

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 4 October, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1977.

An Act to amend the Water Act, 1912, for the purpose of providing for the preparation and implementation of volumetric water allocations schemes in respect of certain rivers, lakes and sections of rivers, and for certain other purposes.

BE

Water (Amendment).

4. The Water Act, 1912, is amended in the manner set forth in Schedules 1-4. Amendment of Act No. 44, 1912.

5. Schedule 5 has effect. Savings.

SCHEDULE 1.

Sec. 4.

5 AMENDMENTS TO PART I OF THE WATER ACT, 1912.

(1) Section 1—
Omit the matter relating to Division 3A of Part II.

(2) Section 1—
From the matter relating to Division 3B of Part II, omit "18Q", insert instead "18R". 10

(3) Section 1—
From the matter relating to Division 4 of Part II, omit "20H", insert instead "20HB". 12

(4) Section 1—
After the matter relating to Division 4A of Part II, insert :— 20

DIVISION 4B.—Volumetric Water Allocations Schemes—ss. 20V-20AE.

Water (Amendment).

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO PART II OF THE WATER ACT, 1912.

(1) (a) Section 5, definition of "Authority"—

Before the definition of "Drainage", insert :—

5 "Authority" means an authority issued under
Division 4 to construct and use a joint
water supply scheme.

(b) Section 5, definition of "Joint water supply
scheme"—

10 Omit the definition, insert instead :—

"Joint water supply scheme" means any work
to which this Part extends which—

15 (a) is used or proposed to be used for
the purpose of supplying water to
the lands of two or more occu-
piers who are jointly utilising the
work or who propose to utilise
the work jointly (whether any of
20 those occupiers has occupation of
the site of the work or not);

25 (b) is used or proposed to be used
for the purpose of supplying water
for irrigating the land or lands of
any occupier or occupiers other
than the land or lands of the
occupier or occupiers of the site
of the work; or

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (c) is used or proposed to be used
 (otherwise than pursuant to a
 license granted before the com-
 10 mencement of the Water, Crown
 Lands and Other Acts (Amend-
 ment) Act, 1970) for the purpose
 of supplying water for irrigating a
 holding (not being a riparian
 15 holding) or part thereof, where
 that water is, or is to be, conveyed
 wholly or partly by a work that is
 used or proposed to be used by
 any occupier or occupiers (not
 20 being the occupier or occupiers of
 the site of the work) for the
 purpose of conveying that water
 in accordance with a right con-
 ferred by this Part or pursuant to
 a license, authority or permit.

(c) Section 5, definition of "License"—

25 Omit "does not include a group license", insert
 instead "means a license issued under Division
 3".

(d) Section 5, definition of "Permit"—

30 After the definition of "Occupier", insert :—
 "Permit" means a permit issued under Divisor
 3B.

Water (Amendment)

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) Section 5, definition of "Work to which this Part extends"—

Omit the definition, insert instead :—

"Work to which this Part extends"—

(a) means a work—

10 (i) connected with or affecting the quantity or use of water in any river flowing through or past, or in any lake situated within or adjoining, the land of two or more occupiers; or

15 (ii) connected with or affecting the quantity of any water flowing in, to, or from, or being in, any such river or lake,

20 whether the work is—

(iii) for water conservation, irrigation, water supply or drainage;

25 (iv) for preventing land from being flooded by water; or

30 (v) for changing the course of a river or preventing the course of a river from changing,

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 and whether the work was constructed before or after the commencement of Schedule 2 (1) (e) to the Water (Amendment) Act, 1977; and

10 (b) in relation to a work, being a flume, race, channel, cutting, tunnel or pipe, which diverts water by gravitation from a river or lake referred to in paragraph (a)
15 (i), means such part of the work as is situated between the source of supply and the device fitted or installed to control the flow of water in the work or, as the case may be, between the source of supply and the site at which it is proposed to fit or install that device,
20

25 but does not include a work declared under subsection (3) to be a work for urban drainage.

(f) Section 5 (2), (3)—

At the end of section 5, insert :—

30 (2) A reference in this Part to the holders of an authority shall be construed as a reference to the occupiers of the whole of the lands supplied with water obtained by means of a joint water supply scheme in respect of which an authority is in force and, where the supply work or conveying work that is the subject of the scheme is

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 installed or constructed on other land, shall be construed as including a reference to the occupier of that other land, and a reference to a holder of an authority shall be construed as a reference to any one of those holders.

10 (3) The Commission may, by notice published in the Gazette, declare any work, being a dam, an excavation, a channel (whether an artificial channel or a natural channel artificially improved), a cutting, a tunnel or a pipe, which is constructed in, or forms part of, a river referred to in paragraph (a) or (b) of the definition in subsection (1) of "Work to which this Part extends" to be a work for urban drainage and may, by a similar notice, revoke or amend that notice.

20 (2) (a) Section 7 (1)—

Omit the subsection, insert instead :—

(1) Subject to subsection (2), the occupier of land which forms the bank of a river or a lake has the right, without the need to obtain a license—

25 (a) to take and use the water then being in the river or lake—

(i) for domestic purposes;

30 (ii) for the purpose of watering stock;

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (iii) for the purpose of irrigating
gardens, not exceeding 2 hec-
10 tares in area in the aggregate,
which are cultivated in con-
nection with the use of a
dwelling-house and of which
the produce is not sold or
exposed or offered for sale; and
- 15 (iv) for the purpose of irrigating
land, not exceeding 2 hectares
in area, which is used for the
growing of crops or pastures
to produce fodder for animals
kept solely in connection with
the use of a dwelling-house;
- 20 (b) to construct and use for the purpose of
taking or using water for any of the
purposes specified in paragraph (a) a
work to which this Part extends, but
only if the capacity of the work does
not exceed 50 litres per second; and
- 25 (c) to construct and use a dam or an
excavation in the river or lake or a
work which obstructs the flow of water
in the river, but only if—
- 30 (i) the storage capacity of the
dam, excavation or work does
not exceed 7 megalitres;
- (ii) the dam, excavation or work
will not, in the opinion of the
Commission, detrimentally

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 affect the interests of the
occupiers of land which adjoins
or derives benefit from the river
or lake; and

10 (iii) where, by notice given to the
occupier by one of the methods
specified in subsection (2), the
Commission has directed that
15 a means of passing a flow of
water through or past the dam,
excavation or work be provided
—that means of passing a flow
has been provided.

(b) Section 7 (6)—

Omit the subsection, insert instead :—

20 (6) Subsection (1) does not, with respect
to a lake, confer on any occupier referred to in
that subsection any right of access over or to the
user of land not lawfully occupied by him.

(3) Section 11—

25 Omit “police” wherever occurring, insert instead
“stipendiary”.

(4) Section 12—

Omit “police” wherever occurring, insert instead
“stipendiary”.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (5) (a) Section 13A—
Omit “police” wherever occurring, insert instead
“stipendiary”.
- (b) Section 13A (9)—
Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.
- 10 (6) Section 13AA—
After section 13A, insert :—
- 13AA. (1) The holder of a license who wishes to reduce the area authorised to be irrigated under the license, the capacity of the work or the quantity of water which may be taken and used under the license may apply to the Commission for an amended license. ^{Amended licenses.}
- 15 (2) An application made under subsection (1) shall specify the proposed reduced area to be irrigated, the proposed reduced capacity of the work or the proposed reduced quantity of water to be taken and used.
- 20 (3) On receipt of an application made under subsection (1), the Commission shall, without requiring payment of any fee, issue to the applicant, in substitution for his existing license, an amended license for the unexpired portion of the period for which, and subject to the same terms, limitations and conditions as those subject to which, that existing license was
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Water (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART II OF THE WATER ACT,
1912—continued.

5 issued, except that the amended license shall be in respect of the reduced area, the reduced capacity of the work or, as the case may be, the reduced quantity of water specified in the application.

(7) (a) Section 13B—

10 Omit “or authority for a joint water supply scheme” wherever occurring.

(b) Section 13B (1)—

Omit “any such license or authority” wherever occurring, insert instead “a license”.

(c) Section 13B (3)—

15 Omit “or authority” wherever occurring.

(8) Section 13C—

(a) Omit “or authority for a joint water supply scheme” wherever occurring.

(b) Omit “or authority” wherever occurring.

20 (9) Section 13D—

(a) Omit “or authority for a joint water supply scheme”.

(b) Omit “or authority” wherever occurring.

Water (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART II OF THE WATER ACT,
1912—continued.

(10) Section 13F—

- 5 (a) Omit “or authority for a joint water supply scheme”.
- (b) Omit “or authority” wherever occurring.
- 10 (c) Omit “it is the intention of the Commission to cancel the license”, insert instead “the license will be cancelled”.
- (d) After the word “shall” where firstly occurring, insert “be deemed to”.

(11) Section 14B—

Omit the section.

15 (12) Section 16—

Omit the section, insert instead :—

16. (1) A license (other than a license issued **Benefit of** under section 13A) shall, except where the license **license.** otherwise specifically provides—

- 20 (a) be deemed to be held by; and
- (b) operate and enure for the benefit of,
the lawful occupier for the time being of the land on which the licensed work is constructed or used or is proposed to be constructed or used.

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (2) A license issued under section 13A shall, (10)
except where the license otherwise specifically
provides— (a) Omit "or authority for a joint
(a) be deemed to be held by; and
(b) operate and enure for the benefit of, (b)
10 the lawful occupier for the time being of the land
which is or is to be supplied with water by means of
the licensed work. 10

(13) Sections 17A, 17B—

Omit the sections, insert instead :—

- 15 17A. (1) If at any time during the currency of a license the Commission is satisfied that—
Revocation or suspension, etc., of license.
(a) the holder of the license has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the license; (15) 21
20 (b) any land has been irrigated as to an area in excess of that authorised by the license;
(c) the holder of the license has used the licensed work for a purpose other than that authorised by the license; 20
25 (d) the holder of the license has contravened or failed to comply with any of the terms, limitations or conditions to which the license is subject; 20

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) any water diverted, taken or used by the holder of the license is not being beneficially used or is being wasted; or

(f) beneficial use is not being made of the licensed work,

10 the Commission may serve on the holder of the license a notice that, after the expiration of a period specified in the notice, the license will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the license shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.

15 (2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

20 (a) that any license should be suspended or modified;

(b) that the quantity of water authorised to be taken under any license should be reduced; or

25 (c) that a right held under any license for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

30 the Commission may serve on the holder of the license a notice to that effect, and where any such notice is served, the license shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended, according to the tenor of the notice.

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SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (3) If the Commission is satisfied that the holder of a license has failed to comply with the terms of a notice served by the Commission whereby—

- (a) the license has been modified;
- (b) the quantity of water authorised to be taken under the license has been reduced; or
- 10 (c) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

15 the Commission may serve on the holder of the license a notice that, after the expiration of a period specified in the notice, the license will be suspended, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the license shall, on the
20 expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section may be effected on the holder of a license—

- (a) by delivering the notice to the holder personally;
- 25 (b) by leaving the notice with any person apparently of or above the age of 14 years who apparently resides or is employed on the land of the holder; or
- 30 (c) by letter sent by post and addressed to the holder at his address last known to the Commission.

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 17B. (1) Any person who—
- 5 (a) being the holder of a license in respect of a work to which this Part extends, uses the work when the license is suspended;
- 10 (b) being the former holder of such a license, uses the work when the license is revoked or cancelled or has expired;
- (c) being the holder of a license, contravenes or fails to comply with any term, limitation or condition to which the license is subject;
- 15 (d) being the holder of a license, fails to comply with the terms of any notice served on him by the Commission whereby—
- (i) the license has been modified;
- 20 (ii) the quantity of water authorised to be taken under the license has been reduced; or
- (iii) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or
- 25 (e) being the holder of a license, contravenes section 13D,
- is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

Offences
with respect
to licenses.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) In any prosecution under this section
against the holder or former holder of a license,
proof—

10 (a) that a work in respect of which the license
is or was held has been used when the
license is suspended, revoked or cancelled
or has expired;

(b) that any term, limitation or condition to
which the license is subject has been
contravened or has not been complied with;

15 (c) of failure to comply with the terms of any
notice served by the Commission on that
holder whereby—

(i) the license has been modified;

20 (ii) the quantity of water authorised to
be taken under the license has been
reduced; or

(iii) a right held under the license for the
taking of water for any purpose from
a river, lake or section of a river has
been restricted or suspended; or

25 (d) that water has been taken from a river or
lake by means of a work covered by a
license before the whole of the works
covered by the license have been constructed
or provided,

30 shall, in the absence of proof to the contrary, be
evidence that the use, contravention, non-compliance
or failure has been caused by that holder or former
holder of the license.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (14) Section 17C—
5 Omit the section, insert instead :—
17C. Where a license is deemed to be revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation. Revocation and cancellation of licenses.
- (15) Section 17D—
Omit the section.
- (16) Part II, Division 3A—
Omit the Division.
- 15 (17) Section 18R—
After section 18Q, insert :—
18R. (1) Any person who—
20 (a) being the holder of a permit in respect of a work to which this Part extends, uses the work when the permit is suspended;
(b) being the former holder of such a permit, uses the work when the permit is withdrawn or has expired; or
25 (c) being the holder of a permit, contravenes or fails to comply with any limitation or condition to which the permit is subject,
is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500. Offences with respect to permits.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) In any prosecution under this section
against the holder or former holder of a permit,
proof—

(a) that a work in respect of which the permit
is or was held has been used when the permit
is suspended or withdrawn or has expired;
10 or

(b) that any limitation or condition to which
the permit is subject has been contravened
or has not been complied with,

15 shall, in the absence of proof to the contrary, be
evidence that the use, contravention or non-compliance
has been caused by that holder or former holder of the
permit.

(18) (a) Section 20 (1)—

Omit the subsection, insert instead :—

20 (1) The occupiers of the whole of the lands
supplied or proposed to be supplied with water
obtained by means of a joint water supply scheme,
and, where the land or lands on which the
25 scheme is or is to be constructed is not in the
occupation of one or more of those occupiers,
the occupier of that land or, as the case may be,
the occupiers of those lands, may apply to the
Commission for an authority to construct and use
30 the scheme and to take and use, for the purposes
specified in the application, the water which may
be conserved or obtained by the scheme.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (b) Section 20 (2)—
5 After “application shall be”, insert “in or to the
 effect of the prescribed form and shall be”.
- (c) Section 20 (2) (a)—
10 Omit “occupier”, insert instead “applicant to
 whom it is proposed to supply water obtained
 by means of the joint water supply scheme”.
- (d) Section 20 (2) (b)—
 (i) Omit “occupier” where firstly occurring,
 insert instead “applicant”.
15 (ii) Omit “occupier” where secondly occurring,
 insert instead “applicant to whom it is
 proposed to supply water obtained by
 means of the scheme”.
- (e) Section 20 (2) (d)—
20 Omit “occupier”, insert instead “applicant to
 whom it is proposed to supply water obtained by
 means of the scheme”.
- (f) Section 20 (2) (g)—
25 (i) Omit “occupier”, insert instead “applicant
 to whom it is proposed to supply water
 obtained by means of the scheme”.
 (ii) Omit “occupiers”, insert instead “applicants
 to whom it is proposed to supply water so
 obtained”.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(g) Section 20 (2) (h)—

5

Omit the paragraph, insert instead :—

10

(h) where the applicants or any two or more of the applicants have entered into an agreement, either between themselves or between themselves and any other person, in respect of the scheme, a copy of that agreement;

(h) Section 20 (2) (i)—

Omit “joint water supply”.

(i) Section 20 (2) (j)—

15

(i) Omit “occupiers” where firstly occurring, insert instead “applicants”.

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(ii) Omit “of moneys for same and the payments to be made by any of the occupiers in respect thereof”, insert instead “and payment of money for those matters”.

(19) (a) Section 20A (1)—

Omit “under this Division”.

(b) Section 20A (2)—

25

(i) Omit “police” wherever occurring, insert instead “stipendiary”.

(ii) Omit “occupiers”, insert instead “applicants”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (20) (a) Section 20B (2)—
- 5 (i) Omit “and on receipt by it of the certified copy of the agreement executed by the occupiers as hereinafter provided”.
- (ii) Omit “occupiers” where secondly occurring, insert instead “applicants”.
- 10 (iii) Omit “between the occupiers” where secondly occurring.
- (iv) Omit “such works”, insert instead “the works between the applicants to whom it is proposed to supply that water”.
- 15 (b) Section 20B (4)—
Omit the subsection.
- (21) Sections 20BA, 20BB, 20BC—
After section 20B, insert :—
- 20 20BA. (1) The Commission may refuse to grant any application for an authority for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures. Commission may refuse to grant certain applications for authorities.
- 25 (2) The Commission may refuse to grant any application for an authority if it is not satisfied with the proposals for the construction of the works in regard to nature, class or form, or with the work proposed to be undertaken by any applicant in the preparation of the land for irrigation.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (3) A decision of the Commission under subsection (1) or (2) to refuse to grant an application for an authority shall be final and shall not be subject to appeal.

10 (4) The Commission may, when renewing an authority under which water has been used for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures, renew the authority subject to a condition that the irrigation of those grasses or pastures shall be discontinued either forthwith or progressively within a specified period not
15 exceeding 5 years.

(5) The Commission may, when renewing an authority in respect of a work used for the purpose of irrigation and—

20 (a) that work is, in the opinion of the Commission, of such nature, class or form as to cause undue wastage of water by the filling of depressions, lakes or swamps; or

25 (b) the design of the work, or the failure of the holders or any of the holders of the authority to maintain the work or any part of it in good order and condition, warrants the Commission so doing,

30 renew the authority subject to a condition that the work shall be altered in design or form or repaired to the satisfaction of the Commission, or that additional works shall be provided, within a specified period not exceeding 2 years.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (6) In any case where the alterations,
repairs or additional works referred to in subsection
(5) are, in the opinion of the Commission, so extensive
as to warrant its so doing, the Commission may grant
an extension of time, not exceeding 3 years, for com-
pletion of those alterations, repairs or additional works.

10 20BB. The holders of an authority granted for the
purpose of irrigation or water supply shall not, except
with the permission in writing of the Commission,
take water from a river or lake by means of a work in
respect of which the authority is held until the whole
15 of the works in respect of which the authority is held
have been constructed or provided.

Water
not to be
taken until
works
completed.

20 20BC. In any case where the work in respect of
which an authority is held has not been used for a
period of 3 years or more, the Commission may give to
the holders of the authority notice by letter sent to
each of them by post addressed to them at their
addresses last known to the Commission that, after the
25 expiration of a period specified in the notice, the
authority will be cancelled and, where any such notice
is given, unless the Commission annuls or withdraws
the notice before the expiration of the period so
specified, the authority shall, on the expiration of that
period, be deemed to be cancelled.

Commission
may
cancel
authority
if work
not used
for 3
years.

(22) (a) Section 20c (1)—

30 (i) Omit “occupiers of the lands supplied with
water obtained by means of a joint water
supply scheme”, insert instead “holders of
the authority”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (ii) Omit “or the certified copy of the agreement
be not lodged with the Commission as
hereinafter provided”.
- (b) Section 20c (2)—
- 10 (i) Omit “occupiers” where firstly occurring,
insert instead “holders of the authority”.
- (ii) Omit “between the occupiers” where
secondly occurring.
- (iii) Omit “such works”, insert instead “the
works between such of those holders as are
supplied with that water”.
- 15 (c) Section 20c (3)—
Omit the subsection.
- (23) (a) Section 20CA (1)—
Omit “in the form prescribed”.
- (b) Section 20CA (4) (f) (i)—
20 Omit “occupiers”, insert instead “applicants”.
- (c) Section 20CA (6) (a)—
Omit “and on receipt by it of the certified copy
of the agreement executed by the applicants as
hereinafter provided, issue to the applicants an
25 authority for a joint water supply scheme”, insert
instead “, issue to the applicants an authority”.
- (d) Section 20CA (7)—
Omit the subsection.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (e) Section 20CA (8) (a)—
Omit “for a joint water supply scheme”.
- (f) Section 20CA (11)—
Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.
- 10 (24) (a) Section 20CB (1) (a)—
Omit “occupiers of the lands supplied with water
obtained by means of a joint water supply
scheme”, insert instead “holders of the authority”.
- 15 (b) Section 20CB (1) (d)—
Omit “or the certified copy of the agreement be
not lodged with the Commission as hereinafter
provided”.
- 20 (c) Section 20CB (3) (a)—
(i) Omit “and on receipt by it of the certified
copy of the agreement executed by the
applicants as hereinafter provided”.
(ii) Omit “for a joint water supply scheme”.
- (d) Section 20CB (3) (b)—
Omit the paragraph, insert instead :—
(b) An authority shall not be issued under
paragraph (a) while any appeal is pending with
respect to the application for the renewal of that
authority.
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Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (e) Section 20CB (3) (c)—
- 5 (i) Omit “section”, insert instead “subsection”.
 (ii) Omit “scale prescribed by regulations under
 this Act”, insert instead “prescribed scale”.
- (f) Section 20CB (4)—
 Omit the subsection.
- 10 (25) Section 20D—
 Omit “under this Division”.
- (26) (a) Section 20E (1)—
- 15 Omit “occupiers of the whole of the lands sup-
 plied with water obtained by means of a joint
 water supply scheme”, insert instead “holders of
 an authority”.
- (b) Section 20E (2) (a)—
- 20 Omit “occupiers of the whole of the lands sup-
 plied with water obtained by means of that
 work”, insert instead “holders of the authority”.
- (c) Section 20E (2) (c)—
 Omit “police” wherever occurring, insert instead
 “stipendiary”.
- (d) Section 20E (3)—
- 25 Omit the subsection.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(e) Section 20E (4)—

5 Omit “and subsection (3)”.

(27) Section 20F—

After “in the authority”, insert “and of the lands”.

(28) Section 20G (2)—

Omit “for a joint water supply scheme”.

10 (29) Sections 20H, 20HA, 20HB—

Omit section 20H, insert instead :—

20H. (1) If at any time during the currency of an authority the Commission is satisfied that—

Revocation
or
suspension,
etc., of
authority.

15 (a) the holders or any of the holders of the authority have or has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the authority;

20 (b) any land has been irrigated as to an area in excess of that authorised by the authority;

25 (c) the holders or any of the holders of the authority have or has used the work in respect of which the authority is held for a purpose other than that authorised by the authority;

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (d) the holders or any of the holders of the authority have or has contravened or failed to comply with any of the terms, limitations or conditions to which the authority is subject;

10 (e) any water diverted, taken or used by any of the holders of the authority is not being beneficially used or is being wasted; or

(f) beneficial use is not being made of the work in respect of which the authority is held,

15 the Commission may serve on the holders of the authority a notice that, after the expiration of a period specified in the notice, the authority will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration
20 of the period so specified, the authority shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.

25 (2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

(a) that any authority should be suspended or modified;

30 (b) that the quantity of water authorised to be taken under any authority should be reduced; or

(c) that a right held under any authority for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 the Commission may serve on the holders of the
authority a notice to that effect, and where any such
notice is served, the authority shall be deemed to be
suspended or modified, or the quantity of water
reduced or, as the case may be, the right restricted or
suspended, according to the tenor of the notice.

10 (3) If the Commission is satisfied that the
holders or any of the holders of an authority have
or has failed to comply with the terms of a notice
served by the Commission whereby—

- 15 (a) the authority has been modified;
- (b) the quantity of water authorised to be taken
under the authority has been reduced; or
- 20 (c) a right held under the authority for the
taking of water for any purpose from a
river, lake or section of a river has been
restricted or suspended,

25 the Commission may serve on the holders of the
authority a notice that, after the expiration of a period
specified in the notice, the authority will be suspended
and where any such notice is served, unless the Com-
mission annuls or withdraws the notice before the
expiration of the period so specified, the authority
shall, on the expiration of that period, be deemed to be
suspended.

30 (4) Service of a notice under this section
may be effected on a holder of an authority—

- (a) by delivering the notice to the holder
personally;

SCHEDULE

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) by leaving the notice with any person apparently of or above the age of 14 years who apparently resides or is employed on the land of the holder; or
- 10 (c) by letter sent by post and addressed to the holder at his address last known to the Commission.
- 20HA. (1) Any person who—
- (a) being a holder of an authority in respect of a work to which this Part extends, uses the work when the authority is suspended;
- 15 (b) being a former holder of such an authority, uses the work when the authority is revoked or cancelled or has expired;
- 20 (c) being a holder of an authority, contravenes or fails to comply with any term, limitation or condition to which the authority is subject;
- (d) being a holder of an authority, fails to comply with the terms of any notice served on him by the Commission whereby—
- 25 (i) the authority has been modified;
- (ii) the quantity of water authorised to be taken under the authority has been reduced; or
- 30 (iii) a right held under the authority for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended; or

Offences
with
respect to
authorities.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) being a holder of an authority, contravenes
section 20BB,
is guilty of an offence and is liable, on conviction, to
a penalty not exceeding \$500.

10 (2) In any prosecution under this section
against a holder or former holder of an authority on
whose land a work in respect of which the authority
is or was held is situated, proof—

(a) that the work has been used when the
authority is suspended, revoked or cancelled
or has expired;

15 (b) that any term, limitation or condition to
which the authority is subject has been con-
travened or has not been complied with;

20 (c) of failure to comply with the terms of any
notice served by the Commission on that
holder whereby—

(i) the authority has been modified;
(ii) the quantity of water authorised to
be taken under the authority has
been reduced; or

25 (iii) a right held under the authority for
the taking of water for any purpose
from a river, lake or section of a
river has been restricted or sus-
pended; or

Water (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART II OF THE WATER ACT,
1912—continued.

5 (d) that water has been taken from a river or lake by means of a work covered by an authority before the whole of the works covered by the authority have been constructed or provided,

10 shall, in the absence of proof to the contrary, be evidence that the use, contravention, non-compliance or failure was caused by that holder or former holder of the authority.

15 20HB. Where an authority is deemed to be revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation. Revocation and cancellation of authorities.

(30) Section 20R—

20 Omit "and upon breach of any such terms, limitations and conditions the group license may be cancelled by the Commission".

(31) Sections 20s, 20sA—

Omit section 20s, insert instead :—

25 20s. (1) If at any time during the currency of a group license the Commission is satisfied that— Revocation or suspension, etc., of group license.

30 (a) the Board holding the group license or any of the group license occupiers has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the group license;

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) any land has been irrigated as to an area
in excess of that authorised by the group
license;
- 10 (c) the Board holding the group license or any
of the group license occupiers has used the
work in respect of which the license is held
for a purpose other than that authorised by
the license;
- 15 (d) the Board holding the group license or any
of the group license occupiers has contra-
vened or failed to comply with any of the
terms, limitations or conditions to which the
license is subject;
- 20 (e) any water diverted, taken or used by the
Board holding the group license or by any
of the group license occupiers is not being
beneficially used or is being wasted; or
- (f) beneficial use is not being made of the work
in respect of which the group license is held,
the Commission may serve on the Board a notice that,
25 after the expiration of a period specified in the notice,
the group license will be revoked, suspended or modi-
fied as indicated in the notice, and where any such
notice is served, unless the Commission annuls or
30 withdraws the notice before the expiration of the
period so specified, the group license shall, on the
expiration of that period, be deemed to be revoked,
suspended or modified, as the case may be.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

(a) that any group license should be suspended or modified;

10 (b) that the quantity of water authorised to be taken under any group license should be reduced; or

15 (c) that a right held under any group license for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

the Commission may serve on the Board which holds the group license a notice to that effect, and where any such notice is served, the group license shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended, according to the tenor of the notice.

25 (3) If the Commission is satisfied that the Board which holds a group license has failed to comply with, or to cause to be complied with, the terms of a notice served by the Commission whereby—

(a) the group license has been modified;

30 (b) the quantity of water authorised to be taken under the group license has been reduced; or

(c) a right held under the group license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 the Commission may serve on the Board a notice that,
after the expiration of a period specified in the notice,
the group license will be suspended, and where any
such notice is served, unless the Commission annuls or
10 withdraws the notice before the expiration of the
period so specified, the group license shall, on the
expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section
may be effected on a Board—

- (a) by delivering the notice to the principal place
of business of the Board;
- 15 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who is apparently employed by the Board;
or
- 20 (c) by letter sent by post and addressed to the
Board at its address last known to the
Commission.

20SA. (1) Any person who—

- 25 (a) being a Board holding a group license or a
group license occupier, uses a work in
respect of which the group license is held
when the group license is suspended;
- (b) being a Board which formerly held a group
license or an occupier of land to which
30 water was formerly supplied under such a
group license, uses a work in respect of

Offences
with
respect
to group
licenses.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 which the group license was held when the group license is revoked or cancelled or has expired;
- (c) being a Board holding a group license or a group license occupier, contravenes or fails to comply with any term, limitation or condition to which the group license is subject; or
- 10
- (d) being a Board holding a group license, fails to comply with the terms of any notice served on the Board by the Commission whereby—
- 15
- (i) the group license has been modified;
- (ii) the quantity of water authorised to be taken under the group license has been reduced; or
- 20
- (iii) a right held under the group license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,
- 25 is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.
- 30 (2) In any prosecution under this section against a Board holding a group license or a group license occupier, or a Board which formerly held a group license or an occupier of land to which water was formerly supplied under a group license, being a

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 Board or an occupier on whose land a work in respect
of which a group license is or was held is situated,
proof—

(a) that the work has been used when the
group license is suspended, revoked or
cancelled or has expired; or

10 (b) that any term, limitation or condition to
which the group license is subject has been
contravened or not complied with,

15 shall, in the absence of proof to the contrary, be
evidence that the use, contravention or non-
compliance was caused by that Board, group license
occupier or occupier, as the case may be.

