

Metropolitan Water Authority Act 1982

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THE TEXT OF THE LEGISLATION FOLLOWS

Metropolitan Water Authority Act 1982

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Western Australia

Metropolitan Water Authority Act 1982

An Act to provide for objections to valuations for certain water service charges and to authorize the provision of certain drainage works and services.

[Long title inserted by No. 73 of 1995 s.81.]

Part I — Preliminary

[Division heading repealed by No. 110 of 1985 s.15.]

1. Short title

This Act may be cited as the *Metropolitan Water Authority Act 1982*¹.

2. Commencement

The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation¹.

[3. Repealed by No. 25 of 1985 s.30.]

4. Interpretation

(1) In this Act, unless the context otherwise requires —

(a) **“arterial drain”** means an existing or proposed drain classified as such in the Arterial Drainage Scheme;

“Arterial Drainage Scheme” or **“Scheme”** means the scheme of that name compiled pursuant to Part IX;

“channel” includes a stream or watercourse;

“Commission” means the Water and Rivers Commission established by section 4 of the *Water and Rivers Commission Act 1995*;

“Corporation” means the Water Corporation established by section 4 of the *Water Corporation Act 1995*;

“drain” means —

(a) a conduit on or under any land; or

(b) a channel,

whether natural or constructed, which was or is used or intended to be used to carry surplus water, and includes any part of such a conduit or channel;

“drainage area” means an area declared to be a drainage area pursuant to section 104;

“drainage course” means an area declared to be a drainage course pursuant to section 106;

“drainage works” means all works for drainage purposes;

“former Authority” means the Water Authority of Western Australia under the *Water Agencies (Powers) Act 1984* before the commencement of Part 2 of the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995*;

“former Metropolitan Authority” means the Metropolitan Water Authority under this Act before the commencement of section 36 of the *Acts Amendment and Repeal (Water Authorities) Act 1985*¹;

“main drain” means a drain which is declared to be a main drain pursuant to section 100;

“underground water” means all water that is below the surface of the ground whether it is flowing or not and, if it is flowing, whether it is in a defined channel or not;

“works” means waterworks, sewerage works and drainage works, including excavation, construction, structures, buildings and plant provided by or used or intended to be used by the Corporation for the purposes of water services.

- (b) terms not otherwise assigned a meaning under this section but referred to in section 3 of the *Water Agencies*

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(Powers) Act 1984 as having a meaning assigned for the purposes of a relevant Act have that meaning in and for the purposes of this Act.

(2) In Part IV —

“occupied” in relation to land, means actually occupied by a person;

“owner” has the same meaning as in section 6.1 of the *Local Government Act 1995*.

[Section 4 amended by No. 101 of 1982 s.4; No. 25 of 1985 s.31; No. 110 of 1985 s.16; No. 24 of 1987 s.12; No. 73 of 1995 ss.82 and 93; No. 14 of 1996 s.4; No. 67 of 2003 s. 62; No. 55 of 2004 s. 753.]

5. Relation to the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 and references to the former Board

(1) The provisions of this Act are incorporated with, and may be read as one with the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*, and a reference to “this Act” shall be read and construed as including a reference to that Act and to by-laws made under that Act or the *Water Agencies (Powers) Act 1984*.

(2) Any reference to the former Board or the former Metropolitan Authority made —

- (a) in a written law passed or made;
- (b) in any document or instrument made, executed, entered into or done; or
- (c) otherwise,

before the coming into operation of this subsection shall, unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to the Commission or the Corporation as the case requires.

*[Section 5 amended by No. 25 of 1985 s.32; No. 73 of 1995
ss.83 and 93; No. 67 of 2003 s. 62.]*

[Division heading repealed by No. 110 of 1985 s.15.]

[6. Repealed by No. 25 of 1985 s.33.]

[7. Repealed by No. 25 of 1985 s.34.]

Part II — Administration

[Division heading deleted by No. 25 of 1985 s.35.]

[8. Repealed by No. 73 of 1995 s.84.]

[9. Repealed by No. 25 of 1985 s.37.]

[10. Repealed by No. 73 of 1995 s.84.]

