

HUNTER WATER BOARD BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

- Water Board (Amendment) Bill 1988;
- Water Supply Authorities (Amendment) Bill 1988;
- Local Government (Hunter Water Board) Amendment Bill 1988.

The objects of this Bill are—

- (a) to constitute the Hunter Water Board; and
- (b) to confer functions on it,

under legislation uniform with that which will be applicable to the Sydney Water Board after the commencement of the proposed Water Board (Amendment) Act 1988.

(The Hunter District Water Board was constituted a body corporate by the Water Supply Authorities Act 1987 and that body is intended to be continued under the name of the Hunter Water Board.)

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 defines and explains expressions used in the proposed Act.

Clause 4 includes as objects of the proposed Act the beneficial allocation of water resources within the area of the Board and the provision of water and related services by the Board on a commercial basis.

PART 2—THE HUNTER WATER BOARD

Clause 5 constitutes a corporation under the corporate name of the Hunter Water Board.

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Clause 6 specifies the number of members of the Board and the qualifications for membership.

Clause 7 provides for the appointment by the Governor of a Managing Director of the Board.

Clause 8 provides for the appointment by the Governor of a Deputy Managing Director of the Board.

Clause 9 enables the Board to employ such persons as are necessary to enable it to exercise its functions.

PART 3—FUNCTIONS OF THE BOARD**Division 1—General**

Clause 10 brings the Board under the direction and control of the Minister and provides for the proposed Act to prevail if a function under it is inconsistent with a function under another Act. The clause also provides for a Hunter Water Board Consultative Forum which has the object of consulting with the Board on environmental and other issues.

Clause 11 enables the Board to exercise a function on behalf of the Water Administration Ministerial Corporation.

Clause 12 confers the general powers of the Board in relation to such matters as the management of water resources, the provision of water, sewerage and drainage services, the construction of works and things incidental to its objects.

Clause 13 provides for the area of operations of the Board to be prescribed by regulation. Such a regulation would indicate whether all, or only some, functions under the proposed Act would be exercised by the Board in the specified area.

Clause 14 enables the Board, with the consent of the Minister, to exercise a particular function at the request of another Water Supply Authority.

Clause 15 provides a general power for the Board to enter on land in order to exercise its functions. In exercising functions on the land entered, the Board is required to do as little damage as possible and to compensate for any damage caused.

Clause 16 confers on the Board a limited power of entry for special purposes such as locating pipes or sewers and checking on misuse or waste of water. It also provides for the rectification of defective or improper work.

Clause 17 confers power on the Board to break the surface of a public road or public reserve subject to conditions such as restoration and removal of rubbish.

Clause 18 specifies the procedure to be adopted by the Board desiring to alter the position of anything in or under a public road that does not belong to the Board and is used as a conduit for a substance (gas), energy (electric power) or signals (telephone).

Clause 19 enables the Board to demolish and remove a structure placed by another person in such a manner as to interfere with a work of the Board.

Clause 20 relates to the power of the Board to dig up ground in order to find a source of pollution of its water supply. Reasonable notice must be given to persons likely to be affected.

Clause 21 enables the Governor to declare an area of land (for example, a catchment area) as a special area.

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Clause 22 enables the Board to supervise any action proposed to be taken under the Crown Lands Consolidation Act 1913 in relation to a special area. It also gives the Board in relation to a special area the same powers as a trustee of a public reserve under that Act.

Clause 23 requires notice to be given to the Board, and enables the Board to make representations, if powers are to be exercised by the Governor, a Minister or a statutory body in a special area.

Division 2—Construction of works for developers

Clause 24 defines certain expressions used in Division 2.

Clause 25 authorises the Board to enter into an agreement to construct works at the expense of an owner of land.

Clause 26 enables a developer to apply for a certificate that proposed development complies with Division 2.

Clause 27 provides for the conditions on which a person who has an approval to which the proposed Division applies may obtain from the Board a certificate as to compliance with the requirements of that Division in relation to the approval.

PART 4—FINANCE

Division 1—Revenue

Clause 28 enables the Governor, by order published in the Gazette, to declare that a specified area is a development area, enables the Board to so declare charging periods and enables the Minister to so declare—

- (a) that land described in the order is a drainage area, a flood plain or a river management area; or
- (b) that a specified industry is a special industry for the purposes of the proposed Act.

Clause 29 imposes on a landowner a liability to pay service charges upon a water main or sewer main becoming available and provides for connections to such mains.

Clause 30 authorises the Board to levy the various service charges applicable to land within its area of operations.

Clause 31 specifies the different classes of land in relation to which the different classes of service charges may be levied.

Clause 32 enables the regulations to provide for the factors in relation to which the Board may classify land for the purpose of levying service charges.

Clause 33 requires the regulations to provide for the basis or bases on which the Board may levy service charges.

