

VICTORIA.



ANNO VICESIMO QUARTO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 8688.

An Act to amend the *Water Act* 1958 and the *River Murray Waters Act* 1915 and for other purposes.

[2nd May, 1975.]

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 *Water (Amendment) Act* 1975. Short title.

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

Principal Act
No. 6413.
Reprinted to
No. 7590.
Subsequently
amended by
Nos. 7781, 7789,
7876, 8022, 8046,
8082, 8168, 8181,
8186, 8353, 8395,
8506, 8515, 8531,
S.R. 131/1973,
S.R. 350/1973.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-
ment.

3. (1) Section 29 of the Principal Act shall be amended as follows:— Amendment of
No. 6413 a. 29.

(a) In sub-section (1) for the words "or drainage" (where twice occurring) there shall be substituted the words "drainage flood protection or river improvement";

(b) In

- (b) In sub-section (2) after the word "constructed" there shall be inserted the words "and any lands required for the protection of such works or for securing or improving the water to be supplied therefrom or the quality or purity thereof which the Commission has taken possession of";
- (c) After sub-section (2) there shall be inserted the following sub-sections :—

"(3) The Minister shall give at least 30 days notice before the Commission proposes to commence constructing works on or taking possession of—

(a) reserved forest (within the meaning of the *Forests Act 1958*), to the Minister of Forests ;

(b) any other Crown land, to the Minister of Lands—

and shall not commence such works or take possession of such land if the appropriate Minister refuses to consent thereto.

(4) Where the property in any Crown land—

(a) reserved from sale for any public purpose under the *Land Act 1958* or any corresponding previous enactment ; or

(b) reserved or proclaimed as a road street or highway under any Act—

is vested in the Commission pursuant to sub-section (2) (whether before or after the commencement of the *Water (Amendment) Act 1975*) the Commission may give notice in the *Government Gazette* of such vesting, describing the land concerned and any such reservation or proclamation in respect of such land shall thereupon be revoked and any Crown grants insofar as they relate to such land shall be revoked made void and annulled.

(5) Where any land referred to in paragraph (a) of sub-section (3) or paragraph (a) of sub-section (4) is vested in trustees in trust for the purpose for which such land was reserved or is administered by a committee of management, the Commission shall pay to such trustees or committee by way of compensation such sum as is agreed to by the Minister of Forests or the Minister of Lands (as the case may be) and the trustees or committee shall apply the sum so paid towards the maintenance and improvement of the reserved lands which remain vested in the trustees or continue to be

administered

administered by the committee of management or towards such other purpose or purposes as may be approved by such Minister.

(6) Where the property in any Crown land is vested in the Commission the Governor in Council on the recommendation of any Minister of the Crown and after consultation with the Minister of Water Supply may at any time by Order resume the whole or any part of the land for any public purpose and thereupon such land shall be deemed to be surrendered to the Crown discharged from all encumbrances other than those specified in the Order."

(2) In paragraph (c) of sub-section (1) of section 307 of the Principal Act for the words "or for the transfer to or exchange with any public authority for railway or road purposes" there shall be substituted the words "or for the transfer to or exchange with the Crown or any public authority for railway or road or any other public purposes".

Amendment of
No. 6413 s. 307.

(3) For section 15 of the *River Murray Waters Act* 1915 there shall be substituted the following section:—

Amendment of
No. 2596.

"15. (1) The construction maintenance operation and control pursuant to this Act and the Agreement of works and the carrying out of operations referred to therein by or on behalf of the Government of Victoria and the acquisition of any land necessary for the construction maintenance operation and control of such works or the protection of such works or for securing or improving the water to be supplied therefrom or the quality or purity thereof shall be carried out by the State Rivers and Water Supply Commission.

Construction of
works &c. on
behalf of
Government of
Victoria.

(2) For the said purposes so far as is necessary to give effect to this Act and the Agreement the State Rivers and Water Supply Commission may exercise all the powers authorities and privileges (subject to the like conditions) conferred upon it by the *Water Act* 1958."

