

TASMANIA

**WATER LEGISLATION AMENDMENT BILL
2004**

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WATER LEGISLATION AMENDMENT BILL 2004

*(Brought in by the Minister for Primary Industries and
Water, the Honourable Steven Kons)*

A BILL FOR

**An Act to amend the *Water Management Act 1999*,
the *Irrigation Clauses Act 1973* and the *Rivers and
Water Supply Commission Act 1999***

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 *Water Legislation
Amendment Act 2004*.

Commencement

2. (1) This Act, except as provided in subsection (2),
commences on the day on which this Act receives the
Royal Assent.

(2) Parts 3, 5 and 6 commence on a day or days to be
proclaimed.

**PART 2 – WATER MANAGEMENT ACT 1999
AMENDED**

Principal Act

3. In this Part, the *Water Management Act 1999** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4. Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting “landholders” from paragraph (b) of the definition of “applicant” and substituting “landowners”;
- (b) by omitting “landholders” from paragraph (e) of the definition of “applicant” and substituting “landowners”;
- (c) by inserting the following definition after the definition of “commencement day”:

“Commission” means the Resource
Planning and Development
Commission;

- (d) by omitting “, the main purpose of which is the storage, holding back or impedance of” from the definition of “dam” and substituting “that stores, holds back or impedes”;
- (e) by omitting “for the purpose of holding water or impeding” from paragraph (d) of the definition of “dam” and substituting “that holds water or impedes”;

*No. 45 of 1999

- (f) by omitting paragraph (e) from the definition of “dam” and substituting the following paragraph:

(e) an artificial levee or bank that holds back or diverts water in a watercourse –

- (g) by inserting the following definition after the definition of “environmental nuisance”:

“environmental objectives” means the objectives of a water management plan proposed to further the provisions of section 6(1)(c);

- (h) by omitting the definition of “groundwater area” and substituting the following definition:

“groundwater area” means an area of land that is appointed as a groundwater area by an order made by the Minister under section 124A;

- (i) by inserting the following definition after the definition of “tidal area”:

“tributary” means any watercourse that contributes its flow to a larger watercourse;

- (j) by omitting paragraph (e) from the definition of “water entity” and substituting the following paragraph:

(e) a trust established under Part 10;
or

- (k) by omitting “a trust or society that is” from paragraph (g) of the definition of “water entity” and substituting “a body”;
- (l) by inserting the following definition after the definition of “water management plan”:

“water regime” means –

- (a) in respect of a watercourse, the pattern of flow in the watercourse, which is to be described in terms of the major features of its volumetric and temporal variation and which, in the case of a lake, is to include the fluctuation in the water level of the lake; or
 - (b) in respect of groundwater, the pattern of flow or fluctuation in the level of groundwater or pressure which is to be described in terms of the major features of its temporal variation;
- (m) by inserting the following definition after the definition of “well”:

“well works” means an excavation undertaken to give access to groundwater, any other works undertaken to repair or modify the structure of a well or any works undertaken to plug, backfill, seal or decommission a well;

Section 8 amended (Functions and duties of the Minister)

5. Section 8(2) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) the needs of the major ecosystems that depend on that water resource for water; and

Section 13 substituted

6. Section 13 of the Principal Act is repealed and the following section is substituted:

Water management plans

13. (1) The Minister may determine that a water management plan is to be prepared in respect of a water resource or water resources in Tasmania.

(2) A water management plan may, in whole or in part, rescind, replace or alter any water management plan previously approved under this Act.

