



New South Wales

Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001 No 78

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Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001 No 78

Act No 78, 2001

An Act to rationalise the application of the marine safety legislation of New South Wales and Victoria in Lake Hume and Lake Mulwala on the Murray River border; and for other purposes. [Assented to 1 November 2001]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name and purpose of Act

- (1) This Act is the *Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001*.
- (2) The purpose of this Act is to rationalise the application of the marine safety legislation of New South Wales and Victoria in Lake Hume and Lake Mulwala on the Murray River border, which has been submerged by the creation of those Lakes. Under the combined operation of this Act and the corresponding Victorian Act, the marine safety legislation is to have effect as if the border:
 - (a) included within Victoria all the waters of Lake Hume downstream of the Bethanga Bridge, and
 - (b) included within New South Wales all the waters of Lake Hume upstream of that bridge, and all the waters of Lake Mulwala (including the waters of the Ovens River north of the Murray Valley Highway Bridge).

2 Commencement

This Act commences on a day to be appointed by proclamation.

3 Definitions

In this Act:

associated laws has the meaning given by section 4.

Bethanga Bridge means the bridge by that name over the Murray River as at the commencement of this Act, but if that bridge is replaced after that commencement, means the replacement bridge.

corresponding Victorian Act means the *Marine Safety Legislation (Lakes Hume and Mulwala) Act 2001* of Victoria.

exercise includes perform.

function includes a power, duty or authority.

Lake Hume means the lake by that name on the Murray River, comprising the waters from the Hume Weir upstream to the imaginary line across the Murray River at longitude 147 degrees and 30 minutes east.

Lake Mulwala means the lake by that name on the Murray River, comprising:

- (a) the waters from the Yarrawonga Weir upstream to the imaginary line across the Murray River at longitude 146 degrees and 15 minutes east, and
- (b) the waters of the Ovens River north of the Murray Valley Highway Bridge.

law includes unwritten law.

marine safety legislation means the marine safety legislation of New South Wales and the marine safety legislation of Victoria.

marine safety legislation of New South Wales means the provisions of the *Marine Safety Act 1998* of New South Wales, and the regulations and other instruments made under that Act, as in force from time to time.

marine safety legislation of Victoria means the provisions of the *Marine Act 1988* of Victoria, and the regulations and other instruments made under that Act, as in force from time to time.

Murray Valley Highway Bridge means the bridge, on the Murray Valley Highway, over the Ovens River as at the commencement of this Act, but if that bridge is replaced after that commencement, means the replacement bridge.

transferred New South Wales area means so much of the area covered for the time being by the waters of Lake Hume downstream of the Bethanga Bridge as is within the territorial limits of New South Wales.

transferred Victorian area means:

- (a) so much of the area covered for the time being by the waters of Lake Hume upstream of the Bethanga Bridge, and
- (b) so much of the area covered for the time being by the waters of Lake Mulwala (including the waters of the Ovens River north of the Murray Valley Highway Bridge),

as are within the territorial limits of Victoria.

4 Laws associated with marine safety legislation

- (1) For the purposes of this Act, *associated laws*, in relation to the marine safety legislation of a State, are the provisions of any laws of that State concerning a matter arising under that legislation.
- (2) Matters arising under marine safety legislation include, for example (but without limitation) the following:
 - (a) the investigation and prosecution of offences under that legislation (including the issue of infringement or penalty notices), and the arrest, bail, trial and conviction of offenders,
 - (b) the jurisdiction of courts and tribunals under that legislation,
 - (c) the procedure before courts and tribunals exercising jurisdiction under that legislation (including with respect to evidence, appeals and review),
 - (d) the payment and recovery of fines, penalties, fees and other money under that legislation,
 - (e) the jurisdiction of the Ombudsman with respect to the conduct of public officials under that legislation,
 - (f) the access to information held by public officials under that legislation,
 - (g) the interpretation of that legislation.

Part 2 Area transferred to Victorian jurisdiction

5 Application of marine safety legislation of Victoria and associated Victorian laws in transferred New South Wales area

- (1) The marine safety legislation of Victoria, and the associated laws of Victoria, apply in and in relation to the transferred New South Wales area as if that area were within the territorial limits of Victoria.
- (2) The marine safety legislation of New South Wales, and the associated laws of New South Wales, do not apply in or in relation to the transferred New South Wales area.

