

# Catchment Management Authorities Act 2003

## No 104

[2003-104]



New South Wales

### Status Information

#### Currency of version

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#### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

#### Notes—

- **Does not include amendments by**
  - [Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)
  - [Statute Law \(Miscellaneous Provisions\) Act 2009 No 56](#) (not commenced — to commence on 17.7.2009)

#### Authorisation

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# Catchment Management Authorities Act 2003 No 104



New South Wales

An Act to establish catchment management authorities and to devolve to them certain natural resource management functions in their regions; to repeal the [Catchment Management Act 1989](#) and to amend various Acts consequentially; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the [Catchment Management Authorities Act 2003](#).

### 2 Commencement

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

### 3 Objects of Act

The objects of this Act are as follows:

- (a) to establish authorities for the purpose of devolving operational, investment and decision-making natural resource functions to catchment levels,
- (b) to provide for proper natural resource planning at a catchment level,
- (c) to ensure that decisions about natural resources take into account appropriate catchment issues,
- (d) to require decisions taken at a catchment level to take into account State-wide standards and to involve the Natural Resources Commission in catchment planning where appropriate,
- (e) to involve communities in each catchment in decision making and to make best use of catchment knowledge and expertise,
- (f) to ensure the proper management of natural resources in the social, economic and environmental interests of the State,
- (g) to apply sound scientific knowledge to achieve a fully functioning and productive

landscape,

- (h) to provide a framework for financial assistance and incentives to landholders in connection with natural resource management.

#### 4 Definitions

- (1) In this Act:

**annual implementation program** means an annual implementation program of an authority that has been approved by the Minister under Part 5.

**authority** means a catchment management authority established under Part 2.

**catchment action plan** means a catchment action plan of an authority that has been approved by the Minister under Part 4.

**catchment activities** means activities relating to natural resource management in an area (including the planting of trees, the removal of weeds or obstructions, the carrying out of works and education or training).

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

**general manager** of an authority means the general manager of the authority holding office as such under Chapter 1A of the [Public Sector Employment and Management Act 2002](#).

**government agency** means any public or local authority, and includes:

- (a) a government department, State owned corporation and council of a local government area, and
- (b) the head of a government agency.

**natural resource management** has the same meaning it has in section 5 of the [Natural Resources Commission Act 2003](#).

**Natural Resources Commission** means the Natural Resources Commission established under Part 2 of the [Natural Resources Commission Act 2003](#).

- (2) Notes included in this Act do not form part of this Act.

#### 5 State-wide standards and targets

For the purposes of this Act, **State-wide natural resource management standards and targets** are the State-wide standards and targets for natural resource management issues that have been adopted by the Government for the purposes of this Act.

**Note—**

Section 13 of the [Natural Resources Commission Act 2003](#) provides that the Natural Resources Commission may make recommendations on such standards and targets.

## Part 2 Establishment of authorities

### 6 Catchment management authorities

- (1) The authorities listed in Schedule 1 from time to time are established by this Act as catchment management authorities.
- (2) An authority is a body corporate with the corporate name specified in Schedule 1.
- (3) An authority is a statutory body representing the Crown.
- (4) An authority cannot employ any staff.

**Note—**

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable an authority to exercise its functions.

### 7 Area of operations of authorities

The area of operations of an authority is the area described or referred to in Schedule 2.

### 8 Boards of authorities

- (1) There is to be a board for each authority, called the “[*Name of authority*] Board”.
- (2) The affairs of an authority are to be controlled by the board of the authority. Any act, matter or thing done in the name of, or on behalf of, an authority by the board of the authority is taken to have been done by the authority.
- (3) The board of an authority is to consist of such members (being not less than 5 and not more than 7) as are appointed by the Minister.
- (4) The members of the board of an authority are to be persons who together have, in the opinion of the Minister, skills and knowledge in the following areas:
  - (a) primary production,
  - (b) environmental, social and economic analysis,
  - (c) State and local government administration,
  - (d) negotiation and consultation,
  - (e) business administration,
  - (f) community leadership,
  - (g) biodiversity conservation,

(h) cultural heritage,

(i) water quality.

- (5) The Minister is to ensure that, as far as practicable, the persons appointed as members of the board of an authority reside in the area of operations of the authority.
- (6) The Minister is to appoint one member of the board of an authority as the chairperson of the board and another member as the deputy chairperson of the board.
- (7) Schedule 3 has effect with respect to the members and procedure of boards of authorities.

