

WATER SUPPLY AUTHORITIES ACT 1987 No. 140

NEW SOUTH WALES



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WATER SUPPLY AUTHORITIES ACT 1987 No. 140

NEW SOUTH WALES



Act No. 140, 1987

An Act to constitute Water Supply Authorities; to confer and impose on them functions relating to the supply of water and the provision of sewerage and drainage services; and for other purposes. [Assented to 16 June 1987]

See also Water Board Act 1987; Clean Waters (Penalty Notices) Amendment Act 1987; Water Legislation (Repeal, Amendment and Savings) Act 1987.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title

1. This Act may be cited as the "Water Supply Authorities Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Interpretation

3. (1) In this Act—

"area", in relation to an Authority, means the area of operations of the Authority;

"authorised person" means an employee or other person acting on behalf of an Authority;

"Authority" means a Water Supply Authority;

"charging year", in relation to an Authority, means—

- (a) the period of 12 months declared by an order in force under section 28 to be the charging year for the Authority; or
- (b) if the charging year is changed under that section by a further order—the period between the end of one charging year and the beginning of the next;

"council" means the council of a city, municipality or shire;

"development", in relation to land, means—

- (a) the erection of a building on the land;
- (b) the carrying out of work in, on, over or under the land;

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(c) the use of the land or of a building or work on the land; or

(d) the subdivision of the land;

“development area” means an area of land declared by an order in force under section 28 to be a development area;

“drainage area” means an area of land declared by an order in force under section 28 to be a drainage area;

“employee” means a person employed under section 9;

“flood plain” means an area of land declared by an order in force under section 28 to be a flood plain;

“land” includes an easement or right over, through or above any land;

“lease” includes a licence or permit;

“member” means a member of an Authority;

“meter” includes any measuring device;

“Ministerial Corporation” means the Water Administration Ministerial Corporation constituted by the Water Administration Act 1986;

“owner”, in relation to land, includes every person who jointly or severally at law or in equity—

(a) is entitled to the land for an estate of freehold in possession;

(b) is a person to whom the Crown has contracted to sell the land under the Crown Lands Consolidation Act 1913 or any other Act relating to alienation of land of the Crown; or

(c) is entitled to receive, or receives, or if the land were let to a tenant would receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise,

and, in relation to land of the Crown, means the Crown;

“public road” means a road the public are entitled to use, whether or not it is—

(a) dedicated as a highway by the Crown or any person; or

(b) notified, proclaimed or dedicated as a road or highway under an Act;

“regulations” means regulations under this Act;

“river management area” means an area of land declared by an order in force under section 28 to be a river management area;

“service charge” means—

- (a) a water service charge;
- (b) a sewerage service charge;
- (c) a drainage service charge;
- (d) a loan service charge;
- (e) a developmental works service charge;
- (f) a flood mitigation service charge;
- (g) a river management service charge; or
- (h) a special industry service charge,

that may be levied under Part 4;

“special area” means an area of land declared under section 21 to be a special area;

“special industry” means an industry declared by an order in force under section 28 to be a special industry;

“statutory body” means a corporation that—

- (a) is not a company within the meaning of the Companies (New South Wales) Code; and
- (b) is not a society within the meaning of the Co-operation Act 1923, and is incorporated by or under an Act other than this Act;

(2) A reference in this Act to—

- (a) the erection of a building includes a reference to the rebuilding of, the making of structural alterations to, or the enlargement or extension of a building or the placing or relocating of a building on land;
- (b) the carrying out of a work includes a reference to the rebuilding of, the making of alterations to, or the enlargement or extension of a work;
- (c) a work includes a reference to any physical activity in relation to land that is specified by a regulation to be a work for the purposes of this Act but does not include a reference to any activity that is specified by a regulation not to be a work for the purposes of this Act;

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- (d) the subdivision of land is a reference to—
- (i) (without limiting the following provisions of this paragraph) the subdivision of land within the meaning of the Local Government Act 1919;
 - (ii) any other division of land into 2 or more parts which, after the division, would be obviously adapted for separate occupation, use or disposition; or
 - (iii) the redivision of land, by such a subdivision or by any other division, into different parts which, after the redivision, would be obviously adapted for separate occupation, use or disposition,
- and includes a reference to a subdivision effected under Division 1 of Part II of the Strata Titles Act 1973 or Division 1 of Part 2 of the Strata Titles (Leasehold) Act 1986; and
- (e) the carrying out of development includes a reference to the erection of a building, the carrying out of a work, the use of land or of a building or work, or the subdivision of land, as the case may require.
- (3) In this Act—
- (a) a reference to a function includes a reference to a power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Objects

4. (1) The objects of this Act are—
- (a) to ensure that the water and related resources within the area of an Authority are allocated and used in ways which are consistent with environmental requirements and provide the maximum long-term benefit for the area and the State; and
 - (b) to provide water and related services to meet the needs of users in a commercial manner consistent with the overall policies of the Government.
- (2) In exercising its functions, an Authority may have regard to such matters as it considers would be appropriate for the attainment of its objects including, but without limiting the generality of the foregoing—
- (a) promotion of efficient use of water resources;

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- (b) the necessity for integrated catchment management and planning of land use and the use of water resources;
 - (c) public interest and community needs;
 - (d) conservation of natural resources;
 - (e) pollution control and prevention; and
 - (f) efficient use of human, material and financial resources.
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PART 2**WATER SUPPLY AUTHORITIES****Water Supply Authorities**

5. (1) The corporations listed in Schedule 1 are Water Supply Authorities.

(2) A corporation listed in Part 1 of Schedule 1 is, for the purposes of any Act, a statutory body representing the Crown.

Constitution of Authorities

6. (1) The Governor may, by proclamation published in the Gazette—

- (a) name a Water Supply Authority proposed to be constituted under this section;
- (b) specify the number of members, the qualification for each member and whether or not the member is a full-time member or a part-time member; and
- (c) amend Schedule 1 by adding the name of the Authority to Part 1 of the Schedule.

(2) The members shall be appointed by the Governor and, upon their appointment, the Authority is constituted as a corporation.

(3) The corporate name for the Authority is the name of the Authority stated in the proclamation.

(4) On a change of area or functions for an Authority listed in Part 1 of Schedule 1, the Governor may, by proclamation published in the Gazette, change—

- (a) the number of part-time members of the Authority; or

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(b) the qualifications for part-time members of the Authority,
or may do both.

(5) A change referred to in subsection (1) does not affect the identity of the Authority.

Statutory body may be Water Supply Authority

7. (1) The Governor may, by proclamation made and published in the Gazette with the consent of the Minister administering the Act by or under which a statutory body is constituted, amend Schedule 1 by adding the name of the statutory body to Part 2 of the Schedule.

(2) On the addition of the name of a statutory body to Part 2 of Schedule 1, it becomes a Water Supply Authority but still has its other functions.

Schedules relating to Authorities

8. (1) Schedule 2 has effect with respect to the Hunter District Water Board.

(2) Schedule 3 has effect with respect to the Broken Hill Water Board.

(3) Schedule 4 has effect with respect to the Cobar Water Board.

(4) Schedule 5 has effect with respect to the members of the Authorities listed in Part 1 of Schedule 1.

(5) Schedules 2-4 do not affect the operation of the other provisions of this Act in relation to the Authorities to which the Schedules relate.

Employees

9. An Authority may employ such persons as are necessary to enable it to exercise its functions.

PART 3

FUNCTIONS OF AN AUTHORITY

DIVISION 1—*General***Exercise of functions by an Authority****10. (1)** An Authority—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act; and
- (b) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it) be subject to the control and direction of the Minister.

(2) If a function conferred or imposed on an Authority by this Act is inconsistent with a function conferred or imposed on the Authority by or under another Act, this Act prevails.

Exercise of right of Ministerial Corporation

11. If, for the purpose of exercising its functions it would be necessary for an Authority to exercise the right conferred on the Ministerial Corporation by section 12 of the Water Administration Act 1986, the Authority may exercise the right on behalf of the Ministerial Corporation.

General functions of an Authority**12. (1)** An Authority may, for the purposes for which it is constituted—

- (a) on behalf of the Ministerial Corporation, manage water resources and related resources;
- (b) provide, construct, operate, manage and maintain buildings and works, and systems and services for impounding, conserving and supplying water, for sewerage and drainage services and for the disposal of trade waste and waste water;
- (c) purchase, exchange, take on hire or lease, hold, dispose of, manage, use or otherwise deal with real or personal property;
- (d) enter into contracts;
- (e) generate revenue by levying and recovering charges, fees and capital contributions;
- (f) donate money, and otherwise provide, for community, recreation, welfare or education purposes;

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- (g) provide assistance to mitigate the effects of flood, drought, fire or other emergency or hardship, including assistance with funds, personnel or equipment or by the operation of works;
 - (h) effect and maintain insurances; and
 - (i) do anything incidental to the achievement of its objects.
- (2) To an extent not inconsistent with its other functions, an Authority may provide and manage for the purpose of public recreation and ancillary purposes any of its land or buildings.
- (3) No action or proceeding may be brought—
- (a) to compel an Authority to supply water; or
 - (b) to recover any penalty or damages from an Authority in respect of a failure to supply water.

