

# Catchment Management Act 1989 No 235

[1989-235]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Does not include amendments by**  
[Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced)
- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2002](#)

### Authorisation

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# Catchment Management Act 1989 No 235



New South Wales

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# Catchment Management Act 1989 No 235



New South Wales

An Act to establish the State Catchment Management Co-ordinating Committee and to provide for Catchment Management Committees and Catchment Management Trusts to implement total catchment management of natural resources; to repeal the [Hunter Valley Conservation Trust Act 1950](#); to amend certain Acts; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the [Catchment Management Act 1989](#).

### 2 Commencement

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

### 3 Definitions

(1) In this Act:

**catchment area**, in relation to a Catchment Management Committee, means the area in respect of which that Committee is established.

**catchment contribution** means a contribution levied under section 40.

**Catchment Management Committee** means a Catchment Management Committee established under section 13.

**Catchment Management Trust** means a Catchment Management Trust established under section 20.

**co-ordinate** means to bring together or liaise with authorities, groups or individuals to ensure effective total catchment management, but does not include the control or direction of the activities of those authorities, groups or individuals.

**Co-ordinating Committee** means the State Catchment Management Co-ordinating Committee established by section 8.

**Trust area**, in relation to a Catchment Management Trust, means the area in respect

of which that Trust is established.

**urban area** has the meaning set out in Schedule 2.

**works** means works for the purpose of soil conservation, afforestation, reforestation, flood mitigation, water conservation, irrigation, river improvement or any other work necessary to achieve the purpose of a Trust.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

#### **4 Total catchment management**

For the purposes of this Act, total catchment management is the co-ordinated and sustainable use and management of land, water, vegetation and other natural resources on a water catchment basis so as to balance resource utilisation and conservation.

#### **5 Objects of Act**

(1) The objects of this Act are:

- (a) to co-ordinate policies, programs and activities as they relate to total catchment management, and
- (b) to achieve active community participation in natural resource management, and
- (c) to identify and rectify natural resource degradation, and
- (d) to promote the sustainable use of natural resources, and
- (e) to provide stable and productive soil, high quality water and protective and productive vegetation cover within each of the State's water catchments.

(2) In order to give effect to those objects, this Act:

- (a) provides for a network of Catchment Management Committees, co-ordinated by a Co-ordinating Committee, and Catchment Management Trusts linking the Government and the community to achieve the objectives of total catchment management, and
- (b) provides for Catchment Management Trusts to raise revenue for particular total catchment management purposes.

#### **6 Responsible Minister**

(1) For the purposes of this Act, the responsible Minister is:

- (a) for the Co-ordinating Committee, the Minister administering this Act, or
  - (b) for a Catchment Management Committee, the Minister who makes the order establishing the Committee, or
  - (c) for a Catchment Management Trust, the Minister who recommends to the Governor the establishment of the Trust.
- (2) An order or a recommendation may only be made:
- (a) by the Minister administering this Act, or
  - (b) by the Minister administering the *Protection of the Environment Operations Act 1997* if the Committee or Trust is within an urban area, or
  - (c) by the Minister administering the *Water Management Act 2000* if the Committee or Trust is not within an urban area.
- (3) An order or a recommendation may not be made:
- (a) by the Minister administering this Act in relation to an urban area except with the concurrence of the Minister administering the *Protection of the Environment Operations Act 1997*, or
  - (b) by the Minister administering the *Protection of the Environment Operations Act 1997* except with the concurrence of the Premier and the Minister administering this Act, or
  - (c) by the Minister administering the *Water Management Act 2000* except with the concurrence of the Premier and the Minister administering this Act.
- (4) The Governor, on the recommendation of the Premier, may by proclamation:
- (a) change the responsible Minister in relation to an established Catchment Management Committee or an established Catchment Management Trust to any other Minister eligible to be the responsible Minister, and
  - (b) in the case of a Trust, amend Schedule 1 accordingly.

## **7 Minister administering this Act**

The Minister administering the *Soil Conservation Act 1938* is responsible for the administration of this Act.

## **Part 2 Establishment of committees relating to catchment**



## management

### Division 1 State Catchment Management Co-ordinating Committee

#### 8 Establishment of Co-ordinating Committee

There is established by this Act a State Catchment Management Co-ordinating Committee.

#### 9 Membership of Co-ordinating Committee

- (1) The Co-ordinating Committee is to consist of 20 members appointed by the responsible Minister, being:
  - (a) an officer of the Soil Conservation Service or other person nominated by the Minister administering the *Soil Conservation Act 1938*, who is to be the Chairperson of the Co-ordinating Committee,
  - (b) two persons who in the responsible Minister's opinion have an interest in rural matters,
  - (c) a person selected from a panel of 2 or more persons nominated by the Local Government Association,
  - (d) a person selected from a panel of 2 or more persons nominated by the Shires Association,
  - (e) a person who in the responsible Minister's opinion has an interest in environmental matters,
  - (f) an officer of the Soil Conservation Service nominated by the Minister administering the *Soil Conservation Act 1938*,
  - (g) a person nominated by the Minister administering the *Water Management Act 2000*,
  - (h) a person nominated by the Minister administering the *Protection of the Environment Operations Act 1997*,
  - (i) a person nominated by the Minister administering the *National Parks and Wildlife Act 1974*,
  - (j) a person nominated by the Minister administering the *Public Works Act 1912*,
  - (k) a person nominated by the Minister administering the *Forestry Act 1916*,
  - (l) a person nominated by the Minister administering the *Environmental Planning and Assessment Act 1979*,
  - (m) a person nominated by the Minister administering the *Crown Lands Act 1989*,

