

CLEAN WATERS (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 85, 1974.

An Act to make further provisions relating to the prevention or the reduction of pollution of certain waters; to vary the composition and functions of the Clean Waters Advisory Committee; for these and other purposes to amend the Clean Waters Act, 1970, and the Local Government Act, 1919; to validate certain matters; and for purposes connected therewith. [Assented to, 10th December, 1974.]

BE

Clean Waters (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 85, 1974
 and with the advice and consent of the Legislative
 Council and Legislative Assembly of New South Wales in
 Parliament assembled, and by the authority of the same, as
 follows:—

1. This Act may be cited as the "Clean Waters Short
 (Amendment) Act, 1974". title.

2. (1) This section and section 1 shall commence on the Commence-
 date of assent to this Act. ment.

(2) Section 5 (4) shall commence on the day
 appointed and notified under section 2 of the New South
 Wales Planning and Environment Commission Act, 1974, or
 shall be deemed to have commenced on that day if the date
 of assent to this Act is later than that day.

(3) Except as provided in subsections (1) and (2),
 the several provisions of this Act shall commence on such
 day or days as may be appointed by the Governor in respect
 thereof and as may be notified by proclamation published
 in the Gazette.

3. The Clean Waters Act, 1970, is amended—

Amend-
 ment of
 Act No. 78,
 1970.

- (a) (i) by omitting from section 6 (1) the word Sec. 6.
 "sixteen" and by inserting instead the word (Clean
 "eighteen"; Waters
Advisory
Com-
mittee.)
- (ii) by omitting from section 6 (2) (b) the word
 "fifteen" and by inserting instead the word
 "seventeen";
- (iii) by omitting from section 6 (2) (b) (ix) the
 word "and";

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(iv) by inserting after section 6 (2) (b) (x) the following subparagraphs :—

(xi) one shall be a member of the Health Commission of New South Wales nominated by that Commission or an officer of that Commission so nominated; and

(xii) one shall be an officer of the Commission nominated by the Minister.

Sec. 7.
(Sub-committees.)

(b) by omitting from section 7 (6) the words "may be prescribed" and by inserting instead the words "the Minister may from time to time determine in respect of that member";

Sec. 8.
(Functions of Committee.)

(c) (i) by omitting from section 8 (1) the word "Minister" and by inserting instead the word "Commission";

(ii) by omitting section 8 (3) and (4);

Sec. 10.
(Provisions applicable to the Committee and the Board.)

(d) (i) by omitting section 10 (5) (c) and by inserting instead the following paragraph :—

(c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

(ii) by omitting from section 10 (7) the words "may be prescribed" and by inserting instead the words "the Minister may from time to time determine in respect of that member";

(e)

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(e) by omitting section 19 and by inserting instead the following section :—

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Sec. 19.

19. (1) A person shall not—

(a) install, construct or modify any apparatus, equipment or works for—

(i) the discharge of pollutants into any waters;

(ii) the treatment of pollutants prior to and for the purpose of their discharge into any waters; or

(iii) the storage, treatment or disposal, in a prescribed manner or in prescribed circumstances, of matter of a prescribed class or description; or

Commission's approval to installation or construction of certain apparatus, etc., required.

(b) carry out any work that constitutes the beginning of, or any subsequent step in, the installation, construction or modification of any apparatus, equipment or works of the nature referred to in paragraph (a),

except in accordance with an approval in writing given by the Commission or in accordance with a direction given by the Commission under section 16 (4) or in accordance with a requirement under the regulations made pursuant to section 36 (1) (f1).

(2) A reference in subsection (1) to the discharge of pollutants into any waters includes a reference to the discharge or other disposal of pollutants so that they fall, descend, are washed, are blown or percolate, or are likely to fall, descend, be washed, be blown or percolate, into any waters or onto the bed of any waters, when dry.

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(3) An application for approval under this section shall be made to the Commission in the prescribed manner and shall be accompanied by the prescribed fee.

(4) The Commission—

(a) may grant any application under this section, either subject to conditions or unconditionally; or

(b) may refuse any such application.

(5) The Commission may revoke any condition attached to an approval under this section.

(6) Any person who contravenes the provisions of subsection (1) or of any conditions attached to an approval given under this section is guilty of an offence against this Act and is liable to a penalty not exceeding \$5,000.

(7) Proceedings in respect of an offence arising under this section and committed after the commencement of this subsection may be commenced at any time within three years after the offence was committed.

(8) For the purposes of subsection (1) (b), it is immaterial whether or not the installation, construction or modification referred to therein was or is completed.