Area of operations

13. (1) The area of operations of an Authority is such as may be prescribed for the Authority.
- (2) If a regulation so provides, an Authority has, and may exercise, in its area or a specified part of its area—
- (a) only such of the functions of an Authority as are specified in the regulation; or
 - (b) all functions of an Authority other than functions specified in the regulation.
- (3) A regulation made for the purposes of subsection (2) may make provision for or with respect to—
- (a) matters affecting revenue, assets, rights, liabilities and employees of an Authority; and
 - (b) procedures to be adopted for the purposes of paragraph (a).
- (4) Within the area of an Authority, a function under this Act may be exercised only by the Authority unless—
- (a) the function is exercisable by the Ministerial Corporation;
 - (b) the function is exercised by a statutory body with the consent of the Minister; or
 - (c) this Act provides otherwise.

(5) With the consent of the Minister, an Authority may exercise a function outside its area.

(6) Until a regulation is made for the purposes of subsection (1), the area of an Authority is the same as it was immediately before the commencement of this Act.

Assistance to statutory body

14. An Authority may, at the request of a statutory body and with the consent of the Minister, exercise any of the functions of the Authority in a part of its area in respect of which the statutory body may exercise different functions, even if, but for the request, the Authority would not have exercised the function.

Entry on land to carry out works

15. (1) An Authority may, by its employees and authorised persons—

- (a) enter and occupy land and there exercise any of its functions, including the carrying out of any work on, below or above the surface of the land;
- (b) divert water from, or alter the course of, a stream; and
- (c) impound or take water on, in or under the surface of any land.

(2) An Authority may, in accordance with the regulations, attach a ventilating shaft, pipe or tube for a sewer to the wall of a building.

(3) An Authority may remove or use anything dug up or obtained in the exercise of its powers under this section.

(4) An Authority—

- (a) shall do as little damage as practicable in exercising its powers under this section; and
- (b) shall compensate all persons who suffer damage by the exercise of the powers,

in relation to the land entered.

(5) Compensation may be made by reinstatement or repair, by construction of works or by payment.

(6) If an Authority provides a sewer, compensation is required only if—

- (a) the sewer causes injury to, or interference with, a building or other structure; or

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- (b) a manhole or main ventilator is constructed on the land.
- (7) A claim for compensation—
 - (a) is ineffective unless made in writing not later than 6 months after the damage was suffered; and
 - (b) in the absence of agreement on the compensation, shall be dealt with as if it were a claim for compensation for the acquisition of land for public purposes under the Public Works Act 1912.

Entry on land for inspections

- 16. (1) An Authority may, by its employees or by authorised persons—
 - (a) enter land or a building other than a dwelling-house; or
 - (b) enter a dwelling-house at any reasonable time during daylight.
- (2) An Authority shall not exercise the powers conferred by subsection (1) except for the purpose of finding out—
 - (a) the character and condition of the land or building;
 - (b) the condition or location of any pipe, sewer, drain, channel, fitting or other work used in connection with the land or building;
 - (c) whether any use, consumption, waste, misuse or undue consumption of water supplied by an Authority is occurring; or
 - (d) whether any offence against this Act has been, or is being, committed.
- (3) An Authority shall not exercise the powers conferred by subsection (1) unless—
 - (a) reasonable written notice of its intention to do so has first been given to the owner or occupier of the land, building or dwelling-house; or
 - (b) a prescribed employee authorises the entry after forming the opinion that the giving of the notice would cause undue delay.
- (4) Reasonable force may be used to enter land, or a building other than a dwelling-house, under this section.
- (5) If the powers of entry under this section are exercised—
 - (a) without notice being given; or
 - (b) by force,

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the Authority shall, without delay, notify such persons as it considers appropriate of the action taken.

(6) The Authority may, by notice in writing given to the owner or occupier of the land or building, require all defective or improper work discovered on an inspection to be repaired, altered or removed within 24 hours or such longer period as is stated in the notice.

(7) If a notice under subsection (6) is not complied with, the Authority may, by its employees or authorised persons, enter the land, building or dwelling-house and repair, alter or remove the defective or improper work.

(8) If a notice is given under subsection (6)—

- (a) the costs and expenses of the entry and inspection by the Authority; and
- (b) if the notice is not complied with, the costs and expenses of the Authority in acting under subsection (7),

are recoverable from the owner or occupier as a service charge.

(9) If, on an inspection under this section—

- (a) no defective or improper work is discovered;
- (b) no waste, misuse or undue consumption of water supplied by the Authority is occurring; and
- (c) no offence against this Act is discovered,

the Authority shall make good any damage or disturbance caused by it for the purposes of the inspection.

(10) In exercising its powers under this section, an Authority shall do as little damage as practicable.

Power to break up roads

17. (1) An Authority may, on giving the prescribed notices, open and break up—

- (a) the soil and pavement of a public road or public reserve; and
- (b) any sewer, drain or tunnel in or under a public road or public reserve,

for the purpose of exercising its functions.

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(2) The statutory body having the control and management of a public road or public reserve may, as prescribed, require an Authority to comply with conditions in exercising its powers under subsection (1), including conditions for restoration of the surface and removal of rubbish.

(3) If a public road or public reserve is damaged by a leakage from, or a bursting of, a main of an Authority, the statutory body having the control and management of the public road or public reserve may require the Authority to make good the damage without delay.

(4) If an Authority fails—

- (a) to comply with a condition in force under subsection (2); or
- (b) to comply with a requirement under subsection (3),

the statutory body affected by the failure may remedy it and recover the cost of doing so as a debt owed to the statutory body by the Authority.

Altering position of conduit of another

18. (1) If—

- (a) an Authority, in order to exercise its functions, needs an alteration to be made in the position of a conduit owned by another person; and
- (b) the alteration would not permanently damage the conduit or adversely affect its operation,

the Authority may serve on the person a written notice that complies with subsection (2).

(2) A notice must—

- (a) specify the alteration needed;
- (b) require the alteration to be made within a reasonable time stated in the notice; and
- (c) include an undertaking by the Authority to pay the reasonable cost of the alteration.

(3) If the alteration is not made as required by the notice, the Authority may make the alteration in such a manner as not to damage the conduit permanently or adversely affect its operation on completion of the alteration.

(4) In this section, “conduit” means anything that is in or under a public road and is used for the conveyance of a substance, energy or signals.

Obstruction of works

19. (1) If a person places a structure or other thing in or near a work of an Authority in such a manner as to interfere with the work, the Authority may—

- (a) demolish and remove the structure or other thing;
- (b) repair the work; and
- (c) recover the cost of doing so as a debt owing to the Authority by the person who placed the structure or other thing there.

(2) An Authority may apply for and obtain an injunction to prevent a structure or other thing being placed as referred to in subsection (1).

Finding source of pollution of water supply

20. (1) If water supplied by an Authority is being polluted, the Authority may, after the expiration of the prescribed period of notice given to the prescribed persons, dig up the ground and try to find the source of the pollution.

(2) Section 17 applies to the opening of a public road for the purposes of this section in the same way as it applies for other purposes.

(3) If it is found that a person given notice under this section is not responsible for the pollution, the Authority shall bear the expenses of—

- (a) the digging, examination, repair and reinstatement of the broken ground; and
- (b) the repair of any damage caused by the Authority to the property of the person.

(4) An Authority may recover the expenses incurred by it as a debt due to the Authority by any person responsible for the pollution.

Special areas

21. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette, declare an area of land described in the order to be a special area for an Authority.

(2) The Minister may recommend an order only if of the opinion that the exercise of the right conferred on the Ministerial Corporation by section 12 of the Water Administration Act 1986 in relation to the use, flow and control of water could be adversely affected unless the order is made.

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(3) A proclamation of a catchment area in force immediately before the commencement of this Act shall be deemed to be an order in force under this section declaring the area to be a special area.

Crown land in special areas

22. (1) Action may not be taken under the Crown Lands Consolidation Act 1913 in respect of land within a special area for an Authority unless—

- (a) an Authority has given its approval in writing; and
- (b) any conditions to which the approval is subject are complied with.

(2) An Authority may, in a special area, exercise the functions of a trustee appointed under Part IIIB of the Crown Lands Consolidation Act 1913 without being appointed as such.

Exercise of certain functions in special areas

23. (1) A public agency may not, in relation to land within a special area for an Authority, exercise functions other than functions under this Act unless notice is first given as prescribed to the Authority.

(2) On receipt of such a notice, the Authority may make such representations to the public agency as it thinks fit.

(3) A public agency may not exercise functions contrary to any such representations made by an Authority unless—

- (a) not less than 14 days' notice has been given to the Authority of the functions intended to be exercised; and
- (b) that period has expired without the matter being referred to the Minister as a dispute for determination under section 64.

(4) In this section, "public agency" means—

- (a) the Governor;
- (b) a Minister of the Crown; or
- (c) a statutory body.

