

LEGISLATIVE COUNCIL

Read 1° 1 December 1982

(Brought in by the Honourable D. R. White)

A BILL

To amend the *Melbourne and Metropolitan Board of Works Act 1958* the *Town and Country Planning Act 1961* and the *Water Resources Act 1975* with respect to the Administration of the Board, the Penalties payable for Offences against the said Act and for other Purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Melbourne and Metropolitan Board of Works (Administration) Act 1982*. Short title.

(2) The *Melbourne and Metropolitan Board of Works Act 1958* is in this Act referred to as the Principal Act. Principal Act
No. 6310.
Reprinted to
No. 9427 and
subsequently
amended
by Nos. 9549,
9558, 9573, 9684,
9699, 9700, 9720,
9735, 9746 and
9754.

10 (3) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Commence-
ment.

Amendment of No. 6310 s. 3. Interpretation.

2. In section 3 (1) of the Principal Act after the interpretation of "Municipality" there shall be inserted the following interpretation:

"Proper officer."

"Proper officer", in relation to a provision of this Act, means officer of the Board appointed by the Board either generally or in any particular case for the purposes of that provision and whose duty or part of whose duties is to deal with or to act in regard to any acts matters or things in connexion with which the term "proper officer" is used.' 5 10

Amendment of No. 6310 s. 4A. Relationship of Minister with Board.

3. In section 4A of the Principal Act in paragraph (a) for the words "the secretary to" there shall be substituted the words "any director of".

Amendment of No. 6310 s. 5. Elections for Area Commissioner.

4. In section 5 (4) of the Principal Act for the words "elect annually" there shall be substituted the words "in each third year elect". 15

Amendment of No. 6310 s. 25A. Acting chairman.

5. In section 25A (4) of the Principal Act after the words "Chairman of the Board" there shall be inserted the words "or any vacancy in the office of Chairman".

Amendment of No. 6310 s. 27. Meetings.

6. In section 27 of the Principal Act for the word "secretary" (where twice occurring) there shall be substituted the words "General Manager or director of administration". 20

Consequential amendment of No. 6310 s. 29.

7. In section 29 of the Principal Act for the word "secretary" there shall be substituted the words "General Manager or director of administration". 25

Amendment of No. 6310 s. 32.

8. For section 32 of the Principal Act there shall be substituted the following section:

Power to make by-laws and regulations as to meetings, &c.

"32. Subject to the provisions of this Act the Board may make such by-laws and regulations as it thinks fit for or with respect to— (a) the summoning, notice to be given, place, management and adjournment of its meetings; 30 (b) the management and transaction of the business of the Board; (c) the duties, discipline, regulation and conditions of employment of all officers and employes of the Board; 35 (d) the leave of absence, whether with or without pay, and long service leave for officers and employes of the Board; and (e) the form of contracts with the Board.

9. In

9. In section 37A of the Principal Act for the expression "\$100,000" (where twice occurring) there shall be substituted the expression "\$250 000".

Amendment of
No. 6310 s. 37A.
Contracts, &c.,
to be approved
by Minister.

10. (1) In section 39 (1) of the Principal Act—

Amendment of
No. 6310 s. 39.
Advertising of
contracts.

5 (a) for the expression "\$20,000" there shall be substituted the expression "\$50 000"; and

10 (b) after the word "Board" (where second occurring) there shall be inserted the expression "and in the case of a contract to the amount of more than \$50 000 but less than \$70 000 the like notice shall be given once in an appropriate trade journal".

(2) In section 39 (2) of the Principal Act after paragraph (b) there shall be inserted the following expression:

"or

15 (c) to any contract or kind or class of contract exempted in writing by the Minister from the provisions of sub-section (1).

Exemptions.

(3) The Minister may at any time revoke (in whole or in part) or vary any exemption given under sub-section (2) (c)."

20 11. For section 41 of the Principal Act there shall be substituted the following section:

Amendment of
No. 6310 s. 41.
Appointment of
Directors,
officers, &c., of
Board.

"41. (1) The Board shall appoint—

- 25 (a) a director of administration;
(b) a director of finance;
(c) a director of engineering;
(d) a director of planning—

and such other directors, officers, employes and others to assist in the execution of this Act as the Board thinks necessary and all persons so appointed shall hold office during pleasure only.

30 (2) The Board may from time to time remove any person appointed under sub-section (1) and appoint others in their stead and shall pay to any such director, officer, employe or other person such salaries, wages and allowances as the Board thinks reasonable.

35 (3) No director, officer, employe or other person appointed by the Board under this section shall engage in any employment other than in connexion with the duties of his office without the sanction in writing of the Board."

