

HOBART REGIONAL WATER ACT 1984

No. 51 of 1984

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The following abbreviations are used in the marginal notes to this Bill:—

1960—*Southern Regional Water Act 1960*

1961—*Metropolitan Water Act 1961*

1976—*North West Regional Water Act 1976*.



HOBART REGIONAL WATER ACT 1984

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 No. 51 of 1984
 —————

 AN ACT to provide for the planning, further development, administration, operation, and control of the supply of water in bulk by the Hobart Regional Water Board to the constituent municipalities, to provide for related matters, and to repeal the Southern Regional Water Act 1960 and the Metropolitan Water Act 1961.

[Royal Assent 27 June 1984]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I

PRELIMINARY

1—This Act may be cited as the *Hobart Regional Water Act* Short title.
 1984.

2—(1) This section and sections 1, 3, 14, and 50 (1) and (3) and Part I of Schedule 8 shall commence on the day on which this Act receives the royal assent. Commence-
ment.

(2) The remaining provisions of this Act shall commence on 1st July 1984.

Interpretation.

3—(1) In this Act, unless the contrary intention appears—

“ the Board ” means the Hobart Regional Water Board established under section 4;

“ bulk supply works ” means a works for the supply of water in bulk to a constituent municipality and includes—

(a) a screen, pipeline, valve, meter, fitting, and any other appliance or structure used for the purpose of the storage, supply, or measurement of water in or from any such works; and

(b) a works that, pursuant to a determination of the tribunal under section 31, is to be treated as a bulk supply works;

“ the commencement date ” means 1st July 1984;

“ the Commission ” means the Rivers and Water Supply Commission;

“ constituent municipality ” means—

(a) the corporation of the city of Hobart or Glenorchy or of the municipality of Clarence, Kingborough, New Norfolk, Brighton, Green Ponds, Richmond, or Sorell; or

(b) the corporation of a municipality declared to be a constituent municipality by notice published in the *Gazette* under section 12 (2);

“ consumption year ” means a period of 12 months commencing on 1st June in any year;

“ the depreciation account ” means the depreciation account of the Board established under section 40;

“ financial year ” means a period of 12 months commencing on 1st July in any year;

“ the former board ” means the Metropolitan Water Board;

“ functions ” includes duties;

“ the Hobart regional water district ” means the district specified in section 12;

“ joint use works ” means a works used both for the supply of water in bulk and for water reticulation;

“ municipality ” means the corporation of a municipality;

“ reticulation reservoir ” means a reservoir that supplies water only to a water reticulation works;

“ special consumer ” means a person who consumes, or agrees with a constituent municipality to consume, water in excess of 225 megalitres in a consumption year;

“ the tribunal ” means the tribunal referred to in section 30;

“ water district ”—

(a) in relation to the city of Hobart, means the area of land described in Schedule 2 to the *Hobart Corporation Act 1963*; and

(b) in relation to each of the other constituent municipalities, means—

(i) a water district of that municipality as in force under section 662 of the *Local Government Act 1962* immediately before the commencement date if that water district was at that time supplied with water by the former board; or

(ii) an additional area of land that, pursuant to section 12, is added to, and forms part of, the Hobart regional water district;

“ water reticulation works ” means a works for the supply of water in a water district of a constituent municipality unless the works is a bulk supply works or a joint use works and includes—

(a) a reticulation reservoir; and

(b) a works that, pursuant to a determination of the tribunal under section 31, is to be treated as a water reticulation works.

(2) In this Act, a reference to a bulk supply works, joint use works, or water reticulation works shall be read as including a reference to land appurtenant to that bulk supply works, joint use works, or water reticulation works, as the case may be.

PART II

THE HOBART REGIONAL WATER BOARD

Division 1—Incorporation and composition of Board, &c.

4—(1) There is established by this Act a body corporate with the corporate name of the Hobart Regional Water Board.

(2) The Board—

- (a) has perpetual succession;
- (b) shall have a common seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) may do, and be subject to, all other things that a body corporate may by law do and be subject to and that are necessary for, or incidental to, the purposes for which it was established; and
- (e) has the functions imposed, and the powers conferred, on it by, or under, this or any other Act.

(3) The common seal of the Board shall not be affixed to a document except in pursuance of a resolution of the Board and every sealing shall be authenticated by the signature of at least one member of the Board and the secretary to the Board.

(4) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and, unless the contrary is established, shall presume that it was duly affixed.

5—(1) The Board shall consist of 8 members, of whom—

- (a) one shall be the Administrative Member of the Commission;
- (b) one shall be the Engineering Member of the Commission;
- (c) one shall be the Under Treasurer of the State or an officer of the Treasury appointed by the Governor on the nomination of the Treasurer, as the Governor may direct;
- (d) one shall be a person appointed by the Governor on the nomination of the Minister; and
- (e) 4 shall be persons representing constituent municipalities and shall be appointed by the Governor.

(2) Of the members referred to in subsection (1) (e)—

- (a) one shall be a person nominated by the city of Hobart;
- (b) one shall be a person nominated by the city of Glenorchy who shall also represent the interests of the municipalities of New Norfolk, Brighton, and Green Ponds;
- (c) one shall be a person nominated by the municipality of Clarence who shall also represent the interests of the municipalities of Richmond and Sorell; and

- (d) one shall be a person nominated by the municipality of Kingborough.
- (3) For the purposes of subsection (2)—
- (a) the cities of Hobart and Glenorchy and the municipalities of Clarence and Kingborough shall, on request by the Minister, each nominate a person to be a member of the Board; and
- (b) if a constituent municipality mentioned in paragraph (a) fails to make a nomination as provided by that paragraph within 2 months after it is requested to do so by the Minister, the Governor may appoint a person who appears to him to be suitable as a member of the Board.
- (4) Schedule 1 has effect with respect to the membership of the Board.
- (5) Schedule 2 has effect with respect to the meetings of the Board.

Division 2—Functions, powers, &c., of Board

6—The Board has the following functions:—

Functions of Board.

- (a) to collect, treat, and conserve water in bulk and to supply it to constituent municipalities;
- (b) to provide for the future supply of water in bulk in the Hobart regional water district;
- (c) to establish and maintain bulk supply works for a purpose referred to in paragraph (a) or (b); and
- (d) to act as the sole authority in respect of the Hobart regional water district for the purposes referred to in paragraphs (a), (b), and (c).

7—The Board has power, for, or in connection with, the performance of its functions—

General powers of Board.
1961, s. 15.

- (a) to purchase or take land in accordance with the *Public Authorities' Land Acquisition Act 1949* which for the purpose is incorporated in this Act;
- (b) to sell, dispose of, lease, or mortgage land owned by it;
- (c) to acquire and dispose of personal property;

- (d) to negotiate and enter into financial arrangements and other contracts in connection with, or incidental to, the performance of its functions or the exercise of its powers under this Act, and to undertake or administer such projects as may be necessary or desirable for the construction, modification, or management of a bulk supply works on any land held or used by the Board;
- (e) to enter into agreements with constituent municipalities as provided by section 17; and
- (f) to do any other act, matter, or thing as may be necessary or expedient for the performance of its functions or the exercise of its powers under this Act.

Advisory
committees.
1976, s. 7.

8—(1) For the purpose of advising it as to the performance of its functions or the exercise of its powers under this Act, the Board may appoint such committees as it thinks fit.

(2) Subject to subsection (5), a committee appointed under this section shall not include a person who is not a member of the Board.

(3) The Board may appoint the chairman of a committee appointed under this section or direct the manner in which the chairman is to be appointed.

(4) The terms of office of the members of a committee appointed under this section shall be such as the Board determines.

(5) Subject to any directions given to it by the Board, a committee appointed under this section may regulate its own proceedings and may co-opt an additional person, whether or not he is a member or employee of the Board.

Staff of
Board.
1976, s. 8.

9—(1) The Board shall appoint a person to be secretary of the Board and may appoint such other employees as may be required for the performance of its functions or the exercise of its powers under this Act.

(2) Schedule 3 has effect with respect to the appointment and terms and conditions of employment of employees appointed under subsection (1).

10—(1) The Board may, by resolution in accordance with subsection (3), delegate to a member or employee of the Board the performance of a function, or the exercise of a power, of the Board and may, by resolution, revoke wholly, or in part, any such delegation.

Delegation
of functions
and powers
of Board.

(2) A delegation of the exercise of a power of the Board under subsection (1) does not extend to—

- (a) the power of delegation conferred by that subsection; or
- (b) the power to give directions to a constituent municipality under section 24 (b) unless there is urgent necessity for doing so.