DIVISION 2—*Construction of works for developers***Definitions**

24. In this Division—

“additional works agreement” means an agreement referred to in section 25;

“approval to which this Division applies” means—

- (a) an approval under Part XI of the Local Government Act 1919 for the erection of a building, being an approval belonging to a class of approvals prescribed for the purposes of this paragraph;
- (b) an approval under Part XII of the Local Government Act 1919 for the subdivision of land; or
- (c) a development consent under Part IV of the Environmental Planning and Assessment Act 1979 for the carrying out of development of a kind prescribed for the purposes of this paragraph;

“compliance certificate” means a certificate referred to in section 26;

“developer” means a person to whom an approval to which this Division applies has been given;

“works” includes—

- (a) water mains and water headworks;
- (b) sewer mains and sewage treatment works;
- (c) drainage channels; and
- (d) any works ancillary to the works referred to in paragraph (a), (b) or (c).

Contracts for the construction of additional works

25. (1) An Authority may enter into an agreement with the owner of any land within its area providing for the construction of such works as may be specified in the agreement.

(2) Such an agreement may provide for—

- (a) the payment to the Authority by the owner of the land—
 - (i) of the whole of the cost of the construction of the works referred to in the agreement; or

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- (ii) of such part of that cost as, in the opinion of the Authority, is reasonable, having regard to the benefit of the works to that land and any other land that will, in the opinion of the Authority, be capable of being served by those works; and
 - (b) such other matters as may be prescribed or as may be agreed upon between the Authority and the owner of the land.
- (3) Any works constructed under such an agreement are the property of the Authority.

Application for compliance certificate

26. (1) If an approval to which this Division applies has been given with respect to any land within an Authority's area, the developer may apply to the Authority for a certificate to the effect that the development complies with the requirements of this Division.

(2) An application under this section shall be accompanied by a copy of the approval.

Issue of compliance certificates

27. (1) If an application is made to an Authority under section 26—
- (a) the Authority may grant the developer a compliance certificate with respect to the proposed development;
 - (b) if—
 - (i) any works constructed, or to be constructed, under an additional works agreement benefit, or will benefit, the land on which the proposed development is to be carried out; and
 - (ii) the application is made within 25 years after the date of the agreement,
- the Authority may serve a notice on the developer requiring the developer—
- (iii) to pay to the Authority such amount as is specified in the notice towards the cost of the construction of those works; or
 - (iv) to enter into an additional works agreement providing for the construction of such works as may be specified in the notice,
- or requiring the developer to do both of those things; or

- (c) where the land is not land in respect of which the Authority is entitled to serve a notice under paragraph (b)—the Authority may serve a notice on the developer requiring the developer to enter into an additional works agreement providing for the construction of such works as may be specified in the notice.

(2) When an Authority is satisfied that the requirements of a notice referred to in subsection (1) have been complied with, the Authority shall grant the developer a compliance certificate with respect to the proposed development.

(3) If—

- (a) within 60 days after an application is made to an Authority under section 26; or
- (b) within such further period as may be approved by the Minister in a particular case, and as is notified to the developer, within the period of 60 days referred to in paragraph (a),

no compliance certificate has been granted to, and no notice referred to in subsection (1) has been served on, the developer, the Authority shall, at the developer's request, grant the developer a compliance certificate with respect to the proposed development.

(4) If a notice served under subsection (1) requires payment of an amount referred to in subsection (1) (b) (iii), the requirement shall be deemed to have been complied with if security, in such form as the Authority may approve, for the payment of that amount has been lodged with the Authority.

PART 4

FINANCE

DIVISION 1—*Revenue*

Orders for purpose of service charges

28. (1) The Governor may, by order published in the Gazette, declare any land described in the order to be a development area for the purposes of this Act.

(2) The Minister may, by order published in the Gazette, declare a period of 12 months to be the charging year for an Authority.

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(3) The Minister may, by order published in the Gazette, declare any land described in the order to be a drainage area for the purposes of this Act.

(4) The Minister may, by order published in the Gazette, declare any land described in the order to be a flood plain for the purposes of this Act.

(5) The Minister may, by order published in the Gazette, declare any land described in the order to be a river management area for the purposes of this Act.

(6) The Minister may, by order published in the Gazette, declare any industry specified in the order to be a special industry for the purposes of this Act.

Connections

29. (1) Upon a water main or a sewer main of an Authority becoming available for connection, the Authority may—

- (a) publish in the Gazette notice of its availability; and
- (b) give such other notices as may be prescribed.

(2) An owner of land to which a notice under subsection (1) (a) relates becomes liable—

- (a) in the case of a water main—to payment of water service charges after the expiration of 21 days from publication of the notice; or
- (b) in the case of a sewer main—to payment of sewerage service charges after the expiration of 21 days from publication of the notice.

(3) If an owner does not make a connection to the main of an Authority before becoming liable under subsection (2), the Authority may make the connection at the expense of the owner.

(4) Any amount due to an Authority for a connection made under subsection (3) is a charge on the land connected and may be recovered as a debt owed to the Authority by the owner of the land.

(5) If an owner of land fails—

- (a) to connect the land to a water or sewer main before becoming liable under subsection (2); and

(b) to do any work that by this Act is required to be done by the owner, the occupier of the land may make the connection or do the work and, in accordance with subsection (6), recover the cost from the owner with interest at the prescribed rate.

(6) An amount (including interest) recoverable under subsection (5) by an occupier from an owner may be recovered—

- (a) by deducting it from any rent from time to time payable to the owner by the occupier; or
- (b) as a debt owed to the occupier by the owner.

(7) A person may open up the surface and soil of a public road or public reserve to the extent necessary for making a connection to a main of an Authority.

Authority may levy service charges, fees and other charges

30. (1) An Authority may, in accordance with this Part, levy—

- (a) water service charges;
- (b) sewerage service charges;
- (c) drainage service charges;
- (d) loan service charges;
- (e) developmental works service charges;
- (f) flood mitigation service charges;
- (g) river management service charges; and
- (h) special industry service charges,

on land within its area.

(2) An Authority may, in accordance with the regulations, impose fees and charges for the goods and services supplied or provided by it in the exercise of its functions under this Act.

Land in respect of which an Authority may levy service charges

31. (1) An Authority may only levy water service charges on land—

- (a) to which water is supplied; or
- (b) to which, in the opinion of the Authority, it is reasonably practicable for water to be supplied,

from one of the Authority's water mains.

(2) An Authority may only levy sewerage service charges on land—

- (a) from which sewage may be discharged; or

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(b) from which, in the opinion of the Authority, it is reasonably practicable for sewage to be discharged,
into one of the Authority's sewer mains.

(3) An Authority may only levy drainage service charges on land that is within a drainage area.

(4) An Authority may only levy developmental works service charges on land within a development area.

(5) An Authority may only levy flood mitigation service charges on land within a flood plain.

(6) An Authority may only levy river management service charges on land within a river management area.

(7) An Authority may only levy special industry service charges on land on which a special industry is conducted.

(8) An Authority may not levy service charges in respect of any land described in Part 1 of Schedule 6 unless it is land described in Part 2 of Schedule 6.

Classification of lands

32. (1) The regulations shall specify the factor or factors according to which an Authority may classify land for the purpose of levying service charges.

(2) Without limiting the generality of subsection (1), the regulations may specify that an Authority may classify land according to any one or more of the following factors:

- (a) the purpose for which the land is actually being used;
- (b) the intensity with which the land is being used for that purpose;
- (c) the purposes for which the land is capable of being used;
- (d) the nature and extent of the water or sewerage services connected to the land.

(3) For the purposes of subsection (2) (c), land is not capable of being used for a purpose if the use of the land for that purpose would be in contravention of—

- (a) the Environmental Planning and Assessment Act 1979;
- (b) any environmental planning instrument in force under that Act; or

- (c) any other Act or law relating to the use of land.

Basis of levying service charges

33. (1) The regulations shall specify the basis or bases according to which an Authority may levy service charges.

(2) Without limiting the generality of subsection (1), the regulations may specify that an Authority may levy service charges according to any one or more of the following factors:

- (a) the land value of land within the meaning of the Valuation of Land Act 1916;
- (b) the assessed annual value of land within the meaning of the Valuation of Land Act 1916;
- (c) the nominal size (as determined in accordance with the regulations) of the water service pipe supplying water to the land;
- (d) the nominal size (as determined in accordance with the regulations) of the sewerage service pipe discharging sewage from the land;
- (e) the area of the land.

(3) If a regulation provides that an Authority may levy a service charge on the basis of the value of land (whether on the land value of the land, the assessed annual value of the land or otherwise) the value of the land shall be that calculated in accordance with the provisions of the Valuation of Land Act 1916.

Determinations by Authority

34. (1) Not later than 1 month before the end of each charging year an Authority shall, in accordance with the regulations, determine—

- (a) the amount of money that it proposes to raise by way of service charges levied on land within its area;
- (b) the factor or factors according to which land within its area is to be classified for the purposes of levying service charges;
- (c) the basis or bases according to which service charges are to be levied; and
- (d) the rate at which service charges are to be levied on, or the maximum or minimum service charges that are to be applicable to, land within its area,

for the next succeeding charging year.

