

**METROPOLITAN WATER, SEWERAGE, AND DRAINAGE
(AMENDMENT) ACT, 1983, No. 83**

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ



Act No. 83, 1983.

An Act to amend the Metropolitan Water, Sewerage, and Drainage Act, 1924, so as to reconstitute The Metropolitan Water Sewerage and Drainage Board; to make provision with respect to the deferral or waiver of rates on account of hardship; and for other purposes. [Assented to, 10th October, 1983.]

See also Hunter District Water, Sewerage and Drainage (Rates) Amendment Act, 1983; Statutory and Other Offices Remuneration (Metropolitan Water Sewerage and Drainage Board) Amendment Act, 1983.

Metropolitan Water, Sewerage, and Drainage (Amendment).

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:—

Short title.

1. This Act may be cited as the "Metropolitan Water, Sewerage, and Drainage (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–3, commence or be deemed to have commenced, as the case may require, on the day on which the provision commences.

(3) Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(4) Schedule 2 (1) shall be deemed to have commenced on 1st July, 1983.

Principal Act.

3. The Metropolitan Water, Sewerage, and Drainage Act, 1924, is referred to in this Act as the Principal Act.

Metropolitan Water, Sewerage, and Drainage (Amendment).

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION AND PROCEDURE OF THE BOARD.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO RATES.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

SCHEDULE 4.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 50, 1924.

5. The Principal Act is amended in the manner set forth in Schedules 1-3.

Savings, transitional and other provisions.

6. Schedule 4 has effect.

Report and recommendations.

7. Within 6 months after the day appointed and notified under section 2 (3), The Metropolitan Water Sewerage and Drainage Board shall—

- (a) forward to the Minister a report relating to the financial management, industrial relations and operating activities of the board and such other matters as it determines or the Minister directs should be dealt with in the report; and

Metropolitan Water, Sewerage, and Drainage (Amendment).

- (b) in the report make such recommendations with respect to any organisational, administrative or other changes as are, in its judgment, necessary or desirable, in the public interest, for the improvement of any of the matters mentioned in paragraph (a).

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD.

- (1) (a) Section 3—

Omit the matter relating to Part III, insert instead:—

PART III.—CONSTITUTION OF BOARD—*ss. 6A–25A.*

PART IIIA.—GENERAL MANAGER AND DEPUTY GENERAL
MANAGER—*ss. 25B–25D.*

- (b) Section 3—

From the matter relating to Part IV, omit “30”, insert instead
“30A”.

- (c) Section 3—

At the end of the section, insert:—

SIXTH SCHEDULE.—PROVISIONS RELATING TO THE
CONSTITUTION OF THE BOARD.

SEVENTH SCHEDULE.—PROVISIONS RELATING TO THE
PROCEDURE OF THE BOARD.

EIGHTH SCHEDULE.—PROVISIONS RELATING TO THE
GENERAL MANAGER AND DEPUTY GENERAL MANAGER.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(2) (a) Section 4, definition of "Deputy General Manager"—

After the definition of "Crown land", insert:—

"Deputy General Manager" means the Deputy General
Manager of the board.

(b) Section 4, definition of "Elected member"—

Omit "8 (1) (e)", insert instead "8 (3)".

(c) Section 4, definition of "General Manager"—

Before the definition of "Hot water apparatus", insert:—

"General Manager" means the General Manager of the
board.

(d) Section 4, definition of "Member"—

After the definition of "Lease", insert:—

"Member" means a member of the board.

(e) Section 4, definition of "Part-time member"—

After the definition of "Part", insert:—

"Part-time member" means a member referred to in section
8 (1) (b).

(3) Section 6A—

Before section 7, insert:—

The board.

6A. There is hereby constituted a corporation under the corporate
name of "The Metropolitan Water Sewerage and Drainage Board".

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.***

(4) Section 7 (1)—

Omit "Metropolitan Water Sewerage and Drainage Board", insert instead "board".

