

CATCHMENT MANAGEMENT ACT 1989 No. 235

NEW SOUTH WALES



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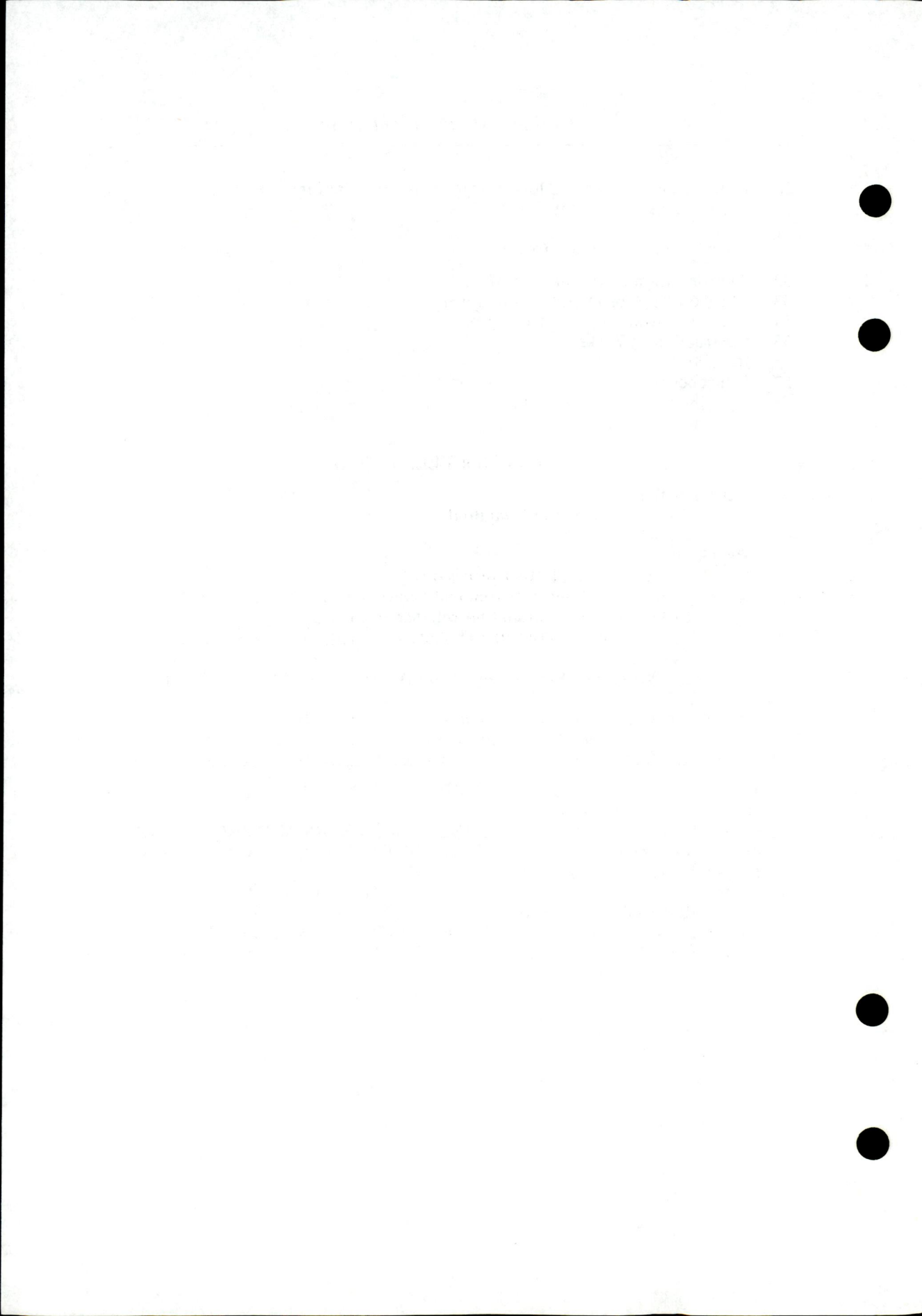
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CATCHMENT MANAGEMENT ACT 1989 No. 235

NEW SOUTH WALES



Act No. 235, 1989

An Act to establish the State Catchment Management Co-ordinating Committee and to provide for Catchment Management Committees and Catchment Management Trusts to implement total catchment management of natural resources; to repeal the Hunter Valley Conservation Trust Act 1950; to amend certain Acts; and for other purposes. [Assented to 21 December 1989]

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Catchment Management Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**catchment area**", in relation to a Catchment Management Committee, means the area in respect of which that Committee is established;

"**catchment contribution**" means a contribution levied under section 40;

"**Catchment Management Committee**" means a Catchment Management Committee established under section 13;

"**Catchment Management Trust**" means a Catchment Management Trust established under section 20;

"**co-ordinate**" means to bring together or liaise with authorities, groups or individuals to ensure effective total catchment management, but does not include the control or direction of the activities of those authorities, groups or individuals;

"**Co-ordinating Committee**" means the State Catchment Management Co-ordinating Committee established by section 8;

"**Trust area**", in relation to a Catchment Management Trust, means the area in respect of which that Trust is established;

"**urban area**" has the meaning set out in Schedule 2;

"**works**" means works for the purpose of soil conservation, afforestation, reafforestation, flood mitigation, water conservation, irrigation, river improvement or any other work necessary to achieve the purpose of a Trust.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Total catchment management

4. For the purposes of this Act, total catchment management is the co-ordinated and sustainable use and management of land, water, vegetation and other natural resources on a water catchment basis so as to balance resource utilisation and conservation.

Objects of Act

5. (1) The objects of this Act are:

- (a) to co-ordinate policies, programs and activities as they relate to total catchment management; and
- (b) to achieve active community participation in natural resource management; and
- (c) to identify and rectify natural resource degradation; and
- (d) to promote the sustainable use of natural resources; and
- (e) to provide stable and productive soil, high quality water and protective and productive vegetation cover within each of the State's water catchments.

(2) In order to give effect to those objects, this Act:

- (a) provides for a network of Catchment Management Committees, co-ordinated by a Co-ordinating Committee, and Catchment Management Trusts linking the Government and the community to achieve the objectives of total catchment management; and
- (b) provides for Catchment Management Trusts to raise revenue for particular total catchment management purposes.

Responsible Minister

6. (1) For the purposes of this Act, the responsible Minister is:

- (a) for the Co-ordinating Committee, the Minister administering this Act; or

- (b) for a Catchment Management Committee, the Minister who makes the order establishing the Committee; or
 - (c) for a Catchment Management Trust, the Minister who recommends to the Governor the establishment of the Trust.
- (2) An order or a recommendation may only be made:
- (a) by the Minister administering this Act; or
 - (b) by the Minister administering the Clean Waters Act 1970 if the Committee or Trust is within an urban area; or
 - (c) by the Minister administering the Water Administration Act 1986 if the Committee or Trust is not within an urban area.
- (3) An order or a recommendation may not be made:
- (a) by the Minister administering this Act in relation to an urban area except with the concurrence of the Minister administering the Clean Waters Act 1970; or
 - (b) by the Minister administering the Clean Waters Act 1970 except with the concurrence of the Premier and the Minister administering this Act; or
 - (c) by the Minister administering the Water Administration Act 1986 except with the concurrence of the Premier and the Minister administering this Act.
- (4) The Governor, on the recommendation of the Premier, may by proclamation:
- (a) change the responsible Minister in relation to an established Catchment Management Committee or an established Catchment Management Trust to any other Minister eligible to be the responsible Minister; and
 - (b) in the case of a Trust, amend Schedule 1 accordingly.

Minister administering this Act

7. The Minister administering the Soil Conservation Act 1938 is responsible for the administration of this Act.

**PART 2 - ESTABLISHMENT OF COMMITTEES RELATING
TO CATCHMENT MANAGEMENT**

**Division 1 - State Catchment Management Co-ordinating
Committee**

Establishment of Co-ordinating Committee

8. There is established by this Act a State Catchment Management Co-ordinating Committee.

Membership of Co-ordinating Committee

9. (1) The Co-ordinating Committee is to consist of 16 members appointed by the responsible Minister, being:

- (a) an officer of the Soil Conservation Service or other person nominated by the Minister administering the Soil Conservation Act 1938, who is to be the Chairperson of the Co-ordinating Committee;
- (b) two persons who in the responsible Minister's opinion have an interest in rural matters;
- (c) a person selected from a panel of 2 or more persons nominated by the Local Government Association;
- (d) a person selected from a panel of 2 or more persons nominated by the Shires Association;
- (e) a person who in the responsible Minister's opinion has an interest in environmental matters;
- (f) an officer of the Soil Conservation Service nominated by the Minister administering the Soil Conservation Act 1938;
- (g) a person nominated by the Minister administering the Water Administration Act 1986;
- (h) a person nominated by the Minister administering the Clean Waters Act 1970;
- (i) a person nominated by the Minister administering the National Parks and Wildlife Act 1974;
- (j) a person nominated by the Minister administering the Public Works Act 1912;
- (k) a person nominated by the Minister administering the Forestry Act 1916;

- (l) a person nominated by the Minister administering the Environmental Planning and Assessment Act 1979;
- (m) a person nominated by the Minister administering the Crown Lands Act 1989;
- (n) a person nominated by the Minister administering the Water Board Act 1987; and
- (o) a person nominated by the Minister administering the Fisheries and Oyster Farms Act 1935.

(2) The responsible Minister is, in the instrument of appointment or another instrument, to appoint a member (other than the Chairperson) to be the Deputy Chairperson of the Co-ordinating Committee.

Objective of Co-ordinating Committee

10. The objective of the Co-ordinating Committee is to provide a central co-ordinating mechanism for the purpose of total catchment management throughout New South Wales.

Functions of Co-ordinating Committee

11. (1) The functions of the Co-ordinating Committee are as follows:

- (a) to co-ordinate the implementation of total catchment management strategies;
- (b) to monitor and evaluate the effectiveness of total catchment management strategies;
- (c) to advise the responsible Minister or other Ministers on any aspect related to total catchment management;
- (d) to co-ordinate the functioning of Catchment Management Committees and to maintain liaison with Catchment Management Trusts;
- (e) such other functions relating to total catchment management as are directed by the responsible Minister.

(2) Any advice may be given either at the request of a Minister or without any such request.

(3) The Co-ordinating Committee has such other functions as are conferred or imposed on it by or under this or any other Act.

Subcommittees of Co-ordinating Committee

12. (1) The Co-ordinating Committee may, with the approval of the responsible Minister, establish subcommittees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a subcommittee are not members of the Co-ordinating Committee.

(3) The procedure for the calling of meetings of a subcommittee and for the conduct of business at those meetings is to be as determined by the Co-ordinating Committee or (subject to any determination of the Co-ordinating Committee) by the subcommittee.

Division 2 - Catchment Management Committees

Establishment of Catchment Management Committees

13. (1) The responsible Minister may, by order published in the Gazette, establish a Catchment Management Committee with the name specified in the order.

(2) The catchment area in respect of which a Catchment Management Committee is established is the area described in the order.

(3) Such an area may be described by reference to a local government area or in any other manner (including by reference to a description contained in another document).

Membership of Catchment Management Committees

14. (1) A Catchment Management Committee is to consist of such members as are appointed by the responsible Minister.

(2) The responsible Minister is to appoint:

- (a) persons who are land holders or land users within the catchment area, who are to constitute the majority of the members; and
- (b) persons who, in the responsible Minister's opinion, have an interest in environmental matters within the catchment area; and
- (c) persons selected from a panel of 2 or more persons nominated by local government authorities within the catchment area; and

- (d) persons who are officers of government departments or authorities having responsibility for natural resource use or management within the catchment area.

(3) The responsible Minister is to appoint one of the members of the Catchment Management Committee to be the Chairperson and another to be the Deputy Chairperson of that Committee, and may remove either member from the office and appoint another member as Chairperson or Deputy Chairperson at any time.

Functions of Catchment Management Committees

15. (1) Within its catchment area, a Catchment Management Committee has the following functions:

- (a) to promote and co-ordinate the implementation of total catchment management policies and programs;
- (b) to advise on and co-ordinate the natural resource management activities of authorities, groups and individuals;
- (c) to identify catchment needs and prepare strategies for implementation;
- (d) to co-ordinate the preparation of programs for funding;
- (e) to monitor, evaluate and report on progress and performance of total catchment management strategies and programs;
- (f) to provide a forum for resolving natural resource conflicts and issues;
- (g) to facilitate research into the cause, effect and resolution of natural resource issues;
- (h) such other functions relating to total catchment management as are directed by the Co-ordinating Committee.

(2) A Catchment Management Committee has such other functions as are conferred or imposed on it by or under this or any other Act.

(3) In the exercise of its functions a Catchment Management Committee is responsible to the State Catchment Management Co-ordinating Committee.

Abolition, change of name etc. of Catchment Management Committees

16. (1) The responsible Minister may by order published in the Gazette:

- (a) abolish a Catchment Management Committee; or
 - (b) change the name of a Committee; or
 - (c) change the catchment area of a Committee.
- (2) Any such order may contain savings and transitional provisions.

Division 3 - General provisions relating to Co-ordinating Committee and Catchment Management Committees

Provisions relating to members and procedure

17. Schedule 3 has effect with respect to the members and procedure of the Co-ordinating Committee and Catchment Management Committees.

Delegation of certain functions

18. The Co-ordinating Committee or a Catchment Management Committee may delegate to a person any of its functions, other than this power of delegation.

Staff

19. The Co-ordinating Committee or a Catchment Management Committee may, with the approval of the responsible Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

PART 3 - CATCHMENT MANAGEMENT TRUSTS

Division 1 - Establishment

Catchment Management Trusts

20. (1) The Trusts listed in Schedule 1 are established by this Act as Catchment Management Trusts.

(2) A Trust is a corporation with the corporate name specified in Schedule 1.

Establishment of Catchment Management Trusts

21. (1) The Governor may by proclamation amend Schedule 1 by adding to the relevant part of the Schedule the name of a Catchment Management Trust whose establishment is recommended by the responsible Minister.

(2) Before making a recommendation for the establishment of a Catchment Management Trust, the responsible Minister is required to have regard to whether:

- (a) the degradation of natural resources within the area concerned is adversely affecting the community; and
- (b) the land holders, land users and the community who utilise and derive benefit from those resources have a joint responsibility to deal with the degradation; and
- (c) the formation of a Trust is the most appropriate means of achieving equitable cost sharing; and
- (d) there is clear support by the land holders, land users and the community for the formation of a Trust.

(3) The Trust area in respect of which a Catchment Management Trust is established is the area described in the regulations.