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(2) In making a determination under this section, an Authority may have regard to—

- (a) its estimation of the degree of benefit that accrues to land in respect of each service for which a charge is to be levied;
- (b) its estimation of the degree to which each service is or may be used in relation to land in respect of which a charge is to be levied;
- (c) its estimation of the cost involved in the construction, maintenance and operation of each service for which a charge is to be levied; and
- (d) such other matters as it considers relevant to the levying of charges for each such service.

(3) A determination under this section—

- (a) shall not be made except with the approval of the Minister;
- (b) shall be published in the Gazette before the commencement of the charging year to which it relates; and
- (c) shall take effect on the commencement of the charging year to which it relates.

(4) A determination does not fail merely because it is not published in the Gazette before the commencement of the charging year to which it relates but, in that event, no person is liable for payment of the service charges to which the determination relates until the determination is published in the Gazette.

(5) A service charge determined under this section is levied on publication of the determination in the Gazette.

Assessment of service charges

35. (1) After making a determination under section 34, an Authority shall, in accordance with the determination—

- (a) classify each parcel of land within its area in respect of which a service charge is to be levied; and
- (b) assess the service charges payable for each such parcel of land.

(2) After it makes an assessment under this section, an Authority shall, in accordance with the regulations, cause a notice to be served on the owner of each parcel of land in respect of which a service charge has been levied.

(3) Such a notice shall include information as to—

- (a) the manner in which the parcel of land has been classified for the purposes of the levying of service charges;
- (b) the basis or bases according to which service charges have been levied in respect of the parcel of land;
- (c) if service charges have been levied on the basis of the value of the parcel of land—the value of the parcel on which those service charges have been levied;
- (d) the rate at which service charges have been levied on, or the maximum or minimum service charges that are applicable to, the parcel of land; and
- (e) the amounts payable in respect of each service charge that has been levied in respect of the parcel of land.

(4) Upon service of such a notice, the owner of the land to which the notice relates becomes liable for payment of the service charges specified in the notice.

Re-assessment of service charges

36. (1) This section applies to any land in respect of which a service charge has been levied on the basis of the value of the land.

(2) If an Authority becomes aware that the value (as calculated in accordance with this Act) of any parcel of land in respect of which it has levied a service charge for any charging year differs from the value (as so calculated) as at the date on which the service charge was assessed under section 35, the Authority may re-assess the service charge on the basis of the different value.

(3) A service charge may only be re-assessed as from the date from which the revised calculation of the value of the land has effect.

(4) After it makes a re-assessment under this section, an Authority shall, in accordance with the regulations, cause a notice to be served on the owner of the parcel of land in respect of which the re-assessment has been made.

(5) Such a notice shall specify—

- (a) the revised calculation of the value of the land;
- (b) the date from which the revised calculation of the value of the land has effect; and

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- (c) the revised assessment of the amounts payable in respect of each service charge that has been levied on that land.

(6) Upon service of such a notice, the service charges for which the owner of the land to which the notice relates is liable are varied in accordance with the terms of the notice.

Service charges a charge on land

37. A service charge for payment of which a person is liable is a charge on the land to which the service charge relates.

Interest on overdue service charges etc.

38. An Authority may charge interest on overdue fees, service charges and other charges at a rate not exceeding the rate prescribed for the purposes of this section.

DIVISION 2—Miscellaneous**Recovery of charges, fees and other money**

39. (1) Any charge, fee or money due to an Authority under this Act may be recovered in any court of competent jurisdiction as if it were a debt due to the Crown.

(2) An unsatisfied judgment or order of any court for the recovery of any charge or fee from any person shall not be a bar to the recovery of the charge or fee from any other person who is liable under this Act for the payment of the charge or fee.

Sale of land for unpaid charges

40. (1) The provisions of sections 602–613 of the Local Government Act 1919 apply to land in respect of which a charge (being a charge that is, by virtue of this Act, a charge on land) remains unpaid in the same way as they apply to land in respect of which rates under that Act remain unpaid.

(2) For the purpose of applying the provisions of sections 602–613 of the Local Government Act 1919 to land in respect of which a charge remains unpaid—

- (a) a reference in those provisions to a council shall be read as a reference to an Authority;
- (b) a reference to a town or shire clerk shall be read as a reference to the principal officer of an Authority;

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- (c) a reference to a county council shall be read as including a reference to a council;
- (d) a reference to an officer of a council shall be read as a reference to an employee of an Authority; and
- (e) a reference to a rating authority shall be read as including a reference to a council.

Certificate as to amount due

41. (1) An Authority shall, upon written application being made to it and payment of the prescribed fee, issue to the applicant a certificate—

- (a) containing the prescribed particulars relating to any amounts payable to the Authority in respect of a parcel of separately assessed land; or
- (b) to the effect that there are no such amounts.

(2) An application for a certificate shall—

- (a) specify the name and address of the applicant; and
- (b) identify the land to which the application relates.

(3) Such a certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which the certificate relates that, at the date of its issue, no amounts were payable to the Authority in respect of that land other than such amounts as are specified in the certificate.

Inspection of council records

42. A council shall permit an authorised person, at any reasonable time and without charge, to inspect the valuation, rate or assessment records of the council of an area that is wholly or partly within an Authority's area and make or obtain a copy of, or extract from, the records.

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**PART 5
OFFENCES****Illegal diversion of water**

43. (1) A person shall not—

- (a) wrongfully take, use or divert any water from which an Authority draws its supply or that is available for supply by an Authority; or
- (b) wrongfully alter the index of a meter or prevent a meter from duly registering the quantity of water supplied.

Penalty: \$20,000 in the case of a corporation or \$10,000 in any other case.

(2) It shall be presumed, unless the contrary is proved, that any wrongful taking or diversion of water to, or any wrongful use of water on, any land was at the direction, or with the connivance, of the owner or occupier of the land.

(3) If, in connection with the pipes or other apparatus of an Authority used to supply water to any land there exists any artificial means for—

- (a) taking, using or diverting the water; or
- (b) altering the index of a meter or preventing it from duly registering the quantity of water supplied,

it shall be presumed, unless the contrary is proved, that the taking, use, diversion, alteration or prevention was wrongfully effected or caused by the occupier of the land.

Damage to works

44. A person shall not wilfully or negligently interfere with, destroy or damage a work or structure that belongs to, or is under the control and management of, an Authority.

Penalty: \$20,000 in the case of a corporation or \$10,000 in any other case.

Obstruction of an Authority

45. A person shall not—

- (a) wilfully delay or obstruct an Authority or an authorised person exercising a function under this Act;
- (b) threaten or abuse a person exercising functions under this Act; or

- (c) wilfully remove any poles or stakes driven into the ground, or wilfully deface or destroy a mark made, for the purpose of setting out a work of an Authority.

Penalty: \$5,000.

Obstruction of works

46. A person shall not place a structure in or near a work of an Authority in such a manner as to interfere with the operation of the work.

Penalty: \$1,000.

Exposure of underground pipes

47. A person shall not, by opening any ground, expose any pipe or other work of an Authority—

- (a) without lawful excuse; or
- (b) without having given the Authority at least 2 days' written notice of intention to open the ground.

Penalty: \$10,000 in the case of a corporation or \$2,000 in any other case.

Work done by unlicensed person

48. A person shall not do any kind of work of water supply, sewerage or drainage intended for direct or indirect connection with the pipes, sewers or drains of an Authority unless the person—

- (a) holds a licence in force under the Plumbers, Gasfitters and Drainers Act 1979 authorising the holder to do that kind of work; or
- (b) does the work under the immediate supervision of the holder of such a licence.

Penalty: \$5,000.

Payment of penalty does not affect other proceedings

49. (1) Prosecution or conviction of a person for an act or omission that is an offence against this Act does not affect any right of an Authority to recover from the person—

- (a) an amount in respect of damage caused by the act or omission;
- (b) the expenses incurred by the Authority in remedying any such damage; or

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- (c) the value of water lost to the Authority because of the act or omission.

(2) Payment of a penalty for an offence against this Act does not affect any right of an Authority to institute any other action or proceeding.

Persons causing offences

50. (1) A person—

- (a) who causes the commission of an offence against this Act;
- (b) by whose order or direction an offence against this Act is committed; or
- (c) who aids, abets, counsels or procures the commission of an offence against this Act,

is guilty of an offence against this Act and liable to a penalty in the same way as the principal offender.

(2) A person may be proceeded against for an offence under subsection (1) whether or not the principal offender has been prosecuted or convicted.

Penalty notices

51. (1) In this section, “authorised employee” means an employee appointed in writing by an Authority as an authorised employee for the purposes of this section.

(2) If it appears to an authorised employee that any person has committed an offence prescribed for the purposes of this section, the authorised employee may serve a notice on the apparent offender to the effect that if it is not desired to have the matter determined by a court, the person served may pay to the Authority within the time specified in the notice the amount of the penalty prescribed for the offence if dealt with under this section.

(3) A notice under this section may be served personally or by post.

(4) A person alleged to have committed an offence to which this section applies has the right to decline to be dealt with under this section.

(5) A person who fails to pay the amount of a penalty within the time specified in the notice given to the person under this section or within such further time as may in any particular case be allowed shall be deemed to have declined to be dealt with under this section.

(6) If the amount of any prescribed penalty for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(7) Payment of a penalty under this section shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(8) The regulations may prescribe an offence for the purposes of this section by setting out the offence or by a reference to the provision of this Act or the regulations creating the offence.

