

Authorised Version No. 074
Water Industry Act 1994

No. 121 of 1994

Authorised Version incorporating amendments as at
12 September 2018

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The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purpose

The main purpose of this Act is to provide for the reform of the water industry.

2 Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

3 Definitions

- (1) In this Act—

* * * * *

**S. 3(1) def. of
analyst
inserted by
No. 110/1997
s. 26,
repealed by
No. 17/2012
s. 70(1).**

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S. 3(1) def. of
*authorised
officer*
inserted by
No. 66/2000
s. 3(a).

authorised officer means a person appointed as an authorised officer under the **Conservation, Forests and Lands Act 1987** for the purposes of Divisions 4 and 6 of Part 4 of this Act;

S. 3(1) def. of
*authorised
person*
amended by
No. 66/2000
s. 3(b),
repealed by
No. 17/2012
s. 70(1).

* * * * *

S. 3(1) def. of
*authorised
water officer*
inserted by
No. 29/2007
s. 3,
repealed by
No. 17/2012
s. 70(1).

* * * * *

S. 3(1) def. of
Commission
inserted by
No. 62/2001
s. 91(a).

Commission means the Essential Services Commission established under the **Essential Services Commission Act 2001**;

S. 3(1) def. of
company
substituted by
No. 44/2001
s. 3(Sch.
item 128.1(a)).

company means a company within the meaning of the Corporations Act that is taken to be registered in Victoria;

S. 3(1) def. of
*drought
response plan*
inserted by
No. 29/2007
s. 3,
repealed by
No. 17/2012
s. 70(1).

* * * * *

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*	*	*	*	*	<p>S. 3(1) def. of <i>emergency management plan</i> inserted by No. 29/2007 s. 3, repealed by No. 17/2012 s. 70(1).</p>
*	*	*	*	*	<p>S. 3(1) def. of <i>licence</i> repealed by No. 17/2012 s. 70(1).</p>
*	*	*	*	*	<p>S. 3(1) def. of <i>licensee</i> inserted by No. 29/2007 s. 3, repealed by No. 17/2012 s. 70(1).</p>
*	*	*	*	*	<p>S. 3(1) def. of <i>MMBW Act</i> repealed by No. 85/2006 s. 173(Sch. 1 item 15.1(a)).</p>
<p><i>officer</i>, in relation to a body corporate, has the meaning given by section 82A of the Corporations Act;</p>					<p>S. 3(1) def. of <i>officer</i> amended by No. 44/2001 s. 3(Sch. item 128.1(b)).</p>
<p><i>Parks Victoria recorded land</i> has the same meaning as in the Conservation, Forests and Lands Act 1987;</p>					<p>S. 3(1) def. of <i>Parks Victoria recorded land</i> inserted by No. 19/2018 s. 221(a).</p>

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S. 3(1) def. of
*permanent
water saving
plan*
inserted by
No. 29/2007
s. 3,
repealed by
No. 17/2012
s. 70(1).

* * * * *

S. 3(1) def. of
police officer
inserted by
No. 37/2014
s. 10(Sch.
item 183.1).

police officer has the same meaning as in the
Victoria Police Act 2013;

S. 3(1) def. of
*principal
works*
repealed by
No. 17/2012
s. 70(1).

* * * * *

S. 3(1) def. of
*rating
authority*
inserted by
No. 44/1998
s. 28(1),
substituted by
No. 66/2000
s. 3(c).

rating authority means the Minister administering
Part 4;

S. 3(1) def. of
retail licence
repealed by
No. 17/2012
s. 70(1).

* * * * *

S. 3(1) def. of
Secretary
inserted by
No. 44/1998
s. 28(1),
substituted by
No. 19/2018
s. 221(b).

Secretary has the same meaning as in the
**Conservation, Forests and Lands
Act 1987;**

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Secretary to the Department of Health means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Health;

S. 3(1) def. of *Secretary to the Department of Health* inserted by No. 29/2010 s. 74(1).

* * * * *

S. 3(1) def. of *security deposit* repealed by No. 17/2012 s. 70(1).

* * * * *

S. 3(1) def. of *service charge* inserted by No. 65/1995 s. 14(1)(a), repealed by No. 17/2012 s. 70(1).

* * * * *

S. 3(1) def. of *trade waste agreement* inserted by No. 65/1995 s. 14(1)(a), substituted by No. 85/2006 s. 173(Sch. 1 item 15.1(b)), repealed by No. 17/2012 s. 70(1).

Tribunal means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 3(1) def. of *Tribunal* inserted by No. 90/2003 s. 13(1).

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S. 3(1) def. of
usage charge
amended by
No. 65/1995
s. 14(1)(b),
repealed by
No. 17/2012
s. 70(1).

* * * * *

S. 3(1) def. of
*Victorian
body
corporate*
substituted by
No. 44/2001
s. 3(Sch.
item 128.1(c)).

Victorian body corporate means a company
within the meaning of the Corporations Act
that is taken to be registered in Victoria;

S. 3(1) def. of
*waterways
land*
inserted by
No. 66/2000
s. 3(a),
amended by
No. 17/2012
s. 70(2).

waterways land means land of the Crown which is
comprised of—

- (a) the bed, soil and banks of any waterway
within the metropolitan area (within the
meaning of section 153A); and
- (b) any land which is within 20 metres of
land described in paragraph (a).

S. 3(1) def. of
works
repealed by
No. 17/2012
s. 70(1).

* * * * *

(2) Expressions used in this Act and in the **Water Act 1989** that are not defined in subsection (1) or elsewhere in this Act have the same meanings as in the **Water Act 1989**.

(3) This Act is to be read and construed as one with the **Water Act 1989**.

4 Crown to be bound

This Act binds the Crown, not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

4AA Parts 1A and 1B to prevail

If there is any inconsistency between a provision of Part 1A or Part 1B and a provision of the **Essential Services Commission Act 2001** or the **Water Act 1989**, the provision of Part 1A or Part 1B prevails to the extent of that inconsistency.

S. 4AA
inserted by
No. 50/2011
s. 3.

Pt 1A
(Heading and
ss 4A–4I)
inserted by
No. 48/2003
s. 3.

Part 1A—Regulation of regulated water industry

S. 4A
inserted by
No. 48/2003
s. 3,
amended by
No. 17/2012
s. 71(5) (ILA
s. 39B(1)).

4A Definitions

(1) In this Part—

Code means a Code under section 4F;

declared goods and services means goods and services declared to be declared goods and services by a Water Industry Regulatory Order;

Order means an Order in Council made by the Governor in Council;

prescribed goods and services means goods and services prescribed to be prescribed goods and services by a Water Industry Regulatory Order;

Regional Urban Water Authority means—

- (a) the Barwon Region Water Corporation;
- (b) the Central Gippsland Region Water Corporation;
- (c) the Central Highlands Region Water Corporation;
- (d) the Coliban Region Water Corporation;
- (e) the East Gippsland Region Water Corporation;
- (f) the Goulburn Valley Region Water Corporation;
- (g) the Grampians Wimmera Mallee Water Corporation;

S. 4A def. of
*Regional
Urban Water
Authority*
substituted by
No. 17/2012
s. 71(1).

- (h) the Lower Murray Urban and Rural Water Corporation;
- (i) the North East Region Water Corporation;
- (j) the South Gippsland Region Water Corporation;
- (k) the Wannon Region Water Corporation;
- (l) the Western Region Water Corporation;
- (m) the Westernport Region Water Corporation;
- (n) any other body determined by the Minister to be a Regional Urban Water Authority;

regulated entity means—

- (a) the Melbourne Water Corporation;
- (b) a metropolitan water corporation;
- (c) a Regional Urban Water Authority;
- (d) a Rural Water Authority;

S. 4A def. of *regulated entity* amended by No. 17/2012 s. 71(2).

regulated water industry means the water industry as constituted by—

- (a) the Melbourne Water Corporation;
- (b) metropolitan water corporations;
- (c) Regional Urban Water Authorities;
- (d) Rural Water Authorities;

S. 4A def. of *regulated water industry* amended by No. 17/2012 s. 71(3).

S. 4A def. of
*Rural Water
Authority*
substituted by
No. 17/2012
s. 71(4).

Rural Water Authority means—

- (a) the Gippsland and Southern Rural Water Corporation;
- (b) the Goulburn-Murray Rural Water Corporation;
- (c) the Grampians Wimmera Mallee Water Corporation;
- (d) the Lower Murray Urban and Rural Water Corporation;
- (e) any other body determined by the Minister to be a Rural Water Authority;

Water Industry Regulatory Order means an Order which is in force under section 4D.

S. 4A(2)
inserted by
No. 17/2012
s. 71(5).

- (2) The Minister may determine that a water corporation is a Regional Urban Water Authority or a Rural Water Authority.
- (3) A determination of the Minister under subsection (2) must be in writing and must be published in the Government Gazette.

S. 4A(3)
inserted by
No. 17/2012
s. 71(5).

S. 4AB
inserted by
No. 50/2011
s. 4.

4AB Non application to Basin water charges

- (1) This Part does not apply to any approving or determining of a Basin water charge.
- (2) In this section ***Basin water charge*** has the same meaning as in Part 1B.

S. 4B
inserted by
No. 48/2003
s. 3.

4B Application of Essential Services Commission Act 2001

- (1) For the purposes of the **Essential Services Commission Act 2001**—

S. 4B(1)(a)
amended by
No. 50/2011
s. 5(1).

- (a) Part 1A of this Act is relevant legislation;
and

(b) the regulated water industry is a regulated industry.

(2) For the purposes of the definition of *regulated industry* in the **Essential Services Commission Act 2001**, the regulated water industry is deemed to be operating under this Act.

* * * * *

S. 4B(3)
amended by
No. 85/2006
s. 173(Sch. 1
item 15.2),
repealed by
No. 50/2011
s. 5(2).

4C Objectives of the Commission

S. 4C
inserted by
No. 48/2003
s. 3.

The objectives of the Commission under this Act in relation to the regulated water industry are—

- (a) wherever possible, to ensure that the costs of regulation do not exceed the benefits;
- (b) to ensure that regulatory decision making and regulatory processes have regard to any differences between the operating environments of regulated entities;
- (c) to ensure that regulatory decision making has regard to the health, safety, environmental sustainability (including water conservation) and social obligations of regulated entities.

4D Water Industry Regulatory Order

S. 4D
inserted by
No. 48/2003
s. 3.

(1) The Governor in Council may by Order—

- (a) make a Water Industry Regulatory Order;
- (b) amend, vary or revoke the Water Industry Regulatory Order.

- (2) The Water Industry Regulatory Order may—
- (a) specify which goods or services made, produced or supplied by or within the regulated water industry are to be prescribed goods and services in respect of which the Commission has the power to regulate prices;
 - (b) specify a price, price-range, factor or term and condition which is to be a prescribed price in respect of which the Commission has power to regulate;
 - (c) require the Commission to adopt a specified approach, principle or methodology in regulating prices;
 - (d) fix regulatory asset values;
 - (e) declare which goods or services made, produced or supplied by or within the regulated water industry are to be declared goods and services in respect of which the Commission has the power to regulate standards and conditions of service and supply;
 - (f) declare which goods or services made, produced or supplied by or within the regulated water industry are to be declared goods and services in respect of which the Commission has the power to regulate market conduct;
 - (g) confer on the Commission such functions as the Governor in Council considers necessary;
 - (h) specify matters relating to quality and performance standards of a health, environmental or technical nature in respect of which the Commission may not exercise any function or power;

- (i) specify any matters to which the Commission must have regard in exercising its powers and functions.
- (3) Without limiting the generality of subsection (2)(c), the Water Industry Regulatory Order may—
- (a) include restrictions on price increases;
 - (b) make provision for the phasing in of price increases over time;
 - (c) specify matters which must be considered in making a price determination;
 - (d) specify matters in relation to the sharing of efficiency gains;
 - (e) specify the nature and manner of passing through identified costs to customers.
- (4) Without limiting the generality of subsection (2)(g), the Water Industry Regulatory Order may confer on the Commission functions relating to—
- (a) auditing performance and compliance with Codes and Statements of Obligations;
 - (b) monitoring and performance reporting;
 - (c) the resolution of disputes between regulated entities in relation to standards and conditions of service and supply;
 - (d) the resolution, with the agreement of the customer or person, of disputes with respect to prices for services;
 - (e) reviewing whether particular goods or services should be regulated and making a recommendation to the Minister, if so requested by the Minister after consultation with the Minister administering the **Essential Services Commission Act 2001**.

S. 4D(5)
amended by
No. 75/2004
s. 76.

- (5) This section does not empower the making of a Water Industry Regulatory Order containing a provision purporting to have the effect of changing or substituting a determination made by the Commission.
- (6) An Order made under this section—
 - (a) must be published in the Government Gazette; and
 - (b) has effect from the date specified in the Order.

S. 4E
inserted by
No. 48/2003
s. 3.

4E Other regulatory powers

- (1) The Commission may in relation to regulated entities regulate—
 - (a) standards and conditions of service and supply of declared goods and services; and
 - (b) market conduct relating to declared goods and services.
- (2) In exercising its powers or carrying out its functions under this Part, the Commission must adopt an approach which—
 - (a) the Commission considers will best meet the objectives specified in the **Essential Services Commission Act 2001** and in this Part; and
 - (b) complies with any requirements specified in the Water Industry Regulatory Order.

S. 4F
inserted by
No. 48/2003
s. 3.

4F Codes

- (1) In the exercise of any power or function of the Commission with respect to the regulated water industry, the Commission may make, amend or revoke Codes.

