



WATERWORKS (RATING) AMENDMENT ACT 1995

No. 23 of 1995

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ELIZABETHAE II REGINAE

A.D. 1995

No. 23 of 1995

An Act to amend the Waterworks Act 1932 and to make consequential amendments to the South Australian Water Corporation Act 1994.

[Assented to 20 April 1995]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Waterworks (Rating) Amendment Act 1995*.
- (2) The *Waterworks Act 1932* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Substitution of Divisions 1 and 2 of Part 5

3. Divisions 1 and 2 of Part 5 of the principal Act are repealed and the following Division is substituted:

DIVISION 1—RATES

Interpretation

65A. (1) In this Division, unless the contrary intention appears—

"commercial land" means ratable land that is not situated in a country lands water district and—

- (a) that, in the opinion of the Minister, is used primarily for a commercial purpose; or
- (b) that is not used for any purpose but was last used, in the opinion of the Minister, primarily for a commercial purpose;

"commercial purpose" in relation to the use of land means use of the land for one or more of the following purposes:

- (a) wholesale trade in goods;
- (b) retail trade in goods;
- (c) the provision of a service of any kind,

but does not include a purpose excluded from this definition by regulation;

"country land" means ratable land situated in a country lands water district;

"non-commercial land" means country land, residential land and all other ratable land except commercial land;

"residential building" means a building that, in the opinion of the Minister, is used primarily for residential purposes but does not include a hotel, motel, boarding house or hostel;

"residential land" means ratable land that is not situated in a country lands water district and on which a residential building is situated but does not include land—

- (a) on which a hotel, motel, boarding house or hostel is also situated;
or
- (b) that, in the opinion of the Minister, is used primarily for a commercial purpose;

"water consumption rate" means the amount determined by applying the water rate to the volume of water supplied to land in a financial year;

"water rate" means the water rate fixed by the Minister under section 65C.

(2) For the purpose of determining the water consumption rate payable in respect of land for a financial year the volume of water supplied to the land in that financial year will be taken to be the volume of water supplied to the land in the consumption year that ends in that financial year.

(3) The provision of goods or a facility of any kind for the temporary use of a person will be taken, for the purposes of the definition of **"commercial purpose"**, to be the provision of a service to that person.

Composition of rates

65B. (1) Rates are made up of—

- (a) a supply charge which is payable for the right to a supply of water to the land by the Minister; and
- (b) a water consumption rate based on the volume of water supplied to the land.

(2) The supply charge is payable in respect of land notwithstanding that the land is not connected to the waterworks or that the Minister has lessened, discontinued or cut off the supply of water to the land under this Act.

(3) The supply charge in respect of commercial land is the greater of—

- (a) the minimum supply charge fixed by the Minister in respect of that land;
- (b) an amount determined by applying a rate fixed by the Minister in respect of that land to the capital value of the land.

(4) The supply charge in respect of non-commercial land and the water rate in respect of both commercial and non-commercial land will be fixed by the Minister.

(5) Payment of the supply charge in respect of commercial land for a financial year must be credited against the water consumption rate payable in respect of that land for that year.

Declaration of rates, etc., by Minister

65C. (1) The Minister may, by notice in the *Gazette*, fix—

- (a) the supply charge in respect of non-commercial land;
- (b) the minimum supply charge in respect of commercial land;
- (c) the rate to be applied to the capital value of commercial land in order to determine the supply charge in respect of that land;
- (d) the water rate in respect of water supplied to land.

(2) A notice under subsection (1)—

- (a) may fix different supply charges or rates under subsection (1)(a), (b), (c), or (d) in relation to different classes of land;
- (b) may, in relation to all land or to a particular class of land, fix a series of water rates that increase as the volume of water supplied to the land in a financial year increases;
- (c) will have effect in relation to a financial year specified in the notice.

(3) Land may be classified for the purposes of subsection (2) by reference to one, or to a combination of two or more, of the following factors—

- (a) whether the land is commercial, country or residential land or any other kind of land;
- (b) the part of the State in which the land is situated;
- (c) any other factor or factors.

Substitution of s. 68

4. Section 68 of the principal Act is repealed and the following section is substituted:

Time for publication of notices

68. (1) A notice under section 65C(1) fixing the supply charge in respect of non-commercial land or the water rate or rates in respect of either commercial or non-

commercial land must be published in the *Gazette* on or before 7 December preceding the financial year in relation to which the notice has effect.

(2) A notice under section 65C(1) fixing the minimum supply charge in respect of commercial land or the rate to be applied to the capital value of commercial land in order to determine the supply charge in respect of that land must be published in the *Gazette* on or before 31 July in the financial year in relation to which the notice has effect.

(3) Notices under section 65C(1) in respect of the 1995/1996 financial year need not be published in the *Gazette* until 31 July 1995.