(3) A resolution for the delegation of the performance of a function or the exercise of a power of the Board under subsection (1) is not valid unless at least 6 members of the Board vote in favour of the proposed resolution.

(4) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(5) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the resolution.

(6) Notwithstanding any delegation under this section, the Board may continue to perform or exercise all or any of the functions or powers delegated.

(7) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by, or to, the Board and shall be deemed to have been done by, or to, the Board.

(8) An instrument purporting to be signed by a delegate of the Board in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Board under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Board under this section.

(9) Where the performance of a function or the exercise of a power by the Board is dependent on the opinion or belief of the Board, a delegate of the Board under this section may, in performing that function or exercising that power, act on his own opinion or belief.

Immunity of
members and
employees of
Board.

11—No liability shall attach to a member or employee of the Board for any act or omission by him, or by the Board, in good faith and in the performance or exercise, or purported performance or exercise, of any function or power under this Act.

PART III

SUPPLY AND USE OF WATER

Division 1—The Hobart regional water district

12—(1) The Hobart regional water district comprises—

- (a) each water district of each constituent municipality; and
- (b) any additional area of land that the Governor declares, as provided by subsection (2), shall be added to, and shall form part of, that district.

(2) Upon request by a constituent municipality or some other municipality that is situated so as to be able to take advantage of any water system or catchment area serving the Hobart regional water district, the Governor may, subject to subsection (3) and by notice published in the *Gazette*, declare—

- (a) that an area of land described in the notice and within the boundaries of the municipality making the request shall be added to, and shall form part of, the Hobart regional water district; and
- (b) if the case so requires, that the municipality concerned shall be a constituent municipality.

(3) A notice under subsection (2) shall not be given unless—

- (a) the Board has referred the matter to, and consulted with, each constituent municipality;
- (b) the Board recommends that the notice be made; and
- (c) at least 6 members of the Board vote in favour of the recommendation.

Division 2—Supply of water by Board

13—(1) For the purposes of this Act, the Board may take water from—

- (a) the waters of—
 - (i) the Bower Creek; and

Hobart
regional
water
district.
1961, s.
4 (1).

Sources of
supply.

- (ii) all streams flowing between the Bower Creek and the North-West Bay River (excepting the streams known as Millhouse's or Falls Creek and Long Creek),
that flow from Mount Wellington towards the Huon Road and rise or flow above, or at, the intakes or pipe lines of the corporation of the city of Hobart constructed or laid before 16th December 1925;
- (b) the North-West Bay River and any additional waters which are diverted into that river;
- (c) the River Derwent and its tributaries above the boundary of the town of New Norfolk as established at the commencement date, subject to such conditions, if any, as the Governor may determine, and subject, in respect of the place of taking, to the approval of the Hydro-Electric Commission;
- (d) Lady Barron Creek, having its source in Lake Fenton or any other river, rivulet, or lake in Mount Field National Park, except the rivulet known as Falls Creek having its source in Lake Nicholls;
- (e) all streams arising in or flowing through the areas of land described in Schedule 4;
- (f) any other place, except Illabrook Creek and the creek used for the supply of water to the Colebrook township, that immediately before the commencement date was a source of supply of the former board or a constituent municipality, but subject to any limitation that was at that time applicable to that board or municipality; and
- (g) any other place that the Governor, by order in accordance with subsection (2), determines to be a source of supply for the Board.

(2) The Governor may, by order published in the *Gazette*, determine that a place specified in the order shall, for the purposes of this Act, be a source of supply for the Board.

14—(1) The Minister shall, within one month after the commencement of this section, cause to be prepared and delivered to each constituent municipality—

Maps of water districts with details of bulk supply works, &c.

- (a) a copy of each of the maps specified in Schedule 5;

- (b) a statement giving full particulars of—
- (i) each bulk supply works specified in Schedule 6; and
 - (ii) each joint use works specified in Schedule 7; and
- (c) such other maps as may be necessary to show the location of each of those works.

(2) The Minister shall, as soon as practicable after delivery of the copies of the maps and statements as mentioned in subsection (1)—

- (a) deposit in the office of the Director-General of Lands an additional copy of each of the statements so delivered and of any map referred to in subsection (1) (c); and
- (b) give public notification in the *Gazette* of the deposit of the copies of the statements and maps.

(3) All copies of the statements and maps deposited under this section are available for public inspection free of charge.

Vesting of certain bulk supply works and water reticulation works.

15—(1) Notwithstanding the *Public Authorities' Land Acquisition Act* 1949, all the estate, right, and interest of a constituent municipality in a bulk supply works specified in Schedule 6 shall, by force of this section but subject to subsection (3), vest in the Board.

(2) Where, immediately before the commencement date, a water reticulation works was held by the former board for the supply of water to a constituent municipality, all the estate, right, and interest of that board in that water reticulation works shall, by force of this section but subject to subsection (3), vest in that constituent municipality.

(3) Subsections (1) and (2) do not have the effect of transferring an estate, right, or interest in land under the *Land Titles Act* 1980 but any such estate, right, or interest that would, but for this subsection, vest in the Board or a constituent municipality shall be deemed to be held in trust for the Board or that constituent municipality, as the case may be, to be transferred to it at its request.

(4) Where a constituent municipality has made a contract, agreement, arrangement, or undertaking relating to the supply of water from a bulk supply works specified in Schedule 6, any rights and liabilities of that constituent municipality arising from that contract, agreement, arrangement, or undertaking are transferred to the Board to the exclusion of that constituent municipality.

(5) Where the former board has made a contract, agreement, arrangement, or undertaking relating to the supply of water from a water reticulation works referred to in subsection (2), any rights and liabilities of that board arising from that contract, agreement, arrangement, or undertaking are transferred to the constituent municipality in which the water reticulation works vests under that subsection.

(6) Except as provided in subsection (4), the Board shall not incur any liability by reason of a vesting or transfer under this section or any previous liability that a constituent municipality may have incurred in, or in connection with, the construction of a bulk supply works specified in Schedule 6.

(7) Except as provided in subsection (5), a constituent municipality shall not incur any liability by reason of a vesting or transfer under this section or any previous liability that the former board may have incurred in, or in connection with, the construction of a water reticulation works referred to in subsection (2).

(8) This section has effect notwithstanding Part II of Schedule 8.

(9) Nothing in this section shall be construed as requiring a constituent municipality to repay to the Board any money paid to it under section 26 of the *Metropolitan Water Act 1961*.

16—(1) On and after the commencement date—

- (a) each bulk supply works specified in Schedule 6; and
- (b) each joint use works specified in Schedule 7,

Existing works for bulk supply to be under control of Board.

shall be under the control and management of the Board, except as may be otherwise provided by an agreement between the Board and a constituent municipality made under section 17 (1) (b) as to the management of any such works.

(2) Subsection (1) does not apply to the exclusion of an order made by the tribunal in the case of a dispute between the Board and a constituent municipality as to the use of the works concerned.

17—(1) The Board may, subject to subsection (2)—

- (a) construct such bulk supply works as may be required for the Hobart regional water district;

Powers of Board as to bulk supply, water reticulation, &c.

- (b) enter into an agreement with a constituent municipality—
- (i) for the construction or management by the Board of a water reticulation works;
 - (ii) for the construction or management of a joint use works;
 - (iii) where an existing works is, or a proposed works will be, used as a joint use works, for sharing the cost of construction of the works, the cost of any subsequent improvements to, and the running expenses of, the works;
 - (iv) for the management by the municipality of a bulk supply works;
 - (v) for the supply of water in bulk to that municipality pending the construction of a reticulation reservoir by that municipality;
 - (vi) providing for a supply of water to a consumer outside the Hobart regional water district; or
 - (vii) for the management of an area of land that, pursuant to section 13, is a source of supply for the Board;
- (c) after consultation with each constituent municipality, enter into an agreement with a municipality that is not a constituent municipality for the supply to it of water in bulk; and
- (d) give directions to a constituent municipality having the management of a bulk supply works or joint use works as to how the works or any part of the works is to be managed, so long as those directions are not inconsistent with any agreement between the Board and that municipality that is in force under paragraph (b).

(2) An agreement under subsection (1) (b) (vi) or (c) is of no effect unless at least 6 members of the Board vote in favour of the proposed agreement.

18—(1) The Board may make an agreement in writing with a constituent municipality for—

Transfer of certain works to Board or constituent municipalities.

