification of the giving of the improvement notice had been given to the registrar in the first instance.
- (3) As soon as practicable after an improvement notice has ceased to subsist or to operate in respect of any land the trust by which it was given shall furnish notification of that fact to the registrar or other person to whom notification of the giving of the improvement notice was furnished pursuant to subsection (1) and upon receipt of sufficient notification such registrar or other person—
- (a) where the fact of the giving of the improvement notice is recorded in the register—shall record in the register the fact that the improvement notice in respect of the land identified in the notification has ceased to subsist or to operate and where a current instrument of title to that land is produced to the registrar, before releasing that instrument, cause a similar recording to be made on that instrument;
  - (b) where a memorial is endorsed or a noting is made in a register kept of dealings in respect of the land—shall—
    - (i) in the case of a memorial so endorsed—suitably endorse that memorial that the improvement notice to which it relates has ceased to subsist or to operate in respect of the land identified in the notification;

- (ii) in the case of a noting so made—cancel the noting as far as it relates to the land identified in the notification.
- (3A) Save as is prescribed by subsection (3) a memorial endorsed or recording or noting made on an instrument of title or in a register pursuant to subsection (2) shall not be removed or otherwise affected.
- (4) A notification given pursuant to subsection (1) or (3) shall identify the land in respect of which the improvement notice was given or, as the case may be, has ceased to subsist or to operate and shall in all respects be in a form acceptable to the registrar of titles, the registrar of dealings, or other person, to whom it is given.

## **12 Fund of the trust**

- (1) The Burdekin Shire Rivers Improvement Trust shall establish in some financial institution carrying on business at Ayr, and every other trust shall establish in such financial institution as the chief executive may approve the following funds—
  - (a) a general fund to be called the [name of trust] fund;
  - (b) a loan fund in respect of each loan borrowed;
  - (c) an emergency fund;
  - (d) a reserve fund comprising any reserve accounts established pursuant to subsection (4).
- (2) The general fund shall consist of all revenues of the trust and of all penalties recovered under this Act in respect of offences relating to the river improvement area for which the trust is constituted, committed by persons other than the trust, or a member, officer, or employee thereof, and shall be applied to expenditure properly incurred by the trust except in relation to works in respect of which the trust is duly authorised to expend loan moneys.
- (2A) Moreover, all debts and other liabilities legally payable by the trust shall be payable from the general fund except in any case where the trust is duly authorised to discharge same from loan moneys.

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- (3) Each loan fund shall consist of the moneys received by way of such loan and shall be applied to expenditure for the purposes of which the loan was obtained or otherwise authorised under this Act to be incurred therefrom.
  - (3A) The emergency fund shall consist of moneys transferred from time to time from the general fund and those moneys shall be applied to expenditure in any year for the performance of urgent works rendered necessary by a flood or any other cause in cases where provision has not been made for those works in the budget for that year.
  - (3B) The chief executive, upon application made in that behalf by a river improvement trust, may, where the chief executive is satisfied that emergencies requiring considerable expenditure are not likely to occur within the river improvement area in respect of which the trust is constituted, grant to that trust exemption from establishing or maintaining an emergency fund.
  - (4) A trust may establish reserve accounts for such purposes as the chief executive approves and may, subject to any regulations made in that behalf, transfer thereto from its general fund such moneys as are provided therefor in its annual budget.
  - (5) Moneys standing to the credit of a reserve account shall, unless the chief executive otherwise approves, be used only for the purposes specified in respect of that account.
  - (6) A trust may continue to maintain and operate a reserve fund lawfully established prior to the commencement of the *River Improvement Trust Act Amendment Act 1985* in accordance with the powers and obligations under which it was so established.

## **12A Trust may make certain arrangements about its accounts**

- (1) A trust may, by resolution, enter into a written arrangement with a local government to use the accounts, and the accounting systems, of the local government if—
  - (a) at least 1 of the local government's councillors is a member of the trust; and

- (b) the trust is satisfied it will achieve operational efficiencies under the arrangement.
- (2) If a trust enters into an arrangement, the funds established under section 12 must be included with the local government's accounts and accounting systems and, at least once a month, are to be reconciled to ensure the funds consist of the moneys mentioned in the section.
- (3) This section applies despite a contrary provision under the *Financial Accountability Act 2009* or *Statutory Bodies Financial Arrangements Act 1982*.