20 (3) In any prosecution under this section
against a Board holding a group license, proof of
failure to comply with the terms of any notice served
on that Board by the Commission whereby—

(a) the group license has been modified;

(b) the quantity of water authorised to be taken
under the group license has been reduced;
or

25 (c) a right held under the group license for the
taking of water for any purpose from a
river, lake or section of a river has been
restricted or suspended,

30 shall, in the absence of proof to the contrary, be
evidence that the failure was caused by that Board.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(32) Section 20U—

5 Omit the section, insert instead :—

20U. Where a group license is deemed to be
revoked or cancelled under this Division, the Commis-
sion may notify the revocation or cancellation in the
Gazette, and any such notification shall be conclusive
evidence of the revocation or cancellation.

Revocation
and cancel-
lation of
group
licenses.

SCHEDULE 3.

Sec. 4.

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912.

Part II, Division 4B—

15 After Part II, Division 4A, insert :—

*DIVISION 4B.—Volumetric Water Allocations
Schemes.*

20v. In this Division, unless the context or subject-
matter otherwise indicates or requires—

20 “scheme”, in relation to any water source, means
a volumetric water allocations scheme (as
may be modified from time to time under
this Division) prepared in respect of that
water source under section 20x;

Interpre-
tation for
the purposes
of Division
4B.

SCHEDULE

Water (Amendment).

SCHEDULE 3—continued.

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—continued.

5 “water allocation”, in relation to any license,
group license or authority, which authorises
the taking of water from a water source
which is subject to a scheme, means the
10 quantity of water specified in the condition
(as may be modified from time to time
under this Division) attached to, or included
in, the license, group license or authority
pursuant to section 20x (5) or section 20AB
15 (1) (b) as being the maximum quantity
which may, subject to this Division, be
taken from that water source in any year
under the license, group license or authority
for the purpose or purposes specified in the
license, group license or authority;

20 “water source” means any river, lake or section
of a river;

“year” means the period of 12 months commencing on 1st July in each calendar year.

25 20w. The Governor may, by order published in the
Gazette, declare that any water source and all of the
licenses, group licenses and authorities, which
authorise the taking of water from that water source,
shall, on and from such date as may be specified in the
order (being the date of its publication or a later
30 date), be subject to a volumetric water allocations
scheme prepared under section 20x.

3 20x. (1) Before an order under section 20w may
be made, the Commission shall prepare a volumetric
water allocations scheme in respect of the water source
to which it is proposed that the order will, when
made, apply.

Power of
Governor
to declare
water source
to be
subject to
volumetric
water
allocations
scheme.

Deter-
mination of
water
allocations
in respect
of licenses,
group
licenses and
authorities.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (2) In preparing a scheme in respect of a
water source, the Commission—
- (a) shall assess the total quantity of water that
is likely to be available in each year for
apportionment among and allocation to
10 holders of licenses, group licenses and
authorities, which authorise the taking of
water from that water source; and
- (b) shall then determine in respect of each such
license, group license and authority the
15 maximum quantity of water which may,
subject to this Division, be taken from that
water source in any year under the license,
group license or authority for the purpose
or purposes specified in the license, group
license or authority.
- 20 (3) The Commission may—
- (a) fix differing quantities of water per hectare
according to whether water authorised to be
taken from the water source under a license,
25 group license or authority may be used for
the purpose of irrigating orchards, vineyards,
trees (other than trees in orchards), lucerne,
pasture, fodder crops, cereal crops or
vegetables or crops or plantings of any other
description;
- 30 (b) fix differing quantities of water according
to whether water authorised to be taken
from the water source under a license, group
license or authority may be used for a pur-
35 pose other than a purpose specified in
paragraph (a); and

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (c) determine that in no case shall the maximum
quantity of water which may be taken from
the water source in any year under any
license, group license or authority exceed
a quantity specified by the Commission.

10 (4) Subject to any determination made under
subsection (3) (c)—

(a) a determination under subsection (2) (b)
in respect of a license, group license or
authority may be made—

15 (i) in the case of a license, group
license or authority issued for the
purpose of irrigating a crop or
planting of a class specified in sub-
section (3) (a), by reference to the
area of land which is authorised to
20 be irrigated under the license, group
license or authority and to such
quantity as may be fixed under sub-
section (3) (a) in respect of that
class of crop or planting; and

25 (ii) in the case of a license, group license
or authority issued for any purpose
other than the irrigation of a crop
or planting of a class specified in
subsection (3) (a), by reference to
30 such quantity as may be fixed under
subsection (3) (b) in respect of that
purpose; and

35 (b) where water authorised to be taken from the
water source under a license, group license
or authority may be used for the purpose of

Water (Amendment).

SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 irrigating two or more classes of crops or
plantings specified in subsection (3) (a) or
for two or more purposes, a maximum
quantity of water may be determined under
10 subsection (2) (b) in respect of each of
those classes or, as the case may be, each
of those purposes.

(5) As soon as practicable after the publica-
tion of an order declaring a water source to be subject
to a scheme and before the date on which the scheme
is to commence, the Commission shall, by notice in
15 writing served on the holder of each license or group
license, and on the holders of each authority, which
authorises the taking of water from the water source,
attach to the license, group license or authority a
condition that, except where the operation of the condi-
20 tion is suspended under section 20AA, on and from
the date on which the scheme commences and in
respect of each year during which the scheme is in
force, not more than the maximum quantity of water
determined in respect of the license, group license or
25 authority under subsection (2) (b) and specified in
the condition (as may be modified from time to time
under this Division) shall be taken from the water
source during any year under the license, group license
or authority for the purpose or purposes specified in
30 the license, group license or authority.

(6) Service of a notice under subsection (5)
may be effected on a holder referred to in subsection
(5)—

35 (a) by delivering the notice to the holder personally;

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who apparently resides or is employed on
the land of the holder; or

10 (c) by letter sent by post and addressed to the
holder at his address last known to the
Commission.

(7) On the service of a notice under subsec-
tion (5), the license, group license or authority to
which the notice relates shall be modified according
to the tenor of the notice.

15 (8) Where any order under section 20w
declaring a water source to be subject to a scheme has
effect on and from a date falling after the beginning
of a year, the quantity of water determined under
20 subsection (2) (b) in respect of a license, group
license or authority, which authorises the taking of
water from that water source, shall, for that year, be
deemed to be reduced by the proportion that the part
of that year which has elapsed at that date bears to the
whole of that year and the condition which is attached
25 to the license, group license or authority in accordance
with subsection (5) shall be construed accordingly.

30 (9) Notwithstanding anything in this Part, a
determination made under subsection (2) (b) in
respect of a license, group license or authority and a
condition attached to the license, group license or
authority in accordance with subsection (5) shall not
be the subject of an objection or appeal under this
Part.

*Water (Amendment).*SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

- 5 20y. (1) Where the Commission is satisfied that a water source which is subject to a scheme is unlikely to have more water available than is sufficient to meet the water allocations of holders of existing licenses, group licenses and authorities, which authorise the taking of water from the water source, and the requirements of all other users lawfully authorised to take water from the water source, it may, by a notice published in the Gazette and in a newspaper circulating in the district in which the water source is located, declare that, on and from a date specified in the notice (being the date of publication in the Gazette or a later date)—
- 10
- 15
- (a) except as provided in subsection (2), no further applications for licenses, group licenses and authorities; and
- 20 (b) no further applications—
- (i) for additional licenses made under the proviso to section 18 (2);
- (ii) for amended authorities made under section 20E (2) (a); or
- 25 (iii) for amended group licenses referred to in section 20Q (2) (a),
- will be granted until the notice is revoked by a subsequent notice so published.
- 30 (2) Subsection (1) does not apply to an application for a license or authority, or to applications for licenses or authorities, in replacement of a license or authority if the water allocation in respect of the

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 replacement license or authority or, as the case may
be, the total water allocations in respect of the replace-
ment licenses or authorities will not exceed the water
allocation in respect of the license or authority that
is being replaced or, as the case may be, the total
10 water allocations in respect of the licenses or
authorities that are being replaced.

(3) On and from the date specified in the
notice published under subsection (1) and until the
notice is revoked, an application to which that sub-
section applies may not be made under this Part and
15 if made shall not be considered by the Commission.

(4) Where a notice published under sub-
section (1) has effect in relation to any water source
and any land in respect of which a license or authority
authorises the taking of water from that water source
20 is subdivided into parts, an application for a license
or authority to take water from that water source for
use in connection with any such part shall, for the
purpose of this section, be deemed to be an application
for a license or authority in replacement of that license
25 or authority.

20z. (1) If, with respect to any year, it appears to
the Commission that a water source which is subject
to a scheme is unlikely to have sufficient water avail-
able to meet the water allocations of holders of
30 licenses, group licenses and authorities, the Commis-
sion may, by a notice published in the Gazette and in
Power of Commission to reduce water allocations in times of water shortage.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 a newspaper circulating in the district in which that
water source is located, either before or after the
beginning of that year, reduce those allocations for
that year by such proportion as may be specified in
the notice.

10 (2) Where a notice has been published in
accordance with subsection (1), the condition which
pursuant to section 20X (5) is attached to, or which
pursuant to section 20AB (1) (b) is included in, any
license, group license or authority to which the notice
15 relates shall, for the year specified in the notice, be
modified according to the tenor of the notice and the
water allocation in respect of the license, group
license or authority shall be deemed to be reduced
accordingly.

20 (3) Where, after the beginning of a year, the
condition attached to, or included in, a license, group
license or authority as referred to in subsection (2)
has been modified as provided in that subsection and
the quantity of water taken under the license, group
25 license or authority during that year before the modi-
fication had effect did not exceed the water allocation
in respect of the license, group license or authority but
exceeded the water allocation as reduced in con-
sequence of the modification of the condition, the
holder of the license or group license or, as the case
30 may be, the holders of the authority shall not be
regarded as having contravened the condition, as so
modified, with respect to the taking of that excess
quantity.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

20AA. (1) If, with respect to any year, it appears to the Commission that a water source which is subject to a scheme is likely to have more water available than is required to meet the water allocations of holders of licenses, group licenses and authorities, the Commission may declare that during such part of the year as is specified in the declaration water may be taken from that source under the authority of any such license, group license or authority without restriction as to quantity.

Power of Commission to suspend operation of conditions relating to water allocations in years of surplus and to increase water allocations.

(2) Where a declaration has been made under subsection (1), the condition which pursuant to section 20X (5) is attached to, or which pursuant to section 20AB (1) (b) is included in, any license, group license or authority to which the declaration relates shall, for the part of the year referred to in subsection (1), be deemed to be suspended and any quantity of water taken from the water source during that part of the year under the license, group license or authority shall not be taken into account for the purpose of determining whether or not the water allocation applicable in respect of the license, group license or authority for the year has been exceeded.

(3) Without limiting subsection (1), if, with respect to any year, it appears to the Commission that a water source which is subject to a scheme is likely to have more water available than is required to meet existing water allocations of holders of licenses, group licenses and authorities, the Commission may, either before or after the beginning of the year, declare that those allocations are increased by such proportion as is specified in the declaration.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) Where a declaration has been made
under subsection (3), the condition which pursuant to
section 20X (5) is attached to, or which pursuant to
section 20AB (1) (b) is included in, any license, group
license or authority to which the declaration relates
10 shall, for the year specified in the declaration, be
modified according to the tenor of the declaration and
the water allocation in respect of the license, group
license or authority shall be deemed to be increased
accordingly.

15 (5) The Commission shall cause notice of
a declaration under this section to be published, as
soon as practicable after the making of the declara-
tion, in the Gazette and in a newspaper circulating in
the district in which the water source to which the
declaration relates is located.

20 20AB. (1) Where the Commission decides to grant
an application made under this Part for the issue of a
license, group license or authority which will authorise
the taking of water from a water source which is
subject to a scheme, it shall—

Issue of
new
licenses,
group
licenses
and
authorities.

25 (a) determine in respect of the license, group
license or authority the maximum quantity
of water which may, subject to this Division,
be taken from the water source in any year
for the purpose or purposes for which the
30 license, group license or authority is to be
issued; and

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (b) include in the license, group license or
authority a condition that, except where the
operation of the condition is deemed to be
suspended under section 20AA (2), on and
10 from the date on which the license, group
license or authority is to have effect and in
respect of each year during which the
scheme is in force, not more than the maxi-
mum quantity of water determined in respect
15 of the license, group license or authority
under paragraph (a) and specified in the
condition (as may be modified from time to
time under this Division) shall be taken
from that water source during any year
20 under the license, group license or authority
for the purpose or purposes specified in the
license, group license or authority.

(2) Section 20x (3) and section 20x (4)
shall apply in relation to the determination of a water
allocation under subsection (1) (a) in the same way
as they apply in relation to the determination of a
25 water allocation under section 20x (2) (b).

(3) Where any license, group license or
authority becomes effective on a date falling after the
beginning of a year, the quantity of water determined
under subsection (1) (a) in respect of the license,
30 group license or authority shall, for that year, be
deemed to be reduced by the proportion that the part
of that year which has elapsed at that date bears to
the whole of that year and the condition included in
the license, group license or authority in accordance
35 with subsection (1) (b) shall be construed
accordingly.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) Notwithstanding anything in this Part,
a determination made under subsection (1) (a) in
respect of a license, group license or authority and
a condition included in that license, group license or
authority in accordance with subsection (1) (b) shall
10 not be the subject of an objection or appeal under
this Part.

15 20AC. (1) A person shall not take any water from ^{Water}
a water source which is subject to a scheme by means ^{meters.}
of a work authorised by a license, group license or
authority unless there is connected to the work a water
meter, or other measuring device, which has been
approved by the Commission.

Penalty : \$500.

(2) A person who—

20 (a) intentionally, fraudulently or by culpable
negligence—

(i) damages a water meter or other
measuring device connected to a
work referred to in subsection (1);

25 (ii) prevents any such meter or measur-
ing device from recording the
quantity of water taken through or
by means of the work, or uses any
means whereby water so taken is not
30 recorded by the meter or measuring
device; or

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (iii) without the consent of the Commission given in writing, interferes with any such meter or measuring device;
or

10 (b) being the holder of the license or group license or, as the case may be, the holders of the authority in respect of the work, permits or directs any other person to do any of the acts specified in paragraph (a),

15 is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or both.

(3) In any prosecution for an offence under subsection (2), proof of the existence of—

20 (a) any means for preventing a meter from recording the quantity of water taken through or by means of the work to which the meter or measuring device is connected;
or

25 (b) any means whereby water is taken through or by means of the work without being recorded by the meter or measuring device,

30 shall be admissible as evidence that the prevention or, as the case may be, the use of the means was caused by the holder of the license or group license or, as the case may be, the holders of the authority, authorising the use of the work.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 20AD. Where land (being land which is supplied with water obtained from a water source which is subject to a scheme by means of a work in respect of which a license or authority is held) is subdivided into parts, the Commission is not, when issuing licenses or authorities relating to those parts, or any
10 of those parts, obliged to make water allocations in respect of those licenses or authorities which in aggregate exceed the water allocation in respect of the first-mentioned license or authority.

Provisions applicable in cases of subdivision of land.

15 20AE. The Commission may, by any of its officers, employees or agents—

Power of entry.

(a) enter on any land on which there is constructed any work which is used for taking water from a water source which is subject to a scheme; and

20 (b) inspect any work so constructed and used, for the purpose of ascertaining whether or not the provisions of this Division have been or are being complied with or contravened.

Water (Amendment).

SCHEDULE 4.

Sec. 4.

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912.

(1) Section 21B—

5 After section 21A, insert :—

21B. (1) Any person who—

Offences
with
respect to
construction,
erection
and use
of work
without
license,
etc.

10 (a) constructs, erects or uses a work to which this Part extends otherwise than pursuant to a right conferred on him by this Part or by a license, group license, authority or permit;

15 (b) fails to comply with any direction given to him by the Commission to remove the whole or any part of a work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him;
20 or

(c) fails to comply with any direction given to him by the Commission to carry out any work which the Commission considers necessary—

25 (i) to permit the flow of water through or past any work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated
30 on land owned or occupied by him;
or

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (ii) to prevent the use of any work to
which this Part extends (being a
work in respect of which no right
conferred by this Part exists and in
10 respect of which no license, group
license, authority or permit is in
force) which is situated on land
owned or occupied by him and
which is a work for the diversion or
abstraction of water,

15 is guilty of an offence and is liable, on conviction,
to a penalty not exceeding \$500.

(2) In any prosecution under this section,
proof that a work to which this Part extends has been
constructed, erected or used otherwise than pursuant
20 to a right conferred by this Part or a license, group
license, authority or permit shall, in the absence of
proof to the contrary, be evidence that the con-
struction, erection, use or failure has been caused by
the occupier of the land on which the work is situated.

25 (3) Where a direction referred to in
subsection (1) (b) or (c) has been given to an
occupier of land and that occupier is not the owner
of the land, that occupier may apply to the local land
board to apportion between himself and the owner
of the land the expenses incurred in complying with
30 the direction, and, on any such application being
made to it, the local land board may make such
apportionment of those expenses as it considers fair
and just.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(2) Section 22 (3), (4), (5)—

5 After section 22 (2), insert :—

(3) The Commission may, by any of its officers,
employees or agents, enter on any land and—

10 (a) remove any dam or weir or any other work
forming an unlawful obstruction to the flow
of water in a river or any unlawful levee
for the prevention of the overflow of water
from a river or lake; and

15 (b) prevent or stop any unlawful diversion of
water from a river or lake, whether by
dismantling a pump or blocking the offtake
of a race or by such other means as the
Commission considers necessary.

20 (4) The Commission may recover in any court of
competent jurisdiction as a debt due to it from the
occupier of the land from which any work has been
removed under subsection (3), or of the land on
which the diversion of water was prevented or
stopped under that subsection, the expenses incurred
25 by it in carrying out the removal or, as the case may
be, in preventing or stopping the diversion.

30 (5) Where judgment has been obtained against an
occupier of land under subsection (4) and that
occupier is not the owner of the land, that occupier
may apply to the local land board to apportion
between himself and the owner of the land the amount
adjudged to be paid to the Commission under that
subsection and any costs awarded against him in

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 connection with that judgment, and, on any such application being made to it, the local land board may make such apportionment of that amount and those costs as it considers fair and just.

(3) Sections 22B, 22C—

After section 22A, insert :—

10 22B. (1) If at any time the Commission is satisfied that the quantity of water available, or likely to be available, in a river, lake or section of a river is insufficient to meet all requirements with respect to the taking of water from the river, lake or section, it may, in the manner provided in this section, restrict or suspend the rights held under licenses, group licenses, authorities or permits issued under this Part, or held under section 7, for the taking of water for any purpose from the river, lake or section or any part of the river, lake or section.

Restriction or suspension of rights held under licenses, etc., during periods of water shortage.

25 (2) Particulars of any restrictions or suspensions imposed by the Commission under subsection (1) shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

30 (3) A notification made under subsection (2) may be amended, altered, modified or cancelled by the Commission and particulars of any such amendment, alteration, modification or cancellation shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) In imposing restrictions or suspensions under this section, the Commission may restrict or suspend rights for the taking of water in accordance with the following order of priority :—

- 10 (a) firstly, rights under permits for any purpose other than domestic and stock supply;
- 15 (b) secondly, rights under licenses, group licenses and authorities for the purpose of irrigation;
- 20 (c) thirdly, rights under licenses, group licenses and authorities for purposes other than irrigation and domestic and town and village water supply, rights under permits for stock supply and rights held under section 7 for the taking of water for stock supply; and
- 25 (d) fourthly, rights under licenses, group licenses, authorities and permits for domestic purposes and town and village water supply and rights held under section 7 for the taking of water for domestic purposes.

25 (5) In exercising the power conferred on it by subsection (4), the Commission—

- 30 (a) shall impose restrictions or suspensions in respect of all rights specified in a paragraph of that subsection before imposing any restrictions or suspensions in respect of any rights specified in any subsequent paragraph of that subsection; and

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (b) may, when imposing restrictions or
restrictions or suspensions under subsection (4) (b),
restrict or suspend rights with respect to the
irrigation of any class of crops or plantings
without restricting or suspending rights with
10 respect to the irrigation of any other class
of crops or plantings.

(6) When the Commission has, in accord-
15 ance with this section, imposed a restriction on a right
held under section 7 or held under a license, group
license, authority or permit to take water, a person
shall not take water except in accordance with the
right as so restricted.

(7) When the Commission has, in accord-
20 ance with this section, suspended a right held under
section 7 or held under any license, group license,
authority or permit to take water, a person shall not
take water in purported exercise of that right.

(8) Any person who contravenes subsection
25 (6) or (7) is guilty of an offence and is liable, on
conviction, to a penalty not exceeding \$500.

(9) If, in any proceedings against an
30 occupier of land for an offence under subsection
(8), it is proved that a work on that land was used
in contravention of subsection (6) or, as the case
may be, subsection (7), the water concerned in that
alleged offence shall, unless the contrary is proved, be
presumed to have been taken by him.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 22C. (1) In this section, a reference to a work of the Crown includes a reference to a work vested in or controlled by the Dumaresq-Barwon Border Rivers Commission. Flow of water assured by a work of the Crown.

10 (2) The Governor may, by proclamation published in the Gazette, declare that the flow or supply of water in any river, lake or section of a river has been augmented, stabilised or assured by a work of the Crown.

(3) Where a work in respect of which any license, group license, permit or authority is held—

15 (a) is used for the purpose of irrigation or water supply for stock or for the carrying on of any industrial operation; and

20 (b) is connected with a river, lake or section of a river in respect of which a proclamation under subsection (2) is in force,

25 the holder of the license, group license or permit or, as the case may be, the holders of the authority shall, subject to and in accordance with this section, pay a charge for the right to take and use water from the river, lake or section in addition to the fee payable for the license, group license, permit or authority.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (4) The charge payable under subsection
 (3) shall—
- (a) be fixed by the Commission—
- (i) in respect of a license, group license,
 10 permit or authority in existence on
 1st July following the date of the
 proclamation, as soon as practicable
 and notified to the holder of the
 license, group license or permit or,
 as the case may be, the holders of
 15 the authority, and paid in respect of
 the period of 12 months com-
 mencing on that 1st July and in
 respect of each subsequent period of
 12 months commencing on 1st July;
 and
- 20 (ii) in respect of a license, group license,
 permit or authority issued or
 renewed after 1st July first
 mentioned in subparagraph (i),
 25 when issuing or renewing the
 license, group license, permit or
 authority, and paid at a pro-
 portionate rate for the portion of
 the period of 12 months from the
 date of issue or renewal of the
 30 license, group license, permit or
 authority to 30th June following and
 in respect of each subsequent period
 of 12 months commencing on 1st
 July;

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) be not greater than maximum amounts
which shall be prescribed according to—
- (i) the purpose or purposes for which
the water is to be taken and used;
 - (ii) the nature of the work; and
 - (iii) the method of obtaining the water;
- 10 (c) be paid at the prescribed times and in the
prescribed manner;
- (d) to the extent of a minimum annual amount
to be fixed by the Commission in each case,
be payable irrespective of whether the work
15 in respect of which the license, group
license, permit or authority is held is used
or not; and
- (e) be on the basis of either—
- 20 (i) the quantity of water taken and used
by means of the work during the
relevant period of 12 months; or
 - (ii) the area of land irrigated with water
so taken and used.
- 25 (5) The Commission shall, in every license,
group license, permit and authority referred to in
subsection (3), specify which of the alternative
charges shall be paid.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (6) The Commission shall, when fixing the amount of a charge payable under this section, have regard to—

10 (a) the benefits received by the holder of the license, the group license occupiers, the holder of the permit or, as the case may be, the holders of the authority as a result of the work of the Crown; and

(b) the augmentation, stabilisation or assurance of the water supply provided by that work.

15 (7) If, in the opinion of the Commission, a benefit is not received as a result of the work of the Crown by the holder of the license, the group license occupiers, the holder of the permit or, as the case may be, the holders of the authority, a charge shall not be
20 fixed under this section in respect of the license, group license, permit or authority.

(8) Any proclamation under subsection (2) may be amended, altered, modified, revoked or corrected by the Governor by proclamation published in the Gazette.

25 (9) If the holder of a license, group license or permit fails or, as the case may be, the holders of an authority fail to pay the charge required under this section within the prescribed period, the Commission may suspend the license, group license, permit or
30 authority until the charge is paid.

(10) The Minister may, on the recommendation of the Commission, remit or waive the payment in any year of any charge paid or payable under this section.

SCHEDULE

WATER (AMENDMENT) BILL, 1977

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

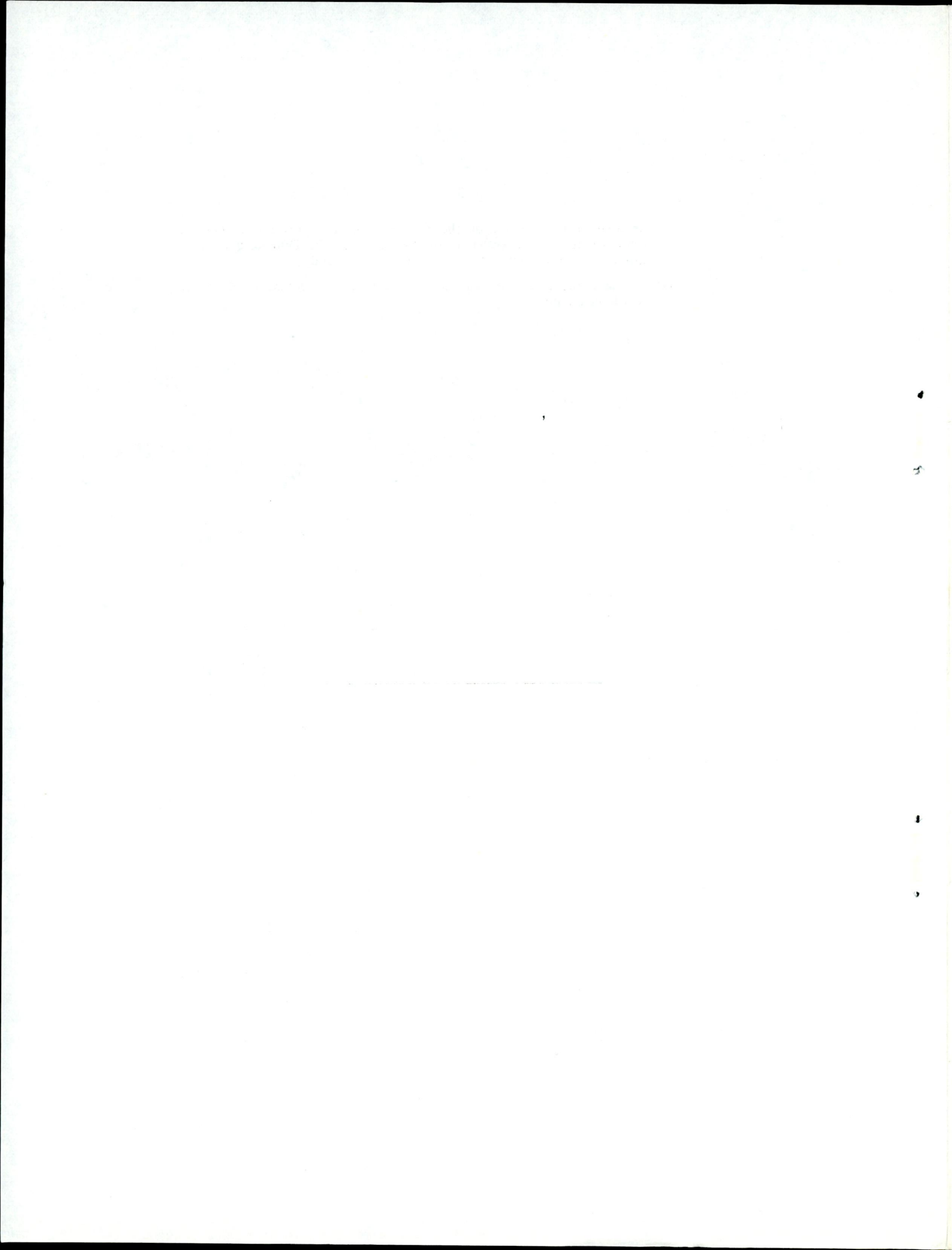
THE objects of this Bill are—

- (a) to amend section 5 of the Water Act, 1912—
 - (i) by introducing a definition of “authority” in relation to the construction and use of a joint water supply scheme;
 - (ii) by revising and clarifying the definition of “joint water supply scheme”; and
 - (iii) by revising the definition of “Work to which this Part extends” so as to exclude a work declared by the Water Resources Commission to be a work for urban drainage(Schedule 2 (1));
- (b) to extend section 7 of the Act, which relates to rights of occupiers of riparian land, so as to enable those occupiers to construct and use small dams and excavations, and to take and use water from an adjacent river or lake for irrigation of crops or pastures grown for fodder for stock kept solely in connection with the use of a dwelling-house, without being required to hold a license under Part II of the Act (Schedule 2 (2));
- (c) to insert in the Act a new section, 13AA, which will empower the Water Resources Commission to issue an amended license to the holder of a license who wishes to reduce the area of land which he is authorised by the license to irrigate, the capacity of the licensed work or the quantity of water taken and used under the license (Schedule 2 (6));
- (d) to revise section 16 of the Act (which provides for a license to operate for the benefit of the occupier for the time being of the land to which the license relates) so as to provide that such a license will operate for the benefit of such an occupier only if the license does not otherwise provide (Schedule 2 (12));
- (e) to repeal Part II, Division 3A, of the Act which relates to priorities of rights to the taking of water during periods of water shortage (Schedule 2 (16));
- (f) to amend Part II, Division 4, of the Act, which relates to joint water supply schemes, so as to remove the requirement for the participants in such a scheme to execute an agreement, satisfactory to the Water Resources Commission, with respect to the arrangements made for the construction and use of the scheme (Schedule 2 (20), (22), (23), (24) and (26));

- (g) to insert in Part II of the Act a new Division, 4B, so as to enable the Governor, by order published in the Gazette, to declare a river, lake or section of a river to be subject to a volumetric water allocations scheme, to empower the Water Resources Commission—
- (i) to attach to existing licenses, group licenses and authorities conditions specifying the maximum quantities of water which may be taken from a river, lake or section of a river which is subject to such a scheme during any period of 12 months commencing on 1st July in any year;
 - (ii) to include similar conditions in licenses, group licenses and authorities issued after the river, lake or section of the river becomes subject to such a scheme;
 - (iii) to suspend the issue of new licenses, group licenses and authorities to take water from a river, lake or section of a river which is subject to such a scheme where the Commission is of the opinion that the river, lake or section is unlikely to have more water available than is sufficient to satisfy existing allocations and requirements;
 - (iv) to reduce the maximum quantities of water which may be taken under licenses, group licenses and authorities in any year in which a river, lake or section of a river which is subject to such a scheme is, in the opinion of the Commission, unlikely to have sufficient water to satisfy existing allocations and requirements; and
 - (v) to allow holders of licenses, group licenses and authorities to take surplus water from a river, lake or section of a river which is subject to such a scheme without that water being taken into account for the purpose of determining whether or not the quantities determined in respect of those licenses, group licenses and authorities have been exceeded,
- to prohibit a person from taking water from a river, lake or section of a river which is subject to such a scheme by means of a work authorised by a license, group license or authority unless there is connected to the work a water meter or other measuring device approved by the Commission, and to confer additional powers of entry and inspection on the Commission (Schedule 3);
- (h) to insert in the Act a new section, 22B, to empower the Water Resources Commission, by notice published in the Gazette and in a newspaper circulating in the district, to restrict or suspend rights to take water from any river, lake or section of a river during periods of water shortage (Schedule 4 (3));
- (i) to insert in the Act a new section, 22c, which will supersede section 14B of the Act with respect to the imposition of additional charges payable by holders of licenses, group licenses, permits and authorities for water taken from a river, lake or section of a river in which the flow or supply of water is declared by proclamation to have been augmented, stabilised

or assured by a work of the Crown (which expression includes a reference to a work vested in or controlled by the Dumaresq-Barwon Border Rivers Commission) (Schedule 4 (3)); and

- (j) to make other amendments of a minor, consequential, ancillary or revisionary nature.
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PROOF

WATER (AMENDMENT) BILL, 1977

No. , 1977.

