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A Bill for an Act to make miscellaneous amendments to the Water Act 1989 and the Catchment and Land Protection Act 1994 and for other purposes.

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

(a) to amend the Water Act 1989—

(i) in relation to Aboriginal cultural values and uses of waterways; and

(ii) in relation to the social and recreational uses and values of waterways; and
Part 1—Preliminary

(iii) to include specified Aboriginal parties in water resource planning and the development and review of strategies; and

(iv) in relation to water resource assessments and strategies; and

(v) to further provide for the determination of districts and for serviced properties; and

(vi) to provide for functions of the Minister in relation to salinity mitigation; and

(vii) to provide for salinity impact charges and to validate the imposition of salinity impact charges; and

(viii) to further provide for offences and related provisions to promote compliance with that Act and enforcement of that Act; and

(ix) to improve the operation of that Act; and

(b) to amend the **Catchment and Land Protection Act 1994**—

(i) in relation to the Victorian Catchment Management Council and Melbourne Water Corporation; and

(ii) in relation to Aboriginal cultural values and traditional ecological knowledge of management of land and water resources; and

(iii) to include specified Aboriginal parties in the preparation of certain catchment strategies and special area plans; and

(c) to make minor and related amendments to those Acts.
Part 1—Preliminary

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

(2) If a provision of this Act does not come into operation before 19 March 2020, it comes into operation on that day.

3 Principal Act

In this Act, the Water Act 1989 is called the Principal Act.
Part 2—Amendment of the Water Act 1989

4 Purposes

After section 1(e) of the Principal Act insert—

"(ea) to ensure that Victoria's water resources and waterways are managed in a way that considers—

(i) Aboriginal cultural values and uses of waterways; and

(ii) the social and recreational uses and values of waterways;".

5 Definitions

(1) In section 3(1) of the Principal Act—

(a) for the definition of irrigation district substitute—

"irrigation district, in relation to a water corporation, means any district that is determined to be or taken to be an irrigation district of the water corporation under Part 6A, including (where the case so requires) any such district as varied under that Part;";

(b) for the definition of sewerage district substitute—

"sewerage district, in relation to a water corporation, means any district that is determined to be or taken to be a sewerage district of the water corporation under Part 6A, including (where the case so requires) any such district as varied under that Part;";

(c) the definition of water district is repealed;
(d) **insert** the following definition—

"**water supply district**, in relation to a water corporation, means any district that is determined to be or taken to be a water supply district of the water corporation under Part 6A, including (where the case so requires) any such district as varied under that Part;";

(e) for the definition of **waterway management district substitute**—

"**waterway management district**, in relation to an Authority, means any district that is determined to be or taken to be a waterway management district of the Authority under Part 6A, including (where the case so requires) any such district as varied under that Part;";

(f) the definition of **Coliban water district** is **repealed**.

(2) In section 3(1) of the Principal Act, for the definition of **serviced property substitute**—

"**serviced property** means—

(a) land that is declared to be serviced property under a notice under section 144 or 179; and

(b) in relation to the waterway management district of Melbourne Water Corporation, the land that is serviced property under section 144A;".
(3) In section 3(1) of the Principal Act insert the following definitions—

"environmental area" means land determined to be an environmental area under section 122ZA;

recreational area means land determined to be a recreational area under section 122ZA;".

(4) In section 3(1) of the Principal Act insert the following definition—

"social and recreational uses and values, in relation to waterways, means—

(a) the uses of waterways for social and recreational purposes; and

(b) the economic, aesthetic and well-being benefits that the community derives from the use of waterways for social and recreational purposes;".

(5) In section 3(1) of the Principal Act insert the following definitions—

"determination of native title" has the same meaning as in section 225 of the Native Title Act 1993 of the Commonwealth;

native title holder has the same meaning as in section 224 of the Native Title Act 1993 of the Commonwealth;

recognition and settlement agreement has the same meaning as in the Traditional Owner Settlement Act 2010;

specified Aboriginal party, in relation to an area, means any of the following—

(a) if there are native title holders for the whole or part of the area, the native title holders;
Part 2—Amendment of the Water Act 1989

(b) if there is a traditional owner group entity appointed for the whole or part of the area and that traditional owner group entity is a party to a recognition and settlement agreement, the traditional owner group entity;

(c) if there is a registered Aboriginal party within the meaning of the Aboriginal Heritage Act 2006 for the whole or part of the area, the registered Aboriginal party;".

(6) In section 3(1) of the Principal Act, in the definition of in-stream uses, for paragraph (b) substitute—

"(b) the maintenance of aesthetic and scientific values; and

(ba) the maintenance of Aboriginal cultural values and uses of waterways and other cultural values and uses of waterways; and".

(7) In section 3(1) of the Principal Act insert the following definitions—

"Aboriginal person has the same meaning as in the Aboriginal Heritage Act 2006;

northern water resources means the water resources referred to in the definition of Basin water resources in the Water Act 2007 of the Commonwealth;".

(8) In section 3(1) of the Principal Act insert the following definitions—

"annual salinity impact charge means a charge fixed in a determination under section 232B(1)(b);

capital works salinity impact charge means a charge fixed in a determination under section 232B(1)(a);".
salinity impact charge means—
(a) a capital works salinity impact charge;
or
(b) an annual salinity impact charge;

salinity impact zone means an area of land that is determined to be a salinity impact zone under section 232;".

(9) In section 3(1) of the Principal Act insert the following definition—
"water infringement offence means an offence against any of the following—
(a) section 33E(3), to which section 33EB applies;
(b) section 63(3), to which section 63B applies;
(c) section 289(3) or 289B(3), to which section 289C applies;
(d) any other provision of this Act, or the regulations or the by-laws made under this Act, that is prescribed for the purposes of section 295A(1);".

(10) In section 3(1) of the Principal Act, in the definition of authorised person, after "an Authority" insert "or the Minister".

6 Certain provisions to bind the Crown
In section 5 of the Principal Act—
(a) after paragraph (b) insert—
"(ba) section 33E;
(bb) sections 55A and 70A;";
Part 2—Amendment of the Water Act 1989

(b) for paragraph (d) substitute—

"(d) sections 75A, 76A, 78A, 79A, 80AA and 81;";

(c) in paragraph (e), after "145," insert "145A,;"

(d) after paragraph (e) insert—

"(ea) section 169A;".

7 New section 5A inserted

After section 5 of the Principal Act insert—

"5A Relationship with the Traditional Owner Settlement Act 2010

A requirement to give notice to or consult with a specified Aboriginal party under section 22E, 22M, 22R, 31 or 190 does not affect any right or obligation under a land use activity agreement or any other agreement under the Traditional Owner Settlement Act 2010."

8 New section 6AA inserted

After section 6 of the Principal Act insert—

"6AA Extraterritorial operation of Act

In order to give effect to any intergovernmental agreement to which the State is a party and which is relevant to the operation of this Act, it is the intention of the Parliament that the operation of this Act, as far as possible, is to include operation in relation to the following—

(a) things, including land, situated in or outside the territorial limits of Victoria;

(b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of Victoria;"
(c) things, land, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another jurisdiction.

9 Contents of a Sustainable Water Strategy

After section 22C(2) of the Principal Act insert—

"(3) A Sustainable Water Strategy must also—

(a) consider opportunities to provide for the following, consistently with the requirements of this Act or any other Act—

(i) Aboriginal cultural values and uses of waterways in the region to which the Strategy applies;

(ii) the social and recreational uses and values of waterways in the region to which the Strategy applies; and

(b) take into account any of the following agreements that are relevant to the region to which the Strategy applies—

(i) a recognition and settlement agreement and any further agreement to a recognition and settlement agreement;

(ii) an Aboriginal cultural heritage land management agreement within the meaning of the Aboriginal Heritage Act 2006 that is recorded on the Victorian Aboriginal Heritage Register under section 145 of that Act; and
(c) take into account any determination of native title that native title exists in relation to the region to which the Strategy applies; and

(d) have regard to any relevant economic and environmental matters.

(4) In addition, a Sustainable Water Strategy that addresses a decline or deterioration referred to in section 22P(1)(a) or (b) that is identified in a long-term water resources assessment under Division 1C must set out the action required to be taken to address the matters referred to in section 22P(1)(c) or (d)."

10 Consultative committee—Sustainable Water Strategy

(1) In section 22D(1)(b) of the Principal Act, for "section 22C(1)" substitute "section 22C(1), (3) and (4)".

(2) For section 22D(2) of the Principal Act substitute—

"(2) The Minister must make sure that, so far as is possible, the membership consists of—

(a) persons who have knowledge or experience in the matters to be covered in a Sustainable Water Strategy; and

(b) at least one Aboriginal person residing in Victoria who has knowledge or experience in the matters to be covered in a Sustainable Water Strategy.".
11 Preparation of a draft Sustainable Water Strategy

(1) For section 22E(b) of the Principal Act substitute—

"(b) give notice of the preparation of the Strategy to—

(i) any Authority whose interests the Minister considers are likely to be affected by the Strategy; and

(ii) each specified Aboriginal party for an area that is wholly or partly within the region for which the Strategy is being prepared;".

(2) At the end of section 22E of the Principal Act insert—

"(2) The set date in a notice under subsection (1)(e) must be a day not less than 35 days after the day on which the notice is published.".

12 Consideration of draft Strategy by the Minister

After section 22G(2) of the Principal Act insert—

"(3) If the Minister endorses a Sustainable Water Strategy for a region under subsection (1)(a) or (b), the Minister may revoke or amend an existing Sustainable Water Strategy for all or part of the same region.

(4) If the Minister revokes or amends an existing Sustainable Water Strategy under subsection (3), the Minister must include a notice of the revocation or amendment in the Strategy that the Minister endorses.".
13 Review of Sustainable Water Strategy

(1) For section 22I(1) of the Principal Act substitute—

"(1) The Minister must review a Sustainable Water Strategy that has been endorsed under section 22G(1) at the end of 10 years following the endorsement of the Strategy.".

(2) After section 22I(2) of the Principal Act insert—

"(2A) Despite subsection (1), the Minister is not required to review a Sustainable Water Strategy for a region that has been endorsed under section 22G(1) if—

(a) there is a later Sustainable Water Strategy that has been endorsed under section 22G(1) for all or part of the same region; or

(b) the Minister is preparing a draft Sustainable Water Strategy for all or part of the same region and has published a notice under section 22E(1)(c) in relation to the draft Sustainable Water Strategy.".

(3) After section 22I(4) of the Principal Act insert—

"(5) After endorsing a review of a Sustainable Water Strategy, the Minister may amend the Strategy.".
14 Section 22K substituted and new section 22KA inserted

For section 22K of the Principal Act substitute—

"22K Commencement of long-term water resources assessments

The Minister must commence a long-term water resources assessment—

(a) for northern water resources—

(i) by the end of 31 January 2025; and

(ii) after that, by the end of the twelfth year in each consecutive 15-year period, where the first such period commences on 1 February 2025; and

(b) for water resources other than northern water resources, by the end of the twelfth year in each consecutive 15-year period, where the first period after the period of the long-term water resources assessment referred to in section 22KA commences on 3 August 2021.

22KA Transitional provision—uncompleted long-term water resources assessment—Water and Catchment Legislation Amendment Act 2019

(1) The following paragraphs apply to the long-term water resources assessment commenced but not completed before the commencement day—

(a) subject to paragraph (b), on and from the commencement day the Minister must complete that long-term water resources assessment as if that
Part 2—Amendment of the Water Act 1989

long-term water resources assessment were being made under this Act as amended by the Water and Catchment Legislation Amendment Act 2019; and

5 (b) on and from the commencement day any part of that long-term water resources assessment relating to northern water resources is omitted.

10 (2) In this section—

commencement day means the day on which section 14 of the Water and Catchment Legislation Amendment Act 2019 comes into operation.”.

15 Preparation of draft long-term water resources assessment

For section 22M(a) of the Principal Act substitute—

"(a) give notice of the preparation of the assessment and the process by which the assessment will be carried out to—

(i) any Authority whose interests the Minister considers are likely to be affected by the assessment; and

(ii) each specified Aboriginal party for an area that is wholly or partly within the area in which the water resources the subject of the assessment are located;”.

16 Consideration and publication of long-term water resources assessment

In section 22O(3) of the Principal Act, for "12 months" substitute "18 months".
17 Review following long-term water resources assessment

(1) In section 22P of the Principal Act—

(a) for "cause a review to be undertaken" substitute "undertake a review";

(b) in paragraph (d), for "waterways—" substitute "waterways.";

(c) omit "having regard to any relevant social, economic and environmental matters.".

