

TASMANIA

**DAM WORKS LEGISLATION (MISCELLANEOUS
AMENDMENTS) BILL 2007**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – WATER MANAGEMENT ACT 1999 AMENDED

3. Principal Act
4. Section 10 amended (Delegation)
5. Part 14A inserted
 - PART 14A – Water supply emergencies
 - 280A. Interpretation
 - 280B. Declaration of water supply emergency
 - 280C. Duration of water supply emergency
 - 280D. Ministerial directions to deal with water supply emergency
 - 280E. Special powers
 - 280F. Compensation

PART 3 – WATER MANAGEMENT ACT 1999 AMENDED

6. Principal Act
7. Section 3 amended (Interpretation)
8. Section 6 amended (Objectives of Act)
9. Section 58 amended (Restriction on use of allocation)
10. Section 63 amended (Approval of application)

11. Section 69 amended (Variation of licences)
12. Section 73 amended (Approval of application to vary licence)
13. Section 84 amended (Allocation of water)
14. Section 125 amended (Work relating to wells)
15. Section 137 amended (Application of this Part)
16. Section 138 amended (Assessment Committee for Dam Construction)
17. Section 139 amended (Members of Assessment Committee)
18. Section 143A substituted
 - 143A. Assessment Committee must have regard to certain objectives and standards
19. Section 144 amended (Delegation of grant of permit)
20. Section 146 amended (Permit to undertake dam works)
21. Section 146A inserted
 - 146A. General compliance with permits
22. Section 147 amended (Minister may require action to be taken)
23. Section 148 amended (Application by person other than owner)
24. Section 149 amended (Notice of application for permit)
25. Section 152 amended (Referral to Director)
26. Section 154 amended (Requirement for additional information)
27. Section 155 amended (Information to be provided)
28. Section 155A inserted
 - 155A. Supplementary information
29. Section 157 amended (Granting of permit)
30. Section 159 amended (Time when permit takes effect)
31. Section 160 amended (Notification of decision)
32. Section 162 amended (Amendments of permits)
33. Section 165P amended (Notices to ensure safety of dams in case of imminent danger, &c.)
34. Section 185 substituted
 185. Requirements for permits
35. Section 276 amended (Appeal to Appeal Tribunal)
36. Section 278 amended (Form of appeal to Appeal Tribunal)

37. Section 279 amended (Determination of appeal)
38. Section 301 substituted
301. Works codes
39. Section 304A amended (Regulations relating to safety of dams and dam works)
40. Schedule 2 amended (Constitution and procedure of the Assessment Committee for Dam Construction)

PART 4 – INLAND FISHERIES ACT 1995 AMENDED

41. Principal Act
42. Section 139 amended (Free passage of fish)
43. Section 164 amended (Non-application of Division)

PART 5 – THREATENED SPECIES PROTECTION ACT 1995 AMENDED

44. Principal Act
45. Section 51 amended (Offences relating to listed taxa)

PART 6 – TRANSITIONAL PROVISION

46. Processing of existing applications

**DAM WORKS LEGISLATION (MISCELLANEOUS
AMENDMENTS) BILL 2007**

*(Brought in by the Minister for Primary Industries and Water,
the Honourable David Edward Llewellyn)*

A BILL FOR

**An Act to amend the *Water Management Act 1999*, the
Inland Fisheries Act 1995 and the *Threatened Species
Protection Act 1995***

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

1. Short title

This Act may be cited as the *Dam Works
Legislation (Miscellaneous Amendments) Act
2007*.

2. Commencement

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Parts 3, 4, 5 and 6 commence on a day to be proclaimed.

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 3

Part 2 – Water Management Act 1999 Amended

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

3. Principal Act

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

4. Section 10 amended (Delegation)

Section 10(5) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “section 139.” and substituting “section 139; or”;
- (b) by inserting the following paragraph after paragraph (d):
 - (e) any power under Part 14A.