### **13 Budget**

- (1) The trust shall frame and adopt a budget for each year.
- (1A) In framing the budget the trust shall estimate for the year concerned—
  - (a) the amount of revenue;
  - (b) the expenditure from revenue upon and with respect to the undertaking or maintenance of works;
  - (c) all other expenditure from revenue;
  - (d) the expenditure from loan funds upon and with respect to the undertaking or maintenance of works;
  - (e) the amount payable for interest or redemption of loans;
  - (f) the amounts to be transferred from the general fund to the emergency fund and any reserve account established under section 12(4).
- (1B) In framing the budget all expenditure not approved by the Treasurer to be met from loans shall be allocated to revenue, and the estimate of revenue shall be sufficient in amount to meet all such expenditure so allocated.
- (2) The provisions of the budget in relation to expenditure upon the undertaking or maintenance of works and the other items provided for therein shall be observed by the trust, which shall as far as possible balance such expenditure with the budget.

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- (3) If during any year it appears to a trust that circumstances have arisen that render it necessary for the trust to make in that year from its general fund or any loan fund a disbursement—
- (a) that was not provided for in the budget for that year; or
  - (b) that exceeds the amount of the estimates in respect of items of expenditure under like headings in the budget for that year;
- the trust may make the proposed disbursement but before doing so—
- (c) must, by resolution, approve making the disbursement; and
  - (d) must obtain the chief executive's approval for it.
- (3A) An application for the approval referred to in subsection (3)(d) shall be made to the chief executive in writing and shall set forth the circumstances that render it necessary for the trust to make the proposed disbursement and the fund from which that disbursement will be made.
- (4) Except as herein provided, nothing in this section shall prevent or be deemed to prevent the trust from expending loan or revenue funds upon the undertaking, maintenance, or repair of any works rendered necessary by the occurrence of any flood or cyclone during any year.
- (4A) However, the chief executive must approve of the undertaking, maintenance, or repair of the works concerned before the trust incurs any such expenditure thereon.
- (4B) Also, that loan moneys already allocated shall not be diverted under subsection (4) without the approval of the Treasurer.
- (5) The trust shall not adopt the annual budget unless and until the chief executive approves it.
- (6) However, the trust shall submit its annual budget for the approval of the chief executive on or before such date as may be prescribed.

## **14 Liability of local government to contribute to trust**

- (1) Every local government the area or any part of the area of which is included in a river improvement area shall be liable to contribute to the trust constituted for such river improvement area in each year the sum hereinafter prescribed.
- (1A) If the river improvement area is comprised of the area or part of the area of any one local government the sum to be so contributed shall be the amount of revenue estimated by the trust in the budget adopted by it for such year.
- (1B) If the river improvement area comprises areas or parts of areas of more than 1 local government the sum to be so contributed by each such local government shall be a sum which bears the same proportion to such estimated revenue as the rateable value of the lands within the area or part of the area of such local government included in the river improvement area bears to the total rateable value of all lands within the river improvement area.
- (1C) Where one of the following parties namely—
- (a) a port authority;
  - (b) any corporation, instrumentality or authority created by or under any Act;
  - (c) the owner or the owner and occupier, as the case may be, of land in a river improvement area;
- pursuant to section 14A or section 14B—
- (d) enters into an arrangement with a trust; and
  - (e) thereby undertakes to contribute in aid of the undertaking and maintenance, or undertaking or maintenance, of any works by the trust under the Act;

then for the purpose of ascertaining the sum liable to be contributed to the trust by the local government or local governments, 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 port authority, corporation, instrumentality, authority, owner or occupier, as the case may be, to the trust under the terms of that arrangement.

- (2) For the purpose of obtaining payment from a local government of the amount payable by it hereunder to the trust in any year, the trust shall have full power and authority to issue a precept signed by the chairperson or any 2 members sealed with its seal and in the form hereunder set out or to the like effect to such local government stating therein the sum to be contributed by such local government and requiring such local government within a time limited by the precept to pay the sum mentioned to the credit of the general fund of the trust.

## PRECEPT

*River Improvement Trust Act 1940*

To the council of the shire [*or city or town*] of

These are to require you, the council of the shire [*or city or town*] of \_\_\_\_\_ from and out of your operating fund to pay on or before the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_, into the credit of the [*name of trust*] account in the [*name of financial institution*] at [*address of financial institution*] the sum of \_\_\_\_\_ dollars, being the amount of the estimated revenue of the trust for the year [*date of year*] payable by your local government.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_.

L.S.

Chairperson of the [*name of trust*].