(2) At the end of section 22P of the Principal Act insert—

"(2) In undertaking a review under subsection (1), the Minister must have regard to any relevant—

(a) economic and environmental matters; and

(b) Aboriginal cultural values and uses of waterways; and

(c) social and recreational matters.

(3) Despite subsection (1), the Minister is not required to undertake a review under that subsection if the Minister endorses a Sustainable Water Strategy or a review of a Sustainable Water Strategy that determines the action that is required to be taken to address the matters referred to in subsection (1)(c) or (d).".
18 New section 22PA inserted

After section 22P of the Principal Act insert—

"22PA Time for completion of reviews etc. following long-term water resources assessment

(1) If a long-term water resources assessment identifies a decline or deterioration referred to in section 22P(1)(a) or (b), the Minister, within 2 years and 6 months after the Minister endorsed that assessment, must—

(a) endorse a Sustainable Water Strategy or a review of a Sustainable Water Strategy that sets out the action to be taken to address the matters referred to in section 22P(1)(c) or (d); or

(b) complete a review under section 22P that set outs the action to be taken to address the matters referred to in section 22P(1)(c) or (d).

(2) Despite subsection (1), the Minister may decide to extend the time to determine the action required to be taken.

(3) The Minister must publish notice of a decision under subsection (2) and reasons for it on the Department's Internet site.

(4) Failure to endorse a Sustainable Water Strategy or a review of a Sustainable Water Strategy or to complete a review under section 22P setting out the action that is required to be taken to address the matters referred to in section 22P(1)(c) or (d) within the time specified in subsection (1) does not affect—

(a) the validity of the Strategy or review; or
(b) any action, including any action under section 33AAB, the Minister takes following the preparation of the Strategy or completion of the review.”.

19 Consultative committees for review

After section 22Q(2)(a)(iii) of the Principal Act insert—

"(iv) the membership consists of at least one Aboriginal person residing in Victoria who has knowledge or experience in the matters to be covered by the review;".

20 Review process

(1) For section 22R(1)(b) of the Principal Act substitute—

"(b) give notice of the review to—

(i) any Authority or other person whose interests the Minister considers are likely to be affected by the review; and

(ii) each specified Aboriginal party for an area that is wholly or partly within the area to which the water resources the subject of the review are related;".

(2) Section 22R(2) and (3) of the Principal Act are repealed.

21 Consultative committee

After section 29(2)(a)(ii) of the Principal Act insert—

"(iii) if there are one or more specified Aboriginal parties for an area that is wholly or partly within the area that is the subject of the declaration, the membership consists of at least one person who is a representative of one of the specified Aboriginal parties;".
22 Preparation of draft management plan

(1) After section 31(1)(a) of the Principal Act insert—

"(ab) give notice of the preparation of the draft management plan and a copy of the draft management plan to any specified Aboriginal party for an area that is wholly or partly within the area that is the subject of a declaration under section 27(1); and".

(2) After section 31(1) of the Principal Act insert—

"(1AA) A notice under subsection (1)(ab) must—

(a) invite submissions on the draft management plan to be made in the manner specified in the notice; and

(b) set a date by which submissions must be made, which must be a day not less than 35 days after the day on which the notice is issued.".

(3) At the foot of section 31 of the Principal Act insert—

"Note

The preparation of a draft management plan may be a land use activity under the Traditional Owner Settlement Act 2010 if it relates to public land to which a land use activity agreement under that Act applies.".

23 Permanent qualification of rights to water

For section 33AAB(1)(c) of the Principal Act substitute—

"(c) any relevant—

(i) economic and environmental matters; and

(ii) Aboriginal cultural values and uses of waterways; and
(iii) social and recreational uses and values of waterways."

24 Functions of the Water Holder

At the end of section 33DD of the Principal Act insert—

"(2) In performing its functions, the Water Holder must consider opportunities to provide for the following, consistently with its objectives and the requirements of this Act or any other Act—

(a) Aboriginal cultural values and uses of waterways;

(b) the social and recreational uses and values of waterways."

25 Section 33E substituted and new sections 33EA and 33EB inserted

For section 33E of the Principal Act substitute—

"33E Offences for taking water without a water share

(1) A person must not knowingly take water from a relevant water source in a declared water system without being authorised to do so under a water share, being a taking that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units."
(2) A person must not recklessly take water from a relevant water source in a declared water system without being authorised to do so under a water share, being a taking that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(3) A person must not take water from a relevant water source in a declared water system without being authorised to do so under a water share.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.

(4) A person does not commit an offence under subsection (1), (2) or (3) if the person takes water—

(a) for domestic and stock use from a spring or soak; or

(b) from a dam, that is water taken from the dam other than for domestic and stock use, being water in the dam—

(i) that has been taken from another relevant water source under an authorisation to do so under this Act; or
(ii) that has been collected from a roof; or

(c) from a dam, that is water taken from the dam for domestic and stock use, other than water in the dam that has been taken from a waterway or aquifer without an authorisation to do so under this or any other Act; or

(d) under any other authorisation to do so by or under this or any other Act.

(5) In this section—

relevant water source means any of the following—

(a) a waterway (including the River Murray);

(b) an aquifer;

(c) a spring or soak;

(d) a dam.

33EA Evidentiary provisions for offences under section 33E

(1) In any proceeding for an offence under section 33E(1), (2) or (3) against a person, evidence that water has been taken to, diverted to or used on land occupied by the person is evidence that the person took the water and, in the absence of evidence to the contrary, is proof of that fact.

(2) To avoid doubt, subsection (1) applies to a person who is the occupier of land who is also the owner of the land.
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(3) In a proceeding for an offence under section 33E(1), (2) or (3), if a person has been found guilty of an offence under section 288(1), (2) or (3) in relation to a meter of an Authority that measures the amount of water that is taken to, delivered to or used on land, the finding of guilt is evidence that—

(a) the person took water and, in the absence of evidence to the contrary, is proof of that fact; and

(b) the person was not authorised to take the water and, in the absence of evidence to the contrary, is proof of that fact.

33EB Power to issue infringement notice in relation to offence under section 33E(3)

(1) An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 33E(3) if the person—

(a) was not authorised to take water under a water share; and

(b) took an amount of water equal to, or less than, 10 megalitres.

(2) An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 33E(3) if the person—

(a) was authorised to take a specified amount of water under a water share (the authorised amount); and
(b) took an amount of water in addition to the authorised amount and the amount of that additional water—

(i) was equal to, or less than, 20% of the total authorised amount; and

(ii) was equal to, or less than, 10 megalitres.”.

26 New section 55A inserted

After section 55 of the Principal Act insert—

"55A Offence to breach licence conditions

The holder of a licence under section 51(1) must not fail to comply with any condition under section 56 to which the licence is subject.

Penalty: For an individual, 120 penalty units;

For a body corporate, 600 penalty units.”.

27 Renewal of licence

After section 58(6) of the Principal Act insert—

"(7) A person whose licence is suspended may apply for renewal of the licence during the period of suspension and before the expiry of the licence.

(8) A suspended licence that is renewed in accordance with subsection (7) remains suspended in accordance with the terms of the suspension until—

(a) the licence is cancelled; or

(b) the suspension ends or is lifted."
(9) If the holder of a licence issued under section 51 that is suspended does not apply for renewal of the licence before the expiry of the licence, the licence expires.”.

28 Section 60 substituted and new section 60A inserted

For section 60 of the Principal Act substitute—

"60 Suspension and cancellation of licence

(1) The Minister may suspend or cancel a licence issued under section 51(1) or a registration licence if—

(a) the Minister reasonably believes that—

(i) there has been a failure to comply with this Act or regulations made under this Act; or

(ii) there has been a failure to comply with any conditions to which the licence is subject; or

(iii) the holder of the licence has not paid an applicable fee or charge payable in respect of the licence; or

(iv) in the case of a licence relating to works, the works are being operated contrary to the provisions of this Act; or

(b) any prescribed circumstances apply.

(2) The Minister must give the licence holder written notice of a decision under subsection (1).

(3) If the Minister decides to suspend the licence, the notice under subsection (2) must specify—
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(a) the period of suspension, which may extend beyond the period of the current licence to any period of renewal; and

(b) any actions the licence holder must take before the end of the period of suspension in order for the suspension to be lifted.

(4) A suspension under this section remains in force until the earlier of the following—

(a) the end of the period specified in subsection (3)(a), if no actions have been specified under subsection (3)(b);

(b) if the Minister is satisfied that the licence holder has taken the actions specified under subsection (3)(b), the date specified by the Minister by notice in writing to the licence holder as the date on which the suspension is no longer in force (which may not be later than 2 days after the date of the notice).

60A Process for suspension or cancellation of licence

(1) Before suspending or cancelling a licence under section 60(1), the Minister must—

(a) notify the holder of the licence in writing as to—

(i) the grounds specified in section 60(1) on which the Minister proposes to suspend or cancel the licence; and

(ii) the rights the holder of the licence has under this section to make submissions on the proposal; and
(iii) if the Minister proposes to suspend the licence, any actions the holder of the licence would need to take in order for the proposed suspension to be lifted; and

(b) allow the holder of the licence an opportunity to make written submissions on the proposal to suspend or cancel the licence within the period specified in the notice under paragraph (a), which must not be less than 35 days after the Minister gives the notice.

(2) The Minister—

(a) must have regard to any submissions made under subsection (1)(b) when making a decision under section 60(1); and

(b) must not make a decision under section 60(1) until the period specified in subsection (1)(b) has elapsed."

29 Transfer of licence

For section 62(1) of the Principal Act substitute—

"(1) A licence issued under section 51(1) may be transferred—

(a) subject to any conditions set out in the licence or imposed under section 56 relating to the transfer of the licence, including any condition prohibiting the transfer of the licence to another property; and

(b) in accordance with this section."
Part 2—Amendment of the Water Act 1989

(1A) If a licence that is suspended under section 60(1) is transferred, the licence remains suspended until the suspension ends or is lifted.

(1B) The Minister may lift all or part of a period of a suspension for a licence that is transferred under subsection (1) if the actions specified in the notice of suspension—

(a) are not able to be completed after the transfer; or

(b) are no longer relevant to the transferred licence."

30 Section 63 substituted and new sections 63A and 63B inserted

For section 63 of the Principal Act substitute—

"63 Offences for taking or using water from a non-declared water system

(1) A person must not knowingly take or use water from a relevant water source in a non-declared water system without being authorised to do so by or under this or any other Act, being a taking or using that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units."
Part 2—Amendment of the Water Act 1989

(2) A person must not recklessly take or use water from a relevant water source in a non-declared water system without being authorised to do so by or under this or any other Act, being a taking or using that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(3) A person must not take or use water from a relevant water source in a non-declared water system without being authorised to do so by or under this or any other Act.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.

(4) A person does not commit an offence under subsection (1), (2) or (3) if the person takes or uses water—

(a) from a spring or soak for domestic and stock use; or

(b) from a dam, that is water taken or used other than for domestic and stock use, being water in the dam—
(i) that has been taken from another relevant water source under an authorisation to do so under this or any other Act; or

(ii) that has been collected from a roof; or

(c) from a dam, that is water taken or used for domestic and stock use, other than water in the dam that has been taken from an aquifer or a waterway (within the meaning of the definition of relevant water source) without an authorisation to do so under this or any other Act.

(5) In this section—

relevant water source means any of the following—

(a) a waterway including—

(i) the River Murray; and

(ii) any collection of water which is from time to time replenished in whole or in part by water coming by a natural sub-surface path from a waterway;

(b) an aquifer;

(c) a spring or soak;

(d) a dam.

63A Evidentiary provisions for offences under section 63

(1) In any proceeding for an offence under section 63(1), (2) or (3) against a person, evidence that water has been taken to land, diverted to land or used on land that is
specified in a relevant authorisation held by that person as land on which that water may be used, is evidence that the person took or used the water and, in the absence of evidence to the contrary, is proof of that fact.

(2) In any proceeding for an offence under section 63(1), (2) or (3) against a person, in a case where subsection (1) does not apply, evidence that water has been taken to land, diverted to land or used on land occupied by the person is evidence that the person took or used that water and, in the absence of evidence to the contrary, is proof of that fact.

(3) To avoid doubt, subsection (2) applies to a person who is the occupier of land who is also the owner of the land.