[11. Repealed by No. 25 of 1985 s.39.]

[Division heading deleted by No. 25 of 1985 s.35.]

[12-17. Repealed by No. 25 of 1985 s.39.]

[18. Repealed by No. 73 of 1995 s.84.]

19. Exemption from personal liability

A person who is or has been a member, acting member or delegate of the former Board, the former Metropolitan Authority, the Board of the former Metropolitan Authority or the former Authority is not personally liable in civil proceedings, for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, under this Act or the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

[Section 19 amended by No. 101 of 1982 s.7; No. 25 of 1985 s.41; No. 73 of 1995 s.85.]

[Division heading deleted by No. 25 of 1985 s.35.]

[20-25. Repealed by No. 25 of 1985 s.42.]

[Division heading deleted by No. 25 of 1985 s.35.]

[26-27. Repealed by No. 25 of 1985 s.42.]

[28. Repealed by No. 73 of 1995 s.86.]

[Division heading deleted by No. 25 of 1985 s.35.]

[29-30. Repealed by No. 25 of 1985 s.45.]

[Division heading deleted by No. 25 of 1985 s.35.]

[31-34. Repealed by No. 25 of 1985 s.45.]

[Part III (sections 35-38) repealed by No. 25 of 1985 s.45.]

Part IV — Objections and review

[Heading inserted by No. 24 of 1987 s.14; amended by No. 55 of 2004 s. 754.]

[39-41. Repealed by No. 24 of 1987 s.15.]

[42. Repealed by No. 25 of 1985 s.46.]

43. Objections and appeals against valuations and assessments

- (1) Subject to this section, there shall be no objections or review in respect of the valuation of any land for the purposes of a charge made under the *Water Agencies (Powers) Act 1984* in relation to a water service provided under this Act or the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* otherwise than in accordance with the *Valuation of Land Act 1978*.
- (2) A person, whether an owner or occupier, who is liable to pay any charge assessed in respect of land —
 - (a) by reference to a value as reduced under section 41D or 41E(3) of the *Water Agencies (Powers) Act 1984*;
 - (b) on the basis of an interim valuation, as mentioned in section 41E of the *Water Agencies (Powers) Act 1984*;
 - (c) on the basis of an apportionment of any valuation under section 41H of the *Water Agencies (Powers) Act 1984*,

may object to the assessment in accordance with this section.

- (2a) Notwithstanding that a charge made under the *Water Agencies (Powers) Act 1984* is only in part assessed on the basis of a valuation of land adopted or apportioned by the Corporation, a person, whether an owner or an occupier, to whom an account for the charge is rendered may object to the Corporation as to the basis on which the charge is imposed as though it were an objection to an assessment to which section 32(1)(b) of the *Valuation of Land Act 1978* applied or to which subsection (2) applied, but, except as otherwise provided by this section, any

reference of the decision on that objection to the State Administrative Tribunal for a review shall relate only to such part of the assessment of the charge as is based on a valuation of the land.

- (3) An objection to an assessment shall —
 - (a) describe the relevant land so as to identify it;
 - (b) identify the valuation and the assessment objected to; and
 - (c) set out fully and in detail the grounds of objection.
- (4) An objection to an assessment in relation to any land pursuant to subsection (2) may be made on the ground that the assessment is not fair or is unjust, inequitable or incorrect, whether by itself or having regard to other assessments or valuations in force under the *Water Agencies (Powers) Act 1984* or the *Valuation of Land Act 1978*.
- (5) Any person who is charged in relation to water services in respect of land on the basis that the land is not used for residential purposes may object to the basis of the assessment on the ground that the land is used for residential purposes.
- (6) An objection under subsection (2) or (5) shall be in writing and shall be served on the Corporation within 42 days (or such further period as the Corporation may, for reasonable cause shown by the person entitled to make the objection, allow) after the issue of the relevant assessment.
- (7) The Corporation shall, with all reasonable despatch, consider any objection and may either disallow it or allow it, wholly or in part.
- (8) The Corporation shall promptly serve upon the person by whom the objection was made written notice of its decision on the objection and a brief statement of the reasons for that decision.
- (9) Where the Corporation decides to disallow an objection, wholly or in part, it shall also advise the person by whom the objection

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was made of the time within which and the manner in which a review of the decision may be sought.

