

Queensland



SOUTH EAST QUEENSLAND WATER BOARD ACT 1979

**Reprinted as in force on 24 February 1995
(includes amendments up to Act No. 87 of 1994)**

Reprint No. 1

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This Act is reprinted as at 24 February 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- correct use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- reorder definitions consistent with current drafting practice (s 30)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37, 38 and 39)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see Endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **Table of changed names and titles**
 - **Table of obsolete and redundant provisions**
 - **Table of renumbered provisions.**

Queensland



SOUTH EAST QUEENSLAND WATER BOARD ACT 1979

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	7
2	Commencement of Act	7
4	Interpretation	8
5	Provisions concerning application of other enactments	9
PART 2—OPERATIONAL AREA OF THE BOARD		
6	Operational area	11
6A	Local government may be required to contribute to capital works	12
7	Publication of operational area	12
PART 3—SOUTH EAST QUEENSLAND WATER BOARD		
<i>Division 1—Incorporation and composition of Board</i>		
8	Constitution of Board	13
9	Members of Board	13
13	Appointment of members of Board	14
14	Term of appointment	14
15	Termination of membership of Board	15
16	Casual vacancy in membership of Board	16
17	Delegate members of Board	17
18	Persons deemed to be councillors of local government	18
<i>Division 2—Control of Board's affairs</i>		
19	Chairperson	18
20	Deputy chairperson	19
21	Technical Advisory Committee	19

21A	Ministerial advisory committee	21
-----	--------------------------------------	----

PART 4—FUNCTIONS AND POWERS OF THE BOARD

Division 1—General functions

22	Functions	23
----	-----------------	----

Division 2—General powers

23	Construction by Board	25
24	General powers of Board	25
26	Agreements concerning hydro-electric works	25
27	Power of entry	26
28	Interference with roads	27
29	Power of Board to take over undertakings of local governments	28
30	Board to instigate exercise of powers under s 29	29
30A	No entitlement to compensation	30
31	Procedure for taking over control	30
32	Procedure for acquisition of property or assumption of liabilities	31
33	Enforcement of existing claims	32
34	Presumed privity of contract	32
35	Board to be aided in securing property	32
36	Prescribed enactments inapplicable to dealings under this Act	33
37	Apportionment of liability	33
37A	Liability for works	33
38	Procedure upon absence of agreement	34
38A	Authority to resolve all matters upon reference of issue to Minister	35
38B	Regulation to give effect to determinations by Governor in Council	36
39	Exercise of power under s 29 not affected by partial disagreement	37
39A	Delegations	37

PART 5—SUPPLY AND USE OF WATER

Division 1—Control of water

40	Board's entitlement to water	38
41	Procedure for obtaining consent	38
42	Protection of Board upon taking water	38
43	Cessation of local government's entitlement to water	39

44	Protection of local government water undertaking	40
45	Provisions as to water supply to Esk	40
46	Provisions as to water supply to Lowood	40
47	Provisions as to water supply to Glamorgan Vale Water Supply Area	41
48	Allocations of water	41
49	Exchange of information on water requirement	42
50	Solution of disputes between Board and local government	43
51	Use of local government works	43
52	Solution of disputes as to use of works	43
53	Board may assist local government in distributing water	44
	<i>Division 2—Protection of water quality</i>	
54	Regulation of use of catchment area	44
55	Effect of regulations under s 54 on powers etc.	45
56	Effect of regulations under s 54 on rights	45
57	Effect of regulations on planning applications	46
58	Board’s liability for certain injurious affection	46
	<i>Division 3—Discontinuance or lessening of supply of water</i>	
59	Board’s power over supply	46
60	Manner of exercising s 59 power	47
	PART 6—FINANCIAL PROVISIONS	
	<i>Division 1—Power to charge for water</i>	
61	Water to be supplied under agreement	47
62	Extended meaning of “local government”	48
	<i>Division 2—Application of Finance Acts</i>	
63	Board is statutory body	48
	<i>Division 5—Special financial arrangements</i>	
90	Grants and subsidies	49
	PART 7—TAKING AND HOLDING LAND BY THE BOARD	
	<i>Division 1—Acquisition of land</i>	
93	Freehold land	49
94	Other land	49
95	Application of Acquisition of Land Act 1967	50

96	Taking additional land upon severance	50
97	Acquisition of easements etc.	50

Division 2—Rateability of land

98	Assignment of full supply levels	51
99	Variation of full supply levels	51
100	Full supply level of reservoir acquired by Board	51
101	Date on which full supply levels are effective	51
102	Land generally rateable	52
103	Rateable value	52
104	Determination of unimproved value	52
105	Meaning of “submerged land”	53

PART 8—PROCEDURE AND PRACTICE

Division 1—Flood mitigation

106	Operational procedures for flood mitigation	54
107	Board, headworks operator bound by manual	54
108	Minister, Board, headworks operator not liable for flood damage	54

Division 2—Practice concerning water and power generation

109	Cooperative practice of Board and Electricity Generating Board	55
-----	--	----

PART 9—CONDUCT OF THE BOARD’S AFFAIRS

Division 1—Proceedings and business of Board

110	Meetings of Board	57
111	Presiding at meetings	57
112	Quorum at meetings	57
113	Notice of meetings	57
114	Adjournment of meetings	58
115	Conduct of Board’s affairs	58
116	Validity of proceedings	60
117	Disability on participation in business of Board	60

Division 2—Remuneration fees and expenses

118	Chairperson’s remuneration	61
119	Remuneration of other Board members	62
120	Expenses	62

121	Other fees etc. not payable	62
-----	---------------------------------------	----

Division 3—Employees of Board

122	Employment of staff	62
123	Staff of works controlled by Board	63
124	Employees of local government prejudiced by Board's control of works . .	63
125	Employment details to be furnished to Board	63
126	Retention of accrued leave rights by Board's employees	64
127	Retention of superannuation rights by Board's employees	64
128	Board to contribute as employer	65
129	Maintenance of Board's own superannuation scheme	66

PART 10—MISCELLANEOUS PROVISIONS

130	Board not liable for short supply	67
131	Board liable only in negligence for escape of water	67
132	Obstruction	68
133	Assault and intimidation	68
134	Regulations	68
135	By-laws	68
136	Manner of making by-laws	70
139	Intervention in Board's affairs	71
141	Proof of Board's documents	73
142	Search of titles without fee	73
143	Returns to the Minister	73
145	Offence provision	74
146	Appropriation of penalties	74
147	Amounts held in funds	74

ENDNOTES

1	Index to Endnotes	76
2	Date to which amendments incorporated	76
3	List of legislation	76
4	List of annotations	78
5	Table of changed names and citations	85

6	Table of changed citations and remade laws	86
7	Table of obsolete and redundant provisions	86
8	Table of renumbered provisions	86
9	Transitional and savings provisions	87

SOUTH EAST QUEENSLAND WATER BOARD ACT 1979

[as amended by all amendments that commenced on or before 24 February 1995]

An Act to provide for the planning, further development, administration and operational control of bulk supply of water by South East Queensland Water Board to local governments and for electricity generating purposes and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *South East Queensland Water Board Act 1979*.

Commencement of Act

2.(1) The Governor may by proclamation—

- (a) appoint a date on which this Act shall come into operation; or
- (b) appoint dates on which the provisions of this Act specified in the proclamation shall come into operation.

(2) Such dates may be appointed in the one proclamation or in different proclamations.

(3) This Act or a provision thereof specified in the proclamation shall come into operation on the date appointed by proclamation made under this section for the coming into operation of this Act or, as the case may be, that provision.

Interpretation

4.(1) In this Act—

“Board” means the body corporate constituted under this Act by the name South East Queensland Water Board.

“chairperson” means chairperson of the Board.

“chief executive” means the chief executive of the department.

“dam” means a barrier, together with its appurtenant works, for the storage, control or diversion of water.

“full supply level” means the maximum water storage level assigned to a reservoir for the permanent storage of water for the purpose of water supply.

“headworks” means any dam, reservoir, structure, well, bore, tank, aqueduct, tunnel, building, engine, pump or equipment used for or in connection with the storage, control or diversion of water and includes works for the conveyance of water (other than trunk mains) or for the generation of hydro-electricity.

“headworks operator” means any local government with which the Board has entered into any contract or arrangement with respect to the operation and maintenance (including the operational procedures to be carried out for the purpose of flood mitigation) of the headworks of the Board.

“maximum flood level” means that water level in a reservoir that may be reached temporarily during the passage through it of the maximum probable flooding provided for in the design and construction of the dam that forms the reservoir.

“operational area” means the Operational Area of South East Queensland Water Board referred to in section 6.

“planning scheme” means a planning scheme under the *Local Government (Planning and Environment) Act 1990*.

“reservoir” means any artificial lake, pond or basin formed by the construction of a dam.

“secretary” means the person appointed by the Board to be secretary of the Board and includes the officer of the Board for the time being

performing the duties of secretary.

“Technical Advisory Committee” means the Technical Advisory Committee established under this Act.

“treatment works” means any building, storage tank, mechanical or electrical equipment of every description or other part of any works that is used primarily for the quality control of purification of water and includes all mains contained therein or used in association therewith.

“trunk main” or **“main”** means any pipe, aqueduct, syphon or facility used in association therewith (including a water meter and other apparatus and equipment of every description) that is used for or in connection with the conveyance of water from headworks.

(2) In this Act, a reference to a nominee of a local government shall be read as a reference to the councillor of that local government nominated in accordance with the regulations, whether or not that person was, in fact, nominated by that local government.

(3) While a regulation under section 29(1) remains in force in respect of any treatment works or trunk mains, a reference in section 30, 30A, 31, 38 or 39 to headworks shall be read as including a reference to those treatment works or trunk mains.

Provisions concerning application of other enactments

5.(1) Upon the Board assuming control of the headworks comprising Somerset Dam and the Hydro-electric Works being the headworks to which the *City of Brisbane (Water Supply) Act 1959* (the **“Act aforesaid”**) applies—

- (a) all obligations required by or pursuant to the Act aforesaid to be discharged by Brisbane City Council or the Council of the City of Ipswich after the date on which such control is assumed by the Board shall be discharged by the Board and the provisions of the Act aforesaid that provide for such obligations or their discharge shall be construed as if a reference therein to Brisbane City Council or the Council of the City of Ipswich were a reference to the Board;
- (b) the moneys required to be paid by the Board to the Treasurer pursuant to paragraph (a), to the extent that they represent capital

South East Queensland Water Board Act 1979

costs of headworks, shall be deemed to constitute a loan duly made by the Treasurer to the Board and moneys from time to time due and owing by the Board to the Treasurer pursuant to the Act aforesaid and unpaid shall be a debt due and owing by the Board to the Treasurer and may be recovered by action in a court of competent jurisdiction and, in addition, section 6 of the Act aforesaid shall apply in respect of such moneys due and owing and unpaid as if the Board were a local government within the meaning of the *Local Government Act 1993*;

- (c) sections 4(5) and 5(2) of the Act aforesaid shall apply in respect of moneys that pursuant to paragraph (b) are deemed to constitute a loan duly made by the Treasurer to the Board and shall be construed as if a reference therein to Brisbane City Council or the Council of the City of Ipswich were a reference to the Board;
- (d) section 8 of the Act aforesaid shall apply in respect of payments to be made by the Board pursuant to paragraph (a) and shall be construed as if a reference therein to Brisbane City Council or the Council of the City of Ipswich were a reference to the Board.

(2) Upon the Board assuming control from Brisbane City Council of the lands comprising the Somerset Dam Catchment Area within the meaning of the *Somerset Dam Catchment Area Declaratory Act 1974* that Act shall be construed in relation to the making, levying and paying of rates to which it applies, in respect of any period after such acquisition, as if—

- (a) section 3 read as follows—

“3. Owner of catchment area. It is hereby declared that the Board constituted under the *South East Queensland Water Board Act 1979* is, and always has been since the same was acquired by it pursuant to that Act, the owner of the Somerset Dam Catchment Area to the exclusion of all other persons for the purpose of the making and levying of rates in respect of land within that Area pursuant to the *Local Government Act 1993* as amended to the time of the making and levying of such rates.”; and

- (b) a reference therein to Brisbane City Council were a reference to the Board.

(3) Upon the Board assuming control of the headworks comprising the

Pine River Dam to which the *City of Brisbane (North Pine River Dam) Act 1962* applies—

- (a) that Act shall be construed in respect of any period after such assumption of control as if a reference therein to Brisbane City Council were a reference to the Board; and
- (b) powers exercisable by Brisbane City Council in connection with the dam or the storage therein or the supply of water therefrom, which powers are referred to in that Act but which are derived from the *Metropolitan Water Supply and Sewerage Act 1909*, shall be deemed to be powers of the Board exercisable by it and for that purpose the provisions of the last mentioned Act shall be construed as if a reference therein to Brisbane City Council were a reference to the Board.

(4) Where the Board has assumed control of headworks, then, until by-laws of the Board that apply to those headworks are made, local laws of a local government that apply to those headworks relating to protection of the same against trespass or damage or to access by the public on any part of the same or to any other matter that concerns the use that may be made of the same shall continue to be of full force and effect and may be enforced by the Board as if they were by-laws of the Board duly made under this Act, and for that purpose such local laws shall be construed as if a reference therein to a local government were a reference to the Board.

PART 2—OPERATIONAL AREA OF THE BOARD

Operational area

6.(1) For the purposes of this Act, there shall be an area called the ‘Operational Area of South East Queensland Water Board’.

(2) The Operational Area of South East Queensland Water Board is—

- (a) the area delineated on map No. M393 deposited in the Department of Lands; or
- (b) where that area is varied by regulations—that area as so varied.

- (3) Before the operational area is varied, the Minister must—
- (a) obtain the consent of each local government whose area or part of whose area would, if the proposed variation were made, be included in, or excluded from, the operational area because of the variation; and
 - (b) if a Ministerial Advisory Committee has been established under section 21A—consult with the Committee.

Local government may be required to contribute to capital works

6A.(1) If the operational area is varied to include a local government whose area, or part of whose area, was not previously included in the operational area, the Governor in Council may, by regulation, require the local government to pay an amount as contribution to the cost of existing headworks, treatment works and trunk mains and other existing capital works.

(2) The amount of the contribution is to be calculated in the way prescribed by regulation.

Publication of operational area

7. A copy of a map delineating the operational area shall be held available for public inspection in the office of the chief executive at Brisbane, in the public office of the Board and in the public office of each local government whose area or part of whose area is within the operational area.