(4) Such an area may be described by reference to a local government area or in any other manner (including by reference to a description contained in another document).

(5) It does not matter that the area of a Trust and that of a Catchment Management Committee overlap.

Membership of Catchment Management Trusts

22. (1) A Catchment Management Trust is to consist of such trustees as are appointed by the Governor on the recommendation of the responsible Minister.

(2) The trustees recommended by the responsible Minister must include:

- (a) land users or land holders within the Trust area, who are to constitute the majority of the trustees; and
- (b) persons who in the responsible Minister's opinion have an interest in environmental matters within the Trust area; and
- (c) persons selected from a panel of 2 or more persons nominated by local government authorities within the Trust area; and
- (d) persons who are officers of government departments or authorities having responsibility for natural resource use or management within the Trust area.

Provisions relating to trustees and procedure

23. Schedule 4 has effect with respect to the trustees and procedure of Catchment Management Trusts.

Ministerial control

24. A Trust is, in the exercise of its functions, subject to the control and direction of the responsible Minister.

Abolition, change of name etc. of Catchment Management Trusts

25. (1) The Governor may by proclamation:

- (a) abolish a Catchment Management Trust; or
 - (b) change the name of a Trust,
- and amend Schedule 1 accordingly.

(2) Any such proclamation may contain savings and transitional provisions.

Division 2 - Purpose and functions

Purpose of Catchment Management Trusts

26. A Catchment Management Trust has the total catchment management purpose prescribed in relation to that Trust in the regulations.

Functions of Catchment Management Trusts

27. (1) A Catchment Management Trust may, for the purpose for which it is established:

- (a) provide, construct, operate, manage and maintain works and buildings;
- (b) purchase, exchange, take on hire or lease, hold, dispose of, manage, use or otherwise deal with real or personal property;
- (c) enter into contracts, including consultancy contracts;
- (d) enter into cost-sharing or other arrangements in connection with the carrying out of works;
- (e) generate revenue by levying and recovering catchment contributions;
- (f) provide assistance to mitigate the effects of flood, drought, fire or other emergency, including assistance with funds, personnel or equipment;
- (g) effect and maintain insurances;
- (h) exercise any other function prescribed by the regulations; and
- (i) do anything incidental to the achievement of the purpose for which it was established.

(2) If the responsible Minister so decides, a Trust may also exercise within its Trust area any or all of the functions of a Catchment Management Committee.

(3) A Trust has such other functions as are conferred or imposed on it by or under this or any other Act.

(4) No action or proceeding may be brought:

(a) to compel a Catchment Management Trust to carry out its functions; or

(b) to recover any penalty or damages from a Catchment Management Trust in respect of a failure to carry out its functions.

Preparation of corporate plan

28. (1) Within 1 year of the first meeting of a Catchment Management Trust (or such longer period as the responsible Minister may approve), the Trust is to prepare a corporate plan for the achievement of the purpose for which it was established.

(2) The corporate plan is to contain a detailed written scheme of the strategies and programs to be implemented by the Trust in its Trust area.

Approval etc. of corporate plan

29. (1) When its corporate plan has been prepared, a Catchment Management Trust:

(a) is to refer the plan to the responsible Minister; and

(b) is to refer a copy of the plan to the Co-ordinating Committee; and

(c) may, with the approval of the responsible Minister, refer a copy of the plan to any other person.

(2) The responsible Minister is to seek the advice of the Co-ordinating Committee in assessing the corporate plan.

(3) The responsible Minister may:

(a) approve the corporate plan, without alteration or with such alteration as the responsible Minister thinks fit; or

(b) refer it back to the Trust for further consideration.

(4) The Trust may, with the approval of the responsible Minister, amend its corporate plan from time to time.

Carrying out of corporate plan

30. (1) A corporate plan approved by the responsible Minister:

- (a) empowers a Catchment Management Trust to undertake the programs set out in the plan; and
- (b) must be given effect to by the Trust.

(2) Nothing in this Division affects the operation of the Local Government Act 1919, the Environmental Planning and Assessment Act 1979 or any other Act.

Trust must provide information

31. (1) A Catchment Management Trust is to provide the responsible Minister with such information and material as that Minister may require in relation to its policies, programs and procedures.

(2) A Trust is to maintain effective liaison with the Co-ordinating Committee.

Delegation of certain functions

32. A Catchment Management Trust may delegate to a person any of its functions, other than this power of delegation.

Staff

33. A Catchment Management Trust may:

- (a) employ such staff (including an executive officer) as it requires to exercise its functions; and
- (b) with the approval of the responsible Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority in exercising its functions.

Division 3 - Finance

Establishment of Catchment Management Trust Funds

34. (1) A Catchment Management Trust is to establish a Fund to be known by the name of the Trust, followed by the word "Fund".

(2) The money in a Fund may be kept in one or more financial institutions (including in the Special Deposits Accounts in the Treasury).

(3) A Fund does not form part of the Consolidated Fund.

Payments into Fund

35. There is to be paid into a Fund all money received by or on account of the relevant Catchment Management Trust.

Payments from Fund

36. There is to be paid from a Fund all amounts required to meet expenditure incurred by the relevant Catchment Management Trust in the exercise of its functions.

Investment powers

37. (1) A Catchment Management Trust has, in respect of its funds, the investment powers conferred on the Trust by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on a Trust in respect of its funds or any particular funds, the Trust may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the responsible Minister with the concurrence of the Treasurer.

Division 4 - Revenue

Definitions

38. In this Division:

"catchment contribution area" means an area of land declared by an order in force under section 39 to be a catchment contribution area;

"charging year", in relation to a Catchment Management Trust, means:

- (a) the period of 12 months declared by an order in force under section 39 to be the charging year for the Trust; or
- (b) if the charging year is changed under that section by a further order - the period between the end of one charging year and the beginning of the next;

"owner" has the same meaning as in the Water Supply Authorities Act 1987.

Orders for purposes of levying catchment contributions

39. (1) The responsible Minister may, by order published in the Gazette, declare any land described in the order (being the whole or any part of the Trust area of a Catchment Management Trust) to be a catchment contribution area for the purposes of this Division.

(2) The responsible Minister may, by order published in the Gazette, declare a period of 12 months to be the charging year for a Trust.

Trust may levy catchment contributions

40. (1) A Catchment Management Trust may, in accordance with this Division and the regulations, levy a catchment contribution on any land within its Trust area declared to be a catchment contribution area.

(2) A catchment contribution may only be levied to fund the programs in the Trust's corporate plan as approved by the responsible Minister.

(3) The responsible Minister is to be satisfied that any rates levied by a Trust for the purpose of carrying out the functions contained in section 27 (1) (a) are to equitably reflect the degree of benefit likely to accrue to land within the Trust area.

Basis of levying catchment contributions

41. (1) The regulations are to specify the basis or bases according to which a Catchment Management Trust may levy catchment contributions.

(2) Without limiting the generality of subsection (1), the regulations may provide that a Trust may levy catchment contributions according to any one or more of the following factors:

- (a) the land value of land within the meaning of the Valuation of Land Act 1916;

- (b) the area of the land;
- (c) the degree of benefit that accrues to land as a result of the Trust's programs.

Estimates of income and expenditure to be prepared

42. (1) A Catchment Management Trust is to prepare and submit to the responsible Minister and the Co-ordinating Committee at least 2 months before the beginning of each charging year of the Trust estimates in respect of:

- (a) the income of the Trust for the charging year from all sources including the total amount to be obtained by way of catchment contributions; and
- (b) the expenditure to be incurred during the charging year.

(2) The estimates are to be in such form as the responsible Minister requires and are to contain particulars in respect of each item of expenditure and the catchment contributions to be levied.

Determinations relating to catchment contributions

43. (1) Not later than one month before the beginning of a charging year, a Catchment Management Trust that proposes to levy a catchment contribution is to determine, in accordance with the regulations:

- (a) the amount of money that it proposes to raise by way of catchment contributions; and
 - (b) the land within its catchment contribution area that is to be levied; and
 - (c) the basis or bases of the catchment contribution to be levied; and
 - (d) the rate of the catchment contribution,
- for the next charging year.

(2) A Trust may make separate determinations under subsection (1) in respect of bases or rates, or both, for different lands within its catchment contribution area.

(3) A determination under this section:

- (a) is required to be approved by the responsible Minister and does not have effect unless it is so approved; and

- (b) is to be published in the Gazette before the commencement of the charging year to which it relates; and
- (c) is to take effect on the commencement of the charging year to which it relates.

(4) A determination does not fail merely because it is not published in the Gazette before the commencement of the charging year to which it relates but, in that event, a person is not liable for payment of the catchment contribution to which the determination relates until the determination is published in the Gazette.

(5) A catchment contribution determined under this section is levied on publication of the determination in the Gazette.

(6) If, for any reason:

- (a) a determination under this section is not made before the charging year to which it relates; or
- (b) there is any irregularity or alleged irregularity in the making of any such determination,

the Governor may extend the time for making the determination (whether or not that time has expired) and may authorise the Trust concerned to do anything necessary to cure any irregularity and to make a valid determination.

Assessment of catchment contributions

44. (1) After making a determination under section 43 a Catchment Management Trust must, in accordance with the determination:

- (a) classify each parcel of land within its catchment contribution area in respect of which a catchment contribution is to be levied; and
- (b) assess the catchment contribution payable for each such parcel of land.

(2) After it makes an assessment under this section a Trust is, in accordance with the regulations, to cause a notice to be served on the owner of each parcel of land in respect of which a catchment contribution has been levied.

(3) On the service of such a notice, the owner of the land to which the notice relates becomes liable for payment of the catchment contribution specified in the notice.

Reassessment of catchment contributions

45. (1) A Catchment Management Trust may reassess a catchment contribution, levied on the basis of land value, if the value of the land for any charging year differs from the value used to assess the contribution.

(2) A catchment contribution may only be reassessed as from the date the revised value of the land has effect.

(3) The owner of the land to which the reassessment relates becomes liable for payment of the revised catchment contribution on the service of a notice notifying the reassessment.

Collection etc. of catchment contributions on behalf of Trusts

46. (1) In this section:

"appropriate local authority", in relation to a Catchment Management Trust, means:

- (a) the council of a local government area within which any part of the catchment contribution area of the Trust is situated; or
- (b) the Water Board, the Hunter Water Board or any Water Supply Authority within whose area of operation any part of the catchment contribution area of the Trust is situated.

(2) A Catchment Management Trust may, with the approval of the responsible Minister, enter into an arrangement with an appropriate local authority for the following functions of the Trust under this Division to be exercised by that authority on behalf of the Trust:

- (a) the assessment or reassessment of catchment contributions levied by the Trust;
- (b) the collection of those catchment contributions;
- (c) the recovery of those catchment contributions;
- (d) the issue of certificates as to any catchment contributions due to the Trust.

(3) Any such arrangement may provide for the payment of commission to the appropriate local authority.

(4) For the purposes of any such arrangement, the appropriate local authority may deal with the Trust's catchment contributions in connection with its rates and charges, so long as the catchment contribution is separately identified.

(5) For the purposes of subsection (4), an appropriate local authority may issue joint assessments and notices, take joint action for collection and recovery and issue joint certificates.

Catchment contributions a charge on land

47. A catchment contribution for payment of which a person is liable is a charge on the land to which the catchment contribution relates.

Interest on overdue catchment contributions

48. (1) A Catchment Management Trust may charge interest on overdue catchment contributions at a rate not exceeding the rate prescribed by the regulations for the purposes of this section.

(2) The interest charged forms a part of the catchment contribution for the purposes of this Division.

Recovery of catchment contributions

49. (1) A catchment contribution due to a Catchment Management Trust under this Act may be recovered in any court of competent jurisdiction as a debt due to the Crown.

(2) An unsatisfied judgment or order of any court for the recovery of a catchment contribution from any person is not a bar to the recovery of the contribution from any other person who is liable under this Act for the payment of the contribution.

Land exempted from the levy of catchment contributions

50. The regulations may provide for certain lands to be exempted from the levy of catchment contributions.

Certificate as to amount due

51. (1) A Catchment Management Trust must, on written application being made to it and payment of the prescribed fee, issue to the applicant a certificate:

- (a) containing particulars of the amounts payable to the Trust in respect of a parcel of separately assessed land; or

(b) to the effect that there are no such amounts.

(2) An application for a certificate must specify the name and address of the applicant and identify the land to which the application relates.

(3) Such a certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which the certificate relates that, at the date of its issue, no amounts were payable to the Trust in respect of the land other than such amounts as are specified in the certificate.

Division 5 - General provisions

Appropriation or resumption of land

52. (1) A Catchment Management Trust may, for the purposes of this Act, acquire land by appropriation or resumption effected by the Governor under the Public Works Act 1912.

(2) An appropriation or resumption under this section is to be taken to be for an authorised work for which the Trust is the Constructing Authority.

(3) For the purposes only of this section, Schedule 5 has effect.

Entry on land for inspections and works

53. (1) A Catchment Management Trust may, by its employees and other persons, enter and inspect any land (other than a building) and there carry out any works for the purpose of exercising its functions.

(2) A person must not obstruct or hinder the Trust acting under this section.

Maximum penalty: 10 penalty units.

(3) In relation to land entered or works carried out, a Trust:

(a) is to do as little damage as possible in exercising its functions under this section; and

(b) is to compensate all persons who suffer damage by the exercise of those functions.

(4) Compensation may be made by reinstatement or repair, by construction of works or by payment.

(5) A claim for compensation:

- (a) is ineffective unless made in writing not later than 6 months after the damage was suffered; and
- (b) in the absence of agreement on the compensation, is to be dealt with as if it were a claim for compensation for the acquisition of land for a public purpose under the Public Works Act 1912.

Interference with or damage to works

54. A person must not, except with the authority of a Trust, interfere with or damage any works which belong to, or are otherwise under the control or management of, a Trust.

Maximum penalty: 50 penalty units.

Obstruction of works

55. (1) If a person places a structure or other thing in or near a work of a Catchment Management Trust in such a manner as to interfere or to be likely to interfere with the work, the Trust may by notice in writing given to the owner or occupier of the land, require the structure or other thing to be removed within such period as is stated in the notice.

(2) If a notice under subsection (1) is not complied with, the Trust may:

- (a) demolish and remove the structure or other thing; and
- (b) repair the work; and
- (c) recover the cost of doing so as a debt owing to the Trust by the person who placed the structure or other thing there.

(3) A person may appeal to the Land and Environment Court against a notice served on the person under this section.