- (2A) For the purpose of recovering the amount of any such precept the trust shall have and may exercise all or any of the powers, functions, and rights of a local government under the *Local Government Act 2009*, and a local government upon which such precept is issued shall be subject to all such duties, responsibilities, and obligations and have all such powers and authorities in respect of the payment of the sum mentioned and the raising of such amount as if such precept were a precept duly issued to such local government by a joint local government, and all the relative provisions of the *Local Government Act 2009* shall, mutatis mutandis, apply and extend accordingly.

- (3) A local government is hereby authorised to pay from its operating fund the amount of any precept payable by it hereunder.
- (4) Where the whole of the area of any local government or the whole of any division of any local government is comprised in the river improvement area of the trust, such local government may, and in every other case any local government shall, and is hereby authorised and empowered to, make and levy in each year a separate rate under the *Local Government Act 2009*, upon all rateable lands in its area or, as the case may be, so much of its area as is comprised in the river improvement area sufficient in amount to repay to the operating fund the amount of the precept paid or payable therefrom during such year.
- (5) For the purposes of the making and levying of such separate rate so much of the area of the local government concerned as is included in the river improvement area shall be and be deemed to be a duly defined benefited area under the *Local Government Act 2009*.
- (6) Notwithstanding anything contained in the *Local Government Act 2009*, the local government may frame and adopt a separate budget in respect of the separate rate prescribed by subsection (4) not later than 2 months after it has notice of the amount of the precept payable by it to the trust.

#### **14A Contribution by harbour board in aid of works**

- (1) A trust may make arrangements with a harbour board whereby, pursuant to the provisions of the *Harbours Act 1955*, section 59(2) 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.
  - (1A) 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

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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.

- (2A) 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.

#### **14B Other contributions in aid of works**

- (1) A trust may make with any corporation, instrumentality or authority created by or under any Act (other than a port authority) an arrangement whereby such corporation, instrumentality or authority undertakes to contribute in aid of the undertaking and maintenance, or undertaking or maintenance, of any works by the trust under this Act which are or will be to the benefit of such corporation, instrumentality or authority.
- (2) Where the trust and any such corporation, instrumentality or authority cannot agree upon an arrangement under this section satisfactory to both parties, the Governor in Council may thereupon determine all matters respecting the proposed arrangement in dispute between them (including, if in dispute, the question as to whether or not the works in question are or will be to the benefit of the corporation, instrumentality or authority concerned or the amount of such benefit, or both such questions) and they shall proceed to complete the

arrangement in respect whereof the Governor in Council has made such determinations.

- (3) If the trust and any corporation, instrumentality or authority fails to complete any arrangement in respect whereof the Governor in Council has made any determination referred to in subsection (2), the Governor in Council may proceed to determine all such further matters (if any) as the Governor in Council deems necessary or desirable to effect such arrangement, and they shall be deemed to have made such arrangement in terms of such determinations and the instrumentality, corporation or authority in question shall make to the trust all such payments as are required to be made by it pursuant to any such determinations.
- (3A) A trust may make with the owner or where the owner is not the occupier, with the owner and occupier, of land within the river improvement area an arrangement whereby such owner, or owner and occupier, as the case may be, undertakes to contribute in aid of the undertaking and maintenance, or undertaking or maintenance, of any works by the trust under this Act which are or will be to the benefit of such owner, or owner and occupier as the case may be.
- (3B) Subject to this Act, for the purpose of making an arrangement under subsection (3A), a trust has power to do all things necessary or convenient to be done in connection with, or incidental to, the making of that arrangement.
- (3C) Without limiting the generality of subsection (3B), and any other powers conferred upon the trust by this Act other than this section, the powers of a trust include power—
  - (a) to make and carry out such contracts, agreements or arrangements as are in its opinion necessary or desirable to enable it to properly perform its functions and duties or any of them under this section; and
  - (b) to obtain, take and hold securities (if any) for the payment of any sum by any person or corporation pursuant to this section (including interest charges and expenses chargeable in respect thereof).

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- (3D) All contracts or agreements made by a trust in respect of an arrangement under subsection (3A) shall be effectual in law and shall be binding on the trust and all other parties thereto, their successors, executors, administrators, and permitted assigns, as the case may be, and it shall be deemed that the works referred to in such contracts or agreements are or will be to the benefit of the owner or owner and occupier in question.
- (3E) In the case of default under the provisions of any contract or agreement under subsection (3A), either by the trust or by any other party thereto, such actions may be maintained thereon and such damages and costs recovered by or against the trust or the other parties failing to comply with those provisions, as might have been maintained and recovered if the same contracts or agreements had been made between private persons only.
- (3F) The remedies provided in the case of default, under subsection (3E), are in addition to, and not in substitution for, the remedy made available to a trust under subsection (4).
- (4) Any sum payable by any corporation, instrumentality, authority or owner or occupier of land pursuant to this section and not duly paid shall be recoverable by the trust in any court of competent jurisdiction by action as for a debt.

