



ANNO TRICESIMO TERTIO
ELIZABETHAE SECUNDAE REGINAE
VICTORIA

Groundwater (Reserves) Act 1984

No. 10066

An Act to amend the *Groundwater Act* 1969 to provide for the reservation of groundwater resources for future public use and for other purposes.

[Assented to 15 May 1984]

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. This Act may be cited as the *Groundwater (Reserves) Act* 1984. Short title.
2. In this Act the *Groundwater Act* 1969 is called the Principal Act. Principal Act No. 7849. Reprinted to No. 9381. Subsequently amended by Nos. 9820, 9833, 9861, 9863, 9895, 9902 and 9936.
3. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
4. In section 3 of the Principal Act for the words "Secretary for Mines" (wherever occurring) there shall be substituted the words "Secretary for Minerals and Energy". Amendment of No. 7849 s. 3. Change of reference.
5. In section 31 of the Principal Act in paragraph (c) after the words "National Water Well" there shall be inserted the words "and Drilling". Amendment of No. 7849 s. 31. Change of reference.
6. After section 49 of the Principal Act there shall be inserted the following sections: Amendment of No. 7849. New sections inserted.

Orders for annual reserves of groundwater.

“49A. (1) The Governor in Council may on the joint recommendation of the Minister for Minerals and Energy and the Minister of Water Supply by Order published in the *Government Gazette* and in a newspaper circulating throughout the area specified in the Order specify with respect to—

- (a) that area; or
- (b) any particular aquifer or aquifers in that area—

an annual reserve volume of groundwater.

(2) The volume of groundwater specified in an Order made under sub-section (1) shall be reserved for extraction and use only by the Commission or as authorized by the issue of a groundwater licence to an authority.

(3) Where an Order is made under sub-section (1), the Commission shall not extract and use, and shall not authorize the extraction and use by an authority of, any volume of groundwater so as to result in the annual total volume of groundwater extracted and used by the Commission and any authority exceeding the annual reserve volume of groundwater.

(4) An Order made by the Governor in Council under this section may by like Order be amended, varied or revoked.

(5) An Order made by the Governor in Council under this section shall come into operation on a day specified in the Order being a day after the publication of the Order.

No recommendation without report and submissions.

49B. (1) The Minister for Minerals and Energy and the Minister of Water Supply shall not recommend that an Order be made specifying an annual reserve volume of groundwater with respect to any area or aquifer unless they have—

- (a) obtained a report containing—
 - (i) an estimate of the total annual volume of groundwater available for extraction in that area or that aquifer;
 - (ii) a statement of the annual volume of groundwater in that area or that aquifer which has already been authorized for extraction; and
 - (iii) an itemized estimate of the extent of future demands for extraction of groundwater for each foreseeable class of use in that area or from that aquifer;
- (b) caused a notice to be published in the *Government Gazette* and in a newspaper circulating throughout that area—
 - (i) stating the proposed recommendation;
 - (ii) advising where a copy of the report referred to in paragraph (a) may be obtained; and
 - (iii) inviting public comments and submissions to be made within 90 days of the publication of the notice; and

- (c) obtained and considered a summary and evaluation of all comments and submissions received under this section.

(2) Where the Minister for Minerals and Energy and the Minister of Water Supply determine, on the basis of the report, summary and evaluation referred to in sub-section (1), that no recommendation shall be made to the Governor in Council under section 49A, they shall cause a notice to that effect to be published in the *Government Gazette* and in a newspaper circulating throughout the area in question.

(3) The Minister for Minerals and Energy and the Minister of Water Supply shall, within 12 months of the date of publication of a notice under sub-section (1) (b)—

- (a) make a recommendation to the Governor in Council under section 49A; or
 (b) make a determination that no recommendation to the Governor in Council under section 49A shall be made.

49C. An Order made under section 49A shall not—

- (a) affect the extraction or use of groundwater for domestic use and the watering of stock where the occupier has given notice in the prescribed form to the Commission; or
 (b) affect the existing entitlement under any groundwater licence in force on the day on which the Order comes into operation.

Saving of existing entitlements.

49D. (1) An Order of the Governor in Council made under section 49A shall not be deemed invalid on account of any non-compliance with any of the matters required by this Act as preliminary to such Order.

