

Queensland



ANNO TRICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE



No. 111 of 1985

**An Act to amend the River Improvement Trust Act 1940-
1983 in certain particulars**

[ASSENTED TO 20TH DECEMBER, 1985]

BE 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. Short title and citation. (1) This Act may be cited as the *River Improvement Trust Act Amendment Act 1985*.

(2) In this Act the *River Improvement Trust Act 1940-1983* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *River Improvement Trust Act 1940-1985*.

2. Amendment of s. 2. Section 2 of the Principal Act is amended by—

(a) omitting the expression “(1)”;

(b) omitting the definition “Prescribed”;

(c) omitting the definition “This Act” and substituting the following definition:—

“ “Treasurer”—the Treasurer of Queensland and includes a Minister of the Crown who is temporarily performing the duties of the Treasurer;”;

(d) omitting subsection (2).

3. Amendment of s. 8. Borrowing. Section 8 of the Principal Act is amended by—

(a) omitting subsection (1) and substituting the following subsection:—

“(1) Subject to this Act a Trust may from time to time, with the prior approval of the Governor in Council, for the purpose of exercising any powers or discharging any functions or duties conferred or imposed by this Act—

(a) borrow money from the Treasurer;

(b) borrow or raise money by way of sale of—

(i) debentures;

(ii) bonds;

(iii) inscribed stock;

or

(iv) other securities approved by the Treasurer;

(c) enter into such other financial arrangements as the Treasurer approves upon such terms and conditions as he thinks fit;

(d) enter into financial arrangements partly in one and partly in another or other of the ways specified in this subsection.

In this subsection “financial arrangement” means a financial arrangement within the meaning of the *Statutory Bodies Financial Arrangements Act 1982-1984*.”;

(b) in subsection (3), omitting from the third paragraph the words “amount of interest” and substituting the words “rate of interest”.

4. Amendment of s. 8D. Debentures. Section 8D of the Principal Act is amended by omitting from subsection (1) the words “, and shall be a charge upon all the assets and revenues of the Trust howsoever arising, subject to any prior debentures issued according to law”.

5. Amendment of s. 10. Works which Trust shall undertake and/or maintain. Section 10 of the Principal Act is amended in the second paragraph of subsection (5) by omitting the words “same upon all instruments of title to the land concerned, and thereafter such agreement” and substituting the words “in relation to that land that agreement which thereafter”.

6. Amendment of s. 11. Improvement notices. Section 11 of the Principal Act is amended by—

(a) in subsection (1)—

(i) inserting after the words “this section” the words “and section 11A”;

(ii) omitting the words “an owner of land within the river improvement area for which it is constituted or, if the owner is not the occupier, the occupier of that land” and substituting the words “a person”;

(iii) omitting from paragraph (c) the words “the river” and substituting the words “a river”;

(b) in subsection (2)—

(i) omitting the words “an owner or occupier of land within a river improvement area” and substituting the words “a person”;

(ii) omitting the words “that area” and substituting the words “a river improvement area”;

(iii) omitting the words “notice in writing (in this section called “an improvement notice”) direct such owner or occupier” and substituting the words “an improvement notice direct that person”;

(c) omitting from subsection (3) all words from and including “and every person” to and including “notice of its existence”;

(d) inserting after subsection (3) the following subsection:—

“(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 he 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.”;

(e) in subsection (4)—

(i) omitting the words “one hundred pounds” and substituting the expression “\$1 000”;

(ii) omitting the words “five hundred pounds” and substituting the expression “\$5 000”;

(iii) omitting the second paragraph;

(f) in subsection (5)—

(i) inserting after the words “improvement notice” where they firstly appear, the words “given to the occupier of land in respect of which the improvement notice was given”;

(ii) omitting the words “the land in respect of which the improvement notice was given” and substituting the words “that land”;

(iii) omitting the words “or, as the case may be, occupier of the land concerned” and substituting the words “of the crop”;

(g) omitting from subsection (6) the words ““*The Justices Acts, 1886 to 1964.*”” and substituting the words “the *Justices Act 1886-1985.*”;

(h) omitting from subsection (8) the words “an order for mandamus be made or an” and substituting the words “a mandatory or restrictive”;

(i) omitting from subsection (9), paragraphs (b) and (c) and substituting the following paragraphs:—

“(b) “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. The term includes the legal personal representative of a deceased owner;

(c) “occupier” means—

(i) 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

(ii) the owner of the land at the material time.

The term includes the legal personal representative of a deceased occupier.”.

7. Amendment of s. 11A. Notification of existence of improvement notice. Section 11A of the Principal Act is amended by—

(a) omitting from subsection (1) the words “pursuant to section 11 of this Act” and substituting the words “to the occupier (within the

meaning of section 11) of land in respect of which the improvement notice is given;”;

(b) in subsection (2)—

(i) omitting paragraphs (a) and (b) and the word “and” occurring between them and substituting the following paragraph:—

“(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 him or subsequently issued by him to have recorded thereon the fact of the giving of the improvement notice unless he has, in the meantime, been notified that the improvement notice has ceased to subsist or to operate and he has complied with subsection (3) so far as he has been able in relation thereto;”;

(ii) omitting from subparagraph (ii) of paragraph (c), the words “paragraphs (a) and (b) of this subsection” and substituting the words “paragraph (a)”;

(c) in subsection (3)—

(i) omitting paragraph (a) and substituting the following paragraph—

“(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 him, before releasing that instrument, cause a similar recording to be made on that instrument;”;

(ii) inserting before the word “noting” in the paragraph beginning with the word “Save”, the words “recording or”.

8. Amendment of s. 12. Fund of the Trust. Section 12 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the word “and” where it occurs between paragraphs (b) and (c);

(ii) omitting from the end of paragraph (c) the expression “.” and substituting the expression “;”;

(iii) inserting after paragraph (c) the word "and" and the following paragraph:—

"(d) a reserve fund comprising any reserve accounts established pursuant to subsection (4).";

(b) in subsection (3), omitting the second paragraph;

(c) omitting subsection (4) and substituting the following subsection:—

"(4) A Trust may establish reserve accounts for such purposes as the Minister 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.

Moneys standing to the credit of a reserve account shall, unless the Minister otherwise approves, be used only for the purposes specified in respect of that account.

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."

9. Amendment of s. 13. Budget. Section 13 of the Principal Act is amended in subsection (f) by omitting from paragraph (f) the words "to the plant maintenance reserve fund and to the plant renewal and purchase reserve fund" and substituting the words "and any reserve account established under subsection (4) of section 12".

10. Amendment of s. 20. Section 20 of the Principal Act is amended by—

(a) in subsection (2)—

(i) omitting the words "one hundred pounds" and substituting the expression "\$2 000";

(ii) omitting all words from and including the words "and in addition" to the end of the subsection;

(b) omitting from subsection (3) the words " "The Justices Acts, 1886 to 1932. " " and substituting the words "the Justices Act 1886-1985."

11. Amendment of s. 22. Regulations and Orders in Council. Section 22 of the Principal Act is amended in subsection (1) by omitting from paragraph (k) the words "fifty pounds" and substituting the expression "\$1 000".