- (a) the transfer to, or the holding in trust for, the Board of a works that is used as a bulk supply works; or
- (b) the transfer to, or the holding in trust for, that constituent municipality of a works that is used as a water reticulation works.

(2) An agreement made under subsection (1) or a conveyance, transfer, or other document executed pursuant to that agreement is not liable to any stamp duty under the *Stamp Duties Act 1931*.

19—(1) Where the Board and a constituent municipality make an agreement in writing that a joint use works specified in Schedule 7 and used for the supply of water to that constituent municipality is, for the purposes of this Act, to be treated as a bulk supply works or, as the case may be, a water reticulation works, the Board shall provide the Director-General of Lands with—

Notification to Director-General of Lands of change of use of joint use works.

- (a) a statement giving full particulars of the agreement; and
- (b) such map or maps as may be necessary showing the location of that joint use works.

(2) On receipt of a statement and map under subsection (1), the Director-General of Lands shall, subject to subsection (3), make such alterations and additions as may be appropriate to the copies of the maps and statements deposited in his office under section 14 (2).

(3) Instead of making alterations and additions to a map under subsection (2), the Director-General of Lands may, if he thinks fit, prepare a fresh map so as to show the particulars of an agreement referred to in subsection (1).

20—(1) A dispute between the Board and a constituent municipality as to an amount payable by the Board or the municipality under an agreement relating to the management of a bulk supply works, joint use works, or water reticulation works shall be referred to the Auditor-General for decision.

Referral of certain disputes to Auditor-General. 1961, s. 26 (2).

(2) The Auditor-General may make such inquiries as he thinks fit relating to any such dispute.

(3) A decision of the Auditor-General under this section shall be final and binding on the Board and the municipality concerned.

Duty of Board to ensure water supplies to constituent municipalities. 1976, s. 9.

21—(1) On and after the commencement date it is the duty of the Board to supply water in bulk to the constituent municipalities and otherwise as provided by this Act for domestic consumption or for any other purpose approved by the Board.

(2) The water shall be supplied from a bulk supply works or a joint use works and at such other places within the Hobart regional water district as may from time to time be determined by the Board after consultation with the municipality concerned.

(3) The Board shall ensure that the water supplied is measured by the Board's meters at least once a month and is supplied in such quantities and at such pressures or within such range of pressures as may be determined by the Board after consultation with the municipality concerned.

(4) The Board shall, as soon as practicable after each measurement, advise the municipality concerned of the quantity of water supplied.

(5) Where, after the commencement date, a constituent municipality constructs a reservoir with the approval of the Board and that reservoir is not to be supplied from a water reticulation works established at the time of the construction, the Board shall supply water in bulk to that reservoir in accordance with the conditions, if any, imposed by the Board in granting approval for the construction of that reservoir.

(6) The Board shall construct, maintain, and operate such works as it considers necessary for the supply of water in bulk for the purposes of this section, but the Board may at any time restrict or discontinue the supply of water for the purpose of carrying out repairs or alterations to the works.

(7) Where the Board restricts or discontinues the supply of water as provided by subsection (6), the Board shall—

(a) forthwith notify any constituent municipality affected by the restriction or discontinuance of that fact; and

(b) as soon as it is practicable to do so, restore the supply of water.

22—If a meter used by the Board has failed, the quantity of water supplied to a constituent municipality during a particular period through that meter shall be estimated in accordance with the following formula:—

$$a = b \times \frac{c}{d}$$

where—

- “ a ” is the quantity of water passing through that meter to be ascertained;
- “ b ” is the quantity of water that passed through that meter during the last preceding period in respect of which that meter was read;
- “ c ” is the quantity of water passing through all other meters used by the Board during the first-mentioned period for the whole of the Hobart regional water district; and
- “ d ” is the quantity of water that passed through those other meters during the last preceding period in respect of which those other meters were read for the whole of that district.

23—The Board shall supply water to the constituent municipalities in accordance with section 21 but shall not incur any legal liability to a constituent municipality by reason of any failure to supply water accordingly.

24—For the purposes of conserving the supply of water in bulk, the Board may, after consultation with a constituent municipality—

- (a) restrict the supply of water in bulk to that municipality; and
- (b) give directions to that municipality requiring it to exercise its powers to restrict the supply of water to—
 - (i) its consumers generally; or
 - (ii) its consumers in any area determined by the Board,

and any such direction may relate to the manner in which, and the extent to which, the restrictions are to be imposed.

Supply of
bulk water
free of cost or
on special
terms.

25—(1) Where a constituent municipality is required by law to supply water free of cost to a consumer, the Board shall supply the required volume of water to that municipality free of cost.

(2) The Board may, at the request of a constituent municipality, supply water in bulk on such terms and conditions as the Board may determine for a purpose approved by the Board.

Division 3—Duties of constituent municipalities

Duties of
municipalities.

26—(1) A constituent municipality shall not—

(a) seek to acquire water in bulk from any source other than the Board; or

(b) construct or modify a water reticulation works, unless the Board has previously given its approval in writing to the proposed acquisition, construction, or modification.

(2) Where a constituent municipality proposes to construct or modify a water reticulation works, it shall—

(a) apply to the Board for its approval under subsection (1);
and

(b) in support of its application, furnish the Board with the plans, specifications, and such other information as the Board may require relating to the proposed construction or modification.

(3) If the Board is satisfied that a constituent municipality has sufficient resources to carry out competently the proposed construction or modification of a water reticulation works, the Board may, by notice in writing and on such terms and conditions as the Board thinks fit, exempt the constituent municipality from the operation of this section in respect of such works as may be specified in the notice.

Duty of
municipalities
to comply with
directions of
Board.
1960, s. 12,
1961, s. 17 (1).

27—A constituent municipality shall comply with any direction given to it by the Board under section 17 (1) (d) as to the management of a bulk supply works or joint use works or under section 24 (b) as to restricting the supply of water.

Duty of
municipalities
not to supply
water outside
districts.
1960, s. 17.

28—A constituent municipality shall not supply water to any person at any place outside its water district or water districts except with the approval in writing of the Board.

Division 4—Determination of disputes

29—(1) If, within a period of 3 months after delivery to a constituent municipality of the copies of maps and a statement as mentioned in section 14 (1)—

Referral of certain disputes, &c., to tribunal.

- (a) a dispute arises between the Board and the municipality as to whether a works constructed before the commencement date is used as a bulk supply works or for water reticulation or the extent to which it is used for one purpose or the other; or
- (b) the municipality objects to any particulars specified in any such map or the statement,

the Board and the municipality shall each forward forthwith to the Minister a statement giving particulars of the dispute or objection and the grounds of its case.

(2) On receipt of the statements from the Board and a constituent municipality as mentioned in subsection (1), the Minister shall—

- (a) notify each other constituent municipality of the dispute or objection; and
- (b) refer the dispute or objection to the tribunal for determination.

30—(1) The tribunal shall consist of 5 members appointed by the Minister of whom—

Composition of tribunal.

- (a) one shall be a person nominated in accordance with subsection (2) who shall be chairman of the tribunal;
- (b) 2 shall be persons nominated by the Board; and
- (c) 2 shall be persons nominated by the constituent municipality that is a party to the dispute or objection referred to the tribunal under section 29.

(2) As soon as practicable after the commencement date, the Minister shall request the concurrence of the Board and each constituent municipality on the nomination of the chairman and—

- (a) if the Minister obtains that concurrence, the person so nominated shall be appointed as the chairman; or
- (b) if the Minister fails to obtain that concurrence, the Board and each constituent municipality shall, within one month after the request by the Minister, submit to the Minister the name of a person that it nominates as the chairman.

(3) Where nominations are submitted to the Minister under subsection (2) (b), the Minister shall appoint from the persons so nominated a person who appears to him to be suitable as the chairman of the tribunal.

(4) The chairman of the tribunal shall be appointed for such period, not exceeding 3 years, as may be specified in his instrument of appointment and on such terms and conditions as are so specified.

(5) Each member of the tribunal, other than the chairman, shall be appointed for the purpose of hearing a dispute referred to the tribunal under this section and on such terms and conditions as are specified in his instrument of appointment.

Hearing and
determination
of disputes.

31—(1) In this section, “dispute” includes an objection under section 29 (1) (b).

(2) The tribunal shall hear and determine a dispute referred to it under this Division, and in so determining a dispute—

(a) the tribunal shall not be bound by strict legal requirements and may inform itself in any manner it thinks fit, whether the evidence would be admissible in a court or not; and

(b) the decision of the majority of the members shall be the decision of the tribunal.