A BILL FOR

An Act to amend the Water Act, 1912, for the purpose of providing for the preparation and implementation of volumetric water allocations schemes in respect of certain rivers, lakes and sections of rivers, and for certain other purposes.

[MR GORDON—14 *September*, 1977.]

BE

Water (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Water (Amendment) Short title.
Act, 1977".

2. (1) Except as provided in this section, this Act shall Commence-
commence on the date of assent to this Act. ment.

 (2) Section 4 shall, in its application to a provision
10 of Schedules 1-4, commence on the day on which that
provision commences.

 (3) The several provisions of Schedules 1-4 shall
commence on such day or days as may be appointed by the
Governor in respect thereof and as may be notified by
15 proclamation published in the Gazette.

3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
WATER ACT, 1912.

20 SCHEDULE 2.—AMENDMENTS TO PART II OF THE
WATER ACT, 1912.

SCHEDULE 3.—INSERTION OF DIVISION 4B INTO PART
II OF THE WATER ACT, 1912.

SCHEDULE 4.—FURTHER AMENDMENTS TO PART II
OF THE WATER ACT, 1912.

25 SCHEDULE 5.—SAVINGS.

Water (Amendment).

4. The Water Act, 1912, is amended in the manner set forth in Schedules 1-4. Amendment
of Act No.
44, 1912.

5. Schedule 5 has effect. Savings.

SCHEDULE 1.

Sec. 4.

5 AMENDMENTS TO PART I OF THE WATER ACT, 1912.

(1) Section 1—

Omit the matter relating to Division 3A of Part II.

(2) Section 1—

10 From the matter relating to Division 3B of Part II, omit "18Q", insert instead "18R".

(3) Section 1—

From the matter relating to Division 4 of Part II, omit "20H", insert instead "20HB".

(4) Section 1—

15 After the matter relating to Division 4A of Part II, insert :—

DIVISION 4B.—*Volumetric Water Allocations Schemes*—ss. 20V-20AE.

SCHEDULE

Water (Amendment).

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO PART II OF THE WATER ACT, 1912.

(1) (a) Section 5, definition of "Authority"—

Before the definition of "Drainage", insert :—

5 "Authority" means an authority issued under
Division 4 to construct and use a joint
water supply scheme.

(b) Section 5, definition of "Joint water supply
scheme"—

10 Omit the definition, insert instead :—

"Joint water supply scheme" means any work
to which this Part extends which—

15 (a) is used or proposed to be used for
the purpose of supplying water to
the lands of two or more occu-
piers who are jointly utilising the
work or who propose to utilise
the work jointly (whether any of
those occupiers has occupation of
20 the site of the work or not);

(b) is used or proposed to be used
for the purpose of supplying water
for irrigating the land or lands of
any occupier or occupiers other
25 than the land or lands of the
occupier or occupiers of the site
of the work; or

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (c) is used or proposed to be used
(otherwise than pursuant to a
license granted before the com-
10 mence of the Water, Crown
Lands and Other Acts (Amend-
ment) Act, 1970) for the purpose
of supplying water for irrigating a
holding (not being a riparian
15 holding) or part thereof, where
that water is, or is to be, conveyed
wholly or partly by a work that is
used or proposed to be used by
any occupier or occupiers (not
20 being the occupier or occupiers of
the site of the work) for the
purpose of conveying that water
in accordance with a right con-
ferred by this Part or pursuant to
a license, authority or permit.

(c) Section 5, definition of "License"—

25 Omit "does not include a group license", insert
instead "means a license issued under Division
3".

(d) Section 5, definition of "Permit"—

30 After the definition of "Occupier", insert :—
"Permit" means a permit issued under Division
3B.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) Section 5, definition of "Work to which this Part
extends"—

Omit the definition, insert instead :—

"Work to which this Part extends"—

- (a) means a work—
- 10 (i) connected with or affect-
ing the quantity or use of
water in any river flowing
through or past, or in any
lake situated within or
15 adjoining, the land of two
or more occupiers; or
- (ii) connected with or affect-
ing the quantity of any
water flowing in, to, or
20 from, or being in, any
such river or lake,
- whether the work is—
- (iii) for water conservation,
irrigation, water supply or
drainage;
- 25 (iv) for preventing land from
being flooded by water;
or
- (v) for changing the course of
a river or preventing the
30 course of a river from
changing,

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 and whether the work was constructed before or after the commencement of Schedule 2 (1) (e) to the Water (Amendment) Act, 1977; and

10 (b) in relation to a work, being a flume, race, channel, cutting, tunnel or pipe, which diverts water by gravitation from a river or lake referred to in paragraph (a)
15 (i), means such part of the work as is situated between the source of supply and the device fitted or installed to control the flow of water in the work or, as the case may be, between the source of
20 supply and the site at which it is proposed to fit or install that device,

25 but does not include a work declared under subsection (3) to be a work for urban drainage.

(f) Section 5 (2), (3)—

At the end of section 5, insert :—

30 (2) A reference in this Part to the holders of an authority shall be construed as a reference to the occupiers of the whole of the lands supplied with water obtained by means of a joint water supply scheme in respect of which an authority is in force and, where the supply work or conveying work that is the subject of the scheme is

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 installed or constructed on other land, shall be construed as including a reference to the occupier of that other land, and a reference to a holder of an authority shall be construed as a reference to any one of those holders.

10 (3) The Commission may, by notice published in the Gazette, declare any work, being a dam, an excavation, a channel (whether an artificial channel or a natural channel artificially improved), a cutting, a tunnel or a pipe, which is constructed in, or forms part of, a river referred to in paragraph (a) or (b) of the definition in subsection (1) of "Work to which this Part extends" to be a work for urban drainage and may, by a similar notice, revoke or amend that notice.

20 (2) (a) Section 7 (1)—

Omit the subsection, insert instead :—

25 (1) Subject to subsection (2), the occupier of land which forms the bank of a river or a lake has the right, without the need to obtain a license—

(a) to take and use the water then being in the river or lake—

(i) for domestic purposes;

(ii) for the purpose of watering stock;

30

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (iii) for the purpose of irrigating
gardens, not exceeding 2 hec-
tares in area in the aggregate,
which are cultivated in con-
10 nection with the use of a
dwelling-house and of which
the produce is not sold or
exposed or offered for sale; and
- (iv) for the purpose of irrigating
15 land, not exceeding 2 hectares
in area, which is used for the
growing of crops or pastures to
produce fodder for animals
kept solely in connection with
the use of a dwelling-house;
- 20 (b) to construct and use for the purpose of
taking or using water for any of the
purposes specified in paragraph (a) a
work to which this Part extends, but
only if the capacity of the work does
not exceed 50 litres per second; and
- 25 (c) to construct and use a dam or an
excavation in the river or lake or a
work which obstructs the flow of water
in the river, but only if—
- 30 (i) the storage capacity of the
dam, excavation or work does
not exceed 5 megalitres;
- (ii) the dam, excavation or work
will not, in the opinion of the
Commission, detrimentally

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 affect the interests of the
occupiers of land which adjoins
or derives benefit from the river
or lake; and

10 (iii) where, by notice given to the
occupier by one of the methods
specified in subsection (2), the
Commission has directed that
a means of passing a flow of
water through or past the dam,
excavation or work be provided
15 —that means of passing a flow
has been provided.

(b) Section 7 (6)—

Omit the subsection, insert instead :—

20 (6) Subsection (1) does not, with respect
to a lake, confer on any occupier referred to in
that subsection any right of access over or to the
user of land not lawfully occupied by him.

(3) Section 11—

25 Omit “police” wherever occurring, insert instead
“stipendiary”.

(4) Section 12—

Omit “police” wherever occurring, insert instead
“stipendiary”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (5) (a) Section 13A—
5 Omit “police” wherever occurring, insert instead
“stipendiary”.
- (b) Section 13A (9)—
Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.
- 10 (6) Section 13AA—
After section 13A, insert :—
- 13AA. (1) The holder of a license who wishes to ^{Amended} reduce the area authorised to be irrigated under the ^{licenses.} license, the capacity of the work or the quantity of
15 water which may be taken and used under the license
may apply to the Commission for an amended license.
- (2) An application made under subsection
(1) shall specify the proposed reduced area to be
20 irrigated, the proposed reduced capacity of the work
or the proposed reduced quantity of water to be taken
and used.
- (3) On receipt of an application made
under subsection (1), the Commission shall, without
25 requiring payment of any fee, issue to the applicant, in
substitution for his existing license, an amended license
for the unexpired portion of the period for which, and
subject to the same terms, limitations and conditions
as those subject to which, that existing license was

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 issued, except that the amended license shall be in
respect of the reduced area, the reduced capacity of
the work or, as the case may be, the reduced quantity
of water specified in the application.

(7) (a) Section 13B—

10 Omit “or authority for a joint water supply
scheme” wherever occurring.

(b) Section 13B (1)—

Omit “any such license or authority” wherever
occurring, insert instead “a license”.

(c) Section 13B (3)—

15 Omit “or authority” wherever occurring.

(8) Section 13C—

(a) Omit “or authority for a joint water supply
scheme” wherever occurring.

(b) Omit “or authority” wherever occurring.

20 (9) Section 13D—

(a) Omit “or authority for a joint water supply
scheme”.

(b) Omit “or authority” wherever occurring.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(10) Section 13F—

- 5 (a) Omit “or authority for a joint water supply scheme”.
- (b) Omit “or authority” wherever occurring.
- (c) Omit “it is the intention of the Commission to cancel the license”, insert instead “the license will be cancelled”.
- 10 (d) After the word “shall” where firstly occurring, insert “be deemed to”.

(11) Section 14B—

Omit the section.

15 (12) Section 16—

Omit the section, insert instead :—

16. (1) A license (other than a license issued **Benefit of** under section 13A) shall, except where the license **license.** otherwise specifically provides—

- 20 (a) be deemed to be held by; and
- (b) operate and enure for the benefit of,
- the lawful occupier for the time being of the land on which the licensed work is constructed or used or is proposed to be constructed or used.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) A license issued under section 13A shall,
except where the license otherwise specifically
provides—

(a) be deemed to be held by; and

(b) operate and enure for the benefit of,

10 the lawful occupier for the time being of the land
which is or is to be supplied with water by means of
the licensed work.

(13) Sections 17A, 17B—

Omit the sections, insert instead :—

15 17A. (1) If at any time during the currency of a
license the Commission is satisfied that—

Revocation
or suspen-
sion, etc.,
of license.

(a) the holder of the license has conserved,
diverted, taken or used any quantity of
water in excess of the quantity authorised
by the license;

20 (b) any land has been irrigated as to an area in
excess of that authorised by the license;

(c) the holder of the license has used the
licensed work for a purpose other than that
authorised by the license;

25 (d) the holder of the license has contravened or
failed to comply with any of the terms,
limitations or conditions to which the
license is subject;

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) any water diverted, taken or used by the
holder of the license is not being bene-
ficially used or is being wasted; or

(f) beneficial use is not being made of the
licensed work,

10 the Commission may serve on the holder of the license
a notice that, after the expiration of a period specified
in the notice, the license will be revoked, suspended
or modified as indicated in the notice, and where any
15 such notice is served, unless the Commission annuls
or withdraws the notice before the expiration of the
period so specified, the license shall, on the expiration
of that period, be deemed to be revoked, suspended
or modified, as the case may be.

20 (2) If in the opinion of the Commission
there are circumstances which render it necessary or
expedient—

(a) that any license should be suspended or
modified;

25 (b) that the quantity of water authorised to be
taken under any license should be reduced;
or

(c) that a right held under any license for the
taking of water for any purpose from a
river, lake or section of a river should be
restricted or suspended,

30 the Commission may serve on the holder of the license
a notice to that effect, and where any such notice is
served, the license shall be deemed to be suspended
or modified, or the quantity of water reduced or, as
35 the case may be, the right restricted or suspended,
according to the tenor of the notice.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (3) If the Commission is satisfied that the holder of a license has failed to comply with the terms of a notice served by the Commission whereby—

- (a) the license has been modified;
- (b) the quantity of water authorised to be taken under the license has been reduced; or
- 10 (c) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

15 the Commission may serve on the holder of the license a notice that, after the expiration of a period specified in the notice, the license will be suspended, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the license shall, on the
20 expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section may be effected on the holder of a license—

- (a) by delivering the notice to the holder personally;
- 25 (b) by leaving the notice with any person apparently of or above the age of 14 years who apparently resides or is employed on the land of the holder; or
- 30 (c) by letter sent by post and addressed to the holder at his address last known to the Commission.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

17B. (1) Any person who—

Offences
with respect
to licenses.

- 5 (a) being the holder of a license in respect of a
work to which this Part extends, uses the
work when the license is suspended;
- 10 (b) being the former holder of such a license,
uses the work when the license is revoked
or cancelled or has expired;
- (c) being the holder of a license, contravenes or
fails to comply with any term, limitation or
condition to which the license is subject;
- 15 (d) being the holder of a license, fails to comply
with the terms of any notice served on him
by the Commission whereby—
- (i) the license has been modified;
- 20 (ii) the quantity of water authorised to
be taken under the license has been
reduced; or
- (iii) a right held under the license for
the taking of water for any purpose
from a river, lake or section of a
river has been restricted or
25 suspended; or
- (e) being the holder of a license, contravenes
section 13D,

is guilty of an offence and is liable, on conviction, to
a penalty not exceeding \$500.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) In any prosecution under this section
against the holder or former holder of a license,
proof—

10 (a) that a work in respect of which the license
is or was held has been used when the
license is suspended, revoked or cancelled
or has expired;

(b) that any term, limitation or condition to
which the license is subject has been
contravened or has not been complied with;

15 (c) of failure to comply with the terms of any
notice served by the Commission on that
holder whereby—

(i) the license has been modified;

20 (ii) the quantity of water authorised to
be taken under the license has been
reduced; or

(iii) a right held under the license for the
taking of water for any purpose from
a river, lake or section of a river has
been restricted or suspended; or

25 (d) that water has been taken from a river or
lake by means of a work covered by a
license before the whole of the works
covered by the license have been constructed
or provided,

30 shall, in the absence of proof to the contrary, be
evidence that the use, contravention, non-compliance
or failure has been caused by that holder or former
holder of the license.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(14) Section 17C—

5 Omit the section, insert instead :—

17C. Where a license is deemed to be revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation.

Revocation
and cancel-
lation of
licenses.

(15) Section 17D—

Omit the section.

(16) Part II, Division 3A—

Omit the Division.

15 (17) Section 18R—

After section 18Q, insert :—

18R. (1) Any person who—

- 20 (a) being the holder of a permit in respect of a work to which this Part extends, uses the work when the permit is suspended;
 - (b) being the former holder of such a permit, uses the work when the permit is withdrawn or has expired; or
 - 25 (c) being the holder of a permit, contravenes or fails to comply with any limitation or condition to which the permit is subject,
- is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

Offences
with
respect to
permits.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (2) In any prosecution under this section
against the holder or former holder of a permit,
proof—
- 10 (a) that a work in respect of which the permit
is or was held has been used when the permit
is suspended or withdrawn or has expired;
or
- (b) that any limitation or condition to which
the permit is subject has been contravened
or has not been complied with,
- 15 shall, in the absence of proof to the contrary, be
evidence that the use, contravention or non-compliance
has been caused by that holder or former holder of the
permit.

(18) (a) Section 20 (1)—

Omit the subsection, insert instead :—

- 20 (1) The occupiers of the whole of the lands
supplied or proposed to be supplied with water
obtained by means of a joint water supply scheme,
and, where the land or lands on which the
25 scheme is or is to be constructed is not in the
occupation of one or more of those occupiers,
the occupier of that land or, as the case may be,
the occupiers of those lands, may apply to the
Commission for an authority to construct and use
30 the scheme and to take and use, for the purposes
specified in the application, the water which may
be conserved or obtained by the scheme.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(b) Section 20 (2)—

5 After “application shall be”, insert “in or to the
effect of the prescribed form and shall be”.

(c) Section 20 (2) (a)—

10 Omit “occupier”, insert instead “applicant to
whom it is proposed to supply water obtained
by means of the joint water supply scheme”.

(d) Section 20 (2) (b)—

- (i) Omit “occupier” where firstly occurring,
insert instead “applicant”.
- 15 (ii) Omit “occupier” where secondly occurring,
insert instead “applicant to whom it is
proposed to supply water obtained by
means of the scheme”.

(e) Section 20 (2) (d)—

20 Omit “occupier”, insert instead “applicant to
whom it is proposed to supply water obtained by
means of the scheme”.

(f) Section 20 (2) (g)—

- (i) Omit “occupier”, insert instead “applicant
to whom it is proposed to supply water
obtained by means of the scheme”.
- 25 (ii) Omit “occupiers”, insert instead “applicants
to whom it is proposed to supply water so
obtained”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(g) Section 20 (2) (h)—

5 Omit the paragraph, insert instead :—

(h) where the applicants or any two or more
of the applicants have entered into an
agreement, either between themselves or
between themselves and any other per-
10 son, in respect of the scheme, a copy of
that agreement;

(h) Section 20 (2) (i)—

Omit “joint water supply”.

(i) Section 20 (2) (j)—

15 (i) Omit “occupiers” where firstly occurring,
insert instead “applicants”.

(ii) Omit “of moneys for same and the payments
to be made by any of the occupiers in
respect thereof”, insert instead “and pay-
20 ment of money for those matters”.

(19) (a) Section 20A (1)—

Omit “under this Division”.

(b) Section 20A (2)—

25 (i) Omit “police” wherever occurring, insert
instead “stipendiary”.

(ii) Omit “occupiers”, insert instead “appli-
cants”.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (20) (a) Section 20B (2)—
- 5 (i) Omit “and on receipt by it of the certified copy of the agreement executed by the occupiers as hereinafter provided”.
- (ii) Omit “occupiers” where secondly occurring, insert instead “applicants”.
- 10 (iii) Omit “between the occupiers” where secondly occurring.
- (iv) Omit “such works”, insert instead “the works between the applicants to whom it is proposed to supply that water”.
- 15 (b) Section 20B (4)—
Omit the subsection.
- (21) Sections 20BA, 20BB, 20BC—
- After section 20B, insert :—
- 20 20BA. (1) The Commission may refuse to grant any application for an authority for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures. Commission may refuse to grant certain applications for authorities.
- 25 (2) The Commission may refuse to grant any application for an authority if it is not satisfied with the proposals for the construction of the works in regard to nature, class or form, or with the work proposed to be undertaken by any applicant in the preparation of the land for irrigation.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (3) A decision of the Commission under subsection (1) or (2) to refuse to grant an application for an authority shall be final and shall not be subject to appeal.

10 (4) The Commission may, when renewing an authority under which water has been used for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures, renew the authority subject to a condition that the irrigation of those grasses or pastures shall be discontinued either forthwith or progressively within a specified period not
15 exceeding 5 years.

(5) The Commission may, when renewing an authority in respect of a work used for the purpose of irrigation and—

20 (a) that work is, in the opinion of the Commission, of such nature, class or form as to cause undue wastage of water by the filling of depressions, lakes or swamps; or

25 (b) the design of the work, or the failure of the holders or any of the holders of the authority to maintain the work or any part of it in good order and condition, warrants the Commission so doing,

30 renew the authority subject to a condition that the work shall be altered in design or form or repaired to the satisfaction of the Commission, or that additional works shall be provided, within a specified period not exceeding 2 years.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (6) In any case where the alterations,
repairs or additional works referred to in subsection
(5) are, in the opinion of the Commission, so extensive
as to warrant its so doing, the Commission may grant
an extension of time, not exceeding 3 years, for com-
pletion of those alterations, repairs or additional works.

10 20BB. The holders of an authority granted for the
purpose of irrigation or water supply shall not, except
with the permission in writing of the Commission,
take water from a river or lake by means of a work in
15 respect of which the authority is held until the whole
of the works in respect of which the authority is held
have been constructed or provided.

Water
not to be
taken until
works
completed.

20 20BC. In any case where the work in respect of
which an authority is held has not been used for a
period of 3 years or more, the Commission may give to
the holders of the authority notice by letter sent to
each of them by post addressed to them at their
addresses last known to the Commission that, after the
25 expiration of a period specified in the notice, the
authority will be cancelled and, where any such notice
is given, unless the Commission annuls or withdraws
the notice before the expiration of the period so
specified, the authority shall, on the expiration of that
period, be deemed to be cancelled.

Commission
may
cancel
authority
if work
not used
for 3
years.

(22) (a) Section 20c (1)—

30 (i) Omit “occupiers of the lands supplied with
water obtained by means of a joint water
supply scheme”, insert instead “holders of
the authority”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (ii) Omit “or the certified copy of the agreement
be not lodged with the Commission as
hereinafter provided”.
- (b) Section 20c (2)—
- 10 (i) Omit “occupiers” where firstly occurring,
insert instead “holders of the authority”.
- (ii) Omit “between the occupiers” where
secondly occurring.
- (iii) Omit “such works”, insert instead “the
works between such of those holders as are
supplied with that water”.
- 15 (c) Section 20c (3)—
Omit the subsection.
- (23) (a) Section 20CA (1)—
Omit “in the form prescribed”.
- (b) Section 20CA (4) (f) (i)—
20 Omit “occupiers”, insert instead “applicants”.
- (c) Section 20CA (6) (a)—
Omit “and on receipt by it of the certified copy
of the agreement executed by the applicants as
hereinafter provided, issue to the applicants an
25 authority for a joint water supply scheme”, insert
instead “, issue to the applicants an authority”.
- (d) Section 20CA (7)—
Omit the subsection.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (e) Section 20CA (8) (a)—
5 Omit “for a joint water supply scheme”.
- (f) Section 20CA (11)—
Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.
- (24) (a) Section 20CB (1) (a)—
10 Omit “occupiers of the lands supplied with water
obtained by means of a joint water supply
scheme”, insert instead “holders of the authority”.
- (b) Section 20CB (1) (d)—
15 Omit “or the certified copy of the agreement be
not lodged with the Commission as hereinafter
provided”.
- (c) Section 20CB (3) (a)—
20 (i) Omit “and on receipt by it of the certified
copy of the agreement executed by the
applicants as hereinafter provided”.
(ii) Omit “for a joint water supply scheme”.
- (d) Section 20CB (3) (b)—
Omit the paragraph, insert instead :—
25 (b) An authority shall not be issued under
paragraph (a) while any appeal is pending with
respect to the application for the renewal of that
authority.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (e) Section 20CB (3) (c)—
- 5 (i) Omit “section”, insert instead “subsection”.
 (ii) Omit “scale prescribed by regulations under
 this Act”, insert instead “prescribed scale”.
- (f) Section 20CB (4)—
 Omit the subsection.
- 10 (25) Section 20D—
 Omit “under this Division”.
- (26) (a) Section 20E (1)—
- 15 Omit “occupiers of the whole of the lands sup-
 plied with water obtained by means of a joint
 water supply scheme”, insert instead “holders of
 an authority”.
- (b) Section 20E (2) (a)—
- 20 Omit “occupiers of the whole of the lands sup-
 plied with water obtained by means of that
 work”, insert instead “holders of the authority”.
- (c) Section 20E (2) (c)—
 Omit “police” wherever occurring, insert instead
 “stipendiary”.
- (d) Section 20E (3)—
- 25 Omit the subsection.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (e) Section 20E (4)—
5 Omit “and subsection (3)”.
- (27) Section 20F—
After “in the authority”, insert “and of the lands”.
- (28) Section 20G (2)—
Omit “for a joint water supply scheme”.
- 10 (29) Sections 20H, 20HA, 20HB—
Omit section 20H, insert instead :—
- 20H. (1) If at any time during the currency of an authority the Commission is satisfied that—
- 15 (a) the holders or any of the holders of the authority have or has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the authority;
- 20 (b) any land has been irrigated as to an area in excess of that authorised by the authority;
- 25 (c) the holders or any of the holders of the authority have or has used the work in respect of which the authority is held for a purpose other than that authorised by the authority;
- Revocation
or
suspension,
etc., of
authority.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (d) the holders or any of the holders of the authority have or has contravened or failed to comply with any of the terms, limitations or conditions to which the authority is subject;
- 10 (e) any water diverted, taken or used by any of the holders of the authority is not being beneficially used or is being wasted; or
- (f) beneficial use is not being made of the work in respect of which the authority is held,
- 15 the Commission may serve on the holders of the authority a notice that, after the expiration of a period specified in the notice, the authority will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration
- 20 of the period so specified, the authority shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.
- (2) If in the opinion of the Commission there are circumstances which render it necessary or
- 25 expedient—
- (a) that any authority should be suspended or modified;
- (b) that the quantity of water authorised to be
- 30 taken under any authority should be reduced; or
- (c) that a right held under any authority for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 the Commission may serve on the holders of the
authority a notice to that effect, and where any such
notice is served, the authority shall be deemed to be
suspended or modified, or the quantity of water
reduced or, as the case may be, the right restricted or
suspended, according to the tenor of the notice.

10 (3) If the Commission is satisfied that the
holders or any of the holders of an authority have
or has failed to comply with the terms of a notice
served by the Commission whereby—

- 15 (a) the authority has been modified;
- (b) the quantity of water authorised to be taken
under the authority has been reduced; or
- 20 (c) a right held under the authority for the
taking of water for any purpose from a
river, lake or section of a river has been
restricted or suspended,

the Commission may serve on the holders of the
authority a notice that, after the expiration of a period
specified in the notice, the authority will be suspended
and where any such notice is served, unless the Com-
mission annuls or withdraws the notice before the
25 expiration of the period so specified, the authority
shall, on the expiration of that period, be deemed to be
suspended.

