

Version No. 100
Melbourne and Metropolitan Board of
Works Act 1958

Act No. 6310/1958

Version incorporating amendments as at 1 August 2003

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Version No. 100
**Melbourne and Metropolitan Board of
Works Act 1958**
Act No. 6310/1958

Version incorporating amendments as at 1 August 2003

An Act to consolidate the Law relating to the Melbourne and
Metropolitan Board of Works.

**BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):**

1. Short title and commencement

This Act may be cited as the **Melbourne and
Metropolitan Board of Works Act 1958**, and
shall come into operation on a day to be fixed by
proclamation of the Governor in Council
published in the Government Gazette.

S. 1
amended by
Nos 7893 s. 2,
8071 ss 7(c),
8(b), 8573
s. 12(a)(b),
9019 s. 2(1)
(Sch. item
150), 9165
s. 2(a)(b), 9235
s. 2, 9239 s. 2,
9558 s. 6(4),
9700 s. 2, 9754
s. 2, 86/1986
s. 43.

2. Repeals and savings

- (1) The Acts mentioned in the First Schedule to the
extent thereby expressed to be repealed are hereby
repealed accordingly.

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s. 2

- (2) Except as in this Act expressly or by necessary implication provided—
- (a) all persons things and circumstances appointed or created by or under the repealed Acts or existing or continuing under any of such Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if such Acts had not been so repealed;
 - (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation by-law order licence permit application rate charge vesting election representation constitution appointment declaration determination consent certificate contract agreement arrangement pension allowance gratuity debenture stock advance security recommendation approval notice liability power or right made effected issued granted given presented levied passed fixed accrued incurred or acquired or existing or continuing by or under any of such Acts before the commencement of this Act.

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s. 3

3. Definitions

(1) In this Act, unless inconsistent with the context or subject-matter—

Nos 3731 s. 3,
3833 s. 2, 3943
s. 2, 6114
ss 2, 3.

"Board" or "Melbourne and Metropolitan Board of Works" means the Melbourne Water Corporation constituted under the **Melbourne Water Corporation Act 1992**;

S. 3(1) def. of "Board" substituted as "Board" or "Melbourne and Metropolitan Board of Works" by No. 54/1992 s. 49(a).

"Chairperson" means Chairperson of the Board of Directors of the Board;

S. 3(1) def. of "Chairperson" inserted by No. 54/1992 s. 49(b).

"council" means any municipal council;

S. 3(1) def. of "council" amended by No. 12/1989 s. 4(1)(Sch. 2 item 77.1).

* * * * *

S. 3(1) def. of "Director-General" inserted by No. 10081 s. 5(1), substituted by No. 81/1989 s. 3(Sch. item 34.1(a)), repealed by No. 76/1998 s. 13(a)(i).

"General Manager" means Managing Director of the Board of Directors of the Board;

S. 3(1) def. of "General Manager" inserted by No. 54/1992 s. 49(c).

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S. 3(1) def. of
"member"
inserted by
No. 54/1992
s. 49(c).

"member" in relation to the Board, means
member of the Board of Directors of the
Board;

S. 3(1) def. of
"metropolis"
amended by
S.R. No.
323/1973 cl. 2,
No. 54/1992
s. 49(d).

"metropolis" means the area within 20·9215
kilometres of the site of the building known
as the post office (corner of Bourke and
Elizabeth streets) Melbourne and the area
described in the Second Schedule to this Act,
and also includes any land (whether within
20·9215 kilometres of the site of the said
post office or not and whether within any
municipal district or not) which by this Act
or by Order of the Governor in Council
under this Act is declared to be included in
the metropolis, but excludes any area which
by Order of the Governor in Council under
this Act is excised from the metropolis;

S. 3(1) def. of
"municipality"
and
"municipal
district"
repealed by
No. 12/1989
s. 4(1)(Sch. 2
item 77.2).

* * * * *

S. 3(1) def. of
"proper
officer"
inserted by
No. 9824 s. 2,
amended by
No. 36/1989
s. 4.

"proper officer", in relation to a provision of this
Act or of by-laws made under this Act,
means officer of the Board appointed by the
Board either generally or in any particular
case for the purposes of that provision and
whose duty or part of whose duties is to deal
with or to act in regard to any acts matters or
things in connexion with which the term
"proper officer" is used;

S. 3(1) def. of
"Rail Track"
inserted by
No. 54/2001
s. 40.

"Rail Track" means the body established under
Division 2 of Part 2 of the **Rail
Corporations Act 1996**;

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"rateable property" means lands and tenements which are rateable lands within the meaning of the **Local Government Act 1989**;

S. 3(1) def. of "rateable property" inserted by No. 6536 s. 24(2)(a), amended by No. 12/1989 s. 4(1)(Sch. 2 item 77.3).

"retail licensee" means a water licensee or a water and sewerage licensee;

S. 3(1) def. of "retail licensee" inserted by No. 121/1994 s. 196(1)(a).

"Secretary" means the body corporate established by Part 2 of the **Conservation, Forests and Lands Act 1987**;

S. 3(1) def. of "Secretary" inserted by No. 76/1998 s. 13(a)(ii).

"sewered property" includes a property that is declared by a retail licensee in accordance with the **Water Industry Act 1994** to be a serviced property for the purposes of the supply of sewerage services;

S. 3(1) def. of "sewered property" inserted by No. 121/1994 s. 196(1)(a).

* * * * *

S. 3(1) def. of "Rural Water Commission" inserted by No. 10081 s. 5(1), repealed by No. 81/1989 s. 3(Sch. item 34.1(b)).

"town clerk" includes the secretary of a shire;

"water licensee" means the holder of a water licence issued under Division 1 of Part 2 of the **Water Industry Act 1994**;

S. 3(1) def. of "water licensee" inserted by No. 121/1994 s. 196(1)(b).

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S. 3(1) def. of
"water and
sewerage
licensee"
inserted by
No. 121/1994
s. 196(1)(b).

"water and sewerage licensee" means the holder of a water and sewerage licence issued under Division 1 of Part 2 of the **Water Industry Act 1994**.

- (2) (a) Any reference in any Act by-law or regulation to the Board of Land and Works, so far as such reference relates to any property vested in the Board by any Act, shall after such vesting be deemed (unless inconsistent with the context) to refer to the Board.
- (b) Any reference in this Act to moneys borrowed or debentures or inscribed stock issued by the Board or moneys advanced by way of loan to the Board under this Act or any Part thereof shall, unless inconsistent with the context or subject-matter, be deemed to include a reference to moneys borrowed or debentures or inscribed stock issued by the Board or moneys advanced by way of loan to the Board under any corresponding previous enactment.
- (3) The Governor in Council by Order published in the Government Gazette may on the application of the Board—
- (a) include within the metropolis any land whether within 20·9215 kilometres of the site of the building known as the post office (corner of Bourke and Elizabeth streets) Melbourne or not and whether within any municipal district or not;
- (b) excise from the metropolis any area included in the metropolis for the time being; or

S. 3(3)(a)
amended by
S.R. No.
323/1973 cl. 2.

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s. 3

(c) rectify any errors in any definition or description of any boundaries specified in any such Order.

(4) Every Order in Council under sub-section (3) shall take effect according to the tenor thereof accordingly.

(5) (a) When the Governor in Council on the application of the Board by Order published in the Government Gazette provides pursuant to the foregoing provisions of this section for the inclusion in the metropolis of any land the Governor in Council may by that Order make any one or more of the following provisions, namely—

S. 3(5)(a)
amended by
No. 7778
s. 2(a).

(i) that consequent on such extension only such provisions of this Act as are specified in the Order shall apply to the land so included in the metropolis;

(ii) that the functions of any Authority under the **Water Act 1989** shall continue to the extent set out in the Order in respect of the land so included in the metropolis;

S. 3(5)(a)(ii)
amended by
Nos 9895
s. 2(1)(Sch. 1
item 7(a)),
12/1989
s. 4(1)(Sch. 2
item 77.4),
81/1989
s. 3(Sch.
item 34.2).

(iii) that the functions of any Authority under the **Water Act 1989** that has waterway management, regional drainage or flood plain management functions under that Act shall continue in relation to any part of the said land, which part is specified for the purpose in the Order, and that the Board shall not impose fees under a tariff set under Part X in respect of that part of the said land;

S. 3(5)(a)(iii)
amended by
Nos 8574
s. 2(1)(a),
81/1989
s. 3(Sch.
item 34.3),
110/1997
s. 11(1).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

s. 3

S. 3(5)(a)(iv)
substituted by
No. 7778
s. 2(b),
repealed by
No. 8574
s. 2(1)(a).

* * * * *

and in any such case the inclusion of the land in the metropolis shall take effect subject to the provisions of the Order and the relevant Acts shall apply accordingly.

(b) Any provisions made in an Order in Council pursuant to this section may be revoked or varied on the application of the Board by a subsequent Order of the Governor in Council published in the Government Gazette and thereafter the relevant Acts shall apply accordingly.

S. 3(6)(a)
amended by
No. 9999
ss 4, 5(a).

(6) (a) Where any land is included in the metropolis by an Order in Council there shall be vested in the Board without further or other conveyance, transfer or assignment such works and property of the body from whose jurisdiction the land is transferred as are specified in the Order and any existing liability of the body arising out of those works or property shall be transferred to the Board, which shall, in addition, be liable to pay to the body such amount (if any) as is agreed upon between the Board and the body or, in default of agreement, as is determined by the Governor in Council.

S. 3(6)(b)
amended by
No. 9999
s. 5(b).

(b) The transfer of any existing liability from the body to the Board and all necessary entries and adjustments shall be made in the appropriate accounts kept by the Board and by the body and if the liability is to the Treasurer of Victoria in the appropriate accounts kept in the Treasury.

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

s. 3

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- (c) Where any liability transferred from a body to the Board is a liability to the Treasurer of Victoria in respect of loan moneys the Board shall pay to the Treasurer of Victoria such sums as the Treasurer requires in order to provide for the payment of interest and contributions to the National Debt Sinking Fund in respect of those moneys.
- (7) For the avoidance of doubt it is declared that—
- (a) on and from 25 June 1991 the metropolis included the land specified in the Schedule to the Emerald District Water Board and Dandenong–Springvale Water Board Transfer of Functions Order 1991 published in the Government Gazette on that date;
- (b) on and from 1 September 1991 the metropolis included the land specified in the Schedule to the Mornington Peninsula and District Water Board and Pakenham Water Board and Lang Lang Water Board Order 1991 published in the Government Gazette on 28 August 1991;
- (c) on and from 6 November 1991 the metropolis included the land specified in clause 1 of the Extension of Metropolis Order published in the Government Gazette on that date.
- (8) This Act applies to the land included in the metropolis as mentioned in sub-section (7).
- S. 3(7)
inserted by
No. 54/1992
s. 51(1).**
- S. 3(8)
inserted by
No. 54/1992
s. 51(1).**

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

s. 4

New s. 4
inserted by
No. 121/1994
s. 197,
amended by
No. 12/1996
s. 23(a).
S. 4(1)
amended by
Nos 12/1996
s. 23(b),
66/2000 s. 44.

4. Withdrawal of certain functions and powers from Board

- (1) Despite anything to the contrary in this or any other Act but subject to sub-section (2), if the **Water Industry Act 1994** or a licence issued under Division 1 of Part 2 of that Act has, in relation to an area or areas within the metropolis, given a function or power to a retail licensee and, but for this section, the Board would also have that function or power in relation to that area or those areas, the Board does not have that function or power in relation to that area or those areas and any power or duty of the Board under this or any other Act to make by-laws, give notices or do any other thing, and any obligation imposed or authority conferred by or under this or any other Act on any person in relation to the Board, must be construed accordingly.
- (2) This section does not have the effect of removing any function or power of the Board to receive or dispose of trade waste in an emergency.

S. 4(2)
inserted by
No. 12/1996
s. 23(c).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

s. 32

*	*	*	*	*	Pt 1 (Heading) repealed by No. 54/1992 s. 50(1).
*	*	*	*	*	Pt 1 Div. 1 (ss 4-25) repealed. ¹
*	*	*	*	*	Pt 1 Div. 1A (s. 25A) repealed. ²
*	*	*	*	*	Pt 1 Div. 2 (Heading) amended by No. 9165 s. 22, repealed by No. 54/1992 s. 50(1).
*	*	*	*	*	Ss 26-31 repealed. ³
32. Power to make by-laws and regulations as to duties etc.⁴					No. 3731 s. 30.
Subject to the provisions of this Act the Board may make such by-laws and regulations as it thinks fit for or with respect to—					S. 32 amended by Nos 7411 s. 6, 7893 s. 3, 9165 s. 28(a)(b), substituted by No. 9824 s. 9.
*	*	*	*	*	S. 32(a)(b) repealed by No. 54/1992 s. 50(2).
(c) the duties, discipline, regulation and conditions of employment of all officers and employees of the Board;					S. 32(c) amended by No. 36/1989 s. 9(2).
(d) the leave of absence, whether with or without pay, and long service leave for officers and employees of the Board; and					S. 32(d) amended by No. 36/1989 s. 9(2).
*	*	*	*	*	S. 32(e) repealed by No. 54/1992 s. 50(2).

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Act No. 6310/1958

s. 42

Ss 33, 34 repealed. ⁵	*	*	*	*	*
Pt 1 Div. 3 (ss 35, 36) repealed. ⁶	*	*	*	*	*
Pt 1 Div. 4 (ss 37–40) repealed. ⁷	*	*	*	*	*
Pt 1 Div. 5 (Heading) repealed by No. 54/1992 s. 50(1).	*	*	*	*	*
Ss 41, 41A repealed. ⁸	*	*	*	*	*

Nos 3731
s. 40, 5795
s. 3.

42. Gratuities on death from injury or disablement⁹

S. 42(1)
amended by
Nos 9754
s. 8(a),
54/1992
s. 50(3)(a).

(1) In the event of the death or the permanent disablement of any officer or workman employed by the Board as the direct result of accident or injury sustained without negligence on his part while engaged in the works of the Board, the Board may cause to be paid to such officer or workman or to such of the surviving relatives of such officer or workman as the Board thinks fit any gratuity of which the Board approves not exceeding in the whole the amount of three years' salary or wages.

S. 42(2)
amended by
Nos 9754
s. 8(b),
36/1989
s. 9(2),
54/1992
s. 50(3)(a).

(2) Without affecting the powers of the Board to pay gratuities under the last preceding sub-section the Board may pay to any of its officers servants or employees on retirement from the service of the Board or in the case of death to the widow or any surviving children or relatives such sum or sums by way of gratuity as the Board thinks fit.

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

s. 42B

* * * * *

S. 42(3)
amended by
Nos 8650
s. 3(5)(h), 9165
s. 32, 9754
s. 8(c),
86/1986 s. 43,
36/1989
s. 9(2),
54/1992
s. 50(3)(b)
(i)–(iii),
repealed by
No. 4/1996
s. 61.

* * * * *

S. 42A
inserted by
No. 54/1992
s. 52,
amended by
No. 121/1994
s. 196(2),
repealed by
No. 4/1996
s. 61.

42B. Water Industry Superannuation Fund¹⁰

- (1) The Water Industry Superannuation Fund as constituted under and governed by the Melbourne and Metropolitan Board of Works Employees' Superannuation Fund Regulations (Statutory Rule No. 231/1987) immediately before the commencement of this section continues, on and after that commencement, as the Water Industry Superannuation Fund continued in force and governed by the Trust Deed made before that commencement between Melbourne Water Corporation and the Trustees of the Water Industry Superannuation Fund.
- (2) On the commencement of this section the Melbourne and Metropolitan Board of Works Employees' Superannuation Fund Regulations are revoked by virtue of this section.

S. 42B
inserted by
No. 4/1996
s. 62 (as
amended by
Nos 82/1996
s. 78(a),
50/1997
s. 14(1)(a)(b)).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

s. 60

- (3) Except as in the Trust Deed expressly or by necessary implication provided, all persons, things and circumstances appointed or created by or under the Melbourne and Metropolitan Board of Works Employees' Superannuation Fund Regulations or existing or continuing under the Regulations immediately before the commencement of this section shall under and subject to the Trust Deed continue to have same status, operation and effect as they respectively would have had if the Regulations had not been revoked.
- (4) No stamp duty or other tax is payable under any Act in respect of anything done under this section.

Ss 43–59
repealed.¹¹

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Pt 1 Div. 8
(Heading)
repealed by
No. 54/1992
s. 50(1).

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Nos 3731
s. 58, 3912
s. 4, 5795 s. 4.

**60. Metropolitan Water Supply and Sewerage Works
etc. vested in Board¹²**

S. 60(1)
amended by
Nos 8353
s. 19, 9178
s. 7, 9921
s. 255, 44/1989
s. 41(Sch. 2
item 27.1).

- (1) On the eighteenth day of March One thousand eight hundred and ninety-one—

All lands described or specified in Parts one two three and four of the Third Schedule to the **Melbourne and Metropolitan Board of Works Act 1915** and all lands vested in the Board of Land and Works and comprised in the deeds or documents of title of which particulars are set forth in Part five of the Third Schedule to the said Act and the inheritance of all such lands in fee and all interest rights and benefits and advantages appurtenant to connected with or relating to all or any of such lands and the reservoirs

tramways mains and other works buildings plant and machinery thereon, and all mains pipes stand-pipes branches and all other works (other than service pipes laid at the cost of any owner or occupier of private lands), and all personal property whatever connected therewith and used or intended to be used for the purposes of the supply of water to the inhabitants of the metropolis, all of which are hereinafter referred to as the "water supply works"; and

All sewers and drains situate within the metropolis and vested in the said Board of Land and Works, and all reservoirs sluices engines and other works constructed and placed either above or under ground by the said Board of Land and Works for the purpose of clearing cleansing and emptying such sewers and drains, all of which are hereinafter referred to as the "sewerage works"; and

All the bed soil and banks of the River Yarra Yarra and of all other public rivers creeks and watercourses within the metropolis (except so much thereof as is vested in the Port of Melbourne Authority, the Public Transport Corporation or the Corporation of the city of Melbourne)—

shall without any conveyance assignment or transfer be deemed to have been and to have become vested in the Board upon trust for the purposes respectively of supplying water to the inhabitants of the metropolis of providing for the sewerage and drainage of the metropolis and the commerce and recreation of the inhabitants of the metropolis, but subject to the estate and interest of any person existing therein on the date aforesaid and to the right of Her Majesty to resume

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

s. 64

possession at any time without payment of compensation of any land required for any public purpose with the consent of Parliament or for public highways:

S. 60(1)
Proviso
amended by
Nos 86/1986
s. 43, 46/1998
s. 7(Sch. 1).

Provided that the Board may, with the approval of the Governor in Council given on the recommendation of the Minister after consultation with the Minister administering the **Crown Land (Reserves) Act 1978**, surrender to the Crown any land vested as aforesaid in the Board.

- (2) This section shall have effect as if the words "Provided that where any proclaimed street or road is within the boundaries hereinbefore described such street or road shall be deemed to be excluded therefrom" were omitted from Part three of the Third Schedule to the **Melbourne and Metropolitan Board of Works Act 1915**.

Ss 61–63
repealed.¹³

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No. 3731 s. 64.

64. Disputes to be determined by Governor in Council

If any question arises or is about to arise as to whether any business power duty liability or debt is or is not by this Act or any corresponding previous enactment transferred from the Board of Land and Works to the Board that question may be finally and conclusively determined by the Governor in Council in such manner as he thinks fit.

S. 65
repealed by
No. 54/1992
s. 50(1).

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PART II—WATER SUPPLY

Division 1—Introductory

66. Definitions

No. 3731 s. 70.

In this Part unless inconsistent with the context or subject-matter—

"**sewers**" includes sewers and drains of every description whereby any liquid refused or any water is carried off;

"**street**" includes any square court or alley highway lane road thoroughfare or public passage or place within the limits of the metropolis;

"**tenement**" includes land whether built on or not.

67. Application of Part

This Part shall apply to the water supply of the metropolis.

S. 67
amended by
S.R. No.
323/1973 cl. 3,
substituted by
No. 9558
s. 3(1).

68. Supply of water not compulsory

No. 3731 s. 72.

- (1) Subject to sub-section (2) but despite anything else contained in this Act or in any agreement it shall not be compulsory on the Board to supply or to continue to supply any water to any person whomsoever, and the Board shall not be liable to any penalty or damages for not supplying water to any person if the want of such supply arises from unusual drought or other unavoidable cause or accident.

S. 68
amended by
No. 121/1994
s. 198(a).

- (2) The Board must supply or continue to supply water to—
- (a) a retail licensee to the extent necessary to enable it to perform its functions or exercise its powers under its licence;

S. 68(2)
inserted by
No. 121/1994
s. 198(b).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part II—Water Supply

s. 68

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- (b) the holder of a bulk entitlement to water in the Board's works granted in accordance with the provisions of Division 1 of Part 4 of the **Water Act 1989**;
- (c) any other person or class of person prescribed for the purposes of this section by regulations made by the Governor in Council.
- S. 68(3)
inserted by
No. 121/1994
s. 198(b).
- (3) Despite any provision to the contrary made by or under this or any other Act, the terms and conditions on which water is supplied as mentioned in sub-section (2) are as agreed between the Board and the retail licensee, bulk entitlement holder or other person or, in default of agreement, as determined by the Office of the Regulator-General.
- S. 68(4)
inserted by
No. 121/1994
s. 198(b).
- (4) The Board may reduce or restrict the quantity of water supplied to any person as mentioned in sub-section (2) if—
- (a) the Board is, because of a shortage of water or for any other unavoidable cause, unable to supply the quantity of water which would otherwise be supplied to the person; or
- (b) the Board believes that the reduction or restriction is necessary to avoid future water shortages.
- S. 68(5)
inserted by
No. 121/1994
s. 198(b).
- (5) The Board must reduce the supply of water under sub-section (4) to all persons in the same proportion unless the Minister is of the opinion that the circumstances are so extreme as to justify some other basis.
- S. 68(6)
inserted by
No. 121/1994
s. 198(b).
- (6) If the Board reduces or restricts the supply of water to a person under sub-section (4), it is not liable to any claim or demand in respect of the reduction or restriction.
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68A. System access

S. 68A
inserted by
No. 65/1995
s. 23.

- (1) It is the duty of the Board to allow its works to be used to the extent necessary to enable water—
- (a) to which a person has a right under a bulk entitlement granted in accordance with the provisions of Part 4 of the **Water Act 1989**;
 - or
 - (b) to which a licence granted to a person under section 51 of the **Water Act 1989** relates; or
 - (c) required to be supplied to a person by the holder of a water headworks licence issued under Division 1 of Part 2 of the **Water Industry Act 1994** or by another Authority within the meaning of Division 1 of Part 4 of the **Water Act 1989**—

to be supplied to that person by means of those works.

- (2) The duty owed by sub-section (1)—
- (a) is only owed if the works of the Board have sufficient available capacity to enable the water to be supplied by means of those works;
 - (b) does not limit or affect any other duty or obligation imposed on the Board by or under this or any other Act;
 - (c) is owed whether or not the person is a person referred to in section 68(2).
- (3) Subject to any determination made by the Essential Services Commission under Part 3 of the **Essential Services Commission Act 2001**, the terms and conditions on which a person is allowed to use the works of the Board as mentioned in sub-section (1) are as agreed between the Board and that person.

S. 68A(3)
amended by
No. 62/2001
s. 93.

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Part II—Water Supply

s. 69

- (4) This section applies despite any provision to the contrary made by or under this or any other Act.

Division 2—Supply of Water

No. 3731 s. 73.
S. 69
amended by
No. 9558
s. 3(2).

69. Notice to lay service pipes

The Board shall from time to time after pipes have been laid for the supply of any street or part thereof cause notice to be given in the Government Gazette and in some newspaper circulating generally in the relevant locality in the form contained in the Seventh Schedule hereto or to the like effect.

The owner of each tenement to which such notice applies shall forthwith cause a proper pipe and stop-cocks to be laid so as to convey a supply of water within such tenement.

No. 3731 s. 74.
S. 70
amended by
Nos 9558
s. 13(c),
12/1989
s. 4(1)(Sch. 2
item 77.18).

70. Owner or occupier of any tenement may lay service pipes

The owner or occupier of any tenement or part thereof who wishes to have water from a pipe of the Board brought into such tenement and who has paid or has tendered to the Board the rates and charges then payable in respect thereof and who has, if so required by the Board, entered into an agreement pursuant to section 184C may between such tenement and the pipe of the Board open and break up the soil and pavement of any street and any drain in such street and may lay pipes to communicate with the pipe of the Board.

He shall do as little damage as may be and in respect of any damage shall be liable to make compensation to the Board council or person having the care and management of such street or drain.

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Part II—Water Supply

s. 71

He shall be subject to the like necessity of giving previous notice and to the like control restrictions and obligations in and during the time of breaking up and reinstating the same and to the like penalties for delay in regard thereto as is the Board by virtue of this Act.

He may also for the said purposes open any ground between the pipes of the Board and such tenement having first obtained the consent of the owner and occupier of such ground and lay pipes to communicate with the pipe of the Board.

71. Notice to Board of laying of pipes

No. 3731 s. 75.

Every such owner or occupier shall before he begins to lay any such pipe give to the Board two days' notice of his intention to do so.

72. Pipes subject to by-laws

No. 3731 s. 76.

All pipes so laid by any owner or occupier shall be subject to any by-law of the board in that behalf and shall comply in all respects therewith.

S. 72
amended by
No. 6536 s. 5.

73. Communication with pipes of Board to be made under superintendence of officer

No. 3731 s. 77.

Before any pipe is made to communicate with a pipe of the Board the person intending to make such communication shall give two days' notice to the Board of the day and hour when such pipe is intended to be made to communicate with the pipe of the Board; and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the Board.

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Act No. 6310/1958

Part II—Water Supply

s. 74

No. 3731 s. 78.

74. Board may lay and keep in repair connexions from mains to services, and may charge owners therefor

The Board may with the sanction of the Governor in Council do all or any of the things which the owner of any tenement is required or empowered to do for conveying a supply of water within such tenement; and may at any time when necessary repair or renew any pipes and stop-cocks laid for conveying such supply and may charge such owner with the cost and expense of providing and laying repairing or renewing the same; and such cost and expense shall be a debt due by such owner to such Board and may be recovered in any court of competent jurisdiction.

No. 3731 s. 79.

S. 75
amended by
No. 9824
s. 34(d).

75. Service pipes may be removed after giving notice

Any person who has laid down any pipe or other works or who has become the proprietor thereof may remove the same after having first given six days' notice in writing to the Board of his intention so to do and of the time of such proposed removal and after payment of all rates and charges due by him to the Board for water supplied to him by means of such pipe or works.

Every such person shall make compensation to the Board for any injury or damage to its pipes or works which is caused by such removal.

Every person who removes any such pipe or other works without giving the said notice shall be liable to a penalty of not more than 1 penalty unit.

S. 75A
inserted by
No. 8531 s. 16.

75A. Board may construct works to supply water from lands and recover cost from the owner

- (1) Where works have not been constructed by the Board to supply water to any land, the Board may construct such works and may recover the cost or any part of the cost of the construction from the owner of the land together with an amount

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Act No. 6310/1958

Part II—Water Supply

s. 75A

assessed by the Board to be a fair and reasonable contribution towards the cost of the headworks and distribution systems of the Board.

- (2) Where the Board intends to construct works pursuant to this section it shall cause to be prepared a scheme for the construction thereof.
- (3) Every such scheme shall include—
 - (a) a description of the works together with such specifications maps plans sections and elevations as the Board thinks necessary;
 - (b) an estimate of the cost of executing the scheme;
 - (c) a description of the land which will be supplied with water sufficient to identify that land;
 - (d) a statement of the portion (whether the whole or part) of the cost of the execution of the scheme which is to be recovered from the owners of such land and the estimated amount thereof and (where there is more than one owner affected) the respective estimated amounts which are to be recovered from each such owner; and
 - (e) such other particulars as the Board considers necessary or expedient.
- (4) Where any land which will be supplied with water from the works to be constructed is Crown land the Crown shall be liable to pay a proportion of the cost of the execution of the scheme as if it were the owner of the land unless the land—
 - (a) is unoccupied; or
 - (b) is used exclusively for public purposes.

S. 75A(3)(d)
amended by
No. 9427
s. 6(1)(Sch. 5
item 103).

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Act No. 6310/1958

Part II—Water Supply

s. 75A

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- (5) Where part only of Crown land which will be supplied with water from the pipes and works to be constructed is unoccupied or is used for public purposes, the Board in estimating the portion of the cost of the scheme for which the Crown will be liable, shall deduct the portion of the cost of the scheme which it considers relates to that part of the land which is unoccupied or is used for public purposes.
- (6) Where any land which will be supplied with water from the works to be constructed is Crown land, the Board shall (unless for reasons set out in the scheme it otherwise determines) deduct from the portion of the cost of the scheme to be recovered from owners of land which will be supplied with water from the works to be constructed—
- (a) in the case of land in respect of which the Crown is not liable under this section, any amount which would have been recoverable from the owner of such land if such land were not Crown land; and
 - (b) in the case of land in respect of which the Crown is liable under this section, an amount equal to any amount deducted by the Board under sub-section (5).
- (7) In determining the respective amounts to be recovered from each owner the Board shall take into consideration the extent to which the cost of the proposed scheme is increased as a result of—
- (a) the land of any such owner having special requirements for the supply of water;
 - (b) increasing the extent of the works to provide for land outside the boundary of the scheme.

S. 75A(7)(b)
amended by
No. 9427
s. 6(1)(Sch. 5
item 103).

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Act No. 6310/1958

Part II—Water Supply

s. 75A

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- (8) The Board may include in the estimate of the cost of the scheme the following costs to be computed in accordance with the usual methods of costing adopted by the Board—
- (a) the cost of the provision by the Board of any material plant labour compensation and insurance charges;
 - (b) payments to contractors employed in the execution of the scheme;
 - (c) the cost of investigation design plans specifications and contract documents;
 - (d) the cost of supervising the works and inspecting the materials used;
 - (e) the cost of acquiring lands and easements;
 - (f) the cost of administration associated with the investigation and implementation of the scheme.
- (9) A copy of the scheme shall be kept in the office of the Board and shall be available for inspection by any person interested in or affected by the scheme until the scheme is finally executed or abandoned.
- (10) The Board shall cause to be served on every owner of land described in the scheme notice in writing stating—
- (a) that the scheme has been prepared and may be inspected at the office of the Board;
 - (b) the estimated amount which is to be recovered from such owner as his share of the cost of the scheme and by way of any contribution assessed by the Board;
 - (c) that within one month of the service of such notice the owner may by notice in writing to the Board object to such scheme or any part thereof; and
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Part II—Water Supply

s. 75A

(d) the grounds on which any such objection may be made.

(11) The owner of land described in the scheme may within one month after the service of the notice under sub-section (10) object to the scheme in writing delivered to the Board on any of the following grounds—

(a) that the amount to be recovered from him is excessive or has been incorrectly calculated;

(b) that any owner intended to be made liable under the scheme should not be so liable or that any owner not intended to be made liable under the scheme should be so liable;

(c) that the portion of the cost of the scheme which is to be recovered from owners is excessive or unreasonable.

(12) The Board not earlier than one month after serving the last of such notices—

(a) shall consider the scheme and all objections made thereto;

(b) may adopt the scheme with or without modifications or refuse to adopt the scheme.

(13) Where the works required to carry out the scheme have been completed the proper officer shall certify in writing to the Board the actual cost of the execution of the scheme.

(14) If the actual amount as so certified is less than the estimated amount as set out in the scheme as finally adopted, each owner shall be liable under the scheme to pay an amount calculated by deducting from the amount specified to be paid by him in the scheme a sum equal to such part of the difference between the estimated cost of the scheme and the actual cost of the scheme as is proportionate to the portion of that estimated cost

S. 75A(13)
amended by
No. 9824 s. 15.

S. 75A(14)
amended by
No. 9549
s. 2(1)(Sch.
item 118),
substituted by
No. 9558
s. 4(a).

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of the scheme which under the scheme is to be recovered from that owner.

- (15) If the actual amount as so certified is more than the estimated amount as set out in the scheme as finally adopted, each owner shall, subject to sub-section (16), be liable under the scheme to pay an amount calculated by adding to the amount specified to be paid by him in the scheme a sum equal to such part of the difference between the estimated cost of the scheme and the actual cost of the scheme as is proportionate to the portion of the estimated cost of the scheme which under the scheme is to be recovered from that owner.

S. 75A(15)
inserted by
No. 9558
s. 4(b).

- (16) Where in the case referred to in sub-section (15) the difference between the actual cost of the scheme and the estimated cost of the scheme is of an amount greater than 20 per centum of the estimated cost of the scheme, then for the purposes of the calculation under that sub-section the difference shall be deemed to be 20 per centum of that estimated cost.

S. 75A(16)
inserted by
No. 9558
s. 4(b).

76. Board may supply by measure or in any other manner

No. 3731 s. 80.
S. 76
substituted by
No. 6536 s. 6,
amended by
No. 7411
s. 3(a)(i).

- (1) Subject to this part the Board may supply any person or any lands and tenements with water for any purpose by measure or in any other manner. Save as is otherwise expressly provided in respect of lands and tenements which are not rateable land, water shall be supplied by the Board for such charges (if any) and upon such terms and conditions as are prescribed by by-laws of the Board for the time being in force and every person to whom and the owner and occupier of any lands and tenements to which water is supplied by the

S. 76(1)
substituted by
No. 9235 s. 6,
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.19).

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Board shall be deemed to have agreed to the charges (if any) terms and conditions as prescribed and in force when the water is supplied.

S. 76(2)
inserted by
No. 7411
s. 3(a)(ii).

- (2) Notwithstanding anything in sub-section (1) of this section for the purpose of ascertaining any sum due to the Board for water supplied by measure all water so supplied during any period shall be deemed to have been supplied at the charge applicable at the commencement of that period.

No. 3731 s. 81.
S. 77
substituted by
No. 6536 s. 6,
amended by
No. 9235 s. 7.

77. What purposes not domestic

A supply of water for domestic purposes shall not include a supply of water for any industrial or commercial or other like purpose or for irrigation or for water power or for any fountain or for any ornamental purpose.

No. 3731 s. 82.

78. Board may let meter and other apparatus

The Board may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed and any pipes and apparatus for the conveyance reception or storage of the water for such remuneration in money as may be fixed by the Board which remuneration shall be recoverable in the same manner as charges due to the Board for water.

No. 3731 s. 83.

79. Such meters and apparatus not distrainable

Such meters instruments pipes and apparatus shall not be subject to distress for rent¹⁴ of the premises where the same are used or to be attached or taken in execution under any process of any court of law or equity or in pursuance of any sequestration or other legal proceeding against or affecting the consumer of the water or the occupier of the premises or other the person in whose possession

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the meters pipes instruments and apparatus may be¹⁵.

80. Meter to be supplied and kept in order by consumer

No. 3731 s. 84.
S. 80
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

Every person using or supplied with water for other than domestic purposes shall if so required by the Board at his own expense provide a meter and keep and maintain the same in good working condition to the satisfaction of such officer as may be appointed by the Board.

Every such person who neglects or refuses to provide such meter after having been required by the Board so to do shall for every day during which such neglect or refusal continues be liable to a penalty of not more than 1 penalty unit.

81. Repairs to meter

No. 3731 s. 85.
S. 81
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

If any repairs to the meter are required such person shall immediately give notice to the Board; and if he fails to give such notice he shall be liable to a penalty of not more than 1 penalty unit.

Before any repairs are effected a registration of the quantity of water used shall be taken by the surveyor or other proper officer of the Board.

82. Notice of removal of or change in meter

No. 3731 s. 86.

Every person requiring to remove or alter the position of a meter shall give six days' notice in writing to that effect to the Board; and a registration of the quantity of water used shall be taken before such removal or alteration is made.

83. If meter not kept in order water may be cut off

No. 3731 s. 87.

If any person refuses or delays to have the meter provided by him properly repaired and put in correct working order after having been required by any officer of the Board so to do the Board may shut off the supply of water from the premises of such person either by closing or

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cutting the service pipe or otherwise until such meter has been properly repaired and certified by some officer of the Board as being in proper working order.

No. 3731 s. 88.
S. 84
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

84. Penalty for fixing uncertified meter

Every plumber or other person who fixes or refixes any meter upon any premises supplied with water by the Board without having first obtained a certificate from the Board that the said meter has been examined and found in correct working condition shall be liable to a penalty of not more than 1 penalty unit.

No. 3731 s. 89.
S. 85
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

85. Penalty for removing or altering meter without notice

Every person who removes or alters the position of or in any way interferes with any meter without giving such notice as aforesaid shall for each such offence be liable to a penalty of not more than 1 penalty unit.

No. 3731 s. 90.
S. 86
amended by
Nos 9558
s. 19(a), 9824
s. 34(e),
57/1989
s. 3(Sch. item
131.3).

86. Officers of the Board may inspect meters

The officers of the Board may enter any house building or lands to through or into which water is supplied by the Board by measure in order to inspect the meters pipes and fittings for measuring and conveying water or to ascertain the quantity of water supplied or consumed and also for the purpose of removing any meter pipe or fittings the property of the Board.

Every person who hinders any such officer from entering or making such inspection or effecting such removal shall for every such offence be liable to a penalty of not more than 1 penalty unit.

But except with the consent of the Magistrates' Court this power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon.

87. Board to affix public fire plugs in mains

The Board at the request of any council the municipal district of which is either wholly or partly subject to the jurisdiction of the Board shall fix proper fire plugs in the main and other pipes belonging to such Board at such convenient distances and at such places as the Board considers most proper and convenient for the supply of water for extinguishing any fire which may break out within such jurisdiction.

No. 3731 s. 91.
S. 87
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.20).

88. Board to repair fire plugs

The Board shall from time to time renew and keep in effective order every such fire plug; and shall put up a public notice in some conspicuous place in each street in which any such plug is situate showing its situation; which notice the Board may put up on any house or building in such street.

No. 3731 s. 92.

89. Local council to defray expense of fire plugs

The cost of such fire plugs and notices and the expense of fixing placing and maintaining the same in repair shall be defrayed by the council within whose municipal district the plugs are fixed.

No. 3731 s. 93.
S. 89
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.21).

90. Supply of water for public purposes

In all the pipes to which any fire plug is fixed the Board shall provide and keep constantly laid on for use without charge, unless prevented by unusual drought or other unavoidable accident or during necessary repairs, a sufficient supply of water for the following purposes (that is to say): for cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public hospitals or charitable institutions or any public pumps baths and wash-houses that may be established for the use of the inhabitants and paid for out of any rates or charges under the **Local**

No. 3731 s. 94.
S. 90
amended by
Nos 6505 s. 2,
12/1989
s. 4(1)(Sch. 2
items 77.22,
77.23) (as
amended by
No. 13/1990
s. 38(2)(i)).

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Government Act 1989; and such supply shall be provided in such quantities and upon such terms and conditions as may be agreed upon by the council of the municipal district to which such water is supplied and the Board: Provided that no baths or wash-houses shall be entitled to be supplied with water under the provisions of this section unless the charges for the use thereof by the inhabitants shall be approved of, and shall not exceed the amounts fixed by the Board.

No. 3731 s. 95.

91. Fire plugs to be placed near factories at request of owners

The Board may at the request and expense of the owner or occupier of any factory or other premises situate in any street in which there is a pipe of the Board place and maintain in effective order a fire plug as near as conveniently may be to such factory or premises to be used only for extinguishing fires.

No. 3731 s. 96.

92. Pipes to be kept charged and water may be taken for extinguishing fire

The Board shall at all times keep charged with water all its pipes to which fire plugs are fixed unless prevented by unusual drought or other unavoidable cause or accident or during necessary repairs; and shall allow all persons empowered in that behalf at all times to take and use such water for extinguishing fire.

No. 3731 s. 97.

93. Power to break up streets and to open drains

The Board may open and break up the soil and pavement of the streets and bridges within any part of the metropolis under its jurisdiction and may open and break up any sewers drains or tunnels within or under such streets and bridges and lay down and place pipes and other works and fittings and from time to time repair alter or

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remove the same; and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges and do all other acts which the Board from time to time deems necessary for supplying water to the inhabitants of the metropolis.

94. Notice to be served before breaking up streets or opening drains

No. 3731 s. 98.
S. 94
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 77.24,
77.25).

Before the Board opens or breaks up the soil or pavement of any street or bridge or any sewer drain or tunnel it shall give to the council or persons under whose control or management the same may be or to their surveyor or the other proper officer notice in writing of its intention to open or break up the same.

Such notice shall be given not less than three clear days before beginning the work except in cases of emergency arising from defects in any pipes or other works or fittings and then so soon as possible after the beginning of the work or after the necessity for the same has arisen.

95. Streets broken up to be reinstated without delay¹⁶

No. 3731 s. 99.
S. 95
amended by
No. 6536
s. 7(a)(b).

When the Board opens or breaks up the soil or pavement of any street or bridge or any sewer drain or tunnel it shall with all convenient speed complete the work for which the same is broken up and fill in the ground and reinstate and make good the street or bridge or the sewer drain or tunnel so opened or broken up and carry away the rubbish occasioned thereby and in the event of the Board failing within a reasonable time so to do the municipality or persons having the control or management of any such street bridge sewer drain or tunnel may at the cost and expense of the Board execute any work not performed by the Board.

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It shall at all times whilst any such street or bridge is so open or broken up cause the same to be fenced and guarded and shall cause a light sufficient for the warning of passengers to be set up and kept there throughout every night during which such street or bridge continues open or broken up.

It shall make such temporary and other works for the convenience of passengers and traffic as the circumstances may require.

No. 3731
s. 100.

S. 96
amended by
Nos 8071 s. 3,
9558
s. 10(1)(a),
121/1986
s. 112.

96. Powers of Board in construction of waterworks

For the purposes of this Part the Board subject to the provisions and restrictions herein contained may within and (with the consent of the Governor in Council) without the metropolis exercise any of the following powers (that is to say):

It may enter upon any lands and take the levels of the same and set out such parts thereof as it thinks necessary and dig and break up the soil of such lands and trench the same and remove or use all earth stone trees or other things dug or got out of the same.

It may enter upon and take possession of such land as it from time to time considers necessary for the construction or improvement of the works under this Part or for securing or improving the water to be supplied or the quality or purity thereof.

It may from time to time sink such wells or shafts and make maintain alter or discontinue such reservoirs waterworks cisterns tanks aqueducts drains cuts sluices pipes culverts engines and other works and erect such buildings upon the lands and streams authorized to be taken by it as it thinks proper.

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It may from time to time divert and impound the water from any such streams as it deems necessary and alter the course of any streams; and also take such water as is found in under or on the lands to be taken for constructing the works.

It may enter upon any lands public or private streets or roads and lay or place therein any pipe and may repair alter cut off or remove any pipe so laid and may in like manner enter upon any such lands streets or roads for the purpose of repairing watercourses and other works the property of the Board connected with the water supply.

It may for or in connexion with any of the foregoing purposes blast with explosives or otherwise any rock clay stone soil or any geological formation or artificial structure in any manner whatsoever and remove or use all or any such materials so obtained.

97. Compensation to be made for damage

In the exercise of any powers given to it by this Part the Board shall do as little damage as may be; and in all cases where it can be done shall provide other watering places drains and channels for the use of adjoining lands in place of any such as are taken away or interrupted by it, and shall if required within four years of the exercise of the powers make full compensation to all parties interested for all damage sustained by them through the exercise of such powers and for the use of any land in which any pipes are laid; and the amount of such compensation if such parties and the Board cannot agree shall be settled as in cases of disputed compensation under the **Land Acquisition and Compensation Act 1986**.

No. 3731
s. 101.
S. 97
amended by
Nos 9558
s. 10(2)(a),
121/1986
s. 112.

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Division 3—Charges and Recovery Thereof

Pt 2 Div. 3
(Heading)
amended by
No. 110/1997
s. 4(1).

S. 98
amended by
Nos 6536 ss 8,
24(2)(b), 9558
s. 5(1)(a)(b),
9735 s. 2(a)(b),
121/1994
s. 199(1),
65/1995 s. 24,
12/1996 s. 24,
repealed by
No. 110/1997
s. 4(2).

* * * * *

S. 98A
inserted by
No. 25/1993
s. 15,
amended by
No. 121/1994
s. 199(2),
repealed by
No. 110/1997
s. 4(2).¹⁷

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S. 98B
inserted by
No. 25/1993
s. 15,
amended by
No. 121/1994
s. 199(3)(a)(b)
(4)(5),
repealed by
No. 110/1997
s. 4(2).¹⁸

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S. 99
amended by
Nos 6536
s. 9(a)(b), 7411
s. 3(b)(c),
substituted by
No. 7778 s. 14,
amended by
Nos 8164
s. 3(a), 8574
s. 2(1)(b)
(i)–(vi), 9735
s. 3(a)(b),
repealed by
No. 110/1997
s. 4(2).

No. 3731
s. 104.

S. 100
substituted by
No. 8650 s. 8,
amended by
Nos 9558
s. 6(1)(a)(b),
12/1989
s. 4(1)(Sch. 2
item 77.27).

100. Water supply to certain bodies

Upon application by—

- (a) a council the municipal district of which adjoins the metropolis or has any aqueduct water main or pipe of the Board passing through it; or
- (b) an Authority under the **Water Act 1989** that has a water district under that Act which lies in the vicinity of the metropolis or has any aqueduct water main or pipe of the Board passing through it—

S. 100(a)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.26).

S. 100(b)
amended by
No. 81/1989
s. 3(Sch. item
34.4).

the Board may if it sees fit supply water to the council or the authority by measure and on such terms, conditions and charges as are agreed upon between the Board and the council or authority or, failing such agreement, as are determined by the Minister.

