

SOUTH AUSTRALIA

**CATCHMENT WATER MANAGEMENT ACT 1995**

**SUMMARY OF PROVISIONS****PART 1  
PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation
4. Act binds Crown

**PART 2  
OBJECTS**

5. Objects of the Act

**PART 3  
CATCHMENT AREAS AND CATCHMENT WATER MANAGEMENT BOARDS****DIVISION 1—CATCHMENT AREAS**

6. Constitution of catchment areas
7. Vesting of works, buildings, etc., in board
8. Variation and revocation of proclamations
9. Recommendation by the Minister
10. Exclusion of the South East

**DIVISION 2—CATCHMENT WATER MANAGEMENT BOARDS**

11. Establishment and nature of boards
12. Common seal and execution of documents
13. Membership of boards
14. Presiding member
15. Nomination
16. Term of office of members
17. Conditions of membership
18. Vacancies or defects in appointment of members
19. Procedure at meetings
20. Meetings to be held in public subject to certain exceptions
21. Agenda and minutes of meeting to be provided to Minister etc.
22. Member's duties of care, etc.
23. Member's duties of honesty
24. Conflict of interest
25. Civil liability if member or former member contravenes this Division

**PART 4  
FUNCTIONS AND POWERS OF BOARDS**

26. Functions of boards
27. Powers of boards
28. Sale of water by board
29. Diversion of water to underground aquifer
30. Board's responsibility for infrastructure
31. Entry and occupation of land
32. By-laws
33. Representations by Minister administering Waterworks Act 1932
34. Staff of board
35. Board may undertake building or works on behalf of council
36. Exclusion of functions and powers of councils, etc.
37. Water recovery and other rights subject to boards' functions and powers

**PART 5  
CATCHMENT WATER MANAGEMENT PLANS**

- 38. Preparation of plans
- 39. Amendment of a Development Plan
- 40. Consultation
- 41. Approval of plan by the Minister
- 42. Consent of the Minister administering the Waterworks Act 1932
- 43. Preservation and enhancement of natural resources
- 44. Annual review of plans
- 45. Time for preparation and review of plans
- 46. Initial and comprehensive plans
- 47. Time for implementation of plans
- 48. Availability of copies of plans

**PART 6  
FINANCIAL PROVISIONS**

**DIVISION 1—CONTRIBUTIONS BY COUNCILS**

- 49. Contributions
- 50. Reduction of council's share
- 51. Payment of contributions

**DIVISION 2—IMPOSITION OF RATE BY COUNCILS**

- 52. Imposition of rate by constituent councils

**DIVISION 3—ACCOUNTS AND AUDIT**

- 53. Accounts and audit

**PART 7  
ANNUAL REPORTS**

- 54. Annual reports

**PART 8  
MISCELLANEOUS**

- 55. Councils to have regard to management plan
- 56. Immunity from liability
- 57. Compensation
- 58. Interference with works
- 59. Offences by body corporate
- 60. General defence
- 61. Regulations
- 62. Expiry of Divisions 1 and 2 of Part 6

**SCHEDULE 1  
*Transitional Provisions***

**SCHEDULE 2  
*Consequential Amendments to Other Acts***

**APPENDIX  
DIVISIONAL PENALTIES AND EXPIATION FEES**

# **CATCHMENT WATER MANAGEMENT ACT 1995**

being

Catchment Water Management Act 1995 No. 37 of 1995  
[Assented to 27 April 1995]<sup>1</sup>

<sup>1</sup> Came into operation 4 May 1995: *Gaz.* 4 May 1995, p. 1704.

**An Act to provide for the management and use of catchment water; to prevent or reduce flooding; to make consequential amendments to the Local Government Act 1934 and the Water Resources Act 1990; and for other purposes.**

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Catchment Water Management Act 1995*.

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Interpretation**

3. (1) In this Act, unless the contrary intention appears—

"**board**" means a catchment water management board established under this Act;

"**catchment area**" means a catchment area constituted under this Act;

"**catchment water**" means water that has fallen as rain or hail and includes—

- (a) water flowing naturally from a spring and water seeping to the surface from below ground level; and
- (b) water pumped by the Minister for the time being administering the *Waterworks Act 1932* into a watercourse, channel or lake,

but does not include—

- (c) water in the waterworks; or
- (d) water in an underground aquifer;

"**channel**" includes—

- (a) a drain, gutter or pipe;
- (b) part of a channel;

"**constituent council**" in relation to a catchment area means a council whose area or part of whose area comprises or is included in the catchment area;

"**controlling authority**" means a controlling authority established under section 199 or 200 of the *Local Government Act 1934*;

"**council**" means a municipal or district council;

"**lake**" means a natural or artificial lake, pond, lagoon, swamp or marsh and includes—

- (a) a dam or reservoir;
- (b) part of a lake;

"**land**" includes an interest in land and a building or structure on land;

"**maintain**" in reference to a watercourse, channel or lake includes to clean the watercourse, channel or lake;

"**member**" means a member of a board;

"**private land**" means land that is not—

- (a) unalienated land of the Crown; or
- (b) vested in or under the care, control or management of an agency or instrumentality of the Crown; or
- (c) vested in or under the care, control or management of a council;

"**relative**" in relation to a person, means—

- (a) the spouse or a parent or remoter linear ancestor; or
- (b) a son, daughter or remoter issue; or
- (c) a brother or sister,

of the person;

"**spouse**" includes a putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*);

"**watercourse**" means a river, creek or other natural watercourse (whether modified or not) and includes—

- (a) a lake through which catchment water flows;
- (b) part of a watercourse;

"**the waterworks**" means the waterworks as defined in the *Waterworks Act 1932*.

(2) For the purposes of this Act, a person is an associate of another person if—

- (a) the other person is a relative of the person or of the person's spouse; or
- (b) the other person—
  - (i) is a body corporate; and

- (ii) the person or a relative of the person or of the person's spouse has, or two or more such persons together have, a relevant interest or relevant interests in shares in the body corporate the nominal value of which is not less than 10 per cent of the nominal value of the issued share capital of the body corporate; or
- (c) the other person is a trustee of a trust of which the person, a relative of the person or of the person's spouse or a body corporate referred to in paragraph (b) is a beneficiary; or
- (d) the person is declared by the regulations to be an associate of the other person.

*Note: For definition of divisional penalties (and divisional expiation fees) see Appendix.*

**Act binds Crown**

**4.** (1) This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities.

(2) No criminal liability attaches to the Crown itself (as distinct from its agents, instrumentalities, officers and employees) under this Act.

---

**PART 2  
OBJECTS**

**Objects of the Act**

**5.** The objects of this Act are—

- (a) to improve the quality of catchment water with resulting benefits to other natural resources of the State including the land and its soil, native vegetation and native animals; and
- (b) to protect watercourses, channels and lakes and their ecosystems from degradation and to reverse degradation of watercourses, channels and lakes that has already occurred; and
- (c) where appropriate, to make catchment water available for primary production or for industrial, commercial, domestic, recreational or other purposes; and
- (d) to encourage members of the community to take an active part in improving the quality of catchment water; and
- (e) to educate members of the public in relation to the management of catchment water and of catchments.