- (10) A person who is dissatisfied with the decision of the Corporation on an objection by that person may, within 42 days (or such further period as the Corporation may, for reasonable cause shown by the person, allow) after service of notice of the decision of the Corporation, serve on the Corporation a notice requiring that the Corporation refer the relevant assessment to the State Administrative Tribunal for a review.
- (11) Upon receipt of a notice under subsection (10) the Corporation shall promptly refer the relevant assessment to the State Administrative Tribunal for a review.
- (11a) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —
 - (a) the relevant assessment; and
 - (b) the reasons, if any, for the assessment.
- (12) A person who is dissatisfied with a decision of the Corporation to refuse to extend the time for service of an objection under this section, or for service of a notice requiring the Corporation to refer the relevant assessment to the State Administrative Tribunal for a review, may serve on the Corporation a notice requiring the Corporation to refer the decision to refuse to extend time to the State Administrative Tribunal for a review.
- (13) Upon receipt of a notice under subsection (12) the Corporation shall promptly refer the decision the State Administrative Tribunal for a review.
- (13a) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the decision to refuse to extend the time; and
 - (b) the reasons, if any, for the decision.
- (14) The making of an objection, whether in respect of an assessment in relation to any land or under subsection (5), does not affect the liability of a person to pay the charges concerned pending determination of the objection.
- (15) The Corporation shall make any amendment of an entry in the records kept under section 69A of the *Water Agencies (Powers) Act 1984* which may be necessary in consequence of the allowance, wholly or in part, of an objection or in consequence of a review by the State Administrative Tribunal, whether in respect of an assessment in relation to any land or in respect of the use of land for residential purposes.
- (16) The Corporation shall issue a notice of an amended assessment when amendment of an assessment is necessary under subsection (15).

[Section 43 amended by No. 24 of 1987 s.16; No. 73 of 1995 ss.92 and 93; No. 55 of 2004 s. 755.]

44. New matters raised on review

- (1) Upon a review by the State Administrative Tribunal on a reference under section 43(11) or (13), the State Administrative Tribunal may consider —
 - (a) grounds in addition to those stated in the notice of objection; and
 - (b) reasons in addition to any reasons previously given for the Corporation's decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

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[Section 44 inserted by No. 55 of 2004 s. 756.]

45. Written reasons for certain determinations to be given and published

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 43(11) or (13) is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) This section is in addition to the provisions of the *State Administrative Tribunal Act 2004*.

[Section 45 inserted by No. 55 of 2004 s. 756.]

[Part V (sections 46-64) repealed by No. 25 of 1985 s.47.]

[Part VI (sections 65-68) repealed by No. 25 of 1985 s.48.]

[Part VII (sections 69-76) repealed by No. 25 of 1985 s.49.]

[Part VIII (sections 77-97) repealed by No. 25 of 1985 s.50.]

Part IX — Drainage

Division 1 — Arterial Drainage Scheme

[Heading inserted by No. 101 of 1982 s.15.]

98. The Scheme

- (1) The Commission is charged with ensuring that a scheme is compiled, to be known as the Arterial Drainage Scheme, whereby practical and economic provision is made, in consultation with the Corporation, for the planning, managing, maintaining, financing, extending and improving of drainage services to serve the Area.
- (2) The Commission shall prepare, and from time to time review and amend, plans which together will ultimately illustrate the Arterial Drainage Scheme in such a manner as to show —
 - (a) drainage catchments;
 - (b) lakes, swamps, wetlands, watercourses and other features related to natural drainage;
 - (c) areas of existing, proposed or potential development;
 - (d) the existing drainage system — differentiating as to the kinds of drainage;
 - (e) the proposed drainage system — differentiating as to the proposed kinds of drainage and the persons or bodies to be liable for the provision and maintenance of that drainage;
 - (f) land which, in the opinion of the Commission —
 - (i) benefits from drainage; and
 - (ii) contributes to the need for drainage;and
 - (g) drainage areas and areas likely to be proclaimed as drainage areas.
- (3) The Arterial Drainage Scheme shall make provision for —

- (a) arterial drains;
- (b) main drains;
- (c) drainage areas; and
- (d) drainage courses,

and may make provision for utilising the potential of the Scheme to conserve water, to re-charge aquifers, or in any other manner, in the best interests of the community and for the management of the natural environment.

