



New South Wales

Water Management Amendment Act 2009 No 110

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New South Wales

Water Management Amendment Act 2009 No 110

Act No 110, 2009

An Act to amend the *Water Management Act 2000* and the *State Water Corporation Act 2004* with respect to the installation, operation and maintenance of meters; and for other purposes. [Assented to 14 December 2009]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Water Management Amendment Act 2009*.

2 Commencement

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

Schedule 1 Amendment of Water Management Act 2000 No 92

[1] Sections 41 (1) and (3), 45 (1), (5) and (6), 47 (2), 50 (1), 54 (1), 71Z (1) and 336B (1)

Omit “in the Gazette” wherever occurring.

Insert instead “on the NSW legislation website”.

[2] Section 71ZA Removal of certain restrictions on dealings relating to irrigation corporations

Omit the section.

[3] Section 91I Taking water when metering equipment not working

Omit section 91I (4). Insert instead:

- (4) In this section, *metered work* means a water management work in connection with which metering equipment has been installed:
- (a) pursuant to the conditions of an access licence or approval, or
 - (b) pursuant to a direction under section 326, or
 - (c) by or with the written authority of the Ministerial Corporation or the State Water Corporation.

[4] Section 91K Meter tampering

Omit section 91K (4). Insert instead:

- (4) This section does not apply to anything:
- (a) that a duly qualified person, or a person specified under section 326 (2A), does to metering equipment (other than metering equipment that may only be maintained, repaired, modified or replaced by the Ministerial Corporation or the State Water Corporation) for the sole purpose of maintaining, repairing or replacing the equipment, or
 - (b) that is done to metering equipment by or with the written authority of the Ministerial Corporation or the State Water Corporation under this Act or the *State Water Corporation Act 2004*.

[5] Section 91N

Insert after section 91M:

91N Corporations not required to hold approvals

Nothing in sections 91A–91D requires the Ministerial Corporation or the State Water Corporation to obtain an approval for the construction or use of metering equipment.

[6] Section 326 Directions to install and maintain metering equipment

Insert “, replace or to properly maintain” after “install” in section 326 (1).

[7] Section 326 (2)

Omit “A direction”.

Insert instead “Unless the direction otherwise specifies, a direction”.

[8] Section 326 (2)

Insert “or replace” after “install”.

[9] Section 326 (2A)

Insert after section 326 (2):

- (2A) A direction under this section may specify the only person or persons who may install, replace, maintain or seal metering equipment.

[10] Section 326 (3)

Insert “or a person specified under subsection (2A)” after “person”.

[11] Sections 372A and 372B

Insert after section 372:

372A Metering equipment functions

(1) Conferral of metering equipment functions

The Ministerial Corporation may install, test and remove metering equipment.

(2) If the regulations so provide, the Ministerial Corporation has the following functions:

- (a) to maintain, repair, modify and replace metering equipment (whether or not that equipment was installed by the Corporation),
- (b) to operate metering equipment.

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- (3) Regulations under subsection (2) may provide that the Ministerial Corporation is, or is not, to exercise such functions to the exclusion of any other person and may limit the exercise of the functions to:
- (a) specified water sources or classes of water sources, or
 - (b) a specified area, or
 - (c) specified access licences or approvals or classes of access licences or approvals in specified areas, or
 - (d) specified works or classes of works.

(4) **Operation of section**

The functions conferred by this section are in addition to any functions conferred on the Ministerial Corporation under this Act or the *Water Act 1912* in relation to water management works or other works.

- (5) This section and any regulations made under this section have effect despite any other provision of this Act or the *Water Act 1912*.
- (6) A direction under section 326, or a condition of an access licence or approval, ceases to have effect during any period that the exercise of a function is conferred exclusively on the Ministerial Corporation by or under this section, if the direction or condition requires the exercise of, or relates to the exercise of, that function.
- (7) Subsection (6) does not affect the operation of, or enforcement of, a direction under section 326 or a condition of an access licence or approval in relation to any period before the direction or condition ceased to have effect.
- (8) In this section, a reference to an access licence or approval includes a reference to an entitlement (within the meaning of clause 2 of Schedule 10) that confers a corresponding authority.

372B Interests and rights in metering equipment

- (1) Metering equipment installed or replaced by the Ministerial Corporation is not the property of the Ministerial Corporation, except as otherwise provided by this Act or the *Water Act 1912* or regulations under this Act or that Act.
- (2) No compensation is payable by or on behalf of the Crown to any person who suffers loss or damage because of the removal by the Ministerial Corporation of metering equipment installed by the Ministerial Corporation.

[12] Schedule 9 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[13] Dictionary

Omit “and equipment” from the definition of *drainage work*.

Insert instead “, metering equipment and other equipment”.

[14] Dictionary, definition of “flood work”

Omit “and equipment”.

Insert instead “, metering equipment and other equipment”.

[15] Dictionary, definition of “metering equipment”

Omit “water or other meter and any ancillary wiring, pipework,”.

Insert instead “device used for or in connection with measuring the flow of water and any ancillary wiring, pipework, telemetry equipment”.

[16] Dictionary, definition of “water supply work”

Omit “and equipment”.

Insert instead “, metering equipment and other equipment”.

Schedule 2 Amendment of State Water Corporation Act 2004 No 40

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

metering equipment includes any device used for or in connection with measuring the flow of water and any ancillary wiring, pipework, telemetry equipment or apparatus and any supporting structure.

[2] Section 21 Ownership of works

Insert after section 21 (4):

(5) In this section, *works* includes metering equipment.

[3] Section 22A

Insert after section 22:

22A Metering equipment functions

(1) Conferral of functions

The Corporation may, if the operating licence so provides, operate, replace, repair, maintain, remove, connect, disconnect or modify metering equipment that the Corporation does not own.

(2) The Corporation may from time to time test any metering equipment that it owns or any other metering equipment in respect of which it exercises functions under this section.

(3) The regulations may provide that the Corporation is, or is not, to exercise any of its functions with respect to the operation, replacement, repair, maintenance, removal, connection, disconnection or modification of metering equipment under section 21 or this section to the exclusion of any other person and may limit the exercise of any of those functions to:

- (a) specified water sources or classes of water sources, or
- (b) a specified area, or
- (c) specified access licences or approvals or classes of access licences or approvals for specified areas, or
- (d) specified works or classes of works.

(4) **Operation of sections**

The functions conferred by section 21 and this section in respect of metering equipment are in addition to any functions conferred on the Corporation under the *Water Management Act 2000* or the *Water Act 1912* in relation to water management works or other works.

(5) The conferral of functions by section 21 and this section in respect of metering equipment, and any regulations under this section, have effect despite any other provision of the *Water Management Act 2000* or the *Water Act 1912*.

(6) A direction under section 326 of the *Water Management Act 2000*, or a condition of an access licence or approval under that Act, ceases to have effect during any period that the exercise of a function is conferred exclusively on the Corporation by or under section 21 or this section, if the direction or condition requires the exercise of, or relates to the exercise of, that function.

(7) Subsections (5) and (6) do not apply to a direction given to the Corporation or an access licence or approval held by the Corporation.

(8) Subsection (6) does not affect the operation of, or enforcement of, a direction under section 326 or a condition of an access licence or approval in relation to any period before the direction or condition ceased to have effect.

(9) In this section, a reference to an access licence or approval includes a reference to an entitlement (within the meaning of clause 2 of Schedule 10 to the *Water Management Act 2000*) that confers a corresponding authority.

[4] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[Second reading speech made in Legislative Council on 12 November 2009

Agreement in principle speech made in Legislative Assembly on 2 December 2009]

BY AUTHORITY