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S. 100A
inserted by
No. 9277 s. 3.

100A. Board may agree to supply water outside metropolis etc.

S. 100A(1)
amended by
No. 9558
s. 6(2).

- (1) Where it appears to the Board that the works and services of the Board may be extended usefully and conveniently to land outside the metropolis (and any extension thereto) which land adjoins or lies in the vicinity of any reservoir aqueduct water main or pipe of the Board the Board may with the approval of the Minister agree to supply water to the owner or owners of the land on such terms, conditions and charges as the Board sees fit.
- (2) The provisions of this Part and all by-laws made or continued thereunder shall with such adaptations as are necessary apply to such water supply.

S. 100B
inserted by
No. 65/1995
s. 25.

100B. Power to operate certain works outside metropolis

- (1) Without limiting any other power of the Board under this or any other Act, if works outside the metropolis are transferred to the Board by virtue of an Order under section 98 of the **Water Act 1989**, the Board has and may exercise or perform in respect of those works the same powers and functions that under this or any other Act it has and may exercise or perform in respect of works of the same or a similar kind within the metropolis.
- (2) This section has effect despite anything to the contrary in this or any other Act.

No. 3731
s. 105.

101. Arrangement with Commonwealth

Notwithstanding anything contained in any Act the Board shall have power and authority to enter into any contract or arrangement with the Commonwealth for the supply of water on such terms as the Board thinks fit and may receive payment in pursuance thereof.

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*	*	*	*	*	<p>S. 102 amended by Nos 9558 s. 19(a), 9824 ss 16, 34(e), 12/1989 s. 4(1)(Sch. 2 item 77.28), 36/1989 s. 8(2), repealed by No. 110/1997 s. 4(2).</p>
*	*	*	*	*	<p>S. 103 amended by No. 9558 s. 7(a)–(c), repealed by No. 110/1997 s. 4(2).</p>
*	*	*	*	*	<p>S. 104 amended by No. 121/1994 s. 199(6), repealed by No. 110/1997 s. 4(2).</p>
*	*	*	*	*	<p>S. 105 repealed by No. 6536 s. 24(2)(c).</p>

106. Charges to be recoverable from occupier or person using water

No. 3731 s. 110.
 S. 106 amended by Nos 7876 s. 2(3), 57/1989 s. 3(Sch. item 131.4), 12/1996 s. 25, 110/1997 s. 4(3).

Except where it is otherwise expressly provided in this Part or in any by-law or agreement made under this Part all charges for water and all sums due to the Board under the provisions of this Part shall be paid by and be recoverable from the person requiring receiving or using the water or from the owner or occupier of, or mortgagee in possession of, the land tenement or premises to which the water is supplied.

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All charges and sums due to the Board by any person may if not paid on demand be recovered by the Board or its collector in the Magistrates' Court or any other court of competent jurisdiction.

S. 106A
inserted by
No. 9999 s. 7.

106A. Body corporate primarily liable for water supplied to strata or cluster title subdivision

S. 106A(1)
amended by
No. 31/1987
s. 5(a),
substituted by
No. 53/1988
s. 45(Sch. 3
item 48) (as
amended by
No. 47/1989
s. 23(2)).

- (1) Where water is supplied under this Part to a subdivision having one or more bodies corporate, each body corporate shall be liable to pay for the supply of water to the land affected by the body corporate¹⁹.

S. 106A(1A)
inserted by
No. 48/1991
s. 73(1).

- (1A) Instead of requiring a body corporate to pay for the supply of water to land affected by it, the Board may apportion the amount for which the body corporate would otherwise be liable between the lots affected by it, on the basis of—
- (a) the number of lots affected by it; or
 - (b) the lot liability of each lot affected by it—
- and the owners or occupiers of each lot to which an amount is apportioned are liable to pay it accordingly.

S. 106A(1B)
inserted by
No. 48/1991
s. 73(1).

- (1B) A body corporate may request the Board to use lot liability when apportioning amounts under subsection (1A).

S. 106A(1C)
inserted by
No. 48/1991
s. 73(1).

- (1C) The request must—
- (a) be in writing;
 - (b) give details of lot liability for each lot affected by the body corporate.

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- (1D) A body corporate that makes a request under sub-section (1B) must give written notice to the Board of any change in lot liability of any lot affected by it as soon as possible after the change occurs. **S. 106A(1D) inserted by No. 48/1991 s. 73(1).**
- (1E) If requested to do so in accordance with this section, the Board must use the lot liability method in apportioning an amount for which a body corporate would otherwise be liable in respect of amounts payable for the year following the year in which the request is made and each subsequent year, and may base the apportionment on information given to it by the body corporate under this section. **S. 106A(1E) inserted by No. 48/1991 s. 73(1).**
- (1F) If a subdivision has more than one body corporate and the Board considers it impracticable to determine how much water is supplied to the land affected by each body corporate it may— **S. 106A(1F) inserted by No. 48/1991 s. 73(1).**
- (a) under sub-section (1), treat one of those bodies corporate as being the only body corporate for the subdivision; and
 - (b) under sub-section (1A), apportion the amount for which that body corporate would otherwise be liable between all the lots in the subdivision.
- (2) Notwithstanding sub-section (1), any amounts payable under this Division by the registered proprietor of a lot or any other person in actual occupation of a lot shall be offset against the relevant body corporate in respect of any sums payable under sub-section (1). **S. 106A(2) amended by Nos 53/1988 s. 45(Sch. 3 items 49, 50) (as amended by No. 47/1989 s. 23(2)), 48/1991 s. 73(2)(b), 110/1997 s. 4(4).**

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S. 106A(3)
amended by
Nos 31/1987
s. 5(b),
53/1988
s. 45(Sch. 3
item 51) (as
amended by
No. 47/1989
s. 23(2)),
110/1997
s. 4(5).

- (3) The liability of a body corporate under sub-section (1) to pay for the supply of water to land affected by a body corporate shall not relieve any other person from liability to pay the charges payable by that person under this Division.

S. 106A(4)
amended by
No. 53/1988
s. 45(Sch. 3
item 52) (as
amended by
No. 47/1989
s. 23(2)).

- (4) Unless inconsistent with the context or subject-matter, words and expressions used in this section have the same meaning as they have in the **Subdivision Act 1988**.

S. 106A(5)
inserted by
No. 31/1987
s. 5(c),
amended by
Nos 53/1988
s. 45(Sch. 3
item 53) (as
amended by
No. 47/1989
s. 23(2)),
48/1991
s. 73(2)(c).

- (5) Sub-section (2) does not apply to a lot used primarily for residential purposes except for amounts apportioned to the lot under sub-section (1A).

S. 106A(6)
inserted by
No. 31/1987
s. 5(c),
amended by
Nos 53/1988
s. 45(Sch. 3
item 54) (as
amended by
No. 47/1989
s. 23(2)),
48/1991
s. 73(2)(d)(ii),
repealed by
No. 110/1997
s. 4(2).

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107. Recovery of charges by distress

If any person refuses or neglects to pay on demand lawfully made any charge or sum due to the Board under the provisions of this Part the Board may order warrants in the form contained in the Eighth Schedule hereto to be from time to time issued to some member of the police force or other person named therein to levy such charge or sum with costs by seizure and sale of the goods and chattels of the person occupying the land tenement or premises in respect of which such charge or sum is due at the time when the warrant is executed and in case no sufficient goods and chattels of such occupier are found therein to satisfy the amount of the charge or sum the owner of the land or tenement or if he is absent from Victoria his agent authorized to receive the rents thereof shall be liable for such charge or sum and the same may be recovered from him in any court of competent jurisdiction.

The powers conferred by this section are in addition to any other powers for the recovery of charges or sums conferred by any other provisions of this Act.

No. 3731
s. 111.
S. 107
amended by
Nos 57/1989
s. 3(Sch. item
131.5(a)-(c)),
110/1997
s. 4(6)(a)-(c).

108. Occupier may recover from owner certain payments

If the occupier of any premises upon demand made by the Board—

pays or is distrained for a greater sum than the charge or sum due by him for the period of his occupancy or if such greater sum is recovered from him by the Board;

No. 3731
s. 112.
S. 108
amended by
No. 110/1997
s. 4(7).

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pays or is distrained for any sum due for laying down to the premises any service pipe which it was the duty of the owner of the premises to lay down or if such sum is recovered from him by the Board—

he may from the rent due or becoming due by him to the owner of the premises deduct any sum so paid by or recovered from him or he may after demand recover the same from the owner in any court of competent jurisdiction.

S. 109
amended by
Nos 9558
s. 8(a)(b), 9999
s. 8(a)(b).

109. Power to cut off water for non-payment

S. 109(1)
amended by
No. 110/1997
s. 4(8)(a)(b).

- (1) If any person who is supplied with water by the Board refuses or neglects to pay on demand any charge or sum due to the Board under this Act the Board may restrict the supply of water into or may close or cut off any of the pipes or means by or through which water is supplied by the Board to him or for his use at any premises or land owned (whether wholly or partly) by him, whether or not the charge or sum was payable in respect of those premises or that land and may restrict his supply of or cease to supply him with water at those premises or that land so long as that charge or sum remains unpaid.
- (2) The Board may from time to time make by-laws fixing the amounts or the scale of the amounts to be charged in respect of the costs of restriction or withdrawal and the restoration of water supply where the Board has pursuant to sub-section (1) restricted his supply of water or closed or cut off any of the pipes or means through which water is supplied.

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- (3) The powers conferred by this section are ancillary to and shall not lessen any powers for the recovery of charges or sums under any other provisions of this Act.

S. 109(3)
amended by
No. 110/1997
s. 4(9).

Division 4—By-laws²⁰

110. By-laws in relation to water

No. 3731
s. 114.
S. 110
amended by
Nos 6536
s. 10(a)(b),
8650 s. 9(b).

- (1) The Board may from time to time make amend and revoke by-laws for any of the following purposes:

S. 110(1)
amended by
Nos 9824
s. 17(1), 9999
s. 9(a),
31/1987
s. 6(1).

For regulating the mode form strength material diameter dimensions construction and arrangement of pipes and other works supplying water from the pipes of the Board, and the time of executing and the notice to be given for such works and the superintending thereof, and the making good ground which may be displaced thereby; and for inspecting all services whether within or without any buildings at all reasonable times;

For prohibiting plumbing work on pipes, fittings, fixtures and installations for conveying water supplied by the Board to or within a tenement;

For regulating the workmanship and quality of plumbing work on pipes, fittings, fixtures and installations for conveying water supplied by the Board to or within a tenement;

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For prohibiting the installation or retention of any fitting or fixture for controlling the supply or flow of water supplied by the Board to or within a tenement without complying with terms and conditions imposed by the Board;

For regulating plumbing work on pipes, fittings, fixtures and installations for conveying water supplied by the Board to or within a tenement and prescribing conditions for approval of the Board to carry out the work including conditions as to who may carry out the work;

For assessing, authorising for use, inspecting and testing pipes, fittings, fixtures and installations for conveying water supplied by the Board to or within a tenement;

For regulating the construction disposition custody and inspection of meters;

For regulating the supply of water by the Board and the use of such water;

For causing persons using the same to keep their pipes and other apparatus in proper repair;

For preventing any tampering with or altering such pipes without notice to the Board;

For repairing such pipes and apparatus so as to prevent the waste of water and recovering the cost of such repairs;

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For preventing any person from allowing any other person not having agreed to be supplied by the Board to use the water and for preventing such persons from using the same;

For preventing any person from wilfully or carelessly breaking injuring or opening any lock cock valve pipe work or engine belonging to the Board and from doing any other wilful act whereby such water may be wasted;

For the care, protection, preservation, management and use of lands and works vested in or under the control of the Board or any part of such lands or works, for the protection and preservation of any wildlife or vegetation upon or within such lands or works, and for the protection and management of any waters in or on such lands or works;

Generally for carrying into effect the purposes of this Part.

- (2) Any by-law made under this section for regulating the supply of water by the Board or the use of any water so supplied may confer upon the Chairperson of the Board or the General Manager of the Board a power to determine from time to time when any provision of the regulation shall take effect or cease to take effect.
- (3) Any by-law made under this section for regulating the supply of water by the Board or for regulating the use of any water supplied by the Board—

S. 110(2)
inserted by
No. 8650
s. 9(a),
amended by
Nos 9824
s. 17(2), 10187
s. 42(d),
86/1986 s. 43,
36/1989
s. 6(3)(a).

S. 110(3)
inserted by
No. 9999
s. 9(b).

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- (a) may confer upon the Board the power—
- (i) to exempt any land or class of land from the whole or any part of any restrictions on the use of water from time to time in force and to vary any such restrictions in respect of any land or class of land; and
 - (ii) to exempt any use of water or class of use of water from any restrictions on the use of water from time to time in force and to vary any such restrictions in respect of any use of water or class of use of water—

subject to such terms, conditions and controls as it thinks fit; and

- (b) may confer upon the Chairperson, or the General Manager of the Board the power to determine when any exemption or variation under paragraph (a) shall take effect or shall cease to take effect.

- (4) By-laws under sub-section (1) may apply, adopt or incorporate (with or without modification) any matter contained in a code or standard issued or adopted by the Standards Association of Australia or any other specified body as issued or adopted at the time the regulation is made or at any time before then.

S. 110(3)(b) amended by Nos 10187 s. 42(d), 86/1986 s. 43, 36/1989 s. 6(3)(b).

S. 110(4) inserted by No. 31/1987 s. 6(2).

No. 3731 s. 115.

S. 111 substituted by No. 6536 s. 11(1), amended by Nos 7893 s. 6, 9235 s. 8, 9824 s. 18, 31/1987 s. 7.

111. By-laws in relation to charges

The Board may also from time to time make amend and revoke by-laws for the following purposes:

For fixing a scale of charges for water supplied to any person or any lands and tenements otherwise than by measure upon terms and conditions imposed by the Board; and

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For fixing the terms and conditions upon which water may be supplied (whether by measure or otherwise) by the Board to any person or to any lands and tenements; and

For fixing a scale of charges for water supplied by measure to rateable property; and

For prescribing methods by which the quantity of water supplied to any person or to any lands and tenements may be determined other than by means of a meter or other measuring instrument; and

For fixing a scale of charges for water supplied to any person or to any lands and tenements by measure and prescribing methods by which the amount of the charge is to be calculated; and

For fixing fees to be charged for tapping mains or for testing any meter at the request of a consumer; and

For fixing fees to be charged for water supplied to unmetered fire services; and

For enforcing the payment and providing for collection of such charges and determining the time at which any such charge shall be payable whether in advance or otherwise; and

For fixing fees to be charged for the installation, extension and sealing of fire service pipes and any works ancillary thereto and fixing annual fees in relation to fire service pipes;

For fixing fees for the assessment, authorisation for use, inspection and testing of pipes, fittings, fixtures and installations

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for conveying water supplied by the Board to or within a tenement;

For fixing fees and amounts to be paid to the Board for the installation and retention of any fitting or fixture for controlling the supply of water supplied by the Board to or within a tenement.

No. 3731
s. 116.

S. 112
amended by
Nos 7411 s. 6,
9558
s. 19(b)(i)(ii),
9824
s. 34(f)(i)(ii).

112. Penalties to be stated in by-laws

Every by-law made by the Board under the powers conferred by the provisions of this Part may state a maximum penalty not exceeding 10 penalty units for any breach thereof; and may also state in cases of continuing offences a further penalty not exceeding 1 penalty unit for each day after notice of the offence from the Board.

**Division 5—Shutting off Water. Waste. Misapplication.
Entry and Inspection. Miscellaneous Offences**

No. 3731
s. 117.

S. 113
substituted by
No. 9999 s. 10,
amended by
No. 10087
s. 3(1)(Sch. 1
item 156).

113. Water may be cut off from offending consumer

If any person supplied with water by the Board—

- (a) wrongfully does or causes or permits to be done anything in contravention of—
 - (i) any of the provisions of this Act relating to the prevention of waste, misuse, undue consumption or contamination of the water of the Board; or
 - (ii) any by-law made under the third paragraph of section 110(1); or

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- (b) wrongfully fails to do anything which under—
- (i) any provision of this Act is required to be done to prevent the waste, misuse, undue consumption or contamination of the water of the Board; or
 - (ii) any by-law made under the third paragraph of section 110 (1) is required to be done to prevent the waste, misuse, undue consumption or contamination of the water of the Board—

the Board (without prejudice to any remedy which it may have against the person in respect of the wrongful action or failure) may restrict the supply of water to that person or for his use for such period of time as it thinks fit.

114. Penalty for waste of water

Every person supplied with water by the Board who wilfully or negligently causes or suffers any pipe or fitting cistern bath water-closet or other apparatus to be out of repair or to be so used or contrived that the water supplied to him by the Board is or is likely to be wasted misused or unduly consumed or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the Board shall for every such offence be liable to a penalty of not more than 1 penalty unit.

No. 3731
s. 118.
S. 114
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

115. Penalty for misapplication of water

If any person—

not having from the Board a supply of water for other than domestic purposes uses for other than domestic purposes any water supplied to him by the Board;

No. 3731
s. 119.
S. 115
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

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having from the Board a supply of water for any other than domestic purposes uses for any purposes other than those for which he is entitled to use the same any water supplied to him by the Board—

then and in any such case he shall for such offence be liable to a penalty of not more than 1 penalty unit.

No. 3731
s. 120.
S. 116
amended by
Nos 8181
s. 2(1)(Sch.
item 139),
9558 s. 19(a),
9824 s. 34(e).

116. No pipe to be fixed to consumer's pipe without permission of Board

It shall not be lawful for the owner or occupier of any premises supplied with water by the Board or for any consumer of the water of the Board or for any other person to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to the Board or to a communication or service pipe belonging to or used by such owner occupier consumer or other person or to make any alteration in any such communication or service pipe or in any apparatus connected therewith without the consent in every such case of the Board.

Every person who acts in any respect in contravention of the provisions of this section shall for every such offence be liable to a penalty of not more than 1 penalty unit.

No. 3731
s. 121.

117. Power of entry and inspection by Board and its officers

S. 117(1)
amended by
No. 9999
s. 11(a)(i)(ii).

- (1) The proper officer may in order to ascertain if there is any waste, misuse, undue consumption or contamination of water supplied by the Board—
 - (a) between the hours of ten o'clock in the forenoon and four o'clock in the afternoon enter and examine any dwelling-house supplied with water by the Board; or

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(b) at any time enter and examine any land building or premises other than a dwelling-house.

(2) If the proper officer is refused admission into any such house building land or premises for any of the said purposes or is prevented from making any such examination the Board in addition to any other penalty imposed under this Part may shut off from such house building land or premises the water supplied by it.

S. 117(2)
amended by
No. 9999
s. 11(b).

(3) Any person who obstructs a proper officer in the performance of anything which the proper officer is under this section empowered to do shall be liable on conviction to a penalty of not more than 1 penalty unit.

S. 117(3)
amended by
Nos 9558
s. 19(a), 9824
s. 34(e),
substituted by
No. 9999
s. 11(c).

(4) In this section "**dwelling-house**" means a building or any part of a building which is being used as a dwelling.

S. 117(4)
inserted by
No. 9999
s. 11(c).

118. Notification of waters required to be kept free

No. 3731
s. 122.

The Board shall publish in the Government Gazette and in some newspaper circulating in the metropolis and shall also post in convenient places notices containing a description of all the streams and water-courses reservoirs aqueducts and other waterworks required to be kept free from contamination or pollution for domestic water supply; but the provisions of this Division shall apply to all streams and water-courses reservoirs aqueducts and other waterworks whether such notice is or is not given with respect thereto.

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s. 119

No. 3731
s. 123.
S. 119
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

119. Bathing or washing or throwing dirt into waterworks

Every person who commits any of the following offences with respect to any stream or water-course reservoir aqueduct or other waterworks belonging to or under the control and management of the Board shall for every such offence be liable to a penalty of not more than 1 penalty unit:

Bathes therein;

Washes throws or causes to enter therein any dog or other animal;

Throws conveys or causes or permits to be thrown or conveyed therein any refuse rubbish dirt filth or noisome thing whatsoever;

Washes or cleanses therein the skin of any animal or any clothes cloth wool leather or other thing whatsoever.

No. 3731
s. 124.
S. 120
amended by
Nos 9558
s. 19(c)(i)(ii),
9824 s. 34(f)(i)
(ii).

120. Penalty for letting foul water flow thereinto

Every person who causes the water of any sink sewer drain or of any engine or boiler or any other filthy water belonging to him or under his control to run or be brought into any stream or water-course reservoir aqueduct or other waterworks belonging to or under the control and management of the Board or does any other act whereby the water of the Board is fouled shall for each such offence forfeit to the Board a sum not more than 10 penalty units and a further sum not more than 1 penalty unit for each day (if more than one) that such offence continues.

121. Penalty for nuisance in drainage area

When any owner or occupier of land within the drainage area of the Yan Yean or any other reservoir vested in the Board does or permits to be done on his land any act or permits to remain thereon any matter or thing which in the opinion of the Board is likely to injure the water supply if notice to discontinue or remove the same is given to him in writing by the Board and he neglects or refuses to discontinue such act or to remove such matter or thing he shall for every such offence be liable to a penalty of not more than 10 penalty units and a further sum of 1 penalty unit for each day (if more than one) that such offence continues.

No. 3731
s. 125.
S. 121
amended by
Nos 9558
s. 19(d)(i)(ii),
9824 s. 34(f)(i)
(ii).

122. Fouling water or injuring works by substances produced in making gas

Every person making or supplying gas who causes or permits the water in any stream or water-course reservoir aqueduct or other waterworks belonging to or under the control and management of the Board to be fouled or any pipes or conduits of the Board to be injured by reason of his—

doing any act connected with the making of gas;

causing or suffering any substance produced in the making or supplying of gas to be brought into or to flow into any such stream or water-course reservoir aqueduct or other waterworks pipe or conduit or into any drain communicating therewith—

shall forfeit to the Board the sum of 1 penalty unit for each day during which any such offence continues.

No. 3731
s. 126.
S. 122
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

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But he shall not become liable to such penalty until the expiration of twenty-four hours from the time when notice of such offence has been served upon him by the Board.

Such penalty may be recovered with full costs in any court of competent jurisdiction.

No. 3731
s. 127.

S. 123
amended by
Nos 6505 s. 2,
9558
s. 19(e)(i)(ii),
9824
s. 34(f)(i)(ii),
12/1989
s. 4(1)(Sch. 2
item 77.29).

123. Gasmakers causing water to be fouled

Whenever the water supplied by the Board is fouled by the gas of any person making or supplying gas within the metropolis such person shall for every such offence be liable to a penalty of not more than 10 penalty units and a further sum of not more than 1 penalty unit for each day during which the offence continues after the expiration of twenty-four hours from the service on him of notice of such offence.

For the purpose of ascertaining whether the water is fouled the Board may dig up the ground and examine the pipes conduits and works of the person making or supplying gas. But before proceeding to do so the Board shall give twenty-four hours' notice in writing to the said person of the time at which the digging and examination is intended to take place, and it shall give the like notice to the council or person having the control or management of the street or place where the digging is intended to take place, and it shall be subject to the like obligation of re-instating the street and the soil and pavement thereof and to the same penalties for delay or any nonfeasance or misfeasance therein as provided in this Part with respect to streets and pavements broken up by it for laying pipes.

124. Expenses of the examination to abide the result

No. 3731
s. 128.

If upon the examination it appears that the water has been fouled by any gas belonging to the said person the expenses of the digging examination and repair of the street or place disturbed in any such examination shall be paid by such person.

But if upon the examination it appears that the water has not been fouled by the gas of the said person then the Board shall pay all the expenses of the examination and repair and also make good to the said person any injury which may be occasioned to his works by the examination.

125. Penalty for obstructing construction of works

No. 3731
s. 129.
S. 125
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

Every person who wilfully obstructs any person acting under the direction of the Board in setting out any works undertaken in pursuance of this part or pulls up or removes any poles or stakes driven into the ground for the purpose of setting out such works or defaces or destroys any marks made for the same purpose shall be guilty of an offence and be liable to a penalty of not more than 1 penalty unit.

126. Penalty for tampering with works

No. 3731
s. 130.
S. 126
amended by
Nos 9558
s. 19(a), 9824
s. 34(e).

- (1) Every person who opens any ground so as to uncover or expose any pipes or other works or fittings belonging to or under the control and management of the Board without having given to the Board two days' notice in writing of his intention so to do or who wilfully or negligently breaks or injures or opens any pipes or other works or fittings as aforesaid shall be guilty of an offence and be liable to a penalty of not more than 1 penalty unit.

* * * * *

S. 126(2)
repealed by
No. 9228
s. 4(c).

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No. 3731
s. 131.

127. Penalty for unlawfully taking water

S. 127(1)
amended by
Nos 9558
s. 19(f)(i), 9824
s. 34(f)(i).

(1) Every person who wrongfully takes or uses water from any reservoir aqueduct or pipe belonging to or under the control and management of the Board or from any pipe leading to or from any such reservoir aqueduct or pipe or from any cistern or other like place belonging to or under the control and management of the Board or supplied by it with water for the use of any consumer shall be guilty of an offence and be liable to a penalty of not more than 10 penalty units.

S. 127(2)
amended by
Nos 9558
s. 19(f)(ii),
9824
s. 34(f)(ii).

(2) Every person who illegally diverts or takes water supplying or flowing into any waterworks water-course or reservoir belonging to or under the management and control of the Board or who does any unlawful act whereby the water from any such waterworks water-course or reservoir may be drawn off or diminished in quantity shall be liable to a penalty of not more than 1 penalty unit for every day during the whole or any part of which the said supply of water is diverted or diminished by reason of any act done by or by the direction of such person.

No. 3731
s. 132.

128. When water diverted to any land onus of proof of non-complicity lies on owner or occupier of land

Whenever it is shown that any water is or has been so wrongfully taken or used or illegally diverted or taken to or into land owned or occupied by any person the taking or using or diversion of such water shall be deemed to have been effected by or by the direction of such person unless such person satisfies the court that such taking or using or diversion of the water on to or into such land was effected without his direction or connivance.

PART III—SEWERAGE

Division 1—Introductory

129. Definitions

No. 3731
s. 133.

In this and every subsequent Part of this Act unless inconsistent with the context or subject-matter—

"drain" means any drain used for the drainage of one building only or of premises within the same curtilage and leading therefrom into a cesspool or other receptacle for drainage or into a sewer, and also any drain for draining any group or block of houses by a combined operation under the order of the Board;

"owner" includes the person for the time being who receives or is entitled to receive the rent of the houses lands or premises in connexion with which the word is used whether on his own account or as agent of or as trustee for any other person, or who if such houses lands or premises were let to a tenant at a rack rent would be entitled to receive the rack rent from the occupier thereof;

"sewer" includes any sewer or underground gutter or channel which is not a drain within the meaning of this Part and any drain or portion of a drain laid between the sewer and the boundary line of any allotment or lot or curtilage or between the sewer and the drain laid or to be laid by or on behalf of the owner of the premises;

S. 129 def. of "sewer" amended by Nos 6536 s. 12, 53/1988 s. 45(Sch. 3 item 55) (as amended by No. 47/1989 s. 23(2)).

"street" includes any public or common highway road or thoroughfare and also any public bridge and any road lane passage alley or court which the owners or occupiers of two

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or more houses or buildings adjoining thereto or properties abutting thereon have the right to use or do commonly use as a means of access to or drainage from such houses or buildings or properties.

No. 3731
s. 134.
S. 130
amended by
Nos 9558
s. 19(g)(i)(ii),
9824
s. 34(f)(i)(ii),
12/1989
s. 4(1)(Sch. 2
item 77.30).

130. Act not to apply to municipal storm-water channels and drains

Except as hereinafter expressly provided this Part shall not apply to open channels or underground drains vested in any council for the purpose of carrying off storm-water only. Every person who wilfully throws or casts or allows to be thrown or cast or to flow or fall into any of the said storm-water channels drains or sewers any foul water or liquid or any refuse filth dirt grease decomposed substance or any poisonous noxious offensive or unwholesome matter whatever shall be liable to a penalty of not more than 10 penalty units, and in cases of a continuing offence to a further penalty of not more than 1 penalty unit for each and every day after any conviction during which such offence continues.

Division 2—Powers and Duties of Board

No. 3731
s. 135.
S. 131
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.31).

131. Board to prepare plans

For the purposes of this Part the Board may cause to be made surveys of the metropolis or of so much thereof as it thinks necessary to include in such surveys and a map or maps thereof on such scale or respective scales and with such indications of levels and particulars of sewers and underground works and of the surface as to it seems fit.

The Board may cause such map or maps or any part thereof to be from time to time copied engraved and published, and shall from time to time cause such map or maps to be revised and

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such additions made thereto as may show the new sewers and drains and the new streets roads houses or other alterations, and the date of revision shall be expressed thereon.

Every such map shall be kept in the office of the Board and the same or a copy thereof shall be open at all reasonable times to the inspection of the officers of any council within the metropolis and of the owners or occupiers of lands or houses within the metropolis.

132. Duties and powers of the Board

For the purposes of this Part the Board—

shall construct repair maintain and have charge of all sewers and shall have supervision and control over all sewers within the metropolis;

may make such sewers and works as it from time to time thinks necessary for preventing all or any part of the sewage and drainage of the metropolis from flowing or passing into the River Yarra Yarra or other public stream or water-course;

may also make such other sewers and works as it from time to time thinks necessary for the effectual sewerage and drainage of the metropolis, and may continue close up or destroy such sewers for the time being vested in it as appear unnecessary;

may repair and maintain the sewers and works vested in it;

may erect or construct works machines or machinery for destroying or utilizing or purifying sewage matter;

No. 3731
s. 136.
S. 132
amended by
S.R. No.
323/1973 cl. 4,
No. 9558
s. 10(1)(b).

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s. 132

may with the approval of the Governor in Council establish sewage farms in any part of Victoria.

And for the purposes aforesaid the Board shall have full power and authority within and (with the consent of the Governor in Council) without the metropolis from time to time (subject to the restrictions hereinafter mentioned)—

to open and break up any streets;

to blast any rock;

to carry any such sewers or works through across over or under the shores bed and waters of the sea or the bed waters banks and shores of any river stream or water-course or any main road or any street or place layed out as or intended for a street or through or under any cellar or vault under the carriage-way or pavement of any street and into through or under any lands whatsoever within or beyond the said limits;

to construct ventilating shafts pipes or tubes and to carry them up the exterior wall of any buildings whether public or private provided that the mouth of every such shaft pipe or tube shall be at least 2 metres higher than any window or door situate within a distance of 9 metres therefrom; and also to make use of the chimney of any public building or of any factory or of any tramway building as a ventilating shaft or tube; and

to cause the drainage from sewerage construction works to flow along any drain or water-course during the course of such construction.

133. Compensation

In the exercise of the powers by this Part granted to it the Board shall do as little damage as may be and shall if required within four years of the exercise of the powers make full compensation to all parties interested for all damage sustained by them in consequence of the exercise of such powers, and the amount of such compensation if such parties and the Board cannot agree shall be settled as in cases of disputed compensation under Part VIII of this Act.

No. 3731
s. 137.
S. 133
amended by
No. 9558
s. 10(2)(b).

134. Department of Human Services may make recommendations as to plans of sewers

At least two months before inviting tenders for the construction of any sewers the Board shall permit the Secretary to the Department of Human Services or officers of the Department of Human Services to inspect or make copies of all plans and specifications of such sewers.

The Secretary to and employees in the Department of Human Services shall be entitled to appear before the Board or any committee thereof and to make either in writing or verbally any representations or recommendations with regard to such plans and specifications.

Tenders shall not be invited as aforesaid unless and until all representations or recommendations so made have been previously taken into consideration by the Board.

Nos 3731
s. 138, 4988
s. 14(a).
S. 134
amended by
Nos 9549
s. 2(1)(Sch.
item 119),
10262 s. 4,
46/1998
s. 7(Sch. 1) (as
amended by
No. 12/1999
s. 3(Sch. 1
items 20, 21)).

135. Sewers made by Board to vest in it

Notwithstanding anything in any Act contained to the contrary all sewers and works from time to time made by the Board under the authority of this Part shall vest in it.

No. 3731
s. 139.

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s. 135A

The Board shall cause the sewers vested in it to be constructed covered and kept so as not to be a nuisance or injurious to health and to be properly cleared cleansed and emptied, and it may for the purpose of clearing cleansing and emptying the same construct and place either above or under ground such reservoirs sluices engines and other works as are necessary, and may cause the sewage and refuse from such sewers to be discharged upon such land as it acquires for that purpose or into the sea but not within Port Philip unless purified clarified or rendered innocuous by some chemical electrical or other method approved by the Governor in Council or to be sold or otherwise disposed of as it sees fit, but so as not to create a nuisance.

S. 135A
inserted by
No. 9235 s. 9.

135A. Declared sewerage works to be vested in the Board

S. 135A(1)
amended by
Nos 9895
s. 2(1)(Sch. 1
item 7(b)),
12/1989
s. 4(1)(Sch. 2
item 77.32),
81/1989
s. 3(Sch.
item 34.5).

- (1) Where the Board wishes to ensure that sewerage works which are within the metropolis and which are not within a sewerage district under the **Water Act 1989** are maintained in proper repair the Board may by notice published in the Government Gazette declare the sewerage works to be vested in the Board and such sewerage works shall there upon be vested in the Board for all the purposes of this Act.
- (2) For the purposes of this section "**sewerage works**" means sewers drains pumping stations pipelines storage tanks sewage treatment plants effluent drains and any other ancillary equipment.

No. 3731
s. 140.

136. Board may make bridges arches culverts etc.²¹

The Board may make and maintain any bridges arches culverts passages or roads over under or by the sides of or leading to or from any sewers or works constructed or to be constructed by it which

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s. 137

it deems necessary and convenient for preserving communication between lands through which the said works either before or after the commencement of this Act have been or are made or carried.

The Board may contract and agree with the owners and occupiers of lands to pay them or any of them compensation in lieu of making or maintaining such bridges or other works.

When the Board in exercise of the powers conferred upon it has constructed any bridges arches culverts or passages in connexion with any sewers or works all such bridges arches culverts and passages shall at all times after the construction thereof be maintained at the expense of the Board.

137. Altering sewers in streets

No. 3731
s. 141.

The Board may open the ground and change the level of or alter or enlarge any sewer under any public or private street within the metropolis for better communicating with the sewers to be made in pursuance of this Act, but no person shall by means of any such change alteration or enlargement be deprived of the use of any private sewer or drain which he is entitled to use.

The Board shall at its own cost and charge so construct and alter any such private sewer or drain as to render the same as effectual for the purpose for which it was intended as any such sewer or drain was immediately before the change alteration or enlargement of such sewer.

138. Penalty²²

No. 3731
s. 142.
S. 138
amended by
No. 9824
s. 34(b).

In case the Board refuses or neglects for twenty-eight days after notice in writing has been served upon it requiring it so to do to construct and alter any such private sewer or drain the use of which is

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affected by the acts of the Board it shall forfeit and pay to the party aggrieved any sum not exceeding 2 penalty units for every day during which such refusal or neglect so continues, and such sum may be recovered in a summary way.

No. 3731
s. 143.

139. Power to stop traffic in streets

Subject to the provisions hereinafter contained the Board may during the construction of any works under the authority of this Part cause to be stopped up all or such part of the carriage or foot way of any public or private street road or way for such time as is required for the due execution of the said works.

No. 3731
s. 144.

140. Breaking up streets

S. 140
amended by
S.R. No.
323/1973 cl. 5,
No. 12/1989
s. 4(1)(Sch. 2
items 77.33,
77.34).

Before commencing any work under the authority of this Part in any street the Board shall give to the council having the care management or control of such street notice in writing of its intention to commence such work, together with a full description thereof and the portion of the street (if any) proposed to be opened or broken up, not less than three clear days before beginning such work.

In cases of emergency arising from defects in pipes or other works previously laid down or executed such work may be commenced before such notice and description has been so given or before such period has expired, but in case such notice and description have not been already given the same shall be given as soon as possible after the commencement of the work or the necessity for the same has arisen.

Except by the permission of such council the traffic in such street shall not at one time be stopped or hindered along more than half of the width thereof, nor if the half left open is of less

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than the clear width of 4 metres along more than 100 metres in length.

The Board shall cause all openings in the street to be effectually fenced and guarded and shall affix and maintain lights during the night near to the place where the ground is open so as to prevent accidents.

The council in whose district such works are in progress is hereby absolved from all liability in respect of any accident arising in consequence of such works, and the Board shall restore every street so opened or broken up to its original state as to surface and materials and to the like good order and condition in which the same was before having been opened or broken up.

141. Delay in filling in trenches; or doing work imperfectly

No. 3731
s. 145.

When any portion of a street has been opened or broken up for the purpose aforesaid the Board shall with all convenient speed complete the work on account of which the street was opened or broken up.

If there is any wilful or negligent delay on the part of the Board in completing the work and in filling in any trenches or excavations or removing rubbish or restoring such street to its original state as aforesaid or if the work is imperfectly done or if the street so opened is not fenced guarded and lighted in the manner hereinbefore required the council having the care management or control of the street may cause the necessary work to be done.

The expenses so incurred by such council shall be paid to it by the Board on demand, and in default the amount may be recovered in a summary way

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and the Board shall be liable to pay the same in addition to any penalty which it has incurred.

No. 3731
s. 146.

142. Alteration of gas-pipes and tramways

If the Board at any time deems it necessary for the purposes of this Part to raise sink or otherwise alter the position of any gas-pipes or gas-works water hydraulic or steam pipes electric or telephonic wires pneumatic pipes or tubes or tramways laid in or under any street the Board may by notice in writing require the person to whom the said pipes or works or wires or tubes or tramways belong to raise sink or otherwise alter the situation of the same in such manner and within such reasonable time as is specified in such notice.

The expenses attendant upon or connected with such alterations shall be paid by the Board.

If such notice is not complied with the Board may make the alterations required.

No such alteration shall be required or made which will permanently injure any such pipes or works or tramways or prevent the gas from flowing or vehicles from passing as freely and conveniently as usual.

S. 142A
inserted by
No. 8531
s. 14(1).

142A. Board may construct sewer to serve land and recover the cost from the owner

- (1) Where any land in the metropolis is not served by a sewer maintained by the Board, the Board may construct a sewer to serve the land and may recover the cost or any part of the cost of the construction from the owner of the land together with an amount assessed by the Board to be a fair and reasonable contribution towards the cost of the outfall sewers and disposal systems of the Board.

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- (2) Where the Board intends to construct any sewer or sewers pursuant to this section it shall cause to be prepared a scheme for the construction thereof.
- (3) Every such scheme shall include—
- (a) a description of the works together with such specifications maps plans sections and elevations as the Board thinks necessary;
 - (b) an estimate of the cost of executing the scheme;
 - (c) a description of the land to be served by the sewer sufficient to identify the same;
 - (d) a statement of the portion (whether the whole or part) of the cost of the execution of the scheme which is to be recovered from the owners of such land and the estimated amount thereof and (where there is more than one owner affected) the respective estimated amounts which are to be recovered from each such owner; and
 - (e) such other particulars as the Board considers necessary or expedient.
- (4) Where any land which will be served by the sewer to be constructed is Crown land the Crown shall be liable to pay a proportion of the cost of the execution of the scheme as if it were the owner of the land unless the land—
- (a) is unoccupied; or
 - (b) is used exclusively for public purposes.
- (5) Where part only of Crown land which will be served by the sewer to be constructed is unoccupied or is used for public purposes, the Board in estimating the portion of the cost of the scheme for which the Crown will be liable, shall deduct the portion of the cost of the scheme which
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it considers relates to that part of the land which is unoccupied or is used for public purposes.

- (6) Where any land which will be served by the sewer to be constructed is Crown land, the Board shall (unless for reasons set out in the scheme it otherwise determines) deduct from the portion of the cost of the scheme to be recovered from owners of land served by the scheme—
 - (a) in the case of land in respect of which the Crown is not liable to pay an amount under this section, any amount which would have been recoverable from the owner of such land if such land were not Crown land; and
 - (b) in the case of land in respect of which the Crown is liable to pay an amount under this section, an amount equal to any amount deducted by the Board under sub-section (5).
- (7) In determining the respective amounts to be recovered from each owner the Board shall take into consideration the extent to which the cost of the proposed scheme is increased as a result of—
 - (a) the land of any such owner having special requirements for sewerage services;
 - (b) increasing the diameter or depth of the sewer to provide for land outside the boundary of the scheme.
- (8) The Board may include in the estimate of the cost of the scheme, the following costs to be computed in accordance with the usual method of costing adopted by the Board—
 - (a) the cost of the provision by the Board of any material plant labour compensation and insurance charges;
 - (b) payments to contractors employed in the execution of the scheme;

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- (c) the cost of investigation design plans specifications and contract documents;
 - (d) the cost of supervising the works and inspecting the materials used;
 - (e) the cost of acquiring any lands or easements;
 - (f) the cost of administration associated with the investigation and implementation of the scheme.
- (9) A copy of the scheme shall be kept in the office of the Board and shall be available for inspection by any person interested in or affected by the scheme until the scheme is finally executed or abandoned.
- (10) The Board shall cause to be served on every owner of land described in the scheme notice in writing stating—
- (a) that the scheme has been prepared and may be inspected at the office of the Board;
 - (b) the estimated amount which is to be recovered from such owner as his share of the cost of the scheme and by way of any contribution assessed by the Board;
 - (c) that within one month of the service of such notice the owner may by notice in writing to the Board object to such scheme or any part thereof; and
 - (d) the grounds on which any such objection may be made.
- (11) The owner of land described in the scheme may within one month after the service of the notice under sub-section (10) object to the scheme in writing delivered to the Board on any of the following grounds—
- (a) that the amount to be recovered from him is excessive or has been incorrectly calculated;
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- (b) that any owner intended to be made liable under the scheme should not be so liable or that any owner not intended to be made liable under the scheme should be so liable;
- (c) that the portion of the cost of the scheme which is to be recovered from owners is excessive or unreasonable.

- (12) The Board not earlier than one month after serving the last of such notices—
- (a) shall consider the scheme and all objections made thereto;
 - (b) may adopt the scheme with or without modifications or refuse to adopt the scheme.

S. 142A(13)
amended by
Nos 9824
s. 19, 10087
s. 3(1)(Sch. 1
item 157).

- (13) Where the works required to carry out the scheme have been completed the proper officer for the purpose shall certify in writing to the Board the actual cost of the execution of the scheme.

S. 142A(14)
amended by
No. 9558
s. 9(a).

- (14) If the actual amount as so certified is less than the estimated amount as set out in the scheme as finally adopted, each owner shall be liable under the scheme to pay an amount calculated by deducting from the amount specified to be paid by him in the scheme a sum equal to such part of the difference between the estimated cost of the scheme and the actual cost of the scheme as is proportionate to the portion of the estimated cost of the scheme which under the scheme is to be recovered from that owner.

S. 142A(15)
inserted by
No. 9558
s. 9(b).

- (15) If the actual amount as so certified is more than the estimated amount as set out in the scheme as finally adopted, each owner shall, subject to subsection (16), be liable under the scheme to pay an amount calculated by adding to the amount specified to be paid by him in the scheme a sum equal to such part of the difference between the estimated cost of the scheme and the actual cost of

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the scheme as is proportionate to the portion of the estimated cost of the scheme which under the scheme is to be recovered from that owner.

- (16) Where in the case referred to in sub-section (15) the difference between the actual cost of the scheme and the estimated cost of the scheme is of an amount greater than 20 per centum of the estimated cost of the scheme, then for the purposes of the calculation under that sub-section the difference shall be deemed to be 20 per centum of that estimated cost.

S. 142A(16)
inserted by
No. 9558
s. 9(b).

Division 3—General Provisions

143. Buildings not to be erected in over or under sewers

No. 3731
s. 147.
S. 143
amended by
No. 9558
s. 11(a)(c)(i).

- (1) No building wall bridge fence embankment, filling, material, machinery or other structure shall be erected or placed in over or under any sewer vested in the Board without the previous consent in writing of the Board.
- (2) A consent given by the Board may be given subject to such terms, conditions, limitations and restrictions as it thinks fit which shall bind the owners of the land and their successors in title and whether or not they have had actual notice thereof.
- (3) If any building wall bridge fence embankment, filling, material, machinery or other structure is erected or placed contrary to this section or to any terms, conditions, limitations or restrictions pursuant to sub-section (2) the Board may demolish and remove the same and perform any works necessary for restoring or reinstating the

S. 143(1)
amended by
No. 9824
s. 20(1)(a)(b).

S. 143(2)
inserted by
No. 9558
s. 11(b),
amended by
Nos 9824
s. 20(2),
86/1986 s. 43.

S. 143(3)
amended by
Nos 9558
s. 11(c)(ii),
9824
s. 20(3)(a)
(b)(c).

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sewer and the person erecting or placing such building wall bridge fence embankment, filling, material, machinery or other structure and the person who has directed the work to be done shall be jointly and severally liable for the expenses incurred thereby, and the same may be recovered by action at law or in a summary way²³.

No. 3731
s. 148.
S. 144
amended by
Nos 9558
s. 19(h)(i)(ii),
9824 s. 34(f)(i)
(ii).

144. Penalties on persons placing buildings or encroachments on sewers²⁴

Every person who knowingly erects or places any building wall bridge fence or other structure or any obstruction annoyance or encroachment in upon over or under any sewer vested in the Board and every person obstructing filling in or diverting any sewer or drain vested in the Board without the previous consent in writing of the Board shall in addition to any other proceeding to which he may be liable therefor forfeit and pay to the Board a penalty of not more than 10 penalty units for every such offence, and in cases of a continuing offence after any conviction shall be liable to a further penalty of not more than 1 penalty unit for each day after notice thereof from the Board. Such sums may be recovered by action at law or in a summary way.