Injunctions

56. (1) On the application of a Catchment Management Trust, the Land and Environment Court may grant an injunction restraining a threatened contravention, or the continuation of a contravention, of this Act or of a requirement of a Trust under this Act.

(2) An injunction may be granted without a Trust being required to show a likelihood of damage.

Efficiency review

57. (1) The responsible Minister may appoint a person to investigate and review the efficiency of a Catchment Management Trust in exercising its functions.

(2) A Trust is to bear the costs of an investigation and review under this section that is requested by it.

Appointment of administrator

58. (1) If a Catchment Management Trust refuses or fails to comply with a direction or requirement given or made by the responsible Minister in relation to this Act, the responsible Minister may, by order published in the Gazette, appoint an administrator to exercise all the functions, or specified functions, of the Trust.

(2) An administrator has, during his or her term of office and to the exclusion of the Trust, the functions the administrator was appointed to exercise.

(3) Regulations may be made for or with respect to:

- (a) any accommodation to be provided at the offices of a Trust for the administrator and his or her assistant; and
- (b) requiring the employees of a Trust to assist, and to refrain from obstructing, the administrator in the exercise of his or her functions.

Settlement of disputes

59. (1) The Minister may establish a standing committee to advise:

- (a) the Premier; and
- (b) the responsible Minister; and
- (c) the Minister administering any other Act,

on any dispute between a Catchment Management Trust and a person or statutory body having functions under the other Act where the dispute relates to the exercise by a Trust of its functions under this Act.

(2) A standing committee established under this section:

- (a) is to consist of such persons; and
- (b) is to follow such procedures,

as are from time to time directed by the Minister with the concurrence of the Premier.

PART 4 - MISCELLANEOUS

Act binds the Crown

60. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Proof of certain matters not required

61. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust; or
- (b) any resolution of such a Committee or Trust; or
- (c) the appointment of, or the holding of office by, any member of such a Committee or such a Trust; or
- (d) the presence of a quorum at any meeting of such a Committee or such a Trust.

Proceedings for offences

62. (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(2) Proceedings in relation to an offence may be commenced within 2 years after the act or omission alleged to constitute the offence.

Regulations

63. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to the following:

- (a) any of the functions conferred or imposed on the responsible Minister, the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust by or under this Act;

- (b) the establishment, business and proceedings of the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust;
- (c) any matter relating to catchment contributions including refunds, objections and appeals;
- (d) the control, management and expenditure of the funds of Catchment Management Trusts.

(3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

Savings, transitional and other provisions

64. Schedule 6 has effect.

Amendment of Land and Environment Court Act 1979 No. 204, sec. 18 (Class 2 - local government and miscellaneous appeals)

65. The Land and Environment Court Act 1979 is amended by inserting after section 18 (c1) the following paragraph:

- (c2) appeals under section 55 of the Catchment Management Act 1989;

Amendment of Public Authorities (Financial Arrangements) Act 1987 No. 33, Sch. 1 (Authorities)

66. The Public Authorities (Financial Arrangements) Act 1987 is amended by inserting in Schedule 1 in alphabetical order the following matter:

A Catchment Management Trust established under the Catchment Management Act 1989.

Amendment of Public Finance and Audit Act 1983 No. 152, Sch. 2 (Statutory Bodies)

67. The Public Finance and Audit Act 1983 is amended by inserting in Schedule 2 in alphabetical order the following matter:

A Catchment Management Trust established under the Catchment Management Act 1989.

Amendment of Water Administration Act 1986 No. 195

68. The Water Administration Act 1986 is amended by omitting from Schedule 1 the words "Hunter Valley Conservation Trust Act 1950".

Amendment of Water Supply Authorities Act 1987 No. 140

69. The Water Supply Authorities Act 1987 is amended:

- (a) by inserting after section 13 (4) (a) the following paragraph:
 - (a1) the function is exercised by a Catchment Management Trust under the Catchment Management Act 1989;
- (b) by omitting from Part 1 of Schedule 1 the words "Upper Parramatta River Catchment Trust".

Repeal of Hunter Valley Conservation Trust Act 1950 No. 34 and regulations

70. The Hunter Valley Conservation Trust Act 1950 and the Hunter Valley Conservation Trust (Election of Trustees) Regulations are repealed.

SCHEDULE 1 - CATCHMENT MANAGEMENT TRUSTS

(Secs. 6, 20, 21, 25)

**Part 1 - Catchment Management Trusts recommended
by the Minister administering this Act**

Hunter Valley Catchment Management Trust

**Part 2 - Catchment Management Trusts recommended by the
Minister administering the Clean Waters Act 1970**

Upper Parramatta River Catchment Management Trust

**Part 3 - Catchment Management Trusts recommended by the
Minister administering the Water Administration Act 1986**

SCHEDULE 2 - URBAN AREA

(Sec. 3)

For the purposes of establishing Catchment Management Committees and Catchment Management Trusts, an urban area is:

- (a) the City of Bankstown, Blacktown, Blue Mountains, Campbelltown, Fairfield, Gosford, Hurstville, Lake Macquarie, Liverpool, Newcastle, Parramatta, Penrith, Shoalhaven, Sydney or Wollongong; or
- (b) the Municipality of Ashfield, Auburn, Botany, Burwood, Camden, Canterbury, Concord, Drummoyne, Holroyd, Hunters Hill, Kiama, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Randwick, Rockdale, Ryde, Shellharbour, South Sydney, Strathfield, Waverley, Willoughby or Woollahra; or
- (c) the Shire of Baulkham Hills, Hawkesbury, Hornsby, Sutherland, Warringah, Wingecarribee, Wollondilly or Wyong.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS
AND PROCEDURE OF CO-ORDINATING COMMITTEE
AND CATCHMENT MANAGEMENT COMMITTEES**

(Sec. 17)

Definitions

1. In this Schedule:

"**Committee**" means the Co-ordinating Committee or a Catchment Management Committee;

"**member**" means a member of a Committee.

Deputies of members of Co-ordinating Committee

2. (1) The responsible Minister may, from time to time, appoint a person to be the deputy of a member of the Co-ordinating Committee, and that Minister may revoke any such appointment.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued***

(2) In the absence of a member, the member's deputy:

- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is to be taken to be a member.

(3) The deputy of a member who is Chairperson or Deputy Chairperson of the Co-ordinating Committee does not (because of this clause) have the member's functions as Chairperson or Deputy Chairperson unless the responsible Minister so directs.

(4) A person while acting in the place of a member has the same entitlement to remuneration as the member.

Term of office

3. Subject to this Schedule, a member holds office for such period as is specified in the member's instrument of appointment and is eligible (if otherwise qualified) for re-appointment.

Remuneration

4. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the responsible Minister may from time to time determine in respect of that member.

Vacancy in office of member

5. (1) The office of a member becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the responsible Minister; or
- (d) is removed from office by the responsible Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave

SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued*

granted by the Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Committee for having been absent from those meetings;
or

- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

(2) The responsible Minister may remove an appointed member from office at any time.

Filling of vacancy in office of member

6. If the office of a member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

7. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office;
or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued***

the provision does not operate to disqualify the person from holding that office and also the office of member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Liability of members etc.

8. A matter or thing done by a Committee, any member or any person acting under the direction of a Committee does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

General procedure

9. The procedure for the calling of meetings of a Committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Committee.

Quorum

10. The quorum for a meeting of a Committee is a majority of the members for the time being.

Presiding member

11. (1) The Chairperson of a Committee or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Committee.

(2) The person presiding at a meeting of a Committee has a deliberative vote, and in the event of an equality of votes, has a second or casting vote.

SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued*

Voting

12. A decision supported by a majority of the votes cast at a meeting of a Committee at which a quorum is present is the decision of that Committee.

First meeting

13. The responsible Minister is to call the first meeting of a Committee in such manner as the responsible Minister thinks fit.

SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES AND
PROCEDURE OF CATCHMENT MANAGEMENT TRUSTS

(Sec. 23)

Definitions

1. In this Schedule:

"Trust" means a Catchment Management Trust;

"trustee" means a trustee of a Trust.

Chairperson etc. of the Trust

2. (1) Of the trustees, (in and by the trustee's instrument of appointment or in another instrument executed by the Governor on the recommendation of the responsible Minister) one is to be appointed as Chairperson and one as Deputy Chairperson of a Trust.

(2) The Governor, on the recommendation of the responsible Minister, may remove a trustee from the office of Chairperson or Deputy Chairperson.

(3) The Chairperson or Deputy Chairperson is taken to have vacated the office of Chairperson or Deputy Chairperson if the person:

SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued*

- (a) is removed from that office by the Governor under subclause (2); or
- (b) resigns that office by instrument in writing addressed to the responsible Minister; or
- (c) ceases to be a trustee.

Term of office

3. Subject to this Schedule, a trustee holds office for such period, not exceeding 5 years, as may be specified in the instrument of appointment of the trustee, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

4. A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the responsible Minister may from time to time determine in respect of the trustee.

Vacancy in office of trustee

5. (1) A trustee is taken to have vacated his or her office if the trustee:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) is absent from 4 consecutive meetings of the Trust of which reasonable notice has been given to the trustee personally or in the ordinary course of post, except on leave granted by the Trust or unless, before the expiration of 4 weeks after the last of those meetings, the trustee is excused by the Trust for having been absent from those meetings; or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (e) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic

SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued*

patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or

- (f) is convicted in New South Wales of an offence which is punishable by imprisonment or penal servitude for 12 months or more or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable; or
- (g) resigns the office by instrument in writing addressed to the responsible Minister; or
- (h) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988.

(2) The Governor on the recommendation of the responsible Minister may remove a trustee from office at any time.

Filling of vacancy in office of trustee

6. If the office of a trustee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Disclosure of pecuniary interests

7. (1) If:
- (a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of a Trust; and
 - (b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,

the trustee shall, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the Trust.

- (2) A disclosure by a trustee at a meeting of a Trust that the trustee:
- (a) is a member, or is in the employment, of a specified company or other body;

SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued*

- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Trust in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Trust.

(4) After a trustee has disclosed the nature of an interest in any matter, the trustee must not, unless the responsible Minister or the Trust otherwise determines:

- (a) be present during any deliberation of the Trust with respect to the matter; or
- (b) take part in any decision of the Trust with respect to the matter.

(5) For the purposes of the making of a determination by the Trust under subclause (4), a trustee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Trust for the purpose of making the determination; or
- (b) take part in the making by the Trust of the determination.

(6) A contravention of this clause does not invalidate any decision of the Trust.

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a trustee.

SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued*

- (2) If by or under any other Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

(3) The office of a trustee is not, for the purposes of any Act, an office or place of profit under the Crown.

Liability of trustees etc.

9. A matter or thing done by a Trust, any trustee or any person acting under the direction of a Trust does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a trustee or a person so acting personally to any action, liability, claim or demand.

General procedure

10. The procedure for the calling of meetings of a Trust and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Trust.

Quorum

11. The quorum for a meeting of a Trust is a majority of the trustees for the time being.

Presiding trustee

12. (1) The Chairperson of a Trust or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Trust.

**SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued***

(2) The person presiding at a meeting of a Trust has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

13. A decision supported by a majority of the votes cast at a meeting of a Trust at which a quorum is present is the decision of the Trust.

Minutes

14. A Trust is to cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust.

First meeting of the Trust

15. The responsible Minister is to call the first meeting of a Trust in such manner as the responsible Minister thinks fit.

**SCHEDULE 5 - APPLICATION OF THE PUBLIC WORKS ACT
1912**

(Sec. 52 (3))

For the purposes of section 52 (3), the Public Works Act 1912 has effect as if it had been amended:

- (a) by omitting Part 3;
- (b) by omitting from section 53 the words "so seised, possessed or entitled as aforesaid";
- (c) by omitting from section 53 the words "as in the preceding section mentioned" and by inserting instead the words "and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of the compensation";

SCHEDULE 5 - APPLICATION OF THE PUBLIC WORKS ACT
1912 - *continued*

- (d) by inserting in section 53 (3) after the word "release" the words "and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation";
- (e) by omitting section 53 (5);
- (f) by omitting Division 7 of Part 6;
- (g) by omitting section 124 and by inserting instead:

Compensation generally

124. (1) For the purpose of assessing compensation, the Land and Environment Court is to have regard to:

- (a) the value, at the date of publication of the notification in the Gazette, of the land, estate or interest taken; and
- (b) any damage caused by the severing of the land taken from other land or by the exercise by the Constructing Authority of any of its statutory powers in a manner injuriously affecting that other land.

(2) In assessing the compensation, the Land and Environment Court is to disregard:

- (a) any valuation notified to the claimant; and
- (b) any alteration of value arising from the construction of any works on the land taken.

(3) In assessing the compensation, the Land and Environment Court is to set off any enhancement in value of adjoining land of the person who owned the land taken or severed by the construction of works on the land taken.

(4) An owner of land is not required to make a payment to the Constructing Authority in consideration of any enhancement in value referred to in subsection (3).

(5) Compensation is not payable for land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel unless:

- (a) the surface of the overlying soil is disturbed;
- (b) the support of such surface is destroyed or injuriously affected by the construction of such a tunnel; or

SCHEDULE 5 - APPLICATION OF THE PUBLIC WORKS ACT
1912 - *continued*

- (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (h) by omitting section 126 (3);
- (i) (i) by omitting from section 135 (1) the words "such conveyances" and by inserting instead the words "conveyances or assurances of lands taken";
- (ii) by omitting from section 135 (2) the words "incurred on the part as well of the vendor as of the purchaser,".

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 64)

Part 1 - Preliminary

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

**Part 2 - Provisions relating to the repeal of the Hunter
Valley Conservation Trust Act 1950**

Definitions

2. In this Part:

"**new Trust**" means the Hunter Valley Catchment Management Trust constituted under this Act;

"**old Trust**" means the Hunter Valley Conservation Trust constituted under the Hunter Valley Conservation Trust Act 1950;

"**relevant day**" means the day on which section 70 commences.

Dissolution of old Trust

3. The Hunter Valley Conservation Trust constituted under the Hunter Valley Conservation Trust Act 1950 is dissolved on the relevant day.

Establishment of Hunter Valley Catchment Management Trust

4. (1) The Hunter Valley Catchment Management Trust is to be taken to have been established on the recommendation of the Minister administering this Act.

(2) The new Trust is a continuation of, and the same legal entity as, the old Trust.

(3) The Trust area of the new Trust is the same as the area of the old Trust.

Members of the old Trust

5. A person who, immediately before the relevant day, held office as a trustee of the old Trust:

- (a) holds office as a trustee of the new Trust (including any appointment as Chairperson or Deputy Chairperson) for the remainder of his or her term of office or for 5 years, whichever is the lesser period; and
- (b) is eligible (if otherwise qualified) for appointment or re-appointment.