- (n) a person nominated by the Minister administering the *Water Board Act 1987*,
  - (o) a person nominated by the Minister administering the *Rural Lands Protection Act 1998*,
  - (p) a person nominated by the Minister administering the *Fisheries and Oyster Farms Act 1935*,
  - (q) a person selected from a panel of 2 or more persons nominated jointly by the Catchment Management Committees established in respect of catchment areas west of the Great Dividing Range,
  - (r) a person selected from a panel of 2 or more persons nominated jointly by the Catchment Management Committees established in respect of catchment areas within urban areas, and
  - (s) a person selected from a panel of 2 or more persons nominated jointly by the Catchment Management Committees established in respect of catchment areas other than those west of the Great Dividing Range or within urban areas.
- (1A) A Catchment Management Committee is not to nominate a person for the purposes of subsection (1) unless the person is a member of such a Committee.
- (2) The responsible Minister is, in the instrument of appointment or another instrument, to appoint a member (other than the Chairperson) to be the Deputy Chairperson of the Co-ordinating Committee.

## **10 Objective of Co-ordinating Committee**

The objective of the Co-ordinating Committee is to provide a central co-ordinating mechanism for the purpose of total catchment management throughout New South Wales.

## **11 Functions of Co-ordinating Committee**

- (1) The functions of the Co-ordinating Committee are as follows:
- (a) to co-ordinate the implementation of total catchment management strategies,
  - (b) to monitor and evaluate the effectiveness of total catchment management strategies,
  - (c) to advise the responsible Minister or other Ministers on any aspect related to total catchment management,
  - (d) to co-ordinate the functioning of Catchment Management Committees and to maintain liaison with Catchment Management Trusts,
  - (e) such other functions relating to total catchment management as are directed by

the responsible Minister.

- (2) Any advice may be given either at the request of a Minister or without any such request.
- (3) The Co-ordinating Committee has such other functions as are conferred or imposed on it by or under this or any other Act.

## **12 Subcommittees of Co-ordinating Committee**

- (1) The Co-ordinating Committee may, with the approval of the responsible Minister, establish subcommittees to assist it in connection with the exercise of any of its functions.
- (2) It does not matter that any or all of the members of a subcommittee are not members of the Co-ordinating Committee.
- (3) The procedure for the calling of meetings of a subcommittee and for the conduct of business at those meetings is to be as determined by the Co-ordinating Committee or (subject to any determination of the Co-ordinating Committee) by the subcommittee.

## **Division 2 Catchment Management Committees**

### **13 Establishment of Catchment Management Committees**

- (1) The responsible Minister may, by order published in the Gazette, establish a Catchment Management Committee with the name specified in the order.
- (2) The catchment area in respect of which a Catchment Management Committee is established is the area described in the order.
- (3) Such an area may be described by reference to a local government area or in any other manner (including by reference to a description contained in another document).

### **14 Membership of Catchment Management Committees**

- (1) A Catchment Management Committee is to consist of such members as are appointed by the responsible Minister.
- (2) The responsible Minister is to appoint:
  - (a) persons who are land holders or land users within the catchment area, who are to constitute the majority of the members, and
  - (b) persons who, in the responsible Minister's opinion, have an interest in environmental matters within the catchment area, and
  - (c) persons selected from a panel of 2 or more persons nominated by local

government authorities within the catchment area, and

- (d) persons who are officers of government departments or authorities having responsibility for natural resource use or management within the catchment area, and
- (e) in the case of a catchment area that is part of a water catchment system extending into another State or a Territory—persons who are officers of government departments or authorities of the relevant State or Territory having responsibility for natural resource use or management in that part of the water catchment system within the other State or Territory.

- (3) The responsible Minister is to appoint one of the members of the Catchment Management Committee to be the Chairperson and another to be the Deputy Chairperson of that Committee, and may remove either member from the office and appoint another member as Chairperson or Deputy Chairperson at any time.

## **15 Functions of Catchment Management Committees**

- (1) Within its catchment area, a Catchment Management Committee has the following functions:
  - (a) to promote and co-ordinate the implementation of total catchment management policies and programs,
  - (b) to advise on and co-ordinate the natural resource management activities of authorities, groups and individuals,
  - (c) to identify catchment needs and prepare strategies for implementation,
  - (d) to co-ordinate the preparation of programs for funding,
  - (e) to monitor, evaluate and report on progress and performance of total catchment management strategies and programs,
  - (f) to provide a forum for resolving natural resource conflicts and issues,
  - (g) to facilitate research into the cause, effect and resolution of natural resource issues,
  - (h) such other functions relating to total catchment management as are directed by the Co-ordinating Committee.
- (2) A Catchment Management Committee has such other functions as are conferred or imposed on it by or under this or any other Act.
- (3) In the exercise of its functions a Catchment Management Committee is responsible to the State Catchment Management Co-ordinating Committee.

## **16 Abolition, change of name etc of Catchment Management Committees**

- (1) The responsible Minister may by order published in the Gazette:
  - (a) abolish a Catchment Management Committee, or
  - (b) change the name of a Committee, or
  - (c) change the catchment area of a Committee.
- (2) Any such order may contain savings and transitional provisions.

