



New South Wales

Water Management Bill 2000

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to provide for the protection, conservation and ecologically sustainable development of the water sources of the State, and
- (b) to repeal certain Acts, to amend certain other Acts and to enact savings and transitional provisions consequent on the enactment of the proposed Act, and
- (c) to make other provisions of a minor, consequential or ancillary nature.

Outline of provisions

Chapter 1 Preliminary

Chapter 1 contains provisions dealing with the name of the proposed Act, its commencement, its objects and its interpretation.

Chapter 2 Water resource planning

Part 1 Water sharing principles

Part 1 contains provisions establishing water sharing principles and environmental water principles, and provides for the classification of water sources.

Part 2 Management committees

Part 2 contains provisions with respect to the constitution of water management areas, the establishment of management committees for those areas, the membership of those committees and the functions that those committees may exercise.

Part 3 Management plans

Division 1 contains provisions with respect to how a management plan comes to be prepared and what, in general terms, a management plan is to deal with.

Division 2 contains provisions specific to management plans that deal with water sharing.

Division 3 contains provisions specific to management plans that deal with water source protection.

Division 4 contains provisions specific to management plans that deal with drainage management.

Division 5 contains provisions specific to management plans that deal with floodplain management.

Division 6 contains provisions with respect to the procedures to be followed in making a management plan, including provisions for public exhibition, notification of major stakeholders and consultation with the Minister for the Environment.

Division 7 contains a provision that enables the Minister to vary the bulk access regime of a management plan when of the opinion that it is necessary to do so in the public interest.

Division 8 contains provisions with respect to the validity and effect of a management plan.

Part 4 Minister's plans

Part 4 contains a single provision that empowers the Minister to make plans for areas that are not within a water management area, for water management areas that are not yet the subject of a management plan and for matters not dealt with by management plans. Generally speaking, a Minister's plan is to have the same effect as a management plan.

Part 5 Implementation programs

Part 5 contains a single provision that empowers the Minister to develop programs to implement management plans and Minister's plans. Implementation programs relating to management plans will be developed in conjunction with the management committee by which the management plan was prepared.

Chapter 3 Water resource management

Part 1 Basic landholder rights

Division 1 contains a single provision conferring rights on landholders to take and use water for domestic and stock purposes without the need for any access licence or approval.

Division 2 contains provisions conferring rights on landholders within a harvestable rights area to collect and store rainwater run-off.

Part 2 Access licences

Division 1 defines the rights conferred by an access licence, and provides for the various categories of access licences that may be granted and the relative priorities between them. The Division also provides for the making of “available water determinations” which, together with an access licence, determine when and how the holder of an access licence may take water under the licence.

Division 2 contains provisions with respect to the procedures to be followed for the grant and renewal of access licences.

Division 3 contains provisions with respect to the conditions that may be imposed on access licences (including mandatory conditions arising from management plans and Minister’s plans) and the period for which access licences are to be in force (20 years for public utilities, 15 years generally and 2 years for access licences for “opportunistic water”).

Division 4 contains provisions with respect to the transfer of access licences and the water allocations under them in accordance with specified transfer rules to be established by management plans and Minister’s plans.

Division 5 contains provisions enabling water allocations to be recredited to access licences in accordance with specified water return flow rules to be established by the Minister.

Division 6 contains provisions with respect to the surrender, suspension, cancellation and compulsory acquisition of access licences. Compensation for access licences compulsorily acquired will be determined by the Valuer-General whose decisions will be appealable to the Land and Environment Court.

Division 7 contains provisions enabling the Minister to declare embargoes on applications for access licences.

Division 8 contains provisions with respect to records and registration.

Division 9 contains a provision that provides for the payment of compensation to the holders of access licences who are adversely affected as a consequence of a variation to a bulk access regime that is made by the Minister under proposed section 38.

Division 10 contains a provision with respect to the making of regulations.

Part 3 Approvals

Division 1 contains provisions describing the various kinds of approval that may be granted (water use approvals, water management work approvals and activity approvals) and empowers the Minister to grant temporary exemptions from the requirements for an approval.

Division 2 contains provisions with respect to the procedures to be followed for the grant of an approval. In some cases, applications will have to be advertised and third party objections may be made. The approval process is linked into the integrated development procedures of the *Environmental Planning and Assessment Act 1979*.

Division 3 contains provisions with respect to the conditions that may be imposed on approvals (including mandatory conditions arising from management plans and Minister's plans) and the period for which approvals are to be in force (20 years for water management work approvals, 10 years for water use approvals and aquifer interference approvals and 3 years for controlled activity approvals).

Division 4 contains provisions with respect to the amendment, surrender, suspension and cancellation of approvals.

Division 5 contains provisions enabling the Minister to declare embargoes on applications for approvals.

Division 6 contains provisions with respect to the keeping of registers in relation to approvals.

Part 4 Finance

Part 4 contains provisions with respect to the recovery of administrative costs, the establishment of guidelines for charges and other matters relating to costs and charges.

Chapter 4 Joint private works

Part 1 Irrigation corporations

Division 1 applies Part 1 to existing irrigation corporations and defines certain expressions used in the Part.

Division 2 contains provisions with respect to the functions of irrigation corporations.

Division 3 contains provisions with respect to the operating licences under which irrigation corporations conduct their affairs.

Division 4 contains administrative provisions with respect to irrigation corporations.

The provisions of this Part replicate such of the provisions of the *Irrigation Corporations Act 1994* as are still relevant to irrigation corporations.

Part 2 Private irrigation districts

Division 1 applies Part 2 to both new and existing private irrigation districts and defines certain expressions used in the Part.

Division 2 contains provisions with respect to the constitution of lands as a private irrigation district on the petition of landholders within the proposed district.

Division 3 contains provisions with respect to the establishment of a private irrigation board for a private irrigation district so constituted.

Division 4 empowers a private irrigation board to construct new water supply works and take over existing water supply works.

Division 5 contains provisions with respect to the payment of compensation by a private irrigation board.

Division 6 contains provisions with respect to the fixing, assessment and levying of rates and charges by a private irrigation board.

Division 7 contains provisions with respect to the supply of water by a private irrigation board to landholders within its district.

Division 8 contains provisions with respect to the effects of subdividing land within a private irrigation district in relation to water allocations.

Division 9 contains provisions with respect to meetings of landholders within a private irrigation district.

Division 10 contains provisions with respect to certain financial matters.

Division 11 contains administrative provisions with respect to private irrigation boards.

The provisions of this Part replicate provisions of the *Private Irrigation Districts Act 1973*.

Part 3 Private drainage boards

Division 1 applies Part 3 to existing drainage boards and defines certain expressions used in the Part.

Division 2 contains provisions with respect to the constitution and functions of private drainage boards.

Division 3 contains provisions with respect to the fixing, assessment and levying of rates by a private drainage board.

Division 4 contains provisions with respect to the valuation for rating purposes of land within a private drainage board's district.

Division 5 contains provisions with respect to the effects of subdividing land within a drainage district in relation to the use of drainage works.

Division 6 contains administrative provisions with respect to private drainage boards.

The provisions of this Part replicate such of the provisions of the *Drainage Act 1939* as are still relevant to private drainage boards.

Part 4 Private water trusts

Division 1 applies Part 4 to existing water supply trusts and defines certain expressions used in the Part.

Division 2 contains provisions with respect to the constitution and functions of private water trusts.

Division 3 contains provisions with respect to the functions exercisable by private water trusts in connection with the supply of water to land within the trust district.

Division 4 contains provisions with respect to the fixing, assessment and levying of rates by a private water trust.

Division 5 contains provisions with respect to the effects of subdividing land within a water supply district in relation to water allocations.

Division 6 contains administrative provisions with respect to private water trusts.

The provisions of this Part replicate such of the provisions of Part 3 of the *Water Act 1912* as are still relevant to private water trusts.

Chapter 5 Public works

Part 1 Fish River water supply works

Division 1 defines certain expressions used in Part 1, vests the control of the Fish River water supply works in the Minister and empowers the Minister to repair those works.

Division 2 contains provisions with respect to the supply of water from the Fish River water supply works.

Division 3 contains provisions with respect to the establishment of special areas within which public and private development are to be controlled under the proposed Act.

Division 4 contains provisions with respect to the accounting procedures to be observed in relation to the Fish River water supply works.

Division 5 contains provisions empowering regulations to be made with respect to specified matters.

The provisions of this Part replicate such of the provisions of the *Fish River Water Supply Administration Act 1945* as are still relevant.

Part 2 Hunter Valley flood mitigation works

Division 1 applies Part 2 to the Hunter Valley, and defines certain expressions used in the Part.

Division 2 confers certain powers on the Minister with respect to the construction of works and the restriction of certain activities that might adversely affect flood mitigation works.

Division 3 contains provisions with respect to the contributions to be made by local councils, public authorities and the Hunter Catchment Management Trust towards the costs of constructing and maintaining flood mitigation works within the Hunter Valley.

Division 4 contains administrative provisions with respect to the Hunter Valley flood mitigation works.

The provisions of this Part replicate such of the provisions of the *Hunter Valley Flood Mitigation Act 1956* as are still relevant.

Part 3 Lowbidgee flood control and irrigation works

Part 3 empowers the Minister to supply water by way of flood irrigation to landholders within the Lowbidgee flood control and irrigation district, and to levy rates in connection with that supply.

The provisions of this Part replicate such of the provisions of Part 7 of the *Water Act 1912* as are still relevant.

Chapter 6 Public utilities

Part 1 Major utilities

Division 1 contains provisions with respect to the declaration of certain public utilities as major utilities and certain other administrative provisions.

Division 2 contains provisions with respect to the granting of water authorisations to major utilities. A water authorisation is a substitute for a water management work approval under Part 3 of Chapter 3.

Division 3 contains provisions enabling the Minister to give, and enforce, directions for the carrying out of remedial work.

Division 4 contains provisions with respect to rights of appeal to the Land and Environment Court.

The provisions of this Part replicate such of the provisions of Part 9 of the *Water Act 1912* as are still relevant.

Part 2 Water supply authorities

Division 1 defines certain expressions used in Part 2.

Division 2 contains provisions with respect to the constitution of water supply authorities.

Division 3 contains provisions with respect to the functions of water supply authorities.

Division 4 contains provisions with respect to the establishment of special areas within which public and private development are to be controlled under the proposed Act.

Division 5 contains provisions with respect to compliance certificates issued by water supply authorities (for use in connection with the subdivision and development of land) and for developer contributions to a water supply authority's costs of augmenting water, sewerage and drainage works.

Division 6 contains provisions with respect to the fixing, assessment and levying of service charges and other charges.

Division 7 contains administrative provisions with respect to water supply authorities.

The provisions of this Part replicate such of the provisions of the *Water Supply Authorities Act 1987* as are still relevant.

Chapter 7 Enforcement

Part 1 Directions to landholders and other persons

Part 1 enables the Minister to give directions to landholders and other persons for the purpose of enforcing compliance with the requirements of the proposed Act. The Part also allows the Minister to do whatever is necessary to give effect to a direction that is not complied with, and to recover the costs of so doing from the person to whom the direction was given. The Part also empowers the Minister to seek injunctions from the Land and Environment Court to restrain a breach of the proposed Act.

Part 2 Powers of entry

Part 2 gives certain powers of entry onto private land, and regulates the manner in which such powers are to be exercised.

Part 3 Offences

Division 1 contains provisions creating a number of major offences (that is, offences that carry maximum penalties of \$275,000 if committed by corporations and \$132,000 if committed by individuals).

Division 2 contains provisions creating a number of minor offences (that is, offences that carry lesser maximum penalties).

Part 4 Recovery of rates and charges

Part 4 contains provisions with respect to the recovery of rates and charges, whether by private bodies under Chapter 4 or public authorities under Chapters 5 and 6. Unpaid rates and charges are to be a charge on land, enforceable (in the case of rates and charges owed to the Minister or a water supply authority) by compulsory sale of land. Interest on unpaid rates and charges will be payable at the current rate for unpaid judgments of the Supreme Court. There will be provision for the issuing of certificates as to the amount of unpaid rates or charges in relation to specified land, such a certificate to be conclusive proof of its contents in favour of the person to whom it is issued or to a purchaser of the land.

Part 5 Legal proceedings and appeals

Division 1 contains a number of miscellaneous provisions with respect to legal proceedings. In particular, it allows proceedings for offences to be taken before the Land and Environment Court or a Local Court, and limits a Local Court in relation to the maximum penalties that it may impose for an offence. The Division also provides for the issuing of penalty notices.

Division 2 provides a right of appeal to the Land and Environment Court against certain decisions under the proposed Act.

Chapter 8 Administration

Part 1 Water Advisory Council

Part 1 contains provisions with respect to the establishment and functions of the Water Advisory Council.

Part 2 Water Administration Ministerial Corporation

Part 2 contains provisions with respect to the constitution and functions of the Water Administration Ministerial Corporation. In particular, the Ministerial Corporation is to be empowered to compulsorily acquire land and is to be a Constructing Authority for the purposes of the *Public Works Act 1912*.

Part 3 General administration

Part 3 contains general provisions with respect to administration, including the appointment of committees, the delegation of functions the appointment of authorised officers, the resolution of disputes between public authorities and the establishment and maintenance of registers.

Chapter 9 Miscellaneous

Chapter 9 contains provisions:

- (a) asserting the State's rights to the control, use and flow of water, and
- (b) abolishing certain common law riparian rights, and
- (c) providing for the service of documents, and
- (d) binding the Crown to the provisions of the proposed Act, and
- (e) excluding personal liability for persons involved in the administration of the proposed Act, and
- (f) excluding Crown liability for failures in water supply, and
- (g) providing for annual reports, and
- (h) providing for the making of regulations, and
- (i) providing for the repeal of certain Acts, the amendment of other Acts, and the enactment of savings and transitional provisions, and
- (j) requiring the proposed Act to be reviewed after 5 years.

Schedule 1 lists the irrigation corporations to which the proposed Act applies.

Schedule 2 lists the major utilities to which the proposed Act applies.

Schedule 3 lists the water supply authorities to which the proposed Act applies.

Schedule 4 lists the lands that are exempt from service charges imposed by water supply authorities.

Schedule 5 deals with the constitution and procedure of water supply authorities.

Schedule 6 deals with the constitution and procedure of the Water Advisory Council and management committees.

Schedule 7 lists the Acts to be repealed by the proposed Act.

Schedule 8 contains amendments to other Acts as a consequence of the enactment of the proposed Act.

Schedule 9 contains savings and transitional provisions consequent on the enactment of the proposed Act.

The Dictionary defines certain words and expressions used in the proposed Act.



New South Wales

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New South Wales

Water Management Bill 2000

No , 2000

A Bill for

An Act to provide for the protection, conservation and ecologically sustainable development of the water sources of the State, and for other purposes.

The Legislature of New South Wales enacts: 1

Chapter 1 Preliminary 2

1 Name of Act 3

This Act is the *Water Management Act 2000*. 4

2 Commencement 5

(1) This Act commences on a day or days to be appointed by proclamation. 6
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(2) Different days may be appointed for the commencement of a single provision of Schedule 7 or 8 for the purpose of commencing the repeals or amendments effected by the provision on different days. 8
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3 Objects 11

(1) The objects of this Act are to provide for the sustainable and integrated management of the water sources of the State for the benefit of both present and future generations and, in particular: 12
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(a) to apply the principles of ecologically sustainable development, and 15
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(b) to protect, enhance and restore water sources, their associated ecosystems, ecological processes and biological diversity and their water quality, and 17
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(c) to recognise and foster the significant social and economic benefits to the State that result from the sustainable and efficient use of water, including: 20
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(i) benefits to the environment, and 23

(ii) benefits to urban communities, agriculture, fisheries, industry and recreation, and 24
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(iii) benefits to culture and heritage, and 26

(iv) benefits to the Aboriginal people in relation to their spiritual, social and customary use of land, 27
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(d) to recognise role of the community, as a partner with government, in resolving issues relating to the management of water sources, 29
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(e)	to provide for the orderly, efficient and equitable sharing of water from water sources,	1 2
(f)	to integrate the management of water sources with the management of other aspects of the environment, including the land, its soil, its native vegetation and its native fauna,	3 4 5
(g)	to encourage the sharing of responsibility for the sustainable and efficient use of water between the Government and water users,	6 7 8
(h)	to encourage best practice in the management and use of water.	9
4	Interpretation	10
(1)	Words and expressions that are defined in the Dictionary at the end of this Act have the meanings set out in that Dictionary.	11 12
(2)	Notes in the text of this Act do not form part of this Act.	13

Chapter 2 Water management planning

1

Part 1 Water sharing principles

2

5 Water sharing principles

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- (1) The following water sharing principles are recognised for the purposes of this Act:
 - (a) firstly, that management of a water source should seek to protect its dependent ecosystems,
 - (b) secondly, that management of a water source should ensure that landholders are able to exercise their basic landholder rights,
 - (c) thirdly, that the extraction of water pursuant to any other authority to extract water from a water source must not be permitted to prejudice the principles set out in paragraphs (a) and (b).
- (2) It is the intention of Parliament that all persons exercising functions under this Act should take all reasonable steps to do so in accordance with, and so as to promote, the principles set out in subsection (1).

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6 Environmental water principles

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- (1) The following classes of environmental water are recognised for the purposes of this Act:
 - (a) environmental health water (that is, water that must be provided for fundamental ecosystem health at all times),
 - (b) supplementary environmental water (that is, water that must be provided for specific environmental purposes at specific times or in specific circumstances but may otherwise be used for other purposes),
 - (c) adaptive environmental water (that is, water that is subject to an access licence but is committed for use for environmental purposes).

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- (2) It is the intention of Parliament that principles for the identification, establishment and maintenance of each class of environmental water (*environmental water principles*) be established for all of the water sources in the State, either by means of management plans or a Minister's plan, as soon as practicable after the commencement of this Act.

7 Classification of water sources

- (1) The Minister may, by order published in the Gazette, classify water sources for the purposes of this Act.
- (2) Water sources are to be classified as follows:
- (a) as to the extent to which they are at risk (that is, the extent to which harm to the water source or its dependent ecosystems is likely to occur),
 - (b) as to the extent to which they are subject to stress (that is, the extent to which harm to the water source or its dependent ecosystems has occurred or is occurring),
 - (c) as to the extent to which they are high conservation value water sources (that is, the extent to which they have intrinsic value that merits a higher degree of protection from risk and stress).
- (3) It is the intention of Parliament that:
- (a) the water sources of the State be classified in accordance with this section as soon as practicable after the commencement of this Act, and
 - (b) in establishing management plans and a Minister's plan under this Act, plans are to be prepared first for high risk, high stress and high conservation value water sources.

Part 2 Management committees

8 Constitution of water management areas

- (1) The Minister may, by order published in the Gazette, constitute any land as a water management area.
- (2) An order under this section must name the area and fix its boundaries.

9 Establishment of management committees

- (1) The Minister may, by order published in the Gazette:
 - (a) establish a management committee to carry out a specific task in relation to water management in a water management area, and
 - (b) set terms of reference in accordance with which the committee is to carry out that task.
- (2) The task for which a management committee is appointed may relate to any aspect of water management, including (without limitation) water sharing, water source protection, floodplain management and drainage management.
- (3) At any time the Minister may, by order published in the Gazette, abolish a management committee, and may do so whether or not it has completed the task for which it was established.
- (4) Nothing in this section prevents the establishment of two or more committees for the same water management area so long as they do not have overlapping functions.

10 Membership of committee

- (1) A management committee consists of at least 10, but not more than 20, members appointed by the Minister, of whom:
 - (a) at least two are to be persons appointed to represent the interests of environmental protection groups, and
 - (b) at least two are to be persons appointed to represent the interests of water user groups, and
 - (c) at least two are to be persons appointed to represent the interests of local councils, and

(d)	at least one is to be a person appointed to represent the interests of catchment management boards and trusts, and	1 2
(e)	at least one is to be an Aboriginal person appointed to represent the interests of Aboriginal persons, and	3 4
(f)	at least one is to be a member of staff of the Department, and	5
(g)	such other persons as are appointed to represent such interests as the Minister considers require representation, and	6 7
(h)	one is to be a person (not being a member of staff of the Department and not being associated with any of the interests referred to above) who is appointed as an independent chairperson for the committee.	8 9 10 11
(2)	The regulations may make provision with respect to qualifications for appointment as a member of a management committee.	12 13
(3)	Schedule 6 has effect with respect to the constitution and procedure of a management committee.	14 15
11	Functions of management committees	16
(1)	The principal function of a management committee is to carry out the task for which it is appointed.	17 18
(2)	The task for which a committee is appointed may include any one or more of the following:	19 20
(a)	to prepare a draft management plan for the water management area,	21 22
(b)	to review a management plan that is in force for the water management area,	23 24
(c)	to investigate such matters affecting the management of the water management area as the Minister refers to it for investigation,	25 26 27
(d)	to report to the Minister on such matters affecting the management of the water management area as the Minister refers to it for report,	28 29 30
(e)	to advise the Minister on such matters affecting the management of the water management area as the Minister refers to it for advice.	31 32 33

Clause 11	Water Management Bill 2000
Chapter 2	Water management planning
Part 2	Management committees

(3) It is the duty of a management committee to exercise its functions	1
consistently with the principles of ecologically sustainable	2
development.	3

Part 3 Management plans

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Division 1 Preliminary

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12 Preparation of draft management plan

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- (1) The Minister may, by the order by which a management committee is established or by a subsequent order in writing:
- (a) direct the committee to prepare a draft management plan, and review any related implementation program, on any aspect of water management, including (but not limited to):
- (i) water sharing, and
- (ii) water source protection, and
- (iii) drainage management, and
- (iv) floodplain management, and
- (b) set terms of reference in accordance with which such a plan is to be prepared.
- (2) A management committee to which such an order is given is to prepare a draft management plan in accordance with the terms of reference specified in the order.
- (3) If the management committee fails to prepare a draft management plan in accordance with its terms of reference, the Minister may do so instead.

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13 Management plan to be consistent with other instruments

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- (1) A draft management plan must not be inconsistent with:
- (a) government policy, or
- (b) government obligations arising under any inter-governmental agreement to which the government is a party, including the Murray–Darling Basin Agreement referred to in the *Murray–Darling Basin Act 1992*, or
- (c) government obligations arising in connection with any international agreement to which the government of the Commonwealth is a party, or
- (d) any State environmental planning policy under the *Environmental Planning and Assessment Act 1979*, or

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Clause 13	Water Management Bill 2000
Chapter 2	Water management planning
Part 3	Management plans
Division 1	Preliminary

(e)	any catchment management strategy under the <i>Catchment Management Act 1989</i> , or	1 2
(f)	any protection of the environment policy under the <i>Protection of the Environment Operations Act 1997</i> , or	3 4
(g)	any regulation under the <i>Sydney Water Catchment Management Act 1998</i> , the <i>Sydney Water Act 1994</i> , the <i>Hunter Water Act 1991</i> or the <i>Googong Dam Catchment Area Act 1975</i> .	5 6 7
(2)	For the purposes of subsection (1), government policy includes such matters as are declared by the regulations to be government policy.	8 9
14	Provisions applicable to all management plans	10
	A management plan for a water management area may contain the following kinds of provisions:	11 12
(a)	provisions with respect to the preservation and enhancement of the quality of water in the water sources in the area,	13 14
(b)	provisions with respect to the kinds of monitoring and reporting requirements that should be imposed as conditions of approvals having effect within the area,	15 16 17
(c)	provisions with respect to the conditions to which access licences and approvals having effect within the area are to be subject (mandatory conditions),	18 19 20
(d)	provisions indicating the circumstances in which, the matters in respect of which and the extent to which the management plan may be amended by the Minister during the period for which it is in force,	21 22 23 24
(e)	provisions with respect to such other matters as may be authorised by the regulations.	25 26
15	Socio-economic impact	27
	In formulating a draft management plan, the management committee must have due regard to the socio-economic impacts of the proposals considered for inclusion in the draft plan.	28 29 30

Division 2	Water sharing	1
16	Application of Division	2
	This Division applies to a management plan to the extent to which it deals with water sharing.	3 4
17	Core provisions	5
(1)	A management plan for a water management area must have the following provisions:	6 7
(a)	provisions that establish environmental water principles for the area,	8 9
(b)	provisions that identify requirements for water within the area to satisfy basic landholder rights,	10 11
(c)	provisions that identify requirements for water for extraction under access licences,	12 13
(d)	provisions that identify the existing stress, the potential risk and the intrinsic conservation value of the various water sources in the area,	14 15 16
(e)	provisions that establish a bulk access regime for the extraction of water under access licences, having regard to the provisions referred to in paragraphs (a)–(d).	17 18 19
(2)	The bulk access regime referred to in subsection (1) (e):	20
(a)	must recognise the effect of climatic variability on the availability of water, and	21 22
(b)	may establish rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water.	23 24 25
(3)	The rules referred to in subsection (2) must comply with the priorities established under Division 1 of Part 2 of Chapter 3.	26 27
18	Additional provisions	28
(1)	A management plan for a water management area may also contain the following kinds of provisions:	29 30
(a)	provisions with respect to:	31

Clause 18	Water Management Bill 2000
Chapter 2	Water management planning
Part 3	Management plans
Division 2	Water sharing

(i)	the rate at which water may be taken from any water source in the area, or	1
(ii)	the quantity of water that may be taken from any water source in the area,	2
(b)	provisions with respect to the kinds of water supply works that may be constructed and used in the area,	3
(c)	provisions with respect to:	4
(i)	the rate at which water may be applied to land in any specified zone in the area, or	5
(ii)	the quantity of water that may be applied to land in any specified zone in the area,	6
(d)	provisions establishing transfer rules for the area.	7
(2)	The transfer rules referred to in subsection (1) (d) must comply with the Minister's transfer principles.	8

Division 3 Water source protection 15

19 Application of Division 16

This Division applies to a management plan to the extent to which it deals with water source protection. 17

20 Water source protection zones 19

(1)	A management plan for a water management area may contain the following provisions:	20
(a)	provisions identifying zones (<i>water source protection zones</i>) in which controlled activities must be regulated in order to discourage unacceptable effects on the water sources of the area,	21
(b)	provisions limiting the exercise of basic landholder rights within a water source protection zone.	22
(2)	A management plan that contains provisions of the kind referred to in subsection (1) may, but need not, contain a provision declaring that the plan is to have the same effect as a regional environmental plan under the <i>Environmental Planning and Assessment Act 1979</i> .	23

- (3) Subject to the regulations: 1
- (a) a management plan that contains a provision of the kind 2
referred to in subsection (2) (a *deemed regional environmental* 3
plan) is taken to be a regional environmental plan, and prevails 4
over any other environmental planning instrument (other than 5
a State environmental planning policy) to the extent of any 6
inconsistency, and 7
 - (b) the Minister is taken to be the consent authority under the 8
Environmental Planning and Assessment Act 1979 in respect of 9
all development to which the plan relates. 10

Division 4 Drainage management 11

21 Application of Division 12

This Division applies to a management plan to the extent to which it 13
deals with drainage management. 14

22 Drainage management principles 15

The following principles are drainage management principles for the 16
purposes of this Act: 17

- (a) the principle that wetting regimes in wetlands and related 18
ecosystems should be maintained, 19
- (b) the principle that habitats, animals (including fish) and plants 20
should be preserved, 21
- (c) the principle that groundwater dependent ecosystems should be 22
maintained, 23
- (d) the principle that geographical and other features of special 24
significance to Aboriginal culture should be protected, 25
- (e) the principle that drainage should not be permitted to have an 26
adverse impact on water users, 27
- (f) the principle that drainage should not be permitted to cause or 28
exacerbate soil erosion, salinity or acidity, 29
- (g) the principle that drainage should not be permitted to cause or 30
exacerbate wastage of otherwise useable water. 31

Clause 23	Water Management Bill 2000
Chapter 2	Water management planning
Part 3	Management plans
Division 4	Drainage management

23	Core provisions	1
(1)	A management plan for a water management area must have the following provisions:	2
		3
(a)	provisions that identify existing drainage works within the area and the way in which they are managed,	4
		5
(b)	provisions that identify the impact of the existing drainage works on the environment, including their impact on:	6
		7
(i)	natural surface flows, and	8
(ii)	groundwater, and	9
(iii)	soil erosion, salinity and acidity,	10
(c)	provisions that, having regard to existing drainage works in the area, propose measures to be adopted to promote the drainage management principles.	11
		12
		13
(2)	The measures proposed by the plan may include measures for the construction of new drainage works and the modification or removal of existing drainage works.	14
		15
		16
24	Management plan to be consistent with drainage management principles	17
		18
	A management plan for drainage must be not be inconsistent with the drainage management principles.	19
		20
Division 5	Floodplain management	21
25	Application of Division	22
	This Division applies to a management plan to the extent to which it deals with floodplain management.	23
		24
26	Floodplain management principles	25
	The following principles are floodplain management principles for the purposes of this Act:	26
		27
(a)	the principle that the existing and future risk to human life and property arising from occupation of floodplains should be minimised,	28
		29
		30
(b)	the principle that the environment should be protected, in particular in relation to:	31
		32
(i)	the passage, flow and distribution of floodwater, and	33

(ii)	existing dominant floodways and exits from floodways, and	1
(iii)	rates of flow, floodwater levels and duration of inundation, and	2
(iv)	downstream water flows,	3
(c)	the principle that natural flood regimes in wetlands and related ecosystems should be maintained,	4
(d)	the principle that habitats, animals (including fish) and plants that benefit from periodic flooding should be preserved,	5
(e)	the principle that geographical and other features of special significance to Aboriginal culture should be protected.	6
27	Core provisions	7
(1)	A management plan for a floodplain must have the following provisions:	8
(a)	provisions that identify the natural flooding regime in the floodplain, in terms of the frequency, duration, nature and extent of flooding and the risk to life and property from the effects of flooding,	9
(b)	provisions that identify the ecological benefits of flooding in the floodplain, with particular regard to wetlands and other floodplain ecosystems,	10
(c)	provisions that identify existing flood works in the floodplain, their benefits in terms of the protection they give to life and property and their environmental impact.	11
(2)	Measures proposed by a management plan may include measures for the construction of new flood works, the modification or removal of existing flood works and the control of activities that may affect, or to be affected by, the frequency, duration, nature or extent of flooding within the floodplain.	12
28	Management plan to be consistent with floodplain management principles	13
	A management plan for a floodplain must be not be inconsistent with:	14
(a)	the floodplain management principles, or	15
(b)	the general principles and policies set out in the <i>Floodplain Development Manual</i> .	16

Clause 29	Water Management Bill 2000
Chapter 2	Water management planning
Part 3	Management plans
Division 6	Procedures for making management plans

Division 6	Procedures for making management plans	1
29	Format of management plan	2
(1)	A management plan must include the following components:	3
(a)	a vision statement,	4
(b)	objectives consistent with the vision statement,	5
(c)	strategies for reaching those objectives,	6
(d)	performance indicators to measure the success of those strategies.	7 8
(2)	In the case of a water management area for which an equivalent management plan is already in force, the draft management plan may be in the form of:	9 10 11
(a)	an amendment to the existing management plan, or	12
(b)	a new plan to replace the existing management plan.	13
(3)	Subject to subsections (1) and (2), the format of a management plan is to be as determined by the Minister.	14 15
30	Notification of certain persons and bodies	16
(1)	In preparing a draft management plan, the following information must be notified to each person or body referred to in subsection (2):	17 18
(a)	the general aims and objectives of the draft plan,	19
(b)	a description of the water management area to which the draft plan is intended to apply,	20 21
(c)	such other matters as the Minister thinks fit.	22
(2)	The persons and bodies to be notified are as follows:	23
(a)	each local council within whose area the water management area is located,	24 25
(b)	each catchment management committee and catchment management trust within whose area of operations the water management area is located,	26 27 28
(c)	each holder of an access licence or approval who may be affected by the plan,	29 30
(d)	such other persons or bodies as the Minister may determine in relation to the plan.	31 32

(3) Failure to notify a person or body referred to in subsection (2) does not affect the validity of a management plan.	1 2
(4) A person to whom information is notified under this section may make written submissions to the Minister in relation to the preparation of the draft management plan within 28 days (or such longer period as may be determined by the Minister) after the information is notified.	3 4 5 6
31 Reference of draft management plan to Minister	7
(1) After a draft management plan has been prepared, including a draft management plan that has been referred back to it under this section, the management committee must submit the plan to the Minister.	8 9 10
(2) If the Minister is of the opinion that the draft plan does not comply with the requirements of this Part, the Minister is to refer the draft plan back to the management committee for further consideration.	11 12 13
(3) This section does not apply to a draft management plan prepared by the Minister.	14 15
32 Public exhibition of draft management plan	16
(1) Once the Minister is satisfied that a draft management plan is suitable for public exhibition, the Minister:	17 18
(a) must give public notice of the draft plan, and	19
(b) must exhibit the draft plan (together with such other information as is appropriate or necessary to enable the draft plan and its implications to be understood) at the places, on the dates and during the times set out in the notice.	20 21 22 23
(2) The public notice referred to in subsection (1) (a):	24
(a) must specify the places at which, the dates on which, and the times during which, the draft plan may be inspected by the public, and	25 26 27
(b) must specify a period of at least 40 days during which submissions may be made to the Minister in relation to the plan (the <i>submission period</i>), and	28 29 30
(c) must be published in a daily newspaper circulating throughout New South Wales and in a local newspaper.	31 32

Clause 33	Water Management Bill 2000
Chapter 2	Water management planning
Part 3	Management plans
Division 6	Procedures for making management plans

33	Submissions on draft management plan	1
(1)	During the submission period, any person may make written submissions to the Minister on the draft management plan.	2 3
(2)	The Minister must send a copy of each such submission to the management committee by which the plan was prepared.	4 5
(3)	Subsection (2) does not apply to a draft management plan prepared by the Minister.	6 7
34	Resubmission of draft management plan to Minister	8
(1)	As soon as practicable after completing its consideration of any submissions received by it, the management committee must resubmit the draft management plan to the Minister together with the committee's comments on the submissions.	9 10 11 12
(2)	Before making any alterations to the draft management plan, the Minister must consult with the management committee.	13 14
(3)	This section does not apply to a draft management plan prepared by the Minister.	15 16
35	Making of management plan	17
(1)	After complying with the requirements of this Part, the Minister:	18
(a)	may make a management plan in accordance with the draft plan, as finally submitted to the Minister, or	19 20
(b)	may make a management plan in accordance with the draft plan, as finally submitted to the Minister, but with such alterations as the Minister thinks fit, or	21 22 23
(c)	may cause the draft management plan to be re-exhibited (with such alterations as the Minister thinks fit) and resubmitted in accordance with this Part, or	24 25 26
(d)	may decide not to proceed with the draft management plan.	27
(2)	Before making a management plan, the Minister must obtain the concurrence of the Minister for the Environment to the making of the plan.	28 29 30
(3)	A management plan commences on the date on which it is published in the Gazette or on such later date as may be specified in the plan.	31 32

36	Amendment and repeal of management plans	1
(1)	A management plan may be amended by a subsequent management plan made in accordance with this Part.	2 3
(2)	A management plan may also be amended by the Minister, by notice published in the Gazette, but only in such circumstances, in relation to such matters and to such extent as the plan so provides.	4 5 6
(3)	The amendment of a management plan under subsection (2) takes effect on the date of publication of the relevant notice or a later date specified in the notice.	7 8 9
37	Duration of management plans	10
(1)	Subject to this section, a management plan has effect for 5 years from the date on which it is made.	11 12
(2)	Within the fifth year after it was made, the Minister is to review each management plan for the purpose of ascertaining whether its provisions remain adequate and appropriate.	13 14 15
(3)	Such a review is to be conducted in consultation with the Minister for the Environment.	16 17
(4)	If following a review under this section the Minister is satisfied that its provisions remain adequate and appropriate, the Minister may, by notice published in the Gazette, extend the term of the plan by up to 5 years.	18 19 20 21
(5)	The power conferred on the Minister by subsection (4) may be exercised only once in relation to any particular management plan.	22 23
Division 7	Amendment of management plans by Minister	24
38	Amendment of management plans in relation to bulk access regimes	25
	The Minister may, by order published in the Gazette, vary the bulk access regime established by a management plan if satisfied that it is in the public interest to do so.	26 27 28

Clause 39	Water Management Bill 2000
Chapter 2	Water management planning
Part 3	Management plans
Division 8	Miscellaneous

Division 8	Miscellaneous	1
39	Validity of management plans	2
	The validity of a management plan may not be called into question in any legal proceedings other than those commenced in the Land and Environment Court within 3 months after the date of its publication in the Gazette.	3 4 5 6
40	Effect of management plans on exercise of Minister's functions	7
	When exercising functions under this Act, the Minister must take all reasonable steps to give effect to the provisions of any management plan and, in particular, to ensure that any environmental water principles established by the plan are observed.	8 9 10 11
41	Consideration of management plans by public authorities	12
(1)	When exercising its functions, a public authority must have regard to the provisions of any management plan to the extent to which they apply to the public authority.	13 14 15
(2)	For the purposes of this section, a management plan may be expressed so as to apply:	16 17
(a)	to a specified public authority, to a specified class of public authorities or to public authorities generally, and	18 19
(b)	to a specified function, to a specified class of functions or to functions generally.	20 21
(3)	This section neither restricts a public authority's statutory discretions nor authorises a public authority to do anything inconsistent with its statutory or other legal obligations.	22 23 24

Part 4 Minister's plans

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42 Minister's plans

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(1) The Minister may, by order published in the Gazette, make a plan (a *Minister's plan*):

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(a) for any part of the State that is not within a water management area, or

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(b) for any water management area, or part of a water management area, for which a management plan is not in force, or

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(c) for any water management area, or part of a water management area, for which a management plan is in force, but only so as to deal with matters not dealt with by the management plan.

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(2) A Minister's plan must deal with any matters that a management plan is required to deal with, and may also deal with any other matters that a management plan is authorised to deal with, other than matters that are already dealt with by a management plan.

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(3) Before making a plan that establishes environmental water principles, the Minister must obtain the concurrence of the Minister for the Environment to the establishment of those principles.

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(4) A Minister's plan may not be made for the purpose of establishing water source protection zones.

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(5) Except to the extent to which this Act otherwise provides, a Minister's plan has the same effect as a management plan.

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(6) The Minister must cause each Minister's plan to be periodically reviewed at intervals of not more than 5 years.