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

Staff of the old Trust

6. (1) Any person who, immediately before the relevant day, was employed by the old Trust becomes, on that day, an employee of the new Trust with the same rights and entitlements and subject to the same obligations as those applicable to the person immediately before that day.

(2) An employee is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

Construction of references

7. On and from the relevant day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the old Trust is to be read as a reference to the new Trust.

Hunter Valley Conservation Trust Loan Certificate Regulations

8. The Hunter Valley Conservation Trust Loan Certificate Regulations continue to have effect in relation to any financial accommodation to which they apply as if the Hunter Valley Conservation Trust Act 1950 had not been repealed.

Saving of decisions etc.

9. Any decision, recommendation or other act, matter or thing given, made or done by the old Trust under a provision of the Hunter Valley Conservation Trust Act 1950 and in force or having effect immediately before the relevant day continues to apply as if the old Trust had not been abolished and, where applicable, applies as if given, made or done under this Act.

Part 3 - Provisions relating to re-establishment under this Act of the Upper Parramatta River Catchment Trust

Definitions

10. In this Part:

"**new Trust**" means the Upper Parramatta River Catchment Management Trust constituted under this Act;

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

"old Trust" means the Upper Parramatta River Catchment Trust constituted under the Water Supply Authorities Act 1987;

"relevant day" means the day on which section 69 (b) commences.

Dissolution of old Trust

11. The Upper Parramatta River Catchment Trust constituted as a Water Supply Authority under the Water Supply Authorities Act 1987 is dissolved on the relevant day.

Establishment of Upper Parramatta River Catchment Management Trust

12. (1) The Upper Parramatta River Catchment Management Trust is to be taken to have been established on the recommendation of the Minister administering the Clean Waters Act 1970.

(2) The new Trust is a continuation of, and the same legal entity as, the old Trust.

(3) The Trust area of the new Trust is the same as the area of the old Trust.

Members of the old Trust

13. A person who, immediately before the relevant day, held office as a member of the old Trust:

(a) holds office as a trustee of the new Trust (including any appointment as Chairperson or Deputy Chairperson) for the remainder of his or her term of office; and

(b) is eligible (if otherwise qualified) for re-appointment.

Staff of the old Trust

14. (1) Any person who, immediately before the relevant day, was employed by the old Trust becomes, on that day, an employee of the new Trust with the same rights and entitlements and subject to the same obligations as those applicable to the person immediately before that day.

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

(2) An employee is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

Construction of references

15. On and from the relevant day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the old Trust is to be read as a reference to the new Trust.

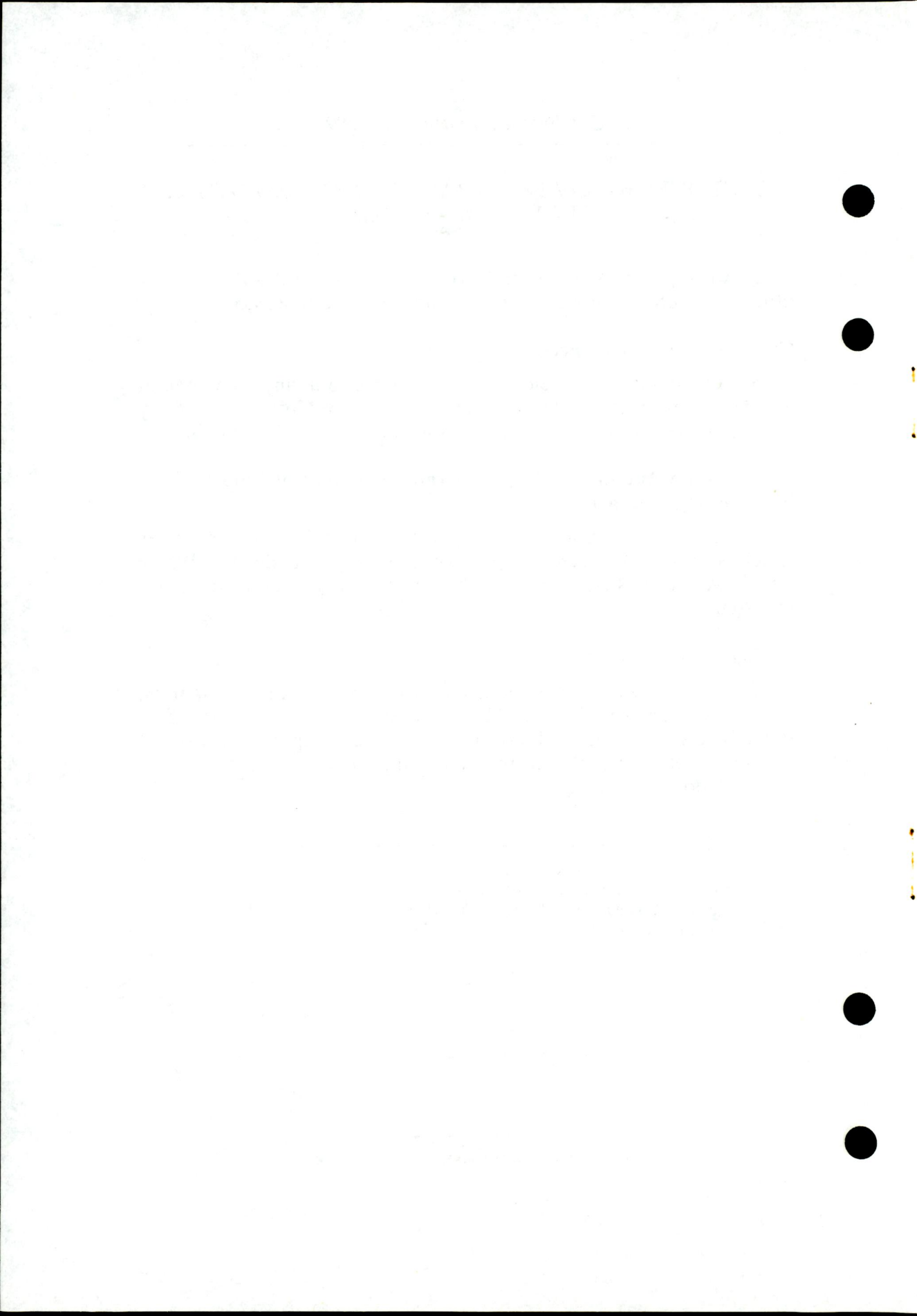
**Water Supply Authorities (Upper Parramatta River Catchment Trust)
Finance Regulation 1989**

16. The Water Supply Authorities (Upper Parramatta River Catchment Trust) Finance Regulation 1989, made under the Water Supply Authorities Act 1987, is to be taken to have been made under this Act.

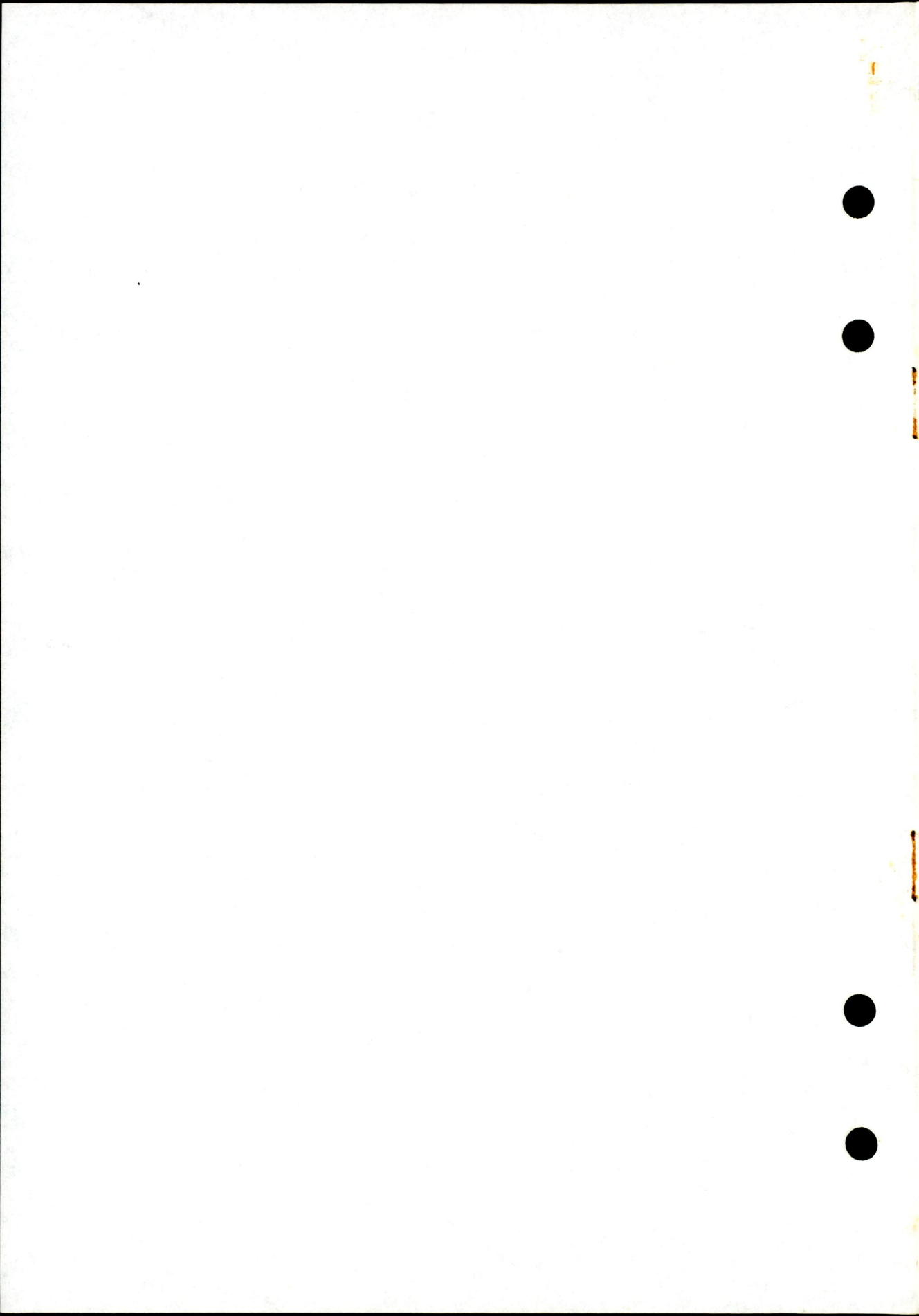
Saving of decisions etc.

17. Any decision, recommendation or other act, matter or thing given, made or done by the old Trust and in force or having effect immediately before the relevant day continues to apply as if the old Trust had not been abolished and, where applicable, applies as if given, made or done under this Act.

[*Minister's second reading speech made in -
Legislative Assembly on 15 November 1989
Legislative Council on 22 November 1989*]







FIRST PRINT

CATCHMENT MANAGEMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Soil Conservation (Amendment) Bill 1989 is cognate with this Bill.

The object of this Bill is to implement total catchment management of the State's natural resources, namely, the co-ordinated and sustainable use and management of land, water, vegetation and other natural resources on a water catchment basis so as to balance resource utilisation and conservation.

The Bill:

- (a) establishes the State Catchment Management Co-ordinating Committee and provides for a network of Catchment Management Committees (co-ordinated by that Committee) and Catchment Management Trusts linking the Government and the community for the purposes of total catchment management; and
 - (b) provides for Catchment Management Trusts to raise revenue for particular total catchment management purposes; and
 - (c) re-establishes the Hunter Valley Conservation Trust and the Upper Parramatta River Catchment Trust as Catchment Management Trusts;
- and makes provision for other related matters.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day or days.

Catchment Management 1989

Clause 3 defines expressions used in the proposed Act.

Clause 4 defines the term "total catchment management" for the purposes of the proposed Act.

Clause 5 specifies the objects of the proposed Act.

Clause 6 defines the term "responsible Minister" in relation to the State Catchment Management Co-ordinating Committee and to the establishment of Catchment Management Committees and Catchment Management Trusts. It also provides a mechanism for changing the responsible Minister of a particular Committee or Trust.

Clause 7 identifies the Minister responsible for the administration of the proposed Act.

PART 2 - ESTABLISHMENT OF COMMITTEES RELATING TO CATCHMENT MANAGEMENT

Division 1 - State Catchment Management Co-ordinating Committee

Clause 8 establishes the State Catchment Management Co-ordinating Committee.

Clause 9 provides that the Co-ordinating Committee is to have 16 members representing government departments and authorities, local government and shires associations, and rural and environmental interests.

Clause 10 specifies that the objective of the Co-ordinating Committee is to provide a central co-ordinating mechanism for the purpose of total catchment management throughout New South Wales.

Clause 11 sets out the functions of the Co-ordinating Committee including its co-ordinating, monitoring, evaluating and advisory roles.

Clause 12 provides for the Co-ordinating Committee to obtain assistance from subcommittees.

Division 2 - Catchment Management Committees

Clause 13 provides for the establishment of Catchment Management Committees by order of the responsible Minister published in the Gazette. The catchment area of the Committee is to be described in the order.

Clause 14 provides for the membership of a Committee. Appointments are to be made from among persons who are land holders or land users, persons with environmental interests and representatives of local government, government departments and authorities within the catchment area.

Clause 15 sets out the functions of a Committee in relation to total catchment management within its catchment area. In the exercise of its functions a Committee is responsible to the Co-ordinating Committee.

Clause 16 provides machinery for the abolition of a Committee or for its change of name or catchment area.

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Division 3 - General provisions relating to Co-ordinating Committee and Catchment Management Committees

Clause 17 is a formal provision that gives effect to the Schedule relating to members and procedure of the Co-ordinating Committee and Committees.

Clause 18 empowers the Co-ordinating Committee or a Committee to delegate any of its functions.

Clause 19 provides for the Co-ordinating Committee or a Committee to make use of the staff of government departments and authorities in exercising its functions.

PART 3 - CATCHMENT MANAGEMENT TRUSTS

Division 1 - Establishment

Clause 20 provides for the establishment of the Catchment Management Trusts listed in Schedule 1.

Clause 21 provides for additional Trusts to be created on the recommendation of the responsible Minister. The Trust area is to be described in the regulations and it may overlap with the catchment area of a Committee.

Clause 22 provides for the appointment of trustees representing land holders or land users, local government authorities, persons with environmental interests and government departments and authorities within the Trust area.

Clause 23 is a formal provision that gives effect to the Schedule relating to members and procedure of Trusts.