**PART 3**  
**CATCHMENT AREAS AND CATCHMENT WATER MANAGEMENT BOARDS**

**DIVISION 1—CATCHMENT AREAS**

**Constitution of catchment areas**

**6.** (1) The Governor may, by proclamation made on the recommendation of the Minister, constitute the area, or part of the area, of one or more councils as a catchment area.

(2) The proclamation must—

- (a) assign a name to the catchment area; and
- (b) establish a catchment water management board for the area.

**Vesting of works, buildings, etc., in board**

**7.** (1) The Governor may, by proclamation made on the recommendation of the Minister, vest in a board the use of any—

- (a) lakes; or
- (b) embankments, walls, channels or other works; or
- (c) buildings or structures; or
- (d) pipes, machinery or other equipment,

vested in or under the care, control or management of a council or controlling authority.

(2) The Governor may, by proclamation made on the recommendation of the Minister, vest in a board the use of any land vested in or under the care, control or management of a council or controlling authority that adjoins or is adjacent to a watercourse, channel or lake and is specified in the catchment water management plan as being land that is to be under the care, control and management of the board.

(3) The Minister must not recommend the making of a proclamation under this section unless he or she is satisfied that the proclamation is necessary or desirable to enable the board to carry out its functions.

(4) Subject to subsection (5), where the use of infrastructure or land is vested in a board under subsection (1) or (2), the care, control and management of the infrastructure or land is also vested in the board and the board is responsible for the maintenance and repair of the infrastructure or the maintenance of the land.

(5) The use of infrastructure or land will be vested exclusively in a board by a proclamation under subsection (1) or (2) unless the proclamation provides for the use to be shared by the board and a council or controlling authority in which case the proclamation must—

- (a) specify the respective responsibilities of the board and the council or controlling authority for the care, control and management and the maintenance and repair of the infrastructure or land; and

- (b) include any other conditions that are necessary or desirable, in the Minister's opinion, relating to the shared use of the infrastructure or land.

(6) A proclamation under subsection (1) that relates to buildings, structures, machinery or equipment cannot be made without the consent of the council or controlling authority if the buildings, structures, machinery or equipment could otherwise have been used or sold by the council or controlling authority.

(7) A board is not liable to pay compensation to a council or controlling authority in respect of a proclamation under subsection (1) or (2).

- (8) In this section—

**"infrastructure"** means—

- (a) lakes; or
- (b) embankments, walls, channels or other works; or
- (c) buildings or structures; or
- (d) pipes, machinery or other equipment.

#### **Variation and revocation of proclamations**

**8.** (1) A proclamation under this Division may be varied or revoked by subsequent proclamation made on the recommendation of the Minister.

(2) A proclamation revoking a proclamation that established a board may provide that the assets and liabilities of the board will vest in or attach to—

- (a) a council or controlling authority; or
- (b) the Crown; or
- (c) any other person or body.

#### **Recommendation by the Minister**

**9.** (1) The Minister must not recommend the making of a proclamation under this Division unless—

- (a) the council or councils or a controlling authority that has an interest in the making of the proclamation has consented to it; or
- (b) the procedures required by subsection (2) have been followed; or
- (c) the Minister is satisfied that the procedures required by subsection (2) are unnecessary because of the procedures followed in the preparation and approval of the management plan for the catchment area.

(2) The Minister must—

- (a) give a council or controlling authority that has refused or failed to consent to the making of a proclamation a reasonable opportunity to make written submissions to the Minister in relation to the proposed proclamation; and
- (b) at the request of the council or controlling authority, discuss the matter with representatives of the council or authority; and
- (c) before making a recommendation, have regard to the written and oral submissions of the council or authority.

(3) The Minister must not recommend the making of a proclamation that includes in a catchment area the area, or part of the area, of a council that has refused or failed to give its consent to the proclamation unless the Minister considers—

- (a) that an object in constituting the catchment area cannot be properly fulfilled without the inclusion of the council as a constituent council; and
- (b) that it is fair and reasonable in all the circumstances of the case that the council be included as a constituent council.

#### **Exclusion of the South East**

**10.** The South East as defined in the *South Eastern Water Conservation and Drainage Act 1992* cannot comprise or form part of a catchment area under this Act.

### **DIVISION 2—CATCHMENT WATER MANAGEMENT BOARDS**

#### **Establishment and nature of boards**

**11.** (1) A catchment water management board is established by the appointment of the first members of the board by the proclamation constituting the board's catchment area.

(2) A board—

- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) can sue and be sued in its corporate name; and
- (d) has the functions and powers assigned or conferred by or under this or any other Act.

(3) A board—

- (a) is an instrumentality of the Crown; and
- (b) holds its property on behalf of the Crown; and
- (c) is subject to direction and control by the Minister.

**Common seal and execution of documents**

12. (1) The common seal of a board must not be affixed to a document except in pursuance of a decision of the board, and the affixing of the seal must be attested by the signatures of two members of the board.

(2) A board may, by instrument under its common seal, authorise a member of the board, an employee of the board (whether nominated by name or by office or title) or any other person to execute documents on behalf of the board subject to conditions and limitations (if any) specified in the instrument of authority.

(3) Without limiting subsection (2), an authority may be given so as to authorise two or more persons to execute documents jointly on behalf of the board.

(4) A document is duly executed by a board if—

- (a) the common seal of the board is affixed to the document in accordance with this section; or
- (b) the document is signed on behalf of the board by a person or persons in accordance with an authority conferred under this section.

**Membership of boards**

13. (1) A board will consist of at least five members but not more than nine members.

(2) The presiding member of a board will be appointed by the Governor on the joint nomination of the Minister and the Local Government Association.

(3) The other members of a board will be appointed by the Governor after nomination in accordance with this section.

(4) Where the catchment area is comprised of the areas, or part of the areas, of four councils or less, two members of the board must be nominated jointly by the councils and two (in addition to the presiding member) must be nominated by the Minister.

(5) Where the catchment area is comprised of the areas, or part of the areas, of at least five councils but not more than nine councils, three members of the board must be nominated jointly by the councils and three (in addition to the presiding member) must be nominated by the Minister.

(6) Where the catchment area is comprised of the areas, or part of the areas, of at least 10 councils, four members of the board must be nominated jointly by the councils and four (in addition to the presiding member) must be nominated by the Minister.

(7) At least one member must be a man and one must be a woman.

(8) A person may be a member of two or more boards.

(9) Although the first members of a board are appointed by the proclamation constituting the catchment area subsequent appointments need not be made by proclamation.

**Presiding member**

14. (1) The presiding member must be a person who has managerial skills and experience.

(2) The presiding member must not be an employee of the Crown or a member or employee of a council.

### **Nomination**

**15.** (1) At least one of the persons nominated by the Minister (other than the presiding member) must be a person who has knowledge of, or experience in, the management of natural resources.

(2) At least one of the other persons nominated by the Minister (other than the presiding member) must be a person who has knowledge of, or experience in, catchment water drainage or flood control, preserving or improving water quality or any other area of catchment water management or in the management of catchments.

(3) If a council or councils fail to make a nomination required by this Division within a reasonable time, the Local Government Association may make the required nomination.

