

Western Australia

## **Hale School Act 1876**

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Western Australia

## **Hale School Act 1876**

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## Hale School Act 1876

### An Act to make provision for the higher education of boys.

#### Preamble

Whereas it is expedient to make provision for the establishment of a High School for the purpose of giving to Boys an education similar to that given in the Grammar and advanced schools in the other Australasian Colonies;

Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows: —

#### 1. Short title

This Act may be cited as the *Hale School Act 1876*<sup>1</sup>.

[Section 1 amended by No. 34 of 1958 s. 1(3).]

#### 1A. Interpretation

In this Act, subject to the context —

**Archbishop** means the person for the time being consecrated as His Grace the Archbishop of Perth according to rites of the Anglican Church of Australia, and in his absence from the Anglican Church of Australia Diocese of Perth and during any vacancy in his office includes the person for the time being duly authorised to act as the Administrator of the Diocese;

**Association** means the association incorporated under the *Associations Incorporation Act 1987*<sup>2</sup>, under the name “Old Haleians’ Association (Inc.)” and includes its successors for the time being;

s. 2

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**Board** means the corporation known as “The Governors of Hale School” constituted by this Act;

**School** means the school known as Hale School at Perth;

**Trustees** means the corporation known as The Perth Diocesan Trustees referred to in section 11 of Act No. 34 of 1918.

*[Section 1A inserted by No. 34 of 1958 s. 4; amended by No. 121 of 1976 s. 7.]*

**2. The Governors of Hale School, a body corporate**

Governors of the School under the name of “The Governors of Hale School” shall be a body corporate with perpetual succession and a common seal, and shall by the same name from time to time and at all times hereafter be capable to receive, purchase, acquire, take, and hold, to them and their successors, in trust for and to and for the purposes of such school, any messuages, lands, tenements, and hereditaments, of what nature or kind soever; and also to receive, purchase, acquire, and possess, upon the same trust, and to and for the same purposes, any goods, chattels, gifts, or benefactions whatsoever; and shall and may by the same name be capable to sue and be sued, both at law and in equity; and shall and may by the same name be capable to grant, demise, alien, or otherwise deal with all or any of the property, real or personal, belonging to the said school; and also to do all other matters and things, and have and enjoy all rights and privileges incidental to or appertaining to a body politic or corporate.

*[Section 2 amended by 42 Vict. No. 28 (1878) s. 4; 55 Vict. No. 29 (1892) s. 7<sup>3</sup>; No. 34 of 1958 s. 5.]*

*[3, 4. Deleted by No. 34 of 1958 s. 3.]*

**5. Constitution of the Board**

The Board shall consist of 11 members of whom one shall be the Archbishop, 5 shall be appointed by the Trustees and 5 shall be appointed by the Association.

*[Section 5 inserted by No. 75 of 1994 s. 3.]*

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**6. Terms of office and vacancies**

- (1) In this section —
- appointed***, in relation to a member, means appointed by the Trustees or the Association;
- casual vacancy*** means a vacancy that occurs otherwise than when a term of office expires;
- member*** means a member of the Board;
- periodical vacancy*** means a vacancy that occurs when a term of office expires.
- (2) A member appointed to a periodical vacancy may hold office for a period ending —
- (a) 4 years from when the vacancy occurred, if it occurred before 31 December 1994; or
  - (b) 5 years from when the vacancy occurred, if it occurred on or after 31 December 1994.
- (3) Each of the first members appointed to fill the 2 vacancies created by the commencement of the *Hale School Amendment Act 1994* may hold office for the period ending on 31 December 1998.
- (4) A member appointed to fill a casual vacancy may hold office for the period ending when the term of the member whose office became vacant would have expired.
- (5) An appointed member whose term of office expires is eligible for reappointment.
- (6) The body which appointed a member may at any time terminate the appointment or remove the member from office.
- (7) The office of an appointed member becomes vacant if —
- (a) the term of office expires;
  - (b) the appointment is terminated, or the member is removed from office, under subsection (6);

**s. 7**

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- (c) the member dies; or
  - (d) the member resigns by written notice addressed to the Chairman of the Board.
- (8) The continuing members may act despite any vacancy on the Board.