Clause 24 provides that a Trust is, in the exercise of its functions, responsible to the Minister who established the Trust.

Clause 25 provides machinery for the abolition of a Trust or for its change of name, Trust area or membership.

Division 2 - Purpose and functions

Clause 26 requires a Trust to have a purpose related to total catchment management which is to be prescribed in the regulations.

Clause 27 empowers a Trust to exercise a range of functions in connection with its purpose.

Clause 28 requires a Trust, within 1 year of its first meeting, to prepare a corporate plan setting out a scheme of strategies and programs for the achievement of its purpose.

Clause 29 provides the mechanism for approval of a corporate plan.

Clause 30 empowers and requires a Trust to undertake the programs contained in its approved corporate plan.

Clause 31 requires a Trust to provide information to the responsible Minister and to maintain effective liaison with the Co-ordinating Committee.

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Clause 32 empowers a Trust to delegate any of its functions.

Clause 33 provides for a Trust to employ staff and to make use of the staff of government departments and authorities in exercising its functions.

Division 3 - Finance

Clause 34 provides for a Trust to establish a Fund to be known by the name of the Trust.

Clause 35 requires a Trust to pay into its Fund all money received.

Clause 36 requires a Trust to pay from its Fund all expenditure incurred in the exercise of its functions.

Clause 37 sets out the controls on the investment powers of a Trust in relation to its Fund.

Division 4 - Revenue

Clause 38 contains definitions used in the Division including "catchment contribution area" and "charging year".

Clause 39 provides for the responsible Minister to publish orders declaring land within a Trust area to be a catchment contribution area, and declaring a period of 12 months to be the charging year for a Trust.

Clause 40 empowers a Trust to levy a catchment contribution on land declared to be a catchment contribution area, provided the levy is to be used to fund programs in the Trust's corporate plan.

Clause 41 provides for the basis or bases according to which catchment contributions are to be levied to be specified in the regulations. The bases may include land value, the area of land, and the benefit accruing to land as a result of the Trust's programs.

Clause 42 requires a Trust to prepare annual estimates of its income and expenditure, including any amounts to be obtained by way of catchment contributions.

Clause 43 requires a Trust to determine and publish in the Gazette before the commencement of a charging year the amount it proposes to raise by way of catchment contributions, the land within its catchment contribution area that is to be levied, the basis or bases of the catchment contribution and the rate of the contribution for the charging year. Separate determinations may be made for different land within a catchment contribution area.

Clause 44 requires a Trust to classify each parcel of land that is to be levied in accordance with its determinations and to assess the catchment contributions payable. When a notice of the assessment is served on the owner of a parcel of land the owner becomes liable for payment of the catchment contribution specified in the notice.

Clause 45 empowers a Trust to reassess a catchment contribution, levied on the basis of land value, if the land value changes.

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Clause 46 provides that a Trust may enter an arrangement with a local authority such as a council, Water Supply Authority or the Water Board for the authority to undertake certain collection functions of a Trust on behalf of the Trust.

Clause 47 provides that a catchment contribution is a charge on the land to which it relates.

Clause 48 provides for a Trust to charge interest on overdue catchment contributions.

Clause 49 provides for the recovery of unpaid catchment contributions as a debt due to the Crown.

Clause 50 provides for certain lands to be exempted from the levy of catchment contributions.

Clause 51 provides for the issue of a certificate containing particulars of amounts payable to a Trust in respect of a parcel of land on application and payment of a prescribed fee. Such a certificate is conclusive proof of the amount payable at the date of its issue.

Division 5 - General provisions

Clause 52 provides for the appropriation or resumption of land by a Trust for the purposes of the proposed Act.

Clause 53 empowers a Trust to enter land for inspections or to carry out works. An offence is created of obstructing or hindering a Trust which is acting under this clause (maximum penalty: 10 penalty units). The Trust is to compensate persons who suffer damage as a result of the exercise of this power.

Clause 54 creates an offence of interfering with, or damaging any works that belong to, or are under the control or management of, a Trust (maximum penalty: 50 penalty units).

Clause 55 empowers a Trust to prevent placement or to require the demolition of a structure or other thing that interferes with or is likely to interfere with Trust works. A right of appeal is provided to the Land and Environment Court.

Clause 56 empowers a Trust to apply to the Land and Environment Court for an injunction to prevent a contravention, or the continuation of a contravention, of the proposed Act.

Clause 57 provides for efficiency reviews of Trusts.

Clause 58 gives the responsible Minister power to appoint an administrator to exercise the functions of a Trust in certain circumstances.

Clause 59 provides machinery for the resolution of any dispute that may arise as a result of a Trust exercising its functions under this Act.

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PART 4 - MISCELLANEOUS

Clause 60 provides for the proposed Act to bind the Crown in all its capacities.

Clause 61 is an evidentiary provision that specifies when proof in legal proceedings of certain matters concerning Committees and Trusts will not be required.

Clause 62 provides that proceedings for offences against the proposed Act or regulations are to be dealt with summarily by a Magistrate.

Clause 63 enables the Governor to make regulations for the purposes of the proposed Act including regulations imposing penalties not exceeding 50 penalty units.

Clause 64 is a formal provision that gives effect to the Schedule of savings, transitional and other provisions.

Clause 65 amends the Land and Environment Court Act 1979 to provide persons served with a notice in relation to obstruction of works of a Trust with a right of appeal to the Land and Environment Court.

Clause 66 amends the Public Authorities (Financial Arrangements) Act 1987 to enable a Trust to obtain financial accommodation under that Act.

Clause 67 amends the Public Finance and Audit Act 1983 to subject Trusts to the requirements of that Act relating to statutory bodies.

Clause 68 makes an amendment to the Water Administration Act 1986 consequent on the proposed repeal of the Hunter Valley Conservation Trust Act 1950.

Clause 69 amends the Water Supply Authorities Act 1987 to allow a Trust to exercise a function that may also be exercised by a Water Supply Authority and to remove the Upper Parramatta River Catchment Trust from the Schedule of Water Supply Authorities under that Act.

Clause 70 repeals the Hunter Valley Conservation Trust Act 1950 and the regulations under that Act.

SCHEDULES

Schedule 1 is a list of established Catchment Management Trusts.

Schedule 2 specifies the cities, municipalities and shires that comprise the urban area for the purposes of the proposed Act.

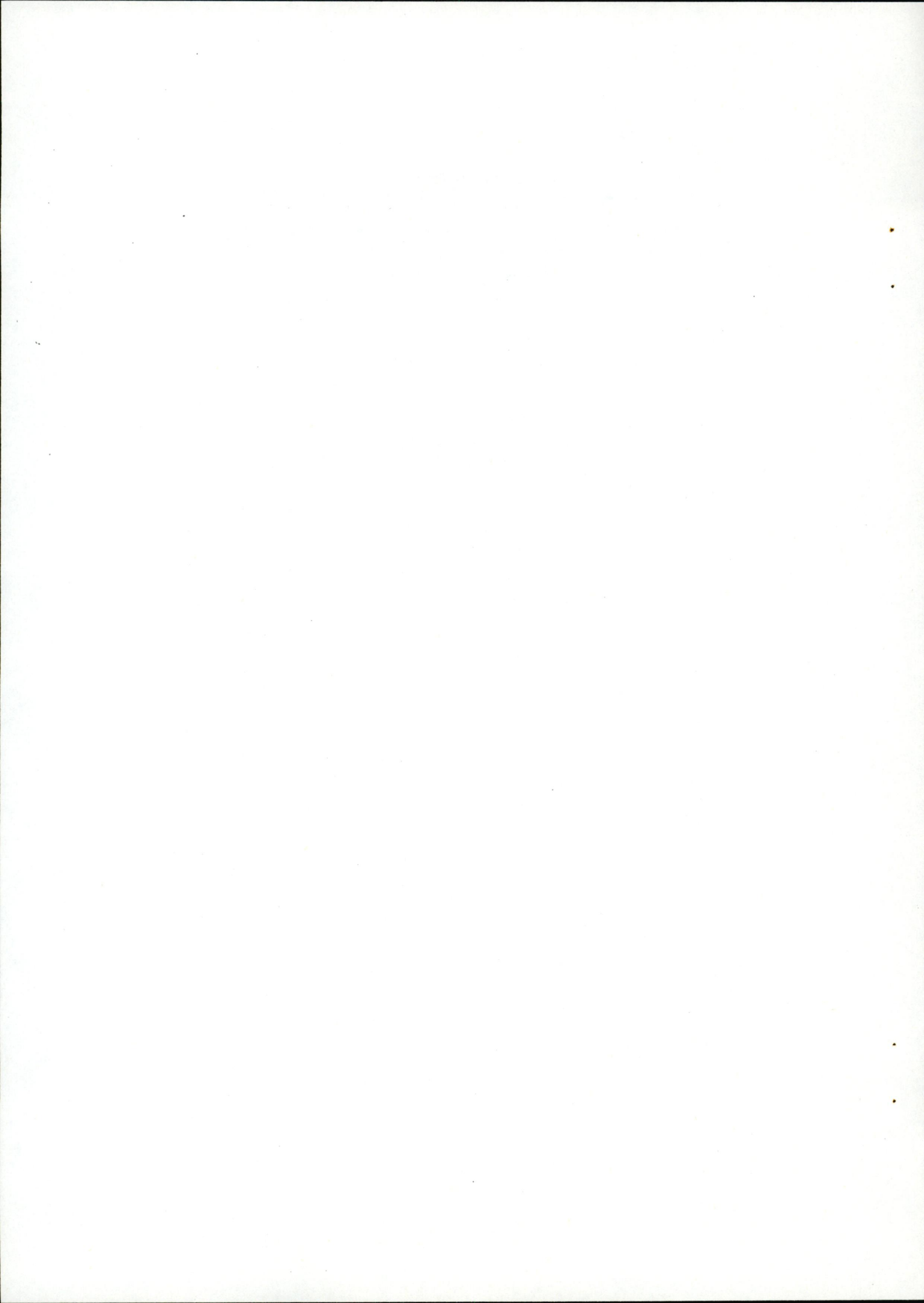
Schedule 3 contains provisions relating to members and procedure of Committees.

Schedule 4 contains provisions relating to members and procedure of Trusts.

Schedule 5 contains provisions to allow for the application of the Public Works Act 1912 to appropriation or resumption of land under the proposed Act.

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Schedule 6 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.



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CATCHMENT MANAGEMENT BILL 1989

NEW SOUTH WALES



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SCHEDULE 1 - CATCHMENT MANAGEMENT TRUSTS

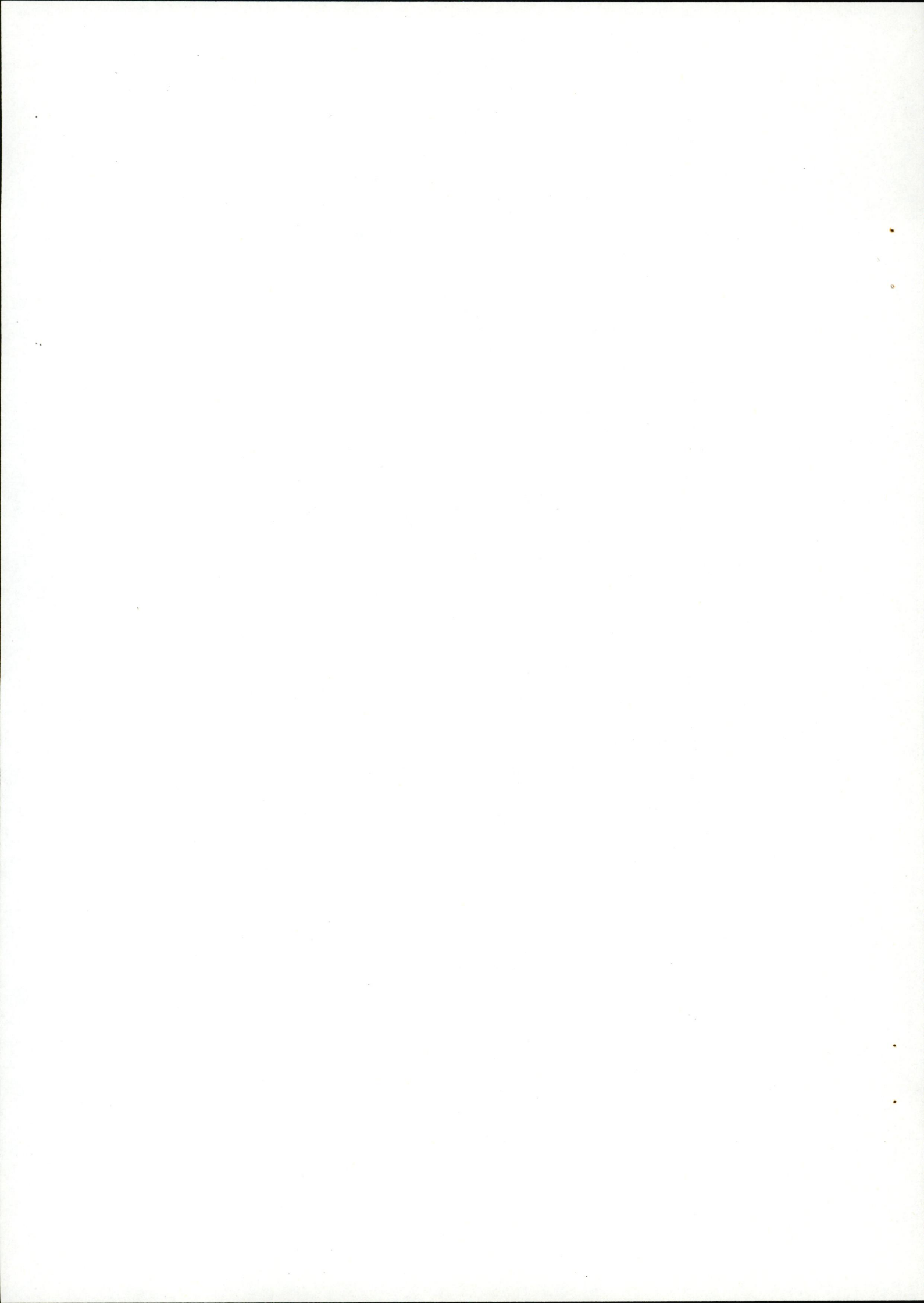
SCHEDULE 2 - URBAN AREA

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CATCHMENT MANAGEMENT BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to establish the State Catchment Management Co-ordinating Committee and to provide for Catchment Management Committees and Catchment Management Trusts to implement total catchment management of natural resources; to repeal the Hunter Valley Conservation Trust Act 1950; to amend certain Acts; and for other purposes.