PART 3—SOUTH EAST QUEENSLAND WATER BOARD

Division 1—Incorporation and composition of Board

Constitution of Board

8.(1) The body corporate constituted under the *Brisbane and Area Water Board Act 1979* under the name and style ‘Brisbane and Area Water Board’ is preserved, continued in existence and constituted as a body corporate under this Act under the name and style ‘South East Queensland Water Board’ and the body corporate, by that name and style, shall have perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate name and, subject to this Act and for the purpose of discharging its functions under this Act, of taking, acquiring, holding and disposing of land and other property, of granting and taking leases of land and other property and of doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any document and shall presume unless the contrary is proved that it was duly affixed.

(3) The Board shall from time to time provide and maintain, or contract for the use of a public office within the operational area for the purpose of transacting the business of the Board.

Members of Board

9. The Board consists of the following members—

- (a) a chairperson;
- (b) 2 members who are councillors of Brisbane City Council;
- (c) 1 member who is a councillor of the council of a city, other than Brisbane, whose area or part of whose area is within the operational area;
- (d) 1 member who is a councillor of the council of a shire whose area or part of whose area is within the operational area.

Appointment of members of Board

13.(1) The members of the Board shall be appointed by the Minister by notification published in the Gazette.

(2) In appointing persons to the Board, the Minister shall—

- (a) for the purposes of section 9(b)—appoint 2 persons who were nominated and approved, in accordance with the regulations, for appointment to the Board as the nominees of Brisbane City Council; and
- (b) for the purposes of section 9(c)—appoint the person selected, in accordance with the regulations, from the persons nominated, in accordance with the regulations, for appointment to the Board as the respective nominees of each of the councils of the cities, other than Brisbane, whose areas or parts of whose areas are within the operational area; and
- (c) for the purposes of section 9(d)—appoint the person selected, in accordance with the regulations, from the persons nominated, in accordance with the regulations, for appointment to the Board as the respective nominees of each of the councils of the shires whose areas or parts of whose areas are with the operational area.

(3) The Minister shall not appoint a nominee of a local government to the Board unless the nominee is a councillor of that government.

(4) Regulations made for the purposes of subsection (2)(a) may be made to apply differently in respect of each nomination.

Term of appointment

14.(1) An appointed member's appointment starts—

- (a) on the day notice of the appointment is published in the Gazette; or
- (b) on a later day specified in the notice.

(2) An appointed member's term ends on a day fixed by Gazette notice.

(3) The day mentioned in subsection (2) must be not later than 6 months after the day prescribed under the *Local Government Act 1993* for holding the triennial election following the member's appointment.

Termination of membership of Board

15.(1) A member of the Board may resign office as such at any time, by writing furnished to the Minister.

(2) The Governor in Council may remove from office as such a member of the Board if—

- (a) the member is made bankrupt or otherwise takes advantage of the laws relating to bankruptcy;
- (b) in the opinion of the Governor in Council—
 - (i) the member becomes incapable of discharging the duties of office; or
 - (ii) the member is incompetent or unfit to hold his office.

(3) A member of the Board shall be deemed to have vacated office—

- (a) in the event of the member's resignation—upon receipt by the Minister of the member's notice of resignation;
- (b) in the event of the member's removal—upon issue by the Minister of notice of the member's removal;
- (c) if, being a councillor of a local government whose area or part of whose area is within the operational area—
 - (i) the member ceases to be a councillor of that local government otherwise than by the member's defeat at an election of councillors of that local government or by his or her failure to contest such an election; or
 - (ii) the area or the part of the area of the local government of which the member is a councillor ceases to be within the operational area; or
 - (iii) the member is removed from office as a member by the Minister;
- (d) if the member is convicted in the State of an indictable offence for which the member is liable to imprisonment for 1 year or more or is convicted elsewhere of an offence such that, if committed by the member in the State, would constitute an indictable offence upon conviction whereof the member would be so liable.

Casual vacancy in membership of Board

16.(1) A casual vacancy shall be taken to arise in the office of a member of the Board—

- (a) if the member dies in office; or
- (b) if the member's office becomes vacant as prescribed by section 15(3).

(2) If a casual vacancy occurs in the office of a member of the Board during the currency of the member's term of appointment another person may be appointed to fill that office by the Minister.

(3) Where a casual vacancy occurs in the office of a member of the Board who was a councillor of a local government referred to in section 9, the Minister shall, in appointing a person to that office—

- (a) where the office is the office of a member referred to in section 9(b)—appoint the person nominated and approved, in accordance with the regulations, for the appointment as the nominee of Brisbane City Council; and
- (b) where the office is the office of the member referred to in section 9(c)—appoint the person selected, in accordance with the regulations, from the persons nominated, in accordance with the regulations, for the appointment as the respective nominees of each of the councils of the cities, other than Brisbane, whose areas or parts of whose areas are within the operational area; and
- (c) where the office is the office of the member referred to in section 9(d)—appoint the person selected, in accordance with the regulations, from the persons nominated, in accordance with the regulations, for the appointment as the respective nominees of each of the councils of the shires whose areas or parts of whose areas are within the operational area.

(3A) The Minister shall not appoint a nominee of a local government to a casual vacancy in the office of a member of the Board unless the nominee is a councillor of that government.

(4) The term of appointment of a person appointed to fill a casual vacancy shall continue for as long as the appointment of the person's predecessor had the casual vacancy not occurred.

Delegate members of Board

17.(1) A person may be nominated as a delegate member of the Board to deputise for a member of the Board.

(1A) A nomination of a delegate member shall be of no effect unless—

- (a) he or she is nominated as prescribed by this section; and
- (b) he or she is a person qualified as prescribed to be nominated as a member of the Board in the office of the member for whom he or she is to deputise.

(2) The nomination of a delegate member shall be made by the member for whom the delegate member is to deputise.

(3) A nomination of a delegate member—

- (a) may be made only if the member for whom a delegate is sought will be absent from any meeting or meetings of the Board because of illness, absence from the State or other unavoidable reason; and
- (b) if it is to continue in effect for a period of 3 months or more, may be made only with the approval of the Minister first had and obtained; and
- (c) shall be notified in writing to the Minister as soon as practicable after it is made.

(4) For as long as his or her nomination as such continues in effect a delegate member shall be entitled to attend meetings of the Board in the absence of the member for whom the delegate member is deputising and shall be deemed to be a member of the Board.

(5) A nomination of a person as a delegate member shall terminate and be of no further effect—

- (a) in the case of a nomination expressed to be for the purpose of any meeting or meetings of the Board—upon the conclusion of that meeting or as the case may be, the last of those meetings;
- (b) in the case of a nomination expressed to be for a period—upon the expiration of that period;
- (c) if a member for whom the delegate member is deputising dies or vacates office as prescribed by section 15;

- (d) upon the occurrence of any event that would cause his or her vacating office as a member were the delegate member a member of the Board.

Persons deemed to be councillors of local government

18. If—

- (a) a local government whose area or part of whose area is within the operational area is dissolved pursuant to the *Local Government Act 1993* and an administrator is, under that Act, deemed to be the local government; or
- (b) a local government area or part of a local government area in relation to which an administrator is, under the *Local Government Act 1993*, deemed to be the local government becomes part of the operational area;

it shall be deemed for the purposes of this Act that the local government continues in being or, as the case may be, exists in and for the area in question and has as its members the administrator and, if an executive committee is constituted under that Act in the particular case, each member of that committee.

Division 2—Control of Board's affairs

Chairperson

19.(1) The Minister must appoint a member of the Board as the chairperson of the Board.

(2) A person is not eligible to be the chairperson of the Board if the person is—

- (a) an officer of the public service; or
- (b) an employee of a local government; or
- (c) a councillor of a local government referred to in section 9.

Deputy chairperson

20.(1) The Board shall from time to time appoint 1 of its members to be deputy chairperson.

(1A) An appointment to the office of deputy chairperson shall be made as soon as practicable after the appointment of members of the Board, being the whole number of persons constituting the Board.

(2) The deputy chairperson shall act in the office of chairperson during such time as the chairperson is prevented by absence, illness or otherwise from performing the duties of that office and during such time as a vacancy exists in that office, and while the deputy chairperson so acts, shall have and may exercise all the powers and authorities of the chairperson.

Technical Advisory Committee

21.(1) There is established a Technical Advisory Committee for the purpose of furnishing to the Board information and advice with respect to—

- (a) any matter connected with the powers or functions of the Board; and
- (b) any matter referred to it by the Minister or the Board.

(2) The Technical Advisory Committee consists of the following members—

- (a) 3 members nominated by the chief executive;
- (b) the person for the time being holding the office of Manager, Water Supply Department, Brisbane City Council, or the person's nominee;
- (c) a person nominated by the Board, being a person who is an officer of a local government (other than Brisbane City Council) whose area or part of whose area is within the operational area;
- (d) while the Committee is considering a matter involving the affairs of a particular local government whose area or part of whose area is within the operational area—an officer of the local government nominated by it.

(3) The members of the Technical Advisory Committee shall be appointed by the Minister.

(3A) The Minister shall appoint a member referred to in subsection (2)(a) to be the chairperson of the Technical Advisory Committee.

(3B) A nominee of the person referred to in subsection (2)(b) shall be an officer of the department referred to in that paragraph.

(3C) The appointment of a nominee under subsection (2)(b) or (c) ceases to have effect if the nominee ceases to be an officer of the relevant department, or of the relevant local government, as the case may be.

(4) The chief executive, the person referred to in subsection (2)(b) or the Board—

- (a) may, at any time, change any 1 or more of the nominees, or the nominee, of the chief executive, person or Board, as the case may be, on the Technical Advisory Committee; and
- (b) may appoint a person to be a delegate of 1 of the nominees, or of the nominee, of the chief executive, person or Board, as the case may be, for the time being for the purpose of attending a meeting or meetings of the Technical Advisory Committee; and
- (c) shall, as soon as practicable after exercising a power under this subsection, inform the Minister of the decision.

(5) The Technical Advisory Committee shall hold such meetings as it considers necessary for the performance of its function.

(5A) As soon as practicable after each of its meetings the Technical Advisory Committee shall, through its chairperson, furnish its report to the Board—

- (a) informing the Board of its opinion and recommendations on matters referred to it by the Minister or the Board for information or advice; and
- (b) if it thinks fit, drawing the Board's attention to matters that it considers relevant to the Board's functions and informing the Board of its recommendations as to courses of action arising in respect of such matters.

(6) As soon as practicable after the Board receives a report of the Technical Advisory Committee under subsection (5), the Board shall, through its chairperson, forward a copy of that report to the Minister.

Ministerial advisory committee

21A.(1) The Minister may, if requested by the local governments, or a majority of the local governments, whose areas or parts of whose areas are within the operational area, establish a ministerial advisory committee for the purpose of furnishing advice to the Minister with respect to—

- (a) the administration or operation of—
 - (i) this Act; or
 - (ii) any other Act that confers or imposes any powers or functions on the Board; and
- (b) any matter referred to the committee by the Minister.

(2) A ministerial advisory committee consists of a number of members that is equal to the number of local governments whose areas or parts of whose areas are within the operational area.

(3) The members of a ministerial advisory committee shall be appointed by the Minister.

(4) A person is not eligible to be appointed as a member of a ministerial advisory committee—

- (a) unless the person has been nominated for appointment by a local government referred to in subsection (2) and is a councillor of that government; or
- (b) if the person is a member of the Board.

(5) The office of a member of a ministerial advisory committee becomes vacant if the member ceases to be a councillor of the local government that nominated him or her for appointment to the committee.

(6) The Minister shall appoint—

- (a) 1 member of a ministerial advisory committee to be the chairperson of the committee; and
- (b) another member of the committee to be the deputy chairperson of the committee.

(7) During any period when—

- (a) the office of chairperson of a ministerial advisory committee is vacant; or

South East Queensland Water Board Act 1979

- (b) the chairperson of a ministerial advisory committee is unable to perform the duties of the office;

the deputy chairperson shall act as chairperson and, while so acting, the deputy chairperson has and may exercise all the powers, authorities, rights and duties of the chairperson of the committee.

(8) As soon as practicable after each meeting of a ministerial advisory committee, the committee shall, through its chairperson, furnish a report to the Minister—

- (a) informing the Minister of its opinion and recommendations on matters referred to it by the Minister; and
- (b) if it thinks fit—
 - (i) drawing the Minister's attention to matters that it considers relevant to the powers or functions of the Board; and
 - (ii) informing the Minister of its recommendations as to courses of action arising in respect of such matters.

(9) Except where provision is made by this section, matters relating to—

- (a) the terms and conditions of appointment of members of a ministerial advisory committee; and
- (b) the rights and duties of members of such a committee; and
- (c) the conduct of the business of such a committee;

may be determined by the Minister by notification published in the Gazette and, without limiting the generality of that power, the Minister may make determinations in respect of the following matters—

- (d) the convening of meetings of a ministerial advisory committee;
- (e) the termination of membership of such a committee;
- (f) the appointment of persons as delegate members of the committee to deputise for members of such a committee.

PART 4—FUNCTIONS AND POWERS OF THE BOARD

Division 1—General functions

Functions

22.(1) The Board's functions are—

- (a) to conserve and store water and allocate water to—
 - (i) local governments whose areas or part of whose areas are within the operational area; and
 - (ii) with the prior approval of the Minister, to local governments whose areas are outside the operational area, and to electricity generating authorities;
- (b) to sell water to local governments, with the prior approval of the Minister where it is required by paragraph (a), for their own use or for resale of part of such water to another local government;
- (c) to sell water direct from a reservoir, with the prior approval of the Minister, to electricity generating authorities for the purposes of 1 or more of their generating stations;
- (d) to incorporate into headworks under the control of the Board constructed before or after the date of commencement of this Part such flood mitigation provisions as the Board deems expedient;
- (e) to reduce, so far as practicable, the effects of flooding, by the proper control and regulation in time of flood of headworks under the control of the Board, with due regard to the safety of the structures comprising those headworks;
- (f) to investigate and plan for such future headworks and trunk mains as, in the Board's opinion, may be required to meet the requirements for the supply of water as a function of the Board and to take all steps deemed by the Board to be practicable to implement plans and schemes accepted for such headworks and trunk mains;
- (g) to take all steps adjudged by the Board to be necessary or

South East Queensland Water Board Act 1979

desirable to ensure and maintain the quality of present and future supplies of water in the operational area;

- (h) to construct operate and maintain and, where necessary, to improve or extend headworks and trunk mains under the Board's control;
- (i) at the request of 1 or more local governments to construct, operate and maintain and where necessary to improve and extend treatment works to supply treated water to such local government or local governments and if so requested by a local government to take over treatment works under the control of the local government;
- (j) to provide such roads and communications, offices, stores, depots and other accommodation as the Board adjudges to be necessary to meet the requirements of its undertakings or any of them;
- (ja) to provide, operate, protect and maintain such recreational facilities as the Board sees fit at headworks or on any other land or property owned by or under the control of the Board and to enter into commercial ventures incidental to the operation of those recreational facilities and to let out to other persons the operation of those facilities or ventures;
- (k) to administer and manage all property vested in the Board;
- (l) to take such measures and to carry out such works as are incidental to the proper discharge of the aforesaid functions of the Board.