- (4) In planning and implementing the Scheme the Commission shall consult and collaborate with the Corporation and the local governments of the districts which are affected, and, in so far as that is practicable, shall consult with the respective authorities or bodies having responsibility for health, planning, roads, railways, conservation and environmental protection, and waterways, having regard to their statutory duties and practical requirements.
- (5) In preparing the Scheme, the Commission shall take into account environmental, conservation and management considerations, and the financial implications as to the provision and maintenance of works and the Scheme is to be prepared in such a manner as to ultimately make provision for the division of responsibilities, by agreement, as between the Commission, the Corporation, local governments and other persons.

[Section 98 inserted by No. 101 of 1982 s.15; amended by No. 73 of 1995 s.87; No. 14 of 1996 s.4.]

Division 2 — Arterial drains

99. Management of arterial drains

- (1) The Commission has responsibility for the over-all administration of the system of arterial drainage and of arterial drainage works comprised within the Scheme, notwithstanding that the control, management and care of any particular arterial drain or any portion

thereof, or responsibility for particular works may for the time being be vested in some other person or body.

- (2) A main drain may be, or comprise a portion of, an arterial drain.
- (3) This Act does not vest in the Commission the control, management or care of an arterial drain or proposed arterial drain.
- (4) The Commission shall —
 - (a) determine what drains shall be designated arterial drains, and what proposed drains should be designated as arterial drains, and assign names to them respectively;
 - (b) delineate the point of commencement, route and point of termination of arterial drains on a specified plan or plans;
 - (c) indicate the nature and size of the arterial drains;
 - (d) notify in writing, accompanied by a copy of a relevant plan, the Corporation and the local government of each district in which an arterial drain or proposed arterial drain is, or is to be, situated of the designation of that drain as an arterial drain;
 - (e) invite submissions from the Corporation and the local governments affected within such reasonable time as is specified in the notice of designation, and report thereon to the Minister; and
 - (f) review, and, as may be necessary, amend from time to time the designations made.
- (5) In so far as the course of an arterial drain or proposed arterial drain may traverse more than one district, and may affect the community or the environment, the Commission shall endeavour to evolve and coordinate measures to ensure the most practicable manner of control, management and care of the drain within the concept of an integrated scheme of drainage.

[Section 99 inserted by No. 101 of 1982 s.15; amended by No. 73 of 1995 s.88; No. 14 of 1996 s.4.]

Division 3 — Main drains

100. Declaration of main drains

- (1) The Corporation has the control and management of main drains and main drainage works, and shall cause all main drains and main drainage works to be constructed, maintained, kept and cleansed with due regard to the Scheme and the health and convenience of the public.
- (2) The Corporation, subject to this section, may declare to be a main drain —
 - (a) any existing drain; or
 - (b) any drain which the Corporation proposes shall be provided.
- (3) Any metropolitan main drain constituted pursuant to section 71C of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* as in force prior to the coming into operation of section 31 of the *Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982*² shall be deemed to have been declared to be a main drain pursuant to this section.
- (4) Where the Corporation declares to be a main drain any existing channel or existing conduit which prior to the time of that declaration was vested in or under the control of a local government or other person, that local government or person is not thereby entitled to compensation from the Corporation or the Crown.
- (5) A drain, not being a drain to which subsection (3) applies, shall not be declared to be a main drain unless —
 - (a) it is comprised within —
 - (i) a drainage course;
 - (ii) a natural watercourse;
 - (iii) a road reserve;