4. In section 38 of the Principal Act for the expression "\$10,000" there shall be substituted the expression "\$100,000".

Amendment of
No. 6413 s. 38.

5. After section 41 of the Principal Act there shall be inserted the following section:—

Amendment of
No. 6413.
New section.
Inserted.

"41A. (1) No person, municipal council or public authority shall cause any drainage works to be connected to any works of the Commission or permit any drainage works to discharge into any works of the Commission unless the Commission has certified that the works are suitable for the acceptance of the additional water which is likely to enter them from such drainage works.

Drainage works
not to be
connected to
works of the
Commission
without
permission.

(2) Where

(2) Where certification has been obtained from the Commission under sub-section (1) any work carried out shall be carried out to the satisfaction of the Commission."

Amendment of
No. 6413
s. 47 (2) (c).

6. Paragraph (c) of sub-section (2) of section 47 of the Principal Act shall be amended as follows :—

- (a) In sub-paragraph (i) the words " or any urban division thereof " shall be repealed ;
- (b) In sub-paragraph (ii) the words " or any urban district thereof " shall be repealed ;
- (c) After sub-paragraph (iv) there shall be inserted the following sub-paragraphs :—
 - " (v) any urban district ;
 - (vi) any rural district."

Amendment of
No. 6413
s. 66 (1).]

7. In sub-section (1) of section 66 of the Principal Act—

- (a) after the words "net annual value" there shall be inserted the words "or two-tenths of a cent in the dollar of site value"; and
- (b) for the words "one acre foot" there shall be substituted the words "one megalitre".

Amendment of
No. 6413
s. 83 (1).

8. (1) In sub-section (1) of section 83 of the Principal Act for the expression "district or division (other than an irrigation district)" there shall be substituted the expression "flood protection, drainage or waterworks district (other than the Bellarine Peninsula, Otway and Mornington Peninsula Waterworks Districts)".

New section
inserted.

(2) After section 83 of the Principal Act there shall be inserted the following section :—

Water Supply
Maintenance
and Renewals
Account.

' 83A. (1) There shall be established and kept in the Treasury in the Public Account as part of the Trust Fund a trust account to be called the Water Supply Maintenance and Renewals Account (hereinafter in this section called "the Account").

(2) Where in any urban district, rural district or the Bellarine Peninsula, Otway or Mornington Peninsula Waterworks District, the whole or any part of the works for the supply of water consists of machinery, plant or perishable structure, the Commission shall in every year raise by means of any rate or charge which it is authorized to make and levy in addition to any other sums which may properly be raised thereby, such sums as the Minister directs not exceeding seven and one-half per centum of the cost of such machinery plant or perishable structure.

(3) As soon as practicable after the 30th June, 1975 and as soon as practicable after the 30th June in each year thereafter, the Auditor-General shall furnish to the Treasurer a certificate in respect of each district referred to in sub-section (2) showing—

- (a) the sum directed by the Minister to be raised in accordance with the said sub-section in the preceding financial year ;
- (b) the

- (b) the amount (if any) by which the total of the sums directed by the Minister to be raised in accordance with the said sub-section since the 1st July, 1974, exceeds the total of amounts previously certified as available for transfer to the Account ;
- (c) the total of the cash surplus in the accounts of the district accumulated since the 1st July, 1974 ; and
- (d) the amount available for transfer to the Account, being the lesser of the amounts specified in paragraphs (b) and (c).

(4) In determining the cash surplus for any district the Auditor-General shall take into account any cash deficiency standing to the debit of such district unless that cash deficiency was incurred prior to the 1st July, 1974.

(5) Forthwith on receipt of a certificate furnished by the Auditor-General under sub-section (3) the Treasurer shall pay from the Consolidated Fund to the Account the amount shown on the certificate as the amount available for transfer to the Account and the amount so payable shall to the necessary extent be appropriated accordingly.

(6) Where the cost of the construction of any works in any urban or rural district, the Bellarine Peninsula Waterworks District, the Mornington Peninsula Waterworks District or the Otway Waterworks District is contributed either in whole or in part by any person or statutory body, the Commission shall receive from such person or body such amount as the Commission thinks necessary for the purpose of maintaining and renewing such works in perpetuity and any sum so received shall be paid to the credit of the Account.