(4) In a proceeding for an offence under section 63(1), (2) or (3), if a person has been found guilty of an offence under section 288(1), (2) or (3) in relation to a meter of an Authority that measures the amount of water that is taken to, diverted to or used on land, the finding of guilt is evidence that—

   (a) the person took water and, in the absence of evidence to the contrary, is proof of that fact; and

   (b) the person was not authorised to take the water and, in the absence of evidence to the contrary, is proof of that fact.
(5) In this section—

**relevant authorisation** means any of the following—

(a) a bulk entitlement;

(b) a licence issued under section 51;

(c) a licence issued under section 67.

63B Power to issue infringement notice in relation to offence under section 63(3)

(1) An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 63(3) if the person—

(a) was not authorised to take or use water under an authorisation under this or any other Act; and

(b) took or used an amount of water equal to, or less than, 10 megalitres.

(2) An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 63(3) if the person—

(a) was authorised to take or use a specified amount of water under an authorisation under this or any other Act (the **authorised amount**); and

(b) took or used an amount of water in addition to the authorised amount and the amount of that additional water—

(i) was an amount equal to, or less than, 20% of the authorised amount; and

(ii) was an amount equal to, or less than, 10 megalitres.".
31 Review of decisions

In section 64(1)(h) of the Principal Act, for "revoke" substitute "cancel or suspend".

32 New section 70A inserted

After section 70 of the Principal Act insert—

"70A Offence to breach licence conditions under section 71

The holder of a licence under section 67 must not fail to comply with any condition under section 71(1) to which the licence is subject.

Penalty: For an individual, 120 penalty units;

For a body corporate, 600 penalty units."

33 Renewal of licence

After section 72(6) of the Principal Act insert—

"(7) A person whose licence is suspended may apply for renewal of the licence during the period of suspension and before the expiry of the licence.

(8) A suspended licence that is renewed in accordance with subsection (7) remains suspended in accordance with the terms of the suspension until—

(a) the licence is cancelled; or

(b) the suspension ends or is lifted.

(9) If the holder of a licence issued under section 67 that is suspended does not apply for renewal of the licence before the expiry of the licence, the licence expires."
34 Transfer of licence

For section 74(1) of the Principal Act

substitute—

"(1) A licence issued under section 67 may be transferred—

(a) subject to any conditions set out in the licence or imposed under section 71 relating to the transfer of the licence, including any condition prohibiting the transfer of the licence to another property; and

(b) in accordance with this section.

(1A) If a licence that is suspended under section 74AB(1) is transferred, the licence remains suspended until the suspension ends or is lifted.

(1B) The Minister may lift all or part of a period of a suspension for a licence that is transferred under subsection (1) if the actions specified in the notice of suspension—

(a) are not able to be completed after the transfer; or

(b) are no longer relevant to the transferred licence.".

35 New sections 74AB and 74AC inserted

After section 74AA of the Principal Act insert—

"74AB Suspension or cancellation of licence

(1) The Minister may suspend or cancel a licence issued under section 67 if—

(a) the Minister reasonably believes that—

(i) there has been a failure to comply with this Act or regulations made under this Act; or
(ii) there has been a failure to comply with any conditions to which the licence is subject; or

(iii) the holder of the licence has not paid an applicable fee or charge payable in respect of the licence; or

(b) any prescribed circumstances apply.

(2) The Minister must give the licence holder written notice of a decision under subsection (1).

(3) If the Minister decides to suspend the licence, the notice under subsection (2) must specify—

(a) the period of suspension, which may extend beyond the period of the current licence to any period of renewal; and

(b) any actions the licence holder must take before the end of the period of suspension in order for the suspension to be lifted.

(4) A suspension under this section remains in force until the earlier of the following—

(a) the end of the period specified in subsection (3)(a), if no actions have been specified under subsection (3)(b);

(b) if the Minister is satisfied that the licence holder has taken the actions specified under subsection (3)(b), the date specified by the Minister by notice in writing to the licence holder as the date on which the suspension is no longer in force (which may not be later than 2 days after the date of the notice).
74AC Process for suspension or cancellation of licence

(1) Before suspending or cancelling a licence under section 74AB(1), the Minister must—

(a) notify the holder of the licence in writing as to—

(i) the grounds specified in section 74AB(1) on which the Minister proposes to suspend or cancel the licence; and

(ii) the rights the holder of the licence has under this section to make submissions on the proposal; and

(iii) if the Minister proposes to suspend the licence, any actions the holder of the licence would need to take in order for the proposed suspension to be lifted; and

(b) allow the holder of the licence an opportunity to make written submissions on the proposal to suspend or cancel the licence within the period specified in the notice under paragraph (a), which must not be less than 35 days after the Minister gives the notice.

(2) The Minister—

(a) must have regard to any submissions made under subsection (1)(b) when making a decision under section 74AB(1); and

(b) must not make a decision under section 74AB(1) until the period specified in subsection (1)(b) has elapsed.".
36 Offences

(1) Section 75(1), (1A), (2), (3) and (5) of the Principal Act are **repealed**.

(2) In section 75(4) of the Principal Act, after "an offence" **insert** "and liable to a penalty of not more than 120 penalty units, for an individual, or 600 penalty units, for a body corporate".

37 New section 75A inserted

After section 75 of the Principal Act **insert**—

"75A Offences as to obstruction of waterways etc.

(1) A person must not knowingly carry out any regulated activity without being authorised to do so by or under this or any other Act, being an activity that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units.

(2) A person must not recklessly carry out any regulated activity without being authorised to do so by or under this or any other Act, being an activity that results in—

(a) land, works or water being seriously damaged; or
(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(3) A person must not carry out any regulated activity without being authorised to do so by or under this or any other Act.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.

(4) A person does not commit an offence under subsection (1), (2) or (3) if the person—

(a) performs work on a bore that is necessary—

(i) to prevent the immediate waste, misuse or pollution of groundwater; or

(ii) for the purpose of obtaining water for domestic and stock use; and

(b) gives notice to the Minister of the work within 7 days after starting it.

(5) In this section—

regulated activity means any of the following—

(a) the obstruction of, or interference with, a waterway;
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(b) the construction, alteration, operation, removal or decommissioning of any works on a waterway;

c) the obstruction of, or interference with, any works on a waterway;

d) the erosion or damaging of the surrounds of a waterway;

e) the construction, alteration, operation, removal or decommissioning of a private dam within the meaning of section 67(1A);

(f) the construction, deepening, enlarging or alteration of a bore;

(g) the interfering with or the damaging or destroying of a bore or ancillary works.”.

38 Approval of Minister for underground disposal

(1) Section 76(6) of the Principal Act is repealed.

(2) In section 76(7) of the Principal Act, for "This section" substitute "This Division".

(3) After section 76(7) of the Principal Act insert—

"(8) The Minister may exempt a person from the requirement to obtain approval under this section to dispose of any matter underground by means of a bore—

(a) if—

(i) the matter is to be injected into or stored in a part of a geological formation in a permit area under a greenhouse gas assessment permit, and
(ii) the Minister administering
the Offshore Petroleum and
Greenhouse Gas Storage
Act 2010 has consulted with the
Minister administering this section
at least 40 days before approving,
under section 291 of that Act, the
carrying on of key greenhouse
gas operations under the permit
referred to in subparagraph (i); or

(b) if—

(i) the matter is to be injected
into or stored in an identified
greenhouse gas storage formation
in a lease area under a greenhouse
gas holding lease; and

(ii) the Minister administering
the Offshore Petroleum and
Greenhouse Gas Storage
Act 2010 has consulted with the
Minister administering this section
at least 40 days before approving,
under section 329 of that Act, the
carrying on of key greenhouse
gas operations under the lease
referred to in subparagraph (i); or

(c) if—

(i) the matter is to be injected
into or stored in an identified
greenhouse gas storage formation
in a licence area under a
greenhouse gas injection licence; and
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(ii) the Minister administering the Offshore Petroleum and Greenhouse Gas Storage Act 2010 has consulted with the Minister administering this section at least 40 days before approving a site plan for that injection licence under regulations made under that Act.

(9) In this section—

*greenhouse gas assessment permit*, *greenhouse gas holding lease*, *greenhouse gas injection licence* and *key greenhouse gas operation* have the same meanings as in the Offshore Petroleum and Greenhouse Gas Storage Act 2010."

39 New section 76A inserted

After section 76 of the Principal Act insert—

"76A Offences as to disposal of matter underground

(1) A person must not knowingly dispose of any matter underground by means of a bore without being authorised to do so by or under this or any other Act, being an activity that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units."
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(2) A person must not recklessly dispose of any matter underground by means of a bore without being authorised to do so by or under this or any other Act, being an activity that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(3) A person must not dispose of any matter underground by means of a bore without being authorised to do so by or under this or any other Act.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.

40 Power of Minister to give directions

Section 78(5) of the Principal Act is repealed.
41 New section 78A inserted

After section 78 of the Principal Act insert—

"78A Offence not to comply with section 78 direction

A person must not fail to comply with any direction under section 78(1) or (3).

Penalty: For an individual, 120 penalty units;

For a body corporate, 600 penalty units.".

42 Directions to bore occupiers

Section 79(3) of the Principal Act is repealed.

43 New section 79A inserted

After section 79 of the Principal Act insert—

"79A Offence not to comply with section 79 direction

A person must not fail to comply with any direction under section 79(2).

Penalty: For an individual, 120 penalty units;

For a body corporate, 600 penalty units.".

44 Power to give directions concerning dams

For section 80(1), (2) and (3) of the Principal Act substitute—

"(1) The Minister, by written notice, may direct the owner of any public or private dam to do any of the following if the Minister decides that the dam is or is likely to be hazardous to public safety, property or the environment because of its location or the nature of its construction—
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(a) make specified repairs or alterations to the dam;

(b) take specified measures to keep the dam under surveillance;

(c) remove the dam.

(2) The Minister, by written notice, may direct the proposed owner of any proposed public or private dam to do any of the following if the Minister decides that the dam is or is likely to be hazardous to public safety, property or the environment because of its proposed location or the nature of its proposed construction—

(a) resite the dam;

(b) build the dam to specified standards;

(c) refrain from building the dam.

(3) This section applies to any public or private dam, whether or not the dam is located on a waterway.”.

45 New section 80AA inserted

After section 80 of the Principal Act insert—

"80AA Offence not to comply with section 80 direction

A person must not fail to comply with any direction under section 80(1) or (2).

Penalty: For an individual, 120 penalty units;

For a body corporate, 600 penalty units.”.
46 Power of Minister to carry out work

(1) Insert the following heading to section 81 of the Principal Act—

"Power of Minister to carry out work".

(2) For section 81(1) of the Principal Act substitute—

"(1) If the Minister thinks fit, the Minister may carry out work on any relevant works and take any other measures or remove relevant works and recover the reasonable cost of doing so from the occupier of the relevant works if the Minister considers that—

(a) a person has failed to carry out the work necessary to comply with a direction given under this Division within the time specified in the direction; or

(b) it is necessary for the work to be carried out on the relevant works and measures to be taken or the relevant works to be removed urgently—

(i) to prevent the waste or pollution of water; or

(ii) to protect public safety, property or the environment; or

(c) it is necessary for the work to be carried out on the relevant works and measures to be taken or the relevant works to be removed to secure compliance with this Act, the regulations or the conditions of any licence issued or granted under this Act.
(1A) In this section—

*relevant works* means any of the following—

(a) a dam;

(b) works on a waterway;

(c) a bore.

### 47 Review of decisions

In section 83(1) of the Principal Act—

(a) after paragraph (j) insert—

"(ja) under section 74AB to suspend or cancel a licence; or";

(b) in paragraph (o), for "section 80(1)" substitute "section 80(1) or (2)".

### 48 Division 6 of Part 5 repealed

Division 6 of Part 5 of the Principal Act is repealed.

### 49 Functions, powers and duties of water corporations

After section 92(2) of the Principal Act insert—

"(2A) In performing functions conferred on it by or under this Act, a water corporation must consider opportunities to provide for the following, consistently with its objectives and the requirements conferred on it by or under this Act or any other Act—

(a) Aboriginal cultural values and uses of waterways;

(b) the social and recreational uses and values of waterways."
50 Sustainable management principles for water corporations

For section 93(c) of the Principal Act substitute—

"(c) the need to integrate both long term and short term—

(i) economic, environmental and equitable considerations; and

(ii) Aboriginal cultural considerations; and

(iii) social and recreational considerations; and".

51 Substitution of Divisions 1AA, 1, 1A, 2, 3 and 4 of Part 6A

For Divisions 1AA, 1, 1A, 2, 3 and 4 of Part 6A of the Principal Act substitute—

"Division 1—Water supply, sewerage, irrigation and waterway management districts

122G Determination of districts

(1) The Minister may determine—

(a) a water supply district for an Authority that is a water corporation; or

(b) a sewerage district for an Authority that is a water corporation; or

(c) an irrigation district for an Authority that is a water corporation; or

(d) a waterway management district for an Authority.