(4) If the Local Government Association fails to make a nomination under subsection (3) or the Minister and the Local Government Association cannot reach agreement on the nomination of the presiding member of a board, the Minister may make the necessary nomination.

### **Term of office of members**

**16.** (1) The terms of office of the members of a board expire on 30 June 1997, on 30 June 1999 and so on on 30 June at intervals of two years.

(2) A member is eligible for re-nomination in accordance with this Division as a member of the board at the expiration of his or her term of appointment.

### **Conditions of membership**

**17.** (1) A member is appointed on such conditions and is entitled to such remuneration, allowances and expenses as the Governor determines.

(2) The Governor may remove a member from office—

(a) for misconduct;

(b) for failure or incapacity to carry out the duties of his or her office satisfactorily;

(c) without limiting paragraph (b)—for contravention of, or non-compliance with, a condition of his or her appointment or for non-compliance with a duty imposed by this Act.

(3) The office of a member becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) in the case of the presiding member—becomes an employee of the Crown or a member or employee of a council;

- (e) becomes bankrupt or applies to take the benefit of a law for the relief of insolvent debtors; or
- (f) is convicted of an indictable offence or sentenced to imprisonment for an offence; or
- (g) is removed from office under subsection (2).

(4) On the office of a member becoming vacant, a person must be appointed under this Division to the vacant office.

#### **Vacancies or defects in appointment of members**

**18.** An act of a board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

#### **Procedure at meetings**

- 19.** (1) A quorum of a five member board consists of three members.
- (2) A quorum of a seven member board consists of four members.
- (3) A quorum of a nine member board consists of five members.
- (4) The presiding member will preside at each meeting of the board at which he or she is present.
- (5) If the presiding member is absent from a meeting of the board, a member chosen by the members present at the meeting will preside at the meeting.
- (6) A decision carried by a majority of the votes cast by members at a meeting is a decision of the board.
- (7) Each member present at a meeting of the board has one vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (8) The board must cause accurate minutes to be kept of its proceedings.
- (9) Subject to this Act, the board may determine its own procedures.

#### **Meetings to be held in public subject to certain exceptions**

**20.** (1) Subject to this section, a meeting of a board must be conducted in a place open to the public.

(2) A board must, by notice in a newspaper circulating generally throughout the State and in a newspaper or newspapers circulating in the catchment area, give at least fourteen days notice of its intention to hold a meeting that will be open to the public.

(3) The notice must state the time and place at which the meeting will be held.

(4) Fourteen days notice is not required if a meeting needs to be held to deal with an emergency but, in that event, the board must give as much notice under subsection (2) as is practicable or, if no notice can be given before the meeting is held the board must give notice under subsection (2) of the date on which the meeting was held and of the emergency that it dealt with.

(5) A board may order that the public be excluded from attendance at a meeting in order to enable the meeting to consider in confidence—

- (a) legal advice; or
- (b) complaints against an employee of the board; or
- (c) proposals for the appointment, suspension, demotion, disciplining or dismissal of an employee of the board; or
- (d) tenders for the supply of goods or the carrying out of works; or
- (e) proposals relating to the acquisition or disposal of land; or
- (f) information relating to the health of any member or employee of the board; or
- (g) information given to the board on the explicit understanding that it would be treated by the board as confidential; or
- (h) matters relating to actual or possible litigation involving the board or an employee of the board; or
- (i) any matter of a class prescribed by regulation.

(6) Where the matters to be considered at a meeting of a board include matters referred to in subsection (5) but include other matters as well, the board can only order the exclusion of the public during that part or those parts of the meeting when a matter referred to in subsection (5) is being considered.

(7) A member of the public who, knowing that an order is in force under subsection (5), enters or remains in a room in which a meeting of the board is being held is guilty of an offence.

Penalty: Division 9 fine.

(8) If a person referred to in subsection (7) fails to leave the room on request it is lawful for a member or employee of the board or a member of the police force forcibly to remove him or her from the room.

(9) Where an order is made under subsection (5), a note must be made in the minutes of the making of the order and of the grounds on which it was made.

**Agenda and minutes of meeting to be provided to Minister etc.**

**21.** (1) A board must provide—

- (a) the Minister; and

**Catchment Water Management Act 1995**

---

- (b) the member or members of the House of Assembly whose electoral district or districts include the whole or part of the board's catchment area; and
- (c) each constituent council,

with a copy of the agenda for, and the minutes of, each meeting, or the part of each meeting, of the board that is open to members of the public.

(2) An agenda must be provided under subsection (1) at least three days before the meeting to which it relates is held except where the meeting is held to deal with an emergency.

(3) A board must make available without charge to members of the public copies of the agenda for, and the minutes of, each meeting, or the part of each meeting, of the board that is open to members of the public.

(4) A board must, at the request of the Minister, provide the Minister with a copy of the agenda or the minutes of each meeting, or the part of each meeting, of the board that is closed to members of the public.

**Member's duties of care, etc.**

**22.** (1) A member must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions, and (without limiting the effect of the foregoing) for that purpose—

- (a) must take reasonable steps to inform himself or herself about the board and its activities and the circumstances in which it operates; and
- (b) must take reasonable steps through the processes of the board to obtain sufficient information and advice about all matters to be decided by the board to enable him or her to make conscientious and informed decisions; and
- (c) must exercise an active discretion with respect to all matters to be decided by the board.

(2) A member is not bound to give continuous attention to the affairs of the board but is required to exercise reasonable diligence in attendance at and preparation for board meetings.

(3) In determining the degree of care and diligence required to be exercised by a member, regard must be had to the skills, knowledge or acumen possessed by the member and to the degree of risk involved in any particular circumstances.

(4) If a member is culpably negligent in the performance of his or her functions, the member is guilty of an offence.

Penalty: Division 4 fine.

(5) A member is not culpably negligent for the purposes of subsection (4) unless the court is satisfied the member's conduct fell sufficiently short of the standards required under this Act of the member to warrant the imposition of a criminal sanction.

(6) A member does not commit any breach of duty under this section by acting in accordance with a direction or requirement of the Minister under this Act.

**Member's duties of honesty**

**23.** (1) A member must at all times act honestly in the performance of the functions of his or her office.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(2) A member or former member must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as such a member to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the board.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(3) A member must not, whether within or outside the State, make improper use of his or her position as a member to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the board.

Penalty: Division 4 fine or division 4 imprisonment, or both.

**Conflict of interest**

**24.** (1) A member who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the board—

- (a) must, as soon as reasonably practicable, disclose to the board full and accurate details of the interest; and
- (b) must not take part in any discussion by the board relating to the matter; and
- (c) must not vote in relation to that matter; and
- (d) must be absent from the meeting room when any such discussion or voting is taking place.

Penalty: Division 4 fine.

(2) If a member makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—

- (a) the contract is not liable to be avoided by the board; and
- (b) the member is not liable to account to the board for profits derived from the contract.

(3) If a member fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the board.

(4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(5) Where a member has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the board, the member must, as soon as reasonably practicable, disclose full and accurate details of the interest or office to the board.

Penalty: Division 4 fine.

(6) A disclosure under this section must be recorded in the minutes of the board and reported to the Minister.

(7) If, in the opinion of the Minister, a particular interest or office of a member is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of the member, the Minister may require the member either to divest himself or herself of the interest or office or to resign from the board (and non-compliance with the requirement constitutes misconduct which is a ground for removal of the member from the board).

