



New South Wales

Constitution Amendment (Water Accountability and Transparency) Bill 2020

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Constitution (Disclosures by Members) Regulation 1983* (the **Regulation**) as follows—

- (a) to require Members of Parliament to publicly disclose their interests in water access licences, share components of water access licences and contractual rights to receive water from irrigation corporations,
- (b) to require Members of Parliament to publicly lodge returns disclosing water trading activity within 14 days of becoming a party to the activity,
- (c) to provide for the compilation and maintenance of registers of water trading returns by the Clerks of the Legislative Council and the Legislative Assembly,
- (d) to make consequential amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Constitution (Disclosures by Members) Regulation 1983

Schedule 1[5] inserts proposed clause 8A in the Regulation. The proposed clause requires a Member of Parliament to disclose in a primary return and an ordinary return, with limited exceptions, the water access licence number and share component of each water access licence in which the Member has an interest and the nature of that interest. The proposed clause also requires a Member to disclose each right to receive water from an irrigation corporation under a water supply contract or other contract to which the Member was a party at specified times and the nature of the Member's interest in each right. If the Member has an ABN that is connected with an interest requiring disclosure, the proposed clause requires the Member to disclose the Member's ABN. **Schedule 1[1], [2], [4] and [12]–[19]** make consequential amendments.

Schedule 1[3] inserts proposed clause 6C in the Regulation. The proposed clause requires a Member of Parliament, within 14 days of becoming a party to water trading activity, to lodge with the Clerk of the House in which the Member sits a return (referred to as a *water trading return*) in relation to that activity. *Water trading activity* is defined in **Schedule 1[1]** to mean specified dealings with water access licences and water allocations under the *Water Management Act 2000* and dispositions of property that affect a person's right to receive water from an irrigation corporation under a water supply contract or other contract. The proposed clause requires a water trading return to include information about the date, purpose and nature of the water trading activity, the impact of the activity on (or creation by the activity of) any water interests required to be disclosed by the Member under proposed clause 8A, and details of any financial benefit to the Member resulting from the activity.

Schedule 1[6] inserts proposed clause 18A in the Regulation. The proposed clause requires the Clerks of the Legislative Council and the Legislative Assembly to compile and maintain registers in respect of the water trading returns lodged by Members pursuant to proposed clause 6C. **Schedule 1[1] and [7]–[11]** make consequential amendments.



New South Wales

Constitution Amendment (Water Accountability and Transparency) Bill 2020

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New South Wales

Constitution Amendment (Water Accountability and Transparency) Bill 2020

No. , 2020

A Bill for

An Act to amend the *Constitution (Disclosures by Members) Regulation 1983* to require Members of Parliament to disclose certain water interests held by the Members and certain water trading activities of the Members; and for related purposes.

The Legislature of New South Wales enacts—

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1 Name of Act

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This Act is the *Constitution Amendment (Water Accountability and Transparency) Act 2020*.

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2 Commencement

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

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Schedule 1	Amendment of Constitution (Disclosures by Members) Regulation 1983	1
		2
[1] Clause 3 Interpretation		3
	Omit the definition of <i>register</i> from clause 3(1).	4
	Insert in alphabetical order—	5
	<i>register</i> means—	6
	(a) the Register of Disclosures by Members of the Legislative Council compiled and maintained under clause 17, or	7
		8
	(b) the Register of Disclosures by Members of the Legislative Assembly compiled and maintained under clause 18, or	9
		10
	(c) the Register of Water Trading Returns of Members of the Legislative Council compiled and maintained under clause 18A(1), or	11
		12
	(d) the Register of Water Trading Returns of Members of the Legislative Assembly compiled and maintained under clause 18A(2).	13
		14
	<i>share component</i> , in relation to a water access licence, has the same meaning as in section 56 of the <i>Water Management Act 2000</i> .	15
		16
	<i>water access licence</i> means an access licence within the meaning of the <i>Water Management Act 2000</i> .	17
		18
	<i>water trading activity</i> means—	19
	(a) the following dealings under the <i>Water Management Act 2000</i> —	20
	(i) the transfer of a water access licence under section 71M,	21
	(ii) a term transfer (within the meaning of section 71N),	22
	(iii) the assignment of a right relating to a share component of an access licence under section 71Q,	23
		24
	(iv) the assignment of a water allocation under section 71T,	25
	(v) the interstate transfer of a water access licence under section 71U,	26
	(vi) the interstate assignment of a water allocation under section 71V, and	27
		28
	(b) a disposition of property (within the meaning of Part 3 of this Regulation) that affects a person’s right to receive water from an irrigation corporation under a water supply contract or other contract.	29
		30
		31
	<i>water trading return</i> —see clause 6C(1).	32
[2] Clause 6A Supplementary ordinary returns		33
	Insert “, 8A” after “8” in clause 6A(4)(a).	34
[3] Clause 6C		35
	Insert after clause 6B—	36
6C Water trading returns		37
	(1) A Member must, within 14 days of becoming a party to water trading activity, lodge a return with the Clerk in relation to the water trading activity (a <i>water trading return</i>).	38
		39
		40
	(2) For the purposes of subclause (1), a Member does not become a party to the interstate transfer of a water access licence or the interstate assignment of a water allocation until consent is given by the Minister administering the <i>Water Management Act 2000</i> —	41
		42
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		44