(2) A district determined under subsection (1) must be described in the determination by reference to a plan lodged in the Central Plan Office.
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(3) A determination under subsection (1) must be published in the Government Gazette.

(4) A determination under subsection (1) takes effect from the date specified in the determination, which must be no earlier than the date of publication of the determination.

122H Effect of determination on existing districts

On a determination under section 122G taking effect in relation to an Authority, any district that the Authority had, immediately before the taking effect of the determination, that was of the same kind as the new district and—

(a) that is wholly comprised by the new district, is taken to be replaced by the new district; or

(b) that is partly comprised by the new district, is taken to be replaced by the new district, to the extent of that part.

122I Variation or abolition of district

(1) The Minister, by determination, may vary or abolish the whole or a part of a water supply district, sewerage district, irrigation district or waterway management district of an Authority.

(2) The variation or abolition of a district under a determination under subsection (1) must be described in the determination by reference to a plan lodged in the Central Plan Office.

(3) A determination under subsection (1) must be published in the Government Gazette.
(4) A determination under subsection (1) takes effect from the date specified in the determination, which must be no earlier than the date of publication of the determination.

122J Procedural requirements before making a determination under this Division

Before making a determination under this Division, the Minister—

(a) must consult with the Authority for which the district is to be determined, or that has the district that is to be varied or abolished; and

(b) must consult with any other Authority that has a district that may be affected by the determination; and

(c) may consult with any other person, as the Minister considers fit.

122K Considerations in making determination under this Division

In making a determination under this Division, the Minister must have regard to—

(a) any submissions received during the course of consulting under section 122J; and

(b) the public interest.

122L Saving of districts—Water and Catchment Legislation Amendment Act 2019

(1) On the commencement of section 5(1) of the Water and Catchment Legislation Amendment Act 2019, a water corporation is taken to have, as a water supply district, each water district that the water corporation had immediately before that commencement,
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as if each district were determined as a water supply district under this Division.

(2) On the commencement of section 5(1) of the Water and Catchment Legislation Amendment Act 2019, a water corporation is taken to have any sewerage district or irrigation district that the water corporation had immediately before that commencement, as if that sewerage district or irrigation district were determined as a sewerage district or irrigation district under this Division.

(3) On the commencement of section 5(1) of the Water and Catchment Legislation Amendment Act 2019, an Authority is taken to have any waterway management district that the Authority had immediately before that commencement, as if that waterway management district were determined as a waterway management district under this Division.

122M Waterway management district of Melbourne Water Corporation

The waterway management district of Melbourne Water Corporation is the land shown delineated in red on the plan lodged in the Central Plan Office and numbered LEGL./05-406.".

52 Environmental and recreational areas

In section 122ZA(1)(b) of the Principal Act, for "water district" substitute "water supply district".

53 Repeal of section 122ZF

Section 122ZF of the Principal Act is repealed.
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54 Customer dispute resolution

In section 122ZG(4) of the Principal Act, for "water district" substitute "water supply district".

55 Water meters

(1) For section 142(1), (1A) and (1B) of the Principal Act substitute—

"(1) An Authority may provide or install, and maintain, a meter on any land to measure the following—

(a) the amount of water supplied or delivered to the land by the Authority in the exercise of its water supply or delivery functions;

(b) the amount of water taken or used.

(1A) An Authority may install a water meter under subsection (1) in any position it considers appropriate.

(1B) Without limiting subsection (1), an Authority may provide or install, and maintain, a separate meter—

(a) for each occupancy on any land; and

(b) for each point from which water is taken; and

(c) if water is supplied or delivered for more than one type of service, to measure the amount of water supplied or delivered for each service.
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(1C) In determining what constitutes a separate occupancy, the Authority must have regard to—

(a) any regulations prescribing the following—

(i) any class of land or part of land as constituting an occupancy;

(ii) any considerations for determining what constitutes an occupancy; or

(b) if there are no such regulations, the principles set out in the Valuation of Land Act 1960.”.

(2) Section 142(2) of the Principal Act is repealed.

56 New section 142A inserted

After section 142 of the Principal Act insert—

"142A Estimate of water supplied or delivered

(1) A water corporation may estimate in accordance with subsection (2) the amount of water supplied or delivered to land, used on land or taken to land, if one or more of the following applies—

(a) the water corporation is of the opinion that a meter belonging to it or under its control or management is not functioning accurately or has been interfered with;

(b) the water corporation supplies or delivers water to any land and there is no meter on that land to measure the amount of water supplied or delivered to land;"
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5 (c) water is taken to or used on any land under an authorisation to take or to use water under this or any other Act and there is no meter to measure the amount of water taken or used on the land under the authorisation;

(d) water is taken to or used on any land without an authorisation to take or use water under this or any other Act.

10 (2) For the purposes of subsection (1), a water corporation may estimate the amount of water supplied or delivered to land, used on land or taken to land, during a specified period—

15 (a) by having regard to the amount of water supplied or delivered to or used on or taken to—

(i) the land in any previous or subsequent period or periods; or

(ii) similar land during the specified period; or

(b) in any other way that is prescribed."

57 Serviced properties

(1) In section 144(1) of the Principal Act—

25 (a) in paragraph (a), for "water district" substitute "water supply district";

(b) for paragraph (c) of the Principal Act substitute—

"(c) the land is within the Authority's irrigation district and the Authority has made provision for—

(i) water delivery services to the land; or
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(ii) irrigation drainage or salinity mitigation services in relation to the land or that directly benefit the land; or”.

(2) Section 144(2)(b) of the Principal Act is repealed.

(3) For section 144(3) of the Principal Act substitute—

"(3) The Authority must publish a notice under subsection (1)—

(a) on the Internet site of the Authority for at least 2 months before the date on which the land becomes serviced property; and

(b) in the Government Gazette.”.

(4) In section 144(4) of the Principal Act—

(a) in paragraph (b)—

(i) for "water district" substitute "water supply district";

(ii) after "specify the services available" insert "and generally identify the land to which the services are available";

(b) for paragraph (c) substitute—

"(c) in the case of a waterway management district or irrigation district, specify the services available or which are of direct benefit and generally identify the land to which the services are available or which is directly benefitted by the services; and".
58 Serviced property, Melbourne Water Corporation

At the end of section 144A of the Principal Act insert—

"(2) If the waterway management district of Melbourne Water Corporation is varied by a determination under section 122I and the waterway management district as varied does not include properties that were in that waterway management district before the variation, the properties that are no longer within that waterway management district are taken not to be serviced properties for the purposes of Melbourne Water Corporation's powers, functions and duties under Part 10."

59 Control over connections

(1) For section 145(1) of the Principal Act substitute—

"(1) For the purpose of section 145A, an Authority may consent to—

(a) the connection of any works to the works of the Authority; or

(b) the alteration or removal of any works that are connected to the works of the Authority; or

(c) the discharge of anything into the works of the Authority."

(2) Section 145(3AB) of the Principal Act is repealed.

(3) For section 145(4) of the Principal Act substitute—

"(4) A person who causes or permits anything referred to in section 145A(3) or (6) to be done must make sure that it is done in accordance with any terms or conditions
subject to which the Authority gave its consent.

Penalty: For an individual, 60 penalty units;
For a body corporate, 300 penalty units.".

60 New section 145A inserted

After section 145 of the Principal Act insert—

"145A Offences as to connections and discharges without consent

(1) A person must not knowingly cause or permit—

(a) the connection of any works to the works of an Authority; or

(b) the alteration or removal of any works that are connected to the works of an Authority—

without the consent of the Authority under section 145, being a connection, alteration or removal that results in—

(c) land, works or water being seriously damaged; or

(d) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;
For a body corporate, 6000 penalty units."
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(2) A person must not recklessly cause or permit—

(a) the connection of any works to the works of an Authority; or

(b) the alteration or removal of any works that are connected to the works of an Authority—

without the consent of the Authority under section 145, being a connection, alteration or removal that results in—

(c) land, works or water being seriously damaged; or

(d) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(3) A person must not cause or permit—

(a) the connection of any works to the works of an Authority, without the consent of the Authority under section 145; or

(b) the alteration or removal of any works that are connected to the works of an Authority, without the consent of the Authority under section 145.

Penalty: For an individual, 120 penalty units;

For a body corporate, 600 penalty units.
(4) A person must not knowingly cause or permit anything to be discharged into the works of an Authority, without the consent of the Authority under section 145, being a discharge that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units.

(5) A person must not recklessly cause or permit anything to be discharged into the works of an Authority, without the consent of the Authority under section 145, being a discharge that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.
(6) A person must not cause or permit anything to be discharged into the works of an Authority without the consent of the Authority under section 145.

Penalty: For an individual, 120 penalty units;
For a body corporate, 600 penalty units.

61 Notice to repair
Section 150(1A) of the Principal Act is repealed.

62 Information statements
In section 158(3) of the Principal Act—
(a) in paragraph (c), for "outstanding." substitute "outstanding;";
(b) after paragraph (c) insert—
"(d) whether or not the land is serviced property and, if so, the purposes for which the land is serviced property.".

63 By-laws
Section 160(1)(b) of the Principal Act is repealed.

64 Draft plans for reconfiguration of infrastructure, consequential amendment
In section 161D of the Principal Act, for "water district" substitute "water supply district".

65 Consequential amendment of heading to Division 1 of Part 8
In the heading to Division 1 of Part 8 of the Principal Act, for "water district" substitute "water supply district".

66 Application of Division 1 of Part 8
In section 162 of the Principal Act, for "water district" substitute "water supply district".
67 Functions of Authorities

In section 163(1) of the Principal Act, for "water district" substitute "water supply district".

68 Exercise of functions of Authority outside its water supply district

(1) Insert the following heading to section 164 of the Principal Act—
"Exercise of functions of Authority outside its water supply district".

(2) For section 164(2) of the Principal Act substitute—
"(2) An Authority must not provide a service under this Part outside its water supply district unless—

(a) the service is capable of being conveniently provided by the use of resources that are not immediately required in carrying out the Authority's functions under this Act; and

(b) if the service relates to land in another Authority's water supply district, that Authority has agreed to the service being provided.".

69 Fire plugs and free water

(1) In section 165(1) of the Principal Act, for "water district" (where twice occurring) substitute "water supply district".

(2) In section 165(4) of the Principal Act—

(a) in paragraph (a), for "water district" substitute "water supply district";

(b) in paragraph (c), for "water district" substitute "water supply district".
70 Notice of contravention for water supply protection

Section 169(3) of the Principal Act is repealed.

71 New sections 169A and 169B inserted

After section 169 of the Principal Act insert—

"169A  Offence not to comply with notice of contravention

(1) A person on whom a notice of contravention under section 169 is served must not knowingly fail to comply with the notice, being a failure to comply that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units.

(2) A person on whom a notice of contravention under section 169 is served must not recklessly fail to comply with the notice, being a failure to comply that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units."
(3) A person on whom a notice of contravention under section 169 is served must not fail to comply with the notice.

Penalty: For an individual, 240 penalty units;
For a body corporate, 1200 penalty units.

169B Authority may carry out works etc. where notice not complied with

If a notice of contravention under section 169 is not complied with within the time specified, or any longer time allowed by the Authority, the Authority may—

(a) carry out any work and take any other action it decides is necessary to remedy the contravention, and recover its reasonable costs from the person on whom the notice was served; and

(b) remove or disconnect any service to the property in relation to which the contravention occurs, and recover its reasonable costs from the person on whom the notice was served; and

(c) apply to a court for an injunction restraining the person on whom the notice was served from contravening the notice.

72 By-laws

Section 171(1)(bc), (c) and (d) of the Principal Act are repealed.

73 Water supply function of Melbourne Water Corporation

In section 171B(a)(iv) of the Principal Act, for "water district" substitute "water supply district".
74 Exercise of functions of Authority outside its sewerage district

(1) Insert the following heading to section 174 of the Principal Act—

"Exercise of functions of Authority outside its sewerage district".

(2) For section 174(2) of the Principal Act substitute—

"(2) An Authority must not provide a service under this Part outside its sewerage district unless—

(a) the service is capable of being conveniently provided by the use of resources that are not immediately required in carrying out the Authority's functions under this Act; and

(b) if the service relates to land in another Authority's sewerage district, that Authority has agreed to the service being provided.".

75 Section 179 substituted

For section 179 of the Principal Act substitute—

"179 Special sewerage services

(1) An Authority with the management and control of a sewerage district may, by notice in writing, declare any land within the district to be a serviced property for the purposes of providing services to the land under sections 180 or 183.

