



HOBART REGIONAL WATER (ARRANGEMENTS) ACT 1996

No. 58 of 1996

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HOBART REGIONAL WATER (ARRANGEMENTS) ACT 1996

No. 58 of 1996

An Act to transfer the property rights and liabilities of the Hobart Regional Water Board to a joint authority established under section 38 of the *Local Government Act 1993* and to repeal the *Hobart Regional Water Act 1984*

[Royal Assent 16 December 1996]

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 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Hobart Regional Water (Arrangements) Act 1996*.

Commencement

2. This Act commences on a day to be proclaimed.

Interpretation

3. In this Act, unless the contrary intention appears –

"Authority" means the Hobart Regional Water Authority established as a joint authority under section 38 of the *Local Government Act 1993*;

"commencement day" means the day on which this Act commences;

"former Board" means the Hobart Regional Water Board as established under section 4 of the repealed Act;

"liabilities" includes all liabilities, duties and obligations, whether actual, contingent or prospective;

"property" means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property and includes money, documents, securities, choses in action and other rights;

"repealed Act" means the *Hobart Regional Water Act 1984*;

"rights" includes all rights, powers, privileges and immunities, whether actual, contingent or prospective;

"State Service employee" means an employee within the meaning of the *Tasmanian State Service Act 1984*;

"transferred employee" means a person who becomes an employee of the Authority by the operation of Part 3.

Act binds Crown

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

PART 2 – TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES

Transfer of property, rights and liabilities, &c.

5. (1) The Minister may, by order published in the *Gazette* –

- (a) transfer any property, right or liability of the former Board to the Authority; and
- (b) provide for any matter that is incidental to that transfer.

(2) On the commencement day –

- (a) the property and rights specified in, and transferred by, an order made under subsection (1) vest in the Authority; and
- (b) the liabilities specified in, and transferred by, such an order become the liabilities of the Authority.

(3) Except as otherwise provided in an order made under subsection (1), on and after the commencement day –

- (a) any legal proceedings pending immediately before the commencement day and which were instituted by or against the former Board may be continued by or against the Authority; and
- (b) any legal proceedings by or against the former Board to enforce a right that had accrued, and was in existence, immediately before the commencement day may be commenced by or against the Authority; and

- (c) a judgment or order of a court obtained before the commencement day by or against the former Board may be enforced by or against the Authority; and
- (d) a document addressed to the former Board may be served on the Authority; and
- (e) a contract made or entered into by the former Board before the commencement day but not performed or discharged before that day is taken to have been made or entered into by the Authority.

(4) If the Minister transfers any property, right or liability to the Authority under subsection (1), that property, right or liability is to be taken to have been vested in, or to have belonged to, the former Board on the day immediately preceding the commencement day.

(5) A person who is a party to a contract is not entitled to terminate that contract by reason only of the transfer, under an order made under subsection (1), of any property, right or liability to which that contract relates.

(6) A reference in any Act, agreement or document to the former Board is, unless the case otherwise requires, to be read as a reference to the Authority.

Exemption from tax for documents under this Part

6. (1) In this section, "**State tax**" means application or registration fees, stamp duty or any other tax, duty, fee or charge imposed by any law of Tasmania.

(2) State tax is not payable in respect of any document prepared for the transfer of the whole or any part of the property, rights or liabilities of the former Board under this Part.

Indemnity by Authority

7. The Authority must indemnify the State against any liability, whether actual or contingent, arising from any thing done or omitted to be done by the former Board before the commencement of this Act.

Winding-up of Authority and sale, &c., of assets

8. (1) The Authority may be wound up –

- (a) at the direction of the Minister responsible for the administration of the *Local Government Act 1993*; and
- (b) on the decision of all the participating councils, within the meaning of section 38 of that Act, and with the consent of that Minister.

(2) The Authority must not sell or dispose of the whole or substantial part of its assets unless it has first obtained the consent of the Treasurer and the Minister responsible for the administration of the *Local Government Act 1993*.

(3) A direction or consent under this section is of no effect until it is approved by both Houses of Parliament.

(4) A consent under this section is approved by a House of Parliament –

- (a) when the House passes a motion approving the direction or consent; or
- (b) at the end of 5 sitting days after the direction or consent was laid before the House, if no notice of a motion to disapprove the consent is before the House; or

- (c) if such a notice is before the House at the end of that period, when the first of the following events occurs:
 - (i) the notice is withdrawn;
 - (ii) the motion is negatived;
 - (iii) a further period of 5 sitting days ends.

(5) This section has effect notwithstanding section 38(10) of the *Local Government Act 1993*.