(2) The function of the Board to conserve, store or treat water may be performed within or, with the prior approval of the Governor in Council, outside the operational area and if it is performed outside the area, includes the function of constructing, maintaining, controlling and operating headworks, trunk mains and, subject to subsection (1)(i) treatment works outside the area.

(3) Nothing contained in this Act affects the powers of Brisbane City Council—

- (a) to treat and reticulate water allocated to it by the Board for its own use; or
- (b) subject to section 48(4), to treat and deliver to another local

government water allocated to that other local government by the Board.

Division 2—General powers

Construction by Board

23. The Board may construct such headworks, trunk mains, treatment works (subject to section 22) and other works as it considers to be necessary for the purposes of this Act.

General powers of Board

24.(1) The Board has all the powers of an individual and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, dispose of, and deal with, property; and
- (c) appoint agents and attorneys; and
- (d) fix charges and other terms for services and facilities it supplies; and
- (e) engage consultants.

(2) Without limiting subsection (1), the Board has the powers given to it under this or another Act.

(3) The Board may exercise its powers outside Queensland and outside Australia.

(4) In this section—

“**power**” includes legal capacity.

Agreements concerning hydro-electric works

26.(1) The Board may enter into agreements on such terms not inconsistent with this Act as it thinks fit with the State Electricity Commission or any electricity generating authority that carries on its undertaking within or partly within the operational area for the construction,

maintenance and operation of works for the hydro-electric generation of electricity (including works in connexion with pumped storages) either in conjunction with the construction, maintenance or operation of a dam or otherwise.

(2) The cost of construction, maintenance or operation of works the subject of an agreement referred to in subsection (1) shall not be at the expense of the Board save where the Governor in Council has, on the recommendation of the Minister and having regard to special circumstances of the particular case, approved.

(3) Where an agreement referred to in subsection (1) is entered into by the Board it shall become and be a function of the Board to sell and supply water to the person with whom the agreement is made, if the terms of the agreement require it for the purpose of giving effect to the agreement.

Power of entry

27.(1) For the purpose of discharging any of its functions the Board may provide such works as are necessary on, through, across, under or over any road and into, through, across, under or over any land within or outside the operational areas.

(2) For the purpose of discharging any of its functions the Board, by its agents and servants, may at all reasonable times enter upon any land, structure or premises—

- (a) to carry any works into, through, across, under or over the land;
- (b) to undertake investigations and inspections, perform surveys, take levels, clear, excavate, dig and remove material on and from the land;
- (c) to execute any work in the structure or premises;
- (d) to ensure that the provisions of this Act or of the by-laws of the Board are complied with.

(3) If in the exercise of any of the powers conferred by subsection (1) or (2) damage is caused to any person the Board shall make just compensation to the person aggrieved on account of such damage.

(4) Before an agent or servant of the Board pursuant to a power conferred by this section enters any dwelling house or part used exclusively for

residential purposes, the agent or servant shall, save where the agent or servant has the permission of the occupier or person in charge of that dwelling house or, as the case may be, part to his or her entry, obtain from a justice a warrant to enter.

(4A) In subsection (4), a dwelling house or part of premises used for residential purposes does not include the curtilage thereof.

(4B) A justice who is satisfied upon the complaint of an agent or servant of the Board that it is necessary for a purpose of this Act to enter premises may issue a warrant directed to the agent or servant to enter the place specified in the warrant for the purpose of exercising or performing therein the powers and duties conferred upon the agent or servant under this Act.

(4C) A warrant shall be, for a period of 1 month from the date of its issue, sufficient authority for the agent or servant of the Board and all persons acting in aid of the agent or servant to—

- (a) enter the place specified in the warrant; and
- (b) to exercise and perform therein the powers and duties conferred upon the agent or servant by or under this Act.

(4D) For the purposes of gaining entry to any place an agent or servant of the Board may call to his or her aid such persons as the agent or servant thinks necessary and those persons, while acting in aid of an agent or servant of the Board in the lawful exercise by the agent or servant of his or her power of entry, shall have a like power of entry.

(5) Before an agent or servant of the Board enters upon any land, structure or premises to carry out works, investigations or surveys the agent or servant shall save where the agent or servant has the permission of the occupier or person in charge of that land, structure or premises to his or her entry, give to the occupier not less than 7 days written notice of his or her intention to enter to carry out such works, investigations or surveys.

Interference with roads

28.(1) For the purpose of constructing, maintaining, repairing, altering or extending any main or installation in a road within or outside the operational area the Board may open up and excavate such road but, in connection with the performance of such work, the Board shall comply with this section.

(2) Save in the case of work to be performed in an emergency the Board shall give not less than 7 days notice in writing to the authority having the care and management of the road of its intention to perform the work in question.

(2A) In the case of work to be performed in an emergency the work may proceed without the prescribed notice having been given but advice shall be given as soon as practicable to the authority referred to in subsection (2) that the work is in progress.

(3) When the Board has opened and excavated a road it shall—

- (a) with all convenient speed and as little interference to traffic as is practicable, complete the work for which it is opened and excavated and shall fill in the ground and reinstate and make good the parts so opened and excavated to as good a condition as before it was opened and excavated and shall carry away all rubbish occasioned by the work; and
- (b) at all times while the road is opened and excavated, cause the parts so opened and excavated to be fenced and guarded and a light sufficient for the warning of traffic to be set up and maintained against or near such parts every night during which the road is opened and excavated; and
- (c) keep the parts so opened and excavated in good repair for 3 months after reinstating and making good the same and for any further time not exceeding 12 months during which the soil opened and excavated continues to subside.

Power of Board to take over undertakings of local governments

29.(1) Subject to this Act, the Board may—

- (a) assume from a local government control of—
 - (i) any headworks; and
 - (ii) where the Governor in Council by regulation so directs—specified treatment works or trunk mains;
in the operational area; and
- (b) acquire from a local government property used for or in

connection with—

- (i) any headworks; and
- (ii) where the Governor in Council by regulation so directs—specified treatment works or trunk mains;

in the operational area; and

- (c) assume from a local government liabilities and obligations incurred by it in connection with—

- (i) any headworks; and
- (ii) where the Governor in Council by regulation so directs—specified treatment works or trunk mains;

in the operational area.

(2) The powers conferred on the Board under subsection (1) may be exercised only in relation to a local government whose area or part of whose area is within the operational area.

Board to instigate exercise of powers under s 29

30.(1) For the purpose of exercising its powers under section 29 the Board may, by notice in writing given to a local government, require the local government to enter into negotiations for—

- (a) the assumption of control by the Board of headworks described in the notice; and
- (b) the acquisition by the Board of property described in the notice; and
- (c) the surrender to the Board of books, documents, drawings, records and papers relating to such headworks or property.

(2) Upon receipt of a notice referred to in subsection (1) the local government shall cause to be prepared schedules of the headworks or property described in the notice and of property held by it in connection with the headworks and of the liabilities and obligations had by it in relation to the headworks or the property.

(3) As soon as practicable after the preparation of the schedules referred to in subsection (2) the Board and the local government shall, if possible,

agree upon—

- (a) what headworks shall be controlled by the Board; and
- (b) what property, liabilities and obligations of the local government shall be acquired or assumed by the Board; and
- (c) what books, documents, drawings, records and papers shall be surrendered by the local government to the Board.

No entitlement to compensation

30A.(1) Compensation shall not be payable—

- (a) to a local government on account of the Board's assuming control of headworks of the local government or acquiring property of the local government in the exercise of a power under this Act; or
- (b) to the Board on account of its assuming any liability or obligation of a local government in the exercise of a power under this Act;

and the authority of the Board to enter into negotiations for the purpose of exercising its powers under section 29 does not extend to its agreeing to pay or give or to its agreeing to receive or take that compensation.

(2) The provisions of this Act shall be read and construed as if subsection (1) had, at all times, been a provision of this Act.

Procedure for taking over control

31.(1) Upon the Board and a local government agreeing on the assumption by the Board of control of headworks of the local government they shall furnish to the Minister a joint notification that shall identify the headworks concerned.

(2) The Governor in Council may by regulation declare a date on and from which control of the headworks therein specified shall be assumed by the Board.

(2A) A date declared pursuant to subsection (2) may be before or after the date of notification of the regulation in the Gazette.

(3) On and from the date so declared the Board shall be responsible for

the control, management and proper functioning of the headworks so specified in place of the local government concerned.

Procedure for acquisition of property or assumption of liabilities

32.(1) Upon the Board and a local government agreeing with respect to—

- (a) the property of the local government to be acquired by the Board; or
- (b) the liabilities and obligations of the local government to be assumed by the Board;

they shall furnish to the Minister a joint notification that shall particularise in detail sufficient to enable its identification such property or, as the case may be, such liabilities and obligations.

(2) The Governor in Council may by regulation declare a date on and from which—

- (a) the property therein specified shall be divested from the local government named therein and shall vest in the Board; or as the case may be;
- (b) the liabilities and obligations therein specified shall be assumed by the Board and shall cease to be liabilities or obligations of the local government named therein.

(2A) A date declared pursuant to subsection (2) may be before or after the date of notification of the regulation in the Gazette.

(3) Upon and after the date so declared—

- (a) the estate, right, title and interest in and to the property so specified shall by force of the regulation be divested from the local government so named and be vested in the Board;
- (b) the Board shall by force of the regulation be liable in respect of each of the liabilities and obligations so specified and the local government so named shall by force of the order cease to be liable in respect thereof.

Enforcement of existing claims

33. Subject to the express provisions of the regulation made in relation to a transfer of control or of property or of a liability or obligation from a local government to the Board pursuant to section 31 or 32 such a transfer shall not prejudice the making or enforcement by the local government against any person or by any person against the local government of a claim liquidated or unliquidated that arose or was made before the date declared by such regulation for such transfer to take effect.

Presumed privity of contract

34. Where property (being a chose in action) or a liability or obligation transferred from a local government to the Board pursuant to section 32 arises by reason of a contract made between the local government and any person then for the purpose of enforcing by or against the Board such chose in action, liability or obligation it shall be deemed that such contract was made between the Board and that person.

Board to be aided in securing property

35.(1) Upon the request of the Board, a local government that is divested of property pursuant to section 32—

- (a) shall surrender to the Board or its agent such documents of title and documents evidencing ownership of the property as are in its possession or under its control;
- (b) shall duly complete all transfers of right, title or interest and other documents that are required by the Board with a view to its being recorded in any registry as proprietor, lessee or owner of the property;
- (c) shall do all such acts and take all such steps as are required by the Board with a view to securing the property to the Board.

(2) Where property vested in the Board pursuant to section 32 consists of a chose in action the notification in the Gazette of the relevant regulation shall be sufficient notice to all persons of the passing of the property.

Prescribed enactments inapplicable to dealings under this Act

36.(1) No stamp duty or other fees shall be chargeable on the following documents—

- (a) a notification evidencing an agreement between a local government and the Board prepared for the purpose of section 32;
- (b) an instrument made to evidence the passing of an estate or interest in land from a local government to the Board pursuant to section 32 or to secure the transfer of a title to such land;
- (c) a document made in connection with the transfer of property, liability or obligation from a local government to the Board pursuant to section 32.

(2) The provisions of any Act or enactment that purport to restrict the capacity of a local government to enter into contracts do not apply in respect of the making of an agreement between a local government and the Board with a view to the passing of property or the transfer of liabilities or obligations pursuant to section 32.

Apportionment of liability

37. Where for the purposes of this Act it becomes necessary to apportion between a local government and the Board any liability or obligation of the local government such apportionment may be made and shall be sought by way of agreement between the local government and the Board but should such agreement not be attained the Governor in Council may declare the apportionment of that liability or obligation considered by the Governor in Council to be just and thereupon—

- (a) the portion of that liability or obligation to be assumed by the Board shall be the portion so declared; and
- (b) if the case require it, it shall be deemed that such portion is particularised in a notification duly furnished pursuant to section 32 as the liability or obligation to be assumed by the Board.

Liability for works

37A.(1) All costs lawfully incurred by the Board in respect of headworks, trunk mains, treatment works or other works constructed or to be constructed by the Board that will be or are for the benefit of all of the areas or of some only of the areas or of 1 only of the areas of the local governments represented on the Board shall be payable—

- (a) in the case of works for the benefit of all of or some only of those areas—by the local governments of the benefited areas, such costs being apportioned between those local governments in accordance with an agreement between those local governments;
- (b) in the case of works for the benefit of 1 only of those areas—by the local government of the benefited area.

(2) For the purposes of subsection (1) and without limiting the costs which may lawfully be incurred by the Board in respect of headworks, trunk mains, treatment works or other works constructed or to be constructed by the Board, these costs include—

- (a) the investigation and planning for;
- (b) the implementation (including the acquisition of and dealing with land) of those plans for;
- (c) the construction of;
- (d) the operation, maintenance, improvement and extension of, headworks, trunk mains, treatment works or other works constructed or to be constructed by the Board.

(3) Where 1 or more local governments contest that particular headworks, trunk mains, treatment works or other works constructed or to be constructed by the Board will be or are for the benefit of its or their area or areas, the issue shall be referred to the Minister and thereafter resolved in accordance with the procedure prescribed by section 38 as if it were an issue referred to in subsection (1) of that section.

Procedure upon absence of agreement

38.(1) If in any case the Board and a local government fail to agree—

- (a) upon the assumption of control by the Board of headworks of a

South East Queensland Water Board Act 1979

local government or as to the provisions that should constitute any agreement proposed in connection with such an assumption of control; or

- (b) as to the property of a local government to be acquired by the Board; or
- (c) as to the liabilities and obligations of a local government to be assumed by the Board; or
- (d) as to the books, documents, drawings, records and papers to be surrendered by a local government to the Board, or local governments fail to agree on the apportionment of costs of constructing, operating, maintaining, improving or extending works that will be or are for the benefit of their areas the issue shall be referred to the Minister.

(2) Where an issue is referred to the Minister under subsection (1) the Minister shall make such inquiry into the matter as the Minister thinks fit.

(3) For the purpose of an inquiry referred to in subsection (2) the Minister may require the local government concerned and its officers to produce for the Minister's examination such accounts, extracts, books, documents and records and to furnish to the Minister such explanations as the Minister considers necessary for that purpose and the local government and every officer to whom a requisition is directed shall comply with it to the best of its, his or her ability.

(4) Upon the completion of an inquiry under this section the Minister shall make to the Governor in Council such recommendations as the Minister thinks fit and upon such recommendations the Governor in Council may determine the issue.