## **9 Ministerial control**

- (1) An authority is, in the exercise of its functions, subject to the control and direction of the Minister.
- (2) An authority is to provide the Minister with such information and material as the Minister may require in relation to its policies, programs and procedures.

## **10 (Repealed)**

## **11 Abolition, establishment or change of name or area of operations of authorities**

- (1) The Minister may, by order published in the Gazette, amend Schedules 1 and 2 for the purpose of:
  - (a) establishing an authority, or
  - (b) abolishing an authority, or
  - (c) changing the name of an authority, or
  - (d) changing the area of operations of an authority.
- (2) Any such order may contain savings and transitional provisions.
- (3) The area of operations of an authority may be described in Schedule 2 by reference to a local government area or in any other manner (including by reference to a map or other description).

## **12 Efficiency and effectiveness review**

- (1) The Minister may appoint a person to investigate and review the efficiency of an authority in exercising its functions and the effectiveness of the authority in achieving its objectives.
- (2) The Minister may direct that the authority is to bear the whole or any part of the costs of an investigation and review under this section.



### **13 Appointment of administrator**

- (1) The Minister may, by order published in the Gazette, appoint an administrator to exercise all the functions, or specified functions, of an authority if the Minister is satisfied that the authority has failed to comply with its obligations under this Act, that the property of the authority has not been properly applied or managed or that the board has ceased to function effectively in managing the affairs of the authority.
- (2) An administrator has, during his or her term of office and to the exclusion of the board of the authority, the functions the administrator was appointed to exercise.
- (3) The general manager and other staff of the authority are required:
  - (a) to provide accommodation for the administrator and his or her assistants at the offices of the authority if requested to do so by the administrator, and
  - (b) to assist, and to refrain from obstructing, the administrator in the exercise of his or her functions.

## **Part 3 Functions of authorities**

### **14 General functions**

- (1) An authority has the general function of carrying out or funding catchment activities in accordance with this Act.
- (2) An authority has such other functions as are conferred or imposed on it by or under this or any other Act (including any environmental planning instrument).

#### **Note—**

Authorities are, for example, to have the functions under the [Native Vegetation Act 2003](#) and may have threatened species or other functions conferred in future under other Acts (for example, functions under section 389A of the [Water Management Act 2000](#)). Authorities have the capacity to be appointed as the consent authority for development under the [Environmental Planning and Assessment Act 1979](#).

### **15 Specific functions**

An authority has the following functions:

- (a) to develop catchment action plans and to give effect to any such approved plans through annual implementation programs,
- (b) to provide loans, grants, subsidies or other financial assistance for the purposes of the catchment activities it is authorised to fund,
- (c) to enter contracts or do any work for the purposes of the catchment activities it is authorised to carry out,
- (d) to assist landholders to further the objectives of its catchment action plan (including

providing information about native vegetation),

- (e) to provide educational and training courses and materials in connection with natural resource management,
- (f) to exercise any other function relating to natural resource management as is prescribed by the regulations.

## **16 Functions to be exercised in area of operations**

- (1) The functions of an authority may only be exercised in or in relation to its area of operations.
- (2) However, subsection (1) does not prevent an authority exercising functions jointly with another authority in the combined area of operations of the authorities or assisting another authority or government agency in carrying out functions of the other authority or agency within or outside its area of operations.

## **17 Annual reports**

- (1) The annual report of an authority under the [Annual Reports \(Statutory Bodies\) Act 1984](#) is to include the following information in relation to the reporting year:
  - (a) progress on achieving the results set out in its catchment action plan (including information on the catchment activities in its annual implementation program that have been undertaken),
  - (b) progress in achieving compliance with State-wide natural resource management standards and targets,
  - (c) any other matter the Minister directs.
- (2) The annual reports of authorities may be combined with each other or with the annual report of another government agency.

## **18 Delegation of functions**

An authority may delegate any of its functions, other than this power of delegation, to:

- (a) a member of the board of the authority or a committee of such members, or
- (b) the general manager or another member of staff of the authority, or
- (c) a person of a class prescribed by the regulations.

# **Part 4 Catchment action plans**

## **19 Preparation of draft plans**

Each authority is to prepare a draft catchment action plan as soon as practicable after the

commencement of this Act and submit it for approval by the Minister under this Part.

