

**CLEAN WATERS (PENALTY NOTICES) AMENDMENT
ACT 1987 No. 142**

NEW SOUTH WALES



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CLEAN WATERS (PENALTY NOTICES) AMENDMENT ACT 1987
No. 142

NEW SOUTH WALES



Act No. 142, 1987

An Act to amend the Clean Waters Act 1970 and the Justices Act 1902 to provide for the issue of penalty notices for certain offences under the Clean Waters Act 1970; and for other purposes. [Assented to 16 June 1987]

Clean Waters (Penalty Notices) Amendment 1987

BE it enacted by the Queen's Most Excellent Majesty, by 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:

Short title

1. This Act may be cited as the "Clean Waters (Penalty Notices) Amendment Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 78, 1970

3. The Clean Waters Act 1970 is amended in the manner set forth in Schedule 1.

Amendment of Act No. 27, 1902, section 100i (Interpretation)

4. The Justices Act 1902 is amended by inserting (in appropriate alphabetical order) in the statutory provisions listed in paragraph (a) of the definition of "penalty notice" in section 100i (1) the following matter:

Clean Waters Act 1970, section 32A;

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE CLEAN WATERS ACT 1970

(1) Section 5 (Interpretation)—

(a) Definition of "authorised officer"—

After "29", insert "or 32A".

SCHEDULE 1—*continued*

AMENDMENTS TO THE CLEAN WATERS ACT 1970—*continued*

(b) Definitions of “Water Board”, “Water Supply Authority”—

After the definition of “wastes”, insert:

“Water Board” means the Water Board constituted under the Water Board Act 1987;

“Water Supply Authority” means a Water Supply Authority constituted under the Water Supply Authorities Act 1987.

(c) Definition of “waters”—

After “includes”, insert “water stored in artificial works, water in water mains, water pipes and water channels, and”.

(2) Section 32A (**Penalty notices**)—

After section 32, insert:

Penalty notices

32A. (1) In this section—

“authorised person” means—

(a) an authorised officer; or

(b) a person appointed in writing by the Water Board or a Water Supply Authority as an authorised person for the purposes of this section.

(2) If it appears to an authorised person that any person has committed an offence prescribed for the purposes of this section, the authorised person may serve a notice on the apparent offender to the effect that if it is not desired to have the matter determined by a court, the person served may pay to the Commission within the time specified in the notice the amount of the penalty prescribed for the offence if dealt with under this section.

(3) A notice under subsection (2) may be served personally or by post.

(4) A person alleged to have committed an offence to which subsection (2) applies has the right to decline to be dealt with under this section.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE CLEAN WATERS ACT 1970—*continued*

(5) A person who fails to pay the amount of a penalty within the time specified in the notice given to the person under subsection (2) or within such further time as may in any particular case be allowed shall be deemed to have declined to be dealt with under this section.

(6) If the amount of any prescribed penalty for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(7) Payment of a penalty under this section shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(8) The regulations may prescribe an offence for the purposes of this section by setting out the offence or by a reference to the provision of this Act or the regulations creating the offence.

(9) A penalty prescribed under this section for any offence shall not exceed any maximum amount of penalty which could be imposed for the offence by a court.

(10) The provisions of this section shall be construed as supplementing, and not as derogating from, any other provision of this Act or the regulations or any other Act or regulation, by-law or ordinance under any other Act in relation to proceedings which may be taken in respect of offences.

(3) Section 33 (**Proceedings for offences**)—

Section 33 (2A) (b), (c)—

At the end of section 33 (2A) (b), insert:

; or

(c) an offence (other than an offence under section 19 or an offence of a prescribed class or description) if the proceedings are instituted—

(i) with the consent of the Water Board or a Water Supply Authority; or

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SCHEDULE 1—*continued*

AMENDMENTS TO THE CLEAN WATERS ACT 1970—*continued*

- (ii) with the written consent of a person authorised by the Water Board or a Water Supply Authority for the purposes of this paragraph,