See also Soil Conservation (Amendment) Bill 1989.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Catchment Management Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**catchment area**", in relation to a Catchment Management Committee, means the area in respect of which that Committee is established;

"**catchment contribution**" means a contribution levied under section 40;

"**Catchment Management Committee**" means a Catchment Management Committee established under section 13;

"**Catchment Management Trust**" means a Catchment Management Trust established under section 20;

"**co-ordinate**" means to bring together or liaise with authorities, groups or individuals to ensure effective total catchment management, but does not include the control or direction of the activities of those authorities, groups or individuals;

"**Co-ordinating Committee**" means the State Catchment Management Co-ordinating Committee established by section 8;

"**Trust area**", in relation to a Catchment Management Trust, means the area in respect of which that Trust is established;

"**urban area**" has the meaning set out in Schedule 2;

"**works**" means works for the purpose of soil conservation, afforestation, reforestation, flood mitigation, water conservation, irrigation, river improvement or any other work necessary to achieve the purpose of a Trust.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Total catchment management

4. For the purposes of this Act, total catchment management is the co-ordinated and sustainable use and management of land, water, vegetation and other natural resources on a water catchment basis so as to balance resource utilisation and conservation.

Objects of Act

5. (1) The objects of this Act are:

- (a) to co-ordinate policies, programs and activities as they relate to total catchment management; and
- (b) to achieve active community participation in natural resource management; and
- (c) to identify and rectify natural resource degradation; and
- (d) to promote the sustainable use of natural resources; and
- (e) to provide stable and productive soil, high quality water and protective and productive vegetation cover within each of the State's water catchments.

(2) In order to give effect to those objects, this Act:

- (a) provides for a network of Catchment Management Committees, co-ordinated by a Co-ordinating Committee, and Catchment Management Trusts linking the Government and the community to achieve the objectives of total catchment management; and
- (b) provides for Catchment Management Trusts to raise revenue for particular total catchment management purposes.

Responsible Minister

6. (1) For the purposes of this Act, the responsible Minister is:

- (a) for the Co-ordinating Committee, the Minister administering this Act; or

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- (b) for a Catchment Management Committee, the Minister who makes the order establishing the Committee; or
 - (c) for a Catchment Management Trust, the Minister who recommends to the Governor the establishment of the Trust.
- (2) An order or a recommendation may only be made:
- (a) by the Minister administering this Act; or
 - (b) by the Minister administering the Clean Waters Act 1970 if the Committee or Trust is within an urban area; or
 - (c) by the Minister administering the Water Administration Act 1986 if the Committee or Trust is not within an urban area.
- (3) An order or a recommendation may not be made:
- (a) by the Minister administering this Act in relation to an urban area except with the concurrence of the Minister administering the Clean Waters Act 1970; or
 - (b) by the Minister administering the Clean Waters Act 1970 except with the concurrence of the Premier and the Minister administering this Act; or
 - (c) by the Minister administering the Water Administration Act 1986 except with the concurrence of the Premier and the Minister administering this Act.
- (4) The Governor, on the recommendation of the Premier, may by proclamation:
- (a) change the responsible Minister in relation to an established Catchment Management Committee or an established Catchment Management Trust to any other Minister eligible to be the responsible Minister; and
 - (b) in the case of a Trust, amend Schedule 1 accordingly.

Minister administering this Act

7. The Minister administering the Soil Conservation Act 1938 is responsible for the administration of this Act.

**PART 2 - ESTABLISHMENT OF COMMITTEES RELATING
TO CATCHMENT MANAGEMENT**

**Division 1 - State Catchment Management Co-ordinating
Committee**

Establishment of Co-ordinating Committee

8. There is established by this Act a State Catchment Management Co-ordinating Committee.

Membership of Co-ordinating Committee

9. (1) The Co-ordinating Committee is to consist of 16 members appointed by the responsible Minister, being:

- (a) an officer of the Soil Conservation Service or other person nominated by the Minister administering the Soil Conservation Act 1938, who is to be the Chairperson of the Co-ordinating Committee;
- (b) two persons who in the responsible Minister's opinion have an interest in rural matters;
- (c) a person selected from a panel of 2 or more persons nominated by the Local Government Association;
- (d) a person selected from a panel of 2 or more persons nominated by the Shires Association;
- (e) a person who in the responsible Minister's opinion has an interest in environmental matters;
- (f) an officer of the Soil Conservation Service nominated by the Minister administering the Soil Conservation Act 1938;
- (g) a person nominated by the Minister administering the Water Administration Act 1986;
- (h) a person nominated by the Minister administering the Clean Waters Act 1970;
- (i) a person nominated by the Minister administering the National Parks and Wildlife Act 1974;
- (j) a person nominated by the Minister administering the Public Works Act 1912;
- (k) a person nominated by the Minister administering the Forestry Act 1916;

- (l) a person nominated by the Minister administering the Environmental Planning and Assessment Act 1979;
- (m) a person nominated by the Minister administering the Crown Lands Act 1989;
- (n) a person nominated by the Minister administering the Water Board Act 1987; and
- (o) a person nominated by the Minister administering the Fisheries and Oyster Farms Act 1935.

(2) The responsible Minister is, in the instrument of appointment or another instrument, to appoint a member (other than the Chairperson) to be the Deputy Chairperson of the Co-ordinating Committee.

Objective of Co-ordinating Committee

10. The objective of the Co-ordinating Committee is to provide a central co-ordinating mechanism for the purpose of total catchment management throughout New South Wales.

Functions of Co-ordinating Committee

11. (1) The functions of the Co-ordinating Committee are as follows:

- (a) to co-ordinate the implementation of total catchment management strategies;
- (b) to monitor and evaluate the effectiveness of total catchment management strategies;
- (c) to advise the responsible Minister or other Ministers on any aspect related to total catchment management;
- (d) to co-ordinate the functioning of Catchment Management Committees and to maintain liaison with Catchment Management Trusts;
- (e) such other functions relating to total catchment management as are directed by the responsible Minister.

(2) Any advice may be given either at the request of a Minister or without any such request.

(3) The Co-ordinating Committee has such other functions as are conferred or imposed on it by or under this or any other Act.

Subcommittees of Co-ordinating Committee

12. (1) The Co-ordinating Committee may, with the approval of the responsible Minister, establish subcommittees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a subcommittee are not members of the Co-ordinating Committee.

(3) The procedure for the calling of meetings of a subcommittee and for the conduct of business at those meetings is to be as determined by the Co-ordinating Committee or (subject to any determination of the Co-ordinating Committee) by the subcommittee.

Division 2 - Catchment Management Committees

Establishment of Catchment Management Committees

13. (1) The responsible Minister may, by order published in the Gazette, establish a Catchment Management Committee with the name specified in the order.

(2) The catchment area in respect of which a Catchment Management Committee is established is the area described in the order.

(3) Such an area may be described by reference to a local government area or in any other manner (including by reference to a description contained in another document).

Membership of Catchment Management Committees

14. (1) A Catchment Management Committee is to consist of such members as are appointed by the responsible Minister.

(2) The responsible Minister is to appoint:

(a) persons who are land holders or land users within the catchment area, who are to constitute the majority of the members; and

(b) persons who, in the responsible Minister's opinion, have an interest in environmental matters within the catchment area; and

(c) persons selected from a panel of 2 or more persons nominated by local government authorities within the catchment area; and

- (d) persons who are officers of government departments or authorities having responsibility for natural resource use or management within the catchment area.

(3) The responsible Minister is to appoint one of the members of the Catchment Management Committee to be the Chairperson and another to be the Deputy Chairperson of that Committee, and may remove either member from the office and appoint another member as Chairperson or Deputy Chairperson at any time.

Functions of Catchment Management Committees

15. (1) Within its catchment area, a Catchment Management Committee has the following functions:

- (a) to promote and co-ordinate the implementation of total catchment management policies and programs;
- (b) to advise on and co-ordinate the natural resource management activities of authorities, groups and individuals;
- (c) to identify catchment needs and prepare strategies for implementation;
- (d) to co-ordinate the preparation of programs for funding;
- (e) to monitor, evaluate and report on progress and performance of total catchment management strategies and programs;
- (f) to provide a forum for resolving natural resource conflicts and issues;
- (g) to facilitate research into the cause, effect and resolution of natural resource issues;
- (h) such other functions relating to total catchment management as are directed by the Co-ordinating Committee.

(2) A Catchment Management Committee has such other functions as are conferred or imposed on it by or under this or any other Act.

(3) In the exercise of its functions a Catchment Management Committee is responsible to the State Catchment Management Co-ordinating Committee.

Abolition, change of name etc. of Catchment Management Committees

16. (1) The responsible Minister may by order published in the Gazette:

- (a) abolish a Catchment Management Committee; or
 - (b) change the name of a Committee; or
 - (c) change the catchment area of a Committee.
- (2) Any such order may contain savings and transitional provisions.

**Division 3 - General provisions relating to Co-ordinating
Committee and Catchment Management Committees**

Provisions relating to members and procedure

17. Schedule 3 has effect with respect to the members and procedure of the Co-ordinating Committee and Catchment Management Committees.

Delegation of certain functions

18. The Co-ordinating Committee or a Catchment Management Committee may delegate to a person any of its functions, other than this power of delegation.

Staff

19. The Co-ordinating Committee or a Catchment Management Committee may, with the approval of the responsible Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

PART 3 - CATCHMENT MANAGEMENT TRUSTS

Division 1 - Establishment

Catchment Management Trusts

20. (1) The Trusts listed in Schedule 1 are established by this Act as Catchment Management Trusts.

(2) A Trust is a corporation with the corporate name specified in Schedule 1.

Establishment of Catchment Management Trusts

21. (1) The Governor may by proclamation amend Schedule 1 by adding to the relevant part of the Schedule the name of a Catchment Management Trust whose establishment is recommended by the responsible Minister.

(2) Before making a recommendation for the establishment of a Catchment Management Trust, the responsible Minister is required to have regard to whether:

- (a) the degradation of natural resources within the area concerned is adversely affecting the community; and
- (b) the land holders, land users and the community who utilise and derive benefit from those resources have a joint responsibility to deal with the degradation; and
- (c) the formation of a Trust is the most appropriate means of achieving equitable cost sharing; and
- (d) there is clear support by the land holders, land users and the community for the formation of a Trust.

(3) The Trust area in respect of which a Catchment Management Trust is established is the area described in the regulations.

(4) Such an area may be described by reference to a local government area or in any other manner (including by reference to a description contained in another document).

(5) It does not matter that the area of a Trust and that of a Catchment Management Committee overlap.

Membership of Catchment Management Trusts

22. (1) A Catchment Management Trust is to consist of such trustees as are appointed by the Governor on the recommendation of the responsible Minister.

(2) The trustees recommended by the responsible Minister must include:

- (a) land users or land holders within the Trust area, who are to constitute the majority of the trustees; and
- (b) persons who in the responsible Minister's opinion have an interest in environmental matters within the Trust area; and
- (c) persons selected from a panel of 2 or more persons nominated by local government authorities within the Trust area; and
- (d) persons who are officers of government departments or authorities having responsibility for natural resource use or management within the Trust area.

Provisions relating to trustees and procedure

23. Schedule 4 has effect with respect to the trustees and procedure of Catchment Management Trusts.

Ministerial control

24. A Trust is, in the exercise of its functions, subject to the control and direction of the responsible Minister.

Abolition, change of name etc. of Catchment Management Trusts

25. (1) The Governor may by proclamation:

- (a) abolish a Catchment Management Trust; or
 - (b) change the name of a Trust,
- and amend Schedule 1 accordingly.

(2) Any such proclamation may contain savings and transitional provisions.

Division 2 - Purpose and functions

Purpose of Catchment Management Trusts

26. A Catchment Management Trust has the total catchment management purpose prescribed in relation to that Trust in the regulations.

Functions of Catchment Management Trusts

27. (1) A Catchment Management Trust may, for the purpose for which it is established:

- (a) provide, construct, operate, manage and maintain works and buildings;
- (b) purchase, exchange, take on hire or lease, hold, dispose of, manage, use or otherwise deal with real or personal property;
- (c) enter into contracts, including consultancy contracts;
- (d) enter into cost-sharing or other arrangements in connection with the carrying out of works;
- (e) generate revenue by levying and recovering catchment contributions;
- (f) donate money, and otherwise provide, for community, recreation, welfare or education purposes;
- (g) provide assistance to mitigate the effects of flood, drought, fire or other emergency, including assistance with funds, personnel or equipment;

- (h) effect and maintain insurances;
- (i) exercise any other function prescribed by the regulations; and
- (j) do anything incidental to the achievement of the purpose for which it was established.

(2) If the responsible Minister so decides, a Trust may also exercise within its Trust area any or all of the functions of a Catchment Management Committee.

(3) A Trust has such other functions as are conferred or imposed on it by or under this or any other Act.

(4) No action or proceeding may be brought:

- (a) to compel a Catchment Management Trust to carry out its functions; or
- (b) to recover any penalty or damages from a Catchment Management Trust in respect of a failure to carry out its functions.

Preparation of corporate plan

28. (1) Within 1 year of the first meeting of a Catchment Management Trust (or such longer period as the responsible Minister may approve), the Trust is to prepare a corporate plan for the achievement of the purpose for which it was established.

(2) The corporate plan is to contain a detailed written scheme of the strategies and programs to be implemented by the Trust in its Trust area.

Approval etc. of corporate plan

29. (1) When its corporate plan has been prepared, a Catchment Management Trust:

- (a) is to refer the plan to the responsible Minister; and
- (b) is to refer a copy of the plan to the Co-ordinating Committee; and
- (c) may, with the approval of the responsible Minister, refer a copy of the plan to any other person.

(2) The responsible Minister is to seek the advice of the Co-ordinating Committee in assessing the corporate plan.

- (3) The responsible Minister may:
- (a) approve the corporate plan, without alteration or with such alteration as the responsible Minister thinks fit; or
 - (b) refer it back to the Trust for further consideration.
- (4) The Trust may, with the approval of the responsible Minister, amend its corporate plan from time to time.

Carrying out of corporate plan

30. (1) A corporate plan approved by the responsible Minister:
- (a) empowers a Catchment Management Trust to undertake the programs set out in the plan; and
 - (b) must be given effect to by the Trust.
- (2) Nothing in this Division affects the operation of the Local Government Act 1919, the Environmental Planning and Assessment Act 1979 or any other Act.

Trust must provide information

31. (1) A Catchment Management Trust is to provide the responsible Minister with such information and material as that Minister may require in relation to its policies, programs and procedures.
- (2) A Trust is to maintain effective liaison with the Co-ordinating Committee.