12. In

Amendment of
No. 6310 s. 41A.
Acting officers.

12. In section 41A of the Principal Act—

- (a) for the words “secretary treasurer” (where first occurring) there shall be substituted the words “General Manager or a director”; and
- (b) for the words “secretary treasurer” (where subsequently 5 occurring) there shall be substituted the words “General Manager, director”.

Amendment of
No. 6310 s. 43.
Officers
accepting fees,
&c.

13. In section 43 (1) of the Principal Act after the word “employé” there shall be inserted the expression “(including the 10 General Manager)”.

Amendment of
No. 6310 s. 75A.
Certification of
water supply
works.

14. In section 75A (13) of the Principal Act for the words “officer appointed in writing by the Board for the purpose” there shall be substituted the words “proper officer”.

Amendment of
No. 6310 s. 102.
Inspection of
valuation.

15. In section 102 of the Principal Act for the word “secretary” there shall be substituted the words “General Manager or director 15 of administration”.

Amendment of
No. 6310 s. 110.
Water supply
by-laws.

16. (1) In section 110 (1) of the Principal Act—

- (a) after the words “nuisances on lands” there shall be inserted the word “waters”; and
- (b) before the last paragraph there shall be inserted the 20 following paragraph:

“For the care, protection, preservation, management and use of lands and works vested in or under the control of the Board or any part of such lands or works, for the protection and preservation of any 25 wildlife or vegetation upon or within such lands or works, and for the protection and management of any waters in or on such lands or works”.

(2) In section 110 (2) of the Principal Act for the word “secretary” there shall be substituted the words “General Manager 30 or director of administration”.

Amendment of
No. 6310 s. 111.
Service charge
by-laws.

17. At the end of section 111 of the Principal Act there shall be inserted the expression:

“and

For fixing fees to be charged for the installation, extension 35 and sealing of fire service pipes and any works ancillary thereto and fixing annual fees in relation to fire service pipes.”.

18. In

18. In section 142A (13) of the Principal Act for the words “engineer-in-chief of the Board or such other officer as he shall appoint” there shall be substituted the words “proper officer”.

Amendment of
No. 6310
s. 142A.
Certification of
sewerage works.

19. (1) In section 143 (1) of the Principal Act—

- 5 (a) after the word “fence” there shall be inserted the words “embankment, filling, material, machinery”; and
(b) after the word “erected” there shall be inserted the words “or placed”.

Amendment of
No. 6310 s. 143.
Building over
sewers.

10 (2) At the end of section 143 (2) of the Principal Act there shall be inserted the words “which shall bind the owners of the land and his successors in title and whether or not they have had actual notice thereof”.

(3) In section 143 (3) of the Principal Act—

- 15 (a) after the word “fence” (where twice occurring) there shall be inserted the words “embankment, filling, material, machinery”;
(b) after the word “erected” there shall be inserted the words “or placed”; and
20 (c) after the word “erecting” there shall be inserted the words “or placing”.

20. In section 160 of the Principal Act—

- (a) in sub-section (6A) for the words “Engineer-in-Chief” there shall be substituted the words “proper officer”;
25 (b) in sub-section (9) for the words “Engineer-in-Chief or such other officer as the Board may appoint for the purpose” there shall be substituted the words “proper officer”; and
(c) in sub-section (10)—
30 (i) for the words “Engineer-in-Chief of the Board or such other officer as the Board may appoint for the purpose” there shall be substituted the words “proper officer”; and
35 (ii) for the words “to the said engineer or other officer seem” there shall be substituted the words “the proper officer thinks”.

Amendment of
No. 6310 s. 160.
Inspection of
private
premises for
compliance
with notice.

21. In section 169 of the Principal Act after the first paragraph there shall be inserted the following paragraph:

“Subject to and for the purposes of the foregoing provisions of this section the Board may strike a rate of interest to be paid
40 to the Board and may at any time vary any rate of interest so fixed.”.

Amendment of
No. 6310 s. 169.

Power to Board
to strike rate of
interest.

22. In

Amendment of
No. 6310 s. 170.
Recovery of
costs.

22. In section 170 of the Principal Act—

- (a) in sub-section (1) for the expression “Engineer-in-Chief of the Board or such other officer as the Board appoints for the purpose” there shall be substituted the words “proper officer”; and 5
- (b) in sub-section (8) for the words “Engineer-in-Chief or of such other officer as aforesaid” there shall be substituted the words “proper officer”.

Amendment of
No. 6310 s. 179.
Inspection of
rate books.

23. In section 179 (1) of the Principal Act for the word “secretary” there shall be substituted the words “General Manager or the director of administration”. 10

Amendment of
No. 6310 s. 213.