Clause 34 requires the Board to make a determination (in accordance with the regulations) for a charging period of—

- (a) the amount of money to be raised by means of the levying of service charges; and
- (b) the factor or factors according to which land is to be classified for levying service charges; and
- (c) the basis or bases on which service charges are to be levied; and

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(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.

Clause 35 imposes a duty on the Board to assess service charges after making a determination referred to in clause 34 and to give notice of how those charges were calculated.

Clause 36 provides for a re-assessment of service charges on a change of land value and for notice to be given of any such re-assessment.

Clause 37 provides that a service charge or other charge relating to land is a charge on the land on which it has been levied or to which it relates.

Clause 38 provides for the charging of interest (at a rate not exceeding that set by the regulations) on overdue payments.

Division 2—Miscellaneous

Clause 39 enables money owing to the Board to be recovered as a debt due to the Crown.

Clause 40 adopts in relation to certain unpaid service charges and other charges relating to land that are charged on land the provisions of the Local Government Act 1919 that relate to the sale of land for unpaid rates.

Clause 41 requires the Board, on application, to certify whether service charges for particular land have been paid and, if not, the amount owing.

Clause 42 enables a person authorised by the Board to obtain information from the records of a city, municipality or shire.

PART 5—OFFENCES

Clause 43 creates offences relating to the illegal use or diversion of water.

Clause 44 penalises wilful or negligent damage to works of the Board.

Clause 45 penalises obstruction of the Board in the exercise of its functions.

Clause 46 prohibits interference with works of the Board.

Clause 47 prohibits the opening of ground to expose a pipe or other work of the Board without lawful excuse or without giving at least 2 days' notice to the Board.

Clause 48 limits the work of connection to the pipes, sewers or drains of the Board to a person who holds the appropriate licence under the Plumbers, Gasfitters and Drainers Act 1979, a person supervised by such a licensee or the holder of a certificate of registration under that Act.

Clause 49 provides that prosecution or conviction for an offence against the proposed Act does not limit other rights of the Board in respect of such matters as damages and expenses incurred because of the offence.

Clause 50 provides for certain persons involved in an offence against the proposed Act to be equally guilty with the principal offender.

Clause 51 introduces the system of penalty notices for offences against the proposed Act.

Clause 52 provides for proceedings for an offence to be taken before a Local Court or the Supreme Court in its summary jurisdiction.

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PART 6—MISCELLANEOUS

Clause 53 enables the Board and the Managing Director to delegate the exercise of their functions.

Clause 54 dispenses with proof of certain formal matters.

Clause 55 authorises the appropriation or resumption, or divesting, of land (under the Public Works Act 1912 as modified by Schedule 4 to the proposed Act) for the purposes of the proposed Act.

Clause 56 exempts land in a special area from council rates if it is Crown land or land vested in the Board.

Clause 57 requires the payment in certain circumstances of compensation for damage to, or interference with, a work of the Board.

Clause 58 enables the Board to enter into certain commercial operations that relate to the exercise of its functions.

Clause 59 enables the Minister to act as agent of another Minister.

Clause 60 requires the Board to provide the Minister with certain information, if the Minister requires it.

Clause 61 enables the Minister to arrange for an investigation (at the cost of the Board) of the efficiency of the Board in exercising its functions.

Clause 62 enables the Minister to appoint an administrator to exercise the functions of the Board in certain circumstances.

Clause 63 provides for the Supreme Court to grant an injunction restraining a threatened or continuing contravention of the proposed Act.

Clause 64 establishes a procedure for the settlement of a dispute between the Board and another Government agency.

Clause 65 prohibits the making of regulations relating to certain matters concerning hot water apparatus.

Clause 66 authorises the making of regulations generally.

Clause 67 gives effect to the Schedule of savings and transitional provisions.

Clause 68 makes a consequential amendment to the Justices Act 1902 with respect to penalty notices.

Clause 69 makes a consequential amendment to the Public Works Act 1912.

Clause 70 makes a consequential amendment to the Statutory and Other Offices Remuneration Act 1975 relating to remuneration of the Managing Director and Deputy Managing Director of the Board.

Clause 71 makes a consequential amendment to the Water Administration Act 1986.

SCHEDULES

Schedule 1 contains provisions relating to the members of the Board.

Schedule 2 contains provisions relating to the Managing Director and the Deputy Managing Director of the Board.

Schedule 3 lists the land that is exempt from service charges under the proposed Act.

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Schedule 4 contains notional amendments of the Public Works Act 1912 in its application in relation to the resumption or appropriation of land by the Board.

Schedule 5 sets out provisions relating to the members of the Hunter Water Board Consultative Forum, such as the composition of its members.

Schedule 6 sets out provisions relating to meetings of the Forum.

Schedule 7 contains savings and transitional provisions consequential on the creation of the Board. A power to make further savings and transitional provisions by regulations is included.