(5) Section 8—

Omit the section, insert instead:—

Membership and procedure of board.

8. (1) The board shall consist of 7 members, of whom—

(a) 1 shall be the person for the time being holding office or acting as General Manager; and

(b) 6 shall be appointed by the Governor on the nomination of the Minister.

(2) The members appointed by the Governor shall, in and by the instruments by which the members are appointed, be appointed as part-time members.

(3) One of the part-time members shall be a person elected as a member in the manner prescribed by the regulations.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(4) Sections 38 and 39 of the Interpretation Act, 1897, apply in relation to the board as if it were constituted by an Act passed after the commencement of the Interpretation (Amendment) Act, 1969.

(5) The Sixth Schedule has effect with respect to the constitution of the board.

(6) The Seventh Schedule has effect with respect to the procedure of the board.

(6) Sections 9–12—

Omit the sections.

(7) Sections 13–22—

Omit the sections.

(8) Section 25—

Omit the section.

(9) Section 25A (5)—

After section 25A (4), insert:—

(5) A reference (however expressed) in this section to an officer of the board includes a reference to the General Manager and the Deputy General Manager.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(10) Part IIIA—

After Part III, insert:—

PART IIIA.

GENERAL MANAGER AND DEPUTY GENERAL MANAGER.

General Manager and Deputy General Manager.

25B. (1) The Governor may appoint a General Manager of the board.

(2) The Governor may appoint a Deputy General Manager of the board.

(3) The Eighth Schedule has effect with respect to the General Manager and Deputy General Manager.

Functions of General Manager.

25C. The General Manager—

- (a) is responsible, as chief executive officer of the board, for the management of the affairs of the board subject to and in accordance with any directions of the board; and
- (b) shall have and may exercise or discharge such other powers, authorities, duties and functions as are conferred or imposed on the General Manager by or under this or any other Act.

Functions of Deputy General Manager.

25D. (1) The Deputy General Manager shall have such powers, authorities, duties and functions (excluding those of the General Manager as a member of the board) as the General Manager directs.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(2) Where—

- (a) the General Manager is prevented by illness or absence from exercising or discharging any of the powers, authorities, duties and functions of the office of General Manager; or
- (b) there is a vacancy in the office of General Manager,

the Deputy General Manager shall have and may exercise or discharge the powers, authorities, duties and functions of that office (including those of the General Manager as a member of the board and those delegated to the General Manager under section 30A), and anything done by the Deputy General Manager while acting pursuant to this subsection shall be deemed to have been done as General Manager.

(3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Deputy General Manager to act in the office of General Manager pursuant to subsection (2).

(11) Section 30A—

After section 30, insert:—

Delegation.

- 30A. (1) The board may, by instrument in writing, delegate to—
- (a) the General Manager;
 - (b) a committee comprised of members, including the General Manager or a member nominated by the General Manager;
 - (c) an officer of the board; or
 - (d) a person for the time being holding or acting in a specified position in the staff establishment of the board,

the exercise of such of the functions of the board (other than this power of delegation) as are specified in the instrument.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.

(3) Without limiting the operation of subsection (2), a function the exercise of which has been delegated under this section to the General Manager may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

- (a) the Deputy General Manager;
- (b) an officer of the board; or
- (c) a person for the time being holding or acting in a specified position in the staff establishment of the board,

as authorised by instrument in writing by the General Manager in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation or authorisation.

(5) Notwithstanding any delegation under this section, the board may continue to exercise any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section, or by a person duly authorised in that behalf by the General Manager under this section, has the same force and effect as it would have if it had been done or suffered by the board and shall be deemed to have been done or suffered by the board.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(7) The board may, by instrument in writing, revoke wholly or in part any delegation under this section, and the General Manager may, by instrument in writing, revoke wholly or in part any authorisation under this section.

(8) An instrument purporting to have been signed by a person in his or her capacity as a delegate of the board, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the board and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the board or by a person duly authorised under this section, as the case may be.