24. In section 213 (2) of the Principal Act after paragraph (b) there shall be inserted the following expression:

“and

Conduct of
activities in
parks.

- (c) conduct any activity or engage in any business or commercial undertaking on such lands which it considers will promote the use and enjoyment of such lands or authorize or permit any person or body to conduct any such activity or engage in any such business or commercial undertaking on such lands subject to such conditions (including conditions as to prices to be charged) as the Board thinks fit to impose.” 15
20

Amendment of
No. 6310 s. 214.

25. In section 214 (1) of the Principal Act after paragraph (c) there shall be inserted the following paragraph:

Fees for services
and franchises.

- “(ca) the payment of charges to the Board for the supply of any goods or services by the Board and the payment of fees for authorities or permits from the Board to conduct any activity or to engage in any business or commercial undertaking on lands referred to in this Division;”. 25
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Consequential
amendment of
No. 6310 ss.
239F, 239G.

26. In section 239F (1) and (3) and section 239G (1) and (5) of the Principal Act for the word “secretary” (where respectively occurring) there shall be substituted the words “General Manager”.

New section
inserted.

27. After section 239G of the Principal Act there shall be inserted the following section: 35

Special meter
readings.

‘239GA (1) Any person may upon payment of the prescribed fee make application to the General Manager for a statement giving particulars of the volume of water supplied by measure by the Board to specified premises from the day of the last normal

reading

reading of the water supply meter up to the day indicated in the application or a day as close as possible to the date of the application, whichever is applicable.

5 (2) Every such application shall be in writing in the prescribed form and shall state the name and address of the person making the application and particulars of the premises in respect of which the information is required.

10 (3) Upon receipt of the application and payment of the prescribed fee the General Manager shall cause a special visit to be made to the premises for reading the water supply meter at the premises and the applicant to be advised in writing of the volume of the water supplied by measure to the premises from the day of the last normal reading of the meter up to the day of the special reading of the meter.

15 (4) For the purposes of this section the "prescribed fee" means such fee as is prescribed by regulation of the Board and the Board is hereby empowered to make such regulations.

20 28. (1) In sections 245, 246 and 252 of the Principal Act for the words "secretary to" (where respectively occurring) there shall be substituted the words "General Manager or the director of administration of".

Consequential amendment of No. 6310. Part IX.

25 (2) In sections 251, 256, 257, 257C, 257D and 257E of the Principal Act for the word "secretary" (wherever respectively occurring) there shall be substituted the words "General Manager or director of administration".

(3) In section 257A of the Principal Act—

30 (a) for the words "secretary treasurer" (wherever occurring) there shall be substituted the words "director of administration, director of finance, director of engineering, director of planning"; and

(b) in sub-section (1) the words "engineer-in-chief" are repealed;

(c) in sub-section (2) the words "and engineer-in-chief of the Board" are repealed; and

35 (d) in sub-section (3) the words "or engineer-in-chief" (where twice occurring) are repealed.

40 (4) In section 257B of the Principal Act in paragraph (e) for the words "secretary treasurer" there shall be substituted the words "director of administration, director of finance, director of engineering, director of planning".

29. In

Amendment of
No. 6310
s. 258c.
Membership of
companies,
funds, &c.

29. In section 258C of the Principal Act—
- (a) in sub-section (2) after the word “company” (where twice occurring) there shall be inserted the expression “, body or fund”; and
- (b) in sub-section (3) for the words “director on the board of management of a company” there shall be substituted the words “member of or on the board of management of a company, body or fund”. 5

Amendment of
No. 6310
s. 294.
Interpretation.

30. In section 294 of the Principal Act—
- (a) in the interpretation of “Development” after the word “construction” there shall be inserted the words “or the placing”; and 10
- (b) in the interpretation of “Work”—
- (i) after the word “construction” there shall be inserted the words “or structure”; and 15
- (ii) in paragraph (b) after the word “bridges” there shall be inserted the words “boats, pontoons, jetties and moorings”.

Amendment of
No. 6310.
Seventh
Schedule,
Ninth Schedule,
Tenth Schedule,

31. In the Seventh Schedule, Ninth Schedule and Tenth Schedule to the Principal Act for the word “Secretary” (where respectively occurring) there shall be substituted the words “General Manager or Director of Administration”. 20

Amendment of
No. 6310.
Eleventh
Schedule,
Schedule 11AA.

32. In the Eleventh Schedule and Schedule 11AA to the Principal Act—
- (a) after the word “Chairman” (where respectively occurring) there shall be inserted the expression “or Member”; and 25
- (b) for the word “Secretary” (where respectively occurring) there shall be substituted the expression “General Manager or Director of Administration”.