6 Conferral of functions and jurisdiction on Victoria

- (1) All persons who have functions conferred or imposed on them for the purposes of or in connection with the marine safety legislation of Victoria (or the associated laws of Victoria) have and may exercise those functions for the purposes of or in connection with that legislation or those laws, as applying in and in relation to the transferred New South Wales area by virtue of this Part.
- (2) The several courts of Victoria are invested with jurisdiction in all matters arising under the marine safety legislation of Victoria (or the associated laws of Victoria), as applying in and in relation to the transferred New South Wales area by virtue of this Part.

7 Provisions of marine safety legislation of Victoria with specific application not to apply

- (1) Nothing in this Part renders a provision of the marine safety legislation of Victoria applicable in a particular place:
 - (a) in so far as the provision is incapable of applying in or in relation to that place, or
 - (b) if that legislation expressly provides that the provision does not extend or apply in or in relation to that place, or
 - (c) if that legislation expressly provides that the provision applies only in a specified locality that does not include that place.
- (2) A provision of the marine safety legislation of Victoria is not taken to be a provision to which subsection (1) applies merely because it is limited in its application to acts, matters or things within the waters (however described) of Victoria.

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Part 2 Area transferred to Victorian jurisdiction

8 Exclusion of applicable provisions by regulation

The regulations under this Act:

- (a) may exclude particular provisions of the marine safety legislation of Victoria or the associated laws of Victoria from applying in and in relation to the transferred New South Wales area by virtue of this Part, and
- (b) may provide that particular provisions of the marine safety legislation of New South Wales or the associated laws of New South Wales are not excluded from applying in or in relation to the transferred New South Wales area by virtue of this Part.

Part 3 Area transferred to New South Wales jurisdiction

9 Application of marine safety legislation of New South Wales and associated New South Wales laws in transferred Victorian area

This Part has effect for the purposes of the provisions of the corresponding Victorian Act that apply the marine safety legislation of New South Wales, and any associated laws of New South Wales, in and in relation to the transferred Victorian area as if that area were within the territorial limits of New South Wales.

10 Conferral of functions and jurisdiction on New South Wales

- (1) All persons who have functions conferred or imposed on them for the purposes of or in connection with the marine safety legislation of New South Wales (or the associated laws of New South Wales) have and may exercise those functions for the purposes of or in connection with that legislation or those laws, as applying in and in relation to the transferred Victorian area by virtue of the corresponding Victorian Act.
- (2) The several courts of New South Wales are invested with jurisdiction in all matters arising under the marine safety legislation of New South Wales (or the associated laws of New South Wales), as applying in and in relation to the transferred Victorian area by virtue of the corresponding Victorian Act.

Part 4 Miscellaneous

11 Appointment of interstate officers

- (1) A power under the marine safety legislation of New South Wales to appoint or authorise a person for the purposes of the enforcement of that legislation in New South Wales or in the transferred Victorian area extends to the appointment or authorisation of a person who is a member of the police force of Victoria or who is employed under Part 3 of the *Public Sector Management and Employment Act 1998* of Victoria.
- (2) A person who is police officer of New South Wales or a member of the staff of the Waterways Authority of New South Wales (or of any other authority of New South Wales) may be appointed or authorised under the marine safety legislation of Victoria for the purposes of the enforcement of that legislation in Victoria or in the transferred New South Wales area.

12 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

13 Regulations

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.

14 Savings and transitional provisions

- (1) Nothing in this Act limits any other law that provides for the application of the laws of the State, or any part of those laws, beyond the limits of the State.
- (2) If the *Marine Safety Act 1998* of New South Wales has not commenced before the commencement of this Act, a reference in this Act to the marine safety legislation of New South Wales is, until that Act commences, taken to be a reference to the Acts and regulations to be repealed by Schedule 2 to that Act.

- (3) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

[Minister's second reading speech made in—
Legislative Assembly on 19 September 2001
Legislative Council on 23 October 2001]