- (2) A Code may provide for any matter relating to—
- (a) requiring a specified regulated entity or a specified class of regulated entity to develop, issue and comply with customer-related standards, procedures, policies and practices (including with respect to the payment of compensation to customers) in accordance with the Code;
 - (b) specifying minimum customer-related standards, procedures, policies and practices for inclusion by a specified regulated entity or a specified class of regulated entity in a customer charter for specific services;
 - (c) requiring a specified regulated entity or a specified class of regulated entity to enter into an agreement with another specified regulated entity or another specified class of regulated entity for the purpose of ensuring that obligations relating to customer-related standards can be met;
 - (d) specifying principles for the negotiation of agreements required under paragraph (c) between regulated entities in relation to standards and conditions of service and supply;
 - (e) requiring regulated entities to maintain specified accounting records and to prepare accounts according to specified principles; S. 4F(2)(e) amended by No. 17/2012 s. 72(a).
 - (f) recovery by regulated entities of amounts persons are liable to pay to regulated entities under Divisions 5, 6 and 7 of Part 13 of the **Water Act 1989**, including— S. 4F(2)(f) inserted by No. 17/2012 s. 72(b), amended by No. 24/2013 s. 41(1)(a).
 - (i) specifying any person or class of person who must not be charged interest on unrecovered amounts; and S. 4F(2)(f)(i) substituted by No. 24/2013 s. 41(1)(b).

S. 4F(2)(f)(ii)
amended by
No. 24/2013
s. 41(1)(c).

(ii) fixing the maximum rate of interest that may be charged on unrecovered amounts; and

S. 4F(2)(f)(iii)
amended by
No. 24/2013
s. 41(1)(d).

(iii) whether a charge on a person's property under section 274(4A) of the **Water Act 1989** does not apply.

S. 4F(3)
repealed by
No. 15/2008
s. 28,
new s. 4F(3)
inserted by
No. 24/2013
s. 41(2).

(3) For the purposes of subsection (2)(f)(ii), the Code may fix a maximum rate—

- (a) by expressing it as a percentage; or
- (b) by tying it to a specific floating institutional rate charged for loans or paid for borrowing by a public or commercial institution.

S. 4F(4)
repealed by
No. 15/2008
s. 28.

* * * * *

(5) A Code is not a determination for the purposes of the **Essential Services Commission Act 2001**.

(6) A regulated entity must comply with any provision of a Code which applies to the regulated entity.

S. 4G
inserted by
No. 48/2003
s. 3.

4G Provision of information to the Commission

(1) The Commission may by notice in writing require a regulated entity to provide to the Commission information that the Commission requires to enable the Commission to perform its functions.

(2) A notice under subsection (1) must specify—

- (a) the information required; and
- (b) the period of time within which the requirement must be complied with; and
- (c) the manner and form in which the information must be provided.

- (3) A regulated entity must comply with a notice given to the regulated entity under subsection (1).

Penalty: 120 penalty units.

4H Costs of Commission under this Part

S. 4H
inserted by
No. 48/2003
s. 3.

- (1) The Minister administering the **Essential Services Commission Act 2001**—

- (a) in consultation with the Minister administering this Act; and
- (b) having regard to the total amount of the costs and expenses of the Commission that are incurred or are likely to be incurred by the Commission in the exercise of its powers for or in connection with the performance of its functions and the achievement of its objectives in relation to the regulated water industry—

must determine the amount to be contributed towards those costs and expenses by each regulated entity.

- (2) The contribution is payable at such intervals and in such amounts as is determined by the Minister administering the **Essential Services Commission Act 2001** in consultation with the Minister administering this Act by notice in writing to the regulated entity.

4I Statement of Obligations

S. 4I
inserted by
No. 48/2003
s. 3.

* * * * *

S. 4I(1)
repealed by
No. 17/2012
s. 73(1).

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S. 4(2)(a)
amended by
No. 17/2012
s. 73(2).

- (2) After consultation with the Treasurer and the Commission, the Minister may—
- (a) make and issue a Statement of Obligations to a regulated entity specifying obligations of the regulated entity in performing its functions and exercising its powers;
 - (b) amend, vary or revoke a Statement of Obligations after complying with subsection (5).
- (3) Without limiting the generality of subsection (2), a Statement of Obligations may include provisions relating to—
- (a) governance;
 - (b) quality and performance standards;
 - (c) community service obligations;
 - (d) customer and community consultation;
 - (e) the specifying of—
 - (i) a maximum in relation to the amount of a payment or amounts of payments which may be required from the owner of a property for the provision of sewerage services to the property under section 268(1) of the **Water Act 1989**; and
 - (ii) the manner in which the payment or payments are to be made;
 - (f) failure to comply with any obligations imposed by a Statement of Obligations;
 - (g) obligations of a regulated entity with respect to other public authorities.

S. 4(3)(g)
amended by
No. 17/2012
s. 73(3).

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- (4) A regulated entity must comply with a Statement of Obligations which applies to the regulated entity. **S. 4(4) amended by No. 17/2012 s. 73(4).**
- (5) The Minister must not amend or vary a Statement of Obligations unless—
- (a) the regulated entity has agreed to the proposed amendment or variation; or **S. 4(5)(a) amended by No. 17/2012 s. 73(5).**
 - (b) the Minister has—
 - (i) given the regulated entity notice in writing of the proposed amendment or variation; and **S. 4(5)(b)(i) amended by No. 17/2012 s. 73(5).**
 - (ii) considered any written submission made by the regulated entity in response to the notice. **S. 4(5)(b)(ii) amended by No. 17/2012 s. 73(5).**
- (6) The Minister must cause a notice of—
- (a) the making and issue of a Statement of Obligations to a regulated entity; or **S. 4(6)(a) amended by No. 17/2012 s. 73(6).**
 - (b) the amendment, variation or revocation of the Statement of Obligations—
to be published in the Government Gazette.
- (7) If there is any inconsistency between a provision of a Statement of Obligations and a provision of a Code, the provision of the Statement of Obligations prevails.

Pt 1B
(Heading and
ss 4J–4Q)
inserted by
No. 50/2011
s. 6.

Part 1B—Approval or determination of basin water charges

S. 4J
inserted by
No. 50/2011
s. 6.

4J Interpretation

(1) In this Act—

accredited arrangements has the same meaning as in the Commonwealth Water Charge Rules;

applied Victorian provisions means the Commonwealth provisions as applied under section 4K;

Basin water charge means a regulated charge for a service in relation to Basin water resources provided by a Part 6 operator or Part 7 operator;

Basin water resources has the same meaning as *State water resources* has in the Commonwealth Water Charge Rules in relation to Victoria;

Commonwealth provisions has the same meaning as *applied provisions* has in rule 59(2) of the Commonwealth Water Charge Rules;

Commonwealth Water Charge Rules means the Water Charge (Infrastructure) Rules 2010 of the Commonwealth;

Part 6 operator has the same meaning as in the Commonwealth Water Charge Rules;

Part 7 operator has the same meaning as in the Commonwealth Water Charge Rules;

regulated charge has the same meaning as in the Commonwealth Water Charge Rules;

State Agency has the same meaning as in the Commonwealth Water Charge Rules.

- (2) Section 3(2) and (3) does not apply to this Part.
- (3) The **Interpretation of Legislation Act 1984** does not apply to the applied Victorian provisions.
- (4) The Acts Interpretation Act 1901 of the Commonwealth applies to the applied Victorian provisions to the same extent that that Act applies to the Commonwealth Water Charge Rules, and as if—
 - (a) that Act, as so applied, were enacted as a law of Victoria; and
 - (b) the applied Victorian provisions were an Act and each rule of the applied Victorian provisions were a section of an Act.

Note

See section 5 of the Water Act 2007 of the Commonwealth as to the application of the Acts Interpretation Act 1901 of the Commonwealth.

- (5) The following provisions apply to the applied Victorian provisions—
 - (a) any expressions used in the applied Victorian provisions have the same meaning as in the Water Act 2007 of the Commonwealth and the Water Regulations 2008 of the Commonwealth; and
 - (b) the applied Victorian provisions must be read consistently with the Water Act 2007 of the Commonwealth and must be read so as not to exceed the rule making power in section 92 of that Act and any other ancillary rule making powers in that Act.

- (6) If a provision of the applied Victorian provisions would, but for subsection (4) or (5), be construed as exceeding the rule making powers referred to in subsection (5)(b), the provision is taken to have effect to the extent that it does not exceed that rule making power.

S. 4K
inserted by
No. 50/2011
s. 6.

4K Application of Commonwealth provisions

In respect of Basin water charges, the Commonwealth provisions apply as a law of the State.

S. 4L
inserted by
No. 50/2011
s. 6.

4L Commission is State Agency

For the purposes of rule 59(1)(b) of the Commonwealth Water Charge Rules and the applied Victorian provisions, the Commission is specified as the State Agency.

S. 4M
inserted by
No. 50/2011
s. 6.

4M Powers of Commission

The Commission has all the powers that are necessary to perform its functions as a State Agency under the applied Victorian provisions.

S. 4N
inserted by
No. 50/2011
s. 6.

4N Cessation of effect of provisions

Sections 4K, 4L and 4M do not have effect if this Part is not accredited arrangements.

S. 4O
inserted by
No. 50/2011
s. 6.

4O Power of Commission to apply for accreditation

- (1) The Commission may apply to the Australian Competition and Consumer Commission for this Part to be accredited as accredited arrangements.
- (2) In addition to subsection (1), the Commission has the power to do anything necessary for this Part to be accredited as accredited arrangements.

4P Notification of accreditation etc.

**S. 4P
inserted by
No. 50/2011
s. 6.**

- (1) If the Australian Competition and Consumer Commission approves this Part as accredited arrangements, within 7 days after that approval, the Commission must publish notice of that approval in the Government Gazette.
- (2) A notice under subsection (1) must include—
 - (a) publication of the Australian Competition and Consumer Commission's decision to approve the arrangements; and
 - (b) the date on which the decision of the Australian Competition and Consumer Commission came into effect.
- (3) If the Australian Competition and Consumer Commission revokes accreditation of this Part as accredited arrangements, within 7 days after that revocation, the Commission must publish notice of that revocation in the Government Gazette.
- (4) A notice under subsection (3) must include—
 - (a) publication of the Australian Competition and Consumer Commission's decision to revoke accreditation of this Part as accredited arrangements; and
 - (b) the date on which the decision of the Australian Competition and Consumer Commission came into effect.
- (5) If accreditation of this Part as accredited arrangements ceases to have effect under the Commonwealth Water Charge Rules, within 7 days after that ceasing to have effect, the Commission must publish notice of that ceasing to have effect in the Government Gazette.
- (6) A notice under subsection (5) must include the date on which the accredited arrangements cease to have effect.

S. 4Q
inserted by
No. 50/2011
s. 6.

4Q Recovery of Commission's costs

- (1) The Minister administering the **Essential Services Commission Act 2001** must determine the amount to be contributed by each Part 6 operator or Part 7 operator towards the costs that are incurred or are likely to be incurred by the Commission in the exercise of its powers and the performance of its functions and duties under the applied Victorian provisions.
- (2) The amount that a Part 6 operator or Part 7 operator is to contribute under subsection (1) is payable at the intervals and in the amounts determined by the Minister administering the **Essential Services Commission Act 2001**.
- (3) The Minister administering the **Essential Services Commission Act 2001** must give notice in writing of any determination made by the Minister under subsection (1) or (2) to a Part 6 operator or Part 7 operator to whom the determination applies.
- (4) The Minister administering the **Essential Services Commission Act 2001** must not make a determination under subsection (1) or (2) unless the Minister has first consulted with the Minister administering this section.

Pt 2
(Heading and
ss 5–53)
repealed. ¹

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Pt 3
(Heading and
ss 54–106)
repealed. ²

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Part 4—Land management and rating powers

Pt 4 (Heading)
amended by
No. 66/2000
s. 7.

Division 1—Interface legislation

Pt 4 Div. 1
(Heading and
ss 107–114)
amended by
Nos 51/1996
s. 19, 44/1998
s. 27(a)(i)(ii),
46/1998
s. 7(Sch. 1),
repealed by
No. 66/2000
s. 8, new Pt 4
Div. 1
(Heading and
s. 107)
inserted by
No. 6/2010
s. 25(5)(Sch. 2
item 13) (as
amended by
No. 45/2010
s. 6).

107 Transport Integration Act 2010

This Part is interface legislation within the
meaning of the **Transport Integration Act 2010**.

New s. 107
inserted by
No. 6/2010
s. 25(5)(Sch. 2
item 13) (as
amended by
No. 45/2010
s. 6)

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Pt 4 Div. 2
(Heading and
ss 115–128)
amended by
Nos 65/1995
s. 14(36),
44/1998
s. 27(b)(c),
46/1998
s. 7(Sch. 1),
44/2001
s. 3(Sch.
item 128.2),
repealed by
No. 66/2000
s. 8.

Pt 4 Div. 3
(Heading and
ss 129–131)
repealed by
No. 66/2000
s. 8.

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Division 4—Powers with respect to land

132 Power of Secretary to enter into management agreements

S. 132
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
No. 66/2000
s. 9,
amended by
No. 19/2018
s. 222 (ILA
s. 39B(1)).