(2) Section 144(2), (3) and (4) apply to a notice under subsection (1) as if it were a notice under section 144(1)."
(3) An Authority may impose a fee under a tariff on a property that is a serviced property because of a notice under subsection (1), in relation to any service provided by the Authority under section 180 or 183."

76 Functions of Authorities

(1) For section 189(1)(a) of the Principal Act substitute—

"(a) to identify and plan for State and local community needs relating to the uses and values of waterways and land, including—

(i) environmental values; and

(ii) Aboriginal cultural values and uses; and

(iii) social and recreational uses and values; and

(iv) economic values;"

(2) For section 189(2) of the Principal Act substitute—

"(2) In performing its functions under this Act, an Authority that has a waterway management district must—

(a) have regard to the need to maintain the environmental water reserve in accordance with the environmental water reserve objective; and

(b) consider opportunities to provide for the following, consistently with its objectives and the requirements of this Act or any other Act—

(i) Aboriginal cultural values and uses of waterways;
(ii) the social and recreational uses and values of waterways."

77 Preparation of regional waterway strategies

(1) In section 190(3) of the Principal Act—

(a) after paragraph (b) insert—

"(ba) take into account any of the following agreements that are relevant to the area or waterways to which the regional waterway strategy applies—

(i) a recognition and settlement agreement and any further agreement to a recognition and settlement agreement;

(ii) an Aboriginal cultural heritage land management agreement within the meaning of the Aboriginal Heritage Act 2006 that is recorded on the Victorian Aboriginal Heritage Register under section 145 of that Act; and

(bb) take into account any determination of native title that native title exists in relation to the area to which the regional waterway strategy applies; and"

(b) in paragraph (c), for "section 197A." substitute "section 197A; and";

(c) after paragraph (c) insert—

"(d) take into account—

(i) social and recreational uses and values of waterways within its waterway management district; and
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(ii) Aboriginal cultural values and uses of waterways and other cultural values and uses of waterways within its waterway management district; and

(e) give notice of the preparation of the regional waterway strategy to all specified Aboriginal parties in relation to the area to which the regional waterway strategy applies.”.

(2) For section 190(4) of the Principal Act substitute—

"(4) A notice under subsection (3)(e) must—

(a) specify the location where a copy of the proposed regional waterway strategy may be obtained; and

(b) invite submissions on the proposed regional waterway strategy to be made in the manner specified in the notice; and

(c) set a date by which submission must be made, which must be a day not less than 35 days after the day on which the notice is given.”.

78 Closing of access by Authorities

(1) In section 193(2) of the Principal Act—

(a) in paragraph (c), for "entitlement." substitute "entitlement; or";

(b) after paragraph (c) insert—

"(d) any member of a traditional owner group who has rights including traditional owner rights in relation to the waterway or designated land
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or works under a recognition and settlement agreement; or

(e) any native title holder for the area who has native title rights and interests within the meaning of section 223 of the Native Title Act 1993 of the Commonwealth."

(2) After section 193(8) of the Principal Act insert—

"(9) In this section—

traditional owner rights has the same meaning as in the Traditional Owner Settlement Act 2010.

79 Works that interfere with designated land or works

(1) For section 194(1) of the Principal Act substitute—

"(1) A person must not knowingly cause or permit a regulated action to be undertaken within an Authority's waterway management district, without the consent of the Authority or another authorisation under this Act, being an action that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units."
(1A) A person must not recklessly cause or permit a regulated action to be undertaken within an Authority's waterway management district, without the consent of the Authority or another authorisation under this Act, being an action that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(1B) A person must not cause or permit a regulated action to be undertaken within an Authority's waterway management district, without the consent of the Authority or another authorisation under this Act.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.

(1C) Subsections (1), (1A) and (1B) do not apply to the holder of a declared bulk entitlement or a public statutory authority.

(2) In section 194(2) of the Principal Act—

(a) for "works of a kind referred to in subsection (1)" substitute "any regulated action";

(b) for "the works" substitute "the regulated action".
(3) In section 194(3) of the Principal Act, for "works of a kind referred to in subsection (1)" substitute "any regulated action".

(4) After section 194(3) of the Principal Act insert—

"(4) In this section—

regulated action means any work or works which interfere, or are likely to interfere, with designated land or works or the quality, quantity or flow of water in designated land or works."

80 Control over connections and discharges

(1) For section 195(1) of the Principal Act substitute—

"(1) A person must not knowingly cause or permit a regulated drainage activity to be carried out within an Authority's waterway management district, without the consent of the Authority, being an activity that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units.

(1A) A person must not recklessly cause or permit a regulated drainage activity to be carried out within an Authority's waterway management district, without the consent of the Authority, being an activity that results in—
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(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(1B) A person must not cause or permit a regulated drainage activity to be carried out within an Authority's waterway management district, without the consent of the Authority.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.

(1C) Subsections (1), (1A) and (1B) do not apply to a public statutory authority.".

(2) In section 195(2) of the Principal Act, for "anything specified in subsection (1)" substitute "any regulated drainage activity".

(3) In section 195(3) of the Principal Act, for "anything specified in subsection (1)" substitute "any regulated drainage activity".

(4) After section 195(3) of the Principal Act insert—

"(4) In this section—

regulated drainage activity means any of the following—

(a) any connection of any drainage works to a designated waterway or designated land or works;
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81 Control of works and structures

(1) For section 208(1) and (1A) of the Principal Act substitute—

"(1) A person must not knowingly cause or permit the undertaking or erection of any regulated works or structure within a relevant Authority's waterway management district, without the consent of the relevant Authority, being an undertaking or erection that results in—

(a) land, works or water being seriously damaged; or
(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;
For a body corporate, 6000 penalty units.

(1A) A person must not recklessly cause or permit the undertaking or erection of any regulated works or structure within a relevant Authority's waterway management district, without the consent of the relevant Authority, being an undertaking or erection that results in—
(a) land, works or water being seriously damaged; or
(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;
For a body corporate, 3000 penalty units.

(1B) A person must not cause or permit the undertaking or erection of any regulated works or structure within a relevant Authority's waterway management district, without the consent of the relevant Authority.

Penalty: For an individual, 120 penalty units;
For a body corporate, 600 penalty units.

(1C) Subsections (1), (1A) and (1B) do not apply to—
(a) a public statutory authority; and
(b) a person who is acting under and in accordance with a levee maintenance permit."

(2) In section 208(2) of the Principal Act, for "undertake works or erect structures of a kind referred to in subsection (1)(a) or in a place referred to in subsection (1)(b) must, before undertaking the works or erecting the structures" substitute "undertake or erect any regulated works or structure must, before undertaking or erecting the works or structure".
(3) In section 208(4) of the Principal Act, after "specified in the notice" insert ", within 14 days of the notice being served on the owner".

(4) For section 208(5) of the Principal Act substitute—

"(5) A person must not fail to comply with any notice under subsection (4).
Penalty: For an individual, 60 penalty units;
For a body corporate, 300 penalty units.".

(5) After section 208(6) of the Principal Act insert—

"(7) In this section—

*regulated works or structure* means any of the following—

(a) works or a structure within an area of land declared to be liable to flooding or declared to be a floodway area, that may have the effect of—

(i) controlling or mitigating floodwaters; or
(ii) discharging stormwater; or
(iii) excluding tidal water; or
(iv) concentrating or diverting floodwater or stormwater;

(b) works or a structure between a building line and any part of the designated waterway or designated land or works in relation to which the building line was declared;
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relevant Authority means an Authority to which this Division applies and that has the function referred to in section 202(1)(d) or (e) or (2)(d) or (e)."

82 Irrigation, amendment of definition

In section 220(1) of the Principal Act, in the definition of serviced property, for "section 144(1)(c)" substitute "section 144(1)(c)(i)".

83 New Part 11A inserted

After Part 11 of the Principal Act insert—

"Part 11A—Salinity mitigation

Division 1—Preliminary

232 Determination of salinity impact zones

(1) The Minister may determine an area of land on which use of water on the land under water-use licences causes or may cause an increase in salinity to land or water to be a salinity impact zone.

(2) Notice of the making of a determination under subsection (1) must be published in the Government Gazette.

(3) A determination under subsection (1) has effect—

(a) on the day on which notice of its making is published in the Government Gazette; or

(b) if a later day is specified in the determination, that day.

(4) A determination under subsection (1) may be amended in the same manner as that in which it is made.
(5) In a determination under subsection (1), a salinity impact zone may be described by reference to a plan lodged in the Central Plan Office.

(6) The Minister must—

(a) publish a copy of each determination under subsection (1) on the Internet site of the Department, together with any plan referred to in the determination; and

(b) maintain the copy of the determination and the plan on the Internet site for so long as the determination remains in force.

Division 2—Functions and powers of the Minister

232A Functions and powers of the Minister as to salinity mitigation

(1) The Minister has the following functions in relation to salinity mitigation—

(a) to carry out works and measures to mitigate or offset salinity impacts of irrigation;

(b) in relation to actions described in paragraph (a)—

(i) to carry out research, investigation and assessment into those actions or the need for those actions; or

(ii) to meet the State's obligations under the Murray-Darling Basin Agreement in relation to those actions;
(c) to operate and maintain works carried out under paragraph (a) or other works to mitigate or offset salinity impacts of irrigation;

(d) to monitor groundwater, surface water and irrigation development for salinity impacts of irrigation;

(e) to develop and manage programs—

(i) to mitigate or offset salinity impacts of irrigation; and

(ii) to improve irrigation, drainage and other salinity mitigation or offsetting practices;

(f) to monitor, evaluate, report on and account for programs or other actions to mitigate or offset salinity impacts of irrigation;

(g) in relation to actions described in paragraphs (c), (d), (e), and (f)—

(i) to carry out research, investigation and assessment into those actions or the need for those actions; or

(ii) to meet the State's obligations under the Murray-Darling Basin Agreement.

(2) The Minister has all the powers that are necessary to carry out the functions set out in subsection (1).
Division 3—Imposition of salinity impact charges

232B Fixing salinity impact charges

(1) The Minister may, by determination under this Division, fix—

(a) a charge for the carrying out of the functions set out in section 232A(1)(a) and (b); and

(b) a charge for the carrying out of the functions set out in section 232A(1)(c), (d), (e), (f) and (g).

(2) In the determination under subsection (1)(a), a capital works salinity impact charge may be fixed by reference to—

(a) a fixed amount; or

(b) an amount fixed by reference to all or any of the following—

(i) the salinity impact zone in which land subject to the charge is situated;

(ii) the class of change in use of water on land subject to the charge;

(iii) annual use limits for water-use licences subject to the charge;

(iv) any other relevant matter; or

(c) an amount fixed by reference to a formula calculated having regard to the matters set out in paragraph (b); or

(d) any combination of amounts referred to in paragraphs (a), (b) and (c).
(3) In the determination under subsection (1)(b), an annual salinity impact charge may be fixed by reference to—

(a) a fixed amount; or

(b) an amount fixed by reference to all or any of the following—

(i) the salinity impact zone in which land subject to the charge is situated;

(ii) the class of change in use of water on land subject to the charge;

(iii) annual use limits for water-use licences subject to the charge;

(iv) any other relevant matter; or

(c) any combination of amounts referred to in paragraphs (a) and (b).

(4) A capital works salinity impact charge or annual salinity impact charge may be fixed by reference to one case or a class of cases.

(5) Subject to this Act, a determination under this section may make provision for or with respect to any of the following—

(a) persons or classes of persons who are excepted from paying a charge;

(b) the method of payment of a charge, including payment by instalments;

(c) any other necessary matter or thing.

(6) A determination under this section must—

(a) be in writing; and

(b) be published in the Government Gazette.
232C  Annual adjustment of determined amount

(1) An amount fixed in a determination under section 232B(1)(a) or (b) may be adjusted, for each financial year that follows the financial year in which the determination is made, by the sum of the published consumer price index numbers for the consecutive reference periods in the period—

(a) commencing on 1 January in the financial year 2 years earlier than the financial year in respect of which the adjustment is being made; and

(b) ending on the next following 31 December in the financial year immediately preceding the financial year in respect of which the adjustment is being made.

(2) For the purposes of subsection (1), the published consumer price index numbers for the consecutive reference periods are the numbers last published by the Australian Bureau of Statistics as at 15 April immediately preceding the financial year in respect of which the adjustment is being made.

