



NORTH WEST REGIONAL WATER AMENDMENT ACT 1985

No. 70 of 1985

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AN ACT to amend the North West Regional Water Act 1976.

[Royal Assent 17 October 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the North West Regional Water Amendment Act 1985. Short title.

Commencement.

**2**—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

Principal Act.

**3**—In this Act, the *North West Regional Water Act 1976\** is referred to as the Principal Act.

Amendment of section 2 of Principal Act (Interpretation).

**4**—Section 2 of the Principal Act is amended by inserting the following definition after the definition of “District”:—

“functions” includes duties;

Amendment of section 4 of Principal Act (Establishment of North West Regional Water Authority).

**5**—(1) Section 4 (2) of the Principal Act is amended as follows:—

(a) by omitting “six” and substituting “7”;

(b) by omitting from paragraph (d) “three” and substituting “4 members”.

(2) Section 4 (3) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (a) “municipality” and substituting “city”;

(b) by omitting paragraphs (b) and (c) and substituting the following paragraphs:—

(b) one being appointed on the nomination of the municipalities of Ulverstone and Penguin and being a member of the council of one of those municipalities;

(c) one being appointed on the nomination of the municipalities of Kentish and Latrobe and being a member of the council of one of those municipalities; and

(d) one being appointed on the nomination of the municipalities of Wynyard and Circular Head and being a member of the council of one of those municipalities.

(3) Section 4 (4) of the Principal Act is amended by omitting “or paragraph (c)” and substituting “, paragraph (c), or paragraph (d)”.

\* No. 109 of 1976. Subsequently amended by No. 77 of 1978, No. 10 of 1982, and Nos. 6 and 29 of 1984.

6—(1) Section 5 (1) of the Principal Act is amended as follows:—

Amendment of section 5 of Principal Act (Removal of members of Authority).

- (a) by inserting “ appointed ” before “ member ” where firstly occurring;
- (b) by omitting from paragraph (d) “ creditors; or ” and substituting “ creditors;”;
- (c) by omitting from paragraph (e) “ office.” and substituting “ office;”;
- (d) by inserting the following paragraphs after paragraph (e):—

(f) has, at a meeting of the Authority, failed to vote against a resolution rescinding or varying a determination of the Minister referred to in section 6 (2c), being a resolution passed by the Authority without the prior approval of the Minister; or

(g) has failed to take reasonable steps to ensure the performance by the Authority of a duty arising from a statement of policy objectives given to it by the Minister under section 8A (1) or has participated in, or connived at, any act or omission that prevents or will prevent, or is likely to prevent, the Authority from performing a duty arising from such a statement.

(2) Section 5 (2) of the Principal Act is amended by omitting “ a member ” and substituting “ an appointed member ”.

(3) Section 5 (5) of the Principal Act is amended by omitting “ municipality, or the majority of the municipalities, that are ” and substituting “ city that is, or both of the municipalities that are,”.

(4) Section 5 (6) of the Principal Act is amended by omitting “ a member ” and substituting “ an appointed member ”.

(5) Section 5 of the Principal Act is further amended by inserting the following subsection after subsection (6):—

(7) In this section, “ appointed member of the Authority ” means a member of the Authority, other than one referred to in section 4 (2) (a) or (b).

Amendment of  
section 6 of  
Principal Act  
(Proceedings  
of the  
Authority).

**7—**(1) Section 6 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:—

(2) Subject to subsection (2A), a matter before a meeting of the Authority shall be decided on by a majority of the votes of the members who are present at the meeting and vote on the matter.

(2A) A member of the Authority who votes on a matter referred to in subsection (2) has a deliberative vote only.

(2B) Where there is an equality of votes on a matter before a meeting of the Authority—

(a) that matter stands adjourned until the next meeting of the Authority; and

(b) where the voting on that matter at the meeting to which it is adjourned is again equal, the chairman or other person presiding at that meeting shall refer the matter to the Minister for determination by him.

(2C) The determination with respect to a matter by the Minister pursuant to a reference under subsection (2B) (b) is binding on the Authority and the Authority shall not, without the prior approval of the Minister, pass a resolution rescinding or varying that determination.

