

Act No. 140

WATER SUPPLY AUTHORITIES BILL 1987*

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 Bill 1987;
- Clean Waters (Penalty Notices) Amendment Bill 1987;
- Water Legislation (Repeal, Amendment and Savings) Bill 1987.

The object of this Bill is—

- (a) to provide common legislation for the several existing statutory bodies engaged exclusively in supplying water and related services;
- (b) to enable new bodies to be readily constituted to engage in those activities; and
- (c) to enable existing bodies which have functions additional to water supply to be brought within the ambit of the proposed Act without affecting their other functions.

The proposed Act will replace—

- (a) the Hunter District Water, Sewerage and Drainage Act 1938;
- (b) the Broken Hill Water and Sewerage Act 1938; and
- (c) the Cobar Water Supply Act 1963.

The proposed Water Board Act 1987 (cognate Bill) which mirrors the proposed Water Supply Authorities Act 1987 will replace the Metropolitan Water, Sewerage, and Drainage Act 1924.

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

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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—WATER SUPPLY AUTHORITIES

Clause 5 provides for the listing in Schedule 1 of Water Supply Authorities with functions under the proposed Act.

Clause 6 enables the Governor to constitute an Authority and add its name to Schedule 1. The clause also enables the membership of an Authority to be changed if there is a change in its area of operations or its functions.

Clause 7 enables an existing statutory body such as a municipal council to become an Authority by having its name added to Schedule 1. This does not affect its other functions.

Clause 8 gives effect to certain Schedules to the proposed Act. Schedules 2–4 relate to the continuation of the identity and present constitution of the Hunter, Broken Hill and Cobar Boards. Schedule 3 includes special provisions relating to some functions which affect only the Broken Hill Board. Schedule 5 contains provisions relating to the members of all Authorities.

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

PART 3—FUNCTIONS OF AN AUTHORITY

DIVISION 1—*General*

Clause 10 brings an Authority 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 an Authority to exercise a function on behalf of the Water Administration Ministerial Corporation.

Clause 12 confers the general powers of an Authority 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 an Authority to be prescribed by regulation. Such a regulation would indicate whether all, or only some, functions under the Act would be exercised by the Authority in the specified area.

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Clause 14 enables an Authority, with the consent of the Minister, to exercise a particular function at the request of a statutory body.

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

Clause 16 confers on an Authority 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 an Authority 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 an Authority desiring to alter the position of anything in or under a public road that does not belong to the Authority and is used as a conduit for a substance (gas), energy (electric power) or signals (telephone).

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

Clause 20 relates to the power of an Authority 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.

Clause 22 enables an Authority to supervise any action proposed to be taken under the Crown Lands Consolidation Act 1913 in relation to a special area. It also gives an Authority 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 an Authority, and enables the Authority 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 an Authority 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 an Authority a certificate as to compliance with the requirements of that Division in relation to the approval.

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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 an Authority;
- (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 an Authority 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 an Authority may classify land for the purpose of levying service charges.

Clause 33 enables the regulations to provide for the basis on which an Authority may levy service charges.

Clause 34 requires an Authority 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;
- (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 an Authority to assess service charges after making a determination referred to in clause 34.

Clause 36 provides for a re-assessment 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 an Authority to be recovered as a debt due to the Authority.

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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 an Authority, 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 an Authority 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 an Authority.

Clause 45 penalises obstruction of an Authority in the exercise of its functions.

Clause 46 prohibits the obstruction of works of an Authority.

Clause 47 prohibits the opening of ground to expose a pipe or other work of an Authority 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 an Authority 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 an Authority 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.

PART 6—MISCELLANEOUS

Clause 53 enables an Authority to delegate the exercise of its functions.

Clause 54 dispenses with proof of certain formal matters.

Clause 55 authorises the appropriation or 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 an Authority.

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

Clause 58 enables an Authority to enter into certain commercial operations.

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

Clause 60 requires an Authority to provide the Minister with certain information.

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

Clause 62 enables the Minister to appoint an administrator of the functions of an Authority 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 an Authority 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 lists the statutory corporations that are Water Supply Authorities for the purposes of the proposed Act.

Schedule 2 provides for the constitution of the Hunter District Water Board.

Schedule 3 provides for the constitution of the Broken Hill Water Board and includes special provisions relating to the finances of the Board.

Schedule 4 provides for the constitution of the Cobar Water Board.

Schedule 5 contains provisions relating to the members of Water Supply Authorities.

Schedule 6 lists the land that is exempt from charges under the proposed Act.

Schedule 7 contains notional amendments of the Public Works Act 1912 in its application in relation to an Authority.