## **Division 3 General provisions relating to Co-ordinating Committee and Catchment Management Committees**

### **17 Provisions relating to members and procedure**

Schedule 3 has effect with respect to the members and procedure of the Co-ordinating Committee and Catchment Management Committees.

### **18 Delegation of certain functions**

The Co-ordinating Committee or a Catchment Management Committee may delegate to a person any of its functions, other than this power of delegation.

### **19 Staff**

The Co-ordinating Committee or a Catchment Management Committee may, with the approval of the responsible Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority.

## **Part 3 Catchment Management Trusts**

### **Division 1 Establishment**

#### **20 Catchment Management Trusts**

- (1) The Trusts listed in Schedule 1 are established by this Act as Catchment Management Trusts.
- (2) A Trust is a corporation with the corporate name specified in Schedule 1.

#### **21 Establishment of Catchment Management Trusts**

- (1) The Governor may by proclamation amend Schedule 1 by adding to the relevant part of the Schedule the name of a Catchment Management Trust whose establishment is recommended by the responsible Minister.
- (2) Before making a recommendation for the establishment of a Catchment Management

Trust, the responsible Minister is required to have regard to whether;

- (a) the degradation of natural resources within the area concerned is adversely affecting the community, and
  - (b) the land holders, land users and the community who utilise and derive benefit from those resources have a joint responsibility to deal with the degradation, and
  - (c) the formation of a Trust is the most appropriate means of achieving equitable cost sharing, and
  - (d) there is clear support by the land holders, land users and the community for the formation of a Trust.
- (3) The Trust area in respect of which a Catchment Management Trust is established is the area described in the regulations.
- (4) Such an area may be described by reference to a local government area or in any other manner (including by reference to a description contained in another document).
- (5) It does not matter that the area of a Trust and that of a Catchment Management Committee overlap.

## **22 Membership of Catchment Management Trusts**

- (1) A Catchment Management Trust is to consist of such trustees as are appointed by the Governor on the recommendation of the responsible Minister.
- (2) The trustees recommended by the responsible Minister must include:
- (a) land users or land holders within the Trust area, who are to constitute the majority of the trustees, and
  - (b) persons who in the responsible Minister's opinion have an interest in environmental matters within the Trust area, and
  - (c) persons selected from a panel of 2 or more persons nominated by local government authorities within the Trust area, and
  - (d) persons who are officers of government departments or authorities having responsibility for natural resource use or management within the Trust area.

## **23 Provisions relating to trustees and procedure**

Schedule 4 has effect with respect to the trustees and procedure of Catchment Management Trusts.

## **24 Ministerial control**

A Trust is, in the exercise of its functions, subject to the control and direction of the responsible Minister.

## **25 Abolition, change of name etc of Catchment Management Trusts**

(1) The Governor may by proclamation:

- (a) abolish a Catchment Management Trust, or
  - (b) change the name of a Trust,
- and amend Schedule 1 accordingly.

(2) Any such proclamation may contain savings and transitional provisions

## **Division 2 Purpose and functions**

### **26 Purpose of Catchment Management Trusts**

A Catchment Management Trust has the total catchment management purpose prescribed in relation to that Trust in the regulations.

### **27 Functions of Catchment Management Trusts**

(1) A Catchment Management Trust may, for the purpose for which it is established:

- (a) provide, construct, operate, manage and maintain works and buildings,
- (b) purchase, exchange, take on hire or lease, hold, dispose of, manage, use or otherwise deal with real or personal property,
- (c) enter into contracts, including consultancy contracts,
- (d) enter into cost-sharing or other arrangements in connection with the carrying out of works,
- (e) generate revenue by levying and recovering catchment contributions,
- (f) provide assistance to mitigate the effects of flood, drought, fire or other emergency, including assistance with funds, personnel or equipment,
- (g) effect and maintain insurances,
- (h) exercise any other function prescribed by the regulations, and
- (i) do anything incidental to the achievement of the purpose for which it was established.

(2) If the responsible Minister so decides, a Trust may also exercise within its Trust area

any or all of the functions of a Catchment Management Committee.

- (3) A Trust has such other functions as are conferred or imposed on it by or under this or any other Act.
- (4) No action or proceeding may be brought:
  - (a) to compel a Catchment Management Trust to carry out its functions, or
  - (b) to recover any penalty or damages from a Catchment Management Trust in respect of a failure to carry out its functions.

## **28 Preparation of corporate plan**

- (1) Within 1 year of the first meeting of a Catchment Management Trust (or such longer period as the responsible Minister may approve), the Trust is to prepare a corporate plan for the achievement of the purpose for which it was established.
- (2) The corporate plan is to contain a detailed written scheme of the strategies and programs to be implemented by the Trust in its Trust area.

## **29 Approval etc of corporate plan**

- (1) When its corporate plan has been prepared, a Catchment Management Trust:
  - (a) is to refer the plan to the responsible Minister, and
  - (b) is to refer a copy of the plan to the Co-ordinating Committee, and
  - (c) may, with the approval of the responsible Minister, refer a copy of the plan to any other person.
- (2) The responsible Minister is to seek the advice of the Co-ordinating Committee in assessing the corporate plan.
- (3) The responsible Minister may:
  - (a) approve the corporate plan, without alteration or with such alteration as the responsible Minister thinks fit,
  - (b) refer it back to the Trust for further consideration.
- (4) The Trust may, with the approval of the responsible Minister, amend its corporate plan from time to time.

