

LEGISLATIVE ASSEMBLY

Read 1° 18 March 1987

(Brought in by Mr McCutcheon and Mr Fordham)

A BILL

to amend the *Water Act* 1958 to provide for temporary transfers of water rights, to postpone the expiry of the *Water and Sewerage Authorities (Restructuring) Act* 1983, and for other purposes.

Water Acts (Amendment) Act 1987

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purposes.

1. The purposes of this Act are—

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- (a) to provide for temporary transfers of water rights; and
 - (b) to regulate those transfers; and
 - (c) to continue in operation the restructuring of water and sewerage authorities that was effected by the *Water and Sewerage Authorities (Restructuring) Act* 1983.

10 **Commencement.**

2. This Act come into operation on the day on which it receives the Royal Assent.

PART 2—TEMPORARY TRANSFER OF WATER RIGHTS

New sections 65G and 65H.

3. After section 65F of the *Water Act* 1958 insert—**Temporary transfer of water rights within prescribed irrigation districts.**

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“65G. (1) In this section and section 65H—

- (a) “**holding**” means the lands comprised in any current single entry in the register kept under section 63; and
- (b) “**irrigation period**” has the same meaning as in section 65E.

(2) The owner of a holding within a prescribed irrigation district may, in accordance with this section and the by-laws made under section 65H, transfer to the owner or occupier of another holding within that district (including the transferor as the owner or occupier of another holding within that district) any water rights that are apportioned to any holding owned by the transferor within that district.

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(3) A transfer may only be made with the approval of the Rural Water Commission.

(4) A transfer takes effect subject to the prescribed terms and conditions and to any other terms and conditions of which notice is given to the parties by the Rural Water Commission when the transfer is approved.

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(5) A transfer takes effect for the period agreed between the parties but not exceeding—

- (a) if the transfer is approved during an irrigation period, the remainder of that irrigation period; and
- (b) if the transfer is approved between irrigation periods, the duration of the next irrigation period after the transfer is approved.

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(5) Subject to this Act, the Rural Water Commission must supply to the holding of the transferee any volume of water the right to which is the subject of the transfer and which would, if no transfer had been approved, have been supplied to the holding of the transferor.

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(6) A transfer does not affect the apportionment of water rights to a holding or the liability of the transferor to pay any irrigation charge or drainage rate.

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(7) An application for the approval by the Rural Water Commission of a transfer must be made in accordance with the by-laws and must be accompanied by any prescribed fees.”.

By-laws governing temporary transfer of water rights.

“65H. (1) The Rural Water Commission may make by-laws for or with respect to the temporary transfer of water rights within an irrigation district.

- 5 (2) Without limiting the generality of sub-section (1), by-laws may—
- (a) prescribe procedures for applications for approval; and
 - (b) fix any fees payable to the Rural Water Commission for processing and approving an application; and
 - 10 (c) set the minimum amount of water rights that must be retained by the owner of any holding; and
 - (d) set the maximum amount of water rights that may be held by the owner or occupier of any holding; and
 - 15 (e) set limits on the transfer of water rights into and out of an irrigation area, having regard to—
 - (i) drainage and salinity criteria; and
 - (ii) the need to protect the water rights apportioned to other holdings within the irrigation district in which the irrigation area is located;
 - 20 (f) prescribe any other terms and conditions in relation to a transfer; and
 - (g) prescribe irrigation districts within which water rights may be temporarily transferred.”.

Offence to divert water in some circumstances.

4. After section 91E (2) of the *Water Act* 1958 insert—
- 25 “(3) This section does not apply to a person who diverts or causes or permits the diversion of water if the person is entitled to divert that water under a transfer that has been approved under section 65G.”.

PART 3—POSTPONEMENT OF EXPIRY

30 **Postponement of expiry of *Water and Sewerage Authorities (Restructuring) Act* 1983.**

5. (1) In section 59 (1) of the *Water and Sewerage Authorities (Restructuring) Act* 1983 for “four” substitute “five”.

35 (2) In section 59 (5) of the *Water and Sewerage Authorities (Restructuring) Act* 1983 for “fourth” substitute “fifth”.

Act No. 9895.
Amended by
Nos. 10048,
10081, 10096,
10174, 10219,
86/1986 and
108/1986.