(9) A penalty prescribed under this section for any offence shall not exceed any maximum amount of penalty which could be imposed for the offence by a court.

(10) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this Act or the regulations or any other Act or regulation, by-law or ordinance under any other Act in relation to proceedings which may be taken in respect of offences.

Disposal of proceedings for offence

52. (1) Proceedings for an offence against this Act or the regulations shall be disposed of summarily before—

- (a) a Local Court constituted by a Magistrate sitting alone; or
- (b) the Supreme Court in its summary jurisdiction.

(2) The maximum penalty that may be imposed by a Local Court in proceedings for an offence against this Act is \$5,000 or the maximum penalty for the offence, whichever is the lesser.

(3) Proceedings in the Supreme Court in its summary jurisdiction in relation to an offence against this Act may be commenced only within 6 months after discovery of the offence.

(4) Proceedings in a Local Court in relation to an offence against this Act may be commenced not later than 12 months after discovery of the offence.

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PART 6

MISCELLANEOUS

Delegation

53. (1) An Authority may delegate to a person the exercise of any of its functions, other than this power of delegation.

(2) A full-time member may delegate to a person the exercise of any of the functions delegated to the member by an Authority, unless the Authority otherwise provides in its instrument of delegation to the member.

(3) A delegation—

(a) shall be in writing;

(b) may be general or limited; and

(c) may be revoked, wholly or partly, by an Authority or full-time member, as the case requires.

(4) A delegate is, in the exercise of a delegated function, subject to such conditions as are specified in the instrument of delegation.

(5) A delegated function, when exercised by the delegate, shall be deemed to have been exercised by the Authority.

(6) A delegation does not prevent the exercise of a function by an Authority or full-time member.

(7) A function purporting to have been exercised by a delegate shall, unless the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

Proof of certain matters not required

54. (1) In any legal proceedings, proof is not required, unless evidence is given to the contrary, of—

(a) the constitution of an Authority;

(b) any resolution of an Authority;

(c) the appointment of, or the holding of office by, any member of an Authority; or

(d) the presence of a quorum at a meeting of an Authority.

(2) A document that is produced by an authorised person and purports to be a copy of, or extract from, the records of an Authority is, without further proof, evidence of the matter it contains.

Appropriation or resumption of land

55. (1) An Authority may, for the purposes of this Act, acquire land by appropriation or resumption effected by the Governor under the Public Works Act 1912.

(2) An appropriation or resumption under this section shall be deemed to be for an authorised work for which the Authority is the Constructing Authority.

(3) For the purposes only of this section, Schedule 7 has effect.

Council rates

56. (1) Land that is within a special area for an Authority and is Crown land (as defined in the Crown Lands Consolidation Act 1913) or land vested in the Authority is exempt from any rate that a council might have levied but for this subsection.

(2) A tunnel, water or sewer main or drainage channel of an Authority is exempt from any rental charge that a council might have imposed but for this subsection.

Compensation for interference or damage

57. (1) If—

- (a) a person does, or causes to be done, any work that interferes with, or damages, any property of an Authority; and
- (b) there was reasonable cause to believe that the interference or damage would result from the doing of the work,

the person is liable to compensate the Authority for the interference or damage.

(2) An Authority is not entitled to compensation both under this section and another provision of this Act for the same interference or damage.

Commercial operations

58. (1) With the approval of the Minister, an Authority may enter into commercial operations with respect to—

- (a) any services developed in connection with the exercise of its functions;
- (b) any products or by-products resulting from the exercise of those functions;

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(c) without limiting the above, any intellectual property resulting from the exercise of those functions; or

(d) any other prescribed matters.

(2) With the approval of the Governor, an Authority may form, or join in forming, a company, partnership or trust for the purpose of exercising its powers under this section.

Minister may act as an agent

59. (1) The Minister administering this Act may arrange with another Minister of the Crown or a statutory body for the exercise by the Minister administering this Act, or by his or her delegate, as agent of the other Minister or the statutory body, of a function of the other Minister or statutory body.

(2) A document executed by an agent, or a delegate of an agent, under this Act has effect as if it had been executed by the principal.

Authority must provide information

60. An Authority shall provide the Minister with such information and material as the Minister may require in relation to its policies, operations and procedures.

Efficiency review

61. (1) The Minister may appoint a person to investigate and review the efficiency of an Authority in exercising its functions.

(2) An Authority shall bear the costs of an investigation and review under this section that is requested by it.

Appointment of administrator

62. (1) If an Authority refuses or fails to comply with a direction or requirement given or made by the Minister in relation to this Act, the Minister may, by order published in the Gazette—

(a) in the case of an Authority listed in Part 1 of Schedule 1—appoint an administrator to exercise all the functions, or specified functions, of the Authority; or

- (b) in the case of a statutory body listed in Part 2 of Schedule 1—with the consent of the Minister administering the Act by which the statutory body is constituted, appoint an administrator to exercise all the functions, or specified functions, of the Authority under this Act.

(2) An administrator has, during his or her term of office and to the exclusion of the Authority, the functions the administrator was appointed to exercise.

(3) Regulations may be made for or with respect to—

- (a) the accommodation (if any) to be provided at the offices of an Authority for the administrator and his or her assistants; and
- (b) requiring the employees of an Authority to assist, and to refrain from obstructing, the administrator in the exercise of his or her functions.

Injunctions

63. (1) On the application of an Authority, the Supreme Court may grant an injunction restraining a threatened contravention, or the continuation of a contravention, of this Act or of a requirement of the Authority under this Act.

(2) An injunction may be granted without an Authority being required to show a likelihood of damage.

Settlement of disputes

64. (1) The Minister shall establish a standing committee to advise—

- (a) the Premier;
- (b) the Minister; and
- (c) the Minister administering any other Act,

on any dispute arising between an Authority and a person or statutory body having functions under the other Act where the dispute relates to the exercise by an Authority of its functions under this Act.

(2) A standing committee established under this section shall—

- (a) consist of such persons; and
- (b) follow such procedures,

as are from time to time directed by the Minister with the concurrence of the Premier.

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Regulations relating to hot water apparatus

65. (1) Regulations may not be made prescribing specifications for hot water apparatus.

(2) Regulations may not be made authorising or requiring an Authority to be concerned in—

- (a) testing hot water apparatus (other than fittings connected to hot water apparatus); or
- (b) the connection of hot water apparatus to a source of heat energy other than heated water added to or mixed with water in the apparatus.

(3) For the purpose of regulations made by reference to an outlet from water service pipes connected to a water main of an Authority, hot water apparatus is not such an outlet.

(4) In so far as regulations may be made in relation to fittings, they may include regulations made in relation to—

- (a) fittings used, or intended to be used, for hot water; and
- (b) fittings by which apparatus may be connected to service pipes.

(5) In so far as regulations may be made in relation to a water service pipe between a water main and the outlet of the pipe, they may include regulations made in relation to—

- (a) a water service pipe used, or intended to be used, for hot water; and
- (b) a safety discharge pipe or overflow pipe connected to hot water apparatus.

(6) In this section, “hot water apparatus” means apparatus—

- (a) for heating water;
- (b) for storing hot water; or
- (c) for both heating water and storing hot water,

the inlet of which is connected to a water main of an Authority by a water service pipe.

Regulations

66. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to—

- (a) fees, service charges and other charges;
- (b) development of land;
- (c) the supply and use of water;
- (d) special areas;
- (e) water, sewerage and drainage systems;
- (f) trade wastes;
- (g) drainage areas;
- (h) the opening of the surface of roads;
- (i) public recreation;
- (j) water flow management including river improvement, stream management, flood mitigation and flood control; and
- (k) the procedure at meetings of an Authority.

(3) A regulation may create an offence punishable by a penalty for a breach of the regulation not exceeding—

- (a) \$20,000 in the case of an offence by a corporation; or
- (b) \$10,000 in any other case.

(4) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person or body,

or may do any combination of those things.

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(5) Without limiting the generality of subsection (2) (a), a regulation may make provision—

- (a) for the reduction of service charges and other charges in specified circumstances;
- (b) for the payment of service charges and other charges by instalments;
- (c) for the creation of hardship funds;
- (d) for the deferral of payment of service charges and other charges;
- (e) for the fixing of minimum and maximum service charges;
- (f) for the waiving of service charges in specified circumstances;
- (g) for the payment of interest on unpaid amounts due to an Authority;
- (h) for the making of objections to an Authority in relation to a valuation or in relation to service charges and other charges imposed on or in relation to land;
- (i) for the making of objections from an Authority's decision on an objection referred to in paragraph (h);
- (j) for the manner in which, and the times at which, service charges and other charges are to be paid;
- (k) for the service of notices;
- (l) for the apportionment of service charges and other charges between successive owners of land;
- (m) for the keeping of records in relation to service charges and other charges;
- (n) for the liability for the payment of service charges and other charges imposed on land, including land the subject of a Crown lease;
- (o) for the lodging of notices of disposition of land and the effect of lodgment of such a notice;
- (p) for the payment by an occupier of land of service charges and other charges that remain unpaid by the owner of the land; and
- (q) for the levying of expenses incurred in relation to the recovery of unpaid fees, service charges and other charges.