(a)	in relation to an interstate transfer—under section 71U(2) of that Act, or	1
(b)	in relation to an interstate assignment—under section 71V(2) of that Act.	2 3
(3)	The following information is to be provided in a water trading return—	4
(a)	the date of the water trading activity,	5
(b)	the purpose and nature of the water trading activity,	6
(c)	the impact of the water trading activity on, or creation by the water trading activity of, any water interests that are required to be disclosed by the Member under clause 8A,	7 8 9
(d)	details of any financial benefit to the Member resulting from the water trading activity.	10 11
[4]	Clause 7 Interpretation—Part 3	12
	Omit the definition of <i>property</i> from clause 7(1).	13
	Insert in alphabetical order—	14
	<i>ABN</i> has the same meaning as in the <i>A New Tax System (Australian Business Number) Act 1999</i> of the Commonwealth.	15 16
	<i>irrigation corporation</i> has the same meaning as in the <i>Water Management Act 2000</i> .	17 18
	<i>property</i> includes—	19
(a)	money, and	20
(b)	water access licences and share components of water access licences, and	21 22
(c)	a right to receive water from an irrigation corporation under a water supply contract or other contract.	23 24
[5]	Clause 8A	25
	Insert after clause 8—	26
	8A Water interests	27
(1)	A Member must disclose in a primary return and an ordinary return—	28
(a)	the water access licence number and share component of each water access licence in which the Member had an interest—	29 30
(i)	in the case of a primary return—on the primary return date, or	31
(ii)	in the case of an ordinary return—at any time during the ordinary return period, and	32 33
(b)	the nature of the interest in each water access licence, and	34
(c)	each right to receive water from an irrigation corporation under a water supply contract or other contract to which the Member was a party—	35 36
(i)	in the case of a primary return—on the primary return date, or	37
(ii)	in the case of an ordinary return—at any time during the ordinary return period, and	38 39
(d)	the nature of the interest in each right, and	40
(e)	if the Member has an ABN that is connected with an interest described in paragraph (a) or (c)—the Member’s ABN.	41 42
(2)	An interest described in subclause (1) need not be disclosed by a Member in a primary return or an ordinary return if—	43 44