Amendment of
No. 6310.
Conversion to
penalty units.

33. The Principal Act is hereby amended as follows: 30
- (a) In section 30 for the expression “\$100” there shall be substituted the expression “10 penalty units”;
- (b) In sections 36 and 138 for the expression “\$20” there shall be substituted the expression “2 penalty units”;
- (c) In section 43 (1) for the expression “\$500” there shall be substituted the expression “10 penalty units”; 35
- (d) In section 75 for the expression “\$10” there shall be substituted the expression “1 penalty unit”;
- (e) In sections 80, 81, 84, 85, 86, 102, 114, 115, 116, 117 (3), 119, 122, 125, 126 (1) and 179 (1) for the expression “\$100” (where respectively occurring) there shall be substituted the expression “1 penalty unit”; 40

(f) In

- (f) In sections 112, 120, 121, 123, 127, 130, 144, 163, 166, 253, 278, 285 and 289—
- 5 (i) for the expression “\$1,000” (where respectively occurring) there shall be substituted the expression “10 penalty units”; and
- (ii) for the expression “\$100” (where respectively occurring) there shall be substituted the expression “1 penalty unit”;
- 10 (g) In sections 145, 152, 156, 214 (1) (d), 239EA (6) and (6A), 240A (2) (b), 268 (6) (a) and 290 (2) for the expression “\$1,000” (where respectively occurring) there shall be substituted the expression “10 penalty units”;
- (h) In section 150—
- 15 (i) for the expression “\$1,000” there shall be substituted the expression “10 penalty units”;
- (ii) for the expression “\$5,000” there shall be substituted the expression “50 penalty units”; and
- (iii) for the expression “\$100” there shall be substituted the expression “1 penalty unit”;
- 20 (i) In section 151—
- (i) for the expression “\$40” there shall be substituted the expression “10 penalty units”; and
- (ii) for the expression “\$10” there shall be substituted the expression “1 penalty unit”;
- 25 (j) In section 184A (ja)—
- (i) for the expression “\$5,000” there shall be substituted the expression “50 penalty units”;
- (ii) for the expression “\$2,000” there shall be substituted the expression “20 penalty units”;
- 30 (iii) for the expression “\$1,000” there shall be substituted the expression “10 penalty units”; and
- (iv) for the expression “\$100” there shall be substituted the expression “1 penalty unit”;
- (k) In section 268 (6) (b) for the expression “\$200” there shall be substituted the expression “2 penalty units”;
- 35 (l) In sections 269 (2) and 274 (2)—
- (i) for the expression “\$1,000” there shall be substituted the expression “10 penalty units”; and
- 40 (ii) for the expression “\$200” there shall be substituted the expression “2 penalty units”; and

- (m) In the Tenth Schedule in paragraph (2)—
 - (i) for the expression “\$40” there shall be substituted the expression “10 penalty units”; and
 - (ii) for the expression “\$10” there shall be substituted the expression “1 penalty unit”.

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Consequential amendment of No. 6849.

34. (1) In section 3 (1) of the *Town and Country Planning Act 1961* in paragraph (b) in the interpretation of “Secretary” for the word “secretary” there shall be substituted the words “director of administration”.

(2) In section 57 (2) of the *Town and Country Planning Act 1961* for the word “Secretary” there shall be substituted the words “Director of Administration”.

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Amendment of No. 3729 Schedule One.

35. In Schedule One to the *Water Resources Act 1975* in the Item relating to the *Melbourne and Metropolitan Board of Works Act 1958* for the expression “IX. and X.” there shall be substituted the expression “IX., X. and XI.”.

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Transitory provisions.

36. (1) No act matter or thing shall in any way be abated or affected by any change effected by this Act in the description or designation of any officer of the Board and any document signed or executed before the commencement of the *Melbourne and Metropolitan Board of Works (Administration) Act 1982* shall be as valid and effectual for all purposes as if that Act had not been passed.

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(2) Any reference in any other Act or in any rules, regulations, by-laws or other laws or in any document to any officer of the Board the description or designation of whose office has been altered by the provisions of this Act shall be read and construed as a reference to the office as so altered and in particular, without in any way limiting or derogating from the generality of the foregoing provisions of this section—

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- (a) any reference to the “secretary to the Board” shall be read and construed as a reference to the “director of administration of the Board”;
- (b) any reference to the “treasurer of the Board” shall be read and construed as a reference to the “director of finance of the Board”; and
- (c) any reference to the “engineer-in-chief of the Board” shall be read and construed as a reference to the “director of engineering of the Board”.

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