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Part 5 Implementation programs

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| 43 | Implementation programs | 2 |
| (1) | The Minister may, by order in writing, establish a program for implementing a management plan or Minister's plan (an <i>implementation program</i>). | 3
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| (2) | Before establishing the first implementation program for a management plan, the Minister must consult with the management committee by which the plan was prepared. | 6
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| (3) | An implementation program must set out the means by which the Minister intends that the objectives of the relevant management plan or Minister's plan are to be achieved. | 9
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| (4) | On establishing an implementation program, the Minister must ensure that: | 12
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| | (a) notice of that fact is published (in a local newspaper and in such other manner as the Minister considers appropriate) to persons in the area to which the program relates, and | 14
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| | (b) copies of the program (as currently in force) are made available for inspection during normal office hours, free of charge, at suitable locations within the area. | 17
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19 |
| (5) | The Minister is to ensure that the implementation program is reviewed each year for the purpose of determining whether the implementation program is effective in implementing the management plan or Minister's plan to which it relates. | 20
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22
23 |
| (6) | The results of each review under this section are to be included in the annual report for the Department under the <i>Annual Reports (Departments) Act 1985</i> . | 24
25
26 |

Chapter 3	Water management implementation	1
Part 1	Basic landholder rights	2
Division 1	Domestic and stock rights	3
44	Domestic and stock rights	4
(1)	A landholder is entitled, without the need for an access licence, water supply work approval or water use approval:	5
(a)	to take water from any river, estuary or lake to which the land has frontage or from any aquifer underlying the land, and	6
(b)	to construct and use a water supply work for that purpose, and	7
(c)	to use the water so taken for domestic consumption and stock watering, but not for any other purpose.	8
(2)	Subsection (1) does not authorise a landholder to construct a dam or water bore without a water supply work approval.	9
(3)	The maximum amount of water that can be used by a landholder for domestic consumption or stock watering in any one year is the amount prescribed by the regulations.	10
(4)	This section is subject to any deemed regional environmental plan.	11
(5)	In this section:	12
	<i>domestic consumption</i> , in relation to land, means consumption for normal household purposes (including garden watering) in domestic premises situated on the land.	13
	<i>stock watering</i> , in relation to land, means the watering of stock being raised on the land, but does not include the use of water in connection with intensive animal husbandry.	14

Clause 45	Water Management Bill 2000
Chapter 3	Water management implementation
Part 1	Basic landholder rights
Division 2	Harvestable rights

Division 2	Harvestable rights	1
45	Harvestable rights	2
(1)	A landholder within a harvestable rights area is entitled, without the need for any access licence, water supply work approval or water use approval:	3
		4
		5
(a)	to construct and use a dam for the purpose of capturing and storing rainwater run-off, and	6
		7
(b)	to use water that has been captured and stored by a dam so constructed,	8
		9
	in accordance with the harvestable rights order by which the area is constituted.	10
		11
(2)	A single dam may be used both for rainwater run-off that has been captured and other water that has been lawfully taken from a water source, but only if the harvestable rights order so provides.	12
		13
		14
(3)	This section does not allow a landholder:	15
(a)	to supply any other land with water that has been captured and stored under this section, or	16
		17
(b)	to construct or use a dam that obstructs the flow of a river, unless the river is declared by the relevant harvestable rights order to be a minor stream for the purposes of this Division.	18
		19
		20
(4)	This section is subject to any deemed regional environmental plan.	21
46	Harvestable rights orders	22
(1)	The Minister may, by order published in the Gazette, constitute any land as a harvestable rights area and may, by the same or a subsequent order so published, name the area and fix its boundaries.	23
		24
		25
(2)	The order by which a harvestable rights area is constituted must specify the following:	26
		27
(a)	the proportion of the average rainwater run-off that may be captured by landholders in the area (being no less than 10% of that average),	28
		29
		30
(b)	the procedures to be followed for calculating the average rainwater run-off for a landholding in the area.	31
		32

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- (3) The order may allow an existing dam to be used both for rainwater run-off that has been captured and other water that has been lawfully taken from a water source. 1
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3
- (4) The order may also deal with the following matters: 4
- (a) the types and locations of dams that may be used by a landholder to capture and store rainwater run-off, 5
6
- (b) the means by which the maximum capacity of a dam that may be used by a landholder to capture and store rainwater run-off is to be calculated, 7
8
9
- (c) the arrangements that may be made by landholders of adjoining land for the shared use of a single dam for the capture of rainwater run-off, 10
11
12
- (d) such other matters as are necessary or convenient to give effect to the order. 13
14
- (5) For the purpose of calculating any matter under an order under this section, a reference in the order to an area of land is, in the case of land that is valued under the *Valuation of Land Act 1916*, a reference to the area of a portion or parcel of land that is separately valued under that Act. 15
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- (6) An order under this section may deal with any matter by reference to a map held in the head office of the Department. 20
21
- (7) Any map that is so referred to is to be available for public inspection, free of charge, during normal office hours at the head office of the Department and at the regional office for the area to which the relevant order relates. 22
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Clause 47	Water Management Bill 2000
Chapter 3	Water management implementation
Part 2	Access licences
Division 1	Preliminary

Part 2 Access licences	1
Division 1 Preliminary	2
47 Access licences	3
(1) An access licence entitles its holder:	4
(a) to specified shares in the available water within a specified water management area or from a specified water source (the <i>share component</i>), and	5 6 7
(b) to take that share of water at specified times, at specified rates, in specified circumstances or in specified zones or locations, or in any combination of these (the <i>extraction component</i>).	8 9 10
(2) Without limiting subsection (1) (a), the share component of an access licence may be expressed:	11 12
(a) as a specified volume over a specified period, or	13
(b) as a specified proportion of the storage capacity of a dam or other storage work.	14 15
(3) Shares in available water may be allocated generally or to specified categories of access licence.	16 17
(4) The Minister may, by order published in the Gazette, declare that the access licences for specified water management areas are to be issued separately for the share components and extraction components.	18 19 20
(5) In the case of a water management area for which separate access licences are issued for the share component and extraction component, any requirement of this or any other Act for a person to be the holder of an access licence is taken to be a requirement for the person to be the holder of both an access licence for the share component and an access licence for the extraction component.	21 22 23 24 25 26
(6) For the purposes of this Act, the entitlements under an access licence are referred to as the <i>water allocation</i> under the licence.	27 28
48 Categories of licence	29
There are the following categories of access licence:	30
(a) local water utility access licences,	31

- (b) major utility access licences, 1
- (c) regulated river (high security) access licences, 2
- (d) regulated river (general security) access licences, 3
- (e) regulated river (opportunistic water) access licences, 4
- (f) unregulated river access licences, 5
- (g) aquifer access licences, 6
- (h) estuarine water access licences, 7
- (i) coastal water access licences, 8
- (j) such other categories of access licence as may be prescribed by the regulations. 9
10

Note. Local water utility access licences and major utility access licences will be held by local water utilities and major utilities, respectively. Those utilities (like anyone else) may also hold other categories of access licences. However, an access licence does not become a local water utility access licence or major utility access licence merely because it is held by a local water utility or major utility. 11
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49 Priorities between different categories of licence 16

- (1) For the purposes of this Act, the following priorities are to be observed in relation to access licences: 17
18
 - (a) local water utility access licences and major utility access licences have priority over all other access licences, 19
20
 - (b) regulated river (high security) access licences have priority over regulated river (general security) access licences and regulated river (opportunistic water) access licences, 21
22
23
 - (c) regulated river (general security) access licences have priority over regulated river (opportunistic water) access licences. 24
25
- (2) If one access licence (the *higher priority licence*) has priority over another access licence (the *lower priority licence*), then if the water allocations under them have to be diminished, the water allocations of the higher priority licence are to be diminished at a lesser rate than the water allocations of the lower priority licence. 26
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50 Available water determinations 31

- (1) From time to time the Minister may, by order in writing, determine the amount of water that is available in a specified water management area or water source. 32
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Clause 50	Water Management Bill 2000
Chapter 3	Water management implementation
Part 2	Access licences
Division 1	Preliminary

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| (2) | A determination under this section (a <i>general determination</i>) must be consistent with: | 1 |
| | | 2 |
| (a) | any relevant management plan or Minister's plan, and | 3 |
| (b) | any relevant implementation plan. | 4 |
| (3) | The regulations may make provision for or with respect to the manner in which a determination under this section is to be publicly notified. | 5 |
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Division 2	Granting and renewal of access licences	7
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51	Granting and renewal of access licences	8
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| (1) | Subject to any embargo, any person may apply to the Minister for an access licence. | 9 |
| | | 10 |
| (2) | In the case of an application under subsection (1) for an access licence: | 11 |
| (a) | for water in an area that is not within a water management area, | 12 |
| | or | 13 |
| (b) | for water in a water management area for which there is no water sharing management plan in force, | 14 |
| | | 15 |
| | the Minister must cause the application to be advertised in accordance with the regulations. | 16 |
| | | 17 |
| (3) | The holder of an access licence may, at any time within the 12 months before the access licence expires, apply to the Minister for a renewal of the access licence. | 18 |
| | | 19 |
| | | 20 |

52	Objections to granting of access licences	21
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| (1) | Any person may, in accordance with the regulations, object to the granting of an access licence: | 22 |
| | | 23 |
| (a) | for water in an area that is not within a water management area, | 24 |
| | or | 25 |
| (b) | for water in a water management area for which there is no water sharing management plan in force. | 26 |
| | | 27 |
| (2) | The Minister must inform the applicant for the access licence of the grounds of any objection to the granting of the licence and must allow the applicant a specified time within which to make a written response to the Minister in relation to the objection. | 28 |
| | | 29 |
| | | 30 |
| | | 31 |

- (3) The Minister: 1
 - (a) may require an objector or applicant to provide additional 2
information within a specified time if of the opinion that 3
additional information would be relevant to consideration of the 4
objection or response, and 5
 - (b) may delay consideration of the objection or response until the 6
information is provided or, if the information is not provided 7
within the time specified, may refuse to consider the objection 8
or response. 9
 - (4) If there is a deficiency in an objection or response, the Minister may 10
notify the objector or applicant accordingly and allow further time to 11
enable the deficiency to be rectified. 12
 - (5) Before making a decision on an application for an access licence in 13
respect of which any objection has been made, the Minister must 14
endeavour to resolve the issues raised by the objection by means of 15
consultation with the applicant and the objector, with a view to 16
reaching agreement on the matters raised by the objection. 17
 - (6) For the purpose of reaching such an agreement, the Minister may 18
propose that the matters raised by the objection be dealt with by way 19
of mediation or neutral evaluation involving an independent mediator 20
or evaluator selected by agreement between the applicant, the objector 21
and the Minister. 22
 - (7) An application or objection may be dismissed by the Minister if the 23
applicant or objector, as the case may be, fails to participate in any 24
mediation or neutral evaluation proceedings referred to in subsection 25
(6). 26
- 53 Determination of applications** 27
- (1) The Minister may determine an application for an access licence by 28
granting or refusing to grant the licence. 29
 - (2) An access licence is not to be granted unless the Minister is satisfied 30
that: 31
 - (a) the granting of an access licence, or an access licence of the 32
category to which the application relates, is permitted by the 33
relevant provisions of a management plan or Minister's plan, 34
and 35

Clause 53	Water Management Bill 2000
Chapter 3	Water management implementation
Part 2	Access licences
Division 2	Granting and renewal of access licences

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| (b) | adequate arrangements are in force to ensure that minimal harm will be done to any water source as a consequence of water being taken from the water source under the licence. | 1 |
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54	Notice of decision	4
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	After determining an application under this Division, the Minister must cause notice of the determination to be given to the applicant and, if the application relates to:	5
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|-----|---|----|
| (a) | an area that is not within a water management area, or | 8 |
| (b) | a water management area for which there is no water sharing management plan in force, | 9 |
| | | 10 |

	to each person who has made an objection in connection with the application.	11
		12

55	Controlled allocation of access licences	13
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| (1) | The Minister may, by order published in the Gazette: | 14 |
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| (a) | impose an embargo on applications for access licences for a specified water management area, and | 15 |
| | | 16 |
| (b) | declare that access licences for that area are to be allocated by auction, tender or any other means specified in the order. | 17 |
| | | 18 |

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| (2) | While such an order is in force, access licences for the water management area to which the order relates are to be allocated in accordance with the terms of the order and not otherwise. | 19 |
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Division 3	Conditions and duration of access licences	22
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56	Conditions of access licence	23
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| (1) | An access licence is subject to: | 24 |
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| (a) | such conditions as are from time to time required to be imposed on the access licence by the relevant management plan or Minister's plan (<i>mandatory conditions</i>), and | 25 |
| | | 26 |
| | | 27 |
| (b) | such other conditions as the Minister may from time to time impose on the access licence (<i>discretionary conditions</i>). | 28 |
| | | 29 |

(2) A mandatory condition prevails over a discretionary condition to the extent of any inconsistency between them.	1 2
Note. If a management plan or Minister's plan is replaced or amended during the term of an access licence, the mandatory conditions applying to the access licence may vary.	3 4 5
57 Imposition of conditions after access licence is granted	6
(1) Discretionary conditions may not be imposed on an access licence after it has been granted unless the Minister:	7 8
(a) has given written notice to the holder of the access licence that the Minister proposes to impose such conditions, and	9 10
(b) has given the holder of the access licence a reasonable opportunity to make submissions to the Minister with respect to the proposed conditions, and	11 12 13
(c) has taken any such submissions into consideration.	14
(2) Subsection (1) does not apply to conditions imposed on an access licence at the request of the holder of the access licence.	15 16
(3) The Minister must cause written notice of any discretionary conditions imposed on an access licence after the time it is granted to be served on the holder of the access licence.	17 18 19
(4) A discretionary condition referred to in subsection (3) takes effect on the day on which the notice referred to in that subsection is served on the holder of the access licence or on such later day as may be specified in the notice in that regard.	20 21 22 23
58 Revocation of conditions	24
The Minister may at any time revoke any discretionary conditions to which an access licence is subject, whether or not on the application of the holder of the access licence.	25 26 27
59 Duration of access licences	28
An access licence has effect for such period as may be specified in the licence in that regard, being a period not exceeding:	29 30
(a) 20 years, in the case of a local water utility access licence or major utility access licence, or	31 32

Clause 59	Water Management Bill 2000	
Chapter 3	Water management implementation	
Part 2	Access licences	
Division 3	Conditions and duration of access licences	

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| (b) | 2 years, in the case of a regulated river (opportunistic water) access licence, or | 1
2 |
| (c) | 15 years, in any other case. | 3 |

Division 4	Access licence transfers	4
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60	Transfer principles	5
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The Minister may, by order published in the Gazette, establish transfer principles for the purposes of this Division.	6 7
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61	Transfer of access licences	8
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| (1) | The parties to a proposed transfer of an access licence may apply to the Minister for consent to the transfer. | 9
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| (2) | The application may relate to: | 11 |
| (a) | the whole of the access licence for the whole of the period for which the access licence is in force, or | 12
13 |
| (b) | the whole of the access licence for part only of the period for which the access licence is in force, or | 14
15 |
| (c) | part only of the access licence for the whole of the period for which the access licence is in force, or | 16
17 |
| (d) | part only of the access licence for part only of the period for which the access licence is in force. | 18
19 |
| (3) | An application under this section is to be dealt with in accordance with the local transfer rules. | 20
21 |
| (4) | Despite subsections (1), (2) and (3): | 22 |
| (a) | the maximum period for which a local water utility access licence or major utility access licence may be transferred is one year, and | 23
24
25 |
| (b) | a regulated river (opportunistic water) access licence may not be transferred unless such a transfer is permitted by the relevant management plan or Minister's plan. | 26
27
28 |
| (5) | On completing a transfer to which consent has been given under this section, the parties to the transfer must cause notice of that fact to be given to the Minister. | 29
30
31 |

- (6) The transfer takes effect on the date on which details of the transfer are entered on the register of access licences. 1
2

62 Water allocations may be transferred 3

- (1) The water allocations conferred by an access licence may be transferred in accordance with this section. 4
5
(2) Two or more holders of access licences may apply to the Minister for the transfer of water allocations between their respective access licences. 6
7
8
(3) An application under this section is to be dealt with in accordance with the local transfer rules. 9
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63 Interstate transfers 11

- (1) The Minister may enter into an agreement with a Minister of a participating State or Territory for the interstate transfer of access licences and their corresponding interstate equivalents. 12
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14
(2) Any interstate equivalent to an access licence that is transferred in accordance with such an agreement so as to become available for use in New South Wales is taken to be an access licence for the purposes of this Act. 15
16
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18
(3) In this section, *participating State or Territory* means a State or Territory that has laws relating to the distribution of water rights that are declared by the regulations under this Act to be substantially similar to the provisions of this Act. 19
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Division 5 Water return flows 23

64 Water return flow rules 24

The Minister may, by order published in the Gazette, establish water return flow rules for the purposes of this Division. 25
26

65 Water allocations may be credited 27

- (1) Water allocations that have been used by the holder of an access licence may be regained in accordance with this section. 28
29
(2) The holder of an access licence may apply to the Minister for used water allocations to be recredited to the licence. 30
31

Clause 65	Water Management Bill 2000
Chapter 3	Water management implementation
Part 2	Access licences
Division 5	Water return flows

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| (3) An application under this section is to be dealt with in accordance with the water return flow rules. | 1 |
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Division 6	Surrender, suspension, cancellation and compulsory acquisition of access licences	3
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66	Surrender of access licences	5
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| (1) The holder of an access licence may surrender the licence at any time by notice in writing sent to the Minister. | 6 |
| | 7 |
| (2) The surrender takes effect on the date on which the notice is received by the Minister or such later date as is specified in the notice. | 8 |
| | 9 |

67	Suspension and cancellation of access licences	10
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| (1) The Minister may suspend or cancel an access licence on any one or more of the following grounds: | 11 |
| | 12 |
| (a) that the holder of the licence has failed to comply with the conditions to which the licence is subject, | 13 |
| | 14 |
| (b) that the holder of the licence has been convicted of an offence against this Act or the regulations, | 15 |
| | 16 |
| (c) if any charges payable in respect of the licence have not been paid. | 17 |
| | 18 |
| (2) Action under this section may not be taken in relation to an access licence unless the Minister: | 19 |
| | 20 |
| (a) has given written notice to the holder of the access licence that the Minister proposes to take such action, and | 21 |
| | 22 |
| (b) has given the holder of the access licence a reasonable opportunity to make submissions to the Minister with respect to the proposed action, and | 23 |
| | 24 |
| | 25 |
| (c) has taken any such submissions into consideration. | 26 |

68	Compulsory acquisition of access licences	27
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| (1) The Minister may, by notice in writing served on their holders, compulsorily acquire access licences if of the opinion that, in the special circumstances of the case, the public interest requires their compulsory acquisition. | 28 |
| | 29 |
| | 30 |
| | 31 |

Water Management Bill 2000	Clause 68
Water management implementation	Chapter 3
Access licences	Part 2
Surrender, suspension, cancellation and compulsory acquisition of access licences	Division 6

(2) A person from whom an access licence is compulsorily acquired is entitled to compensation from the State for the market value of the licence as at the time it was compulsorily acquired.	1 2 3
(3) The amount of compensation payable is to be determined by agreement between the Minister and the person entitled to compensation or, if agreement cannot be reached, is to be determined by the Valuer-General.	4 5 6 7
(4) A person who is dissatisfied with the amount of compensation offered to the person under this section, or with any delay in the payment of compensation, may appeal to the Land and Environment Court.	8 9 10
(5) The regulations may make provision for or with respect to the payment of compensation under this section.	11 12
(6) Nothing in this section prevents the Ministerial Corporation from acquiring an access licence by way of transfer.	13 14
(7) For the avoidance of doubt, it is declared that a reduction of the water allocations under an access licence as a consequence of a variation in the mandatory conditions of the licence does not constitute the compulsory acquisition of an access licence or any part of an access licence.	15 16 17 18 19

Division 7 Embargoes on applications for access licences 20

69 Temporary embargo	21
(1) The Minister may, by order published in the Gazette, declare an embargo on the making of applications for access licences with respect to any water management area.	22 23 24
(2) An order under this section may relate to all applications, to applications of a specified kind or to all applications other than applications of a specified kind.	25 26 27
(3) A copy of any order under this section is to be published in a local newspaper.	28 29
(4) An order under this section takes effect on the date on which it is published in the Gazette and, unless sooner revoked, expires at the end of 2 years after that date.	30 31 32

Clause 70	Water Management Bill 2000
Chapter 3	Water management implementation
Part 2	Access licences
Division 7	Embargoes on applications for access licences

70	Permanent embargo	1
(1)	The Governor may, by proclamation published in the Gazette, declare an embargo on the making of applications for access licences with respect to any water management area.	2 3 4
(2)	A proclamation under this section may relate to all applications, to applications of a specified kind or to all applications other than applications of a specified kind.	5 6 7
(3)	A copy of any proclamation under this section is to be published in a local newspaper.	8 9
(4)	A proclamation under this section takes effect on the date on which it is published in the Gazette and continues in force until it is revoked by a further proclamation so published.	10 11 12
71	Operation of embargo	13
(1)	An embargo does not apply to:	14
(a)	an application made before the embargo took effect, or	15
(b)	an application to amend an application made before the embargo took effect (other than an application to amend an application for an access licence in such a manner as to increase the amount of water sought by the proposed access licence), or	16 17 18 19
(c)	an application for a transfer of an access licence, or	20
(d)	any other application of a kind prescribed by the regulations.	21
(2)	An application to which an embargo relates is a nullity and is not revived merely because the embargo is subsequently revoked.	22 23
Division 8	Registers and registration	24
72	Register of access licences	25
(1)	The Minister is to cause a register to be kept of:	26
(a)	every application for an access licence that is duly made under this Act, and	27 28
(b)	every access licence that is granted, renewed, transferred, surrendered, suspended or cancelled under this Act.	29 30

(2) The regulations may make provision for or with respect to the form in which such a register is to be kept and the particulars that are to be recorded in such a register.	1 2 3
(3) The register must be made available at the head office of the Department for inspection, free of charge, by members of the public.	4 5
73 Register of available water determinations	6
(1) The Minister is to cause a register to be kept of each available water determination made under section 50.	7 8
(2) The regulations may make provision for or with respect to the form in which such a register is to be kept and the particulars that are to be recorded in such a register.	9 10 11
(3) The register must be made available at the head office of the Department for inspection, free of charge, by members of the public.	12 13
74 Water allocation accounts	14
(1) For each access licence, the Minister is to cause an account to be kept of:	15 16
(a) the water allocations that are acquired or accrued from time to time under the licence, and	17 18
(b) the water allocations that are used or transferred from time to time under the licence.	19 20
(2) The regulations may make provision for or with respect to the form in which such an account is to be kept and the particulars that are to be recorded in such an account.	21 22 23
75 Interest in access licence to be created by instrument in writing	24
(1) A legal or equitable interest in an access licence may not be created or disposed of except by instrument in writing.	25 26
(2) The creation of a legal or equitable interest in an access licence does not affect the liability of the holder of the licence for any breach of the conditions of the licence or of any of the provisions of this Act or the regulations.	27 28 29 30
76 Registration of certain interests	31
(1) Any person claiming a legal or equitable interest in an access licence may apply for registration of the interest.	32 33

Clause 76	Water Management Bill 2000
Chapter 3	Water management implementation
Part 2	Access licences
Division 8	Registers and registration

(2)	An application must be lodged with the Minister and accompanied by documentary evidence of the legal or equitable interest concerned.	1 2
(3)	On receipt of the application, particulars of the documentary evidence of the legal or equitable interest are to be entered in the register of access licences.	3 4 5
(4)	On application by the holder of the interest or otherwise, the Minister:	6
(a)	may make such amendments to the register as are appropriate to reflect dealings in the interest, and	7 8
(b)	may cancel the registration of the interest if satisfied that the interest has ceased to exist.	9 10
(5)	The registration of an interest under this section is not to be taken to be evidence of the existence of the interest.	11 12
(6)	For the purposes of any legal proceedings concerning an access licence:	13 14
(a)	a registered interest has priority over an unregistered interest, and	15 16
(b)	an earlier registered interest has priority over a later registered interest.	17 18

77	Devolution of rights of holder of access licence	19
	A person on whom the rights of the holder of an access licence have devolved by operation of law may apply to the Minister to have that person's name recorded as the holder of the licence and, if the Minister is satisfied that those rights have so devolved, the Minister may so record the name of the applicant.	20 21 22 23 24

Division 9	Compensation when management plan bulk access regime varied	25 26
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78	Compensation payable for reductions in water allocations arising from Minister's amendment of management plan	27 28
(1)	At the end of each prescribed period, each holder of an access licence (other than a regulated river (opportunistic water) access licence) whose water allocations have been adversely affected during that period as a consequence of the variation of a bulk access regime under	29 30 31 32

Water Management Bill 2000	Clause 78
Water management implementation	Chapter 3
Access licences	Part 2
Compensation when management plan bulk access regime varied	Division 9

section 38 may claim compensation for any loss suffered by the holder as a consequence of that reduction.	1
	2
(2) The regulations may make provision for or with respect to the manner and form in which such a claim is to be made.	3
	4
(3) The Minister, with the concurrence of the Treasurer, may determine whether or not compensation should be paid and, if so, the amount of any such compensation and the manner and timing of any such payments.	5
	6
	7
	8
(4) No appeal lies against any decision of the Minister or the Treasurer under this section, and any such decision is not to be called into question in any legal proceedings.	9
	10
	11
(5) Payment of compensation under this section is to be made out of the Consolidated Fund which is, to the extent necessary, appropriated accordingly.	12
	13
	14
(6) In this section, <i>prescribed period</i> means:	15
(a) in the case of access licences for a water management area for which a management plan is in force, the period during which that plan is in force, or	16
	17
	18
(b) in any other case, any of the successive periods of 5 years commencing on the date on which this section commences.	19
	20
Division 10 Miscellaneous	21
 79 Regulations	22
The regulations may make provision for or with respect to the following matters:	23
	24
(a) the procedures to be followed in relation to the making of applications under this Part,	25
	26
(b) the procedures to be followed in relation to the granting, renewal and transfer of access licences,	27
	28
(c) the procedures to be followed in relation to the transfer of water allocations under an access licence,	29
	30
(d) the procedures to be followed in relation to the recrediting of water allocations under an access licence.	31
	32

Clause 80	Water Management Bill 2000
Chapter 3	Water management implementation
Part 3	Approvals
Division 1	Preliminary

Part 3 Approvals	1
Division 1 Preliminary	2
80 Water use approvals	3
A water use approval confers a right on its holder to use water for a particular purpose at a particular location.	4 5
81 Water management work approvals	6
(1) There are three kinds of water management work approvals, namely, water supply work approvals, drainage work approvals and flood work approvals.	7 8 9
(2) A water supply work approval authorises its holder to construct and use a specified water supply work at a specified location.	10 11
(3) A drainage work approval confers a right on its holder to construct and use a specified drainage work at a specified location.	12 13
(4) A flood work approval confers a right on its holder to construct and use a specified flood work at a specified location within a floodplain.	14 15
82 Activity approvals	16
(1) There are two kinds of activity approvals, namely, controlled activity approvals and aquifer interference approvals.	17 18
(2) A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in waterfront land or at a specified location in a water source protection zone.	19 20 21
(3) An aquifer interference approval confers a right on its holder to penetrate or interfere with an aquifer at a specified location, or in a specified area, in the course of carrying out specified activities.	22 23 24
Note. Examples of where an aquifer interference approval may be needed include mining operations, road construction and any other large scale activity that involves excavation.	25 26 27

83 Exemption from requirement for approval	1
(1) The Minister may, by order in writing, exempt:	2
(a) any person or class of persons, or	3
(b) any works or class of works, or	4
(c) any controlled activity or class of controlled activities, or	5
(d) any building or class of buildings,	6
from the need for an approval.	7
(2) Unless sooner revoked, an order under this section has effect for such	8
period (not exceeding 3 years) as is specified in the order.	9
(3) In this section, <i>controlled activity</i> includes the activity of penetrating	10
an aquifer, or interfering with water in an aquifer or obstructing its	11
flow.	12

Division 2 Applications for approvals	13
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84 Applications for approvals	14
(1) An application for an approval must be made to the Minister in	15
accordance with the regulations.	16
(2) The regulations may require the application to be accompanied by a	17
management program for the land to which the application relates.	18
(3) An application may relate to more than one approval, whether of the	19
same or of a different kind, unless the Minister requires a separate	20
application to be made in relation to one or more of them.	21
(4) The Minister:	22
(a) may require an applicant for an approval to provide additional	23
information within a specified time if of the opinion that	24
additional information would be relevant to consideration of the	25
application, and	26
(b) may delay consideration of the application until the information	27
is provided or, if the information is not provided within the	28
time specified, may refuse to consider the application.	29
(5) The Minister may refuse to accept an application for an approval if it	30
appears to the Minister that the application is incomplete.	31

Clause 84	Water Management Bill 2000
Chapter 3	Water management implementation
Part 3	Approvals
Division 2	Applications for approvals

(6)	In the case of an application for a water use approval, the Minister must cause the application to be advertised in accordance with the regulations.	1 2 3
	Note. Approvals are listed in section 91 of the <i>Environmental Planning and Assessment Act 1979</i> . Development that requires an approval is consequently integrated development for the purposes of that Act.	4 5 6
85	Objections to applications for water use approvals	7
(1)	Any person may, in accordance with the regulations, object to the granting of a water use approval.	8 9
(2)	The Minister must inform the applicant for a water use approval of the grounds of any objection to the granting of the approval and must allow the applicant a specified time within which to make a written response to the Minister in relation to the objection.	10 11 12 13
(3)	The Minister:	14
(a)	may require an objector or applicant to provide additional information within a specified time if of the opinion that additional information would be relevant to consideration of the objection or response, and	15 16 17 18
(b)	may delay consideration of the objection or response until the information is provided or, if the information is not provided within the time specified, may refuse to consider the objection or response.	19 20 21 22
(4)	If there is a deficiency in an objection or response, the Minister may notify the objector or applicant accordingly and allow further time to enable the deficiency to be rectified.	23 24 25
(5)	Before making a decision on an application for a water use approval in respect of which any objection has been made, the Minister must endeavour to resolve the issues raised by the objection by means of consultation with the applicant and the objector, with a view to reaching agreement on the matters raised by the objection.	26 27 28 29 30
(6)	For the purpose of reaching such an agreement, the Minister may propose that the matters raised by the objection be dealt with by way of mediation or neutral evaluation involving an independent mediator or evaluator appointed by agreement between the applicant, the objector and the Minister.	31 32 33 34 35
(7)	The costs of any such mediation or neutral evaluation are to be paid for by the Minister.	36 37

(8)	An application or objection may be dismissed by the Minister if the applicant or objector, as the case may be, fails to participate in any mediation or neutral evaluation proceedings referred to in subsection (6).	1 2 3 4
86	Determination of applications affected by public inquiries under the Environmental Planning and Assessment Act 1979	5 6
(1)	This section applies to any application for an approval in respect of which a Commission of Inquiry has given a section 120A notice to the Minister before the Minister makes a decision on the application.	7 8 9
(2)	The Minister:	10
(a)	must refer to the Commission of Inquiry:	11
(i)	the application (including any information furnished in relation to the application), and	12 13
(ii)	any objection to the application (including any information furnished in relation to the objection),	14 15
	whether the application or objection is made or lodged before or after the section 120A notice is received, and	16 17
(b)	must defer making any decision on the application until it receives the Commission of Inquiry's section 119 report.	18 19
(3)	In making a decision on the application, the Minister must have regard to the findings and recommendations contained in the Commission of Inquiry's section 119 report.	20 21 22
(4)	In this section:	23
	<i>Commission of Inquiry</i> means a Commission of Inquiry constituted under section 119 of the <i>Environmental Planning and Assessment Act 1979</i> .	24 25 26
	<i>section 119 report</i> means a report referred to in section 119 (6) of the <i>Environmental Planning and Assessment Act 1979</i> .	27 28
	<i>section 120A notice</i> means a notice referred to in section 120A (1) of the <i>Environmental Planning and Assessment Act 1979</i> .	29 30
87	Determination of applications	31
(1)	After considering an application and all matters relevant to the application, the Minister is to determine the application:	32 33
(a)	by granting the approval to which the application relates, or	34

Clause 87	Water Management Bill 2000
Chapter 3	Water management implementation
Part 3	Approvals
Division 2	Applications for approvals

(b)	by refusing the application.	1
(2)	A single approval may be granted in relation to more than one water management work or activity and in relation to more than one kind of water management work or activity.	2 3 4
(3)	An approval may not be granted in contravention of the provisions of any relevant management plan.	5 6
88	Matters affecting consideration of applications	7
	In considering whether or not to grant an approval, the Minister must take into account:	8 9
(a)	such matters as are prescribed by the regulations, and	10
(b)	such other matters as the Minister considers to be relevant.	11
89	Grounds of refusal of certain applications	12
(1)	A water use approval is not to be granted unless the Minister is satisfied that adequate arrangements are in force to ensure that minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the proposed use of water on the land in respect of which the approval is to be granted.	13 14 15 16 17
(2)	A drainage work approval is not to be granted unless the Minister is satisfied that adequate arrangements are in force to ensure that minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the construction or use of the proposed drainage work.	18 19 20 21 22
(3)	A flood work approval is not to be granted unless the Minister is satisfied that adequate arrangements are in force to ensure that minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the construction or use of the proposed flood work.	23 24 25 26
(4)	A controlled activity approval is not to be granted unless the Minister is satisfied that adequate arrangements are in force to ensure that minimal harm will be done to any waterfront land or water source protection zone as a consequence of the carrying out of the proposed controlled activity.	27 28 29 30 31
(5)	A water management work approval for a water management work that is, or is proposed to be, situated on land not owned by the applicant is not to be granted unless the Minister is satisfied:	32 33 34

(a)	that the applicant is likely to become the owner of the land within a reasonable time, or	1 2
(b)	that the land is subject to an easement that authorises the construction and use of such a work for the benefit of the applicant's land.	3 4 5
(6)	An aquifer interference approval is not to be granted unless the Minister is satisfied that adequate arrangements are in force to ensure that minimal harm will be done to the aquifer, or its dependent ecosystems, as a consequence of its being interfered with in the course of the activities to which the approval relates.	6 7 8 9 10
90	Notice of decision	11
	After determining an application under this Division, the Minister must cause notice of the determination to be given to the applicant and, if the application relates to a water use approval, to each person who has made an objection to the Minister in connection with the application.	12 13 14 15
91	Procedures in relation to integrated development	16
(1)	In this section, <i>consent authority</i> , <i>development consent</i> and <i>integrated development</i> have the same meanings as they have in the <i>Environmental Planning and Assessment Act 1979</i> .	17 18 19
(2)	The provisions of this Act with respect to the advertising of an application for a water use approval do not apply if the application relates to integrated development.	20 21 22
(3)	If a consent authority grants development consent to integrated development, either as a consequence of having obtained the general terms of any approval proposed to be issued by the Minister or as a consequence of the Minister having failed to inform the consent authority as to whether or not an approval will be granted:	23 24 25 26 27
(a)	no person has any right to lodge an objection under this Act to the granting of the approval, and	28 29
(b)	no person has any right under this Act to appeal to the Land and Environment Court against the granting of the approval.	30 31
(4)	Subsection (3) (b) does not affect any right of appeal to which an objector may be entitled under section 98 of the <i>Environmental Planning and Assessment Act 1979</i> .	32 33 34

Clause 92	Water Management Bill 2000
Chapter 3	Water management implementation
Part 3	Approvals
Division 3	Conditions and duration of approvals

Division 3	Conditions and duration of approvals	1
92	Conditions of approval generally	2
(1)	An approval is subject to:	3
(a)	such conditions as are from time to time required to be imposed on the approval by the relevant management plan or Minister's plan (<i>mandatory conditions</i>), and	4 5 6
(b)	such other conditions as the Minister may from time to time impose on the approval (<i>discretionary conditions</i>).	7 8
(2)	A mandatory condition prevails over a discretionary condition to the extent of any inconsistency between them.	9 10
	Note. If a management plan or Minister's plan is replaced or amended during the term of an approval, the mandatory conditions applying to the approval may vary.	11 12
93	Conditions of approval for joint water supply schemes	13
(1)	This section applies to a water supply work approval granted in relation to a joint water supply scheme, that is, a scheme under which landholders of different parcels of land hold a single water supply work approval for a water supply work located on, or passing through, all of those parcels.	14 15 16 17 18
(2)	A water supply work approval for a water supply work the subject of a joint water supply scheme is subject to such conditions as are required to be imposed on the approval by the regulations, being conditions as to the rights and duties of the landholders concerned in relation to:	19 20 21 22 23
(a)	the granting of access to the work, and	24
(b)	the apportionment of water supplied by means of the work, and	25
(c)	the apportionment of the cost of constructing and maintaining the work, and	26 27
(d)	the apportionment of such other costs relating to the work as are prescribed by the regulations, and	28 29
(e)	the exclusion of land from the operation of the scheme.	30
94	Imposition of conditions after approval is granted	31
(1)	Discretionary conditions may not be imposed on an approval after it has been granted unless the Minister:	32 33

-
- (a) has given written notice to the holder of the approval that the Minister proposes to impose such conditions, and 1
2
- (b) has given the holder of the approval a reasonable opportunity to make submissions to the Minister with respect to the proposed conditions, and 3
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5
- (c) has taken any such submissions into consideration. 6
- (2) Subsection (1) does not apply to conditions imposed on an approval at the request of the holder of the approval. 7
8
- (3) The Minister must cause written notice of any discretionary conditions imposed on an approval after the time it is granted to be served on the holder of the approval. 9
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11
- (4) A discretionary condition referred to in subsection (3) takes effect on the day on which the notice referred to in that subsection is served on the holder of the approval or on such later day as may be specified in the notice in that regard. 12
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- 95 Revocation of conditions** 16
- The Minister may at any time revoke any discretionary conditions to which an approval is subject, whether or not on the application of the holder of the approval. 17
18
19
- 96 Duration of approval** 20
- (1) An approval has effect for such period as may be specified in the approval in that regard, being a period not exceeding: 21
22
- (a) 3 years, in the case of a controlled activity approval, or 23
- (b) 10 years, in the case of a water use approval or aquifer interference approval, or 24
25
- (c) 20 years, in the case of a water management work approval. 26
- (2) If an application for renewal of an approval is lodged before it expires, the term of the expiring approval is extended until: 27
28
- (a) the date of the final decision on the application, or 29
- (b) a date fixed by the Minister for the approval, 30
whichever is the later date. 31
- (3) If: 32

Clause 96	Water Management Bill 2000
Chapter 3	Water management implementation
Part 3	Approvals
Division 3	Conditions and duration of approvals

- (a) an approval expires without an application for its renewal being made, and 1
2
- (b) an application for its renewal is subsequently made by the former holder of an approval and is accompanied by a statutory declaration of the reasons for the delay in making the application, and 3
4
5
6
- (c) the reasons are accepted by the Minister, 7
the term of the approval is taken to have been extended, and the application may be dealt with, as if the application had been made before the approval expired. 8
9
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97 Land benefited by water use approval or water management work approval 11
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- (1) A water use approval or water management work approval is taken to be held by, and for the benefit of, each successive landholder for the time being of the land specified in the approval as the land benefited by the approval. 13
14
15
16
- (2) While the approval is in force, each such landholder: 17
 - (a) is under a duty to comply with the conditions to which the approval is subject, and 18
19
 - (b) is entitled to commence and maintain legal proceedings against any other such landholder with respect to that other landholder's failure to comply with those conditions. 20
21
22
- (3) This section does not apply in such circumstances as may be prescribed by the regulations. 23
24

Division 4 Amendment, surrender, suspension and cancellation of approvals 25
26

98 Amendment of water management work approval on application by holder of approval 27
28

- (1) On the application of the holder of a water management work approval, the Minister may amend the approval: 29
30
 - (a) so as to allow an alteration or extension of the relevant water management work, or 31
32

Water Management Bill 2000	Clause 98
Water management implementation	Chapter 3
Approvals	Part 3
Amendment, surrender, suspension and cancellation of approvals	Division 4

(b)	so as to allow the construction or use of an additional water management work on adjoining land occupied by the holder of the approval.	1 2 3
(2)	The Minister may treat an application under this section as an application for the grant, on surrender of the existing water management work approval, of a replacement approval conferring the same authority as would have been conferred by the existing approval had it been amended in accordance with the application.	4 5 6 7 8
99	Surrender of approvals	9
(1)	The holder of an approval may surrender the approval at any time by notice in writing sent to the Minister.	10 11
(2)	The surrender takes effect on the date on which the notice is received by the Minister or such later date as is specified in the notice.	12 13
100	Suspension and cancellation of approvals	14
(1)	The Minister may suspend or cancel an approval on any one or more of the following grounds:	15 16
(a)	that the holder of the approval has failed to comply with the conditions to which the approval is subject,	17 18
(b)	that the holder of the approval has been convicted of an offence against this Act or the regulations,	19 20
(c)	that the holder of the approval has failed to make due payment with respect to any fee or charge that is payable under this Act in relation to the approval,	21 22 23
(d)	in the case of an approval granted in relation to a water management work, the holder of the approval has failed to comply with any direction given to the holder under this Act in connection with the work.	24 25 26 27
(2)	Action under this section may not be taken in relation to an approval unless the Minister:	28 29
(a)	has given written notice to the holder of the approval that the Minister proposes to take such action, and	30 31
(b)	has given the holder of the approval a reasonable opportunity to make submissions to the Minister with respect to the proposed action, and	32 33 34
(c)	has taken any such submissions into consideration.	35

Clause 101	Water Management Bill 2000
Chapter 3	Water management implementation
Part 3	Approvals
Division 5	Embargoes on applications for approvals

Division 5	Embargoes on applications for approvals	1
101	Temporary embargo	2
(1)	The Minister may, by order published in the Gazette, declare an embargo on the making of applications for water use approvals or water management work approvals with respect to any water management area.	3 4 5 6
(2)	An order under this section may relate to all applications, to applications of a specified kind or to all applications other than applications of a specified kind.	7 8 9
(3)	A copy of any order under this section is to be published in a local newspaper.	10 11
(4)	An order under this section takes effect on the date on which it is published in the Gazette and, unless sooner revoked, expires at the end of 2 years after that date.	12 13 14
102	Permanent embargo	15
(1)	The Governor may, by proclamation published in the Gazette, declare an embargo on the making of applications for water use approvals or water management work approvals with respect to any water management area.	16 17 18 19
(2)	A proclamation under this section may relate to all applications, to applications of a specified kind or to all applications other than applications of a specified kind.	20 21 22
(3)	A copy of any proclamation under this section is to be published in a local newspaper.	23 24
(4)	A proclamation under this section takes effect on the date on which it is published in the Gazette and continues in force until it is revoked by a further proclamation so published.	25 26 27
103	Operation of embargo	28
(1)	An embargo does not apply to:	29
(a)	an application made before the embargo took effect, or	30
(b)	an application to amend an application made before the embargo took effect, or	31 32
(c)	any other application of a kind prescribed by the regulations.	33

- (2) An application to which an embargo relates is a nullity and is not
revived merely because the embargo is subsequently revoked. 1
2

Division 6 Registers 3

104 Register of approvals 4

- (1) The Minister is to cause a register to be kept of: 5
- (a) every application for an approval that is duly made under this 6
 Act, and 7
- (b) every approval that is granted, renewed, transferred, 8
 surrendered, suspended or cancelled under this Act. 9
- (2) The regulations may make provision for or with respect to the form in 10
which such a register is to be kept and the particulars that are to be 11
recorded in such a register. 12
- (3) The register must be made available at the head office of the 13
Department for inspection, free of charge, by members of the public. 14

Part 4 Finance

105	Determination of recoverable costs	2
(1)	The Minister may from time to time make determinations as to:	3
(a)	the costs of administering this Act, including in particular:	4
(i)	the costs associated with the management of water sources, including information collection and management, monitoring, water allocation, water management planning and environmental remediation, and	5 6 7 8 9
(ii)	costs associated with the supply of water, including water delivery operation, asset management and an economic return on asset investments, and	10 11 12
(iii)	the costs associated with compliance management, and	13
(b)	how much of those costs are to be recovered from water users for each of various water management areas and water sources in the State.	14 15 16
(2)	The regulations may make provision for or with respect to the manner in which the various costs referred to in subsection (1) are to be calculated.	17 18 19
(3)	As soon as practicable after making a determination under this section, the Minister must cause notice of the determination to be published in the Gazette.	20 21 22
106	Minister's guidelines for charges	23
(1)	The Minister may from time to time establish guidelines (the <i>Minister's guidelines</i>) with respect to the manner in which charges are to be imposed in connection with:	24 25 26
(a)	the granting, renewal and transfer of access licences and approvals, and	27 28
(b)	the making of applications for the granting, renewal and transfer of access licences and approvals, and	29 30
(c)	the supply of water to holders of access licences, and	31
(d)	special levies and other miscellaneous charges.	32
(2)	The Minister's guidelines may allow charges to be set differentially:	33
(a)	by reference to different areas or water sources, or	34

(b)	by reference to different classes of access licence or approval, or	1 2
(c)	by reference to different water usages, or	3
(d)	by reference to such other factors as are specified in the guidelines.	4 5
(3)	The Minister's guidelines must minimise cross-subsidies between different classes of water users.	6 7
(4)	The Minister's guidelines may provide for charges to be automatically varied each year by reference to movements in a specified index (such as a consumer price index).	8 9 10
(5)	The Minister's guidelines may permit charges to include a component in the nature of a resource rent or royalty for water taken under the authority of an access licence.	11 12 13
(6)	The Minister must ensure that the guidelines are periodically reviewed at intervals of not more than 5 years.	14 15
107	Charges payable for access licences and approvals	16
	The charges payable in respect of an access licence or approval are to be as determined by the Minister in accordance with the Minister's guidelines.	17 18 19
108	Certificate as to charges outstanding	20
(1)	The Minister may, in relation to any land, issue a certificate to the effect that, as at the date on which the certificate is issued:	21 22
(a)	a specified amount is payable in relation to the land pursuant to charges imposed under this Part, or	23 24
(b)	no amount is so payable.	25
(2)	Such a certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which it relates, that, as at the date on which it was issued, no amounts were payable in respect of the land other than such amounts as are specified in the certificate.	26 27 28 29

Clause 109	Water Management Bill 2000
Chapter 4	Joint private works
Part 1	Irrigation corporations
Division 1	Preliminary

Chapter 4	Joint private works	1
Part 1	Irrigation corporations	2
Division 1	Preliminary	3
109	Application of Part	4
	This Part applies to all irrigation corporations under the former <i>Irrigation Corporations Act 1994</i> that were in existence immediately before the repeal of that Act, but does not authorise the establishment of any new irrigation corporations.	5 6 7 8
110	Definitions	9
	In this Part:	10
	area of operations of an irrigation corporation means the area of land comprising the areas and districts specified in Schedule 1 in relation to the corporation, being areas and districts constituted under the former <i>Irrigation Act 1912</i> and former <i>Private Irrigation Districts Act 1973</i> .	11 12 13 14
	irrigation corporation means a corporation named in Schedule 1.	15
	operating licence means an operating licence referred to in section 115.	16 17
111	Requirements for access licences and approvals	18
	(1) Nothing in this Part authorises an irrigation corporation to take water from a water source otherwise than in accordance with an access licence and water supply work approval held by the corporation.	19 20 21
	(2) Nothing in this Part authorises a landholder of land within an irrigation corporation's area of operations to use water otherwise than in accordance with a water use approval held by the corporation.	22 23 24

Division 2 Irrigation corporations

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112 Assets of irrigation corporations

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- (1) An irrigation corporation is the owner of all water management works installed in or on land by the corporation (whether or not the land is owned by the corporation).
- (2) The provisions of Part 5 and section 88 of the *Irrigation Corporations Act 1994*, as in force immediately before their repeal, continue to apply for the purpose of enabling the Ministerial Corporation to transfer to an irrigation corporation any of its assets, rights and liabilities with respect to an irrigation scheme area with which the irrigation corporation was formerly connected.

