

**RIVER MURRAY WATERS (AMENDMENT)
ACT.**

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 34, 1974.

An Act to make provision for the transfer of the powers, authorities, duties, functions and liabilities conferred or imposed on the Minister for Public Works by the River Murray Waters Act, 1915, to The Water Conservation and Irrigation Commission; for this and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 19th April, 1974.]

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River Murray Waters (Amendment).

No. 34, 1974 **B**E 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:—

Short title. **1.** This Act may be cited as the "River Murray Waters (Amendment) Act, 1974".

Interpretation. **2.** In this Act—

"agreement" means "The agreement" as defined in section 4 of the River Murray Waters Act, 1915;

"appointed day" means—

- (a) in relation to a scheduled work that forms part of the works specified in the First Schedule, such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is earlier than the day specified in paragraph (b); and
- (b) in relation to the work specified in the Second Schedule, such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day not later than 30th June, 1974;

"scheduled work" means a work that is part of the works specified in the First and Second Schedules.

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3. (1) On and from the appointed day relating to a **No. 34, 1974** scheduled work, all powers, authorities, duties, functions, rights and liabilities conferred or imposed on or acquired by the Minister for Public Works in respect of that work shall be exercised, performed or suffered by The Water Conservation and Irrigation Commission.

Transfer of powers, etc., to Water Conservation and Irrigation Commission.

(2) Without affecting the generality of subsection (1), on and from the appointed day relating to a scheduled work—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Minister for Public Works in connection with that work shall vest in and belong to The Water Conservation and Irrigation Commission;
- (b) all moneys and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Minister for Public Works in connection with that work shall be moneys and liquidated and unliquidated claims payable to or recoverable by The Water Conservation and Irrigation Commission;
- (c) all proceedings commenced before that day by the Minister for Public Works in connection with that work and pending immediately before that day shall be deemed to be proceedings pending on that day by The Water Conservation and Irrigation Commission and all proceedings so commenced by any person against the Minister for Public Works in connection with that work and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against The Water Conservation and Irrigation Commission;

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- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Minister for Public Works in connection with that work and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by The Water Conservation and Irrigation Commission;
- (e) The Water Conservation and Irrigation Commission may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of actions and proceedings so referred to as the Minister for Public Works might have done in connection with that work but for the enactment of this Act;
- (f) The Water Conservation and Irrigation Commission may enforce and realise any security or charge existing immediately before that day in favour of the Minister for Public Works in connection with that work and may exercise any powers thereby conferred on the Minister for Public Works as if the security or charge were a security or charge in favour of The Water Conservation and Irrigation Commission;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Minister for Public Works in connection with that work shall be debts due, moneys payable by and claims recoverable against The Water Conservation and Irrigation Commission; and
- (h) all liquidated and unliquidated claims for which the Minister for Public Works would, but for the enactment of this Act, have been liable in connection with that work shall be liquidated and unliquidated claims for which The Water Conservation and Irrigation Commission shall be liable.

(3)

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(3) On and from the appointed day relating to a scheduled work, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or a different kind, to the Minister for Public Works in connection with a scheduled work shall be construed as a reference to The Water Conservation and Irrigation Commission.

(4) No attornment to The Water Conservation and Irrigation Commission shall be required by a lessee under a lease from the Minister for Public Works where the lease was granted in respect of any part of a scheduled work.

4. (1) A person employed in the public service in connection with the construction, maintenance, operation or control of a scheduled work immediately before the appointed day relating to that work may elect to be transferred to the service of The Water Conservation and Irrigation Commission.

Transfer
of public
servants
to Water
Conservation
and
Irrigation
Commission.

(2) An election referred to in subsection (1) has no effect unless—

- (a) it is in writing signed by the person so employed and is delivered to The Water Conservation and Irrigation Commission on or before the appointed day referred to in subsection (1); and
- (b) the Minister for Public Works and the Minister for Conservation approve of the election.