(5) Notification of the determination of the Governor in Council shall be given by the Minister to the Board and each local government concerned and the determination shall be binding upon them and they shall take all steps necessary to give effect to it.

Authority to resolve all matters upon reference of issue to Minister

38A.(1) Where an issue has been referred to the Minister under section 38 the Minister may—

- (a) in the case of a failure to agree by the Board and a local government—upon the request of the Board or the local government; or
- (b) in the case of a failure to agree by local governments—upon the request of a local government concerned;

determine that the Minister shall make an inquiry into all or certain matters, the subject of or connected with the negotiations in question, that are not the subject of a concluded agreement between the parties who have failed to agree, with a view to all such matters being resolved.

(2) The making of a determination by the Minister under subsection (1) shall be notified in writing to the Board and the local government or, as the case may require, to the local governments concerned and therein there shall be specified a date after which the reference in question will be enlarged to include all matters or the matters specified therein, the subject of or connected with the negotiations in question, that are not the subject of a concluded agreement between the parties who have failed to agree.

(3) Subject to notification being given as prescribed by subsection (2)—

- (a) after the date specified in the notification in accordance with that subsection, each of the matters to which the notification relates shall be deemed to be an issue referred to the Minister under section 38(1);
- (b) after the date specified in the notification in accordance with that subsection, the Minister may make such inquiry as the Minister thinks fit into all matters to which the notification relates in addition to or as part of the inquiry referred to in section 38(2);
- (c) the provisions of section 38(3) and (4) shall apply in respect of an inquiry made under the authority of paragraph (b) and in respect of the determination of the Governor in Council made consequent upon the inquiry.

Regulation to give effect to determinations by Governor in Council

38B.(1) Where, in the absence of agreement between the Board and a local government the Governor in Council determines an issue upon a reference under section 38 or a reference enlarged under section 38A, the Governor in Council may make a regulation that is authorised by

section 31(2) or 32(2) and a regulation so made shall be deemed to have been duly made pursuant to section 31(2) or 32(2) whichever is appropriate.

(2) The provisions of section 31(3) shall apply consequent upon the making of a regulation under the authority of subsection (1) that is deemed to have been made pursuant to section 31(2).

(3) The provisions of section 32(3) shall apply consequent upon the making of a regulation under the authority of subsection (1) that is deemed to have been made pursuant to section 32(2).

Exercise of power under s 29 not affected by partial disagreement

39. The exercise by the Board of a power conferred by section 29 shall not be prejudiced nor shall it be necessary to delay notification in the Gazette of a regulation pursuant to section 31 or 32 by reason of the absence of agreement between the Board and a local government—

- (a) as to the inclusion of a particular item of headworks or of property or a particular liability or obligation in the exercise of the power; or
- (b) as to the amount or proportion of a particular liability or obligation to be assumed by the Board; or
- (c) as to which books, documents, drawings, records and papers should be surrendered.

Delegations

39A. The Board may delegate the Board's powers under this Act to—

- (a) a member of the Board; or
- (b) the secretary.

PART 5—SUPPLY AND USE OF WATER

Division 1—Control of water

Board's entitlement to water

40.(1) Subject to this section the Board may take water from any headworks under its control or from any river, creek or stream, whether or not subject to tidal influence in the operational area or, with the approval of the Governor in Council, outside the operational area and for that purpose may construct, maintain, control and operate such headworks and trunk mains as it considers necessary.

(2) The Board shall not take water pursuant to subsection (1) unless—

- (a)** it does so with the consent of the Governor in Council first had and obtained and subject to and in accordance with the terms and conditions of such consent; or
- (b)** where the consent of the Governor in Council has been obtained by a local government to its taking water and the local government's entitlement to take such water has been divested from the local government and vested in the Board pursuant to section 43, subject to and in accordance with the terms and conditions of that consent.

Procedure for obtaining consent

41.(1) Application for the consent of the Governor in Council shall be made by the Board to the chief executive.

(3) The Governor in Council may in the Governor in Council's absolute discretion grant or refuse an application and, if the Governor in Council grants it, may subject the Governor in Council's consent to such terms and conditions as the Governor in Council thinks fit.

Protection of Board upon taking water

42. No action or other proceeding shall be commenced or maintained against the Board or any other person on account of—

- (a) the construction, maintenance, control or operation of headworks, or any part thereof, for the purpose of taking water pursuant to this Act;
- (b) any alleged obstruction of any river, creek or stream by such headworks or any part thereof;
- (c) any deprivation of access to or diminution of the quantity of water in any river, creek or stream occasioned by the exercise by the Board of a power conferred by section 40.

Cessation of local government's entitlement to water

43.(1) Subject to subsection (2)—

- (a) upon the Board assuming control of Somerset Dam or Wivenhoe Dam, whichever is the earlier, the entitlement then had by a local government to take water from either dam or from the Brisbane River or the Stanley River downstream from Somerset Dam shall thereupon be divested from the local government and vest in the Board;
- (b) upon the Board assuming control of North Pine Dam the entitlement then had by a local government to take water from the dam or from the North Pine River downstream from the dam shall thereupon be divested from the local government and vest in the Board;
- (c) upon the Board assuming control of headworks upon other rivers, creeks or streams the entitlement then had by a local government to take water from such headworks or downstream from such headworks shall thereupon be divested from the local government and vest in the Board.

(2) Subsection (1) does not apply in relation to the entitlement of the Council of the Shire of Esk to take water for the supply of water referred to in sections 45 and 46.

(3) Save as is prescribed by subsection (1), neither this Act nor anything done under this Act shall affect the entitlement of a local government to take water from any river, creek or stream or other source of supply.

Protection of local government water undertaking

44.(1) Where anything to be done by the Board is likely to affect adversely headworks of a local government or of a Water Board, of which headworks the Board does not seek to assume control, the Board shall, at its own expense and as part of the cost of doing that thing, take such steps as are necessary to ensure a continued supply of water to the local government or Water Board without occasioning additional expense to the local government or Water Board and on such terms and conditions as are agreed upon by the Board and the local government or, as the case may be, Water Board.

(2) In the absence of agreement upon the terms and conditions referred to in subsection (1) the terms and conditions shall be such as are determined by the Governor in Council on the recommendation of the Minister.

Provisions as to water supply to Esk

45.(1) Headworks from which the Council of the Shire of Esk takes its supply of water for distribution to the town of Esk shall continue to be the responsibility of that council for as long as the headworks vest in that council.

(3) Unless the Board assumes control of the headworks referred to in subsection (1) the Council of the Shire of Esk shall not be charged for water taken by it from the Wivenhoe Dam in place of water previously taken by it until the quantity of water so taken exceeds 220 ML per annum.

(4) When the quantity of water so taken exceeds or is expected to exceed such specified quantity the allocation and supply of such excess shall be subject to agreement between the Council of the Shire of Esk and the Board pursuant to section 61.

Provisions as to water supply to Lowood

46.(1) Headworks from which the Council of the Shire of Esk takes its supply of water for distribution to the town of Lowood shall continue to be the responsibility of that council for as long as the headworks vest in that council.

(2) Unless the Board assumes control of the headworks referred to in

subsection (1) the Council of the Shire of Esk shall not be charged for water passed downstream from the Wivenhoe Dam and withdrawn at the headworks for supply until the quantity of water so taken exceeds 270 ML per annum.

(3) When the quantity of water so taken exceeds or is expected to exceed such specified quantity the allocation and supply of such excess shall be subject to agreement between the Council of the Shire of Esk and the Board pursuant to section 61.

Provisions as to water supply to Glamorgan Vale Water Supply Area

47.(1) Headworks from which Glamorgan Vale Water Board takes its supply of water for distribution to the Glamorgan Vale Water Supply Area shall continue to be the responsibility of that Board for as long as the headworks vest in that Board.

(2) Unless the South East Queensland Water Board assumes control of the headworks referred to in subsection (1) the Glamorgan Vale Water Board shall not be charged for water passed downstream from the Wivenhoe Dam and withdrawn at the headworks for supply until the quantity of water so taken exceeds 250 ML per annum.

(3) When the quantity of water so taken exceeds or is expected to exceed such specified quantity the allocation and supply of such excess shall be subject to agreement between the boards pursuant to section 61.

Allocations of water

48.(1) Subject to this Act, the Board may from time to time fix and declare an allocation of water—

- (a) to each local government whose area or a part of whose area is within the operational area; or
- (b) with the prior approval of the Minister, to a local government whose area is outside the operational area, or to an electricity generating authority if in any case the local government or generating authority seeks an allocation of water from the Board; or
- (c) to a water board constituted under the *Water Resources Act 1989*.

(1A) Where an allocation of water to a local government has been fixed and declared the Board may at any time, of its own motion, fix and declare afresh an allocation of water to that local government.

(2) In the matter of—

- (a) fixing and declaring allocations of existing supplies of water from headworks under the control of the Board; and
- (b) planing headworks to meet increasing requirements for supply of water for urban use;

the Board shall have regard to the need for water of the operational area as a whole and to all existing requirements for and commitment of water for urban use drawn from sources within the operational area or supplied within the operational area from sources outside the area.

(3) In the matter of fixing and declaring from time to time an allocation of water to the Council of the Shire of Pine Rivers from headworks under its control the Board shall make due allowance for the quantity of water which that local government is obliged to supply to Australian Paper Manufacturers Ltd. at Petrie in terms of any agreement existing at the material time between that local government and that company, in addition to the quantity of water which that local government may be obliged to supply to that company from Lake Kurwongbah.

(4) The Board may make the matter of fixing and declaring an allocation of water to a local government dependent upon that local government satisfying the Board by means of an agreement or agreements made or to be made with 1 or more other local governments that it is or will be bound to convey and to continue to convey, through mains within its area, to such other local government or local governments, being in any case a government to which an allocation of water has been or is to be fixed and declared by the Board, a determinate part of the allocation to the first mentioned local government.

Exchange of information on water requirement

49.(1) Each local government whose area or part of whose area is within the operational area shall keep the Board informed of—

- (a) anticipated requirements for water to service development of its area or the part thereof that is included in the operational area; and

- (b) all relevant facts concerning the proposed source of supply for such requirements for water and the anticipated dates when increased quantities of water to meet such requirements may be required.

(2) The Board shall from time to time inform each local government whose area or part of whose area is within the operational area of the likelihood of its requirements for water, as disclosed to the Board, being met by the Board.

Solution of disputes between Board and local government

50.(1) If a dispute arises between the Board and a local government as to—

- (a) the quantity of water that will be allocated to the local government;
or
(b) the timing, source or other aspect of supply of water to the local government;

either party may refer the matter in issue to the Minister who may cause to be made such investigations as the Minister considers necessary and who shall make such recommendations with respect thereto as the Minister thinks fit to the Governor in Council who shall determine the issue by regulation.

(2) A determination of the Governor in Council pursuant to subsection (1) shall bind the Board and the local government concerned, both of whom shall take all steps necessary to give effect to it.

Use of local government works

51. For the purpose of performing its function as a supplier of water to local governments the Board may agree with a local government that works that are the property of the local government shall be used to carry supplies of water to another local government.

Solution of disputes as to use of works

52.(1) If a dispute arises between the Board and a local government

concerning the use of works referred to in section 51 either party may refer the matter in issue to the Minister who may cause to be made such investigations as the Minister considers necessary and who shall make such recommendations with respect thereto as the Minister thinks fit to the Governor in Council who shall determine the issue by regulation.

(2) A determination of the Governor in Council pursuant to subsection (1) shall bind the Board and the local government concerned, both of whom shall take all steps necessary to give effect to it.

Board may assist local government in distributing water

53. If the Board's assistance is sought by a local government in respect of the distribution of a supply of water within or through its area and within the operational area the Board may provide such assistance on such terms and conditions as are agreed.

Division 2—Protection of water quality

Regulation of use of catchment area

54.(1) For the purpose of protecting the quality of water stored or to be stored in a reservoir of which the Board has assumed control or proposes to assume control or which it has constructed, is constructing or proposes to construct, the Governor in Council may make regulations pursuant to section 134 to regulate, control and prohibit—

- (a) the subdivision, use and management of use of land within a catchment area (as defined in the regulations) for such reservoir or within particular parts of such catchment area; and
- (b) the erection and use of buildings and structures on such land.

(2) Subject to consultation first had between the Minister, the Board and each local government whose area includes land that is included in or is proposed to be included in the catchment area (defined or to be defined in the regulations) regulations made pursuant to the power conferred by subsection (1) may prescribe guidelines to be observed by the local government to whom the regulatory provision is directed in respect of the preparation or amendment of a planning scheme, the making of local laws

and the implementation of a planning scheme or local laws, which in any case affects or is likely to affect land within such catchment area.

Effect of regulations under s 54 on powers etc.

55.(1) Subject to subsection (2), a power or authority had by the Board, a local government or other person, independently of regulations referred to in section 54, to take steps to protect the quality of water stored or to be stored in any reservoir shall not be prejudiced by the conferring by section 54 of power to make regulations therein referred to or by such a regulation made.

(2) If a regulation made pursuant to the power conferred by section 54 is inconsistent with the continued existence, wholly or in part, of a power or authority of a description referred to in subsection (1), other than a power or authority conferred by or under the *Clean Waters Act 1971*, the regulation shall prevail and, to the extent of the inconsistency, such power or authority shall be taken not to exist.

(3) Regulations made pursuant to the power conferred by section 54 shall bind the Board, each local government whose area includes land to which the regulations relate and all other persons of a class that the regulations purport to bind.

Effect of regulations under s 54 on rights

56.(1) If a regulation made pursuant to the power conferred by section 54 is inconsistent with the continued existence, wholly or in part, of a right or entitlement to use or develop land within the catchment area to which the regulation relates, had by any person at the time the regulation takes effect, the regulation shall prevail and, to the extent of the inconsistency, such right or entitlement shall be taken to have terminated upon the taking effect of the regulation.

(2) A right or entitlement terminated under subsection (1) shall, upon such termination and to the extent thereof, be converted into an entitlement to claim compensation in respect of injurious affection of an estate or interest in land as if the regulation were a lawful provision of a planning scheme of the local government in whose area the land affected is situated.

Effect of regulations on planning applications

57.(1) Notwithstanding the provisions of any other Act or of any planning scheme or local law of a local government, which in any case affects land to which regulations made pursuant to the power conferred by section 54 relate, where application is made to a local government—

- (a) to amend its planning scheme in a particular that affects such land; or
- (b) for its consent to the use of such land for a particular purpose; or
- (c) for a permit or licence to apply such land to a particular use; or
- (d) for its approval to a subdivision of such land;

the local government shall observe the guidelines prescribed by such regulations.

(2) Any approval, consent, permit or licence of a local government that is given in contravention of subsection (1) shall be of no force or effect.