## **20 Contents of draft plans**

- (1) A draft catchment action plan of an authority must include the following:
  - (a) the results that are expected to be achieved by the implementation of the plan and the time frames for achieving those results,
  - (b) for the purposes of annual implementation programs, the priorities for the funding or carrying out of catchment activities in the area of operations of the authority,
  - (c) any other matter that the Minister may direct to be included in the plan.
- (1A) A draft plan:
  - (a) may also include provisions that relate to water quality or other non-regulatory water management issues, and
  - (b) must include any provisions relating to environmental water functions that are required by section 30A.
- (2) In formulating a draft plan, the authority is to have regard to:
  - (a) the provisions of any environmental planning instrument under the [Environmental Planning and Assessment Act 1979](#) that applies to land within its area of operations, and
  - (b) other existing natural resource management plans (including any such plans in the course of preparation) for its area of operations, and
  - (c) the need for the plan to comply with any State-wide natural resource management standards and to promote any such State-wide targets.

### **Note—**

Section 23 (2) provides that the Minister is not to approve a draft plan unless it complies with State-wide natural resource management standards, and promotes the achievement of State-wide targets, so far as they relate to the area of operations of the relevant authority.

## **21 Consultation on draft plan**

The authority is to consult widely on a draft catchment action plan, by giving such public notice of the preparation of the plan and undertaking such public exhibition of the plan as is required by the regulations or the Minister.

## **22 Submission of draft plans for approval**

- (1) When its draft catchment action plan has been prepared, the authority is to refer a copy of the draft plan to:

- (a) the Minister, and
  - (b) the Natural Resources Commission.
- (2) The Minister is to seek the advice of the Natural Resources Commission in assessing a draft plan. The Minister is to take into account any advice provided by the Commission within the time requested by the Minister.
- (3) The Minister may seek and take into account the advice of any other person or body in assessing a draft plan.
- (4) If a draft plan requires a person or body other than the authority concerned to carry out any activity, the authority is to provide the Minister with evidence that the person or body has agreed to carry out that activity.

### **23 Approval of plans**

- (1) The Minister may:
- (a) approve a draft catchment action plan submitted by an authority, without alteration or with such alteration as the Minister thinks fit, or
  - (b) refer the draft plan back to the authority for further consideration.
- (2) The Minister is not to approve a draft catchment action plan unless the Minister is satisfied (having regard to the advice of the Natural Resources Commission) that:
- (a) the plan complies with State-wide natural resource management standards, and
  - (b) the plan promotes the achievement of State-wide natural resource management targets,
- so far as they relate to the area of operations of the authority.
- (3) Before making any alterations to the draft plan, the Minister must consult the authority.

### **24 Publication of plans**

- (1) As soon as practicable after a catchment action plan of an authority is approved under this Part:
- (a) the authority is to publish the plan in such manner as in the opinion of the authority will cause it to be readily accessible to persons in its area of operations, and
  - (b) the Minister is to arrange for a copy of the plan to be placed on the website of the Department of Infrastructure, Planning and Natural Resources.
- (2) The Minister may make any other arrangements that the Minister considers necessary

to ensure that catchment action plans are readily accessible to the public.

## **25 Amendment, replacement or revocation of plans**

- (1) A catchment action plan may be amended or replaced by a subsequent catchment action plan prepared and approved in accordance with this Part.
- (2) A catchment action plan may also be amended by the Minister, but only in the circumstances, in relation to the matters and to the extent the plan provides.
- (3) The Minister may revoke a catchment action plan, wholly or in part.
- (4) The amendment or revocation of a catchment action plan by the Minister under this section takes effect when notice of the amendment or repeal is published by the Minister or on a later date specified in the notice.

## **26 Periodic review and auditing of plans**

- (1) An authority is to keep its catchment action plan under regular and periodic review and, in particular, is to review the plan if the Minister so directs.
- (2) The Minister is to ensure that a catchment action plan is audited, at intervals of not more than 5 years, to ascertain whether its provisions are being given effect to.
- (3) An audit under this section is to be carried out by the Natural Resources Commission or by an independent audit panel appointed by the Minister.

# **Part 5 Annual implementation programs**

## **27 Preparation of annual implementation programs**

- (1) An authority is required to prepare and submit to the Minister each year an implementation program setting out the catchment activities the authority proposes to carry out during each financial year of the authority (the **annual implementation program** of the authority).
- (2) A program is to seek to give effect to any catchment action plan of the authority.
- (3) If a program requires a person or body other than the authority concerned to carry out any activity, the authority is to provide the Minister with evidence that the person or body has agreed to carry out that activity.
- (4) The Minister may approve of the first program of an authority being prepared for a period that is not a single financial year of the authority.

