

VICTORIA.



ANNO VICESIMO SECUNDO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 8395.

An Act to amend the *Water Act* 1958 and for other purposes.

[10th April, 1973.]

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) :—

Short title.

1. (1) This Act may be cited as the *Water (Amendment) Act* 1973.

Principal Act
No. 6413.Reprinted to
No. 7390.Subsequently
amended by
Nos. 7781, 7789,
7876, 8022, 8046,
8082, 8168, 8181,
8186.

(2) In this Act the *Water Act* 1958 is called the Principal Act.

Amendment of
No. 6413.
New section
inserted.

2. (1) After section 32 of the Principal Act there shall be inserted the following section :—

Creation of
easements.

“ 32A. (1) A person intending to sub-divide land in any district under the jurisdiction of the Commission may submit for sealing by the Commission a proposed plan of sub-division showing easements in over or under land comprised therein appropriated or set apart for the use of the Commission for any one or more of the purposes set out in column 1 of Schedule Two A.

Schedule
Two A

(2) Where

(2) Where an easement for the use of the Commission is appropriated or set apart on a plan of sub-division sealed by the relevant municipality and by the Commission upon approval of the plan by the Registrar of Titles pursuant to section 97 of the *Transfer of Land Act* 1958 there shall be vested in the Commission as an easement or easements in over or under the land the subject of the easement the rights and benefits set out in column 2 of Schedule Two A corresponding to the purpose for which the easement is appropriated or set apart on the plan.

(3) Upon being notified by the Commission that such an easement or any part thereof is no longer required by the Commission the Registrar of Titles shall cancel or remove the reference to the easement or part of the easement (as the case may require) on the plan of sub-division and on any certificate of title and the land shall thereupon cease to be affected by the easement or part of the easement so cancelled."

(2) After the Second Schedule to the Principal Act there shall be inserted the following Schedule :—

New Schedule inserted.

'SCHEDULE TWO A.

Section 32A.

Easements set apart or appropriated for the use of the Commission pursuant to Section 32A.

Column 1. Purpose for which easement appropriated or set apart.	Column 2. Rights and benefits vested in the Commission.
Pipeline	Full and free right and liberty to and for the Commission and its transferees and its and their servants agents and workmen at all times hereafter to enter in and upon the land to which the easement applies and to take onto or remove from such land any plant machines vehicles equipment or materials and to clear such land of obstructions and to dig cut and excavate such land and to construct lay or place one or more pipelines or any ancillary works useful in connexion with or incidental thereto including but without limiting the generality thereof all marker posts valves valve chambers housings controlling devices meters communication power and telemetry devices including any buried cables useful in connexion therewith vertical surge pipes air vessels fittings connexions anti-corrosion equipment hatches manholes inspection openings inspection pits cleaning pits scouring devices and drains and all other equipment and appurtenances whether or not similar to the foregoing as may be useful or convenient in connexion therewith or incidental thereto (all of which are hereinafter called "the said pipeline works") in on under or over such land also to use and operate the said pipeline works for all purposes of water supply or drainage also to inspect patrol cleanse flush maintain repair alter cut off add to replace remove reconstruct or change the size and number of the said pipeline works or any part thereof and also during the progress of any works in connexion with any of the foregoing to remove from or deposit or place and

SCHEDULE TWO A.—continued.

Column 1. Purpose for which easement appropriated or set apart.	Column 2. Rights and benefits vested in the Commission.
Channel	<p>allow to remain on or along such land or any part thereof all timber earth soil stone gravel or other substance matter or thing which may be required removed or excavated in clearing digging cutting excavating or using such land or any part thereof and also to go pass and repass for all the purposes aforesaid either with or without plant machines vehicles equipment or materials through over and along such land.</p> <p>Full and free right and liberty to and for the Commission and its transferees and its and their servants agents and workmen at all times hereafter to enter in and upon the land to which the easement applies and to take onto or to remove from such land any plant machines vehicles equipment or materials and to clear such land of obstructions and to dig cut and excavate such land and to construct one or more water channels or any ancillary works useful in connexion with or incidental thereto including but without limiting the generality thereof all bridges siphons inlets outlets regulators controlling devices meters communication power and telemetry devices including any buried cables useful in connexion therewith culverts subways pipes fittings drains and all other equipment and appurtenances whether or not similar to the foregoing as may be useful or convenient in connexion therewith or incidental thereto (all of which are hereinafter called "the said channel works") through in and upon such land and in such manner and of such width depth and nature as the Commission or its transferees may deem advisable also to use and operate the said channel works for all purposes of water supply or drainage also to inspect patrol cleanse flush maintain repair alter cut off add to replace remove reconstruct or change the size and number of the said channel works or any part thereof and also during the progress of any works in connexion with any of the foregoing to remove from or deposit or place and allow to remain on or along such land or any part thereof all timber earth soil stone gravel or other substance matter or thing which may be required removed or excavated in clearing digging cutting excavating or using such land or any part thereof and also to go pass and repass for all the purposes aforesaid either with or without plant machines vehicles equipment or materials through over and along such land.</p>
Carriageway	<p>Full and free right and liberty to and for the Commission and its transferees and its and their servants agents workmen and visitors to enter in and upon the land to which the easement applies and to go pass and repass at all times hereafter and for all purposes and either with or without plant machines vehicles equipment or materials through over and along such land or any part thereof TOGETHER WITH the right for the Commission and its transferees and its and their servants agents or workmen to lay construct maintain and repair a road on such land or any part thereof.'</p>