## **15 Power to undertake or maintain works**

- (1) The Governor in Council may at any time and from time to time authorise the chief executive to undertake or maintain or to undertake and maintain—
- (a) works for the purpose of repairing as far as may be damage occasioned by cyclone or flood to the bed or banks of any river within a river improvement area whether occasioned before or after the commencement of the *River Improvement Trust Act Amendment Act 1983*; and
- (b) works within a river improvement area for the purpose of preventing as far as may be the occurrence of damage such as is referred to in paragraph (a); and

- (c) works of any other description within the meaning of this Act within a river improvement area.
- (2) Notwithstanding anything contained in any other Act, or in any law, or rule, practice, or process of law, or in any judgment of any court of competent jurisdiction, the chief executive shall have power, authority, and jurisdiction—
  - (a) subject to the authority given to the chief executive in that behalf by the Governor in Council, to construct, undertake, carry out, establish, manage, maintain or control any works authorised by the Governor in Council under subsection (1);
  - (b) to enter into contracts for or with respect to the construction, undertaking, carrying out, establishment, management, maintenance or control of any such works.
- (6) All costs, charges, and expenses incurred by the chief executive in relation or with respect to works authorised under this section to be undertaken or maintained by the chief executive shall be paid by the trust to or as directed by the chief executive, except in any case where same are met by a grant made under this Act by the Governor in Council.
- (7) The whole or any part of any moneys directed to be paid by the trust under this section may, if not paid upon demand made by the chief executive, be recovered as a debt by action in the name of the State or any person authorised by the State in any court of competent jurisdiction.

## **16 Power to direct trust to maintain works**

At any time after the completion of any works authorised under this Act or any other Act or law to be undertaken by the chief executive the chief executive may, by a notice in writing, direct the trust constituted for the river improvement area in which such works are situated to maintain such works.

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**17 Remedy against trust for failing to undertake or maintain work**

- (1) If the Governor in Council is satisfied upon the report of the chief executive that the trust has failed to undertake or maintain any works directed or approved under this Act to be undertaken or maintained by it, the Governor in Council may authorise the chief executive to undertake or maintain such works.
- (2) All costs, charges, and expenses incurred by the chief executive in relation or with respect to any such works shall be paid by the trust to or as directed by the chief executive.
- (3) The whole or any part of any moneys directed to be paid by the trust under this section may, if not paid upon demand made by the chief executive, be recovered as a debt by action in the name of the State or any person authorised by the State in any court of competent jurisdiction.

**18 Crown grants, loans, and subsidies**

Subject to any necessary appropriation by Parliament, the Governor in Council may from time to time make grants, loans, or subsidies for the purposes of works undertaken or maintained under this Act.

**19 Entry and inspection of land**

The chief executive or any person authorised by the chief executive in that behalf, or any member of the trust, or any of its officers or employees authorised in that behalf by the trust, may enter any land within the river improvement area for the purpose of inspecting same.

**19A Chief executive may conduct research and experiments**

The chief executive or a person authorised in writing by the chief executive, may, for the purposes of this Act, from moneys appropriated by Parliament for that purpose—

- (a) conduct research and experiments into methods and types of river improvement work; and

- (b) publish the results of any such research and experiments; and
- (c) advise trusts in relation to river improvement works.

## **20 Offences**

- (1) Every person shall be guilty of an offence against this Act who—
  - (a) obstructs or hinders a person exercising powers under this Act; or
  - (b) contravenes or fails to comply with any provision of this Act, or with any term, condition, or provision of any notice under this Act; or
  - (c) fails to comply with any term, condition, or provision of an agreement made by the person under this Act; or
  - (d) damages or destroys or attempts to damage or destroy any works.
- (2) If any person is guilty of an offence against this Act for which no specific penalty is prescribed the person shall be liable to a penalty not exceeding 40 penalty units.
- (3) All penalties incurred for any offence against this Act may be recovered in a summary way under the *Justices Act 1886*.
- (3A) Proceedings for an offence against this Act may be instituted at any time within 6 months after the commission of the offence or within 4 months after the discovery thereof by the complainant, whichever is the later period.
- (4) Upon convicting any person for an offence in respect of damaging or destroying or attempting to damage or destroy any works, a court may, in lieu of or in addition to any penalty therefor, order such person to pay to the trust concerned the whole of the expenses reasonably incurred by the trust as a result of the commission of such offence.
- (5) A defendant shall not be required to pay, pursuant to subsection (4), an amount by way of reimbursement for making good damage to any works other than works which the defendant has directly damaged.