State entitled to proceeds of disposal or winding-up

9. (1) If before 1 July 2002 the Authority is wound up or it disposes of the whole or a substantial part of its assets, the whole or a part of the net proceeds of the disposal or winding-up are to be paid into the Consolidated Fund in accordance with the table in Schedule 1.

(2) The Minister and the Treasurer jointly may determine that the whole or part of the net proceeds are not to be paid under subsection (1).

PART 3 - STAFF OF FORMER BOARD

Existing staff of former Board to be transferred

10. (1) On the commencement day, all State Service employees who were appointed or employed for the purposes of the repealed Act become employees of the Authority.

(2) On the commencement day –

- (a) the Authority becomes the employer of each transferred employee; and
- (b) that employee ceases to be a State Service employee and the *Tasmanian State Service Act 1984* ceases to apply in relation to that employee –

but no compensation is payable to the employee by reason of that fact.

(3) A transferred employee –

- (a) is taken to have been employed by the Authority for the same remuneration as he or she was receiving immediately before the commencement day; and
- (b) except where an award, agreement or any other law otherwise provides, retains all existing and accrued rights relating to leave as if service as an employee of the Authority were a continuation of his or her service under the *Tasmanian State Service Act 1984*; and
- (c) may claim those rights against the Authority.

(4) The period of service of a transferred employee under the *Tasmanian State Service Act 1984* is taken to be service as an employee of the Authority.

(5) Nothing in subsection (3) or (4) prevents any of the terms or conditions of employment of a transferred employee being altered by an award, agreement or any other law having effect after the commencement day.

(6) The *Long Service Leave (State Employees) Act 1994* continues to apply to a transferred employee unless he or she, by notice in writing given to the Authority, elects that that Act is not to apply to him or her.

Superannuation

11. (1) Within the period of 6 months after the commencement day or a longer period determined by the Retirement Benefits Fund Board, a transferred employee who was a contributor or an eligible employee immediately before that day must notify the Board and the Authority, in writing, as to whether or not he or she elects to continue as a contributor or an eligible employee.

(2) A transferred employee referred to in subsection (1) continues as a contributor or an eligible employee until whichever of the following occurs earlier:

- (a) the expiration of the period referred to in that subsection;
- (b) the day on which an election referred to in that subsection takes effect.

(3) On the expiration of the period referred to in subsection (1), a transferred employee referred to in that subsection who elects not to continue as a contributor or an eligible employee, or fails to make an election under

that subsection for the purposes of the *Retirement Benefits Act 1993* –

- (a) is taken to have ceased to be –
 - (i) a contributor as a result of a transfer arrangement; or
 - (ii) an eligible employee; and
- (b) is entitled to a lump sum benefit in accordance with that Act.

(4) Where a transferred employee elects to continue as a contributor or an eligible employee, he or she is taken to be a contributor or an eligible employee.

(5) The Authority must make adequate provision to meet its liability under the *Retirement Benefits Act 1993* to pay pension and other benefits in respect of all transferred employees and former employees of the former Board.

(6) The Authority must, when so required by the Minister administering the *Retirement Benefits Act 1993* or the Retirement Benefits Fund Board, provide such information as may be required for any actuarial review of any of its liabilities under the *Retirement Benefits Act 1993*.

(7) For the purposes of this section –

"contributor" means a contributor within the meaning of the *Retirement Benefits Regulations 1994*;

"eligible employee" means an eligible employee within the meaning of the *Retirement Benefits Regulations 1994*;

"transfer arrangement" means a transfer arrangement within the meaning of the *Retirement Benefits Regulations 1994*.

PART 4 - MISCELLANEOUS

Regulations

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

(2) Without limiting the generality of subsection (1), the regulations may –

- (a) contain provisions of a savings or transitional nature consequent on the enactment of this Act, including the interpretation of references to the former Board; and
- (b) modify the application of Part 2 to references to the former Board in instruments and documents.

(3) A provision referred to in subsection (2)(a) may, if the regulations so provide, take effect from the commencement of this Act or a later day.

Repeal of *Hobart Regional Water Act 1984*

13. (1) The *Hobart Regional Water Act 1984* is repealed.

(2) The former Board is abolished.

Administration of Act

14. Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industry and Fisheries; and
- (b) the Department responsible to the Minister for Primary Industry and Fisheries in relation to the administration of this Act is the Department of Primary Industry and Fisheries.

**SCHEDULE 1 - PROCEEDS OF DISPOSAL OR
WINDING-UP PAYABLE TO CONSOLIDATED FUND**
Section 9

Date before which disposal or winding-up is effected	Percentage of proceeds payable to Consolidated Fund
1 July 1998	100
1 July 1999	80
1 July 2000	60
1 July 2001	40
1 July 2002	20

*[Second reading presentation speech made in:-
House of Assembly on 21 November 1996
Legislative Council on 27 November 1996]*