(9) In subsection (8), a reference to a delegate includes a reference to the chairman of a committee to which the exercise of a function has been delegated under subsection (1).

(10) Nothing in this section prevents a function of the board from being exercised in any manner in which it could have been exercised had this section not been enacted.

(11) In this section, a reference to—

- (a) a function includes a reference to a power, authority and duty; and
- (b) the exercise of a function includes, where the function is a duty, a reference to the discharge of the duty.

(12) Section 125 (1) (ac), (ad)—

Omit section 125 (1) (ac), insert instead:—

- (ac) The custody and use of the common seal of the board.
- (ad) The carrying into effect of the several provisions, intentions and objects of this Act.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(13) Sixth, Seventh and Eighth Schedules—

After the Fifth Schedule, insert:—

SIXTH SCHEDULE.

(Sec. 8 (5).)

PROVISIONS RELATING TO THE CONSTITUTION OF THE BOARD.

Age of members.

1. A person of or above the age of 70 years is not eligible to be appointed as a part-time member.

Chairman of the board.

2. (1) Of the part-time 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 Chairman of the board.

(2) The Governor may remove a part-time member from the office of Chairman.

(3) A person who is a part-time member and Chairman shall be deemed to have vacated office as Chairman 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 part-time member.

Acting members and acting Chairman.

3. (1) The Minister may, from time to time, appoint a person to act in the office of a part-time member during the illness or absence of the member, and the person, while so acting, shall have and may exercise and discharge all the powers, authorities, duties and functions of the member.

(2) The Minister may, from time to time, appoint a part-time member to act in the office of Chairman during the illness or absence of the Chairman, and the part-time member, while so acting, shall have and may exercise and discharge all the powers, authorities, duties and functions of the Chairman.

(3) The Minister may remove any person from any office to which the person was appointed under subclause (1) or (2).

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(4) 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.

(5) For the purposes of this clause—

- (a) a vacancy in the office of a part-time member or the Chairman shall be deemed to be an absence from office of the member or Chairman, as the case may be; and
- (b) a part-time member shall be deemed to be absent from office as a part-time member during any period that the member acts in the office of the General Manager or Deputy General Manager pursuant to an appointment under clause 3 of the Eighth Schedule.

(6) In subclause (2), clauses 1, 8, 9 and 10 and the Seventh Schedule—

- (a) a reference to a member or part-time member includes a reference to a person acting in the office of a member or part-time member;
- (b) a reference to the appointment of a part-time member includes a reference to the appointment of a person to act in the office of a part-time member; and
- (c) a reference to the office of a part-time member includes a reference to the office of a person appointed to act in the office of a part-time member.

Terms of office.

4. Subject to this Schedule, a part-time member shall hold office—

- (a) except in the case of the elected member—for such period not exceeding 5 years; or
- (b) in the case of the elected member—for the period of 3 years commencing on such day,

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

Remuneration.

5. 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 part-time member.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—continued.****Filling of vacancy in office of part-time member.**

6. In the event of the office of any part-time member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) A part-time member shall be deemed to have vacated office if the member—

- (a) dies;
- (b) absents himself or herself from 4 consecutive meetings of the board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- (c) 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;
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) is convicted in New South Wales of an offence which is punishable by 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;
- (f) resigns the office by instrument in writing addressed to the Minister;
- (g) attains the age of 70 years; or
- (h) is removed from office by the Governor under subclause (2), (3) or (4).

(2) The Governor may remove a part-time member (other than the elected member) from office.

(3) The Governor may remove the elected member from office for incapacity, incompetence or misbehaviour.

(4) Without affecting subclause (2) or (3), the Governor may remove from office a part-time member who contravenes the provisions of clause 8.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

Disclosure of pecuniary interests.