Delegation of certain functions

32. A Catchment Management Trust may delegate to a person any of its functions, other than this power of delegation.

Staff

33. A Catchment Management Trust may:
- (a) employ such staff (including an executive officer) as it requires to exercise its functions; and
 - (b) with the approval of the responsible Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority in exercising its functions.

Division 3 - Finance

Establishment of Catchment Management Trust Funds

34. (1) A Catchment Management Trust is to establish a Fund to be known by the name of the Trust, followed by the word "Fund".

(2) The money in a Fund may be kept in one or more financial institutions (including in the Special Deposits Accounts in the Treasury).

(3) A Fund does not form part of the Consolidated Fund.

Payments into Fund

35. There is to be paid into a Fund all money received by or on account of the relevant Catchment Management Trust.

Payments from Fund

36. There is to be paid from a Fund all amounts required to meet expenditure incurred by the relevant Catchment Management Trust in the exercise of its functions.

Investment powers

37. (1) A Catchment Management Trust has, in respect of its funds, the investment powers conferred on the Trust by Part 3 of the Public Authorities (Financial Arrangements) Act 1987.

(2) If Part 3 of that Act does not confer investment powers on a Trust in respect of its funds or any particular funds, the Trust may invest those funds:

- (a) in any manner authorised for the investment of trust funds; or
- (b) in any other manner approved by the responsible Minister with the concurrence of the Treasurer.

Division 4 - Revenue

Definitions

38. In this Division:

"catchment contribution area" means an area of land declared by an order in force under section 39 to be a catchment contribution area;

"charging year", in relation to a Catchment Management Trust, means:

- (a) the period of 12 months declared by an order in force under section 39 to be the charging year for the Trust; or
- (b) if the charging year is changed under that section by a further order - the period between the end of one charging year and the beginning of the next;

"owner" has the same meaning as in the Water Supply Authorities Act 1987.

Orders for purposes of levying catchment contributions

39. (1) The responsible Minister may, by order published in the Gazette, declare any land described in the order (being the whole or any part of the Trust area of a Catchment Management Trust) to be a catchment contribution area for the purposes of this Division.

(2) The responsible Minister may, by order published in the Gazette, declare a period of 12 months to be the charging year for a Trust.

Trust may levy catchment contributions

40. (1) A Catchment Management Trust may, in accordance with this Division and the regulations, levy a catchment contribution on any land within its Trust area declared to be a catchment contribution area.

(2) A catchment contribution may only be levied to fund the programs in the Trust's corporate plan as approved by the responsible Minister.

Basis of levying catchment contributions

41. (1) The regulations are to specify the basis or bases according to which a Catchment Management Trust may levy catchment contributions.

(2) Without limiting the generality of subsection (1), the regulations may provide that a Trust may levy catchment contributions according to any one or more of the following factors:

- (a) the land value of land within the meaning of the Valuation of Land Act 1916;

- (b) the area of the land;
- (c) the degree of benefit that accrues to land as a result of the Trust's programs.

Estimates of income and expenditure to be prepared

42. (1) A Catchment Management Trust is to prepare and submit to the responsible Minister and the Co-ordinating Committee at least 2 months before the beginning of each charging year of the Trust estimates in respect of:

- (a) the income of the Trust for the charging year from all sources including the total amount to be obtained by way of catchment contributions; and
- (b) the expenditure to be incurred during the charging year.

(2) The estimates are to be in such form as the responsible Minister requires and are to contain particulars in respect of each item of expenditure and the catchment contributions to be levied.

Determinations relating to catchment contributions

43. (1) Not later than one month before the beginning of a charging year, a Catchment Management Trust that proposes to levy a catchment contribution is to determine, in accordance with the regulations:

- (a) the amount of money that it proposes to raise by way of catchment contributions; and
- (b) the land within its catchment contribution area that is to be levied; and
- (c) the basis or bases of the catchment contribution to be levied; and
- (d) the rate of the catchment contribution,

for the next charging year.

(2) A Trust may make separate determinations under subsection (1) in respect of bases or rates, or both, for different lands within its catchment contribution area.

(3) A determination under this section:

- (a) is required to be approved by the responsible Minister and does not have effect unless it is so approved; and

- (b) is to be published in the Gazette before the commencement of the charging year to which it relates; and
- (c) is to take effect on the commencement of the charging year to which it relates.

(4) A determination does not fail merely because it is not published in the Gazette before the commencement of the charging year to which it relates but, in that event, a person is not liable for payment of the catchment contribution to which the determination relates until the determination is published in the Gazette.

(5) A catchment contribution determined under this section is levied on publication of the determination in the Gazette.

(6) If, for any reason:

- (a) a determination under this section is not made before the charging year to which it relates; or
- (b) there is any irregularity or alleged irregularity in the making of any such determination,

the Governor may extend the time for making the determination (whether or not that time has expired) and may authorise the Trust concerned to do anything necessary to cure any irregularity and to make a valid determination.

Assessment of catchment contributions

44. (1) After making a determination under section 43 a Catchment Management Trust must, in accordance with the determination:

- (a) classify each parcel of land within its catchment contribution area in respect of which a catchment contribution is to be levied; and
- (b) assess the catchment contribution payable for each such parcel of land.

(2) After it makes an assessment under this section a Trust is, in accordance with the regulations, to cause a notice to be served on the owner of each parcel of land in respect of which a catchment contribution has been levied.

(3) On the service of such a notice, the owner of the land to which the notice relates becomes liable for payment of the catchment contribution specified in the notice.

Reassessment of catchment contributions

45. (1) A Catchment Management Trust may reassess a catchment contribution, levied on the basis of land value, if the value of the land for any charging year differs from the value used to assess the contribution.

(2) A catchment contribution may only be reassessed as from the date the revised value of the land has effect.

(3) The owner of the land to which the reassessment relates becomes liable for payment of the revised catchment contribution on the service of a notice notifying the reassessment.

Collection etc. of catchment contributions on behalf of Trusts

46. (1) In this section:

"appropriate local authority", in relation to a Catchment Management Trust, means:

- (a) the council of a local government area within which any part of the catchment contribution area of the Trust is situated; or
- (b) the Water Board, the Hunter Water Board or any Water Supply Authority within whose area of operation any part of the catchment contribution area of the Trust is situated.

(2) A Catchment Management Trust may, with the approval of the responsible Minister, enter into an arrangement with an appropriate local authority for the following functions of the Trust under this Division to be exercised by that authority on behalf of the Trust:

- (a) the assessment or reassessment of catchment contributions levied by the Trust;
- (b) the collection of those catchment contributions;
- (c) the recovery of those catchment contributions;
- (d) the issue of certificates as to any catchment contributions due to the Trust.

(3) Any such arrangement may provide for the payment of commission to the appropriate local authority.

(4) For the purposes of any such arrangement, the appropriate local authority may deal with the Trust's catchment contributions in connection with its rates and charges, so long as the catchment contribution is separately identified.

(5) For the purposes of subsection (4), an appropriate local authority may issue joint assessments and notices, take joint action for collection and recovery and issue joint certificates.

Catchment contributions a charge on land

47. A catchment contribution for payment of which a person is liable is a charge on the land to which the catchment contribution relates.

Interest on overdue catchment contributions

48. (1) A Catchment Management Trust may charge interest on overdue catchment contributions at a rate not exceeding the rate prescribed by the regulations for the purposes of this section.

(2) The interest charged forms a part of the catchment contribution for the purposes of this Division.

Recovery of catchment contributions

49. (1) A catchment contribution due to a Catchment Management Trust under this Act may be recovered in any court of competent jurisdiction as a debt due to the Crown.

(2) An unsatisfied judgment or order of any court for the recovery of a catchment contribution from any person is not a bar to the recovery of the contribution from any other person who is liable under this Act for the payment of the contribution.

Land exempted from the levy of catchment contributions

50. The regulations may provide for certain lands to be exempted from the levy of catchment contributions.

Certificate as to amount due

51. (1) A Catchment Management Trust must, on written application being made to it and payment of the prescribed fee, issue to the applicant a certificate:

- (a) containing particulars of the amounts payable to the Trust in respect of a parcel of separately assessed land; or

(b) to the effect that there are no such amounts.

(2) An application for a certificate must specify the name and address of the applicant and identify the land to which the application relates.

(3) Such a certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which the certificate relates that, at the date of its issue, no amounts were payable to the Trust in respect of the land other than such amounts as are specified in the certificate.

Division 5 - General provisions

Appropriation or resumption of land

52. (1) A Catchment Management Trust may, for the purposes of this Act, acquire land by appropriation or resumption effected by the Governor under the Public Works Act 1912.

(2) An appropriation or resumption under this section is to be taken to be for an authorised work for which the Trust is the Constructing Authority.

(3) For the purposes only of this section, Schedule 5 has effect.

Entry on land for inspections and works

53. (1) A Catchment Management Trust may, by its employees and other persons, enter and inspect any land (other than a building) and there carry out any works for the purpose of exercising its functions.

(2) A person must not obstruct or hinder the Trust acting under this section.

Maximum penalty: 10 penalty units.

(3) In relation to land entered or works carried out, a Trust:

(a) is to do as little damage as possible in exercising its functions under this section; and

(b) is to compensate all persons who suffer damage by the exercise of those functions.

(4) Compensation may be made by reinstatement or repair, by construction of works or by payment.

- (5) A claim for compensation:
- (a) is ineffective unless made in writing not later than 6 months after the damage was suffered; and
 - (b) in the absence of agreement on the compensation, is to be dealt with as if it were a claim for compensation for the acquisition of land for a public purpose under the Public Works Act 1912.

Interference with or damage to works

54. A person must not, except with the authority of a Trust, interfere with or damage any works which belong to, or are otherwise under the control or management of, a Trust.

Maximum penalty: 50 penalty units.

Obstruction of works

55. (1) If a person places a structure or other thing in or near a work of a Catchment Management Trust in such a manner as to interfere or to be likely to interfere with the work, the Trust may by notice in writing given to the owner or occupier of the land, require the structure or other thing to be removed within such period as is stated in the notice.

(2) If a notice under subsection (1) is not complied with, the Trust may:

- (a) demolish and remove the structure or other thing; and
- (b) repair the work; and
- (c) recover the cost of doing so as a debt owing to the Trust by the person who placed the structure or other thing there.

(3) A person may appeal to the Land and Environment Court against a notice served on the person under this section.

Injunctions

56. (1) On the application of a Catchment Management Trust, the Land and Environment Court may grant an injunction restraining a threatened contravention, or the continuation of a contravention, of this Act or of a requirement of a Trust under this Act.

(2) An injunction may be granted without a Trust being required to show a likelihood of damage.

Efficiency review

57. (1) The responsible Minister may appoint a person to investigate and review the efficiency of a Catchment Management Trust in exercising its functions.

(2) A Trust is to bear the costs of an investigation and review under this section that is requested by it.

Appointment of administrator

58. (1) If a Catchment Management Trust refuses or fails to comply with a direction or requirement given or made by the responsible Minister in relation to this Act, the responsible Minister may, by order published in the Gazette, appoint an administrator to exercise all the functions, or specified functions, of the Trust.

(2) An administrator has, during his or her term of office and to the exclusion of the Trust, the functions the administrator was appointed to exercise.

(3) Regulations may be made for or with respect to:

- (a) any accommodation to be provided at the offices of a Trust for the administrator and his or her assistant; and
- (b) requiring the employees of a Trust to assist, and to refrain from obstructing, the administrator in the exercise of his or her functions.

Settlement of disputes

59. (1) The Minister may establish a standing committee to advise:

- (a) the Premier; and
- (b) the responsible Minister; and
- (c) the Minister administering any other Act,

on any dispute between a Catchment Management Trust and a person or statutory body having functions under the other Act where the dispute relates to the exercise by a Trust of its functions under this Act.

(2) A standing committee established under this section:

- (a) is to consist of such persons; and
- (b) is to follow such procedures,

as are from time to time directed by the Minister with the concurrence of the Premier.

PART 4 - MISCELLANEOUS

Act binds the Crown

60. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Proof of certain matters not required

61. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust; or
- (b) any resolution of such a Committee or Trust; or
- (c) the appointment of, or the holding of office by, any member of such a Committee or such a Trust; or
- (d) the presence of a quorum at any meeting of such a Committee or such a Trust.

Proceedings for offences

62. (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(2) Proceedings in relation to an offence may be commenced within 2 years after the act or omission alleged to constitute the offence.

Regulations

63. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to the following:

- (a) any of the functions conferred or imposed on the responsible Minister, the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust by or under this Act;

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- (b) the establishment, business and proceedings of the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust;
- (c) any matter relating to catchment contributions including refunds, objections and appeals;
- (d) the control, management and expenditure of the funds of Catchment Management Trusts.

(3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

Savings, transitional and other provisions

64. Schedule 6 has effect.

Amendment of Land and Environment Court Act 1979 No. 204, sec. 18 (Class 2 - local government and miscellaneous appeals)

65. The Land and Environment Court Act 1979 is amended by inserting after section 18 (c1) the following paragraph:

- (c2) appeals under section 55 of the Catchment Management Act 1989;

Amendment of Public Authorities (Financial Arrangements) Act 1987 No. 33, Sch. 1 (Authorities)

66. The Public Authorities (Financial Arrangements) Act 1987 is amended by inserting in Schedule 1 in alphabetical order the following matter:

A Catchment Management Trust established under the Catchment Management Act 1989.

Amendment of Public Finance and Audit Act 1983 No. 152, Sch. 2 (Statutory Bodies)

67. The Public Finance and Audit Act 1983 is amended by inserting in Schedule 2 in alphabetical order the following matter:

A Catchment Management Trust established under the Catchment Management Act 1989.

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Amendment of Water Administration Act 1986 No. 195

68. The Water Administration Act 1986 is amended by omitting from Schedule 1 the words "Hunter Valley Conservation Trust Act 1950".

Amendment of Water Supply Authorities Act 1987 No. 140

69. The Water Supply Authorities Act 1987 is amended:

- (a) by inserting after section 13 (4) (a) the following paragraph:
 - (a1) the function is exercised by a Catchment Management Trust under the Catchment Management Act 1989;
- (b) by omitting from Part 1 of Schedule 1 the words "Upper Parramatta River Catchment Trust".

Repeal of Hunter Valley Conservation Trust Act 1950 No. 34 and regulations

70. The Hunter Valley Conservation Trust Act 1950 and the Hunter Valley Conservation Trust (Election of Trustees) Regulations are repealed.