(3) Where the tribunal is of opinion that the determination of any proceedings under this section will affect more than one constituent municipality—

(a) the tribunal may grant leave to any such municipality to appear in those proceedings; and

(b) if a municipality appears pursuant to any such leave, it shall, for the purposes of this Division, be deemed to be a party to the dispute in question.

(4) Where—

(a) a works, whether a bulk supply works or a joint use works, used for the supply of water to a water district of a constituent municipality is constructed or modified after the commencement date;

(b) as a result of that construction or modification there has been a change in the use of a works that was at the time of that construction or modification a joint use works; and

(c) the Board and the constituent municipality have failed to agree in writing within 3 months after the completion of that construction or modification on the question of whether, for the purposes of this Act—

(i) the joint use works should be treated as a bulk supply works or a water reticulation works;
or

(ii) an agreement between the Board and the constituent municipality should be varied,

the matter shall be referred to the tribunal for determination as provided by this section.

(5) In order to determine a matter referred to it under this Division, the tribunal may vary or set aside a previous determination of the tribunal.

(6) The tribunal may, if it thinks it expedient to do so, make an interim order having effect pending the final disposal of a matter referred to it under this Division.

(7) Subject to subsections (5) and (6), a decision of the tribunal is final and binding on the Board and the municipality concerned.

(8) The costs incurred by the tribunal in the hearing and determination of a dispute under this section shall be paid equally by the parties to the dispute.

(9) The parties to a dispute under this section shall each bear their own costs of, and incidental to, the hearing of the dispute by the tribunal.

(10) On making a determination under this section, the tribunal shall provide the Director-General of Lands with particulars of the determination.

32—(1) On receipt of notification of a determination under section 31 (10), the Director-General of Lands shall—

(a) make such alterations and additions as may be appropriate to the copies of the statement and maps deposited in his office under section 14 (2); or

(b) if he thinks it expedient to do so, prepare a fresh map showing the particulars of the determination.

Alterations,
&c., to state-
ment and
map deposited
under section
14 (2).

(2) A fresh map prepared under subsection (1) (b) shall be deemed to be a map deposited in the office of the Director-General of Lands under section 14 (2).

PART IV

FINANCE

Division 1—Funds of Board

Funds of
Board.

33—(1) The Board shall establish in a bank in Tasmania an account to be known as the “Hobart Regional Water Board Account”.

(2) The funds of the Board shall be paid to the credit of the account referred to in subsection (1) and shall consist of—

- (a) any money appropriated by Parliament for the purposes of the Board;
- (b) all money received by the Board for the supply of water in bulk;
- (c) all money received by the Board from the sale, leasing, letting on hire, or other disposal by the Board of any property which the Board has power to sell, lease, let on hire, or dispose of;
- (d) all money received by the Board as interest in respect of any loan made by it in the performance of its functions, in the exercise of its powers, or as profit arising out of any investment so made;
- (e) all money borrowed by the Board under this Act; and
- (f) all other money received from any source by the Board.

(3) A payment of money to the credit of the account referred to in subsection (1) shall not be made if the payment would be a breach of a condition or trust affecting the money.

(4) The funds of the Board shall be applied only—

- (a) in payment or discharge of the expenses, charges, and obligations incurred, or undertaken, by the Board in the performance of its functions or the exercise of its powers under this or any other Act; or
- (b) in the payment of any remuneration payable under this Act.

(5) Nothing in this section prevents the Board from establishing (whether or not jointly with any other person) accounts additional to the account referred to in subsection (1).

34—The Board may invest any money that it is holding and for which it has no immediate use—

Temporary investment of Board's funds. 1961, s. 31A.

- (a) in such manner as the Treasurer may approve; or
- (b) with the approval of the Treasurer, by a deposit bearing interest with a person approved by the Reserve Bank of Australia as a dealer in the short term money market.

Division 2—Borrowing powers of Board

35—(1) The Board may, with the consent of the Treasurer and subject to subsection (3), borrow by overdraft on its bank accounts for the purposes of this Act.

Board's power to borrow for working expenses. 1961, s. 24, 1976, s. 25.

(2) The Treasurer may, subject to subsection (3), grant a loan to the Board for the purpose of—

- (a) meeting working expenses; or
 - (b) paying off any overdraft, either wholly or in part,
- and the loan shall be on such terms as to repayment, payment of interest, and otherwise, as the Treasurer may determine.

(3) An amount borrowed by the Board under this section shall not exceed one-half of the amount of its revenue in respect of the preceding financial year.

36—(1) In this section, “the State rate”, in relation to a financial year, means the rate that is payable by the Hydro-Electric Commission to the Treasurer in respect of that year under section 24 of the *Hydro-Electric Commission Act 1944*.

State loans to Board. 1961, s. 23.

(2) Subject to this Act, the Treasurer may lend to the Board, from money available to him out of the Loan Fund for the purpose, an amount that is required for capital expenditure in connection with a bulk supply works.

(3) The amount of all charges and expenses incurred by the Treasurer in borrowing or raising an amount for the purpose of this section shall, as at the date when the amount of those charges and expenses has been ascertained, be deemed—

- (a) to constitute a payment by the Treasurer to the Board under subsection (2); and

(b) to form part of the money payable out of the Loan Fund for the works referred to in that subsection.

(4) The Board shall pay to the Treasurer on account of the Consolidated Revenue Fund quarterly, on the last days of September, December, March, and June respectively in each financial year, interest at the State rate in respect of all money paid by the Treasurer to the Board under this section or, as the case may be, the balance of that money which for the time being remains owing.

(5) The Board shall from the depreciation account pay to the Treasurer annually such amounts as he may from time to time require to reimburse him for sinking fund contributions paid to the National Debt Commissioners in respect of money borrowed by him and paid to the Board under this section.

(6) Upon payment to the Treasurer by the Board of an amount pursuant to subsection (5), the amount of the loan or advance in relation to which that amount is so paid shall be reduced by an amount equal to the amount so paid together with any amount that the Commonwealth, in accordance with the Financial Agreement, contributes towards the redemption of that loan or advance.

Board's power
to borrow
from public.
1961, s. 25.

37—(1) In subsection (2)—

“ private loan ” means a loan to which members of the public are not invited to subscribe;

“ public loan ” means a loan that is not a private loan.

(2) Subject to this section, the Board may, with the consent of the Treasurer—

(a) borrow on the security of its revenues or on a guarantee as provided by section 38 such amounts of money as it may require for the performance of its functions or the exercise of its powers under this or any other Act; or

(b) request the Commission to raise, on behalf of the Board and for the purposes of this Act, a public loan within Australia or a private loan outside Australia.

(3) Where the Commission raises a loan at the request of the Board made pursuant to subsection (2), the Board shall, subject to its right under section 20 (2E) of the *Water Act* 1957 to refer a dispute between it and the Commission to the Treasurer, comply with a requisition made of it by the Commission under that section.

(4) Any money borrowed by the Board pursuant to subsection (2) (a)—

(a) may be raised within Australia as one loan or as several loans; and

(b) may be raised—

(i) by the issue of debentures payable to bearer with interest coupons attached;

(ii) by the creation and issue of inscribed stock, to be called “Hobart Regional Water Board Incribed Stock”;

(iii) partly as provided by subparagraph (i) and partly as provided by subparagraph (ii); or

(iv) in such other manner as the Treasurer may approve.

(5) All debentures and inscribed stock issued or created pursuant to subsection (4)—

(a) shall, with all interest on the debentures or inscribed stock, be charged and secured on the revenues of the Board;

(b) shall bear interest at such rate, and be redeemable at such date and at such place, as the Board may, with the approval of the Treasurer, determine;

(c) may, with the consent of the holder or the registered owner, as the case may be, of the debentures or inscribed stock be paid off at any time before the due date for repayment, at not more than the face value of the debentures or inscribed stock; and

(d) whether original or not, shall rank *pari passu* in point of charge without any preference or priority one over another.

(6) Interest secured by any debentures or inscribed stock issued or created pursuant to subsection (4) shall be payable in respect of such periods and at such places as the Board may determine.

(7) The Board may, at the request of the holder of any debenture or the registered owner of any inscribed stock issued or created pursuant to subsection (4), in place of that debenture or inscribed stock issue to him a debenture or inscribed stock, as the case may be, in respect of the same loan, and of the same amount, and of the same currency, and bearing the same interest.