Nothing herein contained shall extend to prevent or impede the maintenance repair or renewal of any building wall bridge fence or other structure under which a sewer or drain has been constructed, but so nevertheless that the same do not injure or obstruct the said sewer or drain.

No. 3731
s. 149.
S. 145
amended by
Nos 9558
s. 19(i), 9824
s. 34(g).

145. Penalty on persons sweeping dirt into sewers

No person shall sweep rake or place any house refuse soil rubbish or filth or any other thing into or in any sewer or drain vested in the Board or over or contiguous to any grate communicating with any such sewer or drain or into any dock or

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inlet communicating with the mouth of any sewer or drain or into which any such sewer or drain discharges its contents or into the River Yarra Yarra contiguous thereto, and every person who so offends shall for every such offence be liable to a penalty of not more than 10 penalty units.

146. No gully or ventilating shaft connected with main sewers to be trapped without consent²⁵

Nos 3731
s. 150, 3943
s. 2.

No gully or ventilating shaft immediately connected with or appertaining to any sewer vested in the Board shall be trapped covered or closed up by any council without previous notice in writing being given to the Board, nor if the Board or its engineer within one week after the receipt of such notice expresses in writing its or his objection to the same.

147. Works upon River Yarra to be approved by a local authority or Victorian Channels Authority

Nos 3731
s. 151, 3943
s. 2.

In order to preserve the navigation of the River Yarra Yarra and of any other navigable waters which are under the jurisdiction of a local authority within the meaning of the **Marine Act 1988** and of the port waters of the port of Melbourne within the meaning of the **Port Services Act 1995** the plans of any works proposed to be constructed under the authority of this Act or the **Water Industry Act 1994** or of a licence issued under Division 1 of Part 2 of that Act upon the banks bed or shore of the said river or of any other such navigable water within the port of Melbourne or of any such port waters shall be approved by the local authority or the Victorian Channels Authority (as the case requires) before such works are commenced.

S. 147
amended by
Nos 9178 s. 7,
9427
s. 6(1)(Sch. 5
item 104),
121/1994
s. 200(1)(a)(b),
82/1995
s. 207(1)
(a)-(c),
110/1997
s. 12(1)(a)-(d),
22/1999
s. 14(1).

Unless the local authority or the Victorian Channels Authority within one month after the receipt of a copy of such plans serve upon the

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Board or retail licensee (as the case requires) a notice specifying its objections to the proposed works it shall be taken to have approved thereof.

In the event of any objections being made which the Board or retail licensee (as the case requires) considers unreasonable the matter in difference shall be determined by the Governor in Council whose decision shall be final and binding on both parties, and such proposed works shall not be proceeded with unless such parties have agreed or such decision has been given.

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S. 148
amended by
No. 9178 s. 7,
repealed by
No. 110/1997
s. 12(2).

No. 3731
s. 153.

S. 149
amended by
Nos 8353
s. 19, 9921
s. 255, 44/1989
s. 41(Sch. 2
item 27.2),
121/1994
s. 200(2)(a)(b),
104/1997
s. 51(1)(a)–(d).

149. Provision for interference with railway works

When any works authorized by this Act or the **Water Industry Act 1994** or by a licence issued under Division 1 of Part 2 of that Act may interfere with any property vested in a passenger transport company within the meaning of the **Transport Act 1983** or a rail corporation within the meaning of the **Rail Corporations Act 1996** the Board or retail licensee (as the case requires) shall before commencing the same give notice of its intention to that company or corporation together with a plan and section showing the nature of such interference.

Unless a passenger transport company or rail corporation within one month after the service of such notice delivers to the Board or retail licensee (as the case requires) a statement under its seal of any objections it has to the proposed works, it shall be taken to have approved thereof.

In the event of any objections being made which the Board or retail licensee (as the case requires) considers unreasonable, the matter in difference

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shall be determined by the Governor in Council, whose decision shall be final and binding upon both parties, and such proposed works shall not be proceeded with until such parties have agreed or such decision has been given.

150. Pollution of public rivers²⁶

Every person who wilfully throws or casts or causes or allows to be thrown or cast or to flow or fall into any of the waterways to which Part X applies any refuse filth dirt grease decomposed substance or any poisonous noxious offensive or unwholesome matter shall be liable for the first offence to a penalty of not more than 10 penalty units, and for every subsequent offence to a penalty of not more than 50 penalty units, and in cases of continuing offence after any conviction to a further penalty of not more than 1 penalty unit for every day after the first during which such offence continues.

No. 3731
s. 154.
S. 150
amended by
Nos 9558
s. 19(j)(i)–(iii),
9824
s. 34(h)(i)–(iii),
81/1989
s. 3(Sch.
item 34.6),
22/1999
s. 12(1).

151. Penalties on persons interfering with sewers

Every person who takes up removes demolishes or otherwise interferes with or who causes to be taken up removed demolished or interfered with any sewer or part of a sewer vested in the Board without previously having obtained the permission signified in writing of the Board, or who wilfully damages any sewer bank defence-wall penstock grating gully side-entrance tide-valve flap work or thing vested in the Board, or does any act by which the sewerage or drainage of the metropolis or any part thereof may be obstructed or injured, shall for every such offence be liable to a penalty of not more than 10 penalty units, and also a further penalty of not more than 1 penalty unit for every day during which such offence continues after any conviction, and shall also pay to the Board all the expenses of repairing restoring

No. 3731
s. 155.
S. 151
amended by
No. 9824
s. 34(i)(i)(ii).

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reinstating or amending any sewer or other work or thing so taken up, removed, demolished, damaged, or interfered with. Such expenses may be recovered by action at law or in a summary way.

Division 4—Private Sewers and Drains

No. 3731
s. 156.
S. 152
amended by
Nos 8353
s. 19, 9558
s. 19(k), 9824
s. 34(g), 9921
s. 255, 86/1986
s. 43, 12/1989
s. 4(1)(Sch. 2
item 77.35),
44/1989
s. 41(Sch. 2
item 27.3),
46/1998
s. 7(Sch. 1),
54/2001
s. 41(1).

152. Construction of private sewers and drains

No person shall make or branch or cause to be made or branched any sewer or drain or make or cause to be made any opening into any sewer vested in the Board without the previous consent in writing of the Board.

Any person may with such consent at his own expense make or branch any drain into any sewer vested in the Board or any part thereof which is so far completed as to be ready for use in any street or other place within the metropolis, such drain being of such size materials and other conditions and branched into such sewer and ventilated in such manner and form in all respects as the Board directs or appoints.

Every person who without the consent of the Board makes or branches or causes to be made or branched any sewer or drain, or makes or causes to be made any opening into any of the sewers vested in it, or makes or branches or causes to be made or branched any drain of a different construction size materials or other conditions, or in any other manner or form from that which is directed or appointed by the Board, shall for every such offence be liable to a penalty of not more than 10 penalty units; and the Board may cut off the connexion between such drain and its sewer, or, if it sees fit, execute the necessary works for making the said drain conformable to its regulations or directions at the expense of the

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person making such drain or causing the same to be made. Such expenses may be recovered either by action at law or in a summary manner.

For the purpose of this section and all subsequent sections in this Part the words "person" or "persons" or "owner" or "owners" shall be deemed to include Rail Track the Minister administering the **Education Act 1958** any council and any public or private corporation.

153. Seven days' notice to be given before drains can be branched into main sewers

No. 3731
s. 157.

Every person intending to make or branch any sewer or drain into a sewer vested in the Board shall seven clear days before commencing any works for that purpose make written application to the Board, accompanied by a plan showing such particulars as are required by any by-law or resolution of the Board, and no such work shall be commenced until the sanction in writing of the Board has been given; and no such work shall be proceeded with or executed except under the immediate direction of an officer of the Board authorized in writing to direct such works.

154. Regulations as to abandonment of alterations etc. designed for sewers previously approved

No. 3731
s. 158.

When it is desired by any person to abandon either wholly or in part or to extend contract or alter any design for a sewer or drain previously submitted to and approved by the Board, notice in writing of such desire shall be given by the person by whom such approval has been obtained to the Board, accompanied by plans and sections showing the nature of the abandonment, extension, contraction, or alteration desired, and no such abandonment, extension, contraction, or alteration shall be made without the previous approval in writing of the Board.

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No person shall abandon wholly or in part or extend contract or alter in construction any drain or sewer approved or sanctioned by the Board without the previous sanction in writing of the Board.

No. 3731
s. 159.

155. In case sewer be not constructed within twelve months fresh consent to be applied for

In case any drain or sewer sanctioned and approved by the Board as hereinbefore provided is not constructed or executed within twelve calendar months from the date of such sanction or approval, the works for the construction of such drain or sewer shall not be executed without a fresh permission by the Board, and the written sanction of the Board that the necessary works for the construction of such drain or sewer may proceed, to be applied for and obtained in manner hereinbefore provided with respect to the original permission for the construction of such drain or sewer.

No. 3731
s. 160.

S. 156
amended by
Nos 9558
s. 19(l), 9824
s. 34(g).

156. Penalty for giving use of drain without permission

Every person who has received permission to connect a private sewer or drain with any sewer vested in the Board who neglects to repair or cleanse such permitted branch sewer or drain according to the directions of the officer appointed in that behalf by the Board, or who wilfully permits any other person not having the authority or consent of the Board to use such permitted sewer or drain or any branch into the same, shall for every such offence be liable to a penalty of not more than 10 penalty units over and above the full amount of the damage sustained by the Board by the acts or means in respect of which such penalty is incurred; and the Board shall be at liberty to cut off from its sewer the drain of every person so offending.

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157. Board may construct so much of private drain as lies under pavement of street

Whenever it is necessary to open any part of the pavement in any street or public place for the purpose of making or branching any private sewer or drain with any of the sewers vested in the Board, the Board may if it thinks fit make so much and such part of such private sewer or drain and also construct so much and such part of the work necessary for branching the same into the public sewers as are under or in any street, and may recover from the owner of the house building or ground to which such private sewer or drain belongs either by action at law or in a summary way the expense and cost of all work within the boundary of such owner as certified by the proper officer of the Board.

No. 3731
s. 161.
S. 157
amended by
Nos 10087
s. 3(1)(Sch. 1
item 158),
10187 s. 42(e).

158. Board and owners may contract for execution of work by the Board

The Board may contract and agree with the owners of any houses buildings or ground that any sewers or drains required to be made altered or enlarged by such owners shall be made altered and enlarged by the Board and the cost of making altering or enlarging such sewers or drains as certified by the proper officer of the Board or some officer appointed by him for the purpose shall be repaid by the owner so agreeing to the Board.

No. 3731
s. 162.
S. 158
amended by
Nos 6536
s. 13, 10087
s. 3(1)(Sch. 1
item 158),
10187 s. 42(e).

159. Private sewers to be cleansed

All such private sewers or drains as communicate with any sewer vested in the Board (including for the purpose of this section the portion of such drain lying between the premises drained and the sewer into which it is so branched), and all fittings and apparatus connected therewith, shall from time to time be repaired and cleansed under the

No. 3731
s. 163.

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inspection and direction of some officer of the Board at the cost and charges of the occupier of the land or premises in respect of which the said sewers or drains have been constructed.

Division 5—Private Premises

No. 3731
s. 164.

160. General notice when any streets are sewered

S. 160(1)
substituted by
No. 6536
s. 14(1)(a).

(1) The Board shall after sewers have been laid in any locality cause a general notice to be given as hereinafter mentioned that the Board has made provision for carrying off the sewage of each and every property which or part of which is situate in such locality and after such time as is fixed by the Board each and every such property shall be deemed and taken to be sewered property within the meaning of this Part. It shall be sufficient in any such general notice to describe the locality in which such sewers have been laid by defining the outer boundaries thereof and (if necessary) by excluding therefrom any specified property or properties and any such locality shall be deemed to be and may be called a "Sewerage Area".

S. 160(2)
amended by
No. 6536
s. 14(1)(b)(i)(ii).

(2) The Board may by a further general notice to be given as hereinafter mentioned order that the owner of each and every property which or any part of which is situate in a Sewerage Area, if there are any houses or buildings on such property, shall within such time as is specified in such further general notice or within such further time as the Board may allow provide such proper water-closet or water-closets drains appliances apparatus and connexions with such sewer or sewers of the Board as may be prescribed by regulations of the Board.

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- (3) Every property whether or not situate in a Sewerage Area which is connected with any sewer of the Board shall be and shall be deemed to be a sewered property. **S. 160(3) amended by No. 6536 s. 14(1)(c).**
- (4) In fixing or allowing any such time or further time pursuant to this section the Board shall have regard to all the circumstances of each case so that each owner shall have a reasonable opportunity of complying with the requirements of any such notice.
- (5) The general notice shall be given by placards posted up in public within the Sewerage Area and shall be advertised in the Government Gazette and in a newspaper generally circulating in the neighbourhood and shall be in the form in the Ninth Schedule to this Act or to like effect. And the said further general notice shall be given by serving the same on the owner of any property which or any part of which is situate within such Sewerage Area in manner prescribed with regard to service of notices or orders by section two hundred and forty-seven and shall be in the form in the Tenth Schedule to this Act or to the like effect. **S. 160(5) amended by Nos 6536 s. 14(1)(d), 7411 s. 4.**
- (6) Within one month after a date to be specified in the said further general notice or within such further time as the Board may either before or after the expiration of such one month allow the owner of each and every property within a Sewerage Area shall if there are any houses or buildings on such property—
- (a) submit for the approval of the Board a plan for providing such property with such water-closet or water-closets and such drains appliances apparatus and connexions fitted and laid in such manner as may be prescribed by the regulations of the Board or **S. 160(6)(a) amended by Nos 9235 s. 10(a), 9824 s. 21(a) (as amended by No. 10087 s. 3(1)(Sch. 1 item 160)).**

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any modification thereof which the proper officer of the Board on written application made to him in writing under his hand approves, and such owner shall in writing undertake to carry out such plan within one month or such further time as the Board may in writing allow if the same is approved by the Board; or

S. 160(6)(b)
amended by
No. 6536
s. 14(1)(e)(ii).

- (b) submit for the approval of the Board a plan as aforesaid and in writing request the Board if it approves thereof to give an estimate of the cost and expense thereof, and thereupon it shall be the duty of the Board so to do; or in writing request the Board to prepare a plan as aforesaid and give an estimate of the cost and expense thereof, and thereupon it shall be the duty of the Board so to do. As soon as the Board gives such estimate such owner shall in writing undertake to carry out such plan within one month or such further time as the Board may allow, or shall in writing request the Board to carry out the same at the cost and expense of the said owner for the actual cost to the Board, and thereupon it shall be the duty of the Board so to do.
- (7) If within such one month or such further time any such owner has not complied with any of the foregoing requirements or if after undertaking so to do any such owner has not within the limited time provided such water-closet or water-closets and such drains appliances apparatus and connexions as aforesaid then the Board may order such owner to comply with such of the requirements of the said further general notice as it deems to be necessary or may carry out such undertaking (as the case may be), and such order shall be deemed to be an order within the meaning of section one hundred and sixty-three.

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(8) In the event of the Board carrying out the work of providing such water-closet or water-closets and such drains appliances apparatus and connexions it shall be the duty of the Board at its own cost and expense to keep and maintain the same in good repair for a period of twelve months from the time of completing the said work unless the necessity for such repair is caused by the wilful act or negligence of the owner or occupier.

(9) The Board by its proper officer may at any reasonable time in the day-time after twenty-four hours' notice in writing has been given to the occupier or left upon the premises with some person residing therein or in case there is no person resident on the said premises without notice enter any house or building and ascertain and determine whether any such further general notice has or has not been complied with.

S. 160(9)
amended by
Nos 9235
s. 10(b), 9824
s. 21(b).

(10) The Board may cause the works hereinbefore mentioned to be inspected while in progress and from time to time during their execution the proper officer may in writing order such reasonable alterations therein or additions thereto as the proper officer thinks necessary.

S. 160(10)
amended by
Nos 9235
s. 10(c), 9824
s. 21(c)(i)(ii).

160A. Locality where sewers vested in Board to be treated as a sewerage area

S. 160A
inserted by
No. 31/1987
s. 8.

- (1) If land is included in the metropolis by Order in Council and sewers in the land are vested in the Board pursuant to section 3—
- (a) the Board is to be treated as having laid the sewers; and
 - (b) the land or any part of the land serviced by the sewers is to be treated as a sewerage area; and

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(c) each property on the land in the sewerage area is to be treated as being a sewerer property—

for the purposes of this Part.

(2) Sub-section (1) applies to land included in the metropolis before or after the commencement of section 8 of the Melbourne and **Metropolitan Board of Works (Amendment) Act 1987**.

No. 3731
s. 165.

161. Drainage of a group of houses

If it appears to the Board that a group or block of contiguous houses or of adjacent detached or semi-detached houses may be drained and improved more economically or advantageously in combination than separately and a sewer of sufficient size already exists or is about to be constructed within a reasonable distance (which shall be determined by regulations of the Board) of any part of such group or block of houses whether contiguous detached or semi-detached the Board may order that such group or block of houses be drained and improved as hereinbefore provided by a combined operation.

No. 3731
s. 166.
S. 162
amended by
S.R. No.
323/1973 cl. 6.

162. New houses to have drains approved by Board

It shall not be lawful to erect any house or other building or to re-build any house or building within the metropolis which has been pulled down to or below the floor commonly called the ground floor or to occupy any house or building so newly built or re-built unless a drain and such branches thereto and other connected works and apparatus as hereinbefore mentioned are constructed and provided to the satisfaction of the Board.

Such drain and branches shall be constructed of such materials of such size at such level and with such fall as the Board directs so that the same shall be available for the drainage of the lowest

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floor of such house or building and of its several floors or stories and also of its foundations areas and offices (if any), and such drain shall lead from such house or building or the intended site of such house or building to such sewer already made or intended to be constructed within a reasonable distance (which shall be determined by regulations of the Board) of any part of the intended site of such house or building as the Board directs.

Whenever any house or building is re-built as aforesaid the level of the lowest floor of such house or building shall be raised sufficiently to allow of the construction of such a drain and such branches thereto and other works and apparatus as are hereinbefore required, and for that purpose the levels shall be taken and determined under the direction of the Board.

In this section the word "**foundations**" means foundations to a depth not exceeding 0·60 metres below the basement floor or cellar of any building or premises.

163. Penalty for non-compliance with orders of the Board for drainage for private premises

In case any person or persons do not comply with the order of the Board or of any officers of the Board authorized to execute any works matters or things which under this Part the Board or any such officers are authorized to direct the person or persons so offending shall be liable to pay to the Board a penalty of not more than 10 penalty units, and also after any conviction a further penalty of not more than 1 penalty unit for every day during which such offence continues, to be recovered by action at law or in a summary way; and the Board may at its discretion subsequently to or in lieu of prosecuting for such non-compliance perform any

No. 3731
s. 167.
S. 163
amended by
Nos 9558
s. 19(m)(i)(ii),
9824 s. 34(f)(i)
(ii).

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such works matters or things and recover the costs and expenses thereof from the owner of the property as aforesaid.

No. 3731
s. 168.

S. 164
amended by
No. 6536 s. 15.

164. Inspection of private premises

The Board by its surveyor or inspectors or some other person duly appointed by it in that behalf may inspect any drains sinks traps water or sewerage pipes apparatus appliances or other works on the premises and may for that purpose at all reasonable times in the day-time after twenty-four hours' notice in writing has been given to the occupier or left upon the premises with some person residing therein, or without such notice in case of emergency or in case there is no person resident on the said premises, enter upon any premises and cause the ground to be opened in any place it or he thinks fit doing as little damage as may be.

In case any such drain or works is found on inspection not to have been made according to the provisions of this Act or to be in bad order and condition or to require cleansing alteration or amendment or to be filled up the Board shall cause notice in writing to be given to the owner of the premises upon or in respect of which the inspection was made requiring him forthwith or within such time as is specified in such notice to do the necessary works.

If such notice is not complied with by the person to whom it is given the Board may if it thinks fit execute such works and the expenses incurred by it in so doing shall be paid to it by the owner of the premises and may be recovered by action at law or in a summary way.

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165. Board to pay costs of reinstating premises if drains found correct

No. 3731
s. 169.

If such drain sinks traps pipes or other connected works and apparatus are found on inspection as aforesaid to be made to the satisfaction of the Board and in proper order and condition it shall cause the same to be reinstated and made good as soon as may be, and the expenses of examination reinstating and making good thereof shall be defrayed by the Board.

166. Penalty if occupier prevents owner obeying this Act or the orders of the Board

No. 3731
s. 170.

S. 166
amended by
Nos 9019
s. 2(1)(Sch.
item 151),
9558
s. 19(n)(i)(ii),
9824
s. 34(f)(i)(ii),
57/1989
s. 3(Sch. item
131.6(a)(b)).

If the occupier of any premises prevents the owner thereof from carrying into effect with respect to such premises any of the provisions of this Part or any order of the Board made in pursuance thereof he shall be liable to a penalty of not more than 1 penalty unit for every day during the continuance of such prevention.

If the occupier of any premises, when requested by or on behalf of the Board to state the name and address of the owner of the premises occupied by him refuses or wilfully omits to disclose or wilfully misstates the same, the Magistrates' Court, on application made to it, may summon the party to appear before it at a time and place to be appointed in such summons.

If the party so summoned neglects or refuses to attend at the time and place so appointed, or if he does not show good cause for such refusal, or if such wilful omissions or misstatements are proved the court before which such party is so summoned may impose upon the offender a penalty of not more than 10 penalty units.

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Every such owner during the continuance of such refusal, and provided he satisfies the court that he has bona fide endeavoured to comply with the provisions of this Part, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

No. 3731
s. 171.

167. Occupier may do work if owner fails

Whenever default is made by the owner of any building or land in the execution of any work by this Part or by any regulation or by-law hereunder required to be executed by him, the occupier of such building or land may with the approval of the Board cause such work to be executed; and such occupier may deduct the amount of the expense thereof with interest thereon at the rate of eight per centum per annum until repayment is made out of any rent from time to time due or becoming due from him to such owner, or he may recover the same in a summary way.

No. 3731
s. 172.

168. Liability of persons jointly liable to do work

Where under the authority of this Part two or more persons are directed by the Board to do or join in doing any act or to pay or join in paying any sum of money costs or expenses, or where the Board may permit two or more persons to join together in doing any act or paying any sum of money or expenses, the Board may apportion the matter to be done or the sum of money costs or expenses to be paid between such persons in such manner as the Board considers just and reasonable.

Division 6—Recovery of Charges Costs Expenses and Interest

169. Expenses incurred by Board to remain a charge on lands of owner in default

All costs and expenses which by this Part are made payable to the Board by the owner of any premises or for which he may be liable shall remain a charge upon such premises, and together with interest at a rate which is not greater than one per centum per annum above the maximum ten year public loan interest rate currently payable by the Board in respect of inscribed stock issued under the **Borrowing and Investment Powers Act 1987** shall be recoverable at any future time from any owner thereof.

Subject to and for the purposes of the foregoing provisions of this section the Board may strike a rate of interest to be paid to the Board and may at any time vary any rate of interest so fixed.

Without prejudice to any remedy which the Board may have against such owner or premises, it shall be lawful for the Board to require the payment of any such costs and expenses from any person who then or at any time thereafter occupies such premises, and to sue for and recover the same from any such person before any court of competent jurisdiction.

The owner shall allow every such occupier to deduct all sums of money which he so pays out of the rent from time to time becoming due in respect of the said premises as if the same had been actually paid to such owner as part of such rent, or the occupier may at his option sue the owner therefor before any court of competent jurisdiction or may recover the same in a summary way.

No. 3731
s. 173.
S. 169
amended by
Nos 6536
s. 16(1), 8071
s. 4(a), 9558
s. 12(a), 9824
s. 22, 13/1987
s. 23, 110/1997
s. 4(9).

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No such occupier shall (unless he refuses on application being made to him for that purpose by or on behalf of the Board truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable) be required to pay any further sum than the amount of rent for the time being due from him, or which after demand of such costs or expenses from him and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses becomes payable by such occupier.

The burden of proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such notice or which has since accrued shall lie upon such occupier.

Nothing herein contained shall be taken to affect any contract made or to be made between any owner and occupier of any house or premises whereby it is agreed that the occupier shall pay and discharge all dues and sums of money payable in respect of such house or premises, nor to affect any contract whatsoever between landlord and tenant.

No. 3731
s. 174.

170. Board may recover costs of performing works

S. 170(1)
amended by
Nos 8531
s. 14(2), 9235
s. 11(a), 9558
s. 12(b)(i),
9824 s. 23(a).

- (1) In all cases in which the Board provides any water-closet or water-closets or drains appliances apparatus and connexions pursuant to the requirement of any owner as hereinbefore provided, or performs any works matters or things under sections seventy-five A, one hundred and forty-two A, one hundred and sixty or one hundred and sixty-three of this Act, the costs and expenses thereof with interest at the rate as set out in section 169 shall be recoverable after the expiration of one month from the time that the proper officer certifies in writing to the Board that

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the same have been provided or performed and the amount of the costs and expenses thereof.

- (2) Until paid such costs expenses and interest shall be and remain a charge upon the property in respect to which they were incurred and may at the expiration of seven days after demand in writing therefor be recovered at any time from the owner thereof for the time being.
- (3) At the request of the owner the Board shall, subject to sub-sections (6) and (6A), accept payment of such costs and expenses by forty quarterly instalments bearing interest on such portion as remains unpaid at the rate as set out in section 169.
- (4) Such request must be made in writing and signed by the owner and must be lodged with the Board within one month from the time of such owner being notified in writing by the Board of the amount of such costs and expenses. The first quarterly instalments shall be payable immediately on the expiration of the said month. Notwithstanding anything contained in this section the said owner may at any time pay to the Board such portion as then remains unpaid of such costs and expenses together with interest thereon at the said rate to the date of such payment.
- (5) A copy of the last two preceding sub-sections shall be included in the notification hereinbefore referred to.
- (6) In the event of any of the instalments or interest not being paid within fourteen days after the due date thereof the whole amount then unpaid of the costs and expenses shall if the Board so desires become due payable and recoverable with interest at the rate as set out in section 169.

S. 170(3)
amended by
Nos 6536
s. 16(2), 8071
s. 4(b),
substituted by
No. 9558
s. 12(b)(ii).

S. 170(6)
amended by
No. 9558
s. 12(b)(iii).

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S. 170(6A)
inserted by
No. 9558
s. 12(b)(iv).

(6A) Where the owner who by virtue of this section is entitled to make payment by instalments disposes of the property that entitlement ceases, and the whole amount then unpaid of the costs and expenses shall become due payable and recoverable with interest at the rate as set out in section 169.

(7) Payment of any instalment and interest may be recovered in a summary way or by action in any court of competent jurisdiction.

S. 170(8)
amended by
Nos 9235
s. 11(b), 9824
s. 23(b).

(8) The certificate of the proper officer in writing shall be prima facie evidence in any court that the water-closet or water-closets or drains appliances apparatus and connexions have been provided or the works matters or things have been performed (as the case may be) and prima facie evidence as to the amount of the costs expenses and interest recoverable in respect thereof.

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S. 170(9)
inserted by
No. 31/1987
s. 9,
repealed by
No. 41/1995
s. 62(Sch. 1
item 4).

No. 3731
s. 175.

171. Restriction on right of lessee to remove buildings

Where under a lease existing on the twenty-fourth day of August One thousand eight hundred and ninety-seven a lessee has the right to remove buildings at the end of his term he shall not be entitled to remove the same or any part thereof unless—

(a) he first pays to the lessor or to the Board all the costs and expenses and interest paid by or payable under this Part or any corresponding previous enactment by the lessor in respect of any drains appliances apparatus and connexions constructed by or

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at the cost of such lessor for the purposes of the buildings so removed; or

- (b) the removal of the buildings or such portion thereof as is removed is effected without injury to such drains appliances apparatus and connexions.

172. Powers of trustees

No. 3731
s. 176.

Any trustee being owner of any houses lands or premises may apply any of the funds under his control in defraying any charges costs or expenses necessarily or properly incurred by him under this Act as such owner.

173. Powers of agents

No. 3731
s. 177.

Any agent may deduct from any moneys held by him for his principal all charges costs or expenses necessarily or properly incurred and paid by him under this Part as "owner" of any houses lands or premises for which he is the agent of such principal, or he may in any court of competent jurisdiction recover from such principal the amount so incurred and paid.

174. Powers of councils

S. 174
substituted by
No. 12/1989
s. 4(1)(Sch. 2
item 77.36).

Any municipal council may apply out of its municipal fund all charges, costs and expenses necessarily and properly incurred by the council under this Part whether within or outside that council's municipal district.

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Pt 3 Div. 7
(Heading)
repealed by
No. 110/1997
s. 5(4).

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S. 175(1)(2)
repealed by
No. 110/1997
s. 5(1).

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S. 175(2A) inserted by No. 9735 s. 4(a), repealed by No. 110/1997 s. 5(1).	*	*	*	*	*
S. 175(3)(4) repealed by No. 110/1997 s. 5(1).	*	*	*	*	*
S. 175(5) repealed by No. 6536 s. 24(2)(d).	*	*	*	*	*
S. 175(6) amended by Nos 6536 ss 17, 24(2)(f)(i)(ii), 7411 s. 3(d), 7778 s. 15, 8164 s. 3(b), 8574 s. 2(1)(c)(i), repealed by No. 110/1997 s. 5(1).	*	*	*	*	*
S. 175(6A) inserted by No. 8574 s. 2(1)(c)(ii), amended by No. 9735 s. 4(b), repealed by No. 110/1997 s. 5(1).	*	*	*	*	*
S. 175(6B) inserted by No. 8574 s. 2(1)(c)(ii), repealed by No. 110/1997 s. 5(1).	*	*	*	*	*

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*	*	*	*	*	S. 175(6C) inserted by No. 9558 s. 5(2), substituted by No. 9735 s. 4(c), repealed by No. 110/1997 s. 5(1).
*	*	*	*	*	S. 175(6D)(6E) inserted by No. 9735 s. 4(c), repealed by No. 110/1997 s. 5(1).
*	*	*	*	*	S. 175(7) repealed by No. 110/1997 s. 5(1).
*	*	*	*	*	S. 175(8) repealed by No. 110/1997 s. 5(2).
*	*	*	*	*	S. 176 amended by No. 6536 ss 18, 24(2)(e), repealed by No. 110/1997 s. 5(3).
*	*	*	*	*	Ss 177, 178 repealed by No. 110/1997 s. 5(3).

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S. 179
amended by
Nos 6536
s. 19, 7332
s. 2(Sch. 1
item 87), 9558
s. 19(o), 9824
ss 24, 34(e),
12/1989
s. 4(1)(Sch. 2
items 77.37–
77.39),
36/1989
s. 8(3),
repealed by
No. 110/1997
s. 5(3).

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**Division 8—Special Provisions Relating to Works and
Services for Public Bodies**

No. 3731
s. 184.
S. 180
amended by
Nos 8353
s. 19, 9921
s. 255, 44/1989
s. 41(Sch. 2
item 27.4),
46/1998
s. 7(Sch. 1),
54/2001
s. 41(2).

**180. Board may supply Crown premises with closets and
make charges**

At the request of the Minister administering Part 7 of the **Financial Management Act 1994** or Victorian Rail Track (as the case may be) and notwithstanding the provisions of section two hundred and thirty-nine the Board may provide water-closets or drains appliances apparatus and connexions and perform any works matters or things necessary to be provided or performed for any premises belonging to Her Majesty or to Victorian Rail Track (as the case may be) and the costs and expenses thereof shall be a debt due by and recoverable from Her Majesty or Victorian Rail Track (as the case may be).

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181. Crown or Public Transport Corporation etc. to pay for sanitary services

Where any works matters or things (hereinafter called "sanitary works") have been provided or performed or hereafter are provided or performed for any premises belonging to Her Majesty or Rail Track (as the case may be) pursuant to the provisions of the last preceding section the Minister administering Part 7 of the **Financial Management Act 1994** or Rail Track (as the case may be) shall in and for every year pay to the Board a sum equal to the amount incurred by the Crown or Rail Track or any other person (as the case may be) for sanitary services in respect of such premises for the year immediately preceding the completion of the sanitary works, and the said sum shall be a debt due to the Board and recoverable from Her Majesty or Rail Track (as the case may be).

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No. 3731
s. 185.
S. 181
amended by
Nos 8353
s. 19, 9921
s. 255, 44/1989
s. 41(Sch. 2
item 27.5),
46/1998
s. 7(Sch. 1),
54/2001
s. 41(3).

S. 182
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.40),
repealed by
No. 110/1997
s. 6(1).

183. Sanitary service for buildings hereafter erected

For the purposes of section 181 where no amount has been incurred as therein mentioned for the year immediately preceding the completion of any sanitary works then the Crown or Rail Track (as the case may be) shall in and for every year pay to the Board a fair and reasonable amount for sanitary purposes.

No. 3731
s. 187.
S. 183
amended by
Nos 8353
s. 19, 9921
s. 255, 12/1989
s. 4(1)(Sch. 2
item 77.41),
44/1989
s. 41(Sch. 2
item 27.6),
110/1997
s. 6(2)(a)(b),
54/2001
s. 41(4).

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No. 3731
s. 188.

184. Arrangements with Commonwealth

The Board shall have power and authority to enter into any contract or arrangement with the Commonwealth for sanitary works or sanitary services on such terms as the Board thinks fit and may receive payment in pursuance thereof.

Pt 3 Div. 9
(Heading)
inserted by
No. 7893 s. 7.

Division 9—By-Laws as to Sewerage and Drainage

S. 184A
inserted by
No. 7778 s. 16.

184A. Power to make by-laws as to sewerage and drainage

(1) The Board may make by-laws for or with respect to—

S. 184A(1)(a)
repealed by
No. 9999 s. 12,
new
s. 184A(1)(a)
inserted by
No. 31/1987
s. 10(a).

(a) prohibiting plumbing work on pipes, drains, fittings, fixtures and installations connecting with sewers without the approval of the Board;

S. 184A(1)(aa)
inserted by
No. 31/1987
s. 10(a).

(aa) regulating plumbing work on pipes, drains, fittings, fixtures and installations connecting with sewers and prescribing conditions for approval of the Board to carry out the work including conditions as to who may carry out the work;

S. 184A(1)(ab)
inserted by
No. 31/1987
s. 10(a).

(ab) assessing, authorising for use, inspecting and testing pipes, drains, fittings, fixtures and installations connecting with sewers;

(b) regulating, in regard to sewerage, the plans and level of sites for buildings and the levels of the bottoms of cellars and the lowest parts of buildings and the drainage of streets into sewers and the drainage of waste water (exclusive of storm water) from factories and other buildings and the premises in connexion therewith;

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- (c) regulating the dimensions form and mode of construction and the materials and the keeping cleaning and repairing of the pipes drains and other means of communicating with sewers and the fittings and apparatus connected therewith and the emptying cleansing closing and filling up of sinks cesspools and privies and such other works of cleansing and of removing and disposing of refuse as the Board is authorized to perform;
 - (d) prohibiting the use of any form of or any mode of management of any baths water-closets soil pans sinks cesspits wells and other receptacles and fittings the use of which in the judgment of the Board may tend to any fouling or contamination or to endanger the public health and controlling and regulating the management and the use of any closets and soil pans permitted in any premises before the premises are sewered by the Board;
 - (e) regulating or prohibiting the admission to the drains or sewers of any land-drainage surface or otherwise or rain water from roofs yards streets or other surfaces whether by inlets specially designed to admit or by any other inlets or openings so placed that such water may get access thereto;
 - (f) prohibiting the placing of any inlets or openings in such positions that any extraneous water from any river bay gully or creek or any other source whether in flood or otherwise may gain access to the drains or sewers;

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s. 184A

S. 184A(1)(ga)
inserted by
No. 9239 s. 3.

(g) regulating or prohibiting the provision of water closets or the fitting or laying of drains sinks traps appliances apparatus or connexions in cellars or basements;

(ga) regulating restraining controlling or prohibiting either generally or according to time or any other circumstances from any discharge into any drain or sewer any specified constituent thereof, or the temperature of such specified constituent, which the Board is satisfied would, either alone or in combination with any matter with which it may come into contact while passing through any drains or sewers damage or obstruct those drains or sewers or injure any person or make especially difficult or expensive the treatment or disposal of the discharge from those drains and sewers;

S. 184A(1)(h)
substituted by
No. 9239 s. 3,
amended by
No. 110/1997
s. 6(3).

(h) prescribing the terms conditions and charges, in excess of other charges, of agreements and consents for the discharge of trade waste including for the reception and disposal of any trade waste, charges, including any minimum charge, as may be specified in the by-laws, having regard to the composition and volume of the trade waste so discharged and to any additional expense incurred or likely to be incurred by the Board in connexion with the reception or disposal of the trade waste;

S. 184A(1)(ha)
inserted by
No. 9239 s. 3.

(ha) prescribing the method of charging and prescribing charges for the costs of the Board of inspecting measuring monitoring and testing such discharge to which agreements or consents for the discharge into any drain or sewer of trade waste, are to be subject;

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Part III—Sewerage

s. 184A

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- (i) prescribing fees to be paid to the Board for the preparation by the Board of plans for private sewers or drains or for the examination by the Board of plans relating to private sewers or drains;
- (j) prescribing fees to be paid to the Board for the inspection and testing by the Board of private sewers or drains; **S. 184A(1)(j) amended by No. 31/1987 s. 10(b).**
- (jaa) prescribing fees to be paid to the Board for the assessment, authorisation for use, inspection or testing of any pipe, drain, fitting, fixture and installation for connecting with sewers; **S. 184A(1)(jaa) inserted by No. 31/1987 s. 10(c).**
- (ja) prescribing penalties of not more than 200 penalty units for any contravention of or failure to comply with any by-law for or with respect to discharge of trade waste under this Part and in the case of a continuing offence for or with respect to discharge of trade waste a further penalty of not more than 80 penalty units for each day the offence continues after conviction or after service by the Board upon a person of notice of contravention of any said by-law (whichever is the earlier); save as aforesaid prescribing penalties of not more than 10 penalty units for any contravention of or failure to comply with any by-law under this Part and, in the case of a continuing offence, a further penalty of not more than 1 penalty unit for each day the offence continues after notice of contravention from the Board; **S. 184A(1)(ja) inserted by No. 7893 s. 8, substituted by No. 9239 s. 4, amended by Nos 9558 s. 19(p)(i)(ii), 9824 s. 34(j)(i)–(iv), 36/1989 s. 5(a)(b).**
- (k) providing for the due management and use in all respects of the property of the Board and of its undertaking and for its construction completion maintenance and extension; and
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Part III—Sewerage

s. 184A

S. 184A(2)
substituted by
No. 9239 s. 5.

(1) generally carrying into effect the purposes of this Part.

(2) In this Part unless inconsistent with the context or subject-matter—

"trade waste" includes—

- (a) any waste matter from any trade premises;
- (b) any other matter which the Board by by-law declares to be trade waste;

"trade premises" means any premises used or intended to be used for carrying on any trade or industry and includes any land or premises used or intended to be used (in whole or in part and whether for profit or not) for agricultural or horticultural purposes or for scientific research or experiment.

S. 184A(3)
inserted by
No. 9239 s. 5.

(3) Notwithstanding anything in any by-law made under paragraph (h) of sub-section (1) the Board may enter into agreements with any person for the admission into any drain or sewer of trade waste on such terms and conditions, including payment in excess of charges, as are prescribed by by-law made under sub-section (1) or in the absence of any such prescription as are agreed upon between the Board and such person.

S. 184A(3A)
inserted by
No. 10261
s. 42.

(3A) Except as provided in sub-section (3) by-laws made under sub-section (1) apply to an agreement made under sub-section (3).

S. 184A(3B)
inserted by
No. 10261
s. 42.

(3B) For the purposes of by-laws made under sub-section (1) officers of the Board may at any time enter and inspect any trade premises and take a sample from any equipment thereon.

S. 184A(3C)
inserted by
No. 10261
s. 42.

(3C) The Board is empowered by this section to accept trade waste whether arising inside or outside the metropolis.

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Act No. 6310/1958

Part III—Sewerage

s. 184AB

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- (4) By-laws under sub-section (1) may incorporate or adopt by reference any standard formulated or published by any authority or body of persons as formulated or published on a particular date.

S. 184A(4)
inserted by
No. 9239 s. 5.

184AB. Discharge of trade waste

Whether or not proceedings are instituted for any contravention of or failure to comply with any by-law for or with respect to discharge of trade waste the Board may apply to the Supreme Court for an injunction restraining any person from contravening or failing to comply with any such by-law or compelling compliance with such by-law.

S. 184AB
inserted by
No. 9239 s. 6,
amended by
No. 110/1986
s. 140(2).

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Part IIIA—Provision of Services by Agreement

s. 184B

Pt 3A
(Heading)
inserted by
No. 8531 s. 6.

PART IIIA—PROVISION OF SERVICES BY AGREEMENT

S. 184B
inserted by
No. 8531 s. 6.

184B. Definitions

In this Part unless inconsistent with the context or subject-matter—

"present cost" in relation to completed works means the cost that would have been incurred if a contract for the works had been let at the date of the agreement;

S. 184B def. of
"works"
substituted by
No. 9558
s. 13(a).

"works" means service pipes, effluent drains, fittings, water mains, sewers, pumping stations, pipelines, reservoirs, storage tanks, sewage treatment plants and any other ancillary equipment or installations.

S. 184C
inserted by
No. 8531 s. 6.

184C. Board may enter into an agreement with the owner of land

S. 184C(1)
substituted by
No. 9558
s. 13(b)(i).

- (1) The Board may enter into an agreement with the owner of any land—
 - (a) for the construction or installation of such works as may be specified in the agreement to serve the land concerned either alone or together with any other land;
 - (b) for the supply of water to and the acceptance of sewage from the land.
- (2) An agreement under sub-section (1) may inter alia make provision for—
 - (a) the payment to the Board by the owner of the land of the whole of the costs of the construction or installation of the works together with the estimated costs of operating any pumping station sewage treatment plant and ancillary works for a period not exceeding five years or such part

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Part IIIA—Provision of Services by Agreement

s. 184C

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- thereof as the Board considers reasonable to be paid in respect of such land having regard to the benefit of such works to the land and to any other lands that would be in the opinion of the Board capable of being served by such works;
- (b) the payment to the Board by the owner of the land of an amount based on the area of the land and the proposed use to which the land is to be put and assessed by the Board to be a fair and reasonable contribution towards—
- (i) in the case of water supply, the costs of the Board's headworks and distribution systems; and
 - (ii) in the case of sewerage, the cost of the Board's outfall sewers and disposal systems;
- (c) the payment to the Board by the owner of the land of—
- (i) a reasonable proportion of the cost of any works being or to be constructed or installed by the Board and paid for or to be paid for out of the funds of the Board; and
 - (ii) a reasonable proportion of the present cost of the construction and installation of completed works constructed or installed by the Board and paid for out of the funds of the Board—

which are or after their construction or installation will be available to be connected to and of adequate capacity to serve the land or any part thereof (whether with or without construction or installation of additional works);

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s. 184C

(d) the payment to the Board by the owner of the land of—

S. 184C(2)d(i) amended by No. 53/1988 s. 45(Sch. 2 item 18).

(i) a reasonable proportion of the cost of any works being or to be constructed or installed pursuant to an agreement between the Board and the owner of any other land in the vicinity;

S. 184C(2)d(ii) amended by No. 53/1988 s. 45(Sch. 2 item 18).

(ii) a reasonable proportion of the present cost of the construction or installation of completed works constructed or installed pursuant to an agreement between the Board and the owner of any other land in the vicinity—

which are or after their construction or installation will be available to be connected to and of adequate capacity to serve the land or any part thereof (whether with or without construction or installation of additional works);

- (e) the construction or installation of all or any part of the works required by and at the expense of the owner;
- (f) the amount to be advanced to the Board by such owner towards any remaining part of the cost of construction or installation of such works;
- (g) the repayment to such owner by the Board of the whole, or such part as may be agreed upon, of the advance referred to in paragraph (f); and
- (h) security which may be lodged with the Board to secure a payment or advance referred to in paragraph (a), (b), (c), (d) or (f).

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Act No. 6310/1958

Part IIIA—Provision of Services by Agreement

s. 184C

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- (3) Where any proposal for subdivision or consolidation of land is referred to the Board under the **Planning and Environment Act 1987** the Board may require the owner of the land to enter into an agreement under sub-section (1).
- (4) Any works constructed or installed pursuant to an agreement under this section shall be deemed to be made by the Board and shall be vested in the Board.
- (5) It shall not be necessary to enter into separate agreements under this section and section 269A and an agreement made under either section may include arrangements with respect to the construction or installation of works under the other section.
- (6) Where the Board proposes to enter into an agreement under this section and the works to be constructed or installed pursuant thereto will after their construction or installation be available to serve lands other than the lands of the person with whom the Board proposes to enter into the agreement, the Board shall serve notice on the owner of those other lands notifying him that he may within three months of receiving the notice enter into an agreement to contribute a reasonable proportion of the cost of the works to be constructed or installed and that if he does so contribute any agreement which he is asked to enter into in the event of his subsequently giving notice of his intention to subdivide will not contain any provision of the type referred to in paragraph (d) of sub-section (2).

S. 184C(3)
substituted by
No. 53/1988
s. 45(Sch. 2
item 19) (as
amended by
No. 47/1989
s. 19(zj)).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part IIIA—Provision of Services by Agreement

s. 184D

- (7) Where the Board is to carry out the construction or installation of any works pursuant to an agreement it may notwithstanding the terms of the agreement construct or install works involving greater expenditure than those specified in the agreement if the additional cost is borne by the Board.
- (8) Any money advanced under an agreement under sub-section (2)(f)—
 - (a) shall be deemed not to be financial accommodation obtained under the **Borrowing and Investment Powers Act 1987**; and
 - (b) shall not affect or limit the amount of financial accommodation that may be obtained under that Act.

