

South Australia

# Water Resources Act 1997

An Act to provide for the management of the State's water resources; and for other purposes.

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## Legislative history

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Water Resources Act 1997*.

### **3—Interpretation**

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

***authorised officer*** means an authorised officer appointed under this Act;

***authority under this Act*** means the Minister, a catchment water management board, a water resources planning committee, a municipal or district council or a controlling authority;

***board*** means a catchment water management board;

***business day*** means any day except—

- (a) a Saturday, Sunday or public holiday; or
- (b) a day which falls between 25 December and 1 January in the following year;

***catchment area*** means the area of a catchment water management board;

***catchment water management board*** means a catchment water management board established under Division 3 of Part 6 and includes a body appointed to be a board under Subdivision 8 of that Division;

***channel*** includes—

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

***committee*** means a water resources planning committee or a committee established by a catchment water management board depending on the context;

***constituent council*** in relation to the catchment area of a catchment water management board means a council whose area, or part of whose area, comprises or is included in the area of the board;

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

***council*** means the Water Resources Council established by this Act or a municipal or district council depending on the context;

***the Court*** means the Environment, Resources and Development Court established under the *Environment, Resources and Development Court Act 1993*;

***domestic purpose*** in relation to the taking of water does not include—

- (a) taking water for the purpose of watering or irrigating more than 0.4 of a hectare of land; or

- (b) taking water to be used in carrying on a business (except for the personal use of persons employed in the business);

**domestic wastewater** means—

- (a) water used in the disposal of human waste; and
- (b) water used for personal washing; and
- (c) water used for washing clothes or dishes; and
- (d) water used in a swimming pool;

**to drill** in relation to a well means to drill the well or to excavate the well in any other manner and includes to deepen or widen an existing well;

**effluent** means domestic wastewater or industrial wastewater;

**flood plain** of a watercourse means—

- (a) the flood plain (if any) of the watercourse identified in a catchment water management plan or a local water management plan adopted under Part 7; or
- (b) where paragraph (a) does not apply—the flood plain (if any) of the watercourse identified in a Development Plan under the *Development Act 1993*; or
- (c) where neither paragraph (a) nor paragraph (b) applies—the land adjoining the watercourse that is periodically subject to flooding from the watercourse;

**industrial wastewater** means water (not being domestic wastewater) that has been used in the course of carrying on a business (including water used in the watering or irrigation of plants) that has been allowed to run to waste or has been disposed of or has been collected for disposal;

**infrastructure** means—

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

**intensive farming** means a method of keeping animals in the course of carrying on the business of primary production in which the animals are confined to a small space or area and are usually fed by hand or by a mechanical means;

**Interstate Water Entitlements Transfer Scheme** means a scheme for the transfer of water entitlements between States under the Agreement approved under the *Murray-Darling Basin Act 1993*;

**lake** means a natural lake, pond, lagoon, wetland or spring (whether modified or not) and includes—

- (a) part of a lake; and
- (b) a body of water declared by regulation to be a lake;

**land** means land whether under water or not and includes an interest in land and any building or structure fixed to the land;

**licensee** means a person who holds a water licence;

**licensed well driller** means a person who holds a licence under this Act to drill wells;

**Mount Lofty Ranges Watershed** means the area prescribed by regulation for the purposes of this definition;

**Murray-Darling Basin** has the same meaning as in the *Murray-Darling Basin Act 1993*;

**natural resources** of the River Murray has the same meaning as in the *River Murray Act 2003*;

**occupier** of land means a person who has, or is entitled to, possession or control of the land;

**owner** of land means—

- (a) in relation to land alienated from the Crown by grant in fee simple—the holder of the fee simple;
- (b) in relation to dedicated land within the meaning of the *Crown Lands Act 1929* that has not been granted in fee simple but which is under the care, control and management of a Minister, body or other person—the Minister, body or other person;
- (c) in relation to land held under Crown lease or licence—the lessee or licensee;
- (d) in relation to land held under an agreement to purchase from the Crown—the person entitled to the benefit of the agreement;
- (e) in relation to any other land—the Minister who is responsible for the care, control and management of the land or, if no Minister is responsible for the land, the Minister for the Environment and Natural Resources;

**prescribed lake** means a lake declared to be a prescribed lake under this Act;

**prescribed watercourse** means a watercourse declared to be a prescribed watercourse under this Act;

**prescribed water resource** includes underground water to which access is obtained by prescribed wells;

**prescribed well** means a well declared to be a prescribed well under this Act;

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

- (a) dedicated land within the meaning of the *Crown Lands Act 1929*; or
- (b) unalienated land of the Crown; or
- (c) vested in or under the care, control or management of an agency or instrumentality of the Crown; or
- (d) vested in or under the care, control or management of a council;

**record** means—

- (a) a documentary record;

- (b) a record made by an electronic, electro-magnetic, photographic or optical process;
- (c) any other kind of record;

***River Murray*** has the same meaning as in the *River Murray Act 2003*;

***River Murray Protection Area*** means a River Murray Protection Area under the *River Murray Act 2003*;

***surface water*** means—

- (a) water flowing over land (except in a watercourse)—
  - (i) after having fallen as rain or hail or having precipitated in any other manner; or
  - (ii) after rising to the surface naturally from underground;
- (b) water of the kind referred to in paragraph (a) that has been collected in a dam or reservoir;

***surface water prescribed area***—see section 8(2);

***to take*** water from a water resource includes—

- (a) to take water by pumping or syphoning the water;
- (b) to stop, impede or divert the flow of water over land (whether in a watercourse or not) for the purpose of collecting the water;
- (c) to divert the flow of water in a watercourse from the watercourse;
- (d) to release water from a lake;
- (e) to permit water to flow under natural pressure from a well;
- (f) to permit stock to drink from a watercourse, a natural or artificial lake, a dam or reservoir;

***underground water*** means—

- (a) water occurring naturally below ground level;
- (b) water pumped, diverted or released into a well for storage underground;

***water allocation***—

- (a) in respect of a water licence means the water (taking) allocation or the water (holding) allocation endorsed on the licence;
- (b) in respect of water taken pursuant to an authorisation under section 11 means the maximum quantity of water that can be taken and used pursuant to the authorisation;

***water allocation plan*** means a plan prepared and adopted under Part 7 Division 3;

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

- (a) a dam or reservoir that collects water flowing in a watercourse; and
- (b) a lake through which water flows; and

(c) a channel (but not a channel declared by regulation to be excluded from the ambit of this definition) into which the water of a watercourse has been diverted; and

(d) part of a watercourse;

**water (holding) allocation** in respect of a water licence means the quantity of water that the licensee is entitled to request that the Minister convert to a water (taking) allocation under Part 5 Division 2;

**water licence** means a licence granted under this Act entitling the holder to take water from a watercourse, lake or well or to take surface water from a surface water prescribed area;

**water plan** means the State Water Plan or a plan prepared under Part 7;

**water resource** means a watercourse or lake, surface water, underground water and effluent;

**water (taking) allocation** in respect of a water licence means the quantity of water that the licensee is entitled to take and use pursuant to the licence;

**well** means—

(a) an opening in the ground excavated for the purpose of obtaining access to underground water;

(b) an opening in the ground excavated for some other purpose but that gives access to underground water;

(c) a natural opening in the ground that gives access to underground water;

**well driller's licence** means a licence granted under this Act entitling the holder to drill wells;

**wetland** means a swamp or marsh and includes any land that is seasonally inundated with water.

(2) For the purposes of this Act—

(a) a reference to a watercourse is a reference to either—

(i) the bed and banks of the watercourse; or

(ii) the water for the time being within the bed and banks of the watercourse,

or both, depending on the context;

(b) a reference to a lake is a reference to either—

(i) the bed, banks and shores of the lake; or

(ii) the water for the time being held by the bed, banks and shores of the lake,

or both, depending on the context.

(3) A reference in this Act to varying a water licence includes a reference to varying the water allocation of the licence or the conditions attached to the licence.

