

VICTORIA



ANNO QUARTO DECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7321.

An Act to amend the *Water Act* 1958 and for other purposes.

[7th December, 1965.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. (1) This Act may be cited as the *Water Licences and Permits Act* 1965. Short title.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Commencement.

(3) The *Water Act* 1958 is in this Act referred to as the Principal Act.

No. 6413
as amended by
Nos. 6490, 6505,
6547, 6582, 6604,
6716, 6728, 6782,
6825, 6838, 6867,
6886, 7050, 7198,
7203, 7216, 7228,
7245, 7258, 7276.

2. (1) The Principal Act is hereby amended as follows:—

(a) In section 204 for the words “to use take or divert water from any river creek stream or water-course lake lagoon swamp or marsh flowing through situated upon or bounded by Crown lands or of which the bed and banks are vested in the Crown or from any

Amendment of
No. 6413
S. 204.

any reservoir channel or drain" there shall be substituted the expression—"to use divert or take water from—

(a) any river creek stream or water-course lake lagoon swamp or marsh—

(i) which flows through is situated upon or is bounded by Crown lands ;
or

(ii) of which the bed and banks are vested in the Crown ;

(b) any reservoir channel or drain which is vested in or under the control and management of the Commission ; or

(c) any water-course which is certified by the Surveyor-General to be a water-course which has been formed or developed by a breakaway from or any other natural or lawful change in or diversion of the course of any river creek stream or water-course of a kind referred to in paragraph (a) of this section—"

(b) At the end of section 204 there shall be inserted the following words :—

"For the purpose of any certification by the Surveyor-General under this section it shall be sufficient for a water-course to be described by reference to the river system of which it forms part." ;

(c) After section 204 there shall be inserted the following section :—

By-law.

"204A. (1) The Commission may prescribe by by-law a scale of quantities of water to be deemed to have been diverted during the continuous watering of any land according to the area nature and use of such land and the manner of watering.

(2) The scale prescribed by by-law under sub-section (1) shall apply notwithstanding anything in any licence or permit to any diversion of water for the irrigation of land—

(i) which is not measured by a meter or other instrument approved by the Commission ; or

(ii) which the Commission is satisfied has not been accurately measured by the meter or other instrument used."

Validation
of licences.

(2) Any licence purporting to have been granted under section 204 of the Principal Act or under any corresponding previous enactment before the commencement of this Act with respect to the use taking or diverting of water from the breakaway
course

course of the Thomson River known as the Rainbow Creek shall, notwithstanding that the said Rainbow Creek is not a creek which flows through is situated upon or bounded by Crown lands or of which the bed and banks are vested in the Crown, be deemed to have been validly granted and shall have the same force and effect as if it had been granted in respect of the Thomson River.

3. For sub-section (4) of section 34 of the Principal Act there shall be substituted the following sub-section :—

Amendment of
No. 6413 s. 34.

“(4) Any lands sold pursuant to this section shall be sold by public auction but any lands may be sold by private treaty if the sale is—

Power to
dispose of
surplus lands.

- (a) to Her Majesty in right of the Commonwealth or the State of Victoria ;
- (b) to the Minister of Lands for the purposes of settlement ;
- (c) to the Minister of Education and his successors for the time being administering the *Education Act* 1958 ;
- (d) to any statutory corporation established for any public purpose (including any municipality) and has been approved by the Governor in Council ; or
- (e) of any land vested in the Commission which does not exceed thirty acres in area and of which the value does not exceed Five hundred pounds.”

4. At the end of section 37 of the Principal Act there shall be inserted the following words :—

Amendment of
No. 6413 s. 37.

“The Commission may by writing under its common seal empower the Secretary of the Commission or any other person either generally or in respect of any specified matter as its agent or attorney to enter into any contract the consideration of which does not exceed Two thousand pounds and any such agent or attorney may execute deeds on behalf of the Commission if so authorized by the Commission and any deed signed by such an agent or attorney on behalf of the Commission and under his seal shall bind the Commission, and have the same effect as if it were under its common seal.”

Power to
Commission to
approved agents
to enter into
contracts for
Commission.

5. (1) At the end of sub-section (1) of section 206A of the Principal Act there shall be inserted the following sub-sections :—

“(1A) A recreational area shall be managed and controlled by the Commission or where the Commission thinks fit by a committee of management appointed in accordance with the regulations under this section.

(1B) The Commission or where there is a committee of management the committee shall have power subject to the regulations—

- (a) to grant leases or licences in respect of any part of the land within the recreational area ;

(b) to

(b) to impose collect and receive tolls fees rents or charges for and in respect of—

(i) entry upon such land or any specified part thereof ;

(ii) use of such land or any part thereof or any improvement thereon ;

(iii) the construction and maintenance on such land of roads drainage sewerage water supply electricity supply or any other works or services calculated to improve the land ;

(iv) the supply of water and electricity and any other service whatever (whether of a similar or different kind) ; and

(v) the examination and approval of plans for any new building or any extension or alteration to any building to be erected or made on any land in the area held under any lease or licence ;

(c) to provide services or to arrange for the provision of services to any land in the area ;

(d) to carry out any works or improvements in the area ;

(e) to authorize and control the use of any land within the area in respect of which a lease or licence has been granted.

(1c) All moneys received by the Commission or the committee of management, as the case may be, in respect of any recreational area shall not form part of the consolidated revenue but shall be applied for or towards the cost of—

(a) carrying out works and improvements in that area ;

(b) managing and maintaining that area and the improvements therein ; and

(c) providing services in that area.”

(2) At the end of paragraph (e) of sub-section (2) of section 206A of the Principal Act there shall be inserted the following paragraph :—

“(ea) the proceedings of committees of management ;”.

(3) For sub-section (3) of section 206A there shall be substituted the following sub-sections :—

“(3) Subject to the regulations a committee of management shall meet adjourn and otherwise regulate its own proceedings as it thinks fit and a majority of the members present at a meeting of the Committee at which a quorum as prescribed by the regulations is present shall be competent to exercise all the powers of the committee.

(3A) A committee

(3A) A committee of management—

- (a) may act notwithstanding any vacancy in its number ;
- (b) may authorize any person to prosecute for any breach of the regulations relating to the recreational area in respect of which it is appointed ;
- (c) may authorize any person to bring or defend legal proceedings on behalf of the committee ;
- (d) may authorize any two of its members to enter into any contract arrangement or transaction on behalf of the committee.

(3B) The Commission shall not be liable for anything done or omitted to be done by a committee of management.”

6. At the end of sub-section (1) of section 332 of the Principal Act there shall be inserted the following sub-section :—

Amendment of
No. 6413 s. 332.

“(1A) Without limiting the generality of the powers conferred on the Commission by sub-section (1) of this section the Commission may from time to time make by-laws for or with respect to—

Power to
Commission to
make by-laws
with respect to
lands controlled
by Commission.

- (a) controlling and regulating the use by the public of land vested in or under the control of the Commission ;
 - (b) preventing damage to land vested in or under the control of the Commission ;
 - (c) protecting the public from injury or nuisance whilst on land vested in or under the control of the Commission ; and
 - (d) the imposition and collection of fees in respect of persons animals or vehicles entering on occupying or using land vested in or under the control of the Commission.”
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