(1) Despite anything to the contrary in the **Land Act 1958**, the Secretary, with the approval of the Minister responsible for administering the **Land Act 1958**, may enter into a management agreement with any person with respect to the whole or any part of any waterways land (which is not land under the **National Parks Act 1975** or Crown land permanently or temporarily reserved under the **Crown Land (Reserves) Act 1978**) to manage the land for the purposes of recreation, leisure, tourism or water transport.

S. 132(2)
inserted by
No. 19/2018
s. 222.

(2) The Secretary must not enter into an agreement under subsection (1) in relation to any Parks Victoria recorded land.

S. 133
repealed by
No. 66/2000
s. 11.

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S. 134
amended by
No. 66/2000
s. 10,
repealed by
No. 66/2000
s. 11.

* * * * *

Water Industry Act 1994
No. 121 of 1994
Part 4—Land management and rating powers

*	*	*	*	*	S. 135 amended by No. 65/1995 s. 9, repealed by No. 66/2000 s. 11.
135A Grant of licences for jetties etc.					S. 135A inserted by No. 12/1996 s. 19.
(1) Despite anything to the contrary in the Land Act 1958 or any other Act, the Minister may grant, to an applicant, a licence in respect of any waterways land for the purposes of a jetty or mooring.					S. 135A(1) substituted by No. 66/2000 s. 12(1).
*	*	*	*	*	S. 135A(2)(3) repealed by No. 66/2000 s. 12(1).
(4) An application for a licence must be made in writing.					
(5) A licence shall—					
(a) specify the purpose for which it is granted; and					
(b) be for a term not exceeding 10 years but may be renewed by the Minister; and					S. 135A(5)(b) amended by No. 66/2000 s. 12(2).
(c) be subject to such covenants, conditions, reservations and restrictions as are specified in it; and					
(d) be subject to the payment of a licence fee of such amount as is fixed by the Minister.					S. 135A(5)(d) amended by No. 66/2000 s. 12(2).

Water Industry Act 1994
No. 121 of 1994
Part 4—Land management and rating powers

S. 135A(6)
amended by
No. 66/2000
s. 12(2).

(6) A licensee must not transfer or assign their interest in the licence without the prior consent in writing of the Minister.

S. 135A(7)
substituted by
No. 66/2000
s. 12(3).

(7) If the Minister is satisfied, after giving a licensee a reasonable opportunity to be heard, that the licensee has—

- (a) failed, during the term of the licence, to use the land for the purpose for which the licence was granted; or
- (b) used the land for any purpose other than the purpose for which the licence was granted; or
- (c) failed to comply with any of the terms and conditions of the licence—

the Minister may declare, by notice published in the Government Gazette, that the licence is cancelled.

(8) On the declaration under subsection (7) that a licence is cancelled—

- (a) any interest, right or privilege created by the licence ceases to exist; and
- (b) all money paid under the licence is forfeited.

S. 135A(9)
amended by
No. 66/2000
s. 12(4).

(9) On or before the expiry or cancellation of a licence, the licensee may remove any structure or improvement erected by the licensee on licensed land making good to the satisfaction of the Minister any injury which may be done to the land.

(10) Any structure or improvement not removed from land before the expiry or cancellation of a licence or within any further period allowed by the Minister is the property of the Minister and may be sold, removed or demolished as the Minister may direct.

S. 135A(10)
amended by
No. 66/2000
s. 12(5)(a)(b).

(11) The costs and expenses incidental to the removal or demolition of any structure or improvement in accordance with subsection (10) and of making good any injury to land is a debt due to the Minister by the former licensee.

S. 135A(11)
amended by
No. 66/2000
s. 12(6).

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S. 135B
inserted by
No. 12/1996
s. 19,
repealed by
No. 66/2000
s. 13.

136 Management of reservoir parks land

S. 136
substituted by
No. 66/2000
s. 14.

(1) The Governor in Council may make regulations for or with respect to any of the matters referred to in section 13(1)(b)(ii) to (xi) of the **Crown Land (Reserves) Act 1978** in relation to any reservoir parks land as if—

(a) any reference in that section to a committee of management were a reference to the Minister; and

(b) any reference in that section to the land were a reference to reservoir parks land.

(2) Section 13(7) and (8) of the **Crown Land (Reserves) Act 1978** applies to regulations made under subsection (1) as if—

S. 136(2)
amended by
No. 7/2012
s. 26(1).

(a) the regulations had been made under section 13(1) of that Act; and

(b) any reference to—

(i) an authorised officer in that section; or

(ii) an officer or servant employed by the committee of management or the trustees of any land—

were a reference to an authorised officer.

S. 136(3)
 substituted by
 No. 7/2012
 s. 26(2).

(3) Regulations under this section do not have effect in relation to any reservoir parks land unless there is in force in respect of that land—

(a) the lease between Melbourne Water Corporation and Parks Victoria with a commencement date of 1 January 2009; or

(b) a lease between Melbourne Water Corporation and a public authority, where the Minister has approved the entry into that lease by the public authority for the purposes of this section.

(4) In this section—

S. 136(4)
 def. of
*reservoir
 parks land*
 substituted by
 No. 7/2012
 s. 26(3).

reservoir parks land means the land delineated by heavy black lines on the plans lodged in the Central Plan Office and numbered LEGL./11-088 to LEGL./11-100 inclusive, excluding the areas shown as excluded on those plans.

S. 137
 substituted by
 No. 66/2000
 s. 14,
 repealed by
 No. 7/2012
 s. 27.

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S. 138
 repealed by
 No. 66/2000
 s. 14.

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Division 5—Financial provisions

139 Power to make and levy rates

* * * * *

S. 139(1)
amended by
No. 44/1998
s. 28(2),
repealed by
No. 66/2000
s. 15.

(1A) Having regard to the estimated disbursements from the Parks and Reserves Trust Account for a financial year commencing on 1 July 1999 or a subsequent financial year, the Governor in Council, on the recommendation of the Minister and Treasurer, may, subject to and in accordance with this section and the regulations, by Order published in the Government Gazette, in respect of that financial year, or any quarter or half of that financial year, make, and the rating authority may levy, a rate in relation to land (other than land described in Schedule 1) within any area or areas specified by the Governor in Council by Order published in the Government Gazette for the purposes of this subsection.

S. 139(1A)
inserted by
No. 44/1998
s. 28(3).

(1B) Subject to subsection (1G), if on or before 30 June in any year an Order making a rate in relation to land has not been published in the Government Gazette under subsection (1A), the rate for the purposes of subsection (1A) for the next full financial year is—

S. 139(1B)
inserted by
No. 79/2013
s. 44(1).

(a) the rate made under subsection (1A) for the previous full financial year increased by the applicable annual rate specified in subsection (1C); or

- (b) if the rate for the previous full financial year was calculated in accordance with this subsection, the rate so calculated increased by the applicable annual rate specified in subsection (1C).
- S. 139(1C)
inserted by
No. 79/2013
s. 44(1).
- (1C) For the purposes of subsection (1B), the applicable annual rate is whichever applies for the full financial year for which the rate under that subsection is calculated—
- (a) the annual rate fixed under section 5(4) of the **Monetary Units Act 2004**; or
- (b) the annual rate applying because of section 5(5) of the **Monetary Units Act 2004**.
- S. 139(1D)
inserted by
No. 79/2013
s. 44(1).
- (1D) The area or areas to which the rate calculated under subsection (1B) applies is the area, or are the areas, to which the rate for the previous financial year applied.
- S. 139(1E)
inserted by
No. 79/2013
s. 44(1).
- (1E) For the purposes of a rate calculated under subsection (1B), the Minister may round down to the nearest third decimal place the rate calculated under that subsection.
- S. 139(1F)
inserted by
No. 79/2013
s. 44(1).
- (1F) In respect of each financial year to which subsection (1B) applies, the Minister must publish in the Government Gazette—
- (a) the rate applying for that financial year; and
- (b) the area or areas to which that rate applies.
- S. 139(1G)
inserted by
No. 79/2013
s. 44(1).
- (1G) On or before 30 June in any year, the Minister and the Treasurer jointly, by notice published in the Government Gazette, may determine that—
- (a) subsection (1B) does not apply for a particular specified financial year; and
- (b) no rate is to be calculated in accordance with that subsection for that financial year.

- (2) The rating authority may not levy a rate on land described in Schedule 1, other than land referred to in item 1, 2 or 3 of that Schedule vested in or owned by a declared public statutory authority (within the meaning of subsection (2A)) that is not used exclusively as public open space or as a park. S. 139(2)
amended by
Nos 45/1997
s. 38(1),
44/1998
s. 28(4)(a).
- (2A) The Governor in Council, by Order published in the Government Gazette, may declare a public statutory authority constituted under the laws of Victoria to be a declared public statutory authority for the purposes of subsection (2). S. 139(2A)
inserted by
No. 45/1997
s. 38(2).
- (3) A rate may be fixed by reference to the net annual value (as determined in accordance with the **Valuation of Land Act 1960**) of the particular land.
- (3A) Despite subsection (3), all rates made and levied under this section after the commencement of section 10 of the **Water Industry (Amendment) Act 1995** shall be levied upon the net annual value of the particular land as at 30 June 1990 levels of value as determined for the purposes of the **Local Government Act 1989**. S. 139(3A)
inserted by
No. 65/1995
s. 10,
amended by
No. 44/1998
s. 28(4)(b).
- (3B) The net annual value of particular land as at the levels of value referred to in subsection (3A) shall be determined as follows— S. 139(3B)
inserted by
No. 65/1995
s. 10.
- (a) if the valuation of that land in force for the purposes of the **Local Government Act 1989** immediately before the commencement of section 10 of the **Water Industry (Amendment) Act 1995** is at 30 June 1990 levels of value—the net annual value is, subject to paragraph (d), the net annual value as shown in that valuation;

- (b) if the valuation of that land in force for the purposes of the **Local Government Act 1989** immediately before that commencement is at levels of value as at a date before 30 June 1990 or at levels of value as at a date after 30 June 1990 but at no time before that later date was there in force for the purposes of that Act a valuation of that land at 30 June 1990 levels of value—the net annual value is, subject to paragraph (d), the net annual value as shown in the valuation then in force multiplied by the valuation equalization factor applying to the area in which the land is situated;
- (c) if the valuation of that land in force for the purposes of the **Local Government Act 1989** immediately before that commencement is at levels of value as at a date after 30 June 1990 but at any time before then the valuation of that land in force for the purposes of that Act was at 30 June 1990 levels of value—the net annual value is, subject to paragraph (d), the net annual value as shown in the valuation at 30 June 1990 levels of value;
- (d) if subsequent to that commencement that land is valued for the purposes of a supplementary valuation made for the purposes of the **Local Government Act 1989**—the net annual value is the net annual value as shown in the most recent such supplementary valuation or, if that supplementary valuation is not at 30 June 1990 levels of value, that net annual value multiplied by the valuation equalization factor applying to the area in which the land is situated.

- | | |
|---|--|
| (3C) A reference in subsection (3B) to a valuation equalization factor applying to an area is a reference to a factor determined by the Valuer-General and published in the Government Gazette being a factor by which, in the opinion of the Valuer-General, the net annual value of land within that area determined as at a particular date ought to be multiplied if the net annual value of the land is to accord with levels of value generally prevailing in that area as at 30 June 1990. | S. 139(3C)
inserted by
No. 65/1995
s. 10. |
| (3CA) Nothing in section 266(6) of the Water Act 1989 applies to the calculation or application of a valuation equalisation factor under this section. | S. 139(3CA)
inserted by
No. 110/1997
s. 36. |
| (3D) Despite subsection (3), (3A) or (3B), a rate levied by the rating authority under this section on any land may be levied on the basis of a value determined by the rating authority from time to time in respect of that land. | S. 139(3D)
inserted by
No. 45/1997
s. 38(3),
amended by
No. 44/1998
s. 28(4)(a). |
| (3E) The value determined by the rating authority under subsection (3D) in respect of any land must not be greater than the value on which rates would have been levied on that land under this section if the rating authority had not made a determination under subsection (3D) in respect of that land. | S. 139(3E)
inserted by
No. 45/1997
s. 38(3),
amended by
No. 44/1998
s. 28(4)(a). |
| (4) The rating authority may fix a minimum amount of rate to be paid in respect of any land and may fix different minimum amounts in respect of different classes of land. | S. 139(4)
amended by
No. 44/1998
s. 28(4)(a). |
| (4AA) Subject to subsection (4AF), if on or before 30 June in any year a minimum amount of rate has not been fixed under subsection (4), the minimum amount of rate for the purposes of subsection (4) for the next full financial year is— | S. 139(4AA)
inserted by
No. 79/2013
s. 44(2). |

- (a) the minimum amount of rate fixed under subsection (4) for the previous full financial year increased by the applicable annual rate specified in subsection (4AB); or
- (b) if the minimum amount of rate for the previous full financial year was calculated in accordance with this subsection, the rate so calculated increased by the applicable annual rate specified in subsection (4AB).
- S. 139(4AB) inserted by No. 79/2013 s. 44(2).
- (4AB) For the purposes of subsection (4AA), the applicable annual rate is whichever applies for the full financial year for which the minimum amount of rate under that subsection is calculated—
- (a) the annual rate fixed under section 5(4) of the **Monetary Units Act 2004**; or
- (b) the annual rate applying because of section 5(5) of the **Monetary Units Act 2004**.
- S. 139(4AC) inserted by No. 79/2013 s. 44(2).
- (4AC) For the purposes of subsection (4AA), a minimum amount of rate includes any different minimum amounts of rate calculated in respect of different classes of land.
- S. 139(4AD) inserted by No. 79/2013 s. 44(2).
- (4AD) For the purposes of a minimum amount of rate fixed under subsection (4AA), the rating authority may round down to the nearest cent the minimum amount of rate calculated under that subsection.
- S. 139(4AE) inserted by No. 79/2013 s. 44(2).
- (4AE) The rating authority must publish in the Government Gazette the minimum amount of rate applying for each financial year to which subsection (4AA) applies.
- S. 139(4AF) inserted by No. 79/2013 s. 44(2).
- (4AF) On or before 30 June in any year, the rating authority, by notice published in the Government Gazette, may determine that—
- (a) subsection (4AA) does not apply for a particular specified financial year; and

(b) no minimum amount of rate is to be calculated in accordance with that subsection for that financial year.

