

## **WATER BOARD (AMENDMENT) ACT 1988 No. 120**

**NEW SOUTH WALES**



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**WATER BOARD (AMENDMENT) ACT 1988 No. 120**

**NEW SOUTH WALES**



**Act No. 120, 1988**

An Act to amend the Water Board Act 1987 so as to constitute a consultative body and vary the functions of the Water Board; and for other purposes. [Assented to 21 December 1988]

*Water Board (Amendment) 1988*

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**The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Water Board (Amendment) Act 1988.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Water Board Act 1987 No. 141**

3. The Water Board Act 1987 is amended as set out in Schedules 1 and 2.

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**SCHEDULE 1—AMENDMENTS RELATING TO THE WATER BOARD CONSULTATIVE FORUM**

(Sec. 3)

**(1) Section 3 (Definitions)—****Section 3 (1)—**

After the definition of “flood plain”, insert:

“Forum” means the Water Board Consultative Forum constituted under section 10;

**(2) Section 10 (Exercise of functions by the Board)—****Section 10 (3)–(6)—**

After section 10 (2), insert:

(3) The Governor may constitute a Water Board Consultative Forum by appointing as its members 12 persons nominated by the Minister.

(4) The object of the Forum is to provide, by consultation with the Board, community involvement in environmental and other issues relevant to the exercise of the Board’s functions.

(5) Schedule 5 has effect with respect to the members of the Forum.

(6) Schedule 6 has effect with respect to meetings of the Forum.

*Water Board (Amendment) 1988***SCHEDULE 1—AMENDMENTS RELATING TO THE WATER  
BOARD CONSULTATIVE FORUM—*continued*****(3) Schedules 5, 6—**

After Schedule 4, insert:

**SCHEDULE 5—PROVISIONS RELATING TO THE MEMBERS OF  
THE FORUM**

(Sec. 10 (5))

***Nominations of members of the Forum***

1. (1) The persons nominated by the Minister for appointment as members of the Forum shall consist of—
  - (a) 5 persons, each one of whom—
    - (i) represents one of 5 different regions into which, for the purposes of this Schedule, the Board divides its area of operations by reference to cities, municipalities and shires; and
    - (ii) is a member of the council of a city, municipality or shire within the region represented; and
    - (iii) is chosen by the Minister from a panel of 4 persons nominated for that region by the Local Government and Shires Association; and
  - (b) 1 representative of manufacturing industry chosen by the Minister from a panel of 3 persons nominated by the Australian Chamber of Manufactures (NSW Division); and
  - (c) 1 representative of general industry chosen by the Minister from a panel of 3 persons nominated by the Employers Federation of NSW; and
  - (d) 1 representative of small business chosen by the Minister in consultation with the Minister for Business and Consumer Affairs; and
  - (e) 1 person chosen by the Minister from a panel of 3 persons nominated by the Chamber of Commerce Inc.; and
  - (f) 1 person chosen by the Minister from a panel of 3 persons nominated by the Labor Council of New South Wales; and
  - (g) 1 representative (being a person having knowledge of, or experience in, plumbing and draining) of the housing and building construction industry chosen by the Minister in consultation with the Minister for Housing; and
  - (h) 1 representative of the urban land development industry chosen by the Minister in consultation with the Minister for Housing, the Minister for Local Government and the Minister for Planning.

*Water Board (Amendment) 1988***SCHEDULE 1—AMENDMENTS RELATING TO THE WATER  
BOARD CONSULTATIVE FORUM—*continued***

(2) If, but for this subclause, the Minister would be unable to nominate a person as a member of the Forum because a panel of persons has not been nominated, the Minister may nominate any person for appointment instead of a person chosen from such a panel.

**Age of members of the Forum**

2. A person of or above the age of 70 years is not eligible to be appointed as a member of the Forum.

**Acting members of the Forum**

3. (1) The Governor may, from time to time, appoint a person to act in the office of a member of the Forum during the illness or absence of the member, and the person, while so acting, has all the functions of the member and shall be taken to be a member of the Forum.

(2) The Governor may, at any time, remove a person from the office to which the person was appointed under subclause (1).

(3) A person while acting in the office of a member of the Forum is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause, a vacancy in the office of a member of the Forum shall be taken to be an absence from office of the member.