Section 14 amended (Scope of water management plans)

7. Section 14 of the Principal Act is amended as follows:

- (a) by omitting paragraph (c) from subsection (1) and substituting the following paragraph:
 - (c) one or more groundwater resources; or
- (b) by omitting subsection (2) and substituting the following subsection:

(2) A water management plan is to include –

- (a) a statement of the objectives of the plan, including the environmental objectives; and
 - (b) a description of the water regime that best gives effect to the environmental objectives and other relevant objectives of the plan; and
 - (c) an assessment of the ability of that water regime to achieve the environmental objectives and other relevant objectives of the plan; and
 - (d) an assessment of likely detrimental effects of the plan on the quality of water.
- (c) by omitting from subsection (3)(a) “quantity of water determined under subsection (2)(a) and the need to avoid any detrimental effects referred to in subsection (2)(b) or (c)” and substituting “objectives stated under subsection (2)(a)”.

Section 19 repealed

8. Section 19 of the Principal Act is repealed.

Section 20 substituted

9. Section 20 of the Principal Act is repealed and the following section is substituted:

Consistency with other statutory requirements and consultation

20. (1) When preparing a draft water management plan, the Secretary must have regard to the consistency of the plan with –

- (a) any relevant State policy; and
- (b) relevant environmental agreements and environmental improvement programmes; and
- (c) relevant planning schemes; and
- (d) Part 6 of the *Public Health Act 1997* and guidelines issued under Part 8 of that Act; and
- (e) such other plans, policies or guidelines as are prescribed by the regulations; and
- (f) the objectives of this Act –

and for that purpose must consult with –

- (g) the Director of Environmental Management; and
- (h) the Director of Public Health; and
- (i) any council within the municipal area of which a relevant water resource is situated; and
- (j) such other persons as the Minister may direct.

(2) The Secretary must also consult with –

- (a) any Agency that has a direct interest in the draft water management plan; and
- (b) any relevant water entity or relevant licensee –

so far as may be practicable and may also consult generally with such other persons as he or she thinks fit.

Section 21 amended (Effect of plan on prior rights)

10. Section 21(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “exceed the quantity of water determined under” and substituting “prevent the achievement of the water regime that best gives effect to the environmental objectives referred to in”;
- (b) by omitting paragraph (c) and substituting the following paragraph:
 - (c) providing the water regime that best gives effect to the environmental objectives referred to in section 14(2)(a); and

Section 22 amended (Compensation for abrogation of prior right)

11. Section 22(1)(a) of the Principal Act is amended by omitting “quantity assessed under section 14(2)(a) being available” and substituting “achievement of the water

regime that best gives effect to the environmental objectives referred to in section 14(2)(a)".

Section 24 amended (Consultation on draft plan)

12. Section 24(1) of the Principal Act is amended by omitting paragraphs (a) and (b) and substituting the following paragraph:

- (a) the persons and bodies referred to in section 20(1); and

Sections 26 and 27 substituted

13. Sections 26 and 27 of the Principal Act are repealed and the following sections are substituted:

Consideration of representations

26. After considering the written representations referred to in section 25(1)(c) relating to a draft water management plan, the Secretary is to forward to the Commission –

- (a) a copy of those representations; and
- (b) a report containing –
 - (i) a summary of the representations; and
 - (ii) the Secretary's opinion on the merits of the representations, including a statement as to whether he or she believes that the representations are of sufficient merit to warrant

modification of the draft water management plan; and

(iii) a summary of any proposed modification to the draft water management plan; and

(iv) any additional information that the Secretary considers relevant.

Review by Commission

27. (1) The Commission, on the direction of the Minister, is to review the representations and the report of the Secretary forwarded under section 26 relating to the draft water management plan.

(2) Within 21 days after receipt of the copies of the representations and the report of the Secretary, or within any further period that the Minister allows, the Commission is to decide whether or not to hold a hearing to assist in its review of the representations and the report.

(3) If the Commission decides to hold a hearing, the Commission is to notify the Minister of that decision.

(4) If the Commission decides not to hold a hearing, the Commission, within 14 days after making that decision, is to give written notice of that decision to –

(a) the Minister; and

(b) the Secretary; and

(c) any person who has submitted a representation under section 25(1)(c).

(5) A hearing is to be conducted in accordance with Part 3 of the *Resource Planning and Development Commission Act 1997*.