232D  Imposition of capital works salinity impact charge

(1) A capital works salinity impact charge may be imposed as follows—

(a) on the holder of the water-use licence that is issued and that authorises the use of water on land in a salinity impact zone;
(b) on the holder of a water-use licence, if an annual use limit for the water-use licence authorises the use of water on land in a salinity impact zone and the limit is varied to increase the limit;

(c) on the holder of a water-use licence, if the water-use licence is varied to authorise water to be used under the licence on land that is in a salinity impact zone.

(2) A capital works salinity impact charge may be imposed—

(a) under subsection (1)(a), on the making of the decision to issue the licence; and

(b) under subsection (1)(b), on the making of the decision to vary the annual use limit; and

(c) under subsection (1)(c), on the making of the decision to authorise the use of water in the salinity impact zone.

232E Imposition of annual salinity impact charge

(1) An annual salinity impact charge may be imposed on the holder of a water-use licence if the water-use licence authorises water to be used on land in a salinity impact zone.

(2) An annual salinity impact charge may be imposed under subsection (1) on an annual basis.

232F Minister may except persons from imposition of charge

In a determination under section 232B the Minister may set out cases or classes of cases in which a capital works salinity impact charge or an annual salinity impact charge
that would otherwise be imposed on a licence holder under section 232D or 232E is not imposed on the licence holder."

84 Properties subject to tariff

In section 258(1A) of the Principal Act, for "water district" substitute "water supply district".

85 Tariffs

(1) Section 259(1)(c) of the Principal Act is repealed.

(2) For section 259(10) of the Principal Act substitute—

"(10) In determining what constitutes a separate occupancy, the Authority must have regard to—

(a) any regulations prescribing the following—

(i) any class of land or part of land as constituting an occupancy;

(ii) any considerations for determining what constitutes an occupancy; or

(b) if there are no such regulations, the principles set out in the Valuation of Land Act 1960."

(3) Section 259(11) of the Principal Act is repealed.

86 Section 273AA substituted

For section 273AA of the Principal Act substitute—

"273AA Application of Division

This Division does not apply—

(a) to Melbourne Water Corporation; or

(b) in relation to salinity impact charges.".
87 Payment to Authorities

(1) In section 274(1) of the Principal Act, for "unless payment by instalments is available in accordance with a resolution under subsection (1A) and the person liable to pay the amount chooses to pay by instalments in accordance with subsections (2) and (3)" substitute "unless payment may be made by instalments and the person liable to pay the amount chooses to pay by instalments in accordance with subsections (2) and (3)".

(2) Section 274(1A), (1B), (1C) and (1D) of the Principal Act are repealed.

(3) For section 274(2)(a) and (b) of the Principal Act substitute—

"(a) a fee imposed on an annual basis under a tariff; or"

(4) In section 274(3A) of the Principal Act omit ", on or after the commencement of section 195(2) of the Water Industry Act 1994.".

88 Agreements with respect to the collection of fees under tariffs

In section 281A(2) of the Principal Act, for "water districts" substitute "water supply districts".

Part 2—Amendment of the Water Act 1989
89 Division 10 of Part 13 substituted

For Division 10 of Part 13 of the Principal Act substitute—

"Division 10—Salinity impact charges

287A Minister may require payment of salinity impact charges

(1) The Minister, by notice in writing, may require a person on whom a capital works salinity impact charge may be imposed under section 232D to pay a capital works salinity impact charge fixed in accordance with a determination under section 232B(1)(a).

(2) The Minister, by notice in writing, may require a person on whom an annual salinity impact charge may be imposed under section 232E to pay an annual salinity impact charge fixed in accordance with a determination under section 232B(1)(b).

287AB Notice of salinity impact charges

(1) A notice under section 287A must specify—

(a) the amount of the salinity impact charge, or, if the salinity impact charge may be paid in instalments, the amount of each instalment; and

(b) the date by which the person must pay the salinity impact charge, or, if the salinity impact charge may be paid in instalments, the date by which the person must pay each instalment; and

(c) whether the salinity impact charge is a capital works salinity impact charge or an annual salinity impact charge; and
(d) the property and the water use licence to which the salinity impact charge relates.

(2) A notice under section 287A is not invalid merely because of a minor error or defect.

287AC Payment of salinity impact charges

(1) Subject to subsection (2), a salinity impact charge must be paid by the date specified in the notice given under section 287A, being a date that is at least 28 days after the date of issue of the notice.

(2) If a salinity impact charge is payable in instalments, each instalment must be paid by the date specified in the notice, being a date that is at least 14 days after the date of issue of the notice.

287AD Unpaid salinity impact charges debts due to Crown

Any unpaid salinity impact charge due to the Minister (including interest) is a debt due to the Crown by the person liable to pay the charge and may be recovered in any court of competent jurisdiction.

287AE Interest on unpaid salinity impact charges

(1) Any unpaid salinity impact charge bears interest at the rate set from time to time for the purposes of this section by the Minister from the date specified in the notice under section 287A by which the person must pay the charge to the date that it is paid.
Part 2—Amendment of the Water Act 1989

(2) The rate set by the Minister must not be more than the rate fixed from time to time for the purposes of subsection (1) by the Essential Services Commission under a Code under section 4F of the Water Industry Act 1994.

(3) If the Minister sets a new rate, the new rate takes effect on the date set by the Minister and applies from that date to all salinity impact charges (other than interest) owing to the Minister on that date.

(4) No interest is payable if the person liable to pay the amount has arranged with the Minister for payment by instalments of the amount due, and any instalments that have become due have been paid by the date specified in the notice under section 287A for the instalments.

(5) The Minister may exempt any person from paying the whole or any part of any interest either generally or specifically.

287AF Unpaid salinity impact charges are charges on property

(1) If a person who owns property and has a water-use licence that authorises the use of water on the property is liable to pay a salinity impact charge to the Minister in relation to the licence, any unpaid amount of the salinity impact charge is a charge on the property, whether or not the Minister has agreed to defer the payment of the whole or any part of that amount.
(2) A person who becomes the owner of a property must pay to the Minister at the time the person becomes the owner of the property any amount that is a charge under this section on that property.

287AG Collection of salinity impact charges

(1) The Minister may collect a salinity impact charge from a person on whom the charge is imposed.

(2) Section 9(2) of the Financial Management Act 1994 does not apply to the collection under this Division of salinity impact charges by the Minister.

287AH Application of salinity impact charges

(1) The Minister may apply salinity impact charges that have been collected—

(a) for the payment of such amounts as are determined or required by the Minister to perform the Minister's functions in relation to salinity mitigation under section 232A; and

(b) for the payment of the costs of the administration of Part 11A and this Division.

(2) For the purposes of subsection (1)(a), the Minister may apply salinity impact charges that have been collected for the payment of amounts in relation to—

(a) land within Victoria, whether or not the land is within a salinity impact zone; or

(b) land that is outside of Victoria, if the application of the charges is to meet the State's obligations under the Murray-Darling Basin Agreement.".
90 Requirements for preparation of allocation statement

In section 287F(1) of the Principal Act—

(a) for "water corporations" (wherever occurring) substitute "Authorities";

(b) for "a water corporation" substitute "an Authority";

(c) for "another water corporation" substitute "another Authority".

91 Section 288 substituted and new section 288A inserted

For section 288 of the Principal Act substitute—

"288 Offences as to Authority's property

(1) A person must not knowingly destroy, damage, remove, alter or in any way interfere with any property of an Authority without the consent of the Authority or another authorisation under this or any other Act, being a destruction, damage, removal, alteration or interference that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units."
Part 2—Amendment of the Water Act 1989

(2) A person must not recklessly destroy, damage, remove, alter or in any way interfere with any property of an Authority without the consent of the Authority or another authorisation under this or any other Act, being a destruction, damage, removal, alteration or interference that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(3) A person must not destroy, damage, remove, alter or in any way interfere with any property of an Authority without the consent of the Authority or another authorisation under this or any other Act.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.

(4) In this section and in section 288A—

*property of an Authority* includes works or other real or personal property that—

(a) belongs to an Authority; or

(b) is under the control and management of an Authority.
288A Evidentiary provisions for offences under section 288

(1) In a proceeding for an offence under section 288(1), (2) or (3), evidence that property of an Authority on land owned or occupied by a person has been destroyed, damaged, removed, altered or in any way interfered with, is evidence and, in the absence of evidence to the contrary, is proof that the destruction, damage, removal, alteration or interference with has been done by that person.

(2) In this section—

property of an Authority on land owned or occupied by a person includes—

(a) property of an Authority situated on land owned or occupied by a person; or
(b) property of an Authority that services only land owned or occupied by a person; or
(c) property of an Authority that records the amount of water taken to, delivered to, supplied to or used on land owned or occupied by a person.

92 Section 289 substituted and new sections 289A, 289B and 289C inserted

For section 289 of the Principal Act substitute—

"289 Wrongful taking etc. of water

(1) A person must not knowingly take, use or divert an Authority's water without the consent of the Authority or another authorisation under this or any other Act,
being a taking, use or diversion that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;

For a body corporate, 6000 penalty units.

(2) A person must not recklessly take, use or divert an Authority's water without the consent of the Authority or another authorisation under this or any other Act, being a taking, use or diversion that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;

For a body corporate, 3000 penalty units.

(3) A person must not take, use or divert an Authority's water without the consent of the Authority or another authorisation under this or any other Act.

Penalty: For an individual, 240 penalty units;

For a body corporate, 1200 penalty units.
(4) In this section—

Authority's water means water—

(a) that is under the control and management of an Authority; or

(b) that is supplied by an Authority for the use of another person.

289A Evidentiary provisions for offences under section 289

(1) In any proceeding for an offence under section 289(1), (2) or (3) against a person, evidence that water has been taken to, diverted to or used on land that is specified in a relevant authorisation held by that person, is evidence that the person took, used or diverted the water and, in the absence of evidence to the contrary, is proof of that fact.

(2) In any proceeding for an offence under section 289(1), (2) or (3) against a person, in a case where subsection (1) does not apply, evidence that water has been taken to, diverted to or used on land occupied by the person is evidence that the person took, used or diverted the water and, in the absence of evidence to the contrary, is proof of that fact.

(3) To avoid doubt, subsection (2) applies to a person who is the occupier of land who is also the owner of the land.

(4) In a proceeding for an offence under section 289(1), (2) or (3), if a person has been found guilty of an offence under section 288(1), (2) or (3) in relation to a meter of an Authority that records the amount of water that is taken to, delivered to, supplied to or used on land owned or occupied by the person, the finding of guilt is evidence that—
(a) the person took, used or diverted water and, in the absence of evidence to the contrary, is proof of that fact; and

(b) the person was not authorised to take, use or divert that water and, in the absence of evidence to the contrary, is proof of that fact.

(5) In this section—

relevant authorisation means a consent of the Authority or another authorisation under this or any other Act.

289B Offence to interfere with flow of water

(1) A person must not knowingly interfere with the flow of water in any waterway, aquifer or works under the control and management of an Authority, without the consent of the Authority or another authorisation under this or any other Act, being an interference that results in—

(a) land, works or water being seriously damaged; or

(b) another person suffering substantial economic loss.

Penalty: For an individual, 10 years imprisonment or 1200 penalty units or both;
For a body corporate, 6000 penalty units.

(2) A person must not recklessly interfere with the flow of water in any waterway, aquifer or works under the control and management of an Authority, without the consent of the Authority or another authorisation under this or any other Act, being an interference that results in—
(a) land, works or water being seriously damaged; or
(b) another person suffering substantial economic loss.

Penalty: For an individual, 5 years imprisonment or 600 penalty units or both;
For a body corporate, 3000 penalty units.

(3) A person must not interfere with the flow of water in any waterway, aquifer or works under the control and management of an Authority, without the consent of the Authority or another authorisation under this or any other Act.

Penalty: For an individual, 240 penalty units;
For a body corporate, 1200 penalty units.

289C Power to issue infringement notice in relation to offences under sections 289(3) and 289B(3)

(1) An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 289(3) if the person—

(a) was not authorised to take, use or divert water by the consent of the Authority or under another authorisation under this or any other Act; and

(b) took, used or diverted an amount of water equal to, or less than, 10 megalitres.
An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 289(3) if the person—

(a) was authorised to take, use or divert a specified amount of water by the consent of the Authority or under another authorisation under this or any other Act (the \textit{authorised amount}); and

(b) took, used or diverted an amount of water in addition to the authorised amount and the amount of that additional water—

(i) was an amount equal to, or less than, 20\% of the authorised amount; and

(ii) was an amount equal to, or less than, 10 megalitres.

An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 289B(3) if the person—

(a) did not have the consent of the Authority and was not authorised under this or any other Act to interfere with the flow of water in any waterway, aquifer or works under the control and management of an Authority; and

(b) interfered with the flow of water by taking or diverting an amount of water equal to, or less than, 10 megalitres.