- (iv) a reserve for the purposes of drainage which is vested in the Corporation or the Crown; or
 - (v) a drainage easement granted to the Corporation or the Crown;
- or
- (b) the owner and occupier of the land on which it is situate —
 - (i) agree in writing to such declaration; or
 - (ii) are given notice by the Corporation of its intention to acquire an interest in the land pursuant to Part VII of the *Water Agencies (Powers) Act 1984*.
- (6) Where the Corporation proposes that any drain should be declared to be a main drain the Corporation shall —
- (a) assign a name to the drain;
 - (b) determine the point of commencement, the route and point of termination of the drain, any relevant drainage course, and in so far as the land is not already a declared drainage area the land which will —
 - (i) benefit from the proposed drainage; or
 - (ii) contribute to the need for the proposed drainage, and delineate them on a specified plan;
 - (c) cause to be published in the *Government Gazette* a notice —
 - (i) declaring that as from a date, being a date not earlier than 2 months after the publication of the notice, specified in the notice the drain described in the notice shall be a main drain known by the name assigned in the notice;
 - (ii) containing a description of the drain, indicating the nature and size of the drain, and of any

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Division 3 Main drains

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relevant drainage course sufficient to identify its boundaries; and

- (iii) specifying the plan prepared for the purposes of paragraph (b) and stating where it may be inspected,

and effect shall be given to that declaration unless the Minister otherwise directs.

- (7) The Corporation may, by subsequent notice published in the *Government Gazette* in the manner required by subsection (6), vary any declaration made or deemed to have been made pursuant to this section.
- (8) The Corporation may, by notice published in the *Government Gazette*, cancel any declaration made or deemed to have been made pursuant to this section in relation to a drain or any portion of a drain and thereupon that drain, or that portion of that drain specified in that notice, shall cease to be a main drain, but notwithstanding that any drain or any portion of any drain ceases to be a main drain any drainage area which was served thereby shall continue to be a drainage area unless the notice otherwise provides.
- (9) A person who is aggrieved by a proposal to declare a drain to be a main drain or to vary any such declaration, or who alleges that any land is not land which will —
 - (a) benefit from; or
 - (b) contribute to the need for,

a proposed main drain as delineated on the plan, may by notice in writing to the Minister within one month of the publication of the notice published under subsection (6), or subsection (7) as the case requires, object to the proposal.

[Section 100 inserted by No. 101 of 1982 s.15; amended by No. 73 of 1995 ss.89 and 92; No. 14 of 1996 s.4.]

101. Offences

- (1) A person shall not, without the prior consent in writing of the Corporation —
- (a) erect, construct or place any building, wall, fence, structure or obstruction upon, over, under or within the prescribed proximity to, a main drain otherwise than in accordance with such terms and conditions as the Corporation may have imposed for the protection of the main drain from interference or damage;
 - (b) stop, obstruct, alter, damage, or interfere with, a main drain;
 - (c) cause or permit any sediment, noisome thing or pollutant to enter a main drain; or
 - (d) cause or permit water to be taken from a main drain.
- Penalty: \$1 000 and if the offence is a continuing one a further \$100 for each day or part of a day during which the offence has continued.
- (2) The Corporation may demolish and remove any building, wall, fence, structure or obstruction which is erected, constructed or placed in contravention of subsection (1) and which interferes with or injuriously affects a main drain and perform any works necessary for restoring or reinstating the main drain.
- (3) In addition to any penalty that may be imposed on an offender under subsection (1), the offender shall also pay to the Corporation any expense incurred by or on behalf of the Corporation in removing any building, wall, fence, structure or obstruction or in reopening, restoring, repairing or reinstating a main drain pursuant to subsection (2).

[Section 101 inserted by No. 101 of 1982 s.15; amended by No. 73 of 1995 s.92.]

102. Connections to main drains

- (1) A person shall not —
 - (a) otherwise than in the prescribed manner, unless authorized by the Corporation;
 - (b) otherwise than in accordance with an authorization of the Corporation; or
 - (c) without the authorization of the Corporation,connect to a main drain any other drain conduit or fitting.
- (2) A person shall not, without or otherwise than in accordance with an authorization by the Corporation, disconnect from a main drain any other drain, conduit or fitting.
- (3) A person shall not fail to maintain a drain, conduit or fitting connected to a main drain, so as to cause or permit the escape, misuse or contamination of water.

