

CLEAN WATERS (AMENDMENT) ACT 1987 No. 189

NEW SOUTH WALES



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CLEAN WATERS (AMENDMENT) ACT 1987 No. 189

NEW SOUTH WALES



Act No. 189, 1987

An Act to amend the Clean Waters Act 1970 so as to assist the enforcement of laws aimed at preventing water pollution. [Assented to 4 December 1987]

*Clean Waters (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

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

Commencement

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

Principal Act

3. The Clean Waters Act 1970 is referred to in this Act as the Principal Act.

Amendment of Act No. 78, 1970

4. The Principal Act is amended as set out in Schedule 1.

Transitional provision

5. Section 20 of the Principal Act, as amended by this Act, applies to control equipment installed before or after the commencement of Schedule 1 (5).

SCHEDULE 1—AMENDMENTS

(Sec. 4)

(1) Section 2 (Arrangement)—

Omit the section.

(2) Section 5 (Interpretation)—**(a) Definition of “pollute”—**

From paragraphs (a)–(c), omit “on the waters” wherever occurring, insert instead “on, or otherwise introduce into or on to, the waters (whether through an act or omission)”.

(b) Definition of “wastes”—

Omit the definition, insert instead:

“wastes” means any solid, gas or liquid, with or without matter in suspension or solution in it, which is or may be discharged from premises—

- (a) in the course of any process or operation carried on in connection with any mine (within the meaning of the Mines Inspection Act 1901 or the Coal Mines Regulation Act 1982), open cut working (within the meaning of the latter Act), coal washing, trade, industry, agriculture or sewage treatment; or

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- (b) in the course of any domestic process or operation, or which is in, or is or may be discharged from, any waste disposal depot;
- (c) Definition of “waters”—
After “lagoon”, insert “, swamp, wetlands, unconfined surface water”.
- (3) Section 6 (**Clean Waters Advisory Committee**)—
- (a) Section 6 (1)—
Omit “eighteen”, insert instead “19”.
- (b) Section 6 (2) (b)—
Omit “seventeen”, insert instead “18”.
- (c) Section 6 (2) (b) (via)—
After section 6 (2) (b) (vi), insert:
(via) one shall be a representative of the Soil Conservation Service of New South Wales nominated by the Commissioner of that Service;
- (4) Section 16 (**Prohibition of pollution of waters**)—
- (a) Section 16 (1)—
Omit “or cause or permit any waters to be polluted”.
- (b) Section 16 (2) (a), (b)—
Omit the paragraphs, insert instead:
- (a) the person places any matter (whether solid, liquid or gaseous) in a position where—
- (i) it falls, descends, is washed, is blown or percolates;
or
- (ii) it is likely to fall, descend, be washed, be blown or percolate,
into any waters, on to the dry bed of any waters, or into any drain, channel or gutter used or designed to receive or pass rainwater, floodwater or any water that is not polluted, or causes or permits any such matter to be placed in such a position; or
- (b) the person places any such matter on the dry bed of any waters, or in any drain, channel or gutter used or designed to receive or pass rainwater, floodwater or any water that is not polluted, or causes or permits any such matter to be placed on such a dry bed or in such a drain, channel or gutter,

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(c) Section 16 (3)–(4)—

After section 16 (2), insert:

(3) A person shall not cause any waters to be polluted, whether intentionally or not.

(4) A person shall not permit any waters to be polluted.

(5) Section 20—

After section 19, insert:

Maintenance and operation of certain control equipment

20. (1) In this section—

“control equipment” means any apparatus or device used or designed to prevent the pollution of waters.

(2) The occupier of any premises in or on which any control equipment is installed shall—

(a) maintain the equipment in an efficient condition; and

(b) operate the equipment in a proper and efficient manner.

(3) Any person who contravenes this section is guilty of an offence against this Act and is liable—

(a) where the offence was committed by a corporation—to a penalty not exceeding \$20,000; or

(b) where the offence was committed by any other person—to a penalty not exceeding \$10,000.

(6) Section 27A—

After section 27, insert:

Notice to clean up pollution

27A. (1) The Commission may, by a written notice, direct—

(a) an occupier of premises on or in which any waters have been or are polluted or from which the pollution of any waters has been caused; or

(b) a person who has caused the pollution of any waters,

to take such measures to remove, disperse, destroy or mitigate the pollution as are specified in the notice.

(2) Where an occupier of premises complies with any such notice and the occupier was not the person who caused the pollution, the cost of complying with the notice may be recovered as a debt in a court of competent jurisdiction from that person.

SCHEDULE 1—AMENDMENTS—*continued*

(3) A person who, without reasonable excuse, does not comply with any direction in a notice issued under this section and served on the person is guilty of an offence against this Act and liable to a penalty not exceeding \$5,000.

(7) **Section 28 (Occupier may be required to supply information)—**

Section 28 (1)—

Omit the subsection, insert instead:

(1) The Commission may, by written notice served on the occupier of any premises, require the occupier to furnish to it, at or within such time or times as may be specified in the notice, such information as to—

- (a) any manufacturing, industrial or trade process carried on in or on the premises;
- (b) any pollution control equipment, waste treatment works or drainage systems situated at the premises; or
- (c) any wastes discharged or removed or likely to be discharged or removed from the premises,

as the Commission requires by the notice.

(8) **Section 29A—**

After section 29, insert:

Sampling of tanker loads etc. for pollutants

29A. (1) An authorised officer who suspects on reasonable grounds that any substance which is or may become a pollutant is being conveyed by or is situated in a container being conveyed by a motor vehicle may—

- (a) if the vehicle is moving, direct that it be stopped;
- (b) request the driver or owner of the motor vehicle to supply to the officer (immediately or within such time as may be specified by the officer) particulars of the nature and quantity of any substance being so conveyed;
- (c) take without payment, for the purpose of examination or testing, samples of any substance being so conveyed; and
- (d) detain the vehicle for such time as is necessary to take the samples.

(2) The powers of an authorised officer under this section may be exercised only if the officer suspects on reasonable grounds that the substance, vehicle or container has been or is being used in connection with an offence against this Act or the regulations.

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SCHEDULE 1—AMENDMENTS—*continued*

- (3) Any person who—
- (a) wilfully delays or obstructs an authorised officer when exercising any power under this section;
 - (b) without reasonable excuse, does not supply any particulars as requested or supplies particulars which are false or misleading in a material respect; or
 - (c) does not comply with any reasonable requirement made for the purposes of this section by an authorised officer,
- is guilty of an offence against this Act and liable to a penalty not exceeding \$5,000.
- (9) Section 30 (**Disclosure of information**)—
Omit the section.
- (10) Section 32 (**Evidence**)—
Omit the section.
- (11) Section 33 (**Proceedings for offences**)—
- (a) Section 33 (1), (3)—
Omit “court of petty sessions held before a stipendiary magistrate” wherever occurring, insert instead “Local Court constituted by a Magistrate”.
 - (b) Section 33 (3)—
Omit “the court”, insert “the Local Court”.