(4) Service of a notice under this section
30 may be effected on a holder of an authority—

- (a) by delivering the notice to the holder
personally;

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who apparently resides or is employed on
the land of the holder; or
- 10 (c) by letter sent by post and addressed to the
holder at his address last known to the
Commission.
- 20HA. (1) Any person who—
- (a) being a holder of an authority in respect of
a work to which this Part extends, uses the
work when the authority is suspended;
- 15 (b) being a former holder of such an authority,
uses the work when the authority is revoked
or cancelled or has expired;
- 20 (c) being a holder of an authority, contravenes
or fails to comply with any term, limitation
or condition to which the authority is
subject;
- (d) being a holder of an authority, fails to
comply with the terms of any notice served
on him by the Commission whereby—
- 25 (i) the authority has been modified;
- (ii) the quantity of water authorised to
be taken under the authority has
been reduced; or
- 30 (iii) a right held under the authority for
the taking of water for any purpose
from a river, lake or section of a
river has been restricted or sus-
pended; or

Offences
with
respect to
authorities.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) being a holder of an authority, contravenes
section 20BB,
is guilty of an offence and is liable, on conviction, to
a penalty not exceeding \$500.

10 (2) In any prosecution under this section
against a holder or former holder of an authority on
whose land a work in respect of which the authority
is or was held is situated, proof—

(a) that the work has been used when the
authority is suspended, revoked or cancelled
or has expired;

15 (b) that any term, limitation or condition to
which the authority is subject has been con-
travened or has not been complied with;

20 (c) of failure to comply with the terms of any
notice served by the Commission on that
holder whereby—

(i) the authority has been modified;

(ii) the quantity of water authorised to
be taken under the authority has
been reduced; or

25 (iii) a right held under the authority for
the taking of water for any purpose
from a river, lake or section of a
river has been restricted or sus-
pended; or

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (d) that water has been taken from a river or
lake by means of a work covered by an
authority before the whole of the works
covered by the authority have been con-
structed or provided,

10 shall, in the absence of proof to the contrary, be evi-
dence that the use, contravention, non-compliance or
failure was caused by that holder or former holder
of the authority.

15 20HB. Where an authority is deemed to be revoked
or cancelled under this Division, the Commission may
notify the revocation or cancellation in the Gazette,
and any such notification shall be conclusive evidence
of the revocation or cancellation. Revocation
and cancel-
lation of
authorities.

(30) Section 20R—

20 Omit “and upon breach of any such terms, limitations
and conditions the group license may be cancelled by
the Commission”.

(31) Sections 20s, 20SA—

Omit section 20s, insert instead :—

25 20s. (1) If at any time during the currency of a
group license the Commission is satisfied that— Revocation
or suspen-
sion, etc.,
of group
license.

(a) the Board holding the group license or any
of the group license occupiers has con-
served, diverted, taken or used any quantity
of water in excess of the quantity authorised
30 by the group license;

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) any land has been irrigated as to an area
in excess of that authorised by the group
license;
- 10 (c) the Board holding the group license or any
of the group license occupiers has used the
work in respect of which the license is held
for a purpose other than that authorised by
the license;
- 15 (d) the Board holding the group license or any
of the group license occupiers has contra-
vened or failed to comply with any of the
terms, limitations or conditions to which the
license is subject;
- 20 (e) any water diverted, taken or used by the
Board holding the group license or by any
of the group license occupiers is not being
beneficially used or is being wasted; or
- (f) beneficial use is not being made of the work
in respect of which the group license is held,

25 the Commission may serve on the Board a notice that,
after the expiration of a period specified in the notice,
the group license will be revoked, suspended or modi-
fied as indicated in the notice, and where any such
notice is served, unless the Commission annuls or
30 withdraws the notice before the expiration of the
period so specified, the group license shall, on the
expiration of that period, be deemed to be revoked,
suspended or modified, as the case may be.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) If in the opinion of the Commission there
are circumstances which render it necessary or
expedient—

(a) that any group license should be suspended
or modified;

10 (b) that the quantity of water authorised to be
taken under any group license should be
reduced; or

15 (c) that a right held under any group license for
the taking of water for any purpose from
a river, lake or section of a river should be
restricted or suspended,

20 the Commission may serve on the Board which holds
the group license a notice to that effect, and where any
such notice is served, the group license shall be
deemed to be suspended or modified, or the quantity
of water reduced or, as the case may be, the right
restricted or suspended, according to the tenor of the
notice.

25 (3) If the Commission is satisfied that the
Board which holds a group license has failed to comply
with, or to cause to be complied with, the terms of a
notice served by the Commission whereby—

(a) the group license has been modified;

30 (b) the quantity of water authorised to be taken
under the group license has been reduced;
or

(c) a right held under the group license for the
taking of water for any purpose from a river,
lake or section of a river has been restricted
or suspended,

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 the Commission may serve on the Board a notice that,
after the expiration of a period specified in the notice,
the group license will be suspended, and where any
such notice is served, unless the Commission annuls or
withdraws the notice before the expiration of the
10 period so specified, the group license shall, on the
expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section
may be effected on a Board—

- (a) by delivering the notice to the principal place
of business of the Board;
- 15 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who is apparently employed by the Board;
or
- 20 (c) by letter sent by post and addressed to the
Board at its address last known to the
Commission.

- 20SA. (1) Any person who—
- 25 (a) being a Board holding a group license or a
group license occupier, uses a work in
respect of which the group license is held
when the group license is suspended;
- 30 (b) being a Board which formerly held a group
license or an occupier of land to which
water was formerly supplied under such a
group license, uses a work in respect of

Offences
with
respect
to group
licenses.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 which the group license was held when the
group license is revoked or cancelled or has
expired;

10 (c) being a Board holding a group license or a
group license occupier, contravenes or fails
to comply with any term, limitation or
condition to which the group license is
subject; or

15 (d) being a Board holding a group license, fails
to comply with the terms of any notice
served on the Board by the Commission
whereby—

 (i) the group license has been modified;

 (ii) the quantity of water authorised to
be taken under the group license has
been reduced; or

20 (iii) a right held under the group license
for the taking of water for any pur-
pose from a river, lake or section of
a river has been restricted or sus-
pended,

25 is guilty of an offence and is liable, on conviction, to
a penalty not exceeding \$500.

30 (2) In any prosecution under this section
against a Board holding a group license or a group
license occupier, or a Board which formerly held a
group license or an occupier of land to which water
was formerly supplied under a group license, being a

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 Board or an occupier on whose land a work in respect
of which a group license is or was held is situated,
proof—

(a) that the work has been used when the
group license is suspended, revoked or
cancelled or has expired; or

10 (b) that any term, limitation or condition to
which the group license is subject has been
contravened or not complied with,

15 shall, in the absence of proof to the contrary, be
evidence that the use, contravention or non-
compliance was caused by that Board, group license
occupier or occupier, as the case may be.

(3) In any prosecution under this section
against a Board holding a group license, proof of
failure to comply with the terms of any notice served
20 on that Board by the Commission whereby—

(a) the group license has been modified;

(b) the quantity of water authorised to be taken
under the group license has been reduced;
or

25 (c) a right held under the group license for the
taking of water for any purpose from a
river, lake or section of a river has been
restricted or suspended,

30 shall, in the absence of proof to the contrary, be
evidence that the failure was caused by that Board.

SCHEDULE

Water (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART II OF THE WATER ACT,
1912—continued.

(32) Section 20U—

5 Omit the section, insert instead :—

20U. Where a group license is deemed to be
revoked or cancelled under this Division, the Commis-
sion may notify the revocation or cancellation in the
Gazette, and any such notification shall be conclusive
evidence of the revocation or cancellation.

Revocation
and cancel-
lation of
group
licenses.

SCHEDULE 3.

Sec. 4.

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912.

Part II, Division 4B—

15 After Part II, Division 4A, insert :—

*DIVISION 4B.—Volumetric Water Allocations
Schemes.*

20v. In this Division, unless the context or subject-
matter otherwise indicates or requires—

20 “scheme”, in relation to any water source, means
a volumetric water allocations scheme (as
may be modified from time to time under
this Division) prepared in respect of that
water source under section 20x;

Interpre-
tation for
the purposes
of Division
4B.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 “water allocation”, in relation to any license,
group license or authority, which authorises
the taking of water from a water source
which is subject to a scheme, means the
10 quantity of water specified in the condition
(as may be modified from time to time
under this Division) attached to, or included
in, the license, group license or authority
pursuant to section 20x (5) or section 20AB
15 (1) (b) as being the maximum quantity
which may, subject to this Division, be
taken from that water source in any year
under the license, group license or authority
for the purpose or purposes specified in the
license, group license or authority;

20 “water source” means any river, lake or section
of a river;

“year” means the period of 12 months commencing
on 1st July in each calendar year.

25 20w. The Governor may, by order published in the
Gazette, declare that any water source and all of the
licenses, group licenses and authorities, which
authorise the taking of water from that water source,
shall, on and from such date as may be specified in the
order (being the date of its publication or a later
date), be subject to a volumetric water allocations
30 scheme prepared under section 20x.

Power of
Governor
to declare
water source
to be
subject to
volumetric
water
allocations
scheme.

35 20x. (1) Before an order under section 20w may
be made, the Commission shall prepare a volumetric
water allocations scheme in respect of the water source
to which it is proposed that the order will, when
made, apply.

Deter-
mination of
water
allocations
in respect
of licenses,
group
licenses and
authorities.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (2) In preparing a scheme in respect of a
water source, the Commission—
- 10 (a) shall assess the total quantity of water that
is likely to be available in each year for
apportionment among and allocation to
holders of licenses, group licenses and
authorities, which authorise the taking of
water from that water source; and
- 15 (b) shall then determine in respect of each such
license, group license and authority the
maximum quantity of water which may,
subject to this Division, be taken from that
water source in any year under the license,
group license or authority for the purpose
or purposes specified in the license, group
license or authority.
- 20 (3) The Commission may—
- 25 (a) fix differing quantities of water per hectare
according to whether water authorised to be
taken from the water source under a license,
group license or authority may be used for
the purpose of irrigating orchards, vineyards,
trees (other than trees in orchards), lucerne,
pasture, fodder crops, cereal crops or
vegetables or crops or plantings of any other
description;
- 30 (b) fix differing quantities of water according
to whether water authorised to be taken
from the water source under a license, group
license or authority may be used for a pur-
pose other than a purpose specified in
35 paragraph (a); and

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (c) determine that in no case shall the maximum
quantity of water which may be taken from
the water source in any year under any
license, group license or authority exceed
a quantity specified by the Commission.
- 10 (4) Subject to any determination made under
subsection (3) (c)—
- (a) a determination under subsection (2) (b)
in respect of a license, group license or
authority may be made—
- 15 (i) in the case of a license, group
license or authority issued for the
purpose of irrigating a crop or
planting of a class specified in sub-
section (3) (a), by reference to the
area of land which is authorised to
20 be irrigated under the license, group
license or authority and to such
quantity as may be fixed under sub-
section (3) (a) in respect of that
class of crop or planting; and
- 25 (ii) in the case of a license, group license
or authority issued for any purpose
other than the irrigation of a crop
or planting of a class specified in
subsection (3) (a), by reference to
30 such quantity as may be fixed under
subsection (3) (b) in respect of that
purpose; and
- 35 (b) where water authorised to be taken from the
water source under a license, group license
or authority may be used for the purpose of

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 irrigating two or more classes of crops or
plantings specified in subsection (3) (a) or
for two or more purposes, a maximum
quantity of water may be determined under
subsection (2) (b) in respect of each of
10 those classes or, as the case may be, each
of those purposes.

(5) As soon as practicable after the publica-
tion of an order declaring a water source to be subject
to a scheme and before the date on which the scheme
is to commence, the Commission shall, by notice in
15 writing served on the holder of each license or group
license, and on the holders of each authority, which
authorises the taking of water from the water source,
attach to the license, group license or authority a
condition that, except where the operation of the con-
20 dition is suspended under section 20AA, on and from
the date on which the scheme commences and in
respect of each year during which the scheme is in
force, not more than the maximum quantity of water
determined in respect of the license, group license or
25 authority under subsection (2) (b) and specified in
the condition (as may be modified from time to time
under this Division) shall be taken from the water
source during any year under the license, group license
or authority for the purpose or purposes specified in
30 the license, group license or authority.

(6) Service of a notice under subsection (5)
may be effected on a holder referred to in subsection
(5)—

35 (a) by delivering the notice to the holder per-
sonally;

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who apparently resides or is employed on
the land of the holder; or
- 10 (c) by letter sent by post and addressed to the
holder at his address last known to the
Commission.

(7) On the service of a notice under subsection (5), the license, group license or authority to which the notice relates shall be modified according to the tenor of the notice.

- 15 (8) Where any order under section 20w
declaring a water source to be subject to a scheme has
effect on and from a date falling after the beginning
of a year, the quantity of water determined under
20 subsection (2) (b) in respect of a license, group
license or authority, which authorises the taking of
water from that water source, shall, for that year, be
deemed to be reduced by the proportion that the part
of that year which has elapsed at that date bears to the
25 whole of that year and the condition which is attached
to the license, group license or authority in accordance
with subsection (5) shall be construed accordingly.

- 30 (9) Notwithstanding anything in this Part, a
determination made under subsection (2) (b) in
respect of a license, group license or authority and a
condition attached to the license, group license or
authority in accordance with subsection (5) shall not
be the subject of an objection or appeal under this
Part.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 20Y. (1) Where the Commission is satisfied that a water source which is subject to a scheme is unlikely to have more water available than is sufficient to meet the water allocations of holders of existing licenses, group licenses and authorities, which authorise the taking of water from the water source, and the requirements of all other users lawfully authorised to take water from the water source, it may, by a notice published in the Gazette and in a newspaper circulating in the district in which the water source is located, declare that, on and from a date specified in the notice (being the date of publication in the Gazette or a later date)—

Power to suspend issue of licenses, group licenses and authorities.

(a) except as provided in subsection (2), no further applications for licenses, group licenses and authorities; and

20 (b) no further applications—

(i) for additional licenses made under the proviso to section 18 (2);

(ii) for amended authorities made under section 20E (2) (a); or

25 (iii) for amended group licenses referred to in section 20Q (2) (a),

will be granted until the notice is revoked by a subsequent notice so published.

30 (2) Subsection (1) does not apply to an application for a license or authority, or to applications for licenses or authorities, in replacement of a license or authority if the water allocation in respect of the

Water (Amendment).

SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 replacement license or authority or, as the case may
be, the total water allocations in respect of the replace-
ment licenses or authorities will not exceed the water
allocation in respect of the license or authority that
is being replaced or, as the case may be, the total
10 water allocations in respect of the licenses or
authorities that are being replaced.

(3) On and from the date specified in the
notice published under subsection (1) and until the
notice is revoked, an application to which that sub-
section applies may not be made under this Part and
15 if made shall not be considered by the Commission.

(4) Where a notice published under sub-
section (1) has effect in relation to any water source
and any land in respect of which a license or authority
authorises the taking of water from that water source
20 is subdivided into parts, an application for a license
or authority to take water from that water source for
use in connection with any such part shall, for the
purpose of this section, be deemed to be an application
for a license or authority in replacement of that license
25 or authority.

20z. (1) If, with respect to any year, it appears to
the Commission that a water source which is subject
to a scheme is unlikely to have sufficient water avail-
able to meet the water allocations of holders of
30 licenses, group licenses and authorities, the Commis-
sion may, by a notice published in the Gazette and in
Power of Commission to reduce water allocations in times of water shortage.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 a newspaper circulating in the district in which that
water source is located, either before or after the
beginning of that year, reduce those allocations for
that year by such proportion as may be specified in
the notice.

10 (2) Where a notice has been published in
accordance with subsection (1), the condition which
pursuant to section 20X (5) is attached to, or which
pursuant to section 20AB (1) (b) is included in, any
license, group license or authority to which the notice
15 relates shall, for the year specified in the notice, be
modified according to the tenor of the notice and the
water allocation in respect of the license, group
license or authority shall be deemed to be reduced
accordingly.

20 (3) Where, after the beginning of a year, the
condition attached to, or included in, a license, group
license or authority as referred to in subsection (2)
has been modified as provided in that subsection and
the quantity of water taken under the license, group
25 license or authority during that year before the modi-
fication had effect did not exceed the water allocation
in respect of the license, group license or authority but
exceeded the water allocation as reduced in con-
sequence of the modification of the condition, the
holder of the license or group license or, as the case
30 may be, the holders of the authority shall not be
regarded as having contravened the condition, as so
modified, with respect to the taking of that excess
quantity.

*Water (Amendment).*SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 20AA. (1) If, with respect to any year, it appears to the Commission that a water source which is subject to a scheme is likely to have more water available than is required to meet the water allocations of holders of licenses, group licenses and authorities, the Commission may declare that during such part of the year as is specified in the declaration water may be taken from that source under the authority of any such license, group license or authority without restriction as to quantity.

10

Power of Commission to suspend operation of conditions relating to water allocations in years of surplus and to increase water allocations.

15 (2) Where a declaration has been made under subsection (1), the condition which pursuant to section 20X (5) is attached to, or which pursuant to section 20AB (1) (b) is included in, any license, group license or authority to which the declaration relates shall, for the part of the year referred to in subsection (1), be deemed to be suspended and any quantity of water taken from the water source during that part of the year under the license, group license or authority shall not be taken into account for the purpose of determining whether or not the water allocation applicable in respect of the license, group license or authority for the year has been exceeded.

20

25

30 (3) Without limiting subsection (1), if, with respect to any year, it appears to the Commission that a water source which is subject to a scheme is likely to have more water available than is required to meet existing water allocations of holders of licenses, group licenses and authorities, the Commission may, either before or after the beginning of the year, declare that those allocations are increased by such proportion as is specified in the declaration.

35

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) Where a declaration has been made
under subsection (3), the condition which pursuant to
section 20x (5) is attached to, or which pursuant to
section 20AB (1) (b) is included in, any license, group
license or authority to which the declaration relates
10 shall, for the year specified in the declaration, be
modified according to the tenor of the declaration and
the water allocation in respect of the license, group
license or authority shall be deemed to be increased
accordingly.

15 (5) The Commission shall cause notice of
a declaration under this section to be published, as
soon as practicable after the making of the declaration,
in the Gazette and in a newspaper circulating in the
district in which the water source to which the
declaration relates is located.

20 20AB. (1) Where the Commission decides to grant
an application made under this Part for the issue of a
license, group license or authority which will authorise
the taking of water from a water source which is
subject to a scheme, it shall—

Issue of
new
licenses,
group
licenses
and
authorities.

25 (a) determine in respect of the license, group
license or authority the maximum quantity
of water which may, subject to this Division,
be taken from the water source in any year
for the purpose or purposes for which the
30 license, group license or authority is to be
issued; and

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (b) include in the license, group license or
authority a condition that, except where the
operation of the condition is deemed to be
suspended under section 20AA (2), on and
from the date on which the license, group
10 license or authority is to have effect and in
respect of each year during which the
scheme is in force, not more than the maxi-
mum quantity of water determined in respect
of the license, group license or authority
15 under paragraph (a) and specified in the
condition (as may be modified from time to
time under this Division) shall be taken
from that water source during any year
under the license, group license or authority
20 for the purpose or purposes specified in the
license, group license or authority.

(2) Section 20x (3) and section 20x (4)
shall apply in relation to the determination of a water
allocation under subsection (1) (a) in the same way
as they apply in relation to the determination of a
25 water allocation under section 20x (2) (b).

(3) Where any license, group license or
authority becomes effective on a date falling after the
beginning of a year, the quantity of water determined
under subsection (1) (a) in respect of the license,
30 group license or authority shall, for that year, be
deemed to be reduced by the proportion that the part
of that year which has elapsed at that date bears to
the whole of that year and the condition included in
the license, group license or authority in accordance
35 with subsection (1) (b) shall be construed
accordingly.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) Notwithstanding anything in this Part,
a determination made under subsection (1) (a) in
respect of a license, group license or authority and
a condition included in that license, group license or
authority in accordance with subsection (1) (b) shall
10 not be the subject of an objection or appeal under
this Part.

20AC. (1) A person shall not take any water from a water source which is subject to a scheme by means ^{Water} of a work authorised by a license, group license or ^{meters.} authority unless there is connected to the work a water meter, or other measuring device, which has been approved by the Commission.

Penalty : \$500.

(2) A person who—

20 (a) intentionally, fraudulently or by culpable
negligence—

(i) damages a water meter or other
measuring device connected to a
work referred to in subsection (1);

25 (ii) prevents any such meter or measur-
ing device from recording the
quantity of water taken through or
by means of the work, or uses any
means whereby water so taken is not
30 recorded by the meter or measuring
device; or

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (iii) without the consent of the Commission given in writing, interferes with any such meter or measuring device; or

10 (b) being the holder of the license or group license or, as the case may be, the holders of the authority in respect of the work, permits or directs any other person to do any of the acts specified in paragraph (a),

15 is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or both.

(3) In any prosecution for an offence under subsection (2), proof of the existence of—

20 (a) any means for preventing a meter from recording the quantity of water taken through or by means of the work to which the meter or measuring device is connected; or

25 (b) any means whereby water is taken through or by means of the work without being recorded by the meter or measuring device,

30 shall be admissible as evidence that the prevention or, as the case may be, the use of the means was caused by the holder of the license or group license or, as the case may be, the holders of the authority, authorising the use of the work.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 20AD. Where land (being land which is supplied with water obtained from a water source which is subject to a scheme by means of a work in respect of which a license or authority is held) is subdivided into parts, the Commission is not, when issuing licenses or authorities relating to those parts, or any
10 of those parts, obliged to make water allocations in respect of those licenses or authorities which in aggregate exceed the water allocation in respect of the first-mentioned license or authority.

Provisions applicable in cases of subdivision of land.

15 20AE. The Commission may, by any of its officers, employees or agents—

Power of entry.

(a) enter on any land on which there is constructed any work which is used for taking water from a water source which is subject to a scheme; and

20 (b) inspect any work so constructed and used, for the purpose of ascertaining whether or not the provisions of this Division have been or are being complied with or contravened.

Water (Amendment).

SCHEDULE 4.

Sec. 4.

FURTHER AMENDMENTS TO PART II OF THE WATER ACT, 1912.

(1) Section 21B—

5 After section 21A, insert :—

21B. (1) Any person who—

10 (a) constructs, erects or uses a work to which this Part extends otherwise than pursuant to a right conferred on him by this Part or by a license, group license, authority or permit;

Offences with respect to construction, erection and use of work without license, etc.

15 (b) fails to comply with any direction given to him by the Commission to remove the whole or any part of a work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him; or

20 (c) fails to comply with any direction given to him by the Commission to carry out any work which the Commission considers necessary—

25 (i) to permit the flow of water through or past any work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him; or

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (ii) to prevent the use of any work to
which this Part extends (being a
work in respect of which no right
conferred by this Part exists and in
10 respect of which no license, group
license, authority or permit is in
force) which is situated on land
owned or occupied by him and
which is a work for the diversion or
abstraction of water,

15 is guilty of an offence and is liable, on conviction,
to a penalty not exceeding \$500.

(2) In any prosecution under this section,
proof that a work to which this Part extends has been
constructed, erected or used otherwise than pursuant
20 to a right conferred by this Part or a license, group
license, authority or permit shall, in the absence of
proof to the contrary, be evidence that the con-
struction, erection, use or failure has been caused by
the occupier of the land on which the work is situated.

(3) Where a direction referred to in
25 subsection (1) (b) or (c) has been given to an
occupier of land and that occupier is not the owner
of the land, that occupier may apply to the local land
board to apportion between himself and the owner
of the land the expenses incurred in complying with
30 the direction, and, on any such application being
made to it, the local land board may make such
apportionment of those expenses as it considers fair
and just.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(2) Section 22 (3), (4), (5)—

5 After section 22 (2), insert :—

(3) The Commission may, by any of its officers,
employees or agents, enter on any land and—

10 (a) remove any dam or weir or any other work
forming an unlawful obstruction to the flow
of water in a river or any unlawful levee
for the prevention of the overflow of water
from a river or lake; and

15 (b) prevent or stop any unlawful diversion of
water from a river or lake, whether by
dismantling a pump or blocking the offtake
of a race or by such other means as the
Commission considers necessary.

20 (4) The Commission may recover in any court of
competent jurisdiction as a debt due to it from the
occupier of the land from which any work has been
removed under subsection (3), or of the land on
which the diversion of water was prevented or
stopped under that subsection, the expenses incurred
by it in carrying out the removal or, as the case may
25 be, in preventing or stopping the diversion.

30 (5) Where judgment has been obtained against an
occupier of land under subsection (4) and that
occupier is not the owner of the land, that occupier
may apply to the local land board to apportion
between himself and the owner of the land the amount
adjudged to be paid to the Commission under that
subsection and any costs awarded against him in

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 connection with that judgment, and, on any such application being made to it, the local land board may make such apportionment of that amount and those costs as it considers fair and just.

(3) Sections 22B, 22C—

After section 22A, insert :—

10 22B. (1) If at any time the Commission is satisfied that the quantity of water available, or likely to be available, in a river, lake or section of a river is insufficient to meet all requirements with respect to the taking of water from the river, lake or section, it may, in the manner provided in this section, restrict or suspend the rights held under licenses, group licenses, authorities or permits issued under this Part, or held under section 7, for the taking of water for any purpose from the river, lake or section or any part of the river, lake or section.

01
Restriction or suspension of rights held under licenses, etc., during periods of water shortage.

15
20
25 (2) Particulars of any restrictions or suspensions imposed by the Commission under subsection (1) shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

30 (3) A notification made under subsection (2) may be amended, altered, modified or cancelled by the Commission and particulars of any such amendment, alteration, modification or cancellation shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) In imposing restrictions or suspensions under this section, the Commission may restrict or suspend rights for the taking of water in accordance with the following order of priority :—

(a) firstly, rights under permits for any purpose other than domestic and stock supply;

10 (b) secondly, rights under licenses, group licenses and authorities for the purpose of irrigation;

15 (c) thirdly, rights under licenses, group licenses and authorities for purposes other than irrigation and domestic and town and village water supply, rights under permits for stock supply and rights held under section 7 for the taking of water for stock supply; and

20 (d) fourthly, rights under licenses, group licenses, authorities and permits for domestic purposes and town and village water supply and rights held under section 7 for the taking of water for domestic purposes.

25 (5) In exercising the power conferred on it by subsection (4), the Commission—

(a) shall impose restrictions or suspensions in respect of all rights specified in a paragraph of that subsection before imposing any restrictions or suspensions in respect of any rights specified in any subsequent paragraph of that subsection; and

30

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (b) may, when imposing restrictions or
restrictions under subsection (4) (b),
restrict or suspend rights with respect to the
irrigation of any class of crops or plantings
without restricting or suspending rights with
10 respect to the irrigation of any other class
of crops or plantings.

(6) When the Commission has, in accord-
ance with this section, imposed a restriction on a right
held under section 7 or held under a license, group
license, authority or permit to take water, a person
15 shall not take water except in accordance with the
right as so restricted.

(7) When the Commission has, in accord-
ance with this section, suspended a right held under
section 7 or held under any license, group license,
20 authority or permit to take water, a person shall not
take water in purported exercise of that right.

(8) Any person who contravenes subsection
(6) or (7) is guilty of an offence and is liable, on
conviction, to a penalty not exceeding \$500.

25 (9) If, in any proceedings against an
occupier of land for an offence under subsection
(8), it is proved that a work on that land was used
in contravention of subsection (6) or, as the case
may be, subsection (7), the water concerned in that
30 alleged offence shall, unless the contrary is proved, be
presumed to have been taken by him.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 22c. (1) In this section, a reference to a work of the Crown includes a reference to a work vested in or controlled by the Dumaresq-Barwon Border Rivers Commission.

Flow of water assured by a work of the Crown.

10 (2) The Governor may, by proclamation published in the Gazette, declare that the flow or supply of water in any river, lake or section of a river has been augmented, stabilised or assured by a work of the Crown.

(3) Where a work in respect of which any license, group license, permit or authority is held—

15 (a) is used for the purpose of irrigation or water supply for stock or for the carrying on of any industrial operation; and

20 (b) is connected with a river, lake or section of a river in respect of which a proclamation under subsection (2) is in force,

25 the holder of the license, group license or permit or, as the case may be, the holders of the authority shall, subject to and in accordance with this section, pay a charge for the right to take and use water from the river, lake or section in addition to the fee payable for the license, group license, permit or authority.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) The charge payable under subsection
(3) shall—

(a) be fixed by the Commission—

10 (i) in respect of a license, group license,
permit or authority in existence on
1st July following the date of the
proclamation, as soon as practicable
and notified to the holder of the
license, group license or permit or,
as the case may be, the holders of
the authority, and paid in respect of
15 the period of 12 months com-
mencing on that 1st July and in
respect of each subsequent period of
12 months commencing on 1st July;
and

20 (ii) in respect of a license, group license,
permit or authority issued or
renewed after 1st July first
mentioned in subparagraph (i),
when issuing or renewing the
25 license, group license, permit or
authority, and paid at a pro-
portionate rate for the portion of
the period of 12 months from the
date of issue or renewal of the
30 license, group license, permit or
authority to 30th June following and
in respect of each subsequent period
of 12 months commencing on 1st
July;

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) be not greater than maximum amounts
which shall be prescribed according to—
- (i) the purpose or purposes for which
the water is to be taken and used;
 - (ii) the nature of the work; and
 - (iii) the method of obtaining the water;
- 10 (c) be paid at the prescribed times and in the
prescribed manner;
- (d) to the extent of a minimum annual amount
to be fixed by the Commission in each case,
15 be payable irrespective of whether the work
in respect of which the license, group
license, permit or authority is held is used
or not; and
- (e) be on the basis of either—
- 20 (i) the quantity of water taken and used
by means of the work during the
relevant period of 12 months; or
- (ii) the area of land irrigated with water
so taken and used.
- 25 (5) The Commission shall, in every license,
group license, permit and authority referred to in
subsection (3), specify which of the alternative
charges shall be paid.