- (3a) The conversion of the whole or a part of a water (holding) allocation to a water (taking) allocation under section 35A will be taken for the purposes of this Act to be the allocation by the Minister of the quantity of water concerned as a water (taking) allocation endorsed on the relevant water licence.
- (4) An explanatory note to a provision of this Act does not form part of the provision to which it relates.

#### **4—Act binds Crown**

- (1) This Act binds the Crown in right of this State and also, so far as the legislative power of the State extends, in all its other capacities.
- (2) No criminal liability attaches to the Crown itself (as distinct from its agents, instrumentalities, officers and employees) under this Act.
- (3) Without derogating from or limiting subsection (1) or (2), all agencies and instrumentalities of the Crown must endeavour, as far as practicable, to act consistently with the State Water Plan and all other relevant water plans under this Act.

#### **5—Application of Act**

- (1) This Act is subject to the following Acts and agreements:
  - (a) the agreement (as amended from time to time) approved by the *Murray-Darling Basin Act 1993*;
  - (b) the Border Groundwater Agreement (as amended from time to time) approved by the *Groundwater (Border Agreement) Act 1985*;
  - (c) the indenture (as amended from time to time) ratified and approved by the *Roxby Downs (Indenture Ratification) Act 1982*;
  - (d) the *Pulp and Paper Mills Agreement Act 1958*;
  - (e) the *Pulp and Paper Mill (Hundred of Gambier) Indenture Act 1961*;
  - (f) the *Pulp and Paper Mill (Hundreds of Mayurra and Hindmarsh) Act 1964*.
- (2) Except where the contrary intention is expressed in this or any other Act, this Act is in addition to and does not limit or derogate from the provisions of any other Act.

### **Part 8—Financial provisions**

#### **Division 1—Levies in relation to taking water**

##### **120—Interpretation**

- (1) In this Division, unless the contrary intention appears—
  - accounting period*** means a financial year, or part of a financial year, in respect of which a levy is payable in accordance with a notice served under section 125;
  - consumption period*** in relation to an accounting period means a period of approximately the same length as the accounting period that commences or terminates during the accounting period and in respect of which the quantity of water taken is measured by meter readings;

*to irrigate* land includes to water land by any means for the purpose of growing any kind of plant or plants;

*levy* includes—

- (a) an instalment of a levy; and
  - (b) a fee payable to the Minister under section 122A(5).
- (2) For the purposes of this Division but not for any other purpose, a water licence that is endorsed with a water (holding) allocation will be taken in respect of that allocation to give the holder of the licence the right to take the quantity of water allocated.
- (3) For the purposes of this Division, the Minister may declare on a water licence that is endorsed with a water (holding) allocation—
  - (a) the part of the resource from which water may (notionally) be taken pursuant to the allocation; and
  - (b) the purpose for which that water will (notionally) be used.
- (4) The declaration by the Minister on a water licence of the matters referred to in subsection (3)(a) or (b) does not limit the Minister's discretion when determining the conditions of the conversion of the water (holding) allocation endorsed on the licence to a water (taking) allocation under section 35A.

## **121—Report as to management of water in water resource**

- (1) The Minister may prepare a report—
  - (a) relating to the management of the water in a prescribed watercourse or lake or in an underground aquifer or the surface water in a surface water prescribed area; and
  - (b) identifying particular problems (if any) relating to the management of the water resource and suggesting solutions to those problems; and
  - (c) estimating the cost of implementing the management proposals set out in the report; and
  - (d) explaining why it is necessary to declare a levy or levies under this Division in relation to the water resource.
- (2) The Minister may cause to be published in a newspaper circulating in the area in which the water resource is situated and in a newspaper circulating generally throughout the State a notice stating the place or places at which copies of the report can be inspected or purchased.

## **122—Declaration of levies by the Minister**

- (1) The Minister may, by notice in the Gazette, declare a levy or levies payable by persons who are authorised by a water licence or under section 11 to take water from a prescribed watercourse, lake or well or to take surface water from a surface water prescribed area.
- (2) A levy can only be declared if—
  - (a) the water resource is within the catchment area of a catchment water management board; or



- (b) a report referred to in section 121 has been prepared and has been published in the manner set out in that section in relation to the water resource during the immediately preceding five years.
- (3) Where the water resource is in the catchment area of a board, a levy declared by the Minister under this section must be set at a level that will return an amount that is as near as reasonably practicable to the amount stated in the board's catchment water management plan as the amount to be raised by way of levy under this Division.
- (4) A levy is not invalid because it raises more or less than the amount referred to in subsection (3) or, in the case of a levy in relation to a water resource in relation to which a report has been prepared and published under section 121, more or less than the amount of the estimated cost of management proposals set out in the report.
- (4a) A water plan, or a report under section 121, may include proposals for money raised through the imposition of a levy in one or more years to be expended in a subsequent year or years (and a levy may be declared on this basis).
- (5) Levies may be declared for the right to take water or for the water taken or both (but not in relation to the taking of water for domestic purposes or for watering stock that are not subject to intensive farming).
- (6) A levy for the right to take water can only be declared in respect of water to be taken pursuant to a licence and the amount of the levy must be based on the quantity of water allocated by the licence.
- (7) The amount of a levy for water taken must be based on the quantity of water taken.
- (8) Different levies may be declared in respect of the same water resource based on—
  - (a) the quantity of water allocated or taken; and
  - (b) one or more of the following factors:
    - (i) the part of the resource from which the water may be, or is, taken;
    - (ii) the purpose for which the water will be used;
    - (iii) in the case of the River Murray—the effect that the use of the water may have on salinity levels in the River Murray and, if this effect on salinity levels is applied as a differentiating factor with respect to a group of licences—
      - (A) the location where the water is entitled to be used; and
      - (B) the time when the allocation was made.
- (8a) Different levies for the right to take water may be declared in respect of the same water resource based on whether the water allocation is a water (taking) allocation or a water (holding) allocation.
- (8b) If a levy has a component based on the factor referred to in subsection (8)(b)(iii), money raised from the levy that is attributable to that component must be applied towards reducing salinity levels in the River Murray.
- (8c) Nothing in this section prevents the Minister or a catchment water management board transferring money within the ambit of subsection (8b) to another authority (including, in the case of a catchment water management board, to the Minister) for expenditure on programs to reduce salinity levels in the River Murray.

- (9) A notice under subsection (1)—
  - (a) has effect in relation to the financial year specified in the notice; and
  - (b) subject to subsection (10), must be published in the Gazette on or before the first day of that year.
- (10) A notice under subsection (1) in relation to water to be taken, or that is taken, from a watercourse, lake or well or surface water to be taken, or that is taken, from a particular area of the State may be published in the Gazette within one month after the watercourse, lake or well became a prescribed watercourse, lake or well or the area became a surface water prescribed area.

### **122A—Provisions applying to water (holding) allocations in declared water resources**

- (1) This section applies in relation to a water (holding) allocation if the water resource to which the allocation applies has been declared by the Minister by notice published in the Gazette to be a water resource in relation to which this section applies and the declaration has not been revoked.
- (2) Where this section applies in relation to a water (holding) allocation the following provisions apply:
  - (a) subject to paragraph (b), a levy in respect of the allocation is not payable until the end of the financial year for which the levy is declared;
  - (b) if the allocation, or a part of it, is transferred to another person during the financial year, the levy or, where part only of the allocation is transferred, a proportionate part of it, is payable by the transferee at the time of transfer;
  - (c) the levy for a financial year is not payable if the licensee, on application to the Minister, satisfies the Minister that he or she made a genuine, but unsuccessful, attempt throughout, or through the greater part of, the financial year to find a person who was willing to buy the water (holding) allocation subject to the condition that the allocation—
    - (i) be converted to a water (taking) allocation; or
    - (ii) be endorsed on the transferee's licence as a water (taking) allocation.
- (3) Paragraph (c) of subsection (2) applies in relation to the whole or a part of a water (holding) allocation and where it applies to part only of a water (holding) allocation a proportionate part of the levy is not payable in pursuance of that paragraph.
- (4) Where the transfer of a water (holding) allocation is subject to a condition referred to in subsection (2)(c), the Minister must not—
  - (a) approve the transfer of the licence on which the allocation is endorsed; or
  - (b) vary the transferring and receiving licences,to effect the transfer unless he or she—
  - (c) converts the water (holding) allocation to a water (taking) allocation; or
  - (d) endorses the allocation on the receiving licence as a water (taking) allocation, (as the case requires) in accordance with the terms of the condition.