Penalty: \$200 and if the offence is a continuing one a further \$20 for each day or part of a day during which the offence has continued.
- (4) A person intending to connect to, or disconnect from, a main drain any other drain, conduit or fitting shall give notice in writing of the proposed works to the Corporation not less than 30 days prior to the commencement of the works.
- (5) The Corporation shall consider any notice given pursuant to subsection (4) as soon as practicable, and within 30 days from the giving of the notice the Corporation shall give written notice to the person proposing to do the works —
 - (a) authorizing the proposed works;
 - (b) declining to authorize the proposed works; or
 - (c) delaying consideration of the proposed works until a time, or the occurrence of an event, specified in the notice.

- (6) An authorization given by the Corporation pursuant to this section may be made subject to conditions, including conditions as to the payment of prescribed charges, and may require that the applicant or some other person enter into an agreement with the Corporation under section 67 of the *Water Agencies (Powers) Act 1984* with regard to the cost of works or water services provided or to be provided by the Corporation by reason of or in relation to the proposal.

[Section 102 inserted by No. 101 of 1982 s.15 amended by No. 110 of 1985 s.18; No. 73 of 1995 ss.92 and 93.]

Division 4 — Drainage areas

103. Drainage areas

The Corporation, having regard to the land to be served and to any other land which may be affected, may, where drainage services are to be or are being provided, recommend to the Minister that any area of land, or any part of such an area, served by a main drain or to be served by a proposed main drain and which, in the opinion of the Corporation, benefits or will benefit from, or contributes or will contribute to the need for, the drainage, should be declared to be a drainage area.

[Section 103 inserted by No. 101 of 1982 s.15; amended by No. 24 of 1987 s.18; No. 73 of 1995 s.92.]

104. Declaration of a drainage area

- (1) The Minister may from time to time declare an area of land to be a drainage area.
- (2) Where the Minister proposes that an area of land should be declared to be a drainage area the Minister shall —
- (a) assign a name to the area of land;
 - (b) delineate the area of land on a specified plan;

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Division 4 Drainage areas

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- (c) cause to be published in the *Government Gazette* a notice —
 - (i) declaring that as from a date, being a date not earlier than 2 months after the publication of the notice, specified in the notice the area of land described in the notice shall be a drainage area known by the name assigned in the notice;
 - (ii) containing a description of the area of land sufficient to identify its location; and
 - (iii) specifying the plan on which the area of land is delineated and stating where it may be inspected,

and effect shall be given to that declaration unless the Minister otherwise directs.

- (3) The Minister may, by subsequent notice published in the *Government Gazette* in the manner required by subsection (2), alter the boundaries of, or abolish, any drainage area made or deemed to have been made pursuant to this section.
- (4) A person who is aggrieved by a proposal to declare an area of land to be a drainage area or to alter the boundaries of a drainage area, or who alleges that any land is not land which will —
 - (a) benefit from; or
 - (b) contribute to the need for,

the main drain or proposed main drain as delineated on the plan of the proposed drainage area, may by notice in writing to the Minister within one month of the publication of the notice published under subsection (2) or subsection (3), as the case requires, object to the proposal.

- (5) The Minister shall have regard to any objection notified to him pursuant to section 100(9) as though it were an objection of which he has received notice in accordance with subsection (4).

- (6) A local drainage area constituted pursuant to section 71E of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* as in force prior to the coming into operation of section 31 of the *Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982*² shall be deemed to have been declared to be a drainage area pursuant to this section.
- (7) A metropolitan main drainage district constituted pursuant to section 6 of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* as in force prior to the coming into operation of section 5 of the *Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982*² shall be deemed to have been declared a drainage area pursuant to this section and in relation to that area the Corporation may determine that it be divided into 2 or more drainage areas, and subsection (2) shall be taken to apply to each of the respective areas as so divided as though the determination was a proposal to declare the area a drainage area but subsection (4) shall not apply.

[Section 104 inserted by No. 101 of 1982 s.15; amended by No. 73 of 1995 s.92.]

105. Agreements for the provisions of drainage works

Where any land, whether or not in a drainage area, in the opinion of the Corporation, benefits or is likely to benefit from, or contribute to the need for, a main drain or a proposed main drain, the Corporation may serve a notice under section 67 of the *Water Agencies (Powers) Act 1984* requiring the owner or occupier to enter into an agreement with the Corporation with regard to the provision of works or water services which in the opinion of the Corporation it is or will be necessary to provide for drainage purposes.