Board's liability for certain injurious affection

58. Where a claim for compensation in respect of injurious affection of an estate or interest in land is made on a local government by reason of the existence of regulations made pursuant to the power conferred by section 54 or by reason of a decision or action of the local government taken in reliance on or obedience to such regulations and the local government is required or, with the prior approval in writing of the Board, agrees to pay compensation to the claimant the amount of such compensation together with the amount of taxed costs (if any) shall be met by the Board and, if the case require it, shall be refunded by the Board to the local government.

*Division 3—Discontinuance or lessening of supply of water***Board's power over supply**

59.(1) Where in the opinion of the Board a breakdown of or damage, repairs, alterations or additions to the Board's works, mains, machinery or plant, or drought or other natural occurrence, or an emergency of any description renders it necessary or expedient to discontinue or lessen the

supply of water in the operational area or a part of that area or outside the operational area the Board may, on such notice as it thinks fit or without notice, direct such discontinuance or lessening of supply for such period as it considers necessary or expedient.

(2) It shall be lawful to give effect to a direction of the Board given under this section.

Manner of exercising s 59 power

60.(1) The Board's power to discontinue or lessen the supply of water under section 59 shall be exercised—

- (a) by resolution of the Board; or
- (b) where the Board has, by its resolution, delegated authority in that behalf to the chairperson or an officer of the Board or to a committee of the Board, by decision of the chairperson or that officer or, as the case may be, by resolution of that committee.

(2) Notice of the exercise of power under section 59 shall be served forthwith on each local government whose area or a part of whose area is or is likely to be affected by the discontinuance or lessening of supply to which the notice relates and, where the operation of the Glamorgan Vale Water Board is or is likely to be so affected, on that board.

PART 6—FINANCIAL PROVISIONS

Division 1—Power to charge for water

Water to be supplied under agreement

61.(1) Allocation or supply of water by the Board to a local government shall be subject to agreement between the Board and the local government to whom the water is to be allocated or supplied providing for—

- (a) the quantities of water that may be allocated or supplied from time to time under the agreement and the method or methods to be

employed in measuring such quantities;

- (b) the basis on which the price of the water to be allocated or supplied under the agreement is to be established and on which the price may be varied from time to time;
- (c) the frequency at which payments shall be made for the allocation or supply of water under the agreement.

(2) If in the course of negotiating an agreement for the purposes of subsection (1) a dispute arises between the Board and a local government to whom water is to be supplied either party to the dispute may refer the matter in issue to the Minister who may cause to be made such investigations as the Minister considers necessary and who shall make such recommendations with respect thereto as the Minister thinks fit to the Governor in Council who shall determine the issue by regulation.

(3) A determination of the Governor in Council pursuant to subsection (2) shall bind both the Board and the local government to whom the water is to be allocated or supplied and shall be given effect in the agreement made concerning the allocation or supply of water.

Extended meaning of “local government”

62. In this Division—

“**local government**” includes an electricity generating authority and a water board constituted under the *Water Resources Act 1989*.

Division 2—Application of Finance Acts

Board is statutory body

63. The Board is a statutory body under the following Acts—

- (a) the *Financial Administration and Audit Act 1977*;
- (b) the *Statutory Bodies Financial Arrangements Act 1982*.

Division 5—Special financial arrangements**Grants and subsidies**

90. The Board shall be eligible—

- (a) to receive payment from the Treasurer or any other source of moneys by way of grant or subsidy for or in respect of the construction of new works or the extension of existing works of a capital nature or for or in respect of any other purpose for which a local government whose area is within the operational area of the Board would, as a water authority, have been eligible to receive such moneys; and
- (b) to receive such payment to the same extent and on the same terms and conditions as would apply in respect of grant or subsidy paid for in respect of such purposes to the local governments whose areas are within the operational area of the Board were each of such local governments carrying out such work or purpose.

PART 7—TAKING AND HOLDING LAND BY THE BOARD***Division 1—Acquisition of land*****Freehold land**

93. For the purpose of taking land granted in fee simple the Board is a constructing authority within the meaning of the *Acquisition of Land Act 1967*.

Other land

94.(1) As well as land granted in fee simple the Board as a constructing authority under the *Acquisition of Land Act 1967* may take, for the purpose of discharging its functions under this Act, land that is held from the Crown

for an estate or interest less than fee simple.

(2) Land taken pursuant to subsection (1), if it is to vest in the Board, shall be vested in the Board for an estate in fee simple.

(3) The Governor in Council is hereby authorised to grant in fee simple and vest in the Board land taken pursuant to subsection (1) subject to such reservations and conditions as are authorised or required by the *Land Act 1962*.

Application of Acquisition of Land Act 1967

95. The *Acquisition of Land Act 1967* shall apply in respect of every taking of land pursuant to section 94 and, if the case required it, in respect of the subsequent disposal of land so taken and shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to section 94 including, as respects the land in question, the reading of any reference therein to the Registrar of Titles as a reference to the person or authority charged with registering instruments evidencing title to an estate or interest in that land held from the Crown.

Taking additional land upon severance

96.(1) If the Board proposes to acquire (by agreement or by taking) any land and the acquisition of such land will sever it from other land of the owner that is used together with the land which it is proposed to acquire the Board may, with the approval of the Minister and the consent of the owner first had and obtained, acquire (by agreement or by taking) the whole or part of that other land.

(2) The acquisition of additional land pursuant to subsection (1) shall be deemed to be for a purpose incidental to the purpose for which the land first mentioned in that subsection is proposed to be acquired.

(3) The Board may sell or otherwise deal with additional land acquired by it pursuant to subsection (1) in such manner as it thinks fit without restriction prescribed by any other Act.

Acquisition of easements etc.

97. The provisions of this Part relating to acquisition of land shall apply in respect of the acquisition (by agreement or by taking) of an easement or other right in land whether or not, in the case of an easement, it is to be acquired for the benefit of other land as a dominant tenement.

*Division 2—Rateability of land***Assignment of full supply levels**

98. A full supply level may be assigned to each reservoir by the Minister, on the recommendation of the Board, by Gazette notice.

Variation of full supply levels

99. If it appears to the Minister, on the recommendation of the Board, that a full supply level assigned to a reservoir should be varied for any reason whatever the Minister may vary that level by assigning a new full supply level to the reservoir in accordance with section 98.

Full supply level of reservoir acquired by Board

100.(1) Where the Board has acquired from a local government a completed reservoir it shall be deemed that a full supply level has been assigned to the reservoir under section 98 taking effect as at the date of acquisition and being sited at that level which is accepted as the full supply level of the reservoir at the date of acquisition.

(2) A full supply level deemed to have been assigned to a reservoir may be varied in accordance with section 99.

Date on which full supply levels are effective

101.(1) In each Gazette notice by which a full supply level is assigned to a reservoir there shall be specified a date on and from which the assignment is to take effect and the assignment shall take effect on and from that date accordingly until the level so assigned is duly varied by a later Gazette notice.

(2) The Gazette notice may provide that the assignment take effect before, on, or after the publication of the notice.

Land generally rateable

102.(1) Subject to this section land vested in or under the control of the Board is rateable land for the purposes of the *Local Government Act 1993* and the *City of Brisbane Act 1924*.

(2) Subsection (1) does not apply in respect of land vested in or under the control of the Board hereunder specified—

- (a) land within a reservoir that is submerged land if, immediately before its becoming vested in or under the control of the Board, it was—
 - (i) Crown land reserved and set apart for any public purpose; or
 - (ii) Crown land, being the bed or bank of a watercourse or lake forming the boundary, wholly or in part, of a parcel of land, which was not leased or let to any person;
- (b) land specified in the schedule to the *Wivenhoe Dam and Hydro-electric Works Act 1979* for as long as it is held for any public purpose or purposes referred to in section 36(2) of that Act.

(3) This section shall not be construed to affect the operation of any other Act that provides for the rateability of such land.

Rateable value

103. The rateable value of land declared by this Division to be rateable land shall be the unimproved value thereof determined by the chief executive of the department in which the *Valuation of Land Act 1944* is administered under that Act as modified by section 104.

Determination of unimproved value

104.(1) The unimproved value of land declared by this Division to be rateable land shall be determined by the chief executive (of the department in which the *Valuation of Land Act 1944* is administered) subject to such of

the following provisions of this section as may be material to a particular case—

- (a) due allowance shall be made for any limitation imposed by the Crown on the use to which the land may be put or imposed by the Board on the use to which the land may be put while in the occupation of a person other than the Board;
- (b) the unimproved value of the land shall not include the value of any timber or minerals on or in the land or of any water from or held on the land save to the extent that such water is permitted to be used for the watering of stock or for any other purpose on land in the occupation of a person other than the Board;
- (c) the unimproved value of land within a reservoir lying between the full supply level assigned to the reservoir and the maximum flood level assigned to the reservoir shall be determined after making due allowance for the susceptibility of such land to periodic inundation;
- (d) the unimproved value of submerged land shall be determined as if the land had not been inundated and as if the optimum use of the land were for purposes of primary production;
- (e) a separate valuation may be made by the chief executive in respect of submerged land.

(2) Notwithstanding the provisions of any other Act the unimproved value notified by the chief executive in relation to submerged land shall not be the subject of any objection or appeal.

Meaning of “submerged land”

105. For the purposes of sections 102 and 104 submerged land is land within a reservoir below the full supply level from time to time assigned to that reservoir.

PART 8—PROCEDURE AND PRACTICE

Division 1—Flood mitigation

Operational procedures for flood mitigation

106.(1) The Technical Advisory Committee shall cause to be prepared a manual of operational procedures in relation to each reservoir or a combined manual in relation to 2 or more reservoirs under the control of the Board for the purpose of flood mitigation and may from time to time cause to be prepared such amendments thereto as the committee considers necessary.

(1A) Every manual and all amendments thereto prepared under subsection (1) shall be submitted to the Board which shall submit the same, with its recommendations, to the Minister within 40 days after it receives the same.

(2) A manual prepared under subsection (1), or any amendment of the manual, that is recommended by the Technical Advisory Committee is not effective until it is approved by the Minister.

(4) A manual of operational procedures may vest in any person mentioned therein and regulate the function of exercising a reasonable discretion in any matter as part of the flood mitigation procedures.

Board, headworks operator bound by manual

107. The operational procedures to be adopted by the Board in respect of the reservoirs under its control for the purpose of flood mitigation shall be as provided by the relevant manual prepared under section 106 as duly amended at the material time and such manual, as duly amended at the material time, shall be observed by the Board and its employees and the headworks operator and its employees.

Minister, Board, headworks operator not liable for flood damage

108. The Minister, the Board, the headworks operator and an employee of the Board or the headworks operator shall not be liable for damages claimed in respect of loss or injury alleged to arise from—

- (a) the carrying out of flood mitigation procedures of the Board if such procedures were carried out under the general direction of a suitably qualified and experienced engineer in accordance with the operational procedures specified by the relevant manual prepared under section 106; or
- (b) the inaccuracy of information released on behalf of the Board or the headworks operator or by an employee of the Board or the headworks operator concerning anticipated flooding or the anticipated levels of flooding.

Division 2—Practice concerning water and power generation

Cooperative practice of Board and Electricity Generating Board

109.(1) Before the Board or the Queensland Electricity Generating Board assumes responsibility for the control, maintenance and operation of works, being part of the Wivenhoe Dam project or the hydro-electric project associated therewith and at all times thereafter when the Board has assumed such responsibility for works being part of the Wivenhoe Dam project and the Queensland Electricity Generating Board has assumed such responsibility for works being part of the hydro-electric project it is the duty of each Board to negotiate and consult with the other Board with a view to formulating a practice with respect to the operation of the works which are about to be or have been entrusted to it.

(2) For the purpose of formulating a practice referred to in subsection (1) regard shall be had to—

- (a) the need to ensure by way of the Wivenhoe Dam project an adequate supply of water for the City of Brisbane and other areas supplied or to be supplied from that project and the maximum measure of flood mitigation in the Brisbane River on the one hand and, on the other hand, the need to achieve by way of the hydro-electric project the efficient generation of electric power sufficient for the supply to be drawn from that project; and
- (b) the desirability that each of them, the Board and the Generating Board, should assist the other of them as far as practicable, to achieve the purpose or purposes of the works entrusted to each of

them under this Act; and

- (c) the need of each of them, the Board and the Generating Board, to receive from the other of them sufficient notice of any proposed act or event or of any occurrence that is likely to affect the proper operation of the works entrusted to each of them under this Act.

(3) When a practice referred to in subsection (1) has been formulated it shall be reduced to writing and furnished to the chief executive for the approval of the Minister who may approve or reject the same or recommend amendment thereof.

(4) When a practice has been duly approved by the Minister pursuant to subsection (3) it shall be adopted as the operational practice by resolution of the Board in respect of the works within the Wivenhoe Dam project and of the Queensland Electricity Generating Board in respect of works within the hydro-electric project and thereafter shall not be amended or departed from without the approval of the Minister first had and obtained.

(5) If a dispute arises between the Board and the Generating Board as to any matter the subject of negotiation and consultation under this section either party may refer the matter in issue to the Minister who may cause to be made such investigations as the Minister considers necessary and who shall make such recommendations with respect thereto as the Minister thinks fit to the Governor in Council who shall determine the issue by order in council.

(6) A determination of the Governor in Council pursuant to subsection (5) shall bind the Board and the Generating Board both of whom shall take all steps necessary to give effect to it.

(7) After the commencement of the *Electricity Act 1994*, a reference in this section to the Queensland Electricity Generating Board or the Generating Board is a reference to the Queensland Generation Corporation.

PART 9—CONDUCT OF THE BOARD’S AFFAIRS

Division 1—Proceedings and business of Board

Meetings of Board

110.(1) The first meeting of the Board shall be held at a time and place appointed by the Minister and thereafter meetings shall be held at the times and places appointed by resolution of the Board.

(2) Meetings of the Board other than the first such meeting shall be called by the chairperson or, in the chairperson’s absence, the deputy chairperson or, in the absence of both of them, any 2 members of the Board.

Presiding at meetings

111.(1) The chairperson shall preside at each meeting of the Board at which the chairperson is present and the deputy chairperson, if the deputy chairperson is present, shall preside at any meeting of the Board at which the chairperson is not present or if at any time there is no chairperson.

(2) If both the chairperson and deputy chairperson are absent from any meeting of the Board the members who are present, if they constitute a quorum, may appoint 1 of their number to act as chairperson of the meeting and such appointee may preside at the meeting and exercise the powers of the chairperson.