- (5) Where a levy is not payable by virtue of subsection (2)(c) the licensee is liable to pay to the Minister a fee instead of the levy.
- (6) The amount of the fee referred to in subsection (5) is either—
  - (a) \$25; or
  - (b) such other amount as is declared by the Minister by notice published in the Gazette on or before 31 December in the financial year in relation to which the fee applies.
- (7) An application to the Minister under subsection (2)(c) must—
  - (a) be in a form approved by the Minister; and
  - (b) be accompanied by such information as the Minister requires; and
  - (c) be made before the end of the relevant financial year.
- (8) The Minister may, by subsequent notice published in the Gazette, vary or revoke a notice under subsection (1).

### **123—Special purpose levy**

- (1) Where, in the opinion of the Minister—
  - (a) it is necessary or desirable to raise money for a particular purpose related to the management of a prescribed water resource; and
  - (b) it is not fair or reasonable that all persons who take, or have the right to take, water from the resource should contribute, or contribute to the same extent, to the amount needed for that purpose,the Minister may, by notice in the Gazette, declare a levy (a special purpose levy) which is payable by those persons specified in the notice.
- (2) A person cannot be specified in a notice unless, at some time during the period of one month immediately preceding publication of the notice, he or she had the right to take water from the resource (whether he or she actually took water during that period or not).
- (3) The Minister may only declare a special purpose levy if a majority of the persons named in the notice have given their consent to it in writing but if a majority do consent then all of the persons named are primarily liable for the levy even though their entitlement to take water has subsequently ceased.
- (4) The consent must be in a form prescribed by regulation and must include the following information:
  - (a) the proposed levy and the amount that imposition of the levy is expected to raise; and
  - (b) the purpose for which money raised by the levy will be used; and
  - (c) the names of the persons to be specified in the notice who will be primarily liable to pay the levy.
- (5) The Minister must serve the form of consent on all persons to be named in the notice as being primarily liable for the levy.

- (6) For the purpose of determining whether a majority of persons have given their consent to a levy, two or more persons who would be primarily liable for the levy in respect of the same water licence or the same land or business will be counted as one person.
- (7) For the purpose of determining whether consent has been given, all of the persons (if more than one) who would be primarily liable for the levy in respect of the same water licence or the same land or business must give their consent.
- (8) A form of consent that purports to have been signed by a person who will be liable to pay a special purpose levy must, in the absence of proof to the contrary, be taken in proceedings before a court or other tribunal to have been signed by that person.
- (9) Where the water resource is situated in the catchment area of a catchment water management board, the Minister may only declare a special purpose levy if the board's catchment water management plan has identified the levy as a source of funds for the purpose concerned.
- (10) Unless the contrary intention appears, this Division applies to and in relation to a special purpose levy as though it were a levy declared under section 122.
- (11) The naming of the persons who will be primarily liable for a special purpose levy in a notice under subsection (1) does not exclude the liability for the levy under section 124 of an existing owner of land or a person who subsequently owns or occupies the land.
- (12) Liability for a special purpose levy is in addition to liability for a levy under section 122.
- (13) Nothing in this section limits the ability of the Minister to declare differential levies under section 122 on the bases set out in that section.

#### **124—Liability for levy**

- (1) Subject to subsection (8), a person who holds a licence at any time during a financial year in respect of which a levy for the right to take water has been declared is liable to pay to the Minister the full amount of that levy whether he or she holds the licence throughout the year or not.
- (2) Subject to subsection (6), a person who holds a licence at any time during a financial year in respect of which a levy for the taking of water has been declared is liable to pay to the Minister the amount of the levy for the water taken pursuant to the licence.
- (3) Subject to subsection (6), a person who takes water pursuant to an authorisation under section 11 at any time during a financial year in respect of which a levy for the taking of water has been declared is liable to pay to the Minister the amount of the levy for the water taken.
- (4) Where a levy for the right to take water or for the taking of water applies in relation to water that is intended to be used, or is used, for irrigating land or in the course of carrying on a business on land, the following persons are jointly and severally liable to the Minister for payment of the levy in addition to the person primarily liable under subsection (1), (2) or (3):
  - (a) in the case of a levy for the right to take water—the owner of the land (if the owner is not the person primarily liable under subsection (1))—
    - (i) where the levy was declared during the financial year to which the levy relates—at the time the levy was declared; or

- (ii) where a licence was not in existence in relation to that land at the commencement of the financial year to which the levy relates but a licence was granted after the commencement of that year—at the time when the licence was granted; or
  - (iii) where the levy is payable in respect of an increase in the water allocation—at the time of the increase; or
  - (iv) in any other case—at the commencement of the financial year to which the levy relates; and
- (b) in the case of a levy for water taken—the owner of the land (if the owner is not the person primarily liable under subsection (2) or (3)) when the water was taken; and
- (c) all persons who own or occupy the land at any time—
  - (i) after the person primarily liable under subsection (1), (2) or (3) or the person liable under paragraph (a) or (b); and
  - (ii) before the levy is paid.
- (5) A person who makes a payment to the Minister in respect of his or her liability under subsection (4) may recover the amount of the payment from the person primarily liable under subsection (1), (2) or (3).
- (6) Where two or more persons are liable under subsection (2) or (3) for water taken during different parts of an accounting period and the water used by those persons is used to irrigate the same land or is used in the course of carrying on a business on the same land, the following provisions apply:
  - (a) the last of those persons to take water during the accounting period will be taken to be liable under subsection (2) or (3) to the Minister for the amount of the levy for water taken during the whole of that period; and
  - (b) that person is entitled to contribution from the other person or persons who have taken water during another part or parts of the accounting period on the basis of the quantity of water taken by each of them.
- (7) A person is liable under this section for a levy for the right to take water, or for water taken, pursuant to a licence whether the licence was granted before or after the commencement of this Act.
- (8) Where—
  - (a) a licence is granted after the commencement of a financial year or the water allocation of a licence is increased after the commencement of a financial year; and
  - (b) the water allocation, or part of the water allocation, of the licence or the increase, or part of the increase, in the water allocation of the licence is attributable to the surrender of another licence or a reduction in the water allocation of another licence,a levy for the right to take water is not payable for that year in respect of that part of the water allocation of the licence that is attributable to the surrender of the other licence or the reduction in the water allocation of the other licence.

- (9) A levy for the right to take water is payable even though taking water has been prohibited or restricted under this Act or under the licence concerned.
- (10) Subject to section 122A(2), a levy becomes payable on the date for payment stated in the notice under section 125.
- (11) A levy or instalments of a levy are payable pursuant to a notice served under section 125 notwithstanding that the person liable disputes the amount of the levy, but any overpayment must be refunded by the Minister when the correct amount is finally determined.

### **125—Notice to person liable for levy**

- (1) The Minister may serve the notice referred to in subsection (2) on a person who is liable to pay a levy under section 124(1), (2) or (3).
- (2) The notice must—
  - (a) state whether the levy is for the right to take water, or for water taken or both; and
  - (b) state the amount of the levy payable and the accounting period or periods to which the notice relates; and
  - (c) state the factor, or combination of factors, on which the levy is based; and
  - (d) state the date on or before which the levy must be paid or, where the Minister is prepared to accept payment in instalments, state the amount of each instalment and the date on or before which it must be paid.
- (3) The accounting period or periods to which a notice relates must be confined to one financial year or to part of a financial year.