**Term of office**

4. Subject to this Schedule, a member of the Forum shall hold office for such period (not exceeding 4 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**Remuneration**

5. A member of the Forum is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of a member of the Forum**

6. (1) The office of a member of the Forum becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not re-appointed; or

(c) is absent from 2 consecutive meetings of the Forum of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings; or

(d) being a member of the Forum because he or she was chosen by the Minister as a member of a city, municipal or shire council, ceases to be a member of the council; or

*Water Board (Amendment) 1988***SCHEDULE 1—AMENDMENTS RELATING TO THE WATER  
BOARD CONSULTATIVE FORUM—*continued***

- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (g) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
- (h) resigns the office by instrument in writing addressed to the Minister; or
- (i) reaches the age of 70 years; or
- (j) is removed from office by the Governor under this clause.

(2) The Governor may remove a member of the Forum from office at any time.

**Filling of vacancy in office**

7. If the office of a member of the Forum becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

**Effect of certain other Acts**

8. (1) The Public Sector Management Act 1988 does not apply to the appointment of a member of the Forum and a member of the Forum is not, as a member, subject to that Act (except Part 8).

(2) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member of the Forum or from accepting and retaining any remuneration payable to the person under this Act as a member of the Forum.

(3) The office of a member of the Forum is not, for the purposes of any Act, an office or place of profit under the Crown.

**SCHEDULE 6—PROVISIONS RELATING TO  
MEETINGS OF THE FORUM**

(Sec. 10 (6))

**Quarterly meetings to be convened**

1. (1) The Board shall convene 4 meetings of the Forum at approximately equal intervals during each year.

**SCHEDULE 1—AMENDMENTS RELATING TO THE WATER BOARD CONSULTATIVE FORUM—*continued***

(2) The Board shall provide the meeting-place and such secretarial and other services as are reasonably necessary for the efficient conduct of the meetings.

**General procedure**

2. The procedure for the conduct of business at a meeting of the Forum shall be as determined by the Forum.

**Quorum**

3. The quorum for a meeting of the Forum is 7 members.

**Convenor**

4. (1) A person who is not a member of the Forum shall be nominated by the Board as Convenor and shall preside at a meeting of the Forum.

(2) The Convenor is not entitled to vote at the meeting and, if he or she does vote, the vote shall be disregarded.

**Agenda**

5. (1) The agenda for a meeting shall be settled by the Board and shall include general business.

(2) The Board shall, at the request in writing of a member made not less than 1 month before a meeting, include a particular item in the agenda for the meeting.

**Voting**

6. A decision supported by a majority of votes cast by members at a meeting of the Forum at which a quorum is present is the decision of the Forum.

**Minutes**

7. The Board must—

- (a) cause minutes to be kept of the proceedings of each meeting of the Forum; and
- (b) retain the minutes with other records of the Board for at least 5 years; and
- (c) allow a member of the Forum to inspect the minutes without charge at any reasonable time.

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS**

(Sec. 3)

**(1) Section 3 (Definitions)—**

(a) From section 3 (1), omit the definition of “charging year”, insert instead:

“charging period”, in relation to the Board, means a period declared by an order in force under section 28 to be a charging period for the Board;

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(b) From section 3 (1), omit “other than this Act” from the definition of “statutory body”, insert instead “(other than this Act or the Associations Incorporation Act 1984)”.

(c) From section 3 (1), omit the definition of “Water Supply Authority”, insert instead:

“Water Supply Authority” means—

(a) a Water Supply Authority constituted under the Water Supply Authorities Act 1987; or

(b) the Hunter Water Board constituted under the Hunter Water Board Act 1988.

**(2) Section 15 (Entry on land to read meters or carry out works)—**

After section 15 (1), insert:

(1A) The power conferred by this section is sufficient authority for an employee or authorised person to enter and occupy land or any part of a building (except an enclosed part occupied as a separate dwelling) in the exercise of the Board’s functions during daylight for the purpose of—

(a) reading a meter; or

(b) ascertaining whether trade waste is present or is being (or has recently been) discharged to a work of the Board; or

(c) making a valuation,

unless the employee or authorised person is refused access by the lawful occupier of the land.

**(3) Section 16 (Entry on land for inspections)—**

Section 16 (3) (b)—

Omit “a prescribed employee”, insert instead “the Board”.

**(4) Section 17 (Power to break up roads)—**

Section 17 (1)—

Omit “the prescribed notices”, insert instead “reasonable notice to persons likely to be affected”.

**(5) Section 20 (Finding source of pollution of water supply)—**

Omit section 20 (1), insert instead:

(1) If water supplied by the Board is being polluted, the Board may, after having given reasonable notice to persons likely to be affected by its action, dig up the ground and try to find the source of the pollution.