8. (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 board; or
 - (b) in a thing being done or about to be done by the board,
- 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 board.
- (2) A disclosure by a member at a meeting of the board 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 board 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 board 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 board, or take part in any decision of the board, with respect to that matter; or
 - (b) exercise or discharge any powers, authorities, duties or functions under this Act with respect to that thing,
- as the case may require.
- (5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the board or the exercise or discharge of any power, authority, duty or function under this Act.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.***

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which—

(a) arises by reason only that—

(i) the member is the owner or occupier of land that is or may become ratable land under this Act;

(ii) the member is a consumer of water supplied by the board, or is a participant in any other service provided by the board, in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the board; or

(iii) the member is an officer or workman appointed under section 26; or

(b) arises in relation to the insurance of the member under section 25A, except where it arises in relation to a claim made by or on behalf of the member.

(7) A reference in this clause to a meeting of the board includes a reference to a meeting of a committee of the board.

Effect of certain other Acts.

9. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a part-time member and a part-time member is not, as a part-time member, subject to those provisions.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or 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.

Liability of members, etc.

10. No matter or thing done by the board, and no matter or thing done by any member or by any person acting under the direction of the board shall, if the matter or thing was done bona fide 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 whatever.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

SEVENTH SCHEDULE.

(Sec. 8 (6).)

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.

General procedure.

1. The procedure for the calling of meetings of the board and for the conduct of business at those meetings shall, subject to any procedure that is specified in this Act or prescribed by the by-laws, be as determined by the board.

Quorum.

2. Four members, of whom one shall (except as may be prescribed by the regulations) be the General Manager, shall form a quorum and any duly convened meeting of the board at which a quorum is present shall be competent to transact any business of the board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the board.

Presiding member.

3. (1) The Chairman or, in the absence of the Chairman, another part-time member elected as chairman for the meeting by the members present shall preside at a meeting of the board.

(2) The person acting as chairman at any meeting of the board shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Voting.

4. A decision supported by a majority of the votes cast at a meeting of the board at which a quorum is present shall be the decision of the board.

Minutes.

5. The board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the board.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

EIGHTH SCHEDULE.

(Sec. 25B.)

PROVISIONS RELATING TO THE GENERAL MANAGER
AND DEPUTY GENERAL MANAGER.**Interpretation.**

1. In this Schedule, "executive officer" means the General Manager or Deputy General Manager.

Age of executive officers.

2. A person of or above the age of 65 years is not eligible to be appointed as an executive officer.

Acting executive officer.

3. (1) The Minister may, from time to time, appoint a person to act in the office of an executive officer during the illness or absence of the executive officer, and the person, while so acting, shall have and may exercise and discharge all the powers, authorities, duties and functions of the executive officer.

(2) The Minister may remove any person from any office to which the person was appointed under subclause (1).

(3) A person while acting in the office of an executive officer 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.

(4) For the purposes of this clause, a vacancy in the office of an executive officer shall be deemed to be an absence from office of the executive officer.

(5) In clauses 2, 5 and 9—

- (a) a reference to an executive officer includes a reference to a person acting in the office of an executive officer;
- (b) a reference to the appointment of an executive officer includes a reference to the appointment of a person to act in the office of an executive officer; and
- (c) a reference to the office of an executive officer includes a reference to the office of a person appointed to act in the office of an executive officer.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—continued.**

Terms of office.

4. Subject to this Schedule, an executive officer shall hold office for such period not exceeding 7 years as may be specified in the instrument of appointment of the executive officer, but is eligible (if otherwise qualified) for re-appointment.

Executive officer to be full-time officer.

5. An executive officer shall devote the whole of his or her time to the duties of the office of executive officer, except as permitted by this Act or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

Remuneration.

6. An executive officer 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 executive officer.

Filling of vacancy in office of executive officer.

7. In the event of the office of any executive officer becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

8. (1) An executive officer shall be deemed to have vacated office if the executive officer—
- (a) dies;
 - (b) 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 (which leave the Minister is hereby authorised to grant), unless the absence is occasioned by illness or other unavoidable cause;
 - (c) 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;

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—continued.**

- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) is convicted in New South Wales of an offence which is punishable by 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;
- (f) engages in any paid employment outside the duties of the office of executive officer, except with the consent of the Minister (which consent the Minister is hereby authorised to give);
- (g) resigns the office by instrument in writing addressed to the Minister;
- (h) is retired from office by the Governor under subclause (2); or
- (i) is removed from office by the Governor under subclause (3) or (4).