Quorum at meetings

112. A quorum of the Board shall consist of a majority of the number of members for the time being holding office.

Notice of meetings

113.(1) A notice of a meeting or an adjourned meeting of the Board (other than of a meeting adjourned to a later hour of the day on which such meeting was held or appointed to be held or to the first day or second day following that day) shall be in writing and shall be delivered or sent by post or otherwise to each member at the member’s usual place of business or of

residence last known to the secretary 3 days at least prior to the meeting.

(2) If in the opinion of the chairperson an emergency exists the chairperson may call a meeting of the Board and the same may be validly held notwithstanding that subsection (1) is not or cannot be complied with.

Adjournment of meetings

114.(1) The members present at a meeting of the Board may adjourn the meeting from time to time.

(2) If a quorum is not present at a meeting within 30 minutes after the time appointed for the meeting to commence the member or members present or the majority of them if more than 2 are present, or the chairperson if the members present are equally divided on the issue, may adjourn such meeting to any time not later than 14 days from the date of such adjournment.

(3) No provision of subsection (2) shall be construed to prevent the adjournment of a meeting to a later hour of the same day on which such meeting was appointed to be held.

Conduct of Board's affairs

115.(1) The Board shall exercise or perform a power, function or duty by majority vote of the members present and voting at a duly convened meeting of the Board.

(1A) A member who, being present at a meeting and entitled to vote, abstains from voting shall be deemed to have voted in the negative.

(1B) The person who is duly presiding at a meeting, if the person is entitled to vote, shall have a deliberative vote and, in the event of any equality of votes, a casting vote.

(2) The Board shall cause to be recorded in a book provided for the purpose (the “**minute book**”) and kept by the secretary under the superintendence of the chairperson—

- (a) particulars of all proceedings of the Board;
- (b) the names of the members present at each meeting of the Board;
- (c) the names of all members voting on any question before the

Board on which a division is called.

(2A) The minutes of each meeting shall be signed after confirmation of the Board by the chairperson at the meeting next succeeding the meeting at which such proceedings have taken place.

(3) Every entry in a book kept by the secretary purporting to relate to the proceedings of the Board and to be signed by the chairperson and a certified copy of or an extract from such an entry sealed with the seal of the Board and signed by the chairperson and secretary shall upon its production in any proceeding be received as evidence of the proceedings appearing by such entry to have been taken without proof of the due convening or holding of the meeting to which the entry relates, or of the membership of the Board of the persons attending the meeting, or of the signatures of the chairperson or secretary.

(4) The Board may, from time to time—

- (a) appoint, out of its number, committees, either for general or special purposes;
- (b) delegate to a committee power to do any act or hold any inquiry or refer to a committee any matter for the purpose of receiving its advice or recommendations thereon;
- (c) fix the quorum of a committee.

(5) Every committee may, from time to time, appoint 1 of its members to be its chairperson and shall report to the Board.

(6) A committee may meet from time to time and may adjourn from place to place as it thinks proper, but no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the Board or, if no quorum is fixed, 2 members at least, are present.

(7) At all meetings of a committee, if its chairperson is not present, 1 of its members present shall be appointed chairperson of the committee during the absence of its chairperson.

(8) All questions at any meeting shall be determined by a majority of the votes of the members present, including the chairperson of the meeting who, if the numbers are equally divided, shall have a second or casting vote.

Validity of proceedings

116. An act, proceeding or agreement of the Board shall not be invalidated or in any way prejudiced by reason only of the fact that at the time such act was done, proceeding taken or agreement made there were vacancies in the membership of the Board not exceeding 2 or that all the members for the time being holding office were not present at the meeting at which such act or proceeding or the making of such agreement was done or authorised or that there was a defect in the membership or appointment of any 1 or more of the members who joined in doing such act or taking such proceeding or making such agreement or in authorising such act, proceeding or agreement or of any combination of such facts.

Disability on participation in business of Board

117.(1) If a member of the Board has any pecuniary interest, direct or indirect, in an agreement or proposed agreement or other matter and is present at a meeting of the Board at which the agreement or proposed agreement or other matter is to be considered the member shall at the meeting and before the agreement, proposed agreement or matter is considered, disclose the fact of the member's interest, and shall not participate in the consideration of or vote on any question with respect to the agreement, proposed agreement or other matter.

(1A) Subsection (1) does not apply to an interest which a member may have in common with the public or as a councillor of the local government that nominated the member for appointment to the Board.

(2) For the purposes of this section a person shall be taken to have an indirect pecuniary interest in an agreement or a proposed agreement or other matter if—

- (a) the person or a nominee of the person is a member of a body corporate with which the agreement is made or proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) the person is a partner or an employee of a person with whom the agreement is made or proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

(2A) In the case of spouses living together the interest of 1 spouse shall,

if it is known to the other, be deemed for the purposes of subsection (2) to be also the interest of that other spouse.

(2B) For the purposes of this section a person shall not be taken to have a pecuniary interest in an agreement or a proposed agreement or other matter by reason only of the person's membership of or employment under a public body concerned with the agreement, proposed agreement or other matter.

(3) The secretary shall record in a book to be kept for the purpose particulars of every disclosure of interest made at a meeting of the Board and referred to in subsection (1) and the book shall be open at all reasonable times to inspection by any member.

(4) The Minister, subject to such conditions as the Minister thinks fit to impose, may remove from 1 or more members of the Board a disability imposed by this section whenever the number of members so disabled at any time would in the Minister's opinion be such as to impede the conduct of business of the Board, or if, in any other case, it appears to the Minister desirable that the disability should be removed.

(5) The Board may by its resolution exclude any member from a meeting whilst any agreement, proposed agreement or other matter in which the member has an interest such as is referred to in subsection (1) is under consideration.

(6) A member of the Board who has a pecuniary interest in an agreement, proposed agreement or other matter as prescribed by this section and who fails to comply with subsection (1) forfeits office as a member unless the member proves that the member did not know of his or her pecuniary interest at the time that the agreement, proposed agreement or other matter was the subject for consideration at the meeting in question of the Board.

Division 2—Remuneration fees and expenses

Chairperson's remuneration

118. The person who holds the office of chairperson shall be paid such remuneration as the Governor in Council on the recommendation of the Minister may determine.

Remuneration of other Board members

119. Each member of the Board shall be paid a fee in such amount as the Governor in Council from time to time determines for attending meetings of the Board and meetings of committees appointed by the Board and performing at the direction of the Board inspections or other duties as a member of the Board.

Expenses

120.(1) Every member of the Board shall be paid expenses on account of the member attending meetings of the Board and meetings of committees appointed by the Board and, subject to the member obtaining the Board's approval before entering upon such performance, on account of the performance by the member of any duty as a member of the Board.

(2) The expenses referred to in subsection (1) shall be in such amount or calculated at such rate or on such basis as the Governor in Council from time to time determines.

Other fees etc. not payable

121. A member of the Board is not entitled to remuneration, fees or expenses as a member save such as are provided for by this Division.

Division 3—Employees of Board**Employment of staff**

122.(1) The Board shall appoint a secretary and such number of employees as it considers sufficient to enable it to properly perform its functions under this Act.

(2) Subject to any applicable industrial award or agreement, an employee of the Board shall be paid a salary or wage at such rate and shall be employed on such terms and conditions as the Board determines.

Staff of works controlled by Board

123.(1) Where the Board assumes control of any headworks of a local government it shall, save in a case where it covenants with the local government that the local government shall continue to operate the headworks on its behalf and where that covenant continues to be performed, offer to all persons ordinarily employed by the local government on a full-time basis in and about the management, operation and maintenance of such headworks to continue their employment therein upon such duties as are determined by or on behalf of the Board but otherwise on terms and conditions of employment at least equal to the terms and conditions enjoyed by those persons as employees of the local government.

(2) All persons who accept the Board's offer made pursuant to subsection (1) within 2 months after the making of the offer shall be employed by the Board and thereafter shall be subject to the by-laws and general governance of the Board in relation to their employment.

Employees of local government prejudiced by Board's control of works

124.(1) If by reason of the Board's assumption of control of any headworks of a local government persons then employed by the local government other than those taken into the Board's employment pursuant to section 123 cannot, in the opinion of the local government, be gainfully employed by it the Board and the local government shall agree with respect to the employment of such persons on terms and conditions of employment at least equal to the terms and conditions of employment enjoyed by them as employees of the local government.

(2) Where pursuant to an agreement made under subsection (1) an offer of employment by the Board is made to any person who accepts the offer within 2 months after it is made to the person such person shall be employed by the Board upon such duties as are determined by or on behalf of the Board and thereafter shall be subject to the by-laws and general governance of the Board in relation to the person's employment.

Employment details to be furnished to Board

125. During negotiations between the Board and a local government with

a view to the assumption of control by the Board of the local government's headworks the local government shall cause to be collated and furnished to the Board full and accurate information as to its employees ordinarily employed on a full-time basis in and about the management, operation and maintenance of the headworks and as to its employees likely to be prejudiced by reason of the assumption of control together with full and accurate details as to the terms and conditions of their employment by the local government.

Retention of accrued leave rights by Board's employees

126. A person who immediately prior to becoming an employee of the Board was an officer of the public service or an employee of a local government taken into the Board's employment pursuant to section 123 or 124 shall, upon and by virtue of the person becoming an employee of the Board cease to be such an officer or employee of the local government but nevertheless for as long as the person continues in the Board's employment in a permanent capacity shall retain and may claim against the Board in respect of all entitlements as respects leave that have accrued or are accruing to the person as an officer of the public service or an employee of the local government at the time when the person becomes an employee of the Board and for this purpose the person's service as an employee of the Board and the person's service in the employment terminated by the person becoming an employee of the Board shall be deemed to be continuous service as an employee of the Board.

Retention of superannuation rights by Board's employees

127.(1) A person who—

- (a) becomes an employee of the Board in a permanent capacity within 12 months after the commencement of this Act and immediately prior to becoming such an employee is a contributor to the State Service Superannuation Fund; or
- (b) becomes an employee of the Board in a permanent capacity at any time and immediately prior to becoming such an employee is a contributor to a superannuation scheme or provident fund as an employee of a local government;

shall, for as long as the person remains such a contributor—

- (c) retain all entitlements which at the time when the person becomes an employee of the Board have accrued or are accruing to the person as a contributor to the State Service Superannuation Fund, superannuation scheme or provident fund, as the case may be; and
- (d) continue to contribute to the fund or scheme to which the person was contributing at the time when the person became an employee of the Board and shall be entitled to receive therefrom in respect of himself, herself, his or her surviving spouse and any child of the person as if—
 - (i) in the case of a person who continues to contribute to the State Service Superannuation Fund—the person were an officer within the meaning of the *State Service Superannuation Act 1972* or the *Public Service Superannuation Act 1958*; or
 - (ii) in the case of a person who continues to contribute to another superannuation scheme or provident fund—the person had remained an employee of the local government by which the person was employed immediately prior to becoming an employee of the Board, and if the case require it as if the person's service as an employee of the local government and the person's service as an employee of the Board were continuous service as an employee of the local government.

(2) To facilitate the payment of contributions to the State Service Superannuation Fund or any other superannuation scheme or provident fund by employees referred to in subsection (1) the Board is hereby authorised to deduct from the weekly, fortnightly or other periodic salary or wage of such an employee an amount sufficient to meet his or her contribution to that Fund, scheme or provident fund and remit such amount to the proper person authorised to receive contributions on behalf of that Fund, scheme or provident fund.

Board to contribute as employer

128.(1) In respect of an employee of the Board who contributes to the State Service Superannuation Fund the Board shall pay to the State Service

Superannuation Additional Benefits Fund such sums as would have been payable by the Crown by way of contribution to such last mentioned fund had the contributor been an employee of the Crown and had been paid salary or wages at the rate paid to the employee at the material time by the Board.

(2) In respect of an employee of the Board who pursuant to section 127 contributes to a superannuation scheme or provident fund other than that referred to in subsection (1) the Board shall pay to that scheme or fund such sums as would have been payable by the local government concerned by way of contribution to the scheme or fund had the contributor been an employee of the local government and had been paid salary or wages at the rate paid to the employee at the material time by the Board.

(3) Moneys payable by the Board under this section to the State Service Superannuation Additional Benefits Fund or to any other superannuation scheme or provident fund and unpaid may be recovered by action in a court of competent jurisdiction by the State Service Superannuation Board constituted under the *State Service Superannuation Act 1972* or the trustees or managers of the scheme or fund in question respectively as a debt due to that board or, as the case may be, those trustees or managers.

Maintenance of Board's own superannuation scheme

129.(1) The Board may with the approval of the Governor in Council institute and maintain a scheme or schemes for the provision of superannuation benefits to its employees and to that end may provide in such manner as it thinks fit for the establishment and maintenance of such funds as it considers necessary or desirable and may contribute to such funds.

(2) If a scheme such as is referred to in subsection (1) is maintained by the Board an employee who is entitled to be a contributor to such scheme shall not be required to become such a contributor for as long as the employee continues to be a contributor pursuant to section 127 to the State Service Superannuation Fund or any other superannuation scheme or provident fund.

PART 10—MISCELLANEOUS PROVISIONS

Board not liable for short supply

130.(1) The Board is not liable to any penalty or damages on account of a failure to supply water or a restricted supply of water if such failure or restriction is by reason of a lessening of supply by the Board pursuant to section 59.

(2) The Board shall not be obliged to supply or be compelled to supply water to any local government or the Glamorgan Vale Water Board at an hourly, daily or other periodic rate greater than is determined from time to time by the Board as the maximum allocation or rate of supply that can prudently be made available to the local government or that Board and advised to that government or Board.

Board liable only in negligence for escape of water

131.(1) The Board or any occupier of headworks shall not be liable, absolutely or vicariously—

- (a) for flooding or sending water upon any land by reason of works performed by or for it; or
- (b) for escape of water from headworks or trunk mains under its control or from works being performed by or for it;

unless it be shown that the flooding, sending of water or escape is due to or arose out of the negligence of the Board or its servants or, as the case may be, the occupier or its servants in the construction, maintenance, control or management of the works, headworks or trunk mains in question or of the flow of water therein.

(2) This section shall not be construed to prejudice the operation of section 108.

(3) This section does not extend to declaring with respect to the liability at law of any person who operates headworks or trunk mains otherwise than as an occupier thereof.

Obstruction

132. A person who obstructs or attempts to obstruct the Board or any employee or agent of the Board in the performance of a function or the exercise of a power of the Board commits an offence against this Act.

Assault and intimidation

133. A person who assaults or intimidates or attempts to assault or intimidate any employee or agent of the Board while the person is exercising a power or performing a duty under or for the purposes of this Act commits an offence against this Act.

Regulations

134.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made with respect to the following matters—

- (a) the nomination, approval and selection of persons for appointment to the Board;
- (b) the establishment, membership, functions and powers of a committee for the purpose of approving or selecting persons for appointment to the Board.