An authorised water officer may serve an infringement notice on a person whom the officer has reason to believe has contravened section 289B(3) if the person—
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(a) had the consent of the Authority or held an authorisation under this or any other Act to interfere with the flow of water in any waterway, aquifer or works under the control and management of the Authority and that consent or authorisation authorised the taking or diverting of a specified amount of water (the ‘authorised amount’); and

(b) interfered with the flow of water by taking or diverting an amount of water in addition to the authorised amount and that additional water was an amount equal to or less than 20% of the authorised amount.”.

93 Repeal of section 295

Section 295 of the Principal Act is repealed.

94 Section 295A substituted and new section 295B inserted

For section 295A of the Principal Act substitute—

"295A Power to issue infringement notices

(1) Subject to sections 33EB, 63B and 289C, an authorised water officer appointed by an Authority may serve an infringement notice on a person whom the officer has reason to believe has committed a water infringement offence.

(2) A water infringement offence, for which an infringement notice may be served, is an infringement offence within the meaning of the Infringements Act 2006."
295B Indictable offences

Offences against sections 33E(1) and (2), 63(1) and (2), 75A(1) and (2), 76A(1) and (2), 145A(1), (2), (4) and (5), 169A(1) and (2), 194(1) and (1A), 195(1) and (1A), 208(1) and (1A), 288(1) and (2), 289(1) and (2) and 289B(1) and (2) are indictable offences."

95 General evidentiary provisions

(1) In section 301(1) of the Principal Act, for "delivered to a property" substitute "taken to, supplied to, delivered to, or used on, a property".

(2) For section 301(2) and (3) of the Principal Act substitute—

"(2) Subsection (3) applies if, in any proceeding under this Act or the regulations or by-laws under this Act in which the amount of water taken to, supplied to, delivered to, or used on, a property is relevant and—

(a) as a result of a water meter having malfunctioned or having been destroyed, damaged, altered or in any way interfered with, the Authority considers that the water meter did not accurately record the amount of water taken to, supplied to, delivered to, or used on the property; or

(b) there is no accurately working meter on the property.

(3) In any proceeding described in subsection (2), evidence may be given of the amount of water estimated by the Authority in accordance with section 142A and any relevant regulations, to have been taken to, supplied to or delivered to, or used on the property, during the relevant period and, in
the absence of evidence to the contrary, the evidence is proof that that amount of water was taken to, supplied to, delivered to, or used on that property during that period.”.

96 Power of Minister to delegate

(1) In section 306(1)(b) of the Principal Act—

(a) after "62A," insert "232, 232B,";
(b) after "283(3B)" insert ", 287AH(2)(b)".

(2) After section 306(4) of the Principal Act insert—

"(5) To avoid doubt, if the Minister delegates a power, discretion, function, authority or duty under section 232A, 287A, 287AG or 287AH(1) or (2)(a) to an Authority, the Minister may give directions in writing to the Authority in relation to the exercise or performance of the power, discretion, function, authority or duty.”.

97 Powers of the Minister in enforcing certain Parts of this Act

For section 309(1) of the Principal Act substitute—

"(1) For the purposes of Parts 3A, 4, 4B and 5, the Minister—

(a) has the powers given by section 133 to an officer of an Authority; and
(b) may authorise a person in writing to exercise the powers given by section 133.”.

98 Regulations

(1) In section 324(1) of the Principal Act—

(a) in paragraph (ab), after "licence," insert "permit,";
Part 2—Amendment of the Water Act 1989

(b) in paragraph (b), for "a water corporation" substitute "an Authority";

(c) for paragraph (c) substitute—

"(c) the control, management and use of environmental areas and recreational areas under the control and management of an Authority, including but not limited to—

(i) the control, management and use of the land, services and facilities in the area, including fees for the provision or use of any such services or facilities or for entry to land on which such services or facilities are situated; and

(ii) the protection of the land, services and facilities; and

(iii) the protection of people in the area from injury or nuisance; and

(iv) setting aside areas in which activities may be permitted, restricted or prohibited; and

(v) the conservation and preservation of flora, fauna and habitat in the area; and

(vi) the control of the introduction of any new flora or fauna to the area; and

(vii) the control of the numbers of any flora or fauna in the area; and

(ca) the granting of leases or licences for environmental areas and recreational areas, and in particular as to the following matters—
Part 2—Amendment of the Water Act 1989

(i) the Authority that may grant any such lease or licence, which must be the Authority that has the management and control of the area and that has a proprietary interest in the area;

(ii) the purposes for which any such lease or licence may be granted, which must be for activities carried on in, or things introduced into, the area; and

(cb) the charging of fees for leases or licences over environmental areas and recreational areas; and

(cc) the powers of the Authority in relation to the removal of any unregistered or abandoned motor vehicle from an environmental area or a recreational area and its subsequent sale, including provisions about—

(i) notice of removal; and

(ii) surrender of the motor vehicle to its owner or an agent of the owner; and

(iii) sale of the motor vehicle; and

(iv) the circumstances in which clear title to the motor vehicle passes on sale; and

(v) disposal of the proceeds of sale; and

(vi) protection of the Authority from liability in relation to payments of the proceeds of sale; and

(vii) any other necessary or convenient matter; and".
Part 2—Amendment of the Water Act 1989

(2) In section 324(1) of the Principal Act—
   (a) in paragraph (f), for "water supply" substitute "the supply, delivery, taking or using of water";

   (b) in paragraph (g), for "water supplied to land" substitute "water supplied or delivered to land, used on land or taken to land".

(3) In section 324(1) of the Principal Act, after paragraph (u) insert—

   "(ua) prescribing offences to be water infringement offences, including that a water infringement offence applies or does not apply—
   (i) at times, on days, in circumstances or at places specified in the regulations; and

   (ii) to a person or to a class of person specified in the regulations; and

   (ub) prescribing infringement penalties for water infringement offences, including prescribing different infringement penalties for water infringement offences consisting of different conduct, facts things or circumstances; and"

(4) For section 324(3)(f) of the Principal Act substitute—

   "(f) so as to impose a penalty for a contravention of the regulations not exceeding 20 penalty units, for an individual, or 100 penalty units, for a body corporate; and

   (g) so as to impose an infringement penalty for a contravention of the regulations not exceeding 12 penalty units, for an individual, or 60 penalty units, for a body corporate."."
New Part 16 inserted

After Part 15 of the Principal Act insert—

"Part 16—Transitional, validation and other provisions—Water and Catchment Legislation Amendment Act 2019

Division 1—Serviced property, transitional and validation provisions

Definitions

In this Division—

amending Act means the Water and Catchment Legislation Amendment Act 2019;

serviced property commencement means the day on which section 5(2) of the amending Act comes into operation.

Serviced property immediately before the serviced property commencement

On the serviced property commencement—

(a) any property that was, immediately before that commencement, serviced property because of paragraph (c), (d), (e), (f), (g) or (h) of the definition of serviced property in section 3(1) (as in force immediately before that commencement) is taken to be serviced property as if it had been declared to be serviced property under section 144(1); and
Part 2—Amendment of the Water Act 1989

(b) any property that was, immediately before that commencement, deemed to be serviced property within the meaning of section 220(1) because of clause 12 of Schedule 15, is taken to be serviced property as if it had been declared to be serviced property under section 144(1)(c)(i).

337 Certain land taken to be serviced property

(1) Within 12 months of the serviced property commencement—

(a) an Authority may—

(i) identify land as serviced property for the purposes of Part 8, 9, 10 or 11; and

(ii) lodge a plan in the Central Plan Office under this section showing the identified land; and

(b) as soon as practicable after the plan is lodged in the Central Plan Office under subsection (1), the Authority must publish notice of the plan in the Government Gazette.

(2) Any land identified in the plan notified in the Government Gazette under subsection (1)(b)—

(a) as serviced property for the purposes of Part 8 is taken to be land declared to be serviced property by the Authority under section 144(1)(a); or

(b) as serviced property for the purposes of Part 9 is taken to be land declared to be serviced property by the Authority under section 144(1)(b); or
Part 2—Amendment of the Water Act 1989

(c) as serviced property for the purposes of—

(i) water delivery services to the land under Part 11 is taken to be land declared to be serviced property by the Authority under section 144(1)(c)(i); or

(ii) irrigation drainage or salinity mitigation services under Part 11 in relation to the land or that directly benefit the land, is taken to be serviced property by the Authority under section 144(1)(c)(ii); or

(d) as serviced property for the purposes of Part 10 is taken to be land declared to be serviced property by the Authority under section 144(1)(d).

(3) For the purposes of this section, land may be identified as serviced property in a plan lodged under subsection (1) by an Authority if—

(a) for Part 8, the land—

(i) is within the water supply district of the Authority; and

(ii) the Authority has made provision for water supply services to the land; and

(iii) the Authority identifies the land on the plan lodged under this section as land to which the services have been provided; and
Part 2—Amendment of the Water Act 1989

(iv) the Authority has imposed or purported to impose fees under a tariff under section 259 for the provision of those services to that land for 2 years or more before the serviced property commencement; or

(b) for Part 9, the land—

(i) is within the sewerage district of the Authority; and

(ii) the Authority has made provision for sewerage services to the land; and

(iii) the Authority identifies the land on a plan prepared under this section as land to which the services have been provided; and

(iv) the Authority has imposed or purported to impose fees under a tariff under section 259 for the provision of those services to that land for 2 years or more before the serviced property commencement; or

(c) for Part 11, the land—

(i) is within the irrigation district of the Authority; and

(ii) the Authority has made provision for—

(A) water delivery services to the land; or

(B) irrigation drainage or salinity mitigation services in relation to the land or that directly benefit the land; and
Part 2—Amendment of the Water Act 1989

(iii) the Authority identifies the land on a plan prepared under this section as land for which the Authority has made provision for those services; and

(iv) the Authority has imposed or purported to impose fees under a tariff under section 259 for the provision of those services to that land for 2 years or more before the serviced property commencement; or

(d) for Part 10, the land—

(i) is within the waterway management district of the Authority; and

(ii) the Authority has made provision for regional drainage or floodplain management services that are of direct benefit to the land; and

(iii) the Authority identifies the land on a plan prepared under this section as land for which the Authority has made provision for those services; and

(iv) the Authority has imposed or purported to impose fees under a tariff under section 259 for the provision of those services to that land for 2 years or more before the serviced property commencement.
338 Certain properties taken to have been serviced properties for the purposes of fees for services under Parts 8, 9, 10 and 11

This Act is taken to have applied to any fee to which section 337(3)(a)(iv), (b)(iv), (c)(iv) or (d)(iv) applies as if, at the time at which the fee was imposed or purported to be imposed and for the period to which the fee was related or purported to be related, the property was serviced property.

Division 2—Validation of charges in relation to salinity mitigation

339 Meaning of validation date

In this Division—

validation date means 19 March 2019.

340 Validation provision in respect of section 287A

(1) Subject to section 342—

(a) a requirement to make a payment or a number of payments, or a purported requirement to make a payment or a number of payments, under section 287A(1) as in force at any time before the validation date is to be taken to be, and always to have been, a valid requirement, despite a failure by any person to comply with that section; and

(b) any payment collected or received, or purportedly collected or received, under or for the purposes of section 287A(1) as in force at any time before the validation date is to be taken to be, and always to have been, validly collected.
or received, despite a failure by any person to comply with that section; and

(c) any action, matter or thing taken, arising or done as a result or consequence of, or in reliance upon, such a requirement, collection or receipt or purported requirement, collection or receipt, whether under this Act or otherwise, is taken to be, and to always have been, valid and effective.

(2) Without limiting subsection (1), that subsection applies with respect to the following—

(a) a failure to consider either of the following matters in making a decision under or for the purposes of section 287A(1) as in force at any time before the validation date—

(i) a change in use (however described) as specified in section 287A(1)(a) as in force at any time before the validation date;

(ii) whether particular works or measures carried out, or to be carried out, offset the impact of change in use on the environment;

(b) a failure to comply with section 287A as in force at any time before the validation date in respect of one or more of the following matters—

(i) the nature or location of particular works or measures carried out, or to be carried out, including but not limited to whether the particular works or measures are capital
works or measures, or relate to operation and maintenance;

(ii) the person or body that carried out, or is to carry out, particular works or measures;

(iii) the giving of, or failure to give, notices;

(iv) the matters specified, or not specified, in notices;

(c) a failure to comply with section 287A as in force at any time before the validation date in respect of the property to which a requirement to make a particular payment or a number of particular payments purported to relate, including but not limited to the following—

(i) that the person imposing the requirement did so on the basis that the person was satisfied that particular environmental impacts were a result of a change in use in respect of that property and other properties, rather than a change in use in respect of that property only;

(ii) otherwise in relation to the ownership or location of the property;

(d) compliance, or lack of compliance, with a policy direction issued by the Minister.
Part 2—Amendment of the Water Act 1989

(3) To avoid doubt, a reference in this section to particular works or measures to be carried out includes a reference to particular works or measures to be carried out after the commencement of this section.

