

Water (Further Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 4 October 1995

(Brought in by Mr Coleman and Mr Gude)

A BILL

to amend the **Water Act 1989** and for other purposes.

Water (Further Amendment) Act 1995

The Parliament of Victoria enacts as follows:

1. Purposes

The main purposes of this Act are—

- (a) to enable an Authority to delegate its power to set tariffs; and
- (b) to enable the sale of unallocated water in certain water storages.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

No. 80/1989.
R printed to
N . 54/1992
and
subsequently
amended by
No 25/1993,
69/1993,
99/1993,
130/1993,
31/1994,
49/1994,
53/1994 (as
amended by
No. 110/1994),
91/1994,
110/1994,
121/1994,
Special
Gazette 31
March 1995,
42/1995,
56/1995,
62/1995 and
65/1995.

3. Principal Act

In this Act, the **Water Act 1989** is called the Principal Act.

4. Object of groundwater management plan

In section 30 of the Principal Act—

- (a) in sub-section (1), after “manner” **insert** “and so as to ensure the long-term sustainability of the resources”; and
- (b) in sub-section (2) (a), after “programs” **insert** “, monitoring programs”.

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5. Application for bulk entitlement

In section 36 (1) (e) of the Principal Act, after “holding” **insert** “a water licence, a water and sewerage licence or”.

6. Resource manager for bulk entitlement

In section 43 (c) of the Principal Act, after “operator” **insert** “and the resource manager”.

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7. Insertion of new section 43A

After section 43 of the Principal Act **insert**—

“43A. Appointment of storage operators and resource managers

- 5 (1) The Minister may, in respect of each bulk entitlement granted under this Division or Division 3, appoint, by instrument, an Authority or any other person as—
- (a) a storage operator; or
 - (b) a resource manager—
- on the terms and conditions specified in the instrument of appointment.
- 0 (2) A person appointed under sub-section (1) holds office for the term specified by the Minister.”.

8. Permanent transfers of bulk entitlements to irrigators

- 15 (1) In section 46A of the Principal Act, after sub-section (3) **insert**—
- “(3A) A transfer may be either permanent or temporary.
 - (3B) A permanent transfer may only be made with the approval of the Minister.
 - (3C) The Minister may approve a permanent transfer only if the Minister is satisfied that the entitlement, or part of the entitlement, to be transferred is surplus to the obligations of the Authority to supply water.”.
- 20 (2) In section 46A (4) of the Principal Act, for “A transfer” **substitute** “A temporary transfer”.
- 25 (3) After section 46A (7) of the Principal Act **insert**—
- “(8) If—
 - (a) an Authority decides to sell the whole or part of a bulk entitlement under this section; and
 - (b) the proposed transfer is to be permanent—
- 30 the Authority must cause a notice to be published in the Government Gazette and in a
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newspaper circulating generally in the area concerned—

- (c) declaring that the bulk entitlement, or a part of the bulk entitlement, is available for purchase; and
 - (d) giving details of the method by which the bulk entitlement or part is to be sold.
- (9) Following a permanent transfer under this section—
- (a) the Authority must apply for the amendment of its bulk entitlement in accordance with section 44 or 45; and
 - (b) if the purchaser is the owner or occupier of a holding in an irrigation district, the Authority must ensure that details of the sale are given to the Authority that has the irrigation district for entry in the register of lands kept under section 230.”.

9. Ministerial request for application

In section 47B (3) of the Principal Act, for “an Order proposed under” **substitute** “a proposed Order in accordance with”.

10. Insertion of new section 47D

After section 47C of the Principal Act **insert**—

“47D. Minister may sell unallocated water

(1) If—

- (a) an entitlement to take water has been converted, whether before or after the commencement of section 11 of the **Water (Further Amendment) Act 1995**, in accordance with section 47; and
- (b) the entitlement is in respect of water in a storage which on 1 January 1995

was owned by the Rural Water Corporation; and

5 (c) there is water in the storage that is not allocated to the converted entitlement; and

(d) the Minister has determined that the flow of water out of the storage is adequate to protect the environment, including the wetland, riverine and riparian environment—

0 the Minister may, by notice published in the Government Gazette, declare that an amount of water is unallocated water.

5 (2) If the Minister has made a declaration under sub-section (1), the Minister—

(a) may by notice published in a newspaper circulating generally in the area concerned, declare that the unallocated water is available for purchase by any person holding the qualifications specified in the notice on the terms and conditions specified in the notice; and

10 (b) must consult with the Authority responsible for delivery of the water before determining the terms and conditions of sale.

25 (3) A declaration under sub-section (2) (a) must—

30 (a) specify a means referred to in section 43 (a) of quantifying the amount of water; and

(b) specify the adjustment, if any, of volumes to be applied to the transfer; and

35 (c) specify that, if unallocated water is to be converted to a bulk entitlement after sale, the sale is void if the Order

granting the bulk entitlement is disallowed by the Parliament under section 34; and

- (d) give details of the method by which the unallocated water is to be sold, whether at auction or by inviting tenders or in any other manner that the Minister thinks fit.

(4) A transfer under this section is permanent.

(5) Following a transfer under this section, the Minister must do any or all of the following as is appropriate in the circumstances— 10

(a) grant a bulk entitlement to the purchaser by Order published in the Government Gazette; 15

(b) amend a bulk entitlement held by the purchaser in accordance with section 44 or 45;

(c) issue a licence under section 51 to the purchaser; 20

(d) ensure that details of the sale are given to the relevant Authority for entry in the register of lands kept under section 230.”. 25

11. Licence to take and use water

In section 51 (1) of the Principal Act, for paragraph (c) **substitute**—

“(c) water from any works of an Authority; or

(d) water from any works of a person holding a water licence, a water and sewerage licence or a water headworks licence issued under Division 1 of Part 2 of the **Water Industry Act 1994**.”. 30

12. Amendment of records etc.

(1) In section 64F (1) of the Principal Act— 35

(a) in paragraph (a) after “section” **insert** “46A or”;

(b) in paragraph (b) **omit** “46A,”;

(c) in paragraph (c) after “section” **insert** “47D or”.

5 (2) In section 64G of the Principal Act, for “226”
substitute “46A, 47D or 226”.

13. *Power to delegate setting of tariffs*

In section 111 (1) of the Principal Act **omit** paragraph (f).

14. *Statute law revision*

0 In section 108 (2) (b) of the Principal Act, for
“**Public Service Act 1974**” **substitute** “**Public
Sector Management Act 1992** (including Part 9)”.

15. *Transitional*

5 Section 46A of the Principal Act as amended by
section 8 of this Act applies to bulk entitlements
whether granted before or after the commencement
of section 8.