3. (1) For sections 65A and 65B of the Principal Act there shall be substituted the following sections :—

“ 65A. (1) After providing for—

Appropriation
of water for
irrigation.

(a) a supply of water in accordance with section 65 ; and

(b) estimated losses of water from the works of the district—
the remainder of the quantity of water assigned to an irrigation district may be appropriated by the Commission for irrigation.

(2) Not less than one-third nor more than three-fourths of the remainder may be apportioned as basic water rights *pro rata* on the basis of area to all lands (exclusive of swamp lands and other lands unfit for irrigated culture) commanded by gravitation with water from the works constructed for the supply of the district.

65B. (1) In addition to basic water rights the Commission may, subject to and in accordance with the provisions of sub-section (2) and the provisions of sections 65C and 65D, apportion extra water rights.

(2) Where the volume of water apportioned to any land as a basic water right is reduced the Commission shall, unless it otherwise agrees with the owner, forthwith apportion to the said land a volume of water equal to such reduction in volume as an extra water right.

(3) Save as otherwise expressly provided, extra water rights apportioned to any land shall not be reduced except—

(a) to such extent as is approved by the Commission at the request of the occupier if the occupier is the owner, or of the occupier and the owner if the occupier is not the owner ; or

(b) where pursuant to a revision of the appropriate register the basic water right apportioned to such land or to any other land conjoined therewith for the purposes of Schedule Three B is increased, to the extent that the total basic and extra water rights apportioned to such lands would otherwise exceed the total volume of water rights apportionable under Schedule Three B.”

(2) After section 65E of the Principal Act there shall be inserted the following section :—

“ 65F. (1) The occupiers or owners of lands to which water rights are apportioned shall be liable to an annual charge in respect of the supply of water for the irrigation of such lands as hereinafter provided.

(2) In addition to the quantities of water supplied to any land in respect of water rights the Commission may at the request of the owner or occupier of such land sell to such owner or occupier water for irrigation at a charge per unit of volume fixed for the district by by-law.

(3) The Commission shall be deemed to have apportioned as basic water rights at the commencement of this Act a volume of water to all lands (exclusive of swamp lands and other lands unfit for irrigated culture) situated within any irrigation district and commanded by gravitation with water from the works constructed for the supply of the district in accordance with the following Table :—

TABLE.

Goulburn-Murray Irrigation District	One acre-foot of water for every three acres of land
Macalister Irrigation District ..	One acre-foot of water for every two acres of land
Bacchus Marsh Irrigation District ..	One acre-foot of water for every acre of land
Campaspe Irrigation District ..	One acre-foot of water for every three acres of land
Merbein Irrigation District ..	Three acre-feet of water for every acre of land
Nyah Irrigation District ..	Two and a half acre-feet of water for every acre of land
Red Cliffs Irrigation District ..	Three acre-feet of water for every acre of land
Robinvale Irrigation District ..	Two and a half acre-feet of water for every acre of land
Tresco Irrigation District ..	Two acre-feet of water for every acre of land
Werribee Irrigation District ..	One acre-foot of water for every acre of land

(4) The Commission shall be deemed to have apportioned at the commencement of this Act a volume of water to any land in respect of which immediately before the commencement of this Act additional special extra water rights were in force so that the total volume of water deemed to have been apportioned to that land as basic and extra water rights shall equal the total volume of water apportioned to the land as basic additional special and extra water rights and in force immediately before the commencement of this Act.

(5) All water rights in force immediately before the commencement of this Act shall lapse on the said commencement."

Amendment of
No. 6413 s. 76.
Special rates
for lands held
under grazing
licences.

4. (1) In sub-section (5) of section 76 of the Principal Act for the expression "referred to in paragraph (a) of sub-section (2) of section 360" there shall be substituted the expression "granted under section 130 of the *Land Act* 1958 or any corresponding previous enactment".

(2) In

(2) In sub-section (6) of section 332 of the Principal Act for the expression "referred to in paragraph (a) of sub-section (2) of section three hundred and sixty of this Act" there shall be substituted the expression "granted under section 130 of the *Land Act 1958* or any corresponding previous enactment".

5. After sub-section (2A) of section 93 of the Principal Act there shall be inserted the following sub-sections :—

Amendment of
No. 6413 s. 93.

