

Water Management Amendment Act 2010 No 133

[2010-133]



New South Wales

Status Information

Currency of version

Current version for 2 March 2024 to date (accessed 19 May 2024 at 19:48)

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Provisions in force

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

Notes—

- **Note**

Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

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](#).

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Water Management Amendment Act 2010 No 133



New South Wales

An Act to amend the [Water Management Act 2000](#) with respect to specific purpose access licences and other access licences, environmental water, offences relating to taking water and water meters and private irrigation and drainage bodies; and for other purposes.

1 Name of Act

This Act is the [Water Management Amendment Act 2010](#).

2 Commencement

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

Schedule 1 (Repealed)

Schedule 2 Other amendments to [Water Management Act 2000 No 92](#)

[1]-[46] (Repealed)

[47] Section 120A

Insert after section 120—

120A Entry and investigation powers

- (1) An irrigation corporation may appoint a person to act as an authorised officer of the corporation under this section. An appointment is to be in writing and to comply with any requirements of the regulations.
- (2) An authorised officer of a corporation may enter land at any reasonable time if the authorised officer is reasonably of the opinion that the landholder has contravened an irrigation, water supply or drainage agreement with the corporation and that it is necessary to enter the land for the purpose of investigating that contravention.
- (3) An authorised officer who enters land under this section may exercise the

powers set out in section 339B (2) (a)–(g).

- (4) Sections 339D, 339F and 340 apply to authorised officers appointed under this section.
- (5) A corporation, and authorised officers of a corporation, may exercise the functions conferred by this section only if authorised to do so by the operating licence of the corporation.
- (6) This section does not empower an authorised officer to enter any part of premises used only for residential purposes.
- (7) An irrigation corporation must compensate all interested parties for any damage caused by a person exercising a power of entry on to land under this section on behalf of the corporation (but not any damage caused by the exercise of any other power), unless the occupier obstructed or hindered the person in the exercise of the power of entry.

[48] Section 125A

Insert after section 125—

125A Offence to contravene operating licence

- (1) An irrigation corporation must not contravene the operating licence of the corporation.

Tier 2 penalty.
- (2) Action may be taken both under this section and section 125 in respect of the same contravention of an operating licence.

[49], [50] (Repealed)

[51] Section 136A

Insert after section 136—

136A Charges for water illegally taken and damage to works

- (1) An irrigation corporation may impose a charge on a person for water taken if the corporation is satisfied on the balance of probabilities that the person has knowingly taken water from a water management work that is owned by, or is under the control and management of, the corporation in contravention of this Act, the regulations or an agreement with the corporation.
- (2) A corporation may impose a charge on a person for the repair or replacement of

a work if the corporation is satisfied on the balance of probabilities that the person has destroyed, damaged or interfered with a work that is owned by, or is under the control or management of, the corporation.

- (3) The charge imposed by the corporation may include a penalty component.
- (4) The maximum charge that a corporation may impose under this section—
 - (a) for the taking of water, is an amount not exceeding 5 times the value of the water so taken, as determined in accordance with the regulations, or
 - (b) for destroying, damaging or interfering with a work, is an amount not exceeding 5 times the reasonable cost of the repair or replacement (as required) of the work.
- (5) Action under this section may not be taken against a person unless the corporation—
 - (a) has given written notice to the person that the corporation proposes to take such action, and
 - (b) has given the person a reasonable opportunity to make submissions to the corporation with respect to the proposed action, and
 - (c) has taken any such submissions into consideration.
- (6) A charge imposed by a corporation under this section is recoverable in any court of competent jurisdiction as a debt due to the corporation.
- (7) A corporation is not entitled to take action under this section unless the operating licence of the corporation authorises the corporation to take action under this section.
- (8) Action may be taken under this section against a former member of the corporation.
- (9) The exercise of powers by a corporation under this section is subject to any requirements of, or limits imposed by, the regulations or the operating licence of the corporation.

[52] Section 137 Indemnities

Insert after section 137 (2)—

- (3) This section does not apply to an action, liability, claim or demand referred to in section 137A.

[53] Section 137A

Insert after section 137—

137A Liability for water source and other changes

- (1) An irrigation corporation, any officer or employee of an irrigation corporation or a person acting under the direction of a corporation, officer or employee is not subject to any action, liability, claim or demand arising—
- (a) from the unavailability of water, or
 - (b) from the escape of water from a water management work owned by, or under the control or management of, the corporation, or
 - (c) from a failure to supply, distribute or drain water that is authorised by its operating licence or this Act or the regulations,
- as a consequence of anything done or omitted to be done in good faith by the corporation, officer, employee or person for the purposes of executing this Act or carrying out the functions of the corporation.
- (2) This section does not limit section 397.

[54]-[57] (Repealed)

[58] Section 222

Omit “private water trust” where secondly occurring.

Insert instead “(or the trustees on behalf of the trust),”.

[59]-[86] (Repealed)

Schedule 3 (Repealed)