Order conclusive proof of matters contained therein.

(2) The production of the *Government Gazette* containing an Order of the Governor in Council made under section 49A shall for all purposes be conclusive proof of—

- (a) the matters stated in that Order; and
 (b) the due compliance with the requirements of this Act precedent to the making of that Order.

49E. Where—

- (a) a notice is published under section 49B (1) (b); and
 (b) an application is subsequently made for a groundwater licence which if granted would permit the extraction of groundwater from the area or aquifer which is the subject of the proposed recommendation stated in the notice published under section 49B (1) (b)—

Commission to defer application.

the Commission shall defer consideration of the application until either—

- (c) the making of an Order under section 49A (1) in respect of the area or aquifer; or
 (d) the publication of a notice under section 49B (2)."

Amendment of
No. 7849.
Annual reserve
volume to be
taken into
account in
granting licences.

7. Section 51 of the Principal Act shall be amended as follows:

- (a) For sub-section (1) there shall be substituted the following sub-section:

“(1) Upon receipt of an application for a groundwater licence, other than an application to which section 49E applies, the Commission after consideration of—

- (a) the availability of groundwater in the area in question;
(b) any adverse effects likely to be created by the extraction of groundwater under the licence sought on—
(i) the supply of water to which persons other than the applicant are entitled by or under this or any other Act; and
(ii) in the case of an application by a person other than an authority, the annual reserve volume specified in any Order made under section 49A; and

- (c) the quantities of water to which the applicant is entitled from sources other than groundwater—

shall either issue a groundwater licence subject to such conditions as it thinks fit and specifies in the licence, or refuse to issue a groundwater licence and specify the reasons for the refusal.”;

- (b) In sub-section (2) for paragraph (b) there shall be substituted the following paragraph:

“(b) conditions necessary to ensure that as far as is practicable—

- (i) the volume of groundwater to which any other person is entitled under an existing groundwater licence;
(ii) in the case of an application by a person other than an authority, the annual reserve volume specified in any Order made under section 49A; and
(iii) the lawful extraction of groundwater for domestic use and the watering of stock—

is not adversely affected;”;

- (c) For sub-section (3) there shall be substituted the following sub-section:

“(3) The Commission shall refuse to issue a groundwater licence which in its opinion would—

- (a) materially interfere with the volume of groundwater to which any other person is entitled under this or any other Act;
(b) in the case of an application by a person other than an authority, result in the diminution of the annual reserve volume; or
(c) result in a contravention of section 49A (3).”;

- (d) For sub-section (4) there shall be substituted the following sub-section:

“(4) Where—

- (a) the Commission has under section 21 notified the Minister for Minerals and Energy of the conditions it proposes to attach to any groundwater licence issued in respect of any particular bore or group of bores;
- (b) the tested capability of the bore or group of bores is consistent with the conditions proposed; and
- (c) the occupier of the bore makes application for a licence within six months of the issue of a completion certificate for the bore under section 30—

the Commission shall issue a licence in respect of such bore or group of bores subject to Division 2 of this Part and to any modifications of those conditions by the Groundwater Appeal Board with conditions no less favourable than those so notified to the Minister for Minerals and Energy.”.

8. For sub-section (2) of section 56 of the Principal Act there shall be substituted the following sub-sections:

Amendment of
No. 7849 s. 56.
Additional
ground for
revocation of
licence.

“(2) The Commission with the approval of the Minister may—

- (a) revoke any groundwater licence—
 - (i) in respect of any bore or group of bores operated contrary to the conditions contained in such licence;
 - (ii) in respect of any bore or group of bores operated contrary to the provisions of this Act or of the regulations; or
 - (iii) where the licensee has failed within 60 days after the due date to pay the prescribed annual fee in respect of the groundwater licence; and
- (b) vary any groundwater licence where the licensee has failed within four years after the issue of that licence to reach the development allowed by the licence.

(2A) Where a licence is varied under sub-section (2) (b) the varied licence shall bear a reasonable relation to the development which the licensee has achieved within the four-year period after the issue of the licence.”.

9. In section 77A (1) of the Principal Act for the expression “\$1000” there shall be substituted the expression “10 penalty units”.

Amendment of
No. 7849 s. 77A.