(3) A person whose election is made and approved in accordance with subsection (2) becomes, on and from the appointed day referred to in subsection (2) (a) in connection with the delivery of an election, an officer or servant of The Water Conservation and Irrigation Commission, as determined by that Commission, and—

- (a) where the salary or wages payable to any such person was or were, immediately before that day, regulated by an award or industrial agreement, that person shall be paid a salary or wages at a rate not less

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- less than the rate which was payable to him immediately before that day as a person employed in the public service, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, until that salary or those wages is or are varied by an award by which The Water Conservation and Irrigation Commission is bound made by a competent tribunal, or by an industrial agreement to which that Commission is a party;
- (b) where any condition of employment of any such person was, immediately before that day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which The Water Conservation and Irrigation Commission is bound made by a competent tribunal, or that condition is regulated by an industrial agreement to which that Commission is a party;
- (c) recreation or annual leave, sick leave and extended or long service leave shall continue to accrue to any such person on the same basis as they accrued to him as a person employed in the public service immediately before that day, until that basis is varied or altered in accordance with any Act or law;
- (d) for the purpose of calculating the entitlement to extended or long service leave of any such person under this subsection—
- (i) any service of the person which by the terms of any Act or of any award or industrial agreement was, immediately before that day, required to be taken into account for the purpose of determining his entitlement to that leave as a person employed in

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the public service shall be deemed to be service with The Water Conservation and Irrigation Commission; and

(ii) there shall be deducted from any extended or long service leave to which any such person becomes entitled, as an officer or servant of that Commission, any extended or long service leave taken by him in respect of any period of service referred to in subparagraph (i); and

(e) any such person shall be entitled to receive as an officer or servant of The Water Conservation and Irrigation Commission, any recreation or annual leave or any sick leave accrued to him as a person employed in the public service immediately before that day.

(4) A person employed in the public service who, under subsection (3), becomes an officer or servant of The Water Conservation and Irrigation Commission, is not, in respect of the same period of service, entitled to claim or receive benefits under the Irrigation Act, 1912, and any other Act.

5. The River Murray Waters Act, 1915, is amended—

Amendment
of Act No.
8, 1915.

(a) by inserting at the end of section 13 the following subsections :—

Sec. 13.
(Saving of
rights of
certain
officers.)

(2) The existing and accruing rights of—

(a) a commissioner or an officer of The Water Conservation and Irrigation Commission appointed as a Commissioner or Deputy Commissioner; and

(b)

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- (b) a person in the service of The Water Conservation and Irrigation Commission who is appointed or employed as an officer or servant by the Commission,

shall not be affected by reason of his being so appointed or employed and service as a Commissioner or Deputy Commissioner, or as an officer or servant, of the Commission, shall count as service as a commissioner of, or as service with, The Water Conservation and Irrigation Commission, as the case may be.

(3) A commissioner of The Water Conservation and Irrigation Commission is not entitled to receive a benefit in respect of any period of service as a commissioner, or as an officer or servant, of The Water Conservation and Irrigation Commission, if he is receiving a benefit in respect of the same period of service under a law of the Commonwealth.

Sec. 15.
(Construction, &c.,
of works
by Govern-
ment of
New South
Wales.)

- (b) (i) by omitting from section 15 (1) the words "the Minister for Public Works" and by inserting instead the words "The Water Conservation and Irrigation Commission";
- (ii) by omitting from section 15 (2) the words "the said Minister" and by inserting instead the words "The Water Conservation and Irrigation Commission";

Sec. 16.
(Construction, &c.,
of works
by other
Govern-
ments.)

- (c) by omitting from section 16 (a) the words "the Minister for Public Works" and by inserting instead the words "The Water Conservation and Irrigation Commission".

FIRST

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FIRST SCHEDULE

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The works described in clause 20 of the agreement excluding the work described in the Second Schedule. Sec. 2.

SECOND SCHEDULE

Sec. 2.

The containing dam of the Hume Reservoir.

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