## **28 Approval of program**

- (1) An annual implementation program may be approved by the Minister with or without alteration.

- (2) The Minister may seek the advice of the Natural Resources Commission on any program submitted to the Minister for approval.

## **29 Carrying out of program**

- (1) An annual implementation program approved by the Minister:
  - (a) empowers the relevant authority to undertake or fund the catchment activities set out in the program, and
  - (b) as far as practicable, is to be carried out by the authority.
- (2) Nothing in this section affects the operation of the *Environmental Planning and Assessment Act 1979* or any other Act.

## **Part 6 Financial**

### **30 Funds of authorities**

- (1) An authority is to establish a Fund, to be called “[*Name of authority*] Fund”.
- (2) The money in a Fund may be kept in one or more financial institutions (including in the Special Deposits Accounts). A Fund does not form part of the Consolidated Fund.
- (3) There is to be paid into a Fund all money received by or on account of the relevant authority.
- (4) There is to be paid from a Fund all amounts required to meet expenditure incurred by the relevant authority in the exercise of its functions.
- (5) This section does not apply to money that is required to be paid into, or that is paid from, the Environmental Water Trust Fund of an authority under section 30A.

### **30A Environmental Water Trust Funds**

- (1) For the purposes of this section, the **environmental water functions** of an authority are any of the following functions of the authority:
  - (a) the acquisition and management of adaptive environmental water under the *Water Management Act 2000* (including the acquisition of and dealing in access licences under that Act),
  - (b) the improvement of water quality,
  - (c) the carrying out of works to conserve water,
  - (d) any other environment protection functions relating to water that are prescribed by the regulations.
- (2) For the purposes of its environmental water functions, an authority may, with the

approval of the Minister, establish an Environmental Water Trust Fund, to be called “[Name of authority] Environmental Water Trust Fund”.

- (3) The money in an Environmental Water Trust Fund may be kept in one or more financial institutions (including the Special Deposits Account). An Environmental Water Trust Fund does not form part of the Consolidated Fund or any other Funds of authorities.
- (4) There is to be paid into an Environmental Water Trust Fund:
  - (a) all money received by or on account of the relevant authority for payment into the Fund, and
  - (b) any gift or bequest of money to the relevant authority for the purposes of its environmental water functions, and
  - (c) the proceeds of any dealing with respect to a water access licence held by the relevant authority, and
  - (d) the proceeds of any investment of money in the Fund.
- (5) There may be paid from an Environmental Water Trust Fund amounts required to meet expenditure incurred by the relevant authority in the exercise of its environmental water functions.
- (6) An authority is to include in any draft catchment action plan it prepares under this Act provisions relating to the environmental water functions for which it has established an Environmental Water Trust Fund, including:
  - (a) the assets of the authority that will be subject to the Fund, and
  - (b) the actions for the protection or improvement of those assets, and
  - (c) the targets for measuring the success of its environmental water functions.

The provisions of the draft catchment action plan are to be consistent with the State Water Management Outcomes Plan and any management plan under the [Water Management Act 2000](#).

- (7) The regulations may make provision for or with respect to an Environmental Water Trust Fund, including for or with respect to the making of decisions affecting the Fund and the disclosure of pecuniary or other interests of persons involved in making those decisions.

### **31 Investment powers**

- (1) An authority has, in respect of its funds, the investment powers conferred on the authority by Part 3 of the [Public Authorities \(Financial Arrangements\) Act 1987](#).
- (2) If Part 3 of that Act does not confer investment powers on an authority in respect of

its funds or any particular funds, the authority may invest those funds:

- (a) in any manner authorised for the investment of trust funds, or
- (b) in any other manner approved by the Minister with the concurrence of the Treasurer.

### **32 Fees for services etc**

(1) Where under the provisions of any Act, regulation or other statutory instrument, an authority:

- (a) supplies any service (including any product, commodity or publication), or
- (b) furnishes any information, or
- (c) receives any application for its approval or permission, or
- (d) gives an approval or permission,

the authority may demand and recover such fees as are prescribed by the regulations or as determined in accordance with the regulations, including as determined by a person specified in the regulations.

