

LEGISLATIVE ASSEMBLY

Read 1^o 25 October 1983

(Brought from the Legislative Council)

A BILL

for

An Act to amend the *Water Act 1958* and the *Water Resources Act 1975* to permit the delegation of certain powers.

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. (1) This Act may be cited as the *Water (Delegation of Powers) Act 1983*. Short title.

(2) This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

10 2. After section 5 of the *Water Resources Act 1975* there shall be inserted the following section: Amendment of No. 8729. New section inserted.

“5A. (1) The Minister may by instrument in writing under his hand— Delegation.

15 (a) delegate to any person or body all or any of the powers functions authorities or discretions conferred or imposed on him by or under this or any other Act other than—

(i) this power of delegation; and

- (ii) duties under section 5; and
- (b) vary or revoke a delegation given by him under this section.

(2) A delegation under this section shall not prevent the exercise or performance of any power function authority or discretion by the Minister. 5

(3) Where the exercise or performance by the Minister of a power function authority or discretion is dependent upon the opinion, belief or state of mind of the Minister in relation to a matter and the power function authority or discretion is delegated under this section, the delegate may, unless the contrary intention appears, exercise or perform the power function authority or discretion upon his own opinion, belief or state of mind (as the case may require) in relation to that matter. 10

(4) A power function authority or discretion delegated by the Minister under this section shall be exercised or performed in accordance with the instrument of delegation.”. 15

Amendment of
No. 6413.

3. After section 26 of the *Water Act* 1958 there shall be inserted the following section:

Delegation.

“26A. (1) The Commission may by resolution—

- (a) delegate to any person or body all or any of the powers functions authorities or discretions conferred or imposed on it by or under this or any other Act other than this power of delegation; and 20
- (b) vary or revoke a delegation given by it under this section.

(2) A delegation under this section shall not prevent the exercise or performance of any power function authority or discretion by the Commission. 25

(3) Where the exercise or performance by the Commission of a power function authority or discretion is dependent upon the opinion, belief or state of mind of the Commission in relation to a matter and the power function authority or discretion is delegated under this section, the delegate may, unless the contrary intention appears, exercise or perform the power function authority or discretion upon his own opinion, belief or state of mind (as the case may require) in relation to that matter. 30

(4) A power function authority or discretion delegated by the Commission under this section shall be exercised or performed in accordance with the terms of the resolution to delegate. 35

(5) Anything done or suffered before the commencement of this Act pursuant to a delegation or purported delegation from the Commission shall, if done in accordance with the delegation or purported delegation, be and shall be deemed to have always been validly done or suffered.”. 40