(7) Any sum standing to the credit of the Account shall be available and used only on the written sanction of the Minister and for the purpose of paying for renewals and maintenance of any machinery plant or perishable structure for the supply of such districts.

(8) The Account, to the extent to which it is not immediately required, shall be invested and credited with interest earned in each year.

(9) The balances in the Water Supply Works Depreciation Account in the books of the Commission as at the commencement of the *Water (Amendment) Act 1975*, in respect of any urban or rural district, the Bellarine Peninsula Waterworks District, the Mornington Peninsula Waterworks District or the Otway Waterworks District shall be applied to reduce the cost of works charged to the district concerned in the books of accounts of the Commission.

Amendment of
No. 6413.
New section
inserted.

Offence to
divert water
from a holding
without
permission.

9. After section 91D of the Principal Act there shall be inserted the following section :—

‘91E. (1) Where water is supplied by the Commission to any holding within any irrigation district, any person who diverts such water or causes or permits such water to be diverted from that holding or to be received on any other land shall, unless permission has been obtained in writing from the Commission, be guilty of an offence.

Penalty : \$500 or imprisonment for a term of not more than six months.

(2) For the purposes of this section “holding” means the lands comprised in any single entry in the appropriate register of lands in force at the relevant time.’

Amendment of
No. 6413 s. 92.

10. (1) At the end of sub-section (8) of section 92 of the Principal Act there shall be inserted the following words :—

“and by the same or any other Order published in the *Government Gazette* may provide for the disposition of all the existing works and property of such district.”

(2) After sub-section (8) of section 92 of the Principal Act there shall be inserted the following sub-section :—

“(9) An Order under sub-section (8) may contain such other provisions (including provision for the transfer of loan and other financial liabilities) as the Governor in Council having regard to circumstances, thinks fit.”

Amendment of
No. 6413
s. 143 (2).

11. For paragraph (a) of sub-section (2) of section 143 of the Principal Act there shall be substituted the following paragraph :—

“(a) shall not in any year be less than \$20 nor more than \$250 where the revenue of the trust does not exceed \$250,000, but where the revenue of the trust in any year exceeds \$250,000, shall not be more than one-tenth of one per centum of that revenue ;”.

Amendment of
No. 6413
s. 164A.

12. (1) Section 164A of the Principal Act is hereby amended as follows :—

(a) In sub-section (4) for the word “by-law” there shall be substituted the words “resolution of the waterworks trust” ;

(b) In sub-section (6) for the words “Governor in Council” there shall be substituted the words “waterworks trust”.

New section
inserted.

(2) After section 164A of the Principal Act there shall be inserted the following section :—

Certificate of
waterworks
trust *prima facie*
evidence of rate.

“164B. In any proceedings to recover any rate a certificate under the common seal of the waterworks trust shall be *prima facie* evidence of the rate and of all matters stated therein relating to the rate.”

13. (1) Section

13. (1) Section 165 of the Principal Act is hereby amended as follows:— Amendment of
No. 6413 s. 165.

- (a) For the expression “ 165 ” there shall be substituted the expression “ 165. (1) ” ;
- (b) For the expression “ the net annual value or (where Part XI. of the *Local Government Act* 1958 has been adopted in the municipality) either the net annual value or the unimproved capital value ” there shall be substituted the expression “ the net annual value or (subject to sub-section (2)) the unimproved capital value or the site value ” ;
- (c) At the end of the section there shall be inserted the following sub-sections :—

“ (2) Except where rates levied under the *Local Government Act* 1958 throughout the waterworks district are based on the unimproved capital value or site value (as the case may be) of rateable property in whole or in part, the waterworks trust will not adopt the unimproved capital value or site value of the lands and tenements within its district for the purpose of making and levying such rate unless—