## **30 Carrying out of corporate plan**

- (1) A corporate plan approved by the responsible Minister:
  - (a) empowers a Catchment Management Trust to undertake the programs set out in the plan, and



(b) must be given effect to by the Trust.

(2) Nothing in this Division affects the operation of the *Local Government Act 1993*, the *Environmental Planning and Assessment Act 1979* or any other Act.

### **31 Trust must provide information**

(1) A Catchment Management Trust is to provide the responsible Minister with such information and material as that Minister may require in relation to its policies, programs and procedures.

(2) A Trust is to maintain effective liaison with the Co-ordinating Committee.

### **32 Delegation of certain functions**

A Catchment Management Trust may delegate to a person any of its functions, other than this power of delegation.

### **33 Staff**

A Catchment Management Trust may:

(a) employ such staff (including an executive officer) as it requires to exercise its functions, and

(b) with the approval of the responsible Minister, arrange for the use of the services of any staff or facilities of a government department, an administrative office or a public or local authority in exercising its functions.

## **Division 3 Finance**

### **34 Establishment of Catchment Management Trust Funds**

(1) A Catchment Management Trust is to establish a Fund to be known by the name of the Trust, followed by the word "Fund".

(2) The money in a Fund may be kept in one or more financial institutions (including in the Special Deposits Accounts in the Treasury).

(3) A Fund does not form part of the Consolidated Fund.

### **35 Payments into Fund**

There is to be paid into a Fund all money received by or on account of the relevant Catchment Management Trust.

### **36 Payments from Fund**

There is to be paid from a Fund all amounts required to meet expenditure incurred by the relevant Catchment Management Trust in the exercise of its functions.

### 37 Investment powers

- (1) A Catchment Management Trust has, in respect of its funds, the investment powers conferred on the Trust by Part 3 of the *Public Authorities (Financial Arrangements) Act 1987*.
- (2) If Part 3 of that Act does not confer investment powers on a Trust in respect of its funds or any particular funds, the Trust may invest those funds:
  - (a) in any manner authorised for the investment of trust funds, or
  - (b) in any other manner approved by the responsible Minister with the concurrence of the Treasurer.

## Division 4 Revenue

### 38 Definitions

In this Division:

**catchment contribution area** means an area of land declared by an order in force under section 39 to be a catchment contribution area.

**charging year**, in relation to a Catchment Management Trust, means:

- (a) the period of 12 months declared by an order in force under section 39 to be the charging year for the Trust, or
- (b) if the charging year is changed under that section by a further order—the period between the end of one charging year and the beginning of the next.

**owner** has the same meaning as in the *Water Management Act 2000*.

### 39 Orders for purposes of levying catchment contributions

- (1) The responsible Minister may, by order published in the Gazette, declare any land described in the order (being the whole or any part of the Trust area of a Catchment Management Trust) to be a catchment contribution area for the purposes of this Division.
- (2) The responsible Minister may, by order published in the Gazette, declare a period of 12 months to be the charging year for a Trust.

### 40 Trust may levy catchment contributions

- (1) A Catchment Management Trust may, in accordance with this Division and the regulations, levy a catchment contribution on any land within its Trust area declared to be a catchment contribution area.
- (2) A catchment contribution may only be levied to fund the programs in the Trust's

corporate plan as approved by the responsible Minister.

- (3) The responsible Minister is to be satisfied that any rates levied by a Trust for the purpose of carrying out the functions contained in section 27 (1) (a) are to equitably reflect the degree of benefit likely to accrue to land within the Trust area.

#### **41 Basis of levying catchment contributions**

- (1) The regulations are to specify the basis or bases according to which a Catchment Management Trust may levy catchment contributions.
- (2) Without limiting the generality of subsection (1), the regulations may provide that a Trust may levy catchment contributions according to any one or more of the following factors:
  - (a) the land value of land within the meaning of the *Valuation of Land Act 1916*,
  - (b) the area of the land,
  - (c) the degree of benefit that accrues to land as a result of the Trust's programs.

#### **42 Estimates of income and expenditure to be prepared**

- (1) A Catchment Management Trust is to prepare and submit to the responsible Minister and the Co-ordinating Committee at least 2 months before the beginning of each charging year of the Trust estimates in respect of:
  - (a) the income of the Trust for the charging year from all sources including the total amount to be obtained by way of catchment contributions, and
  - (b) the expenditure to be incurred during the charging year.
- (2) The estimates are to be in such form as the responsible Minister requires and are to contain particulars in respect of each item of expenditure and the catchment contributions to be levied.

#### **43 Determinations relating to catchment contributions**

- (1) Not later than one month before the beginning of a charging year, a Catchment Management Trust that proposes to levy a catchment contribution is to determine, in accordance with the regulations:
  - (a) the amount of money that it proposes to raise by way of catchment contributions, and
  - (b) the land within its catchment contribution area that is to be levied, and
  - (c) the basis or bases of the catchment contribution to be levied, and
  - (d) the rate of the catchment contribution,

for the next charging year.