5. Part 14A inserted

After section 280 of the Principal Act, the following Part is inserted:

*No. 45 of 1999

PART 14A – WATER SUPPLY EMERGENCIES

280A. Interpretation

In this Part –

“authorised person” means a person,
or a member of a class of persons,
authorised under section 280E(1);

“water supply needs” means water
supply needs for –

- (a) domestic water; or
- (b) town water; or
- (c) stock water; or
- (d) firefighting; or
- (e) industrial and commercial
activity; or
- (f) hydro-electric power
generation;

“WSE direction” means a Ministerial
direction given under
section 280D(1).

280B. Declaration of water supply emergency

- (1) The Minister may declare a water supply
emergency if –

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 5

Part 2 – Water Management Act 1999 Amended

- (a) the State's present water supply needs cannot be met, either generally or in respect of particular persons, activities or localities; or
 - (b) there is a serious risk that the State's immediately foreseeable water supply needs will be unable to be met, either generally or in respect of particular persons, activities or localities.
- (2) The declaration may be made by any means the Minister considers appropriate.
- (3) The declaration is to specify –
- (a) the nature of the water supply emergency; and
 - (b) the period for which the water supply emergency will be in effect; and
 - (c) the persons, activities or localities to which the declaration relates; and
 - (d) such other matters as the Minister considers necessary or expedient.

280C. Duration of water supply emergency

A water supply emergency comes into effect on the day on which it is declared and continues in effect for –

- (a) the period specified in the declaration; or
- (b) such longer period as the Minister, by instrument made during the period specified in the declaration, determines.

280D. Ministerial directions to deal with water supply emergency

- (1) During a water supply emergency, the Minister may give such directions (“WSE directions”) to such persons as the Minister considers necessary or expedient to deal with that emergency.
- (2) Without limiting the generality of subsection (1), the Minister may give one or more of the following WSE directions:
 - (a) a direction preventing the taking of water by a person otherwise authorised to do so;
 - (b) a direction permitting the taking of water by a person not otherwise authorised to do so;

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 5

Part 2 – Water Management Act 1999 Amended

- (c) if practicable, a direction for a person to release into a watercourse water that has been taken in accordance with an authority under this Act;
 - (d) a direction for a person to operate infrastructure so as to release or transfer water.
- (3) A WSE direction may be inconsistent with a water management plan.
 - (4) A person who is given a WSE direction may, without any further authority than this provision, comply with the direction.
 - (5) A person must not contravene a WSE direction.

Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

280E. Special powers

- (1) The Minister may, in writing, authorise persons or a class of persons for the purposes of this Division.
- (2) The Minister may require an authorised person to assist in executing a WSE direction.

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 5

- (3) An authorised person may –
 - (a) contact any relevant person and request, in writing, that they take action to comply with all or part of a WSE direction; and
 - (b) if the authorised person’s request is not complied with within a reasonable time, take, without any further authority than this provision, such action as may be reasonably necessary in the circumstances to ensure that the WSE direction is executed.
- (4) For the purposes of subsection (3)(b), an authorised person may, if necessary with reasonable force and assistance –
 - (a) enter any land or building; and
 - (b) operate or shut down any infrastructure.

280F. Compensation

- (1) A person who suffers loss or damage as a result of anything done under this Division may be entitled to be paid reasonable compensation for that loss or damage.
- (2) However, the entitlement does not extend to –

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 5

Part 2 – Water Management Act 1999 Amended

- (a) loss or damage suffered as a result of any action, or inaction, not attributable to a WSE direction; or
 - (b) loss or damage resulting from events that would have occurred irrespective of actions taken under this Division; or
 - (c) loss or damage that caused or contributed to the relevant water supply emergency; or
 - (d) loss or damage that is recoverable under a policy of insurance, lease or other contract.
- (3) A claim for compensation under subsection (1) is to be made to the Minister in the first instance.

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

6. Principal Act

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

7. Section 3 amended (Interpretation)

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

- (a) by inserting “, or for the conversion of land to a dam,” after “a dam” in the definition of “dam works”;
- (b) by inserting the following definition after the definition of “meter”:

“natural values” means the variety of all life-forms native to land including plants, animals and micro-organisms, the genes that they contain, the ecosystems of which they are a part (including landforms, soils, water) and the processes that sustain them;

*No. 45 of 1999

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 8

Part 3 – Water Management Act 1999 Amended

8. Section 6 amended (Objectives of Act)

Section 6(1)(c) of the Principal Act is amended by inserting “and riparian” after “aquatic”.