*[Section 6 inserted by No. 75 of 1994 s. 3.]*

**7. Visitor**

The Archbishop shall be the Visitor, with power to enter the School at any time to examine and instruct the pupils, to inspect the accounts and general management of the School, to prevent the adoption of any rule or regulation and to correct any act or omission which may or may tend to frustrate the intention that the School shall be and forever remain an Anglican Church of Australia School.

*[Section 7 inserted by No. 34 of 1958 s. 6; amended by No. 121 of 1976 s. 7.]*

**8. Dealings in property**

The Board may, freed from any trusts imposed by this Act, sell, lease, mortgage or otherwise dispose of or deal with all or any of the real or personal property for the time being vested in or held by the Board under this Act. Subject there to and to section 2 the Board shall hold the property upon trust for the purposes of the School.

*[Section 8 inserted by No. 34 of 1958 s. 6.]*

**9. Management of school**

The entire management and control of the School and of the real and personal property for the time being held by the Board is vested in the Board which is empowered subject to and for the purposes of this Act to exercise all or any of the powers conferred by the *Associations Incorporation Act 1987*<sup>2</sup>, upon an association incorporated under that Act.



*[Section 9 inserted by No. 34 of 1958 s. 6.]*

**10. Board's proceedings**

- (1) At a meeting of the Board 6 members shall form a quorum.
- (2) The Chairman shall have a deliberative but not a second or casting vote.
- (3) All questions before the Board upon which they are not unanimous shall be decided by the majority of the votes of those present at the meeting and in such case the decision of the majority shall be the decision of the Board.

*[Section 10 inserted by No. 34 of 1958 s. 6; amended by No. 75 of 1994 s. 4.]*

**11. Borrowing**

For the purposes of the school the Board may borrow money and give and execute such mortgages or other securities and upon such terms and conditions as the Board decides. Any money so borrowed and the performance of any obligations in regard thereto may be guaranteed by the Trustees upon such terms and conditions as the Trustees decides.

*[Section 11 inserted by No. 34 of 1958 s. 6.]*

**12. Rating and taxation exemption**

Vacant land held by the Board and land held by the Board and used exclusively or mainly for the purposes of the School shall be exempt from rating under the provisions of the *Local Government Act 1995* and the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*<sup>4</sup> and from land tax imposed by the *Land Tax Act 2002*.

*[Section 12 inserted by No. 34 of 1958 s. 6; amended by No. 14 of 1996 s. 4; No. 45 of 2002 s. 14.]*

**13. Agreement relating to Reserve A3421**

The agreement made 31 October 1958 between the Minister for Works and the Board relating to the surrender to Her Majesty of the estate of the Board in all that piece of land being Perth Town Lots H138 and H141 (Reserve A3421) is approved and ratified, and such sums as are necessary for payment of the price mentioned in clause 1 of that agreement shall be paid from moneys to be appropriated by Parliament. Subject to the agreement the Governor is authorised by Order in Council to change the purpose of Reserve A3421 to “the use and requirements of the Government”.

*[Section 13 inserted by No. 34 of 1958 s. 6.]*

**Notes**

<sup>1</sup> This is a compilation of the *Hale School Act 1876* and includes the amendments made by the other written laws referred to in the following table<sup>1a,9</sup>. The table also contains information about any reprint.