- (a) it publishes in a newspaper generally circulating in the waterworks district a notice stating—
 - (i) that the trust proposes that rates under this Act shall be levied on the basis of such unimproved capital value or site value (as the case may be) ;
 - (ii) that ratepayers may by writing under their hands addressed to the chairman of the trust and delivered at the office of the trust within one month after the date of the publication of the notice demand that the proposal to change the basis of value upon which rates are to be levied be submitted to a poll ; and

(iii) that

(iii) that if no such demand for a poll is made the trust will proceed to levy rates upon such unimproved capital value or site value (as the case may be); and

(b) no demand for a poll has been received within one month of the publication of the notice or a poll has been conducted by the trust and a majority of ratepayers support the adoption of the unimproved capital value or site value (as the case may be) of lands and tenements within the district for the purpose of making and levying such rate.

(3) If one-tenth of the ratepayers in writing under their hands addressed to the chairman of the trust and delivered to the office of the trust within one month after the date of the publication of the notice referred to in sub-section (2) demand that the proposal to rate upon the basis of unimproved capital value or site value be submitted to a poll the trust shall forthwith conduct a poll.

(4) The amount necessary to meet the costs and expenses of the poll may be applied by the trust out of the revenue it receives under this Act."

Amendment of
No. 6413 s. 256.

(2) Section 256 of the Principal Act is hereby amended as follows :—

- (a) For the expression "256." there shall be substituted the expression "256. (1)";
- (b) For the expression "the net annual value or (where Part XI. of the *Local Government Act* 1958 has been adopted in the municipality) either the net annual value or the unimproved capital value" there shall be substituted the expression "the net annual value or (subject to sub-section (3) or sub-section (4)) the unimproved capital value or the site value";
- (c) For the expression "Provided that where" there shall be substituted the expression "(2) Where";
- (d) For the expression "Provided further that where" there shall be substituted the expression "(3) Where";
- (e) At the end of the section there shall be inserted the following sub-sections :—

"(4) Except where sub-section (3) applies or where rates levied under the *Local Government Act*

1958 throughout the urban district or rural district are based on the unimproved capital value or site value (as the case may be) of rateable property in whole or in part, the Authority will not adopt the unimproved capital value or the site value of the lands and tenements within its urban district or rural district for the purpose of making and levying such rate unless—

- (a) it publishes in a newspaper generally circulating in such district a notice stating—
 - (i) that the Authority proposes that rates under this Act shall be levied on the basis of such unimproved capital value or site value (as the case may be);
 - (ii) that ratepayers may by writing under their hands addressed to the secretary of the Authority and delivered to the office of the Authority within one month after the date of the publication of the notice demand that the proposal to change the basis of value upon which rates are to be levied be submitted to a poll; and
 - (iii) that if no such demand for a poll is made the Authority will proceed to levy rates upon such unimproved value or site value (as the case may be); and
 - (b) no demand for a poll has been received within one month of the publication of the notice or a poll has been conducted by the Authority and a majority of ratepayers support the adoption of the unimproved capital value or site value (as the case may be) of lands and tenements within the urban district or rural district for the purpose of making and levying such rate.
- (5) If one-tenth of the ratepayers in writing under their hands addressed to the secretary of the Authority and delivered to the office of the

Authority

Authority within one month after the date of the publication of the notice referred to in sub-section (4) demand that the proposal to rate upon the basis of unimproved capital value or site value be submitted to a poll the Authority shall forthwith conduct a poll.

(6) The amount necessary to meet the costs and expenses of the poll may be applied by the Authority out of the revenue it receives under this Act."

Amendment of
No. 6413.
Site value.
S. 61.