341 Validation provision in respect of section 64R

(1) Subject to section 342—

(a) a fee relating to salinity mitigation or offsetting that is fixed, or purportedly fixed, under section 64R as in force at any time before the validation date is to be taken to be, and always to have been, validly fixed, despite a failure by any person to comply with that section; and

(b) a fee relating to salinity mitigation or offsetting that is collected or received, or purportedly collected or received, under or for the purposes of section 64R as in force at any time before the validation date is to be taken to be, and always to have been, validly collected or received, despite a failure by any person to comply with that section; and

(c) any action, matter or thing taken, arising or done as a result or consequence of, or in reliance upon, such a fixing, collection or receipt or purported fixing, collection or receipt, whether under this Act or otherwise, is taken to be, and to always have been, valid and effective.
(2) Without limiting subsection (1), that subsection applies with respect to a failure to provide services of a particular kind or to a particular person.

342 Proceedings on foot not affected

(1) Despite section 340 and 341, nothing in those sections is to be taken to affect the outcome of proceedings that had commenced in a court or tribunal before the validation date, but were not completed as at that date.

(2) For the purposes of subsection (1), proceedings are completed when any period for appeal or review in relation to matters arising in the proceedings has expired.

15 Division 3—Salinity impact charge determinations

343 Regulatory impact statement not required for first salinity impact determination

(1) Section 12E of the Subordinate Legislation Act 1994 does not apply to—

(a) the first determination made under section 232 immediately after the commencement of that section and any amendment of that determination; and

(b) the first determination made under section 232B immediately after the commencement of that section and any amendment of that determination.

(2) A determination referred to in subsection (1) expires 12 months from the day on which it is published in the Government Gazette.
Division 4—General

344 Transitional provision—Sustainable Water Strategies—Water and Catchment Legislation Amendment Act 2019

(1) Subject to subsection (2), on and from the commencement day Division 1B of Part 3 as amended by the Water and Catchment Legislation Amendment Act 2019 applies in relation to an uncompleted Sustainable Water Strategy, to that part of the process that has not been completed.

(2) On and from the commencement day the following provisions as in force immediately before the commencement day apply to an uncompleted Sustainable Water Strategy—

(a) section 22D(2);

(b) section 22E(b).

(3) In this section—

 commencement day means the day on which section 9 of the Water and Catchment Legislation Amendment Act 2019 comes into operation;

uncompleted Sustainable Water Strategy means a draft of a Sustainable Water Strategy that is being prepared under Division 1B of Part 3 but that has not been endorsed as a Sustainable Water Strategy under section 22G(1) before the commencement day.
345 Savings provision—Infringement notices—Water and Catchment Legislation Amendment Act 2019

(1) An infringement notice issued under section 295A of the old Act that is outstanding immediately before the commencement day is taken not to be affected by that commencement and the old Act continues to apply to that infringement notice as if section 94 of the Water and Catchment Legislation Amendment Act 2019 had not come into operation.

(2) In this section—

commencement day means the day on which section 94 of the Water and Catchment Legislation Amendment Act 2019 comes into operation;

old Act means this Act as in force immediately before the commencement day.


On the commencement of section 56 of the Water and Catchment Legislation Amendment Act 2019, regulation 9 of the Water (Estimation, Supply and Sewerage) Regulations 2014 is taken to continue in force as if that regulation were made under section 142A(2)(b) of this Act (as in force on and from that commencement) and may be amended or revoked accordingly."
Part 3—Repeal of spent and redundant provisions in the Water Act 1989

100 Section 2A repealed

Section 2A of the Principal Act is repealed.

101 Protection from liability

In section 17(1) of the Principal Act omit "or section 74 of the Water Industry Act 1994".

102 Role of Minister

Section 22(4) of the Principal Act is repealed.

103 Definition and disallowance

Section 34(1)(b) of the Principal Act is repealed.

104 Section 35 repealed

Section 35 of the Principal Act is repealed.

105 Application for bulk entitlement

Section 36(1)(e) of the Principal Act is repealed.

106 Allocation of environmental entitlement

In section 48B(1) of the Principal Act—

(a) in paragraph (d), for "Corporation; or" substitute "Corporation."

(b) paragraph (e) is repealed.

107 Licence to take and use water

In section 51(1) of the Principal Act—

(a) in paragraph (c), for "Authority; or" substitute "Authority."

(b) paragraph (d) is repealed.

108 Water supply function of Melbourne Water Corporation

(1) Section 171B(a)(i) and (ii) of the Principal Act are repealed.
Part 3—Repeal of spent and redundant provisions in the Water Act 1989

(2) In section 171B(c) of the Principal Act, for "paragraph (a)(i) to (vi)" substitute "paragraphs (a)(iii) to (vi)".

109 **Section 181 repealed**

Section 181 of the Principal Act is repealed.

110 **Sewerage functions of Melbourne Water Corporation**

Section 184A(a)(i) of the Principal Act is repealed.

111 **Closing of access by Authorities**

In section 193(8) of the Principal Act omit "or section 62 of the Water Industry Act 1994".

112 **Part 14A repealed**

Part 14A of the Principal Act is repealed.

113 **Repeal of sections 330A, 330B and 330C consequent on the repeal of Schedules 16 and 17**

Sections 330A, 330B and 330C of the Principal Act are repealed.

114 **Sections 332 and 333 repealed**

Sections 332 and 333 of the Principal Act are repealed.

115 **Schedule 4 repealed**

Schedule 4 of the Principal Act is repealed.

116 **Schedule 16 repealed**

Schedule 16 of the Principal Act is repealed.

117 **Schedule 17 repealed**

Schedule 17 of the Principal Act is repealed.
Part 4—Amendment of the Catchment and Land Protection Act 1994

118 Definitions

(1) In section 3(1) of the Catchment and Land Protection Act 1994 insert the following definitions—

"Melbourne Water Corporation" has the same meaning as in the Water Act 1989;

"waterway management district" has the same meaning as in the Water Act 1989;".

(2) In section 3(1) of the Catchment and Land Protection Act 1994 insert the following definitions—

"Aboriginal person" has the same meaning as the Aboriginal Heritage Act 2006;

determination of native title has the same meaning as in section 225 of the Native Title Act 1993 of the Commonwealth;

"native title holder" has the same meaning as in section 224 of the Native Title Act 1993 of the Commonwealth;

"recognition and settlement agreement" has the same meaning as in the Traditional Owner Settlement Act 2010;

"specified Aboriginal party", in relation to an area, means any of the following—

(a) if there are native title holders for the whole or part of the area, the native title holders;

(b) if there is a traditional owner group entity appointed for the whole or part of the area and that traditional owner group entity is a party to a recognition
and settlement agreement, the
traditional owner group entity;

(c) if there is a registered Aboriginal party
within the meaning of the Aboriginal
Heritage Act 2006 for the whole or
part of the area, the registered
Aboriginal party;

*traditional owner group entity* has the same
meaning as in the Traditional Owner
Settlement Act 2010;".

119 Objectives of Act

In section 4(c) of the Catchment and Land
Protection Act 1994, after "resource managers"
insert ", specified Aboriginal parties".

120 Constitution and membership of Council

In section 7(2) of the Catchment and Land
Protection Act 1994—

(a) in paragraph (c), for "Secretary." substitute
"Secretary; and";

(b) after paragraph (c) insert—

"(d) the Minister, so far as possible, must
recommend for appointment an
Aboriginal person with experience
and knowledge of Aboriginal cultural
knowledge of management of land
and water resources.".

121 Functions, powers and duties of Authorities

In section 12(1)(c) of the Catchment and Land
Protection Act 1994, after "in the region" insert
", including representatives of specified
Aboriginal parties,".
Part 4—Amendment of the Catchment and Land Protection Act 1994

122 New section 12B inserted

After section 12A of the Catchment and Land Protection Act 1994 insert—

"12B Functions, powers and duties of Melbourne Water Corporation

(1) Melbourne Water Corporation has the following functions in respect of the waterway management district of Melbourne Water Corporation—

(a) to prepare special water supply catchment area plans for water supply catchment areas in the district and to co-ordinate and monitor the implementation of special water supply catchment area plans; and

(b) to promote the co-operation of persons and bodies involved in the management of land and water resources in the district, including specified Aboriginal parties, in preparing and implementing special water supply catchment area plans for the district.

(2) Melbourne Water Corporation has power to do all things that are necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions under this Act.

(3) Subsection (2) is not limited by any other provision of this Act that confers a power on Melbourne Water Corporation.

(4) Melbourne Water Corporation has the duties conferred on it by or under this Act.".
Part 4—Amendment of the Catchment and Land Protection Act 1994

123 Contents of strategy

After section 24(2)(b) of the *Catchment and Land Protection Act 1994* insert—

"(ba) have regard to Aboriginal cultural values and traditional ecological knowledge of management of land and water resources of the catchments in the region; and".

124 New section 27A inserted

After section 27 of the *Catchment and Land Protection Act 1994* insert—

"27A Special water supply catchment areas in Melbourne Water Corporation's waterway management district

(1) Melbourne Water Corporation may recommend to the Minister that—

(a) land in its waterway management district should be declared a special water supply catchment area; or

(b) the declaration of a special water supply catchment area in Melbourne Water Corporation's waterway management district should be revoked or amended.

(2) The Minister must consider the recommendation, having regard to how the existing or potential use of the area may adversely affect—

(a) water quality or aquatic habitats in the area; or

(b) aquifer recharge areas or aquifer discharge areas in the area.

(3) After complying with subsection (2) the Minister may accept or reject Melbourne Water Corporation's recommendation."
(4) If the Minister accepts Melbourne Water Corporation's recommendation the Minister may recommend that the Governor in Council make an Order under this section.

(5) On the Minister's recommendation under subsection (4) the Governor in Council, by Order published in the Government Gazette, may—

(a) declare land to be a special water supply catchment area; or

(b) revoke or amend that declaration.

(6) A declaration under subsection (5) may include roads and roadsides as part of a special water supply catchment area.

(7) In this Act or any other enactment, in relation to special water supply catchment area plans made under section 12B and land use conditions imposed under special water supply catchment area plans made under that section—

(a) a reference to special area plan includes a reference to special water supply catchment area plan made under section 12B; and

(b) a reference to Authority includes Melbourne Water Corporation; and

(c) a reference to region or catchment and land protection region includes a reference to the waterway management district of Melbourne Water Corporation under the Water Act 1989.".
125 Contents of plan

After section 30(1)(a) of the Catchment and Land Protection Act 1994 insert—

"(ab) have regard to Aboriginal cultural values and traditional ecological knowledge of management of land and water resources of the special area to which the plan applies; and".

126 Amendment of Schedule 2

(1) In Schedule 2 to the Catchment and Land Protection Act 1994, after clause 2(3)(b) insert—

"(ba) a representative of any specified Aboriginal party for an area that is wholly or partly within the area affected by the management plan; and".

(2) In Schedule 2 to the Catchment and Land Protection Act 1994, after clause 2(4) insert—

"(4A) For the purposes of subclause (3)(ba), an Authority must give notice of the preparation of a management plan to each specified Aboriginal party for an area that is wholly or partly within the area affected by the management plan.

(4B) A notice under subclause (4A) must—

(a) specify the location of the management plan; and

(b) invite submissions on the management plan to be made in the manner specified in the notice by the date specified in subclause (4)(c).". 
(3) In Schedule 2 to the Catchment and Land Protection Act 1994, after clause 2(5) insert—

"(6) In preparing a management plan the Authority must take into account—

(a) any of the following agreements that are relevant to the area affected by the management plan—

(i) a recognition and settlement agreement and any further agreement to a recognition and settlement agreement;

(ii) an Aboriginal cultural heritage land management agreement within the meaning of the Aboriginal Heritage Act 2006 that is recorded on the Victorian Aboriginal Heritage Register under section 145 of that Act; and

(b) any determination of native title that native title exists in relation to the area affected by the management plan.".
Part 5—Repeal of amending Act

128 Repeal of amending Act

This Act is repealed on 19 March 2021.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
Endnotes

1 General information