9. Section 58 amended (Restriction on use of allocation)

Section 58 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(c) “dam.” and substituting “dam; or”;
- (b) by inserting the following paragraph after paragraph (c) in subsection (1):
 - (d) used only in accordance with conditions for the avoidance, minimisation or management of associated environmental risks.
- (c) by inserting the following subsection after subsection (2):

(3) In this section –

“environmental risk” means a risk that a water allocation may, in respect of any water resource or land, cause –

- (a) a rise in underground water levels; or

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

Part 3 – Water Management Act 1999 Amended

s. 10

- (b) soil waterlogging;
or
- (c) increased
salination; or
- (d) increased soil
erosion; or
- (e) the destabilisation
of the bank or bed
of a watercourse;
or
- (f) the degradation of
a riverine or
estuarine
environment; or
- (g) a deterioration of
water quality.

10. Section 63 amended (Approval of application)

Section 63 of the Principal Act is amended as follows:

- (a) by omitting “Except” and substituting
“(1) Except”;
- (b) by inserting the following subsection:
 - (2) An approval under subsection (1)
takes effect on such day as is
specified for that purpose in the

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 11

Part 3 – Water Management Act 1999 Amended

notice of the approval given
under section 68.

11. Section 69 amended (Variation of licences)

Section 69(2) of the Principal Act is amended by inserting after paragraph (f) the following paragraph:

- (fa) if the licence is for a water allocation for the taking of water into a dam in respect of which a permit for dam works has been granted and those dam works are not completed in accordance with that permit; or

12. Section 73 amended (Approval of application to vary licence)

Section 73 of the Principal Act is amended as follows:

- (a) by omitting “Except” and substituting “(1) Except”;
- (b) by inserting the following subsection:
 - (2) An approval under subsection (1) takes effect on such day as is specified for that purpose in the notice of the approval given under section 75.

13. Section 84 amended (Allocation of water)

Section 84 of the Principal Act is amended by omitting subsection (3A) and substituting the following subsection:

(3A) If a water allocation is granted for the taking of water into a dam in respect of which a permit for dam works has been granted under section 157 but those dam works are not completed in accordance with that permit, the Minister, by written notice, may –

- (a) cancel the water allocation; or
- (b) vary the water allocation as provided by section 69(2)(fa).

14. Section 125 amended (Work relating to wells)

Section 125 of the Principal Act is amended by omitting subsection (1).

15. Section 137 amended (Application of this Part)

Section 137(1) of the Principal Act is amended by omitting paragraph (a).

16. Section 138 amended (Assessment Committee for Dam Construction)

Section 138 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2)(b) “individual” after “an”;
- (b) by inserting the following subsection after subsection (2):
 - (3) To avoid doubt, paragraph (b) of subsection (2) is not to be taken as limiting the Minister’s power of policy control and direction under that subsection in respect of permit applications generally.

17. Section 139 amended (Members of Assessment Committee)

Section 139 of the Principal Act is amended as follows:

- (a) by omitting paragraph (d) from subsection (6) and substituting the following paragraph:
 - (d) the integrated management of natural resources and natural values;
- (b) by inserting the following subsection after subsection (6):

(6A) Notwithstanding the other provisions of this section, if the Assessment Committee considers that it will need or benefit from additional categories of expertise for a particular function, the Minister may appoint persons having such expertise as members of the Assessment Committee for the specific purposes of discharging that function.

18. Section 143A substituted

Section 143A of the Principal Act is repealed and the following section is substituted:

143A. Assessment Committee must have regard to certain objectives and standards

Matters that the Assessment Committee must have regard to in performing its functions include –

- (a) the objectives of this Act; and
- (b) prescribed standards for the design, construction, maintenance, surveillance and decommissioning of dams; and
- (c) prescribed standards for carrying out dam works and for any related matters; and
- (d) any relevant codes.

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 19

Part 3 – Water Management Act 1999 Amended

19. Section 144 amended (Delegation of grant of permit)

Section 144(6) of the Principal Act is amended by omitting “within 28 days” and substituting “as soon as practicable”.