- (2) In any such regulation, provisions may be made requiring a deposit or prepayment in respect of any such fee.
- (3) A fee due to an authority under this section is to be paid to the authority by the person to whom, or at whose request, the service, information, approval or permission is supplied, furnished or given, or from whom the application is received, as the case may be.
- (4) Any fee due to an authority under this section may be recovered as a debt in a court of competent jurisdiction.
- (5) Nothing in this section authorises any fee contrary to the provisions of any Act, regulation or other statutory instrument.

### **33 Catchment contributions**

Schedule 4 has effect.

**Note—**

Schedule 4 continues revenue raising provisions under the [Catchment Management Act 1989](#) relating to catchment management trusts (which are replaced by authorities under this Act).



## Part 7 Miscellaneous

### 34 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.

### 35 Acquisition of land

- (1) An authority 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 authority is, in relation to that authorised work, taken to be the Constructing Authority.
- (3) An authority may not give a proposed acquisition notice under the [Land Acquisition \(Just Terms Compensation\) Act 1991](#) without the approval of the Minister.

### 36 Entry on land for inspections and construction of works

- (1) In this section:

**construct** includes repair or maintain.

**work** includes any building or structure.

- (2) An authority may, by its employees and other persons, enter and inspect any land (other than a dwelling) for the purpose of exercising its functions, and there construct any work in its annual implementation program that it is authorised to construct on the land.
- (3) A person must not, without reasonable excuse, obstruct or hinder the authority acting under this section.

Maximum penalty: 10 penalty units.

- (4) In relation to land entered or works constructed, an authority:
  - (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.
- (5) Compensation may be made by reinstatement or repair, by construction of works or by payment.
- (6) A claim for compensation:

- (a) is ineffective unless made in writing not later than one year 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 compulsory acquisition of land under this Act.

**Note—**

This section continues entry and construction powers under the [Catchment Management Act 1989](#) relating to catchment management trusts (which are replaced by catchment management authorities under this Act).

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

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

- (a) the constitution of an authority, or
- (b) any resolution of the board of an authority, or
- (c) the appointment of, or the holding of office by, a member of the board of an authority, or
- (d) the presence of a quorum at a meeting of the board of an authority.

### **38 Civil proceedings against authorities**

No action or proceeding may be brought:

- (a) to compel an authority to carry out its functions, or
- (b) to recover any penalty or damages from an authority in respect of a failure to carry out its functions.

### **39 Proceedings for offences**

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court.

### **40 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) the business and proceedings of the board of an authority,
  - (b) any matter relating to catchment management contributions including refunds, objections and appeals,

(c) the control, management and expenditure of the funds of authorities,

(d) any matter relating to catchment action plans.

(3) A regulation may create an offence punishable by a penalty not exceeding 100 penalty units.

#### **41 (Repealed)**

#### **42 Repeals**

(1) The *Catchment Management Act 1989* is repealed.

(2) The *Catchment Management Regulation 1999* is repealed.

(3) The *Hunter Catchment Management Trust Regulation 1997* is repealed.

(4) Different days may be appointed for the commencement of a provision of this section for the purposes of repealing different provisions of any such Act or regulation on different days.

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

Schedule 6 has effect.

#### **44 Review of Act**

(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

### **Schedule 1 List of catchment management authorities**

(Section 6)

Border Rivers-Gwydir Catchment Management Authority

Central West Catchment Management Authority

Hawkesbury-Nepean Catchment Management Authority

Hunter-Central Rivers Catchment Management Authority

Lachlan Catchment Management Authority

Lower Murray-Darling Catchment Management Authority



## Schedule 3 Provisions relating to boards of authorities

(Section 8 (7))

### Part 1 General

#### 1 Definitions

In this Schedule:

**chairperson** means the chairperson of the board of an authority.

**deputy chairperson** means the deputy chairperson of the board of an authority.

**member** means a member of the board of an authority.

### Part 2 Members

#### 2 Terms of office of members

Subject to this Schedule and the regulations, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

#### 3 Basis of office

The office of a member is a part-time office.

#### 4 Remuneration

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

#### 5 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person has all the functions of the member and is taken to be a member.
- (4) This clause does not operate to confer on the deputy of a member who is the chairperson or deputy chairperson the member's functions as chairperson or deputy chairperson.