SCHEDULE

*Water (Amendment).*SCHEDULE 4—*continued.*FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (6) The Commission shall, when fixing the amount of a charge payable under this section, have regard to—
- 10 (a) the benefits received by the holder of the license, the group license occupiers, the holder of the permit or, as the case may be, the holders of the authority as a result of the work of the Crown; and
- 10 (b) the augmentation, stabilisation or assurance of the water supply provided by that work.
- 15 (7) If, in the opinion of the Commission, a benefit is not received as a result of the work of the Crown by the holder of the license, the group license occupiers, the holder of the permit or, as the case may be, the holders of the authority, a charge shall not be
- 20 fixed under this section in respect of the license, group license, permit or authority.
- (8) Any proclamation under subsection (2) may be amended, altered, modified, revoked or corrected by the Governor by proclamation published in the Gazette.
- 25 (9) If the holder of a license, group license or permit fails or, as the case may be, the holders of an authority fail to pay the charge required under this section within the prescribed period, the Commission may suspend the license, group license, permit or
- 30 authority until the charge is paid.
- (10) The Minister may, on the recommendation of the Commission, remit or waive the payment in any year of any charge paid or payable under this section.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (11) Where any charge remitted or waived
under subsection (10) was paid or payable by the
holder of a license or permit or the holders of an
authority, the amount of that charge shall not exceed
the amount of the charge paid or payable by the
holder of the license or permit in respect of water
10 used by him or, as the case may be, by the holders of
the authority in respect of the quantity of water used
by them, as assessed by the Commission, for the
irrigation of any crop which—

- 15 (a) has been conserved and held by him or by
them as fodder for a period of not less than
18 months;
- (b) is in good condition; and
- (c) is protected to the satisfaction of the
Minister.

20 (12) Where any charge remitted or waived
under subsection (10) was paid or payable by the
holder of a group license, the amount of that charge
shall not exceed the amount of the charge paid or
payable by the holder of the group license in respect
25 of the quantity of water, as assessed by the
Commission, used for the irrigation of any crop
which—

- (a) has been conserved and held as fodder for
a period of not less than 18 months;
- 30 (b) is in good condition; and
- (c) is protected to the satisfaction of the
Minister.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (4) Section 24—
5 Omit “police or”.
- (5) Section 26A—
Omit “, as amended by subsequent Acts”.
- (6) Section 26B—

(a) Omit “for a joint water supply scheme”.
- 10 (b) Omit “in the order of precedence which was
given to that person”.
- (7) (a) Section 27 (1) (a)—
Omit the paragraph, insert instead :—

(a) forms of, and of application for—
15 (i) licenses, group licenses, authori-
ties and permits; and
(ii) renewal of licenses, group
licenses, authorities and permits,
20 and forms of notices required or
authorised under this Part;

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(b) Section 27 (1) (b)—

- 5 Omit “in connection with joint water supply schemes, renewals of such authorities”, insert instead “, renewals of authorities”.

(c) Section 27 (1) (d)—

- 10 Omit “in respect of joint water supply schemes, group license occupiers, or persons occupying land comprised within such schemes”, insert instead “or group license occupiers”.

(d) Section 27 (2)—

- 15 Omit the subsection, insert instead :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under subsection (1) as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Water (Amendment).

SCHEDULE 5.

Sec. 5.

SAVINGS.

5 1. Any direction given for the purposes of section 17B (1) of the Water Act, 1912, and in force immediately before the commencement of Schedule 4 (1) shall be deemed to be a direction given for the purposes of section 21B of that Act, as in force after that commencement.

10 2. Any proclamation made, or charge fixed, under section 14B of the Water Act, 1912, and in force immediately before the commencement of Schedule 4 (3), and any other act, matter or thing done or omitted under that section before that commencement, shall be deemed to have been made, fixed, done or omitted under section 22c of that Act, as in force after that commencement.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

WATER (AMENDMENT) BILL, 1977

Bill is enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Water (Amendment) Bill, 1977".

2. (1) Except as provided in this section, this Act shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1-4, commence on the date in which that provision commences.

No. , 1977.

A BILL FOR

An Act to amend the Water Act, 1912, for the purpose of providing for the preparation and implementation of volumetric water allocations schemes in respect of certain rivers, lakes and sections of rivers, and for certain other purposes.

[MR GORDON—14 September, 1977.]

BE

Water (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Water (Amendment) Short title.
Act, 1977".

2. (1) Except as provided in this section, this Act shall **Commence-**
commence on the date of assent to this Act. **ment.**

10 (2) Section 4 shall, in its application to a provision
of Schedules 1-4, commence on the day on which that
provision commences.

15 (3) The several provisions of Schedules 1-4 shall
commence on such day or days as may be appointed by the
Governor in respect thereof and as may be notified by
proclamation published in the Gazette.

3. This Act contains the following Schedules :— **Schedules.**

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
WATER ACT, 1912.

20 SCHEDULE 2.—AMENDMENTS TO PART II OF THE
WATER ACT, 1912.

SCHEDULE 3.—INSERTION OF DIVISION 4B INTO PART
II OF THE WATER ACT, 1912.

SCHEDULE 4.—FURTHER AMENDMENTS TO PART II
OF THE WATER ACT, 1912.

25 SCHEDULE 5.—SAVINGS.

Water (Amendment).

4. The Water Act, 1912, is amended in the manner set forth in Schedules 1-4. Amendment
of Act No.
44, 1912.

5. Schedule 5 has effect. Savings.

SCHEDULE 1.

Sec. 4.

5 AMENDMENTS TO PART I OF THE WATER ACT, 1912.

(1) Section 1—
Omit the matter relating to Division 3A of Part II.

(2) Section 1—
10 From the matter relating to Division 3B of Part II,
omit "18Q", insert instead "18R".

(3) Section 1—
From the matter relating to Division 4 of Part II, omit
"20H", insert instead "20HB".

(4) Section 1—
15 After the matter relating to Division 4A of Part II,
insert :—

DIVISION 4B.—*Volumetric Water Allocations
Schemes*—ss. 20V-20AE.

SCHEDULE

Water (Amendment).

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO PART II OF THE WATER ACT, 1912.

(1) (a) Section 5, definition of "Authority"—

Before the definition of "Drainage", insert :—

5 "Authority" means an authority issued under
Division 4 to construct and use a joint
water supply scheme.

(b) Section 5, definition of "Joint water supply
scheme"—

10 Omit the definition, insert instead :—

"Joint water supply scheme" means any work
to which this Part extends which—

15 (a) is used or proposed to be used for
the purpose of supplying water to
the lands of two or more occu-
piers who are jointly utilising the
work or who propose to utilise
the work jointly (whether any of
20 those occupiers has occupation of
the site of the work or not);

25 (b) is used or proposed to be used
for the purpose of supplying water
for irrigating the land or lands of
any occupier or occupiers other
than the land or lands of the
occupier or occupiers of the site
of the work; or

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (c) is used or proposed to be used
(otherwise than pursuant to a
license granted before the com-
10 mencement of the Water, Crown
Lands and Other Acts (Amend-
ment) Act, 1970) for the purpose
of supplying water for irrigating a
holding (not being a riparian
15 holding) or part thereof, where
that water is, or is to be, conveyed
wholly or partly by a work that is
used or proposed to be used by
any occupier or occupiers (not
20 being the occupier or occupiers of
the site of the work) for the
purpose of conveying that water
in accordance with a right con-
ferred by this Part or pursuant to
a license, authority or permit.

(c) Section 5, definition of "License"—

25 Omit "does not include a group license", insert
instead "means a license issued under Division
3".

(d) Section 5, definition of "Permit"—

30 After the definition of "Occupier", insert :—
"Permit" means a permit issued under Division
3B.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) Section 5, definition of "Work to which this Part extends"—

Omit the definition, insert instead :—

"Work to which this Part extends"—

(a) means a work—

10 (i) connected with or affecting the quantity or use of water in any river flowing through or past, or in any lake situated within or adjoining, the land of two or more occupiers; or

15 (ii) connected with or affecting the quantity of any water flowing in, to, or from, or being in, any such river or lake,

20 whether the work is—

(iii) for water conservation, irrigation, water supply or drainage;

25 (iv) for preventing land from being flooded by water; or

30 (v) for changing the course of a river or preventing the course of a river from changing,

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 and whether the work was constructed before or after the commencement of Schedule 2 (1) (e) to the Water (Amendment) Act, 1977; and

10 (b) in relation to a work, being a flume, race, channel, cutting, tunnel or pipe, which diverts water by gravitation from a river or lake referred to in paragraph (a)
15 (i), means such part of the work as is situated between the source of supply and the device fitted or installed to control the flow of water in the work or, as the case may be, between the source of supply and the site at which it is proposed to fit or install that device,

20 but does not include a work declared under subsection (3) to be a work for urban drainage.
25

(f) Section 5 (2), (3)—

At the end of section 5, insert :—

30 (2) A reference in this Part to the holders of an authority shall be construed as a reference to the occupiers of the whole of the lands supplied with water obtained by means of a joint water supply scheme in respect of which an authority is in force and, where the supply work or conveying work that is the subject of the scheme is

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 installed or constructed on other land, shall be construed as including a reference to the occupier of that other land, and a reference to a holder of an authority shall be construed as a reference to any one of those holders.

10 (3) The Commission may, by notice published in the Gazette, declare any work, being a dam, an excavation, a channel (whether an artificial channel or a natural channel artificially improved), a cutting, a tunnel or a pipe, which is constructed in, or forms part of, a river
15 referred to in paragraph (a) or (b) of the definition in subsection (1) of "Work to which this Part extends" to be a work for urban drainage and may, by a similar notice, revoke or amend that notice.

20 (2) (a) Section 7 (1)—

Omit the subsection, insert instead :—

(1) Subject to subsection (2), the occupier of land which forms the bank of a river or a lake has the right, without the need to obtain a
25 license—

(a) to take and use the water then being in the river or lake—

(i) for domestic purposes;

(ii) for the purpose of watering stock;

30

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (iii) for the purpose of irrigating
gardens, not exceeding 2 hec-
tares in area in the aggregate,
which are cultivated in con-
10 nection with the use of a
dwelling-house and of which
the produce is not sold or
exposed or offered for sale; and
- (iv) for the purpose of irrigating
15 land, not exceeding 2 hectares
in area, which is used for the
growing of crops or pastures to
produce fodder for animals
kept solely in connection with
the use of a dwelling-house;
- 20 (b) to construct and use for the purpose of
taking or using water for any of the
purposes specified in paragraph (a) a
work to which this Part extends, but
only if the capacity of the work does
not exceed 50 litres per second; and
- 25 (c) to construct and use a dam or an
excavation in the river or lake or a
work which obstructs the flow of water
in the river, but only if—
- 30 (i) the storage capacity of the
dam, excavation or work does
not exceed 5 megalitres;
- (ii) the dam, excavation or work
will not, in the opinion of the
Commission, detrimentally

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 affect the interests of the
occupiers of land which adjoins
or derives benefit from the river
or lake; and

10 (iii) where, by notice given to the
occupier by one of the methods
specified in subsection (2), the
Commission has directed that
a means of passing a flow of
water through or past the dam,
excavation or work be provided
15 —that means of passing a flow
has been provided.

(b) Section 7 (6)—

Omit the subsection, insert instead :—

20 (6) Subsection (1) does not, with respect
to a lake, confer on any occupier referred to in
that subsection any right of access over or to the
user of land not lawfully occupied by him.

(3) Section 11—

25 Omit “police” wherever occurring, insert instead
“stipendiary”.

(4) Section 12—

Omit “police” wherever occurring, insert instead
“stipendiary”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(5) (a) Section 13A—

5 Omit “police” wherever occurring, insert instead
“stipendiary”.

(b) Section 13A (9)—

Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.

10 (6) Section 13AA—

After section 13A, insert :—

15 13AA. (1) The holder of a license who wishes to reduce the area authorised to be irrigated under the license, the capacity of the work or the quantity of water which may be taken and used under the license may apply to the Commission for an amended license.

20 (2) An application made under subsection (1) shall specify the proposed reduced area to be irrigated, the proposed reduced capacity of the work or the proposed reduced quantity of water to be taken and used.

25 (3) On receipt of an application made under subsection (1), the Commission shall, without requiring payment of any fee, issue to the applicant, in substitution for his existing license, an amended license for the unexpired portion of the period for which, and subject to the same terms, limitations and conditions as those subject to which, that existing license was

Water (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO PART II OF THE WATER ACT,
 1912—*continued.*

5 issued, except that the amended license shall be in respect of the reduced area, the reduced capacity of the work or, as the case may be, the reduced quantity of water specified in the application.

(7) (a) Section 13B—

10 Omit “or authority for a joint water supply scheme” wherever occurring.

(b) Section 13B (1)—

Omit “any such license or authority” wherever occurring, insert instead “a license”.

(c) Section 13B (3)—

15 Omit “or authority” wherever occurring.

(8) Section 13C—

(a) Omit “or authority for a joint water supply scheme” wherever occurring.

(b) Omit “or authority” wherever occurring.

20 (9) Section 13D—

(a) Omit “or authority for a joint water supply scheme”.

(b) Omit “or authority” wherever occurring.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(10) Section 13F—

- 5 (a) Omit “or authority for a joint water supply scheme”.
- (b) Omit “or authority” wherever occurring.
- (c) Omit “it is the intention of the Commission to cancel the license”, insert instead “the license will be cancelled”.
- 10 (d) After the word “shall” where firstly occurring, insert “be deemed to”.

(11) Section 14B—

Omit the section.

15 (12) Section 16—

Omit the section, insert instead :—

16. (1) A license (other than a license issued **Benefit of** under section 13A) shall, except where the license **license.** otherwise specifically provides—
- 20 (a) be deemed to be held by; and
- (b) operate and enure for the benefit of, the lawful occupier for the time being of the land on which the licensed work is constructed or used or is proposed to be constructed or used.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) A license issued under section 13A shall, except where the license otherwise specifically provides—

(a) be deemed to be held by; and

(b) operate and enure for the benefit of,

10 the lawful occupier for the time being of the land which is or is to be supplied with water by means of the licensed work.

(13) Sections 17A, 17B—

Omit the sections, insert instead :—

15 17A. (1) If at any time during the currency of a license the Commission is satisfied that—

Revocation or suspension, etc., of license.

(a) the holder of the license has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the license;

20 (b) any land has been irrigated as to an area in excess of that authorised by the license;

(c) the holder of the license has used the licensed work for a purpose other than that authorised by the license;

25 (d) the holder of the license has contravened or failed to comply with any of the terms, limitations or conditions to which the license is subject;

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (e) any water diverted, taken or used by the holder of the license is not being beneficially used or is being wasted; or

(f) beneficial use is not being made of the licensed work,

10 the Commission may serve on the holder of the license a notice that, after the expiration of a period specified in the notice, the license will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the
15 period so specified, the license shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.

20 (2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

(a) that any license should be suspended or modified;

25 (b) that the quantity of water authorised to be taken under any license should be reduced; or

(c) that a right held under any license for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

30 the Commission may serve on the holder of the license a notice to that effect, and where any such notice is served, the license shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended,
35 according to the tenor of the notice.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (3) If the Commission is satisfied that the holder of a license has failed to comply with the terms of a notice served by the Commission whereby—

- (a) the license has been modified;
- (b) the quantity of water authorised to be taken under the license has been reduced; or
- 10 (c) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

15 the Commission may serve on the holder of the license a notice that, after the expiration of a period specified in the notice, the license will be suspended, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the license shall, on the
20 expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section may be effected on the holder of a license—

- (a) by delivering the notice to the holder personally;
- 25 (b) by leaving the notice with any person apparently of or above the age of 14 years who apparently resides or is employed on the land of the holder; or
- 30 (c) by letter sent by post and addressed to the holder at his address last known to the Commission.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 17B. (1) Any person who—
- 5 (a) being the holder of a license in respect of a work to which this Part extends, uses the work when the license is suspended;
- 10 (b) being the former holder of such a license, uses the work when the license is revoked or cancelled or has expired;
- (c) being the holder of a license, contravenes or fails to comply with any term, limitation or condition to which the license is subject;
- 15 (d) being the holder of a license, fails to comply with the terms of any notice served on him by the Commission whereby—
- (i) the license has been modified;
- (ii) the quantity of water authorised to be taken under the license has been reduced; or
- 20 (iii) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or
- 25 (e) being the holder of a license, contravenes section 13D,

Offences with respect to licenses.

is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) In any prosecution under this section
against the holder or former holder of a license,
proof—

10 (a) that a work in respect of which the license
is or was held has been used when the
license is suspended, revoked or cancelled
or has expired;

(b) that any term, limitation or condition to
which the license is subject has been
contravened or has not been complied with;

15 (c) of failure to comply with the terms of any
notice served by the Commission on that
holder whereby—

(i) the license has been modified;

20 (ii) the quantity of water authorised to
be taken under the license has been
reduced; or

(iii) a right held under the license for the
taking of water for any purpose from
a river, lake or section of a river has
been restricted or suspended; or

25 (d) that water has been taken from a river or
lake by means of a work covered by a
license before the whole of the works
covered by the license have been constructed
or provided,

30 shall, in the absence of proof to the contrary, be
evidence that the use, contravention, non-compliance
or failure has been caused by that holder or former
holder of the license.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(14) Section 17C—

5 Omit the section, insert instead :—

17C. Where a license is deemed to be revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation.

Revocation
and cancel-
lation of
licenses.

(15) Section 17D—

Omit the section.

(16) Part II, Division 3A—

Omit the Division.

15 (17) Section 18R—

After section 18Q, insert :—

18R. (1) Any person who—

- 20 (a) being the holder of a permit in respect of a work to which this Part extends, uses the work when the permit is suspended;
 - (b) being the former holder of such a permit, uses the work when the permit is withdrawn or has expired; or
 - 25 (c) being the holder of a permit, contravenes or fails to comply with any limitation or condition to which the permit is subject,
- is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

Offences
with
respect to
permits.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) In any prosecution under this section
against the holder or former holder of a permit,
proof—

10 (a) that a work in respect of which the permit
is or was held has been used when the permit
is suspended or withdrawn or has expired;
or

(b) that any limitation or condition to which
the permit is subject has been contravened
or has not been complied with,

15 shall, in the absence of proof to the contrary, be
evidence that the use, contravention or non-compliance
has been caused by that holder or former holder of the
permit.

(18) (a) Section 20 (1)—

Omit the subsection, insert instead :—

20 (1) The occupiers of the whole of the lands
supplied or proposed to be supplied with water
obtained by means of a joint water supply scheme,
and, where the land or lands on which the
25 scheme is or is to be constructed is not in the
occupation of one or more of those occupiers,
the occupier of that land or, as the case may be,
the occupiers of those lands, may apply to the
Commission for an authority to construct and use
30 the scheme and to take and use, for the purposes
specified in the application, the water which may
be conserved or obtained by the scheme.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (b) Section 20 (2)—
5 After “application shall be”, insert “in or to the
 effect of the prescribed form and shall be”.
- (c) Section 20 (2) (a)—
10 Omit “occupier”, insert instead “applicant to
 whom it is proposed to supply water obtained
 by means of the joint water supply scheme”.
- (d) Section 20 (2) (b)—
 (i) Omit “occupier” where firstly occurring,
 insert instead “applicant”.
15 (ii) Omit “occupier” where secondly occurring,
 insert instead “applicant to whom it is
 proposed to supply water obtained by
 means of the scheme”.
- (e) Section 20 (2) (d)—
20 Omit “occupier”, insert instead “applicant to
 whom it is proposed to supply water obtained by
 means of the scheme”.
- (f) Section 20 (2) (g)—
25 (i) Omit “occupier”, insert instead “applicant
 to whom it is proposed to supply water
 obtained by means of the scheme”.
 (ii) Omit “occupiers”, insert instead “applicants
 to whom it is proposed to supply water so
 obtained”.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(g) Section 20 (2) (h)—

5 Omit the paragraph, insert instead :—

(h) where the applicants or any two or more
of the applicants have entered into an
agreement, either between themselves or
between themselves and any other per-
10 son, in respect of the scheme, a copy of
that agreement;

(h) Section 20 (2) (i)—

Omit “joint water supply”.

(i) Section 20 (2) (j)—

15 (i) Omit “occupiers” where firstly occurring,
insert instead “applicants”.

(ii) Omit “of moneys for same and the payments
to be made by any of the occupiers in
respect thereof”, insert instead “and pay-
20 ment of money for those matters”.

(19) (a) Section 20A (1)—

Omit “under this Division”.

(b) Section 20A (2)—

25 (i) Omit “police” wherever occurring, insert
instead “stipendiary”.

(ii) Omit “occupiers”, insert instead “appli-
cants”.

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(20) (a) Section 20B (2)—

- 5 (i) Omit “and on receipt by it of the certified copy of the agreement executed by the occupiers as hereinafter provided”.
- (ii) Omit “occupiers” where secondly occurring, insert instead “applicants”.
- 10 (iii) Omit “between the occupiers” where secondly occurring.
- (iv) Omit “such works”, insert instead “the works between the applicants to whom it is proposed to supply that water”.

15 (b) Section 20B (4)—

Omit the subsection.

(21) Sections 20BA, 20BB, 20BC—

After section 20B, insert :—

20 20BA. (1) The Commission may refuse to grant any application for an authority for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures.

Commission may refuse to grant certain applications for authorities.

25 (2) The Commission may refuse to grant any application for an authority if it is not satisfied with the proposals for the construction of the works in regard to nature, class or form, or with the work proposed to be undertaken by any applicant in the preparation of the land for irrigation.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (3) A decision of the Commission under subsection (1) or (2) to refuse to grant an application for an authority shall be final and shall not be subject to appeal.

10 (4) The Commission may, when renewing an authority under which water has been used for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures, renew the authority subject to a condition that the irrigation of those grasses or pastures shall be discontinued either forthwith or progressively within a specified period not
15 exceeding 5 years.

(5) The Commission may, when renewing an authority in respect of a work used for the purpose of irrigation and—

20 (a) that work is, in the opinion of the Commission, of such nature, class or form as to cause undue wastage of water by the filling of depressions, lakes or swamps; or

25 (b) the design of the work, or the failure of the holders or any of the holders of the authority to maintain the work or any part of it in good order and condition, warrants the Commission so doing,

30 renew the authority subject to a condition that the work shall be altered in design or form or repaired to the satisfaction of the Commission, or that additional works shall be provided, within a specified period not exceeding 2 years.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (6) In any case where the alterations,
repairs or additional works referred to in subsection
(5) are, in the opinion of the Commission, so extensive
as to warrant its so doing, the Commission may grant
an extension of time, not exceeding 3 years, for com-
pletion of those alterations, repairs or additional works.

10 20BB. The holders of an authority granted for the
purpose of irrigation or water supply shall not, except
with the permission in writing of the Commission,
take water from a river or lake by means of a work in
15 respect of which the authority is held until the whole
of the works in respect of which the authority is held
have been constructed or provided.

Water
not to be
taken until
works
completed.

20 20BC. In any case where the work in respect of
which an authority is held has not been used for a
period of 3 years or more, the Commission may give to
the holders of the authority notice by letter sent to
each of them by post addressed to them at their
addresses last known to the Commission that, after the
25 expiration of a period specified in the notice, the
authority will be cancelled and, where any such notice
is given, unless the Commission annuls or withdraws
the notice before the expiration of the period so
specified, the authority shall, on the expiration of that
period, be deemed to be cancelled.

Commission
may
cancel
authority
if work
not used
for 3
years.

(22) (a) Section 20c (1)—

30 (i) Omit “occupiers of the lands supplied with
water obtained by means of a joint water
supply scheme”, insert instead “holders of
the authority”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (ii) Omit “or the certified copy of the agreement
be not lodged with the Commission as
hereinafter provided”.

(b) Section 20c (2)—

(i) Omit “occupiers” where firstly occurring,
insert instead “holders of the authority”.

10 (ii) Omit “between the occupiers” where
secondly occurring.

(iii) Omit “such works”, insert instead “the
works between such of those holders as are
supplied with that water”.

15 (c) Section 20c (3)—

Omit the subsection.

(23) (a) Section 20CA (1)—

Omit “in the form prescribed”.

(b) Section 20CA (4) (f) (i)—

20 Omit “occupiers”, insert instead “applicants”.

(c) Section 20CA (6) (a)—

25 Omit “and on receipt by it of the certified copy
of the agreement executed by the applicants as
hereinafter provided, issue to the applicants an
authority for a joint water supply scheme”, insert
instead “, issue to the applicants an authority”.

(d) Section 20CA (7)—

Omit the subsection.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (e) Section 20CA (8) (a)—
Omit “for a joint water supply scheme”.
- (f) Section 20CA (11)—
Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.
- 10 (24) (a) Section 20CB (1) (a)—
Omit “occupiers of the lands supplied with water
obtained by means of a joint water supply
scheme”, insert instead “holders of the authority”.
- 15 (b) Section 20CB (1) (d)—
Omit “or the certified copy of the agreement be
not lodged with the Commission as hereinafter
provided”.
- 20 (c) Section 20CB (3) (a)—
(i) Omit “and on receipt by it of the certified
copy of the agreement executed by the
applicants as hereinafter provided”.
(ii) Omit “for a joint water supply scheme”.
- 25 (d) Section 20CB (3) (b)—
Omit the paragraph, insert instead :—
(b) An authority shall not be issued under
paragraph (a) while any appeal is pending with
respect to the application for the renewal of that
authority.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (e) Section 20CB (3) (c)—
- 5 (i) Omit “section”, insert instead “subsection”.
(ii) Omit “scale prescribed by regulations under this Act”, insert instead “prescribed scale”.
- (f) Section 20CB (4)—
Omit the subsection.
- 10 (25) Section 20D—
Omit “under this Division”.
- (26) (a) Section 20E (1)—
- 15 Omit “occupiers of the whole of the lands supplied with water obtained by means of a joint water supply scheme”, insert instead “holders of an authority”.
- (b) Section 20E (2) (a)—
- 20 Omit “occupiers of the whole of the lands supplied with water obtained by means of that work”, insert instead “holders of the authority”.
- (c) Section 20E (2) (c)—
Omit “police” wherever occurring, insert instead “stipendiary”.
- (d) Section 20E (3)—
- 25 Omit the subsection.

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (e) Section 20E (4)—
5 Omit “and subsection (3)”.
- (27) Section 20F—
After “in the authority”, insert “and of the lands”.
- (28) Section 20G (2)—
Omit “for a joint water supply scheme”.
- 10 (29) Sections 20H, 20HA, 20HB—
Omit section 20H, insert instead :—
- 20H. (1) If at any time during the currency of an authority the Commission is satisfied that—
- 15 (a) the holders or any of the holders of the authority have or has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the authority;
- 20 (b) any land has been irrigated as to an area in excess of that authorised by the authority;
- 25 (c) the holders or any of the holders of the authority have or has used the work in respect of which the authority is held for a purpose other than that authorised by the authority;

Revocation
or
suspension,
etc., of
authority.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (d) the holders or any of the holders of the authority have or has contravened or failed to comply with any of the terms, limitations or conditions to which the authority is subject;
- 10 (e) any water diverted, taken or used by any of the holders of the authority is not being beneficially used or is being wasted; or
- (f) beneficial use is not being made of the work in respect of which the authority is held,
- 15 the Commission may serve on the holders of the authority a notice that, after the expiration of a period specified in the notice, the authority will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration
- 20 of the period so specified, the authority shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.
- 25 (2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—
- (a) that any authority should be suspended or modified;
- (b) that the quantity of water authorised to be taken under any authority should be
- 30 reduced; or
- (c) that a right held under any authority for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 the Commission may serve on the holders of the authority a notice to that effect, and where any such notice is served, the authority shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended, according to the tenor of the notice.

10 (3) If the Commission is satisfied that the holders or any of the holders of an authority have or has failed to comply with the terms of a notice served by the Commission whereby—

- 15 (a) the authority has been modified;
- (b) the quantity of water authorised to be taken under the authority has been reduced; or
- 20 (c) a right held under the authority for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

25 the Commission may serve on the holders of the authority a notice that, after the expiration of a period specified in the notice, the authority will be suspended and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the authority shall, on the expiration of that period, be deemed to be suspended.

30 (4) Service of a notice under this section may be effected on a holder of an authority—

- (a) by delivering the notice to the holder personally;

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who apparently resides or is employed on
the land of the holder; or
- 10 (c) by letter sent by post and addressed to the
holder at his address last known to the
Commission.

