

## WATER (AMENDMENT) BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

Division 4B of Part 2 of the Water Act 1912 provides for schemes (known as volumetric water allocations schemes) which control the maximum amount of water that may be taken from a water source by the holder of an entitlement such as a licence, permit or authority. Part 3 of that Act provides for the constitution of trusts to administer and manage works of water conservation, water supply and irrigation and certain other works.

The object of this Bill is to amend the Water Act 1912—

- (a) to apply volumetric water allocations schemes to certain trusts; and
- (b) to enable certain trusts to be charged for the water taken by them; and
- (c) to provide for offences relating to the taking of water in excess of a trust's water allocation or when certain water charges have not been paid.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act is to commence on the date of assent to the proposed Act.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments.

### SCHEDULE 1—AMENDMENTS

#### **Volumetric water allocations schemes to apply to certain trusts**

Schedule 1 (2) amends section 20v (definitions) of the Water Act 1912 by extending the definition of "entitlement" to mean, in relation to a trust, the right conferred on the trust to take and use water. "Trust" is to be defined by that section to mean a trust constituted under Part 3 of the Act that is declared by the regulations to be a trust to which Division 4B of Part 2 of the Act (which deals with volumetric water allocations schemes) is to apply. Under that Division, it is a condition of an entitlement that no more than the maximum quantity of water allocated to the entitlement under a scheme may be taken from a water source (such as a river or lake) in any year.

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By enabling a volumetric water allocations scheme to apply to such a trust, the Water Administration Ministerial Corporation will assume managerial control over the quantities and timing of water taken by a trust from a regulated water source in the same way as it can now control water taken under the authority of a licence or other entitlement.

Schedule 1 (6) inserts section 38B (right of trust to take and use water) which makes it clear that a trust is entitled to take and use water for the purposes for which the trust is constituted or for other authorised purposes.

Schedule 1 (7) and (8) make consequential amendments which exclude the operation of certain powers of the Ministerial Corporation (relating to the reduction or discontinuance of the supply of water) in respect of a trust to which a volumetric water allocations scheme applies. Those powers remain in respect of a trust which is not subject to such a scheme.

**Charges for right to take and use water**

Schedule 1 (3) amends section 22c (flow of water assured by a work of the Crown) to enable a trust that is declared by the regulations to be a trust to which that section applies to be charged for the right to take and use water from a river or lake in respect of which a proclamation under that section is in force. These charges generally apply to water taken from a river that is regulated by a work of the Crown (such as a major dam). The amended section will contain definitions of "entitlement" and "trust" similar to those inserted in section 20v and will so enable a trust to be charged in the same way as a holder of a licence, permit, authority or group licence is charged under section 22c. Schedule 1 (3) also makes a number of amendments consequential on the insertion of the definition of "entitlement" and enables differential charges under section 22c to be calculated according to the nature of the entitlement.

Schedule 1 (5) consequentially amends section 32 (contents of proposals) to make it clear that charges payable by a trust under Part 3 are different from charges payable by a trust under section 22c.

**Sanctions relating to schemes and charges**

Schedule 1 (9) inserts sections 70A (trusts not to exceed water allocation) and 70B (direction to trust to pay certain charges). Proposed section 70A provides that if a trust exceeds its water allocation, the Ministerial Corporation may direct certain persons who benefit from the works of the trust not to take any more water from the water source. If any such person takes water contrary to the direction, the person is liable to a penalty not exceeding 100 penalty units (\$10,000).

Proposed section 70B provides that if a trust fails to pay a charge payable under section 22c (or fails to pay in accordance with the requirements of that section, such as within the prescribed period), the Ministerial Corporation may direct certain persons who benefit from the works of the trust not to take any more water from the river or lake until the charge is paid. If any such person takes water contrary to the direction, the person is liable to a penalty not exceeding 100 penalty units (\$10,000).

Schedule 1 (4) inserts a definition of "member" in section 28 (definitions) and substitutes the definition of "trustee" in that section.

**Savings and transitional provisions**

Schedule 1 (1) inserts section 4H which gives effect to the Schedule containing savings and transitional provisions.

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Schedule 1 (10) inserts Schedule 2 which contains savings and transitional provisions. Part 1 enables savings and transitional regulations to be made. Part 2 of the Schedule contains provisions consequent on the enactment of the proposed Act, in particular clause 3 which enables the water allocation for a trust to be reduced if the trust becomes subject to a volumetric water allocations scheme otherwise than at the beginning of an allocations year.

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