**Compilation table**

Short title	Number and year	Assent	Commencement
<i>The High School Act 1876</i> <sup>6</sup>	40 Vict. No. 8 (1876)	12 Sep 1876	12 Sep 1876
	42 Vict. No. 28 (1878) <sup>7</sup>	24 Jul 1878	24 Jul 1878
<i>The Governors of High School Appointment Act</i> <sup>8</sup>	55 Vict. No. 29 (1892)	18 Mar 1892	18 Mar 1892
	61 Vict. No. 12 (1897) <sup>8</sup>	23 Dec 1897	23 Dec 1897
<i>High School Act Amendment Act 1912</i> <sup>8</sup>	44 of 1912	24 Dec 1912	24 Dec 1912
<i>High School Act Amendment Act 1920</i> <sup>8</sup>	6 of 1920	21 Oct 1920	21 Oct 1920
<i>High School Act Amendment Act 1929</i> <sup>8</sup>	16 of 1929	15 Nov 1929	29 Nov 1929 (see s. 1(2) and <i>Gazette</i> 29 Nov 1929 p. 2630)
<i>High School Act Amendment Act 1930</i> <sup>8</sup>	2 of 1930	23 Oct 1930	23 Oct 1930
<i>Hale School Act Amendment Act 1958</i>	34 of 1958	11 Dec 1958	11 Jan 1959 (see s. 2)
<i>Anglican Church of Australia Act 1976</i> s. 7 <sup>7</sup>	121 of 1976	1 Dec 1976	24 Aug 1981 (see s. 2(2) and <i>Gazette</i> 30 Jan 1981 p. 441)
<b>Reprint of the <i>Hale School Act 1876</i> as at 20 Aug 1987</b> (includes amendments listed above)			

## Hale School Act 1876

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Short title	Number and year	Assent	Commencement
<i>Hale School Amendment Act 1994</i>	75 of 1994	13 Dec 1994	10 Jan 1995
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<b>Reprint of the Hale School Act 1876 as at 17 Jun 2002</b> (includes amendments listed above)			
<i>Taxation Administration (Consequential Provisions) Act 2002</i> s. 14 <sup>10</sup>	45 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 27 Jun 2003 p. 2383)

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<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

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Short title	Number and year	Assent	Commencement
<i>Water Services Legislation Amendment and Repeal Act 2012</i> s. 215 <sup>11</sup>	25 of 2012	3 Sep 2012	To be proclaimed (see s. 2(b))

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<sup>2</sup> Formerly referred to the *Associations Incorporation Act 1895* which was repealed by the *Associations Incorporation Act 1987*. Reference changed under the *Reprints Act 1984* s. 7(3)(a).

<sup>3</sup> The text of s. 2 as amended by 55 Vict. No. 29 (1892) s. 7 has been taken to be as shown in the James Edition of the statutes because it appears to have been the basis of the amendment made by No. 34 of 1958 s. 5.

<sup>4</sup> As to rating under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* see Act No. 24 of 1987.

<sup>5</sup> Footnote no longer applicable.

<sup>6</sup> Formerly *The High School Act 1876* the short title of which was changed to the *Hale School Act 1876* by the *Hale School Act Amendment Act 1958* s. 1(3).

<sup>7</sup> Repealed by 55 Vict. No. 29 (1892) s. 8.

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<sup>8</sup> Repealed by No. 34 of 1958 s. 3.

<sup>9</sup> This Act was affected by:

*The High School Perth Mortgage Act, 1883* (47 Vict. No. 11);

*High School Act 1924* (No. 5 of 1924)

Both Acts were repealed by No. 34 of 1958 s. 3.

<sup>10</sup> The *Taxation Administration (Consequential Provisions) Act 2002* s. 3 and 4 and Pt. 4 read as follows:

“

**3. Relationship with other Acts**

The *Taxation Administration Act 2003* is to be read with this Act as if they formed a single Act.

**4. Meaning of terms used in this Act**

The Glossary at the end of the *Taxation Administration Act 2003* defines or affects the meaning of some of the words and expressions used in this Act and also affects the operation of other provisions.