(8) Without limiting the effect of this section, a member will be taken to have an interest in a matter for the purposes of this section if an associate of the member has an interest in the matter.

(9) This section does not apply in relation to a matter in which a member has an interest while the member remains unaware that he or she has an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that he or she was not, at the material time, aware of his or her interest.

(10) Where a constituent council or a controlling authority has a direct or indirect interest in a matter decided or under consideration by a board, a member of the board who is also a member of the council or controlling authority does not have an interest in that matter for the purposes of this section by virtue only of the fact that he or she is a member of the council or authority.

#### **Civil liability if member or former member contravenes this Division**

**25.** (1) If a member or former member is convicted of an offence for a contravention of section 23 or 24, the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the board—

- (a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and
- (b) if the court is satisfied that the board suffered loss or damage as a result of the contravention—compensation for the loss or damage.

(2) If a member or former member is guilty of a contravention of section 23 or 24 for which a criminal penalty is fixed, the board may (whether or not proceedings have been brought for the offence) recover from the person by action in a court of competent jurisdiction—

- (a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit; and
- (b) if the board suffered loss or damage as a result of the contravention—compensation for the loss or damage.

**PART 4**  
**FUNCTIONS AND POWERS OF BOARDS**

**Functions of boards**

**26.** (1) The functions of a board are—

- (a) to prepare a catchment water management plan for its catchment area in accordance with the objects and the other provisions of this Act;
- (b) the functions set out in the management plan;
- (c) such other functions as are assigned to the board by this Act.

**Powers of boards**

**27.** (1) A board has all the powers of a natural person as well as the powers conferred on it by this or any other Act.

(2) Without limiting subsection (1), a board may—

- (a) stop or reduce the flow of water in a watercourse or channel, divert water flowing in a watercourse or channel to another watercourse or channel or to a lake or control the flow of water in a watercourse or channel in any other manner; and
- (b) hold water in a watercourse, channel or lake or in any other manner; and
- (c) divert water in a watercourse, channel or lake to an underground aquifer; and
- (d) dispose of water to a lake, underground aquifer or to the sea; and
- (e) deepen, widen or change the course of a watercourse or channel or deepen or widen a lake; and
- (f) construct or erect any embankment, wall, channel, road or other works; and
- (g) excavate any land for the purposes of forming a lake or for any other purpose; and
- (h) construct or erect any building or structure; and
- (i) install pipes, machinery or other equipment; and
- (j) inspect, examine or survey any land and for that purpose—
  - (i) fix posts, stakes or other markers on the land; and
  - (ii) dig trenches or sink test holes in the land to determine the nature of the top soil and underlying strata; and
  - (iii) remove samples for analysis; and
- (k) acquire land pursuant to a contract with the owner of the land or pursuant to the *Land Acquisition Act 1969*.

(3) A board must not exercise a power under subsection (2)(e), (f), (g), (h) or (i) in relation to private land with the intention that the works, building or structure or the installation of the pipes, machinery or other equipment referred to in those paragraphs will be permanent unless the board has first acquired the land or an easement over the land.

#### **Sale of water by board**

**28.** (1) A board that has as one of its functions the holding of water or the diversion of water to an underground aquifer so that the water may be used for primary production or for industrial, commercial, domestic, recreational or other purposes may sell the water for any of those purposes in the following circumstances:

- (a) the water must be water—
  - (i) that meets requirements prescribed by regulation as to its quality; or
  - (ii) that the board is entitled to take from an underground aquifer pursuant to an agreement under section 29; or
  - (iii) that the board would otherwise dispose of to the sea; and
- (b) the price that the board charges for the water must be approved by the Minister.

(2) The regulations may prescribe different requirements as to the quality of water depending on the purpose for which the water is to be used.

(3) The proceeds of the sale of water must be applied by the board in carrying out its functions under this Act.

#### **Diversion of water to underground aquifer**

**29.** (1) If a board wishes to divert water to an underground aquifer with the intention of taking water from the aquifer at a later date, it must enter into an agreement with the Minister for the time being administering the *Water Resources Act 1990*.

- (2) The agreement must specify—
- (a) the quantity of water that the board proposes to divert to the aquifer; and
  - (b) the quantity of water that the board will be entitled to take from the aquifer in respect of the diversion; and
  - (c) the time or times at which the water may be taken; and
  - (d) such other terms and conditions as the parties wish to include.

#### **Board's responsibility for infrastructure**

**30.** (1) A board has the care, control and management and is responsible for the maintenance and repair of—

- (a) the lakes, the embankments, walls, channels or other works and the buildings or structures constructed or erected by it; and
- (b) the pipes, machinery or other equipment installed by it.

(2) A board has the care, control and management and is responsible for the maintenance and repair of the lakes, the embankments, walls, channels or other works, the buildings or structures or the pipes, machinery or other equipment specified in a proclamation under Part 3 Division 1 in accordance with the proclamation.

**Entry and occupation of land**

**31.** (1) For the purpose of carrying out its functions, a board, or a person authorised by a board, may enter and occupy any land.

(2) A person must give reasonable notice of his or her intention to enter, or to enter and occupy, land to the occupier of the land.

(3) The period of the notice must be at least 24 hours except in an emergency or where the occupier has given his or her consent.

(4) A person may not enter residential premises except with the consent of the occupier.

(5) A person entering or occupying land under this section—

(a) must cause as little harm and inconvenience as practicable; and

(b) must not occupy the land for any longer than is reasonably necessary; and

(c) must remove from the land on completing any works all equipment or structures that he or she has brought onto the land, other than anything that the owner or occupier of the land agrees may be left there; and

(d) must leave the land as nearly as possible in the condition in which he or she found it; and

(e) must co-operate as far as practicable with the owner and occupier of the land.

(6) A person must not, without reasonable excuse, obstruct or hinder a person exercising powers under this section.

Penalty: Division 6 fine.

(7) A person may use force to enter land under this section—

(a) on the authority of a warrant issued by a justice; or

(b) if the person believes, on reasonable grounds, that the circumstances require immediate entry of the land.

(8) A justice must not issue a warrant under subsection (7) unless satisfied, on information given on oath, that the warrant is reasonably required in the circumstances.

(9) A person who has entered land under this section and who—

(a) addresses offensive language to any other person; or

- (b) without lawful authority, or a reasonable belief as to lawful authority, hinders or obstructs, or uses or threatens to use force in relation to, any other person,

while on the land is guilty of an offence.

Penalty: Division 6 fine.

### By-laws

**32.** (1) Subject to subsection (2), a board may make any by-laws that can be made by a constituent council or a controlling authority in relation to water or infrastructure.

(2) A board can only make by-laws under subsection (1) that apply exclusively to, or in relation to, water that is under the control of the board or infrastructure that is under the care, control and management of the board.

(3) A council or controlling authority cannot make by-laws that apply to, or in relation to, water that is under the control of a board or infrastructure that is under the care, control and management of a board but a by-law that applied to water immediately before it came under a board's control or infrastructure immediately before it came under a board's care, control and management will continue to apply until the board revokes the by-law as it applies to that water or infrastructure.

