



## CHAPTER 59.

### An Act to amend the "Water Act, 1909."

[1st March, 1911.]

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. This Act may be cited as the "Water Act, 1909, Amendment Act, 1911." Short title
2. Section 9 of chapter 48 of the Statutes of 1909, being the "Water Act, 1909," is hereby amended by inserting after the word "licences," in the seventh line thereof, the following words:—  
"replacing records under former Acts." Amends s. 9
3. Section 10 of said chapter 48 is amended by striking out all the words of the said section after the word "appoint" in the third line thereof. Amends s. 10
4. Said chapter 48 is further amended by inserting the following as section 10A thereof:—  
"10A. Two members of the Board shall form a quorum, and not less than two members shall attend the hearing of any claim." Quorum.
5. Section 11 of said chapter 48 is amended by inserting the words "or some member authorised by the Minister of Lands" after the word "Commissioner" in the first line thereof. Amends s. 11.
6. Section 19 of said chapter 48 is amended by inserting the words "by him or" after the word "appointed" in the second line thereof. Amends s. 10.
7. Section 21 of said chapter 48 is amended by striking out the word "ten" in the fifth line, and inserting the word "thirty" in lieu thereof; and by adding to such section the following as subsections (a) and (b):— Amends s. 21

Advertising waived.

“(a.) Provided, always, that when all known holders of water rights on any stream request in writing the hearing of claims to water rights on that stream, the Board may, without advertising, fix the date of the hearing, and proceed to adjudicate on the claims presented after giving ten clear days’ notice of the date of the hearing by registered letter mailed to the last-known address of each record-holder:

Adjudication by consent.

“(b.) And provided, further, that the Board may proceed to adjudicate at any time without notice by consent in writing of the persons whose water rights may be affected.”

Amends s. 22.

8. Section 22 of said chapter 48 is hereby amended by striking out the word “three” in the third line, and inserting the word “one” in lieu thereof.

Amends s. 27, subsec. (4).

9. Subsection (4) of section 27 of said chapter 48 is amended by adding the following words: “including the date of pre-emption record or permission to purchase from the Crown.”

Re-enacts s. 48.

10. Section 48 of said chapter 48 is hereby repealed, and the following is substituted therefor:—

“48. After the passing of this Act all applications for water shall be subject to the claims and rights, as finally settled, and to the licences issued by the Board of Investigation under the preceding Part, and shall have precedence according to the time of the filing of a copy of the notices posted on the ground in the office of the Water Commissioner for the district, and the licences and the privileges thereby granted shall have precedence and priority according to their date.”

Amends s. 49.

11. Section 49 of said chapter 48 is amended by striking out the fourth and fifth subsections thereof, and substituting the following therefor:—

“Fourth.—Industrial purposes, which shall mean and include water required for the production of steam and all other purposes save domestic, municipal, irrigation, the production of power for sale, barter, or exchange, and mining:

“Fifth.—Power, which shall include the use of water for generating power for sale, barter, or exchange.”

12. Section 52 of said chapter 48 is amended by adding the following as subsection (a):—

Storage licence.

“(a.) The holder of a record under any former Act or any licence under this Act may require a storage licence for a quantity of unrecorded water sufficient to supply the flow or quantity of water mentioned in the record or licence during a period to be fixed at the discretion of the Water Commissioner.”

13. Section 53 of said chapter 48 is hereby amended by striking out the words "and shall be filed with him and contain the following information" in the fourth and fifth lines thereof, and substituting therefor the following words: "and a copy of the notice shall be filed in the office of the Water Commissioner concurrently with publication of a notice in a newspaper. The notice of application shall contain the following information." Amends s. 53.

14. Said section 53 is further amended by striking out subsection (u) thereof, and substituting the following therefor:— Amends s. 53, subsec. (u).

"(u.) The low-water area of the reservoir site or sites, the area at the height at which it is proposed to pen the water, and the difference in elevation between the high- and low-water planes."

15. Section 56 of said chapter 48, as amended by section 4 of chapter 52 of the Act of 1910, is hereby repealed, and the following substituted therefor:—

"56. In addition to the notice hereinbefore referred to, the applicant shall insert a notice forthwith and continuously for one month in some paper published in the water district and in the immediate locality, and if the application be for more than four cubic feet per second, then a notice shall be inserted twice in the British Columbia Gazette: Advertisement.