(2) An executive officer may, after attaining the age of 60 years and before attaining 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 an executive officer from office for incapacity, incompetence or misbehaviour.

(4) Without affecting subclause (3), the Governor may remove from office an executive officer who contravenes the provisions of clause 8 of the Sixth Schedule.

Public Service Act, 1979.

9. The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of an executive officer and an executive officer is not, as an executive officer, subject to those provisions.

Preservation of rights of executive officer previously public servant, etc.

10. (1) In this clause—

“statutory body” means any body declared under clause 12 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.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(2) Subject to subclause (3) and to the terms of appointment, where an executive officer was, immediately before being appointed as executive officer—

- (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 executive officer; and
- (g) shall be 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 executive officer and—

- (h) his or her service as executive officer 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 board shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

(3) If an executive officer would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he or she shall not be so entitled upon becoming (whether upon appointment as executive officer or at any later time while holding office as executive officer) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the board in any case where he or she becomes a contributor to any such other superannuation scheme.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

(4) Subclause (3) does not prevent the payment to an executive officer 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.

(5) An executive officer shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Executive officer entitled to re-appointment to former employment in certain cases.

11. (1) In this clause, "statutory body" means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

(2) A person who—

- (a) ceases to be an executive officer 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 executive officer—
 - (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 attained the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

shall be 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 executive officer.

(3) Where subclause (2) 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 (2) (b); and
- (b) is, after that appointment, appointed as executive officer,

the person shall have such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be executive officer, as are specified in the instrument of appointment as executive officer or as are agreed upon by the person and by or on behalf of the Government.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION
AND PROCEDURE OF THE BOARD—*continued.*

Declaration of statutory bodies.

12. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO RATES.

(1) Section 100A (13)—

After “equal to”, insert “half”.

(2) Section 100AB—

After section 100AA, insert:—

Schemes for deferral or waiver of rates on account of hardship.

100AB. (1) In this section—

“rates” includes charges;

“scheme” means a scheme established pursuant to this section.

(2) The regulations may, from time to time, establish one or more schemes under which payment of rates may be deferred or waived by the board on account of hardship.

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

(a) determining the classes of persons who are eligible to be granted a deferral or waiver of the payment of rates, whether or not those persons are eligible for relief under any other provision of this Division;

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO RATES—*continued.*

- (b) the nature of hardship for the purposes of a scheme;
- (c) determining whether or not hardship exists in particular cases or classes of cases;
- (d) specifying or describing the rates that may be the subject of deferral or waiver under a scheme;
- (e) the writing off by the board of rates where payment has been deferred or waived; or
- (f) varying or abolishing a scheme.

(4) The regulations may provide that any amount waived or written off pursuant to the regulations, as a result of a failure by an applicant for relief under a scheme to comply with any of the requirements of the scheme, may be recovered by the board as if it were a rate.

(3) Section 127 (3)—

After section 127 (2), insert:—

(3) Without limiting the generality of subsections (1) and (2), a provision of a regulation or by-law 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 any specified person or body,
- or may do any combination of those things.
-

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

(1) (a) Section 3—

In the matter relating to Part IV, after "BOARD", insert "—ss. 26–66".

(b) Section 3—

In the matter relating to Part V, after "FINANCE", insert "—ss. 67–112".

(c) Section 3—

In the matter relating to Part VI, after "PROPERTY", insert "—ss. 114–123".

(d) Section 3—

Omit the matter relating to the First and Second Schedules, insert instead:—

FIRST SCHEDULE.—REPEALS.

SECOND SCHEDULE.—AREA OF OPERATIONS.

(e) Section 3—

Omit the matter relating to the Third Schedule.