**Part 4 — Transitional provisions**

**Division 1 — Interpretation**

**33. Definitions**

In this Part —

***commencement day*** means the day on which the *Taxation Administration Act 2003* comes into operation;

***old Act*** means —

- (a) an Act repealed by section 5;
- (b) the old Stamp Act; or
- (c) section 41 of the *Metropolitan Region Town Planning Scheme Act 1959* as in force immediately before the commencement day;

***old Stamp Act*** means the *Stamp Act 1921* as in force immediately before the commencement day;

***substantive provisions***, in relation to an old Act, means the provisions of the old Act other than those dealing with matters dealt with in the *Taxation Administration Act 2003*.

**Division 2 — General transitional provisions**

**34. General transitional arrangements**

- (1) Section 37(1) of the *Interpretation Act 1984*, except paragraphs (a) and (b), does not apply in relation to the repeal of an old Act.
- (2) The repeal of an old Act does not, unless the contrary intention appears —
  - (a) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;
  - (b) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
  - (c) subject to section 11 of *The Criminal Code* and section 10 of the *Sentencing Act 1995*, affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against the old Act; or
  - (d) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture.
- (3) Subject to subsections (4) and (5) —
  - (a) a right, interest, title, power, privilege, duty, obligation, liability or burden of proof referred to in subsection (2)(a) or (b) may be exercised or enforced;
  - (b) a penalty or forfeiture referred to in subsection (2)(c) may be imposed and enforced; and
  - (c) an investigation, legal proceeding or remedy referred to in subsection (2)(d) may be instituted, continued, or enforced,as if the substantive provisions of the relevant old Act —
  - (d) had not been repealed;
  - (e) were a taxation Act for the purposes of the *Taxation Administration Act 2003*; and
  - (f) had been amended to make any modifications necessary for this section to have effect.
- (4) If an objection, appeal or other legal proceeding (the **action**) was instituted under an old Act and was not finally determined before the commencement day —
  - (a) the action may be continued;

- (b) any requirement to pay interest on an amount of tax determined in the action to have been overpaid applies and may be enforced;
- (c) any penalty may be imposed and enforced; and
- (d) any decision, order or determination made in the action has effect, and may be enforced,

as if this Act and the taxation Acts had not commenced.

- (5) If the time limited by an old Act for doing anything is longer than the time limited by a taxation Act for doing the equivalent thing under that Act, then in relation to a matter to which subsection (3) applies, the time limited under the old Act applies in relation to the doing of the thing under the taxation Act.
- (6) If the time limited by an old Act for commencing proceedings in relation to an offence under that Act is shorter than the 5 year period limited by section 111 of the *Taxation Administration Act 2003*, then despite section 111, proceedings in relation to an offence under the old Act (including an offence under a provision of the old Act that is continued in force under this Part) cannot be commenced after the expiry of the shorter period provided for by the old Act.
- (7) In this section a reference, in relation to the *Stamp Act 1921*, to the repeal of the old Act is a reference to the amendment of the Act by the *Stamp Amendment Act 2003*.

**35. Commissioner not to increase tax liability**

Despite Part 3 Division 1 of the *Taxation Administration Act 2003*, the Commissioner must not make a reassessment that increases the amount of tax a person is liable to pay in relation to anything that happened before the commencement day if the reassessment could not have been made under the relevant old Act.

**36. Delegations**

A delegation made under an old Act and in force immediately before the commencement day continues in force on and after that day as a delegation made under section 10 of the *Taxation Administration Act 2003*.

**Division 3 — Debits tax**

**37. Certificates of exemption from tax (*Debits Tax Assessment Act 1990*, s. 11)**

- (1) A certificate issued under section 11 of the *Debits Tax Assessment Act 1990* and in force immediately before the commencement day

continues in force on and after that day as a certificate issued under section 10 of the *Debits Tax Assessment Act 2002*.