- (2) A Trust may make separate determinations under subsection (1) in respect of bases or rates, or both, for different lands within its catchment contribution area.
- (3) A determination under this section:
  - (a) is required to be approved by the responsible Minister and does not have effect unless it is so approved, and
  - (b) is to be published in the Gazette before the commencement of the charging year to which it relates, and
  - (c) is to take effect on the commencement of the charging year to which it relates.
- (4) A determination does not fail merely because it is not published in the Gazette before the commencement of the charging year to which it relates but, in that event, a person is not liable for payment of the catchment contribution to which the determination relates until the determination is published in the Gazette.
- (5) A catchment contribution determined under this section is levied on publication of the determination in the Gazette.
- (6) If, for any reason:
  - (a) a determination under this section is not made before the charging year to which it relates, or
  - (b) there is any irregularity or alleged irregularity in the making of any such determination,

the Governor may extend the time for making the determination (whether or not that time has expired) and may authorise the Trust concerned to do anything necessary to cure any irregularity and to make a valid determination.

#### **44 Assessment of catchment contributions**

- (1) After making a determination under section 43 a Catchment Management Trust must, in accordance with the determination:
  - (a) classify each parcel of land within its catchment contribution area in respect of which a catchment contribution is to be levied, and
  - (b) assess the catchment contribution payable for each such parcel of land.
- (2) After it makes an assessment under this section a Trust is, in accordance with the regulations, to cause a notice to be served on the owner of each parcel of land in respect of which a catchment contribution has been levied.

- (3) On the service of such a notice, the owner of the land to which the notice relates becomes liable for payment of the catchment contribution specified in the notice.

#### **45 Reassessment of catchment contributions**

- (1) A Catchment Management Trust may reassess a catchment contribution, levied on the basis of land value, if the value of the land for any charging year differs from the value used to assess the contribution.
- (2) A catchment contribution may only be reassessed as from the date the revised value of the land has effect.
- (3) The owner of the land to which the reassessment relates becomes liable for payment of the revised catchment contribution on the service of a notice notifying the reassessment.

#### **46 Collection etc of catchment contributions on behalf of Trusts**

- (1) In this section:

***appropriate local authority***, in relation to a Catchment Management Trust, means:

- (a) the council of a local government area within which any part of the catchment contribution area of the Trust is situated, or
  - (b) the Water Board, the Hunter Water Board or any Water Supply Authority within whose area of operation any part of the catchment contribution area of the Trust is situated.
- (2) A Catchment Management Trust may, with the approval of the responsible Minister, enter into an arrangement with an appropriate local authority for the following functions of the Trust under this Division to be exercised by that authority on behalf of the Trust:
    - (a) the assessment or reassessment of catchment contributions levied by the Trust,
    - (b) the collection of those catchment contributions,
    - (c) the recovery of those catchment contributions,
    - (d) the issue of certificates as to any catchment contributions due to the Trust.
  - (3) Any such arrangement may provide for the payment of commission to the appropriate local authority.
  - (4) For the purposes of any such arrangement, the appropriate local authority may deal with the Trust's catchment contributions in connection with its rates and charges, so long as the catchment contribution is separately identified.

- (5) For the purposes of subsection (4), an appropriate local authority may issue joint assessments and notices, take joint action for collection and recovery and issue joint certificates.

#### **47 Catchment contributions a charge on land**

A catchment contribution for payment of which a person is liable is a charge on the land to which the catchment contribution relates.

#### **48 Interest on overdue catchment contributions**

- (1) A Catchment Management Trust may charge interest on overdue catchment contributions at a rate not exceeding the rate prescribed by the regulations for the purposes of this section.
- (2) The interest charged forms a part of the catchment contribution for the purposes of this Division.

#### **49 Recovery of catchment contributions**

- (1) A catchment contribution due to a Catchment Management Trust under this Act may be recovered in any court of competent jurisdiction as a debt due to the Crown.
- (2) An unsatisfied judgment or order of any court for the recovery of a catchment contribution from any person is not a bar to the recovery of the contribution from any other person who is liable under this Act for the payment of the contribution.

#### **50 Land exempted from the levy of catchment contributions**

The regulations may provide for certain lands to be exempted from the levy of catchment contributions.

#### **51 Certificate as to amount due**

- (1) A Catchment Management Trust must, on written application being made to it and payment of the prescribed fee, issue to the applicant a certificate:
  - (a) containing particulars of the amounts payable to the Trust in respect of a parcel of separately assessed land, or
  - (b) to the effect that there are no such amounts.
- (2) An application for a certificate must specify the name and address of the applicant and identify the land to which the application relates.
- (3) Such a certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which the certificate relates that, at the date of its issue, no amounts were payable to the Trust in respect of the land other than such amounts as are specified in the certificate.

## **Division 5 General provisions**

### **52 Acquisition of land**

- (1) A Catchment Management Trust may, for the purposes of this Act, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) For the purposes of the *Public Works Act 1912*, any such acquisition of land is taken to be for an authorised work and the Trust is, in relation to that authorised work, taken to be the Constructing Authority.

### **53 Entry on land for inspections and works**

- (1) A Catchment Management Trust may, by its employees and other persons, enter and inspect any land (other than a building) and there carry out any works for the purpose of exercising its functions.
- (2) A person must not obstruct or hinder the Trust acting under this section.  
Maximum penalty: 10 penalty units.
- (3) In relation to land entered or works carried out, a Trust:
  - (a) is to do as little damage as possible in exercising its functions under this section, and
  - (b) is to compensate all persons who suffer damage by the exercise of those functions.
- (4) Compensation may be made by reinstatement or repair, by construction of works or by payment.
- (5) A claim for compensation:
  - (a) is ineffective unless made in writing not later than 6 months after the damage was suffered, and
  - (b) in the absence of agreement on the compensation, is to be dealt with as if it were a claim for compensation for the acquisition of land for a public purpose under the *Public Works Act 1912*.