(f) Section 3—

Omit the matter relating to the Fourth Schedule, insert instead:—

FOURTH SCHEDULE.—RATES, CHARGES AND FEES.

FIFTH SCHEDULE.—MODIFICATION OF THE PUBLIC WORKS ACT, 1912.

(2) (a) Section 4, definition of "Catchment area"—

After "proclamation", insert "under section 55".

(b) Section 4, definitions of "Municipality", "Statutory body representing the Crown"—

Omit ", as amended by subsequent Acts" wherever occurring.

(c) Section 4, definition of "Treasurer"—

Omit the definition.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(3) Section 25A (2)—

Omit “— 1954”.

(4) Section 26 (2)—

Omit the subsection.

(5) Section 34 (2)—

Omit “Board,” insert instead “board”.

(6) Section 34A (2)—

Omit “State Planning Authority of New South Wales” wherever occurring, insert instead “Director of Environment and Planning”.

(7) (a) Section 34B (1)—

Omit “as amended by subsequent Acts, by the council of the municipality or shire in which the land is situated, or an award, other than an award disallowing the decision or all of the decisions appealed from, as the case may be, has been made under subsection (1) of section 341L of that Act, as so amended, by the Board of Subdivision Appeals in respect of any such land, the applicant to whom any such approval was given or in whose favour any such award was made”, insert instead “the applicant to whom the approval was given”.

(b) Section 34B (5), (5A)—

Omit section 34B (5), insert instead:—

(5) The board shall not serve a notice under subsection (2) (b) (ii) or (iii), or under subsection (2) (c), requiring the applicant for a certificate under this section to enter into an agreement under section 34A for the construction of a water or sewer main, or both, or any ancillary works, to serve any land unless—

- (a) it has referred to the Director of Environment and Planning a copy of the plan of subdivision in relation to which the applicant has applied for a certificate; and

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

- (b) the Director of Environment and Planning has issued to the board a certificate under section 34A (2) in respect of the construction of the water or sewer main, or both, as the case may be, and ancillary works.
- (5A) The Director of Environment and Planning shall, within 20 days after receiving a copy of a plan of subdivision referred by the board, either—
 - (a) inform the board that a certificate under section 34A (2) is not proposed to be issued in relation to the land comprised in the plan; or
 - (b) issue such a certificate in respect of the construction of a water or sewer main, or both, and any necessary ancillary works, to serve the land or any part thereof, either alone or together with other lands.
- (8) Section 37A—

Omit “as amended by subsequent Acts, including the Public Works (Amendment) Act, 1935.”
- (9) (a) Section 55 (4) (a) (i)—

Omit “as amended by subsequent Acts.”
- (b) Section 55 (4)—

Omit “, as so amended,” wherever occurring.
- (c) Section 55 (5) (f)—

After “Division 3”, insert “of Part II”.
- (d) Section 55 (5) (g)—

Omit “as amended by subsequent Acts.”
- (10) Section 56A (1)—

Omit “as amended by subsequent Acts.”

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(11) Section 86A (1), definition of "strata lot"—

Omit the definition, insert instead:—

"strata lot" means a lot as defined in section 5 (1) of the Strata Titles Act, 1973.

(12) (a) Section 88 (1) (1)—

Omit ", or any amendment thereof".

(b) Section 88 (3)—

Omit "Acts, 1912-1930", insert instead "Act, 1912".

(c) Section 88 (4)—

Omit "-1930".

(13) First Schedule—

After the heading to the Schedule, insert "REPEALS".

(14) (a) Second Schedule—

Omit "Area of Operations", insert instead "AREA OF OPERATIONS".

(b) Second Schedule—

After "Bankstown", insert "(City)".

(c) Second Schedule—

After "Fairfield", insert "(City)".

(d) Second Schedule—

Omit "South Sydney".

(e) Second Schedule—

Omit "Windsor".

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE
LAW REVISION—*continued.*

(f) Second Schedule—

Omit "Colo", insert instead "Hawkesbury".