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(6) A regulation made for or with respect to a special area prevails to the extent of any inconsistency with a statutory instrument made under another Act, including an environmental planning instrument made under the Environmental Planning and Assessment Act 1979.

SCHEDULE 1

(Sec. 5)

WATER SUPPLY AUTHORITIES

PART 1

Hunter District Water Board
Broken Hill Water Board
Cobar Water Board

PART 2

SCHEDULE 2

(Sec. 8)

HUNTER DISTRICT WATER BOARD

Interpretation

1. In this Schedule—

“Associations” means the Local Government Association of New South Wales and the Shires Association of New South Wales;

“Board” means the Hunter District Water Board;

“council officer” means an officer, within the meaning of the Local Government Act 1919, of the council of a city, municipality or shire wholly within the area of the Board.

Constitution of the Board

2. There is constituted by this Act a corporation under the corporate name of the “Hunter District Water Board”.

Members of the Board

3. (1) The Board shall consist of 8 members who shall be appointed by the Governor.

*Water Supply Authorities 1987*SCHEDULE 2—*continued*HUNTER DISTRICT WATER BOARD—*continued*

(2) Of the members—

- (a) 1 shall, in and by the instrument by which the member is appointed or by another instrument, be appointed as President of the Board; and
- (b) 7 shall, in and by the instruments by which the members are appointed, be appointed as part-time members.

(3) Of the part-time members—

- (a) 1 shall, in and by the instrument by which the member is appointed or by another instrument, be appointed as Vice-President of the Board;
- (b) 3 shall be persons nominated by the Minister after being selected in accordance with clause 4;
- (c) 2 shall be persons nominated by the Minister because, in the opinion of the Minister, they have special knowledge in such fields as the Minister considers to be appropriate; and
- (d) 1 shall be elected by employees of the Board as prescribed by regulations made in accordance with clause 2 of Schedule 5.

(4) The President is a full-time member.

Selection of certain members

4. (1) The Associations may submit to the Minister a joint nomination in writing of a panel of council officers from which to select persons for appointment to the Board under clause 3 (3) (b).

(2) The Minister shall give directions as to—

- (a) the maximum number (being not less than 6) of council officers to constitute a panel; and
- (b) the period within which the Associations are required to nominate a panel,

and shall notify the Associations of the directions.

(3) The Minister shall make a selection for the purposes of clause 3 (3) (b)—

- (a) from a panel submitted under subclause (1) in accordance with directions notified under subclause (2); or
- (b) if there is no such panel—from among all the council officers.

President and Vice-President

5. (1) In the absence of the President, the Vice-President may act as President and, while so acting, has and may exercise the functions of the President.

(2) The President, if present, shall preside at a meeting of the Board.

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SCHEDULE 2—*continued*

HUNTER DISTRICT WATER BOARD—*continued*

(3) In the absence of the President and the Vice-President from a meeting of the Board, a member elected from those present shall preside at the meeting.

SCHEDULE 3

(Sec. 8)

BROKEN HILL WATER BOARD

PART 1

GENERAL

Interpretation

1. In this Schedule—

“Board” means the Broken Hill Water Board.

Constitution of the Board

2. There is constituted by this Act a corporation under the corporate name of the “Broken Hill Water Board”.

Members of the Board

3. (1) The Board shall consist of 6 members who shall be appointed by the Governor.

(2) Of the members—

- (a) 1 shall, in and by the instrument by which the member is appointed or by another instrument, be appointed as President of the Board; and
- (b) 5 shall, in and by the instruments by which the members are appointed, be appointed as part-time members.

(3) Of the part-time members—

- (a) 1 shall be a member of the Public Service who, in and by the instrument by which the member is appointed or by another instrument, be appointed as Vice-President of the Board;
- (b) 2 shall be nominated in accordance with subclause (4) by the Council of the City of Broken Hill or, in the absence of a nomination, by the Minister; and
- (c) 2 shall be selected by the Minister from a panel of 4 persons jointly nominated by the companies listed in clause 4.

(4) Nominations (other than a nomination by the Minister) for the purposes of subclause (3) shall be made as prescribed.

*Water Supply Authorities 1987*SCHEDULE 3—*continued*BROKEN HILL WATER BOARD—*continued*

(5) The President of the Board is a full-time member.

(6) The Vice-President of the Board ceases to be a member of the Board, and ceases to hold office as Vice-President, if he or she ceases to be a member of the Public Service.

Companies nominating panel of candidates for appointment

4. (1) The companies entitled to nominate a panel for the purposes of clause 3 (3) (c) are—

- (a) North Broken Hill Limited;
- (b) The Zinc Corporation Limited;
- (c) Western New South Wales Electric Power Proprietary Limited;
- (d) Minerals Mining and Metallurgy Limited; and
- (e) any other company carrying on mining operations at Broken Hill that is considered by the Minister to be entitled to join in nominating the panel.

(2) If, in the opinion of the Minister, a company referred to in subsection (1) has ceased to carry on mining operations at Broken Hill, the company ceases to be entitled to join in nominating a panel.

President and Vice-President

5. (1) In the absence of the President, the Vice-President may act as President and, while so acting, has and may exercise the functions of the President.

(2) The President, if present, shall preside at a meeting of the Board.

(3) In the absence of the President and the Vice-President from a meeting of the Board, a member elected from among those present shall preside at the meeting.

PART 2

THE TREASURER AND THE MINING COMPANIES

Interpretation

6. (1) In this Part—

“council” means the Council of the City of Broken Hill;

“financial year” means the financial year for the Board;

“mining company” means a company for the time being prescribed as a mining company for the purposes of this Part.

(2) Until the regulations otherwise provide, the following companies are mining companies for those purposes:

*Water Supply Authorities 1987*SCHEDULE 3—*continued*BROKEN HILL WATER BOARD—*continued*

North Broken Hill Limited
 The Zinc Corporation Limited
 New Broken Hill Consolidated Limited
 Western New South Wales Electric Power Proprietary Limited
 Minerals Mining and Metallurgy Limited.

(3) If a mining company ceases to be a mining company for the purposes of this Part, it remains responsible for any undischarged liability to which it was subject under this Part.

Exemption from service charges

7. (1) Land at Broken Hill that—

- (a) is held by a mining company under a lease from the Crown and used for mining or incidental purposes; or
- (b) is held by Western New South Wales Electric Power Proprietary Limited under a lease from the Crown and is used for a power station and incidental purposes,

is not subject to a water service charge.

(2) Land referred to in subclause (1) is not subject to a sewerage service charge because of the construction of the sewerage works.

Supply of water to mining companies

8. (1) The Board shall supply each mining company, at places as near as possible to the mines or works of the company, with the water required by the company to carry on its business.

(2) Subclause (1) has effect only in so far as is permitted by—

- (a) the capacity of the works of the Board; and
- (b) the requirements of the owners and occupiers of land and of other persons using water for domestic purposes.

Mining companies to take water

9. (1) A mining company shall draw from the Board all the water that it requires for the purposes of its business and that the Board is able to supply.

(2) Subclause (1) does not prevent a mining company from drawing water from—

- (a) supplies conserved in its own tanks and dams; or
- (b) from sources other than Stephens Creek, by means lawfully used by it on and after 21 December 1915 and before 1 January 1939.

Water charges

10. (1) The charge for water supplied by the Board to a mining company shall be—

- (a) 11 cents per kilolitre unless it is water referred to in paragraph (b); or

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SCHEDULE 3—*continued*BROKEN HILL WATER BOARD—*continued*

- (b) 5.5 cents per kilolitre if it is used only for a dwelling or plantation or any other purpose determined by the Board to be a social purpose.
- (2) A determination by the Board of the proportion of water supplied by it to a mining company that is water referred to in subclause (1) (b) is binding on the company.
- (3) The charge imposed by subclause (1) shall be deemed to be a charge imposed by the Board for water supplied to the land referred to in clause 6.
- (4) No liability for a service charge arises in relation to land that—
 - (a) adjoins the rising main between Menindee and the pumping station at Stephens Creek; and
 - (b) is part of a holding under the Western Lands Act 1901 or a part of land held under freehold title,

unless the whole of the holding or freehold land of which it forms part is within the area of the Board.

Additional payments to Water Fund

11. (1) If, after excluding income received from the mining companies for water supplied to them during a financial year, there is a deficiency for that year in the Water Fund of the Board—

- (a) the Treasurer shall, out of money to be provided by Parliament, pay to the Board towards the deficiency thirteen fifty-ninths of its amount; and
 - (b) each mining company shall, on demand, pay to the Board the prescribed contribution for the company.
- (2) The prescribed contribution for a mining company towards the deficiency for a financial year is the amount ascertained by—
- (a) calculating the amount that bears to forty-six fifty-ninths of the deficiency the same proportion as is borne by the amount payable by the company under clause 10 in that year to the total amount so payable by all the mining companies; and
 - (b) deducting from the amount so calculated the amount paid by the company under clause 10 in that year.
- (3) The amount payable by a mining company under this clause shall be deemed to be a charge imposed by the Board for water supplied by the Board.