(4) Where the care, control and management of infrastructure is shared by a board and a council or controlling authority, the board and not the council or controlling authority may make by-laws in relation to the infrastructure as though the care, control and management of the infrastructure were vested solely in the board.

(5) Before making a by-law under subsection (1), a board must consult each constituent council in whose area the water or infrastructure to which the by-law will apply is situated.

(6) In this section—

"**infrastructure**" means a watercourse or lake, an embankment, wall, channel or other works, buildings, structures, pipes, machinery or other equipment.

### Representations by Minister administering Waterworks Act 1932

**33.** (1) Where a board has control of water pumped into a watercourse, channel or lake by the Minister for the time being administering the *Waterworks Act 1932*, that Minister may make representations to the board in respect of the performance or exercise by the board of its functions or powers in relation to that water.

(2) A board must have regard to representations made under subsection (1).

### Staff of board

**34.** (1) A board may, with the approval of the Minister, appoint such employees as it thinks necessary or desirable on terms and conditions fixed by the board.

(2) The board may, with the approval of the responsible Minister, use the services of persons employed in the Public Service or otherwise employed by the Crown.

(3) The board may, with the approval of a constituent council, use the services of persons employed by the council or any property vested in or under the care, control and management of the council.

**Board may undertake building or works on behalf of council**

35. A board may construct or erect a building, structure or works on behalf of a constituent council or any other person if to do so would not prejudice the performance by the board of its functions under this Act.

**Exclusion of functions and powers of councils, etc.**

36. The functions and powers conferred on a board by or under this or any other Act operate to the exclusion of the functions and powers of a constituent council or a controlling authority.

**Water recovery and other rights subject to boards' functions and powers**

37. The following rights are subject to the performance of functions and the exercise of powers by a board under this or any other Act:

- (a) the right of the Minister for the time being administering the *Water Resources Act 1990* to take water from a watercourse or lake;
- (b) riparian rights in respect of water in a watercourse, channel or lake;
- (c) the right to take water from a watercourse, channel or lake pursuant to a water recovery licence granted under the *Water Resources Act 1990*;
- (d) the right of the Minister for the time being administering the *Sewerage Act 1929* to erect dams or reservoirs across and in the bed of the River Torrens;
- (e) the right of the Minister for the time being administering the *Water Conservation Act 1936*—
  - (i) to erect or maintain buildings in, upon or across any watercourse or lake; or
  - (ii) to divert, impound or take water from a watercourse or lake; or
  - (iii) to alter the course of a watercourse or widen or deepen a watercourse or lake;
- (f) the right of the Minister for the time being administering the *Waterworks Act 1932*—
  - (i) to erect buildings upon any watercourse; or
  - (ii) to divert, impound or take water from a watercourse, lake or spring; or
  - (iii) to alter the course of a watercourse.

---

**PART 5**  
**CATCHMENT WATER MANAGEMENT PLANS**

**Preparation of plans**

**38.** (1) A board must prepare a draft catchment water management plan in respect of its catchment area.

- (2) The plan must set out one or more of the following functions as functions of the board:
- (a) removal of solid or dissolved impurities from catchment water in a specified watercourse, channel or lake or in a specified system of watercourses, channels or lakes in its catchment area;
  - (b) protection of specified watercourses, channels and lakes and their ecosystems from degradation by pollutants and exotic plants and animals and reversal of such degradation where it has occurred;
  - (c) control of the flow of catchment water and management of catchment water in a specified watercourse or channel or in a specified system of watercourses or channels in its catchment area to prevent or reduce flooding;
  - (d) holding catchment water in lakes or diversion of catchment water to an underground aquifer so that it may be used for primary production or for industrial, commercial, domestic, recreational or other purposes;
  - (e) the care, control and management of a specified watercourse, channel or lake;
  - (f) the use and the care, control and management of land specified in the plan that adjoins or is adjacent to a watercourse, channel or lake;
  - (g) providing financial or any other form of assistance to constituent councils, persons carrying on business, community groups or any other persons in an activity in the catchment area that will improve the quality of catchment water;
  - (h) education of members of the public in relation to the management of catchment water and of catchments.
- (3) The plan must—
- (a) set out the means by which the board proposes to carry out its functions including, if applicable—
    - (i) the diversion of water from, or to, a specified watercourse, channel or lake;
    - (ii) holding of water in a specified lake or diversion of water to an underground aquifer;
    - (iii) modification of a specified watercourse, channel or lake or excavation of a lake, dam or reservoir;
    - (iv) methods for improving the quality of water;

- (v) proposals for the use of water for primary production or for industrial, commercial, domestic, recreational or other purposes; and
- (b) set out any proposals the board has—
  - (i) for the beautification of a watercourse, channel or lake or of land adjoining or adjacent to a watercourse, channel or lake;
  - (ii) to make a watercourse, channel or lake or land adjoining or adjacent to a watercourse, channel or lake available for public recreation.
- (4) The plan must—
  - (a) identify the changes (if any) that are necessary or desirable—
    - (i) to a Development Plan or to any Act or subordinate legislation; or
    - (ii) to any activity of a constituent council or controlling authority or to the manner in which, or the means by which, a constituent council or controlling authority performs its functions or exercises its powers; or
    - (iii) to the activities of any other person,  
in the interests of—
      - (iv) preventing or reducing flooding; or
      - (v) reducing damage caused by flooding; or
      - (vi) preventing or reducing the pollution of water; and
  - (b) identify any land that is to be acquired by the board when implementing the plan; and
  - (c) identify the infrastructure the use of which should be vested in the board by proclamation under section 7; and
  - (d) if staff are to be employed by the board—identify the number to be employed, the qualifications they will require and the likely salary range for each position; and
  - (e) include an estimate of the expenditure necessary in each year of the plan for the implementation of the plan; and
  - (f) state the contribution to be made by the constituent councils in respect of the first year of the plan; and
  - (g) include such other information or material as is required by regulation.
- (5) Subject to subsection (6), the plan must relate to a period of three financial years which must be specified in the plan.

**Catchment Water Management Act 1995**

---

(6) The initial period of a plan may commence after 1 July in a financial year and in that event the period from its commencement to 30 June in that year will be regarded as the first year of the plan.

(7) In this section—

"**catchment water**" includes any other water mixed with catchment water.

**Amendment of a Development Plan**

**39.** (1) The board must prepare a report in relation to a change to a Development Plan identified in the draft catchment water management plan.

(2) The report must be attached to the draft management plan and forms part of the plan.

(3) The report must be prepared as far as is practicable as though it were a Plan Amendment Report under section 26 of the *Development Act 1993*.

(4) After the management plan has been approved, the board must submit a copy of the report to the Minister for the time being administering the *Development Act 1993* with a request that he or she take the necessary action for the amendment of the Development Plan in accordance with the report.

(5) The board must give the Minister such assistance as he or she requires in relation to the amendment of the Development Plan.

**Consultation**

**40.** (1) A board must consult the following persons when preparing a draft management plan:

- (a) each of the constituent councils; and
- (b) the owner or owners of the land (if any) that the board considers should be acquired by the board; and
- (c) where, under the plan, the board will have control of water pumped by the Minister for the time being administering the *Waterworks Act 1932* into a watercourse, channel or lake—that Minister; and
- (d) such other persons as are prescribed by regulation; and
- (e) the public.