20. Section 146 amended (Permit to undertake dam works)

Section 146 of the Principal Act is amended as follows:

(a) by inserting the following subsection after subsection (1):

(1A) To avoid doubt, an application under subsection (1) may be made in respect of –

(a) a single dam; or

(b) where a group of dams collectively store, hold back or impede the flow of a single body of water, a group of dams.

(b) by omitting from subsection (2)(b) “is to” and substituting “must”;

(c) by omitting from subsection (2)(c) “is to” and substituting “must”.

21. Section 146A inserted

After section 146 of the Principal Act, the following section is inserted in Division 4:

146A. General compliance with permits

A person must comply with the conditions of a permit.

Penalty: Fine not exceeding 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.

22. Section 147 amended (Minister may require action to be taken)

Section 147 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) Without prejudice to any other action that may be taken in respect of an offence under section 146 or 146A, the Minister, by notice, may direct any of the following to take such action in respect of that offence as is specified in the notice:

(a) the owner of the dam;

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 23

Part 3 – Water Management Act 1999 Amended

(b) the owner or occupier of the land on which the dam is located;

(c) the person who has undertaken the dam works.

(b) by omitting from subsection (5) “the owner or occupier” first occurring and substituting “a person”;

(c) by omitting from subsection (5)(b) “owner or occupier” and substituting “person contravening the notice”.

23. Section 148 amended (Application by person other than owner)

Section 148(1) of the Principal Act is amended as follows:

(a) by omitting from paragraph (a) “is to” and substituting “must”;

(b) by omitting from paragraph (b) “is to” and substituting “must”.

24. Section 149 amended (Notice of application for permit)

Section 149 of the Principal Act is amended as follows:

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

Part 3 – Water Management Act 1999 Amended

s. 25

- (a) by omitting from subsection (1)(c) “corridor.” and substituting “corridor; and”;
- (b) by inserting the following paragraph after paragraph (c) in subsection (1):
 - (d) subject to subsection (1A), notify the Director of Inland Fisheries.
- (c) by inserting the following subsection after subsection (1):
 - (1A) The Director of Inland Fisheries may determine that an application for a permit for a particular kind of dam works does not have to be notified under subsection (1)(d).
- (d) by inserting the following subsection after subsection (3):
 - (4) For the purposes of this section, an application is not taken to have been received by the Assessment Committee unless the requirements of section 146(2) and, if applicable, section 148(1) have been fully complied with.

25. Section 152 amended (Referral to Director)

Section 152(1) of the Principal Act is amended by omitting “6” twice occurring and substituting “12”.

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 26

Part 3 – Water Management Act 1999 Amended

26. Section 154 amended (Requirement for additional information)

Section 154 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “The notice” and substituting “A notice under subsection (1)”;
- (b) by omitting from subsection (3) “The notice” and substituting “A notice under subsection (1)”;
- (c) by omitting from subsection (4) “a” first occurring and substituting “any”.

27. Section 155 amended (Information to be provided)

Section 155(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “flora or fauna” and substituting “natural values”;
- (b) by inserting the following paragraphs after paragraph (ga):
 - (gb) matters relating to the mitigation or offsetting of environmental harm that may result from dam works; or
 - (gc) other matters relating to the carrying out of dam works; or

28. Section 155A inserted

After section 155 of the Principal Act, the following section is inserted in Division 4:

155A. Supplementary information

- (1) This section applies if –
 - (a) under section 154(1), the Assessment Committee has required an applicant for a permit to provide additional information; and
 - (b) the applicant has complied with that requirement to the Assessment Committee's satisfaction.
- (2) The Assessment Committee, by a further notice or notices served within 30 days after receiving the additional information, may require the applicant to provide it with any supplementary information.
- (3) A notice under subsection (2) may be served after the 12-week period referred to in section 154(3).
- (4) If the applicant does not provide the required supplementary information to the Assessment Committee's satisfaction within 2 years after the date of the notice under subsection (2), the application for the permit is taken to have been

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 29

Part 3 – Water Management Act 1999 Amended

withdrawn by the applicant and no further action on the application by the Committee is required.