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## 20A Arrangements for auditing accounts of superannuation schemes

- (1) The accounts of a superannuation scheme or schemes instituted under section 6A shall be audited by the auditor-general or an authorised officer within the meaning of the *Auditor-General Act 2009* directed by the auditor-general, each of whom shall have with respect to such audit and accounts all the powers and authorities conferred on the auditor-general by that Act as if the trust were a department of the government of the State.
- (2) The fee payable by the trust in respect of the audit shall be fixed by the auditor-general.

## 21 Delegations

- (1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified person.
- (2) In this section—

*appropriately qualified person* means a person with the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

A person's classification level in the public service.

## 22 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made for or about—
  - (a) the form and manner in which the books of account of the trust or of a superannuation scheme or schemes instituted or maintained by the trust for its officers and employees and the annual budget of the trust shall be framed;
  - (c) the depositing in a financial institution of moneys received by or on behalf of the trust, and the

- authorisation of deposits made therein by or on behalf of or to the credit of the trust;
- (e) the fees or allowances of the chairperson, other members, and secretary of the trust;
  - (f) returns and statistics to be furnished by the trust, the information to be disclosed therein, and the time and manner of furnishing same, and the verification thereof;
  - (g) the periodical inspection by a person authorised in that behalf by the Minister of the affairs of the trust, the powers, duties, and obligations of such person, and the obligations, duties, and responsibilities of the members, secretary, officers, and employees of the trust in relation to such person;
  - (h) where no provision or no sufficient provision is made by this Act in relation thereto, regulating and controlling the conduct by the trust of its business and proceedings or the exercise by it of its powers, authorities, duties, and functions under this Act;
  - (i) the establishment, keeping and closure of the plant maintenance reserve fund and the plant renewal and purchase reserve fund and the proper and efficient use of each of those funds for the purpose for which it is established;
  - (j) all matters required or permitted by this Act to be prescribed in so far as same are not required to be otherwise prescribed;
  - (k) penalties not exceeding in any case 20 penalty units for breaches of the regulations.

## **23 Approval of forms**

The chief executive may approve forms for use under this Act.

**24 Transitional provision on the change of name of Burdekin River Improvement Area and Trust**

A reference in a law or other document to the Burdekin River Improvement Area or the Burdekin River Improvement Trust is to be read as a reference to the Burdekin Shire Rivers Improvement Area or the Burdekin Shire Rivers Improvement Trust.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 24 November 2011. Future amendments of the River Improvement Trust Act 1940 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 58	28 November 1995	19 January 1996
1A	1996 Act No. 68	9 December 1996	21 April 1997
1B	1997 Act No. 17	1 July 1997	16 October 1997
1C	1997 Act No. 78	5 December 1997	5 January 1998
2	1997 Act No. 78	5 December 1997	18 February 1998
2A	2000 Act No. 26	27 June 2000	11 July 2000
2B	2001 Act No. 71	1 March 2002	1 March 2002

Reprint No.	Amendments included	Effective	Notes
2C	2009 Act No. 9	1 July 2009	
2D	2009 Act No. 17	1 July 2010	
2E	2011 Act No. 40	24 November 2011	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **River Improvement Trust Act 1940 4 Geo 6 No. 5 (prev Burdekin River Trust Act 1940)**

date of assent 16 October 1940

commenced on date of assent

amending legislation—

### **Burdekin River Trust Act Amendment Act 1956 5 Eliz 2 No. 24**

date of assent 28 November 1956

commenced on date of assent

### **River Improvement Trust Acts Amendment Act 1959 8 Eliz 2 No. 27**

date of assent 16 April 1959

commenced on date of assent

### **River Improvement Trust Acts Amendment Act 1959 (No. 2) 8 Eliz 2 No. 71**

date of assent 23 December 1959

commenced on date of assent

### **River Improvement Trust Acts Amendment Act 1965 No. 34**

date of assent 25 October 1965

commenced on date of assent

### **Acquisition of Land Act 1967 No. 48 s 3(2) sch 1**

date of assent 22 December 1967

commenced 23 March 1968 (proc pubd gaz 23 March 1968 p 1206)