"(2B) Where there are works for pumping and conveying groundwater (as defined in the *Groundwater Act 1969*) for drainage of lands in any irrigation district an additional drainage rate may be made and shall be based on the volume of water apportioned to lands within the district or which could be apportioned thereto in accordance with the provisions of section 65C and Schedule Three B and section 65D.

Additional
drainage rate.

(2C) The additional drainage rate in a district shall be such as shall be necessary to provide the sums required for—

- (a) the maintenance and management of works for pumping and conveying groundwater ;
- (b) interest on the cost of such works ;
- (c) a redemption contribution of the same amount as would be required if such works were works for the supply of water to a waterworks district ; and the provisions of section 82 shall with such adaptations as are necessary extend and apply accordingly ;
- (d) accruing maintenance and future renewals of the works.

(2D) An additional drainage rate shall be made in the manner provided in sub-sections (5) and (5A) and the provisions of sub-sections (6) and (7) shall apply to any additional drainage rate and any by-law making such a rate.

(2E) The provisions of sub-sections (3) and (4) shall not apply to an additional drainage rate."

6. In paragraph 3 of sub-section (1) of section 129 of the Principal Act for the words "one other commissioner" there shall be substituted the words "other commissioners not exceeding three in number".

Amendment of
No. 6413 s. 129.
Membership
of waterworks
trusts.

7. After sub-section (2) of section 184 of the Principal Act there shall be inserted the following sub-section :—

Amendment of
No. 6413 s. 184.

"(2A) The provisions of sections 160A and 160B apply to employes of a local governing body as if such a body were a waterworks trust."

Sections 160A
and 160B apply
to employes of
local governing
body.

8. (1) After

8. (1) After sub-section (4) of section 204 of the Principal Act there shall be inserted the following sub-section:—

“(5) The provisions of this section shall apply to the grant of licences and permits for the diversion or taking of water from the River Murray for use in Victoria and to and in relation to such licences and permits.”

(2) After sub-section (2) of section 6 of the Principal Act there shall be inserted the following sub-section:—

“(3) The provisions of this section shall apply to and in relation to the diversion or appropriation of any water from the River Murray for use in Victoria.”

(3) In paragraph (c) of sub-section (1) of section 378 of the Principal Act after the word “river” there shall be inserted the expression “(including the River Murray)”.

(4) After sub-section (1) of section 378 of the Principal Act there shall be inserted the following sub-section:—

“(1A) Where any person erects any works for the purpose of illegally taking or diverting water from the River Murray the Commission may require the owner to remove those works and if he does not do so within 30 days of being so required the Commission may demolish remove and sell them.”

9. Sub-section (1c) of section 322 of the Principal Act shall be repealed.

10. After section 327 of the Principal Act there shall be inserted the following sections:—

Amendment of
No. 6413.
New section
inserted.

Transfer of
works, &c., and
adjustment of
liabilities.

“327A. (1) The Governor in Council may by Order published in the *Government Gazette*—

(a) transfer to an Authority or to the Melbourne and Metropolitan Board of Works any land easements works property powers rights liabilities and obligations of any other Authority;

and may by the same or a subsequent Order or Orders—

(b) adjust the respective liabilities of the Authorities in such manner as he thinks fit in consequence of the transfer of the said land easements works property powers rights liabilities and obligations; and

(c) where the Authority has no further function, abolish the Authority or in the case of a transfer from the Commission abolish a district or part of a district.

(2) An

(2) An Order under this section shall not render defective any legal proceedings by or against an Authority and any legal proceedings which might have been continued or commenced against an Authority in relation to land easements works property powers rights liabilities or obligations which have been transferred may be continued or commenced against the Authority to which such lands easements works property powers rights liabilities or obligations were transferred.

(3) Entries relating to the adjustment of liabilities pursuant to any such Order shall be made in the appropriate accounts kept in the Treasury and by the Authorities concerned.

327B. (1) Where any building structure crop improvement vehicle boat or other thing is constructed or placed or found on any land or water vested in or controlled by any Authority notice requiring its removal within 21 days may be given to the owner thereof or where after reasonable inquiries the owner is unknown or cannot be found such notice may be posted on some conspicuous part of the building structure crop improvement vehicle boat or thing or in a conspicuous place as close as practicable thereto.

(2) Where any building structure crop improvement vehicle boat or thing required to be removed by a notice given under sub-section (1) is not so removed—

(a) the owner thereof shall be guilty of an offence against this Act ;

(b) the Authority may itself remove the building structure crop improvement vehicle boat or thing and may recover from the owner the expenses incurred by it in so doing in any court of competent jurisdiction as a debt.

(3) Any building or other material salvaged by an Authority acting in accordance with sub-section (2) may be sold by the Authority and the proceeds of the sale applied towards payment of the expenses incurred by the Authority in that behalf."