(6) The Commission, as soon as practicable after receipt of the copies of the representations and the report of the Secretary forwarded under section 26, is to notify by public notification –

- (a) the places at which copies of the representations and report are to be exhibited; and
- (b) the period during which they are to be exhibited; and
- (c) any other information that the Commission considers relevant.

(7) At least one of the places referred to in subsection (6)(a) is to be near the area where the relevant water resource is located.

Report of Commission

27A. (1) The Commission, within a period determined by the Minister, is to provide the Minister with –

- (a) a report of its review under section 27; and
- (b) copies of the representations and the report of the Secretary forwarded under section 26.

(2) As soon as practicable after the period referred to in subsection (1), the Commission is to publish in the *Gazette* notice of –

- (a) the making of its report; and

- (b) the place where copies of its report are available for inspection by the public.

Consideration of Commission's report

27B. (1) In considering the matters referred to in section 27A(1)(a) and (b), the Minister is to have regard to the objectives of this Act.

(2) The Minister may request the Secretary to submit for final approval –

- (a) an unaltered draft water management plan; or
- (b) a draft water management plan containing any alterations that the Minister thinks appropriate having regard to the matters specified in section 27A(1)(a) and (b).

Section 28 substituted

14. Section 28 of the Principal Act is repealed and the following section is substituted:

Adoption of plan by Minister

28. The Minister adopts a draft water management plan or amended draft water management plan by signing a certificate endorsed on the plan that he or she has adopted that plan and, on adoption, the draft water management plan or amended draft water management plan becomes a water management plan.

Section 30 amended (Notice of adoption of water management plan)

15. Section 30 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “and of any rights of review or appeal under Part 14”;
- (b) by omitting from subsection (2) “amendment made under section 28(1)(c)” and substituting “alteration made under section 27B(2)(b)”.

Section 32 repealed

16. Section 32 of the Principal Act is repealed.

Section 34 amended (Review and amendment of water management plans)

17. Section 34 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “entire plan at least once during each period of 5 years following adoption of the plan” and substituting “plan, in accordance with the requirements specified in the plan, if any, or a direction under subsection (1A) or where it is necessary to do so to ensure the consistency of the plan with any relevant State policy”;
- (b) by inserting the following subsection after subsection (1):

(1A) The Minister may direct the Secretary to review a water management plan if satisfied that it is necessary or desirable to do so owing to environmental, economic or

other reasons relating to the water resource to which the water management plan relates.

- (c) by omitting from subsection (2)(a) “consistency” and substituting “the consistency of the plan”;
- (d) by omitting from subsection (5)(b) “plan –” and substituting “plan; or”;
- (e) by inserting the following paragraph after paragraph (b) in subsection (5):
 - (c) give effect to amendments to the plan for the purposes of the consistency of the plan with a State policy –

Section 37 amended (Application by water entity or landowners)

18. Section 37 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “landholders” and substituting “landowners”;
- (b) by omitting from subsection (2) “landholders” and substituting “landowners”.

Section 38 amended (Approval of application)

19. Section 38(2) of the Principal Act is amended by omitting “landholders” and substituting “landowners”.

Section 48 amended (Rights to take water)

20. Section 48 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “and, if there is a well situated on the land, he or she may take water from that well for any purpose”;
- (b) by inserting the following subsection after subsection (4):

(4A) An owner or occupier of land may take groundwater from the land for any purpose unless –

- (a) the land is situated in a groundwater area appointed under section 124A and the taking is contrary to an order made under that section; or
 - (b) the taking is contrary to a water management plan.
- (c) by omitting from subsection (5) “subsection (4)” and substituting “subsection (4A)”.

Section 54 amended (Licences)

21. Section 54(2) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a);
- (b) by inserting the following paragraph after paragraph (b):
 - (ba) under Part 5 where the taking is not contrary to a relevant water management plan or to an order appointing a groundwater area under section 124A.