#### 6 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 Minister, or
- (d) is removed from office by the Minister under this clause, or
- (e) is absent from 3 consecutive meetings of the board of the authority of which reasonable notice has been given to the member personally or by post, except on leave granted by the board or unless the member is excused by the board 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 mentally incapacitated person, 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 Minister may remove a member from office for any or no reason and without notice.

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

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

## **8 Chairperson and deputy chairperson**

(1) The chairperson or deputy chairperson vacates office as chairperson or deputy chairperson if he or she:

- (a) is removed from that office by the Minister under this clause, or
- (b) resigns that office by instrument in writing addressed to the Minister, or
- (c) ceases to be a member of the board of the relevant authority.

(2) The Minister may at any time remove the chairperson or deputy chairperson from office as chairperson or deputy chairperson.

## **9 Disclosure of pecuniary interests**

(1) If:

- (a) a member has a direct or indirect pecuniary interest in a matter being considered

or about to be considered at a meeting of the board of an authority, and

- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board.

- (2) A disclosure by a member at a meeting of the board of an authority that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (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 board 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 board.

- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the board of the relevant authority otherwise determines:

- (a) be present during any deliberation of the board with respect to the matter, or
- (b) take part in any decision of the board with respect to the matter.

- (5) For the purposes of the making of a determination by a board under subclause (4), a member 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 board for the purpose of making the determination, or
- (b) take part in the making by the board of the determination.

- (6) A contravention of this clause does not invalidate any decision of the board of an authority.

## **10 Effect of certain other Acts**

- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* 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 a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

## **11 Personal liability**

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

## **Part 3 Procedure**

### **12 General procedure**

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

### **13 Quorum**

The quorum for a meeting of the board of an authority is a majority of its members for the time being (including the chairperson or deputy chairperson).

### **14 Presiding member**

- (1) The chairperson of a board (or, in the absence of the chairperson, the deputy chairperson) is to preside at a meeting of the board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **15 Voting**

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

### **16 Transaction of business outside meetings or by telephone**

- (1) The board of an authority may, if it thinks fit, transact any of its business by the



circulation of papers among all the members of the board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the board.

(2) The board of an authority may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2),

the chairperson of the board and each member of the board have the same voting rights as they have at an ordinary meeting of the board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the board of the relevant authority.

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

## **17 General manager may attend meetings**

The general manager of an authority is entitled to attend (but not vote at) meetings of the board of the authority. However, the board may exclude the general manager from any deliberations of the board that relate to the general manager.

## **18 First meeting**

The Minister may call the first meeting of the board of an authority in such manner as the Minister thinks fit.

# **Schedule 4 Catchment contributions**

(Section 33)

## **1 Definitions**

In this Schedule:

**catchment contribution** means a catchment contribution under this Schedule.

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

**charging year**, in relation to an authority, means:

- (a) the period of 12 months declared by an order in force under this Schedule to be the charging year for the authority, or
- (b) if the charging year is changed under this Schedule 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](#).

## **2 Authority may levy catchment contributions**

- (1) An authority may, in accordance with this Schedule and the regulations, levy a catchment contribution on any land within its area of operations declared to be a catchment contribution area under this Schedule.
- (2) A catchment contribution may only be levied under this Schedule:
  - (a) to fund any shortfall in available funding for the catchment activities in the annual implementation programs of the authority, and
  - (b) if specifically authorised by the regulations.

### **Note—**

This Schedule continues revenue raising provisions under the [Catchment Management Act 1989](#) relating to catchment management trusts (which are replaced by authorities under this Act).

## **3 Orders for purposes of levying catchment contributions**

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

## **4 Basis of levying catchment contributions**

- (1) The regulations are to specify the basis or bases according to which an authority may levy catchment contributions.
- (2) Without limiting the generality of subclause (1), the regulations may provide that an authority 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 authority's programs.

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

- (1) An authority is to prepare and submit to the Minister at least 2 months before the beginning of each charging year of the authority estimates in respect of:
  - (a) the income of the authority 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 Minister requires and are to contain particulars in respect of each item of expenditure and the catchment contributions to be levied.

## **6 Determinations relating to catchment contributions**

- (1) Not later than one month before the beginning of a charging year, an authority 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) An authority may make separate determinations under subclause (1) in respect of bases or rates, or both, for different lands within its catchment contribution area.
- (3) A determination under this clause:
  - (a) is subject to clause 2, and
  - (b) is required to be approved by the Minister and does not have effect unless it is so approved, and
  - (c) is to be published in the Gazette before the commencement of the charging year to which it relates, and
  - (d) 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 clause is levied on publication of the determination in the Gazette.
- (6) If, for any reason:
  - (a) a determination under this clause 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 Minister may extend the time for making the determination (whether or not that time has expired) and may authorise the authority concerned to do anything necessary to cure any irregularity and to make a valid determination.