S. 184C(8)
inserted by
No. 9558
s. 13(b)(ii),
substituted by
No. 13/1987
s. 23.

184D. Investigations as to land to be subdivided

- (1) On receipt of a request from any person intending to subdivide land (whether or not he is the owner of the land at the time of the request) the Board may at the cost of such person and upon such terms and conditions as are agreed carry out such investigations and surveys as may be necessary to provide an estimate of the cost of and the conditions under which works may be constructed or installed to serve such land.
- (2) No officer or employee of the Board shall enter the land intended to be subdivided to carry out any such investigation or survey unless the person making the request is the owner of the land or produces a signed statement from the owner authorizing the Board to enter the land for these purposes.

S. 184D
inserted by
No. 8531 s. 6.

S. 184D(2)
amended by
No. 36/1989
s. 9(1).

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Act No. 6310/1958

Part IIIA—Provision of Services by Agreement

s. 184E

184E. Board may accept sewage on agreement

Where it appears to the Board that the works and services of the Board may conveniently be extended to lands outside the metropolis the Board may, with the approval of the Minister, agree to accept sewage or other wastes into the Board's systems from—

- (a) the owner or owners of those lands;
- (b) the relevant council; or
- (c) the relevant Authority exercising sewerage functions under the **Water Act 1989**—

S. 184E inserted by No. 9558 s. 6(3), amended by No. 9895 s. 2(1)(Sch. 1 item 7(c)).

S. 184E(b) amended by No. 12/1989 s. 4(1)(Sch. 2 item 77.42).

S. 184E(c) amended by No. 9895 s. 2(1)(Sch. 1 item 7(c)), substituted by No. 81/1989 s. 3(Sch. item 34.7).

upon such terms, conditions and charges as are agreed upon between the Board and the relevant owner or owners, council, authority or Board or, failing such agreement, as are determined by the Minister.

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Act No. 6310/1958

Part IV—Metropolitan General Fund^{26F}

s. 185

PART IV—METROPOLITAN GENERAL FUND²⁷

185. Metropolitan General Fund and application thereof

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No. 3731
s. 189.

S. 185
substituted by
No. 6536
s. 20(1).

S. 185(1)
amended by
No. 110/1997
s. 7(1).

(1) Except where the contrary is expressly provided all moneys whatsoever received by the Board shall be paid into and shall form a fund to be called the "Metropolitan General Fund".

S. 185(2)
amended by
No. 9573
s. 36(a)(b).

(2) The said Fund shall be applied for or towards—
(a) the payment of moneys from time to time due as interest upon any liability of or moneys owing by the Board;

S. 185(2)(aa)
inserted by
No. 9277 s. 4

(aa) the making of contributions and costs and expenses of arrangements entered into under section 258C;
(b) the costs and expenses of carrying this Act into execution and of carrying out any works under the authority thereof;

S. 185(2)(ba)
inserted by
No. 121/1994
s. 201,
amended by
No. 110/1997
s. 7(2).

(ba) the making of any payment required to be made by a direction given by the Treasurer under section 153(1) of the **Water Industry Act 1994**;

S. 185(2)(c)
substituted by
No. 13/1987
s. 23.

(c) the repayment of moneys borrowed by or advanced to the Board and the payment of amounts payable as a result of or in connection with financial accommodation obtained by the Board under this Act or the **Borrowing and Investment Powers Act 1987** (including the payment of expenses of enforcement); and

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Part IV—Metropolitan General Fund26F

s. 186

(d) the cost and expense of carrying into execution the Board's responsibilities powers and duties under Division 6 of Part 10 of the **Water Act 1989**—

S. 185(2)(d) inserted by No. 9573 s. 36(c), amended by No. 81/1989 s. 3(Sch. item 34.8).

except so far as the same or any of them are or may be payable out of any other fund kept by the Board.

186. Bank account

All moneys of the Board shall as soon as practicable after they have come to the hands of the proper officer of the Board be paid into such bank and in such manner as the Board may appoint and direct for that purpose; and no such money shall be drawn out of such bank save by cheque signed and countersigned by such persons as the Board may direct.

No. 3731 s. 190.
S. 186 amended by No. 9558 s. 14(a).

186A. Agreements with respect to collection of fees under tariffs

S. 186A inserted by No. 121/1994 s. 202.

(1) The Board may enter into an agreement with a retail licensee with respect to the collection by that licensee, on behalf of the Board, of any fees under tariffs, charges, interest or other money due to the Board under this Act.

S. 186A(1) amended by No. 110/1997 s. 6(4).

(2) The companies referred to in section 17(1) of the **Water Industry Act 1994** must collect, on behalf of the Board, fees under tariffs, charges, interest and other money referred to in sub-section (1) that relate to the area or areas specified in their licences on the terms and conditions agreed with the Board or, in default of agreement, determined by the Office of the Regulator-General.

S. 186A(2) amended by No. 110/1997 s. 6(4).

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Act No. 6310/1958

Part V—Borrowing Powers28F

s. 187

PART V—BORROWING POWERS²⁹

187. Borrowing powers³⁰

No. 3731
s. 191,
No. 6041
s. 2(1).
S. 187
amended by
Nos 6430
s. 2(1) (as
amended by
No. 6489 s. 4),
6635 s. 2, 6895
s. 2, 7247
s. 2, 7315
s. 4(Sch. 2),
7699 s. 2, 8164
s. 4(a), 8650
s. 10, 9030
s. 2, 9277 s. 5,
9746 s. 3(2),
10187 s. 33,
substituted by
No. 13/1987
s. 23.

S. 187(1)
amended by
Nos 78/1988
s. 10(1)(a)(b),
110/1997
s. 6(5)(a)–(c).

- (1) The Board may obtain financial accommodation for the purposes of this Act (other than Parts VI and XII) in accordance with powers conferred on it by the **Borrowing and Investment Powers Act 1987** and the payment of amounts payable as a result of or in connection with financial accommodation obtained by the Board (including the payment of expenses of enforcement) is secured on the credit of the Metropolitan General Fund and of any fee under a tariff which it is authorised to receive under Part X of this Act and of any other money received by the Board under this Act.

S. 187(2)
repealed by
No. 78/1988
s. 10(2).

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- (3) The Board may, with the approval of the Treasurer, purchase securities issued by it and may re-sell any such securities.

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Act No. 6310/1958

Part V—Borrowing Powers28F

s. 188

188. Money to be borrowed on debentures

All money borrowed by the Board under this Act shall except as otherwise provided be raised by the issue of debentures payable to bearer with interest coupons attached and by the issue of debentures payable to bearer together with interest payable thereon both to be charged and secured upon the Metropolitan General Fund and upon all fees under tariffs which it is authorised to impose or upon any tolls charges rents fines and other profits which are given to vested in or authorized to be received by the Board.

No. 3731
s. 192.
S. 188
amended by
Nos 9277 s. 6,
110/1997
s. 6(6).

189. Provisions relating to debentures

The following provisions shall apply to debentures with interest coupons under this Act—

No. 3731
s. 193.
S. 189
amended by
Nos 6430
s. 3(a) (as
amended by
No. 6489 s. 4),
9277 s. 7.

* * * * *

S. 189(a)
repealed by
No. 13/1987
s. 23.

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S. 189(b)
amended by
Nos 9235
s. 12, 10187
s. 42(f),
86/1986 s. 43,
repealed by
No. 13/1987
s. 23.

- (c) every debenture with the interest coupons annexed thereto and every interest coupon after being detached therefrom shall pass by delivery and without any assignment or indorsement.
- (d) the bearer of every debenture or detached interest coupon shall have the same rights as if he were expressly named as payee therein.

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s. 189A

- (e) no interest shall be payable in respect of any debenture except to the holder of the coupon representing the interest claimed upon delivery of the same.
- (f) the principal and interest secured by any debenture may be made payable in London or may be made payable in Melbourne at the discretion of the Board.

S. 189A
inserted by
No. 9277 s. 8.

189A. Debentures other than debentures with interest coupons

The following provisions shall apply to debentures other than debentures with interest coupons under this Act—

S. 189A(a)
repealed by
No. 13/1987
s. 23.

* * * * *

S. 189A(b)
amended by
Nos 10187
s. 42(f),
86/1986 s. 43,
repealed by
No. 13/1987
s. 23.

* * * * *

- (c) every debenture shall pass by delivery and without any assignment or endorsement;
- (d) the bearer of every debenture shall have the same rights as if he were expressly named as payee therein;
- (e) no interest shall be payable in respect of any debenture except to the holder of the debenture in accordance with the registered interest instruction;
- (f) the bearer of every debenture shall be entitled to have registered the manner in which interest payable on the debenture is to be made only by the bearer presenting or

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s. 190

- causing to be presented the debenture at the office of the Board in Melbourne or elsewhere at the discretion of the Board;
- (g) the Board shall cause the register to be closed for the registration of an instruction of the manner in which interest payable is to be made on debentures for a period of fourteen days next before any of the days on which interest is payable and subject to paragraph (h) shall cause the amount of the interest payable to be paid in accordance with the interest instruction registered at the closure of the register;
- (h) the principal and interest secured by any debenture may be made payable in Melbourne or elsewhere at the discretion of the Board.

190. Power to invest in debentures of Board

Any corporate body may invest any portion of the funds or moneys in their control in the purchase of any debentures issued by the Melbourne and Metropolitan Board of Works pursuant to this Act or any corresponding previous enactment and every such purchase shall be deemed a due investment of any such funds or moneys.

No. 3731
s. 194.

S. 190
amended by
Nos 9204 s. 3,
86/1986 s. 43,
29/1988
s. 57(12),
94/1990
s. 40(9).

191. Register of debentures

The Board shall keep or cause to be kept in one or more books a register of debentures issued by the Board under this Act, and within a reasonable time after the date of any debenture shall cause to be made an entry in the register specifying the number date and amount of the debenture, and the register may be inspected at all reasonable times by any person. Such register shall be evidence of any matters required or authorized by this Act to be inserted therein.

No. 3731
s. 195.

S. 191
amended by
Nos 13/1987
s. 23, 31/1987
s. 11(a).

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Act No. 6310/1958

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s. 192

No. 3731
s. 196.
S. 192
amended by
Nos 7315
s. 3(Sch. 1
Pt B), 31/1987
s. 11(b).

192. Copies to be supplied

Any person shall be entitled to obtain from the Board copies or extracts certified by the officer in whose custody the register is kept to be true copies or extracts of such register and any copy or extract so certified shall be admissible in evidence as proof of the original register of or from which it purports to be a copy or extract.

No. 3731
s. 197.
S. 193
amended by
No. 9558
s. 14(b)(i).

193. Notice of trust not receivable

S. 193(1)
amended by
No. 13/1987
s. 23.

(1) Subject to sub-section (2), no notice of any trust expressed implied or constructive shall be received by the Board or by any officer of the same in relation to any debenture issued under this Act or security issued under the **Borrowing and Investment Powers Act 1987**.

S. 193(2)
inserted by
No. 9558
s. 14(b)(ii).

(2) The Board may receive applications and dealings in the name of trustees appointed and acting as such pursuant to an Act of the Parliament of Victoria or of the Commonwealth or any other State of Australia.

No. 3731
s. 198.
S. 194
amended by
No. 13/1987
s. 23.

194. Owners of securities not responsible for application of moneys

A person advancing money to the Board and receiving in consideration of such advance any debenture issued under this Act or security issued under the **Borrowing and Investment Powers Act 1987** shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or mis-application thereof.

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s. 195

195. Duplicate debentures

If the Board is satisfied, by affidavit or otherwise, that any debenture issued by the Board under this Act has been lost or destroyed before repayment, the Board may issue a substitute debenture and may require the person to whom it is issued to give security to the Board to indemnify the Board against any double payment if the first-mentioned debenture is presented for payment.

No. 3731
s. 199.
S. 195
amended by
Nos 9277 s. 9,
110/1986
s. 140(2),
substituted by
No. 13/1987
s. 23.

196. Regulations relating to debentures and inscribed stock

The Board may, with the approval of the Governor in Council, make regulations with respect to—

- (a) the rights attached to debentures and inscribed stock issued under this Act;
- (b) the keeping of registers of such debentures and inscribed stock;
- (c) the sale and transfer of such debentures and inscribed stock;
- (d) the conversion of such debentures into inscribed stock and the issue of such inscribed stock;
- (e) the issue of debentures for inscribed stock issued under this Act.

No. 3731
s. 200.
S. 196
amended by
Nos 6536
s. 22, 9235
s. 13,
substituted by
No. 13/1987
s. 23.

196AA. Dispensing with probate on certain stock transmissions

- (1) Where a person dies leaving inscribed stock issued by the Board pursuant to the Regulations not exceeding an amount of \$10 000 the Board or an officer authorized in that behalf by the Board may notwithstanding any rule of law or practice to the contrary authorize the transmission of that stock to such person as the Board or that officer thinks fit.

S. 196AA
inserted by
No. 8071 s. 5.

S. 196AA(1)
amended by
No. 9558
s. 14(c).

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s. 196A

- (2) No person shall have any claim against the Board or an officer authorized by the Board in that behalf in respect of any transmission of stock pursuant to this section but nothing in this section shall relieve the person to whom the stock is transmitted from any liability to account for or to deal with the stock in accordance with law.

S. 196A
inserted by
No. 6876 s. 2.

196A. Guarantee of debentures and stock by Government of Victoria

- (1) The due repayment of the principal sums and the payment of interest secured on any debentures or stock issued by the Board under this Act after the commencement of the **Melbourne and Metropolitan Board of Works (Government Guarantee) Act 1962** is hereby guaranteed by the Government of Victoria.
- (2) Any sums required by the Treasurer of Victoria for fulfilling the guarantee given by this Act in respect of any debentures or stock shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) and any sums received or recovered by the said Treasurer from the Board or otherwise in respect of any sum so paid by the said Treasurer shall be paid into the Consolidated Fund.

S. 196A(2)
amended by
No. 86/1986
s. 43.

197. Receiver may be appointed in certain cases

If at the expiration of three months from the time when any principal money or interest has become due on any debenture or on any inscribed stock issued, or other secured financial accommodation obtained under this Act or the **Borrowing and Investment Powers Act 1987** and after demand in writing the same is not paid, the holder thereof or person entitled to amounts payable as a result of or in connection with the financial accommodation may without prejudice to any other mode of recovery apply to the Supreme

No. 3731
s. 201.
S. 197
amended by
Nos 110/1986
s. 140(2),
13/1987 s. 23,
110/1997
s. 6(7).

Melbourne and Metropolitan Board of Works Act 1958
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s. 198

Court for the appointment of a receiver, and subject to the provisions of section sixty-four of this Act, the said court may after hearing the parties appoint as receiver some person or persons to collect and receive the whole or a competent part of the funds rents fines or other property of the Board upon which the principal money or interest mentioned in such debenture or inscribed stock or financial accommodation is charged until such principal or interest or both (as the case may be) together with the costs of the application and of collection are fully paid.

198. Receiver an officer of court etc.

Every such receiver shall be deemed an officer of and shall act under the direction of the Supreme Court.

The Supreme Court may from time to time remove any such receiver, and on the death or removal of any such receiver may appoint some other person in his place.

Such receiver shall be entitled to receive the whole or such competent part of the funds rents fines or other property of the Board as aforesaid, and to be paid such commission as remuneration for his services as the Supreme Court appoints.

Every receiver appointed under this Part shall hold all such moneys received by him, after payment of costs and expenses of collection and of his commission, in trust for the purpose of paying to all holders of debentures or inscribed stock issued by the Board any moneys secured thereby and owing to them according to their respective priorities and subject thereto for the Board.

No. 3731
s. 202.

S. 198
amended by
Nos 110/1986
s. 140(2),
110/1997
s. 6(7).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part V—Borrowing Powers28F

s. 199A

S. 199
amended by
Nos 6430
s. 2(2) (as
amended by
No. 6489 s. 4),
6635 s. 3, 6895
s. 3, 7247 s. 3,
7699 s. 3, 8164
s. 4(b), 8650
s. 10, 9030
s. 2, 9277 s. 5,
9558 s. 14(d),
10187 s. 33,
repealed by
No. 13/1987
s. 23.

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S. 199A
inserted by
No. 9558
s. 14(e).

199A. Board may obtain additional accommodation where approved by the Treasurer

S. 199A(1)
repealed by
No. 13/1987
s. 23.

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S. 199A(2)
amended by
No. 13/1987
s. 23.

- (2) The due repayment or satisfaction of any advance or financial accommodation obtained pursuant to this section or section 199 before the commencement of section 23 of the **Borrowing and Investment Powers Act 1987** and the due payment of any interest or other charges payable in relation thereto is guaranteed by the Government of Victoria.

No. 6114 s. 4.

200. Power to Treasurer to make advances to the Board

- (1) The Treasurer of Victoria may out of moneys standing to the credit of the Loan Fund from time to time make advances by way of loan to the Board.
- (2) The capital liability of the Board to the State in respect of moneys advanced under sub-section (1) of this section shall be determined by the Treasurer of Victoria having regard to any

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s. 200

discounts or expenses incurred by the State in the provision of loan funds for the purposes of such advances.

- (3) The Board shall pay to the Treasurer of Victoria such sums as the Treasurer requires in order to provide for the payment of interest and contributions to the National Debt Sinking Fund in respect of moneys advanced to the Board from the Loan Fund under this section.
- (4) Any money advanced by the Treasurer of Victoria to the Board pursuant to this section shall not be deemed to be money borrowed by the Board pursuant to section one hundred and eighty-seven of this Act and shall not affect or limit the amount which may be borrowed pursuant to that section.

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S. 200A
inserted by
No. 13/1987
s. 23,
repealed by
No. 54/1992
s. 55(1).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VI—Other Works

s. 201

PART VI—OTHER WORKS

Division 1—Introductory

No. 5982 s. 3.
S. 201
amended by
Nos 6536
s. 21, 7778
s. 19(a)(b),
8573 s. 5, 9549
s. 2(1)(Sch.
item 120),
substituted by
No. 10187
s. 34.

201. Metropolitan area

(1) In this Part "**metropolitan area**" means the area described in the Third Schedule and any other area which the Governor in Council declares pursuant to this section to be added to the metropolitan area but does not include any area which the Governor in Council declares pursuant to this section to be excised from the metropolitan area.

(2) The Governor in Council may from time to time by Order published in the Government Gazette—

S. 201(2)(a)
amended by
No. 54/1992
s. 51(2).

(a) declare any area of land to be added to the metropolitan area for the purposes of this Part; or

(b) excise from the metropolitan area any area of land included in the metropolitan area for the time being.

Pt 6 Div. 2
(Heading and
ss 202–212)
amended by
No. 7778
ss 20, 21,
repealed by
No. 8573 s. 6.

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Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VI—Other Works

s. 213

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Pt 6 Div. 3
(Heading and
ss 213–217)
amended by
Nos 7411 s. 6,
8071 s. 6(a)(b),
8573 ss 7–9,
9212 s. 2(2),
9549
s. 2(1)(Sch.
items 120,
121), 9558
s. 19(q), 9824
ss 25, 26,
34(g), 9999
s. 13(a)(b),
10187
ss 35(a)(b),
36–38, 39(2),
45/1987
s. 205(Sch.
item 89),
12/1989
s. 4(1)(Sch. 2
items 77.43,
77.44),
81/1989
s. 3(Sch.
items 34.9,
34.10),
repealed by
No. 121/1994
s. 203(1).³¹

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Pt 6 Div. 3A
(Heading and
ss 217A,
217B)
inserted by
No. 8071
s. 7(a),
amended by
Nos 9921
s. 255, 44/1989
s. 41(Sch. 2
item 27.7),
repealed by
No. 121/1994
s. 203(1).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VI—Other Works

s. 219

Division 4—Financial

S. 218
amended by
Nos 6536
s. 24(2)(g)(i)(ii),
7893 s. 9, 8574
s. 2(1)(d)(e),
8650 s. 11,
9235 s. 14,
9549
s. 2(1)(Sch.
item 120),
9558 s. 15,
9735 s. 5(a)(b),
45/1987
s. 205(Sch.
item 90),
12/1989
s. 4(1)(Sch. 2
items 77.45–
77.47),
repealed by
No. 121/1994
s. 203(2).³²

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No. 5982 s. 21.

219. Metropolitan Improvement Fund

- (1) The Board shall keep a fund to be known as the "Metropolitan Improvement Fund".
- (2) Into the said Fund shall be paid—

S. 219(2)(a)
repealed by
No. 110/1997
s. 7(3).

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S. 219(2)(b)
amended by
Nos 9549
s. 2(1)(Sch.
item 120),
13/1987 s. 23,
45/1987
s. 205(Sch.
item 90).

(b) any other moneys received by the Board under this Part or under the **Borrowing and Investment Powers Act 1987** for the purposes of this Part or under the **Planning and Environment Act 1987**.

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Part VI—Other Works

s. 219

(3) The Fund shall be applied for and towards—

(a) the payment of any moneys by the Board under this Part or the **Planning and Environment Act 1987**;

S. 219(3)(a) amended by Nos 9549 s. 2(1)(Sch. item 120), 45/1987 s. 205(Sch. item 90).

(b) the repayment of moneys borrowed by or advanced to the Board under this Part and the payment of amounts payable as a result of or in connection with financial accommodation obtained by the Board for the purposes of this Part in accordance with powers conferred on the Board by the **Borrowing and Investment Powers Act 1987** (including the payment of expenses of enforcement); and

S. 219(3)(b) substituted by No. 13/1987 s. 23.

(c) the making of any payment required to be made by a direction given by the Treasurer under section 153(1) of the **Water Industry Act 1994**.

S. 219(3)(c) inserted by No. 8071 s. 7(b), amended by No. 9921 s. 255, substituted by No. 121/1994 s. 203(3).

(4) There shall be paid from the Metropolitan Improvement Fund to the Treasurer once in each year such amount as the Treasurer after consulting with the Minister determines should be contributed from the Fund towards the costs of metropolitan planning and the Treasurer shall include in the Annual Budget Papers for Victoria a statement setting out the amount of money paid to the Treasurer under this sub-section and the allocation of that money in the preceding financial year.

S. 219(4) inserted by No. 10187 s. 32(a).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VI—Other Works

s. 220

No. 5982 s. 22.

S. 220
amended by
Nos 9549
s. 2(1)(Sch.
item 120),
10187 s. 32(b),
substituted by
No. 13/1987
s. 23.

220. Financial accommodation

S. 220(1)
amended by
No. 110/1997
s. 7(4)(a).

(1) The Board may obtain financial accommodation for the purposes of this Part in accordance with the powers conferred on it by the **Borrowing and Investment Powers Act 1987** and the payment of amounts payable as a result of or in connection with financial accommodation obtained by the Board (including the expenses of enforcement) shall be secured on the credit of the Metropolitan Improvement Fund.

S. 220(2)
amended by
No. 110/1997
s. 7(4)(b).

(2) Any moneys borrowed by the Board before the commencement of section 23 of the **Borrowing and Investment Powers Act 1987** on the credit of the Fund referred to in sub-section (1) remain so secured.

No. 5892 s. 23.

221. Government loans

S. 221(1)
amended by
Nos 9549
s. 2(1)(Sch.
item 120),
10187 s. 32(b),
13/1987 s. 23.

(1) The Treasurer of Victoria may out of moneys standing to the credit of the Loan Fund make advances by way of loan to the Board.

(2) The capital liability of the Board to the State in respect of moneys advanced under this section shall be determined by the Treasurer of Victoria having regard to any discounts or expenses incurred by the State in the provision of loan funds for the purpose of such advances.

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VI—Other Works

s. 222

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S. 222
substituted by
No. 13/1987
s. 23,
repealed by
No. 54/1992
s. 55(2).

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S. 223
repealed by
No. 13/1987
s. 23.

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Pt 6 Div. 5
(Heading and
ss 224–226)
amended by
Nos 6536
s. 21(c), 7778
s. 22, 8573
ss 10, 11,
12/1989
s. 4(1)(Sch. 2
items 77.48–
77.50),
36/1989 s. (2),
repealed by
No. 121/1994
s. 03(1).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VII—Contributions by Board

s. 229

PART VII—CONTRIBUTIONS BY BOARD

S. 227
amended by
Nos 7778
s. 23(1)(2)(a)
(b), 8164
s. 5(a)(b), 8943
s. 2(a)(b),
repealed by
No. 9558 s. 16.

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S. 228
amended by
No. 7778 s. 24,
repealed by
No. 9558 s. 16.

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Nos 5257 s. 4,
6060 s. 4.

229. Board to maintain certain roads in shires of Corio and Werribee

(1) The Board shall maintain at its own expense any road or portion of a road within the municipal districts respectively of the shires of Corio and Werribee where land (other than land deemed by the next succeeding sub-section to be rateable property) owned by the Board abuts on both sides of the road or the portion of the road.

S. 229(2)
amended by
Nos 9549
s. 2(1)(Sch.
item 122),
12/1989
s. 4(1)(Sch. 2
item 77.51),
36/1989
s. 9(2).

(2) Land vested in the Board which abuts on any road in the municipal district of the shire of Corio or the shire of Werribee and upon which the Board has erected a group of houses in the nature of a township for the occupation of any of its officers or employees shall be deemed to be land vested in fee in the Board which is occupied for private purposes and rateable land accordingly under section 154 of the **Local Government Act 1989**.

S. 230
repealed by
No. 9558 s. 16.

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Part VIII—Acquisition Sales and Leases of Land^{32F}

s. 231

PART VIII—ACQUISITION SALES AND LEASES OF LAND³³

231. Power to Board to purchase or lease lands for purposes of this Act

No. 3731
s. 205.
S. 231
amended by
No. 121/1986
s. 112.

The Board may purchase by agreement or acquire compulsorily or take on lease for any term it thinks fit any land for the purposes of this Act³⁴.

The Board may contract for the purchase removal or abatement of any mill-dam pound weir bank wall lock or other obstruction to the flow of water, and for the purchase of any land or any right or easement in or over any land which it is necessary or expedient to purchase, and may purchase or take on lease as aforesaid the whole or part of any streams or springs of water or any rights therein which it appears to the Board necessary to acquire and use for the purposes of this Act.

231A. Power of Board to acquire land liable to flooding

S. 231A
inserted by
No. 81/1989
s. 3(Sch.
item 34.11).

The Board may acquire compulsorily, purchase, lease or hold any land, any part of which is within an area liable to flooding by any river or group of rivers, and may lease, grant licences for, exchange or sell any such land held by it.

232. Consent of Governor in Council required before compulsory acquisition

S. 232
amended by
No. 6536 s. 23,
substituted by
Nos 8164 s. 6,
121/1986
s. 112.

The Board must obtain the consent of the Governor in Council before acquiring any land compulsorily.

232A. Statutory easements

S. 232A
inserted by
No. 8650 s. 12.

Where any right in the nature of an easement or purporting to be an easement or an irrevocable licence is or has been acquired by the Board (whether before or after the commencement of the **Melbourne and Metropolitan Board of Works (Amendment) Act 1974**) the right shall be

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VIII—Acquisition Sales and Leases of Land^{32F}

s. 233

deemed for all purposes to be and to have been an easement, notwithstanding that there is no land vested in the Board which is in fact benefited or capable of being benefited by the right.

No. 3731
s. 207.
S. 233
amended by
Nos 7893
s. 10, 9999
s. 14.

233. Power to dispose of purchased lands and property not wanted

The Board may sell and dispose of or exchange any land purchased or acquired by it under this Act or vested in it by an Order made under section 3(6)(a) of this Act or any corresponding previous enactment which may appear to it proper to sell or dispose of; and for completing and carrying any such sale or exchange into effect the Board may make and execute a conveyance of the land so sold and disposed of or exchanged as aforesaid unto the purchaser or as he directs.

Such conveyance shall be under the seal of the Board and a receipt under the seal of the Board shall be a sufficient discharge to the purchaser of any such land for the purchase money in such receipt expressed to be received.

Except where the contrary is expressly provided the Board may let any land purchased or acquired by it under this Act or vested in it by an Order made under section 3(6)(a) of this Act or any corresponding previous enactment and which for the time being is not required for the purposes thereof in such manner and on such terms as the Board thinks fit.

No. 3731
s. 208.

234. Owners of land may on sale reserve a right of pre-emption

Where any land or any right or easement in or over land is purchased by the Board the owners of or persons entitled to sell or convey such land right or easement may reserve upon the sale thereof to the Board in and by the conveyance

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part VIII—Acquisition Sales and Leases of Land^{32F}

s. 235

such right of pre-emption to the person entitled for the time being to the land (if any) from which the land so purchased was severed or in or over which such right or easement is granted as such owners or parties prescribe but except where such right of pre-emption is so reserved there shall be no such right.

235. Board may make leases for twenty-one years

No. 3731
s. 209.

S. 235
amended by
No. 9999 s. 15.

Except where the contrary is expressly provided the Board may from time to time with the consent of the Governor in Council demise all or any part of the lands vested in it under this Act (except for any land vested in it by an Order made under section 3(6)(a) of this Act) or any corresponding previous enactment for any term of years not exceeding twenty-one years to take effect in possession or within six months from the making of the demise at the best yearly rents that can be reasonably obtained by auction or tender without taking anything in the nature of a fine or premium so that there be contained in every such demise a condition for re-entry for non-payment of rent and so that the lessees covenant for the due payment of the rent reserved and for the delivery up to the Board at the end or sooner determination of the term of the lands and hereditaments demised with all buildings and improvements erected thereon in good order and condition.

236. Board may grant building and improving leases of land

No. 3731
s. 210.

Except where the contrary is expressly provided the Board may also from time to time with the consent of the Governor in Council demise all or any part of the said lands upon building or improving leases for any term of years not exceeding thirty years unless the Governor in Council gives his authority to make a demise for a

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Act No. 6310/1958

Part VIII—Acquisition Sales and Leases of Land^{32F}

s. 237

longer term but such term shall not in any case exceed forty years to take effect in possession or within six months from the making of the demise at the best rent which can be reasonably obtained by auction or tender taking into consideration the money to be expended in building or improvement so that there be contained in every such demise a condition for re-entry for non-payment of rent and also that the lessees covenant for the due payment of the rent reserved and for delivery up to the Board at the end or sooner determination of the term of the lands and hereditaments demised together with all buildings and improvements erected thereon in good order and condition.

No. 3731
s. 211.
S. 237
amended by
No. 7228
s. 7(Sch. 4
Pt 24(a)),
substituted by
No. 121/1986
s. 112.

237. Land Acquisition and Compensation Act 1986 to apply

The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—

- (a) the **Melbourne and Metropolitan Board of Works Act 1958** is the special Act; and
- (b) the Melbourne and Metropolitan Board of Works is the Authority.

S. 238
amended by
No. 8181
s. 2(1)(Sch.
item 138),
repealed by
No. 8432 (Sch.
item 7),
new s. 238
inserted by
No. 10187
s. 39(1).

238. Board may be committee of management

- (1) The Governor in Council may subject to and in accordance with the provisions of section 14 of the **Crown Land (Reserves) Act 1978** appoint the Board to be a committee of management of any land referred to in that section.
- (2) The Governor in Council may subject to and in accordance with the provisions of section 18 of the **Crown Land (Reserves) Act 1978** place any land temporarily or permanently reserved under section 4 of that Act under the control of the Board.

PART IX—MISCELLANEOUS³⁵

Division 1—General

Pt 9 Div. 1
(Heading)
inserted by
No. 8071
s. 8(c).

239. Public lands exempt from rates and charges

Except as is otherwise expressly enacted, neither the Board nor any council shall by virtue of this Act or any Act incorporated therewith have power or authority to make levy receive or recover any rates tariffs charges costs or expenses whatever on or in respect of any land tenement or property which is vested in and is in the occupation of the Crown or of Rail Track or of the Minister administering the **Education Act 1958** or which while so vested is not in such occupation but is used for public purposes, other than any land, tenement or property vested in or owned by a declared public statutory authority (within the meaning of section 280A(3)) that is not used exclusively as public open space or as a park.

Nos 3731
s. 213,
5387 s. 2.
S. 239
substituted by
No. 6536
s. 24(1),
amended by
Nos 7228
s. 7(Sch. 4
Pt 24(b)), 9019
s. 2(1)(Sch.
item 152),
9902
s. 2(1)(Sch.
item 163),
9921 s. 255,
86/1986 s. 43,
12/1989
s. 4(1)(Sch. 2
item 77.52),
44/1989
s. 41(Sch. 2
item 27.8),
45/1997
s. 18(1),
110/1997
s. 11(2)(a)(b),
46/1998
s. 7(Sch. 1),
54/2001
s. 41(5).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Part IX—Miscellaneous34F

s. 239D

S. 239A
inserted by
No. 6536
s. 24(1),
amended by
Nos 9235
s. 15, 12/1989
s. 4(1)(Sch. 2
item 77.53),
45/1997
s. 18(2),
repealed by
No. 110/1997
s. 6(8).

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S. 239B
inserted by
No. 6536
s. 24(1),
amended by
Nos 9735 s. 6,
12/1989
s. 4(1)(Sch. 2
items 77.54–
77.58),
65/1995
s. 26(1)(2),
repealed by
No. 110/1997
s. 6(8).

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S. 239C
inserted by
No. 6536
s. 24(1),
amended by
Nos 9235
s. 16, 9558
s. 17(a),
repealed by
No. 110/1997
s. 6(8).

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S. 239D
inserted by
No. 6536
s. 24(1),
amended by
Nos 9558
s. 17(b),
110/1997
s. 11(3).

239D. Fees under tariffs and charges

Without affecting in any way the liability to pay any fees under tariffs, charges costs or expenses due to the Board under this Act or any other Act by the owner or occupier of any lands or tenements all such fees under tariffs, charges costs and expenses which are due and unpaid shall until

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Act No. 6310/1958

Part IX—Miscellaneous34F

s. 239DA

paid be and remain a charge upon such lands or tenements.

239DA. Transitional provision (1997 Amendments)

S. 239DA
inserted by
No. 110/1997
s. 8.

- (1) Rates made and levied in accordance with Part II or III in respect of the 1997–1998 financial year before the commencement of section 8 of the **Water Acts (Further Amendment) Act 1997** have effect on and after that commencement, except for the purposes of sub-section (6), as if they had been made and levied—
 - (a) in respect of the period commencing on 1 July 1997 and ending on 31 December 1997; and
 - (b) for an amount equal to the amount or amounts due and payable at any time before 31 December 1997 in respect of the period referred to in paragraph (a).
- (2) The Board must refund any amount of rates to which sub-section (1) applies paid in excess of the amount due in accordance with that sub-section in respect of the period commencing on 1 July 1997.
- (3) Subject to sub-section (4), the repeal by sections 4 to 7 of the **Water Acts (Further Amendment) Act 1997** of a provision of this Act does not affect—
 - (a) any liability to pay a rate made and levied under Part II or III before that repeal; or
 - (b) any right or power relating to the remission, excusing or deferral of the obligation to pay a rate so made and levied; or

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Part IX—Miscellaneous34F

s. 239DA

(c) any other obligation, right or power of any person relating to the payment, collection, recovery or receipt of any rate so made and levied—

and any such liability, right, power or obligation continues and may be enforced or exercised as if that provision had not been repealed.

- (4) Section 239EA has effect in relation to the water rate or the Metropolitan General Rate made and levied in respect of the 1997–1998 financial year as if in sub-section (4)(a) of that section a reference to \$33.75 were substituted for any reference to \$67.50 or \$67.50 per annum.
- (5) The provisions of sub-section (3) are in addition to, and not in derogation from, the provisions of the **Interpretation of Legislation Act 1984**.
- (6) If under its licence a retail licensee determines the amount of a usage charge in respect of water supplied before 1 January 1998 by reference to the amount of a rate made and levied under Part II in respect of the 1997–1998 financial year, then for this purpose the amount of that rate must be taken to be the amount that bears the same proportion to the amount for which that rate was made and levied in respect of that whole financial year as the water allowance period bears to that whole financial year.
- (7) In sub-section (6)—
- "licence"** and **"usage charge"** have the same meaning as in the **Water Industry Act 1994**;
- "water allowance period"**, in relation to a property, means the period commencing on the day on which the usage charge relating to that property was first imposed by reference to the amount of the rate made and levied

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Part IX—Miscellaneous34F

s. 239E

under Part II in respect of the 1997–1998 financial year and ending on 31 December 1997.

239E. Remission etc. of payment of fees under a tariff

The Board may from time to time upon the application of any person who is liable to the payment of any fee under a tariff, charge, cost or expense and who in the opinion of the Board is in necessitous circumstances or is a member of a class of persons specified for the purposes of this section in by-laws made by the Board—

- (i) remit or excuse the payment of the fee under a tariff charge, cost or expense or any part thereof or the interest or any part of the interest thereon; or
- (ii) defer the payment of the fee under a tariff charge, cost or expense or any part thereof and the interest thereon for such time as the Board thinks fit but so that the amount unpaid and the interest thereon shall subject to this Act remain a charge on the property.

S. 239E inserted by No. 6536 s. 24(1), amended by Nos 31/1987 s. 12(a), 54/1992 s. 55(3), 110/1997 s. 11(4).

S. 239E(i) amended by Nos 31/1987 s. 12(b), 110/1997 s. 11(4).

S. 239E(ii) amended by Nos 31/1987 s. 12(b), 110/1997 s. 11(4).

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S. 239EA inserted by No. 8794 s. 2, amended by Nos 8893 ss 2(1)(c), 5(a)–(c), 9385 s. 2(a), 9558 s. 19(r), 9684 s. 2(1)(2)(a)–(c)(3)(4)(a)(b), 9824 s. 34(g), 109/1986 s. 6(Sch. item 5) (as amended by No. 48/1987 s. 4(k)(v)(vi)), repealed by No. 110/1997 s. 6(9).

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Act No. 6310/1958

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s. 239F

S. 239EAA
inserted by
No. 10119 s. 4,
amended by
No. 109/1986
s. 6(Sch.
item 5),
repealed by
No. 110/1997
s. 6(9).

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S. 239EAB
inserted by
No. 10119 s. 4,
repealed by
No. 110/1997
s. 6(9).

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S. 239EB
inserted by
No. 9235 s. 17,
amended by
Nos 45/1987
s. 205(Sch.
item 91),
53/1988
s. 45(Sch. 3
item 56) (as
amended by
No. 47/1989
s. 23),
repealed by
No. 110/1997
s. 6(9).

* * * * *

S. 239F
inserted by
No. 7778 s. 25.

239F. Certificate of fees under tariffs

S. 239F(1)
amended by
Nos 8650
s. 13, 9235
s. 18(a), 9824
s. 27, 65/1995
s. 27(a),
110/1997
s. 11(5).

- (1) Any person may upon payment of the prescribed fee which shall not exceed \$10 make application to the General Manager for a certificate giving particulars of the fees under tariffs and other moneys due and payable to the Board under Part X in respect of any property.
- (2) Every such application shall be in writing stating the name and address of the person making the application and particulars of the property in respect of which the information is required.

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- (3) Upon receipt of the application and payment of the fee the General Manager shall forthwith procure and give to or send by post to the person so applying a certificate signed by him or by some other person authorized by the Board in that behalf. **S. 239F(3) amended by No. 9824 s. 27.**
- (4) Where the property is chargeable with fees under tariffs or other moneys and interest under Part X every such certificate shall state—
- (i) what fees under tariffs and other moneys and interest under Part X (if any) are due and payable to the Board in respect of the property; **S. 239F(4)(i) amended by Nos 65/1995 s. 27(b), 110/1997 s. 11(5).**
 - (ii) particulars of the fees under tariffs and other moneys and interest; and **S. 239F(4)(ii) amended by No. 110/1997 s. 11(5).**
 - (iii) when the fees under tariffs or other moneys became due or payable or that no such fees under tariffs or other moneys are due and payable. **S. 239F(4)(iii) amended by No. 110/1997 s. 11(5).**
- (5) The production of such a certificate shall for all purposes whatsoever be deemed conclusive proof that at the date thereof no fees under tariffs or other moneys were due and payable to the Board under Part X other than those stated in the certificate in respect of the property. **S. 239F(5) amended by Nos 65/1995 s. 27(c), 110/1997 s. 11(5).**
- * * * * *
- S. 239F(6) inserted by No. 8531 s. 14(3), repealed by No. 65/1995 s. 27(d).**

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S. 239F(7)
inserted by
No. 9235
s. 18(b).

- (7) For the purposes of this section "**the prescribed fee**" means such fee as is prescribed by regulation of the Board and the Board is hereby empowered to make such regulation.

S. 239G
inserted by
No. 9573 s. 37.

239G. Encumbrance statement

S. 239G(1)
amended by
Nos 9824
s. 27, 9902
s. 2(1)(Sch.
item 164).

- (1) Any person may upon payment of the prescribed fee make application to the General Manager for a statement giving particulars of the following in relation to any property referred to in sub-section (4) hereof arising from the exercise by the Board of any of its powers duties functions or responsibilities under any Act under which the Board operates:

- (a) Any encumbrance affecting any property (not being an encumbrance such as would be disclosed by search at the Office of Titles or at the Office of the Registrar-General or not being a matter provided for by a certificate under section 239F);
- (b) What works (if any) or what matters (if any) require to be carried out or remain outstanding by virtue of or related to the Board's exercise of its functions and powers under Parts II, III and X and in respect of which the Board has served any notice order or direction or entered into any agreement under this Act;
- (c) Any matter or thing arising from the Board's powers duties and responsibilities under Division 6 of Part 10 of the **Water Act 1989**.

S. 239G(1)(c)
amended by
No. 81/1989
s. 3(Sch.
item 34.12).

- (2) In addition to the foregoing matters the Board may include in such statement any such information concerning the land the subject of the

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application which the Board in its absolute discretion deems relevant.

- (3) The Board shall not incur any liability in respect of any information included in a statement in good faith pursuant to sub-section (2).
- (4) Every such application shall be in writing on the prescribed form and shall state the name and address of the person making the application and particulars of the property in respect of which the information is required.
- (5) Upon receipt of the application and payment of the fee the General Manager shall procure and give to or send by post to the person so applying a statement signed by him or by some other person authorized by the Board in that behalf.
- (6) For the purposes of this section "**the prescribed fee**" means such fee as is prescribed by regulation of the Board and the Board is hereby empowered to make such regulation.

S. 239G(5)
amended by
No. 9824 s. 27.

239GA. Special meter readings

- (1) Any person may upon payment of the prescribed fee make application to the General Manager for a statement giving particulars of the volume of water supplied by measure by the Board to specified premises from the day of the last normal reading of the water supply meter up to the day indicated in the application or a day as close as possible to the date of the application, whichever is applicable.
- (2) Every such application shall be in writing in the prescribed form and shall state the name and address of the person making the application and particulars of the premises in respect of which the information is required.

S. 239GA
inserted by
No. 9824 s. 28.

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(3) Upon receipt of the application and payment of the prescribed fee the General Manager shall cause a special visit to be made to the premises for reading the water supply meter at the premises and the applicant to be advised in writing of the volume of the water supplied by measure to the premises from the day of the last normal reading of the meter up to the day of the special reading of the meter.

S. 239GA(4)
amended by
No. 86/1986
s. 43.

(4) For the purposes of this section the "**prescribed fee**" means such fee as is prescribed by regulation of the Board and the Board is hereby empowered to make such regulation.

No. 3731
s. 214.

240. Lands etc. vested in Board to be free from municipal rates

S. 240
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 77.59,
77.60).

The water supply works the sewerage works and all property vested in the Board shall be exempt from any rate or tax which but for this section any council might have imposed or levied thereon; but nothing herein shall preclude any council from levying and collecting rates upon tenements erected on any land vested in the Board occupied for private purposes and by persons other than the Board.

S. 240A
inserted by
No. 8650 s. 14,
amended by
Nos 9558
s. 19(s), 9824
s. 34(g),
substituted by
No. 9999 s. 16.

240A. General by-law making powers

(1) The Board may make by-laws for or with respect to any matter or thing which is necessary or convenient for carrying this Act into effect, including—

- (a) the prevention and removal of nuisances on lands, waters and works owned by, vested in, or under the control and management of the Board;
- (b) the protection of all and every part of any undertaking of the Board from trespass or injury;

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- (c) prohibiting or regulating the use of vehicles on lands and works owned by, vested in, or under the control and management of the Board;
 - (d) prohibiting or regulating traffic or any class or classes of traffic on lands, water and works owned by, vested in, or under the control and management of the Board; and
 - (e) generally, the care and protection of all lands waters and works owned by, vested in, or under the control and management of the Board.
- (2) By-laws made under this section—
- (a) may be general or may be restricted in operation as to time, place, vehicles, traffic, persons or circumstances whether any such time, place, vehicle, traffic, person or circumstance is determined or ascertainable before, at or after the making of the by-laws; and
 - (b) may prescribe penalties not exceeding 10 penalty units for a breach of any of the by-laws.

241. By-laws etc. to be statutory rules

- (1) By-laws and regulations made under this Act, whether before, on or after the commencement of the **Subordinate Legislation Act 1994**, are deemed to be statutory rules within the meaning of the **Subordinate Legislation Act 1994**.

S. 241 amended by No. 6886 s. 3, substituted by No. 7411 s. 5(1).

S. 241(1) substituted by No. 104/1994 s. 35(Sch. 2 item 6).

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S. 241(2)
repealed by
No. 9235 s. 19,
new s. 241(2)
inserted by
No. 31/1987
s. 13.

(2) By-laws under this Act may prescribe a fee by reference to a number (whether whole or fractional) of charge units and that fee may be determined by multiplying the number of charge units by a number of units fixed by resolution of the Board.