### **River Improvement Trust Act Amendment Act 1968 No. 29**

date of assent 11 November 1968

commenced on date of assent

### **River Improvement Trust Act Amendment Act 1968 (No. 2) No. 40**

date of assent 11 December 1968

commenced on date of assent

### **River Improvement Trust Act Amendment Act 1971 No. 21**

date of assent 21 April 1971

commenced on date of assent

**Irrigation Act and Another Act Amendment Act 1977 No. 5 pt 3**

date of assent 5 April 1977  
commenced on date of assent

**River Improvement Trust Act Amendment Act 1981 No. 95**

date of assent 11 December 1981  
commenced on date of assent

**Statutory Bodies Financial Arrangements Act 1982 No. 33 s 14(2), (4) sch 3**

date of assent 1 September 1982  
commenced on date of assent

**River Improvement Trust Act Amendment Act 1983 No. 42**

date of assent 22 April 1983  
commenced on date of assent

**River Improvement Trust Act Amendment Act 1985 No. 111**

date of assent 20 December 1985  
commenced on date of assent

**River Improvement Trust Act Amendment Act 1991 No. 17**

date of assent 1 May 1991  
commenced on date of assent

**Primary Industries Corporation Act 1992 No. 15 pt 3 sch**

date of assent 13 May 1992  
ss 1–2 commenced on date of assent  
remaining provisions commenced 30 September 1992 (1992 SL No. 271)

**Local Government Act 1993 No. 70 ch 14 pt 3 sch**

date of assent 7 December 1993  
ss 1–2 commenced on date of assent  
remaining provisions commenced 26 March 1994 (see s 2(5))

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 sch 1**

date of assent 10 May 1994  
commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Natural Resources Legislation Amendment Act 1996 No. 68 pts 1–2**

date of assent 9 December 1996  
commenced on date of assent

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2, 74 sch**

date of assent 15 May 1997

Endnotes

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ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1997 (1997 SL No. 163)

**Natural Resources and Other Legislation Amendment Act 1997 No. 78 pts 1, 10**

date of assent 5 December 1997  
commenced on date of assent

**Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26  
ss 1, 12 sch 1**

date of assent 27 June 2000  
commenced on date of assent

**Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1**

date of assent 13 November 2001  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 March 2002 (2002 SL No. 10)

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1**

date of assent 12 June 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2010 (2010 SL No. 122)

**Water and Other Legislation Amendment Act 2011 No. 40 pts 1, 3**

date of assent 24 November 2011  
commenced on date of assent

## 7 List of annotations

**Long title** sub 1983 No. 42 s 2

**Short title**

**s 1** amd 1959 8 Eliz 2 No. 27 ss 2, 4

**Definitions**

**prov hdg** sub 1997 No. 78 s 95

**s 2** amd 1959 8 Eliz 2 No. 27 s 4; 1985 No. 111 s 2(a), (d)  
def “**approved form**” ins 1995 No. 58 s 4 sch 1  
def “**Benefited Area**” om 1959 8 Eliz 2 No. 27 s 3(i)  
def “**chief executive**” ins 1992 No. 15 s 13 sch  
om 1995 No. 58 s 4 sch 1  
def “**Commissioner**” ins 1959 8 Eliz 2 No. 27 s 3(ii)  
sub 1981 No. 95 s 2(a)  
om 1992 No. 15 s 13 sch  
def “**Co-ordinator General**” om 1959 8 Eliz 2 No. 27 s 3(ii)  
def “**land**” amd 1983 No. 42 s 3(a)

- def “**Minister**” sub 1959 8 Eliz 2 No. 27 s 3(iii); 1965 No. 34 s 2; 1981 No. 5 s 2(b)  
 om 1992 No. 15 s 13 sch  
 def “**prescribed**” om 1985 No. 111 s 2(b)  
 def “**river**” ins 1959 8 Eliz 2 No. 27 s 3(iv)  
 def “**river improvement area**” ins 1959 8 Eliz 2 No. 27 s 3(iv)  
 def “**security**” ins 1981 No. 95 s 2(c)  
 def “**this Act**” om 1985 No. 111 s 2(c)  
 def “**Treasurer**” ins 1985 No. 111 s 2(c)  
 om 1992 No. 15 s 13 sch  
 def “**works**” amd 1956 5 Eliz 2 No. 24 s 2; 1959 8 Eliz No. 27 s 3(v); 1968 No. 40 s 2; 1971 No. 21 s 2; 1983 No. 42 s 3(b), (c)