20HA. (1) Any person who—

Offences
with
respect to
authorities.

- (a) being a holder of an authority in respect of
a work to which this Part extends, uses the
work when the authority is suspended;
- 15 (b) being a former holder of such an authority,
uses the work when the authority is revoked
or cancelled or has expired;
- 20 (c) being a holder of an authority, contravenes
or fails to comply with any term, limitation
or condition to which the authority is
subject;
- (d) being a holder of an authority, fails to
comply with the terms of any notice served
on him by the Commission whereby—
- 25 (i) the authority has been modified;
- (ii) the quantity of water authorised to
be taken under the authority has
been reduced; or
- 30 (iii) a right held under the authority for
the taking of water for any purpose
from a river, lake or section of a
river has been restricted or sus-
pended; or

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (e) being a holder of an authority, contravenes section 20BB,
is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.
- 10 (2) In any prosecution under this section against a holder or former holder of an authority on whose land a work in respect of which the authority is or was held is situated, proof—
- (a) that the work has been used when the authority is suspended, revoked or cancelled or has expired;
- 15 (b) that any term, limitation or condition to which the authority is subject has been contravened or has not been complied with;
- (c) of failure to comply with the terms of any notice served by the Commission on that holder whereby—
- 20 (i) the authority has been modified;
- (ii) the quantity of water authorised to be taken under the authority has been reduced; or
- 25 (iii) a right held under the authority for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended; or

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (d) that water has been taken from a river or
lake by means of a work covered by an
authority before the whole of the works
covered by the authority have been con-
structed or provided,

10 shall, in the absence of proof to the contrary, be evi-
dence that the use, contravention, non-compliance or
failure was caused by that holder or former holder
of the authority.

15 20HB. Where an authority is deemed to be revoked
or cancelled under this Division, the Commission may
notify the revocation or cancellation in the Gazette,
and any such notification shall be conclusive evidence
of the revocation or cancellation. Revocation
and cancel-
lation of
authorities.

(30) Section 20R—

20 Omit “and upon breach of any such terms, limitations
and conditions the group license may be cancelled by
the Commission”.

(31) Sections 20s, 20sA—

Omit section 20s, insert instead :—

25 20s. (1) If at any time during the currency of a
group license the Commission is satisfied that— Revocation
or suspen-
sion, etc.,
of group
license.

(a) the Board holding the group license or any
of the group license occupiers has con-
served, diverted, taken or used any quantity
of water in excess of the quantity authorised
30 by the group license;

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) any land has been irrigated as to an area
in excess of that authorised by the group
license;
- 10 (c) the Board holding the group license or any
of the group license occupiers has used the
work in respect of which the license is held
for a purpose other than that authorised by
the license;
- 15 (d) the Board holding the group license or any
of the group license occupiers has contra-
vened or failed to comply with any of the
terms, limitations or conditions to which the
license is subject;
- 20 (e) any water diverted, taken or used by the
Board holding the group license or by any
of the group license occupiers is not being
beneficially used or is being wasted; or
- (f) beneficial use is not being made of the work
in respect of which the group license is held,
- 25 the Commission may serve on the Board a notice that,
after the expiration of a period specified in the notice,
the group license will be revoked, suspended or modi-
fied as indicated in the notice, and where any such
notice is served, unless the Commission annuls or
withdraws the notice before the expiration of the
30 period so specified, the group license shall, on the
expiration of that period, be deemed to be revoked,
suspended or modified, as the case may be.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

(a) that any group license should be suspended or modified;

10 (b) that the quantity of water authorised to be taken under any group license should be reduced; or

15 (c) that a right held under any group license for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

20 the Commission may serve on the Board which holds the group license a notice to that effect, and where any such notice is served, the group license shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended, according to the tenor of the notice.

25 (3) If the Commission is satisfied that the Board which holds a group license has failed to comply with, or to cause to be complied with, the terms of a notice served by the Commission whereby—

(a) the group license has been modified;

30 (b) the quantity of water authorised to be taken under the group license has been reduced; or

(c) a right held under the group license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 the Commission may serve on the Board a notice that,
after the expiration of a period specified in the notice,
the group license will be suspended, and where any
such notice is served, unless the Commission annuls or
withdraws the notice before the expiration of the
10 period so specified, the group license shall, on the
expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section
may be effected on a Board—

- (a) by delivering the notice to the principal place
of business of the Board;
- 15 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who is apparently employed by the Board;
or
- 20 (c) by letter sent by post and addressed to the
Board at its address last known to the
Commission.

20SA. (1) Any person who—

- (a) being a Board holding a group license or a
group license occupier, uses a work in
25 respect of which the group license is held
when the group license is suspended;
- (b) being a Board which formerly held a group
license or an occupier of land to which
30 water was formerly supplied under such a
group license, uses a work in respect of

Offences
with
respect
to group
licenses.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 which the group license was held when the
group license is revoked or cancelled or has
expired;

10 (c) being a Board holding a group license or a
group license occupier, contravenes or fails
to comply with any term, limitation or
condition to which the group license is
subject; or

15 (d) being a Board holding a group license, fails
to comply with the terms of any notice
served on the Board by the Commission
whereby—

(i) the group license has been modified;

(ii) the quantity of water authorised to
be taken under the group license has
been reduced; or

20 (iii) a right held under the group license
for the taking of water for any pur-
pose from a river, lake or section of
a river has been restricted or sus-
pended,

25 is guilty of an offence and is liable, on conviction, to
a penalty not exceeding \$500.

30 (2) In any prosecution under this section
against a Board holding a group license or a group
license occupier, or a Board which formerly held a
group license or an occupier of land to which water
was formerly supplied under a group license, being a

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 Board or an occupier on whose land a work in respect
of which a group license is or was held is situated,
proof—

(a) that the work has been used when the
group license is suspended, revoked or
cancelled or has expired; or

10 (b) that any term, limitation or condition to
which the group license is subject has been
contravened or not complied with,

shall, in the absence of proof to the contrary, be
evidence that the use, contravention or non-
compliance was caused by that Board, group license
15 occupier or occupier, as the case may be.

(3) In any prosecution under this section
against a Board holding a group license, proof of
failure to comply with the terms of any notice served
20 on that Board by the Commission whereby—

(a) the group license has been modified;

(b) the quantity of water authorised to be taken
under the group license has been reduced;
or

25 (c) a right held under the group license for the
taking of water for any purpose from a
river, lake or section of a river has been
restricted or suspended,

shall, in the absence of proof to the contrary, be
evidence that the failure was caused by that Board.
30

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(32) Section 20U—

5 Omit the section, insert instead :—

20U. Where a group license is deemed to be
revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation.

Revocation and cancellation of group licenses.

10

SCHEDULE 3.

Sec. 4.

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912.

Part II, Division 4B—

15 After Part II, Division 4A, insert :—

DIVISION 4B.—Volumetric Water Allocations Schemes.

20v. In this Division, unless the context or subject-matter otherwise indicates or requires—

Interpretation for the purposes of Division 4B.

20

“scheme”, in relation to any water source, means a volumetric water allocations scheme (as may be modified from time to time under this Division) prepared in respect of that water source under section 20x;

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT, 1912—*continued.*

5 “water allocation”, in relation to any license,
 group license or authority, which authorises
 the taking of water from a water source
 which is subject to a scheme, means the
 quantity of water specified in the condition
 10 (as may be modified from time to time
 under this Division) attached to, or included
 in, the license, group license or authority
 pursuant to section 20x (5) or section 20AB
 (1) (b) as being the maximum quantity
 15 which may, subject to this Division, be
 taken from that water source in any year
 under the license, group license or authority
 for the purpose or purposes specified in the
 license, group license or authority;

20 “water source” means any river, lake or section
 of a river;

“year” means the period of 12 months commencing on 1st July in each calendar year.

25 20w. The Governor may, by order published in the
 Gazette, declare that any water source and all of the
 licenses, group licenses and authorities, which
 authorise the taking of water from that water source,
 shall, on and from such date as may be specified in the
 order (being the date of its publication or a later
 date), be subject to a volumetric water allocations
 30 scheme prepared under section 20x.

Power of
 Governor
 to declare
 water source
 to be
 subject to
 volumetric
 water
 allocations
 scheme.

35 20x. (1) Before an order under section 20w may
 be made, the Commission shall prepare a volumetric
 water allocations scheme in respect of the water source
 to which it is proposed that the order will, when
 made, apply.

Deter-
 mination of
 water
 allocations
 in respect
 of licenses,
 group
 licenses and
 authorities!

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (2) In preparing a scheme in respect of a
water source, the Commission—

10 (a) shall assess the total quantity of water that
is likely to be available in each year for
apportionment among and allocation to
holders of licenses, group licenses and
authorities, which authorise the taking of
water from that water source; and

15 (b) shall then determine in respect of each such
license, group license and authority the
maximum quantity of water which may,
subject to this Division, be taken from that
water source in any year under the license,
group license or authority for the purpose
or purposes specified in the license, group
license or authority.

20 (3) The Commission may—

25 (a) fix differing quantities of water per hectare
according to whether water authorised to be
taken from the water source under a license,
group license or authority may be used for
the purpose of irrigating orchards, vineyards,
trees (other than trees in orchards), lucerne,
pasture, fodder crops, cereal crops or
vegetables or crops or plantings of any other
description;

30 (b) fix differing quantities of water according
to whether water authorised to be taken
from the water source under a license, group
license or authority may be used for a pur-
pose other than a purpose specified in
35 paragraph (a); and

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (c) determine that in no case shall the maximum
quantity of water which may be taken from
the water source in any year under any
license, group license or authority exceed
a quantity specified by the Commission.

10 (4) Subject to any determination made under
subsection (3) (c)—

(a) a determination under subsection (2) (b)
in respect of a license, group license or
authority may be made—

15 (i) in the case of a license, group
license or authority issued for the
purpose of irrigating a crop or
planting of a class specified in sub-
section (3) (a), by reference to the
20 area of land which is authorised to
be irrigated under the license, group
license or authority and to such
quantity as may be fixed under sub-
section (3) (a) in respect of that
class of crop or planting; and

25 (ii) in the case of a license, group license
or authority issued for any purpose
other than the irrigation of a crop
or planting of a class specified in
subsection (3) (a), by reference to
30 such quantity as may be fixed under
subsection (3) (b) in respect of that
purpose; and

(b) where water authorised to be taken from the
water source under a license, group license
35 or authority may be used for the purpose of

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 irrigating two or more classes of crops or
plantings specified in subsection (3) (a) or
for two or more purposes, a maximum
quantity of water may be determined under
10 subsection (2) (b) in respect of each of
those classes or, as the case may be, each
of those purposes.

(5) As soon as practicable after the publica-
tion of an order declaring a water source to be subject
to a scheme and before the date on which the scheme
is to commence, the Commission shall, by notice in
15 writing served on the holder of each license or group
license, and on the holders of each authority, which
authorises the taking of water from the water source,
attach to the license, group license or authority a
condition that, except where the operation of the con-
20 dition is suspended under section 20AA, on and from
the date on which the scheme commences and in
respect of each year during which the scheme is in
force, not more than the maximum quantity of water
determined in respect of the license, group license or
25 authority under subsection (2) (b) and specified in
the condition (as may be modified from time to time
under this Division) shall be taken from the water
source during any year under the license, group license
or authority for the purpose or purposes specified in
30 the license, group license or authority.

(6) Service of a notice under subsection (5)
may be effected on a holder referred to in subsection
(5)—

35 (a) by delivering the notice to the holder per-
sonally;

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) by leaving the notice with any person
apparently of or above the age of 14 years
who apparently resides or is employed on
the land of the holder; or
- 10 (c) by letter sent by post and addressed to the
holder at his address last known to the
Commission.

(7) On the service of a notice under subsection (5), the license, group license or authority to which the notice relates shall be modified according to the tenor of the notice.

15 (8) Where any order under section 20w
declaring a water source to be subject to a scheme has
effect on and from a date falling after the beginning
of a year, the quantity of water determined under
20 subsection (2) (b) in respect of a license, group
license or authority, which authorises the taking of
water from that water source, shall, for that year, be
deemed to be reduced by the proportion that the part
of that year which has elapsed at that date bears to the
25 whole of that year and the condition which is attached
to the license, group license or authority in accordance
with subsection (5) shall be construed accordingly.

30 (9) Notwithstanding anything in this Part, a
determination made under subsection (2) (b) in
respect of a license, group license or authority and a
condition attached to the license, group license or
authority in accordance with subsection (5) shall not
be the subject of an objection or appeal under this
Part.

*Water (Amendment).*SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 20Y. (1) Where the Commission is satisfied that a water source which is subject to a scheme is unlikely to have more water available than is sufficient to meet the water allocations of holders of existing licenses, group licenses and authorities, which authorise the taking of water from the water source, and the requirements of all other users lawfully authorised to take water from the water source, it may, by a notice published in the Gazette and in a newspaper circulating in the district in which the water source is located, declare that, on and from a date specified in the notice (being the date of publication in the Gazette or a later date)—

Power to suspend issue of licenses, group licenses and authorities.

10 (a) except as provided in subsection (2), no further applications for licenses, group licenses and authorities; and

15 (b) no further applications—

 (i) for additional licenses made under the proviso to section 18 (2);

 (ii) for amended authorities made under section 20E (2) (a); or

20 (iii) for amended group licenses referred to in section 20Q (2) (a),

will be granted until the notice is revoked by a subsequent notice so published.

25 (2) Subsection (1) does not apply to an application for a license or authority, or to applications for licenses or authorities, in replacement of a license or authority if the water allocation in respect of the

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 replacement license or authority or, as the case may
be, the total water allocations in respect of the replace-
ment licenses or authorities will not exceed the water
allocation in respect of the license or authority that
is being replaced or, as the case may be, the total
10 water allocations in respect of the licenses or
authorities that are being replaced.

(3) On and from the date specified in the
notice published under subsection (1) and until the
notice is revoked, an application to which that sub-
section applies may not be made under this Part and
15 if made shall not be considered by the Commission.

(4) Where a notice published under sub-
section (1) has effect in relation to any water source
and any land in respect of which a license or authority
authorises the taking of water from that water source
20 is subdivided into parts, an application for a license
or authority to take water from that water source for
use in connection with any such part shall, for the
purpose of this section, be deemed to be an application
for a license or authority in replacement of that license
25 or authority.

20z. (1) If, with respect to any year, it appears to
the Commission that a water source which is subject
to a scheme is unlikely to have sufficient water avail-
able to meet the water allocations of holders of
30 licenses, group licenses and authorities, the Commis-
sion may, by a notice published in the Gazette and in
Power of Commission to reduce water allocations in times of water shortage.

Water (Amendment).

SCHEDULE 3—continued.

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT, 1912—continued.

5 a newspaper circulating in the district in which that water source is located, either before or after the beginning of that year, reduce those allocations for that year by such proportion as may be specified in the notice.

10 (2) Where a notice has been published in accordance with subsection (1), the condition which pursuant to section 20X (5) is attached to, or which pursuant to section 20AB (1) (b) is included in, any license, group license or authority to which the notice relates shall, for the year specified in the notice, be modified according to the tenor of the notice and the water allocation in respect of the license, group license or authority shall be deemed to be reduced accordingly.

20 (3) Where, after the beginning of a year, the condition attached to, or included in, a license, group license or authority as referred to in subsection (2) has been modified as provided in that subsection and the quantity of water taken under the license, group license or authority during that year before the modification had effect did not exceed the water allocation in respect of the license, group license or authority but exceeded the water allocation as reduced in consequence of the modification of the condition, the holder of the license or group license or, as the case may be, the holders of the authority shall not be regarded as having contravened the condition, as so modified, with respect to the taking of that excess quantity.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 20AA. (1) If, with respect to any year, it appears to the Commission that a water source which is sub-
 10 ject to a scheme is likely to have more water available than is required to meet the water allocations of
 holders of licenses, group licenses and authorities, the Commission may declare that during such part of the
 year as is specified in the declaration water may be taken from that source under the authority of any
 such license, group license or authority without restric-
 tion as to quantity.

Power of Commission to suspend operation of conditions relating to water allocations in years of surplus and to increase water allocations.

15 (2) Where a declaration has been made under subsection (1), the condition which pursuant
 to section 20X (5) is attached to, or which pursuant to section 20AB (1) (b) is included in, any license,
 group license or authority to which the declaration relates shall, for the part of the year referred to in
 subsection (1), be deemed to be suspended and any quantity of water taken from the water source during
 that part of the year under the license, group license or authority shall not be taken into account for the
 purpose of determining whether or not the water allocation applicable in respect of the license, group
 license or authority for the year has been exceeded.

30 (3) Without limiting subsection (1), if, with respect to any year, it appears to the Commission
 that a water source which is subject to a scheme is likely to have more water available than is required
 to meet existing water allocations of holders of licenses, group licenses and authorities, the Commis-
 sion may, either before or after the beginning of the year, declare that those allocations are increased by
 such proportion as is specified in the declaration.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) Where a declaration has been made
under subsection (3), the condition which pursuant to
section 20X (5) is attached to, or which pursuant to
section 20AB (1) (b) is included in, any license, group
license or authority to which the declaration relates
shall, for the year specified in the declaration, be
10 modified according to the tenor of the declaration and
the water allocation in respect of the license, group
license or authority shall be deemed to be increased
accordingly.

15 (5) The Commission shall cause notice of
a declaration under this section to be published, as
soon as practicable after the making of the declara-
tion, in the Gazette and in a newspaper circulating in
the district in which the water source to which the
declaration relates is located.

20 20AB. (1) Where the Commission decides to grant
an application made under this Part for the issue of a
license, group license or authority which will authorise
the taking of water from a water source which is
subject to a scheme, it shall—

Issue of
new
licenses,
group
licenses
and
authorities.

25 (a) determine in respect of the license, group
license or authority the maximum quantity
of water which may, subject to this Division,
be taken from the water source in any year
for the purpose or purposes for which the
30 license, group license or authority is to be
issued; and

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (b) include in the license, group license or
authority a condition that, except where the
operation of the condition is deemed to be
suspended under section 20AA (2), on and
10 from the date on which the license, group
license or authority is to have effect and in
respect of each year during which the
scheme is in force, not more than the maxi-
mum quantity of water determined in respect
of the license, group license or authority
15 under paragraph (a) and specified in the
condition (as may be modified from time to
time under this Division) shall be taken
from that water source during any year
under the license, group license or authority
20 for the purpose or purposes specified in the
license, group license or authority.

(2) Section 20x (3) and section 20x (4)
shall apply in relation to the determination of a water
allocation under subsection (1) (a) in the same way
as they apply in relation to the determination of a
25 water allocation under section 20x (2) (b).

(3) Where any license, group license or
authority becomes effective on a date falling after the
beginning of a year, the quantity of water determined
under subsection (1) (a) in respect of the license,
30 group license or authority shall, for that year, be
deemed to be reduced by the proportion that the part
of that year which has elapsed at that date bears to
the whole of that year and the condition included in
the license, group license or authority in accordance
35 with subsection (1) (b) shall be construed
accordingly.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) Notwithstanding anything in this Part,
a determination made under subsection (1) (a) in
respect of a license, group license or authority and
a condition included in that license, group license or
authority in accordance with subsection (1) (b) shall
10 not be the subject of an objection or appeal under
this Part.

20AC. (1) A person shall not take any water from ^{Water}
a water source which is subject to a scheme by means ^{meters.}
of a work authorised by a license, group license or
15 authority unless there is connected to the work a water
meter, or other measuring device, which has been
approved by the Commission.

Penalty : \$500.

(2) A person who—

20 (a) intentionally, fraudulently or by culpable
negligence—

(i) damages a water meter or other
measuring device connected to a
work referred to in subsection (1);

25 (ii) prevents any such meter or measur-
ing device from recording the
quantity of water taken through or
by means of the work, or uses any
means whereby water so taken is not
30 recorded by the meter or measuring
device; or

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 (iii) without the consent of the Commission given in writing, interferes with any such meter or measuring device;
or

10 (b) being the holder of the license or group license or, as the case may be, the holders of the authority in respect of the work, permits or directs any other person to do any of the acts specified in paragraph (a),

15 is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or both.

(3) In any prosecution for an offence under subsection (2), proof of the existence of—

20 (a) any means for preventing a meter from recording the quantity of water taken through or by means of the work to which the meter or measuring device is connected;
or

25 (b) any means whereby water is taken through or by means of the work without being recorded by the meter or measuring device,

30 shall be admissible as evidence that the prevention or, as the case may be, the use of the means was caused by the holder of the license or group license or, as the case may be, the holders of the authority, authorising the use of the work.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

5 20AD. Where land (being land which is supplied with water obtained from a water source which is subject to a scheme by means of a work in respect of which a license or authority is held) is subdivided into parts, the Commission is not, when issuing licenses or authorities relating to those parts, or any
10 of those parts, obliged to make water allocations in respect of those licenses or authorities which in aggregate exceed the water allocation in respect of the first-mentioned license or authority.

Provisions applicable in cases of sub-division of land.

15 20AE. The Commission may, by any of its officers, employees or agents—

Power of entry.

(a) enter on any land on which there is constructed any work which is used for taking water from a water source which is subject to a scheme; and

20 (b) inspect any work so constructed and used, for the purpose of ascertaining whether or not the provisions of this Division have been or are being complied with or contravened.

Water (Amendment).

SCHEDULE 4.

Sec. 4.

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912.

(1) Section 21B—

5 After section 21A, insert :—

21B. (1) Any person who—

- 10 (a) constructs, erects or uses a work to which this Part extends otherwise than pursuant to a right conferred on him by this Part or by a license, group license, authority or permit;
- 15 (b) fails to comply with any direction given to him by the Commission to remove the whole or any part of a work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him;
- 20 or
- (c) fails to comply with any direction given to him by the Commission to carry out any work which the Commission considers necessary—
- 25 (i) to permit the flow of water through or past any work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him;
- 30 or

Offences with respect to construction, erection and use of work without license, etc.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (ii) to prevent the use of any work to
which this Part extends (being a
work in respect of which no right
conferred by this Part exists and in
10 respect of which no license, group
license, authority or permit is in
force) which is situated on land
owned or occupied by him and
which is a work for the diversion or
abstraction of water,

15 is guilty of an offence and is liable, on conviction,
to a penalty not exceeding \$500.

(2) In any prosecution under this section,
proof that a work to which this Part extends has been
constructed, erected or used otherwise than pursuant
to a right conferred by this Part or a license, group
20 license, authority or permit shall, in the absence of
proof to the contrary, be evidence that the con-
struction, erection, use or failure has been caused by
the occupier of the land on which the work is situated.

25 (3) Where a direction referred to in
subsection (1) (b) or (c) has been given to an
occupier of land and that occupier is not the owner
of the land, that occupier may apply to the local land
board to apportion between himself and the owner
of the land the expenses incurred in complying with
30 the direction, and, on any such application being
made to it, the local land board may make such
apportionment of those expenses as it considers fair
and just.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(2) Section 22 (3), (4), (5)—

5 After section 22 (2), insert :—

(3) The Commission may, by any of its officers,
employees or agents, enter on any land and—

10 (a) remove any dam or weir or any other work
forming an unlawful obstruction to the flow
of water in a river or any unlawful levee
for the prevention of the overflow of water
from a river or lake; and

15 (b) prevent or stop any unlawful diversion of
water from a river or lake, whether by
dismantling a pump or blocking the offtake
of a race or by such other means as the
Commission considers necessary.

20 (4) The Commission may recover in any court of
competent jurisdiction as a debt due to it from the
occupier of the land from which any work has been
removed under subsection (3), or of the land on
which the diversion of water was prevented or
25 stopped under that subsection, the expenses incurred
by it in carrying out the removal or, as the case may
be, in preventing or stopping the diversion.

30 (5) Where judgment has been obtained against an
occupier of land under subsection (4) and that
occupier is not the owner of the land, that occupier
may apply to the local land board to apportion
between himself and the owner of the land the amount
adjudged to be paid to the Commission under that
subsection and any costs awarded against him in

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 connection with that judgment, and, on any such application being made to it, the local land board may make such apportionment of that amount and those costs as it considers fair and just.

(3) Sections 22B, 22C—

After section 22A, insert :—

10 22B. (1) If at any time the Commission is satisfied that the quantity of water available, or likely to be available, in a river, lake or section of a river is insufficient to meet all requirements with respect to the taking of water from the river, lake or section, it may, in the manner provided in this section, restrict or suspend the rights held under licenses, group licenses, authorities or permits issued under this Part, or held under section 7, for the taking of water for any purpose from the river, lake or section or any part of the river, lake or section.

15
20

Restriction or suspension of rights held under licenses, etc., during periods of water shortage.

25 (2) Particulars of any restrictions or suspensions imposed by the Commission under subsection (1) shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

30 (3) A notification made under subsection (2) may be amended, altered, modified or cancelled by the Commission and particulars of any such amendment, alteration, modification or cancellation shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) In imposing restrictions or suspensions under this section, the Commission may restrict or suspend rights for the taking of water in accordance with the following order of priority :—

- 10 (a) firstly, rights under permits for any purpose other than domestic and stock supply;
- (b) secondly, rights under licenses, group licenses and authorities for the purpose of irrigation;
- 15 (c) thirdly, rights under licenses, group licenses and authorities for purposes other than irrigation and domestic and town and village water supply, rights under permits for stock supply and rights held under section 7 for the taking of water for stock supply; and
- 20 (d) fourthly, rights under licenses, group licenses, authorities and permits for domestic purposes and town and village water supply and rights held under section 7 for the taking of water for domestic purposes.

25 (5) In exercising the power conferred on it by subsection (4), the Commission—

- 30 (a) shall impose restrictions or suspensions in respect of all rights specified in a paragraph of that subsection before imposing any restrictions or suspensions in respect of any rights specified in any subsequent paragraph of that subsection; and

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (b) may, when imposing restrictions or
suspensions under subsection (4) (b),
restrict or suspend rights with respect to the
irrigation of any class of crops or plantings
without restricting or suspending rights with
10 respect to the irrigation of any other class
of crops or plantings.

(6) When the Commission has, in accord-
ance with this section, imposed a restriction on a right
held under section 7 or held under a license, group
license, authority or permit to take water, a person
15 shall not take water except in accordance with the
right as so restricted.

(7) When the Commission has, in accord-
ance with this section, suspended a right held under
section 7 or held under any license, group license,
20 authority or permit to take water, a person shall not
take water in purported exercise of that right.

(8) Any person who contravenes subsection
(6) or (7) is guilty of an offence and is liable, on
conviction, to a penalty not exceeding \$500.

25 (9) If, in any proceedings against an
occupier of land for an offence under subsection
(8), it is proved that a work on that land was used
in contravention of subsection (6) or, as the case
may be, subsection (7), the water concerned in that
30 alleged offence shall, unless the contrary is proved, be
presumed to have been taken by him.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 22c. (1) In this section, a reference to a work of the Crown includes a reference to a work vested in or controlled by the Dumaresq-Barwon Border Rivers Commission.

Flow of water assured by a work of the Crown.

10 (2) The Governor may, by proclamation published in the Gazette, declare that the flow or supply of water in any river, lake or section of a river has been augmented, stabilised or assured by a work of the Crown.

(3) Where a work in respect of which any license, group license, permit or authority is held—

15 (a) is used for the purpose of irrigation or water supply for stock or for the carrying on of any industrial operation; and

20 (b) is connected with a river, lake or section of a river in respect of which a proclamation under subsection (2) is in force,

25 the holder of the license, group license or permit or, as the case may be, the holders of the authority shall, subject to and in accordance with this section, pay a charge for the right to take and use water from the river, lake or section in addition to the fee payable for the license, group license, permit or authority.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (4) The charge payable under subsection
 (3) shall—

 (a) be fixed by the Commission—

10 (i) in respect of a license, group license,
 permit or authority in existence on
 1st July following the date of the
 proclamation, as soon as practicable
 and notified to the holder of the
 license, group license or permit or,
 as the case may be, the holders of
 the authority, and paid in respect of
15 the period of 12 months commencing on that 1st July and in
 respect of each subsequent period of
 12 months commencing on 1st July;
 and

20 (ii) in respect of a license, group license,
 permit or authority issued or
 renewed after 1st July first
 mentioned in subparagraph (i),
 when issuing or renewing the
25 license, group license, permit or
 authority, and paid at a pro-
 portionate rate for the portion of
 the period of 12 months from the
 date of issue or renewal of the
30 license, group license, permit or
 authority to 30th June following and
 in respect of each subsequent period
 of 12 months commencing on 1st
 July;

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- 5 (b) be not greater than maximum amounts
which shall be prescribed according to—
- (i) the purpose or purposes for which
the water is to be taken and used;
 - (ii) the nature of the work; and
 - (iii) the method of obtaining the water;
- 10 (c) be paid at the prescribed times and in the
prescribed manner;
- (d) to the extent of a minimum annual amount
to be fixed by the Commission in each case,
be payable irrespective of whether the work
15 in respect of which the license, group
license, permit or authority is held is used
or not; and
- (e) be on the basis of either—
- 20 (i) the quantity of water taken and used
by means of the work during the
relevant period of 12 months; or
 - (ii) the area of land irrigated with water
so taken and used.
- 25 (5) The Commission shall, in every license,
group license, permit and authority referred to in
subsection (3), specify which of the alternative
charges shall be paid.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (6) The Commission shall, when fixing the
amount of a charge payable under this section, have
regard to—

- 10 (a) the benefits received by the holder of the
license, the group license occupiers, the
holder of the permit or, as the case may be,
the holders of the authority as a result of
the work of the Crown; and
- (b) the augmentation, stabilisation or assurance
of the water supply provided by that work.