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113 Entry on to land

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- (1) An irrigation corporation may, by authorised persons, enter land for any one or more of the following purposes:
 - (a) to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect, improve or do any other things that the corporation considers are necessary or appropriate to any of its water management works or to construct new water management works and, for these purposes, to carry out any work on, below or above the surface of the land,
 - (b) to read a meter that:
 - (i) measures water supplied by the corporation, or
 - (ii) monitors drainage for quantity or quality or both,
 - (c) to find the source of pollution of water within the area of operations of the corporation,
 - (d) to ascertain whether a water supply contract or other contract for the provision of services by the corporation is being breached,
 - (e) to rectify defective or improper work that has not been rectified by a customer in accordance with a notice served by the corporation on the customer under a water supply contract or other contract,

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Clause 113	Water Management Bill 2000
Chapter 4	Joint private works
Part 1	Irrigation corporations
Division 2	Irrigation corporations

(f)	to ascertain the character and condition of the land or any building on the land, or the condition and location of any pipe, sewer, drain, channel or fitting or other work used in connection with the land or building, so as to enable the corporation:	1
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(i)	to install, operate, repair, replace, maintain, remove, extend, expand, connect, disconnect or improve its systems and services, or	6
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(ii)	to construct new water management works,	9
	in accordance with the obligations imposed on it by its operating licence,	10
		11
(g)	to carry out any investigation or inspection, take levels, drill test bore-holes, make surveys and marks, and fix pegs and stakes, for the purpose of determining the site of any proposed water management work.	12
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(2)	An irrigation corporation must ensure that as little damage as possible is caused by the exercise of powers under this section and must repair any damage caused or pay compensation for the damage.	16
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114	Ceasing to be an irrigation corporation	19
(1)	A corporation ceases to be an irrigation corporation if its particulars are removed from Schedule 1.	20
		21
(2)	The Governor may remove an irrigation corporation's particulars from Schedule 1 by proclamation, but only:	22
		23
(a)	on application made by the irrigation corporation to the Minister, or	24
		25
(b)	if the irrigation corporation ceases to exist.	26
(3)	The Governor may by proclamation amend Schedule 1 so as to reflect a change in an irrigation corporation's name.	27
		28
(4)	The regulations may make provision, not inconsistent with the <i>Corporations Law</i> , for or with respect to any matters that are consequential on a corporation ceasing to be an irrigation corporation.	29
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Division 3 Operating licences

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115 Authority conferred by operating licence

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The operating licence for an irrigation corporation authorises the corporation to carry on the business of supplying water provided to it by the Ministerial Corporation and to exercise its functions under this Part.

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116 Terms and conditions of operating licence

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(1) An operating licence is subject to the terms and conditions determined by the Governor.

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(2) Examples of terms and conditions that may be included are as follows:

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(a) a requirement that the irrigation corporation will (in accordance with any applicable management program and the corporation's business plan) provide, construct, maintain, manage and operate:

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(i) efficient, co-ordinated and commercially viable systems and services for supplying water from both surface and subsurface sources, and

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(ii) surface and subsurface drainage networks that have sufficient capacity having regard to specified factors, including the amount of water supplied by the corporation to users,

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(b) a requirement that the irrigation corporation must be the holder of all relevant licences or other authorities,

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(c) a requirement that the irrigation corporation is to comply with the provisions of any applicable management program, either in all respects or in certain respects,

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(d) a requirement that, in supplying water to its members, the irrigation corporation is to give priority to certain councils or other local water utilities for domestic water supply,

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(e) a requirement as to how the irrigation corporation is to spend and otherwise deal with any money provided to it out of money appropriated from the Consolidated Fund or other public money.

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(3) An operating licence may be amended only in the manner specified in the operating licence.

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Clause 117	Water Management Bill 2000
Chapter 4	Joint private works
Part 1	Irrigation corporations
Division 3	Operating licences

117	Term of operating licence	1
(1)	An operating licence has effect for the period specified in the licence in that regard, but may be renewed at the end of that period.	2 3
(2)	An operating licence may be renewed even if its term has expired.	4
(3)	The Governor may refuse an application for the renewal of an operating licence on such grounds as the Governor considers appropriate.	5 6 7
118	Contravention of operating licence	8
(1)	If, in the opinion of the Minister, an irrigation corporation contravenes an operating licence, the Governor may direct that one of the following is to apply:	9 10 11
(a)	a letter of reprimand by the Minister is to be served on the irrigation corporation,	12 13
(b)	the Minister is to cause a notice to be served on the irrigation corporation requiring it to rectify the contravention within a specified period.	14 15 16
(2)	If, in the opinion of the Minister, an irrigation corporation continues to contravene an operating licence after the issue of a letter under subsection (1) (a) or fails to rectify a contravention as required by a notice under subsection (1) (b), the Governor may do either or both of the following:	17 18 19 20 21
(a)	the Governor may direct that the irrigation corporation is to pay a monetary penalty of an amount (not exceeding \$150,000) to be determined by the Governor,	22 23 24
(b)	the Governor may cancel the operating licence.	25
(3)	The fact that the Governor has directed that action be taken under this section does not prevent the Governor directing that the same or other action under this section be taken if the contravention continues or a fresh contravention occurs.	26 27 28 29
(4)	An operating licence may make provision for advice to be furnished to the Minister in connection with the exercise of the Minister's functions under this section.	30 31 32
(5)	A penalty imposed under this section may be recovered in any court of competent jurisdiction as if it were a debt due to the Crown.	33 34

119	Cancellation of operating licence	1
(1)	An operating licence may be cancelled by the Governor, but only:	2
(a)	if the irrigation corporation fails or ceases to hold a relevant licence or other authority, or	3
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(b)	if the irrigation corporation is, in the opinion of the Minister, in material default in compliance with the operating licence, viewed in terms of the operation of the operating licence as a whole, or	5
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(c)	if the irrigation corporation is an externally-administered corporation within the meaning of the <i>Corporations Law</i> , or	9
		10
(d)	if the irrigation corporation has been convicted of a criminal offence that is punishable by a fine of at least \$10,000 or, if the corporation were a natural person, imprisonment for 12 months or more, or	11
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(e)	in the circumstances set out in section 118 (2).	15
(2)	An operating licence may not be cancelled on the ground referred to in subsection (1) (a) if an appeal against a decision not to renew or to cancel the relevant licence or other authority has been made but not determined or withdrawn.	16
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(3)	Subsection (1) (d) does not apply where the offence is unconnected with the functions of the irrigation corporation relating to the supply or drainage of water.	20
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120	Irrigation corporation may make arrangements with subsidiaries	23
(1)	An irrigation corporation may arrange, whether by an agency agreement or in any other way (except by assignment), for a subsidiary of the irrigation corporation to exercise any or all of the irrigation corporation's functions under this Part or under an operating licence.	24
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(2)	The Minister may treat any act or omission of the subsidiary of an irrigation corporation as an act or omission of the irrigation corporation for the purpose of determining:	28
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(a)	whether the irrigation corporation has contravened its operating licence, or	31
		32
(b)	whether the licence should be suspended or cancelled,	33
	but only if the irrigation corporation has made arrangements for the exercise of functions by the subsidiary.	34
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Clause 120	Water Management Bill 2000
Chapter 4	Joint private works
Part 1	Irrigation corporations
Division 3	Operating licences

- (3) In this section, *subsidiary* means a corporation that is a subsidiary of a corporation as determined in accordance with the *Corporations Law* or any other applicable law. 1
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Division 4 Miscellaneous 4

121 Successor in title liable for unpaid contract charges 5

On a change of ownership of land, the new landholder of the land is 6
liable to an irrigation corporation for the amount of any charges levied 7
by the irrigation corporation in relation to the land and unpaid by the 8
previous landholder as if the new landholder had entered into a 9
contract with the irrigation corporation for the supply of the service or 10
services to which the unpaid charges relate. 11

122 Indemnities 12

- (1) A person does not have any right or claim to relief of any kind 13
whatever in any legal or other proceeding against an irrigation 14
corporation or officer or employee of an irrigation corporation in 15
respect of any nuisance connected with or in any way arising out of: 16
- (a) the design, construction, alteration, maintenance, 17
non-maintenance, operation, repair, disrepair or non-repair of 18
a water management work owned or controlled by the irrigation 19
corporation, or 20
 - (b) the destruction or damage, or partial destruction or partial 21
damage, by flood, storm, tempest or otherwise of a water 22
management work owned or controlled by the irrigation 23
corporation, or 24
 - (c) the exercise, in respect of a water management work owned or 25
controlled by the irrigation corporation, by the irrigation 26
corporation of any function conferred or imposed on the 27
irrigation corporation under this or any other Act. 28
- (2) Section 733 of the *Local Government Act 1993* applies to and in 29
respect of an irrigation corporation in the same way as it applies to and 30
in respect of a council. 31

Water Management Bill 2000	Clause 123
Joint private works	Chapter 4
Irrigation corporations	Part 1
Miscellaneous	Division 4

123	Register of licences, audits and management programs	1
(1)	The Ministerial Corporation must maintain at its head office a register containing copies of the following:	2
		3
(a)	operating licences,	4
(b)	audit reports,	5
(c)	applicable management programs,	6
(d)	recommendations of the Minister to the Governor under this Part.	7
		8
(2)	The register must be made available for public inspection during normal business hours.	9
		10
(3)	Any person may obtain a copy of any information on the register on payment of the reasonable cost of providing the copy.	11
		12

Clause 124	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 1	Preliminary

Part 2 Private irrigation districts

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Division 1 Preliminary

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124 Application of Part

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This Part applies to all private districts under the former *Private Irrigation Districts Act 1973* that were in existence immediately before the repeal of that Act, and also authorises the establishment of further private irrigation districts.

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125 Definitions

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In this Part:

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irrigated holding means a holding in respect of which water is supplied by a private irrigation board for irrigation.

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new holding means each part of an original holding that, after subdivision, is separately owned.

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non-irrigated holding means a holding in respect of which water is supplied by a private irrigation board for domestic and stock use only.

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original holding means a holding in a private irrigation district, being a holding:

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(a) in existence at the date of constitution of that district, or

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(b) comprising lands added to that district under Division 2,

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but does not include any holding, or any part of a holding, that has become a new holding or that has been excised from the private irrigation district under Division 2.

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private irrigation board, in relation to a private irrigation district, means the board of management for that district elected under Division 3.

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private irrigation district means a private water supply district or a private water supply and irrigation district constituted under Division 2.

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126	Requirements for access licences and approvals	1
(1)	Nothing in this Part authorises a private irrigation board to take water otherwise than in accordance with an access licence and water supply work approval held by the board.	2 3 4
(2)	Nothing in this Part authorises a landholder of land within a private irrigation district to use water otherwise than in accordance with a water use approval held by the private irrigation board.	5 6 7
Division 2	Private irrigation districts	8
127	Petition	9
(1)	Any persons who are landholders of lands that are being worked as 3 or more holdings may lodge with the Minister a petition for the constitution of those lands:	10 11 12
(a)	as a private water supply district, or	13
(b)	as a private water supply and irrigation district.	14
(2)	The petition:	15
(a)	must contain the names, addresses and occupations of all of the petitioners and be signed by all of the petitioners, and	16 17
(b)	must be accompanied by plans showing:	18
(i)	the location of the lands proposed to be supplied with water, in relation to the river, estuary or lake from which water is proposed to be obtained, and	19 20 21
(ii)	the lands on which a water supply work is proposed to be constructed or located in connection with the proposed water supply, and the site on those lands of that proposed water supply work, and	22 23 24 25
(c)	must be accompanied by:	26
(i)	particulars of the title of the lands within the proposed private irrigation district, and	27 28
(ii)	particulars of the area of land within the proposed private irrigation district owned by each petitioner, and	29 30
(iii)	an estimate of the quantity of water proposed to be taken annually for the purposes of the proposed private irrigation district, and	31 32 33

Clause 127	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 2	Private irrigation districts

(iv)	particulars of any water use approval under which any lands within the proposed private irrigation district are, at the date of lodgment of the petition, authorised to be irrigated, and	1 2 3 4
(d)	must contain the names, addresses and occupations of the landholders of the lands referred to in paragraph (b) (ii) and be accompanied by separate particulars of the title of those lands.	5 6 7
(3)	The Minister may cause a notice containing particulars of the petition to be published in the Gazette and in a local newspaper.	8 9
(4)	Such a notice may not be published unless:	10
(a)	the Minister is satisfied that the establishment of a private irrigation district in accordance with the petition would be of benefit to the landholders of land within the proposed private irrigation district, and	11 12 13 14
(b)	the Minister has had regard to the <i>Competition Principles Agreement</i> , and	15 16
(c)	the Premier has concurred in the publication of the notice.	17
(5)	In this section, <i>Competition Principles Agreement</i> means the agreement of that name between the Commonwealth, the States and the Territories that was entered into, for and on behalf of New South Wales, on 11 April 1995.	18 19 20 21
128	Constitution of private irrigation districts	22
(1)	If a supplementary petition in relation to, or an objection to, a petition is not duly lodged, the Governor may, by proclamation in the Gazette, constitute the lands described in the petition:	23 24 25
(a)	as a private water supply district, or	26
(b)	as a private water supply and irrigation district,	27
	whichever was requested in the petition.	28
(2)	If a supplementary petition in relation to, or an objection to, a petition is so lodged but the Minister recommends the granting of the petition (whether with respect to all of the lands described in the petition or some only of them), the Governor may, by proclamation in the Gazette, constitute the lands to which the recommendation relates:	29 30 31 32 33
(a)	as a private water supply district, or	34

(b)	as a private water supply and irrigation district,	1
	whichever was requested in the petition.	2
(3)	A proclamation under this section:	3
(a)	must assign a name to the private irrigation district and a corporate name to the private irrigation board, and	4
		5
(b)	must define the boundaries of the private irrigation district, and	6
(c)	must specify at which office of the Ministerial Corporation a plan of the private irrigation district is exhibited, and	7
		8
(d)	must fix a time and place for the first election of the members of the private irrigation board.	9
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129	Addition of lands to private irrigation districts	11
(1)	A landholder of lands adjacent to or near a private irrigation district may lodge with the Minister a petition for the addition of those lands to the private irrigation district.	12
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		14
(2)	The petition:	15
(a)	must specify the name, address and occupation of the petitioner and must be signed by the petitioner, and	16
		17
(b)	must be accompanied by plans showing:	18
(i)	the location of the additional lands proposed to be supplied with water, in relation to the river, estuary or lake from which water is proposed to be obtained, and	19
		20
		21
(ii)	the lands on which any additional water supply work is proposed to be constructed or located in connection with the proposed water supply, and the site on those lands of that proposed additional water supply work, and	22
		23
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(c)	must be accompanied by:	27
(i)	particulars of the title and the area of the additional lands, and	28
		29
(ii)	an estimate of the quantity of water proposed to be taken annually by the petitioner for the purposes of those lands, and	30
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		32
(iii)	particulars of any water use approval under which those lands are, at the date of lodgment of the petition, authorised to be irrigated, and	33
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Clause 129	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 2	Private irrigation districts

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| (d) | if: | 1 |
| (i) | the private irrigation district has been constituted as a | 2 |
| | private water supply and irrigation district, and | 3 |
| (ii) | the petitioner seeks a supply of water for irrigation, | 4 |
| | must be accompanied by a statement by the private irrigation | 5 |
| | board as to whether, and to what extent, the landholders within | 6 |
| | the private irrigation district have agreed to reduced allocations | 7 |
| | of water so as to permit an allocation of water being made to | 8 |
| | the additional lands, and | 9 |
| (e) | must contain the names, addresses and occupations of the | 10 |
| | landholders of the lands referred to in paragraph (b) (ii) and be | 11 |
| | accompanied by separate particulars of the title of those lands. | 12 |
| (3) | The Minister must consider any petition lodged under this section and | 13 |
| | may cause a notice containing particulars of the petition to be | 14 |
| | published in the Gazette and a local newspaper. | 15 |

130 Alteration of private irrigation district

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| (1) | If an objection to a petition under section 127 is not duly lodged or an | 17 |
| | objection is duly lodged but the Minister recommends the granting of | 18 |
| | the petition, the Governor may, by proclamation in the Gazette, | 19 |
| | redefine the boundaries of the private irrigation district to which the | 20 |
| | petition relates by adding to that district the lands referred to in the | 21 |
| | petition. | 22 |
| (2) | If additional lands have been added to a private irrigation board's | 23 |
| | district under this section, the board: | 24 |
| (a) | must, if an appropriate agreement has been made, redetermine | 25 |
| | the quantity of water to be allocated for domestic and stock use | 26 |
| | and for irrigation to each holding (including any holding in the | 27 |
| | additional lands) that is supplied or to be supplied with water | 28 |
| | for irrigation, and | 29 |
| (b) | must, in respect of the holding in the additional lands, assess | 30 |
| | the rates and charges for water for the period or year, as the | 31 |
| | case may be, current at the date of the addition of those | 32 |
| | additional lands to the private irrigation district. | 33 |

- (3) The assessment of rates and charges referred to in subsection (2) (b) must be made on the basis of the rates and charges fixed in respect of that period or year, the rates and charges so assessed being proportionate to the portion of the period or year during which those additional lands are added to the private irrigation district.

131 Excision of lands from private irrigation districts

- (1) A landholder of lands within a private irrigation district may make application to the Land and Environment Court, as prescribed by rules of court, for an order that the landholder's lands be excised from that district.
- (2) Notice, in the prescribed form, of the application must be given by the landholder to the private irrigation board on the lodging of the application in the Land and Environment Court.
- (3) A private irrigation board and all persons whose interests appear to the Land and Environment Court to be affected by the application may attend the hearing of, and be heard in support of, or in opposition to, the application.
- (4) The Land and Environment Court must hear and determine the application but must not grant the application unless it is satisfied that there are exceptional circumstances that warrant the granting of the application.
- (5) The decision of the Land and Environment Court is final and may:
- (a) if the decision is in favour of the applicant, include an order that any water supply works that are situated on the excised lands are to be works of which the private irrigation board has the control, use and maintenance, and
- (b) embody such terms and conditions as to the Court seem just.
- (6) If the decision of the Land and Environment Court is that the application be granted, the private irrigation district is, subject to this Part, taken to have been altered by excising therefrom the lands referred to in the application.
- (7) The excision of any lands from a private irrigation district under this section does not affect the liability of any person for any rates or charges levied or leviable in respect of those lands while they were in the private irrigation district.

132 Supplementary petitions and objections

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|--|----|
| (1) Within a period of 28 days after the publication of the notice of a petition for the constitution of a private irrigation district: | 1 |
| (a) a person who is the landholder of lands that the person desires to be included in the district to which that notice relates may lodge with the Minister a supplementary petition for the inclusion in that district of lands owned by the person that are being worked as a separate property, or | 2 |
| (b) any person may lodge with the Minister an objection in writing to the petition referred to in the notice on the ground that the granting of that petition would adversely affect the person's interests. | 3 |
| (2) Within a period of 28 days after the publication of the notice of a petition for the addition of lands to a private irrigation district: | 4 |
| (a) the private irrigation board for the district to which that notice relates may lodge with the Minister an objection in writing to the petition referred to in the notice, or | 5 |
| (b) any person may lodge with the Minister an objection in writing to the granting of that petition on the ground that the granting of that petition would adversely affect the person's interests. | 6 |
| (3) A person may not lodge an objection on the ground that the person's interests would, if the petition were granted, be adversely affected for reasons relating to the quantity of water available from the river, estuary or lake from which it is proposed to take water for the purposes of the proposed private irrigation district, and any objection lodged on that ground is not to be entertained. | 7 |
| (4) A supplementary petition: | 8 |
| (a) must contain the name, address and occupation of the supplementary petitioner, and | 9 |
| (b) must be accompanied by plans showing: | 10 |
| (i) the location of the lands that the supplementary petitioner desires to be included in the proposed district, and | 11 |
| (ii) the lands on which any additional water supply work to be used for the taking of water for the use of the lands that the petitioner desires to be included in the proposed district is proposed to be constructed or is located and the site on those lands of that water supply work, and | 12 |

- (c) must be accompanied by particulars of the title and area of the lands referred to in paragraph (b) (i) and of any water use approval under which those lands are, at the date of lodgment of the supplementary petition, authorised to be irrigated, and
- (d) must contain the names, addresses and occupations of the landholders of the lands referred to in paragraph (b) (ii) and be accompanied by separate particulars of the title of those lands.
- (5) An objection must be in writing and must state particulars of the grounds of objection.
- (6) If a supplementary petition or an objection has been lodged with the Minister, the Minister must, after consultation with the petitioner or objector, make a recommendation with respect to the petition or objection.

Division 3 Private irrigation boards

133 Private irrigation boards

- (1) For each private irrigation district there is to be a board of management.
- (2) Each board is a corporation under the corporate name assigned to it by the proclamation by which its private irrigation district is constituted.
- (3) A board is to consist of such number of members, being not less than 3 nor more than 10:
 - (a) in the case of the first board elected for a private irrigation district, as may be determined by the Minister, and
 - (b) in the case of any subsequent board elected for a private irrigation district, as may be determined before the election by the board for that private irrigation district.
- (4) The regulations may make provision for or with respect to:
 - (a) the conduct of elections for the members of a board, and
 - (b) other matters concerning the constitution and procedure of a board.

Clause 134	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 3	Private irrigation boards

134	Election of members of private irrigation boards	1
(1)	An election of the members of a private irrigation board must be held on the day and at the time fixed by the proclamation by which it is constituted and thereafter:	2
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(a)	if the third anniversary of the declaration of the poll for the previous election of members of that board is a Saturday, on that Saturday, or	5
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(b)	in any other case, on the Saturday following the third anniversary of the declaration of the poll for the previous election of members of that board.	8
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(2)	A corporation that is a member of a private irrigation board must authorise an individual to represent it as a member of the board.	11
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(3)	Subject to this Division, the members of a private irrigation board hold office until the date of the declaration of the poll for the next election.	13
		14
135	Removal of members of private irrigation board from office and appointment of administrator	15
		16
(1)	The Governor may, by proclamation in the Gazette, remove all the members of a private irrigation board from office:	17
		18
(a)	if there are not sufficient members of the board to form a quorum, or	19
		20
(b)	if, in the opinion of the Governor, the board has failed or neglected to make or levy rates or charges required by this Part, or otherwise to exercise its functions under this Part.	21
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		23
(2)	If there are insufficient members of a private irrigation board to form a quorum, the Governor, instead of removing the members from office, may, by proclamation in the Gazette, appoint persons (each being eligible for election) to fill the vacancies in the membership of the board and to hold office until elections are held to fill those vacancies.	24
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(3)	If the Governor has removed the members of a private irrigation board from office, the Governor may, in the proclamation removing the members from office or in a subsequent proclamation in the Gazette, appoint an administrator for the board.	29
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(4)	An administrator so appointed has and may exercise all of the functions of a private irrigation board and is entitled to be paid, out of the funds of the board, such remuneration as the Governor may determine.	33
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- (5) If the members of a private irrigation board have been removed from office, the Minister may, and if the board's term of office has more than 12 months to run, must, by notice in the Gazette, order that an election of members be held on a day specified in the order. 1
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- (6) The day so specified must be a day not more than 6 months after the date of removal of the members from office and not less than 4 weeks after the date on which the notification is published in the Gazette. 5
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- (7) Any member elected at an election held under this section is to hold office until the time when the terms of office of the members of a private irrigation board who have been removed from office would but for their removal have expired and no longer, but is eligible for re-election if otherwise qualified. 8
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- (8) On sufficient members of a private irrigation board, by election or appointment under this section, taking office to form a quorum, the functions of the administrator cease. 13
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- (9) If the members of a private irrigation board have been removed from office because of the board's failure or neglect as referred to in subsection (1) (b), each of those members is ineligible for election at an election ordered under this section or, if no such election is ordered, at the next election of members of the board, unless the Minister is satisfied that the failure or neglect took place without the member's knowledge or consent and, by instrument in writing, declares that the member is eligible for election at any such election. 16
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- 136 Abolition of private irrigation districts** 24
- The Governor may, by proclamation published in the Gazette, abolish any private irrigation district for which a private irrigation board has not been elected. 25
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- 137 Winding-up of private irrigation boards** 28
- (1) If the Governor: 29
- (a) is of the opinion that a private irrigation board has ceased to function satisfactorily, or 30
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- (b) is satisfied that a private irrigation board has made a request to the Minister that it be wound up, 32
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- the Governor may order that the board be wound up. 34
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Clause 137	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 3	Private irrigation boards

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| (2) | An order under subsection (1) must be published in the Gazette and must appoint a liquidator for the private irrigation board. | 1 |
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| (3) | A winding up of a private irrigation board under this section commences on the publication of the order in the Gazette. | 3 |
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| (4) | The regulations may make provision for or with respect to the winding up of a private irrigation board and for the disposal of any residual assets of the board. | 5 |
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| (5) | If the Governor is satisfied that the winding up of a private irrigation board has been completed under this section, the Governor may, by proclamation published in the Gazette, abolish the board. | 8 |
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138 Employees 11

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| (1) | Each private irrigation board may from time to time employ such persons as may be necessary to assist it in the exercise of its functions. | 12 |
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| (2) | A person who has ceased to be a member of a private irrigation board is not eligible to be employed by the board until 6 months have elapsed after the person's so ceasing to be a member. | 14 |
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| (3) | All employees of a private irrigation board are subject to the control and governance of the board and to the provisions of any by-laws made by the board in that behalf. | 17 |
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| (4) | A private irrigation board may fix wages and conditions of employment of its employees if they are not fixed in accordance with the provisions of any other Act. | 20 |
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Division 4 Construction and taking over of works 23

139 Authorised sites 24

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| | For the purposes of this Division, a site is an <i>authorised site</i> for a water supply work if: | 25 |
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| (a) | it is the site shown on the plans that accompanied: | 27 |
| | (i) the petition for the constitution of the district, or | 28 |
| | (ii) any subsequent petition for the addition of lands to the district, | 29 |
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| | as the site of any work proposed to be constructed as a water supply work, or is that site as varied by the Minister as a consequence of any objection to the petition, or | 31 |
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(b)	it is the site on which the Governor has authorised the construction or taking over of a water supply work, or	1 2
(c)	it is the site of any works of which a private irrigation board has the control, use and maintenance under this Division.	3 4
140	Construction, maintenance and operation of water supply works	5
(1)	A private irrigation board may construct, maintain and operate any water supply work that is located on an authorised site for that work.	6 7
(2)	A private irrigation board must not exercise its powers under this section in respect of any authorised site on which are situated any existing works unless it has taken over the control, use and maintenance of those works under this Division.	8 9 10 11
(3)	For the purpose of exercising its powers under this section, a private irrigation board may enter any authorised site (not being an authorised site situated on lands that belong to, or are under the care, control or management of a public authority) and take or remove, and use, any extractive material.	12 13 14 15 16
141	Private irrigation board may apply to take over water supply works	17
(1)	A private irrigation board may apply to the Minister for authority to take over any water management work that is located on an authorised site for that work.	18 19 20
(2)	The application:	21
(a)	must contain the names, addresses and occupations of the landholders of the lands on which the water supply work referred to in the application is or are proposed to be constructed or is or are located, and	22 23 24 25
(b)	must be accompanied by:	26
(i)	a plan showing those lands and the site on those lands of that water supply work, and	27 28
(ii)	particulars of the title of those lands.	29
(3)	The Minister must consider any such application, and may cause a notice containing particulars of the application to be published in the Gazette and in a local newspaper.	30 31 32

Clause 142	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 4	Construction and taking over of works

142	Objections to applications	1
(1)	Within 28 days after the publication of the relevant notice, any person may lodge with the Minister an objection in writing to the granting of the application referred to in the notice on the ground that the granting of the application would adversely affect the person's interests.	2 3 4 5
(2)	A person may not make an objection on the ground that the person's interests would, if the petition were granted, be adversely affected for reasons relating to the quantity of water available from the river, estuary or lake from which it is proposed to take water by means of the proposed water supply work, and any objection made on that ground is not to be entertained.	6 7 8 9 10 11
(3)	An objection must state particulars of the grounds of objection.	12
(4)	If an objection is lodged with the Minister, the Minister must, after consultation with the objector, make a recommendation with respect to the objection.	13 14 15
143	Governor may authorise construction or taking over of water supply work	16 17
	If an objection to an application is not duly lodged, or is duly lodged but the Minister recommends that the application be granted, the Governor may, by proclamation in the Gazette, authorise the construction or taking over of the water supply work on the site concerned.	18 19 20 21 22
144	Taking over works	23
(1)	A private irrigation board may serve a notice in writing on the landholder of any lands on which is situated any water supply work on an authorised site informing the landholder that the board proposes to take over the work.	24 25 26 27
(2)	The control and management of the work specified in the notice vests in the private irrigation board on and from the day specified in the notice.	28 29 30
(3)	A private irrigation board must not serve such a notice after the expiration of 12 months after the constitution of the private irrigation district.	31 32 33
(4)	A private irrigation board must not serve such a notice on any person in respect of a work that belongs to, or is under the control or management of, a public authority.	34 35 36

145	Transfer of lands	1
(1)	A private irrigation board, by notice in writing served, within 12 months after the constitution of the private irrigation district, on the landholder of any lands:	2
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(a)	that, immediately before the constitution of the private irrigation district, were vested in the landholder as a trustee of lands supplied with water under a single water supply work approval, and	5
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(b)	that on the constitution of the private irrigation district formed the whole or part of the private irrigation district,	9
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	may require the landholder to transfer the lands so vested to the board within such period as may be specified in the notice.	11
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(2)	If a notice is served on a landholder under this section in respect of any land, the land is taken to be held by the landholder as a trustee for the private irrigation board by which the notice was served.	13
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146	Power of entry	16
(1)	A private irrigation board may, by its employees or agents, at any reasonable time enter any lands and thereon carry out any investigation or inspection, take levels, drill test bore-holes, make surveys and marks and fix pegs or stakes for the purpose of determining the site of any proposed water supply work.	17
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(2)	A private irrigation board may, by its employees or agents, enter any lands on which is situated an authorised site for the purpose of constructing or maintaining water supply works.	22
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Division 5	Compensation	25
147	No compensation for surveys on land within private irrigation district	26
(1)	A person is not entitled to compensation by reason of:	27
(a)	any water supply works becoming works of which a private irrigation board has the control, use or maintenance, or	28
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(b)	the exercise by a private irrigation board of any of the powers of entry conferred on it by this Part on any lands within the private irrigation district of that board.	30
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Clause 147	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 5	Compensation

(2)	Subsection (1) (a) has effect subject to any terms and conditions embodied in a decision of the Land and Environment Court.	1 2
148	Compensation for surveys on lands outside private irrigation district	3
	Compensation is payable by a private irrigation board for all damage sustained by any person as a result of a board's exercise of its power to carry out surveys on lands outside its private irrigation district.	4 5 6
149	Compensation where private irrigation board constructs or takes over works	7 8
(1)	Compensation assessed in accordance with this Division is payable if a private irrigation board exercises its powers to construct or take over any water supply works.	9 10 11
(2)	Compensation is not payable by a private irrigation board in respect of the repair, operation or maintenance of any water supply work except where, in repairing, operating or maintaining any such work or works, the board causes damage to any lands outside its private irrigation district.	12 13 14 15 16
(3)	If immediately before the control and management of any water supply work becomes vested in a private irrigation board under this Part there was in force a legally binding agreement or arrangement between the person who then had the control and management of the work and some other landholder of land in the board's private irrigation district (being an agreement or arrangement under which that other person was entitled to exercise any powers in relation to that work):	17 18 19 20 21 22 23
(a)	that agreement or arrangement is taken to be an agreement or arrangement between that board and that other person, and	24 25
(b)	any compensation to which that other person may be entitled under this Division must be assessed, having regard to his or her obligations under that agreement or arrangement.	26 27 28
150	Determination of amount of compensation	29
	If compensation is payable under this Division, the amount of compensation must be determined:	30 31
(a)	by agreement between the private irrigation board and the person entitled to claim compensation, or	32 33

- (b) if such an agreement has not been reached, by the Land and Environment Court in accordance with the provisions of this Division. 1
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151 Recovery of compensation 4

Any amount payable to a claimant as compensation in accordance with this Division may be recovered from the private irrigation board as a debt in any court of competent jurisdiction. 5
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Division 6 Rates and charges for water 8

152 Fixing of rates and charges 9

- (1) As soon as practicable after 1 July in each year, a private irrigation board: 10
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 - (a) must fix a rate per hectare, for all holdings within its private irrigation district, so as to produce a total amount sufficient to meet the estimated liabilities of that board during that year and any outstanding liabilities of that board, and 12
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 - (b) must fix a rate per hectare for water, or a charge for the quantity of water, to be supplied during that year for domestic and stock purposes to all holdings within the private irrigation district, and 16
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 - (c) in the case of a board constituted for a private water supply and irrigation district: 20
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 - (i) must determine the total quantity of water that it proposes to supply to all holdings for the purpose of irrigation during that year, and 22
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 - (ii) must fix the charges in respect of the quantities of water allocated under Division 7 for that purpose in respect of all holdings within the district. 25
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- (2) The rates and charges referred to in subsection (1) (b) and (c) must be fixed so as to produce in the year for which they are fixed the amount estimated by the private irrigation board as being required in that year: 28
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 - (a) to defray the cost of constructing, maintaining and operating its water supply works, and 31
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 - (b) to pay the interest on and repay the capital of any loans raised by the board, and 33
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Clause 152	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 6	Rates and charges for water

(c)	to meet any outstanding liabilities of the board and the costs and expenses of administering the private irrigation district and of doing all such things as the board may lawfully do.	1 2 3
153	Special rates and special charges	4
(1)	For the purpose of raising money:	5
(a)	for the fulfilment of any contract, or	6
(b)	for the payment of any debt that may be due or become due by the board, or	7 8
(c)	for any other purpose for which the board is authorised to exercise its functions,	9 10
	a private irrigation board may from time to time fix a special rate per hectare to be paid in respect of all holdings in its private irrigation district.	11 12 13
(2)	A private irrigation board may also fix special charges in respect of:	14
(a)	the quantities of water allocated for the purpose of irrigation, or	15
(b)	the quantities of water determined for domestic and stock purposes,	16 17
	in respect of all holdings in its private irrigation district.	18
154	Assessment and levying of rates and charges	19
(1)	Rates fixed by a private irrigation board must be assessed, and must be levied as prescribed, in respect of the area of each holding within its private irrigation district.	20 21 22
(2)	Charges fixed by a private irrigation board for a private water supply and irrigation district must be assessed, and must be levied as prescribed, in respect of:	23 24 25
(a)	the quantity of water allocated for irrigation by the board under Division 7, or	26 27
(b)	the quantity of water determined by the board for domestic and stock purposes,	28 29
	in respect of each holding within the district.	30
155	Assessment of rates and charges	31
(1)	As soon as practicable after fixing any rates and charges, a private irrigation board must assess and levy the rates and charges.	32 33

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- (2) If a private irrigation board at any time finds it has made an error in the assessment of any rates or charges for water in respect of any holding or landholder, the board may re-assess the rates or charges in respect of the holding or landholder affected and if it does so:
- (a) must refund any amounts overpaid, and
- (b) may levy any additional amount found to be due.
- 156 Provision for determining areas of holdings**
- For the purposes of fixing, assessing and levying rates under this Division, a holding that has an area equal to a number of hectares and a remaining fraction of a hectare is taken to have an area in hectares equal to one more than that number.
- 157 Liability for rates and charges for water**
- (1) All amounts due and payable under this Division in respect of rates or charges are payable to the private irrigation board by the landholder of the holding in respect of which they were levied, and must be paid whether water is or is not taken by the landholder.
- (2) Rates and charges are due and payable to and recoverable by a private irrigation board on the expiration of one month after service of notice of the rates or charges.
- (3) If more than one person is an owner of the land, the rates or charges may be levied on any one or more of those persons, and a private irrigation board may recover the rates or charges from any person on whom they are so levied, but nothing in this subsection entitles the board to recover more than the full amount of the rates or charges.
- (4) If the land is owned jointly by two or more landholders, they are jointly and severally liable to the private irrigation board for the rates or charges, but as between themselves they are each liable only for such part of the rates or charges as is proportionate to their interests in the land.
- (5) If any such landholder pays to the private irrigation board more than his or her proportionate part, the landholder may recover the excess from the other or others.

Clause 157	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 6	Rates and charges for water

(6)	If any land in a holding reverts to the Crown during any year for which rates or charges are or are to be assessed, the person who immediately before the reversion was the landholder of the land is liable for payment of only that part of the rates or charges proportionate to the part of the year for which the land was held by the person, and any excess payment by the person must be refunded to the person.	1 2 3 4 5 6
158	Charge on land	7
(1)	Rates and charges under this Division, and any costs awarded to a private irrigation board by any court in proceedings for the recovery of any such rates and charges, are a charge on the land in respect of which the rates and charges have been levied.	8 9 10 11
(2)	A charge created by subsection (1) has no effect as against a purchaser in good faith for value who at the time of purchase made due inquiry but had no notice of the liability.	12 13 14
(3)	For the purposes of subsection (2), a purchaser is not taken to have made due inquiry unless the purchaser obtained a certificate from the private irrigation board as to the amount, if any, due in respect of rates, charges or costs.	15 16 17 18
159	Abandonment of rates	19
	Rates and charges may be abandoned or written off in accordance with the by-laws made by the private irrigation board but only on the certificate of the auditor of the board that the abandonment or writing off is in accordance with the by-laws and on the unanimous resolution of the board.	20 21 22 23 24
160	Assessment book	25
(1)	Each private irrigation board must cause to be kept a book or record (in this Part referred to as the <i>assessment book</i>) in which must be recorded the following:	26 27 28
(a)	the name, address and occupation of each landholder of land within the private irrigation district,	29 30
(b)	particulars of the area of each parcel of land owned by each such landholder,	31 32
(c)	particulars identifying the separate holdings within the private irrigation district,	33 34
(d)	particulars of the total area of land owned by all landholders,	35

- (e) in the case of a board for a private water supply and irrigation district:
 - (i) particulars of the quantity of water last allocated by the board to each irrigated holding within the district, and
 - (ii) particulars of the quantity of water last determined by the board for domestic and stock purposes in respect of each such holding,
- (f) such particulars relating to the fixing, assessing and levying of rates and charges as may be prescribed.
- (2) A private irrigation board may from time to time rectify any errors or omissions in the assessment book.

Division 7 Supply of water

161 Determination of allocation

A board for a private water supply and irrigation district must determine the quantity of water, if any, to be allocated for irrigation to each holding within the private irrigation district.

162 Supply of water

At the times fixed by it, a private irrigation board:

- (a) must supply water for domestic and stock purposes (in such quantities as it may determine):
 - (i) to the boundary of each holding within its private irrigation district, and
 - (ii) to such other points as may be agreed on by the board and the landholder of the holding, and
- (b) in the case of a board for a private water supply and irrigation district, must supply water for irrigation (in the quantities allocated by it under this Division):
 - (i) to the boundary of each holding within its private irrigation district for which an allocation of water for irrigation has been made by the board, and
 - (ii) to such other points as may be agreed on by the board and the landholder of the holding.