(3) A regulation may provide that contravention of a regulation is an offence and prescribe a maximum penalty, of not more than 20 penalty units, for the offence.

By-laws

135.(1) The Board, with the approval of the Governor in Council, may make by-laws under this Act.

(2) A by-law may be made with respect to the following matters—

- (a) all matters and things necessary for the proper construction, maintenance, operation and control of its headworks, treatment works, trunk mains, works and undertakings;
- (b) supply of water from its headworks, trunk mains and treatment works;

South East Queensland Water Board Act 1979

- (c) taking and use of water in its control;
- (d) the use, good management and preservation of land owned by or in the control of the Board;
- (e) recreational use of reservoirs and land owned by or in the control of the Board and of the waters therein or thereon;
- (f) protection of its property from trespass and damage; access of the public to specified parts of the Board's property and undertakings;
- (g) preservation of water in its control from pollution in any form and of banks of reservoirs from erosion;
- (h) the manner in which functions, powers and duties shall be discharged, exercised and performed by it or by any person for the purposes of this Act;
- (i) conduct of business at its meetings; custody and use of the common seal of the Board;
- (j) fees payable to it and the matters in respect of which such fees are payable;
- (k) matters that under this Act may be prescribed by by-law of the Board;
- (l) all matters that in its opinion are necessary or desirable for the proper and efficient performance of its functions.

(3) A by-law may provide for the recoupment to the Board of expenses incurred by it in doing work—

- (a) required by the by-laws to be done where the person so required has failed to do the work; or
- (b) required to be done to remedy any damage occasioned by a breach of the by-laws;

by the person who has failed to do the work, or, as the case may be, has breached the by-laws.

(4) A by-law may provide that contravention of a by-law is an offence and prescribe a maximum penalty, of not more than 20 penalty units, for the offence.

Manner of making by-laws

136.(1) Every resolution making a by-law shall be passed at a special meeting of the Board called for the purpose.

(2) After the passing of a resolution making a by-law a copy of the by-law shall be kept available for public inspection at the Board's office until the expiration of the time specified in accordance with subsection (3).

(3) As soon as practicable after the passing of a resolution making a by-law the Board shall cause to be published at least once in a newspaper that circulates generally within the operational area of the Board a notice—

- (a) of the general purport of the by-law;
- (b) that a copy of the by-law is available for inspection by any person at the Board's office up to and including a date specified in the notice being a date not less than 21 days after the publication or, if the notice is published more than once, after the first publication of the notice in the newspaper;
- (c) that a copy of the by-law may be procured from the Board on or before the date so specified upon payment of a sum fixed by resolution of the Board but not exceeding the cost of printing or otherwise reproducing the copy, which sum shall be specified in the notice;
- (d) that objections to the making of the by-law may be lodged with the Board at its office on or before the date so specified and that any such objection shall be in writing and shall state the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.

(4) A person—

- (a) who wishes to object to the making of a by-law may do so by lodging the person's objection at the Board's office in accordance with the notice published under subsection (3) and not otherwise;
- (b) is entitled to procure from the Board a copy of a by-law kept available for public inspection at the Board's office upon tender of the sum specified for that purpose in the notice published under subsection (3).

(5) The Board shall consider every objection duly made to the making of

a by-law and if thereupon it resolves to proceed with the making of the by-law it shall cause to be forwarded to the Minister for submission to the Governor in Council—

- (a) a copy of the Board's resolution to make the by-law; and
- (b) a copy of the by-law proposed to be made; and
- (c) a copy of the notice published under subsection (3); and
- (d) all objections duly made to the making of the by-law; and
- (e) the representations of the Board in respect of all such objections; and
- (f) a certificate under the hand of the chairperson and secretary that the requirements of this section have been complied with in connexion with the making of the by-law in question.

(6) The Governor in Council may approve or reject a by-law of the Board submitted to the Governor in Council or may approve of the by-law subject to such amendments as the Governor in Council thinks fit having regard to the objects of the by-law and to the objections to the by-law and representations of the Board in respect of the objections.

(7) Where the requirements of this section have been complied with in connection with the making of a by-law that is approved by the Governor in Council subject to amendments it shall be deemed that the by-law as so amended is the by-law duly made by the Board.

Intervention in Board's affairs

139.(1) The Governor in Council may, by regulation—

- (a) repeal a by-law or any part of a by-law of the Board;
- (b) suspend or rescind any resolution or order of the Board;
- (c) prohibit the expenditure of money from any fund of the Board upon work that the Governor in Council considers unnecessary or which, in the Governor in Council's opinion, will impose undue burden upon the inhabitants of the operational area of the Board.

(1A) The repeal of a by-law or part of a by-law by the Governor in Council under subsection (1)(a) does not limit any other way of repealing the by-law or part of the by-law.

(2) A resolution of the Board rescinded by the Governor in Council shall be taken to be void ab initio unless the Governor in Council specifies a later date for that purpose, in which case the resolution shall be taken to be void on and from that specified date.

(2A) Upon the coming into effect of a rescission of a resolution of the Board—

- (a) the making by or on behalf of the Board of a contract; or
- (b) the acceptance by or on behalf of the Board of a tender; or
- (c) the doing by or on behalf of the Board of any act or thing;

pursuant to or allegedly pursuant to authority conferred by such resolution shall be void—

- (d) on and from the date specified by the Governor in Council as the date on and from which such resolution shall be void; or
- (e) ab initio, where no such date is specified by the Governor in Council.

(3) Where any contract, acceptance, act or thing becomes void ab initio pursuant to subsection (2), no action, claim or demand shall lie or be made or allowed against the Board or any member, servant or agent of the Board for or in respect of any damage, loss or injury sustained or alleged to have been sustained or for or in respect of any other right or remedy conferred or alleged to have been conferred by reason of the making of the contract or the acceptance or the doing of the act or thing.

(4) Where a contract becomes void ab initio pursuant to subsection (2), if a party to the contract (other than the Board) satisfies the Governor in Council that—

- (a) he entered into the contract in good faith; and
- (b) prior to the rescission by the Governor in Council of the resolution that authorised the making by the Board of the contract, he had incurred expense in or for the purpose of performing the contract;

the Governor in Council may, in writing, direct the Board to pay to that party the amount of such expense and the Board shall comply in all respects with such direction.

(5) An amount so directed to be paid and unpaid shall constitute a debt due and owing by the Board to the party concerned.

Proof of Board's documents

141.(1) A document purporting to be issued or made by or under the direction of the Board and signed by the chairperson or the secretary shall be admitted in evidence in all courts and proceedings and shall be deemed to be issued or made by or under the direction of the Board until the contrary is proved.

(2) Evidence of a by-law made by the Board may be given—

- (a) by production of the Gazette purporting to contain it; or
- (b) by production of a document purporting to be a copy of it and to be printed by the Government Printer or by the authority of the Government.

Search of titles without fee

142. The Registrar of Titles and every mining registrar shall permit the secretary or other authorised agent of the Board to make, free of charge, searches of, copies of and extracts from any book, plan or document in his or her charge that relates to the registration of land in the operational area of the Board.

Returns to the Minister

143.(1) The Minister may from time to time request the Board to furnish the Minister with its report on such matters as the Minister nominates and may fix a reasonable time within which the return is to be furnished.

(2) Where a return is furnished pursuant to the Minister's request made under subsection (1) a person appointed for the purpose by the Minister shall at any time have access to all records of the Board and may examine the same with a view to verifying the accuracy of the return.

(3) If the Board refuses or fails to furnish a return in compliance in all respects with the Minister's request or furnishes a return that is false in a material particular the Board and each person who is privy to such refusal,

failure or the making of the false return is liable to a maximum penalty of 2 penalty units.

(4) A person who obstructs or hinders any person referred to in subsection (2) in the exercise of his powers under that subsection commits an offence against this Act and is liable to a maximum penalty of 2 penalty units.

Offence provision

145.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person who—

- (a) commits an offence against this Act; or
- (b) contravenes or fails to comply with any provision of the Board's by-laws;

may be prosecuted in respect thereof in a summary way under the *Justices Act 1886* and, save where another penalty is specifically provided by this Act or by the by-laws, as the case may be, is liable to a maximum penalty of 20 penalty units.

Appropriation of penalties

146. Unless otherwise expressly provided by this Act, all penalties under this Act recovered by the Board or by a person authorised by the Board for that purpose shall be paid to the Board.

Amounts held in funds

147.(1) *On the commencement of this section—*

- (a) *the amount held in a relevant fund immediately before the commencement—*
 - (i) *is an amount belonging to the Board; and*
 - (ii) *is to be accounted for in the accounts of the Board; and*
- (b) *the amount held in the Trust Fund is to be paid into a trust account kept by the Board for the purpose.*

(2) *In this section—*

“relevant fund” means—

- (a) *Operating Fund; or*
- (b) *Reserve Fund; or*
- (c) *Capital Works Fund; or*
- (d) *any other fund prescribed under section 78(e) (as in force immediately before the commencement of this section).*

(3) *This section expires at the end of the day it commences.**

* This provision has expired and is included in this reprint for informational purposes only. It will be omitted in the next reprint.

ENDNOTES**1 Index to Endnotes**

	Page
2 Date to which amendments incorporated	78
3 List of legislation	78
4 List of annotations	80
5 Table of changed names and titles	87
6 Table of changed citations and remade laws	88
7 Table of obsolete and redundant provisions	88
8 Table of renumbered provisions	88
9 Transitional and savings provisions	89

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 24 February 1995. Future amendments of the South East Queensland Water Board Act 1979 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation**South East Queensland Water Board Act 1979 No. 33**

date of assent 20 June 1979

commenced 30 June 1979 (proc pubd Gaz 30 June 1979 p 1373)

as amended by—

Brisbane and Area Water Board Act Amendment Act 1981 No. 9

date of assent 14 April 1981

commenced on date of assent

Brisbane and Area Water Board Act Amendment Act 1981 (No. 2) No. 97

date of assent 11 December 1981

commenced on date of assent

Brisbane and Area Water Board Act Amendment Act 1983 No. 28

date of assent 22 April 1983

commenced on date of assent

Brisbane and Area Water Board Act Amendment Act 1984 No. 44

date of assent 10 May 1984
commenced on date of assent

Brisbane and Area Water Board Act Amendment Act 1987 No. 68

date of assent 1 December 1987
commenced on date of assent

Acts Amendment and Construction Act 1988 No. 47 s 10 Sch 2

date of assent 12 May 1988
commenced on date of assent

Brisbane and Area Water Board Act Amendment Act 1988 No. 90

date of assent 1 December 1988
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 Sch

date of assent 25 October 1989
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1990 No. 88 s 3 Sch

date of assent 6 December 1990
commenced on date of assent

Brisbane and Area Water Board Act Amendment Act 1991 No. 21

date of assent 5 June 1991
Pt 1 and ss 31, 42 commenced on date of assent
remaining provisions commenced 1 July 1991 (proc pubd Gaz 29 June 1991
p 1201)

Primary Industries Corporation Act 1992 No. 15 s 13 Sch

date of assent 13 May 1992
commenced 30 September 1992 (1992 SL No. 271)

Local Government Act 1993 No. 70 s 804 Sch

date of assent 7 December 1993
commenced 26 March 1994 (see s 2(5))

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 Sch 1

date of assent 10 May 1994
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 s 3 Sch 1

date of assent 1 December 1994
commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
def	=	definition
Div	=	Division
exp	=	expires/expired
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Long title amd 1991 No. 21 s 5

Short title

s 1 amd 1991 No. 21 s 3

Arrangement of Act

s 3 om 1991 No. 21 s 6

Interpretation

prov hdg sub 1991 No. 21 s 7(a)

s 4 amd 1991 No. 21 s 7(b), (k); 1994 No. 15 s 3 Sch 1

def **“Advisory Committee”** om 1991 No. 21 s 7(c)

def **“Board”** amd 1991 No. 21 s 7(d)

def **“chairperson”** amd 1991 No. 21 s 33 Sch

def **“chief executive”** ins 1992 No. 15 s 13 Sch

def **“Commissioner”** ins 1981 No. 9 s 2(a)

om 1983 No. 28 s 2(a)

ins 1988 No. 47 s 10 Sch 2

amd 1991 No. 21 s 7(e)

om 1992 No. 15 s 13 Sch

def **“Director”** om 1981 No. 9 s 2(b)

ins 1983 No. 28 s 2(b)

om 1988 No. 47 s 10 Sch 2

def **“Director-General”** ins 1991 No. 21 s 7(f)

om 1992 No. 15 s 13 Sch

def **“headworks operator”** ins 1983 No. 28 s 2(c)

amd 1984 No. 44 s 2

def **“Local Authority”** amd 1991 No. 21 s 7(g)

om 1993 No. 70 s 804 Sch

def “**maximum flood level**” reloc 1990 No. 88 s 3 Sch
 def “**member**” ins 1991 No. 21 s 7(h)
 om 1993 No. 70 s 804 Sch
 def “**Minister**” amd 1981 No. 9 s 2(c)
 om 1992 No. 15 s 13 Sch
 def “**operational area**” sub 1991 No. 21 s 7(i)
 def “**planning scheme**” sub 1993 No. 70 s 804 Sch
 def “**Technical Advisory Committee**” ins 1991 No. 21 s 7(j)

Provisions concerning application of other enactments

s 5 amd 1990 No. 88 s 3 Sch; 1991 No. 21 s 8

Operational area

s 6 sub 1991 No. 21 s 9
 amd 1994 No. 15 s 3 Sch 1

Local government may be required to contribute to capital works

s 6A ins 1994 No. 15 s 3 Sch 1

Publication of operational area

s 7 amd 1981 No. 9 s 3; 1983 No. 28 s 3; 1988 No. 47 s 10 Sch 2; 1991 No. 21
 s 10; 1992 No. 15 s 13 Sch

PART 3—SOUTH EAST QUEENSLAND WATER BOARD

Pt hdg sub 1991 No. 21 s 11

Constitution of Board

s 8 amd 1991 No. 21 s 12

Members of Board

s 9 sub 1991 No. 21 s 13

Nominees’ names to be furnished to Minister

s 10 om 1991 No. 21 s 13

Action upon default in complying with Minister’s request

s 11 om 1991 No. 21 s 13

Date for nomination of Local Authority’s nomination

s 12 om 1991 No. 21 s 13

Appointment of members of Board

s 13 sub 1991 No. 21 s 14

Term of appointment

s 14 amd 1991 No. 21 s 15
 sub 1994 No. 15 s 3 Sch 1

Termination of membership of Board

s 15 amd 1991 No. 21 s 16

Casual vacancy in membership of Board

s 16 amd 1991 No. 21 s 17; 1994 No. 15 s 3 Sch 1

Delegate members of Board

s 17 amd 1991 No. 21 s 18

Persons deemed to be members of local government

s 18 amd 1991 No. 21 s 19

Chairperson

prov hdg sub 1991 No. 21 s 33 Sch

s 19 amd 1991 No. 21 ss 20, 33 Sch; 1994 No. 15 s 3 Sch 1

Deputy chairperson

prov hdg amd 1991 No. 21 s 33 Sch

s 20 amd 1991 No. 21 ss 21, 33 Sch

Technical Advisory Committee

prov hdg sub 1991 No. 21 s 22(a)

s 21 amd 1981 No. 9 s 4; 1983 No. 28 s 4; 1988 No. 47 s 10 Sch 2; 1991 No. 21 ss 22(b)–(d), 33 Sch; 1992 No. 15 s 13 Sch