Estimated deficit and advance payments

12. (1) If estimates prepared by the Board before the commencement of a financial year disclose the possibility of a deficit for that year in the Water Fund of the Board—

- (a) the Board shall provide the Treasurer and each mining company with particulars of the estimates and the possible deficit; and

*Water Supply Authorities 1987*SCHEDULE 3—*continued*BROKEN HILL WATER BOARD—*continued*

(b) the Treasurer and each mining company shall, in that year, make payments to the Board as required by subclause (2).

(2) Towards discharging the respective liabilities of the Treasurer and each mining company for a financial year—

(a) the Treasurer shall pay to the Board out of money to be provided by Parliament the amount estimated by the Treasurer to be sufficient to discharge the liability of the Treasurer; and

(b) each mining company shall pay to the Board the amount estimated by the Board to be sufficient to discharge the liability of the mining company,

by equal instalments on 1 January, 1 April, 1 July and 1 October in that year.

(3) On the auditing of the Board's accounts for a financial year, the Board shall pay to, or receive from, the Treasurer and each mining company an amount in adjustment of any difference between the estimated and actual liabilities under clause 11 for that financial year.

Sewerage charges

13. (1) Each mining company shall, in respect of each financial year of the Board, pay to the Board an amount that bears to \$6,400 the same proportion as the amount payable by the company to the council for general rates bears to the total amount payable by all the mining companies to the council for general rates for that year.

(2) The amount payable by a mining company under subclause (1) shall be deemed to be a charge imposed by the Board for sewerage services for that year in respect of the land referred to in clause 7.

(3) If, in a financial year of the Board, there is a deficiency in its Sewerage Fund, the Treasurer shall, out of money to be provided by Parliament, pay to the Board for application towards the deficiency—

(a) the amount of the deficiency; or

(b) \$6,000,

whichever is the lesser amount.

(4) Money at credit in the Broken Hill Water Administration Account in the Special Deposits Account at the Treasury shall, at the request of the Board, be paid to the Board for the renewal or replacement of capital assets.

Default by mining company

14. If the Board—

(a) has obtained judgment against a mining company for an amount payable under this Part; and

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SCHEDULE 3—*continued*BROKEN HILL WATER BOARD—*continued*

- (b) the judgment remains unsatisfied even though the Board has taken all reasonable steps to enforce it,

the Board may recover the unpaid amount from each company not in default rateably in proportion to each amount paid by it under this Part.

SCHEDULE 4

(Sec. 8)

COBAR WATER BOARD

Interpretation

1. In this Schedule—

“Board” means the Cobar Water Board.

Constitution of the Board

2. There is constituted by this Act a corporation under the corporate name of the “Cobar Water Board”.

Members of the Board

3. (1) The Board shall consist of 5 part-time members who shall be appointed by the Governor.

- (2) Of the members—

- (a) 1 shall be a member of the Public Service who shall, in and by the instrument by which the member is appointed, be appointed as President of the Board;
- (b) 1 shall be selected by the Minister from a panel of 2 persons nominated jointly by—
 - (i) Cobar Mines Proprietary Limited;
 - (ii) Cobar South Proprietary Limited;
 - (iii) CRA Limited; and
 - (iv) such other mining companies as the Minister determines;
- (c) 1 shall be selected by the Minister from a panel of 2 persons nominated jointly by—
 - (i) Electrolytic Zinc Company of Australasia Limited; and
 - (ii) such other mining companies as the Minister determines; and

Water Supply Authorities 1987

SCHEDULE 4—*continued*

COBAR WATER BOARD—*continued*

(d) 2 shall be nominated by the Cobar Shire Council.

(3) If a nomination under subclause (2) (b), (c) or (d) is not made within a time notified by the Minister, a person nominated by the Minister shall be appointed.

Vacation of office by President

4. The President ceases to be a member of the Board if he or she ceases to be a member of the Public Service.

Meetings of the Board

5. (1) The President, if present, shall preside at a meeting of the Board.

(2) In the absence of the President from a meeting of the Board, a member elected from those present shall preside at the meeting.

Catchment district

6. The catchment district for the Board is that proclaimed in respect of the Cobar Storage Dam under the Local Government Act 1919.

Stamp duty exemption

7. Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this clause, be liable to pay stamp duty under the Stamp Duties Act 1920 in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.

SCHEDULE 5

(Sec. 8)

PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY

Age of members

1. (1) A person of or above the age of 65 years is not eligible to be appointed as a full-time member or to act in the office of a full-time member.

(2) A person of or above the age of 70 years is not eligible to be appointed as a part-time member or to act in the office of a part-time member.

*Water Supply Authorities 1987*SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued***Elected member**

2. (1) In this clause—

“elected member”, in the case of an Authority of which one or more of the members is appointed after being elected by employees of the Authority, means a member so elected.

(2) Regulations may be made for or with respect to the election of a person to hold office as an elected member.

(3) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, shall be the returning officer for an election, and shall have and may exercise the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.

(4) Employees of an Authority are entitled to vote at an election in accordance with the regulations made under this clause.

(5) A person's nomination as a candidate for election as elected member is invalid if—

- (a) the nomination is not made by at least 2 persons who are employees of the Authority;
- (b) the person is not, at the time of nomination, an employee of the Authority;
- (c) the person is not, at the time of nomination, a member of an industrial union registered as such under the Industrial Arbitration Act 1940 or an association of employees registered as an organization under the Conciliation and Arbitration Act 1904 of the Commonwealth, being such an industrial union or association that is prescribed by the regulations for the purposes of this paragraph as being an industrial union or association representing employees of the Authority; or
- (d) the instrument of nomination is not accompanied by a statutory declaration to the effect that the person is, at the time of nomination, such a member,

and the returning officer is entitled to rely on the information contained in the statutory declaration.

(6) A person may be, at the same time, both the elected member and an employee of the Authority.

(7) Nothing in any law, rule, direction or other requirement that—

(a) is applicable to the elected member in his or her capacity as an employee of the Authority; and

(b) would not be so applicable if the elected member were not such an employee, operates so as to prevent or restrict the exercise by the elected member of any of the functions of an elected member.

*Water Supply Authorities 1987*SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued*

(8) If no person is nominated at an election, or if for any other reason an election fails, the Governor may appoint a person eligible for election to be a part-time member, and the person shall, on being appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

(9) If a vacancy occurs in the office of elected member otherwise than by reason of the expiration of the period for which an elected member was appointed—

- (a) the Governor may appoint a person eligible for election to hold, subject to this Schedule, the office of elected member for a term commencing on the date of appointment or a later date specified in the relevant instrument of appointment and ending on the commencement of the term of office of the next elected member; and
- (b) any such person shall, on being so appointed, be deemed to be a person elected in the manner prescribed by the regulations made under this clause.

Chairperson of an Authority

3. (1) Of the members, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as Chairperson of an Authority.

(2) The Governor may remove a member from the office of Chairperson.

(3) A person who is a member and Chairperson shall be deemed to have vacated office as Chairperson if the person—

- (a) is removed from that office by the Governor under subclause (2);
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member.

(4) The Minister may appoint a member to act in the office of Chairperson during a vacancy in the office or during the illness or absence of the Chairperson and the person, while so acting, shall have and may exercise all the functions of the Chairperson and shall be deemed to be the Chairperson.

(5) This clause does not apply to the Hunter District Water Board, the Broken Hill Water Board or the Cobar Water Board constituted as provided by Schedules 2, 3 and 4 respectively.

Acting members

4. (1) The Minister may, from time to time, appoint a person to act in the office of a member during a vacancy in the office or during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member.

(2) The Minister may remove any person from any office to which the person was appointed under this clause.

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SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued*

(3) A person while acting in the office of a part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Terms of office

5. Subject to this Schedule, a member shall hold office—

- (a) in the case of a full-time member—for such period not exceeding 7 years;
- (b) in the case of a part-time member other than an elected member—for such period not exceeding 5 years; or
- (c) in the case of an elected member—for such period not exceeding 5 years but not less than 3 years,

as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Obligation of full-time member

6. A full-time member shall devote the whole of his or her time to the duties of the office of the member, except as permitted by this Act or except with the consent of the Minister.

Remuneration

7. (1) A full-time member is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.

(2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Filling of vacancy in office of member

8. If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies

9. (1) A member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) being a full-time member, absents himself or herself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister or unless the absence is occasioned by illness or other unavoidable cause;

*Water Supply Authorities 1987*SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued*

- (c) being a part-time member, absents himself or herself from 4 consecutive meetings of the Authority of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Authority or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Authority for being absent from those meetings;
 - (d) being an elected member, ceases to be an employee of the Authority for which he or she is an elected member;
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - (h) being a full-time member, engages in any paid employment outside the duties of the office of the member, except with the consent of the Minister;
 - (i) resigns the office by instrument in writing addressed to the Minister;
 - (j) being—
 - (i) a full-time member, reaches the age of 65 years; or
 - (ii) a part-time member, reaches the age of 70 years;
 - (k) is retired from office by the Governor under subclause (2) ; or
 - (l) is removed from office by the Governor under subclause (3), (4) or (5).
- (2) A full-time member may, after reaching the age of 60 years and before reaching the age of 65 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.
- (3) The Governor may remove a full-time member from office for incapacity, incompetence or misbehaviour.
- (4) The Governor may remove a part-time member from office.
- (5) Without affecting the generality of subclauses (3) and (4), the Governor may remove from office a member who contravenes the provisions of clause 10.