Section 56 amended (Details of licence)

22. Section 56(1) of the Principal Act is amended by inserting after paragraph (d) the following paragraph:

- (da) may specify conditions under which the licensee may undertake well works; and

Section 74 amended (Refusal of application to vary licence)

23. Section 74 of the Principal Act is amended by omitting paragraph (b).

Section 86 amended (Requirement for additional information)

24. Section 86 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, by notice in writing served on the applicant,” after “may”;
- (b) by omitting from subsection (1) “appointed or”;
- (c) by inserting the following subsection after subsection (1):

(1A) A notice under subsection (1) may require that –

- (a) the assessment is to be verified by a person approved by the Minister or by a person or class of persons holding specified qualifications; or
- (b) the assessment is to be provided in a specified form; or

- (c) the assessment includes a statement as to how the water is intended to be used so as to meet the relevant objectives of this Act.

Section 89 amended (Compensation for reduction of water allocation)

25. Section 89(1)(a) of the Principal Act is amended by omitting “quantity assessed under section 14(2)(a) being available” and substituting “achievement of the water regime that best gives effect to the environmental objectives referred to in section 14(2)(a)”.

Section 95 amended (Transfer of licences and water allocations)

26. Section 95(3) of the Principal Act is amended by omitting “in accordance with section 96”.

Section 96 repealed

27. Section 96 of the Principal Act is repealed.

Section 97 amended (Application for transfer of licence or water allocation)

28. Section 97(2) of the Principal Act is amended by omitting “section 96 or 98” and substituting “section 98”.

Section 97A inserted

29. After section 97 of the Principal Act, the following section is inserted in Division 4:

Transfers from dams or from or into tributaries

97A. The Minister may approve the transfer of a licence or a variation of a licence on the transfer of a water allocation in any of the following cases:

- (a) where water is released from a dam into, and is conveyed by, a watercourse;
- (b) if the water resource specified in the licence is a watercourse –
 - (i) where the proposed transfer is from the watercourse to a tributary of that watercourse; or
 - (ii) where the proposed transfer is from a tributary to the larger watercourse into which it flows.

Section 98 amended (Refusal of application for transfer)

30. Section 98 of the Principal Act is amended as follows:

- (a) by omitting paragraph (e) from subsection (1);
- (b) by omitting subsection (2).

Section 102 amended (Requirement for additional information before approving transfer)

31. Section 102(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “appointed or”;
- (b) by omitting from paragraph (b) “form.” and substituting “form; and”;
- (c) by inserting the following paragraph after paragraph (b):
 - (c) the information includes a statement as to how it is intended that the water will be used so as to meet the relevant objectives of this Act.

Section 121 amended (Transfer of water allocations)

32. Section 121(2) of the Principal Act is amended by omitting “and section 96”.

Part 7: Heading amended

33. Part 7 of the Principal Act is amended by omitting “AND DAMS” from the heading to that Part.

Sections 124A and 124B inserted

34. After section 124 of the Principal Act, the following sections are inserted in Division 1:

Appointment of groundwater area

124A. (1) The Minister may, by order published in the *Gazette*, appoint, name and define a groundwater area.

(2) The order may provide that groundwater may not be taken from that groundwater area without the authority of a licence and the order may have effect either generally or by reference to –

- (a) a class of persons seeking to take groundwater; or
- (b) the amount of groundwater taken; or
- (c) the purpose for which it is taken; or
- (d) such other matters as the Minister considers expedient to give effect to the objectives of this Act.

(3) The order may provide that the whole or specified provisions of the order will not come into operation until a date specified in the order.

Notice of appointment of groundwater area

124B. (1) Before appointing a groundwater area, the Minister must, by notice published in a local newspaper, invite written representations from any person who may be affected by the appointment.

(2) The notice is to state –

- (a) details of the appointment, the relevant water resource and such other information as the Minister considers desirable for the purposes of this Act; and

- (b) the name and address of a person to whom representations may be sent and the time before which they are to be received.