### **Burdekin Shire Rivers Improvement Area and other river improvement areas**

- prov hdg** sub 1997 No. 78 s 96(1)  
**s 3** amd 1959 8 Eliz 2 No. 27 ss 4, 5; 1965 No. 34 s 3; 1977 No. 5 s 6; 1992 No. 15 s 13 sch; 1994 No. 15 s 3 sch 1; 1995 No. 58 s 4 sch 1; 1996 No. 68 s 3; 1997 No. 78 s 96(2)–(3)

### **Burdekin Shire Rivers Improvement Trust and other river improvement trusts**

- prov hdg** sub 1997 No. 78 s 97(1)  
**s 4** amd 1959 8 Eliz 2 No. 27 ss 4, 6; 1994 No. 15 s 3 sch 1; 1997 No. 78 s 97(2)–(5)  
 (3)–(4) AIA s 20A applies (see s 4(5))  
 (3)–(6) exp 5 January 1998 (see s 4(6))

### **Membership of trust**

- s 5** amd 1959 8 Eliz 2 No. 27 s 7; 1959 8 Eliz 2 No. 71 s 2(1); 1991 No. 17 s 3; 1993 No. 70 s 804 sch; 1995 No. 58 s 4 sch 1; 1997 No. 78 s 98; 2009 No. 17 s 331 sch 1; 2011 No. 40 s 7

### **Secretary, officers, and employees**

- s 6** amd 1959 8 Eliz 2 No. 71 s 3; 1995 No. 58 s 4 sch 1

### **Maintenance of a superannuation scheme**

- s 6A** ins 1981 No. 95 s 3  
 amd 1994 No. 15 s 3 sch 1

### **Trusts are bodies corporate**

- prov hdg** sub 1997 No. 78 s 99(1)  
**s 7** amd 1959 8 Eliz 2 No. 27 s 8; 1994 No. 15 s 3 sch; 1997 No. 78 s 99(2)

### **Trusts are statutory bodies**

- s 8** sub 1965 No. 34 s 4  
 amd 1985 No. 111 s 3  
 sub 1994 No. 15 s 3 sch 1; 1996 No. 54 s 9 sch  
 amd 1997 No. 78 s 100; 2009 No. 9 s 136 sch 1

### **Further loan where amount borrowed inadequate**

- s 8A** ins 1965 No. 34 s 5  
 om 1994 No. 15 s 3 sch 1

**Application of loan moneys**

**s 8B** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Payment of Treasury loans**

**s 8C** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Debentures**

**s 8D** ins 1965 No. 34 s 5  
amd 1985 No. 111 s 4  
om 1994 No. 15 s 3 sch 1

**Notice of trusts not to be received**

**s 8E** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Guarantee of loans**

**s 8F** ins 1965 No. 34 s 5  
om 1982 No. 33 s 14(2), (4) sch 3

**Brokerage**

**s 8G** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Remedies of debenture holders**

**s 8H** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Remuneration of receiver**

**s 8I** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Moneys recoverable as debt**

**s 8J** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Regulations relating to loans**

**s 8K** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Illegal Borrowing**

**s 8L** ins 1965 No. 34 s 5  
om 1994 No. 15 s 3 sch 1

**Advance by way of overdraft**

**s 8M** ins 1968 No. 29 s 2  
amd 1992 No. 15 s 13 sch  
om 1994 No. 15 s 3 sch 1

**Compulsory acquisition of land**

**s 9** amd 1959 8 Eliz 2 No. 27 s 9; 1965 No. 34 s 6  
sub 1967 No. 48 s 3(2) sch 1

**Works which trust shall undertake or maintain**

**s 10** amd 1959 8 Eliz 2 No. 27 ss 4, 10; 1959 8 Eliz 2 No. 71 s 4; 1965 No. 34 s 7; 1968 No. 40 s 3; 1985 No. 111 s 5; 1992 No. 15 s 13 sch; 1995 No. 58 s 4 sch 1; 1997 No. 78 s 101; 2000 No. 26 s 12 sch 1

**Improvement notices**

**s 11** amd 1959 8 Eliz 2 No. 27 s 11  
sub 1965 No. 34 s 8  
amd 1971 No. 21 s 3; 1977 No. 5 s 7; 1985 No. 111 s 6; 1995 No. 58 s 4 sch 1