### **126—Determination of quantity of water taken**

- (1) Where a levy is based on the quantity of water taken the following provisions apply:
  - (a) meter readings will be used to determine the quantity of water taken except where—
    - (i) a meter has not been installed; or
    - (ii) the readings given by the meter are unreliable in the opinion of the Minister;
  - (b) where meter readings are used, the quantity of water taken during an accounting period will be taken to be the quantity of water taken during the consumption period for that accounting period;
  - (c) where meter readings are not used, the quantity of water taken during an accounting period will, subject to subsection (3), be assessed by the Minister on—
    - (i) the basis of the pumping capacity of the pump (if any) used to take the water; or
    - (ii) the basis of the area of land irrigated and the crop grown on that land; or
    - (iii) such other basis as the Minister thinks fit;

- (d) water taken—
    - (i) by the occupier of land for domestic purposes on the land or for providing stock (other than stock subject to intensive farming) kept on the land with drinking water;
    - (ii) for firefighting,must be disregarded;
  - (e) where water taken for domestic or stock purposes or for firefighting is not measured by meter, or the water taken is used for other purposes as well, the Minister must make an assessment of the quantity of water taken for those purposes in accordance with paragraph (c).
- (2) Where the Minister uses meter readings or uses any other measuring instrument to determine the quantity of water taken under this Act, he or she will be taken not to be using a measuring instrument for trade for the purposes of the *Trade Measurement Act 1993*.
  - (3) The Minister cannot make an assessment under subsection (1)(c) of the quantity of water taken (except for domestic or stock purposes) unless, before the commencement of the accounting period in relation to which the assessment is to be made, he or she had published in the Gazette—
    - (a) where the basis of assessment is to be pumping capacity—the method to be used in assessing the quantity of water on that basis;
    - (b) where the basis of assessment is to be crop area—water use rates for the crop concerned;
    - (c) where some other basis of assessment is to be used—the basis to be used and the method by which it will be used.
  - (4) If a person liable to pay a levy for water taken from a prescribed water resource is dissatisfied with the accuracy of the meter that measured the quantity of water taken, he or she may, on payment of the fee prescribed by regulation, require the Minister to test the meter.
  - (5) If on testing the meter, the Minister finds—
    - (a) that the quantity of water measured by the meter was not more than five per cent more or less than the quantity of water actually taken, the quantity of water measured by the meter will be the quantity in respect of which the levy is payable;
    - (b) that the quantity of water as measured by the meter was inaccurate by more than five per cent and the Minister is able to determine the degree of inaccuracy, the Minister may serve a further notice under section 125 based on the quantity of water taken appropriately adjusted;
    - (c) that the quantity of water as measured by the meter was inaccurate by more than five per cent but the Minister is unable to determine the degree of inaccuracy, the Minister may serve a further notice under section 125 based on the Minister's assessment under subsection (1)(c) (subsection (3) does not apply in relation to an assessment in these circumstances).

- (6) If the Minister finds that the quantity of water as measured by the meter was inaccurate by more than five per cent, the Minister must refund the fee referred to in subsection (4).
- (7) A person who is dissatisfied with the finding or determination of the Minister under subsection (5) may appeal to the Court against the finding or determination.
- (8) Where the Minister assesses—
  - (a) the quantity of water taken under subsection (1)(c); or
  - (b) the quantity of water used for domestic or stock purposes or for firefighting under subsection (1)(e); or
  - (c) the quantity of water taken by a person who is not authorised by a licence or under section 11 to take the water,

the assessment and the basis on which it was made cannot be called into question by, or before, any court, tribunal or other authority except on the ground that the assessment was not made in good faith.

## **127—Interest**

- (1) Interest accrues—
  - (a) on an unpaid levy; and
  - (b) on unpaid instalments of a levy; and
  - (c) on unpaid interest,in accordance with the regulations.
- (2) A person who is liable to pay a levy is also liable to pay interest that accrues, or has accrued, on or in relation to the levy under this section.
- (3) The Minister may release a person suffering financial hardship from liability to pay the whole or part of interest that has accrued under this section.

## **128—Cancellation etc of licence for non-payment of levy**

- (1) Where a person who holds a water licence under this Act has failed to pay a levy, or an instalment of a levy, within three months after being served with a notice under section 125, the Minister may serve further notice on the licensee requiring payment within a period of not less than one month and stating that the licence may be cancelled, suspended or varied by the Minister if the amount is not paid within that time.
- (2) The Minister may cancel, suspend or vary the licence by seven days written notice served on the licensee if the levy or instalment is not paid in accordance with the notice referred to in subsection (1).

## **129—Levy first charge on land**

A levy for the right to take water, or for taking water, that is intended to be used, or is used, for irrigating land, or in the course of carrying on a business on land, and interest in relation to the levy are a first charge on the land.



### **130—Sale of land for non-payment of a levy**

- (1) Where a levy, or interest in relation to a levy, is a first charge on land and has been unpaid for one year or more, the Minister may sell the land.
- (2) Before the Minister sells land in pursuance of this section, he or she must serve notice on the owner and occupier of the land—
  - (a) stating the period for which the levy and interest have been in arrears; and
  - (b) stating the amount of the total liability for the levy and interest presently outstanding and charged on the land; and
  - (c) stating that if that amount is not paid in full within one month of service of the notice (or such longer time as the Minister may allow), the Minister intends to sell the land for non-payment of the levy or interest.
- (3) A copy of a notice must be served on the registered mortgagee or encumbrancee of the land (if any).
- (4) If the outstanding amount is not paid in full within the time allowed under subsection (2), the Minister may proceed to sell the land.
- (5) The sale will, except in the case of land held from the Crown under a lease, licence or agreement to purchase, be by public auction (and the Minister may set a reserve price for the purposes of the auction).
- (6) An auction under this section must be advertised on at least two separate occasions in a newspaper circulating generally throughout the State.
- (7) If, before the date of the auction, the outstanding amount and the costs incurred by the Minister in proceeding under this section are paid to the Minister, the Minister must withdraw the land from auction.
- (8) If—
  - (a) an auction fails; or
  - (b) the land is held from the Crown under a lease, licence or agreement to purchase,the Minister may sell the land by private contract for the best price that he or she can reasonably obtain.
- (9) Any money received by the Minister in respect of the sale of land under this section will be applied as follows:
  - (a) firstly—in paying the costs of the sale and any other costs incurred in proceeding under this section;
  - (b) secondly—in discharging the liability for the levy and interest and any other liabilities to the Minister in respect of the land;
  - (c) thirdly—in discharging the liability (if any) to any other authority under this Act that relates to the administration of this Act;
  - (d) fourthly—in discharging any liability to the Crown for rates, charges or taxes (including rates, charges or taxes that are a first charge on the land);
  - (e) fifthly—in discharging any liability to a council for rates or any other liability to a council in respect of the land;

- (f) sixthly—in discharging any liabilities secured by registered mortgages, encumbrances or charges;
  - (g) seventhly—in discharging any other mortgages, encumbrances and charges of which the Minister has notice;
  - (h) eighthly—in payment to the former owner of the land.
- (10) If the former owner cannot be found after making reasonable inquiries as to his or her whereabouts, an amount payable to the former owner must be dealt with as unclaimed money under the *Unclaimed Moneys Act 1891*.
- (11) Where land is sold by the Minister in pursuance of this section, an instrument of transfer executed by the Minister will operate to vest title to the land in the purchaser.
- (12) The title vested in a purchaser under subsection (11) will be free of—
  - (a) all mortgages and charges; and
  - (b) except in the case of land held from the Crown under lease or licence—all leases and licences.
- (13) An instrument of transfer passing title to land in pursuance of a sale under this section must, when lodged with the Registrar-General for registration or enrolment, be accompanied by a statutory declaration made by the Chief Executive of the Department of Environment and Natural Resources stating that the requirements of this section in relation to the sale of the land have been observed.
- (14) Where it is not reasonably practicable to obtain the duplicate certificate of title to land that is sold in pursuance of this section, the Registrar-General may register the transfer notwithstanding the non-production of the duplicate, but in that event he or she must cancel the existing certificate of title for the land and issue a new certificate in the name of the transferee.
- (15) A reference in this section to land, or title to land, held from the Crown under lease, licence or agreement to purchase, is a reference to the interest of the lessee, licensee or purchaser in the land.

### **131—Discounting levies**

The Minister may discount a levy in accordance with the regulations to encourage early payment of the levy.