[Section 105 inserted by No. 101 of 1982 s.15; amended by No. 110 of 1985 s.19; No. 73 of 1995 ss.92 and 93.]

Division 5 — Drainage courses

106. Declaration of a drainage course

- (1) In relation to any main drain or arterial drain, or proposed main drain or proposed arterial drain, the Commission may determine that an area of land sufficient to contain the drainage works should be declared to be a drainage course.
- (2) On determining the point of commencement, route, extent, dimensions, and point of termination of a proposed drainage course and assigning a name to it, the Commission shall cause the lands comprising the drainage course, in sufficient detail to enable the boundaries to be ascertained, to be delineated on a specified plan and shall —
 - (a) serve notice in writing, accompanied by a copy of or relevant extract from that specified plan, to be served on the Corporation and the local government of each district in which the course is, or is to be, situated and (so far as is practicable) on each person who is an owner or is an occupier of land within the boundaries of that drainage course, of the proposal providing that objections and submissions in relation thereto may be made to the Commission within one month from the date of service of the notice;
 - (b) cause an advertisement to be published in a newspaper circulating in the area affected by the proposal specifying the proposal in general terms and indicating in what manner and the times when, and places at which, further particulars can be ascertained, and, upon request, furnish those particulars;
 - (c) so far as is practicable, negotiate with the Corporation and any local government or person making an objection or submission, and modify the proposal accordingly; and

- (d) report to the Minister as to the proposal, any negotiations, and any objections or submissions not met by the proposal or modified proposal.
- (3) Subject to the approval of the Minister, the Commission shall cause to be published in the *Government Gazette* a notice —
- (a) declaring that as from the date specified in the notice the land within the boundaries described or referred to in the notice shall be a drainage course known by the name assigned in the notice;
 - (b) containing a description of the boundaries sufficient to identify them or referring to descriptions whereby they can be ascertained; and
 - (c) specifying the plan on which the lands are delineated and stating where it may be inspected,
- and effect shall be given to that declaration unless the Minister otherwise directs.
- (4) Subject to the approval of the Minister the Commission may, by subsequent notice published in the *Government Gazette* in the manner required by subsection (3), vary any declaration made pursuant to this section.
- (5) The Commission may, by notice published in the *Government Gazette*, cancel any declaration made pursuant to this section in relation to any lands and thereupon the lands specified in that notice shall cease to be comprised within a drainage course.
- (6) The declaration of a drainage course —
- (a) shall be taken to be notice of the intention of the Commission that the land is liable to be utilised for drainage works; but
 - (b) does not thereby entitle any person to compensation from the Commission or the Crown.

[Section 106 inserted by No. 101 of 1982 s.15; amended by No. 73 of 1995 s.90; No. 14 of 1996 s.4.]

107. Development in drainage courses

- (1) When a drainage course has been declared pursuant to section 106 the land comprised within the drainage course shall be taken for the purposes of Part IV of the *Water Agencies (Powers) Act 1984* to be land to which the Corporation proposes to provide water services.
- (2) The Commission may inform a planning authority of the existence of a drainage course and may give advice and issue guidelines to the planning authority in accordance with section 66 of the *Water Agencies (Powers) Act 1984*.
- (3) A planning authority shall have regard to the existence of a drainage course when considering whether any conditions should be imposed in relation to any development or subdivision.
- (4) In this section the terms “**development**” and “**subdivision**” have the same meaning as those terms have in and for the purposes of Part IV of the *Water Agencies (Powers) Act 1984*.

[Section 107 inserted by No. 101 of 1982 s.15; amended by No. 110 of 1985 s.20; No. 73 of 1995 ss.91, 92 and 93.]

108. Works in drainage courses

Subject to compliance with Part VIII of the *Water Agencies (Powers) Act 1984*, the Corporation is authorized to do drainage works within a drainage course, notwithstanding that the control, management or care of that course, or any portion of that course, does not vest in the Corporation.