### **54 Interference with or damage to works**

A person must not, except with the authority of a Trust, interfere with or damage any works which belong to, or are otherwise under the control or management of, a Trust.

Maximum penalty: 50 penalty units.

## **55 Obstruction of works**

- (1) If a person places a structure or other thing in or near a work of a Catchment Management Trust in such a manner as to interfere or to be likely to interfere with the work, the Trust may by notice in writing given to the owner or occupier of the land, require the structure or other thing to be removed within such period as is stated in the notice.
- (2) If a notice under subsection (1) is not complied with, the Trust may:
  - (a) demolish and remove the structure or other thing, and
  - (b) repair the work, and
  - (c) recover the cost of doing so as a debt owing to the Trust by the person who placed the structure or other thing there.
- (3) A person may appeal to the Land and Environment Court against a notice served on the person under this section.

## **56 Injunctions**

- (1) On the application of a Catchment Management Trust, the Land and Environment Court may grant an injunction restraining a threatened contravention, or the continuation of a contravention, of this Act or of a requirement of a Trust under this Act.
- (2) An injunction may be granted without a Trust being required to show a likelihood of damage.

## **57 Efficiency review**

- (1) The responsible Minister may appoint a person to investigate and review the efficiency of a Catchment Management Trust in exercising its functions.
- (2) A Trust is to bear the costs of an investigation and review under this section that is requested by it.

## **58 Appointment of administrator**

- (1) If a Catchment Management Trust refuses or fails to comply with a direction or requirement given or made by the responsible Minister in relation to this Act, the responsible Minister may, by order published in the Gazette, appoint an administrator to exercise all the functions, or specified functions, of the Trust.
- (2) An administrator has, during his or her term of office and to the exclusion of the Trust, the functions the administrator was appointed to exercise.
- (3) Regulations may be made for or with respect to:



(a) any accommodation to be provided at the offices of a Trust for the administrator and his or her assistant, and

(b) requiring the employees of a Trust to assist, and to refrain from obstructing, the administrator in the exercise of his or her functions.

## **59 Settlement of disputes**

(1) The Minister may establish a standing committee to advise:

(a) the Premier, and

(b) the responsible Minister, and

(c) the Minister administering any other Act,

on any dispute between a Catchment Management Trust and a person or statutory body having functions under the other Act where the dispute relates to the exercise by a Trust of its functions under this Act.

(2) A standing committee established under this section:

(a) is to consist of such persons, and

(b) is to follow such procedures,

as are from time to time directed by the Minister with the concurrence of the Premier.

## **Part 4 Miscellaneous**

### **60 Act binds the Crown**

This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

### **61 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

(a) the constitution of the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust, or

(b) any resolution of such a Committee or Trust, or

(c) the appointment of, or the holding of office by, any member of such a Committee or such a Trust, or

(d) the presence of a quorum at any meeting of such a Committee or such a Trust.

## **62 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.
- (2) Proceedings in relation to an offence may be commenced within 2 years after the act or omission alleged to constitute the offence.

## **63 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) any of the functions conferred or imposed on the responsible Minister, the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust by or under this Act,
  - (b) the establishment, business and proceedings of the Co-ordinating Committee, a Catchment Management Committee or a Catchment Management Trust,
  - (c) any matter relating to catchment contributions including refunds, objections and appeals,
  - (d) the control, management and expenditure of the funds of Catchment Management Trusts.
- (3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

## **64 Savings, transitional and other provisions**

Schedule 6 has effect.

## **65-68 (Repealed)**

## **69 Amendment of [Water Supply Authorities Act 1987 No 140](#)**

The [Water Supply Authorities Act 1987](#) is amended:

- (a), (b) (Repealed)

## **70 Repeal of [Hunter Valley Conservation Trust Act 1950 No 34](#) and regulations**

The [Hunter Valley Conservation Trust Act 1950](#) and the [Hunter Valley Conservation Trust \(Election of Trustees\) Regulations](#) are repealed.

## Schedule 1 Catchment Management Trusts

(Sections 6, 20, 21, 25)

### Part 1 Catchment Management Trusts recommended by the Minister administering this Act

Border Rivers Catchment Management Board,  
Central Coast Catchment Management Board,  
Central West Catchment Management Board,  
Gwydir Catchment Management Board,  
Hunter Catchment Management Trust,  
Lachlan Catchment Management Board,  
Lower Murray Darling Catchment Management Board,  
Lower North Coast Catchment Management Board,  
Mid North Coast Catchment Management Board,  
Murray Catchment Management Board,  
Murrumbidgee Catchment Management Board,  
Namoi Catchment Management Board,  
Northern Rivers Catchment Management Board,  
South East Catchment Management Board,  
Southern Catchment Management Board,  
Southern Sydney Catchment Management Board,  
Sydney Harbour Catchment Management Board,  
Upper North Coast Catchment Management Board,  
Western Catchment Management Board.