(3) Before making an appointment under this section, the Minister must have regard to any representations received.

Section 125 amended (Work relating to wells)

35. Section 125 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “incorporate in a water management plan” and substituting “, by order published in the *Gazette*, issue”;
- (b) by omitting from subsection (2) “standards of competency for” and substituting “for the accreditation of, and standards of competency for,”.

Section 137 amended (Application of this Part)

36. Section 137(1) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) a dam which is not on a watercourse and which prevents, controls or mitigates the effect of a flood; and

Section 152 amended (Referral to Director)

37. Section 152(5) of the Principal Act is amended by omitting “subsection (1)” and substituting “subsection (2)”.

Section 155 amended (Information to be provided)

38. Section 155 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (g) in subsection (2):

- (ga) any social or economic matter relating to the construction of the proposed dam, including without limitation opportunities for employment and other matters relating to irrigation and agricultural production; or

- (b) by omitting from subsection (6) “If” and substituting “Subject to subsections (7) and (8), if”;

- (c) by inserting the following subsections after subsection (6):

- (7)** The Assessment Committee may extend the time for providing the information required under section 154(1) for a period not exceeding one year if it is satisfied that –

- (a) the extension does not change the effect of any determination that has been imposed by the Appeal Tribunal; and

- (b) the circumstances under which the notice was issued have not significantly changed, in particular relating to –

- (i) any adverse impact on the land or property of any person other than the

applicant or on the environment, having regard to the conservation or protection of flora, fauna and cultural heritage; or

- (ii) matters of dam safety.

(8) If the Assessment Committee is of the opinion that any circumstances referred to in subsection (7)(b) have changed significantly, the Committee may amend the notice under section 154(1) to the extent necessary to take account of those changed circumstances.

Section 159 amended (Time when permit takes effect)

39. Section 159 of the Principal Act is amended as follows:

- (a) by inserting in subsection (8) “but may continue in force as provided by subsection (9)” after “that period”;
- (b) by inserting the following subsection after subsection (8):

(9) The Assessment Committee may extend the time for which a permit is in force for a period not exceeding one year if it is satisfied that the extension –

- (a) does not change the effect of any condition that has been imposed by the Board or the Appeal Tribunal; and
- (b) will not significantly increase any adverse impact on –

- (i) the land or property of any person other than the applicant; or
- (ii) the environment –
having regard to the conservation or protection of flora, fauna and cultural heritage; and
- (c) will not increase the risk of an incident arising from the dam works in respect of which the permit was granted.

Section 162 amended (Amendments of permits)

40. Section 162(2) of the Principal Act is amended by omitting paragraphs (b) and (c) and substituting the following paragraphs:

- (b) will not cause any adverse impact on any person authorised to take water under this Act; and
- (c) will not significantly increase any adverse impact on –
 - (i) the land or property of any person other than a person mentioned in subsection (1); or
 - (ii) the environment –
having regard to the conservation or protection of flora, fauna and cultural heritage; and

- (d) will not increase the risk of an incident arising from the dam works in respect of which the permit was granted.

Section 165B amended (Interpretation of Part 8A)

41. Section 165B of the Principal Act is amended by omitting the definition of “dam” and substituting the following definition:

“dam” means a permanent or temporary barrier or structure that stores water or other liquids, silt, debris, mine tailings or other liquid-borne material or holds back or impedes the flow of water or other material and includes –

- (a) water or other material stored or held back by the barrier or structure and the area covered by that water or other material; and
- (b) an artificial depression or hole excavated in a watercourse that holds water or impedes the flow of water; and
- (c) an artificial levee or bank that holds back or diverts water in a watercourse; and
- (d) any appurtenant works;

Section 165H amended (Obtaining and providing information)

42. Section 165H of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or arrange for” after “do”;
- (b) by inserting in subsection (1) “actions” after “following”;
- (c) by omitting from subsection (1)(a) “in accordance with the regulations,” and substituting “to”;
- (d) by omitting from subsection (1)(b) “provide” and substituting “to provide”;
- (e) by inserting the following subsection after subsection (1):

(1A) A notice under subsection (1)(a) may require that the actions are to be undertaken by a person or persons with prescribed competencies.