29. Section 157 amended (Granting of permit)

Section 157(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “the” second occurring and substituting “any”;
- (b) by inserting the following subparagraph after subparagraph (iii) in paragraph (b):
 - (iia) the mitigation or offsetting of environmental harm that may result from the dam works; or

30. Section 159 amended (Time when permit takes effect)

Section 159 of the Principal Act is amended as follows:

- (a) by inserting in subsection (2) “and the conditions of the permit” after “(4)”;
- (b) by omitting subsection (7) and substituting the following subsection:
 - (7) Where a new licence or a variation to an existing licence is required before water can be taken for the purposes of the dam

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

Part 3 – Water Management Act 1999 Amended

s. 30

works, the permit does not take effect until the licence or the variation has been granted or, if applicable, the determination or abandonment of any reviews and appeals under Part 14 in respect of the licence or variation.

(c) by omitting subsection (8) and substituting the following subsection:

(8) Subject to any conditions imposed on it pursuant to section 157(2)(b), a permit lapses on the expiration of the 3-year period immediately following the date on which it takes effect if the dam works for which it is granted are not substantially completed within that period.

(d) by omitting from subsection (9) “The” and substituting “However, the”;

(e) by omitting from subsection (9) “one year” and substituting “2 years”;

(f) by omitting from subsection (9)(b) “flora, fauna” and substituting “natural values”.

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 31

Part 3 – Water Management Act 1999 Amended

31. Section 160 amended (Notification of decision)

Section 160(1) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) if the applicant is not the owner of the land in respect of which the permit is granted, the owner of that land; and

32. Section 162 amended (Amendments of permits)

Section 162 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

- (1) Any of the following persons may, in writing, request the Assessment Committee to amend a permit:

- (a) the holder of the permit;
 - (b) an owner of land affected by the permit;
 - (c) a person acting with the consent of an owner of land affected by the permit.

- (b) by omitting from subsection (2)(d) “granted.” and substituting “granted; and”;

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

Part 3 – Water Management Act 1999 Amended

s. 33

(c) by inserting the following paragraph after paragraph (d) in subsection (2):

(e) has, if the person requesting the amendment is not an owner of land affected by the permit, the permission of the owner or owners.

33. Section 165P amended (Notices to ensure safety of dams in case of imminent danger, &c.)

Section 165P of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “The owner or other person” and substituting “A person”;
- (b) by omitting from subsection (5) “an owner of a dam” and substituting “a person”;
- (c) by omitting from subsection (5)(a) “a person to enter on the owner’s land and” and substituting “another person to enter on the land on which the dam is situated and”;
- (d) by omitting from subsection (5)(a) “to make good any damage caused” and substituting “to ensure the safety of persons or the relevant dam or other property”;

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 33

Part 3 – Water Management Act 1999 Amended

(e) by omitting paragraph (b) from subsection (5) and substituting the following paragraph:

(b) any costs reasonably incurred by or on the Minister's behalf pursuant to paragraph (a) are recoverable in a court of competent jurisdiction as a debt due to the Crown from the person failing to comply with the notice.

(f) by inserting the following subsections after subsection (5):

(5A) If the Minister considers that a person will be unable to execute an authorisation under subsection (5) without entering on land other than that on which the dam is situated, the authorisation may authorise that entry.

(5B) A person entering on any land pursuant to an authorisation under subsection (5) must –

(a) make reasonable attempts to notify the owner or occupier of the entry; and

(b) cause as little disruption as possible consistent with the actions required to be taken; and

- (c) do whatever can be practicably done in the circumstances by way of temporary measures to maintain the owner's or occupier's level of protection as regards trespass and, if applicable, loss of stock; and
- (d) to such extent as may be practicable without jeopardising the safety of any persons, dams or property, make good any damage.

34. Section 185 substituted

Section 185 of the Principal Act is repealed and the following section is substituted:

185. Requirements for permits

Nothing in this Division operates to exempt a water entity responsible for the administration of a district from any requirement to hold a permit in respect of dam works under Division 4 of Part 8 or a relevant permit under the *Land Use Planning and Approvals Act 1993*.