"(a.) The published notice need not follow any particular form, but shall contain and describe, under the heading "Water Notice," the following:—

"(1.) Name, address, and occupation of the applicant:

"(2.) The date on which application for a licence will be made to the Water Commissioner and the office in which the application is to be made:

"(3.) The quantity of water applied for:

"(4.) A sufficient description of the stream from which it is proposed to divert water:

"(5.) A description of the point of diversion, and place of storage (if any):

"(6.) A description of the premises on which the water is to be used:

"(7.) The purpose of the proposed user:

"(8.) The location of any proposed reservoir-site.

#### "EXAMPLE OF NOTICE.

##### "WATER NOTICE.

"I, [name], of [address], [occupation], give notice that, on the day of , I intend to apply to the Water Commissioner at his office in [place] for a licence to take and use [quantity in cubic feet of water per second, or acre-feet, as the case may be] from Form of notice.

[name of stream], in District. The water is to be taken from the stream about [distance] above , and is to be used on Lot for purposes.

.....  
"Name of applicant.

"N.B.—If storage is applied for, describe the location of the proposed reservoir with reasonable particularity."

16. Said chapter 48 is further amended by striking out section 63, and inserting the following in lieu thereof:—

Mingling of  
waters.

"63. (1.) Any two or more record-holders or licensees may, subject to the prior rights of other holders, upon such terms as may be agreed upon, join together in constructing the works necessary to convey the water to their respective lands, and may mingle such waters.

"(2.) Any holder of two or more records or licences, or any person or company owning the lands to which water records or licences are appurtenant, may construct works to convey the waters held under the records or licences, and may mingle such waters.

"(3.) Any company organized for the purpose of conveying waters held under records or licences may construct works to convey such waters, and may mingle such waters.

"(4.) Any application pursuant to this section for approval of works shall be made under Part VI., Division (2).

"(5.) No agreement or undertaking pursuant to this section shall enlarge as to quantity the rights of any record-holder or licensee as fixed by the record or licence."

Amends s. 70.

17. Section 70 of said chapter 48 is amended by inserting the words "but not otherwise" after the word "licence" in the second line thereof.

Amends s. 73.

18. Section 73 of said chapter 48 is amended by striking out the words "an unincorporated mining company" in the third and fourth lines thereof, and inserting the word "partnership" in lieu thereof.

Amends s. 73,  
subsec. (e).

19. Subsection (e) of the said section 73 is amended by adding thereto the words "together with the area of the land it is proposed to occupy."

20. Section 79 of said chapter 48 is hereby repealed, and the following substituted therefor:—

Extension of time.

"79. Upon being satisfied upon oath or statutory declaration that good reason exists for delay in the survey of, or in the commencement or completion of, the proposed works, the Water Commissioner may extend the time for the commencement of survey and for commencement and completion of works, and so on from time to time as to him shall seem just."

21. Section 80 of said chapter 48 is amended by inserting the words "in writing" after the word "extended" in the first line thereof. Amends s. 80.

22. Section 283 of said chapter 48 is hereby amended by striking out the word "compulsorily" in the second and third lines thereof, and by striking out the word "compulsory" in the eighth line thereof. Amends s. 283.

23. Section 310 of said chapter 48 is hereby amended by inserting the words "conveying or using water held" after the word "company" in the first line, and by inserting the words "or any former Act" after the word "Act" in the second line of said section. Amends s. 310.

24. Said chapter 48 is further amended by inserting the following sections as sections 310A and 310B:—

"310A. Notice of intention to submit for approval any schedule under the next preceding section shall be advertised in the British Columbia Gazette and in a newspaper published and circulating in the district for three weeks prior to approval being granted; and such notice shall set forth the schedule submitted. Notice of submission of schedule for approval.

"310B. Any person who may be affected by the schedule in section 310 mentioned shall have the right to be heard before the Lieutenant-Governor in Council on the fixing of the proposed schedule, and the Lieutenant-Governor in Council may appoint a day for such hearing." Any one may appear before Lieut.-Governor in Council

25. Section 331 of said chapter 48 is amended by adding the following as subsection (a):— Amends s. 331.

"(a.) The holders of water rights under any former public Act shall have all the rights and privileges granted licensees under this Act, and shall be liable to all the obligations imposed by this Act on licensees, but such rights shall be subject to investigation under Part III. of this Act."

VICTORIA, B. C.:

Printed by RICHARD WOLFENDEN, I.S.O., V.D., Printer to the King's Most Excellent Majesty.  
1911.