15 (7) If, in the opinion of the Commission, a
benefit is not received as a result of the work of the
Crown by the holder of the license, the group license
occupiers, the holder of the permit or, as the case may
be, the holders of the authority, a charge shall not be
20 fixed under this section in respect of the license, group
license, permit or authority.

(8) Any proclamation under subsection (2)
may be amended, altered, modified, revoked or
corrected by the Governor by proclamation published
in the Gazette.

25 (9) If the holder of a license, group license
or permit fails or, as the case may be, the holders of an
authority fail to pay the charge required under this
section within the prescribed period, the Commission
may suspend the license, group license, permit or
30 authority until the charge is paid.

(10) The Minister may, on the recommenda-
tion of the Commission, remit or waive the payment
in any year of any charge paid or payable under this
section.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

5 (11) Where any charge remitted or waived
under subsection (10) was paid or payable by the
holder of a license or permit or the holders of an
authority, the amount of that charge shall not exceed
10 the amount of the charge paid or payable by the
holder of the license or permit in respect of water
used by him or, as the case may be, by the holders of
the authority in respect of the quantity of water used
by them, as assessed by the Commission, for the
irrigation of any crop which—

- 15 (a) has been conserved and held by him or by
them as fodder for a period of not less than
18 months;
- (b) is in good condition; and
- (c) is protected to the satisfaction of the
Minister.

20 (12) Where any charge remitted or waived
under subsection (10) was paid or payable by the
holder of a group license, the amount of that charge
shall not exceed the amount of the charge paid or
25 payable by the holder of the group license in respect
of the quantity of water, as assessed by the
Commission, used for the irrigation of any crop
which—

- (a) has been conserved and held as fodder for
a period of not less than 18 months;
- 30 (b) is in good condition; and
- (c) is protected to the satisfaction of the
Minister.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (4) Section 24—
5 Omit “police or”.
- (5) Section 26A—
Omit “, as amended by subsequent Acts”.
- (6) Section 26B—

(a) Omit “for a joint water supply scheme”.
10 (b) Omit “in the order of precedence which was
given to that person”.
- (7) (a) Section 27 (1) (a)—
Omit the paragraph, insert instead :—
(a) forms of, and of application for—
15 (i) licenses, group licenses, authori-
ties and permits; and
(ii) renewal of licenses, group
licenses, authorities and permits,
20 and forms of notices required or
authorised under this Part;

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(b) Section 27 (1) (b)—

- 5 Omit “in connection with joint water supply schemes, renewals of such authorities”, insert instead “, renewals of authorities”.

(c) Section 27 (1) (d)—

- 10 Omit “in respect of joint water supply schemes, group license occupiers, or persons occupying land comprised within such schemes”, insert instead “or group license occupiers”.

(d) Section 27 (2)—

Omit the subsection, insert instead :—

- 15 (2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under subsection (1) as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Water (Amendment).

SCHEDULE 5.

Sec. 5.

SAVINGS.

5 1. Any direction given for the purposes of section 17B (1) of the Water Act, 1912, and in force immediately before the commencement of Schedule 4 (1) shall be deemed to be a direction given for the purposes of section 21B of that Act, as in force after that commencement.

10 2. Any proclamation made, or charge fixed, under section 14B of the Water Act, 1912, and in force immediately before the commencement of Schedule 4 (3), and any other act, matter or thing done or omitted under that section before that commencement, shall be deemed to have been made, fixed, done or omitted under section 22c of that Act, as in force after that commencement.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

[72c]

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 25 October, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 103, 1977.

An Act to amend the Water Act, 1912, for the purpose of providing for the preparation and implementation of volumetric water allocations schemes in respect of certain rivers, lakes and sections of rivers, and for certain other purposes. [Assented to, 16th November, 1977.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Water (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. 1. This Act may be cited as the "Water (Amendment) Act, 1977".

**Commence-
ment.** 2. (1) Except as provided in this section, this Act shall commence on the date of assent to this Act.

(2) Section 4 shall, in its application to a provision of Schedules 1-4, commence on the day on which that provision commences.

(3) The several provisions of Schedules 1-4 shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. 3. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE WATER ACT, 1912.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE WATER ACT, 1912.

SCHEDULE 3.—INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT, 1912.

SCHEDULE 4.—FURTHER AMENDMENTS TO PART II OF THE WATER ACT, 1912.

SCHEDULE 5.—SAVINGS.

Water (Amendment).

4. The Water Act, 1912, is amended in the manner set forth in Schedules 1-4. Amendment
of Act No.
44, 1912.

5. Schedule 5 has effect. Savings.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO PART I OF THE WATER ACT, 1912.

(1) Section 1—

Omit the matter relating to Division 3A of Part II.

(2) Section 1—

From the matter relating to Division 3B of Part II, omit "18Q", insert instead "18R".

(3) Section 1—

From the matter relating to Division 4 of Part II, omit "20H", insert instead "20HB".

(4) Section 1—

After the matter relating to Division 4A of Part II, insert :—

DIVISION 4B.—*Volumetric Water Allocations Schemes*—ss. 20V-20AE.

SCHEDULE

Water (Amendment).

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO PART II OF THE WATER ACT, 1912.

(1) (a) Section 5, definition of "Authority"—

Before the definition of "Drainage", insert :—

"Authority" means an authority issued under Division 4 to construct and use a joint water supply scheme.

(b) Section 5, definition of "Joint water supply scheme"—

Omit the definition, insert instead :—

"Joint water supply scheme" means any work to which this Part extends which—

(a) is used or proposed to be used for the purpose of supplying water to the lands of two or more occupiers who are jointly utilising the work or who propose to utilise the work jointly (whether any of those occupiers has occupation of the site of the work or not);

(b) is used or proposed to be used for the purpose of supplying water for irrigating the land or lands of any occupier or occupiers other than the land or lands of the occupier or occupiers of the site of the work; or

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(c) is used or proposed to be used (otherwise than pursuant to a license granted before the commencement of the Water, Crown Lands and Other Acts (Amendment) Act, 1970) for the purpose of supplying water for irrigating a holding (not being a riparian holding) or part thereof, where that water is, or is to be, conveyed wholly or partly by a work that is used or proposed to be used by any occupier or occupiers (not being the occupier or occupiers of the site of the work) for the purpose of conveying that water in accordance with a right conferred by this Part or pursuant to a license, authority or permit.

(c) Section 5, definition of "License"—

Omit "does not include a group license", insert instead "means a license issued under Division 3".

(d) Section 5, definition of "Permit"—

After the definition of "Occupier", insert :—

"Permit" means a permit issued under Division 3B.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(e) Section 5, definition of “Work to which this Part extends”—

Omit the definition, insert instead :—

“Work to which this Part extends”—

(a) means a work—

- (i) connected with or affecting the quantity or use of water in any river flowing through or past, or in any lake situated within or adjoining, the land of two or more occupiers; or
- (ii) connected with or affecting the quantity of any water flowing in, to, or from, or being in, any such river or lake,

whether the work is—

- (iii) for water conservation, irrigation, water supply or drainage;
- (iv) for preventing land from being flooded by water; or
- (v) for changing the course of a river or preventing the course of a river from changing,

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

and whether the work was constructed before or after the commencement of Schedule 2 (1) (e) to the Water (Amendment) Act, 1977; and

- (b) in relation to a work, being a flume, race, channel, cutting, tunnel or pipe, which diverts water by gravitation from a river or lake referred to in paragraph (a) (i), means such part of the work as is situated between the source of supply and the device fitted or installed to control the flow of water in the work or, as the case may be, between the source of supply and the site at which it is proposed to fit or install that device,

but does not include a work declared under subsection (3) to be a work for urban drainage.

- (f) Section 5 (2), (3)—

At the end of section 5, insert :—

(2) A reference in this Part to the holders of an authority shall be construed as a reference to the occupiers of the whole of the lands supplied with water obtained by means of a joint water supply scheme in respect of which an authority is in force and, where the supply work or conveying work that is the subject of the scheme is

SCHEDULE

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

installed or constructed on other land, shall be construed as including a reference to the occupier of that other land, and a reference to a holder of an authority shall be construed as a reference to any one of those holders.

(3) The Commission may, by notice published in the Gazette, declare any work, being a dam, an excavation, a channel (whether an artificial channel or a natural channel artificially improved), a cutting, a tunnel or a pipe, which is constructed in, or forms part of, a river referred to in paragraph (a) or (b) of the definition in subsection (1) of "Work to which this Part extends" to be a work for urban drainage and may, by a similar notice, revoke or amend that notice.

(2) (a) Section 7 (1)—

Omit the subsection, insert instead :—

(1) Subject to subsection (2), the occupier of land which forms the bank of a river or a lake has the right, without the need to obtain a license—

(a) to take and use the water then being in the river or lake—

(i) for domestic purposes;

(ii) for the purpose of watering stock;

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (iii) for the purpose of irrigating gardens, not exceeding 2 hectares in area in the aggregate, which are cultivated in connection with the use of a dwelling-house and of which the produce is not sold or exposed or offered for sale; and
 - (iv) for the purpose of irrigating land, not exceeding 2 hectares in area, which is used for the growing of crops or pastures to produce fodder for animals kept solely in connection with the use of a dwelling-house;
- (b) to construct and use for the purpose of taking or using water for any of the purposes specified in paragraph (a) a work to which this Part extends, but only if the capacity of the work does not exceed 50 litres per second; and
- (c) to construct and use a dam or an excavation in the river or lake or a work which obstructs the flow of water in the river, but only if—
- (i) the storage capacity of the dam, excavation or work does not exceed 7 megalitres;
 - (ii) the dam, excavation or work will not, in the opinion of the Commission, detrimentally

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*
 AMENDMENTS TO PART II OF THE WATER ACT,
 1912—*continued.*

affect the interests of the occupiers of land which adjoins or derives benefit from the river or lake; and

- (iii) where, by notice given to the occupier by one of the methods specified in subsection (2), the Commission has directed that a means of passing a flow of water through or past the dam, excavation or work be provided—that means of passing a flow has been provided.

(b) Section 7 (6)—

Omit the subsection, insert instead :—

(6) Subsection (1) does not, with respect to a lake, confer on any occupier referred to in that subsection any right of access over or to the user of land not lawfully occupied by him.

(3) Section 11—

Omit “police” wherever occurring, insert instead “stipendiary”.

(4) Section 12—

Omit “police” wherever occurring, insert instead “stipendiary”.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (5) (a) Section 13A—
Omit “police” wherever occurring, insert instead
“stipendiary”.
- (b) Section 13A (9)—
Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.

(6) Section 13AA—

After section 13A, insert :—

13AA. (1) The holder of a license who wishes to **Amended**
reduce the area authorised to be irrigated under the **licenses.**
license, the capacity of the work or the quantity of
water which may be taken and used under the license
may apply to the Commission for an amended license.

(2) An application made under subsection
(1) shall specify the proposed reduced area to be
irrigated, the proposed reduced capacity of the work
or the proposed reduced quantity of water to be taken
and used.

(3) On receipt of an application made
under subsection (1), the Commission shall, without
requiring payment of any fee, issue to the applicant, in
substitution for his existing license, an amended license
for the unexpired portion of the period for which, and
subject to the same terms, limitations and conditions
as those subject to which, that existing license was

Water (Amendment).

SCHEDULE 2—*continued.*
 AMENDMENTS TO PART II OF THE WATER ACT,
 1912—*continued.*

issued, except that the amended license shall be in respect of the reduced area, the reduced capacity of the work or, as the case may be, the reduced quantity of water specified in the application.

(7) (a) Section 13B—

Omit “or authority for a joint water supply scheme” wherever occurring.

(b) Section 13B (1)—

Omit “any such license or authority” wherever occurring, insert instead “a license”.

(c) Section 13B (3)—

Omit “or authority” wherever occurring.

(8) Section 13C—

(a) Omit “or authority for a joint water supply scheme” wherever occurring.

(b) Omit “or authority” wherever occurring.

(9) Section 13D—

(a) Omit “or authority for a joint water supply scheme”.

(b) Omit “or authority” wherever occurring.

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(10) Section 13F—

- (a) Omit “or authority for a joint water supply scheme”.
- (b) Omit “or authority” wherever occurring.
- (c) Omit “it is the intention of the Commission to cancel the license”, insert instead “the license will be cancelled”.
- (d) After the word “shall” where firstly occurring, insert “be deemed to”.

(11) Section 14B—

Omit the section.

(12) Section 16—

Omit the section, insert instead :—

16. (1) A license (other than a license issued under section 13A) shall, except where the license otherwise specifically provides—

- (a) be deemed to be held by; and
- (b) operate and enure for the benefit of,

the lawful occupier for the time being of the land on which the licensed work is constructed or used or is proposed to be constructed or used.

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(2) A license issued under section 13A shall, except where the license otherwise specifically provides—

(a) be deemed to be held by; and

(b) operate and enure for the benefit of,

the lawful occupier for the time being of the land which is or is to be supplied with water by means of the licensed work.

(13) Sections 17A, 17B—

Omit the sections, insert instead :—

17A. (1) If at any time during the currency of a license the Commission is satisfied that—

(a) the holder of the license has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the license;

(b) any land has been irrigated as to an area in excess of that authorised by the license;

(c) the holder of the license has used the licensed work for a purpose other than that authorised by the license;

(d) the holder of the license has contravened or failed to comply with any of the terms, limitations or conditions to which the license is subject;

Revocation
or suspen-
sion, etc.,
of license.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(e) any water diverted, taken or used by the holder of the license is not being beneficially used or is being wasted; or

(f) beneficial use is not being made of the licensed work,

the Commission may serve on the holder of the license a notice that, after the expiration of a period specified in the notice, the license will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the license shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.

(2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

(a) that any license should be suspended or modified;

(b) that the quantity of water authorised to be taken under any license should be reduced;
or

(c) that a right held under any license for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

the Commission may serve on the holder of the license a notice to that effect, and where any such notice is served, the license shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended, according to the tenor of the notice.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(3) If the Commission is satisfied that the holder of a license has failed to comply with the terms of a notice served by the Commission whereby—

- (a) the license has been modified;
- (b) the quantity of water authorised to be taken under the license has been reduced; or
- (c) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

the Commission may serve on the holder of the license a notice that, after the expiration of a period specified in the notice, the license will be suspended, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the license shall, on the expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section may be effected on the holder of a license—

- (a) by delivering the notice to the holder personally;
- (b) by leaving the notice with any person apparently of or above the age of 14 years who apparently resides or is employed on the land of the holder; or
- (c) by letter sent by post and addressed to the holder at his address last known to the Commission.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

17B. (1) Any person who—

Offences
with respect
to licenses.

- (a) being the holder of a license in respect of a work to which this Part extends, uses the work when the license is suspended;
- (b) being the former holder of such a license, uses the work when the license is revoked or cancelled or has expired;
- (c) being the holder of a license, contravenes or fails to comply with any term, limitation or condition to which the license is subject;
- (d) being the holder of a license, fails to comply with the terms of any notice served on him by the Commission whereby—
 - (i) the license has been modified;
 - (ii) the quantity of water authorised to be taken under the license has been reduced; or
 - (iii) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended; or
- (e) being the holder of a license, contravenes section 13D,

is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(2) In any prosecution under this section against the holder or former holder of a license, proof—

- (a) that a work in respect of which the license is or was held has been used when the license is suspended, revoked or cancelled or has expired;
- (b) that any term, limitation or condition to which the license is subject has been contravened or has not been complied with;
- (c) of failure to comply with the terms of any notice served by the Commission on that holder whereby—
 - (i) the license has been modified;
 - (ii) the quantity of water authorised to be taken under the license has been reduced; or
 - (iii) a right held under the license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended; or
- (d) that water has been taken from a river or lake by means of a work covered by a license before the whole of the works covered by the license have been constructed or provided,

shall, in the absence of proof to the contrary, be evidence that the use, contravention, non-compliance or failure has been caused by that holder or former holder of the license.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(14) Section 17C—

Omit the section, insert instead :—

17C. Where a license is deemed to be revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation.

Revocation and cancellation of licenses.

(15) Section 17D—

Omit the section.

(16) Part II, Division 3A—

Omit the Division.

(17) Section 18R—

After section 18Q, insert :—

18R. (1) Any person who—

- (a) being the holder of a permit in respect of a work to which this Part extends, uses the work when the permit is suspended;
- (b) being the former holder of such a permit, uses the work when the permit is withdrawn or has expired; or
- (c) being the holder of a permit, contravenes or fails to comply with any limitation or condition to which the permit is subject,

is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

Offences with respect to permits.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*
 AMENDMENTS TO PART II OF THE WATER ACT,
 1912—*continued.*

(2) In any prosecution under this section against the holder or former holder of a permit, proof—

- (a) that a work in respect of which the permit is or was held has been used when the permit is suspended or withdrawn or has expired; or
- (b) that any limitation or condition to which the permit is subject has been contravened or has not been complied with,

shall, in the absence of proof to the contrary, be evidence that the use, contravention or non-compliance has been caused by that holder or former holder of the permit.

(18) (a) Section 20 (1)—

Omit the subsection, insert instead :—

(1) The occupiers of the whole of the lands supplied or proposed to be supplied with water obtained by means of a joint water supply scheme, and, where the land or lands on which the scheme is or is to be constructed is not in the occupation of one or more of those occupiers, the occupier of that land or, as the case may be, the occupiers of those lands, may apply to the Commission for an authority to construct and use the scheme and to take and use, for the purposes specified in the application, the water which may be conserved or obtained by the scheme.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(b) Section 20 (2)—

After “application shall be”, insert “in or to the effect of the prescribed form and shall be”.

(c) Section 20 (2) (a)—

Omit “occupier”, insert instead “applicant to whom it is proposed to supply water obtained by means of the joint water supply scheme”.

(d) Section 20 (2) (b)—

(i) Omit “occupier” where firstly occurring, insert instead “applicant”.

(ii) Omit “occupier” where secondly occurring, insert instead “applicant to whom it is proposed to supply water obtained by means of the scheme”.

(e) Section 20 (2) (d)—

Omit “occupier”, insert instead “applicant to whom it is proposed to supply water obtained by means of the scheme”.

(f) Section 20 (2) (g)—

(i) Omit “occupier”, insert instead “applicant to whom it is proposed to supply water obtained by means of the scheme”.

(ii) Omit “occupiers”, insert instead “applicants to whom it is proposed to supply water so obtained”.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(g) Section 20 (2) (h)—

Omit the paragraph, insert instead :—

- (h) where the applicants or any two or more of the applicants have entered into an agreement, either between themselves or between themselves and any other person, in respect of the scheme, a copy of that agreement;

(h) Section 20 (2) (i)—

Omit “joint water supply”.

(i) Section 20 (2) (j)—

- (i) Omit “occupiers” where firstly occurring, insert instead “applicants”.
- (ii) Omit “of moneys for same and the payments to be made by any of the occupiers in respect thereof”, insert instead “and payment of money for those matters”.

(19) (a) Section 20A (1)—

Omit “under this Division”.

(b) Section 20A (2)—

- (i) Omit “police” wherever occurring, insert instead “stipendiary”.
- (ii) Omit “occupiers”, insert instead “applicants”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(20) (a) Section 20B (2)—

- (i) Omit “and on receipt by it of the certified copy of the agreement executed by the occupiers as hereinafter provided”.
- (ii) Omit “occupiers” where secondly occurring, insert instead “applicants”.
- (iii) Omit “between the occupiers” where secondly occurring.
- (iv) Omit “such works”, insert instead “the works between the applicants to whom it is proposed to supply that water”.

(b) Section 20B (4)—

Omit the subsection.

(21) Sections 20BA, 20BB, 20BC—

After section 20B, insert :—

20BA. (1) The Commission may refuse to grant any application for an authority for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures.

Commission may refuse to grant certain applications for authorities.

(2) The Commission may refuse to grant any application for an authority if it is not satisfied with the proposals for the construction of the works in regard to nature, class or form, or with the work proposed to be undertaken by any applicant in the preparation of the land for irrigation.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(3) A decision of the Commission under subsection (1) or (2) to refuse to grant an application for an authority shall be final and shall not be subject to appeal.

(4) The Commission may, when renewing an authority under which water has been used for the purpose of irrigating grasses or pastures other than sown grasses or improved pastures, renew the authority subject to a condition that the irrigation of those grasses or pastures shall be discontinued either forthwith or progressively within a specified period not exceeding 5 years.

(5) The Commission may, when renewing an authority in respect of a work used for the purpose of irrigation and—

- (a) that work is, in the opinion of the Commission, of such nature, class or form as to cause undue wastage of water by the filling of depressions, lakes or swamps; or
- (b) the design of the work, or the failure of the holders or any of the holders of the authority to maintain the work or any part of it in good order and condition, warrants the Commission so doing,

renew the authority subject to a condition that the work shall be altered in design or form or repaired to the satisfaction of the Commission, or that additional works shall be provided, within a specified period not exceeding 2 years.

SCHEDULE

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(6) In any case where the alterations, repairs or additional works referred to in subsection (5) are, in the opinion of the Commission, so extensive as to warrant its so doing, the Commission may grant an extension of time, not exceeding 3 years, for completion of those alterations, repairs or additional works.

20BB. The holders of an authority granted for the purpose of irrigation or water supply shall not, except with the permission in writing of the Commission, take water from a river or lake by means of a work in respect of which the authority is held until the whole of the works in respect of which the authority is held have been constructed or provided.

Water not to be taken until works completed.

20BC. In any case where the work in respect of which an authority is held has not been used for a period of 3 years or more, the Commission may give to the holders of the authority notice by letter sent to each of them by post addressed to them at their addresses last known to the Commission that, after the expiration of a period specified in the notice, the authority will be cancelled and, where any such notice is given, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the authority shall, on the expiration of that period, be deemed to be cancelled.

Commission may cancel authority if work not used for 3 years.

(22) (a) Section 20c (1)—

- (i) Omit “occupiers of the lands supplied with water obtained by means of a joint water supply scheme”, insert instead “holders of the authority”.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (ii) Omit “or the certified copy of the agreement be not lodged with the Commission as hereinafter provided”.
- (b) Section 20c (2)—
 - (i) Omit “occupiers” where firstly occurring, insert instead “holders of the authority”.
 - (ii) Omit “between the occupiers” where secondly occurring.
 - (iii) Omit “such works”, insert instead “the works between such of those holders as are supplied with that water”.
- (c) Section 20c (3)—
Omit the subsection.
- (23) (a) Section 20CA (1)—
Omit “in the form prescribed”.
- (b) Section 20CA (4) (f) (i)—
Omit “occupiers”, insert instead “applicants”.
- (c) Section 20CA (6) (a)—
Omit “and on receipt by it of the certified copy of the agreement executed by the applicants as hereinafter provided, issue to the applicants an authority for a joint water supply scheme”, insert instead “, issue to the applicants an authority”.
- (d) Section 20CA (7)—
Omit the subsection.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (e) Section 20CA (8) (a)—
Omit “for a joint water supply scheme”.
- (f) Section 20CA (11)—
Omit “sections 17B and 17C”, insert instead
“sections 21B and 22”.
- (24) (a) Section 20CB (1) (a)—
Omit “occupiers of the lands supplied with water
obtained by means of a joint water supply
scheme”, insert instead “holders of the authority”.
- (b) Section 20CB (1) (d)—
Omit “or the certified copy of the agreement be
not lodged with the Commission as hereinafter
provided”.
- (c) Section 20CB (3) (a)—
(i) Omit “and on receipt by it of the certified
copy of the agreement executed by the
applicants as hereinafter provided”.
(ii) Omit “for a joint water supply scheme”.
- (d) Section 20CB (3) (b)—
Omit the paragraph, insert instead :—
(b) An authority shall not be issued under
paragraph (a) while any appeal is pending with
respect to the application for the renewal of that
authority.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(e) Section 20CB (3) (c)—

- (i) Omit “section”, insert instead “subsection”.
- (ii) Omit “scale prescribed by regulations under this Act”, insert instead “prescribed scale”.

(f) Section 20CB (4)—

Omit the subsection.

(25) Section 20D—

Omit “under this Division”.

(26) (a) Section 20E (1)—

Omit “occupiers of the whole of the lands supplied with water obtained by means of a joint water supply scheme”, insert instead “holders of an authority”.

(b) Section 20E (2) (a)—

Omit “occupiers of the whole of the lands supplied with water obtained by means of that work”, insert instead “holders of the authority”.

(c) Section 20E (2) (c)—

Omit “police” wherever occurring, insert instead “stipendiary”.

(d) Section 20E (3)—

Omit the subsection.

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(e) Section 20E (4)—

Omit “and subsection (3)”.

(27) Section 20F—

After “in the authority”, insert “and of the lands”.

(28) Section 20G (2)—

Omit “for a joint water supply scheme”.

(29) Sections 20H, 20HA, 20HB—

Omit section 20H, insert instead :—

20H. (1) If at any time during the currency of an authority the Commission is satisfied that—

Revocation
or
suspension,
etc., of
authority.

- (a) the holders or any of the holders of the authority have or has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the authority;
- (b) any land has been irrigated as to an area in excess of that authorised by the authority;
- (c) the holders or any of the holders of the authority have or has used the work in respect of which the authority is held for a purpose other than that authorised by the authority;

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (d) the holders or any of the holders of the authority have or has contravened or failed to comply with any of the terms, limitations or conditions to which the authority is subject;
- (e) any water diverted, taken or used by any of the holders of the authority is not being beneficially used or is being wasted; or
- (f) beneficial use is not being made of the work in respect of which the authority is held,

the Commission may serve on the holders of the authority a notice that, after the expiration of a period specified in the notice, the authority will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the authority shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.

(2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

- (a) that any authority should be suspended or modified;
- (b) that the quantity of water authorised to be taken under any authority should be reduced; or
- (c) that a right held under any authority for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

the Commission may serve on the holders of the authority a notice to that effect, and where any such notice is served, the authority shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended, according to the tenor of the notice.

(3) If the Commission is satisfied that the holders or any of the holders of an authority have or has failed to comply with the terms of a notice served by the Commission whereby—

- (a) the authority has been modified;
- (b) the quantity of water authorised to be taken under the authority has been reduced; or
- (c) a right held under the authority for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

the Commission may serve on the holders of the authority a notice that, after the expiration of a period specified in the notice, the authority will be suspended and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the authority shall, on the expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section may be effected on a holder of an authority—

- (a) by delivering the notice to the holder personally;

*Water (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (b) by leaving the notice with any person apparently of or above the age of 14 years who apparently resides or is employed on the land of the holder; or
- (c) by letter sent by post and addressed to the holder at his address last known to the Commission.
- Offences with respect to authorities.
- 20HA. (1) Any person who—
- (a) being a holder of an authority in respect of a work to which this Part extends, uses the work when the authority is suspended;
- (b) being a former holder of such an authority, uses the work when the authority is revoked or cancelled or has expired;
- (c) being a holder of an authority, contravenes or fails to comply with any term, limitation or condition to which the authority is subject;
- (d) being a holder of an authority, fails to comply with the terms of any notice served on him by the Commission whereby—
- (i) the authority has been modified;
- (ii) the quantity of water authorised to be taken under the authority has been reduced; or
- (iii) a right held under the authority for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended; or

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(e) being a holder of an authority, contravenes section 20BB, is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

(2) In any prosecution under this section against a holder or former holder of an authority on whose land a work in respect of which the authority is or was held is situated, proof—

(a) that the work has been used when the authority is suspended, revoked or cancelled or has expired;

(b) that any term, limitation or condition to which the authority is subject has been contravened or has not been complied with;

(c) of failure to comply with the terms of any notice served by the Commission on that holder whereby—

(i) the authority has been modified;

(ii) the quantity of water authorised to be taken under the authority has been reduced; or

(iii) a right held under the authority for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended; or

SCHEDULE

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (d) that water has been taken from a river or lake by means of a work covered by an authority before the whole of the works covered by the authority have been constructed or provided,

shall, in the absence of proof to the contrary, be evidence that the use, contravention, non-compliance or failure was caused by that holder or former holder of the authority.

Revocation
and cancel-
lation of
authorities.

20HB. Where an authority is deemed to be revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation.

(30) Section 20R—

Omit “and upon breach of any such terms, limitations and conditions the group license may be cancelled by the Commission”.

(31) Sections 20s, 20sA—

Omit section 20s, insert instead :—

Revocation
or suspen-
sion, etc.,
of group
license.