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 35

Part 3 – Water Management Act 1999 Amended

35. Section 276 amended (Appeal to Appeal Tribunal)

Section 276 of the Principal Act is amended by inserting after subsection (3) the following subsections:

(4) However, an appeal under subsection (1) or (2) in respect of the grant or refusal of a permit under Part 8 may only be instituted, heard and determined on the grounds that the process by which the decision or determination appealed against was procedurally incorrect or unfair having regard to the requirements of this Act and natural justice, not on the grounds that any technical information taken into account in making the decision or determination, or that any technical finding made in reaching the decision or determination, was incorrect as a matter of fact.

(5) In this section –

“technical finding” includes an economic, engineering or scientific finding;

“technical information” includes economic, engineering and scientific information.

36. Section 278 amended (Form of appeal to Appeal Tribunal)

Section 278 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) However, in its application to an appeal in respect of the grant or refusal of a permit, section 17 of the *Resource Management and Planning Appeal Tribunal Act 1993* is subject to section 276(4).

37. Section 279 amended (Determination of appeal)

Section 279 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) However, in its application to an appeal in respect of the grant or refusal of a permit, subsection (1) is subject to section 276(4).

38. Section 301 substituted

Section 301 of the Principal Act is repealed and the following section is substituted:

301. Works codes

- (1) The Minister, by order published in the *Gazette*, may issue a code of practice to

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

s. 39

Part 3 – Water Management Act 1999 Amended

be followed in respect of either or both of the following:

- (a) well works;
- (b) dam works and any related matters.

(2) An order under subsection (1) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

39. Section 304A amended (Regulations relating to safety of dams and dam works)

Section 304A of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) standards for the carrying out of dam works and any related matters;

40. Schedule 2 amended (Constitution and procedure of the Assessment Committee for Dam Construction)

Schedule 2 to the Principal Act is amended by omitting clause 8 and substituting the following clause:

8. Quorum

- (1) Except as provided by this clause, the number of members who may constitute a quorum at any meeting of the Assessment Committee is 4, of whom

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

Part 3 – Water Management Act 1999 Amended

s. 40

one must be the chairperson or the deputy chairperson.

- (2) For a meeting relating to the discharge of a function for which one additional expert member has been appointed under section 139(6A), subclause (1) continues to apply.
- (3) For a meeting relating to the discharge of a function for which more than one additional expert member has been appointed under section 139(6A), the quorum is a majority of the total number of members, and that majority must include the chairperson or deputy chairperson.

PART 4 – INLAND FISHERIES ACT 1995 AMENDED

41. Principal Act

In this Part, the *Inland Fisheries Act 1995** is referred to as the Principal Act.

42. Section 139 amended (Free passage of fish)

Section 139(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “farm.” and substituting “farm; or”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) dam works authorised by a permit under the *Water Management Act 1999*.

43. Section 164 amended (Non-application of Division)

Section 164 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) This Division does not apply in relation to –
 - (a) a registered private fishery; or

*No. 110 of 1995

Dam Works Legislation (Miscellaneous Amendments) Act 2007
Act No. of

Part 4 – Inland Fisheries Act 1995 Amended

s. 43

- (b) a licensed fish farm; or
- (c) a person exempted under section 165, to the extent of the exemption; or
- (d) dam works authorised by a permit under the *Water Management Act 1999*.

**PART 5 – THREATENED SPECIES PROTECTION ACT
1995 AMENDED**

44. Principal Act

In this Part, the *Threatened Species Protection Act 1995** is referred to as the Principal Act.

45. Section 51 amended (Offences relating to listed taxa)

Section 51 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) A person undertaking dam works in accordance with a dam permit granted under the *Water Management Act 1999* may take, without a permit, a specimen of a listed taxon of flora or fauna.

*No. 83 of 1995

PART 6 – TRANSITIONAL PROVISION

46. Processing of existing applications

- (1) An application of any kind made under the *Water Management Act 1999* before the commencement of Part 3 of the *Dam Works Legislation (Miscellaneous Amendments) Act 2007* is to be treated and dealt with in all respects, including on appeal, in accordance with the provisions of the *Water Management Act 1999* as in force immediately before that commencement.
- (2) For the purposes of subsection (1), an application is not taken to have been made unless it has been physically or electronically received by the person to whom the application is required to be made.