SCHEDULE 1 - CATCHMENT MANAGEMENT TRUSTS

(Secs. 6, 20, 21, 25)

**Part 1 - Catchment Management Trusts recommended
by the Minister administering this Act**

Hunter Valley Catchment Management Trust

**Part 2 - Catchment Management Trusts recommended by the
Minister administering the Clean Waters Act 1970**

Upper Parramatta River Catchment Management Trust

**Part 3 - Catchment Management Trusts recommended by the
Minister administering the Water Administration Act 1986**

SCHEDULE 2 - URBAN AREA

(Sec. 3)

For the purposes of establishing Catchment Management Committees and Catchment Management Trusts, an urban area is:

- (a) the City of Bankstown, Blacktown, Blue Mountains, Campbelltown, Fairfield, Gosford, Hurstville, Lake Macquarie, Liverpool, Newcastle, Parramatta, Penrith, Shoalhaven, Sydney or Wollongong; or
- (b) the Municipality of Ashfield, Auburn, Botany, Burwood, Camden, Canterbury, Concord, Drummoyne, Holroyd, Hunters Hill, Kiama, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Randwick, Rockdale, Ryde, Shellharbour, South Sydney, Strathfield, Waverley, Willoughby or Woollahra; or
- (c) the Shire of Baulkham Hills, Hawkesbury, Hornsby, Sutherland, Warringah, Wingecarribee, Wollondilly or Wyong.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS
AND PROCEDURE OF CO-ORDINATING COMMITTEE
AND CATCHMENT MANAGEMENT COMMITTEES**

(Sec. 17)

Definitions

1. In this Schedule:

"Committee" means the Co-ordinating Committee or a Catchment Management Committee;

"member" means a member of a Committee.

Deputies of members of Co-ordinating Committee

2. (1) The responsible Minister may, from time to time, appoint a person to be the deputy of a member of the Co-ordinating Committee, and that Minister may revoke any such appointment.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued***

- (2) In the absence of a member, the member's deputy:
- (a) may, if available, act in the place of the member; and
 - (b) while so acting, has all the functions of the member and is to be taken to be a member.

(3) The deputy of a member who is Chairperson or Deputy Chairperson of the Co-ordinating Committee does not (because of this clause) have the member's functions as Chairperson or Deputy Chairperson unless the responsible Minister so directs.

(4) A person while acting in the place of a member has the same entitlement to remuneration as the member.

Term of office

3. Subject to this Schedule, a member holds office for such period as is specified in the member's instrument of appointment and is eligible (if otherwise qualified) for re-appointment.

Remuneration

4. A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the responsible Minister may from time to time determine in respect of that member.

Vacancy in office of member

5. (1) The office of a member becomes vacant if the member:
- (a) dies; or
 - (b) completes a term of office and is not re-appointed; or
 - (c) resigns the office by instrument in writing addressed to the responsible Minister; or
 - (d) is removed from office by the responsible Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
 - (e) is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued***

granted by the Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Committee for having been absent from those meetings;
or

- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

(2) The responsible Minister may remove an appointed member from office at any time.

Filling of vacancy in office of member

6. If the office of a member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

7. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office;
or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued***

the provision does not operate to disqualify the person from holding that office and also the office of member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Liability of members etc.

8. A matter or thing done by a Committee, any member or any person acting under the direction of a Committee does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

General procedure

9. The procedure for the calling of meetings of a Committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Committee.

Quorum

10. The quorum for a meeting of a Committee is a majority of the members for the time being.

Presiding member

11. (1) The Chairperson of a Committee or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Committee.

(2) The person presiding at a meeting of a Committee has a deliberative vote, and in the event of an equality of votes, has a second or casting vote.

**SCHEDULE 3 - PROVISIONS RELATING TO MEMBERS AND
PROCEDURE OF CO-ORDINATING COMMITTEE AND
CATCHMENT MANAGEMENT COMMITTEES - *continued***

Voting

12. A decision supported by a majority of the votes cast at a meeting of a Committee at which a quorum is present is the decision of that Committee.

First meeting

13. The responsible Minister is to call the first meeting of a Committee in such manner as the responsible Minister thinks fit.

**SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES AND
PROCEDURE OF CATCHMENT MANAGEMENT TRUSTS**

(Sec. 23)

Definitions

1. In this Schedule:

"Trust" means a Catchment Management Trust;

"trustee" means a trustee of a Trust.

Chairperson etc. of the Trust

2. (1) Of the trustees, (in and by the trustee's instrument of appointment or in another instrument executed by the Governor on the recommendation of the responsible Minister) one is to be appointed as Chairperson and one as Deputy Chairperson of a Trust.

(2) The Governor, on the recommendation of the responsible Minister, may remove a trustee from the office of Chairperson or Deputy Chairperson.

(3) The Chairperson or Deputy Chairperson is taken to have vacated the office of Chairperson or Deputy Chairperson if the person:

**SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued***

- (a) is removed from that office by the Governor under subclause (2); or
- (b) resigns that office by instrument in writing addressed to the responsible Minister; or
- (c) ceases to be a trustee.

Term of office

3. Subject to this Schedule, a trustee holds office for such period, not exceeding 5 years, as may be specified in the instrument of appointment of the trustee, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

4. A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the responsible Minister may from time to time determine in respect of the trustee.

Vacancy in office of trustee

5. (1) A trustee is taken to have vacated his or her office if the trustee:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) is absent from 4 consecutive meetings of the Trust of which reasonable notice has been given to the trustee personally or in the ordinary course of post, except on leave granted by the Trust or unless, before the expiration of 4 weeks after the last of those meetings, the trustee is excused by the Trust for having been absent from those meetings; or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (e) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic

**SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued***

patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or

- (f) is convicted in New South Wales of an offence which is punishable by imprisonment or penal servitude for 12 months or more or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable; or
- (g) resigns the office by instrument in writing addressed to the responsible Minister; or
- (h) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988.

(2) The Governor on the recommendation of the responsible Minister may remove a trustee from office at any time.

Filling of vacancy in office of trustee

6. If the office of a trustee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Disclosure of pecuniary interests

7. (1) If:

- (a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of a Trust; and
- (b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,

the trustee shall, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the Trust.

(2) A disclosure by a trustee at a meeting of a Trust that the trustee:

- (a) is a member, or is in the employment, of a specified company or other body;

**SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued***

- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Trust in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Trust.

(4) After a trustee has disclosed the nature of an interest in any matter, the trustee must not, unless the responsible Minister or the Trust otherwise determines:

- (a) be present during any deliberation of the Trust with respect to the matter; or
- (b) take part in any decision of the Trust with respect to the matter.

(5) For the purposes of the making of a determination by the Trust under subclause (4), a trustee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Trust for the purpose of making the determination; or
- (b) take part in the making by the Trust of the determination.

(6) A contravention of this clause does not invalidate any decision of the Trust.

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a trustee.

**SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued***

- (2) If by or under any other Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office;
or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

(3) The office of a trustee is not, for the purposes of any Act, an office or place of profit under the Crown.

Liability of trustees etc.

9. A matter or thing done by a Trust, any trustee or any person acting under the direction of a Trust does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a trustee or a person so acting personally to any action, liability, claim or demand.

General procedure

10. The procedure for the calling of meetings of a Trust and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Trust.

Quorum

11. The quorum for a meeting of a Trust is a majority of the trustees for the time being.

Presiding trustee

12. (1) The Chairperson of a Trust or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Trust.

**SCHEDULE 4 - PROVISIONS RELATING TO TRUSTEES
AND PROCEDURE OF CATCHMENT MANAGEMENT
TRUSTS - *continued***

(2) The person presiding at a meeting of a Trust has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

13. A decision supported by a majority of the votes cast at a meeting of a Trust at which a quorum is present is the decision of the Trust.

Minutes

14. A Trust is to cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust.

First meeting of the Trust

15. The responsible Minister is to call the first meeting of a Trust in such manner as the responsible Minister thinks fit.

**SCHEDULE 5 - APPLICATION OF THE PUBLIC WORKS ACT
1912**

(Sec. 52 (3))

For the purposes of section 52 (3), the Public Works Act 1912 has effect as if it had been amended:

- (a) by omitting Part 3;
- (b) by omitting from section 53 the words "so seised, possessed or entitled as aforesaid";
- (c) by omitting from section 53 the words "as in the preceding section mentioned" and by inserting instead the words "and may claim compensation in respect of the land resumed and agree to, settle and determine with the Constructing Authority the amount of the compensation";

SCHEDULE 5 - APPLICATION OF THE PUBLIC WORKS ACT
1912 - *continued*

- (d) by inserting in section 53 (3) after the word "release" the words "and to claim, agree to, settle and determine with the Constructing Authority the amount of compensation";
- (e) by omitting section 53 (5);
- (f) by omitting Division 7 of Part 6;
- (g) by omitting section 124 and by inserting instead:

Compensation generally

124. (1) For the purpose of assessing compensation, the Land and Environment Court is to have regard to:

- (a) the value, at the date of publication of the notification in the Gazette, of the land, estate or interest taken; and
- (b) any damage caused by the severing of the land taken from other land or by the exercise by the Constructing Authority of any of its statutory powers in a manner injuriously affecting that other land.

(2) In assessing the compensation, the Land and Environment Court is to disregard:

- (a) any valuation notified to the claimant; and
- (b) any alteration of value arising from the construction of any works on the land taken.

(3) In assessing the compensation, the Land and Environment Court is to set off any enhancement in value of adjoining land of the person who owned the land taken or severed by the construction of works on the land taken.

(4) An owner of land is not required to make a payment to the Constructing Authority in consideration of any enhancement in value referred to in subsection (3).

(5) Compensation is not payable for land under the surface taken or acquired by notification in the Gazette for the purpose of constructing a subterranean tunnel unless:

- (a) the surface of the overlying soil is disturbed;
- (b) the support of such surface is destroyed or injuriously affected by the construction of such a tunnel; or

**SCHEDULE 5 - APPLICATION OF THE PUBLIC WORKS ACT
1912 - *continued***

- (c) any mines or underground workings in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (h) by omitting section 126 (3);
- (i) (i) by omitting from section 135 (1) the words "such conveyances" and by inserting instead the words "conveyances or assurances of lands taken";
- (ii) by omitting from section 135 (2) the words "incurred on the part as well of the vendor as of the purchaser,".

**SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS**

(Sec. 64)

Part 1 - Preliminary

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued***

**Part 2 - Provisions relating to the repeal of the Hunter
Valley Conservation Trust Act 1950**

Definitions

2. In this Part:

"new Trust" means the Hunter Valley Catchment Management Trust constituted under this Act;

"old Trust" means the Hunter Valley Conservation Trust constituted under the Hunter Valley Conservation Trust Act 1950;

"relevant day" means the day on which section 70 commences.

Dissolution of old Trust

3. The Hunter Valley Conservation Trust constituted under the Hunter Valley Conservation Trust Act 1950 is dissolved on the relevant day.

Establishment of Hunter Valley Catchment Management Trust

4. (1) The Hunter Valley Catchment Management Trust is to be taken to have been established on the recommendation of the Minister administering this Act.

(2) The new Trust is a continuation of, and the same legal entity as, the old Trust.

(3) The Trust area of the new Trust is the same as the area of the old Trust.

Members of the old Trust

5. A person who, immediately before the relevant day, held office as a trustee of the old Trust:

(a) holds office as a trustee of the new Trust (including any appointment as Chairperson or Deputy Chairperson) for the remainder of his or her term of office or for 5 years, whichever is the lesser period; and

(b) is eligible (if otherwise qualified) for appointment or re-appointment.

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

Staff of the old Trust

6. (1) Any person who, immediately before the relevant day, was employed by the old Trust becomes, on that day, an employee of the new Trust with the same rights and entitlements and subject to the same obligations as those applicable to the person immediately before that day.

(2) An employee is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

Construction of references

7. On and from the relevant day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the old Trust is to be read as a reference to the new Trust.

Hunter Valley Conservation Trust Loan Certificate Regulations

8. The Hunter Valley Conservation Trust Loan Certificate Regulations continue to have effect in relation to any financial accommodation to which they apply as if the Hunter Valley Conservation Trust Act 1950 had not been repealed.

Saving of decisions etc.

9. Any decision, recommendation or other act, matter or thing given, made or done by the old Trust under a provision of the Hunter Valley Conservation Trust Act 1950 and in force or having effect immediately before the relevant day continues to apply as if the old Trust had not been abolished and, where applicable, applies as if given, made or done under this Act.

Part 3 - Provisions relating to re-establishment under this Act of the Upper Parramatta River Catchment Trust

Definitions

10. In this Part:

"new Trust" means the Upper Parramatta River Catchment Management Trust constituted under this Act;

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

"old Trust" means the Upper Parramatta River Catchment Trust constituted under the Water Supply Authorities Act 1987;

"relevant day" means the day on which section 69 (b) commences.

Dissolution of old Trust

11. The Upper Parramatta River Catchment Trust constituted as a Water Supply Authority under the Water Supply Authorities Act 1987 is dissolved on the relevant day.

Establishment of Upper Parramatta River Catchment Management Trust

12. (1) The Upper Parramatta River Catchment Management Trust is to be taken to have been established on the recommendation of the Minister administering the Clean Waters Act 1970.

(2) The new Trust is a continuation of, and the same legal entity as, the old Trust.

(3) The Trust area of the new Trust is the same as the area of the old Trust.

Members of the old Trust

13. A person who, immediately before the relevant day, held office as a member of the old Trust:

- (a) holds office as a trustee of the new Trust (including any appointment as Chairperson or Deputy Chairperson) for the remainder of his or her term of office; and
- (b) is eligible (if otherwise qualified) for re-appointment.

Staff of the old Trust

14. (1) Any person who, immediately before the relevant day, was employed by the old Trust becomes, on that day, an employee of the new Trust with the same rights and entitlements and subject to the same obligations as those applicable to the person immediately before that day.

SCHEDULE 6 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

(2) An employee is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

Construction of references

15. On and from the relevant day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the old Trust is to be read as a reference to the new Trust.

Water Supply Authorities (Upper Parramatta River Catchment Trust) Finance Regulation 1989

16. The Water Supply Authorities (Upper Parramatta River Catchment Trust) Finance Regulation 1989, made under the Water Supply Authorities Act 1987, is to be taken to have been made under this Act.

Saving of decisions etc.

17. Any decision, recommendation or other act, matter or thing given, made or done by the old Trust and in force or having effect immediately before the relevant day continues to apply as if the old Trust had not been abolished and, where applicable, applies as if given, made or done under this Act.