(2) When the draft plan is completed the board must—

- (a) give a copy of it to the Minister, to each constituent council and to such other persons as are prescribed by regulation; and
- (b) where, under the plan, the board will have control of water pumped by the Minister for the time being administering the *Waterworks Act 1932* into a watercourse, channel or lake—give a copy to that Minister; and
- (c) consult the public in relation to the plan.

(3) A board must consult the public under subsections (1) and (2) by inviting the public to make written submissions to the board and to attend a public meeting to be held in relation to the preparation of the plan and another meeting to be held in relation to the draft plan.

(4) An invitation under subsection (3) must be by advertisement in—

- (a) a newspaper circulating generally throughout the State; and
- (b) a newspaper or newspapers circulating in the catchment area; and
- (c) in such other manner (if any) as the board thinks fit.

(5) An advertisement must—

- (a) identify the relevant catchment area; and
- (b) in the case of an invitation for submissions—state the name and address of the person to whom submissions must be sent and the time by which submissions must be received; and
- (c) in the case of an invitation to attend a public meeting—state the time and place at which the meeting will be held; and
- (d) in the case of an invitation relating to a plan that has been drafted—include an address at which copies of the plan can be inspected and purchased.

(6) An invitation for submissions in relation to the preparation of a plan must provide a period of at least one month after the advertisement was last published in a newspaper as the period during which submissions must be received.

(7) An invitation for submissions in relation to a plan that has been drafted must provide a period of at least two months after the advertisement was last published in a newspaper as the period during which submissions must be received.

(8) A public meeting must be held—

- (a) at least 14 days but not more than 28 days after the advertisement inviting attendance at the meeting was last published in a newspaper; and
- (b) at a time and place that will, in the opinion of the board, be convenient for a majority of those persons who are likely to attend the meeting.

(9) The board must appoint a member or employee of the board or some other suitable person to conduct the meeting.

(10) A person who has conducted a meeting must, as soon as practicable after the meeting has concluded, submit a written report to the board summarising the comments made at the meeting by members of the public in relation to the plan.

**Catchment Water Management Act 1995**

---

**Approval of plan by the Minister**

**41.** (1) The Minister must consult the following persons before approving a draft management plan:

- (a) the board; and
- (b) each of the constituent councils; and
- (c) the Local Government Association; and
- (d) the owner or owners of the land (if any) that is to be acquired under the plan; and
- (e) where, under the plan, the board will have control of water pumped by the Minister for the time being administering the *Waterworks Act 1932* into a watercourse, channel or lake—that Minister; and
- (f) such other persons as are prescribed by regulation.

(2) The Minister may consult with such other persons or authorities as he or she thinks fit.

(3) The Minister must, before approving a plan, have regard to the submissions (if any) received from members of the public and to the reports of the person or persons who conducted the public meetings.

(4) After complying with the requirements of this section, the Minister may—

- (a) approve the plan with or without amendment; or
- (b) refer the plan back to the board for further consideration.

(5) If the Minister approves the plan with amendment, he or she must give—

- (a) a copy of the plan as amended; or
- (b) if the part or parts of the plan that have been amended can be conveniently substituted in the draft plan—a copy of that part or those parts as amended,

to the board and to each constituent council.

(6) If the Minister refers the plan back to the board, it must prepare a new draft plan and follow the procedures as to consultation provided for by this Part in respect of the new draft.

**Consent of the Minister administering the Waterworks Act 1932**

**42.** (1) Subject to subsection (2), if, in the opinion of the Minister, the implementation of a proposed plan would affect the quality or quantity of water flowing into the waterworks, the Minister must not approve the plan without the consent of the Minister for the time being administering the *Waterworks Act 1932*.

(2) If the Minister and the Minister for the time being administering the *Waterworks Act 1932* cannot reach agreement on a plan, the Minister may approve the plan with the consent of the Governor.

**Preservation and enhancement of natural resources**

43. A board and the Minister must, in the preparation and approval of a catchment water management plan or of an amendment to a plan ensure, as far as practicable, that the plan will, when implemented, preserve or enhance the quality of the State's natural resources including the land and its soil, the water, native vegetation and native animals.

**Annual review of plans**

44. (1) A board must review its management plan annually.

(2) On the annual review, the board—

(a) must amend the plan so that it—

(i) specifies the following three financial years as the period to which the plan relates; and

(ii) includes an estimate of the expenditure for each of those years and states the contribution to be made by the constituent councils in respect of the first year of the plan;

(b) may propose such other amendments to the plan that the board considers to be necessary or desirable.

(3) The board must consult each of the constituent councils on the proposed amendments and on the question of whether it should propose further amendments to the plan and, if so, on the nature of those amendments.

(4) The amendments proposed by a board become amendments to the plan if they are approved by the Minister.

(5) Subject to subsection (6), the procedures provided by or under this Part for the preparation and approval of the original plan must be followed before the Minister approves amendments to the plan.

(6) If the only amendments to the plan are those referred to in subsection (2)(a) consultation on the amendments is not required.

**Time for preparation and review of plans**

45. (1) A board must complete the preparation of the draft management plan in respect of its catchment area within six months after its establishment.

(2) A board must undertake the annual review of its management plan within sufficient time to allow the amendments and procedures relating to amendments required by this Act to be completed before the commencement of the next financial year.

**Initial and comprehensive plans**

46. (1) If a board anticipates that a comprehensive plan will take longer than six months to prepare in its draft form, the initial plan prepared by the board may be limited in its scope but, in that case, the plan must state that the board intends to replace it as soon as a comprehensive plan can be prepared and be approved by the Minister in accordance with this Act.

(2) If, in the opinion of the Minister, the scope of an initial plan will be so limited that no useful purpose will be served by the board or the Minister consulting the constituent councils and other persons as required by this Act, the Minister may dispense with the requirements for consultation in relation to the preparation and approval of that plan.

#### **Time for implementation of plans**

**47.** (1) Subject to subsection (2), a management plan cannot be implemented unless it has been approved by the Minister.

(2) A draft management plan or amendments to a management plan that have not been approved by the Minister may be implemented by the board with the consent of the Minister and the constituent councils and, in the case of a plan referred to in subsection (3), the consent of the Minister for the time being administering the *Waterworks Act 1932*.

(3) The consent of the Minister for the time being administering the *Waterworks Act 1932* is required if, in the opinion of the Minister for the time being administering this Act, implementation of the plan or the amendments would affect the quality or quantity of water flowing into the waterworks.

#### **Availability of copies of plans**

**48.** (1) A board must make its management plan available for inspection and purchase by members of the public.

(2) A board must not charge for inspection of its plan and must not charge more than the prescribed fee for sale of copies of its plan.

**PART 6  
FINANCIAL PROVISIONS**

**DIVISION 1—CONTRIBUTIONS BY COUNCILS**

**Contributions**

**49.** (1) The constituent councils of a catchment area must contribute to the cost of implementing the management plan for that area in accordance with this Division.

(2) The amount to be contributed by the councils in respect of a financial year is an amount determined by the Minister in accordance with this Division and approved by the Governor.