- (4A) Despite anything to the contrary in this section or in any other provision of this Act, the Treasurer, after consultation with the Minister responsible for a declared public statutory authority, may give his or her approval to the rating authority levying an amount in lieu of a rate under this section in respect of a financial year, or any quarter or half of a financial year, in relation to land vested in or owned by the authority.
- S. 139(4A)
inserted by
No. 45/1997
s. 38(4),
amended by
No. 44/1998
s. 28(4)(a).
- (4B) The amount to be levied in lieu of a rate in accordance with subsection (4A) is the amount agreed between the authority and the rating authority or, in the absence of agreement, determined by the Treasurer.
- S. 139(4B)
inserted by
No. 45/1997
s. 38(4),
amended by
No. 44/1998
s. 28(4)(a).
- (4C) An approval may only be given by the Treasurer under subsection (4A) on the application of the rating authority.
- S. 139(4C)
inserted by
No. 45/1997
s. 38(4),
amended by
No. 44/1998
s. 28(4)(a).
- (5) A rate made and levied under this section must not in any case exceed the amount specified by the Governor in Council by Order published in the Government Gazette for the purposes of this subsection.
- (6) If the rating authority is of the opinion that relief should be given under this subsection in respect of any land or class of land on which a rate under this section would otherwise be made and levied, the rating authority may exempt the person or persons who would otherwise be from time to time liable to pay the rate in respect of that land or land of that class from liability to pay the rate
- S. 139(6)
amended by
No. 44/1998
s. 28(4)(c)
(i)–(iii).

either wholly or to such an extent as is specified by the rating authority.

S. 139(7)
amended by
No. 44/1998
s. 28(4)(d).

(7) An exemption must not be given under subsection (6) in the case of land used primarily for residential, commercial or industrial purposes.

S. 139(8)
substituted by
No. 44/1998
s. 28(5).

(8) An exemption given under subsection (6) may be revoked by a subsequent decision of the rating authority and has effect in each year until so revoked.

(9) In a proceeding to levy or recover a rate, until there is evidence to the contrary, no proof is required that the requirements of this section or the regulations have been complied with.

140 Rates to be recovered from owner

(1) A rate made and levied under section 139 in respect of any land is payable by and recoverable from the owner of the land for the time being.

S. 140(2)
amended by
No. 44/1998
s. 28(6)(a).

(2) A rate made and levied under section 139 in respect of any land, and any interest payable in respect of that rate, is a charge on the land and remains so until paid.

(3) A rate made and levied under section 139 in respect of any land is due and must be paid by the date specified in the notice requiring payment.

S. 140(4)
amended by
No. 12/1996
s. 20.

(4) A notice requiring payment of a rate must not specify a payment date that is not at least 14 days after the date of issue of the notice.

S. 140(5)
amended by
No. 44/1998
s. 28(6)(b).

(5) The rating authority may require a person to pay interest on any amounts of rates—

(a) which that person is liable to pay; and

(b) which have not been paid by the due date.

(6) The interest—

(a) is to be calculated at the prescribed rate; and

(b) becomes payable on and from the date on which the rate was made and levied; and

(c) continues to be payable until the payment or recovery of all rates and interest due.

S. 140(6)(c)
amended by
No. 44/1998
s. 28(6)(c).

(7) If a rate in respect of any land or interest on such a rate remains unpaid after it is due and payable, it may be recovered from the owner of the land for the time being as a debt due to the State by that owner.

S. 140(7)
substituted by
No. 44/1998
s. 28(7).

141 Remission etc. of payment of rates

The rating authority, on the application of a person liable to pay a rate made and levied under section 139 in respect of any land who in the opinion of the rating authority is in necessitous circumstances or is a member of a class of persons prescribed for the purposes of this section—

S. 141
amended by
No. 44/1998
s. 28(8)(a)(i)(ii).

(a) may remit or excuse the payment of the rate or any part of it or any interest payable in respect of the rate or any part of that interest; or

(b) may defer payment of the rate or any part of it or any interest payable in respect of the rate or any part of that interest.

142 Agreement with metropolitan water corporation with respect to rate collection

The rating authority may enter into an agreement with a metropolitan water corporation with respect to the collection by that corporation, on behalf of the rating authority, of any rate made and levied under section 139 in respect of any land and any interest payable in respect of that rate.

S. 142
amended by
No. 44/1998
s. 28(8)(b)(i)(ii),
substituted by
No. 17/2012
s. 76.

S. 143
amended by
Nos 44/1998
s. 28(8)(c),
62/2001
s. 91(c),
substituted by
No. 17/2012
s. 76.

143 Rate collection by metropolitan water corporations

The metropolitan water corporations must collect, on behalf of the rating authority, rates and interest referred to in section 142 that relate to the water districts or sewerage districts of the metropolitan water corporations on the terms and conditions agreed with the rating authority or, in default of agreement, determined by the Commission.

S. 144
amended by
No. 65/1995
s. 11,
repealed by
No. 66/2000
s. 16.

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S. 145
repealed by
No. 66/2000
s. 16.

* * * * *

Division 6—Miscellaneous

S. 146
repealed by
No. 65/1995
s. 14(37).

* * * * *

S. 147
substituted by
No. 66/2000
s. 17.

147 Powers of authorised officers

- (1) For the purposes of this Part and section 184(2) and (3), each authorised officer has the same powers as an authorised officer has under section 31 of the **Land Act 1958**.
- (2) Subsection (1) has effect as if any reference in section 31 of the **Land Act 1958** to regulations made under the **Land Act 1958** or section 13 of the **Crown Land (Reserves) Act 1978** were a reference to regulations made under this Part or section 184(2) and (3).

* * * * *

S. 148
repealed by
No. 66/2000
s. 17.

149 Regulations

The Governor in Council may make regulations for or with respect to—

- | | |
|---|---|
| (a) the care, preservation, protection, management and use of, and the preservation of good order on, any waterways land; | S. 149(a)
amended by
No. 66/2000
s. 18(a). |
| (b) the removal from any waterways land of any structure, abandoned or derelict vessel or vehicle, or other thing, and the manner in which the thing removed may be dealt with or disposed of; | S. 149(b)
substituted by
No. 66/2000
s. 18(b). |
| (c) prohibiting or regulating activities relating to recreation, leisure, tourism or water transport on waterways land; | S. 149(c)
inserted by
No. 66/2000
s. 18(c). |
| (d) fees or charges in relation to the use of waterways land for the purposes of recreation, leisure, tourism or water transport for—

(i) entry on the whole or any part of waterways land by any person or animal; or

(ii) the provision or use of any improvements, services or facilities on any waterways land; | S. 149(d)
inserted by
No. 66/2000
s. 18(c). |
| (e) closing any part of waterways land—

(i) for the purposes of an organised activity; or

(ii) in an emergency. | S. 149(e)
inserted by
No. 66/2000
s. 18(c). |

Water Industry Act 1994
No. 121 of 1994
Part 4—Land management and rating powers

Pt 4 Div. 7
(Heading and
ss 150–153)
repealed by
No. 66/2000
s. 19.

* * * * *

Part 4A—Parks and Reserves Trust Account

Pt 4A
(Heading and
s. 153A)
inserted by
No. 44/1998
s. 29.

153A Parks and Reserves Trust Account

S. 153A
inserted by
No. 44/1998
s. 29.

(1) There shall be established in the Trust Fund an account to be known as the "Parks and Reserves Trust Account".

(2) There shall be paid into the Parks and Reserves Trust Account—

(a) all amounts in payment of rates and interest received by, or collected on behalf of, the Minister under Division 5 of Part 4; and

S. 153A(2)(a)
amended by
No. 66/2000
s. 20(1)(a).

* * * * *

S. 153A(2)(b)
repealed by
No. 66/2000
s. 20(1)(b).

(c) any income from the investment of money standing to the credit of the Trust Account and the proceeds of sale of any investment; and

(d) any other money approved by the Treasurer.

(3) There shall be paid out of the Parks and Reserves Trust Account—

(a) such amounts as the Secretary, with the approval of the Minister, determines for the purposes of the management and control, within the metropolitan area, of open space, parks and waterways for the purposes of conservation, recreation, leisure, tourism and navigation;

- (b) such amounts as the Secretary, with the approval of the Minister, determines as financial assistance by way of grants, loans or otherwise to persons or bodies engaged in activities within the metropolitan area of the kind referred to in paragraph (a);
- S. 153A(3)(ba) inserted by No. 66/2000 s. 20(2)(a).
- (ba) such amounts as the Secretary, with the approval of the Minister, determines are necessary for the purpose of the acquisition of land by the Crown in the metropolitan area, for the purposes of conservation, recreation, leisure or tourism or for any of the purposes specified in paragraphs (l), (m), (n), (o) and (w) of section 4(1) of the **Crown Land (Reserves) Act 1978**;
- S. 153A(3)(c) amended by No. 66/2000 s. 20(2)(b).
- (c) costs and expenses incurred by the Minister in connection with the making, levying, collection and recovery of rates under Division 5 of Part 4;
- S. 153A(3)(d) repealed by No. 66/2000 s. 20(2)(c).
- * * * * *
- (e) any other amounts authorised under this or any other Act to be paid out of the Trust Account.
- (4) Money standing to the credit of the Parks and Reserves Trust Account may be invested in any manner in which trust funds may be invested under the **Trustee Act 1958**.
- S. 153A(5) substituted by No. 66/2000 s. 20(3).
- (5) In this section—
metropolitan area means the area or areas specified by the Governor in Council for the purposes of this section by Order published in the Government Gazette.

Part 5—Transfer of assets, liabilities and staff of Melbourne Water Corporation

Division 1—Definitions

154 Definitions

(1) In this Part—

chief executive officer, in relation to Melbourne Water Corporation, means Managing Director of Melbourne Water Corporation and, in relation to a company licensee, means the chief executive officer of the company licensee;

S. 154(1)
def. of
chief executive officer
substituted by
No. 65/1995
s. 14(38)(a).

company licensee means City West Water Ltd, A.C.N. 066 902 467, South East Water Ltd, A.C.N. 066 902 547 or Yarra Valley Water Ltd, A.C.N. 066 902 501;

financial accommodation means a financial benefit or assistance to obtain a financial benefit arising from or as a result of—

- (a) a loan;
- (b) issuing, endorsing or otherwise dealing in promissory notes;
- (c) drawing, accepting, endorsing or otherwise dealing in bills of exchange;
- (d) issuing, purchasing or otherwise dealing in securities;
- (e) granting or taking a lease of any real or personal property for financing but not for operating purposes;
- (f) in relation to Melbourne Water Corporation, any other arrangement that the Governor in Council on the recommendation of the Treasurer has

approved as financial accommodation
in relation to Melbourne Water
Corporation under the **Borrowing and
Investment Powers Act 1987**;

financial arrangement means an arrangement
entered into for the purpose of managing,
lessening, hedging or protecting against
movements in currency exchange, interest or
discount rates or other costs of obtaining
financial accommodation;

financial obligation, in relation to Melbourne
Water Corporation, means the liability of
Melbourne Water Corporation in respect
of—

- (a) financial accommodation obtained by
Melbourne Water Corporation; or
- (b) a financial arrangement entered into by
Melbourne Water Corporation—

and includes the liability of Melbourne
Water Corporation in respect of inscribed
stock issued by Melbourne Water
Corporation;

former Melbourne Water property means
property, rights or liabilities of Melbourne
Water Corporation that, under this Part, have
vested in, or become liabilities of, another
person;

instrument includes a document and an oral
agreement;

liabilities means all liabilities, duties and
obligations, whether actual, contingent or
prospective but, in relation to Melbourne
Water Corporation, does not include
financial obligations;

Melbourne Water instrument means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—

- (a) to which Melbourne Water Corporation was a party; or
- (b) that was given to or in favour of Melbourne Water Corporation; or
- (c) that refers to Melbourne Water Corporation; or
- (d) under which—
 - (i) money is, or may become, payable to or by Melbourne Water Corporation; or
 - (ii) other property is to be, or may become liable to be, transferred to or by Melbourne Water Corporation;

new employer, in relation to a transferred Melbourne Water employee, means the body by which, by virtue of section 173, the transferred Melbourne Water employee is regarded as being employed with effect from the relevant date;

property means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description;

relevant date—

- (a) in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the Minister under subsection (2) for the purposes of that statement;

S. 154(1)
def. of
relevant date
substituted by
No. 65/1995
s. 14(38)(b).

(b) in relation to a document referred to in section 172(1), means a date fixed by the Minister under subsection (2) for the purposes of that document;

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

security includes inscribed stock and debenture, bond, debenture stock, notes or any other document creating, evidencing or acknowledging indebtedness in respect of financial accommodation, whether or not constituting a charge on property;

swap contract means an agreement entered into by Melbourne Water Corporation with another person under which—

- (a) Melbourne Water Corporation undertakes to make payments in any currency to, or to the account of, the other party to the agreement; and
- (b) the other party undertakes to make payments to, or to the account of, Melbourne Water Corporation in the same or another currency;

TCV means Treasury Corporation of Victoria;

transferred Melbourne Water employee means a person who, by virtue of section 173, is regarded as being employed by a new employer with effect from the relevant date;

transferee, in relation to former Melbourne Water property, means the person to whom the property has been transferred under this Part.