Part 9, Division 1: Heading amended

43. Division 1 of Part 9 of the Principal Act is amended by omitting “*Creation*” from the heading to that Division and substituting “*Establishment*”.

Section 166 amended (Application of Division to water entities)

44. Section 166(1)(ca) of the Principal Act is amended as follows:

- (a) by omitting “a trust or society” and substituting “a trust established under Part 10 or a body”;

- (b) by omitting “society” second occurring and substituting “body”.

Section 167 amended (Establishment of water districts)

45. Section 167 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “landholders” and substituting “landowners”;
- (b) by omitting from subsection (4)(a) “creation” and substituting “establishment”;
- (c) by omitting from subsection (4)(b) “create” and substituting “establish”.

Section 171 amended (Requirements for application)

46. Section 171 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “landholders” and substituting “landowners”;
- (b) by omitting from paragraph (d) “landholders” and substituting “landowners”;
- (c) by omitting paragraph (h) and substituting the following paragraph:
 - (h) is to provide a plan to the satisfaction of the Minister stating full details of the operation of the proposed water entity, relating to its financial structure and the proposed administration of the district; and

Section 173 amended (Joint water districts)

47. Section 173(b) of the Principal Act is amended by omitting “landholders” three times occurring and substituting “landowners”.

Section 176 amended (Approval of application)

48. Section 176(5) of the Principal Act is amended as follows:

- (a) by omitting “landholders” and substituting “landowners”;
- (b) by omitting “creation” and substituting “establishment”.

Section 177 amended (Withdrawal of application)

49. Section 177 of the Principal Act is amended by omitting “landholders” and substituting “landowners”.

Section 181 amended (Substitution of water entities)

50. Section 181 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “landholders” and substituting “the owners of at least two-thirds of the land in a water district”;
- (b) by omitting from subsection (2) “create” and substituting “establish”;
- (c) by omitting from subsection (4) “creation” and substituting “establishment”.

Section 193 substituted

51. Section 193 of the Principal Act is repealed and the following section is substituted:

Purpose of riverworks district

193. A riverworks district may be established so as to enable a water entity to undertake and manage works or do any act, matter or thing for any or all of the following purposes:

- (a) removing, cutting and trimming vegetation and other matter in or on the bed and banks of watercourses and lakes, overhanging them or likely to fall into them and cause environmental harm or pose a risk to public safety or property;
- (b) undertaking works in channels so as to stabilise streambeds and streambanks and mitigating against the adverse effects of flooding;
- (c) protecting the banks of watercourses and lakes by the use of vegetation, riparian fencing and appropriate river engineering techniques;
- (d) removing obstructions where appropriate technical advice has identified that those obstructions are contributing to flooding or streambank damage;
- (e) changing the course of watercourses;
- (f) controlling or regulating the flow of water in watercourses;

- (g) raising or lowering the level of lakes;
- (h) planting trees and other vegetation for the purpose of slowing down water running into watercourses and lakes and of protecting banks of watercourses and lakes;
- (i) protecting areas of important natural values, such as native vegetation, threatened species, sites of geo-conservation significance, significant habitat and sites of historic, cultural or Aboriginal significance;
- (j) the maintenance, repair, control and management of watercourses and lakes, or of any works specified in this section or of the places where they are, or have been, carried out;
- (k) any other similar activity which may assist in giving effect to the objectives of this Act or in carrying out a water management plan.

Section 205 amended (Application to establish trust)

52. Section 205 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

(2) An application under subsection (1) is to be in an approved form and –

- (a) is to include the rules of the proposed trust in accordance with clause 6A of Schedule 3; and

- (b) is to provide such other information as the Minister may require for the purposes of this Part; and
- (c) is to be accompanied by the prescribed fee.