S. 241(3)
repealed by
No. 9558
s. 17(c).

* * * * *

S. 241(4)
inserted by
No. 7893 s. 11.

(4) By-laws under this Act may prescribe the form of any notices or orders to be used for the purposes of this Act and any such form or any form to the like effect varied as the circumstances require shall be sufficient in law.

S. 241(5)
inserted by
No. 7893 s. 11.

(5) Every by-law made by the Board under this Act or continued in force by this Act shall, unless inconsistent with the context or subject-matter, extend throughout the metropolis as defined by or under this Act.

S. 242
amended by
Nos 6536
s. 25, 7411
s. 5(2),
repealed by
No. 8650
s. 16(2),
new s. 242
inserted by
No. 10187
s. 40,
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.61).

242. Board may enter into agreement with respect to management of land

The Board may enter into an agreement with any council or any public authority or any other body or person under which the council public authority or other body or person would maintain and manage on behalf of the Board any land vested in or owned by the Board under this Act.

S. 242A
inserted by
No. 10187
s. 40,
repealed by
No. 54/1992
s. 55(4).

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242B. Board may suggest amendment to planning instruments

The Board for the purpose of carrying out its functions under Part X of this Act or in relation to those functions may recommend to the Minister administering the **Planning and Environment Act 1987** that a planning scheme under that Act be amended in accordance with the recommendations of the Board.

S. 242B
inserted by
No. 10187
s. 40,
amended by
No. 45/1987
s. 205(Sch.
item 92).

242C. Board may prepare plans

The Board may prepare plans for the development of lands for or in relation to any of its purposes or functions under Part X.

S. 242C
inserted by
No. 10187
s. 40,
amended by
No. 121/1994
s. 204(1).

242D. Board may undertake investigations

- (1) For the purposes of sections 242B and 242C the Board may undertake such investigations, surveys, consultations and other actions as it thinks fit.
- (2) The costs of any action taken by the Board under sub-section (1) may be met from the Metropolitan General Fund or the Metropolitan Improvement Fund as the Board considers appropriate.

S. 242D
inserted by
No. 10187
s. 40.

243. Justices may act though interested in certain cases

No magistrate shall be disabled from acting in the due discharge and execution of his duties in any matter arising under this Act by reason only of his being a ratepayer or member of or interested in the concerns of any council or by reason of his being a ratepayer of any municipal district within the metropolis or interested in the concerns of the Board or as one of any other class of persons liable in common with the others to contribute to or be benefited by any rate or fund out of which any expenses under this Act are to be defrayed, but no magistrate shall be capable of acting in

No. 3731
s. 217.
S. 243
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 77.62),
57/1989
s. 3(Sch.
item 131.7).

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cases in which he is a member of the Board or of any council who or whose officer may be a party to any litigation.

No. 3731
s. 219.

244. Amends may be tendered for trespass before action brought

If any person has committed any irregularity trespass or other wrongful proceeding in the execution of this Act or any Act incorporated herewith or any corresponding previous enactment or by virtue of any power or authority given by this Act or such other Act or enactment as aforesaid, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action.

No. 3731
s. 221.

S. 245
amended by
Nos 8650
s. 3(5)(k), 9165
s. 34(1), 9824
s. 29(1), 10187
s. 42(g)(i)(ii),
86/1986 s. 43,
36/1989
s. 7(2).

245. Authentication of documents

Every order summons notice or other such document requiring authentication by the Board shall be sufficiently authenticated without the common seal of the Board if signed by the Chairperson or by the General Manager or a proper officer of the Board.

No. 3731
s. 222.

S. 246
amended by
Nos 9824
s. 29(1),
36/1989
s. 8(3).

246. Service of legal process on the Board

Any summons or notice or any writ or other proceeding requiring to be served upon the Board may be served by being given personally to the General Manager of the Board or by being left with some superior officer of the Board at the principal office of the Board.

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S. 247 substituted by No. 7778 s. 26, amended by Nos 8650 s. 15, 9235 s. 20, repealed by No. 121/1994 s. 204(2).

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S. 248 repealed by No. 121/1994 s. 204(2).

248A. Prescribed persons to give notice of disposition of land

S. 248A inserted by No. 7893 s. 12.

(1) A prescribed person must, in relation to the disposition of any land, give notice—

S. 248A(1) amended by No. 9078 s. 4(a)(i)–(iii), substituted by No. 8/1988 s. 7(1)(a).

(a) in a prescribed form containing prescribed particulars; and

(b) to prescribed persons; and

(c) within a prescribed period.

* * * * *

S. 248A(2) amended by Nos 9078 s. 4(b), 10087 s. 3(1)(Sch. 1 item 159), repealed by No. 8/1988 s. 7(2).

(3) This section shall be read and construed as in aid of and not in derogation from the provisions of section 248B.

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S. 248B
inserted by
No. 7893 s. 12,
amended by
Nos 9558
s. 17(d),
8/1988
s. 7(1)(b),
110/1997
s. 11(6).

248B. Former owner to remain liable for fees under tariffs etc.

Notwithstanding the disposal of any property in the metropolis the former owner thereof shall remain answerable to the Board for all fees under tariffs moneys and other liabilities which may accrue due by or be imposed upon the owner of the property as such before notice under section 248A is given in relation to that property but nothing in this section shall exonerate from any liability any person becoming the owner of any property.

No. 3731
s. 225.
S. 249
amended by
No. 9754 s. 9.

249. Members acting bona fide not personally liable

No matter or thing done and no contract entered into by the Board and no matter or thing done by any member or officer of the Board (including the General Manager of the Board) or by any other person whomsoever acting under the direction of the Board shall if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act subject them or any of them personally to any action liability claim or demand whatsoever.

Nothing in this section shall exempt any member of the Board from liability to be surcharged with the amount of any payment which is disallowed by the auditor or auditors in the accounts of the Board, and which such member authorized or joined in authorizing.

No. 3731
s. 226.
S. 250
amended by
Nos 7876
s. 2(3),
57/1989
s. 3(Sch. item
131.8(a)(b)).

250. Expenses and penalties recoverable before the Magistrates' Court

In every case in which it is by this Act provided or directed that the amount of any damage costs expenses or penalties shall be or may be ascertained or recovered in a summary way and in every case in which no method of ascertaining any

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such amount or of enforcing the payment thereof is provided, such amount in case of dispute shall or may (as the case may be) be ascertained and determined by and recovered before the Magistrates' Court.

251. Board may appear in court by General Manager etc.

The Board may appear before any court or in any legal proceeding by its General Manager or by some other officer appointed generally or in respect of any special proceeding by resolution of the Board or by the Chairperson of the Board in writing, and the General Manager or other officer so authorized shall be at liberty to institute and carry on any proceeding which the Board is authorized to institute and carry on under this Act.

No. 3731
s. 227.
S. 251
amended by
Nos 9824
s. 29(2),
86/1986 s. 43,
36/1989
s. 8(2).

252. Bankrupt debtors

If any person against whom the Board has any claim or demand under this Act or any Act incorporated herewith or any corresponding previous enactments take the benefit of any Act for the relief of bankrupt or insolvent debtors, the General Manager of the Board or some other officer appointed by the Board for such purpose in all proceedings against the estate of such bankrupt or insolvent or under any adjudication sequestration or act of bankruptcy or insolvency against such bankrupt or insolvent may represent the Board and act in its behalf in all respects.

No. 3731
s. 228.
S. 252
amended by
Nos 9824
s. 29(1), 10187
s. 42(h),
36/1989
s. 8(2).

253. Person violating Act or regulations of Board deemed guilty of an offence

Where anything is by this Act or by any by-law regulation direction order or notice of the Board made under the authority of this Act or of any Act incorporated herewith or any corresponding previous enactment directed to be done or

No. 3731
s. 229.
S. 253
amended by
Nos 9558
s. 19(t)(i)(ii),
9824 s. 34(f)(i)
(ii).

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forbidden to be done, or where any authority is given to the Board or any of its officers to direct or to forbid anything to be done, and such act so directed to be done remains undone or such act so forbidden to be done is done, in every such case the person making default as to such direction and prohibition respectively shall be deemed guilty of an offence against this Act.

Every person guilty of an offence against this Act not otherwise specially provided for by or under the authority hereof shall be liable for every such offence besides any costs or expenses which may be incurred in the taking of proceedings against such person guilty of such offence as well as any costs or expenses which may be incurred in remedying such default as particularly provided for in this Act to a penalty of not more than 10 penalty units and to a penalty of not more than 1 penalty unit for each day during which such offence is continued by such person, and such penalty shall be recoverable notwithstanding that the Board has not chosen to exercise any power given to it by this Act to remedy such default.

S. 253A
inserted by
No. 9999 s. 17.

253A. Offence to obstruct inspectors performing duties under this Act

- (1) A person who assaults, resists, obstructs, hinders or delays, or who incites or encourages any other person to assault, resist, obstruct, hinder or delay any inspector or proper officer of the Board in the performance of his duties shall be guilty of an offence against this Act and liable to a penalty of not more than 10 penalty units.
- (2) Where a person is convicted of an offence under sub-section (1) the Court may, in addition to any penalty imposed under sub-section (1), order and award against the person so convicted a sum sufficient to cover any damage which any

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inspector or proper officer of the Board sustained by such assault, resistance, obstruction, hindrance or delay and any sum so awarded may be recovered in the same manner as the penalty.

254. Application of penalties

All penalties imposed by this Act or by any Act incorporated herewith or under any by-law or regulation made under any of such Acts the recovery of which is not otherwise provided for shall be recovered in a summary way, and when recovered shall be paid to the Board.

Penalties recovered under Part VI shall be paid into the Metropolitan Improvement Fund and all other penalties shall be paid into the Metropolitan General Fund.

No. 3731
s. 230.
S. 254
amended by
No. 7778
s. 27(a)(b).

255. Penalties extended to persons causing offences

The penalties declared by this Act in the case of persons committing the offences mentioned herein are hereby extended and made applicable to all persons causing the commission of any such offences or by whose order or direction any such offences are committed or in whose employment and on whose behalf the person in fact committing the offence is acting.

No. 3731
s. 231.

256. In whose name information may be laid

In any proceedings for the recovery of penalties under this Act or under any Act incorporated herewith or any corresponding previous enactment or under any by-law or regulation made under any of such Acts or enactments the information or complaint, where not required to be made on oath, may be laid and made in the name of the Board and in any case may be laid and made by the General Manager or some officer of the Board appointed generally or in respect of any special proceeding or

No. 3731
s. 232.
S. 256
amended by
Nos 9824
s. 29(2),
36/1989
s. 8(2).

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by any person authorized by the Governor in Council or by any member of the police force.

No. 3731
s. 233.

S. 257
amended by
Nos 9824
s. 29(2),
36/1989
s. 8(2).

257. Officers to be reimbursed expenses

The General Manager or other officer appointed as last aforesaid shall out of the Metropolitan General Fund be reimbursed all damages costs charges and expenses to which he is put or with which he becomes chargeable by reason of anything contained in the last preceding section.

S. 257A
inserted by
No. 8650
s. 16(1),
amended by
Nos 9165
s. 34(2)(a)(b),
9558 s. 18(a)–
(c).

257A. Judicial notice of certain matters

S. 257A(1)
amended by
Nos 9754
s. 10(a)(b),
9824
s. 29(3)(a)(b),
10187
s. 42(i)(i)(ii),
86/1986 s. 43,
36/1989
s. 7(3)(a)(i)(ii).

(1) Judicial notice shall be taken of the signature of the Chairperson of the Board and of the General Manager of the Board and of any other officer of the Board and of the fact that they are the Chairperson General Manager or other officer.

S. 257A(2)
inserted by
No. 9558
s. 18(c),
amended by
Nos 9824
s. 29(3)(a)(c),
10187 s. 42(j),
86/1986 s. 43,
36/1989
s. 7(3)(b).

(2) Judicial notice shall be taken of a facsimile of the signature (by whatever process it is produced) of the Chairperson of the Board, the General Manager of the Board and any other officer of the Board.

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- (3) A reference in this section to the general manager, or any other officer of the Board includes any person acting pursuant to this Act as the general manager, or any other officer of the Board.

S. 257A(3) inserted by No. 9558 s. 18(c), amended by Nos 9824 s. 29(3)(a)(d), 10187 s. 42(k), 31/1987 s. 14, 36/1989 s. 7(3)(c).

257B. Proof of certain matters not required

In any prosecution or legal proceedings under this Act instituted by or under the direction of the Board no proof shall be required until evidence is given to the contrary of—

S. 257B inserted by No. 8650 s. 16(1).

- (a) the persons constituting the Board of Directors of the Board or the extent of the metropolis;
- (b) any direction of the Board to prosecute;
- (c) the particular or general appointment of any officer of the Board to take proceedings against any person;
- (d) the powers of any officer of the Board to prosecute;
- (e) the appointment of the Chairperson of the Board or of the General Manager of the Board or of any other officer of the Board; or
- (f) the presence of a quorum at any meeting at which any order is made or any act is done by the Board.

S. 257B(a) amended by No. 54/1992 s. 55(5).

S. 257B(e) amended by Nos 9165 s. 34(3), 9754 s. 11, 9824 s. 29(4), 10187 s. 42(l), 86/1986 s. 43, 36/1989 s. 7(4).

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S. 257C
inserted by
No. 8650
s. 16(1),
amended by
Nos 9824
s. 29(2),
36/1989
s. 8(1).

257C. Evidence concerning lands and works of Board

In any legal proceedings under this Act a certificate signed by the General Manager or proper officer of the Board as to any matter relevant to establishing that any lands or works are lands or works vested in or under the management or control of the Board shall be prima facie evidence of the matter so certified.

S. 257D
inserted by
No. 8650
s. 16(1).

257D. Evidence of by-laws etc.

The production of—

- (a) a copy of the Government Gazette containing any by-law regulation order or notice purporting to have been made or given under this Act; or
- (b) a copy purporting to be a true copy of any such by-law regulation order or notice certified as such under the hand of the General Manager or proper officer—

S. 257D(b)
amended by
Nos 9824
s. 29(2),
36/1989
s. 8(1).

shall be evidence until the contrary is proved of the due making existence confirmation approval and giving of such by-law regulation order or notice and of all preliminary steps necessary to give full force and effect thereto.

S. 257E
inserted by
No. 8650
s. 16(1),
amended by
Nos 9824
s. 29(2),
36/1989
s. 8(1).

257E. Evidence of documents issued by Board

All documents whatever purporting to be issued or written by or under the direction of the Board and purporting to be signed by the General Manager or proper officer shall be received as evidence in all courts and before all persons acting judicially within Victoria and shall without proof be deemed to have been issued or written by or under the direction of the Board until the contrary is shown.

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257F. Prima facie evidence of ownership

- (1) In any legal proceedings under this Act in addition to any other method of proof available—
- (a) evidence that the person proceeded against is liable to pay a fee imposed under a tariff set in relation to a property under this Act;
 - (b) evidence by the certificate of the Registrar-General or of any Deputy Registrar-General that any person appears from the memorial of any deed conveyance or instrument to be the last registered owner of any land; or
 - (c) evidence by the certificate of the Registrar of Titles or any Assistant Registrar of Titles authenticated by the seal of the Office of Titles that any person is the registered proprietor of an estate in fee simple or of a leasehold estate held of the Crown in any land—

S. 257F inserted by No. 8650 s. 16(1).

S. 257F(1)(a) amended by No. 110/1997 s. 11(7).

shall until the contrary is proved be evidence that the person is the owner or occupier (as the case may be) of the land.

- (2) A certificate shall be furnished by the Registrar-General or the Registrar of Titles upon the written application of the proper officer of the Board who shall—
- (a) certify that it is required for legal proceedings under this Act; and
 - (b) give a reference to—
 - (i) in the case of land under the operation of the **Transfer of Land Act 1958**—the distinctive identifying reference of the folio of the Register;
 - (ii) in the case of any other land—the number and book of the relevant memorial—

S. 257F(2) amended by No. 54/1992 s. 55(6).

S. 257F(2)(b)(i) amended by No. 18/1989 s. 13(Sch. 2 item 54(a)).

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and supply such further particulars as the Registrar-General or the Registrar of Titles may require.

- (3) The fee payable for a certificate shall be Fifty cents and for any diagram other than a simple diagram such additional fee as is fixed by the Registrar-General or the Registrar of Titles in any particular case.

No. 3731
s. 234.
S. 258
amended by
No. 6536 s. 26.

258. Recovery of penalty does not prejudice right to take other proceedings

Every penalty imposed upon any person by this Act or by any by-law or regulation made or continued under the provisions of this Act shall be without prejudice to the right of the Board to recover from such person (whether in the same proceedings or separately)—

any sum for damage sustained through his act or default;

the cost and expense incurred by the Board in remedying such damage;

the value of any water wasted misused unduly consumed illegally diverted or illegally taken by him.

The payment of any such penalty shall not bar or affect the right of the Board to bring any other action or take any other proceeding against such person.

S. 258A
inserted by
No. 7778 s. 28.

258A. Sundays and holidays

Whenever any day or the last of several days provided or appointed by or under this Act for any purpose in any year happens on a Sunday or a day which is a bank or public holiday throughout the metropolitan area then such provision and appointment shall take effect as for the next

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S. 258AA

following day which is not a Sunday or such bank or public holiday.

258AA. Settlement of disputes between the Board and public corporations

S. 258AA
inserted by
No. 9558
s. 20(1).

(1) Save where provision is otherwise expressly made for the determination of differences or questions the Governor in Council may by Order determine—

(a) any differences arising under this Act between the Board and any public corporation touching or relating to the fulfilment and exercise of the duties powers privileges or authorities of the Board or any public corporation; or

(b) any question as to whether any works, undertakings, land, property or estates or any authorities, rights, powers, privileges, liabilities, obligations, contracts or engagements to be vested in transferred to or imposed upon the Board by virtue of this Act are so transferred to vested in or imposed upon the Board.

S. 258AA(1)(b)
amended by
No. 86/1986
s. 43.

(2) The Governor in Council for the purpose of such determination may by that or any subsequent Order settle and adjust or apportion any matters or things between the Board and any public corporation in such a manner as he thinks equitable.

(3) Every Order made under this section shall be final and binding.

(4) In this section "**public corporation**" means public corporation within the meaning of Part X.

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s. 258B

S. 258B
inserted by
No. 7778 s. 28,
amended by
Nos 7893
s. 13, 9699
s. 23, 86/1986
s. 43,
substituted by
No. 13/1987
s. 24.

258B. Money may be invested

Money standing to the credit of the Metropolitan General Fund or the Metropolitan Improvement Fund may be invested in the name of the Board in accordance with the powers conferred on the Board by the **Borrowing and Investment Powers Act 1987**.

S. 258BA
inserted by
No. 9573 s. 38,
amended by
No. 86/1986
s. 43,
substituted by
No. 53/1988
s. 45(Sch. 2
item 20) (as
amended by
No. 47/1989
s. 19(zj)),
amended by
No. 48/1991
s. 73(3)(a)(b).

258BA. Easements on plans of subdivision

(1) Where any proposal for subdivision or consolidation of land is referred to the Board under the **Planning and Environment Act 1987** the Board may require easements for the use of the Board for any one or more of the purposes set out in Column 1 of Schedule 11B.

S. 258BA(2)
inserted by
No. 48/1991
s. 73(3)(c).

(2) The creation of an easement for a purpose set out in Column 1 of Schedule 11B gives to the Board the rights specified in relation to an easement created for that purpose in Column 2 of that Schedule.

S. 258BB
inserted by
No. 9573 s. 38.

258BB. Transfer of reserved land to Board

S. 258BB(1)
repealed by
No. 53/1988
s. 45(Sch. 2
item 21).

* * * * *

S. 258BB(2)
repealed by
No. 53/1988
s. 45(Sch. 2
item 21).

* * * * *

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s. 258BB

(3) Where any map or plan has been lodged or deposited with the Registrar of Titles pursuant to section 97 of the **Transfer of Land Act 1958** or a corresponding previous enactment (whether before or after the commencement of this section) which has been sealed before the commencement of section 44 of the **Subdivision Act 1988** and any allotment on the map or plan has been transferred, the Governor in Council may on the request of the Board by Order published in the Government Gazette direct that the whole or any part of the land comprised in any reserve shown on the map or plan as a reserve for the purposes of sewerage or drainage or sewerage and drainage, being land which is under the jurisdiction of the Board which has not been transferred or vested in the council of a municipality or in respect of which a request has not been made by council that the owner of the land execute an agreement under seal to transfer to it that reserve or any part of that reserve, shall be vested in the Board, and upon the publication of the Order without further or other conveyance, transfer or assignment that land shall vest in the Board freed and discharged from any mortgage charge lease or sub-lease.

S. 258BB(3)
amended by
Nos 9999
s. 18, 53/1988
s. 45(Sch. 2
item 22).

(4) Where land has been transferred to or vested in the Board and the Board is of the opinion that that land or some part thereof is no longer required for purposes for which it was reserved, the Board may with the consent of the Governor in Council—

S. 258BB(4)
amended by
No. 53/1988
s. 45(Sch. 2
item 23).

- (a) sell the land or the part in question as herein provided; or
- (b) may use the land for some purpose for which the Board is authorized to use land, other than the purpose for which the land was reserved.

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s. 258BB

- (5) The Board shall not make application to the Governor in Council for his consent under paragraph (a) of sub-section (4) unless—
- (a) it has caused to be published in a newspaper generally circulating in the municipal district or municipal districts in which the land or part of the land in question is situate a notice—
 - (i) setting out a brief description of the land or part of the land in question;
 - (ii) stating that it is its intention to sell the land or the part in question to the council in the municipal district in which such land or such part is situate or, where that council has indicated in writing that it does not wish to purchase such land or such part, to sell such land or such part to any interested party; and
 - (iii) stating a date on or before which written objections to the proposal shall be lodged with the Board; and
 - (b) it has afforded to all persons who have lodged written objections with it on or before the date specified in the notice an opportunity to be heard and has considered those objections.
- (6) Where the Board makes application to the Governor in Council for his consent under sub-section (4) it shall forward with the application copies of all objections received by it pursuant to sub-section (5).
- (7) The Governor in Council may by Order published in the Government Gazette consent or refuse to consent to the sale or altered use of land for purposes of sub-section (4).

S. 258BB(5)
(a)(ii)
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 77.64,
77.65).

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s. 258C

- (8) On the publication of an Order of consent to the sale or altered use of land under sub-section (7) the land to which the Order relates shall be freed and discharged from any restriction or other burden arising from its having been shown on a plan of subdivision as a reserve for the purposes of sewerage or drainage or sewerage and drainage but unless the Governor in Council in the Order directs otherwise the land remains subject to any existing easements and restrictive covenants.
- (9) The provisions of this section shall apply to land in respect to which the Board exercises powers under Part III or X.

Division 2—Research and Training

Pt 9 Div. 2
(Heading and
s. 258C)
inserted by
No. 8071
s. 8(a).

258C. Board may enter into arrangements etc. with any person etc. engaged in scientific research etc.

S. 258C
inserted by
No. 8071
s. 8(a),
substituted by
No. 9277 s. 10.

- (1) With the approval of the Minister the Board may enter into arrangements with and make contributions to any person body or fund (whether within or outside Victoria) engaged in or established to promote or which has as a principal object scientific research, training or development which the Minister considers may be of benefit to the Board.
- (2) The Board may, with the approval of the Minister—
 - (a) become a member of a company, body or fund that is engaged in or is established to promote or has as a principle object scientific research, training or development which the Minister considers may be of benefit to the Board; and

S. 258C(2)(a)
amended by
No. 9824
s. 30(a).

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s. 258C

S. 258C(2)(b)
amended by
No. 9824
s. 30(a).

(b) make contributions to such a company, body or fund.

S. 258C(3)
amended by
Nos 9754
s. 12, 9824
s. 30(b),
86/1986 s. 43.

(3) The Minister may appoint a member of the Board (including the Chairperson) or the General Manager of the Board or an officer nominated or appointed by the Board, notwithstanding anything in this Act to the contrary, to be a member of or on the board of management of a company, body or fund referred to in sub-section (2).

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s. 259

**PART X—METROPOLITAN DRAINAGE AND
WATERWAYS³⁶**

Pt 10
(Heading)
amended by
No. 81/1989 s.
3(Sch.
item 34.13).

259. Definitions

No. 3731
s. 235.

(1) In this Part unless inconsistent with the context or subject-matter—

"bed" and **"banks"** with reference to any waterway to which this Part applies together include the land over which water normally flows or which is normally covered by the water thereof; but do not include land from time to time temporarily covered by the flood waters of such waterway and abutting on or adjacent to such bed or banks. **"bed"** means the relatively flat and **"banks"** the relatively steep portions of the first-mentioned land:

S. 259(1)
def. of "bed"
and "banks"
amended by
Nos 81/1989
s. 3(Sch. item
34.14(a)),
110/1997
s. 9(1).

Provided that where the context so requires the term **"banks"** extends also to any lands vested in or acquired by or under the management and control of the Board which abut on or are adjacent to the banks as hereinbefore defined;

"main drainage works" means works within the metropolis (other than main drains) for the prevention of or defence against flooding by surface or storm water;

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"main drain" means any drain creek or water-course (or portion thereof) within the metropolis declared to be a main drain pursuant to this Part, whether the same is natural or artificial or on above or below the surface of the ground and whether the same is constructed or used or is to be constructed or used for carrying off surface or storm water;

"maintain" includes repair; and **"maintenance"** has a corresponding interpretation;

"municipal district" means any municipal district which or any portion of which is within the metropolis;

"prescribed" means prescribed by this Part or by any by-law or regulation hereunder;

S. 259(1)
def. of
"municipal
district"
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.66).

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"public corporation" means Victorian Rail Track established by Division 2 of Part 2 of the **Rail Corporations Act 1996**, the Secretary or the Rural Water Corporation, the Roads Corporation, SEC, VENCORP, a distribution company, a transmission company or a generation company within the meaning of the **Electricity Industry Act 2000**, the Melbourne Port Corporation, the Victorian Channels Authority and any council, and also any corporation which is declared to be a public corporation pursuant to this Part or any corresponding previous enactment; and includes any Government department;

S. 259(1) def. of "public corporation" amended by Nos 7228 s. 7(Sch. 4 Pt 24(c)), 8353 s. 19, 9178 s. 7, 9549 s. 2(1)(Sch. item 123), 9921 s. 255, 10081 s. 5(1), 12/1989 s. 4(1)(Sch. 2 item 77.67), 44/1989 s. 41(Sch. 2 item 27.9(a)(b)), 50/1992 s. 10(Sch. item 6.1), 130/1993 s. 122(Sch. 4 item 9), 53/1994 s. 34(Sch. 1 item 5), 110/1994 s. 41(Sch. 1 item 6), 82/1995 s. 207(2), 104/1997 s. 51(2), 110/1997 s. 12(3), 76/1998 s. 13(b), 69/2000 s. 58, 54/2001 s. 41(6).

"river improvement works" means any works within the metropolis in under over on across along near to or in connexion with any waterways to which this Part applies for all or any of the following purposes³⁷:

Widening deepening and diverting any such waterways and altering the course thereof;

S. 259(1) def. of "river improvement works" amended by Nos 81/1989 s. 3(Sch. item 34.14(b)), 121/1994 s. 205(1) (a)-(c), 66/2000 s. 45.

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The cleansing of or the preventing or minimizing the pollution of any such waterways;

The improvement of navigation and the improvement of the flow of water therein;

The prevention of and defence against flooding from the waters thereof;

The construction of locks barrages and levees;

The formation of the banks (including the forming sloping beaching pitching piling and altering of the banks and of any land abutting thereon or adjacent thereto) and the erection thereon of buildings wharves or jetties;

The laying down and construction of roads carriage drives and footways on or along or near to the banks;

The erection of bridges;

The establishment of ferries;

The formation or management of lakes or other wetlands;

The revegetation of banks;

The protection, conservation or enhancement of waterways and banks.

S. 259(1)
def. of "tariff"
inserted by
No. 110/1997
s. 9(2).

"tariff" means a scale of charges by reference to which a fee is imposed by the Board on the owner of a property for works or services provided by the Board under this Part or, as a delegate of the Minister, under Division 4 of Part 10 of the **Water Act 1989**;

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"tributary" in relation to any waterway means any other waterway from which water ultimately reaches the waterway;

S. 259(1) def. of "tributary" inserted by No. 8531 s. 7, amended by No. 81/1989 s. 3(Sch. item 34.14(c)(i)(ii)).

* * * * *

S. 259(1) def. of "water-course" inserted by No. 8531 s. 7, repealed by No. 81/1989 s. 3(Sch. item 34.14(d)).

(2) The waterways to which this Part applies are all the waterways or portions of waterways within the metropolis, including any tributaries or portions of tributaries of those waterways, to the extent to which they are within the metropolis except—

S. 259(2) amended by No. 81/1989 s. 3(Sch. item 34.15), substituted by No. 22/1999 s. 12(2).

(a) any waterway to the extent to which it is within port waters of the port of Melbourne under the **Port Services Act 1995**; and

S. 259(2)(a) amended by No. 66/2000 s. 46(a).

* * * * *

S. 259(2)(b) repealed by No. 66/2000 s. 46(b).

(c) that section of the Yarra River from its mouth up to the downstream side of the Bolte Bridge; and

S. 259(2)(c) amended by No. 81/2000 s. 44.

(d) that section of the Maribyrnong River from its mouth up to the downstream side of Shepherds Bridge; and

(e) that section of the Moonee Ponds Creek from its mouth up to the downstream side of the Footscray Road Bridge; and

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- (f) that section of the Stony Creek in Yarraville from its mouth up to the downstream side of the Hyde Street Bridge.

No. 3731
s. 236.

260. Powers etc. in this Part to be in aid of those other Parts of this Act

- (1) The provisions of this Part shall be in aid and not in derogation of the provisions of other Parts of this Act with respect to public rivers creeks and water-courses within the metropolis.
- (2) In addition to any other powers or authorities conferred or duties imposed on the Board by this Part the Board shall have and may exercise for the purposes of this Part and with respect to the waterways to which this Part applies the same powers authorities and duties as it has under the other Parts of this Act with respect to public rivers creeks and water-courses within the metropolis.

S. 260(2)
amended by
No. 81/1989
s. 3(Sch. item
34.16).

S. 260A
inserted by
No. 81/1989
s. 3(Sch. item
34.17),
repealed by
No. 121/1994
s. 205(2).³⁸

* * * * *

General

No. 3731
s. 237.

261. General powers and duties of the Board

- (1) Notwithstanding anything in any Act but subject to this Part the Board—
- (a) shall construct all main drains to be constructed under this Part;
- (b) may carry out main drainage works and river improvement works under this Part;
- (c) shall have the management and control of and may maintain and keep in good order and condition all main drains main drainage

S. 261
amended by
No. 66/2000
s. 47 (ILA
s. 39B(1)).

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works and river improvement works vested in it or constructed or carried out by it;

(d) shall take such measures as the Board thinks fit to cleanse scour and keep open all main drains vested in it; and

S. 261(1)(d) substituted by No. 6536 s. 27.

(e) may enlarge alter arch over divert or improve any such main drain.

(2) The Board has the following waterway management functions for the waterways to which this Part applies—

S. 261(2) inserted by No. 66/2000 s. 47.

(a) to identify and plan for State and local community needs relating to the use and the economic, social and environmental values of the waterways;

(b) to develop and implement effectively schemes for the use, protection and enhancement of the waterways;

(c) to investigate, promote and research any matter related to its functions powers and duties in relation to waterway management;

(d) to educate the public about any aspect of waterway management.

262. Surveys and investigations

Nos 3731 s. 238, 3943 s. 2.

For the purposes of this Part the Board—

(a) shall cause to be made such surveys and investigations as it thinks necessary in order to ascertain—

(i) what drains or waterways (or portions thereof) are to be declared to be main drains under and for the purposes of this Part;

S. 262(a)(i) amended by No. 81/1989 s. 3(Sch. item 34.18).

(ii) what main drains are to be constructed by the Board;

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- (iii) what main drainage works are to be carried out by the Board;
- (iv) what river improvement works are to be carried out by the Board;
- (b) shall cause to be prepared such maps on such scales and setting forth such information ascertained by the said surveys and investigations as it thinks fit;
- (c) shall from time to time cause such maps to be revised and the date of each revision to be expressed thereon;
- (d) shall keep such maps or copies thereof at the offices of the Board and permit the same to be inspected during office hours by any person free of charge; and
- (e) shall supply to any public corporation applying for the same a copy of any such map free of charge.

No. 3731
s. 239.

263. Declaration of main drains

- (1) The Board may by notice published in the Government Gazette declare—
 - (a) that any then existing drain or waterway (or portion thereof) within the metropolis shall be a main drain under and for the purposes of this Act; or
 - (b) that any new main drain within the metropolis proposed to be constructed under this Act shall be a main drain under and for the purposes of this Act.
- (2) Every such notice shall describe the course of and specify the points of commencement and termination of every then existing drain or waterway (or portion thereof) or any proposed new main drain to which the same relates.

S. 263(1)(a)
amended by
No. 81/1989
s. 3(Sch. item
34.19).

S. 263(2)
amended by
No. 81/1989
s. 3(Sch. item
34.19).

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- (3) Where for the construction of any main drain or the carrying out of any works in connexion with any main drain the Board is of opinion that any deviation of the course thereof should be made—
- (a) the Board by notice in the Government Gazette may declare that the course be deviated and amend the first-mentioned notice accordingly; and
 - (b) on the publication of the notice the course of the main drain shall be deemed and taken to be the course thereof as so deviated and the first-mentioned notice as so amended shall take effect accordingly.

- (4) A copy of every notice under this section shall be sent by the Board to every council within the municipal district of which any such main drain (or any portion thereof) to which the notice relates is situate or any such proposed new main drain (or any portion thereof) will be situate.

S. 263(4)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.68).

* * * * *

S. 263(5)
amended by
Nos 8353
s. 19, 9019
s. 2(1)(Sch.
item 153),
9178 s. 7, 9921
s. 255, 44/1989
s. 41(Sch. 2
item 27.10),
110/1997
s. 12(4),
repealed by
No. 54/2001
s. 41(7).

- (6) The production of a copy of the Government Gazette containing any Order or notice under this or the next succeeding section shall be sufficient evidence—
- (a) that the same was duly made; and

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- (b) that any main drain to which the same relates is (in accordance with the Order or notice) a main drain under and for the purposes of this Act.

No. 3731
s. 240.

264. Power to construct etc. main drain outside metropolis in certain cases

Notwithstanding anything to the contrary in this Part when for the completion or the effectual operation of any main drain constructed or to be constructed within the metropolis it is necessary or convenient to carry such main drain into or through any lands in any municipal district or part thereof without the metropolis or to construct any new main drain in such municipal district or part thereof the following provisions shall have effect:

- (1) The Board may in manner provided by this Part for the declaration of main drains declare—

S. 264(1)(a)
amended by
No. 81/1989
s. 3(Sch.
item 34.20).

- (a) that any then existing drain or waterway (or portion thereof) without the metropolis shall be a main drain under and for the purposes of this Part; or

- (b) that any new main drain proposed to be constructed without the metropolis shall be a main drain under and for the purposes of this Part.

S. 264(2)
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 77.69,
77.70).

- (2) The Board and the council of the municipal district may enter into and carry into effect any agreement for the purposes of the construction of any main drain to which this section relates and shall carry into effect any determination under this section and any such agreement may include provisions as to the payment or the apportionment of the payment of the cost of construction or as to

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- the advancing of moneys by the Board to the council towards such cost and the repayment of any such advance with interest thereon.
- (3) If within three months after service on the council by the Board of notice of its intention to declare any main drain under this section the council and the Board have not entered into any agreement aforesaid the Governor in Council may by Order published in the Government Gazette determine any matter relating to the construction of the main drain and the payment or apportionment of the payment of the cost thereof and every such determination shall be final and binding on the Board and the council.
- (4) Any difference arising between the Board and the council under any agreement or determination under this section (including any difference as to the construction of the agreement or determination) shall be finally determined by the Governor in Council.
- (5) Any existing drain or waterway (or portion thereof) or any proposed new main drain declared to be a main drain under this section shall for all or any of the purposes of this Part be deemed and taken to be a main drain within the metropolis.
- (6) The powers conferred on the Board by this section so far as they relate to any waterway to the extent to which the same is within the metropolis and is subject to the jurisdiction of the Secretary or the Rural Water Corporation shall not be exercised without the previous consent of the said Secretary or Rural Water Corporation.
- S. 264(3)**
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 77.71,
77.72).
- S. 264(4)**
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.73).
- S. 264(5)**
amended by
No. 81/1989
s. 3(Sch.
item 34.20).
- S. 264(6)**
amended by
Nos 10081
s. 5(1),
81/1989
s. 3(Sch.
item 34.21),
50/1992
s. 10(Sch.
item 6.2),
76/1998
s. 13(c).

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No. 3731
s. 241.

265. Works to vest in the Board

- (1) All main drains main drainage works and river improvement works constructed or in process of construction by the Board shall vest in the Board.
- (2) When the construction of any main drain main drainage work river improvement work or part thereof is completed or the construction of any road carriage drive or footway or the formation or planting and ornamentation of any part of the banks of any waterway is completed by the Board the Board may by agreement with any council arrange that the same or any portion thereof shall if situate within its municipal district be under the management and control of such council subject to any by-laws of the Board and shall be maintained by such council; and any such council may enter into such an agreement and carry the same into effect.

S. 265(2)
amended by
Nos 9573
s. 39, 12/1989
s. 4(1)(Sch. 2
items 77.74,
77.75),
81/1989
s. 3(Sch. item
34.22).

S. 266
substituted by
No. 9573 s. 40,
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.76).

266. Power to enter into agreements with municipal councils as to construction of certain works

The Board may by agreement with any council arrange that any main drain main drainage work river improvement work or portion thereof shall be constructed—

- (a) by the council on behalf of and at the expense of the Board and any such council may enter into such an agreement and carry same into effect; or
- (b) by the Board on behalf of and at the expense of the council and where applicable the council is hereby authorized to lend to the Board the cost of the works for a period of time to be incorporated into the agreement or to pay to the Board the full cost of the work or such part thereof as is agreed.

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267. Vesting of main drains in the Board

No. 3731
s. 243.

(1) All existing drains or waterways (or portions thereof) declared to be main drains if not theretofore vested in the Board shall on the publication of the Order in Council or notice declaring them to be main drains and by virtue of this Part and without further or other conveyance or transfer vest in the Board.

S. 267(1)
amended by
No. 81/1989
s. 3(Sch. item
34.23).

(2) Where by or under this Part any then existing drain is vested in the Board—

(a) there shall thereupon and by virtue of and without further or other conveyance transfer or assignment than this Part and without payment of compensation to any council be transferred to and vested in the Board subject to and for the purposes of this Part all and any property therein and all and any estates rights powers and privileges whatsoever then vested in belonging to or in any manner exercisable by any council in respect thereof; and

S. 267(2)(a)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.77).

(b) there shall at the same time devolve upon and be performed by the Board all and any liabilities or obligations of any council with respect thereto other than liabilities or obligations with respect to the repayment of any loan moneys or the payment of interest thereon.

S. 267(2)(b)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.78).

268. Power to the Board to prohibit building within prescribed distance of centre of main drain

No. 3731
s. 244.

(1) Subject to this section the Board may by resolution prescribe in relation to either side of any part of a main drain a frontage line for building (hereinafter referred to as a "building line").

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- (2) Any building line proposed to be prescribed under this section shall be distinctly marked and shown on a plan to be kept at the offices of the Board and to be open during office hours for inspection by any person free of charge.
- (3) Before any building line is prescribed the Board shall—
- (a) publish in the Government Gazette and in some newspaper generally circulating in the locality notice of the proposal to prescribe the same and of the times and the place at which the plan aforesaid can be inspected;
 - (b) serve upon every owner occupier and lessee of any land proposed to be affected a notice in writing containing the like particulars; and
 - (c) consider any objection to the proposal made within six weeks after service of the notice.
- (4) As soon as practicable after any building line has been prescribed the Board shall cause the plan showing the same to be sealed and such plan shall be kept at the offices of the Board and be open for inspection as aforesaid.
- (5) Where any building line prescribed under this section is in force no person shall (without the consent in writing of the Board) erect nearer to the centre of the main drain than such building line any new building or erection:
- Provided that the consent of the Board may be given subject to such conditions as the Board thinks fit; and any such conditions shall be binding upon any successor in title to the owner occupier or lessee of any land to which they relate.

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(6) Every person who erects or permits to be erected any new building or erection in contravention of the provisions of this section (without prejudice to any other proceedings which may be taken against him)—

(a) shall be liable to a penalty of not more than 10 penalty units; and

S. 268(6)(a)
amended by
Nos 9558
s. 19(u)(i),
9824 s. 34(g).

(b) shall within such time as the court allows remove any building or erection erected; and if he fails to do so shall be deemed to commit a continuing offence and be liable to a penalty of not more than 2 penalty units for each day on which such failure continues.

S. 268(6)(b)
amended by
Nos 9558
s. 19(u)(ii),
9824 s. 34(k).

(7) Any person who proves that his property is injuriously affected by the prescription of a building line under this section shall if he makes a claim within six months after the prescription thereof be entitled to recover from the Board compensation for the injury sustained; and any question whether compensation is payable under this section or as to the amount of such compensation shall in default of agreement be determined as in cases of disputed compensation under Part VIII of this Act:

Provided that in determining any such question as aforesaid—

(a) no compensation shall be awarded save in respect of some item set forth in the claim and stating the extent of the injury complained of;

(b) no compensation shall be payable to any person in respect of anything done by him or on his behalf after the date of the service upon him of a notice of the proposal to prescribe the building line except in respect

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- of anything done in pursuance of a contract made or for the purpose of finishing any building or erection begun before that date;
- (c) there shall be taken into account any benefit accruing to the person to whom compensation is payable by reason of the construction of or any improvement made or about to be made to the main drain;
- (d) the measure of damages shall be the direct pecuniary injury to the claimant by the loss of something of substantial benefit accrued or accruing and shall not include remote indirect or speculative damages; and
- (e) the compensation awarded shall be compensation for all injury sustained to the date of the award and also for all future injury in respect of the same matter; and after an award has been made no further compensation shall be made in respect of any such future injury.
- (8) The powers conferred by this section shall be in aid and not in derogation of any powers conferred by any other Act.
- (9) Nothing in this section shall affect any land property or rights of any public corporation except in so far as it may consent thereto.

No. 3731
s. 245.

269. Right of councils etc. to connect drain etc. with main drains

S. 269(1)
substituted by
Nos 8531
s. 8(a), 9573
s. 41(a),
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.79).

- (1) Any public corporation or any council may cause or permit any drains or sewers under its management and carrying off surface storm or other waters to be directly connected with any drain watercourse or river improvement work vested in the Board or may permit such drain or sewer to discharge into any drain watercourse or river improvement works vested in the Board if

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the Board has certified that the drain watercourse or river improvement work is adequate and suitable for the acceptance of the additional water which is likely to enter it from the drain or sewer having regard to the area drained by it.

(1A) The making of any direct connexion or entry to any drain watercourse or river improvement work vested in the Board carried out under sub-section (1) shall be carried out to the satisfaction of the Board.

S. 269(1A)
inserted by
No. 8531
s. 8(a),
substituted by
No. 9573
s. 41(a).

(1AA) The discharge of surface storm or other waters into any drain watercourse or river improvement work vested in the Board by any person public corporation or the council shall not be made by any means other than a direct connexion approved by the Board unless the consent of the Board to the means of discharge has been obtained nor shall such discharge endanger the drainage work watercourse or river improvement work vested in the Board.

S. 269(1AA)
inserted by
No. 9573
s. 41(a).

(1B) Notwithstanding the provisions of sub-section (1) a corporation or council shall not divert any surface or storm water from one watershed area to another watershed area or from outside any watershed area into a watershed area without the consent of the Board.

S. 269(1B)
inserted by
No. 8531
s. 8(a).

(2) Save as aforesaid every person who without the consent of the Board or of some officer thereto authorized by the Board—
(a) connects any drain or sewer with any drain or watercourse vested in the Board; or
(b) stops obstructs alters or interferes with any drain or watercourse vested in the Board—

S. 269(2)
amended by
Nos 8531
s. 8(b), 9573
s. 41(b), 9824
s. 34(l)(i)(ii).

shall be liable to a penalty of not more than 10 penalty units and in case of a continuing offence to a further penalty of not more than

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2 penalty units for each day on which the offence is continued after notice has been given by the Board to the offender of the commission of the offence or after a conviction or order by any court (as the case may be):

S. 269(2)
Proviso
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 77.80,
77.81).

Provided that so far as any drain or watercourse vested in the Board is under the management and control of any council pursuant to any agreement under this Part the provisions of this sub-section shall take effect as if for any reference therein to "the Board" there were substituted a reference to the council but so as not to restrict the powers of the Board to connect any drain or sewer with any drain or watercourse vested in the Board or to carry out any works which the Board is authorized to carry out.