- (2) The Minister may, by notice published in the Government Gazette—
- (a) fix the relevant date for the purposes of an allocation statement under section 155;
 - (b) fix the relevant date for the purposes of a document referred to in section 172(1).

S. 154(2)
substituted by
No. 65/1995
s. 14(39).

Division 2—Allocation of property

155 Minister may direct Melbourne Water Corporation to transfer property

- (1) The Minister may, in writing, direct Melbourne Water Corporation or a company licensee to transfer property, rights and liabilities of a specified kind to a person or persons nominated by the Minister.
- (2) Within 3 months after receiving a direction under subsection (1), Melbourne Water Corporation or the company licensee must give to the Minister a statement or statements approved by the Minister relating to the property, rights and liabilities of Melbourne Water Corporation or the former Melbourne Water property to which the direction relates, as at a date specified by the Minister for the purposes of the relevant statement.
- (3) A statement under this section—
- (a) must allocate the property, rights and liabilities of Melbourne Water Corporation or the former Melbourne Water property shown in the statement to, or between, the person or persons nominated by the Minister; and
 - (b) must be signed by the chief executive officer.

S. 155(1)
amended by
No. 65/1995
s. 14(40).

S. 155(2)
amended by
No. 65/1995
s. 14(41)
(a)–(d).

S. 155(3)(a)
amended by
No. 65/1995
s. 14(42).

- (4) If a statement under this section is approved by the Treasurer and the Minister—
- (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.

S. 155(5)
amended by
No. 65/1995
s. 14(43).

- (5) The Treasurer and the Minister may at any time direct Melbourne Water Corporation or a company licensee to amend a statement given to them under this section as specified in the direction.
- (6) An allocation statement under this section may be amended by writing signed by the Treasurer and the Minister.

S. 155(6A)
inserted by
No. 12/1996
s. 21.

- (6A) An amendment under subsection (6) of an allocation statement for which the relevant date is 1 January 1995 may be made with effect from 1 January 1995 if the Treasurer and the Minister are satisfied that the amendment does not adversely affect any property, rights or liabilities of a person other than Melbourne Water Corporation, Melbourne Parks and Waterways or a company licensee.
- (7) In this section, *statement* and *allocation statement* include a statement or allocation statement amended in accordance with this section.

156 Certificate of chief executive officer

S. 156(1)
amended by
No. 65/1995
s. 14(44).

- (1) A certificate signed by the chief executive officer certifying that property, rights or liabilities specified in the certificate have been allocated under the allocation statement to a person so specified is, unless revoked under subsection (2), conclusive evidence—
- (a) that the property, rights or liabilities have been so allocated; and

- (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the transferee on the relevant date.
- (2) If the Treasurer and the Minister so direct the chief executive officer in writing, the chief executive officer must revoke a certificate given under subsection (1) by issuing another certificate or certificates in place of the first certificate.
- (3) The chief executive officer—
 - (a) must keep a register of certificates issued under this section; and
 - (b) must make the register reasonably available for inspection by a transferee or other interested person.

Division 3—Transfer of property

157 Property transferred to nominee

On the relevant date—

- (a) all property and rights, wherever located, that are allocated under an allocation statement to a person nominated by the Minister in a direction under section 155, vest in that person; and
- (b) all liabilities, wherever located, that are allocated under an allocation statement to that person, become liabilities of that person.

S. 157(a)
amended by
No. 65/1995
s. 14(45).

S. 157(b)
amended by
No. 65/1995
s. 14(45).

158 Allocation of property etc. subject to encumbrances

Unless an allocation statement under this Part otherwise provides, where, under this Part—

- (a) property and rights vest in; or

(b) liabilities become liabilities of—
a person nominated by the Minister in a direction
under section 155—

(c) the property and rights so vested are subject
to the encumbrances (if any) to which they
were subject immediately before so vesting;
and

S. 158(d)
amended by
No. 65/1995
s. 14(46).

(d) the rights to which Melbourne Water
Corporation or the company licensee was
entitled in respect of those liabilities
immediately before they ceased to be
liabilities of Melbourne Water Corporation
or the company licensee vest in the
transferee.

S. 159
amended by
No. 65/1995
s. 14(47).

159 Value of former Melbourne Water property

The value to a person nominated by the Minister
in a direction under section 155 of former
Melbourne Water property as at the relevant date
is the value shown in, or calculated in accordance
with, the relevant allocation statement.

S. 160
amended by
No. 65/1995
s. 14(48)(a).

160 Substitution of party to agreement

If, under an allocation statement, the rights and
liabilities of Melbourne Water Corporation or a
company licensee under an agreement are
allocated to a person nominated by the Minister in
a direction under section 155—

S. 160(a)
amended by
No. 65/1995
s. 14(48)(b).

(a) the person becomes, on the relevant date, a
party to the agreement in place of Melbourne
Water Corporation or the company licensee;
and

(b) on and after the relevant date, the agreement
has effect as if the person had always been a
party to the agreement.

161 Melbourne Water instruments

Each Melbourne Water instrument relating to former Melbourne Water property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to Melbourne Water Corporation were a reference to the transferee.

162 Proceedings

If, immediately before the relevant date, proceedings relating to former Melbourne Water property (including arbitration proceedings) to which Melbourne Water Corporation or a company licensee was a party were pending or existing in any court or tribunal, then, on and after that date, the transferee is substituted for Melbourne Water Corporation or the company licensee as a party to the proceedings and has the same rights in the proceedings as Melbourne Water Corporation or the company licensee had.

S. 162
amended by
No. 65/1995
s. 14(49)(a)(b).

163 Interests in land

Without prejudice to the generality of this Act and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, Melbourne Water Corporation or a company licensee is, in relation to former Melbourne Water property, the registered proprietor of, or entitled to be registered as the proprietor of, an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

S. 163
amended by
No. 65/1995
s. 14(50)(a).

- (a) the transferee is to be taken to be the registered proprietor of that interest in land; and
- (b) the transferee has the same rights and remedies in respect of that interest as Melbourne Water Corporation or the company licensee had.

S. 163(b)
amended by
No. 65/1995
s. 14(50)(b).

164 Amendment of Register

- (1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the chief executive officer, must make any amendments in the Register that are necessary because of the operation of this Act.

S. 164(2)(3)
repealed by
No. 85/1998
s. 24(Sch.
item 67).

* * * * *

S. 165
amended by
Nos 65/1995
s. 14(51),
110/1997
s. 37 (ILA
s. 39B(1)).

165 Taxes

- (1) No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given for the purpose of, or connected with, the transfer of property, rights or liabilities of Melbourne Water Corporation or former Melbourne Water property.
- (2) No stamp duty or other tax is chargeable under any Act in respect of any transaction entered into or instrument made, executed, lodged or given for the purpose of, or connected with, the transfer otherwise than under this Part to Melbourne Water Corporation, Melbourne Parks and Waterways or a company licensee of property arising out of a subdivision of property of Melbourne Water Corporation or of former Melbourne Water property.

S. 165(2)
inserted by
No. 110/1997
s. 37.

166 Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of Melbourne Water Corporation in relation to former Melbourne Water property if this Part had not been enacted, is admissible for or against the interests of the transferee.
- (2) The **Evidence Act 2008** applies with respect to the books of account of Melbourne Water Corporation and to entries made in those books of account before the relevant date, whether or not they relate to former Melbourne Water property, as if those books of account and entries were business records.

S. 166(2)
amended by
No. 69/2009
s. 54(Sch. Pt 1
item 63.1).

* * * * *

S. 166(3)
repealed by
No. 69/2009
s. 54(Sch. Pt 1
item 63.2).

167 Validity of things done under this Act

- (1) Nothing effected by this Act or done or suffered under this Act—
 - (a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong; or
 - (b) is to be regarded as placing any person in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or

- (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
- (d) is to be regarded as frustrating any contract; or
- (e) releases any surety or other obligee wholly or in part from any obligation.

S. 167(2)
amended by
No. 65/1995
s. 14(52)(a)(b).

- (2) The validity of any act or transaction of Melbourne Water Corporation or a company licensee or the chief executive officer must not be called in question in any proceedings on the ground that any provision of this Part had not been complied with.

Division 4—Financial obligations of Melbourne Water Corporation

168 Financial obligations of Melbourne Water Corporation

- (1) Melbourne Water Corporation must give to the Treasurer and the Minister, within the period of 3 months after the day on which this Act receives the Royal Assent or such longer period as the Treasurer and the Minister approve, a statement, in a form approved by the Treasurer and the Minister, of its financial obligations valued at a fair market value as at a date specified by the Minister.
- (2) The statement under subsection (1)—
 - (a) may allocate, for the purposes of section 170, responsibility for all or for any specified financial obligations to which that section applies between the company licensees; and

S. 168(2)(a)
amended by
No. 65/1995
s. 14(53)(a)(b).

- (b) must specify the financial obligations of Melbourne Water Corporation to which section 170 does not apply and specify the company licensee that is to be responsible for making payments to Melbourne Water Corporation in respect of Melbourne Water Corporation's liability under particular financial obligations.
- (3) If the statement is approved by the Treasurer and the Minister—
 - (a) the Treasurer and the Minister must sign the statement; and
 - (b) the statement is the allocation statement of financial obligations for the purposes of this Division.
- (4) An allocation statement of financial obligations may be amended, or further amended, by writing signed by the Treasurer and the Minister.

169 Company licensees to make payments to Melbourne Water Corporation

- (1) Each company licensee must pay to Melbourne Water Corporation such amounts, and at such times, as Melbourne Water Corporation is liable to pay in respect of financial obligations for which the company licensee is responsible in accordance with the allocation statement under section 168.
- (2) Melbourne Water Corporation must pay to each company licensee amounts that Melbourne Water Corporation receives in respect of financial obligations (including amounts received under swap contracts) for which the company licensee is responsible in accordance with the allocation statement under section 168.

170 Payments in respect of financial obligations

(1) If—

- (a) an Order has been made under section 36D(1) or 36E(1) of the **Treasury Corporation of Victoria Act 1992** relating to financial obligations of Melbourne Water Corporation; and
- (b) responsibility for those financial obligations has been allocated under an allocation statement under section 168 to a company licensee—

then—

- (c) the company licensee must pay to TCV such amounts, and at such times, as Melbourne Water Corporation would have been liable to pay in respect of those financial obligations if the Order had not been made, except in so far as TCV and the company licensee otherwise agree; and
 - (d) TCV must pay to the company licensee such amounts, and at such times, as Melbourne Water Corporation would have been entitled to receive in respect of the financial accommodation or financial arrangements to which the financial obligations relate if the Order had not been made, except in so far as TCV and the company licensee otherwise agree.
- (2) An amount payable under subsection (1) may be recovered in a court of competent jurisdiction as a debt due to TCV or the company licensee, as the case requires.

Division 5—Rights as between transferees

171 Interim arrangements

(1) At any time before the expiration of the period of 6 months after the commencement of this section (or such longer period as the Minister approves by writing given to each of the transferees of former Melbourne Water property before the expiration of that period of 6 months), each transferee of former Melbourne Water property (*the new body*)—

**S. 171(1)
amended by
No. 65/1995
s. 14(54).**

- (a) may, subject to any agreement to the contrary, exercise the same rights and privileges (including access to goods and services) in relation to former Melbourne Water property that is transferred to another transferee as are reasonably necessary to enable the new body to carry out its functions in a manner similar to the manner in which Melbourne Water Corporation carried out corresponding functions before the relevant date; and
- (b) must, subject to any agreement to the contrary—
 - (i) permit any other transferee to exercise the same rights and privileges in relation to former Melbourne Water property that is transferred to the new body; and
 - (ii) make available to each other transferee such goods and services as are available from that former Melbourne Water property—

as are reasonably necessary to enable the other transferee to carry out its functions in a manner similar to the manner in which Melbourne Water Corporation carried out

corresponding functions before the relevant date.

- (2) A transferee must pay such reasonable charges for the exercise of rights and privileges under subsection (1)(a) in respect of former Melbourne Water property of another transferee as are determined by the other transferee and agreed between the parties or, if the other transferee determines charges and there is no agreement, as are determined by the Minister.

Division 6—Staff

172 List of Melbourne Water Corporation staff

- (1) Before the relevant date, Melbourne Water Corporation must prepare and submit to the Minister and Treasurer a document signed by the chief executive officer listing officers and employees of Melbourne Water Corporation and specifying in respect of each such officer or employee, the body by which he or she is to be regarded as having been employed by virtue of section 173 with effect from the relevant date.
- (2) The document may be amended, before or after the relevant date, by instrument signed by the chief executive officer and given to the Minister and Treasurer and the amendment is to be regarded as having effect, or having had effect, from the relevant date.
- (3) Nothing in this section prevents a person listed in the document as an officer or employee of Melbourne Water Corporation from resigning or being dismissed at any time before the relevant date in accordance with the terms and conditions of his or her appointment or employment.

