

# TASMANIA

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## WATER LEGISLATION AMENDMENT BILL 2005

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# **WATER LEGISLATION AMENDMENT BILL 2005**

*(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* and for  
other purposes**

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 *Water Legislation  
Amendment Act 2005*.

### **2. Commencement**

This Act commences on the day on which this  
Act receives the Royal Assent.

**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 3 amended (Interpretation)**

Section 3(1) of the Principal Act is amended by inserting “, repair” after “modification” in the definition of “dam works”.

**5. Section 14 amended (Scope of water management plans)**

Section 14(1) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) a watercourse, several joined watercourses or part of a watercourse, including a water supply channel declared under section 192(1); or

**6. Section 54 amended (Licences)**

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

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\*No. 45 of 1999

- (a) by omitting from paragraph (d) “Act.” and substituting “Act; or”;
- (b) by inserting the following paragraph after paragraph (d):
  - (e) under an irrigation right granted under the *Irrigation Clauses Act 1973* from a watercourse which has been declared to be a water supply channel under section 192(1).

**7. Section 71 amended (Notice of application to vary licence)**

Section 71 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) A notice under subsection (2) is not required where –
  - (a) notification is given in a local newspaper of a public meeting to be held of persons holding licences for irrigation to discuss their requirements for water for irrigation and the Minister’s intention to conduct a survey of the usage of water for irrigation; and
  - (b) the Minister is satisfied from evidence produced by those persons and the survey that the variation of a licence is necessary or desirable having regard to –

- (i) the survey referred to in paragraph (a); and
- (ii) the amount of water required to maintain any existing commercial enterprise at a specific time.

**8. Section 152 amended (Referral to Director)**

Section 152(1) of the Principal Act is amended by omitting “Subject to subsection (5), unless” and substituting “Unless”.

**9. Section 181 amended (Substitution of water entities)**

Section 181 of the Principal Act is amended by inserting after subsection (6) the following subsections:

- (6A) On the substitution of a responsible water entity by another water entity under this section, any by-laws made by the former water entity and in force immediately before the substitution are, subject to subsection (6B), to continue in force until they are rescinded or amended by the substituted water entity.
- (6B) The Minister may, by notice published in the *Gazette*, direct that the by-laws are to cease to have effect or are to continue in force subject to any amendments specified in the notice.

**10. Section 192 amended (Watercourses as water supply channels)**

Section 192 of the Principal Act is amended as follows:

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

- (1A) The declaration of a water supply channel may be made subject to any conditions that the Minister thinks fit to further the objectives of this Act.

- (b) by omitting from subsection (2) “, and, except as provided in subsection (8), to be no longer a watercourse”.

**11. Section 308 amended (River Clyde Irrigation District)**

Section 308 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “an irrigation district” and substituting “the River Clyde Irrigation District”;

- (b) by omitting subsection (2) and substituting the following subsection:

- (2) Schedule 5 has effect with respect to the membership of the River Clyde Trust and the administration of the River Clyde Irrigation District.

**12. Schedule 5 amended (River Clyde Trust and River Clyde Irrigation District)**

Schedule 5 to the Principal Act is amended as follows:

- (a) by omitting the heading and substituting the following heading:

**SCHEDULE 5 – RIVER CLYDE TRUST AND RIVER CLYDE IRRIGATION DISTRICT**

- (b) by inserting the following definition after the definition of “eligible person” in clause 1:

**“responsible water entity”** means the water entity responsible for the River Clyde Irrigation District;

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

**“trustees”** means the persons acting as trustees of the River Clyde immediately before the commencement of the *Water Legislation Amendment Act 2005*.

- (d) by omitting clause 2 and substituting the following clause:

**2. Membership of trustees of River Clyde**

The trust is to consist of 3 members until a date to be determined by the Minister, but on and after that date is to consist of 5 members.



- (e) by omitting from clause 3(1) “trustees” first occurring and substituting “responsible water entity”;
- (f) by omitting from clause 3(1)(a) “trustees consider” and substituting “responsible water entity considers”;
- (g) by omitting from clause 3(1)(b) “their” and substituting “its”;
- (h) by omitting from clause 3(2) “trust’s irrigation district” and substituting “River Clyde Irrigation District”;
- (i) by omitting from clause 3(2) “trustees” and substituting “responsible water entity”;
- (j) by omitting from clause 3(2) “their” and substituting “its”;
- (k) by omitting from clause 3(3) “trustees” and substituting “responsible water entity”;
- (l) by omitting from clause 3(3) “their” and substituting “its”.

**PART 3 – IRRIGATION CLAUSES ACT 1973  
AMENDED**

**13. Principal Act**

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

**14. Section 2 amended (Interpretation)**

Section 2(1) of the Principal Act is amended by omitting the definition of “irrigation right” and substituting the following definition:

**“irrigation right”** means the right to be supplied with water for irrigation referred to in section 23 or an irrigation right conferred by the Minister under section 75(1);

**15. Section 24 substituted**

Section 24 of the Principal Act is repealed and the following section is substituted:

**24. Domestic supplies**

- (1) The undertakers may undertake to supply water for domestic purposes to any land within the water district.
- (2) Notwithstanding anything contained in this Act or the *Water Management Act 1999*, the undertakers must grant a right

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\*No. 39 of 1973

to the Central Highlands Council to take water for domestic purposes from the Clyde River or from a water supply channel declared under section 192(1) of that Act.

## **16. Part XII inserted**

After section 74 of the Principal Act, the following Part is inserted:

### **PART XII – RIVER CLYDE IRRIGATION DISTRICT**

#### **75. Orders for irrigation rights**

- (1) The Minister may, by order, confer irrigation rights on owners and occupiers of land within the district referred to in section 308(1) of the *Water Management Act 1999* as the River Clyde Irrigation District.
- (2) An order under subsection (1) –
  - (a) is to be consistent with any by-laws made under this Act; and
  - (b) is to be published in the *Gazette* and in such daily newspapers circulating generally in Tasmania as the Minister thinks fit.
- (3) The Minister must cause a copy of the order to be laid before each House of Parliament within 14 sitting-days of that House after the date on which the order is made and the order is subject to disallowance under section 47 of the *Acts*

**s. 16**

No.

*Water Legislation Amendment*

2005

*Interpretation Act 1931* as if it were a  
regulation.

**PART 4 – MEANDER DAM PROJECT ACT 2003  
AMENDED**

**17. Principal Act**

In this Part, the *Meander Dam Project Act 2003*\*  
is referred to as the Principal Act.

**18. Section 9A inserted**

After section 9 of the Principal Act, the  
following section is inserted:

**9A. Certification of lots for purposes of *Strata Titles Act 1998***

Where the Minister administering the  
*Water Management Act 1999* provides a  
certificate that it is necessary or  
desirable, to give effect to the objectives  
of that Act, that any land in the  
prescribed location should be treated as a  
lot for the purposes of the *Strata Titles  
Act 1998*, that Minister may direct that  
the land is to be treated as a lot  
accordingly.

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\*No. 18 of 2003

**PART 5 – STRATA TITLES ACT 1998 AMENDED****19. Principal Act**

In this Part, the *Strata Titles Act 1998*\* is referred to as the Principal Act.

**20. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended by omitting the definition of “lot” and substituting the following definition:

“lot”, in respect of a site, means a part of the site –

- (a) allocated for separate occupation by the owner of the lot or a person deriving rights of occupation from the owner; or
- (b) consisting of land that, by virtue of a certificate under section 9A of the *Meander Dam Project Act 2003*, is to be treated as a lot;

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\*No. 17 of 1998