S. 269A
inserted by
No. 8531 s. 9.

269A. Board may enter into agreements with owners of land for the construction of drainage works

S. 269A(1)
substituted by
No. 9573
s. 42(a).

- (1) The Board may enter into an agreement with the owner of any land—
 - (a) for the acceptance of surface storm or other waters from that land to any drains watercourses or river improvement works vested or to be vested in the Board; and
 - (b) for the construction reconstruction or improvement of drainage works and river improvement works serving the land concerned either alone or together with other land.
- (2) An agreement under sub-section (1) may inter alia make provision for—
 - (a) the payment to the Board by the owner of the land of the whole of the cost of the construction reconstruction or improvement of the drainage works or such part thereof as the Board considers reasonable to be paid in

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- respect of such land having regard to the benefit of such works to the land and to any other lands that will in the opinion of the Board be capable of being served by such drainage works;
- (b) the payment to the Board by the owner of the land of an amount based on the area of the land and the proposed use to which the land is to be put and assessed by the Board to be a fair and reasonable contribution towards the cost of development of the Board's drainage systems;
- (c) the payment to the Board by the owner of the land of—
- (i) a reasonable proportion of the cost of any works being or to be constructed reconstructed or improved by the Board and paid for or to be paid for out of the funds of the Board; and
 - (ii) a reasonable proportion of the present cost of the construction reconstruction or improvement of completed works constructed reconstructed or improved by the Board and paid for out of the funds of the Board—

which are or after their construction reconstruction or improvement will be available to be connected to and of adequate capacity to serve the land or any part thereof (whether with or without construction or installation of additional works);

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S. 269A(2)
(d)(i)
amended by
No. 53/1988
s. 45(Sch. 2
item 24) (as
amended by
No. 47/1989
s. 22(b)).

S. 269A(2)
(d)(ii)
amended by
No. 53/1988
s. 45(Sch. 2
item 24) (as
amended by
No. 47/1989
s. 22(b)).

(d) the payment to the Board by the owner of the land of—

(i) a reasonable proportion of the cost of any works being or to be constructed reconstructed or improved pursuant to an agreement between the Board and the owner of any other land in the vicinity;

(ii) a reasonable proportion of the present cost of the construction reconstruction or improvement of completed works constructed reconstructed or improved pursuant to an agreement between the Board and the owner of any other land in the vicinity—

which are or after their construction reconstruction or improvement will be available to be connected to and of adequate capacity to serve the land or any part thereof (whether with or without construction or installation of additional works);

(e) the construction reconstruction or improvement of all or any part of the works required by and at the expense of the owner;

(f) the amount to be advanced to the Board by such owner towards any remaining part of the cost of construction reconstruction or improvement of such works;

(g) the repayment to such owner by the Board of the whole, or such part as may be agreed upon, of the advance referred to in paragraph (f) of this sub-section;

(h) security which may be lodged with the Board to secure a payment or advance referred to in paragraph (a), (b), (c), (d) or (f) of this sub-section.

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- (3) Where any proposal for subdivision or consolidation of land is referred to the Board under the **Planning and Environment Act 1987** the Board may require the owner of the land to enter into an agreement under sub-section (1).
- (4) Any works constructed reconstructed or improved pursuant to an agreement under this section shall be deemed to have been made by the Board and shall be vested in the Board.
- (5) Where the Board proposes to enter into an agreement under this section and the works to be constructed reconstructed or improved pursuant thereto will after their construction reconstruction or improvement be available to serve land other than the land of the person with whom the Board proposes to enter into the agreement the Board may serve notice on the owner of those other lands notifying him that he may within three months of receiving notice enter into an agreement to contribute a reasonable proportion of the cost of the works to be constructed reconstructed or improved and that if he does so contribute any agreement which he is asked to enter into in the event of his subsequently giving notice of his intention to subdivide will not contain any provision for any further contribution towards the cost of the works referred to in this sub-section.
- (6) Where the Board is to carry out the construction reconstruction or improvement of any works pursuant to an agreement it may notwithstanding the terms of the agreement construct reconstruct or improve works in a way that involves greater expenditure than that specified in the agreement if the additional cost is borne by the Board.

S. 269A(3)
substituted by
No. 53/1988
s. 45(Sch. 2
item 25) (as
amended by
No. 47/1989
s. 19(zj)).

S. 269A(5)
substituted by
No. 9573
s. 42(b).

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- (7) In this section "**present cost**" in relation to completed works means the cost that would have been incurred if a contract for the works had been let at the date of the agreement.
- (8) Any money advanced under an agreement under sub-section (2)(f)—
- (a) shall be deemed not to be financial accommodation obtained under the **Borrowing and Investment Powers Act 1987**; and
 - (b) shall not affect or limit the amount of financial accommodation that may be obtained under that Act.

S. 269A(8)
inserted by
No. 9999 s. 19,
substituted by
No. 13/1987
s. 23.

S. 269B
inserted by
No. 8531 s. 9.

269B. Investigations as to land intended to be subdivided

- (1) On receipt of a request from any person intending to subdivide land (whether or not he is the owner of the land at the time of the request) the Board may at the cost of such person and upon such terms and conditions as are agreed carry out such investigations and surveys as may be necessary to provide an estimate of the cost of and the conditions under which drainage works could be provided to serve such land.
- (2) No officer or employee of the Board shall enter the land intended to be subdivided to carry out any such investigation or survey unless the person making the request is the owner of the land or produces a signed statement from the owner authorizing the Board to enter the land for these purposes.

S. 269B(2)
amended by
No. 36/1989
s. 9(1).

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270. Declaration of watershed areas

No. 3731
s. 246.

- (1) The Board may by notice published in the Government Gazette—
 - (a) declare any area within or partly within and partly without the metropolis to be a watershed area under and for the purposes of this Part; and
 - (b) amend or vary any such declaration; and any declaration so amended or varied shall take effect accordingly.
- (2) It shall be a sufficient compliance with the provisions of this section if in any notice thereunder the outer boundaries of such watershed area are described.
- (3) A copy of every notice under this section shall be sent by the Board to every council within the municipal district of which any watershed area (or any portion thereof) to which the notice relates is situate.
- (4) The production of a copy of the Government Gazette containing any notice made under this section shall be sufficient evidence that the same was duly made and that the watershed area therein mentioned is (in accordance therewith) a watershed area under and for the purposes of this Part.

S. 270(3)
amended by
No. 12/1989
s. 4(1)(Sch. 2
item 77.82).

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S. 271
amended by
No. 81/1989
s. 3(Sch.
items 34.24,
32.25),
repealed by
No. 22/1999
s. 12(3).

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No. 3731
s. 248.

S. 272(a)
amended by
No. 81/1989
s. 3(Sch.
item 34.26).

S. 272(b)(i)
amended by
Nos 8353
s. 19, 9921
s. 255, 10081
s. 5(1),
86/1986 s. 43,
44/1989
s. 41(Sch. 2
item 27.11),
81/1989
s. 3(Sch.
items 34.26,
34.27),
50/1992
s. 10(Sch.
item 6.3),
54/2001
s. 41(8).

No. 3731
s. 249.

S. 273
amended by
No. 81/1989
s. 3(Sch.
item 34.28).

272. Savings as to bridges etc.

Nothing in this Part shall apply to or affect—

(a) any bridge tunnel or electrical conduit heretofore or hereafter erected or constructed in under over across or along any waterway by any public corporation or the erection maintenance management or control of any such bridge tunnel or conduit; or

(b) save as otherwise expressly provided—

(i) any rights powers or authorities of the Crown or of any Government Department (including Victorian Rail Track and the Rural Water Corporation) to impound store or take water from any waterway; or

(ii) any lands dams weirs reservoirs works buildings erections structures machinery plant pipes or things used or to be used in connexion with such impounding storage or taking of water.

273. Powers of the Board as to rivers etc.

With respect to any waterways the Board may, subject to and for the purposes of this Part—

(a) alter vary deepen restrict cleanse scour dredge cut enlarge diminish contract shorten widen straighten and improve the beds banks and channels thereof;

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- (b) reduce abate or remove all impediments obstructions and annoyances and all nuisances therein or on the banks thereof or on any lands vested in the Board by or under this Part;
- (c) maintain manage and control any bridges erected or ferries established by the Board; and
- (d) carry out and maintain river improvement works.

274. River improvement works on private land

Nos 3731
s. 250, 3943
s. 2.

- (1) Where the Board carries out any river improvement works on private land—
 - (a) the carrying out and maintenance of such works shall not be taken to vest the land in the Board; and
 - (b) no person shall without the consent in writing of the Board remove alter destroy or interfere with any such works or cause any such removal alteration destruction or interference:

Provided that the consent of the Board may be given subject to such conditions as the Board thinks fit; and any such conditions shall be binding upon any successor in title to the owner occupier or lessee of the land to which they relate.

- (2) Every person who is guilty of any contravention of paragraph (b) of sub-section (1) of this section shall (without prejudice to any other proceedings which may be taken against him) be guilty of an offence and for every such offence shall be liable to a penalty of not more than 10 penalty units; and in case of a continuing offence to a further penalty of not more than 2 penalty units for each day on which the offence is continued after notice has been given by the Board to the offender of the

S. 274(2)
amended by
Nos 9558
s. 19(u)(i)(ii),
9824 s. 34(f)(i)
(ii).

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commission of the offence or after a conviction or order by any court (as the case may be).

No. 3731
s. 251.
S. 275
amended by
No. 81/1989
s. 3(Sch.
item 34.29).

275. Certain provisions of Health Act 1958 not to apply to rivers etc. under management of Board

The provisions of Division four of Part IV of the **Health Act 1958** shall not apply with respect to any waterway to the extent to which the same is under the management and control of the Board.

No. 3731
s. 252.

276. Power of Board to issue permits or licences for pumping etc.

S. 276(1)
amended by
No. 81/1989
s. 3(Sch.
item 34.30).

- (1) Notwithstanding anything in any Act (but subject to the provisions of this Part and of any Act relating to mining) the Board may issue permits for any period not exceeding twelve months or grant licences for any period not exceeding fifteen years authorizing persons to take or pump water from any waterway or portion thereof under the management and control of the Board under this Part and may revoke or renew any such permit or licence.
- (2) Every such permit or licence shall state the times when and the places at which and the terms and conditions under which such water may be taken or pumped and the rate of payment therefor.
- (3) Any sums received in payment for any such permit or licence shall be paid into the Metropolitan General Fund.
- (4) No permit or licence for any of the purposes referred to in this section shall be issued or removed except by the Board.
- (5) Any licence granted under Division 2 of Part 4 of the **Water Act 1989** or any corresponding previous enactment and in force immediately before the coming into operation of the Order which included within the metropolis for the purposes of this Part the waterway or portion

S. 276(5)
amended by
Nos 9999
s. 20, 81/1989
s. 3(Sch. item
34.31)(a)–(d)).

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thereof for which the licence was granted shall continue in force for the period for which it was granted and shall be deemed to have been granted by and may be renewed by the Board.

- (6) The foregoing provisions of this section shall extend and apply to the Victorian Channels Authority so far as regards any portion of any waterway or portion thereof within the area under the management and control of the said Authority; and for the purposes of this sub-section the said provisions shall be read and construed and take effect as if in the said provisions—

S. 276(6) amended by Nos 9178 s. 7, 81/1989 s. 3(Sch. item 34.30), 110/1997 s. 12(5)(a).

(a) for any reference to the Board there were substituted a reference to the said Authority; and

(b) for any reference to payment into the Metropolitan General Fund there were substituted a reference to payment to the said Authority.

S. 276(6)(b) substituted by No. 110/1997 s. 12(5)(b).

- (7) No permit shall be issued or licence granted under this section if in the opinion of a passenger transport company within the meaning of the **Transport Act 1983** or Victorian Rail Track established by Division 2 of Part 2 of the **Rail Corporations Act 1996** it is likely to affect it prejudicially in its use of any line of railway vested in it or to embarrass or interfere with it in the management working or control of the railway traffic on any such line.

S. 276(7) amended by Nos 9019 s. 2(1)(Sch. item 152), 9921 s. 255, 86/1986 s. 43, 44/1989 s. 41(Sch. 2 item 27.12(a)-(c)), 104/1997 s. 51(3)(a)(b).

277. Board to continue to supply water to certain parks, gardens etc.

- (1) The Board shall supply and continue to supply free of cost all water required for the parks gardens lakes and other public purposes for which water immediately before the twelfth day of February One thousand nine hundred and twenty-

S. 277 amended by No. 6536 s. 28, substituted by No. 7411 s. 7(2)(a), amended by No. 121/1994 s. 205(3)(a).

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four was supplied free of cost from Dight's Falls or any reservoir connected therewith and shall construct and maintain any mains pipes and apparatus necessary for such supply³⁹.

S. 277(2)
inserted by
No. 121/1994
s. 205(3)(b).

- (2) The obligation imposed on the Board by this section ceases to apply with respect to the supply of water to any place that is included within an area specified in a licence issued under Division 1 of Part 2 of the **Water Industry Act 1994**⁴⁰.

No. 3731
s. 254.

278. Power to make by-laws

- (1) Notwithstanding anything in any Act, but subject to this Part, the Board may make by-laws for or with respect to—

S. 278(1)(b)
amended by
Nos 6536
s. 29(a),
81/1989
s. 3(Sch. item
34.32(a)).

- (a) the regulation of traffic on roads carriage-drives and footways forming part of any river improvement works vested in the Board;
- (b) preventing or minimizing the pollution of waterways mains drains or main drainage works;

S. 278(1)(c)
amended by
No. 81/1989
s. 3(Sch. item
34.32(b)).

- (c) the regulation or prohibition of bathing in any waterway;

S. 278(1)(d)
amended by
No. 81/1989
s. 3(Sch. item
34.32(b)).

- (d) the preservation of good order and decency on any waterway and the banks thereof;

S. 278(1)(e)
amended by
Nos 6536
s. 29(b) (as
amended by
No. 6716 s. 2),
81/1989
s. 3(Sch. item
34.32(a)).

- (e) preventing or minimizing interference with the flow of water in or the silting up of or injury to waterways main drains or main drainage works, or the erosion of any banks thereof whether vested in the Board or not including prohibiting the depositing in

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- waterways main drains or main drainage works of any materials matters or substances likely to cause such interference or silting up or injury and prohibiting or regulating the discharge therein of any such materials matters or substances or the depositing or discharge of any such materials matters or substances within such distance therefrom or from any portion thereof as is prescribed by any such by-law;
- (f) prohibiting or regulating the removal of soil earth gravel sand or other materials from the beds and banks of waterways main drains or main drainage works or from any land adjacent to such bed or banks whereby the stability thereof may be affected; and
- (g) generally, the management and control of waterways and the banks thereof and any river improvement works carried out constructed or in course of construction by the Board in connection therewith.
- (2) All by-laws or regulations (if any) made by any public corporation with respect to any of the matters aforesaid and in force immediately before the commencement of the **Melbourne and Metropolitan Board of Works Act 1928** (so far as the same are not inconsistent with or repugnant to this Part) may be rescinded revoked amended or varied as if they were by-laws under this Part and until so rescinded or revoked shall with such modifications and substitutions as are necessary—
- (a) continue in force;
- (b) have the like force and effect and be dealt with and enforced as if they were by-laws under this Part; and
- (c) be administered by the Board.

S. 278(1)(f)
amended by
Nos 6536
s. 29(c),
81/1989
s. 3(Sch. item
34.32(a)).

S. 278(1)(g)
amended by
No. 81/1989
s. 3(Sch. item
34.32(a)).

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S. 278(3)
inserted by
No. 8071 s. 9,
amended by
No. 9824
s. 34(f)(i).

- (3) A person who—
- (a) does that which by or under a by-law made pursuant to paragraph (b) or (e) of sub-section (1) he is forbidden to do; or
 - (b) does not do that which by or under such a by-law he is required or directed to do; or
 - (c) otherwise contravenes or fails to comply with any such by-law—

shall be guilty of an offence against this Act and liable to a penalty of not more than 10 penalty units.

S. 278(4)
inserted by
No. 8071 s. 9,
amended by
No. 9824
s. 34(f)(ii).

- (4) Where any person is convicted of an offence in respect of a by-law referred to in sub-section (3) he shall be guilty of a further offence against this Act if the offence continue after he is so convicted and he shall be liable to an additional penalty for each day during which the offence so continues of not more than 1 penalty unit.

S. 278(5)
inserted by
No. 8071 s. 9.

- (5) Where any offence is committed by a person by reason of his failure to comply with any provision of the by-law referred to in sub-section (3) by or under which he is required or directed to do anything within a particular period that offence for the purposes of this section shall be deemed to continue so long as the thing so required or directed to be done by him remains undone notwithstanding that such period has elapsed.

No. 3731
s. 255.

279. Power to make by-laws for traffic on rivers etc.⁴¹

S. 279(1)
amended by
No. 81/1989
s. 3(Sch. item
34.33(a)).

- (1) With regard to all or any waterways the Board (notwithstanding anything in any Act) may make by-laws for or with respect to—

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- (a) all traffic by boats and including the berthing and mooring of boats and the berthing places and mooring places of boats the issuing of mooring licences and reasonable fees therefor the stopping of traffic either wholly or partly by boats or any specified description of boats on any specified day at any specified part of any of the said waterways;
- (b) the conduct of persons in charge of the machinery for propelling or steering boats and of persons sculling rowing or sailing boats or on board thereof; and limiting the number of persons who may be on board any boats as passengers or otherwise;
- (c) the inspection and examination of boats let out for hire or which ply for hire;
- (d) the licensing of any boats which are let out for hire or which ply for hire and the charging of reasonable fees for licences duplicate licences and changes of name; and prescribing the number of passengers who may be carried in any such boat and the maximum fares to be charged for specified journeys in such boats;
- (e) the licensing of persons qualified to take charge of such boats as are let out for hire or which ply for hire and the charging of reasonable fees for licences;
- (f) the course to be kept by boats passing or meeting other boats in motion and for limiting the rate of speed of boats either generally or when approaching or passing other boats or at any specified times or places; and regulating the mooring of boats and the landing of passengers;
- S. 279(1)(a)**
amended by
No. 7778
s. 29(a).
- S. 279(1)(d)**
amended by
No. 7778
s. 29(b)(c).

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S. 279(1)(g)
amended by
No. 81/1989
s. 3(Sch. item
34.33(b)).

- (g) the prohibition of the using of boats or of oars which are unsafe or are too large for or are unsuitable for the waterway or part thereof to which the by-law applies;
 - (h) the prohibition of the using of boats which are or are likely to be or become offensive or annoying by reason of noise smoke or smell, or the machinery of which is defective or is or is likely to be or become dangerous to life or traffic;
 - (i) the use on or in boats of lights between sunset and sunrise;
 - (j) the controlling and regulating of all traffic on the occasion of boat races regattas or other occasional assemblages of boats and the prohibiting of all obstruction of or improper interference with boats or persons whilst competing in boat races;
 - (k) the prohibition of the discharging of any description of fireworks or firearms on or from any boat except with the permission of the Board;
 - (l) the preservation of good order and decency on any boats; and
 - (m) generally, the carrying into effect of the purposes of this section.
- (2) In this section unless inconsistent with the context or subject-matter "**boats**" includes boats vessels and craft of every description whether propelled or towed and however propelled or towed and whether in motion or at rest, and includes also lighters rafts punts barges and house-boats.

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- (3) So far as regards any matter for which provision is made by any such by-law no local law or regulation made under the **Local Government Act 1989** or any local law or regulation made under any Act relating to the Director of Marine Safety (whether made before or after the commencement of this Act) shall have any force or effect:

S. 279(3)
amended by
Nos 9178 s. 7,
12/1989
s. 4(1)(Sch. 2
item 77.83),
110/1997
s. 12(6),
77/2001
s. 32(2)(a)(b).

Provided that where any licence of any boat or of any waterman boatman or person having charge of any boat is (whether before or after the commencement of this Act) granted by the Director of Marine Safety it shall not be necessary to obtain a licence of a like kind pursuant to this section; and any other licence of a like kind to any licence authorized to be granted pursuant to this section which was granted before the commencement of the **Metropolitan Drainage and Rivers Act 1923** and was in force immediately before the commencement of the said Act shall continue in force and be deemed and taken to have been granted pursuant to this section.

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Financial

280. Power to impose fees under a tariff

- (1) The Board may impose fees under a tariff for the purposes of this Part and of the exercise by the Board of any functions and powers as a delegate of the Minister under Division 4 of Part 10 of the **Water Act 1989**.
- (2) A fee imposed under a tariff on a property may be—
 - (a) a fixed amount; or
 - (b) an amount fixed according to—
 - (i) the net annual value of the property; or
 - (ii) the site value of the property; or
 - (iii) the capital improved value of the property; or
 - (iv) the size of the property; or
 - (v) the use of the property; or
 - (vi) how the use or development of the property is controlled under a planning scheme; or
 - (vii) the extent of use of or benefit from works or services provided by the Board; or
 - (c) any combination of amounts referred to in paragraphs (a) and (b).
- (3) The Board in imposing fees under a tariff (other than fees of a fixed amount) may, by resolution of the Board of Directors, fix a minimum amount or a zero amount in respect of any property or class of property.

Nos 3731
s. 256, 4611
s. 2, 5795 s. 6.
S. 280
amended by
Nos 6536
ss 24(2)(h)(i)
(ii), 30, 8574
s. 2(1)(f)(g),
9019
s. 2(1)(Sch.
item 154),
9130 s. 2, 9735
s. 7, 9999
s. 21, 12/1989
s. 4(1)(Sch. 2
item 77.84),
54/1992
s. 53(1)(2),
12/1996 s. 26,
substituted by
No. 110/1997
s. 10.

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- (4) The Board may, by resolution of the Board of Directors, fix different fees payable for different properties or for different periods on the basis of any criteria specified in the resolution.
- (5) A resolution under sub-section (3) or (4) has no effect until the day on which notice of the making of the resolution is published in a newspaper circulating generally in the area concerned.
- (6) The Board may, in respect of a property that becomes liable during a financial year to a fee imposed under a tariff, impose a proportion of the fee for that part of the year during which the property is liable to a fee under the tariff.
- (7) The Board may, in respect of a property, separately impose fees under a tariff in respect of each separate occupancy on that property.
- (8) In determining what constitutes a separate occupancy, the Board must use the relevant principles set out in the **Valuation of Land Act 1960**.

280A. Tariff restricted to rateable properties

- (1) A tariff may only be set in relation to rateable properties.
- (2) For the purposes of this section lands and tenements vested in or owned by a declared public statutory authority (within the meaning of sub-section (3)) that are not used exclusively as public open space or as a park are rateable property even if they are not rateable within the meaning of the **Local Government Act 1989**.
- (3) The Governor in Council, by Order published in the Government Gazette, may declare a public statutory authority constituted under the laws of Victoria to be a declared public statutory authority for the purposes of this section and section 239.

S. 280A
inserted by
No. 110/1997
s. 10.

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- (4) Despite anything to the contrary in section 281A or in any other provision of this Act, the Treasurer, after consultation with the Minister responsible for a declared public statutory authority, may give his or her approval to the Board levying an amount in lieu of a fee under a tariff in respect of a financial year on lands and tenements vested in or owned by the authority that, by virtue of sub-section (2), are rateable property.
- (5) The amount to be levied in lieu of a fee under a tariff in accordance with sub-section (4) is the amount agreed between the authority and the Board or, in the absence of agreement, determined by the Treasurer.
- (6) An approval may only be given by the Treasurer under sub-section (4) on the application of the Board.

Miscellaneous

No. 3731
s. 257.
S. 281
repealed by
No. 121/1986
s. 112,
new s. 281
inserted by
No. 54/1992
s. 54,
substituted by
No. 110/1997
s. 10.

281. Setting a tariff

- (1) The Board must set a tariff by resolution.
- (2) A resolution under sub-section (1) has no effect until the day on which notice of the making of the resolution is published in a newspaper circulating generally in the area concerned.
- (3) The Board must specify in the notice under sub-section (2)—
 - (a) the area to which the tariff applies; and
 - (b) the method of calculating fees imposed under the tariff; and
 - (c) the period for which the tariff is set.

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- (4) The Minister may require the Board to consult with a community-based committee appointed by it before setting a tariff in respect of any area.
- (5) The following provisions apply with respect to the membership of a committee appointed under sub-section (4)—
- (a) at least one half of the membership must consist of persons who are owners or occupiers of rateable properties in the area;
 - (b) the Board must invite any council whose municipal district is wholly or partly within the area to be represented on the committee;
 - (c) the Minister may direct that a public statutory body, government department or any other body (whether government or non-government) be invited to be represented on the committee.
- (6) Subject to this section, section 16 of the **Melbourne Water Corporation Act 1992** applies to a committee appointed under sub-section (4).

281A. Valuations

- (1) If the Board sets a tariff by reference to the net annual value, site value or capital improved value of a rateable property, it must do so by reference to that value of the rateable property as at 30 June 1990 levels of value as determined for the purposes of the **Local Government Act 1989**.
- (2) The net annual value, site value or capital improved value of a rateable property as at the levels of value referred to in sub-section (1) shall be determined as follows—
- (a) if the valuation of that property in force for the purposes of the **Local Government Act 1989** immediately before the commencement

S. 281A
inserted by
No. 38/1997
s. 3,
substituted by
No. 110/1997
s. 10.

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- of section 10 of the **Water Acts (Further Amendment) Act 1997** is at 30 June 1990 levels of value—the value is, subject to paragraph (d), the value as shown in that valuation;
- (b) if the valuation of that property in force for the purposes of the **Local Government Act 1989** immediately before that commencement is at levels of value as at a date before 30 June 1990 or at levels of value as at a date after 30 June 1990 but at no time before that later date was there in force for the purposes of that Act a valuation of that property at 30 June 1990 levels of value—the value is, subject to paragraph (d), the value as shown in the valuation then in force multiplied by the valuation equalization factor applying to the area in which that property is situated;
- (c) if the valuation of that property in force for the purposes of the **Local Government Act 1989** immediately before that commencement is at levels of value as at a date after 30 June 1990 but at any time before then the valuation of that property in force for the purposes of that Act was at 30 June 1990 levels of value—the value is, subject to paragraph (d), the value as shown in the valuation at 30 June 1990 levels of value;
- (d) if subsequent to that commencement that property is valued for the purposes of a supplementary valuation made for the purposes of this Act or the **Local Government Act 1989**—the value is the value as shown in the most recent such supplementary valuation or, if that supplementary valuation is not at 30 June

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1990 levels of value, that value multiplied by the valuation equalization factor applying to the area in which that property is situated.

- (3) A reference in sub-section (2) to a valuation equalization factor applying to the area in which a property is situated is a reference to a factor determined by the Valuer-General and published in the Government Gazette being a factor by which, in the opinion of the Valuer-General, the net annual value, site value or capital improved value (as the case requires) of rateable properties within that area determined as at a particular date ought to be multiplied if the value of those properties is to accord with levels of value generally prevailing in that area as at 30 June 1990.

281B. Supplementary valuations

S. 281B
inserted by
No. 110/1997
s. 10.

- (1) The Board may alter the amount of a fee imposed under a tariff in respect of a property if a supplementary valuation of the property is made in accordance with section 13DF of the **Valuation of Land Act 1960**.
- (2) The Board may request a municipal council to arrange for a supplementary valuation to be made at the Board's expense.
- (3) The **Valuation of Land Act 1960** applies, with any necessary modifications, to a supplementary valuation made at the request of the Board as if it were a supplementary valuation made in accordance with section 13DF of that Act.
- (4) If a supplementary valuation is made because of an event that happens during a financial year, a proportion of the amount of the fee imposed under the tariff, as altered, is payable for the part of the financial year after the supplementary valuation, and a proportion of the original amount of the fee

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imposed under the tariff is payable for the part of the financial year before the supplementary valuation.

S. 281C
inserted by
No. 110/1997
s. 10.

281C. Application for review

- (1) A person who is aggrieved by the setting of a tariff, or the imposing of a fee under a tariff, by the Board may, within 1 month after receipt of the demand for payment, object in writing to the Board on any of the following grounds—
 - (a) that the property is not rateable property;
 - (b) that the person is not liable for the tariff;
 - (c) that the tariff was not set in accordance with an Order under section 21A(1) of the **Water Industry Act 1994**;
 - (d) that the fee imposed by the Board is not a correct application of the tariff as set.
- (2) The Board must, within 2 months after receipt of an objection from a person, notify the person of its decision on the objection.
- (3) If the Board has not notified the person of its decision within 2 months after the objection was made, the Board must be taken to have notified the person of its decision to overrule the objection at the expiry of the 2 month period.
- (4) A person may apply to the Administrative Appeals Tribunal for review of the Board's decision on the objection on any of the grounds specified in sub-section (1).
- (5) An objection does not prevent the recovery of any fee or interest due under a tariff.

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- (6) If a tariff is quashed by the Administrative Appeals Tribunal under this section, the Board may—
- (a) set a new tariff for the particular year, even if the year has ended; and
 - (b) retain any amount paid to it by a person in respect of that tariff on account of any amount payable by that person in respect of the next effective tariff set.

281D. Inspection of rate records

S. 281D
inserted by
No. 110/1997
s. 10.

- (1) A person authorised by the Board may, at any reasonable time and without charge, inspect, and take a copy of an entry in or make an extract from, any valuation or rate records of any council the municipal district of which is wholly or partly within the metropolis.
- (2) A person having custody of the valuation or rate records of a council must not, when required to do so by an authorised person exercising a power under sub-section (1), fail to produce those records for inspection or fail to allow the authorised person to take a copy of or make an extract from those records.

Penalty: 1 penalty unit.

281E. Recovery of fees under tariffs

S. 281E
inserted by
No. 110/1997
s. 10.

- (1) Fees imposed under a tariff are payable by, and recoverable from, the owner for the time being of the property.
- (2) A fee imposed under a tariff is due and must be paid by the date specified in a notice issued by the Board requiring payment, being a date at least 14 days after the date of issue of the notice.
- (3) Any amount due to the Board under a tariff is a debt due to the Board by the owner for the time being of the property.

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- (4) In any proceeding for the recovery of a fee imposed under a tariff, a certificate under the official seal of the Board purporting to state the amount due in respect of a property is admissible in evidence and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate without any evidence that the requirements of this Part have been complied with.
- (5) In any proceeding for the recovery of a fee imposed under a tariff, a copy of an entry in, or extract from, the valuation or rate records of a council verified by the statutory declaration of the person who took that copy or made that extract is admissible in evidence and, in the absence of evidence to the contrary, is proof of the ownership and valuation of the property to which the entry or extract refers.

S. 281F
inserted by
No. 110/1997
s. 10.

281F. Savings provision

- (1) The repeal by section 10 of the **Water Acts (Further Amendment) Act 1997** of sections 280, 281 and 281A of this Act, as in force immediately before that repeal, does not affect—
 - (a) any liability to pay a rate made and levied under this Part before that repeal or to pay interest on any rate so made and levied; or
 - (b) any right or power relating to the remission, excusing or deferral of the obligation to pay a rate so made and levied; or
 - (c) any other obligation, right or power of any person relating to the payment, collection, recovery or receipt of any rate so made and levied—

and any such liability, right, power or obligation continues and may be enforced or exercised as if those sections had not been repealed.

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- (2) The provisions of sub-section (1) are in addition to, and not in derogation from, the provisions of the **Interpretation of Legislation Act 1984**.

282. General powers of the Board as to works

No. 3731
s. 258.

- (1) Subject to and for the purposes of this Part and so far as is necessary for the exercise by the Board of any powers conferred by this Part the Board may within and (with the consent of the Governor in Council) without the metropolis—

* * * * *

S. 282(1)(a)
repealed by
No. 121/1986
s. 112.

- (b) enter any land to make surveys and take levels or acquire any information for the purposes of this Part and set out such parts thereof as it thinks necessary and dig and break up the soil of such lands and trench the same and remove or use all earth stone trees or other things dug or gotten out of the same;
- (c) enter upon lands or public or private streets or roads and carry out river improvement works thereon and construct lay or place therein any drains sewers pipes or water-courses and may maintain any such river improvement works and may repair alter discontinue or remove any such drain sewer pipe water-course or river improvement works and may enter upon any such lands streets or roads for the purposes of such maintenance repair alteration discontinuance or removal;
- (d) erect construct and maintain any works buildings or machinery;

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S. 282(1)(f)
amended by
No. 81/1989
s. 3(Sch.
item 34.34).

S. 282(1)(i)
amended by
No. 81/1989
s. 3(Sch.
item 34.34).

S. 282(2)
amended by
Nos 10081
s. 5(1),
81/1989
s. 3(Sch.
item 34.34),
50/1992
s. 10(Sch.
item 6.4),
76/1998
s. 13(d).

No. 3731
s. 259.

- (e) make cleanse repair maintain deepen widen straighten improve divert alter or discontinue any drain water-course outlet for water well or defence against water and pump any water;
- (f) divert impound or take away water from any waterway; and divert or alter temporarily or permanently any part of the course of any waterway or any road street or way;
- (g) open and break up any streets or roads;
- (h) blast any rock;
- (i) carry any river improvement works or any drains sewers water-courses or works through across over or under the shores bed and waters of the sea or the bed waters and banks of any waterway or any street or road or place laid out as or intended for a street or road and into through across over or under any lands whatsoever; and
- (j) cause the drainage from works in process of construction to flow along any drain or water-course during such construction.

- (2) The powers conferred by this section so far as they relate to any waterway to the extent to which the same is without the metropolis and is subject to the jurisdiction of the Secretary or the Rural Water Corporation shall not be exercised without the previous consent of the said Secretary or Rural Water Corporation.

283. Compensation for damage

- (1) In the exercise of any powers conferred upon it by the last preceding section the Board—
 - (a) shall do as little damage as may be; and

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(b) shall if required within four years of the exercise of the powers make full compensation to all parties interested for all damage sustained by them through the exercise of such powers and for the use of any land for any of the purposes of this Part.

S. 283(1)(b)
amended by
No. 9558
s. 10(2)(c).

(2) Subject to this Part the amount of such compensation shall in default of agreement be settled as in cases of disputed compensation under Part VIII of this Act.

284. Application of other provisions of this Act

No. 3731
s. 260.

(1) The provisions of sections ninety-five one hundred and thirty-six to one hundred and forty-six and of section one hundred and fifty-one of this Act shall so far as applicable and with such alterations modifications and substitutions as are necessary extend and apply for the purposes of this Part and also with respect to works constructed or to be constructed by the Board under this Part.

(2) The provisions of section one hundred and fifty of this Act shall extend and apply with respect to the waterways to which this Part applies.

S. 284(2)
amended by
No. 81/1989
s. 3(Sch.
item 34.35).

(3) The provisions of Parts I IV V VIII and IX of this Act shall so far as applicable and with such alterations and modifications and substitutions as are necessary extend and apply for the purposes of this Part:

S. 284(3)
amended by
No. 9235
s. 21(a).

Provided that section 157 of the **Water Act 1989** shall so far as applicable and with such modifications and substitutions as are necessary extend and apply with respect to like claims for compensation against the Board arising under this Part; and for the purposes of this Part the Board

S. 284(3)
Proviso
amended by
Nos 9235
s. 21(b),
81/1989
s. 3(Sch. item
34.36(a)(b)).

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shall be deemed to be an Authority to which that section applies.

S. 284A inserted by No. 81/1989 s. 3(Sch. item 34.37).

284A. Application of Water Act 1989 compensation provisions

S. 284A(1) amended by No. 121/1994 s. 205(4).

- (1) Sections 15 and 16 of the **Water Act 1989** do not create any liability in respect of a flow of water from the works (including any dam) of the Board in the exercise of a function under Part X⁴².
- (2) Section 157 of the **Water Act 1989** applies to the Board as if—

S. 284A(2)(b) amended by No. 121/1994 s. 205(4).

- (a) the Board was an Authority; and
- (b) the reference in section 157(1)(a) to Part 8, Division 2 or 3 of Part 10, or Part 11 of the **Water Act 1989** was a reference to Part X⁴³.

No. 3731 s. 261.

285. By-laws

- (1) All by-laws made by the Board pursuant to this Part shall be subject to the approval of the Governor in Council; and (without affecting any other power of revocation) may be revoked by the Governor in Council.
- (2) Any such by-law may impose a penalty of not more than 10 penalty units for any violation of the by-law and in case of a continuing offence a further penalty of not more than one penalty unit for each day on which the offence is continued after notice has been given by the Board to the offender of the commission of the offence or after a conviction or order by any court (as the case may be).

S. 285(2) amended by Nos 7411 s. 6, 9558 s. 19(v)(i)(ii), 9824 s. 34(f)(i)(ii).

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286. Application of by-laws

Any by-laws made by the Board with respect to any waterways or the banks thereof or any river improvement works for or in respect of any purpose for or in respect of which the Board is empowered to make by-laws under this Part may be made to apply to all or any such waterways banks or works or any portions thereof or to the whole or any particular part of any such waterway bank or work or portion thereof or in respect only of any specified period or periods or day or days.

No. 3731
s. 262.
S. 286
amended by
No. 81/1989
s. 3(Sch. item
34.38(a)-(c)).

287. Construction of works affecting public corporations

No. 3731
s. 263.

- (1) Save as otherwise expressly provided with respect to any works authorized by this Part to be carried out by the Board where any such works may interfere with any land property undertakings or works vested in or under the management and control of any public corporation—
 - (a) such works shall not be proceeded with by the Board unless and until every such public corporation concerned has agreed thereto or a determination has been made by the Governor in Council as hereinafter provided;
 - (b) in default of agreement between the Board and such public corporation all matters in difference between them shall be determined by the Governor in Council whose decision shall be final and binding upon the parties; and
 - (c) any such agreement or determination may provide for all or any of the following matters—
 - (i) any new altered or substituted works reasonably necessary for preventing interference with or protecting any such land property undertakings or works

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vested in or under the management and control of such public corporation;

- (ii) the payment or apportionment of the payment of the cost of such new altered or substituted works; and the supervision of the making and execution of the same and the payment or apportionment of the expenses of such supervision; and
- (iii) any other matters necessary or convenient to be provided:

Provided that unless within three months after service of notice in writing by the Board on any such public corporation that the Board proposes to proceed with any such works such public corporation delivers to the Board a statement of its objections to any such proposed works such public corporation shall be taken to have agreed thereto.

S. 287(2)
amended by
Nos 6536
s. 31, 81/1989
s. 3(Sch.
item 34.39).

- (2) The provisions of this section shall apply with such alterations modifications and substitutions as are necessary to any case where any works authorized to be carried out by any such public corporation may interfere with any land property undertakings or works of the Board under this Part or with the flow of water in any waterway or main drain vested in the Board.

S. 287(3)
inserted by
No. 7778 s. 30.

- (3) In the application of this section to and in respect of any works under Part VI the proviso to subsection (1) shall have effect notwithstanding that at the time notice in writing is served by the Board on the public corporation that the Board proposes to proceed with the works the Board's recommendation with respect to the works has not been approved by the Governor in Council.

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S. 288
repealed by
No. 9558
s. 20(2).⁴⁴

289. Certain diversions of water prohibited

No. 3731
s. 265.

(1) The Board may consent to the diversion or appropriation of water from any waterway, main drain, main drainage works, river improvement works or any portion thereof under the management and control of the Board under this Part subject to such terms, conditions, limitations and restrictions as it thinks fit.

S. 289(1)
amended by
Nos 9178 s. 7,
9558
s. 19(v)(i)(ii),
9824
s. 34(f)(i)(ii),
substituted by
No. 9999 s. 22,
amended by
No. 81/1989
s. 3(Sch.
item 34.40).

(1A) The Victorian Channels Authority may consent to the diversion or appropriation of water from any waterway or portion thereof under the management and control of the Victorian Channels Authority subject to such terms, conditions, limitations and restrictions as the Authority thinks fit.

S. 289(1A)
inserted by
No. 9999 s. 22,
amended by
Nos 81/1989
s. 3(Sch.
item 34.41),
110/1997
s. 12(7).

(1B) A consent given under sub-section (1) or (1A) may be given only to the owner or occupier of land adjacent to the waterway, main drain, main drainage works, river improvement works or any portion thereof to which the consent relates and—

S. 289(1B)
inserted by
No. 9999 s. 22,
amended by
Nos 81/1989
s. 3(Sch.
item 34.40),
110/1997
s. 12(8).

(a) where consent is given to an owner, shall be deemed to be given to the occupier (if any) of the land, to any successor in title to that land and to any subsequent occupier of that land; and

(b) where consent is given to an occupier, shall be deemed to be given to the owner of the land, to any successor in title to that land and to any subsequent occupier of that land.

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S. 289(1C)
inserted by
No. 9999 s. 22.

(1C) Any terms, conditions, limitations or restrictions contained in a consent given under sub-section (1) or (2) shall bind the owner of the land, the occupier (if any) of the land, any successor in title to the land and any subsequent occupier of the land whether or not the owner, occupier, successors in title or subsequent occupiers are given actual notice thereof.

S. 289(1D)
inserted by
No. 9999 s. 22,
amended by
Nos 81/1989
s. 3(Sch.
item 34.40),
110/1997
s. 12(9)(a).

(1D) A person who diverts or appropriates any water from any waterway, main drain, main drainage works, river improvement works or any portion thereof under the management and control of the Board under this Part or of the Melbourne Port Corporation or the Victorian Channels Authority—

S. 289(1D)(a)
amended by
No. 110/1997
s. 12(9)(b).

(a) without the previous consent in writing of the Board, the Corporation or the Authority (as the case may be); or

S. 289(1D)(b)
amended by
No. 110/1997
s. 12(9)(b).

(b) (where the consent of the Board, the Corporation or the Authority has been given) contrary to any terms, conditions, limitations or restrictions contained in the consent—

shall be guilty of an offence against this Act and liable to a penalty of not more than 10 penalty units.

S. 289(1E)
inserted by
No. 9999 s. 22,
repealed by
No. 110/1997
s. 12(10).

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S. 289(1F)
inserted by
No. 9999 s. 22,
amended by
No. 81/1989
s. 3(Sch. item
34.42(a)–(d)).

(1F) A licence granted under Division 2 of Part 4 of the **Water Act 1989** or any corresponding previous enactment authorizing the diversion or appropriation of water and in force immediately before the coming into operation of the Order which included within the metropolis for the purposes of this Part the waterway or portion thereof for which the licence was granted shall

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continue in force subject to any conditions attaching to the licence for the period for which it was granted shall for the purposes of this section be deemed to be the consent of the Board to the diversion or appropriation.

- (2) The foregoing provisions of this section shall be read and construed as in aid and not in derogation of the provisions of Division 1 of Part 2 of the **Water Act 1989**. S. 289(2) amended by No. 81/1989 s. 3(Sch. item 34.43).
- (3) Save as otherwise expressly provided in this Part with respect to the use flow and control of the water in any waterway the right of the Crown to the use flow and control of the water in any waterway shall not be affected by this Part. S. 289(3) amended by No. 81/1989 s. 3(Sch. item 34.44).

289A. Power to Board to permit private works for protection of private lands

S. 289A inserted by No. 9999 s. 23.

- (1) The Board may grant permission to the owner or occupier of any land adjacent to any waterway to construct at the expense of such owner or occupier— S. 289A(1) amended by Nos 31/1987 s. 15(a), 81/1989 s. 3(Sch. item 34.45).
- (a) works for the protection of such lands from damage by erosion or flooding; or
- (b) a weir or dam in the waterway; or S. 289A(1)(b) amended by No. 81/1989 s. 3(Sch. item 34.45).
- (c) a bridge, crossing or culvert in or over the river, creek, stream or water-course. S. 289A(1)(c) inserted by No. 31/1987 s. 15(a).
- (2) Any such permission may be granted subject to compliance by the owner or occupier with such conditions as the Board thinks fit relating to the nature and extent of the works, weir dam, bridge, crossing or culvert, the standards of construction and maintenance of the works, weir dam, bridge, S. 289A(2) amended by No. 31/1987 s. 15(b).

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crossing or culvert and the operation of the works, weir dam, bridge, crossing or culvert and of any works associated with the works, weir dam, bridge, crossing or culvert.

- (3) Any permission given under sub-section (1) shall be deemed to be given—
- (a) where the permission is given to an owner, to the occupier (if any) of the land, to any successor in title to that land, and to any subsequent occupier of that land; and
 - (b) where the permission is given to an occupier, to the owner of the land, to any successor in title to that land, and to any subsequent occupier of that land.
- (4) Any conditions contained in any permission given under sub-section (1) shall bind the owner of the land, the occupier (if any) of the land, any successor in title to the land and any subsequent occupier whether or not the owner, occupier, successors in title or subsequent occupiers are given actual notice thereof.
- (5) Neither the Board nor the Crown shall be liable for any damage resulting from anything done or purported to be done under this section.
- (6) The Board may by notice in writing to the owner or occupier of any such land direct that any such works, weir dam, bridge, crossing or culvert be operated, removed or altered subject to such conditions as the Board thinks fit and within such period as is specified in the notice.
- (7) Any person—
- (a) who constructs any works or any weir dam, bridge, crossing or culvert in, on or over the bed or banks of any such waterway as is mentioned in this section without permission granted under this section or without

S. 289A(6)
amended by
No. 31/1987
s. 15(b).

S. 289A(7)(a)
amended by
Nos 31/1987
s. 15(b),
81/1989
s. 3(Sch.
item 34.45).

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complying with any condition to which any such permission is subject; or

- (b) who fails to operate remove or alter any such works, weir dam, bridge, crossing or culvert in accordance with a notice given to him pursuant to this section—

S. 289A(7)(b) amended by No. 31/1987 s. 15(b).

shall be guilty of an offence against this Act and liable to a penalty of not more than 10 penalty units and in the case of any offence under paragraph (b) of this sub-section shall be liable to an additional 2 penalty units for each day on which that person fails to comply with the requirements of a notice given to him under this section.

- (8) Any licence granted under Division 2 of Part 5 of the **Water Act 1989** or any corresponding previous enactment and in force immediately before the coming into operation of the Order which included within the metropolis for the purpose of this Part the waterway or portion thereof for which the licence was granted shall continue in force for the period for which it was granted and shall be deemed to have been granted by the Board.

S. 289A(8) amended by No. 81/1989 s. 3(Sch. item 34.46(a)-(c)).

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S. 289AB inserted by No. 9999 s. 24, amended by No. 81/1989 s. 3(Sch. item 34.47), repealed by No. 54/1992 s. 55(7).

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s. 290

No. 3731
s. 266.