(a)	the Member had the interest only in his or her capacity as the executor or administrator of the estate of a deceased person and the Member was not a beneficiary under the will or intestacy, or	1 2 3
(b)	the Member had the interest only in his or her capacity as a trustee and the Member acquired the interest in the ordinary course of any occupation of the Member which is not related to his or her duties as a Member.	4 5 6 7
[6]	Clause 18A	8
	Insert after clause 18—	9
	Clause 18A Registers of Water Trading Returns	10
(1)	The Clerk of the Legislative Council is to compile and maintain a register to be called the “Register of Water Trading Returns of Members of the Legislative Council” in respect of water trading returns lodged by Members of the Legislative Council pursuant to clause 6C of this Regulation.	11 12 13 14
(2)	The Clerk of the Legislative Assembly is to compile and maintain a register to be called the “Register of Water Trading Returns of Members of the Legislative Assembly” in respect of water trading returns lodged by Members of the Legislative Assembly pursuant to clause 6C of this Regulation.	15 16 17 18
[7]	Clause 19 Form of registers	19
	Insert “compiled and maintained under clause 17 or 18” after “A register” in clause 19(2).	20
[8]	Clause 19(4)	21
	Insert after clause 19(3)—	22
(4)	In this clause, <i>return</i> includes a water trading return.	23
[9]	Clause 20 Inspection of registers	24
	Insert “or the Register of Water Trading Returns of Members of the Legislative Council” after “Members of the Legislative Council” in clause 20(2)(a).	25 26
[10]	Clause 20(2)(b)	27
	Insert “or the Register of Water Trading Returns of Members of the Legislative Assembly” after “Members of the Legislative Assembly”.	28 29
[11]	Clause 21 Tabling and publication of registers	30
	Insert after clause 21(5)—	31
(6)	This clause does not apply to the Register of Water Trading Returns of Members of the Legislative Council or the Register of Water Trading Returns of Members of the Legislative Assembly.	32 33 34
[12]	Schedule 1 Forms	35
	Insert “, 8A” after “8” in item 2 of the matter headed “Directions” in Form 1.	36
[13]	Schedule 1, Form 1, Section 1, Part 1A	37
	Insert after Part 1—	38
	Part 1A Water interests	39
	Under clause 8A of the <i>Constitution (Disclosures by Members) Regulation 1983</i> , you must disclose in Part 1A of the return the water access licence number and share component of	40 41

each water access licence in which you had an interest on the date on which you took the
 pledge of loyalty and the nature of the interest in the water access licence. You must also
 disclose each right to receive water from an irrigation corporation under a water supply
 contract or other contract to which you were a party on the date on which you took the
 pledge of loyalty and the nature of the interest in the right. Make a separate entry for each
 water access licence or right, separated by a line, in Part 1A of the return.

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Example entries only—

Details of water access licence or right to receive water	Nature of interest
WAL12345678	Co-holder
WAL87654321	Holder

[14] Schedule 1, Form 1, Section 2, Part 1A

7

Insert after Part 1—

8

Part 1A Water interests

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Details of water access licence or right to receive water	Nature of interest

[15] Schedule 1, Form 2, Section 1, Part 1A

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Insert after Part 1—

11

Part 1A Water interests

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Under clause 8A of the *Constitution (Disclosures by Members) Regulation 1983*, you must
 disclose in Part 1A of the return the water access licence number and share component of
 each water access licence in which you had an interest at any time during the ordinary return
 period and the nature of the interest in the water access licence. You must also disclose each
 right to receive water from an irrigation corporation under a water supply contract or other
 contract to which you were a party at any time during the ordinary return period and the
 nature of the interest in the right. Make a separate entry for each water access licence or
 right, separated by a line, in Part 1A of the return.

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Example entries only—

Details of water access licence or right to receive water	Nature of interest
WAL12345678	Co-holder

Details of water access licence or right to receive water	Nature of interest
WAL87654321	Holder

[16] Schedule 1, Form 2, Section 2, Part 1A 1

Insert after Part 1— 2

Part 1A Water interests 3

Details of water access licence or right to receive water	Nature of interest

[17] Schedule 1, Form 3, Section 1, item 3(a1) 4

Insert after item 3(a)— 5

- (a) held any interests in water access licences or rights to receive water from an irrigation corporation under a water supply contract or other contract, which are additional to those already disclosed in your most recent return, or 6
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[18] Schedule 1, Form 3, Section 1, Part 1A 10

Insert after Part 1— 11

Part 1A Water interests 12

List in Part 1A in Division B of the return— 13

- (a) the water access licence number and share component of each water access licence in which you had an interest during the supplementary ordinary return period that is additional to the interests in water access licences that you have already disclosed in your most recent return, and 14
15
16
17
- (b) each right to receive water from an irrigation corporation under a water supply contract or other contract to which you were a party during the supplementary ordinary return period that is additional to the rights that you have already disclosed in your most recent return. 18
19
20
21

Example entries only—

Details of water access licence or right to receive water	Nature of interest
WAL12345678	Co-holder
WAL87654321	Holder

[19] Schedule 1, Form 3, Section 2, Division B, Part 1A

Insert after Part 1—

Part 1A Water interests

Details of water access licence or right to receive water	Nature of interest

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