173 Transfer of Melbourne Water Corporation staff

- (1) A person listed as an officer or employee of Melbourne Water Corporation in a document under section 172 who was such an officer or employee immediately before the relevant date is to be regarded as—
 - (a) having been employed by the new employer with effect from the relevant date; and
 - (b) having been so employed on the same terms and conditions as those that applied to the person, immediately before the relevant date, as an officer or employee of Melbourne Water Corporation; and
 - (c) having accrued an entitlement to benefits, in connection with that employment by the new employer, that is equivalent to the entitlement that the person had accrued, as an officer or employee of Melbourne Water Corporation, immediately before the relevant date.
- (2) The service of a transferred Melbourne Water employee as an employee of the new employer is to be regarded for all purposes as having been continuous with the service of the employee, immediately before the relevant date, as an officer or employee of Melbourne Water Corporation.
- (3) A transferred Melbourne Water employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of Melbourne Water Corporation because of this Act.
- (4) A certificate purporting to be signed by the chief executive officer certifying that a person named in the certificate was with effect from the relevant date employed, by virtue of this section, by a body named in the certificate is admissible in evidence

in any proceedings and is conclusive proof of the matters stated in it.

174 Future terms and conditions of transferred employees

Nothing in section 173 prevents—

- (a) any of the terms and conditions of employment of a transferred Melbourne Water employee from being altered by or under any law, award or agreement with effect from any time after the relevant date; or
- (b) a transferred Melbourne Water employee from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment by the new employer.

S. 175
repealed by
No. 4/1996
s. 134(13).

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Part 6—General

175A Vesting in Crown of bed, banks and soil of certain watercourses

S. 175A
inserted by
No. 65/1995
s. 12.

(1) Despite anything to the contrary in any Act, there shall by virtue of and without further or other conveyance, transfer or assignment than this section, be divested from Melbourne Water Corporation and vested in the Crown, all the bed, soil and banks of the River Yarra Yarra and of all other public rivers, creeks, watercourses and waterways—

(a) within the metropolis within the meaning of the **Water Act 1989** and vested in Melbourne Water Corporation immediately before the commencement of this section under section 60 or 271 of the **Melbourne Metropolitan Board of Works Act 1958** (before its repeal); or

S. 175A(1)(a)
amended by
No. 85/2006
s. 173(Sch. 1
item 15.5).

(b) on land included in the metropolis within the meaning of the **Water Act 1989** and vested in Melbourne Water Corporation immediately before the commencement of this section under an Order in Council made under section 3 of the **Melbourne Metropolitan Board of Works Act** (before its repeal).

S. 175A(1)(b)
amended by
No. 85/2006
s. 173(Sch. 1
item 15.6).

(2) Any land vested in the Crown under subsection (1)—

(a) is deemed to be unalienated land of the Crown; and

(b) is vested subject to any trust, encumbrance, limitation or restriction, and to any other estate or interest in the land, existing immediately before that vesting.

S. 175A(3)
amended by
Nos 66/2000
s. 21, 85/2006
s. 173(Sch. 1
item 15.7).

(3) Despite anything in the **Water Act 1989** or any other Act, any bed, soil and banks to which subsection (1) applies shall be under the management and control of Melbourne Water Corporation to the extent necessary to enable that body to exercise its functions under this Act or the **Water Act 1989**.

S. 176
amended by
Nos 65/1995
s. 14(55),
66/2000 s. 22,
repealed by
No. 17/2012
s. 77.

* * * * *

S. 176A
inserted by
No. 65/1995
s. 13,
repealed by
No. 17/2012
s. 77.

* * * * *

177 General evidentiary provisions

- (1) If in any proceeding under this Act or the regulations the amount of water delivered to a property during any period is relevant, evidence of the amount of water recorded by a water meter as having passed through the meter to the property during that period is, in the absence of evidence to the contrary, proof that that amount of water was delivered to that property during that period.
- (2) If—
 - (a) in any proceeding under this Act or the regulations the amount of water delivered to a property during any period is relevant; and
 - (b) as a result of a water meter having malfunctioned or having been destroyed, damaged, altered or in any way interfered with, a licensee is of the opinion that it did not accurately record the amount of water

delivered to that property during that period—

evidence may be given to the amount of water computed by the licensee in accordance with subsection (3) as having been delivered to that property during that period and that evidence is, in the absence of evidence to the contrary, proof that that amount of water was delivered to that property during that period.

- (3) A computation for the purposes of subsection (2) may be made—
- (a) by having regard to the quantity of water delivered to the property concerned in any previous or subsequent period or periods or the quantity of water delivered to any similar property during the period concerned; or
 - (b) in any other way that is prescribed.
- (4) In any proceeding under this Act or the regulations until evidence is given to the contrary proof is not required as to any of the following—
- (a) the issue of a licence to a licensee;
 - (b) the due appointment of the directors of a licensee;
 - (c) the employment of any person by a licensee;
 - (d) the authorisation of a person by a licensee to do any act or for any particular purpose;
 - (e) the size, location or boundaries of any area for which a licence is issued to a licensee;
 - (f) the fact that a particular property is located within a particular area;
 - (g) the presence of a quorum at any meeting of a licensee;

S. 177(4)
inserted by
No. 110/1997
s. 38.

S. 177(5)
inserted by
No. 110/1997
s. 38.

- (h) that a document purporting to be made or issued by a licensee was made or issued by that licensee;
- (i) the validity of the contents of any records or minutes of a licensee.

(5) A document purporting—

- (a) to be a map or plan made or issued by a licensee, whether before or after the commencement of section 38 of the **Water Acts (Further Amendment) Act 1997**; and
- (b) to show the location of any land or works or other thing or the physical features of any area; and
- (c) to be verified by an authorised person—

is admissible in evidence in any proceeding under this Act or the regulations and, in the absence of evidence to the contrary, is proof of the matters shown in the map or plan.

S. 177(6)
inserted by
No. 110/1997
s. 38.

(6) In any proceeding under this Act or the regulations—

- (a) evidence that a person is liable to a service charge or usage charge in respect of any property; or
- (b) evidence that a person's name appears in any records kept by a licensee as the owner or occupier of any property; or
- (c) evidence by the certificate of the Registrar of Titles or any Deputy Registrar of Titles or Assistant Registrar of Titles and authenticated by the seal of the Office of Titles that a person's name appears in the Register kept under the **Transfer of Land Act 1958** as the proprietor of an estate in fee simple or of a leasehold estate held of the Crown in any property; or

(d) evidence by the certificate of the Registrar-General or any Deputy Registrar-General that a person appears from a memorial of registration of any deed, conveyance or other instrument to be the owner of any property—

is, in the absence of evidence to the contrary, proof that that person is the owner or occupier (as the case requires) of that property.

- (7) In any proceeding under this Act or the regulations, the statement of any person that on a particular date he or she was an officer of a corporation is admissible in evidence and, in the absence of evidence to the contrary, is proof that on that date he or she was an officer of that corporation.

S. 177(7)
inserted by
No. 110/1997
s. 38.

177A Use of analyst's certificate in prosecutions

S. 177A
inserted by
No. 110/1997
s. 39.

- (1) If in respect of a proceeding for an offence against this Act or against any regulation made under this Act a copy of an analyst's certificate is obtained on behalf of the informant and served with the summons to answer to the charge, the analyst's certificate is admissible in evidence and, in the absence of evidence to the contrary, is proof of the matters stated in it and of the facts on which they are based unless the accused has at least 7 days before the contest mention date given written notice to the informant requiring the analyst to be called as a witness.
- (2) Service of a copy of an analyst's certificate with a summons to answer to a charge may be proved in any manner in which service of the summons may be proved and the evidence of service must state that a copy of the certificate was served with the summons.

S. 177A(1)
amended by
No. 68/2009
s. 97(Sch.
item 134.2).

Water Industry Act 1994
No. 121 of 1994
Part 6—General

S. 177B
inserted by
No. 110/1997
s. 39,
repealed by
No. 17/2012
s. 78.

* * * * *

S. 177C
inserted by
No. 110/1997
s. 39,
amended by
No. 44/2001
s. 3(Sch.
item 128.3),
repealed by
No. 17/2012
s. 78.

* * * * *

178 Offences by bodies corporate

- (1) If a body corporate commits an offence against this Act or the regulations, any officer of the body corporate who was in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for it, irrespective of whether the body corporate has itself been prosecuted for, or convicted or found guilty of, the offence.
- (2) If in a proceeding for an offence against this Act or the regulations it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.
- (3) A statement made by an officer of a body corporate is admissible as evidence against the body corporate in any proceeding for an offence against this Act or the regulations.

179 Prosecutions

(1) Proceedings for an offence against a provision of this Act or of regulations made under this Act may only be brought by—

(a) a police officer; or

S. 179(1)(a)
substituted by
No. 37/2014
s. 10(Sch.
item 183.2).

(ab) in the case of an offence against section 78H or 78O, in relation to a plan of a licensee, an authorised water officer appointed by the licensee; or

S. 179(1)(ab)
inserted by
No. 90/2003
s. 11(1),
substituted by
No. 29/2007
s. 11.

(b) a prescribed person or a person included in a prescribed class of persons.

(1A) Without limiting section 184, regulations made for the purposes of subsection (1)(b) may prescribe a person or a class of persons in relation to all offences against this Act or the regulations made under this Act or in relation to a specified offence or class of offence.

S. 179(1A)
inserted by
No. 22/1999
s. 9.

(2) In a proceeding for an offence referred to in subsection (1) it must be presumed, in the absence of evidence to the contrary, that the person bringing the proceeding was authorised to bring it.

(3) An employee of a licensee may only be authorised by a licensee under subsection (1)(ab) if the licensee is satisfied that the employee is appropriately qualified and trained.

S. 179(3)
inserted by
No. 90/2003
s. 11(2).

* * * * *

Ss 180, 181
repealed by
No. 17/2012
s. 79.

Water Industry Act 1994
No. 121 of 1994
Part 6—General

S. 182 amended by No. 12/1996 s. 22, repealed by No. 17/2012 s. 79.	*	*	*	*	*
S. 183 amended by No. 21/2012 s. 239(Sch. 6 item 47), repealed by No. 17/2012 s. 79.	*	*	*	*	*
S. 183A inserted by No. 52/1998 s. 311(Sch. 1 item 106.2), substituted by No. 22/1999 s. 10, repealed by No. 17/2012 s. 79.	*	*	*	*	*

184 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) the conservation and efficient use of water including—
 - (i) the standards, criteria and procedures to be used for measuring the efficiency of water use of specified classes of private works, fittings and apparatus and the testing, marking and labelling of such works, fittings and apparatus;
 - (ii) the safe operation of licensees' water supply or sewerage systems;

S. 184(1)(a)(ii)
substituted by
No. 39/1996
s. 13(3).

- (b) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) A power conferred by this Act to make regulations may be exercised—
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
 - (b) so as to make, as respects the cases in relation to which the power is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.
- (3) Regulations made under this Act may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State; or
 - (iii) as specified in both subparagraphs (i) and (ii); and

- (b) so as to require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
 - (iii) as specified in both subparagraphs (i) and (ii); and
- (c) so as to apply, adopt or incorporate any matter contained in any document whatsoever whether—
 - (i) wholly or partially or as amended by the regulations; or
 - (ii) as in force at a particular time or as in force from time to time; and
- (d) so as to confer a discretionary authority or impose a duty on a specified person or a specified class of person; and
- (e) so as to provide in a specified case or class of case for the exemption of people or things or a class of people or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and
- (f) so as to impose a penalty for a contravention of the regulations, not exceeding 20 penalty units and, in the case of a continuing offence, an additional penalty not exceeding 5 penalty units for each day on which the offence continues—
 - (i) after service of a notice of contravention on the person under section 69; or

- (ii) if no notice of contravention is served, after conviction of the person for the offence.

185 Savings and transitionals

- (1) Schedule 2 contains savings or transitional provisions.
- (2) The regulations may contain provisions of a savings or transitional nature consequent on—
- (a) the coming into operation of any provision of this Act; or
- (b) the removal of any power or function from Melbourne Water Corporation.
- (3) The provisions of Schedule 2 are in addition to, and not in derogation from, the provisions of the **Interpretation of Legislation Act 1984**.

* * * * *

**Pt 6A
(Heading and
ss 185A–
185D)
inserted by
No. 29/2007
s. 12,
repealed by
No. 17/2012
s. 80.**

New Pt 7
(Heading and
ss 186, 187)
inserted by
No. 66/2000
s. 23.

Part 7—Transitional provisions

New s. 186
inserted by
No. 66/2000
s. 23.

186 Transitional provision for Melbourne Parks and Waterways

Except as otherwise provided in this Act, on the commencement of section 8 of the **Water Industry (Amendment) Act 2000**—

- (a) Melbourne Parks and Waterways is abolished and the members of its Board of directors go out of office; and
- (b) all rights, property and assets that, immediately before that commencement were vested in Melbourne Parks and Waterways, vest in the State; and
- (c) all debts, liabilities and obligations of Melbourne Parks and Waterways existing immediately before that commencement, become debts, liabilities and obligations of the State; and
- (d) the State is substituted as a party to any proceedings pending in any court or tribunal to which Melbourne Parks and Waterways was a party immediately before that commencement; and
- (e) the State is substituted as a party to any arrangement or contract entered into by or on behalf of Melbourne Parks and Waterways and in force immediately before that commencement; and

- (f) any reference to Melbourne Parks and Waterways in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document, so far as it relates to any period after that commencement, and if not inconsistent with the context or subject matter, must be construed as a reference to the State.