(8) For the purpose of making provision to pay off either the whole or any part of any loan raised by the Board pursuant to subsection (2) (a), the Board may, with the consent of the Treasurer, borrow the necessary money before the loan or part of the loan becomes payable.

(9) The Board shall make provision in the depreciation account for a sinking fund to be paid to the State Sinking Fund Commissioners for the purpose of redeeming any loans raised by it pursuant to subsection (2) (a) or raised on its behalf pursuant to requests made by it under subsection (2) (b), and the sinking fund shall contain such amount as the Treasurer may from time to time require.

(10) Where it is necessary to repay the whole or a part of a loan referred to in subsection (2) from the sinking fund—

- (a) the State Sinking Fund Commissioners shall at the request of the Board sell any securities in which the amount needed is invested; and
- (b) the Board may borrow on the security of its rights against the Commissioners.

(11) Any trustee, unless expressly forbidden by the instrument, if any, creating the trust, may invest any trust money in his hands in any debentures or inscribed stock issued or created pursuant to subsection (4), and the investment shall be deemed to be an investment authorized by the *Trustee Act 1898*.

(12) Any debentures or inscribed stock issued or created pursuant to subsection (4) are a lawful investment for any money which a body corporate is authorized or directed to invest, in addition to any other investments expressly provided for the investment of that money.

(13) The Board is not bound by notice of a trust, whether express, implied, or constructive, in relation to any inscribed stock created or issued pursuant to subsection (4).

Guarantees.

38—(1) The Treasurer may execute a guarantee, either alone or jointly with some other person, in favour of a bank or another person or a body of persons, whether corporate or unincorporate, for the repayment of, and payment of interest on, any loan (including a bank overdraft) made to the Board under section 37 (2).

(2) The following provisions shall apply to, and in respect of, a guarantee executed under subsection (1):—

- (a) the guarantee may include any interest, charges, and expenses chargeable by the creditor against the Board and the expenses of enforcing or obtaining, or endeavouring to enforce or obtain, payment of the loan guaranteed and that interest or those charges and expenses;
- (b) the guarantee may be expressed to include compound interest;
- (c) the creditor shall, if required to do so by the Treasurer, obtain, take and hold, or retain and hold, securities for the payment of the principal loan of such nature as the Treasurer may require;
- (d) the guarantee shall not be enforceable against the Treasurer unless and until the creditor has exercised his rights and remedies under all securities held by, or for, him in respect of the loan guaranteed, other than the guarantee;
- (e) the creditor shall not, without the consent in writing of the Treasurer, assign or encumber the benefit of the guarantee.

(3) Subject to subsection (2), a guarantee executed under subsection (1) may be subject to such terms and conditions as the Treasurer thinks fit.

(4) The amount of any liability incurred under a guarantee executed under this section is a charge on the Consolidated Revenue Fund and is payable out of that Fund without further appropriation than this subsection.

Division 3—Accounts and audit

39—The Board shall cause to be kept proper accounts and records in relation to all of its operations and shall, on or before 31st August in each year, prepare a statement of accounts in a form approved by the Auditor-General, exhibiting a true and correct view of the financial position and the transactions of the Board with respect to the preceding financial year. Accounts of Board.

40—(1) The Board shall make such annual provision as the Treasurer may approve for the depreciation of its assets, and the amount so set aside shall be credited to a special account to be known as “ the depreciation account ”. Depreciation account.
1961, s. 32,
1976, s. 21.

(2) The money provided pursuant to subsection (1) may be applied by the Board for—

- (a) meeting repayments required in respect of money advanced, or lent, to the Board;
- (b) financing the purchase of new assets or the replacement of, or otherwise making good the depreciation of, its assets; and
- (c) making investments in such manner as the Treasurer may approve.

Reserve
accounts.
1961, s. 32
(4) and (5).

41—(1) Subject to subsection (2), the Board may, out of the money received by it under this Act, set aside such amount as it considers necessary for the purpose of—

- (a) making provision for undetermined losses or liabilities;
or
- (b) creating a reserve, or reserves, against contingencies,
or for such other purpose as may be determined by the Board.

(2) The Board shall not exercise the power conferred on it by subsection (1) unless the Treasurer has approved of the amount of each provision or reserve, and the purpose for which each provision or reserve is made.

Audit of
Board's
accounts.
1976, s. 27.

42—(1) The accounts of the Board are subject to the *Audit Act 1918*.

(2) The Board shall pay to the Consolidated Revenue Fund towards defraying the costs and expenses of any audit under this section such amounts, at such times, as the Treasurer may require.

Division 4—Annual estimates and payment for water

Duty of
municipalities
to prepare
lists of
separately
valued
lands, &c.

43—A constituent municipality shall, on or before 10th May in each year, provide the Board with particulars in writing of—

- (a) all lands situated in its water district or water districts that on the preceding 30th April were separately valued, classifying those lands in accordance with the regulations and specifying their respective assessed annual values;
- (b) an estimate of the number of persons residing in its water district or water districts on that last-mentioned day;
and

- (c) an estimate of its consumption of water in the next succeeding consumption year.

44—(1) The Board shall, in respect of each financial year, prepare an estimate of— Annual estimates. 1961, s. 28.

- (a) its recurrent expenditure, stating in particular—
- (i) its administration and operating costs;
 - (ii) amounts to be paid to a constituent municipality for the running expenses of a bulk supply works or joint use works managed by the municipality pursuant to section 17 (1) (b);
 - (iii) amounts to be transferred to the depreciation account or a reserve account; and
 - (iv) amounts to be paid by way of interest on a loan; and
- (b) revenue to be received otherwise than for the supply of water to a constituent municipality.

(2) On or before 31st May in each year, the Board shall—

- (a) prepare an estimate of the volume of water expected to be consumed by each constituent municipality during the next succeeding consumption year;
- (b) having regard to the estimates prepared under subsection (1) and paragraph (a) of this subsection, determine a unit rate for the supply of water pursuant to this Act for the purpose of recovering the difference between the estimates under paragraphs (a) and (b) of subsection (1); and
- (c) in respect of each constituent municipality, prepare an estimate of the amounts required as payment during the next succeeding financial year for—
- (i) a basic allowance of water;
 - (ii) the supply of water in excess of the basic allowance;
 - (iii) the supply of water to a special consumer; and
 - (iv) the supply of water for any other purpose.

(3) The Board shall, as soon as practicable after preparing the estimates referred to in subsection (2), provide each constituent municipality with a copy of those estimates.

Payments by
constituent
municipalities
for water
supplied.

45—(1) A constituent municipality shall, subject to section 25, pay to the Board an amount determined in accordance with the regulations for all water supplied to it by the Board under this Act.

(2) An amount payable under subsection (1) shall be payable—

(a) on 30th September, 31st December, and 31st March in each year by equal quarterly payments; and

(b) on 30th June in each year, or, if a final account under subsection (3) has not then been received from the Board, within 30 days after receipt of that account, by payment of the balance of the total amount payable.

(3) On or before 15th June in each year, the Board shall forward to each constituent municipality a final account stating—

(a) the actual volume of water consumed by that municipality in the preceding consumption year, including particulars of—

(i) a basic allowance;

(ii) excess consumption; and

(iii) consumption by special consumers,
in respect of that municipality; and

(b) the amounts then owing by that municipality in respect of that year for that allowance and that volume of water consumed.

(4) An amount payable to the Board under this section is a debt due to the Board and is recoverable in any court of competent jurisdiction.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

46—(1) The *Waterworks Clauses Act 1952* is incorporated with this Act.

(2) Without derogating from the powers conferred on it by virtue of the incorporation of the *Waterworks Clauses Act 1952* under subsection (1), the Board may make surveys for the construction of a bulk supply works and for that purpose may enter any land, but not a building, on giving 72 hours' notice to the occupier of the land.

Additional
powers in
respect of
waterworks.
1961, s. 16.

47—Any person who—

- (a) refuses or intentionally delays the admission to any place of an employee of the Board in the exercise by him of his powers under this or any other Act;
- (b) fails to comply with a request of an employee of the Board made in the exercise of his powers under this or any other Act when it is within his power to comply with the request; or
- (c) intentionally obstructs, harasses, or interferes with an employee of the Board in the performance of his functions, or the exercise of his powers, under this or any other Act,

Offence to obstruct, &c., employee of Board.

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000.

48—(1) The Board shall, before 30th November in each year, prepare a report of its affairs and activities for the preceding financial year and submit the report to the Minister.

Annual report.