- (2) Where section 13(1) of the *Debits Tax Assessment Act 2002* applies in relation to a certificate issued under section 11 of the *Debits Tax Assessment Act 1990* the Commissioner cannot make a reassessment of the amount of debits tax payable on a debit for the purpose of giving effect to that section more than 3 years after —
- (a) if the financial institution has recovered the amount of the debits tax paid on the debit from the customer — the date on which that amount was recovered; or
  - (b) otherwise — the date on which the debits tax on the debits was paid.

#### **Division 4 — Land tax**

**38. Exemptions for certain home unit owners (*Land Tax Assessment Act 1976, s. 19*)**

If the amount of land tax payable on land for the financial year commencing on 1 July 2001 was assessed under section 19 of the *Land Tax Assessment Act 1976*, then on and after the commencement day section 16 of the *Land Tax Assessment Act 2002* applies in relation to that land as if that assessment had been made under section 16.

**39. Inner city residential property rebate (*Land Tax Assessment Act 1976, s. 23AB*)**

A notice given by the Commissioner under section 23AB(7) of the *Land Tax Assessment Act 1976* and in force immediately before the commencement day continues in force on and after that day as a notice under section 28(4) of the *Land Tax Assessment Act 2002*.

**40. Land tax relief Acts**

Despite —

- (a) the repeal of the *Land Tax Assessment Act 1976* and *Land Tax Act 1976*; and
- (b) the amendment of section 41 of the *Metropolitan Region Town Planning Scheme Act 1959*,

on and after the commencement day the *Land Tax Relief Act 1991* and *Land Tax Relief Act 1992* apply as if the substantive provisions of the Acts mentioned in paragraphs (a) and (b) —

- (c) had not been repealed;
- (d) were a taxation Act for the purposes of the *Taxation Administration Act 2003*; and



- (e) had been amended to make any modifications necessary for this section to have effect.

**Division 5 — Pay-roll tax**

- 41. Treatment of certain contributions (*Pay-roll Tax Assessment Act 1971*, Sch. 2 cl. 5)**  
Despite the repeal of the *Pay-roll Tax Assessment Act 1971*, Schedule 2 clause 5 of that Act continues to apply on and after the commencement day in relation to contributions wholly or partly in respect of services performed or rendered before 1 July 1997 as if that Act had not been repealed.
- 42. Reassessments and refunds (*Pay-roll Tax Assessment Act 1971*, s. 19)**  
Despite sections 16(3), 20(3) and 22(4) of the *Pay-roll Tax Assessment Act 2002* and section 16(1)(a) of the *Taxation Administration Act 2003*, the Commissioner is not required to make a reassessment of the amount of pay-roll tax payable by an employer in respect of wages paid or payable before the commencement day unless an application for a reassessment is made within 2 years after the tax was paid.

**Division 6 — Stamp duty**

- 43. Adhesive stamps (*Stamp Act 1921*, s. 15, 21 and 23)**
- (1) Despite its repeal by the *Stamp Amendment Act 2003*, section 15 of the old Stamp Act continues in force for 12 months after the commencement day in relation to adhesive stamps that were affixed on instruments before that day.
  - (2) Despite their repeal by the *Stamp Amendment Act 2003*, sections 21 and 23 of the old Stamp Act continue in force for 3 months after the commencement day in relation to adhesive stamps that were affixed on instruments before that day.
  - (3) If adhesive stamps affixed to an instrument have been cancelled in accordance with the old Stamp Act (including the provisions of the old Stamp Act continued in force by subsections (1) and (2)) the instrument is taken to have been endorsed in accordance with section 17C of the *Stamp Act 1921*.
- 44. Printing of “Stamp Duty Paid” on cheques (*Stamp Act 1921*, s. 52)**
- (1) An authorisation of a financial institution granted under section 52 of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a

special tax arrangement made under the *Taxation Administration Act 2003*.