Clause 163	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 7	Supply of water

163	Discontinuance or reduction of supply of water	1
(1)	A private irrigation board may at any time refuse to deliver water to any holding or may discontinue any delivery of water to a holding:	2
(a)	in the case of a holding for which it has made an allocation of water for irrigation:	3
(i)	if the land to be irrigated is not in its opinion properly prepared for irrigation or on which the ditches or channels to be used for the distribution of water within the holding are in the opinion of the board inadequate or in a bad state of repair, or	4
(ii)	if the water is for the irrigation of grasses or pastures that are not sown grasses or improved pastures, or	5
(b)	if any rates or charges for water in respect of the holding are, and have been for a period of 2 months or more after the due date of payment, unpaid, or	6
(c)	if the landholder of the holding does not comply with any requirement specified in a notice given to the landholder under this Division, or	7
(d)	if the water is being used for a purpose that is not authorised by a water use approval.	8
164	Circumstances in which private irrigation board not obliged to supply water	9
(1)	Nothing in this Part requires a private irrigation board to supply water to any land or landholder if, by reason of drought, accident or otherwise, the board is of the opinion that it is impracticable to do so.	10
(2)	Unless the private irrigation board otherwise determines, any failure to deliver water to a holding does not relieve the landholder of the holding of any liability for payment of rates and charges, and rates and charges continue to be leviable in respect of the holding despite any such failure.	11
165	Landholders may be required to provide distribution works.	12
	A private irrigation board may, by notice in writing given to the landholder of any holding, require the landholder:	13
(a)	to provide on his or her holding:	14

(i)	ditches or channels of such a size and capacity as will enable water to be delivered to his or her land at not less than such rate of delivery as the board may stipulate in the notice, and	1 2 3 4
(ii)	water storage works, in such locations and of such nature and extent as the board may stipulate in the notice, for the water to be supplied by it for domestic and stock purposes, and	5 6 7 8
(b)	to maintain, continuously and effectively, any ditches or channels referred to in paragraph (a) (i) so that water may be carried or passed at not less than the rate so stipulated.	9 10 11
166	Sale of surplus water	12
(1)	If the full quantity of water to be supplied under this Division has been supplied or, despite any sales made under this section, will be supplied, a private irrigation board may, subject to the conditions of any water supply work approval held by it, agree to sell by measure to the landholder of any holding water from the works of the private irrigation district subject to such terms and conditions as may be agreed to by the board and that landholder.	13 14 15 16 17 18 19
(2)	If the Minister authorises a private irrigation board to take water in addition to the water the board is entitled to take under its access licence, the board may agree to sell by measure the water it is so authorised to take to the landholder of any holding within its private irrigation district, subject to such terms and conditions as may be agreed on by the board and that landholder.	20 21 22 23 24 25
Division 8	Effect of new subdivisions	26
167	Supply of water for domestic and stock purposes to new holdings resulting from subdivisions	27 28
(1)	If a holding, whether an irrigated or non-irrigated holding, is subdivided, a new holding resulting from the subdivision is not entitled to a supply of water for domestic and stock purposes from a private irrigation board's water supply works until a date determined by the board (not being a date earlier than the date on which the board became aware of the disposition of that new holding).	29 30 31 32 33 34

Clause 167	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 8	Effect of new subdivisions

(2)	If rates for a period or year ending on 30 June, being the period or year during which the date specified by a private irrigation board under subsection (1) occurred, have not, before the date so specified, been levied in respect of the holding that was subdivided, the board must levy the rates for the whole of that period or year in respect of each of the new holdings that resulted from the subdivision, and that was disposed of.	1 2 3 4 5 6 7
168	Supply of water for irrigation purposes to a new holding resulting from a subdivision	8 9
(1)	If an irrigated holding is subdivided and any new holdings are thereby created, the private irrigation board must, subject to subsection (2), allocate to such of the new holdings as the landholder of the subdivided holding nominates the whole of the quantity of water last allocated to the holding that was subdivided.	10 11 12 13 14
(2)	If the landholder nominates more than one new holding to which the quantity of water is to be allocated, the private irrigation board may allocate the water to those holdings in such proportions as it determines.	15 16 17 18
(3)	A private irrigation board may allocate to such of the new holdings as the board determines the quantity of water last allocated to the subdivided holding if:	19 20 21
(a)	the landholder of the subdivided holding fails to make a nomination within the time specified by the board in a notice sent by post to the landholder at the landholder's last known address, or	22 23 24 25
(b)	a holding nominated by the landholder does not contain land capable of being irrigated from the works of the private irrigation district or to which, in the opinion of the board, it is impracticable to convey water for irrigation from those works, or	26 27 28 29 30
(c)	a holding nominated by the landholder is too small to justify an allocation of water, or	31 32
(d)	the allocation of water in the manner nominated is otherwise detrimental to the administration of the private irrigation district concerned.	33 34 35

- (4) If a private irrigation board makes an allocation under subsection (3), it is to notify the landholder of the subdivided holding and the landholder of each new holding of the allocation. 1
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- (5) An allocation of water to a new holding made under this section has effect on and from a date to be specified in the instrument by which the allocation is made (not being a date earlier than the date on which the private irrigation board became aware of the first disposition of any of the new holdings resulting from the subdivision). 4
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- (6) The landholder of a new holding resulting from a subdivision referred to in subsection (1) is not entitled to an allocation of water by the private irrigation board for irrigation purposes otherwise than in accordance with this section. 9
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- (7) If the charges for water have not been levied for the current year for the subdivided holding, the private irrigation board must levy the charges for the whole of that year in respect of the new holding to which the water previously allocated to the subdivided holding has been allocated in accordance with this section. 13
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169 Additional works required as a result of subdivision 18

- (1) The person who, immediately before the disposition of a new holding resulting from a subdivision, was the landholder of the holding (the *previous landholder*) must construct at his or her own cost such works as are necessary to provide: 19
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 - (a) means of conveying water to the new holding from the private irrigation board's water supply works and, if an allocation of water is made to the new holding for irrigation, means of measuring the water so supplied, and 23
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 - (b) means of access from roads to any works of the private irrigation district or any works provided for the purposes of paragraph (a) if that access would not be available except by crossing a channel of the private irrigation district, and 27
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 - (c) means of access across a channel of the private irrigation district to the new holding if that means of access is required by reason of the subdivision. 31
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Clause 169	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 8	Effect of new subdivisions

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| (2) All works to be constructed under subsection (1): | 1 |
| (a) in respect of the supply of water to a new non-irrigated holding, | 2 |
| must be constructed before the new holding is disposed of or | 3 |
| within such period after the disposition of the new holding as | 4 |
| the private irrigation board may in any particular case allow, | 5 |
| and | 6 |
| (b) in respect of the supply of water to a new irrigated holding, | 7 |
| must be constructed within such period as the private irrigation | 8 |
| board may, by notice in writing, have notified to the landholder | 9 |
| of the holding that was subdivided. | 10 |
| (3) All works constructed or to be constructed under subsection (1) must | 11 |
| be constructed in accordance with the approval in writing of the private | 12 |
| irrigation board in respect of location, design, form, dimensions and | 13 |
| construction. | 14 |
| (4) At the request of the previous landholder, a private irrigation board | 15 |
| may undertake, at the landholder's cost, the construction of any works | 16 |
| required by this section. | 17 |
| (5) A private irrigation board may construct such works as have not been | 18 |
| constructed by the previous landholder, and any costs and expenses | 19 |
| (including any compensation paid or payable by the board under | 20 |
| Division 5 by reason of the construction of the works) are payable to | 21 |
| the board either by the previous landholder or by the new landholder, | 22 |
| as the board may determine. | 23 |
| (6) If any part of the costs and expenses referred to in subsection (5) is | 24 |
| recovered by the private irrigation board from the new landholder, the | 25 |
| new landholder may recover from the previous landholder the whole | 26 |
| or that part of those costs or expenses, as the case may be. | 27 |
| (7) On their completion, the control and management of any works | 28 |
| constructed under this section is vested in the private irrigation board. | 29 |

Division 9 Meetings of landholders 30

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| 170 General meeting | 31 |
| (1) The chairperson of a private irrigation board may, at any time, convene | 32 |
| a general meeting of landholders of land within the board's private | 33 |
| irrigation district. | 34 |

- (2) A private irrigation board must, within 21 days after the receipt of a requisition signed by not less than one-fifth in number of the landholders of the holdings in the private irrigation district, convene a general meeting of those landholders. 1
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- (3) Seven days' notice of every general meeting must be sent to every landholder at the address shown in the private irrigation board's assessment book informing the landholder of the time and place of the general meeting. 5
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171 Voting rights 9

- (1) A corporation may, by any person authorised by it in writing, attend general meetings and vote. 10
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- (2) If there is more than one landholder of any holding, each landholder may attend general meetings but only one of them may vote. 12
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Division 10 Finance 14

172 Books of account 15

Each private irrigation board must cause to be kept, in relation to its funds, proper books of account that must be audited as often as the board considers it advisable so to do, but at least once in every year, by a registered company auditor (within the meaning of the *Corporations Law*). 16
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173 Accounts to be rendered 21

Each private irrigation board must as soon as practicable, and in any case before 31 October in each year, forward to the Minister a copy of the income and expenditure account, balance sheet and rate account as last audited, together with a copy of the certificate of audit relating to them. 22
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174 Banking of money 27

- (1) All money received by or on account of a private irrigation board must be paid into a bank or authorised deposit-taking institution chosen by the board. 28
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Clause 174	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 10	Finance

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| (2) Every payment of \$2.00 or more by or on behalf of a private irrigation board must be by cheque on the bank or authorised deposit-taking institution drawn and countersigned as prescribed by the regulations. | 1 |
| | 2 |
| | 3 |
| (3) Payments of less than \$2.00 may be made out of a petty cash fund, replenished from time to time by cheque drawn and countersigned as prescribed by the regulations. | 4 |
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175 Temporary accommodation	7
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| (1) For the temporary accommodation of a private irrigation board it may obtain advances by way of overdraft of current account in any one or more banks or authorised deposit-taking institutions on the security of the income of the board. | 8 |
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| | 11 |
| (2) The amount of any such overdraft must be limited to: | 12 |
| (a) one-half of the income of the private irrigation board as shown by the last audited accounts, or | 13 |
| | 14 |
| (b) if there are no audited accounts, one-half of the income of the private irrigation board estimated by the board in respect of the year commencing on 1 July immediately preceding the date on which the overdraft is proposed to be obtained. | 15 |
| | 16 |
| | 17 |
| | 18 |
| (3) No greater amount may be borrowed under this section than the amount stated in a certificate of the auditor of the private irrigation board as being the sum that may be borrowed within the limits imposed by this section. | 19 |
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Division 11 Miscellaneous	23
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176 Delegation	24
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| A private irrigation board may by instrument in writing delegate: | 25 |
| (a) to any member of the board, or | 26 |
| (b) to any employee of the board, | 27 |
| any of its functions, other than this power of delegation. | 28 |

177	Assessment book admissible as evidence	1
	In any legal proceedings for the recovery of rates or charges:	2
	(a) a private irrigation board's assessment book, or	3
	(b) any document purporting to contain a copy of any part of a private irrigation board's assessment book that is certified as a true copy by the chairperson of the private irrigation board, or by a person authorised by the chairperson in that regard,	4 5 6 7
	is admissible in evidence.	8
178	Service of notice of proceedings on a private irrigation board	9
	Any document required to be served on a private irrigation board may be served:	10 11
	(a) by leaving it with some person apparently employed by the board at the office of the board, or	12 13
	(b) by posting it to the board at its office.	14
179	Recovery of rates	15
	Any rates, charges or money due to a private irrigation board under this Part may be recovered as a debt in a court of competent jurisdiction.	16 17 18
180	Amendment of proclamations	19
	Any proclamation under this Part may be amended by a further proclamation for the purpose of correcting any error in the earlier proclamation.	20 21 22
181	By-laws	23
	(1) A private irrigation board may, with the approval of the Governor, make by-laws not inconsistent with this Part or the regulations for or with respect to the following:	24 25 26
	(a) the convening and holding of general meetings of landholders,	27
	(b) the appointment by a landholder of a proxy for voting purposes,	28
	(c) the supply of water for domestic and stock purposes or for irrigation,	29 30

Clause 181	Water Management Bill 2000
Chapter 4	Joint private works
Part 2	Private irrigation districts
Division 11	Miscellaneous

(d)	the provision of storages on holdings for water supplied from the water supply works of the board for domestic and stock purposes,	1 2 3
(e)	the methods of measuring water supplied,	4
(f)	the sale of water to landholders,	5
(g)	regulating the use of the water supply works of the board,	6
(h)	the prevention of waste of water,	7
(i)	the fixing, assessing and levying of rates and charges for water,	8
(j)	the class of case in which, and the circumstances in which, rates and charges may be abandoned or written off,	9 10
(k)	the accounts of the board,	11
(l)	the collection and banking of money, and the signing and countersigning of cheques,	12 13
(m)	the books and records of the board,	14
(n)	the access of members of the board to documents and books of the board,	15 16
(o)	fees for any service provided by the board,	17
(p)	the form of any notice or other document to be prepared, issued or received in accordance with this Part or any regulations of the board,	18 19 20
(q)	any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Part.	21 22
(2)	A by-law may create an offence punishable by a penalty not exceeding 0.5 penalty units.	23 24

Part 3 Private drainage boards	1
Division 1 Preliminary	2
182 Application of Part	3
This Part applies to all drainage unions under the former <i>Drainage Act 1939</i> that were in existence immediately before the repeal of that Act, but does not authorise the establishment of any new drainage unions.	4 5 6
183 Definitions	7
In this Part:	8
<i>director</i> means director of a private drainage board.	9
<i>drain</i> includes a natural watercourse.	10
<i>drainage district</i> means the area in respect of which a drainage union is constituted, having boundaries as varied from time to time in accordance with this Part.	11 12 13
<i>private drainage board</i> means board of directors of a drainage union.	14
<i>ratable land</i> means land in respect of which rates or charges are payable under this Part.	15 16
<i>ratable person</i> means the owner of ratable land.	17
184 Requirements for approvals	18
Nothing in this Part authorises a private drainage board to construct or use a drainage work otherwise than in accordance with a drainage work approval held by the board.	19 20 21
Division 2 Private drainage boards	22
185 Private drainage boards	23
Each private drainage board is a corporation under the corporate name by which it was constituted.	24 25

Clause 186	Water Management Bill 2000
Chapter 4	Joint private works
Part 3	Private drainage boards
Division 2	Private drainage boards

186	Appointment and election of directors	1
(1)	A private drainage board is to have not less than 3, and not more than 7, directors.	2 3
(2)	If any Crown lands are included in the private drainage board's district, one of the directors is to be appointed by the Minister (the <i>appointed director</i>).	4 5 6
(3)	The remaining directors (the <i>elected directors</i>) are to be elected by landholders within the drainage district.	7 8
(4)	The regulations may make provision for or with respect to:	9
(a)	the conduct of elections for the elected members of a private drainage board, and	10 11
(b)	other matters concerning the constitution and procedure of a private drainage board.	12 13
187	Functions of private drainage boards	14
(1)	A private drainage board has the following functions:	15
(a)	to prepare, review and implement a management program for its drainage district,	16 17
(b)	to maintain in a state of efficiency the drainage works under its charge, and renew such drainage works if necessary,	18 19
(c)	to construct, alter, or extend any drainage works in accordance with any authority and consent given under this Part,	20 21
(d)	to make, levy and collect rates,	22
(e)	to appoint such officers and employees as may be required,	23
(f)	to institute legal proceedings for the recovery of outstanding rates or other amounts,	24 25
(g)	to keep the prescribed books and accounts,	26
(h)	to manage the affairs of the drainage union,	27
(i)	to do such acts as may be necessary or desirable for carrying out the purposes of this Part.	28 29
(2)	No drainage works affecting navigable waters (within the meaning of the <i>Protection of the Environment Operations Act 1997</i>) are to be commenced without the approval of the Governor.	30 31 32

188	Entry on lands	1
(1)	A private drainage board or any person authorised by it may enter any land within or outside its drainage district:	2
		3
(a)	for the purpose of making inspections or surveys, and	4
(b)	for the purpose of constructing, maintaining and effecting extensions and alterations to the drainage works, and	5
		6
(c)	for any other purpose in the exercise of its powers and duties.	7
(2)	The private drainage board must make full compensation for damage occasioned to any land in the exercise of its powers and duties under this Part.	8
		9
		10
189	Extension of drainage works	11
	A private drainage board is to carry out such extensions of drainage works as are authorised by a majority of votes cast at a general meeting at which a quorum is present.	12
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		14
190	Amendment of boundaries	15
(1)	The boundaries of a drainage district may from time to time, on application by the private drainage board, be amended by the Governor.	16
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		18
(2)	Any such application must contain particulars of the lands proposed to be added to or excised from the drainage district, and that have or are capable of being increased in value or that have decreased in value respectively by reason of the operations of the private drainage board.	19
		20
		21
		22
(3)	The Minister must cause notice of any such application to be published in a local newspaper.	23
		24
(4)	The notice must:	25
(a)	give particulars of the lands proposed to be added to or excised from the drainage district, and	26
		27
(b)	appoint a time (not being earlier than 8 weeks after the date of publication of the notice) and place at which objections may be lodged.	28
		29
		30
(5)	After expiration of the appointed time and on consideration of any objection lodged the Minister may recommend and the Governor may approve an application with such modification, if any, as the Minister, on investigation, may recommend.	31
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Clause 190	Water Management Bill 2000
Chapter 4	Joint private works
Part 3	Private drainage boards
Division 2	Private drainage boards

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| (6) The approval of the Governor, and particulars of the alterations made in the boundaries of the drainage district, must be notified by the Minister in the Gazette. | 1 |
| | 2 |
| | 3 |
| (7) As from the date of publication of such notification, the boundaries of the drainage district are taken to be altered accordingly. | 4 |
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Division 3	Rating	6
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191	Appointment of valuer	7
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| (1) Each private drainage board is to appoint a valuer to make valuations in accordance with this Part. | 8 |
| | 9 |
| (2) A valuer appointed under this Part is to determine the increased value accrued, accruing or to accrue to each portion of land within the drainage district by reason of drainage works used or proposed to be used by the private drainage board. | 10 |
| | 11 |
| | 12 |
| | 13 |
| (3) Division 4 applies to valuations made under this Part. | 14 |
| (4) A valuation made for the purposes of this Part comes into effect on 1 January following the date on which it is made. | 15 |
| | 16 |

192	Annual estimates	17
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| For each year commencing 1 January, the private drainage board must cause an estimate to be made of the amount required for that year for the following purposes: | 18 |
| | 19 |
| | 20 |
| (a) construction, maintenance, extension and alteration of drainage works, | 21 |
| | 22 |
| (b) payment to the Treasurer of any amounts due or becoming due, | 23 |
| (c) repayment of loans, and payment of interest thereon, | 24 |
| (d) defraying costs of administration, | 25 |
| (e) meeting all other expenditure whatsoever in carrying out its powers, authorities, duties and functions, | 26 |
| | 27 |
| (f) the preparation and implementation of management programs. | 28 |

193 Rates, making and levying

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|---|----|
| | 1 |
| (1) For each year commencing 1 January, the private drainage board is to | 2 |
| make and levy rates on all ratable land in the drainage district in | 3 |
| respect of the increased values as shown in the current valuation book | 4 |
| sufficient to meet the estimated amount required for that year. | 5 |
| (2) Rates so made and levied must not, except with the consent of the | 6 |
| Minister previously obtained, exceed 10% on the aggregate of the | 7 |
| increased value of all land within the drainage district, or the | 8 |
| maximum amount levied in any year before the commencement of this | 9 |
| Part, whichever is the greater. | 10 |
| (3) Every such rate must: | 11 |
| (a) be made by resolution of the private drainage board, and | 12 |
| (b) be levied by the service of a rate notice. | 13 |
| (4) Every rate must be levied in respect of a separate parcel of land, but | 14 |
| any rate in respect thereof may be included in the same rate notice with | 15 |
| any rate in respect of the same or different land. | 16 |
| (5) If the name of any owner liable to pay the rate is not known to the | 17 |
| private drainage board, it is sufficient to rate such owner by the | 18 |
| designation of "owner" without stating the owner's name. | 19 |
| (6) If land becomes ratable, the rate on the land is to be proportionate to | 20 |
| the portion of the year during which the land is ratable and, in that | 21 |
| case, the first valuation of the land made after it becomes ratable is | 22 |
| taken to have come into force when the land became ratable. | 23 |
| (7) If ratable land has not been valued, the first valuation of the land made | 24 |
| after discovery of the omission is taken to have come into force on 1 | 25 |
| January of the current year, and the rate may be levied accordingly. | 26 |
| (8) Rates may be levied in respect of all ratable land within the drainage | 27 |
| district. | 28 |
| (9) All land within a drainage district in respect of which any increased | 29 |
| value has been determined under this Part is ratable, except land | 30 |
| owned by the Crown (not being land held under a lease from the | 31 |
| Crown by any person for private purposes) that is situated within the | 32 |
| drainage district. | 33 |

Clause 194	Water Management Bill 2000
Chapter 4	Joint private works
Part 3	Private drainage boards
Division 3	Rating

194	Irregularities	1
	If for any reason any rate is not made within or by the time prescribed	2
	by or under this Part, or if any irregularity in making or levying any	3
	rate affects or may be considered to affect the validity of any rate, the	4
	Governor may extend the time for the making of the rate, and may	5
	authorise the doing by the private drainage board of such acts as may	6
	be necessary to cure the irregularity and to validate the rate.	7
195	Rate book	8
	(1) Every rate must be entered in a rate book which must be in the	9
	prescribed form.	10
	(2) An alteration or amendment in the rate book may be made in respect	11
	of any rate by altering such of the particulars entered therein as may be	12
	prescribed.	13
	(3) An alteration or amendment in the rate-book has effect on adoption by	14
	the private drainage board as though made when the rate was made.	15
	(4) An alteration or amendment in the rate-book made in conformity with	16
	a resolution of the private drainage board must be made in the	17
	prescribed manner.	18
196	Due date	19
	Every rate becomes due and payable to and recoverable by the private	20
	drainage board on the expiration of one month after service of the rate	21
	notice.	22
197	Liability of owner	23
	Except where this Part otherwise expressly provides, every rate is to be	24
	paid to the private drainage board by the owner of the land in respect	25
	of which the rate is levied.	26
198	Liability of current owner	27
	(1) If a private drainage board is for any reason unable to recover any	28
	amount owing by way of rates from the owner of any land, the private	29
	drainage board may serve on any tenant of that land a notice requiring	30
	that any rent then due or thereafter to become due by the tenant in	31
	respect of the land be paid by the tenant as it falls due to the board in	32
	liquidation of the amount owing.	33

- (2) In default of payment of rent, the private drainage board may recover from the tenant of the land the amount owing as a debt in any court of competent jurisdiction. 1
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- (3) Any payment to the private drainage board under this section constitutes a valid discharge to the payer for such rent as against all other persons. 4
5
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- (4) Nothing in this section applies to a person who is a tenant for or on behalf the Crown, as an officer or employee of the Crown or as an employee of a local council. 7
8
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199 Lessees of land owned by the Crown 10

- (1) If the land is owned by the Crown and is held by any person under a lease from the Crown, the rate must be paid to the private drainage board by the holder of the lease. 11
12
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- (2) If the land is held under a lease from the Crown by two or more persons successively in the same year, the private drainage board may do any of the following: 14
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 - (a) it may make such adjustment (if any) of the rate, whether paid or unpaid, as it thinks proper between such persons, 17
18
 - (b) it may recover from each of such persons that person's proportion of the rate as fixed by the adjustment, 19
20
 - (c) it may make any refund in accordance with the adjustment, 21
 - (d) it may write off any amount in respect of the interval between the those persons' holdings. 22
23

Division 4 Valuations 24

200 Valuation periods 25

- (1) A valuation in respect of all lands within the drainage district must be made: 26
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 - (a) at least once in every 3 years, and 28
 - (b) for a valuation period, that is to say, for a period not exceeding 3 years. 29
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Clause 200	Water Management Bill 2000
Chapter 4	Joint private works
Part 3	Private drainage boards
Division 4	Valuations

(2)	Despite any other provision in this Part the private drainage board may cause any valuation to be made at any time whether during the currency of any valuation period or otherwise.	1 2 3
(3)	A valuation (together with any amendments made in accordance with law) remains in force until a fresh valuation comes into force.	4 5
201	Inclusive valuations	6
(1)	If several parcels of land adjoin, are owned by the same person, are of the same class of tenure, and no part is let to any person, they must be included in one valuation, unless the private drainage board otherwise directs.	7 8 9 10
(2)	Any such parcels of land must be valued separately if any buildings erected on them are obviously adapted to separate occupation.	11 12
(3)	If several parcels of land adjoin, are owned by the same person, are of the same class of tenure, and are all let to one person, they must be included in one valuation, unless the private drainage board otherwise directs.	13 14 15 16
202	Separate valuations	17
(1)	If several parcels of land owned by the same person are not of the same class of tenure, or are separately let to different persons, they must be separately valued.	18 19 20
(2)	Lands that are separately owned, or that do not adjoin, must be separately valued, except that lands that are separated by a road generally used by the public may be included in one valuation if they are owned by the same person and are worked as one holding.	21 22 23 24
(3)	If a part of a parcel of land that has been valued is sold, conveyed or resumed, fresh valuations must be made of the portion sold, conveyed or resumed and of the part remaining.	25 26 27
(4)	If a part only of a parcel of land is ratable, the part that is ratable must be separately valued.	28 29
203	Land extending outside the area	30
	If any land in respect of which one valuation would otherwise be made under this Division is not wholly within the drainage district but extends both inside and outside the drainage district, the part within the drainage district must be separately valued.	31 32 33 34

204	Valuation book	1
(1)	Every valuation made for a private drainage board must be entered into the board's valuation book.	2 3
(2)	The valuation book must be kept as prescribed by the regulations.	4
(3)	Any particulars in the valuation book may be entered in the board's rate book.	5 6
205	Alterations in valuation book	7
(1)	Alterations may be made in the valuation book by resolution of the private drainage board at any time if:	8 9
(a)	it is found there has been an error as to the area, ownership or occupation of land, or	10 11
(b)	the valuer certifies in writing that the valuer has made an arithmetical mistake in calculation of values, or	12 13
(c)	there has been a change of owners and it is necessary in consequence to alter the names and other particulars forming part of the entry of the valuation.	14 15 16
(2)	If any land has been subdivided, and a portion sold or let, the valuation of the land and any unpaid rates may be apportioned accordingly by the private drainage board on the recommendation of the valuer.	17 18 19
(3)	Alterations and apportionments under this section are, for the purposes of notice and objection, taken to be valuations.	20 21
(4)	Other minor errors in the valuation book not affecting the amount of the valuation may be altered as prescribed.	22 23
(5)	An alteration in the valuation book made in conformity with this Division must be initialled by the chairperson of the private drainage board and, if a resolution of the private drainage board is necessary to authorise the alteration, a reference to the minute of the resolution must be inserted in the valuation book.	24 25 26 27 28
206	Notice of valuation	29
(1)	Notice of valuation must be given by service of a valuation notice.	30
(2)	The notice must comply with the following requirements:	31
(a)	it must be in or to the effect of the form prescribed by the regulations,	32 33

Clause 206	Water Management Bill 2000
Chapter 4	Joint private works
Part 3	Private drainage boards
Division 4	Valuations

- (b) it may include any number of separate valuations provided that each valuation must be separately shown, 1
2
- (c) it may be included in a rate notice, 3
- (d) it may designate any ratable person, whose name is unknown to the private drainage board, as “the owner” without stating the person’s name, 4
5
6
- (e) it must state a time (being at least 30 days after service) within which any person ratable in respect of the land may lodge with the private drainage board a written objection to the valuation, 7
8
9
- (f) it may be served in any manner prescribed by or under this Part for the service of notices by the private drainage board, 10
11
- (g) it must be served on every person ratable in respect of the land. 12
- (3) If more than one person is ratable in respect of any land, and the notice is served on one or more of such persons, the omission to serve the notice on any other ratable person does not affect the liability of the land or of any ratable person on whom the notice is served. 13
14
15
16
- (4) In the case of the lessee of private land, the liability for and the right to recover rates is not affected by reason only of the fact that notice has not been given to the lessee, unless the name of the lessee is on the roll of voters kept in accordance with the regulations. 17
18
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- (5) If the Crown is the ratable person, the private drainage board must comply with any request of the Treasurer for the grouping or separation of rates on rate notices. 21
22
23

207 Objections 24

- (1) Any ratable person may object to any valuation of which notice has been served on the person in accordance with this Part. 25
26
- (2) The objection must: 27
 - (a) be in or to the effect of the form prescribed by the regulations, and 28
29
 - (b) be lodged with the secretary of the drainage board within the time stated in the valuation notice. 30
31
- (3) The private drainage board must forward the objection to the valuer. 32
- (4) The only grounds on which objection may be made under this section are the following: 33
34
 - (a) that the values assigned are wrong, 35

- (b) that separate valuations have been made if one valuation should have been made, 1
2
- (c) that one valuation has been made if separate valuations should have been made, 3
4
- (d) that any apportionment of the valuation is not correct, 5
- (e) that the person named in or served with the valuation notice as a ratable person in respect of the ratable land is not such a ratable person, 6
7
8
- (f) that the land is not ratable. 9
- (5) The fact that an objection has been lodged does not affect the valuation that is objected to, and any rate may be made, levied, and recovered on the valuation as if no objection were pending. 10
11
12
- (6) If the valuation is altered on objection, a due adjustment must be made, and any amount paid in excess must be refunded and any amount unpaid is recoverable as arrears. 13
14
15

208 Appeals to Local Court

- (1) An objector who is dissatisfied with the valuer's decision on the objection may appeal to a Local Court against the decision. 16
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- (2) The Local Court may order the valuation to be altered if it is satisfied that it is erroneous. 19
20
- (3) Any costs incurred by the valuer in relation to the appeal are recoverable from the private drainage board in any court of competent jurisdiction as a debt due to the valuer. 21
22
23

209 Invalid valuations

- (1) If a Local Court holds that a valuation is invalid for any reason other than that the land is not ratable, the private drainage board may cause a fresh valuation to be made in place of the valuation held to be invalid. 24
25
26
27
28
- (2) Any valuation made for the purposes of any rate made or to be made is taken to have come into force when the invalid valuation would if valid have come into force. 29
30
31

Clause 210	Water Management Bill 2000
Chapter 4	Joint private works
Part 3	Private drainage boards
Division 5	Effect of new subdivisions

Division 5	Effect of new subdivisions	1
210	Supply of water to new holdings resulting from subdivisions	2
(1)	If a holding is subdivided, a new holding resulting from the subdivision is not entitled to be connected to a private drainage board's drainage works until a date determined by the board (not being a date earlier than the date on which the board became aware of the disposition of that new holding).	3 4 5 6 7
(2)	If rates for a period or year ending on 30 June, being the period or year during which the date determined by the board under subsection (1) occurred, have not, before the date so determined, been levied in respect of the holding that was subdivided, the board must levy the rates for the whole of that period or year in respect of each of the new holdings that resulted from the subdivision, and that was disposed of.	8 9 10 11 12 13
211	Additional works required as a result of subdivision	14
(1)	The person who, immediately before the disposition of a new holding resulting from a subdivision of land within a private drainage board's drainage district, was the landholder of the holding (the <i>previous landholder</i>) must construct at his or her own cost such works as are necessary to provide:	15 16 17 18 19
(a)	means of conveying water to the board's drainage works from the new holding, and	20 21
(b)	means of access from roads to any works of the board or any works provided for the purposes of paragraph (a) if that access would not be available except by crossing a channel of the drainage district, and	22 23 24 25
(c)	means of access across a channel of the drainage district to the new holding if that means of access is required by reason of the subdivision.	26 27 28
(2)	All works to be constructed under subsection (1) must be constructed before the new holding is disposed of or within such period after the disposition of the new holding as the board may in any particular case allow.	29 30 31 32
(3)	All works constructed or to be constructed under subsection (1) must be constructed in accordance with the approval in writing of the board in respect of location, design, form, dimensions and construction.	33 34 35

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| (4) At the request of the previous landholder, the board may undertake, at the landholder's cost, the construction of any works required by this section. | 1
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| (5) The board may construct such works as have not been constructed by the previous landholder, and any costs and expenses are payable to the board either by the previous landholder or by the new landholder, as the board may determine. | 4
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| (6) If any part of the costs and expenses referred to in subsection (5) is recovered by the board from the new landholder, the new landholder may recover from the previous landholder the whole or that part of those costs or expenses, as the case may be. | 8
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| (7) On their completion, the control and management of any works constructed under this section is vested in the board. | 12
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Division 6	Miscellaneous	14
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212	Dissolution	15
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| (1) When all amounts due by the private drainage board of any drainage union have been repaid, the landholders (being not less than one-third in number of those within the drainage district) may present a petition to the Governor for the dissolution of the union. | 16
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| (2) The Governor may notify such petition in a local newspaper, and if no sufficient cause to the contrary is shown by other landholders within the drainage district, may proclaim that the union is dissolved. | 20
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| (3) The Governor may dissolve any union if its drainage works cease to be the subject of a drainage work approval. | 23
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| (4) The regulations may make provision for or with respect to the winding up of a private drainage board and for the disposal of any residual assets of the board. | 25
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213	Debts	28
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Any rate, charge, fee, or money due to a private drainage board under the provisions of this Part or of any regulation under this Part may be recovered as a debt or liquidated demand in any court of competent jurisdiction.	29 30 31 32
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Clause 214	Water Management Bill 2000
Chapter 4	Joint private works
Part 3	Private drainage boards
Division 6	Miscellaneous

214	Accounts	1
(1)	The accounts of a private drainage board must be audited once every year.	2 3
(2)	A private drainage board must each year publish in a local newspaper a statement of the receipts and payments or alternatively of the income and expenditure for the next preceding year, certified under the hands of the chairperson of the board or manager and the auditor, or forward a copy of such statement to each landholder of land within the drainage district.	4 5 6 7 8 9
(3)	The private drainage board must forward a copy of the statement to the Minister.	10 11
215	Regulations	12
	The regulations may make provisions for or with respect to the following matters:	13 14
(a)	the appointment, payment and dismissal of officers and employees of a drainage board,	15 16
(b)	the making and levying of rates and the time within which rates must be made,	17 18
(c)	the keeping of accounts of private drainage boards,	19
(d)	the qualifications to be held by auditors appointed by a private drainage board,	20 21
(e)	the appointment, powers and duties of valuers appointed by a private drainage board,	22 23
(f)	the form, preparation, sealing, keeping and inspection of the valuation book,	24 25
(g)	the entries that are to be made in the valuation book.	26

Part 4 Private water trusts	1
Division 1 Preliminary	2
216 Application of Part	3
This Part applies to all private water trusts under Part 3 of the former <i>Water Act 1912</i> that were in existence immediately before the repeal of that Part, but does not authorise the establishment of any new private water trusts.	4 5 6 7
217 Definitions	8
In this Part:	9
member , in relation to a private water trust, means a member appointed or elected under section 219.	10 11
private water trust means a trust constituted under Part 3 of the former <i>Water Act 1912</i> .	12 13
ratepayer means person paying rates in respect of land within a water supply district.	14 15
water supply district means the district in respect of which a private water trust is constituted.	16 17
218 Requirements for access licences and approvals	18
(1) Nothing in this Part authorises a private water trust to take water otherwise than in accordance with an access licence and water supply work approval held by the trust.	19 20 21
(2) Nothing in this Part authorises a landholder of land within a water supply district to use water otherwise than in accordance with a water use approval held by the private water trust.	22 23 24
Division 2 Private water trusts	25
219 Appointment and election of members	26
(1) For private water trusts with 3 members, 1 is to be appointed by the Minister, and 2 are to be elected.	27 28

Clause 219	Water Management Bill 2000
Chapter 4	Joint private works
Part 4	Private water trusts
Division 2	Private water trusts

(2)	For private trusts with 5 members, 2 are to be appointed by the Minister, and 3 are to be elected.	1 2
(3)	One of the members appointed by the Minister is to be appointed as chairperson.	3 4
(4)	The regulations may make provision for or with respect to:	5
(a)	the conduct of elections for the elected members of a private water trust, and	6 7
(b)	other matters concerning the constitution and procedure of a trust.	8 9
220	Alteration of water supply districts	10
(1)	If two-thirds of the landholders of lands within any area sign and forward to the Minister a petition that such area be included in a water supply district, the Minister must, unless of the opinion that the petition should be refused, refer the petition to the members of the private water trust for the district.	11 12 13 14 15
(2)	On receipt from the members of notice that the proposed alteration has been approved by a special general meeting of the voters of the trust, of which at least 14 days' notice has been given in the prescribed manner, the Minister may, by notification in the Gazette, alter the boundaries of the district accordingly.	16 17 18 19 20
221	Removal of land from water supply district	21
(1)	If any lands within a water supply district have not benefited from the water management works of the private water trust for a continuous period of 3 years or more and the landholder of such lands applies to the Minister for the lands to be excised from the water supply district, the Minister must refer the application to the members of the private water trust for the district.	22 23 24 25 26 27
(2)	The members must refer the question of the proposed excision of the lands from the water supply district to a special general meeting of the voters of the trust (of which at least 14 days' notice has been given in the prescribed manner) and must convey to the Minister the decision of the voters.	28 29 30 31 32
(3)	The members must also advise the Minister as to:	33
(a)	the reasons why such lands have not so benefited or have ceased so to benefit, and	34 35

- (b) the practicability or otherwise of extending or improving the water management works of the trust so as to benefit the said lands, and 1
 - (c) the effect that the granting of the request would have on the general administration and finances of the trust. 2
- (4) The Minister is then to decide whether or not the whole or any part of the lands referred to in the request are to be excised from the water supply district. 3
- (5) The Minister may, by notification in the Gazette, excise such lands from the water supply district and on the publication of such notification the water supply district is taken to be altered accordingly. 4

222 Union of trusts

On the joint application of members of any two adjoining water supply districts, duly approved by a majority of the voters of each district at separate special general meetings (of which at least 14 days' notice has been given in the prescribed manner), the Minister may, by notification in the Gazette, transfer any part of one water supply district to the other water supply district. 5

Division 3 Functions of members

223 Duties of members

The members of a private water trust have the function of maintaining and administering the trust's water supply works. 6

224 Powers and duties of members

- (1) The members of a private water trust have and may exercise the following functions: 7
- (a) to establish and maintain a management program for the water supply district, 8
 - (b) to maintain in a state of efficiency the water management works under their charge and renew such works if necessary, 9
 - (c) to fix and levy rates to provide for the maintenance, renewal and management of such water management works, and for interest, charges, and a sinking fund, 10

Clause 224	Water Management Bill 2000
Chapter 4	Joint private works
Part 4	Private water trusts
Division 3	Functions of members

(d)	to keep proper accounts of all money received and paid,	1
(e)	to pay to the Treasury, at such times as may be fixed by the Minister, the interest and charges payable by them, and if necessary make due provision for a sinking fund,	2 3 4
(f)	to appoint, with the approval of the Minister, such officers or employees as may be required,	5 6
(g)	to borrow money, but only as provided in this section.	7
(2)	A loan by way of limited overdraft may be obtained for the purpose of meeting necessary legitimate expenditure prior to the collection of rates or for the purpose of carrying out urgent works of renewal, or replacement, or other emergency, for which sufficient funds are not immediately available.	8 9 10 11 12
(3)	On application by the members of a private water trust the Minister may issue a certificate of limit of overdraft, in which must be named the purpose in respect of which the loan may be obtained and the limit of amount to be borrowed.	13 14 15 16
(4)	The sum to be stated in the certificate as the limit of the overdraft is in the discretion of the Minister, but must not exceed the estimated amount required for the purpose mentioned therein plus 10% of such amount.	17 18 19 20
(5)	The loan is subject to any conditions inserted by the Minister in the certificate, and the money borrowed is taken to be secured on the income of the trust and must be repaid within the time fixed in the certificate.	21 22 23 24
(6)	All sums received on account of a trust's sinking fund must be carried by the Treasurer to a special account, to be called "The Water Supply Loan Redemption Fund", and all other sums to the Consolidated Fund.	25 26 27
(7)	The members of a private water trust may on application by any ratepayer defer or suspend payment of rates by the ratepayer for such period or periods and on such terms and conditions as the Minister may approve.	28 29 30 31
225	Supply of water	32
(1)	The members of a private water trust may for the more beneficial use or efficient distribution of the water supplied by the trust's water supply works:	33 34 35

- (a) cease to supply water through any portion of the works in the water supply district or to any lands within such district, or 1
 - (b) deviate the course of a water supply work or otherwise alter in any way the works in the water supply district. 2
- (2) Before taking any such action, the members must obtain the written consent of any ratepayer: 3
- (a) whose benefit from those works will be diminished by the action of the members, or 4
 - (b) the supply of water or means of supply of water to whose lands will be affected, 5
- and must also obtain the written approval of the Minister of the members' proposed action. 6
- (3) The members of a private water trust may cut off or withhold the supply of water to any land: 7
- (a) if any meter used to measure such supply or any outlet is out of repair or, in the opinion of the members, unsatisfactory for the expeditious or effective supply of water to such land, or 8
 - (b) if, in the opinion of the members, such course is necessary owing to drought or any accident or other unavoidable cause, or 9
 - (c) if the landholder or person requiring a supply of water neglects to comply with the lawful requirements of the members as to the installation of outlets or meters or instruments for measuring the quantity of water, or 10
 - (d) if the landholder or person requiring a supply of water neglects to comply with any lawful requirements of the members to repair or alter water connections, outlets, channels, ditches, pipes, fittings or appliances connected to the water management works under the control of the members, or 11
 - (e) if the landholder of the land fails to take such steps as may be necessary to ensure compliance with any order or public notice of the members requiring consumers of water to economise its use in time of drought or scarcity of supply, or 12
 - (f) if any rates fixed and levied in respect of the land are, after the due date of payment, unpaid and approval to the supply of water to the land being cut off or withheld is given: 13

Clause 225	Water Management Bill 2000
Chapter 4	Joint private works
Part 4	Private water trusts
Division 3	Functions of members

	(i) if the trust was constituted by 3 members, by the chairperson of the trust and all the elected members, or	1
	(ii) if the trust was constituted by 5 members, by the chairperson of the trust and a majority of the elected members.	2
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(4)	If the Minister:	6
(a)	reduces or discontinues the supply of water to the members of a private water trust, or	7
		8
(b)	directs the members of a private water trust:	9
	(i) to reduce the quantity of water being taken or diverted by them from any water source, or	10
		11
	(ii) to discontinue the taking or diverting of water from a water source,	12
		13
	the members may reduce or cut off or withhold the supply of water to any land.	14
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(5)	The cutting off or withholding or reduction of the supply of water by the members of a private water trust under this section does not affect the liability of the ratepayer in respect of the rates on the land the supply of water to which has been cut off, withheld or reduced.	16
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226	Power of members to enter and inspect	20
	In the exercise of their functions, by themselves or their officers, the members of a private water trust may enter any land within the water supply district and make any inspection or survey they consider necessary, and effect repairs or alterations to any water management works, but in so doing must avoid, as far as practicable, causing any loss, injury or damage.	21
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227	No compensation	27
	No compensation is payable in connection with a private water trust's exercise of its functions under this Part.	28
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Division 4 Rating

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228 Rates

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- (1) For the purpose of providing money in connection with the exercise of their functions under this Part, the members of a private water trust may fix and levy rates on the lands within the water supply district as follows:
- (a) in connection with the supply of water for stock purposes:
- (i) a rate per hectare of the land benefited by the water management works must be fixed, or
- (ii) if water is supplied down a natural channel, a rate per kilometre of the lands so benefited, measured according to the frontage to the channel, may be fixed,
- which rate may vary in proportion to the benefit received,
- (b) in connection with the supply of water for domestic purposes, a rate for each separate holding in the water supply district must be fixed, which rate may vary in proportion to the benefit received,
- (c) in connection with the construction and maintenance of flood works, a rate per hectare of the land benefited by the works must be fixed, which rate may vary:
- (i) according to the distance of the land from works for the prevention of floods or the control of flood waters, and
- (ii) in proportion to the benefit received,
- (d) in connection with irrigation, a rate must be levied on the land within the water supply district:
- (i) that is suitable for production under irrigation, and
- (ii) that is accessible to the works of the trust by means of recognised methods of irrigation.
- (2) If land is liable for rates under subsection (1) (d), the members of a private water trust may, in fixing the rate, fix different amounts for different parts of the land, having regard to:
- (a) the fact that any such part is or is not actually used for production under irrigation, or
- (b) the type of production under irrigation for which any such part is used.

Clause 228	Water Management Bill 2000
Chapter 4	Joint private works
Part 4	Private water trusts
Division 4	Rating

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| (3) | In any case for which this section does not provide, a rate per hectare of the land benefited, directly or indirectly, by the works must be fixed yearly, and must, as far as practicable, be in proportion to the benefit received. | 1
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| (4) | In the case of a supply for more than one purpose, separate rates may be fixed, calculated on the basis set out for each such purpose. | 5
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| (5) | All rates are a charge on the land in respect of which they are levied and are payable by the landholder. | 7
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| (6) | Any landholder aggrieved by the amount of a rate may appeal to a Local Court, which must hear and determine the matter, and may confirm or vary such amount. | 9
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| (7) | If in any such appeal the Local Court reduces the amount at which the appellant is rated, it must increase the other ratings of the trust in such amounts as it thinks just, if it considers such course necessary, in order to secure that the total amount to be received by the trust for rates is not to be diminished by the reduction. | 12
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229 Supplementary rating powers

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| (1) | If the members of a private water trust are unable to meet the cost of administration or of an extension or improvement of the works under their control or other liability, they may in writing petition the Minister to approve an increase in the maximum rate that may be assessed by them, and must set out in such petition the reasons for their request. | 17
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| (2) | The Minister must inform the members whether or not the Minister is prepared to grant their petition and, if so, must inform them of the maximum rate that the Minister is prepared to approve. | 23
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| (3) | The members must submit the proposed increase in maximum rate that the Minister is prepared to approve to a special general meeting of the voters of the trust (of which at least 14 days' notice has been given in the prescribed manner). | 26
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| (4) | The members must report to the Minister whether an affirmative or negative vote has been carried at the meeting. | 30
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| (5) | If an affirmative vote has been cast the Minister must grant the petition of the members by notification sent to them and published in the Gazette, and thereafter the members may assess rates to the maximum approved by the Minister. | 32
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230	Surplus water	1
	When a private water trust has any surplus water that is not required for the purpose for which the trust was constituted, the trust may sell the water, by measure or otherwise:	2
	(a) to any ratepayer for any other purpose, or	3
	(b) if no ratepayer requires it, to any other person.	4
231	Accounts	7
	(1) The members of a private water trust must submit to the Minister once every year, and at such other times as the Minister may direct, an audited statement of the accounts of the trust.	8
	(2) The Minister may, if of opinion that the audited statement is defective or unsatisfactory, appoint an auditor to prepare a proper statement of accounts, at the cost of the trust.	9
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Division 5	Effect of new subdivisions	14
232	Supply of water to new holdings resulting from subdivisions	15
	(1) If a holding is subdivided, a new holding resulting from the subdivision is not entitled to a supply of water from a private water trust's water supply works until a date determined by the trust (not being a date earlier than the date on which the board became aware of the disposition of that new holding).	16
	(2) If rates for a period or year ending on 30 June, being the period or year during which the date determined by the trust under subsection (1) occurred, have not, before the date so determined, been levied in respect of the holding that was subdivided, the trust must levy the rates for the whole of that period or year in respect of each of the new holdings that resulted from the subdivision, and that was disposed of.	17
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Clause 233	Water Management Bill 2000
Chapter 4	Joint private works
Part 4	Private water trusts
Division 5	Effect of new subdivisions

233	Additional works required as a result of subdivision	1
(1)	The person who, immediately before the disposition of a new holding resulting from a subdivision of land within a private water trust's water supply district, was the landholder of the holding (the <i>previous landholder</i>) must construct at his or her own cost such works as are necessary to provide:	2
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(a)	means of conveying water to the new holding from the trust's water supply works, and	7
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(b)	means of access from roads to any works of the trust or any works provided for the purposes of paragraph (a) if that access would not be available except by crossing a channel of the water supply district, and	9
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(c)	means of access across a channel of the water supply district to the new holding if that means of access is required by reason of the subdivision.	13
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		15
(2)	All works to be constructed under subsection (1) must be constructed before the new holding is disposed of or within such period after the disposition of the new holding as the trust may in any particular case allow.	16
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(3)	All works constructed or to be constructed under subsection (1) must be constructed in accordance with the approval in writing of the trust in respect of location, design, form, dimensions and construction.	20
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		22
(4)	At the request of the previous landholder, the trust may undertake, at the landholder's cost, the construction of any works required by this section.	23
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(5)	The trust may construct such works as have not been constructed by the previous landholder, and any costs and expenses are payable to the trust either by the previous landholder or by the new landholder, as the trust may determine.	26
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(6)	If any part of the costs and expenses referred to in subsection (5) is recovered by the trust from the new landholder, the new landholder may recover from the previous landholder the whole or that part of those costs or expenses, as the case may be.	30
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(7)	On their completion, the control and management of any works constructed under this section is vested in the trust.	34
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Division 6 Miscellaneous

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234 Minister may remove members and Governor may dissolve trust

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- (1) In the event of any delay in the election of members of a private water trust or in the event of any default by members of a private water trust in the discharge of their duties under this Part or of the ratepayers failing to elect members, or the required number of members, the Minister may, by notification in the Gazette:
- (a) remove a member or members from office, and direct the election of another member or other members, or
- (b) remove a member or members (if any) and assume all of the functions of the members, and may appoint a manager of the affairs of the trust.
- (2) The Minister may at any time direct the election of members of a private water trust, and on such election all of the functions of the members are revested in the members.
- (3) The Governor may, if in the Governor's opinion sufficient reason exists, dissolve a trust, and may extinguish any liability of such trust to the Crown.
- (4) The regulations may make provision for or with respect to the winding up of a private water trust and for the disposal of any residual assets of the trust.