### **132—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water**

- (1) The Minister may, by notice in the Gazette, declare a penalty payable by—
  - (a) a licensee who takes water in excess of the water allocation of the licence;
  - (b) a person who takes water but is not the holder of a water licence and is not authorised under section 11 to take the water;
  - (c) a person who uses water in contravention of a notice under section 16.
- (2) The Minister may declare different penalties—
  - (a) depending on the quantity of water taken;
  - (b) for water taken from different water resources;

- (c) in the case of a contravention of a notice under section 16—depending on the relevant contravention.
- (2a) Subject to subsection (2ab), a notice declaring a penalty under subsection (1)(a)—
  - (a) will apply to the taking of water in a consumption period that corresponds to an accounting period specified in the notice; and
  - (b) must be published in the Gazette in the first half of the accounting period.
- (2ab) If the Minister has not declared a penalty or penalties under paragraph (a) of subsection (1) by the end of the first half of a particular accounting period (the ***new accounting period***), it will be taken that the last penalty or penalties declared by the Minister under that paragraph also apply to the taking of water in the consumption period that corresponds to the new accounting period.
- (2b) A notice declaring a penalty under subsection (1)(b)—
  - (a) will apply to the taking of water in the period specified in the notice; and
  - (b) may be published in the Gazette at any time before or during that period.
- (2c) Where a person—
  - (a) has been served with a notice of liability for a penalty under this section in respect of an accounting period occurring at any time between 1 July 1997 and 30 June 2001; and
  - (b) has made a complaint to the Ombudsman under the *Ombudsman Act 1972* in relation to the notice,the following provisions apply:
  - (c) the Ombudsman must if—
    - (i) he or she forms the view on investigating the complaint that the complainant has suffered hardship because of the time at which the notice declaring the penalty was published in the Gazette or because of any other relevant circumstance; and
    - (ii) the penalty has not been paid,serve notice on the Minister directing the Minister not to proceed with recovery of the penalty until the dispute has been resolved;
  - (d) the Ombudsman must direct the parties to attend before him or her in an attempt to reach agreement on the dispute but if agreement cannot be reached the Ombudsman must determine the amount of the penalty (if any) that should, in his or her opinion, be paid by the complainant;
  - (e) the amount agreed between the parties or determined by the Ombudsman under paragraph (d) is the amount of the penalty payable by the complainant under this section and any amount that has been overpaid by the complainant must be repaid to him or her by the Minister.
- (3) Sections 124 to 131 inclusive apply to, and in relation to, a penalty under this section as though it were a levy declared under section 122.

### **133—Appropriation of levies, penalties and interest**

- (1) Money paid to the Minister in satisfaction of a liability for a levy, penalty or interest under this Division must—
  - (a) in the case of a penalty under section 132—be paid into the Consolidated Account;
  - (b) in the case of a special purpose levy under section 123—be applied for the purpose for which it was raised;
  - (c) in all other cases—
    - (i) where the water resource in relation to which the levy was declared was in the catchment area of a catchment water management board when the levy was declared—be paid to the board;
    - (ii) where the water resource was not in the area of a board when the levy was declared—be paid into the Water Resources Levy Fund.
- (2) The Water Resources Levy Fund must be applied for a purpose relating to the management of the State's water resources.
- (3) The Minister must, as far as practicable, apply money comprising the Fund so as to benefit proportionately the water resources in relation to which the money was paid into the Fund.
- (4) Before applying money under subsection (2) the Minister must consult the Treasurer and have regard to his or her views.
- (5) The Minister may invest money standing to the credit of the Fund that is not immediately required for the purposes referred to in subsection (2) in such manner as is approved by the Treasurer.
- (6) Income derived from investment of the Fund must be credited to the Fund.
- (7) A refund of a levy payable by the Minister under Division 3 must be paid from the Fund.

### **134—Accounts and audit**

- (1) The Minister must cause proper accounts to be kept of money paid to and from the Water Resources Levy Fund.
- (2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the Fund.

## **Division 2—Contributions by councils to boards**

### **135—Contributions**

- (1) If the catchment water management plan of a board specifies an amount to be contributed by the constituent councils of the board's catchment area in respect of a financial year, the constituent councils must contribute an amount determined by the Minister under subsection (2) to the board's costs of performing its functions under this Act for that year.

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- (2) The amount to be contributed by the constituent councils is the amount specified in the board's plan increased by the Minister's estimate (made after consultation with the constituent councils) of the amount by which the shares of the constituent councils will be reduced in respect of rebates and remissions under section 136 and exemptions under section 138(11) or (12).
  - (3) Liability for the amount to be contributed by the constituent councils will be shared between them—
    - (a) where the levy under section 138 is based on the capital value of rateable land—in the proportions that the capital value of the rateable land in the area of the board is distributed amongst the areas of the councils (this paragraph applies despite the fact that an individual council uses a different basis to impose its levy—see section 138(4));
    - (b) where the levy is a fixed amount on all rateable land—in proportion to the number of rateable properties situated in the area of each council being properties that are also situated in the area of the board;
    - (c) where the levy is a fixed amount that depends on the purpose for which rateable land is used—in proportion to the number of rateable properties used for each relevant purpose that are in the area of each council and are also in the area of the board;
    - (d) where the levy is based on the area of rateable land—in the proportions that the area of the rateable land in the area of the board is distributed amongst the areas of the councils;
    - (e) where the levy is based on the purpose for which rateable land is used and the area of rateable land—in the proportions that the area of the rateable land in the area of the board that is used for each purpose is distributed amongst the areas of the councils.
  - (4) The share of each council must be determined by the Minister under subsection (3) after consultation with the constituent councils and must be submitted to the Governor for approval.
  - (5) A council must, at the request of the Minister, supply the Minister with information in the possession of the council to enable the Minister to make the estimation required under subsection (2) and the determination of shares under subsection (4).
  - (6) The Minister must cause notice of the share of each council approved by the Governor under subsection (4) to be given to each of the constituent councils and to be published in the Gazette.

### 136—Reduction of council's share

- (1) Subject to subsection (2), a council's share of the amount to be contributed by the constituent councils determined under section 135 is reduced by an amount equivalent to the amount by which the return to the council on the levy imposed under section 138 (*the section 138 levy*)—
  - (a) is rebated or remitted in accordance with Chapter 10 of the *Local Government Act 1999*; or
  - (b) is reduced on adjustment following an alteration to the value of land or a decision to attribute a particular land use to land; or

- (c) is reduced because of an exemption from payment of the levy by section 138(11) or (12).
- (2) If—
  - (a) a rebate or remission of the section 138 levy in respect of particular land is more generous or is subject to less onerous conditions than the rebate or remission of general rates in respect of that land; or
  - (b) there is no equivalent rebate or remission of general rates in respect of that land,

the rebate or remission of the section 138 levy in respect of that land will not be taken into account when determining the amount by which the council's share will be reduced under subsection (1).

### **137—Payment of contributions**

- (1) Subject to subsection (2), a council's share of the amount to be contributed by the constituent councils is payable by the council in approximately equal instalments on 30 September, 31 December, 31 March and 30 June in the year to which the contribution relates and interest accrues on any amount unpaid at the rate and in the manner prescribed by regulation.
- (2) If notice of the section 138 levy imposed by a council in respect of a financial year could not be included in the notice of general rates for that year because the share to be contributed by the council was not approved by the Governor on or before 1 June preceding that year, the council may pay its share in approximately equal instalments on 31 December, 31 March and 30 June in that year.
- (3) An amount payable by a council to the board under this section and any interest that accrues in respect of that amount is recoverable by the board as a debt.
- (4) If an amount paid by a council is not spent by the board in the financial year in respect of which it was paid, it may be spent by the board in a subsequent financial year.

### **138—Imposition of levy by constituent councils**

- (1) In order to reimburse themselves for the amounts contributed to the board under this Division, the constituent councils must impose a levy on rateable land in the area of the board.
- (2) Except to the extent that the contrary intention appears, Chapter 10 of the *Local Government Act 1999* applies to and in relation to the levy as though it were a separate rate under that Chapter.
- (3) The basis for the levy must be selected from the following list by the Minister after consultation with the constituent councils and must be submitted to the Governor for approval:
  - (a) the capital value of rateable land; or
  - (b) a fixed levy of the same amount on all rateable land; or
  - (c) a fixed levy of an amount that depends on the purpose for which rateable land is used; or
  - (d) the area of rateable land; or
  - (e) the purpose for which rateable land is used and the area of the land.