- (2) Any requirement that applied, immediately before the commencement day, to a person to whom an authorisation continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the authorisation was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

**45. First home owners — reassessment (*Stamp Act 1921*, s. 75AG)**

Despite section 17(1) of the *Taxation Administration Act 2003*, if property that included a dwellinghouse was conveyed or transferred before the commencement day, an application for a reassessment of the duty payable on the conveyance or transfer on the basis that a rebate under section 75AG of the old Stamp Act should have been, but was not, allowed cannot be made more than 12 months after the date of the original assessment.

**46. Reassessment of duty on grant or transfer of vehicle licences (*Stamp Act 1921*, s. 76C(18) and (19), 76CA(3a) and 76CB(9))**

- (1) This section applies in relation to a grant or transfer of a licence that occurred before the commencement day.
- (2) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the grant or transfer of a licence on the basis that the duty should not have been paid because —
  - (a) in the case of a grant — no vehicle licence fee was payable under the *Road Traffic Act 1974* in respect of the licence; or
  - (b) in the case of a transfer — had the transferee applied for the licence on the date of the transfer no vehicle licence fee would have been payable under the *Road Traffic Act 1974*,

cannot be made more than 15 months after the licence was granted or transferred.

- (3) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty paid on the transfer of a licence on the basis that the duty should have been, but was not, charged in accordance with item 6 of the Second Schedule to the old Stamp Act because the transfer did not pass a beneficial interest, cannot be made more than 12 months after the licence was transferred.

- (4) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the grant or transfer of a licence on the basis that the duty should have been, but was not, assessed on the net market value of the vehicle (as defined in section 76CB of the old Stamp Act), cannot be made more than 12 months after the licence was granted or transferred.

**47. Alternative to stamping individual insurance policies  
(Stamp Act 1921, s. 95A)**

- (1) A permission granted under section 95A of the old Stamp Act and in force immediately before the commencement day continues in force on and after that day as a special tax arrangement made under the *Taxation Administration Act 2003*.
- (2) Any requirement that applied, immediately before the commencement day, to a person to whom a permission continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the permission was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

**48. Workers' compensation insurance (Stamp Act 1921, s. 97 and item 16 of the Second Schedule)**

- (1) Despite section 17(1) of the *Taxation Administration Act 2003*, an application for a reassessment of the duty payable on the issue or renewal of a policy of insurance that occurred before the commencement day on the basis that the duty was assessed under item 16(1)(a)(i) of the Second Schedule to the old Stamp Act but should have been assessed under item 16(1)(a)(ii), cannot be made more than 2 years after the beginning of the insurance policy's cover period.
- (2) Despite the amendment of Schedule 2 item 16(1)(a) of the *Stamp Act 1921*, on and for 12 months after the commencement day —
- (a) the reference in Schedule 2 item 16(1)(a)(i)(A) to the *Pay-roll Tax Assessment Act 2002* includes a reference to the *Pay-roll Tax Assessment Act 1971*; and
  - (b) the reference in Schedule 2 item 16(1)(a)(i)(B) to section 39 or 40 of the *Pay-roll Tax Assessment Act 2002* includes a reference to section 10 of the *Pay-roll Tax Assessment Act 1971*.

**49. Payment of duty by returns (Stamp Act 1921, s. 112V)**

- (1) A permission granted under section 112V of the old Stamp Act and in force immediately before the commencement day continues

in force on and after that day as a special tax arrangement under the *Taxation Administration Act 2003*.

- (2) Any requirement that applied, immediately before the commencement day, to a person to whom a permission continued by subsection (1) had been granted (whether imposed by the old Stamp Act or as a condition to which the permission was subject), continues as a condition to which the special tax arrangement referred to in subsection (1) is subject.

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- <sup>11</sup> On the date as at which this compilation was prepared, the *Water Services Legislation Amendment and Repeal Act 2012* s. 215 had not come into operation. It reads as follows:

**215. Hale School Act 1876 amended**

- (1) This section amends the *Hale School Act 1876*.  
(2) In section 12 delete “and the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*” and insert:

and, if the land is not connected to water service works as defined in the *Water Services Act 2012* section 3(1), from statutory water service charges under that Act