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235 Regulations

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The regulations may make provision for or with respect to the following matters:

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- (a) the election of members of a private water trust and the making and revision of the rolls of voters, and the mode of voting,
- (b) the intervals within which meetings of members of a private water trust must be held,
- (c) the procedure at such meetings,
- (d) the appointment, payment, and dismissal of officers and employees of a private water trust,
- (e) the fixing and notifying of rates,
- (f) the hearing of appeals,

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Clause 235	Water Management Bill 2000
Chapter 4	Joint private works
Part 4	Private water trusts
Division 6	Miscellaneous

(g)	prescribing the method or methods to be adopted to determine the quantity of water for which payment is to be made by the trust,	1 2 3
(h)	the keeping of the accounts of private water trusts,	4
(i)	regulating the payment to the Crown of interest and charges by private water trusts,	5 6
(j)	regulating special meetings of voters of a private water trust in pursuance of this Part.	7 8

Chapter 5	Public works	1
Part 1	Fish River water supply works	2
Division 1	Preliminary	3
236	Definitions	4
	In this Part:	5
	<i>Fish River water supply works</i> means the concrete dam on Fish River Creek at Oberon, together with:	6
		7
	(a) its associated gravitation main, concrete reservoirs and reticulation systems, and	8
		9
	(b) the pumping station at Oberon, and	10
	(c) all incidental and connected works, and	11
	(d) all additions, amplifications, improvements and extensions to those works.	12
		13
	<i>special area</i> means an area of land declared under Division 3 to be a special area.	14
		15
237	Fish River water supply works controlled by the Minister	16
	The Fish River water supply works are to be controlled and administered by the Minister.	17
		18
238	Minister may repair works	19
	For the purpose of supplying any person with water under this Part, the Minister may at all times use and repair any portion of the Fish River water supply works even if a local council is charged with the care and management of those works.	20
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Clause 239	Water Management Bill 2000
Chapter 5	Public works
Part 1	Fish River water supply works
Division 2	Supply of water

Division 2	Supply of water	1
239	Minister may supply water	2
(1)	The Minister may supply water from the Fish River water supply works to any person who enters into a contract with the Minister to accept a supply of water.	3 4 5
(2)	Any such contract may contain such terms and conditions as the Minister thinks fit.	6 7
(3)	The Minister may from time to time, by order published in the Gazette:	8
(a)	fix the price per kilolitre to be paid by any person for water supplied by the Minister in any year, and	9 10
(b)	fix the minimum amount to be paid by any person in any one year irrespective of the quantity of water supplied.	11 12
240	Council not to supply outside area without consent	13
	Except with the consent of the Minister, a local council that is supplied with water from the Fish River water supply works must not supply water to any premises situated outside the area of the council.	14 15 16
241	No compensation for failure of supply	17
	The Minister is at all times entitled to discontinue the supply to a local council or other person whenever the Minister considers it necessary in the interests of public health or for the purpose of ensuring a proper supply.	18 19 20 21
Division 3	Special areas	22
242	Special areas	23
(1)	The Governor may, on the recommendation of the Minister, by order published in the Gazette, declare an area of land described in the order to be a special area in relation to the Fish River water supply works.	24 25 26
(2)	The Minister may recommend an order only if of the opinion that the exercise of the State's water rights could be adversely affected unless the order is made.	27 28 29

243	Crown land in special areas	1
(1)	Action may not be taken under the <i>Crown Lands Act 1989</i> in respect of land within a special area unless:	2
		3
(a)	the Minister has given approval in writing, and	4
(b)	any conditions to which the approval is subject are complied with.	5
		6
(2)	The Minister may, in a special area, exercise the functions of a trustee appointed under Part 5 of the <i>Crown Lands Act 1989</i> without being appointed as such.	7
		8
		9
244	Exercise of certain functions in special areas	10
(1)	A public agency may not, in relation to land within a special area, exercise functions other than functions under this Part unless notice is first given, as prescribed by the regulations, to the Minister.	11
		12
		13
(2)	On receipt of such a notice, the Minister may make such representations to the public agency as the Minister thinks fit.	14
		15
(3)	A public agency may not exercise functions contrary to any such representations made by the Minister unless:	16
		17
(a)	at least 14 days' notice has been given to the Minister of the functions intended to be exercised, and	18
		19
(b)	that period has expired without the matter being referred as a dispute for determination under this Act.	20
		21
(4)	In this section, <i>public agency</i> means:	22
(a)	the Governor, or	23
(b)	a Minister of the Crown, or	24
(c)	a statutory body.	25
Division 4	Finance	26
245	Accounts to be kept in Special Deposits Account	27
	There is to be established in the Special Deposits Account in the Treasury an account to be called the "Fish River Water Supply Account".	28
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Clause 246	Water Management Bill 2000
Chapter 5	Public works
Part 1	Fish River water supply works
Division 4	Finance

246	Allocation of money	1
(1)	Within the Fish River Water Supply Account is to be kept an account to be called the “Fish River Water Supply Working Account”, in this Part referred to as the <i>Working Account</i> .	2 3 4
(2)	There must be credited to the Working Account all revenue received by the Minister in pursuance of this Part and such amounts as may from time to time be appropriated by Parliament for the purpose.	5 6 7
(3)	There must be debited to the Working Account the following charges, in the following order:	8 9
(a)	firstly, the cost of administration, operation, repair and minor renewal of the Fish River water supply works by the Minister,	10 11
(b)	secondly, interest on the interest-bearing part of the capital debt for any year at a rate or rates to be determined by the Treasurer, but not exceeding the average rate payable during such year by the Government for loan money and exchange at a rate or rates to be determined by the Treasurer, the amount of which interest and exchange must be credited to the Consolidated Fund,	12 13 14 15 16 17
(c)	thirdly, such contributions (if any) to a sinking fund as the Treasurer may direct.	18 19
247	Payments by Treasurer	20
(1)	When in any year the revenue received by the Minister is insufficient to meet the charges payable to the Working Account under this Division, the Treasurer may, out of money provided by Parliament, pay to the Working Account the amount of such deficiency.	21 22 23 24
(2)	Any money paid to the Working Account must, after payment of the charges payable to the Working Account under this Division, be repaid to the Treasurer out of any balance remaining in the Working Account with interest at such rate and at such times and by such instalments as the Treasurer may determine.	25 26 27 28 29
Division 5	Miscellaneous	30
248	Regulations	31
(1)	The regulations may make provision for or with respect to special areas.	32 33

Water Management Bill 2000	Clause 248
Public works	Chapter 5
Fish River water supply works	Part 1
Miscellaneous	Division 5

- (2) A regulation made for or with respect to a special area prevails to the extent of any inconsistency with a statutory instrument made under another Act, including an environmental planning instrument made under the *Environmental Planning and Assessment Act 1979*.
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Clause 249	Water Management Bill 2000
Chapter 5	Public works
Part 2	Hunter Valley flood mitigation works
Division 1	Preliminary

Part 2	Hunter Valley flood mitigation works	1
Division 1	Preliminary	2
249	Application of Part	3
	This Part applies to and in respect of land in the Hunter Valley.	4
250	Definitions	5
	In this Part:	6
	<i>Hunter Catchment Management Trust</i> means the Hunter Catchment Management Trust established by section 20 of the <i>Catchment Management Act 1989</i> .	7 8 9
	<i>Hunter River</i> includes all tributaries that, directly or indirectly, flow into the Hunter River, and includes the estuary of the Hunter River and all arms and branches of that estuary.	10 11 12
	<i>Hunter Valley</i> means the catchment area of the Hunter River, and includes the land shown on the plan marked “DWR PLA No 20/2551” deposited in the head office of the Department, and also includes such other land as is declared by the regulations to form part of the Hunter Valley.	13 14 15 16 17
	<i>levee bank</i> means a levee bank designed or intended for the purpose of or that could or might have the effect of excluding or partially excluding the waters of the Hunter River or waters overflowing from the Hunter River from any land.	18 19 20 21
	<i>protective works</i> means works for the protection of any works vested in or otherwise under the control of a public authority:	22 23
	(a) against flooding by waters overflowing from the Hunter River, or	24 25
	(b) against the effects of any such flooding, or	26
	(c) against the effects of river bank erosion.	27
	<i>tree</i> includes sapling and shrub.	28

Division 2 Powers of Minister

251 Ancillary construction powers

For the purpose of constructing, operating or maintaining any flood work in the Hunter Valley, any authorised officer:

- (a) may enter any land, and
- (b) may take and use any extractive material from any land, and
- (c) may take and use any extractive material from the bed of the Hunter River, and
- (d) may lop, cut down or remove any tree within 40 metres of the Hunter River.

252 Restriction on use of lands adjacent to levee banks

- (1) If a levee bank has been constructed adjacent to the Hunter River, the Minister may, by notice in writing to:

- (a) the landholder of the land on which the levee bank has been constructed, or
- (b) the landholder of any land adjacent to the levee bank, or
- (c) the landholder of the whole or any part of the land lying between the levee bank and the Hunter River,

impose such conditions and restrictions on the use of such levee bank or land as the Minister considers necessary or desirable to ensure the stability of the levee bank and in the interests of flood prevention or mitigation within the Hunter Valley generally.

- (2) The Minister may in the like manner revoke or vary any notice given in pursuance of this section.
- (3) If any landholder to whom such a notice has been given contravenes any condition or restriction imposed by the notice, the Minister:
 - (a) may authorise any person to enter the land to which such notice relates, and to take such remedial measures on that land as the Minister considers necessary, and
 - (b) may recover any cost incurred in so doing from the landholder in any court of competent jurisdiction as a debt due and owing to the Crown.

Clause 252	Water Management Bill 2000
Chapter 5	Public works
Part 2	Hunter Valley flood mitigation works
Division 2	Powers of Minister

- | | |
|---|------------------|
| (4) If under this section conditions or restrictions on the use of any levee bank or land are imposed by the Minister, the landholder of the levee bank or land is entitled to claim and be paid compensation for any loss sustained by reason of those conditions or restrictions. | 1
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253 Construction of fences, structures and flood works	5
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| (1) A person must not: | 6 |
| (a) construct any building, fence or structure in, on, or adjacent to, a levee bank, or | 7
8 |
| (b) construct a flood work on a floodplain, | 9 |
| except with the consent of the Minister. | 10 |
| Maximum penalty: 2,500 penalty units (in the case of a corporation) or 1,200 penalty units (in any other case). | 11
12 |
| (2) The Minister's consent may be given unconditionally or subject to conditions. | 13
14 |
| (3) An authorised officer: | 15 |
| (a) may enter any lands on which any building, fence or flood work has been constructed otherwise than in accordance with the Minister's consent, and | 16
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18 |
| (b) may take such measures as are necessary to demolish or remove the building, fence or flood work or to render the flood work ineffective. | 19
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| (4) The costs incurred by an authorised officer under this section are recoverable from the landholder as a debt in a court of competent jurisdiction. | 22
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24 |
| (5) The Minister may, by notice published in the Gazette, exclude any lands from a floodplain. | 25
26 |
| (6) In this section, floodplain means any lands declared to be within the floodplain of the Hunter River by a proclamation in force under section 16 of the former <i>Hunter Valley Flood Mitigation Act 1956</i> , other than lands excluded from the floodplain by a notice published under this section. | 27
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254	Lopping of trees	1
	If in the opinion of the Minister any tree on the bank of the Hunter River or on land adjoining any such bank:	2
		3
	(a) constitutes a threat to any scheme for flood prevention or mitigation that the Minister has carried out, or has planned or is planning to carry out, or to any part of any such scheme, or	4
		5
		6
	(b) interferes with or impedes or tends to interfere with or impede the free flow of the Hunter River or otherwise detrimentally affects or is likely to detrimentally affect such flow or the stability of the banks of the Hunter River,	7
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	the Minister may authorise any person to enter the land on which such tree is and to lop, cut down or remove such tree.	11
		12
Division 3	Finance	13
255	Accounts to be kept in Special Deposits Account	14
	There is to be established in the Special Deposits Account in the Treasury an account to be called the “Hunter Valley Flood Mitigation Account”.	15
		16
		17
256	Allocation of money	18
	(1) Within the Hunter Valley Flood Mitigation Account is to be kept an account to be called the “Hunter Valley Flood Mitigation Working Account”, in this Part referred to as the <i>Working Account</i> .	19
		20
		21
	(2) Any amount paid to the Minister by the Hunter Catchment Management Trust is to be paid into the Working Account, from which account may be made, in such manner as the Treasurer determines, any payments that the Minister is required to make under or for the purposes of this Part.	22
		23
		24
		25
		26
257	Cost of works generally	27
	(1) This section applies to all flood works that are constructed or maintained by the Minister, other than those for which the Hunter Catchment Management Trust is liable to make contribution under some other provision of this Division.	28
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Clause 257	Water Management Bill 2000
Chapter 5	Public works
Part 2	Hunter Valley flood mitigation works
Division 3	Finance

(2) The Hunter Catchment Management Trust is liable to contribute one-quarter of the cost to the Minister of constructing and maintaining any flood work to which this section applies.	1 2 3
258 Cost of works to protect towns and villages	4
(1) This section applies to all flood works constructed or maintained by the Minister for the purpose of protecting a town or village from flooding, being works that have been constructed at the request or with the concurrence of the local council within whose area the town or village is situated.	5 6 7 8 9
(2) Of the cost to the Minister of constructing and maintaining any flood work to which this section applies:	10 11
(a) the local council is liable to contribute such percentage (not exceeding 12%) as the Minister may determine, and	12 13
(b) the Hunter Catchment Management Trust is liable to contribute one-quarter of the balance.	14 15
259 Cost of protective works	16
(1) Of the cost to the Minister of constructing and maintaining any protective works:	17 18
(a) the public authority whose works are protected by the protective works is liable to contribute such percentage as the Minister may determine, and	19 20 21
(b) the Hunter Catchment Management Trust is liable to contribute one-quarter of the balance.	22 23
(2) The Minister may pay to any public authority that constructs or maintains any protective works such amount as the Minister considers appropriate towards the cost to the public authority of so doing.	24 25 26
(3) The Hunter Catchment Management Trust is liable to pay to the Minister one-quarter of any amount paid to a public authority under subsection (2).	27 28 29

260	Annual contribution to works program by Hunter Catchment Management Trust	1
		2
(1)	The Hunter Catchment Management Trust is liable to pay to the Minister in each financial year:	3
		4
(a)	one-quarter of the estimated cost of constructing any flood works that the Minister proposes to construct during that financial year, and	5
		6
		7
(b)	one-quarter of the estimated cost of maintaining any flood works that the Minister proposes to maintain during that financial year.	8
		9
		10
(2)	The following amounts are to be deducted from the estimated costs for the purpose of calculating the Hunter Catchment Management Trust's liability under this section:	11
		12
		13
(a)	any contribution to those costs for which a local council will be liable under this Division,	14
		15
(b)	any amount that the Trust has paid to the Minister under this section during the previous financial year but that remained unexpended at the end of that year.	16
		17
		18
(3)	Any estimates are to be made by the Minister whose decision is final.	19
261	Consultation with Hunter Catchment Management Trust as to works program	20
		21
(1)	Before the beginning of each financial year or as soon as practicable thereafter, the Minister must submit to the Hunter Catchment Management Trust a program of the flood works that the Minister proposes to construct or maintain during that year.	22
		23
		24
		25
(2)	Such a program must be accompanied by a statement setting out the following particulars:	26
		27
(a)	the estimated cost of constructing any work,	28
(b)	the estimated annual cost of maintaining any work,	29
(c)	the amount for which the Hunter Catchment Management Trust will be liable,	30
		31
(d)	such other particulars as may be prescribed by the regulations.	32

262 Consultation with local council as to works program

- (1) This section applies to all flood works constructed or maintained by the Minister for the purpose of protecting a town or village from flooding, being works that have been constructed at the request or with the concurrence of the local council within whose area the town or village is situated.
- (2) Before the beginning of each financial year or as soon as practicable thereafter, the Minister must submit to the local council concerned a program of the flood works that the Minister proposes to construct or maintain during that year.
- (3) Such a program must be accompanied by a statement setting out the following particulars:
 - (a) the estimated cost of constructing any work,
 - (b) the estimated annual cost of maintaining any work,
 - (c) the percentage that the Minister has determined that the council should contribute to the cost of the construction and maintenance of the work,
 - (d) the amount for which the council will be liable,
 - (e) such other particulars as may be prescribed by the regulations.
- (4) Any estimates are to be made by the Minister whose decision is final.
- (5) When the work has been completed, the Minister must notify the local council of the actual cost of the work.
- (6) If the amount paid by the local council in respect of the work is more than the amount for which the council is liable, the Minister must repay to the council the amount of such excess.
- (7) If the amount paid by the local council in respect of the work is less than the amount for which the council is liable, the council must pay to the Minister the amount of the shortfall.
- (8) Any amount paid to the Minister by a local council under this section is to be paid into the Hunter Valley Flood Mitigation Working Account.

263	Payment of contribution towards maintenance by a local council	1
(1)	A local council that is liable to contribute to the cost of maintenance of any flood work must pay to the Minister in each financial year the same percentage of the estimated cost of maintenance as the council is liable to contribute to the actual cost of maintenance of that work.	2 3 4 5
(2)	In calculating the local council's liability under this subsection in respect of any financial year there is to be deducted any amount that the council has paid to the Minister in respect of any flood work during any previous financial year and that remained unexpended at the end of the immediately preceding financial year.	6 7 8 9 10
(3)	Any estimate is to be made by the Minister whose decision is final.	11
264	Consultation with local council as to maintenance program	12
(1)	Before the beginning of each financial year, the Minister must furnish the local council with a statement setting out the following particulars:	13 14
(a)	the amount that the council will be liable to pay under this Division for that financial year,	15 16
(b)	such other particulars as may be prescribed by the regulations.	17
(2)	The local council must pay to the Minister the amount referred to in subsection (1) (a).	18 19
(3)	Any such amount is to be paid into the Hunter Valley Flood Mitigation Working Account.	20 21
265	Urgent maintenance works	22
(1)	If in the opinion of the Minister it becomes necessary to carry out urgent maintenance on any flood work, the Minister may carry out the maintenance, despite maintenance not having been included in any program of works or any statement furnished to a local council.	23 24 25 26
(2)	When the maintenance has been completed, the Minister must determine the total amount paid in respect of such maintenance and notify any local council affected by the work and the Hunter Catchment Management Trust of the respective amounts that they are required to contribute in accordance with this Division.	27 28 29 30 31
(3)	Any money paid to the Minister under this section is to be paid into the Hunter Valley Flood Mitigation Working Account.	32 33

Clause 266	Water Management Bill 2000
Chapter 5	Public works
Part 2	Hunter Valley flood mitigation works
Division 3	Finance

266	Payments to be duly made	1
	Any amount that is payable to the Minister under this Division:	2
	(a) by the Hunter Catchment Management Trust, or	3
	(b) by a local council, or	4
	(c) by any other public authority,	5
	is payable at such times, and in such instalments, as the Minister may determine.	6 7
Division 4	Miscellaneous	8
267	Works to protect public and local government works to be approved by Minister	9 10
	(1) A public authority must not construct any protective works unless the Minister has approved of the site, nature, dimensions and design of the works.	11 12 13
	(2) In giving approval, the Minister may require such amendment of the site, nature, dimensions or design of the protective works as the Minister considers necessary, and the public authority must comply with that requirement accordingly.	14 15 16 17
	(3) The Minister may by notice in writing require the public authority by which any protective works have been constructed to take specified measures for the proper upkeep, preservation and maintenance of the protective works.	18 19 20 21
	(4) The public authority must comply with the requirements specified in the notice in such manner and within such time as is so specified.	22 23
	(5) If a public authority fails to comply with the terms of the notice, the Minister:	24 25
	(a) may authorise any person to enter the land on which the protective works are located and carry out the measures specified in such notice, and	26 27 28
	(b) may recover any cost incurred in so doing from the public authority in any court of competent jurisdiction as a debt due to the Crown.	29 30 31

268	Major floodgates to be maintained and operated by local councils	1
(1)	If in the opinion of the Minister any floodgate operates for the protection of lands other than lands owned by one landholder or a small localised group of landholders, the Minister may by notice in writing to the local council declare the floodgate to be a major floodgate.	2 3 4 5 6
(2)	It is the duty of the local council:	7
(a)	to keep any major floodgate at all times in a good and proper state of repair and working order, and	8 9
(b)	to maintain and operate it in accordance with any directions that may from time to time be given by the Minister.	10 11
(3)	If the local council fails to perform that duty, the Minister:	12
(a)	may authorise any person to enter the land on which the major floodgate is located and to take such measures as to the maintenance, operation or repair of the floodgate as the Minister considers necessary, and	13 14 15 16
(b)	may recover any cost incurred in so doing from the council in any court of competent jurisdiction as a debt due to the Crown.	17 18
269	Maintenance of minor floodgates	19
(1)	In this section, <i>minor floodgate</i> means any floodgate that is not a major floodgate.	20 21
(2)	It is the duty of each landholder for the protection of whose land a minor floodgate operates to keep the floodgate at all times in a good and proper state of repair and working order.	22 23 24
(3)	If any such landholder fails to perform that duty, the Minister may by notice in writing direct the landholder to take such measures as to the maintenance, operation or repair of the floodgate as may be specified in the notice.	25 26 27 28
(4)	If any landholder fails to comply with the terms of the notice, the Minister:	29 30
(a)	may authorise any person to enter the land on which the minor floodgate is located and to take such measures as to the maintenance, operation or repair of the floodgate as the Minister considers necessary, and	31 32 33 34

Clause 269	Water Management Bill 2000
Chapter 5	Public works
Part 2	Hunter Valley flood mitigation works
Division 4	Miscellaneous

(b)	may recover any cost incurred in so doing from the landholder in any court of competent jurisdiction as a debt due to the Crown.	1 2 3
(5)	In the case of multiple landholders, the liability imposed on them under this section is joint and several but, as between themselves, each is liable only for such share of the liability as bears the same proportion to the total liability as the area of the person's land for the protection of which the floodgate operates bears to the total area of land for the protection of which the floodgate operates.	4 5 6 7 8 9
(6)	If any landholder pays to the Minister more than the person's share of the total liability the landholder may recover the excess by way of contribution from the others.	10 11 12
270	Application of Public Works Act 1912	13
	Sections 91–95 of the <i>Public Works Act 1912</i> do not apply to any works constructed under this Part.	14 15
271	Evidence of cost of works	16
	If the Minister is empowered to recover any cost incurred in carrying out any work or measure, a certificate by the Minister of the amount of such cost is evidence of that cost.	17 18 19

Part 3 Lowbidgee flood control and irrigation works

272 Application

This Part applies to and in respect of the Lowbidgee flood control and irrigation district, as constituted under Part 7 of the former *Water Act 1912* immediately before the repeal of that Part.

273 Definitions

In this Part:

flood irrigation means the irrigation of lands by flooding with water diverted by gravitation or overflowing from a river or lake.

Lowbidgee district means the Lowbidgee flood control and irrigation district, as constituted under Part 7 of the former *Water Act 1912* immediately before the repeal of that Part.

Lowbidgee works mean the works situated on the Murrumbidgee river, being works constructed, operated and maintained by the Minister for the purpose of providing flood control and flood irrigation to land within the Lowbidgee district.

274 Supply of water

- (1) The Minister is authorised to operate the Lowbidgee works for the purpose of providing flood control and flood irrigation to land within the Lowbidgee district.
- (2) The control of works within the Lowbidgee district, the arrangements for distribution of water for flood irrigation, and the order of supply or diversion of water for flood irrigation are entirely under the control of the Minister.
- (3) In the exercise of any function under this Part, the Minister is not under any restraint nor is compensation payable to any person as a consequence of the flooding of the person's land.
- (4) Nothing in this Part requires the Minister to provide flood irrigation to any land or person in the Lowbidgee district.

275	Fixing of rates	1
(1)	The Minister must, in respect of each year commencing 1 July, fix the rate per hectare to be paid in respect of the lands within the Lowbidgee district:	2
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		4
(a)	for which provision for flood control and irrigation is made by the Lowbidgee works, or	5
		6
(b)	for which provision for flood control and irrigation is made by the Lowbidgee works and by works of the landholder,	7
		8
	and must in respect of each holding assess the total amount of such rate.	9
		10
(2)	The rate so fixed and assessed must be levied and paid as prescribed.	11
276	Rates	12
(1)	Rates for a particular holding commence to be payable on a date to be determined by the Minister, being a date that is not earlier than the date on which:	13
		14
		15
(a)	provision for flood control or irrigation, as the case may be, in respect of that holding is made by the Lowbidgee works, or	16
		17
(b)	provision for flood control and irrigation is made by the Lowbidgee works and by works of the landholder.	18
		19
(2)	If any land within the Lowbidgee district reverts to the Crown during any year in which rates are payable:	20
		21
(a)	the landholder, as regards that land, is liable only for payment of such part of the rates as are proportionate to the portion of the year for which the land was held by the landholder, and	22
		23
		24
(b)	any excess payment by the landholder must be refunded to the landholder.	25
		26
(3)	In the event of the Minister at any time finding an error in the assessment of a rate in respect of any holding or landholder through lack of knowledge of the name of the landholder, or the area or extent of the holding, or miscalculation, the Minister may at any time re-assess the rate in respect of any holding or landholder affected.	27
		28
		29
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277	Benefit to be taken into account	1
(1)	The rates in the Lowbidgee district may be determined or varied having regard to the benefit which, in the opinion of the Minister, is derived by the landholder of the land:	2
		3
		4
(a)	in respect of which works for flood control and irrigation have been provided, or	5
		6
(b)	in respect of which provision for flood control and irrigation has been made by the Lowbidgee works and by works of the landholder.	7
		8
		9
(2)	The Minister may exempt from rating the lands which, without the provision of works for flood control and irrigation, would not be flooded at times of maximum floods.	10
		11
		12
(3)	The determination of the Minister as to whether and to what extent any lands would be so flooded is final.	13
		14
278	Regulations	15
	The regulations may make provision for or with respect to the following matters:	16
		17
(a)	the prevention of pollution of water conserved or distributed in the Lowbidgee works constructed or used under this Part, or flowing in rivers or within lakes affected by the Lowbidgee works constructed or used under this Part,	18
		19
		20
		21
(b)	the prevention of injury to such the Lowbidgee works or any works used in connection with those works,	22
		23
(c)	the diversion of water from rivers and lakes for flood irrigation and for the control of works provided for regulating flood irrigation,	24
		25
		26
(d)	the fixing, assessing and levying of rates,	27
(e)	the prevention of the waste of water,	28
(f)	the forms of notices to be given under this Part and the manner of and periods for giving such notices.	29
		30

Clause 279	Water Management Bill 2000
Chapter 6	Public utilities
Part 1	Major utilities
Division 1	Preliminary

Chapter 6	Public utilities	1
Part 1	Major utilities	2
Division 1	Preliminary	3
279	Major utilities	4
(1)	This Part applies to each body referred to in Schedule 2 (referred to as a <i>major utility</i>).	5 6
(2)	The Governor may by proclamation amend Schedule 2 so as:	7
(a)	to add the corporate name of any body that is to become a major utility for the purposes of this Part, or	8 9
(b)	to vary the name of any major utility as a consequence of any change in its corporate name, or	10 11
(c)	to omit the corporate name of any body that has ceased to exist.	12
280	Requirements for access licences and approvals	13
(1)	Nothing in this Part authorises a major utility to take water otherwise than in accordance with an access licence and water supply work approval or water authorisation held by the utility.	14 15 16
(2)	Nothing in this Part authorises a major utility to use water otherwise than in accordance with a water use approval or water authorisation held by the utility.	17 18 19
Division 2	Water authorisations	20
281	Water authorisation	21
(1)	The Minister:	22
(a)	on the application of a major utility, and	23
(b)	on payment of the appropriate authorisation fee,	24
	may grant to the major utility a water authorisation.	25

- (2) The appropriate authorisation fee is to be determined by the Minister, having regard to the costs incurred by the Minister in dealing with the application for the authorisation. 1
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282 Conditions of water authorisation 4

- (1) A water authorisation is subject to: 5
(a) such conditions as are required to be imposed on the authorisation by the relevant management plan or a Minister's plan (*mandatory conditions*), and 6
7
8
(b) such other conditions as the Minister may from time to time impose on the authorisation (*discretionary conditions*). 9
10

- (2) A mandatory condition prevails over a discretionary condition to the extent of any inconsistency between them. 11
12

Note. If a management plan or Minister's plan is replaced or amended during the term of a water authorisation, the mandatory conditions applying to the authorisation may vary. 13
14
15

283 Imposition of conditions after water authorisation is granted 16

- (1) Discretionary conditions may not be imposed on a water authorisation after it has been granted unless the Minister: 17
18
(a) has given written notice to the holder of the authorisation that the Minister proposes to impose such conditions, and 19
20
(b) has given the holder of the authorisation a reasonable opportunity to make submissions to the Minister with respect to the proposed conditions, and 21
22
23
(c) has taken any such submissions into consideration. 24
(2) Subsection (1) does not apply to conditions imposed on a water authorisation at the request of the holder of the authorisation. 25
26
(3) The Minister must cause written notice of any discretionary conditions imposed on a water authorisation after the time it is granted to be served on the holder of the authorisation. 27
28
29
(4) A discretionary condition referred to in subsection (3) takes effect on the day on which the notice referred to in that subsection is served on the holder of the water authorisation or on such later day as may be specified in the notice in that regard. 30
31
32
33

Clause 284	Water Management Bill 2000
Chapter 6	Public utilities
Part 1	Major utilities
Division 2	Water authorisations

284	Revocation of conditions	1
	The Minister may at any time revoke any discretionary conditions to which a water authorisation is subject, either on the Minister's own motion or on the application of the holder of the authorisation.	2 3 4
285	Duration of water authorisation	5
(1)	A water authorisation has effect for:	6
(a)	such period (not exceeding 20 years) as is specified in the authorisation, or	7 8
(b)	if that period is extended under this section, for that extended period.	9 10
(2)	At the end of each 5 year period following the date on which its current water authorisation was granted, a major utility may apply to the Minister for an extension of the period of the authorisation for a further 5 years.	11 12 13 14
(3)	In determining whether or not to grant such an extension, the Minister must have regard to the review that the Minister has conducted under this Part in relation to that 5 year period.	15 16 17
286	Effect of water authorisation	18
	A water authorisation authorises its holder:	19
(a)	to take and use water from any water source, and	20
(b)	to construct or use a water management work,	21
	subject to the conditions of the authorisation and the provisions of this Part.	22 23
287	Review of water authorisation	24
(1)	The activities of the holder of a water authorisation:	25
(a)	may be reviewed at any time, and	26
(b)	must be reviewed:	27
(i)	before the end of the 6 month period following the date on which its first water authorisation was granted, and	28 29
(ii)	before the end of each 5 year period following the date on which its current water authorisation was granted.	30 31

- (2) For the purpose of conducting such a review, the Minister must cause notice to be published: 1
2
(a) in the Gazette, and 3
(b) in a newspaper circulating throughout New South Wales, 4
inviting written submissions from interested persons in relation to the 5
activities of the holder of the authorisation during the period under 6
review. 7

288 Water management charges 8

- (1) A major utility is liable to pay water management charges to the 9
Minister. 10
(2) The charges so payable are to be fixed by the Minister, having regard 11
to the Minister's costs in relation to: 12
(a) the conduct of reviews under this Part, and 13
(b) the administration of this Part with respect to the major utility, 14
and 15
(c) the monitoring of the extraction of water from, and the flow of 16
water along, any river, estuary or lake that is affected by the 17
work and activities of the major utility, and 18
(d) the exercise of any other water resource management function 19
with respect to the major utility. 20

Division 3 Directions to major utilities 21

289 Directions for remedial work 22

- The Minister may, by order in writing, direct a major utility to take 23
such measures as are specified in the order: 24
(a) to protect a water source from any adverse effects of the 25
utility's activities, or 26
(b) to restore or enhance any water source that has been adversely 27
affected by the utility's activities, or 28
(c) to prevent the wastage or pollution of water from the utility's 29
water supply works, or 30
(d) to ensure that the utility's activities are in compliance with the 31
conditions of its water authorisation. 32

Clause 290	Water Management Bill 2000
Chapter 6	Public utilities
Part 1	Major utilities
Division 3	Directions to major utilities

290	Remedial measures may be taken by Minister	1
(1)	If a major utility fails to take the measures specified in a direction under this Division, the Minister may authorise any other person to take those measures.	2 3 4
(2)	A person so authorised has and may exercise such of the functions of the major utility as are necessary to enable the person to take those measures.	5 6 7
(3)	The amount of any costs and expenses incurred by the Minister as a result of the taking of those measures is recoverable in a court of competent jurisdiction as a debt due to the Crown from the major utility.	8 9 10 11
291	Land and Environment Court may grant injunctions	12
	On the application of the Minister, the Land and Environment Court may grant an injunction directing a major utility to comply with a direction under this Division.	13 14 15
292	Compensation for loss of water	16
(1)	This section applies to a holder of an access licence in respect of which water that would otherwise be available ceases to be available as a result of a major utility's failure to comply with a direction under this Division in respect of which the Land and Environment Court has granted an injunction.	17 18 19 20 21
(2)	A person to whom this section applies may commence proceedings in any court of competent jurisdiction for the recovery from the major utility of the amount of any loss or damage suffered by the person as a result of the major utility's failure to comply with the direction.	22 23 24 25
(3)	Proceedings under this section may be commenced at any time up to 3 years after the date on which the Land and Environment Court's injunction took effect.	26 27 28
293	Offences with respect to water authorisations	29
(1)	A major utility that uses a water supply work that is not the subject of a water authorisation is guilty of an offence.	30 31
	Maximum penalty: 2,500 penalty units.	32

- (2) A major utility does not commit an offence under this section with respect to a water supply work the subject of a water supply work approval. 1
2
3

294 Civil penalties 4

- (1) If satisfied that a major utility: 5
- (a) has contravened the conditions of its water authorisation, or 6
 - (b) has failed to comply with a direction under this Division, 7
- the Minister may order the utility to pay to the Minister a penalty not exceeding \$500,000 and, in the case of a continuing offence, a further penalty not exceeding \$20,000 for each day for which the contravention or failure continues. 8
9
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11
- (2) Before making an order under this section, the Minister: 12
- (a) must cause written notice of its intention to make the order to be given to the major utility, and 13
14
 - (b) must give the major utility a reasonable opportunity to make written submissions to the Minister in relation to the proposed order, and 15
16
17
 - (c) must have regard to any submission that is duly made. 18

Division 4 Appeals 19

295 Appeals to Land and Environment Court 20

- (1) An appeal lies to the Land and Environment Court against any of the following decisions made by the Minister: 21
22
- (a) a decision refusing to grant a water authorisation, 23
 - (b) a decision imposing a discretionary condition on a water authorisation, 24
25
 - (c) a decision fixing the term of a water authorisation, 26
 - (d) a decision refusing to extend the term of a water authorisation, 27
 - (e) a decision to give a direction to a major utility under Division 3, 28
29
 - (f) a decision to make an order requiring the major utility to pay a penalty. 30
31

Clause 295	Water Management Bill 2000
Chapter 6	Public utilities
Part 1	Major utilities
Division 4	Appeals

- (2) An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date on which the decision was made. 1
2
3
- (3) The lodging of an appeal does not operate to stay action on the decision appealed against, except to the extent that the Land and Environment Court otherwise directs. 4
5
6

Part 2 Water supply authorities

1

Division 1 Preliminary

2

296 Definitions

3

In this Part:

4

area of operations of a water supply authority means the area of operations prescribed by the regulations in relation to that authority.

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6

authorised person means an employee or other person acting on behalf of a water supply authority.

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8

charging year, in relation to a water supply authority, means:

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(a) the period of 12 months declared by an order in force under Division 6 to be the charging year for the water supply authority, or

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(b) if the charging year is changed under that Division by a further order, the period between the end of one charging year and the beginning of the next.

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development area means an area of land declared by an order in force under Division 6 to be a development area.

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drainage area means an area of land declared by an order in force under Division 6 to be a drainage area.

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floodplain means an area of land declared by an order in force under Division 6 to be a floodplain.

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21

meter includes any measuring device.

22

river management area means an area of land declared by an order in force under Division 6 to be a river management area.