187 Continued operation of jetty and mooring licences

Despite the commencement of section 12 of the **Water Industry (Amendment) Act 2000**, any licence granted under section 135A of this Act, and in force immediately before that commencement, continues in force on and from that commencement and section 135A, as in force immediately before that commencement, continues to apply to any such licence until the licence expires or is cancelled (whichever is the earlier).

New s. 187
inserted by
No. 66/2000
s. 23.

New Pt 8
(Heading and
ss 188–190)
inserted by
No. 66/2000
s. 23.

Part 8—Wattle Park Land

New s. 188
inserted by
No. 66/2000
s. 23.

188 Repeal of the Wattle Park Land Act 1991

The **Wattle Park Land Act 1991** is repealed.

New s. 189
inserted by
No. 66/2000
s. 23.

189 Surrender and reservation of Wattle Park Land

By force of this section the land shown hatched on the Plan in Schedule 3 is surrendered to the Crown and—

- (a) is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) the folios of the Register Volume 1416 Folio 110, Volume 1761 Folio 141 and Volume 3010 Folio 859 are cancelled; and
- (c) the land is deemed to be permanently reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being in particular the purposes of conservation, recreation, leisure and tourism and the reservation may be dealt with in accordance with that Act.

New s. 190
inserted by
No. 66/2000
s. 23.

190 Saving of rights

- (1) This Part does not affect the status or continuity of any interest in, licence or right affecting, or arrangement or agreement relating to—
 - (a) the Wattle Park Chalet; or

- (b) any golf course or tennis court—
on the land set out in Schedule 3.
- (2) On the coming into operation of this Part, any lease, licence, agreement or arrangement to which subsection (1) applies and to which Melbourne Parks and Waterways was a party has effect as if the Minister were substituted for Melbourne Parks and Waterways as that party.
- (3) Nothing effected by this section is to be regarded as placing any person in breach of or as constituting a default under any provision of a lease, including any provision prohibiting, restricting or regulating the assignment of a lease.

* * * * *

**Pts 7, 8
(Headings
and ss 186–
206)
repealed by
No. 22/1999
s. 11(2).**

Pt 9 (Heading and ss 207–215) amended by Nos 65/1995 s. 14(56), 109/1997 s. 533(Sch. 2 item 13.3), repealed by No. 22/1999 s. 11(2), new Pt 9 (Heading and ss 191–196) inserted by No. 57/2004 s. 3.

Part 9—Environmental contributions

Division 1—Definitions

191 Definitions

New s. 191 inserted by No. 57/2004 s. 3.

In this Part—

environmental contribution means an amount payable by a water supply authority under section 192 or 193;

financial year means a period of 12 months beginning on 1 July in any year and ending on 30 June in the next following year;

water supply authority means any of the following—

- (a) an Authority that has—
- (i) a water district under Part 8; or
 - (ii) a sewerage district under Part 9; or
 - (iii) an irrigation district under Part 11—

of the **Water Act 1989**;

* * * * *

S. 191 def. of *water supply authority* amended by Nos 85/2006 s. 173(Sch. 1 item 15.8), 17/2012 s. 81.

- (c) Melbourne Water Corporation established under Part 6 of the **Water Act 1989**.

Division 2—Environmental contributions

192 Obligation to pay environmental contributions for the period from 1 October 2004 to 30 June 2008

New s. 192
inserted by
No. 57/2004
s. 3.

An authority specified in an item in Column 2 of the Table in Schedule 4 must pay into the Consolidated Fund—

- (a) for the period beginning on 1 October 2004 and ending on 30 June 2005, the amount specified in relation to that item in Column 3 of the Table; and
- (b) for the period beginning on 1 July 2005 and ending on 30 June 2006, the amount specified in relation to that item in Column 4 of the Table; and
- (c) for the period beginning on 1 July 2006 and ending on 30 June 2007, the amount specified in relation to that item in Column 5 of the Table; and
- (d) for the period beginning on 1 July 2007 and ending on 30 June 2008, the amount specified in relation to that item in Column 6 of the Table.

193 Obligation to pay environmental contributions for periods from 1 July 2008

New s. 193
inserted by
No. 57/2004
s. 3.

- (1) Each water supply authority must pay into the Consolidated Fund, in respect of each financial year in respect of which an Order is made under this section, the amount—
 - (a) that is calculated by reference to the revenue of the authority; and

- (b) that is determined in accordance with the Order.
- (2) For the purposes of subsection (1), the Minister, by Order published in the Government Gazette, may specify—
 - (a) the period (being not more than 4 years and not beginning any earlier than 1 July 2008) to which the Order relates; and
 - (b) the revenue or the class or classes of revenue that are to be used in the calculation of the amount under subsection (1), being—
 - (i) revenue that is derived from the provision of services by the authority, other than recycled water supply services; and
 - (ii) revenue that is derived from a period, as determined by the Minister and specified in the Order, that precedes the period to which the Order relates; and
 - (c) for each financial year to which the Order relates, the percentage or percentages of the revenue specified under paragraph (b) that are to be used in calculating the amount to be paid under subsection (1), which may vary in accordance with the nature of the service to which the revenue relates or the nature of the authority that is to pay the amount; and
 - (d) any authority or authorities that are exempt from the requirement to pay an amount under subsection (1) in any financial year to which the Order relates, and the reasons for giving any such exemption; and
 - (e) for each financial year to which the Order relates, the total amount being raised under subsection (1); and

- (f) the nature of projects or programs to which the amount being raised under subsection (1) is proposed to be applied; and
 - (g) for each financial year to which the Order relates, the arrangements for the payment of the amount under subsection (1) within that year.
- (3) In making an Order under this section, the Minister must have regard, amongst other things, to the following—
- (a) the purposes set out in section 194 for which each environmental contribution is collected;
 - (b) the ability of all water supply authorities or any particular water supply authority to make an environmental contribution;
 - (c) any amount that any particular water supply authority has spent or will spend on funding initiatives that are consistent with the purposes set out in section 194;
 - (d) the conclusions reached as a result of any review completed under section 196.
- (4) Despite anything to the contrary in section 27 of the **Interpretation of Legislation Act 1984**, an Order made under this section can only be amended to correct a typographical error or a mathematical miscalculation (or anything stemming from a mathematical miscalculation) or any other error that is apparent on the face of the Order.

194 Purpose for the collection of contributions

Each environmental contribution paid by a water supply authority under this Part is collected for the purposes of funding initiatives that seek to—

- (a) promote the sustainable management of water; or

New s. 194
inserted by
No. 57/2004
s. 3.

- (b) address adverse water-related environmental impacts.

New s. 195
inserted by
No. 57/2004
s. 3.

195 Annual Report

- (1) The Minister must, within 3 months after the end of each financial year in respect of which a water supply authority pays an environmental contribution under this Part, prepare a report setting out details of the expenditure of all money paid as environmental contributions by water supply authorities in that financial year.
- (2) The report must be included in the department's annual report of operations for that financial year under Part 7 of the **Financial Management Act 1994**.

New s. 196
inserted by
No. 57/2004
s. 3.

196 Review of the operation of this Part

The Secretary must—

- (a) on or before 1 July 2008; and
- (b) thereafter, on or before the end of each period to which an Order under section 193 relates—

complete a review of the operation of this Part and report to the Minister on the conclusions reached as a result of that review.

Part 10—Transitional provisions

Pt 10
(Heading and
ss 197–200)
inserted by
No. 17/2012
s. 82.

197 Definitions

S. 197
inserted by
No. 17/2012
s. 82.

In this Part—

old licensee means a body set out in Column 2 of the Table in Schedule 1A to the **Water Act 1989**;

old Statement of Obligations means a Statement of Obligations under section 8 as in force before the water corporation commencement;

relevant water corporation, in relation to an old licensee, means the water corporation set out in Column 1 of the Table in Schedule 1A to the **Water Act 1989** immediately opposite the old licensee;

water corporation commencement has the same meaning as in Schedule 17 to the **Water Act 1989**.

198 Statement of Obligations

S. 198
inserted by
No. 17/2012
s. 82.

On the water corporation commencement, an old Statement of Obligations issued to an old licensee as in force immediately before that day is taken to be a Statement of Obligations issued under section 4I to the relevant water corporation.

199 Rate collection by metropolitan water corporations

S. 199
inserted by
No. 17/2012
s. 82.

On the water corporation commencement, any terms and conditions agreed between an old licensee and the rating authority under section 143 as in force immediately before that day are taken to be terms and conditions agreed between the

relevant water corporation and the rating authority under that section.

S. 200
inserted by
No. 17/2012
s. 82.

200 Regulations

Despite the water corporation commencement, any regulations made under sections 50, 51, 52, 53 and 184 of the **Water Industry Act 1994** are taken to continue in force as if any reference in those sections or any regulations made under those sections to *licensee* were a reference to *metropolitan water corporation*.

Schedules

Schedule 1—Land exempt from charges and rates

Sections 25 and 139(2)

1. Land within the metropolis within the meaning of the **Water Act 1989** vested in, and occupied by, the Crown, Victorian Rail Track within the meaning of section 3 of the **Transport Integration Act 2010** or the Minister administering the **Education and Training Reform Act 2006**.
2. Land within the metropolis within the meaning of the **Water Act 1989** vested in the Crown, Victorian Rail Track within the meaning of section 3 of the **Transport Integration Act 2010** or the Minister administering the **Education and Training Reform Act 2006** and used for public purposes.
3. Land within the metropolis within the meaning of the **Water Act 1989** that is not rateable under section 154 of the **Local Government Act 1989**.
4. Recreational lands within the meaning of the **Cultural and Recreational Lands Act 1963** that are within the metropolis within the meaning of the **Water Act 1989**.

Sch. 1
amended by
Nos 65/1995
s. 14(57)(a)(b),
54/2001 s. 44,
24/2006
s. 6.1.2(Sch. 7
item 46),
85/2006
s. 173(Sch. 1
item 15.9),
6/2010
s. 203(1)
(Sch. 6
item 52) (as
amended by
No. 45/2010
s. 22).

Schedule 2—Savings and transitionals

Section 185

1 New and restructured Authorities

The amendments of the **Water Act 1989** made by section 192 apply only with respect to an Authority constituted or restructured by an Order made after the commencement of that section.

2 By-laws

- (1) Any by-laws made under section 214 of the MMBW Act and in force immediately before the commencement of section 203(1) of this Act continue in force on and after that commencement and have effect as if they were regulations made under section 149 of this Act insofar as they could have been made under section 149 of this Act.
- (2) By-laws continued in force by subclause (1) continue in force for so long as, but for this Act, they would have remained in force unless sooner revoked by regulations made under section 149.

3 Metropolitan Improvement Rate

The repeal by section 203(2) of this Act of section 218 of the MMBW Act does not affect any liability to pay a rate made and levied under that section before its repeal.

4 Metropolitan drainage and waterways

Despite the amendments of the MMBW Act made by section 205, Melbourne Water Corporation has power to complete any river improvement works within the meaning of Part X of the MMBW Act as in force immediately before the commencement of section 205(1) that were commenced to be carried out by Melbourne Water Corporation before the commencement of that section but were not completed before then.

5 Floodplain management

Division 4 of Part 10 of the **Water Act 1989** applies to a declaration made by Melbourne Water Corporation under section 203 of that Act and in force immediately before the commencement of section 205(2) of this Act as if it had been made by the Minister.

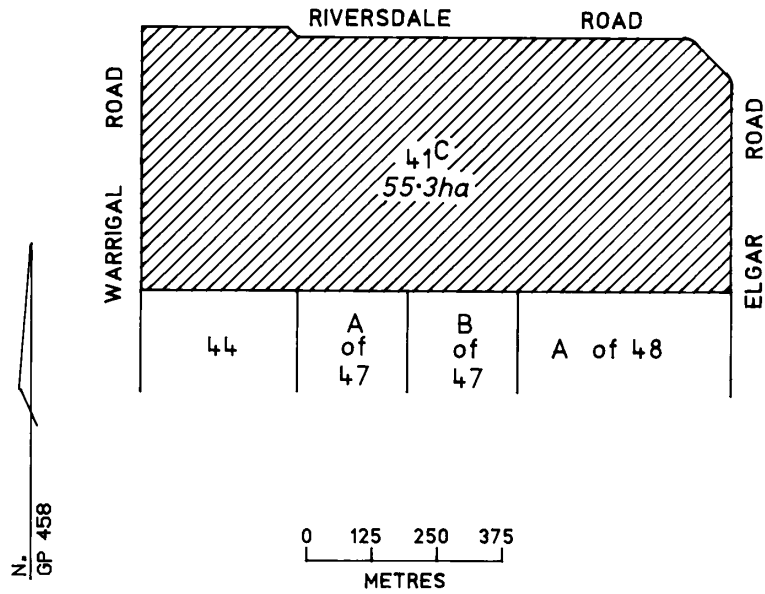
6 MWC directors

The amendments of the **Melbourne Water Corporation Act 1992** made by section 214(e) and (f) do not affect any appointment of a person as a director, or the Managing Director, of Melbourne Water Corporation made before the commencement of that section.

Sch. 3
inserted by
No. 66/2000
s. 24.

Schedule 3—Wattle Park Land

Parish of Nunawading



Water Industry Act 1994

No. 121 of 1994

Schedule 4—Table of environmental contributions from 1 October 2004 to
30 June 2008

**Schedule 4—Table of environmental
contributions from 1 October 2004 to
30 June 2008**

Sch. 4
inserted by
No. 57/2004
s. 4.