290. Saving of rights of Crown

- (1) For the purpose of ascertaining whether any of the requirements of this Part or of any by-laws thereunder are or are not being complied with any member of the Board or any officer of the Board or any other person authorized by the Board in writing in that behalf (whether generally or in any particular case) may enter into and upon and inspect any premises—
 - (a) in the case of trade premises—at any time when such trade is being carried on or is usually carried on; or
 - (b) in the case of any other premises—at any reasonable hour in the day-time.

S. 290(2)
amended by
Nos 9558
s. 19(w), 9824
s. 34(g).

- (2) Every person who obstructs any such member officer or other person in the performance of anything which he is empowered to do under this section shall be liable to a penalty of not more than 10 penalty units.

No. 3731
s. 267.

291. Power to Crown to resume certain public lands vested in the Board

It shall be lawful for Her Majesty to resume possession at any time without payment of compensation of so much of any Crown lands vested in the Board by or under this Part as is required for any public purpose or for public highways.

No. 3731
s. 268.

292. Power to declare corporations to be public corporations

The Governor in Council may by Order published in the Government Gazette declare any corporation to be a public corporation for the purposes of this Part.

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293. Power to Governor in Council to rectify errors etc.

The Governor in Council may by Order published in the Government Gazette rectify any errors in the definition or description of any works undertakings lands or property vested in the Board by or under this Part, or of any drain or waterway or portion thereof declared to be a main drain under this Part, or of the bed and banks of any waterway vested in the Board by or under this Part; and every such definition or description when so rectified shall take effect accordingly.

No. 3731
s. 269.
S. 293
amended by
Nos 7411
s. 7(2)(b),
81/1989
s. 3(Sch. item
34.48(a)–(c)),
22/1999
s. 12(4).

293A. Supreme Court—limitation of jurisdiction

It is the intention of section 281A(8) to alter or vary section 85 of the **Constitution Act 1975**.

S. 293A
inserted by
No. 38/1997
s. 4.

294. Validation of certain actions of Board

Anything done or purported to have been done by the Board under this Act, before the commencement of section 12(2) of the **Water Acts (Amendment) Act 1999**, that would have been validly done had that section come into operation before the time at which the thing was done or purported to have been done, has and is deemed always to have had, the same force and effect as it would have had if that section had come into operation before the time at which the thing was done or purported to have been done.

S. 294
inserted by
No. 22/1999
s. 13.

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s. 294

Pt 11
(Heading and
ss 294–312)
inserted by
No. 9700 s. 3,
amended by
Nos 9824
s. 31(a)(b)(i)(ii),
10187
s. 41(a)(i)–(iii)
(b)(c)(i)–(iii)(d),
86/1986 s. 43,
45/1987
s. 205(Sch.
items 93, 94),
79/1988
s. 19(a),
12/1989
s. 4(1)(Sch. 2
item 77.85),
36/1989
s. 9(1),
81/1989
s. 3(Sch.
items 34.49,
34.50),
repealed by
No. 121/1994
s. 206.

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PART XII—WASTE

Pt 12
(Heading and
ss 313–325)
inserted by
No. 10261
s. 43.

313. Definitions

S. 313
inserted by
No. 10261
s. 43.

In this Part—

"disposal" includes the temporary or permanent removal of waste from a storage or treatment facility;

"facility" includes—

- (a) land;
- (b) any works; and
- (c) any land, sea or air vehicle;

"prescribed waste" means any waste prescribed by a by-law under section 316 for the purposes of this Part;

"solid waste" means any household rubbish, building and construction waste or any other waste normally collected, removed or disposed of by a municipality or accepted for disposal in a municipal tip but does not include prescribed waste;

"storage" includes the temporary or permanent keeping or retention of waste;

"treatment" includes—

- (a) any biological, chemical or physical process;
- (b) incineration;
- (c) landfill; and
- (d) any combination of the above;

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"waste" means any discarded, rejected, unwanted, surplus or abandoned matter but does not include any solid waste;

"works" includes—

- (a) any building, structure, fence, wall, channel, road, boat, pontoon, vessel, bridge, jetty, moorings, pipeline, machinery, equipment, apparatus or container; and
- (b) any alteration of the topography of the land including the planting or removal of trees, shrubs or other vegetation.

S. 314
inserted by
No. 10261
s. 43.

314. Functions of the Board

The Board may in Victoria or elsewhere—

- (a) store, treat or dispose of any waste regardless of where the waste is situated or generated;
- (b) collect, transfer or transport any waste to, from or between any facility of the Board or any other person or place;
- (c) research and develop processes for the storage, disposal or treatment of waste;
- (d) design, construct, provide, establish, operate, manage or maintain facilities for the storage, disposal or treatment of waste;
- (e) refine or combine any waste whether with any other waste or any other matter;
- (f) sell or dispose in any other manner any waste or any product whether natural or otherwise; and
- (g) give advice in connection with the collection, removal, transportation, combining, refining, storage, treatment or disposal of waste.

315. Powers of the Board

S. 315
inserted by
No. 10261
s. 43.

- (1) The Board has the power to do all things necessary or convenient to be done for or in connection with the performance of the functions specified in section 314.
- (2) Without limiting the scope of sub-section (1) the powers of the Board include power to—
 - (a) enter upon any land or vehicle and inspect any apparatus, equipment, facility, machinery, load or process relating to any waste to be treated, stored or disposed of by the Board;
 - (b) investigate, sample, test or analyse any waste to be treated, stored or disposed of by the Board or any material used in the process of generating any waste to be treated, stored or disposed of by the Board;
 - (c) require any person to give the Board any information relating to any waste to be treated, stored or disposed of by the Board or any material used in the process of generating waste to be treated, stored or disposed of by the Board;
 - (d) enter into any contract or agreement for the performance of the functions specified in section 314;
 - (e) acquire, use and dispose of any land, facilities or works necessary to perform the functions specified in section 314;
 - (f) subject to the approval of the Minister—
 - (i) promote and form or participate in the promotion or formation of a corporation, trust, partnership or other body;

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- (ii) subscribe for or otherwise acquire, and hold and dispose of, shares in a corporation;
 - (iii) become a member of a company limited by guarantee;
 - (iv) subscribe for or otherwise acquire, and hold and dispose of, units in a trust;
 - (v) acquire, and hold and dispose of, an interest in a partnership or other body; or
 - (vi) enter into partnership or into any arrangement for sharing of profits, union of interest, co-operation, joint venture, reciprocal concession or otherwise, with any person or corporation carrying on or engaged in, or about to carry on or engage in, any business or transaction capable of being conducted so as directly or indirectly to benefit the Board; and
- (g) set fees and charges for—
- (i) inspecting, sampling, monitoring, testing or analyzing waste;
 - (ii) accepting waste having regard to its composition, characteristics, components or volume and requirements for storage, treatment or disposal;
 - (iii) any advice or information provided by the Board; and
 - (iv) any other service provided by the Board.
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- (3) Unless the Board otherwise specifies, upon the Board accepting any waste the waste becomes the property of the Board.
 - (4) Division 4 of Part 1 does not apply to any contract or agreement entered into under this Part.

316. By-laws

S. 316
inserted by
No. 10261
s. 43.

- (1) The Board may make by-laws for the purposes of this Part for or with respect to—
 - (a) prescribing the methods to be used by the Board in inspecting, sampling, monitoring, testing or analyzing waste;
 - (b) prescribing the information to be provided to the Board by any person generating or handling waste;
 - (c) prescribing the terms and conditions, including with respect to termination and requiring a bank guarantee, of agreements between the Board and any person depositing waste;
 - (d) prescribing any waste to be prescribed waste; and
 - (e) generally prescribing any other matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Part.
- (2) By-laws made under sub-section (1) may make provision for or in relation to any matter by applying, adopting or incorporating with or without modification the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body as in force at a particular time or as in force from time to time.

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S. 317
inserted by
No. 10261
s. 43.

317. Waste Management Fund

- (1) There is established a Fund called the Waste Management Fund.
- (2) There is to be paid into the Fund—
 - (a) any money received by the Board under this Part;
 - (b) any money borrowed by or advanced to the Board under this Part and financial accommodation obtained for the purposes of this Part in accordance with powers conferred on the Board by the **Borrowing and Investment Powers Act 1987**; and
 - (c) notwithstanding anything to the contrary in section 185 any other money that the Board determines should be paid into the Fund.
- (3) There is to be paid out of the Fund—
 - (a) any money required for the repayment of borrowings by or advances to the Board under this Part and the payment of amounts payable as a result of or in connection with financial accommodation obtained by the Board for the purposes of this part in accordance with powers conferred on the Board under the **Borrowing and Investment Powers Act 1987** (including the payment of expenses of enforcement); and
 - (b) any payment for or towards the costs and expenses of or incidental to the performance of the functions or the exercise of the powers of the Board under this Part.

S. 317(2)(b)
substituted by
No. 13/1987
s. 23.

S. 317(3)(a)
substituted by
No. 13/1987
s. 23.

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s. 318

318. Borrowing powers

S. 318
inserted by
No. 10261
s. 43.

* * * * *

S. 318(1)(2)
repealed by
No. 13/1987
s. 23.

(3) The Treasurer of Victoria may out of money standing to the credit of the Consolidated Fund make advances by way of loan or otherwise to the Board for the purposes of this Part.

(4) The Board may obtain financial accommodation for the purposes of this Part in accordance with powers conferred on the Board by the **Borrowing and Investment Powers Act 1987** and the payment of amounts payable as a result of or in connection with financial accommodation obtained by the Board (including the payment of expenses of enforcement) is secured on the credit of the Waste Management Fund.

S. 318(4)
substituted by
No. 13/1987
s. 23.

* * * * *

S. 318(5)(6)
repealed by
No. 13/1987
s. 23.

(7) The due repayment of any money borrowed by the Board under this Part and the payment of any interest, charges and expenses chargeable by the creditor or against the Board and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of the debt and the interest, charges and expenses are guaranteed by the Government of Victoria.

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S. 318(8)
repealed by
No. 13/1987
s. 23.

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s. 319

319. Debentures and inscribed stock

S. 319
inserted by
No. 10261
s. 43.

S. 319(1)
repealed by
No. 13/1987
s. 23.

* * * * *

S. 319(2)
amended by
No. 13/1987
s. 23.

(2) All debentures and inscribed stock created and issued before the commencement of section 23 of the **Borrowing and Investment Powers Act 1987**—

S. 319(2)(a)
repealed by
No. 13/1987
s. 23.

* * * * *

- (b) are to bear interest at such rate and to be redeemable at such date or dates and at such place or places in or outside the Commonwealth as the Board determines;
 - (c) may with the consent of the holder or the registered owner respectively be paid off at any time previous to the due date thereof at not more than the par face value thereof or at a premium with interest thereon to date of payment only; and
 - (d) are to be in such form and subject to such other terms and conditions as the Board determines.
- (3) Interest secured by any debenture or inscribed stock accrues at the intervals and is payable at the times and places in or outside the Commonwealth as the Board determines.

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s. 319

- (4) The Board at the request of the holder of any debenture or of the registered owner of any inscribed stock issued under this Part may in lieu thereof issue to that person inscribed stock or debentures in respect of the same loan and of the same amount bearing the same interest and of the same currency.

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S. 319(5)
repealed by
No. 13/1987
s. 23.

- (6) The Board may make by-laws generally for or with respect to debentures and inscribed stock issued under this Part including prescribing—
- (a) the rights of the bearer of a debenture;
 - (b) the manner of keeping registers of debentures;
 - (c) the fees to be paid for an inspection of a register of debentures or the obtaining of a copy of or extract from a register of debentures;
 - (d) the issue of duplicate debentures;
 - (e) the issue of new debentures in lieu of defaced, lost or destroyed debentures;
 - (f) the destruction of discharged debentures;
 - (g) the establishment of a registry or registries for the inscription of stock;
 - (h) the keeping of records;
 - (i) the transfer of inscribed stock; and
 - (j) any matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this section and section 318.

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s. 320

320. Notice of trust not receivable

S. 320
inserted by
No. 10261
s. 43.

S. 320(1)
amended by
No. 13/1987
s. 23.

- (1) Subject to sub-section (2), no notice of any trust expressed, implied or constructive is to be received by the Board or by any officer of the Board in relation to any debenture issued under this Part or security issued under the **Borrowing and Investment Powers Act 1987**.
- (2) The Board may receive applications and dealings in the name of trustees appointed and acting as such pursuant to an Act of the Parliament of Victoria or of the Commonwealth or any other State of Australia.

S. 320A
inserted by
No. 13/1987
s. 23,
repealed by
No. 54/1992
s. 55(8).

* * * * *

S. 321
inserted by
No. 10261
s. 43.

321. Investment powers

S. 321(1)
substituted by
No. 13/1987
s. 24.

- (1) Money standing to the credit of the Fund may be invested in the name of the Board in accordance with the powers conferred on the Board by the **Borrowing and Investment Powers Act 1987**.

S. 321(2)
amended by
No. 13/1987
s. 24.

- (2) Notwithstanding anything to the contrary in this or any other Act money standing to the credit of the Metropolitan General Fund or the Metropolitan Improvement Fund may be invested in any loans or securities of the Board under this Part or the **Borrowing and Investment Powers Act 1987**.
- (3) An investment under sub-section (2) does not affect the debt to which the loan or security relates.

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s. 322

322. Offences

S. 322
inserted by
No. 10261
s. 43.

- (1) Any person who contravenes any provision of this Part or of any by-law or agreement made under this Part is guilty of an offence against this Act and liable to a penalty of not more than 200 penalty units and in the case of a continuing offence to a daily penalty of not more than 80 penalty units for each day the offence continues after conviction or after service by the Board on the defendant of a notice of contravention.
- (2) If a person is guilty of an offence under subsection (1) any other person who generates, supplies, transports, disposes of or otherwise handles the waste in respect of which the offence was committed whilst the contravention continues is also guilty of an offence against this Act and liable to the same penalty.
- (3) Where a corporation is guilty of an offence any person who is concerned or takes part in the management of that corporation is also guilty of that offence and liable to the penalty for that offence.
- (4) It is a defence to a charge brought under subsection (3) against a person who is concerned or takes part in the management of a corporation to prove that the offence was committed by the corporation without his or her consent or connivance and that he or she exercised due diligence to prevent the commission of the offence.

S. 322(1)
amended by
No. 20/1988
s. 30(b)(i)(ii).

323. Recovery of costs to remedy contravention

S. 323
inserted by
No. 10261
s. 43.

- (1) The Board may recover any costs incurred by the Board in taking any action to remedy any contravention of this Part or of any by-law or

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agreement made under this Part from the person who so contravened in any court of competent jurisdiction as a debt due to the Board.

- (2) In addition to the penalty specified in section 322, a court may having regard to the seriousness and consequences of any contravention of this Part or of any by-law or agreement made under this Part impose a penalty equal to double the costs that may be recovered under sub-section (1).
- (3) The Board may recover the cost of carrying out any work on any property to clean up and remove waste discarded or abandoned on any property from the person who discarded or abandoned the waste in any court of competent jurisdiction as a debt due to the Board.

S. 324
inserted by
No. 10261
s. 43,
amended by
No. 110/1986
s. 140(2).

324. Board may obtain injunction

The Board may whether or not proceedings have been taken for an offence under section 322 by summons apply to the Supreme Court for an injunction restraining any person from contravening this Part or any by-law or agreement made under this Part or compelling any person to comply with this Part or any by-law or agreement made under this Part.

S. 325
inserted by
No. 10261
s. 43.

325. Relationship of this Part to remainder of Act

This Part is to be construed as conferring additional functions and powers on the Board and the remainder of this Act in so far as it is not inconsistent with this Part applies with such modifications and alterations as are necessary in the performance of functions and the exercise of powers under this Part by the Board.

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Sch. 1

SCHEDULES

S. 2

FIRST SCHEDULE

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
3731	Melbourne and Metropolitan Board of Works Act 1928	So much as is not already repealed.
3822	Sessional Acts Revision Act 1929	Section 6(5).
3833	Melbourne and Metropolitan Board of Works Act 1929	The whole.
3912	Melbourne and Metropolitan Board of Works Lands Act 1930	The whole.
3943	Statute Law Revision Act 1930	Item in Schedule referring to Melbourne and Metropolitan Board of Works Act 1928 .
4129	Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1933	The whole.
4611	Melbourne and Metropolitan Board of Works (Rate) Act 1938	The whole.
4902	Melbourne and Metropolitan Board of Works (Rates) Act 1942	The whole.
4988	Ministry of Health Act 1943	Third Schedule, clause 4.
5057	Melbourne and Metropolitan Board of Works Act 1944	So much as is not already repealed.
5070	Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1945	The whole.
5317	Public Officers Salaries Act 1948	Section 2(5).
5487	Melbourne and Metropolitan Board of Works (Contracts) Act 1950	The whole.
5488	Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1950	The whole.
5513	Public Officers Salaries Act 1950	Section 2(4).

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Sch. 1

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Repeal</i>
5609	Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1951	The whole.
5615	Judges and Public Officers Salaries Act 1951	Section 3(1).
5668	Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1953	The whole.
5755	Melbourne and Metropolitan Board of Works (Reconstitution) Act 1953	The whole.
5795	Melbourne and Metropolitan Board of Works (Amendment) Act 1954	The whole.
5914	Limitation of Actions Act 1955	Schedule, clause 28.
5970	Public Officers Salaries and Allowances Act 1956	Section 7.
5982	Melbourne and Metropolitan Board of Works Act 1956	So much as is not otherwise repealed.
6041	Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1956	The whole.
6060	Melbourne and Metropolitan Board of Works (Contributions) Act 1957	The whole.
6114	Melbourne and Metropolitan Board of Works (Extension and Advances) Act 1957	The whole.

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Sch. 2

SECOND SCHEDULE⁴⁵

PORTION OF METROPOLIS

All that piece of land commencing at a point on the high-water mark on the eastern foreshore of Port Phillip Bay in the City of Mordialloc distant 20·9215 kilometres from the site of the building known as the Post Office (corner of Bourke and Elizabeth streets) Melbourne; thence north-easterly by the circumference of a circle whose radius is 20·9215 kilometres from the site of the said Post Office to the eastern boundary of Westall-road, in the Parish of Mordialloc; thence southerly by the eastern boundary of Westall-road and the eastern boundary of Westall-road produced to the southern boundary of Heatherton-road; thence westerly along the southern boundary of Heatherton-road for a distance of approximately 342 metres to the eastern boundary of Tootal-road; thence south-westerly along the eastern boundary of Tootal-road to the northern boundary of Old Dandenong-road; thence south-easterly along the northern boundary of Old Dandenong-road and the north boundary of Old Dandenong-road produced to the eastern boundary of Edithvale-road; thence southerly by the eastern boundary of Edithvale-road to the southern boundary of Governor-road produced; thence westerly by the southern boundary of Governor-road produced and the southern boundary of Governor-road to the eastern boundary of Boundary-road; thence southerly by the eastern boundary of Boundary-road to the northern bank of the Mordialloc Creek; thence westerly by the northern bank of the Mordialloc Creek to the high-water mark of Port Phillip Bay; thence generally north-westerly by the high-water mark of Port Phillip Bay to the commencing point.

S. 3.
Sch. 2
amended by
S.R. No.
323/1973 cl. 7,
No. 9558
s. 21(1)(a)(b).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 3

Ss 4, 6.

Sch. 3

amended by
G.G. 26.1.66

p. 436,
substituted by
Nos 6503

s. 3(f), 7497

s. 8, 8281 s. 5,

amended by
G.G. 14.8.74

p. 2993,

repealed by

No. 9165

s. 38(f),

new Sch. 3

inserted by

No. 10187

s. 43,

amended by

Nos 110/1997

s. 12(11),

86/1998 s. 22,

59/2003 s. 120.

THIRD SCHEDULE

The Metropolitan Area consists of the following areas:

- (a) The municipal districts of the Cities of Altona, Berwick, Box Hill, Brighton, Broadmeadows, Brunswick, Camberwell, Caulfield, Chelsea, Coburg, Collingwood, Croydon, Dandenong, Doncaster and Templestowe, Essendon, Fitzroy, Footscray, Frankston, Hawthorn, Heidelberg, Keilor, Kew, Knox, Malvern, Melbourne, Moorabbin, Mordialloc, Northcote, Nunawading, Oakleigh, Port Melbourne, Prahran, Preston, Richmond, Ringwood, Sandringham, South Melbourne, Springvale, St Kilda, Sunshine, Waverley, and Williamstown, and of the Shires of Bulla, Diamond Valley, Eltham, Melton, Werribee and Whittlesea.

- (b) The following portion of the Shire of Cranbourne:

That portion commencing at a point on the municipal boundary at the north-eastern angle of Allotment 71C, Parish of Cranbourne; thence southerly by a road on the eastern boundary of that allotment to Bullarto-road; thence westerly by that road to the north-eastern angle of the Parish of Langwarrin; thence southerly by a road on the eastern boundary of that parish to the south-eastern angle of allotment 11; thence westerly by a road to the north-western angle of allotment 58; thence southerly by a road to the south-eastern angle of allotment 62; thence westerly to a road to the north-western angle of allotment 81; thence southerly by a road to the southern boundary of the said parish being a point on the municipal boundary; and thence generally westerly, generally northerly and generally south-easterly by that boundary to the point of commencement.

- (c) The following portion of the Shire of Pakenham:

That portion west of a line commencing at a point on the municipal boundary being the north-eastern corner of Crown Allotment 21, Section F, Parish of Gembrook, County of Evelyn; thence southerly by the eastern boundary of that allotment and the western boundary of Crown Allotment 73 to the northern boundary of the County of Mornington; thence generally southerly by that boundary and the eastern boundary of Crown Allotment 97 to the north-eastern angle of Crown Allotment 97A; thence westerly by the southern boundary of that allotment to Bourkes Creek; thence southerly by that creek to the northern boundary of Crown Allotment 67, Section C; thence southerly and westerly by that allotment and the southern boundary of Crown Allotment 68, Section C, to the north-west corner of Crown Allotment 65, Section C; thence generally southerly and easterly by that allotment to Toomuc Creek; thence generally southerly by that creek to the southern boundary of the municipality.

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 3

-
- (d) All the lands which are vested in, or purchased or acquired by, or under the management of, the Melbourne Port Corporation under the **Port Services Act 1995**.
- (e) the docklands area within the meaning of the **Docklands Act 1991**.

* * * * *

Sch. 4
amended by
G.G. 26.1.66
p. 436,
substituted by
Nos 6503
s. 3(g), 7497
s. 9, 8281 s. 6,
amended by
G.G. 14.8.74
p. 2993,
repealed by
No. 9165
s. 38(f).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 5

S. 61.
Preamble.

FIFTH SCHEDULE

THE AGREEMENT⁴⁶

Agreement made the twenty-second day of November One thousand nine hundred and twenty-six Between the Melbourne and Metropolitan Board of Works of 110 Spencer-street, Melbourne (hereinafter called "the Board"), of the one part and The President Councillors and ratepayers of the Shire of Whittlesea (hereinafter called "the Council") of the other part Whereas the land coloured red on the plan endorsed hereon is the property of the Board and known as the Yan Yean Watershed Area And Whereas in consideration of the Council having agreed to the closing of all roads and tracks through the said land coloured red the Board has agreed subject to the terms and conditions hereinafter contained and to the execution of this Agreement by the Council to construct a road in the position approximately indicated by a blue line on the said plan and also to pay to the Council the sum of Two Hundred and Fifty pounds as a contribution towards the cost of the Council in purchasing and forming a continuation of such road through adjoining land belonging to one George Sutherland Nos this Agreement witnesseth that in pursuance of the said Agreement the parties hereto mutually covenant and agree the one with the other as follows:

1. The Board will at its own cost and expense in all things survey and fence on both sides thereof a strip of land Sixty-six feet wide in the position as approximately indicated on the said plan for the use of the public as a highway and will at the like cost and expense clear the same and form and maintain a road for vehicular traffic of not less than Twenty feet wide (including table drains) in the position approximately indicated by a blue line.
2. The Board shall have the right at its own cost and expense from time to time to construct drains and put in culverts and/or pipe drains in and under the said road when and wherever considered necessary by the Board for the purpose of any of its works or for diverting all road drainage from or within the Board's watershed area and the Board will at its own cost and expense maintain and keep in order all such drains and culverts.
3. The Council hereby consents and agrees to the closing by the Board of those portions of Cades-lane and Scrubby Creek-road on the land coloured red on the said plan and all other roads or tracks through the said land coloured red and all roads and tracks referred to in Section 67(4) of the Melbourne and **Metropolitan Board of Works Act 1915** save and except the existing road shown on the said plan and thereon coloured brown.

Melbourne and Metropolitan Board of Works Act 1958
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Sch. 5

4. The Council shall at its own cost and expense in all things acquire such land as may be necessary for the construction of a road through the property abutting on the Board's watershed area and belonging to George Sutherland and shall at the like cost and expense in all things form and maintain such last-mentioned road.
5. The Board will without admitting any liability so to do pay to the Council the sum of Two Hundred and Fifty pounds as a contribution towards the cost incurred by the Council in the purchase and forming of such last-mentioned road.
6. The Board shall not be liable for and the Council shall not at any time hereafter call upon or take any action to enforce the Board to contribute towards the formation maintenance repair or upkeep of the road referred to in Clause 4 hereof.
7. In consideration of the premises and the contribution and assistance of the Board in regard to the new roadways the Council acknowledges that the arrangement entered into by this Agreement is in full and complete settlement of any claim or right whatsoever by the Council or of the Municipality for the use enjoyment or construction of any road or roads track or tracks through the land coloured red other than the road referred to in Clause 1 hereof.
8. The Council hereby undertakes to give its consent to any application the Board may make to the Governor in Council or Parliament of Victoria to vest in the Board all roads and tracks on the said land coloured red other than the roads coloured blue and brown on the said plan and also agrees to assist the Board to obtain the granting of such application or in any other procedure the Board may take to obtain the fee-simple of such roads and tracks and that this Agreement may be used by the Board in support of or in connexion with such application or procedure.

Provided always and it is hereby agreed and declared by the parties hereto that this Agreement is entered into not only subject to the terms covenants and conditions hereinbefore set forth but also subject to the approval of the Governor in Council to the said Agreement and that until such approval has been so obtained this Agreement shall have no force or effect.

In Witness whereof the parties hereto have executed these presents the day and year first before written.

The Common Seal of the Melbourne and Metropolitan Board of Works was affixed hereto in the presence of—

(Signed) GEO. RENFREY, Member.

(Signed) C. T. CRISPE, Member.

(Signed) H. S. HIGGINSON, Acting Secretary.

Melbourne and Metropolitan Board of Works Act 1958
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Sch. 5

The Common Seal of The President,
Councillors and Ratepayers of the Shire
of Whittlesea was hereunto affixed by
authority of the Council of the said Shire
in the presence of—

(Signed) B. McCORMACK, President.

(Signed) P. W. CLARK, Councillor.

(Signed) JAMES RYAN, Shire Secretary.

Approved by the Governor in Council
11 January, 1927.

(Signed) F. W. MABBOTT,
Clerk of the Executive Council.

SIXTH SCHEDULE

S. 61

**TECHNICAL DESCRIPTION OF ROAD COLOURED BLUE ON
PLAN**

All that piece of land in the Parish of Linton County of Evelyn being parts of Crown allotments 5 and 4 also part of Crown portion 5 Parish of Toorourrong County of Evelyn commencing at a point distant S. 18° 5' W. for three hundred and forty-eight links and five-tenths of a link and S. 23° 45' E. for four hundred and seventy-three links from the north-west corner of Crown allotment 84A thence by lines bearing N. 42° 33' W. six hundred and ninety-five links and eight-tenths of a link, N. 23° 12' W. seven hundred and nine links and three-tenths of a link, N. 49° 21' W. one hundred and eighty-eight links, N. 75° 31' W. seven hundred and fifty-nine links and five-tenths of a link, N. 50° 58' W. six hundred and twenty-two links, N. 77° 37' W. eight hundred and sixty-links and eight-tenths of a link, S. 68° 28' W. two hundred and seventy-four and two-tenths of a link, N. 83° W. one hundred and seventy-nine links and five-tenths of a link, N. 54° 28' W. five hundred and seventy-six links and five-tenths of a link, N. 84° 9' W. nine hundred and forty-four links and one-tenth of a link, N. 48° 54' W. eight hundred and eighty-eight links and nine-tenths of a link, N. 13° 25' W. five hundred and forty-two links and four-tenths of a link, N. 52° 9' W. one hundred and seventy-eight links and one-tenth of a link, S. 89° 7' W. four hundred and twenty-eight links and one-tenth of a link, S. 67° 1' W. two hundred and sixty-five links and five-tenths of a link, N. 75° 41' W. one hundred and eighty-seven links and three-tenths of a link, N. 87° 53' W. three hundred and three links and two-tenths of a link, N. 73° 28' W. five-hundred and forty links and four-tenths of a link, S. 73° 24' W. six hundred and eighty-four links, N. 39° 13' W. two hundred and sixty-one links and eight-tenths of a link, N. 2° 41' E. two hundred and four links and nine-tenths of a link, N. 20° 13' W. one hundred and eighty-seven links and nine-tenths of a link, N. 38° 17' E. two hundred and fifteen links and one-tenth of a link, N. 63° 13' E. two hundred and twenty-five links, N. 16° 30' E. two hundred and ninety-one links and three-tenths of a link, N. 20° 31' W. two hundred and twenty links and three-tenths of a link, N. 57° 32' W. two hundred and seventy-two links and three-tenths of a link, N. 41° 4' W. two hundred and ninety-six links and four-tenths of a link, N. 19° 28' W. one hundred and fifty links and one-tenth of a link, N. 30° 57' W. eight hundred and one links and nine-tenths of a link, N. 21° 9' W. two hundred links and four-tenths of a link, N. 66° 58' W. fifty-three links and eight-tenths of a link, S. 67° 13' W. one hundred and seventy-three links and three-tenths of a link, S. 46° 20' W. two hundred and eighteen links and three-tenths of a link, S. 76° 33' W. one hundred and forty-nine links and six-tenths of a link, N. 73° 13' W. three hundred and ninety-one links and three-tenths of a link, S. 38° 49' W. one hundred and seventy-eight links and four-tenths of a link, S. 54° 22' W. three

Melbourne and Metropolitan Board of Works Act 1958
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Sch. 6

hundred and thirty-five links and five-tenths of a link, S. 79° 10' W. four hundred and ninety-three links and six-tenths of a link, N. 48° 52' W. one hundred and ninety-six links and three-tenths of a link, N. 3° 5' E. five hundred and forty links and six-tenths of a link, N. 45° 32' W. three hundred and ninety-one links and two-tenths of a link, S. 75° 29' W. six hundred and twenty-four links and eight-tenths of a link, W. five hundred and nine links and five-tenths of a link, N. 72° 23' W. five hundred and one links and nine-tenths of a link, S. 72° 44' W. two hundred and fifty-two links and one-tenth of a link, S. 38° 16' W. three hundred and eighty-five links and six-tenths of a link, S. 55° 26' W. two hundred and eighty-two links and one-tenth of a link, N. 86° 36' W. one hundred and ninety links and seven-tenths of a link, N. 48° 39' W. five hundred and ninety-eight links and seven-tenths of a link, N. 39° 51' W. one hundred and forty-two links and three-tenths of a link, N. 54° 33' W. one hundred and sixty-six links and nine-tenths of a link, N. 47° 50' W. three hundred and eighty-links N. 6° 2' W. three hundred and ten links, N. 50° 38' W. three hundred and nineteen links and eight-tenths of a link, N. 69° 28' W. five hundred and thirty-two links, N. 74° 32' E. one hundred and sixty-nine links and four-tenths of a link, S. 69° 28' E. four hundred and eleven links and six-tenths of a link, S. 50° 38' E. three hundred and seventy-seven links and four-tenths of a link, S. 6° 2' E. three hundred and twelve links and eight-tenths of a link, S. 47° 50' E. three hundred and thirty-six links, S. 54° 33' E. one hundred and seventy-four links and one-tenth of a link, S. 39° 51' E. one hundred and forty-seven links and seven-tenths of a link, S. 48° 39' E. five hundred and fifty-six links and seven-tenths of a link, S. 86° 36' E. one hundred and twenty-one links and nine-tenths of a link, N. 55° 26' E. two hundred and thirty-two links and seven-tenths of a link, N. 38° 16' E. six hundred and thirty-one links and seven-tenths of a link, S. 72° 52' E. three hundred and eighty-three links and eight-tenths of a link, S. 72° 12' E. one hundred and five links and three-tenths of a link, S. 0° 40' E. for one hundred links to the southern boundary of an existing road thence easterly along the southern boundary of this road for a distance of one thousand three hundred and sixty-six links and six-tenths of a link; thence by lines bearing S. 45° 32' E. four hundred and fifty-three links and eight-tenths of a link, S. 3° 5' W. five hundred and thirty-seven links, S. 48° 52' E. ninety-eight links and nine-tenths of a link, N. 79° 10' E. four hundred and twenty-two links and eight-tenths of a link, N. 54° 22' E. two hundred and ninety-nine links and nine-tenths of a link, N. 38° 49' E. two hundred and thirty-two links and two-tenths of a link, S. 73° 13' E. four hundred and thirty-one links and seven-tenths of a link, N. 76° 33' E. ninety-five links and six-tenths of a link, N. 46° 20' E. two hundred and nine links and seven-tenths of a link, N. 67° 13' E. two hundred and thirty-three links and nine-tenths of a link, S. 66° 58' E. one hundred and thirty-eight links and two-tenths of a link, S. 21° 9' E. two hundred and thirty-three links and nine-tenths of a link, S. 30° 57' E. eight hundred and two links and eight-tenths of a link, S. 19° 28' E. one hundred and forty links and seven-tenths of a link, S. 41° 4' E. two hundred and sixty-three links, S. 57° 32' E. two hundred and ninety-one links and three-tenths of a link, S. 20° 31' E. two hundred and

Melbourne and Metropolitan Board of Works Act 1958
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Sch. 6

eighty-six links and nine-tenths of a link, S. 16° 30' W. three hundred and sixty-seven links and seven-tenths of a link, S. 63° 13' W. two hundred and forty-six links, S. 38° 17' W. one hundred and thirty-six links and nine-tenths of a link, S. 20° 13' E. one hundred and fifty-one links and nine-tenths of a link, S. 2° 41' W. one hundred and eighty-eight links and seven-tenths of a link, S. 39° 13' E. one hundred and fifty-eight links and eight-tenths of a link, N. 73° 24' E. six hundred and forty-seven links and two-tenths of a link, S. 73° 28' E. five hundred and fifty-seven links and six-tenths of a link, S. 87° 53' E. three hundred and one links and two-tenths of a link, S. 75° 41' E. one hundred and sixty-four links and three-tenths of a link, N. 67° 1' E. two hundred and fifty-one links and three-tenths of a link, N. 89° 7' E. four hundred and eighty-two links and nine-tenths of a link, S. 52° 9' E. two hundred and forty-eight links and five-tenths of a link, S. 13° 25' E. five hundred and forty-five links and two-tenths of a link, S. 48° 54' E. eight hundred and twenty-five links and one-tenth of a link, S. 84° 9' E. nine hundred and thirty-eight links and seven-tenths of a link, S. 54° 28' E. five hundred and seventy-seven links and five-tenths of a link, S. 83° E. one hundred and twenty-eight links and seven-tenths of a link, N. 68° 28' E. two hundred and seventy-nine links and two-tenths of a link, S. 77° 37' E. nine hundred and fourteen links and eight-tenths of a link, S. 50° 58' E. six hundred and twenty-three links and eight-tenths of a link, S. 75° 31' E. seven hundred and sixty links and nine-tenths of a link, S. 49° 21' E. two hundred and thirty-four links and two-tenths of a link, S. 23° 12' E. seven hundred and fifteen links and three-tenths of a link, S. 42° 33' E. three hundred and eighty-five links and four-tenths of a link; and S. 23° 45' E. for three hundred and ten links to the point of commencement.

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 7

Ss 69, 98.

Sch. 7
amended by
Nos 9235
s. 22, 9824
s. 32, 36/1989
s. 8(4).

SEVENTH SCHEDULE

MELBOURNE AND METROPOLITAN BOARD OF WORKS

Notice to the owners of tenements in _____ street and the private
streets lanes courts and alleys opening thereto.

The main pipe in the said streets being laid down the owners of all tenements
situated as above are hereby required on or before the
day of _____ next to cause a proper pipe and stop-cocks to be
laid so as to supply water within such tenements from the main pipe.

A.B.,

General Manager or Proper Officer

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 8

EIGHTH SCHEDULE

WARRANT OF SEIZURE AND SALE

State of Victoria
to wit.

To _____ a member of the police force at
Whereas _____ of _____ in the State of Victoria has
been charged *or* is liable to pay the sum of _____ due to the
Melbourne and Metropolitan Board of Works as the occupier [*or* owner] of a
certain tenement situate _____ and now occupied by _____
and whereas the sum of _____ being
due and payable on account of the said charge or sum (*as the case may be*) on
the _____ day of _____ in the year of our Lord One
thousand nine hundred and _____ was duly demanded by the said
Board on the day of _____ in the year _____ of the said _____ who has not yet
paid the same. These are therefore to require and authorize you forthwith to
levy the said sum of _____ together with the costs of these presents by
seizure and sale of the goods found by you on the said tenement according to
law and that you certify to me on the _____ day what you shall do by
virtue of this warrant.

Given under my hand and seal this _____ day of _____ in the
year of our Lord One thousand nine hundred and _____

(L.S.)

Chairperson of the Board

S. 107.
Sch. 8
amended by
Nos 86/1986
s. 43, 57/1989
s. 3(Sch. item
131.9(a)(b)),
110/1997
s. 4(10)(a)-(d).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 9

S. 160.

Sch. 9
substituted by
No. 6536
s. 14(2),
amended by
Nos 9235
s. 23, 9824
s. 32, 36/1989
s. 8(4).

NINTH SCHEDULE

**MELBOURNE AND METROPOLITAN BOARD OF WORKS—
GENERAL NOTICE**

The Melbourne and Metropolitan Board of Works having made provision for carrying off the sewage of each and every property which or any part of which is situate in the Sewerage Area hereinafter described DO TH HEREBY DECLARE that on and after the day of 19 each and every property so situate shall be deemed to be a sewered property within the meaning of the **Melbourne and Metropolitan Board of Works Act 1958**.

The Sewerage Area hereinbefore referred to is [*here describe it*].

By Order of the Board.

General Manager or Proper Officer.

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 10

TENTH SCHEDULE

**MELBOURNE AND METROPOLITAN BOARD OF WORKS—
FURTHER GENERAL NOTICE**

The Melbourne and Metropolitan Board of Works having made sewers for carrying off the sewage from each and every property which or any part of which is situate within the Sewerage Area hereinafter described doth hereby order as follows (that is to say):

- (1) Within one month after the day of 19 , or within such further time as the Board may either before or after the expiration of such one month allow, the owner of each and every property which or any part of which is situate within the said Sewerage Area shall if there are any houses or buildings on such property—
 - (a) submit for the approval of the Board a plan for providing such property with such water-closet or water-closets and such drains appliances apparatus and connexions fitted and laid in such manner as may be prescribed by the regulations of the Board or any modification thereof which the Engineer-in-Chief on written application made to him shall in writing under his hand approve, and such owner shall in writing undertake to carry out such plan within one month or such further time as the Board may in writing allow if such plan is approved by the Board; or
 - (b) submit for the approval of the Board a plan as aforesaid and in writing request the Board if it approves thereof to give an estimate of the cost and expense thereof, and thereupon it shall be the duty of the Board so to do; or in writing request the Board to prepare a plan as aforesaid and give an estimate of the cost and expense thereof, and thereupon it shall be the duty of the Board so to do. As soon as the Board gives such estimate such owner shall in writing undertake to carry out such plans within one month or such further time as the Board may allow, or the Board will if so requested by the owner in writing carry out the same at the cost and expense of the owner for the actual cost to the Board.
- (2) If within such one month or such further time any such owner has not complied with some one of the foregoing requirements, or if after undertaking so to do any such owner does not within the limited time provide such water-closet or water-closets and such drains appliances apparatus and connexions as aforesaid, then the Board may order such owner to comply with such of the requirements of this general notice as it deems to be necessary or may carry out such undertaking (as the case may be), and such order shall be an order disobedience of which

S. 160.
Sch. 10
amended by
Nos 6536
s. 14(3), 9235
s. 24, 9824
s. 32, 86/1986
s. 43, 36/1989
s. 8(4).

Sch. 10 cl. (1)
amended by
No. 7332
s. 2(Sch. 1
item 88).

Sch. 10 cl. (2)
amended by
No. 9824
s. 34(m)(i)(ii).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 10

is punishable by a penalty of 10 penalty units and a continuing penalty of 1 penalty unit per day.

Sch. 10 cl. (3)
amended by
Nos 7778
s. 31, 8071
s. 10, 9902
s. 2(1)(Sch.
item 165).

- (3) In the event of the Board executing the work the Board will if so requested accept payment of the costs and expenses by Forty quarterly instalments bearing interest at a rate to be determined by the Board in accordance with the provisions of the **Melbourne and Metropolitan Board of Works Act 1958** or the whole may be paid off at any time.
- (4) The Sewerage Area hereinbefore referred to is [*here describe it*].
- (5) The regulations of the Board can be inspected at the office of the Board situate at [*here state place of office*].
- (6) A copy of the regulations of the Board can be obtained on application at the said office.

By order of the Board,

Chairperson
(*or* Member of Board).
General Manager or Proper Officer.

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 11

* * * * *

Sch. 11
amended by
Nos 6430
s. 3(b) (as
amended by
No. 6489 s. 4),
9824
s. 33(a)(b),
10187
s. 42(m),
86/1986 s. 43,
repealed by
No. 13/1987
s. 23.

* * * * *

Sch. 11AA
inserted by
No. 9277 s. 11,
amended by
Nos 9824
s. 33(a)(b),
10187
s. 42(m),
86/1986 s. 43,
repealed by
No. 13/1987
s. 23.

* * * * *

Sch. 11A
inserted by
No. 7893 s. 14,
substituted by
No. 9078
s. 4(c),
amended by
No. 10081
s. 5(1),
repealed by
No. 8/1988
s. 7(1)(c).

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 11B

S. 258BA.
Sch. 11B
inserted by
No. 9573 s. 43.

SCHEDULE 11B

EASEMENTS SET APART OR APPROPRIATED FOR THE USE OF
THE BOARD PURSUANT TO SECTION 258BA

<i>Column 1</i> <i>Purpose for</i> <i>which easement</i> <i>appropriated</i> <i>or set apart</i>	<i>Column 2</i> <i>Rights and benefits vested in the Board</i>
Pipeline	Full and free right and liberty to and for the Board and its transferees and its and their servants agents and workmen at all times hereafter to enter in and upon the land to which the easement applies and to take onto or remove from such land any plant machines vehicles equipment or materials and to clear such land of obstructions and to dig cut and excavate such land and to construct lay or place one or more pipelines or any ancillary works useful in connexion with or incidental thereto including but without limiting the generality thereof all marker posts valves valve chambers housings controlling devices meters communication power and telemetry devices including any buried cables useful in connexion therewith vertical surge pipes air vessels fittings connexions anti-corrosion equipment hatches manholes inspection openings inspection pits cleaning pits scouring devices and drains and all other equipment and appurtenances whether or not similar to the foregoing as may be useful or convenient in connexion therewith or incidental thereto (all of which are hereinafter called "the said pipeline works") in on under or over such land also to use and operate the said pipeline works for all or any of the purposes Part II, III or X also to inspect patrol cleanse flush maintain repair alter cut off add to replace remove reconstruct or change the size and number of the said pipeline works or any part thereof and also during the progress of any works in connexion with any of the foregoing to remove from or deposit or place and allow to remain on or along such land or any part thereof all timber earth soil stone gravel or other substance matter or thing which may be required removed or excavated in clearing digging cutting excavating or using such land or any part thereof

Melbourne and Metropolitan Board of Works Act 1958
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Sch. 11B

<i>Column 1</i> <i>Purpose for</i> <i>which easement</i> <i>appropriated</i> <i>or set apart</i>	<i>Column 2</i> <i>Rights and benefits vested in the Board</i>
Channel	<p>and also to go pass and repass for all the purposes aforesaid either with or without plant machines vehicles equipment or material through over and along such land.</p> <p>Full and free right and liberty to and for the Board and its transferees and its and their servants agents and workmen at all times hereafter to enter in and upon the land to which the easement applies and to take onto or to remove from such land any plant machines vehicles equipment or materials and to clear such land of obstructions and to dig cut and excavate such land and to construct one or more water channels or any ancillary works useful in connexion with or incidental thereto including but without limiting the generality thereof all bridges siphons inlets outlets regulators controlling devices meters communication power and telemetry devices including any buried cables useful in connexion therewith culverts subways pipes fittings drains and all other equipment and appurtenances whether or not similar to the foregoing as may be useful or convenient in connexion therewith or incidental thereto (all of which are hereinafter called "the said channel works") through in and upon such land and in such manner and of such width depth and nature as the Board or its transferees may deem advisable also to use and operate the said channel works for all or any of the purposes of Part II, III or X also to inspect patrol cleanse flush maintain repair alter cut off add to replace remove reconstruct or change the size and number of the said channel works or any part thereof and also during the progress of any works in connexion with any of the foregoing to remove from or deposit or place and allow to remain on or along such land or any part thereof all timber earth soil stone gravel or other substance matter or thing which may be required removed or excavated in clearing digging cutting excavating or using such land or any part thereof and also to go pass and repass for all the purposes aforesaid either with or without plant machines vehicles equipment or materials through over and along such land.</p>

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Sch. 11B

<i>Column 1</i> <i>Purpose for</i> <i>which easement</i> <i>appropriated</i> <i>or set apart</i>	<i>Column 2</i> <i>Rights and benefits vested in the Board</i>
Carriageway	Full and free right and liberty to and for the Board and its transferees and its and their servants agents workmen and visitors to enter in and upon the land to which the easement applies and to go pass and repass at all times hereafter and for all purposes and either with or without plant machines vehicles equipment or materials through over and along such land or any part thereof TOGETHER WITH the right for the Board and its transferees and its and their servants agents or workmen to lay construct maintain and repair a road on such land or any part thereof.