Section 206 substituted

53. Section 206 of the Principal Act is repealed and the following sections are substituted:

Approval of application

206. (1) The Minister must, in considering an application under section 205, ensure that the rules of the trust submitted with the application comply with the requirements of clause 6A of Schedule 3.

(2) The Minister may, in approving the application, impose any condition that he or she considers necessary to give effect to the objectives of this Act or to give effect to any relevant water management plan.

Establishment of trust

206A. (1) On approval of an application under section 205, the Minister must also approve the rules of the trust and, by notice published in the *Gazette*, establish and name the trust and state the water district in respect of which it is established.

(2) The Minister must, within 14 days after publication of the notice in the *Gazette*, give notice of the establishment of the trust in a newspaper circulating generally in Tasmania.

(3) The Minister, on application by a trust, may alter the rules of the trust if the alteration is consistent with this Act and complies with the requirements of clause 6A of Schedule 3.

Section 216 amended (Appointment of employees, &c.)

54. Section 216(1) of the Principal Act is amended by inserting “or contractors” after “employees”.

Section 219 amended (Trust accounts)

55. Section 219(1) of the Principal Act is amended by omitting “a bank, building society or credit union” and substituting “an authorised deposit-taking institution”.

Section 274 amended (Interpretation of Division)

56. Section 274(1) of the Principal Act is amended by omitting paragraph (b).

Section 275 amended (Appealable decisions)

57. Section 275 of the Principal Act is amended by omitting paragraph (a).

Section 304 amended (Fees and charges)

58. Section 304(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “plan.” and substituting “plan; and”;
- (b) by inserting the following paragraphs after paragraph (c):
 - (d) any verification of compliance with any conditions or requirements of an authorisation; and
 - (e) any other action taken by the Minister, the Secretary or an authorised officer in the performance or exercise of any function or power under this Act.

Schedule 3 amended (Membership and Proceedings of Trusts)

59. Schedule 3 to the Principal Act is amended as follows:

- (a) by inserting in clause 1(5) “and, if a person holds more than one irrigation right, he or she may exercise a vote for each of those irrigation rights” after “for the trust”;
- (b) by omitting from clause 5(1)(e) “vacant –” and substituting “vacant; or”;
- (c) by inserting the following paragraph after paragraph (e) in clause 5(1):
 - (f) is convicted in Tasmania of an offence which is punishable by imprisonment for a term of 12 months or more, or if the trustee is convicted elsewhere than in Tasmania of an offence which, if

committed in Tasmania, would be so punishable –

- (d) by omitting from clause 6(6) “, but may at the request of any trustee be included on the agenda for the next meeting to be reconsidered”;
- (e) by omitting subclause (8) from clause 6;
- (f) by inserting the following clause after clause 6:

Requirements for rules of trust

6A. (1) The rules of a trust are to provide for the following:

- (a) the membership of the trust;
- (b) the proceedings of the trust;
- (c) the manner in which the powers and functions of the trust are to be exercised or performed;
- (d) the rules for the conduct of the business of the trust;
- (e) the management of the water district or water districts for which the trust is established and of any other of its functions authorised under this Act;
- (f) the keeping and use of the common seal;
- (g) the attestation of execution of documents;

(h) any other prescribed matter.

(2) The Minister may, by order published in the *Gazette*, determine model rules for a trust.

Schedule 4 amended (Savings and transitional provisions)

60. Schedule 4 to the Principal Act is amended by inserting after clause 9 the following clause:

Savings for Hobart Regional Water Authority

9A. (1) In this clause –

“**Authority**” means the Hobart Regional Water Authority;

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

“**relevant council**” means a council that was at the relevant time a constituent municipality under the repealed Act;

“**repealed Act**” means the *Hobart Regional Water Act 1984*.