(3) The amount is the estimated expenditure of the board in that year less the amount of any other funds available to the board, or that are expected to be available to the board, to meet that expenditure.

(4) The board must submit to the Minister and to each constituent council a statement of its estimate of the required expenditure and the amount of any other funds available to it, or that are expected to be available to it.

(5) The board must comply with subsection (4) in sufficient time to allow the procedures ending in the Governor's approval to be completed on or before 16 June preceding the financial year in respect of which the contribution is to be made.

(6) When determining the amount the Minister may increase it by his or her estimate of the rebates and remissions that will be deducted from the share to be paid by each council.

(7) The amount to be contributed must be determined by the Minister after consultation with the board and the constituent councils and must be submitted to the Governor for approval.

(8) Liability for the amount will be shared between the constituent councils in the same proportions as the capital value of the ratable land situated in the catchment area is distributed between the areas of the councils.

(9) The share of each council must be determined by the Minister under subsection (8) after consultation with the constituent councils and must be submitted to the Governor for approval.

(10) A council must, at the request of the Minister, supply the Minister with information in the possession of the council to enable the Minister to make a determination under subsection (9).

(11) The Minister must cause notice of—

(a) the amount to be contributed by the constituent councils approved by the Governor under subsection (7); and

(b) the shares in which the councils must pay that amount determined by the Minister under subsection (9),

to be given to each of the constituent councils and to be published in the *Gazette*.

**Catchment Water Management Act 1995**

---

(12) In this section—

"**capital value**" has the same meaning as in Part 10 of the *Local Government Act 1934*;

"**ratable land**" has the same meaning as in Part 10 of the *Local Government Act 1934*.

**Reduction of council's share**

**50.** (1) Subject to subsection (2), a council's share of the amount to be contributed by the constituent councils is reduced by the amount by which the rate imposed by the council under Division 2 (the "Division 2 rate") is rebated or remitted under the *Local Government Act 1934*.

(2) If—

(a) a rebate or remission of the Division 2 rate in respect of particular land is more generous or is subject to less onerous conditions than the rebate or remission of general rates in respect of that land; or

(b) there is no equivalent rebate or remission of general rates in respect of that land,

the rebate or remission of the Division 2 rate in respect of that land will not be taken into account when determining the amount by which the council's share will be reduced under subsection (1).

**Payment of contributions**

**51.** (1) Subject to subsection (2), a council's share of the amount to be contributed by the constituent councils is payable by the council in approximately equal instalments on 30 September, 31 December, 31 March and 30 June in the year to which the contribution relates and interest accrues on any amount unpaid at the rate and in the manner prescribed by regulation.

(2) If the accounts for the rate declared by a council under Division 2 in respect of a financial year could not be included in the accounts for general rates for that year because the amount to be contributed by the constituent councils was not approved by the Governor on or before 16 June preceding that year, the council may pay its share in approximately equal instalments on 31 December, 31 March and 30 June in that year.

(3) An amount payable by a council to the board under this section and any interest that accrues in respect of that amount is recoverable by the board as a debt.

(4) If an amount paid by a council is not spent by the board in the financial year in respect of which it was paid, it may be spent by the board in a subsequent financial year.

**DIVISION 2—IMPOSITION OF RATE BY COUNCILS****Imposition of rate by constituent councils**

**52.** (1) In order to reimburse themselves for the amount contributed to the board under Division 1, the constituent councils must impose a separate rate under Part 10 of the *Local Government Act 1934* on ratable land in the catchment area of the board.

(2) The basis of the rate imposed by each council must be the same as the basis for the general rates imposed by the council.

(3) A council—

- (a) must fix the rate at a level calculated to raise the same amount as the council's share of the amount to be contributed to the board before that share is reduced by the deduction of rebates and remissions; and
- (b) must not take into account when fixing the rate the fact that rebates and remissions will reduce the amount returned by imposition of the rate.

(4) An account for the rate sent by a council to a person who is liable to pay the rate must show the amount separately from any other amount for which that person is liable.

### **DIVISION 3—ACCOUNTS AND AUDIT**

#### **Accounts and audit**

**53.** (1) A board must cause proper accounts to be kept of its financial affairs and must cause financial statements to be prepared in respect of each financial year.

(2) The Auditor-General may at any time, and must in respect of each financial year, audit the accounts and financial statements of a board.

---

**PART 7**  
**ANNUAL REPORTS**

**Annual reports**

**54.** (1) A board must on or before 30 September in each year prepare and give to the Minister and the constituent councils a report on the performance of its functions during the preceding financial year.

(2) The report must—

- (a) provide details of the progress made by the board in implementing the management plan; and
- (b) provide details of the amendments (if any) made to the plan since the last annual report; and
- (c) include the audited accounts and financial statements of the board; and
- (d) set out any disclosure made during the preceding financial year by a member of the board of an interest in a matter decided or under consideration by the board; and
- (e) include information prescribed by regulation relating to the remuneration of employees of the board; and
- (f) include any other information required by or under the regulations.

(3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after he or she receives the report.

**PART 8  
MISCELLANEOUS**

**Councils to have regard to management plan**

**55.** A constituent council and a controlling authority (if any) performing functions or exercising powers in a catchment area must have regard to the catchment water management plan and in particular must give consideration to the question of whether it should implement changes to an activity or to the manner in which, or the means by which, it performs a function or exercises a power that has been identified in the plan as requiring change.

**Immunity from liability**

**56.** (1) Except as otherwise provided by this Act, a member or employee of a board or any other person engaged in the administration of this Act incurs no civil liability for an honest act or omission in the performance or discharge, or purported performance or discharge, of functions or powers under this Act.

(2) A liability that would but for subsection (1), lie against a member, employee or other person lies instead against the board.

**Compensation**

**57.** (1) A board is liable to pay compensation—

(a) to a person—

(i) who has a riparian right to take water from a watercourse, channel or lake; or

(ii) who has the right to take water from a watercourse, channel or lake pursuant to a water recovery licence granted under the *Water Resources Act 1990*,

for loss or damage resulting from the effect on the exercise of the right by that person of the board stopping, reducing or diverting the flow of water in the watercourse or channel or in a watercourse or channel that flows into the lake;

(b) to the owner or occupier of land that the board, or a person authorised by the board, has entered, or entered and occupied, for loss or damage caused by the entry or occupation of the land.

(2) A claim for compensation under subsection (1) must be made by written notice served on the board—

(a) in the case of compensation under subsection (1)(a)—within six months after loss or damage first occurred;

(b) in the case of compensation under subsection (1)(b)—within three months after the board, or a person authorised by the board, entered the land or ceased to occupy the land.

(3) If the claimant and the board cannot reach agreement within three months after the notice is served on the board, the claimant may apply to a court of competent jurisdiction for determination of the amount of compensation payable.

**Catchment Water Management Act 1995**

---

(4) Subject to subsection (1), compensation is not payable by a board for loss or damage caused—

- (a) (in the absence of negligence) by or as a result of the performance or exercise by the board of its functions or powers;
- (b) by or as a result of the board's decision not to perform or exercise its functions or powers.

(5) Compensation is not payable—

- (a) under subsection (1)(a) to the Crown or an agent or instrumentality of the Crown or to a council;
- (b) under subsection (1)(b) in respect of the entry or occupation of land pursuant to an easement.