(3) The Principal Act shall be amended as follows:—

(a) In section 61—

(i) after the words "unimproved capital value" (where first occurring) there shall be inserted the words "or site value";

(ii) after the words "unimproved capital value" (where second occurring) there shall be inserted the expression "or site value" (as the case may be);

S. 78.

(b) In sub-section (1) of section 78 after the words "unimproved capital values" there shall be inserted the words "or site values";

S. 78.

(c) In sub-section (2) of section 78 after the words "unimproved capital value" there shall be inserted the expression "or site value (as the case may be)";

S. 164.

(d) For sub-section (2) of section 164 there shall be substituted the following sub-section:—

"(2) Any such rate shall not exceed ten cents in the dollar of the net annual value, one and two-thirds cents in the dollar of the unimproved capital value or five-sixths of a cent in the dollar of the site value (as the case may be).";

S. 252.

(e) In sub-section (2) of section 252 after the words "unimproved capital value" there shall be inserted the words "or site value";

S. 256a.

(f) In sub-section (1) of section 256B for the words "or the unimproved capital value" there shall be substituted the words "the unimproved capital value or the site value";

S. 256c.

(g) After paragraph (b) of sub-section (2) of section 256c there shall be inserted the following paragraph:—

"(ba) a uniform amount in the dollar of the site value of each holding.";

(h) In

- (h) In sub-section (1) of section 333 for the words " or the unimproved capital value " there shall be substituted the words " the unimproved capital value or the site value " ; S. 333.
- (i) In sub-section (1) of section 334 for the words " or the unimproved capital value thereof " there shall be substituted the words " the unimproved capital value or the site value thereof " ; S. 334.
- (j) In the Eleventh Schedule for the words " or unimproved capital value " there shall be substituted the words " unimproved capital value or site value ". Eleventh Schedule.

14. (1) In paragraph (d) of section 165 of the Principal Act for the words " by Order of the Governor in Council " there shall be substituted the words " by the Valuer-General ". Amendment of No. 6413 ss. 165, 256b, 367.

(2) In sub-section (4) of section 256b of the Principal Act for the words " by Order of the Governor in Council " there shall be substituted the words " by the Valuer-General ". Fixing of sums to be paid by Waterworks Trusts and authorities to municipal councils in respect of valuations.

(3) At the end of section 367 of the Principal Act there shall be inserted the following :—

" Nothing in this section shall affect the liability of any waterworks trust under the provisions of paragraph (d) of the proviso to section 165."

15. Section 185 of the Principal Act shall be amended as follows :— Amendment of No. 6413s. 185.

- (a) In sub-section (1) for the word " nine " there shall be substituted the word " ten " ;
- (b) In paragraph (a) of sub-section (2) for the words " city of Ballarat shall from time to time elect four of such commissioners " there shall be substituted the words " city of Ballarat shall from time to time elect three of such commissioners " ;
- (c) For paragraphs (b) and (c) of sub-section (2) there shall be substituted the following paragraph :—
- " (b) the council of the borough of Sebastopol and the councils of the shires of Buninyong, Grenville, Ballarat and Bungaree shall each from time to time elect one of such commissioners who shall be so elected by a majority of the whole of the members of such council " ;
- (d) In paragraph (d) of sub-section (2) for the word " three " there shall be substituted the word " two " ;

(e) In

- (e) In paragraph (a) of sub-section (3) for the words "city of Ballarat" there shall be substituted the words "city of Ballarat or the borough of Sebastopol or any of the shires of Buninyong, Grenville, Ballarat and Bungaree";
- (f) Paragraphs (b) and (c) of sub-section (3) shall be repealed; and
- (g) In sub-section (5) for the word "two" there shall be substituted the word "three".

Amendment of
No. 6413.
S. 252 (2).

16. The Principal Act shall be amended as follows:—

(a) In sub-section (2) of section 252 for the word "Division" there shall be substituted the word "section";

S. 254 (1).

(b) In sub-section (1) of section 254 for the words "shall be made by by-law" there shall be substituted the following expression:—

"(a) by the Commission, shall be made by by-law;
(b) by any other Authority, shall be made by resolution of that Authority";

S. 254 (2).

(c) In sub-section (2) of section 254 for the words "The Authority may by by-law" there shall be substituted the words "The Commission may by by-law and any other Authority may by resolution";

New section
inserted.

(d) After section 256c there shall be inserted the following section:—

"256d. In any proceedings to recover any rate made under this Division by an Authority (other than the Commission) a certificate under the common seal of the Authority shall be *prima facie* evidence of the rate and of all matters stated therein relating to the rate."