20s. (1) If at any time during the currency of a group license the Commission is satisfied that—

- (a) the Board holding the group license or any of the group license occupiers has conserved, diverted, taken or used any quantity of water in excess of the quantity authorised by the group license;

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (b) any land has been irrigated as to an area in excess of that authorised by the group license;
- (c) the Board holding the group license or any of the group license occupiers has used the work in respect of which the license is held for a purpose other than that authorised by the license;
- (d) the Board holding the group license or any of the group license occupiers has contravened or failed to comply with any of the terms, limitations or conditions to which the license is subject;
- (e) any water diverted, taken or used by the Board holding the group license or by any of the group license occupiers is not being beneficially used or is being wasted; or
- (f) beneficial use is not being made of the work in respect of which the group license is held,

the Commission may serve on the Board a notice that, after the expiration of a period specified in the notice, the group license will be revoked, suspended or modified as indicated in the notice, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the group license shall, on the expiration of that period, be deemed to be revoked, suspended or modified, as the case may be.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(2) If in the opinion of the Commission there are circumstances which render it necessary or expedient—

- (a) that any group license should be suspended or modified;
- (b) that the quantity of water authorised to be taken under any group license should be reduced; or
- (c) that a right held under any group license for the taking of water for any purpose from a river, lake or section of a river should be restricted or suspended,

the Commission may serve on the Board which holds the group license a notice to that effect, and where any such notice is served, the group license shall be deemed to be suspended or modified, or the quantity of water reduced or, as the case may be, the right restricted or suspended, according to the tenor of the notice.

(3) If the Commission is satisfied that the Board which holds a group license has failed to comply with, or to cause to be complied with, the terms of a notice served by the Commission whereby—

- (a) the group license has been modified;
- (b) the quantity of water authorised to be taken under the group license has been reduced;
or
- (c) a right held under the group license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

SCHEDULE

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

the Commission may serve on the Board a notice that, after the expiration of a period specified in the notice, the group license will be suspended, and where any such notice is served, unless the Commission annuls or withdraws the notice before the expiration of the period so specified, the group license shall, on the expiration of that period, be deemed to be suspended.

(4) Service of a notice under this section may be effected on a Board—

- (a) by delivering the notice to the principal place of business of the Board;
- (b) by leaving the notice with any person apparently of or above the age of 14 years who is apparently employed by the Board; or
- (c) by letter sent by post and addressed to the Board at its address last known to the Commission.

20SA. (1) Any person who—

- (a) being a Board holding a group license or a group license occupier, uses a work in respect of which the group license is held when the group license is suspended;
- (b) being a Board which formerly held a group license or an occupier of land to which water was formerly supplied under such a group license, uses a work in respect of

Offences
with
respect
to group
licenses.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

which the group license was held when the group license is revoked or cancelled or has expired;

- (c) being a Board holding a group license or a group license occupier, contravenes or fails to comply with any term, limitation or condition to which the group license is subject; or
- (d) being a Board holding a group license, fails to comply with the terms of any notice served on the Board by the Commission whereby—
 - (i) the group license has been modified;
 - (ii) the quantity of water authorised to be taken under the group license has been reduced; or
 - (iii) a right held under the group license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

(2) In any prosecution under this section against a Board holding a group license or a group license occupier, or a Board which formerly held a group license or an occupier of land to which water was formerly supplied under a group license, being a

Water (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

Board or an occupier on whose land a work in respect of which a group license is or was held is situated, proof—

- (a) that the work has been used when the group license is suspended, revoked or cancelled or has expired; or
- (b) that any term, limitation or condition to which the group license is subject has been contravened or not complied with,

shall, in the absence of proof to the contrary, be evidence that the use, contravention or non-compliance was caused by that Board, group license occupier or occupier, as the case may be.

(3) In any prosecution under this section against a Board holding a group license, proof of failure to comply with the terms of any notice served on that Board by the Commission whereby—

- (a) the group license has been modified;
- (b) the quantity of water authorised to be taken under the group license has been reduced; or
- (c) a right held under the group license for the taking of water for any purpose from a river, lake or section of a river has been restricted or suspended,

shall, in the absence of proof to the contrary, be evidence that the failure was caused by that Board.

Water (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(32) Section 20U—

Omit the section, insert instead :—

Revocation
and cancel-
lation of
group
licenses.

20U. Where a group license is deemed to be revoked or cancelled under this Division, the Commission may notify the revocation or cancellation in the Gazette, and any such notification shall be conclusive evidence of the revocation or cancellation.

Sec. 4.

SCHEDULE 3.

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912.

Part II, Division 4B—

After Part II, Division 4A, insert :—

DIVISION 4B.—*Volumetric Water Allocations Schemes.*Interpre-
tation for
the purposes
of Division
4B.

20v. In this Division, unless the context or subject-matter otherwise indicates or requires—

“scheme”, in relation to any water source, means a volumetric water allocations scheme (as may be modified from time to time under this Division) prepared in respect of that water source under section 20x;

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

“water allocation”, in relation to any license, group license or authority, which authorises the taking of water from a water source which is subject to a scheme, means the quantity of water specified in the condition (as may be modified from time to time under this Division) attached to, or included in, the license, group license or authority pursuant to section 20X (5) or section 20AB (1) (b) as being the maximum quantity which may, subject to this Division, be taken from that water source in any year under the license, group license or authority for the purpose or purposes specified in the license, group license or authority;

“water source” means any river, lake or section of a river;

“year” means the period of 12 months commencing on 1st July in each calendar year.

20w. The Governor may, by order published in the Gazette, declare that any water source and all of the licenses, group licenses and authorities, which authorise the taking of water from that water source, shall, on and from such date as may be specified in the order (being the date of its publication or a later date), be subject to a volumetric water allocations scheme prepared under section 20x.

Power of Governor to declare water source to be subject to volumetric water allocations scheme.

20x. (1) Before an order under section 20w may be made, the Commission shall prepare a volumetric water allocations scheme in respect of the water source to which it is proposed that the order will, when made, apply.

Determination of water allocations in respect of licenses, group licenses and authorities.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

(2) In preparing a scheme in respect of a water source, the Commission—

- (a) shall assess the total quantity of water that is likely to be available in each year for apportionment among and allocation to holders of licenses, group licenses and authorities, which authorise the taking of water from that water source; and
- (b) shall then determine in respect of each such license, group license and authority the maximum quantity of water which may, subject to this Division, be taken from that water source in any year under the license, group license or authority for the purpose or purposes specified in the license, group license or authority.

(3) The Commission may—

- (a) fix differing quantities of water per hectare according to whether water authorised to be taken from the water source under a license, group license or authority may be used for the purpose of irrigating orchards, vineyards, trees (other than trees in orchards), lucerne, pasture, fodder crops, cereal crops or vegetables or crops or plantings of any other description;
- (b) fix differing quantities of water according to whether water authorised to be taken from the water source under a license, group license or authority may be used for a purpose other than a purpose specified in paragraph (a); and

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

(c) determine that in no case shall the maximum quantity of water which may be taken from the water source in any year under any license, group license or authority exceed a quantity specified by the Commission.

(4) Subject to any determination made under subsection (3) (c)—

(a) a determination under subsection (2) (b) in respect of a license, group license or authority may be made—

(i) in the case of a license, group license or authority issued for the purpose of irrigating a crop or planting of a class specified in subsection (3) (a), by reference to the area of land which is authorised to be irrigated under the license, group license or authority and to such quantity as may be fixed under subsection (3) (a) in respect of that class of crop or planting; and

(ii) in the case of a license, group license or authority issued for any purpose other than the irrigation of a crop or planting of a class specified in subsection (3) (a), by reference to such quantity as may be fixed under subsection (3) (b) in respect of that purpose; and

(b) where water authorised to be taken from the water source under a license, group license or authority may be used for the purpose of

*Water (Amendment).*SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

irrigating two or more classes of crops or plantings specified in subsection (3) (a) or for two or more purposes, a maximum quantity of water may be determined under subsection (2) (b) in respect of each of those classes or, as the case may be, each of those purposes.

(5) As soon as practicable after the publication of an order declaring a water source to be subject to a scheme and before the date on which the scheme is to commence, the Commission shall, by notice in writing served on the holder of each license or group license, and on the holders of each authority, which authorises the taking of water from the water source, attach to the license, group license or authority a condition that, except where the operation of the condition is suspended under section 20AA, on and from the date on which the scheme commences and in respect of each year during which the scheme is in force, not more than the maximum quantity of water determined in respect of the license, group license or authority under subsection (2) (b) and specified in the condition (as may be modified from time to time under this Division) shall be taken from the water source during any year under the license, group license or authority for the purpose or purposes specified in the license, group license or authority.

(6) Service of a notice under subsection (5) may be effected on a holder referred to in subsection (5)—

(a) by delivering the notice to the holder personally;

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

(b) by leaving the notice with any person apparently of or above the age of 14 years who apparently resides or is employed on the land of the holder; or

(c) by letter sent by post and addressed to the holder at his address last known to the Commission.

(7) On the service of a notice under subsection (5), the license, group license or authority to which the notice relates shall be modified according to the tenor of the notice.

(8) Where any order under section 20w declaring a water source to be subject to a scheme has effect on and from a date falling after the beginning of a year, the quantity of water determined under subsection (2) (b) in respect of a license, group license or authority, which authorises the taking of water from that water source, shall, for that year, be deemed to be reduced by the proportion that the part of that year which has elapsed at that date bears to the whole of that year and the condition which is attached to the license, group license or authority in accordance with subsection (5) shall be construed accordingly.

(9) Notwithstanding anything in this Part, a determination made under subsection (2) (b) in respect of a license, group license or authority and a condition attached to the license, group license or authority in accordance with subsection (5) shall not be the subject of an objection or appeal under this Part.

SCHEDULE

*Water (Amendment).*SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

Power to
suspend
issue of
licenses,
group
licenses and
authorities.

20Y. (1) Where the Commission is satisfied that a water source which is subject to a scheme is unlikely to have more water available than is sufficient to meet the water allocations of holders of existing licenses, group licenses and authorities, which authorise the taking of water from the water source, and the requirements of all other users lawfully authorised to take water from the water source, it may, by a notice published in the Gazette and in a newspaper circulating in the district in which the water source is located, declare that, on and from a date specified in the notice (being the date of publication in the Gazette or a later date)—

(a) except as provided in subsection (2), no further applications for licenses, group licenses and authorities; and

(b) no further applications—

(i) for additional licenses made under the proviso to section 18 (2);

(ii) for amended authorities made under section 20E (2) (a); or

(iii) for amended group licenses referred to in section 20Q (2) (a),

will be granted until the notice is revoked by a subsequent notice so published.

(2) Subsection (1) does not apply to an application for a license or authority, or to applications for licenses or authorities, in replacement of a license or authority if the water allocation in respect of the

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

replacement license or authority or, as the case may be, the total water allocations in respect of the replacement licenses or authorities will not exceed the water allocation in respect of the license or authority that is being replaced or, as the case may be, the total water allocations in respect of the licenses or authorities that are being replaced.

(3) On and from the date specified in the notice published under subsection (1) and until the notice is revoked, an application to which that subsection applies may not be made under this Part and if made shall not be considered by the Commission.

(4) Where a notice published under subsection (1) has effect in relation to any water source and any land in respect of which a license or authority authorises the taking of water from that water source is subdivided into parts, an application for a license or authority to take water from that water source for use in connection with any such part shall, for the purpose of this section, be deemed to be an application for a license or authority in replacement of that license or authority.

20z. (1) If, with respect to any year, it appears to the Commission that a water source which is subject to a scheme is unlikely to have sufficient water available to meet the water allocations of holders of licenses, group licenses and authorities, the Commission may, by a notice published in the Gazette and in

Power of Commission to reduce water allocations in times of water shortage.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

a newspaper circulating in the district in which that water source is located, either before or after the beginning of that year, reduce those allocations for that year by such proportion as may be specified in the notice.

(2) Where a notice has been published in accordance with subsection (1), the condition which pursuant to section 20x (5) is attached to, or which pursuant to section 20AB (1) (b) is included in, any license, group license or authority to which the notice relates shall, for the year specified in the notice, be modified according to the tenor of the notice and the water allocation in respect of the license, group license or authority shall be deemed to be reduced accordingly.

(3) Where, after the beginning of a year, the condition attached to, or included in, a license, group license or authority as referred to in subsection (2) has been modified as provided in that subsection and the quantity of water taken under the license, group license or authority during that year before the modification had effect did not exceed the water allocation in respect of the license, group license or authority but exceeded the water allocation as reduced in consequence of the modification of the condition, the holder of the license or group license or, as the case may be, the holders of the authority shall not be regarded as having contravened the condition, as so modified, with respect to the taking of that excess quantity.

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

20AA. (1) If, with respect to any year, it appears to the Commission that a water source which is subject to a scheme is likely to have more water available than is required to meet the water allocations of holders of licenses, group licenses and authorities, the Commission may declare that during such part of the year as is specified in the declaration water may be taken from that source under the authority of any such license, group license or authority without restriction as to quantity.

Power of Commission to suspend operation of conditions relating to water allocations in years of surplus and to increase water allocations.

(2) Where a declaration has been made under subsection (1), the condition which pursuant to section 20X (5) is attached to, or which pursuant to section 20AB (1) (b) is included in, any license, group license or authority to which the declaration relates shall, for the part of the year referred to in subsection (1), be deemed to be suspended and any quantity of water taken from the water source during that part of the year under the license, group license or authority shall not be taken into account for the purpose of determining whether or not the water allocation applicable in respect of the license, group license or authority for the year has been exceeded.

(3) Without limiting subsection (1), if, with respect to any year, it appears to the Commission that a water source which is subject to a scheme is likely to have more water available than is required to meet existing water allocations of holders of licenses, group licenses and authorities, the Commission may, either before or after the beginning of the year, declare that those allocations are increased by such proportion as is specified in the declaration.

Water (Amendment).

SCHEDULE 3—*continued.*
 INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
 1912—*continued.*

(4) Where a declaration has been made under subsection (3), the condition which pursuant to section 20x (5) is attached to, or which pursuant to section 20AB (1) (b) is included in, any license, group license or authority to which the declaration relates shall, for the year specified in the declaration, be modified according to the tenor of the declaration and the water allocation in respect of the license, group license or authority shall be deemed to be increased accordingly.

(5) The Commission shall cause notice of a declaration under this section to be published, as soon as practicable after the making of the declaration, in the Gazette and in a newspaper circulating in the district in which the water source to which the declaration relates is located.

Issue of
new
licenses,
group
licenses
and
authorities.

20AB. (1) Where the Commission decides to grant an application made under this Part for the issue of a license, group license or authority which will authorise the taking of water from a water source which is subject to a scheme, it shall—

- (a) determine in respect of the license, group license or authority the maximum quantity of water which may, subject to this Division, be taken from the water source in any year for the purpose or purposes for which the license, group license or authority is to be issued; and

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

(b) include in the license, group license or authority a condition that, except where the operation of the condition is deemed to be suspended under section 20AA (2), on and from the date on which the license, group license or authority is to have effect and in respect of each year during which the scheme is in force, not more than the maximum quantity of water determined in respect of the license, group license or authority under paragraph (a) and specified in the condition (as may be modified from time to time under this Division) shall be taken from that water source during any year under the license, group license or authority for the purpose or purposes specified in the license, group license or authority.

(2) Section 20x (3) and section 20x (4) shall apply in relation to the determination of a water allocation under subsection (1) (a) in the same way as they apply in relation to the determination of a water allocation under section 20x (2) (b).

(3) Where any license, group license or authority becomes effective on a date falling after the beginning of a year, the quantity of water determined under subsection (1) (a) in respect of the license, group license or authority shall, for that year, be deemed to be reduced by the proportion that the part of that year which has elapsed at that date bears to the whole of that year and the condition included in the license, group license or authority in accordance with subsection (1) (b) shall be construed accordingly.

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*
 INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
 1912—*continued.*

(4) Notwithstanding anything in this Part, a determination made under subsection (1) (a) in respect of a license, group license or authority and a condition included in that license, group license or authority in accordance with subsection (1) (b) shall not be the subject of an objection or appeal under this Part.

Water
meters.

20AC. (1) A person shall not take any water from a water source which is subject to a scheme by means of a work authorised by a license, group license or authority unless there is connected to the work a water meter, or other measuring device, which has been approved by the Commission.

Penalty : \$500.

(2) A person who—

(a) intentionally, fraudulently or by culpable negligence—

- (i) damages a water meter or other measuring device connected to a work referred to in subsection (1);
- (ii) prevents any such meter or measuring device from recording the quantity of water taken through or by means of the work, or uses any means whereby water so taken is not recorded by the meter or measuring device; or

SCHEDULE

Water (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
1912—*continued.*

- (iii) without the consent of the Commission given in writing, interferes with any such meter or measuring device;
or
- (b) being the holder of the license or group license or, as the case may be, the holders of the authority in respect of the work, permits or directs any other person to do any of the acts specified in paragraph (a),

is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or both.

(3) In any prosecution for an offence under subsection (2), proof of the existence of—

- (a) any means for preventing a meter from recording the quantity of water taken through or by means of the work to which the meter or measuring device is connected;
or
- (b) any means whereby water is taken through or by means of the work without being recorded by the meter or measuring device,

shall be admissible as evidence that the prevention or, as the case may be, the use of the means was caused by the holder of the license or group license or, as the case may be, the holders of the authority, authorising the use of the work.

Water (Amendment).

SCHEDULE 3—*continued.*
 INSERTION OF DIVISION 4B INTO PART II OF THE WATER ACT,
 1912—*continued.*

Provisions
applicable
in cases
of sub-
division
of land.

20AD. Where land (being land which is supplied with water obtained from a water source which is subject to a scheme by means of a work in respect of which a license or authority is held) is subdivided into parts, the Commission is not, when issuing licenses or authorities relating to those parts, or any of those parts, obliged to make water allocations in respect of those licenses or authorities which in aggregate exceed the water allocation in respect of the first-mentioned license or authority.

Power of
entry.

20AE. The Commission may, by any of its officers, employees or agents—

- (a) enter on any land on which there is constructed any work which is used for taking water from a water source which is subject to a scheme; and
- (b) inspect any work so constructed and used, for the purpose of ascertaining whether or not the provisions of this Division have been or are being complied with or contravened.

Water (Amendment).

SCHEDULE 4.

Sec. 4.

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912.

(1) Section 21B—

After section 21A, insert :—

21B. (1) Any person who—

- (a) constructs, erects or uses a work to which this Part extends otherwise than pursuant to a right conferred on him by this Part or by a license, group license, authority or permit;
- (b) fails to comply with any direction given to him by the Commission to remove the whole or any part of a work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him; or
- (c) fails to comply with any direction given to him by the Commission to carry out any work which the Commission considers necessary—
 - (i) to permit the flow of water through or past any work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him; or

Offences with respect to construction, erection and use of work without license, etc.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (ii) to prevent the use of any work to which this Part extends (being a work in respect of which no right conferred by this Part exists and in respect of which no license, group license, authority or permit is in force) which is situated on land owned or occupied by him and which is a work for the diversion or abstraction of water,

is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

(2) In any prosecution under this section, proof that a work to which this Part extends has been constructed, erected or used otherwise than pursuant to a right conferred by this Part or a license, group license, authority or permit shall, in the absence of proof to the contrary, be evidence that the construction, erection, use or failure has been caused by the occupier of the land on which the work is situated.

(3) Where a direction referred to in subsection (1) (b) or (c) has been given to an occupier of land and that occupier is not the owner of the land, that occupier may apply to the local land board to apportion between himself and the owner of the land the expenses incurred in complying with the direction, and, on any such application being made to it, the local land board may make such apportionment of those expenses as it considers fair and just.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(2) Section 22 (3), (4), (5)—

After section 22 (2), insert :—

(3) The Commission may, by any of its officers, employees or agents, enter on any land and—

(a) remove any dam or weir or any other work forming an unlawful obstruction to the flow of water in a river or any unlawful levee for the prevention of the overflow of water from a river or lake; and

(b) prevent or stop any unlawful diversion of water from a river or lake, whether by dismantling a pump or blocking the offtake of a race or by such other means as the Commission considers necessary.

(4) The Commission may recover in any court of competent jurisdiction as a debt due to it from the occupier of the land from which any work has been removed under subsection (3), or of the land on which the diversion of water was prevented or stopped under that subsection, the expenses incurred by it in carrying out the removal or, as the case may be, in preventing or stopping the diversion.

(5) Where judgment has been obtained against an occupier of land under subsection (4) and that occupier is not the owner of the land, that occupier may apply to the local land board to apportion between himself and the owner of the land the amount adjudged to be paid to the Commission under that subsection and any costs awarded against him in

Water (Amendment).

SCHEDULE 4—*continued.*FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

connection with that judgment, and, on any such application being made to it, the local land board may make such apportionment of that amount and those costs as it considers fair and just.

(3) Sections 22B, 22C—

After section 22A, insert :—

Restriction
or suspension
of
rights held
under
licenses,
etc., during
periods of
water
shortage.

22B. (1) If at any time the Commission is satisfied that the quantity of water available, or likely to be available, in a river, lake or section of a river is insufficient to meet all requirements with respect to the taking of water from the river, lake or section, it may, in the manner provided in this section, restrict or suspend the rights held under licenses, group licenses, authorities or permits issued under this Part, or held under section 7, for the taking of water for any purpose from the river, lake or section or any part of the river, lake or section.

(2) Particulars of any restrictions or suspensions imposed by the Commission under subsection (1) shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

(3) A notification made under subsection (2) may be amended, altered, modified or cancelled by the Commission and particulars of any such amendment, alteration, modification or cancellation shall be notified in the Gazette and in a newspaper published and circulating in the district in which the river, lake or section is located.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(4) In imposing restrictions or suspensions under this section, the Commission may restrict or suspend rights for the taking of water in accordance with the following order of priority :—

- (a) firstly, rights under permits for any purpose other than domestic and stock supply;
- (b) secondly, rights under licenses, group licenses and authorities for the purpose of irrigation;
- (c) thirdly, rights under licenses, group licenses and authorities for purposes other than irrigation and domestic and town and village water supply, rights under permits for stock supply and rights held under section 7 for the taking of water for stock supply; and
- (d) fourthly, rights under licenses, group licenses, authorities and permits for domestic purposes and town and village water supply and rights held under section 7 for the taking of water for domestic purposes.

(5) In exercising the power conferred on it by subsection (4), the Commission—

- (a) shall impose restrictions or suspensions in respect of all rights specified in a paragraph of that subsection before imposing any restrictions or suspensions in respect of any rights specified in any subsequent paragraph of that subsection; and

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(b) may, when imposing restrictions or suspensions under subsection (4) (b), restrict or suspend rights with respect to the irrigation of any class of crops or plantings without restricting or suspending rights with respect to the irrigation of any other class of crops or plantings.

(6) When the Commission has, in accordance with this section, imposed a restriction on a right held under section 7 or held under a license, group license, authority or permit to take water, a person shall not take water except in accordance with the right as so restricted.

(7) When the Commission has, in accordance with this section, suspended a right held under section 7 or held under any license, group license, authority or permit to take water, a person shall not take water in purported exercise of that right.

(8) Any person who contravenes subsection (6) or (7) is guilty of an offence and is liable, on conviction, to a penalty not exceeding \$500.

(9) If, in any proceedings against an occupier of land for an offence under subsection (8), it is proved that a work on that land was used in contravention of subsection (6) or, as the case may be, subsection (7), the water concerned in that alleged offence shall, unless the contrary is proved, be presumed to have been taken by him.

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

22c. (1) In this section, a reference to a work of the Crown includes a reference to a work vested in or controlled by the Dumaresq-Barwon Border Rivers Commission.

Flow of water assured by a work of the Crown.

(2) The Governor may, by proclamation published in the Gazette, declare that the flow or supply of water in any river, lake or section of a river has been augmented, stabilised or assured by a work of the Crown.

(3) Where a work in respect of which any license, group license, permit or authority is held—

(a) is used for the purpose of irrigation or water supply for stock or for the carrying on of any industrial operation; and

(b) is connected with a river, lake or section of a river in respect of which a proclamation under subsection (2) is in force,

the holder of the license, group license or permit or, as the case may be, the holders of the authority shall, subject to and in accordance with this section, pay a charge for the right to take and use water from the river, lake or section in addition to the fee payable for the license, group license, permit or authority.

Water (Amendment).

SCHEDULE 4—*continued.*FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(4) The charge payable under subsection (3) shall—

(a) be fixed by the Commission—

(i) in respect of a license, group license, permit or authority in existence on 1st July following the date of the proclamation, as soon as practicable and notified to the holder of the license, group license or permit or, as the case may be, the holders of the authority, and paid in respect of the period of 12 months commencing on that 1st July and in respect of each subsequent period of 12 months commencing on 1st July; and

(ii) in respect of a license, group license, permit or authority issued or renewed after 1st July first mentioned in subparagraph (i), when issuing or renewing the license, group license, permit or authority, and paid at a proportionate rate for the portion of the period of 12 months from the date of issue or renewal of the license, group license, permit or authority to 30th June following and in respect of each subsequent period of 12 months commencing on 1st July;

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

- (b) be not greater than maximum amounts which shall be prescribed according to—
 - (i) the purpose or purposes for which the water is to be taken and used;
 - (ii) the nature of the work; and
 - (iii) the method of obtaining the water;
- (c) be paid at the prescribed times and in the prescribed manner;
- (d) to the extent of a minimum annual amount to be fixed by the Commission in each case, be payable irrespective of whether the work in respect of which the license, group license, permit or authority is held is used or not; and
- (e) be on the basis of either—
 - (i) the quantity of water taken and used by means of the work during the relevant period of 12 months; or
 - (ii) the area of land irrigated with water so taken and used.

(5) The Commission shall, in every license, group license, permit and authority referred to in subsection (3), specify which of the alternative charges shall be paid.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(6) The Commission shall, when fixing the amount of a charge payable under this section, have regard to—

- (a) the benefits received by the holder of the license, the group license occupiers, the holder of the permit or, as the case may be, the holders of the authority as a result of the work of the Crown; and
- (b) the augmentation, stabilisation or assurance of the water supply provided by that work.

(7) If, in the opinion of the Commission, a benefit is not received as a result of the work of the Crown by the holder of the license, the group license occupiers, the holder of the permit or, as the case may be, the holders of the authority, a charge shall not be fixed under this section in respect of the license, group license, permit or authority.

(8) Any proclamation under subsection (2) may be amended, altered, modified, revoked or corrected by the Governor by proclamation published in the Gazette.

(9) If the holder of a license, group license or permit fails or, as the case may be, the holders of an authority fail to pay the charge required under this section within the prescribed period, the Commission may suspend the license, group license, permit or authority until the charge is paid.

(10) The Minister may, on the recommendation of the Commission, remit or waive the payment in any year of any charge paid or payable under this section.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(11) Where any charge remitted or waived under subsection (10) was paid or payable by the holder of a license or permit or the holders of an authority, the amount of that charge shall not exceed the amount of the charge paid or payable by the holder of the license or permit in respect of water used by him or, as the case may be, by the holders of the authority in respect of the quantity of water used by them, as assessed by the Commission, for the irrigation of any crop which—

- (a) has been conserved and held by him or by them as fodder for a period of not less than 18 months;
- (b) is in good condition; and
- (c) is protected to the satisfaction of the Minister.

(12) Where any charge remitted or waived under subsection (10) was paid or payable by the holder of a group license, the amount of that charge shall not exceed the amount of the charge paid or payable by the holder of the group license in respect of the quantity of water, as assessed by the Commission, used for the irrigation of any crop which—

- (a) has been conserved and held as fodder for a period of not less than 18 months;
- (b) is in good condition; and
- (c) is protected to the satisfaction of the Minister.

SCHEDULE

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(4) Section 24—

Omit “police or”.

(5) Section 26A—

Omit “, as amended by subsequent Acts”.

(6) Section 26B—

(a) Omit “for a joint water supply scheme”.

(b) Omit “in the order of precedence which was given to that person”.

(7) (a) Section 27 (1) (a)—

Omit the paragraph, insert instead :—

(a) forms of, and of application for—

(i) licenses, group licenses, authorities and permits; and

(ii) renewal of licenses, group licenses, authorities and permits,

and forms of notices required or authorised under this Part;

Water (Amendment).

SCHEDULE 4—*continued.*

FURTHER AMENDMENTS TO PART II OF THE WATER ACT,
1912—*continued.*

(b) Section 27 (1) (b)—

Omit “in connection with joint water supply schemes, renewals of such authorities”, insert instead “, renewals of authorities”.

(c) Section 27 (1) (d)—

Omit “in respect of joint water supply schemes, group license occupiers, or persons occupying land comprised within such schemes”, insert instead “or group license occupiers”.

(d) Section 27 (2)—

Omit the subsection, insert instead :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under subsection (1) as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Water (Amendment).

Sec. 5.

SCHEDULE 5.

SAVINGS.

1. Any direction given for the purposes of section 17B (1) of the Water Act, 1912, and in force immediately before the commencement of Schedule 4 (1) shall be deemed to be a direction given for the purposes of section 21B of that Act, as in force after that commencement.

2. Any proclamation made, or charge fixed, under section 14B of the Water Act, 1912, and in force immediately before the commencement of Schedule 4 (3), and any other act, matter or thing done or omitted under that section before that commencement, shall be deemed to have been made, fixed, done or omitted under section 22c of that Act, as in force after that commencement.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 16th November, 1977.*