23

24

service charge means any of the following:

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(a) a water service charge,

26

(b) a sewerage service charge,

27

(c) a drainage service charge,

28

(d) a loan service charge,

29

(e) a developmental works service charge,

30

(f) a flood mitigation service charge,

31

Clause 296	Water Management Bill 2000
Chapter 6	Public utilities
Part 2	Water supply authorities
Division 1	Preliminary

(g)	a river management service charge, or	1
(h)	a special industry service charge,	2
	that may be levied under Division 6.	3
	<i>special area</i> means an area of land declared under Division 4 to be a special area.	4
		5
	<i>special industry</i> means an industry declared by an order in force under Division 6 to be a special industry.	6
		7
	<i>statutory body</i> means a corporation that is incorporated by or under an Act, other than:	8
		9
(a)	a company within the meaning of the <i>Corporations Law</i> , and	10
(b)	a society within the meaning of the <i>Co-operation Act 1923</i> or a co-operative within the meaning of the <i>Co-operatives Act 1992</i> , and	11
		12
		13
(c)	an incorporated association within the meaning of the <i>Associations Incorporation Act 1984</i> .	14
		15
	<i>water management work</i> includes a sewage work.	16
297	Requirements for access licences and approvals	17
	Nothing in this Part authorises a water supply authority to take water otherwise than in accordance with an access licence and water supply work approval or water authorisation held by the authority.	18
		19
		20
Division 2	Water supply authorities	21
298	Water supply authorities	22
(1)	The corporations listed in Schedule 3 are water supply authorities.	23
(2)	A corporation listed in Part 1 of Schedule 3 is, for the purposes of any Act, a statutory body representing the Crown.	24
		25
299	Constitution of water supply authorities	26
(1)	The Governor may, by proclamation published in the Gazette:	27
(a)	name a water supply authority proposed to be constituted under this section, and	28
		29

(b)	specify the number of members, the qualification for each member and whether or not the member is a full-time member or a part-time member, and	1 2 3
(c)	amend Schedule 3 by adding the name of the water supply authority to Part 1 of that Schedule.	4 5
(2)	The members are to be appointed by the Governor and, on their appointment, the water supply authority is constituted as a corporation.	6 7
(3)	The corporate name for the water supply authority is the name of the water supply authority stated in the proclamation.	8 9
(4)	On a change of area of operations or functions for a water supply authority listed in Part 1 of Schedule 3, the Governor may, by proclamation published in the Gazette, do either or both of the following:	10 11 12 13
(a)	change the number of part-time members of the water supply authority,	14 15
(b)	change the qualifications for part-time members of the water supply authority.	16 17
(5)	A change referred to in subsection (4) does not affect the identity of the water supply authority.	18 19
300	Statutory body may be water supply authority	20
(1)	The Governor may, by proclamation published in the Gazette with the consent of the Minister administering the Act by or under which a statutory body is constituted, amend Schedule 3 by adding the name of the statutory body to Part 2 of that Schedule.	21 22 23 24
(2)	On the addition of the name of a statutory body to Part 2 of Schedule 3, it becomes a water supply authority but still has its other functions.	25 26
301	Provisions relating to constitution and procedure of water supply authorities	27 28
(1)	Part 1 of Schedule 5 has effect with respect to the members of the water supply authorities listed in Part 1 of Schedule 3.	29 30
(2)	Part 2 of Schedule 5 has effect with respect to the Broken Hill Water Board.	31 32
(3)	Part 3 of Schedule 5 has effect with respect to the Cobar Water Board.	33

Clause 301	Water Management Bill 2000
Chapter 6	Public utilities
Part 2	Water supply authorities
Division 2	Water supply authorities

- | | |
|---|---|
| (4) Parts 2 and 3 of Schedule 5 do not affect the operation of the other provisions of this Part in relation to the water supply authorities to which those Parts relate. | 1 |
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| | 3 |

302 Area of operations	4
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|---|----|
| (1) The area of operations of a water supply authority is such as may be prescribed by the regulations for the water supply authority. | 5 |
| | 6 |
| (2) If a regulation so provides, a water supply authority has, and may exercise, in its area of operations or a specified part of its area of operations: | 7 |
| | 8 |
| | 9 |
| (a) only such of the functions of a water supply authority as are specified in the regulation, or | 10 |
| | 11 |
| (b) all functions of a water supply authority other than functions specified in the regulation. | 12 |
| | 13 |
| (3) A regulation made for the purposes of subsection (2) may make provision for or with respect to: | 14 |
| | 15 |
| (a) matters affecting revenue, assets, rights, liabilities and employees of a water supply authority, and | 16 |
| | 17 |
| (b) procedures to be adopted for the purposes of paragraph (a). | 18 |
| (4) Within the area of operations of a water supply authority, a function under this Part may be exercised only by the water supply authority unless: | 19 |
| | 20 |
| | 21 |
| (a) the function is exercisable by the Minister, or | 22 |
| (b) the function is exercised by a catchment management trust under the <i>Catchment Management Act 1989</i> , or | 23 |
| | 24 |
| (c) with the consent of the Minister, the function is exercised by another Minister, by the delegate of another Minister or by a statutory body, or | 25 |
| | 26 |
| | 27 |
| (d) this Part provides otherwise. | 28 |
| (5) With the consent of the Minister, a water supply authority may exercise a function outside its area of operations. | 29 |
| | 30 |
| (6) Until a regulation is made for the purposes of subsection (1), the area of operations of a water supply authority is the same as it was immediately before the commencement of this Part. | 31 |
| | 32 |
| | 33 |

303	Employees	1
	A water supply authority may employ such persons as are necessary to enable it to exercise its functions.	2 3
304	Delegation	4
	A water supply authority may delegate to a person the exercise of any of its functions, other than this power of delegation.	5 6
Division 3	Functions of water supply authorities	7
305	Functions of water supply authority	8
	(1) A water supply authority has the following functions:	9
	(a) to construct, maintain and operate water management works,	10
	(b) to conduct research, collect information and develop technology in relation to water management,	11 12
	(c) to do anything for the purpose of enabling the objects of this Act to be attained.	13 14
	(2) A water supply authority may exercise its functions within and beyond its area of operations.	15 16
	(3) It is the duty of a water supply authority to exercise its functions consistently with the principles of ecologically sustainable development.	17 18 19
306	Exercise of functions by a water supply authority	20
	(1) A water supply authority:	21
	(a) has and may exercise the functions conferred or imposed on it by or under this or any other Act, and	22 23
	(b) in the exercise of its functions (except in relation to the contents of a report or recommendation made by it) is subject to the control and direction of the Minister.	24 25 26
	(2) If a function conferred or imposed on a water supply authority by this Part is inconsistent with a function conferred or imposed on the water supply authority by or under another Act, this Part prevails.	27 28 29

Clause 307	Water Management Bill 2000
Chapter 6	Public utilities
Part 2	Water supply authorities
Division 3	Functions of water supply authorities

307	Commercial operations	1
(1)	With the approval of the Governor, a water supply authority may enter into commercial operations with respect to:	2
		3
(a)	any services developed in connection with the exercise of its functions, or	4
		5
(b)	any products or by-products (including intellectual property) resulting from the exercise of its functions, or	6
		7
(c)	such other matters as may be prescribed by the regulations.	8
(2)	With the approval of the Governor, a water supply authority may form, or join in forming, a company, partnership or trust for the purpose of exercising its functions under this Part.	9
		10
		11
308	Assistance to statutory body	12
	A water supply authority may, at the request of a statutory body and with the consent of the Minister, exercise any of the functions of the water supply authority in a part of its area of operations in respect of which the statutory body may exercise different functions, even if, but for the request, the water supply authority would not have exercised the function.	13
		14
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		17
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309	Entry on land to read meters or carry out works	19
(1)	A water supply authority may, by its employees and agents:	20
(a)	enter and occupy land and there exercise any of its functions, including the carrying out of any work on, below or above the surface of the land, and	21
		22
		23
(b)	divert water from, or alter the course of, a stream, and	24
(c)	impound or take water on, in or under the surface of any land.	25
(2)	The power conferred by this section is sufficient authority for an employee or agent to enter and occupy land or any part of a building (except an enclosed part occupied as a separate dwelling) in the exercise of a water supply authority's functions during daylight for the purpose of:	26
		27
		28
		29
		30
(a)	reading a meter, or	31
(b)	ascertaining whether trade waste is present or is being (or has recently been) discharged to a work of the authority, or	32
		33

(c) making a valuation,	1
unless the employee or agent is refused access by the lawful occupier of the land.	2
	3
(3) A water supply authority may, in accordance with the regulations, attach a ventilating shaft, pipe or tube for a sewer to the wall of a building.	4
	5
	6
(4) A water supply authority may remove or use anything dug up or obtained in the exercise of its powers under this section.	7
	8
(5) A water supply authority:	9
(a) must do as little damage as practicable in exercising its powers under this section, and	10
	11
(b) must compensate all persons who suffer damage by the exercise of the powers,	12
	13
in relation to the land entered.	14
(6) Compensation may be made by reinstatement or repair, by construction of works or by payment.	15
	16
(7) If a water supply authority provides a sewer, compensation is required only if:	17
	18
(a) the sewer causes injury to, or interference with, a building or other structure, or	19
	20
(b) a manhole or main ventilator is constructed on the land.	21
(8) A claim for compensation:	22
(a) is ineffective unless made in writing not later than 6 months after the damage was suffered, and	23
	24
(b) in the absence of agreement on the compensation, must be dealt with as if it were a claim for compensation for the acquisition of land for public purposes under the <i>Public Works Act 1912</i> .	25
	26
	27
310 Entry on land for inspections	28
(1) A water supply authority may at any time, by its employees or agents, enter any land (except an enclosed part occupied as a separate dwelling) for the purpose of finding out:	29
	30
	31
(a) the character and condition of the land or building, or	32
(b) the condition or location of any water management work used in connection with the land or building, or	33
	34

Clause 310	Water Management Bill 2000
Chapter 6	Public utilities
Part 2	Water supply authorities
Division 3	Functions of water supply authorities

(c)	whether any use, consumption, waste, misuse or undue consumption of water supplied by a water supply authority is occurring, or	1 2 3
(d)	whether any offence against this Act has been, or is being, committed.	4 5
(2)	A water supply authority must not exercise the powers conferred by subsection (1) unless:	6 7
(a)	reasonable written notice of its intention to do so has first been given to the landholder of the land, building or dwelling-house, or	8 9 10
(b)	it authorises the entry after forming the opinion that the giving of the notice would cause undue delay.	11 12
(3)	Reasonable force may be used to enter land, or a building other than a dwelling-house, under this section.	13 14
(4)	If the powers of entry under this section are exercised:	15
(a)	without notice being given, or	16
(b)	by force,	17
	the water supply authority must, without delay, notify such persons as it considers appropriate of the action taken.	18 19
(5)	The water supply authority may, by notice in writing given to the landholder of the land or building, require all defective or improper work discovered on an inspection to be repaired, altered or removed within 24 hours or such longer period as is stated in the notice.	20 21 22 23
(6)	If a notice under subsection (5) is not complied with, the water supply authority may, by its employees or authorised persons, enter the land, building or dwelling-house and repair, alter or remove the defective or improper work.	24 25 26 27
(7)	If a notice is given under subsection (5):	28
(a)	the costs and expenses of the entry and inspection by the water supply authority, and	29 30
(b)	if the notice is not complied with, the costs and expenses of the water supply authority in acting under subsection (6),	31 32
	are recoverable from the landholder as a service charge.	33
(8)	If, on an inspection under this section:	34
(a)	no defective or improper work is discovered, and	35

- (b) no waste, misuse or undue consumption of water supplied by the water supply authority is occurring, and 1
- (c) no offence against this Act is discovered, 2
- the water supply authority must make good any damage or disturbance caused by it for the purposes of the inspection. 3
- (9) In exercising its powers under this section, a water supply authority must do as little damage as practicable. 4

311 Power to break up roads

- (1) A water supply authority may, on giving reasonable notice to persons likely to be affected, open and break up: 8
- (a) the soil and pavement of a public road or public reserve, and 9
- (b) any sewer, drain or tunnel in or under a public road or public reserve, 10
- for the purpose of exercising its functions. 11
- (2) The statutory body having the control and management of a public road or public reserve may, as prescribed by the regulations, require a water supply authority to comply with conditions in exercising its powers under subsection (1), including conditions for restoration of the surface and removal of rubbish. 12
- (3) If a public road or public reserve is damaged by a leakage from, or a bursting of, a water supply authority's water main or sewer main, the statutory body having the control and management of the public road or public reserve may require the water supply authority to make good the damage without delay. 13
- (4) If a water supply authority fails: 14
- (a) to comply with a condition in force under subsection (2), or 15
- (b) to comply with a requirement under subsection (3), 16
- the statutory body affected by the failure may remedy it and recover the cost of doing so as a debt owed to the statutory body by the water supply authority. 17

312 Altering position of conduits	1
(1) If:	2
(a) a water supply authority, in order to exercise its functions,	3
needs an alteration to be made in the position of a conduit	4
owned by another person, and	5
(b) the alteration would not permanently damage the conduit or	6
adversely affect its operation,	7
the water supply authority may serve on the person a written notice	8
that complies with subsection (2).	9
(2) A notice must:	10
(a) specify the alteration needed, and	11
(b) require the alteration to be made within a reasonable time stated	12
in the notice, and	13
(c) include an undertaking by the water supply authority to pay the	14
reasonable cost of the alteration.	15
(3) If the alteration is not made as required by the notice, the water supply	16
authority may make the alteration in such a manner as not to damage	17
the conduit permanently or adversely affect its operation on completion	18
of the alteration.	19
(4) In this section, conduit means anything that is in or under a public	20
road and is used for the conveyance of a substance, energy or signals.	21
 313 Obstruction of works	 22
(1) If a person places a structure or other thing in or near a water supply	23
authority's water management work in such a manner as to interfere	24
with the work, the water supply authority may:	25
(a) demolish and remove the structure or other thing, and	26
(b) repair the work, and	27
(c) recover the cost of doing so as a debt owing to the water supply	28
authority by the person who placed the structure or other thing	29
there.	30
(2) A water supply authority may apply for and obtain an injunction to	31
prevent a structure or other thing being placed as referred to in	32
subsection (1).	33

314	Finding source of pollution of water supply	1
(1)	If water supplied by a water supply authority is being polluted, the water supply authority may, after giving reasonable notice to persons likely to be affected by its action, dig up the ground and try to find the source of the pollution.	2 3 4 5
(2)	If it is found that a person given notice under this section is not responsible for the pollution, the water supply authority must bear the expenses of:	6 7 8
(a)	the digging, examination, repair and reinstatement of the broken ground, and	9 10
(b)	the repair of any damage caused by the water supply authority to the property of the person.	11 12
(3)	A water supply authority may recover the expenses incurred by it as a debt due to the water supply authority by any person responsible for the pollution.	13 14 15
Division 4	Special areas	16
315	Special areas	17
(1)	The Governor may, on the recommendation of the Minister, by order published in the Gazette, declare an area of land described in the order to be a special area for a water supply authority.	18 19 20
(2)	The Minister may recommend an order only if of the opinion that the exercise of the State's water rights could be adversely affected unless the order is made.	21 22 23
316	Crown land in special areas	24
(1)	Action may not be taken under the <i>Crown Lands Act 1989</i> in respect of land within a special area for a water supply authority unless:	25 26
(a)	a water supply authority has given its approval in writing, and	27
(b)	any conditions to which the approval is subject are complied with.	28 29
(2)	A water supply authority may, in a special area, exercise the functions of a trustee appointed under Part 5 of the <i>Crown Lands Act 1989</i> without being appointed as such.	30 31 32

Clause 317	Water Management Bill 2000
Chapter 6	Public utilities
Part 2	Water supply authorities
Division 4	Special areas

317	Exercise of certain functions in special areas	1
(1)	A public agency may not, in relation to land within a special area for a water supply authority, exercise functions other than functions under this Part unless notice is first given, as prescribed by the regulations, to the water supply authority.	2 3 4 5
(2)	On receipt of such a notice, the water supply authority may make such representations to the public agency as it thinks fit.	6 7
(3)	A public agency may not exercise functions contrary to any such representations made by a water supply authority unless:	8 9
(a)	at least 14 days' notice has been given to the water supply authority of the functions intended to be exercised, and	10 11
(b)	that period has expired without the matter being referred to the Minister as a dispute for determination.	12 13
(4)	In this section, <i>public agency</i> means:	14
(a)	the Governor, or	15
(b)	a Minister of the Crown, or	16
(c)	a statutory body.	17
Division 5	Developer contributions to the construction of works	18 19
318	Application for certificate of compliance	20
(1)	A person may apply to a water supply authority for a certificate of compliance for development carried out, or proposed to be carried out, within the water supply authority's area.	21 22 23
(2)	An application must be accompanied by such information as the regulations may prescribe.	24 25
319	Authority may impose certain requirements before granting certificate of compliance	26 27
(1)	This section applies to such kinds of development as are prescribed by the regulations for the purposes of this section.	28 29

- (2) As a precondition to granting a certificate of compliance for development, a water supply authority may, by notice in writing served on the applicant, require the applicant to do either or both of the following:
- (a) to pay a specified amount to the water supply authority by way of contribution towards the cost of such water management works as are specified in the notice, being existing works or projected works, or both,
 - (b) to construct water management works to serve the development.
- (3) In calculating an amount for the purposes of subsection (2) (a):
- (a) the value of existing water management works and the estimated cost of projected water management works may be taken into consideration, and
 - (b) the amount of any government subsidy or similar payment is not to be deducted from the relevant value or cost of the water management works, and
 - (c) consideration is to be given to any guidelines issued for the time being for the purposes of this section by the Minister for Public Works and Services.
- (4) If a water supply authority imposes a requirement under this section on the Crown, the Crown may request the Minister for Urban Affairs and Planning to determine whether such a requirement should be imposed and, if so, in what terms.
- (5) The determination made by the Minister for Urban Affairs and Planning in response to such a request is final and is taken to be the determination of the water supply authority.
- (6) Any water management works constructed in compliance with a requirement under this section are the property of the water supply authority.

320 Granting of certificates of compliance

- (1) A water supply authority must grant a certificate of compliance for development:
- (a) within 60 days after an application for the granting of such a certificate is made, or

Clause 320	Water Management Bill 2000	
Chapter 6	Public utilities	
Part 2	Water supply authorities	
Division 5	Developer contributions to the construction of works	

- (b) if, within that period, the water supply authority imposes a requirement on the applicant under this Division, as soon as it is satisfied that the requirement has been complied with. 1
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3
- (2) A water supply authority may be satisfied that a requirement under this Division has been complied with if the applicant lodges with the water supply authority such security for compliance with the requirement as the water supply authority may approve. 4
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- (3) If a water supply authority fails or refuses to give a compliance certificate within the period of 60 days after an application is duly made in that regard, the applicant may appeal to the Land and Environment Court, within 12 months after the expiration of that period, against the failure or refusal. 8
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Division 6 Finance 13

321 Orders for purpose of service charges 14

- (1) The Governor may, by order published in the Gazette, declare any land described in the order to be a development area for the purposes of this Part. 15
16
17
- (2) The Minister may, by order published in the Gazette, declare any land described in the order to be a drainage area, floodplain or river management area for the purposes of this Part. 18
19
20
- (3) The Minister may, by order published in the Gazette, declare any industry specified in the order to be a special industry for the purposes of this Part. 21
22
23
- (4) The Minister may, by order published in the Gazette, declare a period of 12 months to be the charging year for a water supply authority. 24
25

322 Connections 26

- (1) On a water supply authority's water main or a sewer main becoming available for connection, the water supply authority may: 27
28
 - (a) publish in the Gazette notice of its availability, and 29
 - (b) give such other notices as may be prescribed. 30

-
- (2) A landholder of land to which a notice under subsection (1) (a) relates becomes liable: 1
2
- (a) in the case of a water main, to payment of water service charges after the expiration of 21 days from publication of the notice, 3
4
or 5
- (b) in the case of a sewer main, to payment of sewerage service charges after the expiration of 21 days from publication of the notice. 6
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8
- (3) If a landholder does not make a connection to the water supply authority's water main or sewer main before becoming liable under subsection (2), the water supply authority may make the connection at the expense of the landholder. 9
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12
- (4) Any amount due to a water supply authority for a connection made under subsection (3) is a charge on the land connected and may be recovered as a debt owed to the water supply authority by the landholder of the land. 13
14
15
16
- (5) If a landholder of land fails: 17
- (a) to connect the land to a water supply authority's water main or sewer main before becoming liable under subsection (2), or 18
19
- (b) to do any work that by this Part is required to be done by the landholder, 20
21
- the occupier of the land may make the connection or do the work and, 22
in accordance with subsection (6), recover the cost from the landholder with interest at the prescribed rate. 23
24
- (6) An amount (including interest) recoverable under subsection (5) by an occupier from a landholder may be recovered: 25
26
- (a) by deducting it from any rent from time to time payable to the landholder by the occupier, or 27
28
- (b) as a debt owed to the occupier by the landholder. 29
- (7) Any person desiring to connect premises with a water supply authority's water main or sewer main may (subject to such conditions as may be imposed by law) open up the surface and soil of any road or way, public or private, or any footpath or public reserve to the extent required to make the connection. 30
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323	Authority may levy service charges and impose fees and other charges	1
(1)	A water supply authority may, in accordance with this Part, levy the following service charges on land within its area of operations:	2
		3
(a)	water service charges,	4
(b)	sewerage service charges,	5
(c)	drainage service charges,	6
(d)	loan service charges,	7
(e)	developmental works service charges,	8
(f)	flood mitigation service charges,	9
(g)	river management service charges,	10
(h)	special industry service charges.	11
(2)	A water supply authority may, in accordance with the regulations, impose fees and charges for any service or thing supplied or provided by it in the exercise of its functions under this Part.	12
		13
		14
324	Land in respect of which a water supply authority may levy service charges	15
		16
(1)	A water supply authority may only levy water service charges on land:	17
(a)	to which water is supplied, or	18
(b)	to which, in the opinion of the water supply authority, it is reasonably practicable for water to be supplied,	19
	from one of the water supply authority's water mains.	20
		21
(2)	A water supply authority may only levy sewerage service charges on land:	22
		23
(a)	from which sewage is discharged, or	24
(b)	from which, in the opinion of the water supply authority, it is reasonably practicable for sewage to be discharged,	25
	into one of the water supply authority's sewer mains.	26
		27
(3)	A water supply authority may only levy drainage service charges on land that is within a drainage area.	28
		29
(4)	A water supply authority may only levy developmental works service charges on land within a development area.	30
		31
(5)	A water supply authority may only levy flood mitigation service charges on land within a floodplain.	32
		33

- (6) A water supply authority may only levy river management service charges on land within a river management area. 1
2
- (7) A water supply authority may only levy special industry service charges on land on which a special industry is conducted. 3
4

325 Certain land exempt from service charges 5

- (1) A water supply authority may not levy service charges in respect of the lands described in Schedule 4. 6
7
- (2) Subsection (1) does not apply to the following land: 8
 - (a) land that is within a public reserve or park that is the subject of a lease, licence or other authority under which a person carries on a trade or business, 9
10
11
 - (b) land that is vested in the Crown or a public body leased to any person for private purposes, 12
13
 - (c) land that is used or occupied by the Crown in connection with an undertaking declared by the Governor by proclamation published in the Gazette to be an industrial undertaking for the purposes of this section. 14
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326 Classification of lands 18

- (1) The regulations must specify the factor or factors according to which a water supply authority may classify land for the purpose of levying service charges. 19
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21
- (2) Without limiting the generality of subsection (1), the regulations may specify that a water supply authority may classify land according to any one or more of the following factors: 22
23
24
 - (a) the purpose for which the land is actually being used, 25
 - (b) the intensity with which the land is being used for that purpose, 26
 - (c) the purposes for which the land is capable of being used, 27
 - (d) the nature and extent of the water or sewerage services connected to the land. 28
29
- (3) For the purposes of subsection (2) (c), land is not capable of being used for a purpose if the use of the land for that purpose would be in contravention of: 30
31
32
 - (a) the *Environmental Planning and Assessment Act 1979*, or 33

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(b)	any environmental planning instrument in force under that Act, or	1 2
(c)	any other Act or law relating to the use of land.	3
327	Basis of levying service charges	4
(1)	The regulations must specify the basis or bases according to which a water supply authority may levy service charges.	5 6
(2)	Without limiting the generality of subsection (1), the regulations may specify that a water supply authority may levy service charges according to any one or more of the following bases:	7 8 9
(a)	the land value of land within the meaning of the <i>Valuation of Land Act 1916</i> ,	10 11
(b)	the assessed annual value of land within the meaning of the <i>Valuation of Land Act 1916</i> ,	12 13
(c)	the nominal size (as determined in accordance with the regulations) of the water service pipe supplying water to the land,	14 15 16
(d)	the nominal size (as determined in accordance with the regulations) of the sewerage service pipe discharging sewage from the land,	17 18 19
(e)	the area of the land.	20
(3)	If a regulation provides that a water supply authority may levy a service charge on the basis of the value of land (whether on the land value of the land, the assessed annual value of the land or otherwise) the value of the land is to be that calculated in accordance with the provisions of the <i>Valuation of Land Act 1916</i> .	21 22 23 24 25
328	Determinations by water supply authority	26
(1)	Not later than 1 month before the beginning of each charging year a water supply authority must, in accordance with the regulations, determine the following matters for that charging year:	27 28 29
(a)	the amount of money that it proposes to raise by way of service charges levied on land within its area of operations,	30 31
(b)	the factor or factors according to which land within its area of operations is to be classified for the purposes of levying service charges,	32 33 34

- (c) the basis or bases according to which service charges are to be levied, 1
 - (d) the rate at which service charges are to be levied on, or the maximum or minimum service charges that are to be applicable to, land within its area of operations. 2
- (2) In making a determination under this section, a water supply authority may have regard to the following: 3
- (a) its estimation of the degree of benefit that accrues to land in respect of each service for which a charge is to be levied, 4
 - (b) its estimation of the degree to which each service is or may be used in relation to land in respect of which a charge is to be levied, 5
 - (c) its estimation of the cost involved in the construction, maintenance and operation of each service for which a charge is to be levied, 6
 - (d) such other matters as it considers relevant to the levying of charges for each such service. 7
- (3) A determination under this section: 8
- (a) is required to be approved by the Minister and does not have effect unless it is so approved, and 9
 - (b) must be published in the Gazette before the commencement of the charging year to which it relates, and 10
 - (c) takes effect on the commencement of the charging year to which it relates. 11
- (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, no person is liable for payment of the service charges to which the determination relates until the determination is published in the Gazette. 12
- (5) A service charge determined under this section is levied on publication of the determination in the Gazette. 13
- (6) If, for any reason: 14
- (a) a determination under this section is not made before the charging year to which it relates, or 15

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- (b) there is any irregularity or alleged irregularity in the making of
any such determination, 1
2
- the Governor may extend the time for making the determination 3
(whether or not that time has expired) and may authorise the water 4
supply authority concerned to do anything necessary to cure any 5
irregularity and to make a valid determination. 6

329 Assessment of service charges 7

- (1) A water supply authority: 8
 - (a) must classify each parcel of land within its area of operations 9
in respect of which a service charge is to be levied, and 10
 - (b) must assess the service charges payable for each such parcel of 11
land, 12
 in accordance with its determination under this Division. 13
- (2) After it makes an assessment under this section, a water supply 14
authority must, in accordance with the regulations, cause a notice to be 15
served on the landholder of each parcel of land in respect of which a 16
service charge has been levied. 17
- (3) Such a notice must include information as to the following: 18
 - (a) the factor or factors according to which the parcel of land has 19
been classified for the purposes of the levying of service 20
charges, 21
 - (b) the basis or bases according to which service charges have been 22
levied in respect of the parcel of land, 23
 - (c) if service charges have been levied on the basis of the value of 24
the parcel of land, the value of the parcel on which those 25
service charges have been levied, 26
 - (d) the rate at which service charges have been levied on, or the 27
maximum or minimum service charges that are applicable to, 28
the parcel of land, 29
 - (e) the amounts payable in respect of each service charge that has 30
been levied in respect of the parcel of land. 31
- (4) On service of such a notice, the landholder of the land to which the 32
notice relates becomes liable for payment of the service charges 33
specified in the notice. 34

330	Re-assessment of service charges	1
(1)	This section applies to any land in respect of which a service charge has been levied on the basis of the value of the land.	2 3
(2)	If a water supply authority becomes aware that the value (as calculated in accordance with this Division) of any parcel of land in respect of which it has levied a service charge for any charging year differs from the value (as so calculated) as at the date on which the service charge was originally assessed, the water supply authority may re-assess the service charge on the basis of the different value.	4 5 6 7 8 9
(3)	A service charge may only be re-assessed as from the date from which the revised calculation of the value of the land has effect.	10 11
(4)	After it makes a re-assessment under this section, a water supply authority must, in accordance with the regulations, cause a notice to be served on the landholder of the parcel of land in respect of which the re-assessment has been made.	12 13 14 15
(5)	Such a notice must specify:	16
(a)	the revised calculation of the value of the land, and	17
(b)	the date from which the revised calculation of the value of the land has effect, and	18 19
(c)	the revised assessment of the amounts payable in respect of each service charge that has been levied on that land.	20 21
(6)	On service of such a notice, the service charges for which the landholder of the land to which the notice relates is liable are varied in accordance with the terms of the notice.	22 23 24
Division 7	Miscellaneous	25
331	Acquisition and divesting of land	26
(1)	A water supply authority may acquire land (or an interest in land) for the purposes of this Part by agreement or by compulsory process in accordance with the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	27 28 29 30

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(2)	For the purposes of the <i>Public Works Act 1912</i> , any such acquisition of land is taken to be for an authorised work and the water supply authority is, in relation to that authorised work, taken to be the Constructing Authority.	1 2 3 4
(3)	Part 3 of the <i>Public Works Act 1912</i> does not apply in respect of works constructed under this Part.	5 6
(4)	With the consent of the local council concerned, the Governor may, by proclamation published in the Gazette, vest in a local council the estate or interest of a water supply authority in any land on which is situated a work of the water supply authority (whether wholly or partly completed).	7 8 9 10 11
332	Compensation for interference or damage	12
(1)	If:	13
(a)	a person does, or causes to be done, any work that interferes with, or damages, any property of a water supply authority, and	14 15
(b)	there was reasonable cause to believe that the interference or damage would result from the doing of the work,	16 17
	the person is liable to compensate the water supply authority for the interference or damage.	18 19
(2)	A water supply authority is not entitled to compensation both under this section and another provision of this Part for the same interference or damage.	20 21 22
333	Efficiency review	23
(1)	The Minister may appoint a person to investigate and review the efficiency of a water supply authority in exercising its functions.	24 25
(2)	A water supply authority must bear the costs of an investigation and review under this section that is requested by it.	26 27
334	Appointment of administrator	28
(1)	If a water supply authority refuses or fails to comply with a direction or requirement given or made by the Minister in relation to this Part, the Minister may, by order published in the Gazette:	29 30 31

- (a) in the case of a water supply authority listed in Part 1 of Schedule 3, appoint an administrator to exercise all the functions, or specified functions, of the water supply authority, or 1
2
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 - (b) in the case of a statutory body listed in Part 2 of Schedule 3, with the consent of the Minister administering the Act by which the statutory body is constituted, appoint an administrator to exercise all the functions, or specified functions, of the water supply authority under this Part. 5
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- (2) An administrator has, during his or her term of office and to the exclusion of the water supply authority, the functions the administrator was appointed to exercise. 10
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- (3) Regulations may be made for or with respect to: 13
 - (a) the accommodation (if any) to be provided at the offices of a water supply authority for the administrator and his or her assistants, and 14
15
16
 - (b) requiring the employees of a water supply authority to assist, and to refrain from obstructing, the administrator in the exercise of his or her functions. 17
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335 Regulations

- (1) The regulations may make provision for or with respect to the following matters: 20
21
22
 - (a) fees, service charges and other charges, including charges for the abstraction or use of water, 23
24
 - (b) development of land, 25
 - (c) the supply and use of water, 26
 - (d) special areas, 27
 - (e) water, sewerage and drainage systems, 28
 - (f) trade wastes, 29
 - (g) drainage areas, 30
 - (h) the opening of the surface of roads, 31
 - (i) public recreation, 32
 - (j) the procedure at meetings of a water supply authority. 33

Clause 335	Water Management Bill 2000
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(2)	Without limiting the generality of subsection (1) (a), a regulation may make provision for or with respect to the following matters:	1
		2
(a)	for the reduction of service charges and other charges in specified circumstances,	3
		4
(b)	for the payment of service charges and other charges by instalments,	5
		6
(c)	for the creation of hardship funds,	7
(d)	for the deferral of payment of service charges and other charges,	8
		9
(e)	for the fixing of minimum and maximum service charges,	10
(f)	for the waiving of service charges in specified circumstances,	11
(g)	for the making of objections to a water supply authority in relation to a valuation or in relation to service charges and other charges imposed on or in relation to land,	12
		13
		14
(h)	for the making of objections from a water supply authority's decision on an objection referred to in paragraph (g),	15
		16
(i)	for the manner in which, and the times at which, service charges and other charges are to be paid,	17
		18
(j)	for the apportionment of service charges and other charges between successive landholders of land,	19
		20
(k)	for the keeping of records in relation to service charges and other charges,	21
		22
(l)	for the liability for the payment of service charges and other charges imposed on land, including land the subject of a Crown lease,	23
		24
		25
(m)	for the lodging of notices of disposition of land and the effect of lodgment of such a notice,	26
		27
(n)	for the payment by an occupier of land of service charges and other charges that remain unpaid by the landholder of the land,	28
		29
(o)	for the levying of expenses incurred in relation to the recovery of unpaid fees, service charges and other charges.	30
		31
(3)	A regulation made for or with respect to a special area prevails to the extent of any inconsistency with a statutory instrument made under another Act, including an environmental planning instrument made under the <i>Environmental Planning and Assessment Act 1979</i> .	32
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Chapter 7 Enforcement

1

Part 1 Directions to landholders and other persons

2

336 Directions concerning the production of information

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- (1) The Minister may, by order in writing served on a landholder, direct the landholder to furnish the Minister with specified information in relation to:
 - (a) the construction, use or ownership of any water management works situated on the land, or
 - (b) the taking or using of water from a water source by the landholder.
- (2) The Minister may, by order in writing served on a person by whom a controlled activity is being carried out on waterfront land or on land within a water source protection zone, direct the person to furnish the Minister with specified information in relation to that activity.
- (3) A person is not excused from giving information on the ground that the information may tend to incriminate the person.
- (4) Information obtained from a person under this section is not admissible against the person in criminal proceedings, other than proceedings for an offence under this Act with respect to the furnishing of false or misleading information.

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337 Directions concerning waste of water

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The Minister may, by order in writing served on a landholder, direct the landholder to take specified measures to ensure that:

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- (a) water used under the authority of a water use approval applying to the land is beneficially used, and is not wasted or improperly used, or
- (b) water taken by means of a water supply work situated on the land is beneficially used, and is not wasted or improperly used.

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338	Directions to protect water sources	1
	The Minister may, by order in writing served on a landholder, direct the landholder to take specified measures to ensure that:	2
		3
	(a) the use of a water supply work situated on the land does not impair any water source, or	4
		5
	(b) the use of a drainage work situated on the land does not impair any water source into which water is discharged by the work, or	6
		7
		8
	(c) the use of a flood work situated on the land does not impair any water source into or from which water is diverted by the work, or	9
		10
		11
	(d) the carrying out of a controlled activity on the land does not impair any water source in the vicinity of the work, or	12
		13
	(e) interference with an aquifer does not impair the aquifer.	14
339	Directions to stop work where unlawful activity occurring	15
	(1) The Minister may, by order in writing served on:	16
	(a) a landholder on whose land is situated a water management work:	17
		18
	(i) that is being constructed or used, or is about to be constructed or used, in contravention of the provisions of this Act, or	19
		20
		21
	(ii) that is being constructed or used in a manner that threatens to impair a water source, or	22
		23
	(b) any person having the control and management of such a work, direct the landholder or person to take specified measures to prevent its construction or use.	24
		25
		26
	(2) The Minister may, by order in writing served on any person:	27
	(a) who is carrying out a controlled activity in contravention of the provisions of this Act, or	28
		29
	(b) who is carrying out a controlled activity in a manner that threatens to impair a water source,	30
		31
	direct the person to cease carrying out that activity.	32

340	Directions to holders of basic landholder rights	1
	The Minister may, by order in writing served on:	2
(a)	a landholder on whose land is situated a water supply work:	3
(i)	that is being used to take water from a water source pursuant to the landholder's domestic and stock rights, or	4
(ii)	that is being used to capture rainwater run-off pursuant to the landholder's harvestable rights, or	5
(b)	any person having the control and management of such a work,	6
	direct the landholder or person to take specified measures to protect the environment or the allocations to water of downstream users.	7
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		9
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		11
341	Temporary stop work order	12
	The Minister may, by order in writing served on:	13
(a)	any landholder on whose land is situated a water supply work or drainage work, or	14
(b)	any person having the control or management of such a work, or	15
(c)	any person by whom a controlled activity is being carried out,	16
	direct the landholder or person to cease using the work, or to cease the activity, in any circumstances in which the Minister considers that the public interest requires such a direction to be given.	17
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342	Directions concerning unusable water management works	22
(1)	The Minister may, by order in writing served on:	23
(a)	a landholder on whose land is situated a water management work whose construction or use is not authorised by this Act, or	24
(b)	any person having the control or management of that work,	25
	direct the landholder or person to take specified measures to remove it or render it inoperable.	26
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		28
		29
(2)	Such a direction may be given even if the water management work is not being used or is not capable of being used.	30
		31

343	Directions concerning damage caused by straying stock	1
	The Minister may, by order in writing served on any landholder, direct the landholder to take specified measures:	2
		3
	(a) to prevent stock from straying from the landholder's land into or onto a water management work that is owned by, or is under the control or management of, the Ministerial Corporation, or	4
		5
		6
	(b) to repair any damage caused to any such water management work as a consequence of stock having strayed from the landholder's land.	7
		8
		9
344	Measures that may be specified in direction	10
	(1) The measures that may be specified in a direction under this Part are as follows:	11
		12
	(a) measures to clean, alter, reconstruct or add to a water management work or otherwise render it effective,	13
		14
	(b) measures to demolish, remove, dismantle or block a water management work or otherwise render it ineffective,	15
		16
	(c) measures to restore or enhance the condition of any water source that has been impaired by the use, misuse or lack of use of a water management work or by the carrying out of any controlled activity,	17
		18
		19
		20
	(d) measures to repair any damage caused by a water management work or by the carrying out of any controlled activity (including any damage caused to any specified land, structure or vegetation, or to the environment),	21
		22
		23
		24
	(e) measures to ensure that any specified land, structure or vegetation, or the environment, will not be damaged or adversely affected or further damaged or adversely affected by a water management work or by the carrying out of any controlled activity,	25
		26
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		29
	(f) measures to correct or restore any alteration caused by a water management work, or by the carrying out of any controlled activity, to the flow of water in, to or from, or the quantity of water contained in, any specified water source,	30
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		32
		33
	(g) any ancillary measures that the Minister considers to be necessary or expedient.	34
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(2)	In this section, <i>controlled activity</i> includes the activity of penetrating an aquifer, or interfering with water in an aquifer or obstructing its flow.	1 2 3
345	Prior notice of direction not required	4
	The Minister is not required to notify any person who may be affected by a direction under this Part before giving the direction.	5 6
346	Remedial measures may be taken by Minister	7
(1)	If a person fails to take the measures specified in a direction under this Part, the Minister may authorise any other person to take those measures.	8 9 10
(2)	The amount of any costs and expenses incurred by the authorised person as a result of the taking of those measures is recoverable in a court of competent jurisdiction as a debt due to the Ministerial Corporation from the person on whom the direction was served.	11 12 13 14
347	Land and Environment Court may grant injunctions	15
	On the application of the Minister, the Land and Environment Court may grant an injunction directing a landholder to comply with a direction under this Part.	16 17 18
348	Restraint of breaches of this Act	19
(1)	Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of this Act or the regulations.	20 21 22
(2)	Any such proceedings may be brought whether or not proceedings have been instituted for an offence against this Act or the regulations.	23 24
(3)	Any such proceedings may be brought whether or not any right of the person has been or may be infringed by or as a consequence of the breach.	25 26 27
(4)	Any such proceedings may be brought by a person on the person's own behalf or on behalf of another person (with their consent), or of a body corporate or unincorporate (with the consent of its committee or other controlling body), having like or common interests in those proceedings.	28 29 30 31 32

- (5) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings. 1
2
3
- (6) If the Court is satisfied that a breach has been committed or that a breach will, unless restrained by the order of the Court, be committed, it may make such orders as it thinks fit to remedy or restrain the breach. 4
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- (7) In this section, *breach* includes a threatened or apprehended breach. 8

Part 2 Powers of entry

349 Powers of entry generally

- (1) An authorised officer may enter any premises:
 - (a) for the purpose of inspecting any water management works situated on the premises, or
 - (b) for the purpose of monitoring the use of water on the premises, or
 - (c) for the purpose of monitoring any controlled activity or aquifer interference occurring on the premises, or
 - (d) for the purpose of carrying out any surveys for the purposes of this Act, or
 - (e) for the purpose of taking measurements of any matter, or for reading any meter, for the purposes of this Act, or
 - (f) for the purpose of investigating any alleged contravention of this Act or the regulations.
- (2) Reasonable force may be used for the purpose of effecting entry.
- (3) Except in emergencies, entry may be effected only during daylight hours.
- (4) At all times while on premises under the power conferred by this section, an authorised officer must carry, and produce on demand, evidence of his or her authority to be on the premises.
- (5) This section does not apply to any part of premises that are used exclusively for residential purposes.

350 Search warrants

- (1) An authorised officer may apply to an authorised justice for the issue of a search warrant if the authorised officer believes on reasonable grounds that a provision of this Act or the regulations is being or has been contravened at any premises.
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising a named authorised officer to enter the premises and to exercise any of the authorised officer's functions under this Part.