Certificate of
authority *prima*
facie evidence of
rate.

Amendment of
No. 6413 s. 304.

17. In sub-section (1) of section 304 of the Principal Act after the word "borrowed" where first occurring there shall be inserted the expression "for purposes other than the construction of any works pursuant to an agreement under section 307AA or pursuant to section 310A".

18. In sub-section (2) of section 305 of the Principal Act the words "for the loans incurred" shall be repealed.

Amendment of
No. 6413.
New section
inserted.

19. After section 327A of the Principal Act there shall be inserted the following section:—

Transfer of
works between
public bodies
and authorities.

"327AA. (1) A public authority (including a municipal council) may agree with an Authority for the transfer of works of water supply drainage or flood protection from the Authority to the public authority or from the public authority to the Authority.

(2) The

(2) The Governor in Council may, upon the application of the public authority and the Authority concerned, by Order published in the *Government Gazette*—

- (a) transfer any land easements works property powers rights liabilities and obligations agreed to be transferred pursuant to the agreement ; and
- (b) adjust respective liabilities of the public authority and the Authority in such manner as he thinks fit in consequence of the transfer of the said land easements works property powers rights liabilities and obligations.

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

(4) In this section “works of water supply drainage or flood protection” includes works of water supply drainage and flood protection constructed operated or maintained under this or any other Act and where any such works are vested in the Crown or in any Minister of the Crown the provisions of this section shall extend and apply in relation thereto as if the Crown or the Minister were a public authority.”

20. Sub-section (2) of section 330 of the Principal Act shall be repealed.

Amendment of
No. 6413
s. 330 (2).

21. (1) In paragraph (a) of sub-section (2) of section 333 of the Principal Act for the words “at all reasonable times” there shall be substituted the words “free of charge during office hours at the office of the Authority”.

Amendment of
No. 6413
s. 333 (2).

(2) After paragraph (a) of sub-section (2) of section 333 of the Principal Act there shall be inserted the following paragraph :—

- “(aa) As soon as may be after the rate is made the Authority shall publish notice in some newspaper circulating in the district of the Authority of the rate and of the place where such rate and estimate can be inspected.”

22. For section 377 of the Principal Act there shall be substituted the following section :—

Amendment of
No. 6413.

“377. Every person who without consent in writing of the Authority or without any other lawful authority destroys damages

Damage to
works &c. of
Authority an
offence.

alters

alters or in any way interferes with any reservoir dam weir tank cistern supply channel drainage channel tunnel watercourse aqueduct pipe sluice valve wheel meter measuring appliance bridge roadway engine guidepost handrail sign notice light or other work fixture or equipment of the Authority shall be liable to imprisonment for not more than ten years or to a penalty of not more than \$1,000 or to both such imprisonment and penalty."

Amendment of
No. 6413
s. 379A.

23. In sub-section (1) of section 379A of the Principal Act for the words "any person in the performance of his duty under this Act" there shall be substituted the words "any officer or employé of an Authority in the performance of his duties".

Amendment of
No. 6413.
New section
inserted.

24. After section 379AA of the Principal Act there shall be inserted the following section :—

Officer or
employé of an
Authority a
member of
police force
may in certain
circumstances
require a
person to
state his name
and address.

" 379AB. (1) Where any officer or employé of an Authority or any member of the police force has reasonable grounds for believing that a person has committed or is committing an offence against this Act or against regulations or by-laws made under this Act he may require that person to state his name and address.

Offence.

(2) A person who is required to state his name and address pursuant to this section and—

(a) who refuses to give his name and address ; or

(b) gives a false name or address—

shall be guilty of an offence against this Act.

Penalty : \$100."

Amendment of
No. 6413.
Schedule
Three B.

25. In Schedule Three B for that part of column 2 of Table 1 that relates to item 6 there shall be substituted the following :—

"Holding in the vicinity of the Waranga Western Channel or the Pyramid No. 1 Channel comprising the whole or part of allotments of land coloured blue on plan No. 87581 sealed by the Commission."