(15) Fourth Schedule—

Omit "*Rates, charges, and fees.*", insert instead "RATES, CHARGES AND FEES."

SCHEDULE 4.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. In this Schedule—

"appointed day" means the day appointed and notified under section 2 (3);

"new board" means The Metropolitan Water Sewerage and Drainage Board constituted in accordance with the Principal Act as in force on or after the appointed day;

"old board" means The Metropolitan Water Sewerage and Drainage Board as constituted in accordance with the Principal Act before the appointed day.

Members holding office immediately before the appointed day.

2. (1) A person who, immediately before the appointed day, held office as a member of the old board—

(a) shall cease to hold office as such on that day; and

(b) is eligible (if otherwise qualified) to be appointed as a member of the new board.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) A person who ceases to hold office as a member of the old board by reason of the operation of this Act is not entitled to be paid any remuneration or compensation by reason of ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines out of the funds of the new board.

(3) A person who, immediately before the appointed day, held office as president or vice-president of the old board and who ceases to hold that office by reason of the operation of this Act, is, if the person—

- (a) is not appointed as General Manager or Deputy General Manager of the new board with effect on and from that day; and
- (b) was, immediately before being appointed as president or vice-president of the old board, the holder of a full-time position in the service of the Government,

entitled to be appointed to some position in the service of the Government.

(4) A person referred to in subclause (3) is, until—

- (a) the day on which the term of office for which the person had been appointed to the old board expires; or
- (b) the day on which the person ceases to hold the position to which the person is appointed pursuant to subclause (3),

whichever first occurs, entitled to be paid such salary as the Statutory and Other Offices Remuneration Tribunal may from time to time determine in relation to the person, not lower than the salary for the time being applicable to the position that the person held immediately before being appointed to the old board.

(5) Pending the making of the relevant determination under subclause (4), salary shall continue to be paid to a person referred to in subclause (3) at the rate at which it was payable to the person immediately before the appointed day.

(6) A reference in this clause to a position in the service of the Government includes a reference to an office or position as a member, officer or employee of a body constituted by an Act.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 4—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Elected member.

3. The person who, immediately before the appointed day, held office as the elected member of the old board shall (without further election) be deemed to have been duly appointed as the elected member of the new board, and—

- (a) shall be deemed to have been so appointed—
 - (i) upon the same terms and conditions as those applicable to the person immediately before the appointed day; and
 - (ii) for the residue of the term of office for which the person was appointed; and
- (b) is eligible (if otherwise qualified) for appointment or re-appointment under the Principal Act, as subsequently amended, with effect from the expiration of that term of office or from any subsequent time.

Continuity of board.

4. The new board is a continuation of, and the same legal entity as, the old board.

References to certain officers of old board.

5. (1) On and from the appointed day, a reference in any Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed before the appointed day) to the president or vice-president of the old board shall be read and construed as a reference to the General Manager or Deputy General Manager, respectively, appointed under the Principal Act, as amended by this Act.

(2) Subclause (1) does not apply to any determination under the Statutory and Other Offices Remuneration Act, 1975.

Appointments, etc., before appointed day.

6. For the purpose only of enabling the new board to be constituted in accordance with the Principal Act, as amended by this Act, on or after (but not before) the appointed day, appointments may be made under the Principal Act, as so amended, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act, but so that no appointment as a member of the new board as so constituted takes effect before the appointed day.

Metropolitan Water, Sewerage, and Drainage (Amendment).

SCHEDULE 4—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***First meeting of new board.**

7. The Minister shall call the first meeting of the new board on or after the appointed day in such manner as the Minister thinks fit.

Liability of Minister for provision of certain money.

8. Nothing in the Principal Act, as amended by this Act, affects the liability of the Minister to pay an amount equal to that written off pursuant to section 100A of the Principal Act, as in force immediately before 1st July, 1983, in respect of a rate made and levied for the year commencing on 1st July, 1982, or any preceding year.

Regulations.

9. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (clause 2 excepted).