(2) The Minister shall lay, or cause to be laid, before each House of Parliament a copy of a report submitted to him in accordance with subsection (1) within 14 sitting days of the House after the date on which he receives that report.

49—(1) The Governor may make regulations for the purposes of this Act.

Regulations.

(2) Without limiting the generality of subsection (1) but subject to this section, the regulations may make provision for, or with respect to—

- (a) ensuring that water supplied by the Board will be of proper quality;
- (b) regulating the use for recreation of land appurtenant to a bulk supply works or joint use works;
- (c) regulating the use for recreation of water contained in a reservoir that is vested in, or under the control of, the Board;
- (d) prohibiting or regulating any activity on any land that, pursuant to section 13, is a source of supply for the Board;
- (e) the submission of disputes to the tribunal;
- (f) the practice of, and the procedure to be followed by, the tribunal;

- (g) the method by which a basic allowance of water will be determined and requiring payment for that basic allowance, whether the allowance is taken or not;
- (h) the method of calculating charges for water in excess of a basic allowance supplied pursuant to this Act;
- (i) the method of calculating a special rate of payment for water supplied for a special consumer;
- (j) providing for penalty rates of payment if payment for water supplied is not made within such period as may be prescribed; and
- (k) subject to Schedules 3 and 8, matters of a transitional or savings nature consequent on the enactment of this Act.

(3) Regulations made under subsection (2) (g), (h), or (i) shall not be amended unless a majority of the constituent municipalities approve of the amending regulations.

(4) The regulations may be made subject to such conditions, or be made so as to apply differently according to such facts and circumstances as may be specified in the regulations, or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(5) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene, or fail to comply with, any of the regulations and may provide in respect of any such offence for the imposition of a penalty not exceeding \$1 000 and, in the case of a continuing offence, a further penalty not exceeding \$50 for each day during which the offence continues.

Repeal of
Southern
Regional Water
Act 1960 and
Metropolitan
Water Act
1961 &c.,
and savings.

50—(1) Sections 28 and 29 of the *Metropolitan Water Act 1961* are repealed.

(2) The Metropolitan Water Board is abolished.

(3) The transitional provisions specified in Part I of Schedule 8 have effect.

(4) The transitional provisions and savings specified in Part II of Schedule 8 have effect.

(5) The Acts specified in Schedule 9 are repealed.

SCHEDULE 1

Section 5 (4)

PROVISIONS WITH RESPECT TO MEMBERSHIP OF THE BOARD

1—A member of the Board, other than a member of the Commission, shall be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time for a term, not exceeding 5 years, specified in the instrument of his re-appointment.

Term of office.

2—Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his time to the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member of the Board.

Provisions relating to members.

3—A member of the Board shall be paid such remuneration and allowances as the Governor may determine, but no such determination shall apply in respect of a member of the Board—

Remuneration of members.

- (a) who holds office in the Public Service without the approval of the Public Service Board; or
- (b) who is an employee of a constituent municipality without the approval of the municipality.

4—The provisions of the *Public Service Act 1973* do not apply to, or in respect of, the appointment of a member of the Board and a member of the Board shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

Public Service Act 1973 not to apply.

5—(1) Where a member of the Board is out of the State or unable to perform the duties of his office by reason of illness or for any other reason that the Minister deems sufficient, a delegate member may act in his stead in accordance with this clause.

Appointment of delegate members to act during absence of member of Board.

(2) A delegate member may be appointed—

- (a) for a period of less than 3 months, by the Minister; or
- (b) in any other case, by the Governor,

and in the case of a member representing a municipality, the appointment shall be made on the nomination of that municipality.

(3) For the purposes of this clause—

- (a) the Governor may appoint any person (including a member of the Board other than the chairman of the Board) to act in the office of the chairman;
- (b) a member of the Board other than the chairman shall be deemed to be absent from his office if he is acting in the office of chairman pursuant to paragraph (a); and
- (c) a member of the Board shall be deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with clause 7.

(4) A person shall not be concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member of the Board, and all things done or omitted to be done by that person while so acting shall be as valid, and shall have the same consequences, as if they had been done or omitted to be done by that member.

Vacation of
office.

6—(1) In this clause, “appointed member” means a member of the Board who is appointed by the Governor under section 5 (1).

(2) An appointed member shall be deemed to have vacated his office—

- (a) when he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his remuneration or estate for their benefit;
- (c) if he is absent from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or unless, before the expiration of 3 weeks after the last of those meetings, he is excused by the Board for his absence from those meetings;
- (d) if he becomes liable to be detained under the *Mental Health Act* 1963 in a hospital that is a hospital within the meaning of section 3 (1) of that Act;
- (e) if he is convicted in the State of a crime or an offence which is punishable by imprisonment for a period of not less than 12 months, or if he is convicted elsewhere than in the State of an offence which, if committed in the State, would be a crime or an offence so punishable;
- (f) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation; or
- (g) if he is removed from office by the Governor under subclause (3).

(3) The Governor may remove an appointed member from office for misbehaviour or incompetence or if the Governor is satisfied that—

- (a) the appointed member has participated or has claimed to be entitled to participate in the profit of, or in any benefit arising from, any contract made by or on behalf of the Board other than a contract for a service ordinarily supplied by the Board, on the same terms as that service is supplied to other persons in the same situation;
- (b) the appointed member has voted at any meeting of the Board in respect of any matter in which he was at that time interested (otherwise than as a member of the public or as an elector of, or ratepayer to, any municipality, or as a shareholder in a company in which there were at that time more than 20 members and of which he was not at that time a director or officer), or if he has remained at any meeting of the Board while the matter was under discussion; or

(c) the municipality that nominated the appointed member has resolved that it no longer wishes to be represented by that member on the Board.

(4) A member of the Board referred to in section 5 (1) (a), (b), or (c) shall be deemed to vacate his office if he ceases to hold the office by virtue of which he is a member.

7—On the occurrence of a vacancy in the office of a member of the Board representing a municipality, the Governor may, on the recommendation of the municipality which nominated the member who ceased to hold office, appoint a person to the vacant office for the balance of his predecessor's term of office. Filling of casual vacancies.

8—(1) No act or proceeding of the Board or of any person acting pursuant to any direction of the Board is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken, or commenced, there was a vacancy in the membership of the Board. Validity of proceedings, &c.

(2) All acts and proceedings of the Board or of any person acting pursuant to any direction of the Board are, notwithstanding the subsequent discovery of any defect in the appointment of any member of the Board or that any person was disqualified from acting as, or incapable of being, a member of the Board, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member, and as if the Board had been fully constituted.

9—In any proceedings by or against the Board, unless evidence is given to the contrary, no proof shall be required of— Evidentiary provision.

- (a) the constitution of the Board;
 - (b) any resolution of the Board;
 - (c) the appointment of any member of the Board; or
 - (d) the presence of a quorum at any meeting of the Board.
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SCHEDULE 2

Section 5 (5)

PROVISIONS WITH RESPECT TO MEETINGS OF THE BOARD

Convening of meetings of the Board.

1—Meetings of the Board may be convened by the chairman of the Board or by any 2 members of the Board.

Procedure at meetings.

2—(1) Five members of the Board shall form a quorum at any duly convened meeting of the Board.

(2) Any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board.

Voting.

3—At a meeting of the Board—

- (a) the members present are each entitled to a deliberative vote;
- (b) an absent member is entitled to vote by proxy;
- (c) except as otherwise provided in this Act, a decision of a majority of the members present shall be taken to be the decision of the Board;
- (d) subject to paragraph (e), where the votes cast on any question are equally divided, the question shall remain unresolved until the next meeting of the Board;
- (e) where a question remains unresolved from a previous meeting and the votes cast on that question are again equally divided, the question shall be referred to the Minister for resolution; and
- (f) any such resolution of a question by the Minister shall be binding on the Board and the Board shall not, without the concurrence of the Minister, pass a further resolution rescinding or varying the first-mentioned resolution.

Chairman.

4—(1) Where the Administrative Member or the Engineering Member of the Commission is acting as chairman of the Commission, he shall be chairman of the Board and shall preside at all meetings of the Board at which he is present.

(2) If the chairman of the Board or the person appointed under clause 5 (3) (a) of Schedule 1 is not present at a meeting of the Board, a member of the Board elected by the members present shall preside at that meeting.

General procedure.

5—The procedure for the calling of, and for the conduct of business (including voting by proxy) at, meetings of the Board shall, subject to this Act and any procedure that is specified in this Schedule, be as determined by the Board.