### Part 2 Catchment Management Trusts recommended by the Minister administering the **Protection of the Environment Operations Act 1997**

Upper Parramatta River Catchment Management Trust

### Part 3 Catchment Management Trusts recommended by the Minister administering the **Water Administration Act 1986**

## Schedule 2 Urban area

(Section 3)

For the purposes of establishing Catchment Management Committees and Catchment Management Trusts, an urban area is:

- (a) the City of Bankstown, Blacktown, Blue Mountains, Campbelltown, Canterbury, Fairfield, Gosford, Hawkesbury, Holroyd, Hurstville, Lake Macquarie, Liverpool, Newcastle, Parramatta, Penrith, Randwick, Rockdale, Ryde, Shoalhaven, South Sydney, Sydney, Willoughby or Wollongong, or
- (b) the local government area of Ashfield, Auburn, Baulkham Hills, Botany, Burwood, Camden, Concord, Drummoyne, Hornsby, Hunter's Hill, Kiama, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt,

Manly, Marrickville, Mosman, North Sydney, Pittwater, Shellharbour, Strathfield, Sutherland Shire, Warringah, Waverley, Wingecarribee, Wollondilly, Woollahra or Wyong.

## **Schedule 3 Provisions relating to members and procedure of Co-ordinating Committee and Catchment Management Committees**

(Section 17)

### **1 Definitions**

In this Schedule:

**Committee** means the Co-ordinating Committee or a Catchment Management Committee.

**member** means a member of a Committee.

### **2 Deputies of members of Co-ordinating Committee**

- (1) The responsible Minister may, from time to time, appoint a person to be the deputy of a member of the Co-ordinating Committee, and that Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy:
  - (a) may, if available, act in the place of the member, and
  - (b) while so acting, has all the functions of the member and is to be taken to be a member.
- (3) The deputy of a member who is Chairperson or Deputy Chairperson of the Co-ordinating Committee does not (because of this clause) have the member's functions as Chairperson or Deputy Chairperson unless the responsible Minister so directs.
- (4) A person while acting in the place of a member has the same entitlement to remuneration as the member.

### **3 Term of office**

Subject to this Schedule, a member holds office for such period as is specified in the member's instrument of appointment and is eligible (if otherwise qualified) for re-appointment.

### **4 Remuneration**

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the responsible Minister may from time to time determine in respect of that member.

## **5 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the responsible Minister, or
  - (d) is removed from office by the responsible Minister under this clause or by the Governor under Part 8 of the *Public Sector Management Act 1988*, or
  - (e) is absent from 4 consecutive meetings of the Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Committee for having been absent from those meetings, or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (g) becomes a temporary patient or a continued treatment patient within the meaning of the *Mental Health Act 1958*, a forensic patient within the meaning of the *Mental Health Act 1983* or a protected person within the meaning of the *Protected Estates Act 1983*, or
  - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The responsible Minister may remove an appointed member from office at any time.

## **6 Filling of vacancy in office of member**

If the office of a member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

## **7 Effect of certain other Acts**

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made:
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or

(b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

## **8 Liability of members etc**

A matter or thing done by a Committee, any member or any person acting under the direction of a Committee does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

## **9 General procedure**

The procedure for the calling of meetings of a Committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Committee.

## **10 Quorum**

The quorum for a meeting of a Committee is a majority of the members for the time being.

## **11 Presiding member**

- (1) The Chairperson of a Committee or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Committee.
- (2) The person presiding at a meeting of a Committee has a deliberative vote, and in the event of an equality of votes, has a second or casting vote.

## **12 Voting**

A decision supported by a majority of the votes cast at a meeting of a Committee at which a quorum is present is the decision of that Committee.

## **13 First meeting**

The responsible Minister is to call the first meeting of a Committee in such manner as the responsible Minister thinks fit.

## **Schedule 4 Provisions relating to trustees and procedure of**

## Catchment Management Trusts

(Section 23)

### 1 Definitions

In this Schedule:

**Trust** means a Catchment Management Trust.

**trustee** means a trustee of a Trust.

### 2 Chairperson etc of the Trust

- (1) Of the trustees, (in and by the trustee's instrument of appointment or in another instrument executed by the Governor on the recommendation of the responsible Minister) one is to be appointed as Chairperson and one as Deputy Chairperson of a Trust.
- (2) The Governor, on the recommendation of the responsible Minister, may remove a trustee from the office of Chairperson or Deputy Chairperson.
- (3) The Chairperson or Deputy Chairperson is taken to have vacated the office of Chairperson or Deputy Chairperson if the person:
  - (a) is removed from that office by the Governor under subclause (2), or
  - (b) resigns that office by instrument in writing addressed to the responsible Minister,  
or
  - (c) ceases to be a trustee.

### 3 Term of office

Subject to this Schedule, a trustee holds office for such period, not exceeding 5 years, as may be specified in the instrument of appointment of the trustee, but is eligible (if otherwise qualified) for re-appointment.

### 4 Remuneration

A trustee is entitled to be paid such remuneration (including travelling and subsistence allowances) as the responsible Minister may from time to time determine in respect of the trustee.