(2) On and from 1 January 2000, the Authority is taken to hold, and to have held, a licence under Part 6 to take water from the following water resources:

(a) the waters of –

(i) the Bower Creek; and

- (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 pipelines of the Hobart City Council constructed or laid before 16 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 on the commencement of the repealed Act, subject to such conditions, if any, as the Minister 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 delineated and marked as catchment areas in the maps numbered LD814 and LD827 deposited in the Central Plan Register held in the Department;

- (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 of the repealed Act was a source of supply of the former Board or a relevant council, but subject to any limitation that was at the time applicable to that Board or council;
- (g) any other place that the Minister, by order under subclause (3), determines to be a source of supply for the Authority.

(3) The Minister may, by order published in the *Gazette*, determine that a place specified in the order is to be, for the purposes of this clause, a source of supply for the Authority.

(4) On and from the commencement of the *Water Legislation Amendment Act 2004*, the Authority's licence under subclause (2) is taken to be subject to any terms and conditions determined by the Minister to give effect to the objectives of this Act.

(5) Without limiting the generality of subclause (4), the Minister is to determine the water allocations of the licence.

(6) Any fees or charges paid by the Authority for water taken from the water resources referred to in subclause (2) since the commencement of this clause are taken to have been properly imposed under section 79.

Schedule 5 amended (Universal succession of River Clyde Trust)

61. Schedule 5 to the Principal Act is amended as follows:

- (a) by omitting the definition of “trustees” from clause 1 and substituting the following definition:

“trustees” means the persons holding office as trustees of the River Clyde immediately before the commencement of section 61 of the *Water Legislation Amendment Act 2004*.

- (b) by omitting subclauses (1) and (2) from clause 2 and substituting the following subclauses:

(1) The trust is to consist of 3 members until the date of the first election to be held under this Act, but on and after that date is to consist of 5 members.

(2) Irrigation rights under the *Irrigation Clauses Act 1973* are to be granted to the Central Highlands Council and eligible persons in accordance with the regulations.

- (c) by omitting subclauses (4) and (5) from clause 2.

**PART 3 – WATER MANAGEMENT ACT 1999
FURTHER AMENDED**

Principal Act

62. In this Part, the *Water Management Act 1999** is referred to as the Principal Act.

Schedule 4 amended (Savings and transitional provisions)

63. Schedule 4 to the Principal Act is amended by inserting after clause 10 the following clause:

Saving for practice of Commission

10A. (1) The Commission is taken to hold a licence under Part 6 to continue to take water from the Cascade River, Coal River, Galeford Creek and Prosser River for the purposes of town water supply, stock and domestic use and irrigation in accordance with its practice since 1 January 1995.

(2) For the purposes of subclause (1), the Commission's licence is taken to be subject to any conditions determined by the Minister to give effect to the objectives of this Act.

*No. 45 of 1999

**PART 4 – IRRIGATION CLAUSES ACT 1973
AMENDED**

Principal Act

64. In this Part, the *Irrigation Clauses Act 1973** is referred to as the Principal Act.

Section 23 amended (Right to a supply for irrigation)

65. Section 23 of the Principal Act is amended by omitting subsections (3B) and (3C).

Section 23A amended (Transfer or irrigation rights)

66. Section 23A of the Principal Act is amended by omitting subsections (4), (5), (6), (7), (8) and (9).

*No. 39 of 1973

**PART 5 – RIVERS AND WATER SUPPLY
COMMISSION ACT 1999 AMENDED**

Principal Act

67. In this Part, the *Rivers and Water Supply Commission Act 1999** is referred to as the Principal Act.

Section 5 amended (Savings for Commission's water rights, &c.)

68. Section 5 of the Principal Act is amended by omitting subsection (1).

*No. 46 of 1999

PART 6 – LEGISLATION REVOKED

Statutory Rule revoked

69. The Statutory Rule specified in Schedule 1 is revoked.

SCHEDULE 1 – STATUTORY RULE REVOKED

Section 69

Water Management (Exemption) Order 2003 (No. 191 of
2003)