(2) Section 6 of the Principal Act is further amended by inserting the following subsections after subsection (4):—

(5) The Authority shall—

(a) cause full and accurate minutes to be kept of proceedings at its meetings; and

(b) within 14 days after the holding of the meeting at which those minutes are confirmed, submit to the Minister a copy of every part of the minutes of each of its meetings that relates to a resolution—

(i) rescinding or varying a determination of the Minister referred to in subsection (2C), being a resolution passed by the Authority without the prior approval of the Minister; or

(ii) with respect to a statement of policy objectives given to it by the Minister under section 8A (1).

(6) Without prejudice to the generality of subsection (5) (a), the part of any minutes relating to a resolution referred to in subsection (5) (b) shall record whether a member of the Authority present at the meeting at which the resolution was passed, voted for or against the resolution or, as the case may be, abstained from voting with respect to the resolution.

8—After section 6 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 6A.

6A—The exercise of the powers conferred on the Authority by this Act or any other Act and the performance of the functions imposed on the Authority by this Act or any other Act are subject to any duty arising under subsection (1) of section 8A on the Minister giving to the Authority a statement of policy objectives under that subsection.

Exercise of powers of Authority and performance of its functions subject to statement of policy objectives under section 8A.

9—After section 8 of the Principal Act, the following section is inserted in Division I of Part II:—

Insertion in Principal Act of new section 8A.

8A—(1) The Minister may, from time to time, give to the Authority a statement in writing specifying the policy objectives of the Government of Tasmania with respect to any matter relating to the powers, functions, affairs, or activities of the Authority and, on being given such a statement, it is the duty of the Authority to exercise its powers, to perform its functions, and to conduct its affairs and activities in a manner that is consistent with the objectives specified in the statement.

Power of Minister to give statement of policy objectives to the Authority.

(2) Before the Minister gives to the Authority a statement under subsection (1), the Minister shall consult the Authority with regard to the proposed statement.

(3) Where the Authority receives a statement under subsection (1), the Authority may, if it is of the opinion that compliance with the statement would have a detrimental or prejudicial effect on the proper exercise or performance by the Authority of any of its powers and functions under this Act or any other Act, lodge with the Minister, within 2 months after receipt by it of the statement, a notice in writing setting out its objections to the statement and the reasons for those objections.

(4) Where a notice under subsection (3) is lodged with the Minister in accordance with that subsection and the Minister is of the opinion that the statement to which the notice relates should not be withdrawn or modified, he shall cause a copy of the notice and a copy of the statement to be laid on the table of each House of Parliament within the first 10 sitting days of the House after the notice is lodged with him.

(5) The power conferred on the Minister by subsection (1) shall not be exercised so as—

- (a) to require the Authority to do anything that it is not empowered to do by this Act or any other Act;
- (b) to prevent the Authority from performing any function that it is expressly required by this Act or any other Act to perform, either conditionally or unconditionally; or
- (c) to interfere with the formation by the Authority of any opinion or belief in relation to any matter that has to be determined as a prerequisite to the performance or exercise by the Authority of any of its functions or powers.

(6) The Minister may, by notice in writing given to the Authority, vary or revoke a statement of policy objectives given under subsection (1) and such a notice shall have effect according to its tenor.

(7) The fact that the Minister has power to give a statement of policy objectives to the Authority under subsection (1) or gives such a statement to the Authority does not have the effect of—

- (a) making the Authority the servant or agent of the Crown for the purposes of this Act or any other Act; or
- (b) conferring on the Authority any status, privilege, or immunity of the Crown.

**10**—(1) A person who, immediately before the day fixed by proclamation under section 2 (2) of this Act, holds office under section 4 of the Principal Act as the member of the Authority who is the municipal representative of the city of Devonport shall, unless he sooner vacates that office, or is removed from that office under section 5 of the Principal Act, continue to hold that office, on and after that day, for the remainder of the period of his appointment, notwithstanding the reconstitution of that Authority by reason of section 5 of this Act. Transitional provisions

(2) A person who, immediately before the day fixed by proclamation under section 2 (2) of this Act, holds office under section 4 of the Principal Act as a municipal representative on the Authority (other than as the municipal representative of the city of Devonport) shall, on that day, cease to hold that office.