**SCHEDULE 2—MISCELLANEOUS AMENDMENTS—*continued*****(6) Section 24 (Definitions)—**

Definition of “approval to which this Division applies”—

Omit the definition, insert instead:

“approval to which this Division applies” means—

- (a) an approval under Part 11 of the Local Government Act 1919 for the erection of a building; or
- (b) an approval under Part 12 of the Local Government Act 1919 for the subdivision of land; or
- (c) a development consent under Part 4 of the Environmental Planning and Assessment Act 1979;

**(7) Section 28 (Orders for purpose of service charges)—**

Omit section 28 (2), insert instead:

(2) The Board may, by order published in the Gazette, declare successive periods (whether or not of the same length) to be charging periods for the Board.

**(8) Section 29 (Connections)—**

Omit section 29 (7), insert instead:

(7) Any person desiring to connect premises with a main for the purposes of this section may (subject to such conditions as may be imposed by law) open up the surface and soil of any road or way, public or private, or any footpath or public reserve to the extent required to make the connection.

**(9) Section 30 (Board may levy service charges and impose fees and other charges)—**

Section 30 (2)—

Omit “the goods and services”, insert instead “any service or thing”.

**(10) Section 34 (Determinations by Board)—****(a) Section 34 (1)—**

Omit “Not later than 1 month before”, insert instead “Before”.

**(b) Section 34 (1), (3), (4)—**

Omit “charging year” wherever occurring, insert instead “charging period”.

**(c) Omit section 34 (3) (a), insert instead:**

- (a) is required to be approved by the Minister and does not have effect unless it is so approved; and

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(d) After section 34 (5), insert:

(6) If, for any reason—

- (a) a determination under this section is not made before the charging period to which it relates; or
- (b) there is any irregularity or alleged irregularity in the making of any such determination,

the Governor may extend the time for making the determination (whether or not that time has expired) and may authorise the Board to do anything necessary to cure any irregularity and to make a valid determination.

(11) **Section 36 (Re-assessment of service charges)—**

Section 36 (2)—

Omit “charging year”, insert instead “charging period”.

(12) **Section 37 (Certain charges to be a charge on land)—**

At the end of section 37, insert:

(2) A charge imposed under section 30 (2) for a service or thing supplied or provided in connection with the occupation of land is a charge on the land.

(13) **Section 40 (Sale of land for unpaid amounts)—**

After section 40 (2), insert:

(3) This section does not apply—

- (a) to a service charge incurred before 3 July 1987; or
- (b) to any other kind of charge incurred before the commencement of this subsection.

(14) **Section 41 (Certificate as to amount due)—**

Omit section 41 (1), insert instead:

(1) The Board shall, upon written application being made to it and payment of the fee determined by the Board, issue to the applicant a certificate—

- (a) containing particulars of any amounts payable to the Board in respect of a parcel of separately assessed land; or
- (b) to the effect that there are no such amounts.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS—*continued*

## (15) Section 48 (Work done by unlicensed person)—

Section 48 (b), (c)—

At the end of section 48 (b), insert:

; or

(c) holds a certificate of registration in force under the Plumbers, Gasfitters and Drainers Act 1979 authorising the holder to do that kind of work.

## (16) Section 54 (Proof of certain matters not required)—

From section 54 (2), omit “an Authority”, insert instead “the Board”.

## (17) Section 55 (Appropriation or resumption, or divesting, of land)—

## (a) Section 55 (3)—

After “of”, insert “an appropriation or resumption under”.

## (b) Section 55 (4)—

After section 55 (3), insert:

(4) With the consent of the council concerned, the Governor may, by proclamation published in the Gazette, vest in a council the estate or interest of the Board in any land on which is situated a work of the Board (whether wholly or partly completed).

## (18) Section 66 (Regulations)—

## (a) Section 66 (2) (a)—

After “other charges”, insert “, including charges for the abstraction or use of water”.

## (b) Section 66 (2) (c)—

After “water”, insert “and (without limiting the generality of subsection (3)) creating offences relating to the contamination or pollution of water, whether or not while the water is being supplied or used”.

## (c) Section 66 (2) (d)—

After “areas”, insert “, including the regulation or prohibition of abstracting, using, polluting or contaminating waters within special areas”.

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**SCHEDULE 2—MISCELLANEOUS AMENDMENTS—*continued*****(19) Schedule 2 (Provisions relating to the Managing Director and the Deputy Managing Director)—**

Clause 10 (2) (b)—

Omit “executive officer”, insert instead “Board”.

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*[Minister's second reading speech made in—  
Legislative Assembly on 29 November 1988  
Legislative Council on 6 December 1988]*

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