(3) Part 3 of the <i>Search Warrants Act 1985</i> applies to a search warrant issued under this section.	1 2
(4) In this section, <i>authorised justice</i> has the same meaning as it has in the <i>Search Warrants Act 1985</i> .	3 4
351 Powers exercisable following lawful entry to land	5
(1) While on any premises lawfully entered, an authorised officer may do anything that the authorised officer considers necessary to be done for the purposes of this Act, including:	6 7 8
(a) inspecting any water management works situated on the premises, and	9 10
(b) observing any controlled activities being carried out on the premises, and	11 12
(c) measuring or sampling any water in any water management works or water source situated on the premises.	13 14
(2) An authorised officer may disassemble a water management work for the purpose of inspecting it but, in that event, must ensure that it is properly reassembled immediately after the inspection is completed.	15 16 17
(3) While on any premises lawfully entered, a person authorised by the Minister to take measures on the Minister's behalf for the purpose of giving effect to a direction under this Act may do anything that the person considers necessary to be done for that purpose.	18 19 20 21
352 Duty of care	22
(1) In exercising a power under this Part, a person must do as little damage as possible.	23 24
(2) The Ministerial Corporation must compensate all interested parties for any damage caused by a person's exercise of a power to enter premises for the purposes of this Part (but not for any damage caused by a person's exercise of any other power) unless the occupier of the premises obstructed or hindered the person in the exercise of the power of entry.	25 26 27 28 29 30

Part 3 Offences

1

Division 1 Major offences

2

353 Unlawful taking of water

3

- (1) A person must not take an amount of water from any water source otherwise than in accordance with an access licence and any relevant available water determination. 4
5
6
- (2) This section does not prevent a landholder from exercising a basic landholder right in accordance with this Act. 7
8
- (3) In this section, a reference to an access licence includes a reference to any licence of a similar nature (however described): 9
10
 - (a) that is granted under the law of another State or Territory, and 11
 - (b) that is declared by the regulations to have the same effect as an access licence for the purposes of this section. 12
13
- (4) A person is not guilty of an offence under this section as a consequence of having taken water in contravention of an available water determination if the person establishes that he or she took all reasonable steps to ascertain the terms of the determination but was unable to do so. 14
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354 Using water without a water use approval

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- (1) A person must not use any amount of water for any purpose on any land otherwise than in accordance with a water use approval in force in respect of that land. 20
21
22
- (2) This section does not prevent a landholder from exercising a basic landholder right in accordance with this Act. 23
24

355 Constructing or using water management work without a water management work approval

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26

- (1) A person must not: 27
 - (a) construct or use a water supply work otherwise than in accordance with a water supply work approval, or 28
29
 - (b) construct or use a drainage work otherwise than in accordance with a drainage work approval, or 30
31

Clause 355	Water Management Bill 2000
Chapter 7	Enforcement
Part 3	Offences
Division 1	Major offences

(c)	construct or use a flood work in or in the vicinity of a river, estuary or lake, or within a floodplain, otherwise than in accordance with a flood work approval.	1 2 3
(2)	Subsection (1) (a) does not prevent a landholder from exercising a basic landholder right (otherwise than by means of a dam or water bore) in accordance with this Act.	4 5 6
(3)	Subsection (1) (c) does not prevent a landholder from constructing or using a water supply work or drainage work in accordance with a drainage work approval or flood work approval.	7 8 9
356	Unlawful carrying out of certain activities	10
(1)	A person must not:	11
(a)	carry out a controlled activity on waterfront land or in a water source protection zone otherwise than in accordance with a controlled activity approval, or	12 13 14
(b)	penetrate an aquifer, or interfere with water in an aquifer or obstruct its flow, otherwise than in accordance with an aquifer interference approval.	15 16 17
(2)	Subsection (1) does not prevent a person from constructing and using a water management work in accordance with a water management work approval.	18 19 20
(3)	Subsection (1) (a) does not prevent a person:	21
(a)	from carrying out a controlled activity in accordance with a controlled activity approval, or	22 23
(b)	from using a building or work that has been erected or carried out in accordance with a controlled activity approval.	24 25
(4)	Subsection (1) does not apply to or in respect of any person or activity exempt from the need for an activity approval by an order in force under section 83.	26 27 28
357	Contravention of certain directions	29
	A person on whom a direction under Part 1 is served must not fail to comply with the direction.	30 31

358	Destruction, damage and interference with certain works	1
(1)	A person must not destroy, damage or interfere with:	2
(a)	any work that is owned by, or is under the control and management of, the Ministerial Corporation, an irrigation corporation, a private irrigation board, a private drainage board or a private water trust, or	3 4 5 6
(b)	any meter (regardless of who owns it or has the control and management of it) that is used for measuring the quantity or quality of water in, or passing through, a water supply work or drainage work, or	7 8 9 10
(c)	any mark, peg, stake or level fixed for the purposes of this Act.	11
(2)	A person is not guilty of an offence against this section if the person establishes that the act giving rise to the alleged offence was done with lawful authority.	12 13 14
359	Taking water from public or private works	15
(1)	A person must not take water from any water supply work that is owned by, or is under the control and management of, the Ministerial Corporation, an irrigation corporation, a private irrigation board, a private drainage board or a private water trust, except with the authority of that corporation, board or trust.	16 17 18 19 20
(2)	A person is not guilty of an offence against this section if the person establishes that the act giving rise to the alleged offence was done with lawful authority.	21 22 23
360	Maximum penalty for offences under this Division	24
	A person who is guilty of an offence under this Division is liable, on conviction:	25 26
(a)	in the case of a corporation, to a penalty not exceeding 2,500 penalty units and, in the case of a continuing offence, to a further penalty not exceeding 1,200 penalty units for each day the offence continues, or	27 28 29 30
(b)	in the case of an individual, to a penalty not exceeding 1,200 penalty units and, in the case of a continuing offence, to a further penalty not exceeding 600 penalty units for each day the offence continues.	31 32 33 34

Clause 361	Water Management Bill 2000
Chapter 7	Enforcement
Part 3	Offences
Division 2	Other offences

Division 2	Other offences	1
361	Exposure of underground pipes	2
	A person must not, by opening any ground, expose any pipe or other work of a water supply authority:	3
		4
	(a) without lawful excuse, or	5
	(b) without having given the water supply authority at least 2 days' written notice of intention to open the ground.	6
		7
	Maximum penalty: 100 penalty units in the case of a corporation or 20 penalty units in any other case.	8
		9
362	Work done by unqualified person	10
	A person must not do any kind of work of water supply, sewerage or drainage intended for direct or indirect connection with the pipes, sewers or drains of a water supply authority unless the person:	11
		12
		13
	(a) holds an endorsed licence or a supervisor certificate in force under the <i>Home Building Act 1989</i> authorising the holder to do that kind of work, or	14
		15
		16
	(b) does the work under the immediate supervision of the holder of such a licence or certificate, or	17
		18
	(c) holds a registration certificate in force under the <i>Home Building Act 1989</i> authorising the holder to do that work under supervision, and does that work under the general supervision of the holder of a licence or certificate referred to in paragraph (a).	19
		20
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		23
	Maximum penalty: 100 penalty units.	24
363	Obstruction	25
	A person must not obstruct or hinder an authorised officer in the exercise of the authorised officer's functions under this Act.	26
		27
	Maximum penalty: 20 penalty units.	28

364	False or misleading information	1
	A person must not, in or in connection with any application under this	2
	Act, make a statement that the person knows to be false or misleading	3
	in a material particular.	4
	Maximum penalty: 10 penalty units.	5

Part 4	Recovery of rates and charges	1
365	Definition	2
	In this Part, <i>charging authority</i> means the Minister, an irrigation corporation, a private irrigation board, a private drainage board, a private water trust or a water supply authority.	3 4 5
366	Certain rates and charges to be a charge on land	6
(1)	A rate or charge imposed on the owner of any land is a charge on the land to which the charge relates.	7 8
(2)	A charge imposed for a service or thing supplied or provided in connection with the occupation of land is a charge on the land.	9 10
367	Interest on rates and charges	11
	A charging authority may charge interest on overdue rates and charges at a rate not exceeding the rate of interest payable for the time being on an unpaid judgment of the Supreme Court.	12 13 14
368	Recovery of rates, charges and other money	15
(1)	Any rate or charge or other money due to a charging authority under this Act may be recovered in any court of competent jurisdiction as if it were a debt due to the charging authority.	16 17 18
(2)	An unsatisfied judgment or order of any court for the recovery of any rate or charge from any person is not a bar to its recovery from any other person who is liable under this Act for its payment.	19 20 21
369	Joint owners	22
(1)	If land is owned or held jointly by two or more persons, such persons are jointly and severally liable to the charging authority for the rate, but as between themselves each are only be liable for such part of the rate as is proportionate to his or her interest in the land.	23 24 25 26
(2)	If any of such persons pays to the charging authority more than his or her proportionate part, he or she may recover the excess by way of contribution from the others.	27 28 29

370	Sale of land for unpaid rates and charges	1
(1)	This section applies to rates and charges imposed under this Act by the Minister or by a water supply authority.	2 3
(2)	The provisions of Division 5 of Part 2 of Chapter 17 of the <i>Local Government Act 1993</i> apply to land in respect of which a rate or charge (being a rate or charge that is, by virtue of this Part, a charge on land) remains unpaid in the same way as they apply to land in respect of which rates and charges under that Act remain unpaid.	4 5 6 7 8
(3)	For the purpose of applying the provisions of Division 5 of Part 2 of Chapter 17 of the <i>Local Government Act 1993</i> to land in respect of which a rate or charge remains unpaid:	9 10 11
(a)	a reference in those provisions to a council is to be read as a reference to the Minister or to a water supply authority, as the case requires, and	12 13 14
(b)	a reference to a general manager or public officer is to be read as a reference to the Director-General or to the principal officer of a water supply authority, as the case requires, and	15 16 17
(c)	a reference to a member of staff of a council is to be read as a reference to a member of staff of the Department or to an employee of a water supply authority, as the case requires, and	18 19 20
(d)	a reference to a rating authority is to be read as including a reference to a council.	21 22
371	Certificate as to amount due	23
(1)	A charging authority must, on written application being made to it and payment of the fee determined by it, issue to the applicant a certificate:	24 25
(a)	containing particulars of any amounts payable to the authority in respect of a parcel of separately assessed land, or	26 27
(b)	to the effect that there are no such amounts.	28
(2)	An application for a certificate must:	29
(a)	specify the name and address of the applicant, and	30
(b)	identify the land to which the application relates.	31

- (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 charging authority in respect of that land other than such amounts as are specified in the certificate. 1
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372 Liability where an estate or interest is transferred 6

- (1) A person who disposes of his or her estate or interest in any land in respect of which any rates or charges have been or may be levied remains liable for rates or charges to the same extent as if the person had not disposed of his or her estate or interest in the land, if the rates or charges are levied either: 7
8
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- (a) before the person disposed of his or her estate or interest in the land, or 12
13
- (b) before the person has given to the charging authority the prescribed notice of disposal. 14
15
- (2) If any person who disposes of land to another person pays any amount to the charging authority in respect of rates or charges levied after the land disposed of but before the prescribed notice is given to the authority, the person by whom the amount was paid may recover the amount from the person to whom the land was disposed. 16
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- (3) As between an owner of land and any other person from or to whom the owner derives or disposes of his or her estate or interest in the land, rates or charges under this Act are to be considered as accruing from day to day and are apportionable accordingly. 21
22
23
24

373 Liability where a person becomes entitled to an estate or interest 25

- (1) An owner of land is liable for all arrears of rates and charges owing by any previous owner of the land, despite the fact that the new owner acquired the land after the rates or charges were levied. 26
27
28
- (2) If any person who becomes an owner of land pays to the charging authority any rates or charges in respect of that land that were levied before the person became the owner, the person may recover from the previous owner such part of the rates or charges as was levied in respect of the period during which the previous owner was the owner of the land. 29
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Part 5 Legal proceedings and appeals	1
Division 1 Legal proceedings	2
374 Offences by corporations	3
(1) If a corporation commits an offence against this Act or the regulations:	4
(a) each person who is a director of the corporation, and	5
(b) each person who is concerned in the management of the corporation,	6
is taken to have committed the same offence if the person knowingly authorised or permitted the act or omission constituting the offence.	7
(2) A person may be proceeded against and convicted under this section whether or not the corporation has been proceeded against or convicted.	8
(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation.	9
375 Proceedings for offences	10
(1) Proceedings for an offence against this Act or the regulations are to be disposed of summarily:	11
(a) by a Local Court constituted by a Magistrate sitting alone, or	12
(b) by the Land and Environment Court in its summary jurisdiction.	13
(2) Proceedings for an offence against this Act may be commenced:	14
(a) in the case of an offence prescribed by the regulations, within (but not later than) 3 years after the date of the alleged commission of the offence, and	15
(b) in the case of any other offence, within (but not later than) 12 months after the date of the alleged commission of the offence.	16
(3) The maximum monetary penalty that may be imposed by a Local Court in proceedings for an offence against this Act or the regulations is:	17
(a) 100 penalty units for an offence committed by a corporation, or	18

Clause 375	Water Management Bill 2000
Chapter 7	Enforcement
Part 5	Legal proceedings and appeals
Division 1	Legal proceedings

(b)	50 penalty units in any other case,	1
	or the maximum monetary penalty specified in respect of the offence,	2
	whichever is the lesser.	3
(4)	The maximum penalty that may be imposed by the Land and	4
	Environment Court in proceedings for an offence against this Act or	5
	the regulations is the maximum penalty specified in respect of the	6
	offence.	7
376	Penalty notices for certain offences	8
(1)	In this section:	9
	<i>penalty notice</i> means a notice to the effect that, if the person served	10
	with the notice does not wish to have an alleged offence dealt with by	11
	a court, the person may pay, in accordance with the notice, the penalty	12
	specified in the notice.	13
	<i>penalty notice offence</i> means an offence against this Act or the	14
	regulations that is declared by the regulations to be a penalty notice	15
	offence.	16
(2)	An authorised officer may serve a penalty notice on a person who	17
	appears to the authorised officer to have committed a penalty notice	18
	offence.	19
(3)	The amount of the penalty to be specified in a penalty notice is the	20
	amount prescribed by the regulations for the alleged offence, being an	21
	amount not exceeding the maximum penalty which could be imposed	22
	for the offence by a court.	23
(4)	A penalty notice may be served personally or by post.	24
(5)	If the amount of the penalty prescribed by the regulations for an	25
	alleged offence is paid under this section, no person is liable to any	26
	further proceedings for the alleged offence.	27
(6)	Payment of a penalty under this section is not to be regarded as an	28
	admission of liability for the purposes of, nor is in any way to affect or	29
	prejudice, any civil claim, action or proceeding arising out of the same	30
	occurrence.	31
(7)	The Ministerial Corporation may withdraw a penalty notice at any time	32
	within 28 days after the date on which it was served and, in that event:	33
(a)	the amount payable under the notice ceases to be payable, and	34

- (b) any amount that has been paid under the notice is repayable to the person by whom it was paid, and 1
2
- (c) further proceedings for the offence in respect of which the notice was served may be taken against any person (including the person on whom the notice was served) as if the notice had never been served. 3
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- (8) This section does not limit the operation of any other provision of this or any other Act or law in relation to proceedings that may be taken in respect of offences. 7
8
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377 Legal proceedings do not affect, and are unaffected by, other action under this Act 10
11

The prosecution of a person for an offence against this Act or the regulations, or the issue of a penalty notice in respect of such an offence, does not affect, and is unaffected by, any other action taken under this Act in relation to the act or omission giving rise to the offence. 12
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378 Evidentiary certificates 17

- (1) A certificate that is issued by the Ministerial Corporation and that states that, on a date or during a period specified in the certificate: 18
19
 - (a) a specified person was or was not the holder of a specified access licence or specified approval, or 20
21
 - (b) specified land was or was not the subject of a specified approval, or 22
23
 - (c) a specified water management work was or was not the subject of a specified water management work approval, or 24
25
 - (d) the conditions of a specified access licence or approval were or were not as so specified, or 26
27
 - (e) the terms of an available water determination were or were not as so specified, 28
29
- is admissible in any legal proceedings and is evidence of the fact or facts so stated. 30
31

Clause 378	Water Management Bill 2000
Chapter 7	Enforcement
Part 5	Legal proceedings and appeals
Division 1	Legal proceedings

(2) In proceedings for an offence against this Act or the regulations:	1
(a) evidence that a water management work was constructed or used on specified land is evidence that the work was constructed or used by the person who was the landholder of the land at the time the work was constructed or used, and	2 3 4 5
(b) evidence that water was taken from a water source by means of a water supply work situated on specified land is evidence that the water was taken from the water source by the person who was the landholder of the land at the time the water was taken, and	6 7 8 9 10
(c) evidence that water was discharged into a water source by means of a drainage work situated on specified land is evidence that the water was discharged into the water source by the person who was the landholder of the land at the time the water was discharged, and	11 12 13 14 15
(d) evidence that water was used on specified land is evidence that the water was used by the person who was the landholder of the land at the time the water was used.	16 17 18

Division 2	Appeals	19
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379 Appeals to Land and Environment Court	20
(1) An appeal lies to the Land and Environment Court against any of the following decisions made by the Minister:	21 22
(a) a decision refusing to grant an access licence,	23
(b) a decision granting a designated access licence, if the appellant was an objector to the granting of the licence,	24 25
(c) a decision imposing a discretionary condition on an access licence,	26 27
(d) a decision fixing the term of an access licence,	28
(e) a decision refusing consent to the transfer of an access licence,	29
(f) a decision suspending or cancelling an access licence,	30
(g) a decision refusing to grant an approval, other than a decision refusing to accept an application for an approval,	31 32
(h) a decision granting a designated water use approval, if the appellant was an objector to the granting of the approval,	33 34

- (i) a decision imposing a discretionary condition on an approval, 1
- (j) a decision fixing the term of an approval, 2
- (k) a decision refusing to amend an approval in accordance with an application made by its holder, 3
4
- (l) a decision suspending or cancelling an approval, 5
- (m) a decision to give a direction to a landholder under Part 1, 6
- (n) a decision as to a person's entitlement to compensation for damage arising from the exercise of a power of entry under Part 2. 7
8
9
- (2) Despite subsection (1): 10
 - (a) no appeal lies against any decision made by the Minister on an application to which an objection has been made if: 11
 - (i) in the case of the applicant, the Minister has dismissed the application as a consequence of the applicant having failed to participate in mediation or neutral evaluation proceedings, or 13
14
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16
 - (ii) in the case of the objector, the Minister has dismissed the objection as a consequence of the objector having failed to participate in mediation or neutral evaluation proceedings, and 17
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 - (b) no appeal lies against any decision made by the Minister pursuant to a report from a Committee of Inquiry under section 119 of the *Environmental Planning and Assessment Act 1979*. 21
22
23
- (3) An appeal is to be made in accordance with rules of court, but may not be made more than 28 days after the date on which the decision was made. 24
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- (4) In addition to the appellant and the Minister, the parties to an appeal against a decision to grant a designated access licence or designated approval include any objector to the granting of the licence or approval who, in accordance with rules of court, gives notice to the Land and Environment Court of the objector's wish to be a party to the appeal. 27
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- (5) The lodging of an appeal does not operate to stay action on the decision appealed against, except to the extent that the Land and Environment Court otherwise directs. 32
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Clause 379	Water Management Bill 2000
Chapter 7	Enforcement
Part 5	Legal proceedings and appeals
Division 2	Appeals

(6) In this section:	1
<i>designated access licence</i> means an access licence to which a person	2
has a right of objection under section 52.	3
<i>designated approval</i> means a water use approval to which a person	4
has a right of objection under section 85.	5

Chapter 8 Administration

1

Part 1 Water Advisory Council

2

380 Establishment of Water Advisory Council

3

- (1) There is to be a Water Advisory Council. 4
- (2) The Water Advisory Council is to have at least 12, but not more than 5
20, members appointed by the Minister, of whom: 6
 - (a) at least two are to be persons appointed to represent the 7
interests of environmental protection groups, and 8
 - (b) at least two are to be persons appointed to represent the 9
interests of water user groups, and 10
 - (c) at least two are to be persons appointed to represent the 11
interests of local councils, and 12
 - (d) at least one is to be a person having such technical 13
qualifications in connection with environmental protection as 14
the Minister considers appropriate for the functions to be 15
exercised by the Council, and 16
 - (e) at least one is to be a person having such qualifications in 17
ecology as the Minister considers appropriate for the functions 18
to be exercised by the Council, and 19
 - (f) at least two are to be persons appointed to represent the 20
interests of catchment management boards and trusts, and 21
 - (g) at least one is to be an Aboriginal person appointed to represent 22
the interests of Aboriginal persons, and 23
 - (h) one is to be a person appointed as an independent chairperson 24
for the Council. 25
- (3) The regulations may make provision with respect to qualifications for 26
appointment as a member of the Water Advisory Council. 27
- (4) Schedule 6 has effect with respect to the constitution and procedure of 28
the Water Advisory Council. 29

381 Functions of Water Advisory Council	1
(1) The principal functions of the Water Advisory Council are as follows:	2
(a) to review such draft management plans and implementation programs as the Minister refers to it for review,	3
	4
(b) to investigate matters affecting the management of the water sources throughout the State, including such matters as the Minister refers to it for investigation,	5
	6
	7
(c) to report to the Minister on matters affecting the management of the water sources throughout the State, including such matters as the Minister refers to it for report,	8
	9
	10
(d) to advise the Minister on matters affecting the management of the water sources throughout the State, including such matters as the Minister refers to it for advice.	11
	12
	13
(2) The Water Advisory Council has such other functions as are conferred or imposed on it by or under this or any other Act or law.	14
	15
(3) For the purpose of exercising its functions, the Water Advisory Council may consult with, and receive submissions from, other persons and bodies.	16
	17
	18
(4) It is the duty of the Water Advisory Council to exercise its functions consistently with the principles of ecologically sustainable development.	19
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	21

Part 2 Water Administration Ministerial Corporation

382	Constitution of Water Administration Ministerial Corporation	2
(1)	There is constituted by this Act a corporation with the corporate name “Water Administration Ministerial Corporation”.	3 4
(2)	The affairs of the Ministerial Corporation are to be managed by the Minister.	5 6
(3)	Any act, matter or thing done in the name of, or on behalf of, the Ministerial Corporation by the Minister, or with the authority of the Minister, is taken to have been done by the Ministerial Corporation.	7 8 9
(4)	The Ministerial Corporation is, for the purposes of any Act, a statutory body representing the Crown.	10 11
383	Functions of Ministerial Corporation	12
(1)	The Ministerial Corporation has the following functions:	13
(a)	to construct, maintain and operate water management works,	14
(b)	to conduct research, collect information and develop technology in relation to water management,	15 16
(c)	to do anything for the purpose of enabling the objects of this Act to be attained.	17 18
(2)	The Ministerial Corporation may exercise its functions within and beyond New South Wales.	19 20
(3)	The Ministerial Corporation may exercise any of its functions, and may otherwise act, in the name of the Department.	21 22
(4)	It is the duty of the Ministerial Corporation to exercise its functions consistently with the principles of ecologically sustainable development.	23 24 25
384	Commercial operations	26
(1)	With the approval of the Governor, the Ministerial Corporation may enter into commercial operations with respect to:	27 28
(a)	any services developed in connection with the exercise of its functions, and	29 30

(b)	any products or by-products (including intellectual property) resulting from the exercise of its functions, and	1 2
(c)	such other matters as may be prescribed by the regulations.	3
(2)	With the approval of the Governor, the Ministerial Corporation may form, or join in forming, a company, partnership or trust for the purpose of exercising its functions under this Act.	4 5 6
385	Application of Public Works Act 1912	7
(1)	For the purposes of the <i>Public Works Act 1912</i> , any works carried out by the Ministerial Corporation under this Act are taken to be authorised works and the Ministerial Corporation is taken to be the Constructing Authority for those works.	8 9 10 11
(2)	Part 3 of the <i>Public Works Act 1912</i> does not apply to or in respect of any works constructed by the Ministerial Corporation under this Act.	12 13
386	Acquisition of land	14
(1)	The Ministerial Corporation may acquire land for the purposes of this Act by agreement, or by compulsory process in accordance with the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	15 16 17
(2)	For the purposes of the <i>Public Works Act 1912</i> , any such acquisition is taken to be for an authorised work, and the Ministerial Corporation is, in relation to that work, taken to be the Constructing Authority.	18 19 20
387	Staff of Ministerial Corporation	21
	The Ministerial Corporation may arrange for the use of the services of any staff or facilities of any government department or public authority.	22 23 24
388	Delegation of functions	25
	The Ministerial Corporation may delegate to any person the exercise of any of its functions, other than this power of delegation.	26 27

Part 3 General administration

389 Committees

The Minister may establish advisory and other committees for the purposes of this Act.

390 Delegation

- (1) The Minister may delegate to any person any of the Minister's functions under this Act, other than this power of delegation.
- (2) Despite subsection (1), the Director-General may sub-delegate to any person any such function that has been delegated to the Director-General, but only if the terms of the delegation authorise the Director-General to sub-delegate that function.

391 Authorised officers

The Minister may appoint authorised officers, either for the purposes of this Act generally or for the purposes of any specified provisions of this Act.

392 Resolution of disputes between public authorities

- (1) Any dispute arising between two or more public authorities as to the exercise of their functions under this Act is to be resolved:
 - (a) by agreement between the Ministers responsible for them, or
 - (b) if the dispute is between Ministers, by the Premier.
- (2) Each public authority must comply with any directions arising out of the resolution of the dispute under this section.

Chapter 9 Miscellaneous

393 State's water rights

- (1) For the purposes of this Act, the rights to the control, use and flow of:
 - (a) all water in rivers, lakes and aquifers, and
 - (b) all water conserved by any works that are under the control or management of the Minister, and
 - (c) all water occurring naturally on or below the surface of the ground,

are the *State's water rights*.

- (2) The State's water rights are vested in the Crown, except to the extent to which they are divested from the Crown by or under this or any other Act.
- (3) The State's water rights prevail over any authority conferred by or under any other Act or law, except to the extent to which this or any other Act expressly so provides.
- (4) The State's water rights are not to be exercised in contravention of:
 - (a) the powers conferred by section 15 of the *Fire Brigades Act 1989* and section 26 of the *Rural Fires Act 1997* on an officer in charge at a fire or hazardous material incident, or
 - (b) the rights and obligations of the Snowy Hydro Company under a Snowy water licence within the meaning of the *Snowy Hydro Corporatisation Act 1997*, or
 - (c) the rights conferred by the *Rural Lands Protection Act 1989* with respect to the watering of stock at stock watering places within the meaning of that Act.

394 Abolition of common law riparian rights

Any right that the owner of riparian land would, but for this section, have at common law with respect to the flow of any river, estuary or lake through or past the land, or to the taking or using of water from any such river, estuary or lake, is hereby abolished.

395	Service of documents	1
(1)	A document may be served on a person:	2
(a)	personally, or	3
(b)	by leaving it at, or by sending it by post to, the person's residential address or, in the case of a corporation, the address of the corporation's registered office, or	4 5 6
(c)	if it is impracticable for the document to be served on a landholder of land in the manner referred to in paragraph (a) or (b), by affixing the document in a conspicuous position on the land.	7 8 9 10
(2)	In the case of land that is owned or occupied by more than one person or of an approval that is held by more than one person, service of a document on any one of them, or on any person duly appointed by them for the purpose of accepting service of documents, is taken to be service on all of them.	11 12 13 14 15
(3)	This section does not limit any other manner in which a document may be served.	16 17
396	Unpaid fees and charges	18
	Any fee or charge imposed by the Minister under this Act that remains unpaid is recoverable in any court of competent jurisdiction as a debt due to the Crown.	19 20 21
397	Act binds Crown	22
	This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its capacities.	23 24 25
398	Exclusion of personal liability	26
(1)	An act or omission of:	27
(a)	the Minister or the Director-General, or	28
(b)	a prescribed authority, or	29
(c)	a member of staff of the Department or of a prescribed authority, or	30 31

(d)	a person acting under the direction of a person referred to in paragraph (a), (b) or (c),	1 2
	does not subject the Minister, Director-General, member of staff or person so acting personally to any action, liability, claim or demand if the act or omission was done, or omitted to be done, in good faith for the purpose of executing this Act.	3 4 5 6
(2)	In this section, <i>prescribed authority</i> means:	7
(a)	the Ministerial Corporation, or	8
(b)	the Water Advisory Council, or	9
(c)	a management committee, or	10
(d)	a water supply authority, or	11
(e)	a private irrigation board, or	12
(f)	a private drainage board, or	13
(g)	a private water trust.	14
399	Exclusion of Crown liability	15
(1)	Neither the Crown nor any other person is subject to any action, liability, claim or demand arising:	16 17
(a)	from the unavailability of water, or	18
(b)	from any failure in the quantity or quality of water,	19
	as a consequence of anything done or omitted to be done in good faith by the Minister, by a prescribed authority or by any person acting on behalf of the Minister or a prescribed authority, in the exercise any functions under this Act.	20 21 22 23
(2)	Neither the Crown nor any other person is subject to any action, liability, claim or demand arising as a consequence of:	24 25
(a)	the use in good faith of any water management work, or	26
(b)	the release in good faith of water from any water management work,	27 28
	by the Minister, by a prescribed authority or by any person acting on behalf of the Minister or a prescribed authority, in the exercise any functions under this Act.	29 30 31

(3) In this section, <i>prescribed authority</i> means:	1
(a) the Ministerial Corporation, or	2
(b) a water supply authority.	3
400 Annual report of Department	4
The annual report prepared for the Department under the <i>Annual Reports (Departments) Act 1985</i> is to include a report on the Minister's work and activities under this Act for the period to which that report relates, and may also include the annual report prepared for the Ministerial Corporation under the <i>Annual Reports (Statutory Bodies) Act 1984</i> .	5 6 7 8 9 10
401 Regulations	11
(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 and, in particular, for or with respect to:	12 13 14 15 16
(a) the forms to be used in connection with the administration of this Act, and	17 18
(b) the fees and charges to be imposed in connection with the administration of this Act, and the circumstances under which fees and charges may be waived, reduced and remitted, and	19 20 21
(c) the requirement for security deposits, the circumstances in which security deposits are to be forfeited and the application of money arising from the forfeiture of security deposits, and	22 23 24
(d) the regulation and control of bore drilling and the licensing of bore drillers, and	25 26
(e) the information to be provided to the Minister by the holder of any approval under this Act, including the circumstances in which any such information must be verified by statutory declaration.	27 28 29 30
(2) A regulation may exempt any person, matter or thing from the operation of this Act or any specified provision of this Act, either unconditionally or subject to conditions.	31 32 33
(3) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.	34 35

(4) A regulation may apply, adopt or incorporate any publication as in force from time to time.	1 2
402 Repeals	3
The Acts listed in Schedule 7 are repealed.	4
403 Amendment of other Acts	5
Each Act listed in Schedule 8 is amended as set out in that Schedule.	6
404 Savings, transitional and other provisions	7
Schedule 9 has effect.	8
405 Review of Act	9
(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.	10 11 12
(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.	13 14
(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.	15 16

Schedule 1 Irrigation corporations

1

(Section 110)

2

Coleambally Irrigation Limited, in respect of the former Coleambally Irrigation Area.

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4

Jemalong Wyldes Plains Irrigation Limited, in respect of:

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(a) the former Jemalong Domestic and Stock Water Supply and Irrigation District, and

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(b) the former Wyldes Plains Domestic and Stock Water Supply and Irrigation District.

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9

Lower Murray Irrigation Areas Limited, in respect of:

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(a) the former Buronga Irrigation Area, and

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(b) the former Coomealla Irrigation Area, and

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(c) the former Curlwaa Irrigation Area.

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Murray Irrigation Limited, in respect of:

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(a) the former Tullakool Irrigation Area, and

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(b) the former Berriquin Provisional Domestic and Stock Water Supply and Irrigation District, and

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(c) the former Denimein Provisional Domestic and Stock Water Supply and Irrigation District, and

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(d) the former Deniboota Provisional Domestic and Stock Water Supply and Irrigation District, and

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(e) the former Wakool Domestic and Stock Water Supply and Irrigation District.

22

Murrumbidgee Irrigation Limited, in respect of:

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(a) the former Yanco No 1 Irrigation Area, and

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(b) the former Mirrool No 1 Irrigation Area, and

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(c) the former Benerembah Domestic and Stock Water Supply and Irrigation District, and

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(d) the former Tabbita Domestic and Stock Water Supply and Irrigation District, and

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29

(e) the former Wah Wah Domestic and Stock Water Supply and Irrigation District.

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Schedule 2 Major utilities	1
(Section 279)	2
Delta Electricity	3
Hunter Water Corporation	4
Sydney Catchment Authority	5
Sydney Water Corporation	6

Schedule 3	Water supply authorities	1
	(Section 298)	2
Part 1	Bodies established by this Act	3
Benerembah Irrigation District Environment Protection Trust		4
Broken Hill Water Board		5
Cobar Water Board		6
Upper Parramatta River Catchment Trust		7
Part 2	Statutory bodies established by other Acts	8
Gosford City Council		9
Olympic Co-ordination Authority		10
Wyong Council		11

Schedule 4	Land exempt from water supply authority service charges	1
		2
	(Section 325)	3
(1)	Land that is vested in the Crown, or in a public body, or in trustees, and is used for a public cemetery.	4 5
(2)	Land that is vested in the Crown, or in a public body, or in trustees, and is used for a common.	6 7
(3)	Land that is vested in the Crown, or in a public body, or in trustees, and is used for a public reserve or park.	8 9
(4)	Land that belongs to any public hospital, public benevolent institution or public charity, and is used or occupied by the hospital, institution or charity for its purposes.	10 11 12
(5)	Land that is used or occupied solely for the purposes of, or connected with, a baby health centre, day nursery, kindergarten or amenities for the aged not conducted for private gain.	13 14 15
(6)	Land that is vested in an area health service constituted under the <i>Health Services Act 1997</i> and is used or occupied by the area health service for its purposes.	16 17 18
(7)	Land that is vested in the Crown, or in a public body, or in trustees, and is used solely for the purposes of a free public library.	19 20
(8)	Land owned by the Crown that (except in the case of land leased to a caretaker at a nominal rental) is not leased by the Crown to any person for private purposes.	21 22 23
(9)	Land that belongs to a religious body and that is occupied and used in connection with:	24 25
(a)	any church or other building used or occupied for public worship, or	26 27
(b)	any building used or occupied solely as the residence of a minister of religion in connection with any such church or building, or	28 29 30
(c)	any building used or occupied for the purposes of religious teaching or training, or	31 32

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| <ul style="list-style-type: none"> (d) any building used or occupied solely as the residence of the official head or the assistant official head, or both, of any religious body in the State or in any diocese in the State. (10) Land that is a public place within the meaning of the <i>Local Government Act 1993</i>. (11) Land that: <ul style="list-style-type: none"> (a) is unoccupied, and (b) is not supplied with water from any water-pipe of a water supply authority and is not connected to any sewer of a water supply authority, and (c) has been determined, by the council of the local government area in which the land is situated, to be unsuitable for the erection of a building because of flooding or landslip. (12) Land that is unoccupied and that is below highwater mark of any tidal water. (13) Land that belongs to and that is occupied and used in connection with any registered non-government school under the <i>Education Act 1990</i>, including: <ul style="list-style-type: none"> (a) any playground that belongs to and is used in connection with any such school, and (b) any building that is occupied as a residence by any caretaker, employee or teacher of any such school and that belongs to and is used in connection with the school. (14) Land that comprises any sports ground, garden or children's playground provided by a council under the <i>Local Government Act 1993</i>. (15) Land that is vested in the University of Newcastle, or in a college of the University, and is used or occupied by the University or college solely for its purposes. | 1
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Water Management Bill 2000

Schedule 4 Land exempt from water supply authority service charges

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| (16) Land that is vested in: | 1 |
| (a) the New South Wales Aboriginal Land Council, or | 2 |
| (b) a Regional Aboriginal Land Council, or | 3 |
| (c) a Local Aboriginal Land Council, | 4 |
| constituted under the <i>Aboriginal Land Rights Act 1983</i> , being land that | 5 |
| is declared under Division 5 of Part 6 of that Act to be exempt from | 6 |
| the payment of rates under this Schedule. | 7 |
| (17) Land that is vested in the Mines Rescue Board and used for the | 8 |
| purposes of a mine rescue station controlled by the Board. | 9 |

Schedule 5 Constitution and procedure of water supply authorities

(Section 301)

Part 1 Provisions relating to the members of a water supply authority

1 Employment of full-time member

The employment of a full-time member of a water supply authority is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act.

2 Elected member

(1) In this clause:

elected member, in the case of a water supply authority of which one or more of the members is appointed after being elected by employees of the water supply authority, means a member so elected.

(2) Regulations may be made for or with respect to the election of a person to hold office as an elected member.

(3) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for an election, and has and may exercise the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.

(4) Employees of a water supply authority are entitled to vote at an election in accordance with the regulations made under this clause.

(5) A person's nomination as a candidate for election as elected member is invalid if:

- (a) the nomination is not made by at least 2 persons who are employees of the water supply authority, or
- (b) the person is not, at the time of nomination, an employee of the water supply authority, or

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- (c) the person is not, at the time of nomination, a member of an industrial organisation of employees within the meaning of the *Industrial Relations Act 1996* or an association of employees registered as an organisation under the *Workplace Relations Act 1996* of the Commonwealth, being such an organisation or association that is prescribed by the regulations for the purposes of this paragraph as being an organisation or association representing employees of the water supply authority, or
- (d) the instrument of nomination is not accompanied by a statutory declaration to the effect that the person is, at the time of nomination, such a member, and the returning officer is entitled to rely on the information contained in the statutory declaration.
- (6) A person may be, at the same time, both the elected member and an employee of the water supply authority.
- (7) Nothing in any law, rule, direction or other requirement that:
- (a) is applicable to the elected member in his or her capacity as an employee of the water supply authority, and
- (b) would not be so applicable if the elected member were not such an employee,
- operates so as to prevent or restrict the exercise by the elected member of any of the functions of an elected member.
- (8) If no person is nominated at an election, or if for any other reason an election fails, the Governor may appoint a person eligible for election to be a part-time member, and the person, on being appointed, is taken to be a person elected in the manner prescribed by the regulations made under this clause.
- (9) If a vacancy occurs in the office of elected member otherwise than by reason of the expiration of the period for which an elected member was appointed:
- (a) the Governor may appoint a person eligible for election to hold, subject to this Schedule, the office of elected member for a term commencing on the date of appointment or a later date specified in the relevant instrument of appointment and ending on the commencement of the term of office of the next elected member, and

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| <p>(b) any such person, on being so appointed, is taken to be a person elected in the manner prescribed by the regulations made under this clause.</p> <p>3 Chairperson of a water supply authority</p> <p>(1) One of the members, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, is to be appointed as chairperson of a water supply authority.</p> <p>(2) The Governor may remove a member from the office of chairperson.</p> <p>(3) A person who is a member and chairperson is taken to have vacated office as chairperson if the person:</p> <p style="padding-left: 20px;">(a) is removed from that office by the Governor under subclause (2), or</p> <p style="padding-left: 20px;">(b) resigns that office by instrument in writing addressed to the Minister, or</p> <p style="padding-left: 20px;">(c) ceases to be a member.</p> <p>(4) The Minister may appoint a member to act in the office of chairperson during a vacancy in the office or during the illness or absence of the chairperson and the person, while so acting, has and may exercise all the functions of the chairperson and is taken to be the chairperson.</p> <p>(5) This clause does not apply to the Broken Hill Water Board or the Cobar Water Board constituted as provided by Parts 2 and 3 of this Schedule.</p> <p>4 Acting members</p> <p>(1) The Minister may, from time to time, appoint a person to act in the office of a member during a vacancy in the office or during the illness or absence of the member, and the person, while so acting, has and may exercise all the functions of the member and is taken to be a member.</p> <p>(2) The Minister may remove any person from any office to which the person was appointed under this clause.</p> <p>(3) A person while acting in the office of a part-time 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 person.</p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> |
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5	Terms of office	1
	Subject to this Part, a member is to hold office:	2
	(a) in the case of a part-time member other than an elected member—for such period not exceeding 5 years, or	3
		4
	(b) in the case of an elected member—for such period not exceeding 5 years but not less than 3 years,	5
		6
	as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.	7
		8
6	Remuneration	9
	A part-time 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.	10
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		12
7	Casual vacancies	13
	(1) A member (other than a full-time member) is taken to have vacated office if the member:	14
		15
	(a) dies, resigns or is removed from office, or	16
	(b) absents himself or herself from 4 consecutive meetings of the water supply authority of which reasonable notice has been given to the member personally or in the ordinary course of post, unless:	17
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		19
		20
	(i) the water supply authority has granted the member leave to be absent from those meetings, or	21
		22
	(ii) within 4 weeks after the last of those meetings, the member is excused by the water supply authority for having been absent from those meetings, or	23
		24
		25
	(c) 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	26
		27
		28
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	(d) becomes a mentally incapacitated person, or	30
	(e) 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	31
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| <p>(f) being an elected member, ceases to be an employee of the water supply authority for which he or she is an elected member.</p> <p>(2) The Governor may remove a part-time member from office.</p> <p>(3) If the office of any member becomes vacant, a person is, subject to this Part, to be appointed to fill the vacancy.</p> <p>8 Disclosure of pecuniary interests</p> <p>(1) A member who has a direct or indirect pecuniary interest:</p> <p style="padding-left: 20px;">(a) in a matter that is being considered, or is about to be considered, at a meeting of the water supply authority, or</p> <p style="padding-left: 20px;">(b) in a thing being done or about to be done by the water supply authority,</p> <p style="padding-left: 40px;">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 water supply authority.</p> <p>(2) A disclosure by a member at a meeting of the water supply authority that the member:</p> <p style="padding-left: 20px;">(a) is a member, or is in the employment, of a specified company or other body, or</p> <p style="padding-left: 20px;">(b) is a partner, or is in the employment, of a specified person, or</p> <p style="padding-left: 20px;">(c) has some other specified interest relating to a specified company or other body or a specified person,</p> <p style="padding-left: 40px;">is taken to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person that may arise after the date of the disclosure.</p> <p>(3) The water supply authority must cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book must be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the water supply authority from time to time.</p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> |
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- (4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing under subclause (1) or (2), the member must not, unless the Minister otherwise determines:
- (a) be present during any deliberation of the water supply authority, or take part in any decision of the water supply authority, with respect to that matter, or
- (b) exercise any functions under this Act with respect to that thing, as the case requires.
- (5) A contravention of this clause does not invalidate any decision of the water supply authority or the exercise of any function under this Act.
- (6) A reference in this clause to a meeting of the water supply authority includes a reference to a meeting of a committee of the water supply authority.
- 9 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 (other than a full-time member) and the office of such a member is not, for the purposes of any Act, an office or place of profit under the Crown.
- (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,
- that provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Part as a part-time member.

Part 2 Broken Hill Water Board

1

Division 1 Constitution of the Board

2

10 Members of the Broken Hill Water Board

3

- (1) The Broken Hill Water Board is to consist of 6 members appointed by the Governor. 4 5
- (2) Of the members: 6
 - (a) one, in and by the instrument by which the member is appointed or by another instrument, is to be appointed as President of the Board, and 7 8 9
 - (b) five, in and by the instruments by which the members are appointed, are to be appointed as part-time members. 10 11
- (3) Of the part-time members: 12
 - (a) one is to be a member of the Public Service who, in and by the instrument by which the member is appointed or by another instrument, is to be appointed as Vice-President of the Board, and 13 14 15 16
 - (b) two are to be nominated in accordance with subclause (4) by the Council of the City of Broken Hill or, in the absence of a nomination, by the Minister, and 17 18 19
 - (c) two are to be selected by the Minister from a panel of 4 persons jointly nominated by the companies listed in clause 11. 20 21
- (4) Nominations (other than a nomination by the Minister) for the purposes of subclause (3) are to be made as prescribed by the regulations. 22 23 24
- (5) The President of the Board is a full-time member. 25
- (6) The Vice-President of the Board ceases to be a member of the Board, and ceases to hold office as Vice-President, if he or she ceases to be a member of the Public Service. 26 27 28

11	Companies nominating panel of candidates for appointment	1
(1)	The companies entitled to nominate a panel for the purposes of clause 10 (3) (c) are:	2
		3
(a)	Pasminco Australia Limited, and	4
(b)	Minerals Mining and Metallurgy Limited, and	5
(c)	any other company carrying on mining operations at Broken Hill that is considered by the Minister to be entitled to join in nominating the panel.	6
		7
		8
(2)	If, in the opinion of the Minister, a company referred to in subclause (1) has ceased to carry on mining operations at Broken Hill, the company ceases to be entitled to join in nominating a panel.	9
		10
		11
12	President and Vice-President	12
(1)	The President, if present, is to preside at a meeting of the Broken Hill Water Board.	13
		14
(2)	In the absence of the President, the Vice-President may act as President and, while so acting, has and may exercise the functions of the President.	15
		16
		17
(3)	In the absence of the President and the Vice-President from a meeting of the Board, a member elected from among those present is to preside at the meeting.	18
		19
		20
Division 2	The Treasurer and the mining companies	21
13	Definitions	22
(1)	In this Division:	23
	<i>council</i> means the Council of the City of Broken Hill.	24
	<i>financial year</i> means the financial year for the Broken Hill Water Board.	25
		26
	<i>mining company</i> means a company for the time being prescribed as a mining company for the purposes of this Division.	27
		28
(2)	Until the regulations otherwise provide, the following companies are mining companies for those purposes:	29
		30
	Pasminco Australia Limited	31
	Minerals Mining and Metallurgy Limited	32

(3) If a company ceases to be a mining company for the purposes of this Division, it remains responsible for any undischarged liability to which it was subject under this Division while it was a mining company.	1 2 3
14 Exemption from service charges	4
(1) Land at Broken Hill that is held by a mining company under a lease from the Crown, and is used for mining or incidental purposes, is not subject to a water service charge.	5 6 7
(2) Land referred to in subclause (1) is not subject to a sewerage service charge because of the construction of any sewerage works.	8 9
15 Supply of water to mining companies	10
(1) The Broken Hill Water Board must supply each mining company, at places as near as possible to the mines or works of the company, with the water required by the company to carry on its business.	11 12 13
(2) Subclause (1) has effect only in so far as is permitted by:	14
(a) the capacity of the works of the Board, and	15
(b) the requirements of the landholders of land and of other persons using water for domestic purposes.	16 17
16 Mining companies to take water	18
(1) A mining company is to draw from the Broken Hill Water Board all the water that it requires for the purposes of its business and that the Board is able to supply.	19 20 21
(2) Subclause (1) does not prevent a mining company from drawing water from:	22 23
(a) supplies conserved in its own tanks and dams, or	24
(b) sources other than Stephens Creek, by means lawfully used by it on and after 21 December 1915 and before 1 January 1939.	25 26
17 Water charges	27
(1) The charge for water supplied by the Broken Hill Water Board to a mining company is to be:	28 29
(a) 11 cents per kilolitre unless it is water referred to in paragraph (b), or	30 31

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- | | |
|---|--|
| <p>(b) 5.5 cents per kilolitre if it is used only for a dwelling or plantation or any other purpose determined by the Board to be a social purpose.</p> <p>(2) A determination by the Board of the proportion of water supplied by it to a mining company that is water referred to in subclause (1) (b) is binding on the company.</p> <p>(3) The charge imposed by subclause (1) is taken to be a charge imposed by the Board for water supplied to the land referred to in clause 14.</p> <p>(4) No liability for a service charge arises in relation to land that:</p> <p style="padding-left: 20px;">(a) adjoins the rising main between Menindee and the pumping station at Stephens Creek, and</p> <p style="padding-left: 20px;">(b) is part of a holding under the <i>Western Lands Act 1901</i> or a part of land held under freehold title,</p> <p style="padding-left: 40px;">unless the whole of the holding or freehold land of which it forms part is within the area of operations of the Board.</p> <p>18 Additional payments to Water Fund</p> <p>(1) If, after excluding income received from the mining companies for water supplied to them during a financial year, there is a deficiency for that year in the Water Fund of the Broken Hill Water Board:</p> <p style="padding-left: 20px;">(a) the Treasurer, out of money to be provided by Parliament, may pay to the Board towards the deficiency thirteen fifty-ninths of its amount, and</p> <p style="padding-left: 20px;">(b) each mining company must, on demand, pay to the Board the prescribed contribution for the company.</p> <p>(2) The prescribed contribution for a mining company towards the deficiency for a financial year is the amount ascertained by:</p> <p style="padding-left: 20px;">(a) calculating the amount that bears to forty-six fifty-ninths of the deficiency the same proportion as is borne by the amount payable by the company under clause 17 in that year to the total amount so payable by all the mining companies, and</p> <p style="padding-left: 20px;">(b) deducting from the amount so calculated the amount paid by the company under clause 17 in that year.</p> <p>(3) The amount payable by a mining company under this clause is taken to be a charge imposed by the Board for water supplied by the Board.</p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> |
|---|--|

19	Estimated deficit and advance payments	1
(1)	If estimates prepared by the Broken Hill Water Board before the commencement of a financial year disclose the possibility of a deficit for that year in the Water Fund of the Board:	2
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		4
(a)	the Board is to provide the Treasurer and each mining company with particulars of the estimates and the possible deficit, and	5
		6
		7
(b)	the Treasurer and each mining company must, in that year, make payments to the Board as required by subclause (2).	8
		9
(2)	Towards discharging the respective liabilities of the Treasurer and each mining company for a financial year:	10
		11
(a)	the Treasurer must pay to the Board out of money to be provided by Parliament the amount estimated by the Treasurer to be sufficient to discharge the liability of the Treasurer, and	12
		13
		14
(b)	each mining company must pay to the Board the amount estimated by the Board to be sufficient to discharge the liability of the mining company,	15
		16
		17
	by equal instalments on 1 January, 1 April, 1 July and 1 October in that year.	18
		19
(3)	On the auditing of the Board's accounts for a financial year, the Board must pay to, or receive from, the Treasurer and each mining company an amount in adjustment of any difference between the estimated and actual liabilities under clause 18 for that financial year.	20
		21
		22
		23
20	Sewerage charges	24
(1)	Each mining company must, in respect of each financial year of the Broken Hill Water Board, pay to the Board an amount that bears to \$6,400 the same proportion as the amount payable by the company to the council for ordinary rates bears to the total amount payable by all the mining companies to the council for ordinary rates for that year.	25
		26
		27
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(2)	The amount payable by a mining company under subclause (1) is taken to be a charge imposed by the Board for sewerage services for that year in respect of the land referred to in clause 14.	30
		31
		32

- (3) If, in a financial year of the Board, there is a deficiency in its Sewerage Fund, the Treasurer, out of money to be provided by Parliament, may pay to the Board for application towards the deficiency:
- (a) the amount of the deficiency, or
- (b) \$6,000,
- whichever is the lesser amount.
- (4) Money at credit in the Broken Hill Water Administration Account in the Special Deposits Account at the Treasury is, at the request of the Board, to be paid to the Board for the renewal or replacement of capital assets.

