

LEGISLATIVE ASSEMBLY

Read 1 16 September 1987

(Brought in by Mr McCutcheon and Mr Fordham)

A BILL

to amend the *Water Act* 1958 to empower the Rural Water Commission to make water rights available for purchase and to amend the *Melbourne and Metropolitan Board of Works Act* 1958 and the *Environment Protection Act* 1970 and for other purposes.

Water Acts (Further Amendment) Act 1987

The Parliament of Victoria enacts as follows:

Purposes.

1. The purposes of this Act are—

- 5 (a) to empower the Rural Water Commission to make water rights available for purchase; and
- (b) to make a clarifying amendment to section 187 of the *Melbourne and Metropolitan Board of Works Act* 1958 arising out of the amendments made to that Act by the *Borrowing and Investment Powers Act* 1987; and
- 10 (c) to increase certain penalties under the *Melbourne and Metropolitan Board of Works Act* 1958; and
- (d) to increase certain penalties under the *Environment Protection Act* 1970.

Commencement.

2. (1) Except as provided in sub-sections (2) and (3), this Act comes into operation on the day on which it receives the Royal Assent.

(2) Sections 3 and 4 come into operation on a day to be proclaimed.

(3) Section 5 (b) comes into operation on the day on which section 23 of the *Borrowing and Investment Powers Act 1987* comes into operation. 5

New section 65DA inserted in *Water Act 1958*.

3. After section 65D of the *Water Act 1958*, insert—

Power to apportion water rights on certain terms and conditions. 10

'65DA. (1) The Rural Water Commission may, by notice published in the *Government Gazette* and in a newspaper circulating generally in an irrigation district—

(a) declare that water rights are available for purchase by any occupier or owner of the land comprised in any holding within the district on the terms and conditions specified in the notice; and 15

(b) invite applications from any such occupier or owner for an apportionment of water rights under this section.

(2) On receipt of an application made in response to a notice published under sub-section (1), the Rural Water Commission may apportion a volume of water rights to the land in respect of which the application is made. 20

(3) An apportionment of water rights under this section is subject to the published terms and conditions and to any other terms and conditions of which notice is given to the applicant by the Rural Water Commission before the apportionment is made. 25

(4) In determining any other terms and conditions the Rural Water Commission must have regard to—

(a) drainage and salinity criteria; and 30

(b) the maximum amount of water rights that, in its opinion, is required for the reasonable irrigation of land; and

(c) the need to protect the water rights apportioned to other holdings within the irrigation district; and

(d) any other matters that it considers relevant. 35

(5) An apportionment of water rights under this section—

(a) does not limit and is not limited by; and

(b) must not be taken into account in calculating—
the volume of water to be apportioned or capable of being apportioned as water rights under any other provision of this Act, but is otherwise subject to all the provisions of this Act.

5 (6) The Rural Water Commission must cause details of an apportionment under this section to be entered in the register of lands kept under section 63.

(7) In this section, “holding” means the land comprised in any current single entry in the register kept under section 63.’.

10 **Amendment consequential on section 3.**

4. In section 65B(1) of the *Water Act* 1958, for “and 65D” substitute “, 65D and 65DA”.

Amendment of *Melbourne and Metropolitan Board of Works Act* 1958.

15 5. The *Melbourne and Metropolitan Board of Works Act* 1958 is amended as follows:

(a) In section 184A(1) (*ja*)—

- (i) for “50” substitute “200”; and
- (ii) for “20” substitute “80”;

(b) In section 187(1)—

- 20 (i) after “financial accommodation” (where first occurring) insert “for the purposes of this Act (other than Parts VI and XII)”; and
- (ii) after “receive under” insert “Part II, III or X of”;

(c) In section 322(1)—

- 25 (i) for “50” substitute “200”; and
- (ii) for “20” substitute “80”.

Amendment of *Environment Protection Act* 1970.

6. (1) In section 27A(2) of the *Environment Protection Act* 1970, for “100” substitute “200”.

30 (2) After section 67 of the *Environment Protection Act* 1970 insert—

Higher penalty for certain intentional offences.

‘67AA. (1) Notwithstanding anything to the contrary in this Act, if the court which convicts a person of a prescribed offence is satisfied that the offence was committed intentionally, the person is liable to a

No. 6310.
Reprinted to
No. 10262.
Subsequently
amended by
Nos. 86/1986,
109/1986,
110/1986,
121/1986,
13/1987,
31/1987 and
45/1987.

No. 8056.
Reprinted to
No. 10160.
Subsequently
amended by
Nos. 10261,
10262,
16/1986,
127/1986,
9/1987, 22/1987
and 45/1987.

penalty of not more than 200 penalty units and in the case of a continuing offence to a daily penalty of not more than 80 penalty units for each day the offence continues after conviction.

(2) In sub-section (1), “prescribed offence” means—

- (a) an offence against section 27A (1) (c), 39, 45 or 59D; or
- (b) an offence against section 43 that consists of a contravention of or a failure to comply with section 41.’.

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