**Interference with works**

**58.** (1) A person must not interfere with any lakes or any embankments, walls, channels or other works, buildings, structures, pipes, machinery, equipment or other property that is vested in or is under the care, control and management of a board or a person acting on behalf of a board without the board's permission.

Penalty: Division 6 fine.  
Division 6 fee.

(2) The board's permission may be conditional or unconditional and if conditional it is an offence to contravene or fail to comply with the condition.

Penalty: Division 6 fine.

**Offences by body corporate**

**59.** Where a body corporate is guilty of an offence against this Act, the manager and each member of the governing body of the body corporate are guilty of an offence against this Act, and liable to the same penalty as is prescribed for the principal offence.

**General defence**

**60.** It is a defence to a charge of an offence against this Act for the defendant to prove that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

**Regulations**

**61.** (1) The Governor may make such regulations as are contemplated by this Act or are necessary or expedient for the purposes of this Act.

(2) Without limiting subsection (1), the regulations may—

- (a) prohibit or regulate—
  - (i) the use of water in a watercourse, channel or lake in a catchment area; or

- (ii) activities on or in the water of a watercourse, channel or lake in a catchment area; or
- (iii) activities on land that is under the care, control or management of a board;
- (b) provide for the form and content of catchment water management plans;
- (c) empower the Minister to fix the maximum fee that may be charged by a board on sale of copies of its draft or approved management plan or on sale of copies of draft or approved amendments to its management plan;
- (d) prescribe fines, not exceeding a division 7 fine, for contravention of or failure to comply with a regulation.

**Expiry of Divisions 1 and 2 of Part 6**

62. Divisions 1 and 2 of Part 6 will expire on the second anniversary of the commencement of this Act.

**Catchment Water Management Act 1995****SCHEDULE 1***Transitional Provisions*

1. If the catchment area or part of the catchment area for the River Torrens is constituted as a catchment area under this Act the following provisions apply:

- (a) the use of the works, or any part of the works, carried out by the Minister under Part II of the *Metropolitan Drainage Act 1935* may be the subject of a proclamation under section 7;
- (b) the Treasurer may pay money from the Metropolitan Drainage Maintenance Fund to the board for the maintenance and repair of the works to which a proclamation referred to in paragraph (a) applies;
- (c) if a proclamation referred to in paragraph (a) applies to all the works carried out by the Minister under Part II of the *Metropolitan Drainage Act 1935*, a constituent council is not liable to make a payment under section 8 of the *Metropolitan Drainage Act 1935* in respect of a financial year in respect of which the council is liable to make a contribution under Part 6 of this Act;
- (d) if a proclamation referred to in paragraph (a) applies to part only of the works carried out by the Minister under Part II of the *Metropolitan Drainage Act 1935*, the Minister for the time being administering that Act may reduce the amount of a payment to be made by a constituent council under section 8 of that Act in respect of a financial year in respect of which the council is liable to make a payment under Part 6 of this Act.

2. If the catchment area or part of the catchment area for the River Sturt and the Keswick and Brownhill Creeks is constituted as a catchment area under this Act the following provisions apply:

- (a) the use of the works, or any part of the works, carried out by the Minister under Part III of the *Metropolitan Drainage Act 1935* may be the subject of a proclamation under section 7;
- (b) the Treasurer may pay money from the Metropolitan Drainage Maintenance Fund to the board for the maintenance and repair of the works to which a proclamation referred to in paragraph (a) applies;
- (c) if a proclamation referred to in paragraph (a) applies to all the works carried out by the Minister under Part III of the *Metropolitan Drainage Act 1935*, a constituent council is not liable to make a payment under section 11 of the *Metropolitan Drainage Act 1935* in respect of a financial year in respect of which the council is liable to make a contribution under Part 6 of this Act;
- (d) if a proclamation referred to in paragraph (a) applies to part only of the works carried out by the Minister under Part III of the *Metropolitan Drainage Act 1935*, the Minister for the time being administering that Act may reduce the amount of a payment to be made by a constituent council under section 11 of that Act in respect of a financial year in respect of which the council is liable to make a payment under Part 6 of this Act.

3. (1) The use of the works or any part of the works carried out by the Minister under the *South-Western Suburbs Drainage Act 1959* may be the subject of a proclamation under section 7.

(2) The Treasurer may pay money from the maintenance fund referred to in section 13(4) of the *South-Western Suburbs Drainage Act 1959* to the relevant board for the maintenance and repair of the works, or part of the works, referred to in section 13(1) of that Act to which a proclamation referred to in subclause (1) applies.

(3) If a proclamation referred to in subclause (1) applies to all of the works referred to in section 13(1) of the *South-Western Drainage Act 1959*, a constituent council is not liable to make a payment under section 13 of that Act in respect of a financial year in respect of which the council is liable to make a contribution under Part 6 of this Act.

(4) If a proclamation referred to in subclause (1) applies to part only of the works referred to in section 13(1) of the *South-Western Drainage Act 1959*, the Minister for the time being administering that Act may reduce the amount of a payment to be made by a constituent council under section 13 of that Act in respect of a financial year in respect of which the council is liable to make a payment under Part 6 of this Act.

(5) A proclamation referred to in subclause (1) may relate to the Patawalonga works as defined in the *South-Western Suburbs Drainage Act 1959* or to works that include the Patawalonga works but cannot relate to part only of those works.

(6) The obligations of the Corporation of the City of Glenelg under section 13a of the *South-Western Suburbs Drainage Act 1959* cease on the publication of a proclamation referred to in subclause (1) that relates to the Patawalonga works.

## SCHEDULE 2

*Consequential Amendments to Other Acts**Local Government Act 1934*

Provision Amended	How Amended
Insertion of section 871aa	The following section is inserted in Part 45 Division 3 after section 871:  <b>Division subject to Catchment Water Management Act 1995</b> <b>871aa.</b> This Division is subject to the <i>Catchment Water Management Act 1995</i> .

*Water Resources Act 1990*

Provision Amended	How Amended
Section 57(1)	Strike out the definition of " <b>the relevant authority</b> " and substitute the following definition:  <b>"the relevant authority"</b> means—  <ul style="list-style-type: none"> <li>(a) in the case of a watercourse or lake situated in a catchment area constituted under the <i>Catchment Water Management Act 1995</i>—the catchment water management board for that area if the board has the function of controlling the flow of water in that lake or watercourse;</li> <li>(b) in the case of a watercourse or lake vested in or under the management and control of a public authority (except where a management board is the relevant authority in relation to that watercourse or lake)—the public authority;</li> <li>(c) in any other case—the Minister:</li> </ul>
Section 58	Strike out this section and substitute the following section:  <b>Application of Part</b> <b>58.</b> This Part applies—  <ul style="list-style-type: none"> <li>(a) to all proclaimed watercourses and lakes; and</li> <li>(b) to a watercourse or lake situated in a catchment area constituted under the <i>Catchment Water Management Act 1995</i> in relation to which the catchment water management board established for that area is the relevant authority under this Part; and</li> <li>(c) to a watercourse or lake that is vested in or is under the management and control of a public authority.</li> </ul>

**APPENDIX**

**DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25