Insertion of ss. 86A and 86B

5. The following sections are inserted after section 86 of the principal Act:

Liability for rates in strata schemes

86A. (1) Subject to subsection (3), where land is divided by a strata plan—

- (a) the owner of each unit is liable for payment of the supply charge in respect of the unit; and
- (b) the strata corporation is liable for payment of the water consumption rate in respect of the strata scheme.

(2) A strata corporation may advise the Minister by written notice that the corporation has decided that the water consumption rate will be shared between the units equally or in some other proportion specified in the notice.

(3) Where a notice under subsection (2) is in operation in respect of a financial year, the owner of a unit (and not the strata corporation) is liable for the payment of a proportion of the water consumption rate for that year in accordance with the notice.

(4) A strata corporation may revoke a notice under subsection (2) by written notice given to the Minister.

(5) A notice under subsection (2) or (4)—

- (a) must be in a form approved by the Minister;
- (b) does not operate in respect of a financial year unless it is given to the Minister before the commencement of the consumption year for the strata scheme that ends in that financial year.

(6) A notice given to the Minister under this section must have been authorised by a special resolution of the strata corporation but if it was not so authorised—

- (a) the owners of the units or the strata corporation are nevertheless liable to the Minister for payment of the water consumption rate as though the notice had been so authorised;
- (b) the owner of a unit or a strata corporation that is liable to pay to the Minister a greater share of the water consumption rate than he, she or it would have been liable for if the notice had not been given to the Minister is entitled to contribution from the unit holders or the strata corporation (whichever is

applicable) on the basis of what their respective liabilities would have been if the notice had not been given to the Minister.

(7) This section is subject to—

- (a) the other provisions of this Act;
- (b) a provision of any other Act as to the manner in which the liability for water rates, or any component of water rates, is to be shared between the owner and occupier of land.

(8) Notwithstanding subsection (5), a notice under subsection (2) or (4) will operate in respect of the 1995/1996 financial year if it is given to the Minister before 1 July 1995.

(9) In this section—

"owner" in relation to a unit includes subsequent owners of the unit.

Sharing water consumption rate in certain circumstances

86B. (1) Where—

- (a) water supplied to land is used by two or more persons; and
- (b) the Minister—
 - (i) levies water rates separately against each of those persons; and
 - (ii) has measured the volume of water supplied but not the proportions in which it has been used by each of those persons,

those persons are liable for payment of the water consumption rate in respect of that water in the following shares:

- (c) if a notice under subsection (2)(a) is in operation—the shares specified in the notice; or
- (d) if such a notice is not in operation—equal shares.

(2) The persons referred to in subsection (1) may—

- (a) advise the Minister by written notice that they have agreed to share the water consumption rate in the manner specified in the notice;
- (b) revoke a notice referred to in paragraph (a) by written notice given to the Minister.

(3) A notice under subsection (2)—

- (a) must be in a form approved by the Minister;
- (b) does not operate in respect of a financial year unless it is given to the Minister before the commencement of the consumption year for the land that ends in that financial year.

(4) This section does not apply to land divided by a strata plan.

(5) Notwithstanding subsection (3), a notice under subsection (2) will operate in respect of the 1995/1996 financial year if it is given to the Minister before 1 July 1995.

(6) Where—

(a) subsection (1) would, but for this subsection, apply in relation to land; and

(b) a notice under subsection (2)(a) does not operate in relation to the land in respect of the 1995/1996 financial year,

subsection (1) does not apply in relation to the land in respect of that financial year.

Amendment of s. 94—Time for payment of water rates, etc.

6. Section 94 of the principal Act is amended—

(a) by striking out paragraph (a) of subsection (1) and substituting the following paragraph:

(a) the supply charge is payable by equal instalments on the first day of each quarter of the financial year;;

(b) by striking out from subsection (4) "or base rates".

Amendment of the South Australian Water Corporation Act 1994

7. The *South Australian Water Corporation Act 1994* is amended—

(a) by striking out from schedule 2 the following items amending the *Waterworks Act 1932*:

Section 65B	Strike out "Minister" (twice occurring) and substitute, in each case, "Corporation".
Section 65C	After "The Minister may," insert "after consultation with the Corporation,".
Section 65D	After "The Minister may," insert "after consultation with the Corporation,".
Section 66(1)	Strike out "Minister" and substitute "Corporation".
Section 66(4)	After "The Minister may," insert "after consultation with the Corporation,".
Section 66(6)	After "Minister may" insert ", after consultation with the Corporation,".

and substituting the following items:

Section 65B(1) and (2)	Strike out "Minister (twice occurring) and substitute, in each case, "Corporation".
Section 65C(1)	After "The Minister may," insert "after consultation with the Corporation,";

- (b) by inserting in schedule 2 after the amendment to section 86 of the *Waterworks Act 1932* the following items:

Section 86A(2), (4),
(5) and (6)

Strike out "Minister" wherever occurring and substitute, in each case, "Corporation".

Section 86B(1), (2)
and (3)

Strike out "Minister" wherever occurring and substitute, in each case, "Corporation".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor