

# Water Management Amendment Act 2008 No 73

[2008-73]



New South Wales

## Status Information

### Currency of version

Historical version for 17 July 2009 to 7 January 2010 (accessed 2 May 2024 at 13:40)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### 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**  
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2009 No 106](#) (not commenced — to commence on 8.1.2010)
- **Proposed repeal**  
The Act is to be repealed by sec 5 (1) of this Act on the day following the day on which all of the provisions of this Act have commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 14 December 2009

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New South Wales

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# Water Management Amendment Act 2008 No 73



New South Wales

An Act to amend the [Water Management Act 2000](#) in relation to compliance and enforcement, access licences, publication of notices and orders and other miscellaneous matters; and for other purposes.

## 1 Name of Act

This Act is the [Water Management Amendment Act 2008](#).

## 2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedules 1–4 and 7.2 and 7.3 commence on a day or days to be appointed by proclamation.

## 3 Amendment of [Water Management Act 2000 No 92](#)

The [Water Management Act 2000](#) is amended as set out in Schedules 1–6.

## 4 (Repealed)

## 5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the [Interpretation Act 1987](#), affect any amendment made by this Act.

## Schedules 1–3 (Repealed)

## Schedule 4 Amendments relating to access licences

(Section 3)

### [1] Section 52 Domestic and stock rights

Omit section 52 (2). Insert instead:

(2) Subsection (1) does not allow a landholder:

- (a) to take or use water in contravention of any mandatory guidelines established under section 336B, or
- (b) to construct a dam or water bore without a water supply work approval, or
- (c) in the case of the owner or occupier of a landholding arising from a subdivision effected on or after 1 July 2004, to take or use water in contravention of any prohibition or restriction imposed by or under the regulations (including any prohibition or restriction that the Minister is authorised by the regulations to impose).

## **[2] Section 59 Available water determinations**

Omit section 59 (4). Insert instead:

- (4) If the Minister consents to the amendment of an access licence to enable water to be taken by a nominated water supply work located in some other water management area or water source than that to which the licence relates, the available water determinations applicable to water taken by means of the work are those made in relation to the relevant category or subcategory of access licence in relation to that other water management area or water source.

## **[3] Section 66 Conditions of access licence generally**

Omit section 66 (1). Insert instead:

- (1) An access licence is subject to such conditions as the Minister may from time to time impose:
  - (a) which must include such conditions as are required to be imposed on the licence by this Act or by any relevant management plan (**mandatory conditions**), and
  - (b) which may include such other conditions, such as:
    - (i) conditions to give effect to any agreement between an applicant and objector under section 62 (5), and
    - (ii) conditions relating to the protection of the environment,as the Minister thinks fit (**discretionary conditions**).
- (1A) Mandatory conditions do not have effect in relation to an access licence unless they are included in the terms of the licence.

**[4] Section 70**

Insert after section 69:

**70 Special provisions with respect to supplementary water**

- (1) The Minister may, by order published in accordance with the regulations, authorise the taking of water pursuant to supplementary water access licences within the whole or any part of a specified water management area or specified water source.
- (2) Such an order:
  - (a) must specify the period for which the order authorises water to be taken, and
  - (b) may impose such restrictions as the Minister considers appropriate on the taking of water.
- (3) Such an order must be consistent with the provisions of any management plan in force in relation to the water management area or water source concerned.

**[5] Section 71W**

Omit the section. Insert instead:

**71W Access licence may nominate water supply works**

- (1) On the application of the holder of an access licence for a water management area or water source, the Minister may consent to the amendment of the licence so as:
  - (a) to nominate a specified water supply work in that water management area or water source as a work by means of which water credited to the licence may be taken, or
  - (b) to nominate a specified water supply work in a NSW water tagging zone as a work by means of which water credited to the licence may be taken, or
  - (c) to nominate a specified extraction point in an interstate water tagging zone as an extraction point from which water credited to the licence may be taken,or so as to withdraw such a nomination.
- (2) For the avoidance of doubt, a water supply work may be nominated under subsection (1) even though no approval is required to be held in relation to the

work.

- (3) The holder of an approval for a water supply work may notify the Minister, in accordance with the regulations:
  - (a) that the work has been nominated (whether by reference to the work itself or by reference to an extraction point at which it is located) as a work from which water credited to the interstate equivalent of an access licence may be taken, or
  - (b) that such a nomination has been withdrawn.
- (4) For the purposes of this section, an extraction point in an interstate water tagging zone is to be specified in accordance with the regulations.
- (5) In this section, a reference to a **water supply work** includes a reference to a group of such works.

**[6] Section 71Z Access licence dealing principles**

Omit section 71Z (2). Insert instead:

- (2) The access licence dealing principles may include provisions relating to any or all of the following:
  - (a) the establishment of interstate water tagging zones,
  - (b) the establishment of NSW water tagging zones,
  - (c) the criteria to be considered for the granting of an application with respect to a nomination referred to in section 71W (1) (b) or (c).

**[7] Section 72A**

Omit the section. Insert instead:

**72A Special provisions relating to co-holdings in access licences**

- (1) Subject to sections 71M, 71N and 74, any dealing in relation to an access licence held by co-holders, and any application for the Minister's consent to such a dealing, requires the consent of all of the co-holders (a **co-holder's consent**).
- (2) A co-holder of an access licence may, in accordance with the regulations:
  - (a) appoint another co-holder (the first co-holder's **nominee**), to give, on his or her behalf, any co-holder's consent required by subsection (1) in relation to an application for the Minister's consent to a dealing, and

- (b) revoke any appointment that the co-holder has made under paragraph (a).
- (3) The same person may be nominee for more than one co-holder.
- (4) Any co-holder's consent given by the co-holder's nominee in relation to an application for the Minister's consent to a dealing in an access licence is taken to have been given by the co-holder.
- (5) The revocation of a nominee's appointment under subsection (2) (b) does not affect any co-holder's consent given by the nominee before the revocation took effect.

**[8] Section 100 Conditions of approval generally**

Omit section 100 (1). Insert instead:

- (1) An approval is subject to such conditions as the Minister may from time to time impose:
  - (a) which must include such conditions as are required to be imposed on the approval by this Act or by any relevant management plan (**mandatory conditions**), and
  - (b) which may include such other conditions, such as:
    - (i) conditions to give effect to any agreement between an applicant and objector under section 93 (5), and
    - (ii) conditions relating to the protection of the environment,as the Minister thinks fit (**discretionary conditions**).
- (1A) Mandatory conditions do not have effect in relation to an approval unless they are included in the terms of the approval.

**[9] Section 123 Terms and conditions of operating licence**

Insert after section 123 (3):

- (4) Despite subsection (3), the Minister may amend an irrigation corporation's operating licence so as to give effect to matters agreed to by or on behalf of the State pursuant to, or in connection with, the National Water Initiative.
- (5) In determining the terms of the amendment, the Minister must have regard to any submissions made by the irrigation corporation.
- (6) In this section, **National Water Initiative** means the Intergovernmental Agreement on a National Water Initiative between the Commonwealth of Australia

and the Governments of New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory (as amended from time to time).

**[10] Section 391A Interstate arrangements in relation to access licences and approvals**

Omit “in cases referred to in section 71W (2) or 89 (2)” from section 391A (1).

Insert instead “pursuant to section 71W or 89”.

**[11] Dictionary**

Insert in alphabetical order:

***interstate water tagging zone*** means an interstate water tagging zone established by the access licence dealing principles.

***NSW water tagging zone*** means a NSW water tagging zone established by the access licence dealing principles.

**Schedules 5-7 (Repealed)**