SCHEDULE 3

Section 9 (2)

PROVISIONS WITH RESPECT TO APPOINTMENT AND TERMS AND CONDITIONS OF EMPLOYMENT OF EMPLOYEES OF THE BOARD

1—(1) Subject to subclause (2), a person who has attained the age of 65 years shall not be appointed as an employee of the Board, and an employee of the Board who attains that age shall cease to be so employed.

Age of employees.

(2) Subclause (1) does not prevent the employment by the Board of a person over the age of 65 years in a part-time capacity in any case where the Board is satisfied that he has special qualifications and experience for his duties.

2—An employee of the Board shall perform such functions as may be specified in the instrument of his appointment and such other functions as the Board may from time to time determine.

Employees to perform functions determined by the Board.

3—Subject to this Schedule, the terms and conditions of employment (including remuneration, allowances, and leave) of employees of the Board shall, subject to any award or industrial agreement relating to persons engaged in the work for which they are appointed, be determined by the Board.

Certain terms and conditions of employment of employees to be determined by the Board.

4—Except as provided in clause 6, an employee of the Board, in his capacity as such an employee, is not subject to the *Public Service Act 1973*.

Employees not subject to *Public Service Act 1973*.

5—The provisions of the *Retirement Benefits Act 1982*, and the *State Employees (Long-Service Leave) Act 1950* apply to and in relation to an employee of the Board as if—

Superannuation.

(a) the employee were an employee as defined in the *Retirement Benefits Act 1982*; and

(b) the Board were an undertaking carried on on behalf of the State or a State Authority, as the case may require.

6—(1) If an officer of the Public Service is appointed as an employee of the Board, he is entitled to retain all his existing and accruing rights as if his service as an employee of the Board were a continuation of his service as an officer of the Public Service.

Provisions applicable where officer of Public Service is appointed as employee of Board.

(2) Where a person appointed as an employee of the Board was, immediately before his appointment, an officer of the Public Service other than a temporary employee, sections 32 and 33 of the *Public Service Act 1973* shall continue to apply in respect of that person as if his service as an employee of the Board were service as an officer within the meaning of that Act, and, for the purpose of those sections, he shall be deemed to be such an officer while he remains an employee of the Board.

(3) Where a person referred to in subclause (1) ceases to be an employee of the Board and becomes an officer of the Public Service, his service as an employee of the Board shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service.

Employees of Board subject to Public Service awards and determinations, &c., of Public Service Arbitrator.

7—An employee of the Board—

- (a) is entitled to such salary and allowances as are determined by an award under Part V of the *Public Service Act 1973*; and
- (b) is bound by determinations and decisions of the Public Service Arbitrator under Part VI of that Act,

and Parts V and VI of that Act apply to, and in relation to, such an employee as if the Board were the controlling authority and the State authority as mentioned in those Parts.

Transfer of persons employed by former board or a constituent municipality.

8—(1) A person who, immediately before the commencement date, was employed by the former board shall, on that date, become an employee of the Board in the same position and—

- (a) shall be paid a salary or wage not less than the salary or wage payable to him immediately before the commencement date and shall be entitled to receive the same allowances as those to which he was entitled immediately before that date;
- (b) shall retain any rights that, immediately before the commencement date, have accrued or are accruing to him by virtue of being an employee of the former board, including any rights accruing to him under any superannuation scheme to which he was contributing immediately before the commencement date;
- (c) may continue to contribute to that scheme; and
- (d) shall be entitled to receive any leave (including long-service leave) and any remuneration, pension, gratuity, or other payment,

as if he had continued to be employed by the former board.

(2) Where any term or condition of employment of a person who becomes an employee of the Board by virtue of subclause (1) is, immediately before the commencement date, regulated by an award or industrial agreement or an agreement made under or in accordance with any law in force in the State that relates to industrial relations, that term or condition shall continue to be so regulated until an award regulating that term or condition and binding on the Board is made by a competent tribunal or that term or condition is regulated by an industrial agreement to which the Board is a party.

(3) In respect of any person referred to in subclause (1), the Board shall pay, in respect of any superannuation scheme to which he was contributing, the contributions and payments that would have been payable by the former board if that person had continued to be employed by the former board.

(4) Where an employee of a constituent municipality becomes an employee of the Board pursuant to an agreement between the municipality and the Board, the employee may, within one month after he does so, notify the Board in writing that he desires that subclause (5) apply to him.

(5) On a notification in writing under subclause (4)—

- (a) in the case of a former employee of the city of Hobart, section 75 of the *Hobart Corporation Act 1963* continues to apply, notwithstanding this Schedule, to, and in relation to, that employee as if the Board were the city of Hobart; or
- (b) in the case of a former employee of another constituent municipality, Divisions 3 and 4 of Part VI of the *Local Government Act 1962* continue to apply, notwithstanding this Schedule, to, and in relation to, that employee as if the Board were that constituent municipality,

but, in each case, subject to such modifications as may be prescribed.

(6) A person who becomes an employee of the Board under this clause is not entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

SCHEDULE 4

Section 13 (1) (e)

DESCRIPTION OF LANDS RESERVED FOR SOURCES OF SUPPLY OF
WATER FOR THE BOARD

The lands comprised in the areas delineated in the following maps and marked as catchment areas:—

City	Department of Lands map reference
Hobart Glenorchy	LD 814 LD 827

SCHEDULE 5

Section 14 (1) (a)

MAPS OF WATER DISTRICTS

Municipality	Water district	Department of Lands map reference
Hobart Glenorchy Clarence	Hobart Glenorchy Metropolitan Clarence Cambridge Derwentlaken Rokeby Lauderdale	LD815 LD816 LD817 P581 P4450 LD120 and LD818 LD636 and LD121
Kingborough Brighton	Seven Mile Beach Urban and Rural Districts Bridgewater Brighton Bagdad Pontville Millvale Redside	P3363 LD421 P3993 LD284 LD706 LD417 P4069 LD420
Richmond	Richmond Campania Shark Point	LD819 LD820 P2297
New Norfolk	New Norfolk Magra Lawitta Granton Sorell Creek	LD821 LD821 LD821 LD821 LD821
Green Ponds	Kempton Dysart	LD825 LD826
Sorell	East Bagdad Sorell—Midway Point	LD549 LD670

SCHEDULE 6

Sections 14 (1) (b)
and 16 (1) (a)

BULK SUPPLY WORKS

Fenton Supply

Lake Fenton Reservoir and dam
The pipeline from Lady Barron Creek to Barossa Reservoir.

Derwent Water Supply

Bryn Estyn Head Works
The pipeline from River Derwent at Bryn Estyn through Hobart across
Tasman Bridge to Bellerive Reservoir, Clarence

Hobart Mountain Supply

Ridgeway Reservoir and dam
Upper Reservoir and dam
Lower Reservoir and dam
North West Bay River weir, the pipelines from the weir to Ridgeway
Reservoir, and the connecting pipelines and associated works
Fern Tree Fluoride and Chlorination Works

Glenorchy Mountain Supply

Knights Creek Reservoir and dam
Lime Kiln Reservoir and dam
Tolosa Street Reservoir and dam and the pump station and fluoride
and chlorination works at Tolosa Street
The pipelines connecting Knights Creek, Lime Kiln, and Tolosa Street
Reservoirs

Kingston Pipeline

The pipeline from Ridgeway Reservoir to Margate Reservoir
The branch pipes from that pipeline to Boronia Reservoir, Baynton Street
Reservoir, Maranoa Road Reservoir, Blackmans Bay Reservoir, and to
Summerleas Road

Bonnet Hill Pipeline

The pipelines from Ridgeway Reservoir to the break pressure tank at
Bonnet Hill

Kingborough Supply

All works for the supply of water at North West Bay River including
the pump station and pipeline but excluding the reservoir
Long Creek Weir

Southern Regional Water Supply

The pipeline from Bryn Estyn via Lawitta to Lindisfarne Reservoir and
the connecting pipeline from that pipeline to the Risdon Brook pipeline

Risdon Brook Supply

The Risdon Brook Reservoir and dam and the pipeline from the dam to Risdon Vale Reservoir

Flagstaff Gully Reservoir and dam and the pipelines from the dam to Risdon Vale Reservoir, to Warrane Pump Station, to Bellerive Reservoir No. 1, and to the Derwent Water Supply at Kangaroo Creek