- (4) Where capital value is the basis for the levy selected by the Minister, a council that uses some other basis to impose general rates in its area may use that other basis to impose the levy.
- (5) A levy based on a fixed amount can only be imposed as follows:
  - (a) the levy cannot be imposed against land that constitutes less than the whole of a single allotment; and
  - (b) subject to subsection (5a), if two or more pieces of contiguous rateable land (that are within the area of the same council) are occupied by the same person, only one levy may be imposed against the whole of that land; and
  - (c) subject to subsection (5a), if two or more pieces of rateable land or aggregations of contiguous rateable land (that are within the area of the same council) are not contiguous with each other but are—
    - (i) owned or occupied by the same person; and
    - (ii) used to carry on the business of primary production and are managed as a single unit for that purpose,only one levy may be imposed against the whole of that land (this paragraph applies in relation to the 2001/2002 financial year and succeeding financial years).
- (5a) Paragraphs (b) and (c) of subsection (5) only apply to land if the owner of the land or some other person has, on or before 31 December in the financial year preceding the financial year to which the levy relates, satisfied the relevant constituent council that the paragraph concerned applies to the land.
- (6) The purposes for which land is used that may be the basis for the levy under subsection (3) must be prescribed by regulation.
- (7) A council—
  - (a) must fix the levy at a level calculated to return the same amount as the council's share of the amount to be contributed to the board before that share is reduced by rebates and remissions under section 136 and exemptions under subsection (11) or (12); and
  - (b) must not take into account when fixing the levy the fact that rebates, remissions and exemptions will reduce the amount returned by imposition of the levy.
- (8) The Minister must cause notice of the basis on which the levy will be imposed, approved by the Governor under subsection (3), to be given to each of the constituent councils and to be published in the Gazette.
- (9) If the amount of a levy due under this section is known when notices for general rates are issued by a council, the amount of the levy must be shown separately on the notice for the general rates.
- (10) In this section—

**allotment** means—

  - (a) the whole of the land comprised in a certificate of title; or

- (b) the whole of land subject to a lease or licence, other than a lease or licence of a prescribed class under section 152 of the *Local Government Act 1999*;

**capital value** has the same meaning as in Chapter 10 of the *Local Government Act 1999*;

**contiguous** has the meaning given to it by section 149 of the *Local Government Act 1999*;

**rateable land** means rateable land under Chapter 10 of the *Local Government Act 1999*.

- (11) Where a person has paid or is liable to pay a levy under Division 1 in relation to water that is intended to be used, or is used, for irrigating land or in the course of carrying on a business on land in respect of a financial year, that person is not liable to pay a levy under this section in respect of that land for that year.
- (12) Where a person has paid or is liable to pay a water supply charge under the *Irrigation Act 1994* in respect of a financial year to the Minister administering that Act or to a trust under that Act and the Minister or trust has paid or is liable to pay in respect of that financial year a levy under Division 1 in relation to water supplied to that person for irrigating land, that person is not liable to pay a levy under this section in respect of that land for that year.

### **139—Administrative costs of councils**

- (1) A catchment water management board is liable to pay to each of the constituent councils of its catchment area an amount determined by the Minister under subsection (2).
- (2) The amount is the amount that in the opinion of the Minister represents the reasonable administrative costs of the council in complying with the requirements of this Division less an amount that, in the opinion of the Minister, represents the financial benefit to the council of receiving payment of the section 138 levy before it pays its share of the amount to be contributed to the board under this Division.

## **Division 3—Refund of levies**

### **140—Refund**

- (1) A catchment water management plan or regulations under this Act may set out water usage or land or water management practices that are designed to conserve water or maintain or improve the quality of water, or to provide other benefits, that will form the basis of an application for a refund of the levy imposed under Division 1 or Division 2.
- (1a) Water management practices under subsection (1) may include—
  - (a) the establishment of, or participation in, a drainage scheme; or
  - (b) the establishment or maintenance of infrastructure, plant or equipment; or
  - (c) other initiatives.
- (2) The plan or the regulations must specify the amount of the refund that may be applied for.



- (3) A person who has adopted or undertaken practices referred to in subsection (1) in a financial year may apply for a refund of the whole or a part of a levy (or a component of a levy) under Division 1 paid by that person to the Minister for that year.
- (4) If the water resource to which the levy relates is in the area of a board, the application must be made to the board.
- (5) In any other case the application must be made to the Minister.
- (6) The owner or occupier of land in the catchment area of a catchment water management board in relation to which practices referred to in subsection (1) have been adopted or undertaken in a financial year may apply to the board for a refund of the whole or a part of the levy under Division 2 paid by that person to the council in respect of the land for that year.
- (7) The board or the Minister must grant an application under this section if the relevant criteria set out in the management plan or the regulations have been satisfied.
- (8) Without limiting the criteria that may be used, the plan or regulations may specify accreditation by a specified body as the criterion or one of the criteria on which an application will be granted.
- (9) An applicant may appeal to the Court against a decision of the Minister or a board under this section.
- (10) On granting an application, the board or the Minister must pay to the applicant the amount of the refund applied for.
- (11) The Minister may also grant a refund of, or an exemption from, the whole or a part of a levy (or a component of a levy) under Division 1—
  - (a) as a condition of a water licence; or
  - (b) under the terms of a management agreement under the *River Murray Act 2003*; or
  - (c) by notice in the Gazette.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### Repeal of Act

The *Water Resources Act 1997* was repealed by Sch 4 (cl 43(1)(c)) of the *Natural Resources Management Act 2004* on 1.7.2005.

However, the repeal of Parts 1 and 8 was suspended until a day to be fixed by proclamation (see *Gazette* 30.6.2005 p2096).

### Legislation repealed by principal Act

The *Water Resources Act 1997* repealed the following:

*Catchment Water Management Act 1995*

*River Torrens (Prohibition of Excavations) Act 1927*

*River Torrens Protection Act 1949*

*Water Resources Act 1990*

### Principal Act and amendments

Year	No	Title	Assent	Commencement
1997	27	<i>Water Resources Act 1997</i>	10.4.1997	2.7.1997 ( <i>Gazette</i> 26.6.1997 p3052)
1997	35	<i>Statutes Amendment (Water Resources) Act 1997</i>	19.6.1997	Pt 8 (s 31)—2.7.1997 ( <i>Gazette</i> 26.6.1997 p3052)
1999	58	<i>Water Resources (Water Allocation Plans) Amendment Act 1999</i>	12.8.1999	12.8.1999
1999	64	<i>Local Government (Implementation) Act 1999</i>	18.11.1999	s 11—1.1.2000 ( <i>Gazette</i> 9.12.1999 p3113)
2000	45	<i>Water Resources (Water Allocations) Amendment Act 2000</i>	13.7.2000	13.7.2000
2000	88	<i>Development (System Improvement Program) Amendment Act 2000</i>	21.12.2000	Sch 1 (cl 6)—2.4.2001 ( <i>Gazette</i> 29.3.2001 p1436)
2001	16	<i>Statutes Amendment (Avoidance of Duplication of Environmental Procedures) Act 2001</i>	17.5.2001	Pt 7 (s 9)—14.6.2001 ( <i>Gazette</i> 14.6.2001 p2221)
2001	42	<i>Water Resources (Reservation of Water) Amendment Act 2001</i>	3.8.2001	23.8.2001 ( <i>Gazette</i> 23.8.2001 p3258) except s 8—2.7.1997: s 2