(9) In proceedings for an offence arising under subsection (1), it is not necessary that it be established that the offence was committed on a particular day or on particular days, provided it is established that the offence was committed during a particular period.

(f)

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- (f) by omitting section 20 (5); No. 85, 1974
- Sec. 20.**
(Licences.)
- (g) by omitting from section 24 (1) the words “one thousand dollars” and by inserting instead the matter “\$3,000”; Sec. 24.
(Fees.)
- (h) by omitting from section 28 (2) the words “five hundred dollars” and by inserting instead the matter “\$1,000”; Sec. 28.
(Occupier of premises may be required to furnish information.)
- (i) by omitting from section 29 (4) the words “five hundred dollars” and by inserting instead the matter “\$1,000”; Sec. 29.
(Powers of authorised officers.)
- (j) (i) by omitting from section 33 (2) the word “Proceedings” and by inserting instead the words “Subject to subsection (2A), proceedings”; Sec. 33.
(Proceedings for offences.)
- (ii) by inserting after section 33 (2) the following subsection :—
- (2A) Subsection (2) does not apply to the institution of proceedings for—
- (a) an offence if the proceedings are instituted by a member or officer of the Commission and with—
- (i) the consent of the Commission; or
- (ii) the written consent of such member or officer of the Commission as may be authorised by the Commission for the purposes of this paragraph; or
- (b)

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(b) an offence (other than an offence arising under section 16 in respect of the contravention of a condition of a licence, an offence arising under section 19 or an offence of a prescribed class or description) if the proceedings are instituted by a servant of the council of the city, municipality or shire in whose area the offence was committed and with—

(i) the consent of the council; or

(ii) the written consent of such member or servant of the council as may be authorised by the council for the purposes of this paragraph,

not being proceedings against the Crown, or a person acting on behalf of the Crown, or a statutory authority.

(iii) by inserting in section 33 (4) after the word "Act" where firstly occurring the words "or the regulations";

(iv) by inserting after section 33 (4) the following subsection :—

(5) Proceedings in the Supreme Court in its summary jurisdiction in respect of an offence against this Act or the regulations may, except as provided in section 19, only be commenced within six months after the offence was committed.

Sec. 36.
(Regulations.)

(k) by inserting after section 36 (1) (f) the following paragraphs :—

(f1) requiring, or empowering the Commission to require, that measures be undertaken (including, but without affecting the generality of the provisions of this paragraph,

the

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the provision, installation, maintenance or operation of traps, arrestors, separators, screens, filters, walls, dams, embankments, trenches, and areas for the treatment, dispersal or disposal of any matter) so as to prevent or reduce, or be likely to prevent or reduce, the discharge or likely discharge of pollutants into waters from any premises ;

(f2) the manner of undertaking any measures referred to in paragraph (f1).

4. The Local Government Act, 1919, is amended by inserting in section 313 after the words "scheduled premises." the following paragraph :—

Amendment
of Act No.
41, 1919.
Sec. 313.

Nothing in paragraph (p) operates so as to authorise the council to take into consideration the use or proposed use of any apparatus, equipment or works in relation to which approval is required under section 19 of the Clean Waters Act, 1970.

(Subjects
for con-
sideration.)

5. (1) A member of the Clean Waters Advisory Committee referred to in section 6 (2) (b) (xi) or (xii) of the Clean Waters Act, 1970, as amended by this Act, and holding office after the commencement of section 3 (a) and before 1st July, 1977, shall, subject to that Act as so amended—

Savings
and transi-
tional pro-
visions.

(a) hold office until (and including) 30th June, 1977; and

(b) be eligible for reappointment.

(2) Any approval in force, or application pending, under section 19 of the Clean Waters Act, 1970, immediately before the commencement of section 3 (e) shall be deemed to be an approval in force, or an application pending, under section 19 of that Act, as amended by this Act, as the case may be.

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(3)

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No. 85, 1974 (3) Nothing in this Act affects the penalty that may be imposed under any provision of the Clean Waters Act, 1970, on conviction for an offence committed against that Act before the commencement of any amendment of that provision made by this Act.

(4) Any act, matter or thing done or omitted to be done before the commencement of this subsection by, to or in respect of the Health Commission of New South Wales, or a member or officer thereof, under or for the purposes of the Clean Waters Act, 1970, shall, to the extent that but for the enactment of the New South Wales Planning and Environment Commission Act, 1974, that act, matter or thing would after that commencement have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the State Pollution Control Commission or a member or officer thereof, whichever of them is, after that commencement appropriate in relation to the doing of or omission to do that act, matter or thing.

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