**Notification of existence of improvement notice**

**s 11A** ins 1971 No. 21 s 4  
amd 1985 No. 111 s 7

**Fund of the trust**

**s 12** amd 1959 8 Eliz 2 No. 27 s 4; 1968 No. 29 s 3; 1977 No. 5 s 8; 1985 No. 111 s 8; 1992 No. 15 s 13 sch; 1997 No. 17 s 74 sch; 1997 No. 78 s 102

**Trust may make certain arrangements about its accounts**

**s 12A** prev s 12A ins 1981 No. 95 s 4  
om 1994 No. 15 s 3 sch 1  
pres s 12A ins 1997 No. 78 s 103  
amd 2009 No. 9 s 136 sch 1

**Budget**

**s 13** amd 1959 8 Eliz 2 No. 27 s 4; 1968 No. 29 s 4; 1977 No. 5 s 9; 1985 No. 111 s 9; 1992 No. 15 s 13 sch; 1997 No. 78 s 104

**Liability of local government to contribute to trust**

**s 14** amd 1959 8 Eliz 2 No. 27 ss 4, 12; 1959 8 Eliz 2 No. 71 s 5; 1965 No. 34 s 9; 1981 No. 95 s 5; 1997 No. 17 s 74 sch; 2009 No. 17 s 331 sch 1

**Contribution by harbour board in aid of works**

**s 14A** ins 1959 8 Eliz 2 No. 27 s 13

**Other contributions in aid of works**

**s 14B** ins 1959 8 Eliz 2 No. 71 s 6  
amd 1981 No. 95 s 6; 2001 No. 71 s 551 sch 1

**Power to undertake or maintain works**

**prov hdg** amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1  
**s 15** amd 1959 8 Eliz 2 No. 27 s 4; 1983 No. 42 s 4; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

**Power to direct trust to maintain works**

**prov hdg** amd 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1  
**s 16** amd 1959 8 Eliz 2 No. 27 s 4; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

**Remedy against trust for failing to undertake or maintain work**

**s 17** amd 1959 8 Eliz 2 No. 27 s 4; 1992 No. 15 s 13 sch; 2000 No. 26 s 12 sch 1

**Ratification of works**

**s 17A** ins 1983 No. 42 s 5  
om 1992 No. 15 s 13 sch

Endnotes

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**Entry and inspection of land**

**s 19** amd 1959 8 Eliz 2 No. 27 s 4; 1992 No. 15 s 13 sch

**Chief executive may conduct research and experiments**

**prov hdg** amd 1992 No. 15 s 13 sch

**s 19A** ins 1959 8 Eliz 2 No. 27 s 14  
amd 1992 No. 15 s 13 sch

**Service of documents**

**s 19B** ins 1959 8 Eliz 2 No. 27 s 14  
om 1992 No. 15 s 13 sch

**Offences**

**s 20** amd 1959 8 Eliz 2 No. 27 s 4; 1965 No. 34 s 10; 1985 No. 111 s 10; 1992 No. 15 s 13 sch; 1995 No. 58 s 4 sch 1

**Arrangements for auditing accounts of superannuation schemes**

**prov hdg** sub 1997 No. 78 s 105(1)

**s 20A** ins 1981 No. 95 s 7  
amd 1997 No. 78 s 105(2); 2009 No. 9 s 136 sch 1

**Delegations**

**s 21** sub 1997 No. 78 s 106

**Regulation-making power**

**prov hdg** sub 1995 No. 58 s 4 sch 1

**s 22** amd 1959 8 Eliz 2 No. 27 s 4; 1968 No. 29 s 5; 1981 No. 95 s 8; 1985 No. 111 s 11; 1992 No. 15 s 13 sch; 1995 No. 58 s 4 sch 1; 1997 No. 17 s 74 sch

**Orders in council**

**s 22A** ins 1992 No. 15 s 13 sch  
om 1995 No. 58 s 4 sch 1

**Approval of forms**

**s 23** prev s 23 amd 1959 8 Eliz 2 No. 27 s 4  
om 1992 No. 15 s 13 sch  
pres s 23 ins 1995 No. 58 s 4 sch 1

**Transitional provision on the change of name of Burdekin River Improvement Area and Trust**

**s 24** prev s 24 ins 1995 No. 58 s 4 sch 1  
exp 28 May 1996 (see s 24(3))  
pres s 24 ins 1997 No. 78 s 107