2003	3	<i>Water Resources (Miscellaneous) Amendment Act 2003</i>	22.5.2003	22.5.2003
2003	15	<i>Statutes Amendment (Water Conservation Practices) Act 2003</i>	19.6.2003	19.6.2003
2003	35	<i>River Murray Act 2003</i>	31.7.2003	Sch (cl 22)—24.11.2003 ( <i>Gazette 20.11.2003 p4203</i> )
2004	23	<i>Statutes Amendment (Courts) Act 2004</i>	8.7.2004	Sch 1—1.9.2004 ( <i>Gazette 26.8.2004 p3402</i> )
2005	20	<b><i>Statutes Amendment (Environment and Conservation Portfolio) Act 2005</i></b>	<b>9.6.2005</b>	<b>Pt 8 (s 40) and Sch 1 (cl 1)—23.6.2005 (<i>Gazette 23.6.2005 p1901</i>)</b>
2004	34	<i>Natural Resources Management Act 2004</i>	5.8.2004	Sch 4 (cl 43)—1.7.2005 ( <i>Gazette 30.6.2005 p2093</i> )—see note about repeal of Act

## Provisions amended

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	22.5.2003
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	22.5.2003
s 3		
s 3(1)		
Interstate Water Entitlements Transfer Scheme	inserted by 35/2003 Sch cl 22(a)	24.11.2003
Murray-Darling Basin	inserted by 35/2003 Sch cl 22(b)	24.11.2003
natural resources	inserted by 35/2003 Sch cl 22(b)	24.11.2003
River Murray	inserted by 35/2003 Sch cl 22(c)	24.11.2003
River Murray Protection Area	inserted by 35/2003 Sch cl 22(c)	24.11.2003
water allocation	substituted by 45/2000 s 2(a)	13.7.2000
water (holding) allocation	inserted by 45/2000 s 2(b)	13.7.2000
water (taking) allocation	inserted by 45/2000 s 2(c)	13.7.2000
s 3(3a)	inserted by 45/2000 s 2(d)	13.7.2000
<i>Pt 2 before deletion by 34/2004</i>		
s 6		
s 6(1)	<i>amended by 35/2003 Sch cl 22(d)</i>	24.11.2003
s 6(2)	<i>amended by 35/2003 Sch cl 22(e)</i>	24.11.2003
<b>Pt 2</b>	<b><i>deleted by 34/2004 Sch 4 cl 43(1)(c)</i></b>	<b>1.7.2005</b>
<b>Pt 3</b>	<b><i>deleted by 34/2004 Sch 4 cl 43(1)(c)</i></b>	<b>1.7.2005</b>

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*Pt 4 before deletion by  
34/2004*

*Pt 4 Div 1*

*s 9*

*s 9(5)* amended by 35/2003 Sch cl 22(f) 24.11.2003

*s 9(7)* inserted by 35/2003 Sch cl 22(g) 24.11.2003

*s 10*

*s 10(2)* amended by 35/2003 Sch cl 22(h) 24.11.2003

*s 10(6)* inserted by 35/2003 Sch cl 22(i) 24.11.2003

*s 12*

*s 12(1)* amended by 35/2003 Sch cl 22(j), (k) 24.11.2003

*s 12(3)* inserted by 35/2003 Sch cl 22(l) 24.11.2003

*s 15*

*s 15(1)* amended by 35/2003 Sch cl 22(m) 24.11.2003

*s 16*

*s 16(1)* amended by 15/2003 s 3(1) 19.6.2003

*s 16(7)* amended by 15/2003 s 3(2) 19.6.2003

*Pt 4 Div 1A* inserted by 15/2003 s 4 19.6.2003

*s 18*

*s 18(4a) and (4b)* inserted by 35/2003 Sch cl 22(n) 24.11.2003

***Pt 4*** ***deleted by 34/2004 Sch 4 cl 43(1)(c)*** ***1.7.2005***

*Pt 5 before deletion by  
34/2004*

*Pt 5 Div 1*

*s 29*

*s 29(1)* substituted by 45/2000 s 3(a) 13.7.2000

*s 29(3a) and (3b)* inserted by 35/2003 Sch cl 22(o) 24.11.2003

*s 29(4)* amended by 45/2000 s 3(b) 13.7.2000

*s 29(4a)—(4c)* inserted by 35/2003 Sch cl 22(p) 24.11.2003

*s 30*

*s 30(1)* amended by 35/2003 Sch cl 22(q)—(s) 24.11.2003

*s 30(2)* amended by 35/2003 Sch cl 22(t) 24.11.2003

*s 30(3) and (4)* inserted by 35/2003 Sch cl 22(u) 24.11.2003

*Pt 5 Div 2*

*s 33* amended by 45/2000 s 4 13.7.2000

*s 34*

*s 34(1)* substituted by 45/2000 s 5 13.7.2000

amended by 35/2003 Sch cl 22(v) 24.11.2003

*s 34(3)* amended by 35/2003 Sch cl 22(w) 24.11.2003

*s 34(8)* amended by 35/2003 Sch cl 22(x) 24.11.2003

*s 35*

*s 35(1)* amended by 35/2003 Sch cl 22(y) 24.11.2003

*s 35A* inserted by 45/2000 s 6 13.7.2000

<i>s 35A(7)</i>	<i>amended by 42/2001 s 3(a)</i>	23.8.2001
<i>s 35A(7a)</i>	<i>inserted by 42/2001 s 3(b)</i>	23.8.2001
<i>s 35B</i>	<i>inserted by 45/2000 s 6</i>	13.7.2000
<i>s 36</i>		
<i>s 36(1)</i>	<i>amended by 45/2000 s 7(a)</i>	13.7.2000
<i>s 36(8)</i>	<i>amended by 45/2000 s 7(b)</i>	13.7.2000
<i>s 37</i>		
<i>s 37(1)</i>	<i>amended by 45/2000 s 8</i>	13.7.2000
<i>Pt 5 Div 3</i>		
<i>s 38</i>		
<i>s 38(1)</i>	<i>amended by 35/2003 Sch cl 22(z)</i>	24.11.2003
<i>s 38(5a)</i>	<i>inserted by 35/2003 Sch cl 22(za)</i>	24.11.2003
<i>s 39</i>		
<i>s 39(2a)</i>	<i>inserted by 35/2003 Sch cl 22(zb)</i>	24.11.2003
<i>s 39(3)</i>	<i>amended by 35/2003 Sch cl 22(zc)</i>	24.11.2003
<i>s 41</i>		
<i>s 41(1)</i>	<i>amended by 35/2003 Sch cl 22(zd)</i>	24.11.2003
<i>s 41(1a)</i>	<i>inserted by 35/2003 Sch cl 22(ze)</i>	24.11.2003
<i>s 42</i>	<i>amended by 35/2003 Sch cl 22(zf)</i>	24.11.2003
<i>Pt 5 Div 4</i>		
<i>s 43</i>		
<i>s 43(4)</i>	<i>amended by 35/2003 Sch cl 22(zg)</i>	24.11.2003
<i>Pt 5 Div 5</i>	<i>inserted by 35/2003 Sch cl 22(zh)</i>	24.11.2003
<b>Pt 5</b>	<b>deleted by 34/2004 Sch 4 cl 43(1)(c)</b>	<b>1.7.2005</b>
<i>Pt 5A</i>	<i>inserted by 42/2001 s 4</i>	23.8.2001
	<b>deleted by 34/2004 Sch 4 cl 43(1)(c)</b>	<b>1.7.2005</b>
<i>Pt 6 before deletion by 34/2004</i>		
<i>s 45</i>		
<i>s 45(1)</i>	<i>amended by 35/2003 Sch cl 22(zi)</i>	24.11.2003
<i>s 61</i>	<i>amended by 35/2003 Sch cl 22(zj)</i>	24.11.2003
<i>s 62</i>		
<i>s 62(3)</i>	<i>substituted by 35/2003 Sch cl 22(zk)</i>	24.11.2003
<i>s 62(4)—(8)</i>	<i>inserted by 35/2003 Sch cl 22(zk)</i>	24.11.2003
<b>Pt 6</b>	<b>deleted by 34/2004 Sch 4 cl 43(1)(c)</b>	<b>1.7.2005</b>
<i>Pt 7 before deletion by 34/2004</i>		
<i>s 92</i>		
<i>s 92(3)</i>	<i>amended by 35/2003 Sch cl 22(zl), (zm)</i>	24.11.2003
<i>s 97</i>		
<i>s 97(3)</i>	<i>amended by 35/2003 Sch cl 22(zn)</i>	24.11.2003
<i>s 97(6)</i>	<i>amended by 35/2003 Sch cl 22(zo)</i>	24.11.2003
<i>s 97(7)</i>	<i>amended by 35/2003 Sch cl 22(zp)</i>	24.11.2003