The chlorination works at Risdon Brook dam

Green Belt Pump Station in Dampier Street, Clarence

Rokeby Supply

The pipeline from Howrah Reservoir to Rokeby Reservoir

Sorell Pipeline

The pipeline from Warrane Pump Station to Tunnel Hill Reservoir

Pump Stations

Hill Street, Hobart

Fitzroy Gardens, Hobart

Olinda Grove, Hobart

Mangalore

Dysart

Tea Tree

Pump Stations and delivery pipelines

Fern Tree Pump Station and the pipeline to Fern Tree Reservoir

Flagstaff Gully Pump Station and the pipeline to Pilcher's Hill Reservoir

Box Hill Road Pump Station, Glenorchy and the pipeline to Claremont Heights Reservoir

SCHEDULE 7

Sections 14 (1) (b)
and 16 (1) (b)

JOINT USE WORKS

Fenton Supply

The pipeline from Barossa Reservoir to Lower Reservoir, Hobart

Hobart Mountain Supply

The pipeline from Ridgeway Reservoir to Springfield High Level

The pipeline from Lower Reservoir, Hobart to the boundary of the
municipal district of the city of Hobart near Cartwright Point

The pipeline from Ridgeway Reservoir to Lower Reservoir

Glenorchy Mountain Supply

The pipeline from Berriedale to Tolosa Street Reservoir

Bonnet Hill Pipeline

The pipeline from Bonnet Hill to Oakleigh Avenue Reservoir, Taroona

The pipeline from Bonnet Hill to Boronia Reservoir

Snug Supply

Margate Reservoir

The pipeline from Margate Reservoir to Snug Reservoir

Risdon Brook Supply

Risdon Vale Reservoir

Bellerive Reservoir

Rokeby Supply

The pipeline from Bellerive Reservoir to Howrah Reservoir

Howrah Reservoir

Rokeby Reservoir

The pipeline from Rokeby Reservoir to Lauderdale Reservoir

Northern Pipelines

The branch pipes from the water supply works specified in the First
Schedule to the *Southern Regional Water Act 1960* to Richmond
Reservoir, Campania Reservoir, and Kempton Reservoir

Sorell Pipeline

The pipeline from Tunnel Hill Reservoir to Sorell Reservoir and the
branch pipeline to the meter at Seven Mile Beach

SCHEDULE 8 Section 50 (3) and (4)

TRANSITIONAL PROVISIONS AND SAVINGS

PART I—PROVISIONS OPERATIVE BEFORE 1st JULY 1984

- 1—On or before 10th June 1984, each constituent municipality shall provide the Metropolitan Water Board with the particulars in writing specified in section 43. Duty of constituent municipalities to provide particulars to Metropolitan Water Board.
- 2—As soon as practicable after the commencement of this Part, the Metropolitan Water Board shall, in respect of the financial year commencing on 1st July 1984, comply with the requirements of section 44. Estimates, &c., to be prepared by Metropolitan Water Board.

PART II—PROVISIONS ARISING FROM THE ABOLITION OF THE METROPOLITAN WATER BOARD

- 1—The provisions of this Part have effect subject to section 15. Application of this Part.
- 2—On and after the commencement date, a reference in any Act to the Metropolitan Water Board shall be construed as a reference to the Hobart Regional Water Board. References in Acts to the Metropolitan Water Board.
- 3—(1) All estates or interests in land or other property and all rights, obligations, and liabilities of the Metropolitan Water Board that were subsisting immediately before the commencement date are, on that date, transferred to, and vested in, the Hobart Regional Water Board. Transfer of property, &c., to the Hobart Regional Water Board.
- (2) Any money, and any liquidated or unliquidated claim which, immediately before the commencement date, was payable to or recoverable by the Metropolitan Water Board shall, on and from that date, be money, or a liquidated or unliquidated claim, payable to, or recoverable by, the Hobart Regional Water Board.
- (3) Any debt due from, or money payable by, or any claim, whether liquidated or unliquidated, recoverable against, the Metropolitan Water Board immediately before the commencement date shall, on and from that date, be a debt due from, or money payable by, or a claim recoverable against, the Hobart Regional Water Board.
- 4—Any contract, agreement, arrangement, or undertaking entered into with the Metropolitan Water Board and in force immediately before the commencement date shall, on and from that date, be deemed to be a contract, agreement, arrangement, or undertaking entered into with the Hobart Regional Water Board. Contracts, agreements, &c.
- 5—Any legal or other proceedings that might, before the commencement date, have been continued or commenced by, or against, the Metropolitan Water Board may, on and from that date, be continued or commenced by, or against, the Hobart Regional Water Board. Continuation of proceedings.

Acts, &c., done
by or to
Metropolitan
Water Board
before
commencement
date.

6—(1) Any act, matter, or thing done or omitted to be done before the commencement date—

(a) by, to, or in respect of, the Metropolitan Water Board; or

(b) for the purpose of the exercise of a power, or the performance of a function, by that Board,

shall, to the extent that, but for the enactment of this Act, that act, matter, or thing would on or after that date have had any force or effect or been in operation, be deemed to have been done or omitted to be done—

(c) by, to, or in respect of, the Hobart Regional Water Board; or

(d) for the purpose of the exercise of a power, or the performance of a function, by that Board,

as the case may require.

(2) Without derogating from subclause (1), this Act applies to, and in relation to, the Hobart Regional Water Board—

(a) in respect of the financial year commencing on 1st July 1984 as if the revenue and depreciation account of the Metropolitan Water Board in respect of the preceding financial year were the revenue and depreciation account of the Hobart Regional Water Board; and

(b) in respect of the consumption year commencing on 1st June 1984 as if an approval for the construction of water reticulation works, an estimate of water consumption, or an allocation for water consumption granted, received, or made by the Metropolitan Water Board had been granted, received, or made by the Hobart Regional Water Board.

Reimbursement
of money paid
for water
reticulation in
1983-1984.

7—(1) Where the Metropolitan Water Board has pursuant to section 26 (1) (e) of the *Metropolitan Water Act* 1961 provided an amount as capital money during the financial year commenced on 1st July 1983 to a constituent municipality for the purpose of water reticulation, that constituent municipality shall repay that amount to the Hobart Regional Water Board with interest in accordance with this clause.

(2) The terms and conditions of a repayment required to be made by a constituent municipality under subclause (1), including the rate of interest payable, shall be such as may be agreed between the Hobart Regional Water Board and the constituent municipality or, in default of agreement, as may be determined by the Governor by order published in the *Gazette*.

(3) An order under subclause (2) is not a statutory rule for the purposes of the *Rules Publication Act* 1953.

8—Notwithstanding the repeal of the *Metropolitan Water Act* 1961 effected by section 50 (5), where, in respect of the financial year ending on 30th June 1984, a constituent municipality—

Adjustment for overspending, &c., of capital money, &c., in 1983-1984.

(a) has overspent or underspent capital money provided under section 26 (1) (e) of that Act; or

(b) has overspent or underspent an amount notified to it under section 29 (1) (b) of that Act as running expenses,

section 30 of that Act shall continue to apply to, and in relation to, that overspending or underspending as if the references to the Board in that section were references to the Hobart Regional Water Board.

9—For the purposes of section 35 (3), in its application to the financial year commencing on 1st July 1984, the reference to the revenue of the Board in that section shall be read as a reference to the revenue of the Metropolitan Water Board.

Retrospective application of section 35 (3).

10—For the purposes of section 48, in its application to the financial year commenced on 1st July 1983, the Board shall submit to the Minister a report on the administration of this Act and the repealed Act.

Annual report for 1983-1984.

11—The repeals effected by section 50 (5) do not affect the right of a municipality to apply for a subsidy under section 40 of the *Water Act* 1957 or under that section as affected by section 38 of that Act.

Saving as to rights to subsidies.

SCHEDULE 9

Section 50 (5)

ACTS REPEALED

Year and number of Act	Short title of Act
No. 66 of 1960	<i>Southern Regional Water Act 1960</i>
No. 51 of 1961	<i>Metropolitan Water Act 1961</i>
No. 34 of 1978	<i>Metropolitan Water Act 1978</i>
No. 78 of 1978	<i>Metropolitan Water Act (No. 2) 1978</i>
No. 8 of 1979	<i>Metropolitan Water Amendment Act 1979</i>
No. 20 of 1983	<i>Metropolitan Water Amendment Act 1983</i>
No. 7 of 1984	<i>Southern Regional Water Amendment Act 1984</i>
No. 8 of 1984	<i>Metropolitan Water Amendment Act 1984</i>