*Water Supply Authorities 1987*SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued***Disclosure of pecuniary interests**

10. (1) A member who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Authority; or
- (b) in a thing being done or about to be done by the Authority,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure by a member at a meeting of the Authority that the member—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Authority shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Authority from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Authority, or take part in any decision of the Authority, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing,

as the case requires.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Authority or the exercise of any function under this Act.

(6) A reference in this clause to a meeting of the Authority includes a reference to a meeting of a committee of the Authority.

Effect of certain other Acts

11. (1) The Public Service Act 1979 does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

*Water Supply Authorities 1987*SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued*

(2) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

that provision shall not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time member.

(3) The office of a part-time member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Preservation of rights of full-time member previously public servant etc.

12. (1) Subject to subclause (2) and to the terms of appointment, where a full-time member was, immediately before being appointed as a full-time member—

- (a) an officer of the Public Service or a Teaching Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee,

he or she—

- (e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as a full-time member; and
- (g) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as a full-time member and—

- (h) his or her service as a full-time member shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and
- (i) he or she shall be deemed to be an officer or employee, and the Authority shall be deemed to be the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

*Water Supply Authorities 1987*SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued*

(2) If a full-time member would, but for this subclause, be entitled under subclause (1) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

(a) he or she shall not be so entitled upon becoming (whether upon appointment as a full-time member or at any later time while holding office as a full-time member) a contributor to any other superannuation scheme; and

(b) the provisions of subclause (1) (i) cease to apply to or in respect of him or her and the full-time member in any case where he or she becomes a contributor to any such other superannuation scheme.

(3) Subclause (2) does not prevent the payment to a full-time member upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

(4) A full-time member is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(5) In this clause—

“statutory body” means any statutory body declared under clause 14 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Full-time member entitled to re-appointment to former employment in certain cases

13. (1) A person who—

(a) ceases to be a full-time member by reason of the expiration of the period for which the person was appointed or by reason of resignation;

(b) was, immediately before being appointed as a full-time member—

(i) an officer of the Public Service or a Teaching Service; or

(ii) an officer or employee of a statutory body; and

(c) has not reached the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

is entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as a full-time member.

*Water Supply Authorities 1987*SCHEDULE 5—*continued*PROVISIONS RELATING TO THE MEMBERS OF AN AUTHORITY—*continued*

(2) Where subclause (1) does not apply to a person who—

(a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (1) (b); and

(b) is after that appointment appointed as a full-time member,

the person has such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be a full-time member, as are specified in the instrument of appointment as a full-time member or as are agreed upon by the person and by or on behalf of the Government.

(3) In this clause, “statutory body” means any statutory body declared under clause 14 to be a statutory body for the purposes of this Schedule.

Declaration of statutory bodies

14. The Governor may, by proclamation published in the Gazette, declare any statutory body to be a statutory body for the purposes of this Schedule.

Liability of members etc.

15. No matter or thing done by an Authority, any member or any person acting under the direction of an Authority shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

SCHEDULE 6

(Sec. 31 (8))

PART 1

LAND EXEMPT FROM SERVICE CHARGES

1. Land which is vested in the Crown, or in a public body, or in trustees, and is used for a public cemetery.

2. Land which is vested in the Crown, or in a public body, or in trustees, and is used for a common.

3. Land which is vested in the Crown, or in a public body, or in trustees, and is used for a public reserve or park.

4. Land which belongs to any public hospital, public benevolent institution or public charity, and is used or occupied by the hospital, institution or charity for its purposes.

*Water Supply Authorities 1987*SCHEDULE 6—*continued*LAND EXEMPT FROM SERVICE CHARGES—*continued*

5. Land which is used or occupied solely for the purposes of, or connected with, a baby health centre, day nursery, kindergarten or amenities for the aged not conducted for private gain.

6. Land which is vested in an area health service constituted under the Area Health Services Act 1986 and is used or occupied by the area health service for its purposes.

7. Land which is vested in the Crown, or in a public body, or in trustees, and is used solely for the purposes of a free public library.

8. Land owned by the Crown that, except in the case of land leased to a caretaker at a nominal rental, is not leased by the Crown to any person for private purposes.

9. Land which belongs to a religious body and which is occupied and used in connection with—

- (a) any church or other building used or occupied for public worship;
- (b) any building used or occupied solely as the residence of a minister of religion in connection with any such church or building;
- (c) any building used or occupied for the purposes of religious teaching or training; or
- (d) any building used or occupied solely as the residence of the official head or the assistant official head, or both, of any religious body in the State or in any diocese in the State.

10. Land which is a public place within the meaning of the Local Government Act 1919.

11. Land which—

- (a) is unoccupied;
- (b) is not supplied with water from any water-pipe of an Authority and is not connected to any sewer of an Authority; and
- (c) has been determined, by the council of the city, municipality or shire in which the land is situated, to be unsuitable for the erection of a building because of flooding or landslip.

12. Land which is unoccupied and which is below highwater mark of any tidal water.

13. Land which belongs to and which is occupied and used in connection with any school registered under the Bursary Endowment Act 1912, or any certified school under the Public Instruction (Amendment) Act 1916, including any playground which belongs to and is used in connection with any such school, and any building occupied as a residence by any caretaker, servant or teacher of any such school which belongs to and is used in connection with the school.

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SCHEDULE 6—*continued*LAND EXEMPT FROM SERVICE CHARGES—*continued*

14. Drill grounds, sports grounds, gardens or children's playgrounds provided by the council of a city, municipality or shire under the powers conferred by the Local Government Act 1919.

15. Land which is vested in The University of Newcastle, or in a college of the University, and is used or occupied by the University or college solely for its purposes.

16. Land which is vested in a corporate college of advanced education constituted or continued under the College of Advanced Education Act 1975 and is used or occupied by the college solely for its purposes.

17. Land vested in the New South Wales Aboriginal Land Council, a Regional Aboriginal Land Council or a Local Aboriginal Land Council constituted under the Aboriginal Land Rights Act 1983, being land which is declared under Division 5 of Part VI of that Act to be exempt from the payment of rates under this Act.

18. Land which is vested in the Mines Rescue Board constituted under the Mines Rescue Act 1925 and is used for the purposes of a central rescue station or subsidiary rescue station, within the meaning of that Act.

PART 2

EXCEPTIONS

1. Land within a public reserve or park that is the subject of a lease, licence or other authority under which a person carries on a trade or business.

2. Land that is vested in the Crown or a public body leased to any person for private purposes.

3. Land used or occupied by the Crown in connection with an undertaking declared by the Governor by proclamation published in the Gazette to be an industrial undertaking for the purposes of this Schedule.

SCHEDULE 7

(Sec. 55)

APPLICATION OF THE PUBLIC WORKS ACT 1912

For the purposes of section 55, the Public Works Act 1912 has effect as if it had been amended—

(a) by omitting Part III;

*Water Supply Authorities 1987*SCHEDULE 7—*continued*APPLICATION OF THE PUBLIC WORKS ACT 1912—*continued*

- (b) by omitting from section 53 the words “so seised, possessed or entitled as aforesaid”;
- (c) by omitting from section 53 the words “as in the preceding section mentioned” and by inserting instead the words “and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of the compensation”;
- (d) by inserting in section 53 (3) after the word “release” the words “and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation”;
- (e) by omitting section 53 (5);
- (f) by omitting Division 7 of Part VI;
- (g) by omitting section 124 and by inserting instead:

Compensation generally

124. (1) For the purpose of assessing compensation, the Land and Environment Court shall have regard to—

- (a) the value, at the date of publication of the notification in the Gazette, of the land, estate or interest taken; and
- (b) any damage caused by the severing of the land taken from other land or by the exercise by the Constructing Authority of any of its statutory powers in a manner injuriously affecting that other land.

(2) In assessing the compensation, the Land and Environment Court shall disregard—

- (a) any valuation notified to the claimant; and
- (b) any alteration of value arising from the construction of any works on the land taken.

(3) In assessing the compensation, the Land and Environment Court shall set off any enhancement in value of adjoining land of the person who owned the land taken or served by the construction of works on the land taken.

(4) An owner of land is not required to make a payment to the Constructing Authority in consideration of any enhancement in value referred to in subsection (3).

(5) Compensation is not payable for land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel unless—

- (a) the surface of the overlying soil is disturbed;

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SCHEDULE 7—*continued*

APPLICATION OF THE PUBLIC WORKS ACT 1912—*continued*

- (b) the support of such surface is destroyed or injuriously affected by the construction of such a tunnel; or
 - (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (h) by omitting section 126 (3);
- (i) (i) by omitting from section 135 (1) the words “such conveyances” and by inserting instead the words “conveyances or assurances of lands taken”;
- (ii) by omitting from section 135 (2) the words “incurred on the part as well of the vendor as of the purchaser,”.