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<i>s 117A</i>	<i>inserted by 35/2003 Sch cl 22(zq)</i>	<i>24.11.2003</i>
<i>s 118</i>		
<i>s 118(1)</i>	<i>s 118 redesignated as s 118(1) by 35/2003 Sch cl 22(zr)</i>	<i>24.11.2003</i>
<i>s 118(2)</i>	<i>inserted by 35/2003 Sch cl 22(zr)</i>	<i>24.11.2003</i>
<i>s 118A</i>	<i>inserted by 35/2003 Sch cl 22(zs)</i>	<i>24.11.2003</i>
<b>Pt 7</b>	<b><i>deleted by 34/2004 Sch 4 cl 43(1)(c)</i></b>	<b><i>1.7.2005</i></b>
<b>Pt 8</b>		
<i>s 120</i>		
<i>s 120(1)</i>	<i>s 120 redesignated as s 120(1) by 45/2000 s 9</i>	<i>13.7.2000</i>
<i>levy</i>	<i>substituted by 42/2001 s 5</i>	<i>23.8.2001</i>
<i>s 120(2)—(4)</i>	<i>inserted by 45/2000 s 9</i>	<i>13.7.2000</i>
<i>s 122</i>		
<i>s 122(4a)</i>	<i>inserted by 35/2003 Sch cl 22(zt)</i>	<i>24.11.2003</i>
<i>s 122(8)</i>	<i>substituted by 35/2003 Sch cl 22(zu)</i>	<i>24.11.2003</i>
<i>s 122(8a)</i>	<i>inserted by 45/2000 s 10</i>	<i>13.7.2000</i>
<i>s 122(8b) and (8c)</i>	<i>inserted by 35/2003 Sch cl 22(zv)</i>	<i>24.11.2003</i>
<i>s 122A</i>	<i>inserted by 42/2001 s 6</i>	<i>23.8.2001</i>
<i>s 124</i>		
<i>s 124(10)</i>	<i>amended by 42/2001 s 7</i>	<i>23.8.2001</i>
<i>s 132</i>		
<i>s 132(1)</i>	<i>amended by 15/2003 s 5(1)</i>	<i>19.6.2003</i>
<i>s 132(2)</i>	<i>substituted by 42/2001 s 8</i>	<i>2.7.1997</i>
	<i>amended by 15/2003 s 5(2)</i>	<i>19.6.2003</i>
<i>s 132(2a)</i>	<i>inserted by 42/2001 s 8</i>	<i>2.7.1997</i>
	<b><i>amended by 20/2005 s 40(1), (2)</i></b>	<b><i>23.6.2005</i></b>
<b><i>s 132(2ab)</i></b>	<b><i>inserted by 20/2005 s 40(3)</i></b>	<b><i>23.6.2005</i></b>
<i>s 132(2b), (2c)</i>	<i>inserted by 42/2001 s 8</i>	<i>2.7.1997</i>
<i>s 136</i>		
<i>s 136(1)</i>	<i>amended by 64/1999 s 11(a)</i>	<i>1.1.2000</i>
<i>s 138</i>		
<i>s 138(2)</i>	<i>amended by 64/1999 s 11(b)</i>	<i>1.1.2000</i>
<i>s 138(5)</i>	<i>amended by 45/2000 s 11(a)</i>	<i>13.7.2000</i>
	<i>amended by 42/2001 s 9</i>	<i>23.8.2001</i>
<i>s 138(5a)</i>	<i>inserted by 45/2000 s 11(b)</i>	<i>13.7.2000</i>
<i>s 138(10)</i>	<i>substituted by 64/1999 s 11(c)</i>	<i>1.1.2000</i>
<i>s 140</i>		
<i>s 140(1)</i>	<i>amended by 35/2003 Sch cl 22(zw), (zx)</i>	<i>24.11.2003</i>
<i>s 140(1a)</i>	<i>inserted by 35/2003 Sch cl 22(zy)</i>	<i>24.11.2003</i>
<i>s 140(3)</i>	<i>amended by 35/2003 Sch cl 22(zz), (zza)</i>	<i>24.11.2003</i>
<i>s 140(6)</i>	<i>amended by 35/2003 Sch cl 22(zzb)</i>	<i>24.11.2003</i>
<i>s 140(11)</i>	<i>inserted by 35/2003 Sch cl 22(zzc)</i>	<i>24.11.2003</i>
<b>Pt 9</b>	<b><i>deleted by 34/2004 Sch 4 cl 43(1)(c)</i></b>	<b><i>1.7.2005</i></b>

*Pt 10 before deletion by  
34/2004*

*s 142*

*s 142(1)*                      *amended by 42/2001 s 10*                      23.8.2001

**Pt 10**                      **deleted by 34/2004 Sch 4 cl 43(1)(c)**                      **1.7.2005**

*Pt 11 before deletion by  
34/2004*

*s 144*                      *amended by 88/2000 Sch 1 cl 6*                      2.4.2001

*amended by 23/2004 Sch 1*                      1.9.2004

*s 144A*                      *inserted by 16/2001 s 9*                      14.6.2001

*s 148A*                      *inserted by 35/2003 Sch cl 22(zzd)*                      24.11.2003

*s 159*                      *inserted by 45/2000 s 12*                      13.7.2000

**Pt 11**                      **deleted by 34/2004 Sch 4 cl 43(1)(c)**                      **1.7.2005**

**Sch 1**                      **deleted by 34/2004 Sch 4 cl 43(1)(c)**                      **1.7.2005**

*Sch 2 before deletion by  
34/2004*

*cl 10*

*cl 10(10a)*                      *inserted by 3/2003 s 2*                      22.5.2003

**Sch 2**                      **deleted by 34/2004 Sch 4 cl 43(1)(c)**                      **1.7.2005**

*Sch 3 before deletion by  
34/2004*

*cl 1*                      *omitted under Legislation Revision and  
Publication Act 2002*                      22.5.2003

*cl 2*

*cl 2(1)*                      *substituted by 35/1997 s 31(a)*                      2.7.1997

*cl 2(2)*                      *substituted by 35/1997 s 31(b)*                      2.7.1997

*cl 2(15a)—(15c)*                      *inserted by 58/1999 s 2*                      12.8.1999

*cl 2(19)*                      *amended by 35/1997 s 31(c), (d)*                      2.7.1997

**Sch 3**                      **deleted by 34/2004 Sch 4 cl 43(1)(c)**                      **1.7.2005**

## Transitional etc provisions associated with Act or amendments

### *Statutes Amendment (Environment and Conservation Portfolio) Act 2005, Sch 1*

#### **1—Transitional provision relating to *Natural Resources Management Act 2004* and *Water Resources Act 1997***

The penalties declared by the relevant Minister under section 132(1)(a) of the *Water Resources Act 1997* with respect to the taking of water in the consumption period that corresponds to the 2003/2004 financial year accounting period (as defined for the purposes of that section) will continue to apply for the purposes of the *Water Resources Act 1997* or the *Natural Resources Management Act 2004* (as the case requires) in respect of succeeding consumption periods until a new penalty is declared by the relevant Minister (either under section 132(1)(a) of the *Water Resources Act 1997* or section 115(1)(a) of the *Natural Resources Management Act 2004* (as the case requires)).

## **Historical versions**

Reprint No 1—2.7.1997

Reprint No 2—12.8.1999

Reprint No 3—1.1.2000

Reprint No 4—13.7.2000

Reprint No 5—2.4.2001

Reprint No 6—14.6.2001

Reprint No 7—23.8.2001

Reprint No 8—22.5.2003

Reprint No 9—19.6.2003

Reprint No 10—24.11.2003

1.9.2004

23.6.2005 (electronic only)