[Section 108 inserted by No. 101 of 1982 s.15; amended by No 110 of 1985 s.21; No. 73 of 1995 ss.92 and 93.]

[Part X (sections 109-112) repealed by No. 25 of 1985 s.51.]

Notes

¹ This is a compilation of the *Metropolitan Water Authority Act 1982* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

| Short title | Number and year | Assent | Commencement |
|--|-----------------|-------------|---|
| <i>Metropolitan Water Authority Act 1982</i> | 36 of 1982 | 27 May 1982 | 1 Jul 1982 (see s. 2 and <i>Gazette</i> 25 Jun 1982 p. 2091) |
| <i>Metropolitan Water Authority Amendment Act 1982</i> | 101 of 1982 | 24 Nov 1982 | 31 Dec 1982 (see s. 2 and <i>Gazette</i> 31 Dec 1982 p. 4969) |
| <i>Act Amendment and Repeal (Water Authorities) Act 198 Pt. IV</i> | 25 of 1985 | 6 May 1985 | 1 Jul 1985 (see s. 2 and <i>Gazette</i> 7 Jun 1985 p. 1931) |
| <i>Acts Amendment (Water Authorities) Act 1985 Pt. III</i> | 110 of 1985 | 17 Dec 1985 | 14 Mar 1986 (see s. 2 and <i>Gazette</i> 14 Mar 1986 p. 726) |
| <i>Acts Amendment (Water Authority Rates and Charges) Act 1987 Pt. II</i> | 24 of 1987 | 25 Jun 1987 | 14 Jul 1987 (see s. 2 and <i>Gazette</i> 14 Jul 1987 p. 2647) |
| <i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995 Pt. 6</i> | 73 of 1995 | 27 Dec 1995 | 1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 29 Dec 1995 p. 6291) |
| <i>Local Government (Consequential Amendments) Act 1996 s. 4</i> | 14 of 1996 | 28 Jun 1996 | 1 Jul 1996 (see s. 2) |
| <i>Economic Regulation Authority Act 2003 s. 62</i> | 67 of 2003 | 5 Dec 2003 | 1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5723) |
| <i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 83^{3,4}</i> | 55 of 2004 | 24 Nov 2004 | 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130) |

NB: This Act is affected by the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* (No. 43 of 1909) and the *Water Agencies (Powers) Act 1984* (No. 3 of

1984), s.5 and also Orders published in *Gazette* 31 May 1985 p.1897 and 21 June 1985 p.2240.

² Act No. 100 of 1982 became operative on 31 December 1982.

³ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5*, the *State Administration Tribunal Act 2004 s. 167 and 169*, and the *State Administrative Tribunal Regulations 2004 r. 28 and 42* deal with certain transitional issues some of which may be relevant for this Act.

⁴ The *State Administrative Tribunal Regulations 2004 r. 58* reads as follows:

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58. Metropolitan Water Authority Act 1982

(1) In this regulation —

“**commencement day**” means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Part 2 Division 83* comes into operation;

“**Corporation**” has the meaning given to that term in the MWA Act section 4(1);

“**the MWA Act**” means the *Metropolitan Water Authority Act 1982*.

(2) If the Corporation receives, before the commencement day, a notice in accordance with the MWA Act section 43(10) (as in force when the notice was received by the Corporation) but does not before the commencement day refer the relevant assessment referred to in the notice to a Land Valuation Tribunal, on and after the commencement day the Corporation must refer the relevant assessment to the State Administrative Tribunal for a review as if the notice were a notice served on the Corporation under the MWA Act section 43(10).

(3) If the Corporation receives, before the commencement day, a notice in accordance with the MWA Act section 43(12) (as in force when the notice was received by the Corporation) but does not before the commencement day refer a decision referred to in the notice to a Land Valuation Tribunal as an appeal, on and after the commencement day the Corporation must refer the decision to refuse to extend time to the State Administrative Tribunal for a review as if the notice were a notice served on the Corporation under the MWA Act section 43(12).

(4) If a notice has been given under the MWA Act section 43(9) before the commencement day, on or after the commencement day

the notice is to be taken to refer to the time within which and the manner in which a review of the decision may be sought.

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