TABLE

<i>Column 1 Item No.</i>	<i>Column 2 Authority</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>
1.	Barwon Region Water Authority	\$2 760 000	\$3 680 000	\$3 680 000	\$3 680 000
2.	Central Gippsland Region Water Authority	\$1 520 000	\$2 030 000	\$2 030 000	\$2 030 000
3.	Central Highlands Region Water Authority	\$1 140 000	\$1 510 000	\$1 510 000	\$1 510 000
4.	City West Water Limited	\$7 660 000	\$10 220 000	\$10 220 000	\$10 220 000
5.	Coliban Region Water Authority	\$1 270 000	\$1 740 000	\$1 740 000	\$1 740 000
6.	East Gippsland Region Water Authority	\$440 000	\$590 000	\$590 000	\$590 000
7.	First Mildura Irrigation Trust		\$100 000	\$100 000	\$100 000
8.	Gippsland and Southern Rural Water Authority		\$210 000	\$210 000	\$210 000

Water Industry Act 1994

No. 121 of 1994

Schedule 4—Table of environmental contributions from 1 October 2004 to
30 June 2008

<i>Column 1 Item No.</i>	<i>Column 2 Authority</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>
9.	Glenelg Region Water Authority	\$170 000	\$230 000	\$230 000	\$230 000
10.	Goulburn Valley Region Water Authority	\$1 130 000	\$1 500 000	\$1 500 000	\$1 500 000
11.	Goulburn- Murray Rural Water Authority				\$1 240 000
12.	Grampians Wimmera Mallee Water Authority	\$790 000	\$1 240 000	\$1 240 000	\$1 240 000
13.	Lower Murray Urban and Rural Water Authority	\$600 000	\$980 000	\$980 000	\$980 000
14.	Melbourne Water Corporation		\$6000	\$6000	\$6000
15.	North East Region Water Authority	\$890 000	\$1 180 000	\$1 180 000	\$1 180 000
16.	Portland Coast Region Water Authority	\$170 000	\$230 000	\$230 000	\$230 000
17.	South East Water Limited	\$11 340 000	\$15 120 000	\$15 120 000	\$15 120 000

Water Industry Act 1994
No. 121 of 1994

<i>Column 1 Item No.</i>	<i>Column 2 Authority</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>
18.	South Gippsland Region Water Authority	\$400 000	\$530 000	\$530 000	\$530 000
19.	South West Water Authority	\$470 000	\$670 000	\$670 000	\$670 000
20.	Western Region Water Authority	\$970 000	\$1 300 000	\$1 300 000	\$1 300 000
21.	Westernport Region Water Authority	\$340 000	\$450 000	\$450 000	\$450 000
22.	Yarra Valley Water Limited	\$12 540 000	\$16 720 000	\$16 720 000	\$16 720 000

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 16 November 1994

Legislative Council: 7 December 1994

The long title for the Bill for this Act was "A Bill to provide for the reform of the water industry, to amend the **Melbourne and Metropolitan Board of Works Act 1958**, the **Water Act 1989**, the **Melbourne Water Corporation Act 1992** and certain other Acts and for other purposes."

The **Water Industry Act 1994** was assented to on 20 December 1994 and came into operation as follows:

Sections 1, 2 on 20 December 1994; section 2(1); rest of Act on 1 January 1995: Special Gazette (No. 105) 23 December 1994 page 1.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the **Water Industry Act 1994** by Acts and subordinate instruments.

Water Industry (Amendment) Act 1995, No. 65/1995

Assent Date: 27.6.95
Commencement Date: S. 14(53)(56) on 20.12.94: s. 2(2); Pt 1 (ss 1–3) on 27.6.95: s. 2(1); rest of Act (*except* ss 16(8), 22(a)(e)(g)(h)(l), 33) on 29.6.95: Government Gazette 29.6.95 p. 1587; ss 16(8), 22(a)(e)(g)(h)(l), 33 on 27.12.95: s. 2(4)
Current State: All of Act in operation

Superannuation Acts (Amendment) Act 1996, No. 4/1996

Assent Date: 18.6.96
Commencement Date: S. 134(13) on 30.6.96: s. 2(12)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Water Acts (Amendment) Act 1996, No. 12/1996

Assent Date: 25.6.96
Commencement Date: Ss 13, 14, 16–22 on 25.6.96: s. 2(1); s. 15 on 25.6.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Building (Amendment) Act 1996, No. 39/1996

Assent Date: 12.1.96
Commencement Date: S. 13 on 24.3.97: s. 2(2)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Port Services and Marine (Amendment) Act 1996, No. 51/1996

Assent Date: 26.11.96
Commencement Date: S. 19 on 26.11.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**.

Miscellaneous Acts (Omnibus No. 3) Act 1997, No. 45/1997

Assent Date: 11.6.97
Commencement Date: Ss 37, 38 on 11.6.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Residential Tenancies Act 1997, No. 109/1997

Assent Date: 23.12.97
Commencement Date: S. 533(Sch. 2 items 13.2, 13.3) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

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Water Acts (Further Amendment) Act 1997, No. 110/1997

Assent Date: 23.12.97
Commencement Date: S. 31 on 1.1.98; s. 2(2); ss 26, 27, 28(1)(2), 29, 30(2)(b)–(d), 33–40 on 1.1.98: Government Gazette 24.12.97 p. 3783; ss 28(3)(4), 30(1)(2)(a)(3) on 1.7.98: Government Gazette 24.12.97 p. 3783; s. 32 on 1.1.99: s. 2(5)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Parks Victoria Act 1998, No. 44/1998

Assent Date: 26.5.98
Commencement Date: Ss 27–29 on 3.7.98: Government Gazette 2.7.98 p. 1690
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 106) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 67) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Water Acts (Amendment) Act 1999, No. 22/1999

Assent Date: 18.5.99
Commencement Date: Ss 8, 10 on 25.3.99: s. 2(3); ss 9, 11 on 18.5.99: s. 2(1)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Essential Services Legislation (Dispute Resolution) Act 2000, No. 59/2000

Assent Date: 8.11.00
Commencement Date: S. 5 on 13.4.01: Government Gazette 29.3.01 p. 523
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

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Water Industry (Amendment) Act 2000, No. 66/2000

Assent Date: 8.11.00
Commencement Date: S. 10 on 9.11.00: s. 2(1); ss 3–9, 11–24 on 1.12.01:
s. 2(4)
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 128) on 15.7.01: s. 2
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Transport (Further Amendment) Act 2001, No. 54/2001

Assent Date: 2.10.01
Commencement Date: S. 44 on 30.6.03: s. 2(5)
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Essential Services Commission Act 2001, No. 62/2001

Assent Date: 23.10.01
Commencement Date: Ss 91, 92 on 1.1.02: s. 2
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Statute Law (Further Revision) Act 2002, No. 11/2002

Assent Date: 23.4.02
Commencement Date: S. 3(Sch. 1 item 67) on 24.4.02: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

**Water Legislation (Essential Services Commission and Other Amendments)
Act 2003, No. 48/2003**

Assent Date: 11.6.03
Commencement Date: Ss 3, 4 on 1.1.04: Government Gazette 11.12.03
p. 3117; ss 5, 6 on 1.7.05: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Water Legislation (Amendment) Act 2003, No. 90/2003

Assent Date: 11.11.03
Commencement Date: Ss 8–11, 13 on 12.11.03: s. 2
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: Ss 177, 178 on 1.1.05: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Water Industry (Environmental Contributions) Act 2004, No. 57/2004

Assent Date: 21.9.04
Commencement Date: 22.9.04: s. 2
Current State: All of Act in operation

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Essential Services Commission (Amendment) Act 2004, No. 75/2004

Assent Date: 9.11.04
Commencement Date: S. 76 on 10.11.04: s. 2
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

State Concessions Act 2004, No. 82/2004

Assent Date: 16.11.04
Commencement Date: S. 13(Sch. item 8) on 1.3.05: s. 2(2)
Current State: This information relates only to provision/s amending the **Water Industry Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 233) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Statute Law Revision Act 2005, No. 10/2005

Assent Date: 27.4.05
Commencement Date: S. 3(Sch. 1 item 26) on 28.4.05: s. 2
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Rail Safety Act 2006, No. 9/2006

Assent Date: 4.4.06
Commencement Date: S. 162 on 1.8.06: Special Gazette (No. 181) 25.7.06 p. 1
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 46) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Owners Corporations Act 2006, No. 69/2006

Assent Date: 19.9.06
Commencement Date: S. 224(Sch. 3 item 13) on 31.12.07: s. 2(2)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Water (Governance) Act 2006, No. 85/2006

Assent Date: 17.10.06
Commencement Date: Ss 166–170 on 21.12.06: Government Gazette 21.12.06 p. 2768; s.173(Sch. 1 item 15) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

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**Water Acts Amendment (Enforcement and Other Matters) Act 2007,
No. 29/2007**

Assent Date: 26.6.07
Commencement Date: Ss 3–12 on 27.6.07: s. 2
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Essential Services Commission Amendment Act 2008, No. 15/2008

Assent Date: 23.4.08
Commencement Date: S. 28 on 1.7.08: Government Gazette 26.6.08 p. 1388
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

**Criminal Procedure Amendment (Consequential and Transitional Provisions)
Act 2009, No. 68/2009**

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 134) on 1.1.10: Government Gazette
10.12.09 p. 3215
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

**Statute Law Amendment (Evidence Consequential Provisions) Act 2009,
No. 69/2009**

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 1 item 63) on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Transport Integration Act 2010, No. 6/2010 (as amended by No. 45/2010)

Assent Date: 2.3.10
Commencement Date: Ss 25(5)(Sch. 2 item 13), 203(1)(Sch. 6 item 52) on
1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Health and Human Services Legislation Amendment Act 2010, No. 29/2010

Assent Date: 8.6.10
Commencement Date: S. 74 on 1.7.10: Special Gazette (No. 235) 23.6.10 p. 1
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

Commercial Arbitration Act 2011, No. 50/2011

Assent Date: 18.10.11
Commencement Date: S. 46(Sch. item 16) on 17.11.11: Special Gazette
(No. 369) 15.11.11 p. 1
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

**Water Legislation Amendment (Water Infrastructure Charges) Act 2011,
No. 63/2011**

Assent Date: 15.11.11
Commencement Date: Ss 3–6 on 16.11.11: s. 2
Current State: This information relates only to the provision/s
amending the **Water Industry Act 1994**

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Parks and Crown Land Legislation Amendment Act 2012, No. 7/2012

Assent Date: 6.3.12
Commencement Date: Ss 26, 27 on 1.9.12: Special Gazette (No. 291) 28.8.12 p. 1
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Water Amendment (Governance and Other Reforms) Act 2012, No. 17/2012

Assent Date: 3.4.12
Commencement Date: Ss 70–82 on 1.7.12: Special Gazette (No. 172) 29.5.12 p. 1
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Australian Consumer Law and Fair Trading Act 2012, No. 21/2012

Assent Date: 8.5.12
Commencement Date: S. 239(Sch. 6 item 47) on 1.7.12: Special Gazette (No. 214) 28.6.12 p. 1
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Water Legislation Amendment Act 2013, No. 24/2013

Assent Date: 23.4.13
Commencement Date: S. 41 on 19.6.13: Special Gazette (No. 211) 18.6.13 p. 1
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Parks and Crown Land Legislation Amendment Act 2013, No. 79/2013

Assent Date: 17.12.13
Commencement Date: S. 44 on 18.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 183) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

Parks Victoria Act 2018, No. 19/2018

Assent Date: 5.6.18
Commencement Date: Ss 221, 222 on 12.9.18: Special Gazette (No. 386) 21.8.18 p. 1
Current State: This information relates only to the provision/s amending the **Water Industry Act 1994**

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Pt 2 (Heading and ss 5–53) amended by Nos 65/1995 ss 4–6, 14(2)–(21), 12/1996 ss 13, 14(1), 15(2), 39/1996 s. 13(1), 45/1997 s. 37, 109/1997 s. 533(Sch. 2 item 13.2), 110/1997 ss 27–33, 40(1), 46/1998 s. 7(Sch. 1), 22/1999 s. 11(1), 59/2000 s. 5, 66/2000 ss 4, 5, 62/2001 ss 91(b)–(g), 92, 11/2002 s. 3(Sch. 1 item 67), 48/2003 ss 4–6, 90/2003 s. 13(2)(3), 82/2004 s. 13(Sch. item 8), 108/2004 s. 117(1)(Sch. 3 item 233.1), 69/2006 s. 224(Sch. 3 item 13), 85/2006 s. 173(Sch. 1 item 15.3), repealed by No. 17/2012 s. 74.

² Pt 3 (Heading and ss 54–106) amended by Nos 65/1995 ss 7, 8, 14(22)–(35), 12/1996 ss 16–18, 39/1996 s. 13(2), 110/1997 ss 34, 35, 40(2), 46/1998 s. 7(Sch. 1), 52/1998 s. 311(Sch. 1 item 106.1), 22/1999 s. 8, 66/2000 s. 6, 62/2001 s. 91(c)(d)(f), 90/2003 ss 8–10, 13(2), 12/2004 ss 177, 178, 108/2004 s. 117(1)(Sch. 3 item 233.2), 10/2005 s. 3(Sch. 1 item 26), 9/2006 s. 162, 85/2006 ss 166–170, 173(Sch. 1 item 15.4), 29/2007 ss 4–10, 68/2009 s. 97(Sch. item 134.1), 29/2010 s. 74(2), 50/2011 s. 46(Sch. item 16), repealed by No. 17/2012 s. 75.