### 5 Vacancy in office of trustee

- (1) A trustee is taken to have vacated his or her office if the trustee:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or

- (c) is absent from 4 consecutive meetings of the Trust of which reasonable notice has been given to the trustee personally or in the ordinary course of post, except on leave granted by the Trust or unless, before the expiration of 4 weeks after the last of those meetings, the trustee is excused by the Trust for having been absent from those meetings, or
  - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (e) becomes a temporary patient or a continued treatment patient within the meaning of the *Mental Health Act 1958*, a forensic patient within the meaning of the *Mental Health Act 1983* or a protected person within the meaning of the *Protected Estates Act 1983*, or
  - (f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (g) resigns the office by instrument in writing addressed to the responsible Minister, or
  - (h) is removed from office by the Governor under this clause or under Part 8 of the *Public Sector Management Act 1988*.
- (2) The Governor on the recommendation of the responsible Minister may remove a trustee from office at any time.

## **6 Filling of vacancy in office of trustee**

If the office of a trustee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

## **7 Disclosure of pecuniary interests**

(1) If:

- (a) a trustee has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of a Trust, and
- (b) the interest appears to raise a conflict with the proper performance of the trustee's duties in relation to the consideration of the matter,

the trustee shall, as soon as possible after the relevant facts have come to the trustee's knowledge, disclose the nature of the interest at a meeting of the Trust.

(2) A disclosure by a trustee at a meeting of a Trust that the trustee:



- (a) is a member, or is in the employment, of a specified company or other body,
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the Trust in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Trust.
- (4) After a trustee has disclosed the nature of an interest in any matter, the trustee must not, unless the responsible Minister or the Trust otherwise determines:
  - (a) be present during any deliberation of the Trust with respect to the matter, or
  - (b) take part in any decision of the Trust with respect to the matter.
- (5) For the purposes of the making of a determination by the Trust under subclause (4), a trustee who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
  - (a) be present during any deliberation of the Trust for the purpose of making the determination, or
  - (b) take part in the making by the Trust of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Trust.

## **8 Effect of certain other Acts**

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a trustee.
- (2) If by or under any other Act provision is made:
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a trustee or from accepting and retaining any remuneration payable to the person under this Act as a trustee.

- (3) The office of a trustee is not, for the purposes of any Act, an office or place of profit under the Crown.

## **9 Liability of trustees etc**

A matter or thing done by a Trust, any trustee or any person acting under the direction of a Trust does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a trustee or a person so acting personally to any action, liability, claim or demand.

## **10 General procedure**

The procedure for the calling of meetings of a Trust and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Trust.

## **11 Quorum**

The quorum for a meeting of a Trust is a majority of the trustees for the time being.

## **12 Presiding trustee**

- (1) The Chairperson of a Trust or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Trust.
- (2) The person presiding at a meeting of a Trust has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## **13 Voting**

A decision supported by a majority of the votes cast at a meeting of a Trust at which a quorum is present is the decision of the Trust.

## **14 Minutes**

A Trust is to cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust.

## **15 First meeting of the Trust**

The responsible Minister is to call the first meeting of a Trust in such manner as the responsible Minister thinks fit.

## **Schedule 5 (Repealed)**

## Schedule 6 Savings, transitional and other provisions

(Section 64)

### Part 1 Preliminary

#### 1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### Part 2 Provisions relating to the repeal of the [Hunter Valley Conservation Trust Act 1950](#)

#### 2 Definitions

In this Part:

**new Trust** means the Hunter Valley Catchment Management Trust constituted under this Act.

**old Trust** means the Hunter Valley Conservation Trust constituted under the [Hunter Valley Conservation Trust Act 1950](#).

**relevant day** means the day on which section 70 commences.

#### 3 Dissolution of old Trust

The Hunter Valley Conservation Trust constituted under the [Hunter Valley Conservation Trust Act 1950](#) is dissolved on the relevant day.

#### 4 Establishment of Hunter Valley Catchment Management Trust

- (1) The Hunter Valley Catchment Management Trust is to be taken to have been established on the recommendation of the Minister administering this Act.

(2) The new Trust is a continuation of, and the same legal entity as, the old Trust.

(3) The Trust area of the new Trust is the same as the area of the old Trust.

#### **5 Members of the old Trust**

A person who, immediately before the relevant day, held office as a trustee of the old Trust:

- (a) holds office as a trustee of the new Trust (including any appointment as Chairperson or Deputy Chairperson) for the remainder of his or her term of office or for 5 years, whichever is the lesser period, and
- (b) is eligible (if otherwise qualified) for appointment or re-appointment.

#### **6 Staff of the old Trust**

- (1) Any person who, immediately before the relevant day, was employed by the old Trust becomes, on that day, an employee of the new Trust with the same rights and entitlements and subject to the same obligations as those applicable to the person immediately before that day.
- (2) An employee is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

#### **7 Construction of references**

On and from the relevant day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the old Trust is to be read as a reference to the new Trust.

#### **8 Hunter Valley Conservation Trust Loan Certificate Regulations**

The *Hunter Valley Conservation Trust Loan Certificate Regulations* continue to have effect in relation to any financial accommodation to which they apply as if the [Hunter Valley Conservation Trust Act 1950](#) had not been repealed.

#### **9 Saving of decisions etc**

Any decision, recommendation or other act, matter or thing given, made or done by the old Trust under a provision of the [Hunter Valley Conservation Trust Act 1950](#) and in force or having effect immediately before the relevant day continues to apply as if the old Trust had not been abolished and, where applicable, applies as if given, made or done under this Act.

### **Part 3**

#### **10-17 (Repealed)**