Melbourne and Metropolitan Board of Works Act 1958
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Sch. 12

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Sch. 12 amended by Nos 6804 s. 2, 8811 s. 56, 9178 s. 7, 9558 s. 21(3), 79/1988 s. 19(b), 81/1989 s. 3(Sch. item 34.51(a)(b)), 82/1995 s. 207(3), 110/1997 s. 12(12), repealed by No. 22/1999 s. 12(5).

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Sch. 13 amended by No. 7332 s. 2 (Sch. 1 items 89, 90), repealed by No. 7411 s. 7(2)(c), new Sch. 13 inserted by No. 9165 s. 35, amended by No. 12/1989 s. 4(1)(Sch. 2 item 77.86), repealed by No. 54/1992 s. 55(9).

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Sch. 14 repealed by No. 7411 s. 7(2)(c).

Melbourne and Metropolitan Board of Works Act 1958
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Endnotes

ENDNOTES

1. General Information

The **Melbourne and Metropolitan Board of Works Act 1958** was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 893.

Melbourne and Metropolitan Board of Works Act 1958
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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Melbourne and Metropolitan Board of Works Act 1958** by Acts and subordinate instruments.

Melbourne and Metropolitan Board of Works (Borrowing Powers and Debentures) Act 1958, No. 6430/1958 (as amended by No. 6489/1958)

Assent Date: 21.10.58
Commencement Date: 21.10.58
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1958, No. 6471/1958 (as amended by No. 6489/1958)

Assent Date: 9.12.58
Commencement Date: 1.7.58: s. 1(2)
Current State: All of Act in operation

Sessional Acts Revision Act 1958, No. 6489/1958

Assent Date: 2.1.59
Commencement Date: 2.1.59
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Reconstitution) Act 1959, No. 6503/1959

Assent Date: 5.5.59
Commencement Date: 5.5.59: Government Gazette 13.5.59 p. 1346
Current State: All of Act in operation

Statute Law Revision Act 1959, No. 6505/1959

Assent Date: 5.5.59
Commencement Date: 1.4.59: s. 1(2)
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1959, No. 6536/1959 (as amended by No. 6716/1960)

Assent Date: 19.5.59
Commencement Date: 12.8.59: Government Gazette 12.8.59 p. 2446
Current State: All of Act in operation

Statute Law Revision Act 1960, No. 6716/1960

Assent Date: 21.12.60
Commencement Date: 21.12.60: subject to ss 3, 4
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1960, No. 6624/1960

Assent Date: 1.6.60
Commencement Date: 21.2.60: s. 1(2)
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works Act 1958
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**Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1960,
No. 6635/1960**

Assent Date: 7.6.60
Commencement Date: 7.6.60
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Yarra River) Act 1961,
No. 6804/1961**

Assent Date: 5.12.61
Commencement Date: 5.12.61
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Government Guarantee) Act
1962, No. 6876/1962**

Assent Date: 2.5.62
Commencement Date: 2.5.62
Current State: All of Act in operation

Subordinate Legislation Act 1962, No. 6886/1962

Assent Date: 8.5.62
Commencement Date: 1.8.62: Government Gazette 4.7.62 p. 2314
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1962,
No. 6895/1962**

Assent Date: 19.10.62
Commencement Date: 19.10.62
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1963, No. 7054/1963

Assent Date: 26.11.63
Commencement Date: Ss 12–14 on 12.5.63: s. 1(2)(b); ss 2–11 on 1.7.63:
s. 1(2)(a); s. 1 on 26.11.63
Current State: All of Act in operation

Public Lands and Works Act 1964, No. 7228/1964

Assent Date: 15.12.64
Commencement Date: 15.3.65: Government Gazette 11.3.65 p. 557
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1965,
No. 7247/1965**

Assent Date: 5.5.65
Commencement Date: 5.5.65
Current State: All of Act in operation

Decimal Currency Act 1965, No. 7315/1965

Assent Date: 30.11.65
Commencement Date: 30.11.65 ("Appointed day" 14 February 1966)
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works Act 1958
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Statute Law Revision Act 1965, No. 7332/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1965, No. 7356/1965

Assent Date: 14.12.65
Commencement Date: Ss 12–14 on 4.7.65: s. 1(3); ss 2–11 on 1.12.65: s. 1(2)
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Amendment) Act 1966,
No. 7411/1966**

Assent Date: 17.5.66
Commencement Date: 17.5.66
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Reconstitution) Act 1966,
No. 7497/1966**

Assent Date: 20.12.66
Commencement Date: 1.3.67: s. 1(3)
Current State: All of Act in operation

Instruments (Corporate Bodies Contracts) Act 1967, No. 7547/1967

Assent Date: 17.3.67
Commencement Date: 1.7.67: Government Gazette 21.6.67 p. 2027
Current State: All of Act in operation

Judges and Public Officers Salaries Act 1967, No. 7581/1967

Assent Date: 21.11.67
Commencement Date: 1.7.67: s. 1
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1968,
No. 7699/1968**

Assent Date: 7.5.68
Commencement Date: 7.5.68
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Amendment) Act 1968,
No. 7778/1968**

Assent Date: 18.12.68
Commencement Date: Ss 1–8, 10–13, 16, 19–22, 23(1) (*except* proposed new s. 227(1) of the principal Act), 26–31 on 22.1.69; ss 14, 15, 25 on 1.7.69: Government Gazette 22.1.69 p. 124; s. 23(1)(proposed new s. 227(1A)) on 1.3.70: Government Gazette 18.2.70 p. 405; s. 24 on 3.6.70: Government Gazette 3.6.70 p. 1898
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

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Justices (Amendment) Act 1969, No. 7876/1969

Assent Date: 25.11.69
Commencement Date: All of Act (except ss 3, 5–7(k)(m)–(o)) on 1.4.70; ss 3, 5–7(k)(m)–(o) on 1.7.70: Government Gazette 25.2.70 p. 463
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1969, No. 7893/1969

Assent Date: 9.12.69
Commencement Date: S. 9 on 1.7.70; rest of Act on 4.2.70: Government Gazette 4.2.70 p. 305
Current State: All of Act in operation

Public Officers Salaries and Allowances Act 1970, No. 7954/1970

Assent Date: 7.4.70
Commencement Date: 1.1.70: s. 2
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works Act 1970, No. 8071/1970

Assent Date: 22.12.70
Commencement Date: 20.1.71: Government Gazette 13.1.71 p. 104
Current State: All of Act in operation

Statutory Salaries Act 1970, No. 8082/1970

Assent Date: 22.12.70
Commencement Date: 22.12.70
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1971, No. 8164/1971

Assent Date: 3.11.71
Commencement Date: 24.11.71: Government Gazette 24.11.71 p. 3673
Current State: All of Act in operation

Statute Law Revision Act 1971, No. 8181/1971

Assent Date: 23.11.71
Commencement Date: 23.11.71
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Reconstitution) Act 1972, No. 8281/1972

Assent Date: 13.5.72
Commencement Date: 1.7.72: s. 1(3)
Current State: All of Act in operation

Railways (Amendment) Act 1972, No. 8353/1972

Assent Date: 13.12.72
Commencement Date: 8.5.73: Government Gazette 2.5.73 p. 946
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works Act 1958
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Lands Compensation Act 1973, No. 8432/1973

Assent Date: 17.4.73
Commencement Date: 1.6.73: Government Gazette 30.5.73 p. 1221
Current State: All of Act in operation

Local Government (Subdivision of Land) Act 1973, No. 8531/1973

Assent Date: 18.12.73
Commencement Date: 18.12.73
Current State: All of Act in operation

Metropolitan Bridges Highways and Foreshores Act 1973, No. 8573/1973

Assent Date: 14.5.74
Commencement Date: All of Act (*except* Pts 1–3) on 14.5.74: s. 1(2); Pts 1–3 on 1.7.74: Government Gazette 26.6.74 p. 2267
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Rates) Act 1974, No. 8574/1974

Assent Date: 1.10.74
Commencement Date: 1.7.74: s. 1(3)
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1974, No. 8650/1974

Assent Date: 17.12.74
Commencement Date: All of Act (*except* s. 13) on 5.2.75; s.13 on 3.3.75: Government Gazette 5.2.75 p. 229
Current State: All of Act in operation

Pensioners' Water and Sewerage Rates Remission Act 1975, No. 8794/1975

Assent Date: 2.12.75
Commencement Date: 2.12.75
Current State: All of Act in operation

Drainage of Land Act 1975, No. 8811/1975

Assent Date: 9.12.75
Commencement Date: 15.12.75: Government Gazette 15.12.75 p. 3574
Current State: All of Act in operation

Pensioners' Rates Remission Act 1976, No. 8893/1976

Assent Date: 23.11.76
Commencement Date: 23.11.76
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Municipalities Contributions) Act 1976, No. 8943/1976

Assent Date: 14.12.76
Commencement Date: 14.12.76
Current State: All of Act in operation

Statute Law Revision Act 1977, No. 9019/1977

Assent Date: 17.5.77
Commencement Date: 17.5.77: subject to s. 2(2)
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works Act 1958
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Melbourne and Metropolitan Board of Works (Borrowing Powers) Act 1977, No. 9030/1977

Assent Date: 18.10.77
Commencement Date: S. 2 on 18.10.77: s. 2(2); rest of Act on 17.1.78:
Government Gazette 17.1.78 p. 127
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Powers) Act 1977, No. 9037/1977

Assent Date: 22.11.77
Commencement Date: 22.11.77
Current State: All of Act in operation

Change of Ownership Notices Act 1977, No. 9078/1977

Assent Date: 6.12.77
Commencement Date: 1.1.79: Government Gazette 2.8.78 p. 2505
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Rate Exemption) Act 1978, No. 9130/1978

Assent Date: 23.5.78
Commencement Date: 23.5.78
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Reconstitution) Act 1978, No. 9165/1978 (as amended by No. 9427/1980)

Assent Date: 30.5.78
Commencement Date: Ss 1, 4, 8, 35–37, 38 on 30.5.78: Government Gazette 30.5.78 p. 1520; rest of Act on 1.8.78: Government Gazette 26.7.78 p. 2431
Current State: All of Act in operation

Port of Melbourne Authority Act 1978, No. 9178/1978

Assent Date: 8.11.78
Commencement Date: 8.11.78
Current State: All of Act in operation

Trustee (Authorized Investments) Act 1978, No. 9204/1978

Assent Date: 5.12.78
Commencement Date: 5.12.78
Current State: All of Act in operation

Crown Land (Reserves) Act 1978, No. 9212/1978

Assent Date: 19.12.78
Commencement Date: 1.3.79: Government Gazette 21.2.79 p. 441
Current State: All of Act in operation

Crimes (Criminal Damages) Act 1978, No. 9228/1978

Assent Date: 19.12.78
Commencement Date: 1.7.79: Government Gazette 4.4.79 p. 901
Current State: All of Act in operation

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Melbourne and Metropolitan Board of Works (Miscellaneous Amendments) Act 1978, No. 9235/1978

Assent Date: 19.12.78
Commencement Date: 19.12.78
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Trade Waste) Act 1978, No. 9239/1978

Assent Date: 19.12.78
Commencement Date: 19.12.78
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1979, No. 9277/1979

Assent Date: 10.7.79
Commencement Date: 10.7.79
Current State: All of Act in operation

Pensioners' Rates Remission Act 1980, No. 9385/1980

Assent Date: 13.5.80
Commencement Date: 13.5.80
Current State: All of Act in operation

Statute Law Revision Act 1980, No. 9427/1980

Assent Date: 27.5.80
Commencement Date: 27.5.80: subject to s. 6(2)
Current State: All of Act in operation

Statute Law Revision Act 1981, No. 9549/1981

Assent Date: 19.5.81
Commencement Date: 19.5.81: subject to s. 2(2)
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1981, No. 9558/1981

Assent Date: 19.5.81
Commencement Date: Ss 1–11, 13–22 on 3.6.81: Government Gazette 3.6.81 p. 1777; s. 12 on 1.7.81: Government Gazette 3.6.81 p. 1778
Current State: All of Act in operation

Water Drainage Act 1981, No. 9573/1981

Assent Date: 19.5.81
Commencement Date: 3.6.81: Government Gazette 3.6.81 p. 1779
Current State: All of Act in operation

Pensioners Rates Remission Act 1981, No. 9684/1981

Assent Date: 5.1.82
Commencement Date: 5.1.82
Current State: All of Act in operation

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Companies (Consequential Amendments) Act 1981, No. 9699/1981

Assent Date: 5.1.82
Commencement Date: Ss 9, 14, 18 on same day as No. 9572—1.7.81: s. 2(2);
s. 19 on 1.10.81: s. 2(3); s. 22 on 5.1.82: s. 2(4); rest of
Act on same day as No. 9712—1.7.82: s. 2(1)
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Yarra Development) Act 1981,
No. 9700/1981**

Assent Date: 5.1.82
Commencement Date: 20.1.82: Government Gazette 20.1.82 p. 216
Current State: All of Act in operation

Building Control (Plumbers Gasfitters and Drainers) Act 1981, No. 9720/1981
(as amended by No. 126/1993)

Assent Date: 12.1.82
Commencement Date: S. 3(1)(Sch. items 72–76) never proclaimed, repealed
by No. 126/1993 s. 264(Sch. 5 item 3.8)
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

**Melbourne and Metropolitan Board of Works (Differential Rating) Act 1982,
No. 9735/1982**

Assent Date: 29.6.82
Commencement Date: 29.6.82
Current State: All of Act in operation

Public Authorities (Sinking Funds) Act 1982, No. 9746/1982

Assent Date: 6.7.82
Commencement Date: 7.7.82: Government Gazette 7.7.82 p. 2226
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Offices) Act 1982, No. 9754/1982

Assent Date: 13.7.82
Commencement Date: S. 5 on 1.10.82: Government Gazette 22.9.82 p. 3121;
rest of Act on 13.10.82: Government Gazette 13.10.82
p. 3391 see **Acts Interpretation Act 1958**
Current State: All of Act in operation

**Melbourne and Metropolitan Board of Works (Administration) Act 1982,
No. 9824/1982** (as amended by No. 10087/1984)

Assent Date: 21.12.82
Commencement Date: 22.12.82: Government Gazette 22.12.82 p. 4132
Current State: All of Act in operation

Water and Sewerage Authorities (Restructuring) Act 1983, No. 9895/1983

Assent Date: 7.6.83
Commencement Date: 7.6.83
Current State: All of Act in operation

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Statute Law Revision Act 1983, No. 9902/1983

Assent Date: 15.6.83
Commencement Date: 15.6.83: subject to s. 2(2)
Current State: All of Act in operation

Transport Act 1983, No. 9921/1983

Assent Date: 23.6.83
Commencement Date: S. 255 on 1.7.83: s. 1(2)(c)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Penalties and Sentences (Amendment) Act 1983, No. 9945/1983

Assent Date: 20.9.83
Commencement Date: S. 2 on 1.9.81: s. 1(4); s. 8 repealed by No. 10096 s. 4(4); rest of Act on 20.12.83: Government Gazette 14.12.83 p. 4035
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1983, No. 9999/1983

Assent Date: 13.12.83
Commencement Date: 13.12.83
Current State: All of Act in operation

Water (Central Management Restructuring) Act 1984, No. 10081/1984

Assent Date: 15.5.84
Commencement Date: 1.7.84: Government Gazette 20.6.84 p. 1937
Current State: All of Act in operation

Statute Law Revision Act 1984, No. 10087/1984

Assent Date: 22.5.84
Commencement Date: 22.5.84: subject to s. 3(2)
Current State: All of Act in operation

Water Charge Concessions Act 1984, No. 10119/1984

Assent Date: 7.11.84
Commencement Date: 7.11.84
Current State: All of Act in operation

Town and Country Planning (Transfer of Functions) Act 1985, No. 10187/1985

Assent Date: 4.7.85
Commencement Date: All of Act (*except* ss 5, 6(1), 8(2)) on 1.7.85: s. 2(1); ss 5, 6(1), 8(2) on 1.7.86: Government Gazette 18.6.86 p. 2066
Current State: All of Act in operation

Environment Protection (Industrial Waste) Act 1985, No. 10261/1985

Assent Date: 10.12.85
Commencement Date: Ss 41–43 on 1.2.86: Government Gazette 18.12.85 p. 4641
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

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Health (Amendment) Act 1985, No. 10262/1985

Assent Date: 10.12.85
Commencement Date: S. 4 on 1.3.86; Government Gazette 26.2.86 p. 451
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Water (Miscellaneous Amendments) Act 1986, No. 86/1986

Assent Date: 2.12.86
Commencement Date: S. 43 on 24.12.86; Government Gazette 23.12.86 p. 4778
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

State Concessions Act 1986, No. 109/1986 (as amended by No. 48/1987)

Assent Date: 16.12.86
Commencement Date: S. 6 on 30.3.87; Government Gazette 25.3.87 p. 695; Sch. item 5 on 1.12.87; Government Gazette 18.11.87 p. 3072
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Supreme Court Act 1986, No. 110/1986

Assent Date: 16.12.86
Commencement Date: 1.1.87: s. 2
Current State: All of Act in operation

Land Acquisition and Compensation Act 1986, No. 121/1986

Assent Date: 23.12.86
Commencement Date: 29.11.87; Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation

Borrowing and Investment Powers Act 1987, No. 13/1987

Assent Date: 12.5.87
Commencement Date: Pts 1, 3, ss 24, 26(2) on 14.10.87; Government Gazette 14.10.87 p. 2712; rest of Act on 18.11.87; Government Gazette 18.11.87 p. 3138
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1987, No. 31/1987

Assent Date: 12.5.87
Commencement Date: All of Act (except s. 5) on 12.5.87; s. 5 on 1.7.87: s. 2
Current State: All of Act in operation

Planning and Environment Act 1987, No. 45/1987

Assent Date: 27.5.87
Commencement Date: Pt 1, s. 204 on 27.5.87: s. 2(1); rest of Act (except Sch. items 118, 119) on 16.2.88; Government Gazette 10.2.88 p. 218; Sch. items 118, 119 never proclaimed and were repealed by No. 86/1989 s. 24.
Current State: All of Act in operation

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Endnotes

Land (Transaction Information) Act 1988, No. 8/1988

Assent Date: 27.4.88
Commencement Date: S. 7(2) on 1.2.92: Government Gazette 29.1.92 p. 178;
s. 7(1) on 4.3.92: Government Gazette 4.3.92 p. 519
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Environment Protection (Amendment) Act 1988, No. 20/1988

Assent Date: 17.5.88
Commencement Date: 17.5.88
Current State: All of Act in operation

State Bank Act 1988, No. 29/1988

Assent Date: 17.5.88
Commencement Date: 9.6.88: Government Gazette 8.6.88 p. 1582
Current State: All of Act in operation

Subdivision Act 1988, No. 53/1988 (as amended by No. 47/1989)

Assent Date: 31.5.88
Commencement Date: 30.10.89: Government Gazette 4.10.89 p. 2532
Current State: All of Act in operation

Borrowing and Investment Powers (Amendment) Act 1988, No. 78/1988

Assent Date: 20.12.88
Commencement Date: S. 10(1) on 18.11.87: s. 2(2); rest of Act on 27.4.89:
Special Gazette (No. 21) on 27.4.89 p. 1
Current State: All of Act in operation

Footscray Land Act 1988, No. 79/1988

Assent Date: 20.12.88
Commencement Date: S. 19 on 1.7.89: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Local Government (Consequential Provisions) Act 1989, No. 12/1989

(as amended by No. 13/1990)

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 items 77.1, 77.2, 77.4–77.10,
77.12–77.18, 77.20, 77.21, 77.23–77.35, 77.37, 77.40–
77.45, 77.48–77.50, 77.52, 77.58–77.86) on 1.11.89:
Government Gazette 1.11.89 p. 2798; Sch. 2 items
77.3, 77.11, 77.19, 77.22, 77.36, 77.38, 77.39, 77.46,
77.47, 77.51, 77.53–77.57 on 1.10.92: Government
Gazette 23.9.92 p. 2789
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Endnotes

Transfer of Land (Computer Register) Act 1989, No. 18/1989 (as amended by No. 48/1991)

Assent Date: 16.5.89
Commencement Date: 3.2.92: Government Gazette 18.12.91 p. 3488
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works (Amendment) Act 1989, No. 36/1989

Assent Date: 6.6.89
Commencement Date: 6.6.89
Current State: All of Act in operation

Transport (Amendment) Act 1989, No. 44/1989

Assent Date: 6.6.89
Commencement Date: S. 41(Sch. 2 items 27.1–27.12) on 1.7.89: s. 2(1)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: Ss 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Water (Consequential Amendments) Act 1989, No. 81/1989

Assent Date: 5.12.89
Commencement Date: 1.11.90: Government Gazette 15.8.90 p. 2473
Current State: All of Act in operation

State Bank (Succession of Commonwealth Bank) Act 1990, No. 94/1990

Assent Date: 18.12.90
Commencement Date: Pts 1 (ss 1–6), 2 (ss 7, 8) on 18.12.90: s 2(1); Pt 4 (ss 28–38) on 31.12.90; rest of Act (Pts 3 and 5) on 1.1.91: Special Gazette (No. 73) 31.12.90 p. 1 (31.12.90 being the completion date)
Current State: All of Act in operation

Subdivision (Miscellaneous Amendments) Act 1991, No. 48/1991

Assent Date: 25.6.91
Commencement Date: S. 72 on 25.6.91: s. 2(4)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Water (Rural Water Corporation) Act 1992, No. 50/1992

Assent Date: 30.6.92
Commencement Date: 1.7.92: Government Gazette 1.7.92 p. 1629
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Endnotes

Melbourne Water Corporation Act 1992, No. 54/1992

Assent Date: 30.6.92
Commencement Date: S. 2 on 30.6.92: s. 2(2); rest of Act on 1.7.92:
Government Gazette 1.7.92 p. 1629
Current State: All of Act in operation

Residential Tenancies (Water and Utilities Charges) Act 1993, No. 25/1993

Assent Date: 25.5.93
Commencement Date: S. 15 on 1.7.94: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Electricity Industry Act 1993, No. 130/1993

Assent Date: 14.12.93
Commencement Date: S. 122(Sch. 4 item 9) on 3.1.94: Special Gazette
(No. 97) 23.12.93 p. 1
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Electricity Industry (Amendment) Act 1994, No. 53/1994 (as amended by
No. 110/1994)

Assent Date: 15.6.94
Commencement Date: S. 34 on 3.10.94: Special Gazette (No. 64) 27.9.94
p. 1; Sch. 1 item 5 on 3.10.94: s. 2(4A)
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Subordinate Legislation Act 1994, No. 104/1994

Assent Date: 13.12.94
Commencement Date: 1.1.95: s. 2
Current State: All of Act in operation

Electricity Industry (Further Amendment) Act 1994, No. 110/1994

Assent Date: 20.12.94
Commencement Date: S. 41(Sch. 1 item 6) on 20.12.94: Special Gazette
(No. 100) 20.12.94 p. 1
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Water Industry Act 1994, No. 121/1994

Assent Date: 20.12.94
Commencement Date: Ss 1, 2 on 20.12.94: s. 2(1); rest of Act on 1.1.95:
Special Gazette (No. 105) 23.12.94 p. 1
Current State: All of Act in operation

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Endnotes

Consumer Credit (Victoria) Act 1995, No. 41/1995

Assent Date: 14.6.95
Commencement Date: S. 62(Sch. 1 item 4) on 1.11.96: Government Gazette 29.8.96 p. 2274
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Water Industry (Amendment) Act 1995, No. 65/1995

Assent Date: 27.6.95
Commencement Date: Ss 23–27 on 29.6.95: Government Gazette 29.6.95 p. 1587
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Port Services Act 1995, No. 82/1995

Assent Date: 28.11.95
Commencement Date: S. 207 on 14.12.95: Government Gazette 14.12.95 p. 3488—see **Interpretation of Legislation Act 1984**
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Superannuation Acts (Amendment) Act 1996, No. 4/1996 (as amended by Nos 82/1996, 50/1997)

Assent Date: 18.6.96
Commencement Date: S. 62 on 31.5.96: s. 2(11); s. 61 on 30.6.96: s. 2(12)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Water Acts (Amendment) Act 1996, No. 12/1996

Assent Date: 25.6.96
Commencement Date: Ss 23–26 on 25.6.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Melbourne and Metropolitan Board of Works (Amendment) Act 1997, No. 38/1997

Assent Date: 3.6.97
Commencement Date: 3.6.97: s. 2
Current State: All of Act in operation

Miscellaneous Acts (Omnibus No. 3) Act 1997, No. 45/1997

Assent Date: 11.6.97
Commencement Date: S. 18 on 11.6.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Endnotes

Rail Corporations (Amendment) Act 1997, No. 104/1997

Assent Date: 16.12.97
Commencement Date: S. 51 on 31.3.98: Special Gazette (No. 23) 31.3.98 p. 1
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Residential Tenancies Act 1997, No. 109/1997

Assent Date: 23.12.97
Commencement Date: S. 533(Sch. 2 item 7) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Water Acts (Further Amendment) Act 1997, No. 110/1997

Assent Date: 23.12.97
Commencement Date: S. 8 on 1.1.98: s. 2(2); ss 3, 4, 5(1), 6(1)–(3), 7(1)(3)(4), 9(1), 12 on 1.1.98: Government Gazette 24.12.97 p. 3783; ss 5(2)–(4), 6(4)–(9), 9(2), 10, 11 on 1.7.98: Government Gazette 24.12.97 p. 3783; s. 7(2) on 1.1.99: s. 2(5)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998
(as amended by No. 12/1999)

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998, No. 76/1998

Assent Date: 10.11.98
Commencement Date: S. 13 on 15.12.98: s. 2(5)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Local Government (Governance and Melton) Act 1998, No. 86/1998

Assent Date: 17.11.98
Commencement Date: S. 22 on 1.7.99: Government Gazette 17.6.99 p. 1406
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Endnotes

Water Acts (Amendment) Act 1999, No. 22/1999

Assent Date: 18.5.99
Commencement Date: Ss 12–14(1) on 18.5.99: s. 2(1)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Water Industry (Amendment) Act 2000, No. 66/2000

Assent Date: 8.11.00
Commencement Date: Ss 44–47 on 1.12.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Electricity Industry Legislation (Miscellaneous Amendments) Act 2000, No. 69/2000

Assent Date: 21.11.00
Commencement Date: S. 58 on 1.1.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Melbourne City Link (Miscellaneous Amendments) Act 2000, No. 81/2000

Assent Date: 28.11.00
Commencement Date: S. 44 on 6.12.00: Special Gazette (No. 183) 5.12.00 p. 15
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Transport (Further Amendment) Act 2001, No. 54/2001

Assent Date: 2.10.01
Commencement Date: Ss 40, 41 on 30.6.03: s. 2(5)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Essential Services Commission Act 2001, No. 62/2001

Assent Date: 23.10.01
Commencement Date: S. 93 on 1.1.02: s. 2
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Marine (Further Amendment) Act 2001, No. 77/2001

Assent Date: 27.11.01
Commencement Date: S. 32(2) on 7.2.02: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne and Metropolitan Board of Works Act 1958**

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Endnotes

Victorian Urban Development Authority Act 2003, No. 59/2003

Assent Date: 16.6.03
Commencement Date: S. 120 on 1.8.03: Government Gazette 31.7.03 p. 2125
Current State: This information relates only to the provision/s
amending the **Melbourne and Metropolitan Board
of Works Act 1958**

Metric Conversion (Melbourne and Metropolitan Board of Works Act) Regulations
1973, S.R. No. 323/1973

Date of Making: 7.11.73
Date of Commencement: 3.12.73: reg. 1(3)

Government Gazette 26 January 1966 page 436

Government Gazette 14 August 1974 page 2993

Melbourne and Metropolitan Board of Works Act 1958
Act No. 6310/1958

Endnotes

3. Explanatory Details

¹ Pt 1 Div. 1 (Heading and ss 4–25):

Pt 1 Div. 1 (Heading and ss 4–25) amended by Nos 6471 s. 5 (as amended by No. 6489 s. 4), 6503 ss 3(a)–(d), 5(a)(b), 6624 s. 8, 6886 s. 3, 7054 s. 6(1), 7356 s. 6(1), 7411 s. 2(1), 7497 ss 2(a)–(c), 3(a)(b), 4–7, 7581 s. 8, 7778 ss 3–8, 7954 s. 6, 8071 s. 2(1), 8082 s. 3(3), 8164 s. 2(a)(b), 8281 ss 2–4, G.G. 14.8.74 p. 2993, Nos 8650 ss 2, 3(1)(2)(5)(a)–(g), 4, 9165 ss 3–21, 9235 ss 3, 4, 9427 s. 6(1)(Sch. 5 items 101, 102), 9549 s. 2(1)(Sch. items 115, 116), 9754 ss 3–5, 9824 ss 3–5, 10081 s. 5(1), 10187 s. 42(b), 86/1986 s. 43, 45/1987 s. 205(Sch. items 86–88), 12/1989 s. 4(1)(Sch. 2 items 77.5–77.10, 77.12, 77.13), 36/1989 s. 6(1), 9(2), repealed by No. 54/1992 s. 50(1).

² Pt 1 Div. 1A (Heading and s. 25A):

Pt 1 Div. 1A (Heading and s. 25A) inserted by No. 9754 s. 6, amended by Nos 9824 s. 6, 10081 s. 5(1), 86/1986 s. 43, 12/1989 s. 4(1)(Sch. 2 item 77.14), repealed by No. 54/1992 s. 50(1).

³ Ss 26–31:

S. 26 amended by Nos 6536 s. 2, 9165 s. 23, repealed by No. 54/1992 s. 50(1).

S. 27 amended by Nos 6503 s. 3(e), 9165 s. 24(a)(b), 9824 s. 7, 86/1986 s. 43, 36/1989 s. 8(1), repealed by No. 54/1992 s. 50(1).

S. 28 amended by Nos 8650 s. 3(3)(a)(b), 9165 s. 25 (as amended by No. 9427 s. 6(1)), 86/1986 s. 43, repealed by No. 54/1992 s. 50(1).

S. 29 amended by Nos 6503 s. 3(e), 9165 s. 26, 9824 s. 8, 86/1986 s. 43, 36/1989 s. 8(1), repealed by No. 54/1992 s. 50(1).

S. 30 amended by No. 9824 s. 34(a), repealed by No. 54/1992 s. 50(1).

S. 31 amended by No. 9165 s. 27(a)–(c), repealed by No. 54/1992 s. 50(1).

⁴ S. 32: See sections 110, 111 as to further power to make by-laws in relation to water supply and section 279 in relation to river traffic. See also section 285.

⁵ Ss 33, 34:

S. 33 repealed by No. 54/1992 s. 50(1).

S. 34 amended by No. 9037 s. 2, repealed by No. 9165 s. 29.

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⁶ Pt 1 Div. 3 (Heading and ss 35, 36):

Pt 1 Div. 3 (Heading and ss 35, 36) amended by Nos 6503 s. 3(e), 9165 s. 30(a)–(c), 9558 s. 2(a), 9824 s. 34(b), 86/1986 s. 43, repealed by No. 54/1992 s. 50(1).

⁷ Pt 1 Div. 4 (Heading and ss 37–40):

Pt 1 Div. 4 (Heading and ss 37–40) amended by Nos 6536 s. 3, 7547 s. 3(Sch. item 6), 7778 ss 10, 11, 8650 ss 5, 6, 9235 s. 5(a)(b), 9824 ss 10, 11(1)(a)(b)(2), 9999 s. 6, 31/1987 s. 4, 12/1989 s. 4(1)(Sch. 2 item 77.15), repealed by No. 54/1992 s. 50(1).

⁸ Ss 41, 41A:

S. 41 amended by Nos 9277 s. 2, 9754 s. 7(a)–(c), substituted by No. 9824 s. 12, amended by Nos 10187 s. 42(a), 36/1989 ss 7(1)(a)(b), 9(1)(2), repealed by No. 54/1992 s. 50(1).

S. 41A inserted by No. 8650 s. 7, amended by Nos 9165 s. 31, 9824 s. 13(a)(b), 86/1986 s. 43, 36/1989 s. 6(2)(a)(b), repealed by No. 54/1992 s. 50(1).

⁹ S. 42: Sections 44–46, 52 of the **Town and Country Planning (Transfer of Functions) Act 1985**, No. 10187/1985 read as follows:

44. Definitions

In this Part—

"Board" means the Melbourne and Metropolitan Board of Works;

"Board Gratuity Scheme" means the scheme of the Board under which gratuities are paid to officers and employees of the Board upon the retirement death or disablement of officers or employees and under which no contributions are made by officers or employees;

"Board Provident Fund" means the Melbourne and Metropolitan Board of Works Employees Provident Fund;

"Board Superannuation Scheme" means the Melbourne and Metropolitan Board of Works Superannuation Scheme;

"commencement day" means the day on which section 46 comes into operation;

"gratuities beneficiary" means a transferred officer who immediately before the commencement day belonged to a class of officers or employees to whom the Board Gratuity Scheme applied;

"State Superannuation Fund" means the Superannuation Fund under the **Superannuation Act 1958**;

"Superannuation Board" means the State Superannuation Board under the **Superannuation Act 1958**;

"transferred officer" means a person who immediately before the commencement of section 46 was an officer or employee of the Board and who by reason of that section becomes an officer under the **Public Service Act 1974**.

45. Determination of officers

The Minister shall after consultation with the Minister administering the **Melbourne and Metropolitan Board of Works Act 1958** determine which officers and employees of the Board are to become officers under the **Public Service Act 1974** on the commencement day.

46. Transfer of officers

On the commencement of this section any officer or employee of the Board in respect of whom a determination has been made under section 45 shall become an officer under the **Public Service**

Act 1974 at a salary not less than that which that officer or employee was receiving or is entitled or becomes entitled to receive immediately before that commencement as such an officer or employee and with the classification, emoluments, entitlements and accrued benefits determined by the Public Service Board.

52. Retirement

Notwithstanding anything to the contrary in any other Act, any transferred officer who is a contributor to the Board Superannuation Scheme may retire from employment as an officer under the **Public Service Act 1974** at the same age at which that officer could have retired if that officer had remained an officer or employee of the Board.

¹⁰ S. 42B: Section 14(2) of the **Superannuation Acts (Miscellaneous Amendment) Act 1997**, No. 50/1997 reads as follows:

14. Superannuation Acts (Amendment) Act 1996

(2) The **Superannuation Acts (Amendment) Act 1996** is deemed to have been enacted as amended by sub-section (1).

¹¹ Ss 43–59:

S. 43 substituted by No. 7778 s. 12, amended by Nos 9549 s. 2(1)(Sch. item 117), 9824 ss 14, 34(c), 36/1989 s. 9(1), repealed by No. 54/1992 s. 50(1).

S. 44 substituted by No. 7778 s. 13, repealed by No. 54/1992 s. 50(1).

S. 45 amended by No. 10187 s. 42(c), repealed by No. 54/1992 s. 50(1).

S. 46 amended by Nos 9019 s. 2(1)(Sch. item 151), 9945 s. 3(3)(Sch. 2 item 25), 57/1989 s. 3(Sch. item 131.1(a)(b)), repealed by No. 54/1992 s. 50(1).

S. 47 repealed by No. 54/1992 s. 50(1).

S. 47A inserted by No. 7893 s. 4, repealed by No. 54/1992 s. 50(1).

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S. 48 amended by No. 8650 s. 3(4), repealed by No. 9165 s. 33.

Pt 1 Div. 6 (Heading and ss 49–57) amended by Nos 6536 s. 4, 7893 s. 5, 9558 s. 2(b), 12/1989 s. 4(1)(Sch. 2 items 77.16, 77.17), 57/1989 s. 3(Sch. item 131.2(a)(b)), repealed by No. 54/1992 s. 50(1).

Pt 1 Div. 7 (Heading and ss 58, 59) amended by Nos 8650 s. 3(5)(i)(j), 110/1986 s. 140(2), repealed by No. 54/1992 s. 50(1).

¹² S. 60: The **Port of Melbourne Lagoon Lands Act 1957**, No. 6105/1957, vested in the Board the land described in Schedule 4 of the **Port of Melbourne Lagoon Lands Act 1933**, No. 4147/1933 (for a pumping station).

¹³ Ss 61–63:

S. 61 repealed by No. 54/1992 s. 50(1).

S. 62 repealed by No. 54/1992 s. 50(1).

S. 63 repealed by No. 54/1992 s. 50(1).

¹⁴ S. 79: Distress for rent is abolished—see section 12 of the **Landlord and Tenant Act 1958**, No. 6285/1958.

¹⁵ S. 79: Compare Commonwealth Bankruptcy Act 1966.

¹⁶ S. 95: Section 95 is, by section 284(1), extended to Part 10.

¹⁷ S. 98A (*repealed*): The amendments proposed by section 533(Sch. 2 items 7.1, 7.2) of the **Residential Tenancies Act 1997**, No. 109/1997 are not included in this publication due to the earlier repeal of section 98A by section 4(2) of the **Water Acts (Further Amendment) Act 1997**, No. 110/1997.

¹⁸ S. 98B (*repealed*): The amendments proposed by section 533(Sch. 2 items 7.3, 7.4) of the **Residential Tenancies Act 1997**, No. 109/1997 are not included in this publication due to the earlier repeal of section 98B by section 4(2) of the **Water Acts (Further Amendment) Act 1997**, No. 110/1997.

¹⁹ S. 106A(1): The amendments proposed by section 73(2)(a)(i)(ii) of the **Subdivision (Miscellaneous Amendments) Act 1991**, No. 48/1991 are not included in this publication due to the earlier substitution of section 106A(1) by section 45(Sch. 3 item 48) of the **Subdivision Act 1988**, No. 53/1988.

²⁰ Pt 2 Div. 4(ss 110–112): See sections 32, 279, 285 as to further power to make by-laws.

²¹ S. 136: Sections 136–146 are extended to Part 10. See section 284(1).

²² S. 138: See section 250.

²³ S. 143(3): See note 21.

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²⁴ S. 144: See note 21.

²⁵ S. 146: See note 20.

²⁶ S. 150: Sections 150, 151 are extended to Part 10. See section 284(1).

²⁷ Pt 4: Part 4 applies to Part 10 for its purposes. See section 284.

²⁸ S. 185: See section 219 as to payments into and out of the Metropolitan Improvement Fund.

²⁹ Pt 5 (Borrowing Powers): See Part 6 Div. 4 as to further borrowing powers. Also, Part 5 extends to Part 10. See section 284.

³⁰ S. 187: The amendment proposed by section 17 of the **Melbourne and Metropolitan Board of Works (Amendment) Act 1968**, No. 7778/1968 was never proclaimed, repealed by section 46 of the **Water Acts (Further Amendment) Act 1997**, No. 110/1997.

³¹ S. 214 (*repealed*): Schedule 2 item 2 of the **Water Industry Act 1994**, No. 121/1994 reads as follows:

SAVINGS AND TRANSITIONALS

2. By-laws

- (1) Any by-laws made under section 214 of the MMBW Act and in force immediately before the commencement of section 203(1) of this Act continue in force on and after that commencement and have effect as if they were regulations made under section 149 of this Act insofar as they could have been made under section 149 of this Act.
- (2) By-laws continued in force by sub-clause (1) continue in force for so long as, but for this Act, they would have remained in force unless sooner revoked by regulations made under section 149.

³² S. 218 (*repealed*): Schedule 2 item 3 of the **Water Industry Act 1994**, No. 121/1994 reads as follows:

SAVINGS AND TRANSITIONALS

3. Metropolitan Improvement Rate

The repeal by section 203(2) of this Act of section 218 of the MMBW Act does not affect any liability to pay a rate made and levied under that section before its repeal.

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Act No. 6310/1958

³³ Pt 8: Part 5 of the **Town and Country Planning (Transfer of Functions) Act 1985**, No. 10187/1985 reads as follows:

**PART V.—TRANSITIONAL PROVISIONS CONCERNING
CERTAIN LANDS OWNED BY BOARD OF WORKS**

53. Definitions

In this Part—

"Board of Works" means the Melbourne and Metropolitan Board of Works;

"relevant lands" means lands which were owned by the Board of Works immediately before the commencement of section 54 and which were acquired by the Board of Works with money from the Metropolitan Improvement Fund under the **Melbourne and Metropolitan Board of Works Act 1958**.

54. Determination of lands to be transferred or retained

The Minister administering the **Melbourne and Metropolitan Board of Works Act 1958**, the Minister administering the **Town and Country Planning Act 1961**, the Minister administering the **Transport Act 1983** and the Minister administering the **Local Government Act 1958** shall together determine—

- (a) which of the relevant lands should be retained by the Board of Works for its purposes; and
- (b) which of the relevant lands should be surrendered to the Crown or transferred or conveyed to another public authority under this Part.

55. Transfer of relevant lands

After the making of a determination under section 54(b) the Board of Works shall, in relation to any land which is the subject of that determination—

- (a) on the recommendation of the Minister for Property and Services and the Minister responsible for the public authority concerned—transfer or convey the land to any public authority which has a direct interest in the use or development of the land; or
- (b) on the recommendation of the Minister for Property and Services and the Minister administering the **Land Act 1958**—surrender the land to the Crown.

56. Payments to Board of Works

Where land is surrendered to the Crown or transferred or conveyed to a public authority pursuant to section 55, the Treasurer shall determine whether, and on which basis, payments are to be made to the Board of Works by the Crown or the public authority (as the case requires) in respect of the land so surrendered, transferred or conveyed.

57. Disposition of relevant land not transferred

- (1) Where any relevant land in respect of which a determination has been made under section 54(b) has not been surrendered, transferred or conveyed by the Board of Works to the Crown, or a public authority pursuant to section 55 at the expiration of the three years after the commencement of section 55, the land shall be dealt with in accordance with this section.

- (2) At the expiration of the three year period referred to in sub-section (1) the Treasurer, the Minister for Property and Services and the Minister administering the **Melbourne and Metropolitan Board of Works Act 1958** shall determine in relation to the land referred to in that sub-section—
- (a) whether—
- (i) the Board of Works is to retain the land; or
 - (ii) the land is to be surrendered to the Crown or transferred or conveyed to a particular public authority; and
- (b) the payments (if any) to be made to the Board of Works by the Crown or the public authority concerned in relation to a surrender transfer or conveyance of land pursuant to paragraph (a)(ii).
- (3) The Board of Works shall give effect to a determination made under sub-section (2)(a).

58. Particulars of transfer to be tabled

The Minister administering the **Melbourne and Metropolitan Board of Works Act 1958** shall cause particulars of any surrender, transfer or conveyance of any land under sections 55 to 57 and of the payments (if any) made or to be made to the Board of Works in respect thereof to be laid before the Legislative Council and the Legislative Assembly before the expiration of the fourteenth sitting day of the Legislative Council or the Legislative Assembly (as the case may be) after that surrender transfer or conveyance is made.

59. Exoneration from inquiry

The Registrar-General, the Registrar of Titles and any person dealing with the Board of Works shall not upon the surrender transfer or conveyance of land purporting to be made pursuant to this Part be concerned to see that the surrender transfer or conveyance is authorized by this Part or be affected by notice that the surrender transfer or conveyance is not so authorized.

³⁴ S. 231: See sections 283, 284 as to the compulsory taking of land under Part 10.

³⁵ Pt 9: Part 9 (Miscellaneous) extends to Part 10 in relation to metropolitan drainage and rivers. See section 284.

³⁶ Pt 10 (Metropolitan Drainage and Rivers): See sections 280, 284 as to the application of other sections and Parts of the Act to this Part.

³⁷ S. 259(1) def. of "river improvement works": Schedule 2 item 4 of the **Water Industry Act 1994**, No. 121/1994 reads as follows:

SAVINGS AND TRANSITIONALS

4. Metropolitan drainage and waterways

Despite the amendments of the MMBW Act made by section 205, Melbourne Water Corporation has power to complete any river improvement works within the meaning of Part X of the MMBW Act as in force immediately before the commencement of section 205(1) that were commenced to be carried out by Melbourne Water Corporation before the commencement of that section but were not completed before them.

³⁸ S. 260A (*repealed*): See note 36.

³⁹ S. 277(1): See note 36.

⁴⁰ S. 277(2): See note 36.

⁴¹ S. 279: For further powers to make by-laws, see sections 32, 110, 111. Also see section 285.

⁴² S. 284A(1): See note 29.

⁴³ S. 284A(2)(b): See note 29.

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⁴⁴ S. 288 (*repealed*): Section 20(3) of the **Melbourne and Metropolitan Board of Works (Amendment) Act 1981**, No. 9558/1981 reads as follows:

20. New section 258AA

- (3) Any Order made pursuant to section 288 of the Principal Act prior to the commencement of the **Melbourne and Metropolitan Board of Works (Amendment) Act 1981** shall, notwithstanding the repeal of that section, continue to be valid and have the same force and effect as if that section had not been repealed.

⁴⁵ Sch. 2: Section 21(2) of the **Melbourne and Metropolitan Board of Works (Amendment) Act 1981**, No. 9558/1981 reads as follows:

21. Amendment of Schedule

- (2) The Second Schedule to the Principal Act shall be deemed to have been enacted as amended by paragraph (b) of sub-section (1).

⁴⁶ Sch. 5: The Agreement—the provisions relating to money in the old currency have not been amended. See section 4(b)(i) of the **Decimal Currency Act 1965**, No. 7315/1965.