

## WATER BOARD BILL 1987\*

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Water Supply Authorities Bill 1987.

The object of this Bill is to replace the present Metropolitan Water, Sewerage, and Drainage Act 1924 with legislation uniform with the proposed Water Supply Authorities Act 1987.

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#### 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 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 and the provision of water and related services on a commercial basis.

#### PART 2—THE WATER BOARD

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

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.

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\* Amended in committee—see table at end of volume.

*Water Board 1987*

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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.

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 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 relates to the power of the Board to break the surface of a public road 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.

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

*Water Board 1987*

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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 a proposed development complies with Division 2.

Clause 27 provides for the conditions on which a person with 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 and enables the Minister, by an order so published, to declare—

- (a) that a specified period of 12 months is a charging year for the Board;
- (b) that land described in the order is a drainage area, a flood plain or a river management area; or
- (c) 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.

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 enables the regulations to provide for the basis on which the Board may levy service charges.

Clause 34 requires the Board to make a determination for a charging year of—

- (a) the amount of money to be raised by means of the levying of service charges;

*Water Board 1987*

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- (b) the factors according to which land is to be classified for levying service charges;
- (c) the basis on 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.

Clause 35 imposes a duty on the Board to assess service charges after making a determination referred to in clause 34.

Clause 36 provides for a reassessment of service charges on a change of land value.

Clause 37 provides that a service charge is a charge on the land on which it has been levied.

Clause 38 provides for the charging of interest on overdue payments.

*DIVISION 2—Miscellaneous*

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

Clause 40 adopts in relation to unpaid service charges 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 the obstruction of 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.

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 or a person supervised by a licensee.

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.

*Water Board 1987*

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

## PART 6—MISCELLANEOUS

Clause 53 enables the Board to delegate the exercise of its functions.

Clause 54 dispenses with proof of certain formal matters.

Clause 55 authorises the appropriation on resumption of land 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.

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

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

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

Clause 62 enables the Minister to appoint an administrator of 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 authorises the making of regulations relating to hot water apparatus.

Clause 66 authorises the making of regulations generally.

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.

Schedule 4 contains notional amendments of the Public Works Act 1912 in its application in relation to the Board.

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