Ministerial advisory committee

s 21A ins 1991 No. 21 s 23

Functions

s 22 amd 1983 No. 28 s 5

General powers of Board

s 24 amd 1984 No. 44 s 3; 1991 No. 21 s 33 Sch

sub 1994 No. 15 s 3 Sch 1

Provisions affecting contractual powers of Board

prov hdg amd 1988 No. 90 s 2

s 25 om 1994 No. 15 s 3 Sch 1

Power of Board to take over undertakings of local governments

s 29 sub 1991 No. 21 s 24

amd 1994 No. 15 s 3 Sch 1

No entitlement to compensation

s 30A ins 1981 No. 97 s 2

Procedure for taking over control

s 31 amd 1994 No. 15 s 3 Sch 1

Procedure for acquisition of property or assumption of liabilities

s 32 amd 1994 No. 15 s 3 Sch 1

Enforcement of existing claims

s 33 amd 1994 No. 15 s 3 Sch 1

Board to be aided in securing property

s 35 amd 1994 No. 15 s 3 Sch 1

Liability for works

s 37A ins 1983 No. 28 s 6

sub 1988 No. 90 s 3

Procedure upon absence of agreement

s 38 amd 1983 No. 28 s 7; 1984 No. 44 s 4

Authority to resolve all matters upon reference of issue to Minister

s 38A ins 1984 No. 44 s 5

Regulation to give effect to determinations by Governor in Council

prov hdg amd 1994 No. 15 s 3 Sch 1

s 38B ins 1984 No. 44 s 5

amd 1994 No. 15 s 3 Sch 1

Exercise of power under s 29 not affected by partial disagreement

s 39 amd 1994 No. 15 s 3 Sch 1

Delegations

s 39A ins 1991 No. 21 s 25

sub 1994 No. 15 s 3 Sch 1

Procedure for obtaining consent

s 41 amd 1981 No. 9 s 5; 1983 No. 28 s 8; 1988 No. 47 s 10 Sch 2; 1992 No. 15 s 13 Sch

Provisions as to water supply to Esk

s 45 amd 1994 No. 15 s 3 Sch 1

Solution of disputes between Board and local government

s 50 amd 1994 No. 15 s 3 Sch 1

Regulation of use of catchment area

s 54 amd 1984 No. 44 s 7

Manner of exercising s 59 power

s 60 amd 1991 No. 21 s 33 Sch

Division 2—Application of Finance Acts

Div hdg sub 1994 No. 15 s 3 Sch 1

Board is statutory body

s 63 sub 1994 No. 15 s 3 Sch 1

Resolution before borrowing

s 64 om 1994 No. 15 s 3 Sch 1

Board may give security

s 65 om 1994 No. 15 s 3 Sch 1

Application of loan moneys

s 66 om 1994 No. 15 s 3 Sch 1

Repayment of Treasury loans

s 67 om 1994 No. 15 s 3 Sch 1

Debentures and stock

s 68 amd 1991 No. 21 s 33 Sch

om 1994 No. 15 s 3 Sch 1

Remedies of debenture holder

s 69 om 1994 No. 15 s 3 Sch 1

Powers and duties of receiver

s 70 om 1994 No. 15 s 3 Sch 1

Remuneration of receiver

s 71 om 1994 No. 15 s 3 Sch 1

Brokerage

s 72 om 1994 No. 15 s 3 Sch 1

Loan to be authorized investment

s 73 om 1994 No. 15 s 3 Sch 1

Board to be Local Body

s 74 om 1994 No. 15 s 3 Sch 1

Regulations relating to loans

s 75 om 1994 No. 15 s 3 Sch 1

Illegal borrowing

s 76 om 1994 No. 15 s 3 Sch 1

Temporary accommodation on overdraft

s 77 om 1994 No. 15 s 3 Sch 1

Division 3—Funds of Board

Div hdg om 1994 No. 15 s 3 Sch 1

Funds to be maintained

s 78 om 1994 No. 15 s 3 Sch 1

Operating Fund

s 79 om 1994 No. 15 s 3 Sch 1

Reserve Fund

s 80 om 1994 No. 15 s 3 Sch 1

Capital Works Fund

s 81 om 1994 No. 15 s 3 Sch 1

Trust Fund

s 82 om 1994 No. 15 s 3 Sch 1

Investment of temporarily surplus money

s 83 om 1994 No. 15 s 3 Sch 1

Division 4—Accounts and Audit

Div hdg om 1994 No. 15 s 3 Sch 1

Meaning of terms

s 84 om 1994 No. 15 s 3 Sch 1

Budget

s 85 om 1994 No. 15 s 3 Sch 1

Accounts

s 86 om 1994 No. 15 s 3 Sch 1

Statements of account

s 87 om 1994 No. 15 s 3 Sch 1

Annual financial statements

s 88 amd 1987 No. 68 s 3; 1991 No. 21 s 33 Sch
om 1994 No. 15 s 3 Sch 1

Audit of accounts

s 89 amd 1981 No. 9 s 6; 1991 No. 21 s 33 Sch
om 1994 No. 15 s 3 Sch 1

Establishment charges

s 91 om 1994 No. 15 s 3 Sch 1

Precepts for Board's operating costs

s 92 amd 1991 No. 21 s 33 Sch
om 1994 No. 15 s 3 Sch 1

Assignment of full supply levels

s 98 amd 1994 No. 15 s 3 Sch 1

Date of which full supply levels are effective

s 101 amd 1994 No. 15 s 3 Sch 1

Operational procedures for flood mitigation

s 106 amd 1981 No. 9 s 7; 1983 No. 28 s 9; 1984 No. 44 s 8; 1988 No. 47 s 10
Sch 2; 1991 No. 21 s 26; 1994 No. 15 s 3 Sch 1

Board, headworks operator bound by manual

prov hdg amd 1983 No. 28 s 10(a)
s 107 amd 1983 No. 28 s 10(b); 1984 No. 44 s 9

Minister, Board, headworks operator not liable for flood damage

prov hdg amd 1983 No. 28 s 11(a)
s 108 amd 1983 No. 28 s 11(b)–(c)

Cooperative practice of Board and Electricity Generating Board

s 109 amd 1981 No. 9 s 8; 1983 No. 28 s 12; 1988 No. 47 s 10 Sch 2; 1988
No. 90 s 4; 1989 No. 103 s 3 Sch; 1990 No. 88 s 3 Sch; 1992 No. 15
s 13 Sch; 1994 No. 87 s 3 Sch 1

Meetings of Board

s 110 amd 1991 No. 21 s 33 Sch

Presiding at meetings

s 111 amd 1990 No. 88 s 3 Sch; 1991 No. 21 s 33 Sch

Notice of meetings

s 113 amd 1988 No. 90 s 5; 1989 No. 103 s 3 Sch; 1991 No. 21 s 33 Sch

Adjournment of meetings

s 114 amd 1991 No. 21 s 33 Sch

Conduct of Board's affairs

s 115 amd 1991 No. 21 s 33 Sch

Validity of proceedings

s 116 amd 1991 No. 21 s 27

Disability on participation in business of Board

s 117 amd 1991 No. 21 s 28

Chairperson's remuneration

prov hdg amd 1991 No. 21 s 33 Sch

s 118 amd 1991 No. 21 s 33 Sch

Remuneration of other Board members

s 119 amd 1984 No. 44 s 10

Expenses

s 120 amd 1984 No. 44 s 11

Staff of works controlled by Board

s 123 amd 1990 No. 88 s 3 Sch

Board liable only in negligence for escape of water

prov hdg amd 1983 No. 28 s 13(a); 1984 No. 44 s 12(a)

s 131 amd 1983 No. 28 s 13(b)–(c); 1984 No. 44 s 12(b)–(d)

Obstruction

prov hdg amd 1991 No. 21 s 29(a)

s 132 amd 1991 No. 21 s 29(b)

Assault and intimidation

prov hdg sub 1991 No. 21 s 30(a)

s 133 amd 1991 No. 21 s 30(b)

Regulations

s 134 amd 1991 No. 21 s 31

sub 1994 No. 15 s 3 Sch 1

By-laws

s 135 and 1994 No. 15 s 3 Sch 1

Manner of making by-laws

s 136 amd 1991 No. 21 s 33 Sch

Application of regulation or by-law; breaches thereof

s 137 om 1994 No. 15 s 3 Sch 1

Publication and operation of by-laws

s 138 om 1994 No. 15 s 3 Sch 1

Intervention in Board's affairs

s 139 amd 1994 No. 15 s 3 Sch 1

Service of documents

s 140 om 1994 No. 15 s 3 Sch 1

Proof of Board's documents

s 141 amd 1991 No. 21 s 33 Sch

Returns to the Minister

s 143 amd 1994 No. 15 s 3 Sch 1

Annual report

s 144 om 1994 No. 15 s 3 Sch 1

Offence provision

s 145 amd 1994 No. 15 s 3 Sch 1

Amounts held in fundss 147 ins 1994 No. 15 s 3 Sch 1
exp 2 December 1994 (see s 147(3))**SCHEDULE**

om 1991 No. 21 s 32

5 Table of changed names and citationsTABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
(Brisbane and Area Water Board)	(South East Queensland Water Board)	Brisbane and Area Water Board Act Amendment Act 1991 s 39
by-law (of a local authority)	local law (of a local government)	Local Government Act 1993 s 755(1)(l)
local authority	local government	Local Government Act 1993 s 755(1)(a)
member (of a local authority)	councillor (of a local government)	Local Government Act 1993 s 755(1)(i)
ordinance (of a local authority)	local law (of a local government)	Local Government Act 1993 s 755(1)(l)
town planning scheme	planning scheme (under Local Government (Planning and Environment) Act 1990)	Local Government (Planning and Environment) Act 1990 s 8.10(13)(b)
Valuer-General	chief executive (of the department in which	Valuation of Land Act 1944 s 10

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6 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Local Government Act 193 6	Local Government Act 199 3	Local Government Act 1993 s 755(1)(o)
Water Act 1926	Water Resources Act 1989	Water Resources Act 1989 s 10.37

7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to Queensland implied	Acts Interpretation Act 1954 s 35

8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Previous	Renumbered as
2, 1st sentence	2(1)
2, 2nd sentence	2(2)
2, 3rd sentence	2(3)
17(1), 2nd sentence	17(1A)
20(1), 2nd sentence	20(1A)
21(5), 2nd sentence	21(5A)
27(4), 2nd sentence	27(4A)
27(4), 3rd sentence	27(4B)
27(4), 4th sentence	27(4C)
27(4), 5th sentence	27(4D)
28(2), 2nd sentence	28(2A)

31(2), 2nd sentence	31(2A)
32(2), 2nd sentence	32(2A)
38(4), 2nd sentence	38(5)
45(3), 2nd sentence	45(4)
46(2), 2nd sentence	46(3)
47(2), 2nd sentence	47(3)
48(1), 2nd sentence	48(1A)
59, 1st sentence	59(1)
59, 2nd sentence	59(2)
106(1), 2nd sentence	106(1A)
114, 1st sentence	114(1)
114, 2nd sentence	114(2)
114, 3rd sentence	114(3)
115(1), 2nd sentence	115(1A)
115(1), 3rd sentence	115(1B)
115(2), 2nd sentence	115(2A)
115(4), 2nd sentence	115(5)
115(4), 3rd sentence	115(6)
115(4), 4th sentence	115(7)
115(4), 5th sentence	115(8)
117(1), 2nd sentence	117(1A)
117(2), 2nd sentence	117(2A)
117(2), 3rd sentence	117(2B)
131, 1st sentence	131(1)
131, 2nd sentence	131(2)
131, 3rd sentence	131(3)
136(6), 2nd sentence	136(7)
139(2), 2nd sentence	139(2A)
139(2), 2nd sentence, 1st unnum para	139(2A)(d)
139(2), 2nd sentence, 2nd unnum para	139(2A)(e)
139(4), 2nd sentence	139(5)

9 Transitional and savings provisions

Brisbane and Area Water Board Act Amendment Act 1991, Pt 3 provides—

PART 3—TRANSITIONAL PROVISIONS

Interpretation

34. In this Part—

“**commencement date**” means the date of commencement of section 12.

Manual of operational procedures

37. Any manual, or any amendment of a manual, prepared under section 106 of the Principal Act and having effect immediately before the commencement of section 26 of this Act continues to have effect on and after that commencement as if it had been prepared and approved under section 106 of the Principal Act as amended by this Act.

References to Act

38.(1) A reference in any Act passed, or in any instrument or other document made, before the commencement of section 3 to the *Brisbane and Area Water Board Act 1979* or to that Act as amended to any year specified in the reference is to be construed as a reference to the *South East Queensland Water Board Act 1979* or, as the case may be, that Act as amended to the year so specified.

(2) Subsection (1) applies without prejudice to the operation of the *Acts Interpretation Act 1954–1990*.

References to Board

39. A reference in—

- (a) this Act or any other Act;
- (b) any Proclamation, Order in Council, regulation, by-law or other instrument made under this or any other Act;

(c) any contract or agreement;

or

(d) any other instrument;

in force immediately before the commencement date, to the Brisbane and Area Water Board is, on and after that date, to be read and construed as a reference to the South East Queensland Water Board.

Legal proceedings

40. Where, before the commencement date—

(a) a cause of action by or against the Brisbane and Area Water Board had arisen but proceedings in respect of that cause of action had not been instituted before that date;

or

(b) proceedings by or against the Brisbane and Area Water Board had been instituted but those proceedings had not been completed before that date;

proceedings in respect of the cause of action may be instituted, or the proceedings may be continued, as the case may be, by or against the South East Queensland Water Board.

Dealings relating to land

41. The Registrar of Titles or the Registrar of Dealings and any other person charged with maintaining a register of dealings relating to land vested in or held by the Brisbane and Area Water Board must, as soon as practicable after the commencement date, without further authority other than this section, alter the name as shown in that register of the registered proprietor, registered lessee, owner or occupier of land referred to in that register to the name South East Queensland Water Board.