**Editorial note—**

For determinations under this clause see Gazettes No 104 of 25.6.2004, p 4807; No 69 of 10.6.2005, p 2252; No 75 of 9.6.2006, p 4247; No 81 of 22.6.2007, p 3852; No 72 of 20.6.2008, p 5485 and No 90 of 19.6.2009, p 3139.

## **7 Assessment of catchment contributions**

- (1) After making a determination under clause 6 an authority 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 clause an authority 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.

## **8 Reassessment of catchment contributions**

- (1) An authority 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.

## **9 Collection etc of catchment contributions on behalf of authorities**

(1) In this clause:

***appropriate local agency***, in relation to an authority, means:

- (a) the council of a local government area within which any part of the catchment contribution area of the authority is situated, or
  - (b) the Sydney Water Corporation, the Hunter Water Corporation, State Water Corporation or any Water Supply Authority within whose area of operations any part of the catchment contribution area of the authority is situated, or
  - (c) a statutory authority prescribed by the regulations or approved by the Minister for the purposes of this clause.
- (2) An authority may, with the approval of the Minister, enter into an arrangement with an appropriate local agency for the following functions of the authority under this Schedule to be exercised by that agency on behalf of the authority:
- (a) the assessment or reassessment of catchment contributions levied by the authority,
  - (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 authority.
- (3) Any such arrangement may provide for the payment of commission to the appropriate local agency.
- (4) For the purposes of any such arrangement, the appropriate local agency may deal with the authority's catchment contributions in connection with its rates and charges, so long as the catchment contribution is separately identified.
- (5) For the purposes of subclause (4), an appropriate local agency may issue joint assessments and notices, take joint action for collection and recovery and issue joint certificates.

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

- (1) A catchment contribution for payment of which a person is liable is a charge on the land to which the catchment contribution relates.
- (2) The provisions of this clause have effect despite anything contained in section 42 of the [Real Property Act 1900](#).

### **11 Interest on overdue catchment contributions**

- (1) An authority may charge interest on overdue catchment contributions at a rate not exceeding the rate prescribed by the regulations for the purposes of this clause.
- (2) The interest charged forms a part of the catchment contribution for the purposes of this Schedule.

### **12 Recovery of catchment contributions**

- (1) A catchment contribution due to an authority 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.
- (3) The regulations may authorise the waiving of payment of catchment contributions in the case of hardship.

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

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

### **14 Certificate as to amount due**

- (1) An authority 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 authority 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 authority in respect of the land other than such amounts as are specified in the certificate.

## **Schedule 5 (Repealed)**

## Schedule 6 Savings, transitional and other provisions

(Section 43)

### Part 1 General

#### 1 Definition

In this Schedule:

**former Act** means the [Catchment Management Act 1989](#).

#### 2 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from 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 consequent on enactment of this Act

#### 3 Abolition of existing bodies

- (1) Each catchment management committee or catchment management trust established under the former Act is abolished.
- (2) Any person holding office as a member of any such body immediately before its abolition:
  - (a) ceases to hold office, and
  - (b) is not entitled to any compensation because of the loss of that office.
- (3) On the abolition of any such catchment management committee or trust, any assets or liabilities of the committee or trust become the assets and liabilities of the catchment management authority under this Act whose area of operations includes

the majority of the area of operations of the committee or trust under the former Act.

#### **4 Saving of catchment contributions of Hunter Catchment Management Trust**

- (1) The repeal of the former Act and the regulations under that Act does not affect any catchment contribution levied under the former Act and regulations before their repeal by this Act.
- (2) During the period of 12 months after the commencement of this clause, catchment contributions may (until the regulations under this Act otherwise provide) continue to be levied by the Hunter-Central Rivers Catchment Management Authority in the catchment contribution area of the Hunter Catchment Management Trust under the former Act.
- (3) The relevant provisions of the former Act and regulations continue to have effect for the purposes of subclause (2).
- (4) Catchment contributions levied under subclause (2) may continue to be collected and recovered in accordance with the former Act after the expiry of the period referred to in that subclause.