21 Default by mining company

If the Broken Hill Water Board:

- (a) has obtained judgment against a mining company for an amount payable under this Division, and
- (b) the judgment remains unsatisfied even though the Board has taken all reasonable steps to enforce it,

the Board may recover the unpaid amount from each company not in default rateably in proportion to each amount paid by it under this Division.

Part 3 Cobar Water Board

22 Members of the Cobar Water Board

- (1) The Cobar Water Board is to consist of 5 part-time members appointed by the Governor.
- (2) Of the members:
- (a) one is to be a member of the Public Service who, in and by the instrument by which the member is appointed, is to be appointed as President of the Board, and
- (b) one is to be selected by the Minister from a panel of 2 persons nominated jointly by:
- (i) Peak Gold Mines Pty Limited, and
- (ii) such other mining companies as the Minister determines, and

-
- | | | |
|-----------|--|----|
| (c) | one is to be selected by the Minister from a panel of 2 persons nominated jointly by: | 1 |
| | (i) Pasminco Australia Limited, and | 2 |
| | (ii) such other mining companies as the Minister determines, and | 3 |
| | | 4 |
| | | 5 |
| (d) | 2 are to be nominated by the Cobar Shire Council. | 6 |
| (3) | If a nomination under subclause (2) (b), (c) or (d) is not made within a time notified by the Minister, a person nominated by the Minister is to be appointed. | 7 |
| | | 8 |
| | | 9 |
| 23 | Vacation of office by President | 10 |
| | The President ceases to be a member of the Cobar Water Board if he or she ceases to be a member of the Public Service. | 11 |
| | | 12 |
| 24 | Meetings of the Board | 13 |
| (1) | The President, if present, is to preside at a meeting of the Cobar Water Board. | 14 |
| | | 15 |
| (2) | In the absence of the President from a meeting of the Board, a member elected from those present is to preside at the meeting. | 16 |
| | | 17 |

Schedule 6	Water Advisory Council and management committees	1
		2
	(Sections 10 and 380)	3
Part 1	Constitution	4
1	Application of Schedule	5
	This Schedule applies to the Water Advisory Council and all management committees.	6 7
2	Acting chairperson	8
	(1) The Minister may, from time to time, appoint a person to act in the office of chairperson during the illness or absence of a chairperson, and the person, while so acting, has all the functions of the chairperson and is taken to be the chairperson.	9 10 11 12
	(2) The Minister may, at any time, remove a person from an office to which the person has been appointed under this clause.	13 14
	(3) For the purposes of this clause, a vacancy in the office of chairperson is taken to be an absence from office of the chairperson.	15 16
3	Term of office	17
	Subject to this Schedule:	18
	(a) a member of the Water Advisory Council holds office for 3 years, but is eligible (if otherwise qualified) for re-appointment, and	19 20 21
	(b) a member of a management committee holds office during the term for which the committee is established.	22 23
4	Remuneration	24
	A member of the Water Advisory Council or a management committee 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.	25 26 27 28

5 Vacancy in office of appointed member

- (1) The office of a member of the Water Advisory Council or a management committee becomes vacant if the member:
- (a) dies, resigns or is removed from office, or
 - (b) absents himself or herself from 4 consecutive meetings of the Council or committee of which reasonable notice has been given to the member personally or in the ordinary course of post, unless:
 - (i) the Council or committee has granted the member leave to be absent from those meetings, or
 - (ii) within 4 weeks after the last of those meetings, the member is excused by the Council or committee for having been absent from those meetings, or
 - (c) 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
 - (d) becomes a mentally incapacitated person, or
 - (e) 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 of the Water Advisory Council or a management committee from office at any time.

6 Filling of vacancy in office of member

If the office of a member of the Water Advisory Council or a management committee becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Disclosure of pecuniary interests

- (1) A member of the Water Advisory Council or a management committee who has a direct or indirect pecuniary interest:
- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Council or committee, or

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Schedule 6 Water Advisory Council and management committees

- (b) in a thing being done or about to be done by the Council or committee, 1
2
- 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 Council or committee. 3
4
5
- (2) A disclosure at such a meeting that the member: 6
- (a) is a member, or is in the employment, of a specified company or other body, or 7
8
- (b) is a partner, or is in the employment, of a specified person, or 9
- (c) has some other specified interest relating to a specified company or other body or a specified person, 10
11
- is taken to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person that may arise after the date of the disclosure. 12
13
14
- (3) The Water Advisory Council or management committee must cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book must be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by it from time to time. 15
16
17
18
19
- (4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing under subclause (1) or (2), the member must not, unless the Minister otherwise determines: 20
21
22
- (a) be present during any deliberation, or take part in any decision, of the Water Advisory Council or management committee with respect to that matter, or 23
24
25
- (b) exercise any functions under this Act with respect to that thing, as the case requires. 26
27
- (5) A contravention of this clause does not invalidate any decision of the Water Advisory Council or management committee or the exercise of any function under this Act. 28
29
30
- (6) A reference in this clause to a meeting of the Water Advisory Council or a management committee includes a reference to a meeting of any of its committees. 31
32
33

8	Effect of certain other Acts	1
(1)	Part 2 of the <i>Public Sector Management Act 1988</i> does not apply to or in respect of the appointment of a member of the Water Advisory Council or a management committee and the office of such a member is not, for the purposes of any Act, an office or place of profit under the Crown.	2 3 4 5 6
(2)	If by or under any other Act provision is made:	7
(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	8 9 10
(b)	prohibiting the person from engaging in employment outside the duties of that office,	11 12
	that provision does not operate to disqualify the person from holding that office and also the office of a member of the Water Advisory Council or a management committee, or from accepting and retaining any remuneration payable to the person under this Part as such a member.	13 14 15 16 17
Part 2	Procedure	18
9	General procedure	19
	Except as otherwise provided by this Act or the regulations:	20
(a)	meetings of the Water Advisory Council or a management committee are to be held at such times and places as are fixed by the chairperson, and	21 22 23
(b)	the procedure for the convening of meetings and for the conduct of business at those meetings is to be as determined by the chairperson.	24 25 26
10	Quorum	27
	A majority of the members of the Water Advisory Council or a management committee constitute a quorum, so long as of those present:	28 29 30
(a)	at least one is a member appointed to represent environmental protection groups, and	31 32

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Schedule 6 Water Advisory Council and management committees

(b)	at least one is a member appointed to represent the interests of water user groups, and	1 2
(c)	at least one is a member appointed to represent the interests of local councils, and	3 4
(d)	in the case of a management committee, at least one is a member of staff of the Department.	5 6
11	Presiding members	7
	The chairperson (or, in the absence of the chairperson, a member appointed by the members then present) is to preside at a meeting of the Water Advisory Council or a management committee.	8 9 10
12	Decisions	11
(1)	A decision supported by a majority of the votes cast at a meeting of the Water Advisory Council or a management committee at which a quorum is present is the decision of the Council or committee.	12 13 14
(2)	In the case of an equality of votes, the presiding member has a second or casting vote.	15 16
13	Record of proceedings	17
(1)	The presiding member at a meeting of the Water Advisory Council or a management committee must cause a record of the proceedings at the meeting to be made.	18 19 20
(2)	Records made for the purposes of this clause may be destroyed after the expiry of the period prescribed by the regulations.	21 22
14	Authentication of documents	23
	Any document requiring authentication by the Water Advisory Council or a management committee is sufficiently authenticated if it is signed by:	24 25 26
(a)	the member who presided at the meeting that dealt with the proceedings with respect to which the document was prepared, or	27 28 29
(b)	in the absence of that member, any other member who was present at that meeting.	30 31

15	First meeting	1
	The first meeting of a management committee is to be called by the	2
	Minister in such manner as the Minister considers appropriate.	3

Schedule 7 Repeals

(Section 402)

	1
	2
<i>Balranald Irrigation Act 1902 No 78</i>	3
<i>Drainage Act 1939 No 29</i>	4
<i>Fish River Water Supply Administration Act 1945 No 16</i>	5
<i>Glennies Creek Dam Act 1979 No 126</i>	6
<i>Hunter Valley Flood Mitigation Act 1956 No 10</i>	7
<i>Irrigation Act 1912 No 73</i>	8
<i>Irrigation (Amendment) Act 1916 No 22</i>	9
<i>Irrigation (Amendment) Act 1941 No 54</i>	10
<i>Irrigation (Amendment) Act 1973 No 3</i>	11
<i>Irrigation (Amendment) Act 1979 No 160</i>	12
<i>Irrigation and Water (Amendment) Act 1943 No 2</i>	13
<i>Irrigation Corporations Act 1994 No 41</i>	14
<i>Irrigation, Water and Rivers and Foreshores Improvement (Amendment) Act 1955 No 12</i>	15 16
<i>Miscellaneous Acts (Water Administration) Amendment Act 1986 No 205</i>	17
<i>Private Irrigation Districts Act 1973 No 47</i>	18
<i>Rivers and Foreshores Improvement Act 1948 No 20</i>	19
<i>Water Act 1912 No 44</i>	20
<i>Water (Amendment) Act 1936 No 31</i>	21
<i>Water (Amendment) Act 1940 No 57</i>	22
<i>Water (Amendment) Act 1976 No 33</i>	23
<i>Water (Amendment) Act 1979 No 159</i>	24
<i>Water (Soil Conservation) Amendment Act 1986 No 143</i>	25
<i>Water Administration Act 1986 No 195</i>	26
<i>Water Administration (Transfer of Functions) Act 1986 No 204</i>	27
<i>Water Supply Authorities Act 1987 No 140</i>	28

Schedule 8	Amendment of other Acts	1
	(Section 403)	2
8.1	Catchment Management Act 1989 No 235	3
[1]	Section 6 Responsible Minister	4
	Omit “ <i>Water Administration Act 1986</i> ” wherever occurring.	5
	Insert instead “ <i>Water Management Act 2000</i> ”.	6
[2]	Section 9 Membership of Co-ordinating Committee	7
	Omit “ <i>Water Administration Act 1986</i> ” from section 9 (1) (g).	8
	Insert instead “ <i>Water Management Act 2000</i> ”.	9
[3]	Section 38 Definitions	10
	Omit “ <i>Water Supply Authorities Act 1987</i> ” from the definition of <i>owner</i> .	11
	Insert instead “ <i>Water Management Act 2000</i> ”.	12
8.2	Chipping Norton Lake Authority Act 1977 No 38	13
	Section 25 Application of Rivers and Foreshores Improvement Act 1948	14
	Omit the section.	15
8.3	Contaminated Land Management Act 1997 No 140	16
	Section 18 Details of investigation order	17
	Omit “ <i>Water Act 1912</i> ” from section 18 (3) (c).	18
	Insert instead “ <i>Water Management Act 2000</i> ”.	19
		20

8.4 Criminal Procedure Act 1986 No 209	1
Schedule 1 Indictable offences triable summarily	2
Omit item 25 of Table 1.	3
8.5 Crown Lands Act 1989 No 6	4
Section 172 Land with boundaries to lakes, roads etc	5
Omit “ <i>Water Act 1912</i> ” from section 172 (9).	6
Insert instead “ <i>Water Management Act 2000</i> ”.	7
8.6 Crown Lands (Continued Tenures) Act 1989 No 7	8
Section 3 Definitions	9
Omit “ <i>Water Administration Act 1986</i> ” from the definition of <i>Water Administration Ministerial Corporation</i> in section 3 (1).	10
Insert instead “ <i>Water Management Act 2000</i> ”.	11
8.7 Dams Safety Act 1978 No 96	12
Section 8 Members	13
Omit “ <i>Water Administration Act 1986</i> ” from section 8 (2) (c).	14
Insert instead “ <i>Water Management Act 2000</i> ”.	15
	16

8.8 Environmental Planning and Assessment Act 1979 No 203

1

[1] Section 91 What is “integrated development”?

2

Omit the matter relating to the *Rivers and Foreshores Improvement Act 1948* and the *Water Act 1912* from the list of approvals appearing at the end of section 91 (1).

3

4

5

Insert in alphabetical order:

6

7

<i>Water Management Act 2000</i>	ss 80, 81, 82	water use approval, water management work approval or activity approval under Part 3 of Chapter 3
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8

9

[2] Section 120A Additional procedural requirements where water approval is involved

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11

Omit “Water Administration Ministerial Corporation” wherever occurring.

12

Insert instead “Minister for Land and Water Conservation”.

13

[3] Section 120A (1)

14

Omit “involves a work that may require a water licence or a work that may require a water approval”.

15

16

Insert instead “may involve the need for an approval under the *Water Management Act 2000*”.

17

18

[4] Section 120A (3)

19

Omit “for a water licence or for a water approval”.

20

Insert instead “for an approval”.

21

[5] Section 120A (4) and (5)	1
Omit the subsections. Insert instead:	2
(4) The Commission of Inquiry must defer concluding its inquiry for sufficient time to enable:	3
(a) the applicant or proponent to apply for an approval, and	4
(b) any objectors to object to the granting of an approval, under the <i>Water Management Act 2000</i> .	5
(5) As soon as practicable after the applicant's or proponent's application for an approval is referred to it under section 86 of the <i>Water Management Act 2000</i> , the Commission of Inquiry must give at least 28 days' notice, by advertisement published in the Gazette and in such newspapers as it thinks necessary, of its intention to hold a public hearing in connection with the application concerned and of the time and place at which the hearing is to be held.	6
[6] Section 120A (7) (a)	7
Omit "for a water licence or for a water approval".	8
Insert instead "for an approval".	9
[7] Section 120A (7) (b)	10
Omit the paragraph. Insert instead:	11
(b) any objection to the granting of an approval that has been referred to it under section 86 of the <i>Water Management Act 2000</i> .	12
[8] Section 120A (8) (a)	13
Omit "a water licence or a water approval". Insert instead "an approval".	14
[9] Section 120A (8) (b)	15
Omit "licence or".	16

[10] Section 120A (11)	1
Omit “a water licence or a water approval”. Insert instead “an approval”.	2
[11] Section 120A (12)	3
Omit the subsection.	4
8.9 Essential Services Act 1988 No 41	5
Section 4 Essential services	6
Insert after section 4 (2):	7
(2A) To avoid doubt, the regulation of bulk water supply by the	8
Water Administration Ministerial Corporation in the exercise	9
of its rights to the control, use and flow of water is capable of	10
being declared to be an essential service for the purposes of	11
this Act.	12
8.10 Farm Water Supplies Act 1946 No 22	13
[1] Section 16 Works to be approved	14
Omit “No work to which Part 2, 5 or 8 of the <i>Water Act 1912</i> extends”.	15
Insert instead “No work that is a water management work within the	16
meaning of the <i>Water Management Act 2000</i> ”.	17
[2] Section 16	18
Omit “licence, permit, authority or”.	19
[3] Section 16A Loan to Board	20
Omit the definition of Board . Insert instead:	21
Board means a private irrigation board within the meaning of	22
the <i>Water Management Act 2000</i> .	23

[4] Section 16A (5)	1
Omit “group licence issued under Division 4A of Part 2 of the <i>Water Act 1912</i> ”.	2
	3
Insert instead “water supply work approval under the <i>Water Management Act 2000</i> ”.	4
	5
8.11 Hunter Water Act 1991 No 53	6
[1] Section 3 Definitions	7
Omit “ <i>Water Administration Act 1986</i> ” from the definition of <i>Water Administration Ministerial Corporation</i> in section 3 (2).	8
	9
Insert instead “ <i>Water Management Act 2000</i> ”.	10
[2] Section 4C Role of certain Ministers	11
Omit “ <i>Water Administration Act 1986</i> ” from section 4C (1) (b).	12
Insert instead “ <i>Water Management Act 2000</i> ”.	13
[3] Section 16 Area covered by operating licence	14
Omit “referred to in section 11 (2) of the <i>Water Administration Act 1986</i> ” from section 16 (2) (b).	15
	16
Insert instead “within the meaning of the <i>Water Management Act 2000</i> ”.	17
[4] Section 16 (2) (c)	18
Omit the paragraph. Insert instead:	19
(c) a water supply authority within the meaning of the <i>Water Management Act 2000</i> ,	20
	21
[5] Section 53 Special areas	22
Omit “powers conferred on the Water Administration Ministerial Corporation by section 12 of the <i>Water Administration Act 1986</i> in relation to the use, flow and control of water” from section 53 (2).	23
	24
Insert instead “State’s water rights under the <i>Water Management Act 2000</i> ”.	25
	26

8.12	Independent Pricing and Regulatory Tribunal Act 1992 No 39	1
[1]	Section 4 Government monopoly services	2
	Insert after section 4 (5):	3
	(6) To avoid doubt, the services for which fees and charges are payable under Chapter 3 of the <i>Water Management Act 2000</i> are capable of being declared to be government monopoly services provided by the Water Administration Ministerial Corporation.	4 5 6 7 8
[2]	Schedule 1 Government agencies for which Tribunal has standing reference	9 10
	Omit “ <i>Water Supply Authorities Act 1987</i> ”.	11
	Insert instead “ <i>Water Management Act 2000</i> ”.	12
[3]	Schedule 1	13
	Omit the following:	14
	Administrator of the South-west Tablelands Water Supply	15
	Administrator of the Fish River Water Supply	16
8.13	Land and Environment Court Act 1979 No 204	17
[1]	Section 17 Class 1—environmental planning and protection appeals	18
	Omit section 17 (cb), (cc) and (da).	19
	Insert after section 17 (b):	20
	(c) appeals under section 295 or 379 of the <i>Water Management Act 2000</i> ,	21 22
[2]	Section 18 Class 2—local government and miscellaneous appeals and applications	23 24
	Omit section 18 (a2). Insert instead:	25

	(a2) appeals under section 320 of the <i>Water Management Act 2000</i> ,	1 2
[3]	Section 19 Class 3—land tenure, valuation, rating and compensation matters	3 4
	Omit section 19 (e1).	5
[4]	Section 20 Class 4—environmental planning and protection and development contract civil enforcement	6 7
	Omit section 20 (1) (cj) and (df).	8
[5]	Section 20 (3) (a)	9
	Omit “ <i>Rivers and Foreshores Improvement Act 1948</i> ,”.	10
[6]	Section 21 Class 5—environmental planning and protection summary enforcement	11 12
	Omit section 21 (ga) and (hb).	13
8.14	Land Tax Management Act 1956 No 26	14
[1]	Section 62B Expenditure for which allowance is to be made	15
	Omit “Division 4 or 4A of Part 2 of the <i>Water Act 1912</i> ” from section 62B (1) (c).	16 17
	Insert instead “the <i>Water Management Act 2000</i> ”.	18
[2]	Section 62G Apportionment of joint expenditure on water supply scheme	19 20
	Omit “Division 4 or 4A of Part 2 of the <i>Water Act 1912</i> ”.	21
	Insert instead “the <i>Water Management Act 2000</i> ”.	22

8.15 Local Government Act 1993 No 30	1
[1] Section 56 Application of Division	2
Omit the section. Insert instead:	3
56 Application of Division	4
(1) The provisions of this Division relating to water supply and sewerage (but not stormwater drainage) do not apply to:	5
(a) land within the area of operations of the Sydney Water Board under the <i>Sydney Water Act 1994</i> , or	6
(b) land within the area of operations of the Hunter Water Board under the <i>Hunter Water Act 1991</i> .	7
(2) The provisions of this Division (sections 57, 58 and 59 excepted) relating to water supply and sewerage (but not stormwater drainage) do not apply to land within the area of operations of a water supply authority constituted under the <i>Water Management Act 2000</i> .	8
	9
	10
	11
	12
	13
	14
	15
[2] Section 64 Construction of works for developers	16
Omit the section. Insert instead:	17
64 Construction of works for developers	18
Division 5 of Part 2 of Chapter 6 of the <i>Water Management Act 2000</i> applies to a council exercising functions under this Division in the same way as it applies to a water supply authority exercising functions under that Act.	19
	20
	21
	22
[3] Section 68 What activities, generally, require the approval of the council?	23
	24
Omit section 68 (2) and (3). Insert instead:	25
(2) This section does not apply to the carrying out of an activity specified in Part B of the following Table:	26
(a) on land within the area of operations of the Sydney Water Board under the <i>Sydney Water Act 1994</i> , or	27
	28
	29

(b)	on land within the area of operations of the Hunter Water Board under the <i>Hunter Water Act 1991</i> .	1 2
(3)	This section does not apply to the carrying out of an activity specified in item 1, 2, 3, 4 or 6 of Part B of the following Table on land within the area of operations of a water supply authority constituted under the <i>Water Management Act 2000</i> .	3 4 5 6
[4]	Section 124 Orders	7
	Omit “a licence granted under Part 2 of the <i>Water Act 1912</i> ” from item 11 of the Table to the section.	8 9
	Insert instead “a water management work approval granted under the <i>Water Management Act 2000</i> ”.	10 11
[5]	Dictionary	12
	Omit the definition of <i>water supply authority</i> . Insert instead:	13
	<i>water supply authority</i> has the same meaning as it has in the <i>Water Management Act 2000</i> .	14 15
8.16	Murray–Darling Basin Act 1992 No 65	16
[1]	Section 4 Definitions	17
	Omit “ <i>Water Administration Act 1986</i> ” from the definition of <i>relevant water authority</i> in section 4 (1).	18 19
	Insert instead “ <i>Water Management Act 2000</i> ”.	20
[2]	Section 21 Powers, liabilities and immunities under Water Management Act 2000 and other Acts	21 22
	Omit “ <i>Water Administration Act 1986</i> ”.	23
	Insert instead “ <i>Water Management Act 2000</i> ”.	24
[3]	Section 23 Actions against relevant water authority	25
	Omit “Section 19 (Exclusion of liability) of the <i>Water Administration Act 1986</i> ”.	26 27
	Insert instead “Section 399 of the <i>Water Management Act 2000</i> ”.	28

8.17 National Parks and Wildlife Act 1974 No 80	1
[1] Section 5 Definitions	2
Omit “ <i>Irrigation Act 1912</i> ” from section 5 (2) (b).	3
Insert instead “ <i>Water Management Act 2000</i> ”.	4
[2] Section 47J Provisions relating to mining	5
Omit “ <i>Irrigation Act 1912</i> ” from section 47J (7) (b).	6
Insert instead “ <i>Water Management Act 2000</i> ”.	7
[3] Section 47J (7) (c)	8
Omit “ <i>Irrigation Corporations Act 1994</i> ”.	9
Insert instead “ <i>Water Management Act 2000</i> ”.	10
8.18 Native Vegetation Conservation Act 1997 No 133	11
Section 12 Clearing excluded from operation of Act	12
Omit section 12 (o) and (p). Insert instead:	13
(o) any clearing carried out in accordance with an approval	14
under the <i>Water Management Act 2000</i> .	15
8.19 New South Wales—Queensland Border Rivers Act 1947 No 10	16
[1] Section 4 Definitions	17
Omit “ <i>Water Administration Act 1986</i> ” from the definition of Ministerial Corporation .	18
Insert instead “ <i>Water Management Act 2000</i> ”.	19
	20

[2] Section 24 Water Management Act 2000 to be read subject to the Agreement	1 2
Omit “ <i>Water Act 1912</i> , as amended by subsequent Acts,”.	3
Insert instead “ <i>Water Management Act 2000</i> ”.	4
8.20 Plantations and Reafforestation Act 1999 No 97	5
[1] Section 19 Related regulatory approvals for authorised plantations	6
Omit “licences under the <i>Water Act 1912</i> ” from the note to section 19 (1).	7
Insert instead “licences and approvals under the <i>Water Management Act 2000</i> ”.	8 9
[2] Section 52	10
Omit the section. Insert instead:	11
52 Plantation operations not subject to certain provisions of the Water Management Act 2000	12 13
(1) A controlled activity approval is not required under the <i>Water Management Act 2000</i> for plantation operations on an authorised plantation.	14 15 16
(2) A direction cannot be given under Part 1 of Chapter 7 of that Act so as to prevent or interfere with the carrying out of plantation operations on an authorised plantation.	17 18 19
8.21 Roads Act 1993 No 33	20
[1] Section 99 Private bodies to maintain or repair certain water supply and drainage works	21 22
Omit “a private body established under the <i>Water Act 1912</i> , the <i>Drainage Act 1939</i> or the <i>Private Irrigation Districts Act 1973</i> or the <i>Irrigation Corporations Act 1994</i> ”.	23 24 25
Insert instead “an irrigation corporation, a private irrigation board, a private drainage board or a private water trust (within the meaning of the <i>Water Management Act 2000</i>)”.	26 27 28

[2] Dictionary	1
Omit “, the <i>Irrigation Act 1912</i> ” from the definition of <i>Crown Lands Acts</i> .	2
8.22 Rural Assistance Act 1989 No 97	3
Section 3 Definitions	4
Omit paragraph (a) of the definition of <i>Crown Lands Acts</i> in section 3 (1).	5
Insert instead:	6
(a) the Crown Lands Acts within the meaning of the <i>Crown Lands Act 1989</i> , or	7 8
8.23 Snowy Hydro Corporatisation Act 1997 No 99	9
[1] Section 20 Water inquiry to be held	10
Omit “ <i>Water Administration Act 1986</i> ” from section 20 (6).	11
Insert instead “ <i>Water Management Act 2000</i> ”.	12
[2] Section 23 Rights and obligations under licence	13
Omit “and to section 7 of the <i>Water Act 1912</i> (Rights of occupiers of riparian land)” from section 23 (4).	14 15
Insert instead “and to Part 1 of Chapter 3 of the <i>Water Management Act 2000</i> (Basic landholder rights)”.	16 17
[3] Section 32 Local water extraction	18
Omit “ <i>Water Act 1912</i> a right to take and use water” from section 32 (1).	19
Insert instead “ <i>Water Management Act 2000</i> an access licence, water use approval or water supply work approval”.	20 21

8.24	Soil Conservation Act 1938 No 10	1
[1]	Section 14 Carrying out of works by Minister or Commissioner	2
	Omit “a licence or permit issued pursuant to Part 2 of the <i>Water Act 1912</i> ” from section 14 (3).	3
	Insert instead “a water management work approval under the <i>Water Management Act 2000</i> ”.	4
		5
		6
[2]	Section 14 (3)	7
	Omit “Part 2 of the <i>Water Act 1912</i> relating to licences or permits”.	8
	Insert instead “the <i>Water Management Act 2000</i> relating to water management work approvals”.	9
		10
8.25	Subordinate Legislation Act 1989 No 146	11
	Schedule 4 Excluded instruments	12
	Omit item 11. Insert instead:	13
	11 By-laws under Part 2 of Chapter 4 of the <i>Water Management Act 2000</i> .	14
		15
8.26	Sydney Water Act 1994 No 88	16
[1]	Section 3 Definitions	17
	Omit “ <i>Water Administration Act 1986</i> ” from the definition of <i>Water Administration Ministerial Corporation</i> in section 3 (2).	18
	Insert instead “ <i>Water Management Act 2000</i> ”.	19
		20
[2]	Section 6 Role of certain Ministers	21
	Omit “ <i>Water Administration Act 1986</i> ” from section 6 (1) (b).	22
	Insert instead “ <i>Water Management Act 2000</i> ”.	23

[3] Section 10 Area of operations	1
Omit “referred to in section 11 (2) of the <i>Water Administration Act 1986</i> ”	2
from section 10 (3) (c).	3
Insert instead “within the meaning of the <i>Water Management Act 2000</i> ”.	4
[4] Section 10 (3) (d)	5
Omit the paragraph. Insert instead:	6
(d) a water supply authority within the meaning of the	7
<i>Water Management Act 2000</i> ,	8
[5] Section 12 Grant of operating licences	9
Omit section 12 (3)–(6).	10
[6] Section 30 Sydney Water Corporation Licence Regulator	11
Omit “ <i>Water Administration Act 1986</i> ” from section 30 (4) (e).	12
Insert instead “ <i>Water Management Act 2000</i> ”.	13
[7] Section 90 Activities outside area of operations	14
Omit the section.	15
[8] Section 91 Contracting out	16
Omit the section.	17
8.27 Sydney Water Catchment Management Act 1998 No 171	18
[1] Section 3 Definitions	19
Omit the definition of <i>water supply authority</i> . Insert instead:	20
<i>water supply authority</i> has the same meaning as it has in the	21
<i>Water Management Act 2000</i> .	22
[2] Section 25 Grant of operating licence	23
Omit section 25 (2)–(5).	24

8.28 Valuation of Land Act 1916 No 2	1
[1] Section 58 Allowances for profitable expenditure—land	2
Omit “Division 4 or 4A of Part 2 of the <i>Water Act 1912</i> ” from section 58	3
(2) (c).	4
Insert instead “the <i>Water Management Act 2000</i> ”.	5
[2] Section 58 (6) and (7)	6
Omit “Division 4 or 4A of Part 2 of the <i>Water Act 1912</i> ” wherever	7
occurring.	8
Insert instead “the <i>Water Management Act 2000</i> ”.	9

Schedule 9	Savings, transitional and other provisions	1
	(Section 404)	2
Part 1	Preliminary	3
1	Savings and transitional regulations	4
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	5
	this Act	6
(2)	Such a provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.	7
(3)	To the extent to which such a 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:	8
(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 that publication, or	9
(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 that publication.	10
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Part 2	Provisions consequent on enactment of this Act	19
Division 1	General	20
2	Definitions	21
	In this Part:	22
	<i>amended legislation</i> means any Act amended by Schedule 8, as so amended.	23
		24
	<i>appointed day</i> means:	25
(a)	in relation to a provision of the old legislation that has been repealed or amended by this Act, the day on which the repeal or amendment commences, or	26
		27
		28

- (b) in relation to a new provision inserted into the amended legislation by this Act, the day on which the new provision commences. 1
2
3

old legislation means: 4

- (a) any Act repealed by Schedule 7, as in force immediately before its repeal, and 5
6
(b) any Act amended by Schedule 8, as in force immediately before its amendment. 7
8

3 Existing water management works 9

- (1) Nothing in this Act requires a person to hold an approval: 10
(a) to complete the construction of a water management work whose construction was lawfully commenced before the appointed day, or 11
12
13
(b) to use a water management work whose construction was lawfully commenced before the appointed day, whether or not its construction was completed before the appointed day. 14
15
16
(2) Subclause (1) does not prevent a direction from being given and enforced under Chapter 7 in relation to a water management work referred to in that subclause. 17
18
19
(3) This clause does not apply to a water management work that, immediately before the appointed day, was the subject of an entitlement referred to in clause 9, a licence referred to in clause 12 or a permit referred to in clause 14. 20
21
22
23
(4) This clause ceases to have effect on a day to be appointed by proclamation. 24
25

4 Delegations 26

Any delegation that was in force immediately before the appointed day under a provision of the old legislation for which there is a corresponding provision in the amended legislation is taken to be a delegation in force under the corresponding provision of the amended legislation. 27
28
29
30
31

5 Construction of references to Water Administration Ministerial Corporation	1
	2
Subject to this Schedule and the regulations, in any Act or instrument,	3
a reference to the Water Administration Ministerial Corporation	4
(however described), in relation to a function that under the old	5
legislation was exercisable by the Ministerial Corporation but under	6
this Act is exercisable by the Minister, extends to the Minister.	7
6 Construction of other references	8
Subject to this Schedule and the regulations, in any Act or instrument:	9
(a) a reference to a provision of the old legislation for which there	10
is a corresponding provision in the amended legislation extends	11
to the corresponding provision of the amended legislation, and	12
(b) a reference to any act, matter or thing referred to in a provision	13
of the old legislation for which there is a corresponding	14
provision in the amended legislation extends to the	15
corresponding act, matter or thing referred to in the	16
corresponding provision of the amended legislation.	17
7 General saving	18
Subject to this Schedule and the regulations:	19
(a) anything begun before the appointed day under a provision of	20
the old legislation for which there is a corresponding provision	21
in the amended legislation may be continued and completed	22
under the old legislation as if this Act had not been enacted,	23
and	24
(b) subject to paragraph (a), anything done under a provision of the	25
old legislation for which there is a corresponding provision in	26
the amended legislation (including anything arising under	27
paragraph (a)) is taken to have been done under the	28
corresponding provision of the amended legislation.	29
Division 2 Water Act 1912	30
8 Definition	31
In this Division, <i>the 1912 Act</i> means the <i>Water Act 1912</i> , as in force	32
immediately before the appointed day.	33

9 Entitlements

- (1) An entitlement that, immediately before the appointed day, was in force under the 1912 Act:
 - (a) to the extent to which it entitles any person or body to take a specified quantity of water, is taken to be an access licence held by that person or body for the quantity of water so specified (subject to such of the conditions of the entitlement as are applicable to an access licence), and
 - (b) to the extent to which it entitles any person or body to use a specified water management work, is taken to be a water management work approval held by that person or body in respect of that work (subject to such of the conditions of the entitlement as are applicable to an approval of that kind), and
 - (c) is taken to be a water use approval entitling that person or body to use water on the land to which the entitlement relates (subject to such of the conditions of the entitlement as are applicable to an approval of that kind):
 - (i) except as provided by subparagraph (ii), for any purpose, or
 - (ii) if the conditions of the entitlement restrict the use of water to specified purposes, for the purposes so specified.
- (2) The reference in subclause (1) (a) to the conditions of an entitlement include a reference to any water allocation determined in respect of that entitlement under a volumetric water allocations scheme in force under Division 4B of Part 2 of the 1912 Act.
- (3) In the case of a licence under section 13A or an authority under section 20CA of the 1912 Act, the holder of the corresponding water management work approval referred to in subclause (1) (b) may continue to exercise the rights conferred by section 13A (7) or 20CA (8) of that Act, as the case requires, while that approval (excluding any renewal of that approval) remains in force.

Note. After that approval expires, the continued exercise of those rights will need to be supported by an easement, whether negotiated by agreement between the respective landholders or imposed by means of an order under section 88K of the *Conveyancing Act 1919*.

(4)	An access licence arising under subclause (1) (a), a water management work approval arising under subclause (1) (b) and a water use approval arising under subclause (1) (c) each have effect for 10 years from the appointed day.	1 2 3 4
(5)	In this clause, <i>entitlement</i> means:	5
(a)	a licence, permit, authority, irrigation corporation licence or group licence referred to in Part 2 of the 1912 Act, or	6 7
(b)	a right to take and use water referred to in section 38B of the 1912 Act, or	8 9
(c)	a licence referred to in Part 5 of the 1912 Act, or	10
(d)	an approval referred to in Part 8 of the 1912 Act.	11
10	Rates and charges	12
	Any rates and charges fixed under Part 7 of the 1912 Act are taken to have been fixed under Part 3 of Chapter 5 of this Act.	13 14
11	Floodplains	15
	Subject to the regulations, any land that, immediately before the appointed day, was designated as a floodplain under Part 8 of the 1912 Act is taken to be a floodplain for the purposes of this Act.	16 17 18
12	Water management licences	19
	A water management licence that, immediately before the appointed day, was in force under Part 9 of the 1912 Act is taken to be a water authorisation under Part 1 of Chapter 6 of this Act, and is taken to be subject to the same conditions as it was subject under that Act.	20 21 22 23
Division 3	Rivers and Foreshores Improvement Act 1948	24
13	Definition	25
	In this Division, <i>the 1948 Act</i> means the <i>Rivers and Foreshores Improvement Act 1948</i> , as in force immediately before the appointed day.	26 27 28

14	Permits	1
(1)	A permit that, immediately before the appointed day, was in force under Part 3A of the 1948 Act is taken to be a controlled activity approval entitling its holder to carry out the activity specified in the permit on the land to which the permit relates, and is taken to be subject to the same conditions as it was subject under that Act.	2 3 4 5 6
(2)	A controlled activity approval arising under subclause (1) has effect for the balance of the term for which it was granted.	7 8
Division 4	Water Administration Act 1986	9
15	Definition	10
	In this Division, <i>the 1986 Act</i> means the <i>Water Administration Act 1986</i> , as in force immediately before the appointed day.	11 12
16	Continuation of Ministerial Corporation	13
	The Water Administration Ministerial Corporation constituted by Part 2 of Chapter 8 of this Act is a continuation of, and the same legal entity as, the Water Administration Ministerial Corporation constituted by the 1986 Act.	14 15 16 17
17	Continued operation of section 19	18
	Section 19 of the 1986 Act continues to apply to acts, matters and things that arose before the appointed day.	19 20
Division 5	Water Supply Authorities Act 1987	21
18	Definition	22
	In this Division, <i>the 1987 Act</i> means the <i>Water Supply Authorities Act 1987</i> , as in force immediately before the appointed day.	23 24
19	Continuation of water supply authorities	25
(1)	Each water supply authority constituted by Part 2 of Chapter 6 of this Act is a continuation of, and the same legal entity as, the water supply authority of the same name constituted by the 1987 Act.	26 27 28

(2)	Subject to the regulations, the area of operations of a water supply authority constituted by Part 2 of Chapter 6 of this Act is the same as the area of operations for the corresponding water supply authority constituted by the 1987 Act.	1 2 3 4
(3)	Subject to this Act, the members of a water supply authority constituted by the 1987 Act continue to hold office as members of the corresponding water supply authority constituted by Part 2 of Chapter 6 of this Act for the residue of their respective terms of office under the 1987 Act.	5 6 7 8 9
20	Special areas	10
	A special area for a water supply authority constituted by the 1987 Act is taken to be a special area for the corresponding water supply authority constituted by Part 2 of Chapter 6 of this Act.	11 12 13
21	Certificates of compliance	14
	A certificate of compliance granted by a water supply authority under the 1987 Act is taken to be a certificate of compliance issued by the corresponding water supply authority under Part 2 of Chapter 6 of this Act.	15 16 17 18
22	Service charges	19
(1)	An order declaring a development area, charging year, drainage area, floodplain, river management area or special industry under section 28 of the 1987 Act is taken to be the corresponding order under Part 2 of Chapter 6 of this Act.	20 21 22 23
(2)	Service charges levied by a water supply authority under the 1987 Act are taken to be service charges levied by the corresponding water supply authority under Part 2 of Chapter 6 of this Act.	24 25 26
(3)	Determinations made by a water supply authority under section 34 of the 1987 Act are taken to be determinations made by the corresponding water supply authority under Part 2 of Chapter 6 of this Act.	27 28 29 30
(4)	Assessments made by a water supply authority under section 35 or 36 of the 1987 Act are taken to be assessments made by the corresponding water supply authority under Part 2 of Chapter 6 of this Act.	31 32 33 34

(5)	A certificate issued by a water supply authority under section 41 of the 1987 Act is taken to be a certificate issued by the corresponding water supply authority under Part 2 of Chapter 6 of this Act.	1 2 3
23	Penalty notices	4
	A penalty notice issued by an authorised employee of a water supply authority under section 51 of the 1987 Act is taken to have been issued by an authorised employee or agent of the corresponding water supply authority under Part 2 of Chapter 6 of this Act, and may be enforced accordingly.	5 6 7 8 9
24	Regulations	10
	Any regulations in force under the 1987 Act immediately before the appointed day are taken to be regulations under this Act, and may be amended and repealed accordingly.	11 12 13
Division 6	Fish River Water Supply Administration Act 1945	14
25	Definition	15
	In this Division, <i>the 1945 Act</i> means the <i>Fish River Water Supply Administration Act 1945</i> , as in force immediately before the appointed day.	16 17 18
26	Contributions by councils	19
	Any amount payable by a council under Part 4 of the 1945 Act is taken to be payable under Part 1 of Chapter 5 of this Act.	20 21
27	Regulations	22
	Any regulations in force under the 1945 Act immediately before the appointed day are taken to be regulations under this Act, and may be amended and repealed accordingly.	23 24 25
Division 7	Hunter Valley Flood Mitigation Act 1956	26
28	Definition	27
	In this Division, <i>the 1956 Act</i> means the <i>Hunter Valley Flood Mitigation Act 1956</i> , as in force immediately before the appointed day.	28 29

29	Permissions	1
	Any permission in force under section 12 of the 1956 Act immediately before the appointed day, and any approval in force under section 16 of the 1956 Act immediately before the appointed day, are taken to be consents in force under Part 2 of Chapter 5 of this Act.	2 3 4 5
30	Control and management of works	6
	Any work that, immediately before the appointed day, was under the control and management of the Ministerial Corporation under the 1956 Act is taken to be under the control and management of the Ministerial Corporation under Part 2 of Chapter 5 of this Act.	7 8 9 10
31	Finance	11
	Any amount for which the Hunter Catchment Management Trust or a local council was liable under the 1956 Act immediately before the appointed day is taken to be an amount for which the Trust or council is liable under Part 2 of Chapter 5 of this Act.	12 13 14 15
32	Regulations	16
	Any regulations in force under the 1956 Act immediately before the appointed day are taken to be regulations under this Act, and may be amended and repealed accordingly.	17 18 19
Division 8	Irrigation Corporations Act 1994	20
33	Definition	21
	In this Division, <i>the 1994 Act</i> means the <i>Irrigation Corporations Act 1994</i> , as in force immediately before the appointed day.	22 23
34	Operating licences	24
	Any operating licence granted to an irrigation corporation under the 1994 Act is taken to be an operating licence under Part 1 of Chapter 4 of this Act.	25 26 27
35	Continuation of indemnity	28
	Section 75 of the 1994 Act continues to apply to matters arising under that Act before the appointed day as if this Act had not been enacted.	29 30

36 Regulations	1
Any regulations in force under the 1994 Act immediately before the appointed day are taken to be regulations under this Act, and may be amended and repealed accordingly.	2 3 4
Division 9 Private Irrigation Districts Act 1973	5
37 Definition	6
In this Division, <i>the 1973 Act</i> means the <i>Private Irrigation Districts Act 1973</i> , as in force immediately before the appointed day.	7 8
38 Private districts	9
(1) A provisional private domestic and stock water supply district constituted under the 1973 Act is taken to be a private domestic and stock water supply district constituted under Part 2 of Chapter 4 of this Act.	10 11 12 13
(2) A private domestic and stock water supply district constituted under the 1973 Act is taken to be a private domestic and stock water supply district constituted under Part 2 of Chapter 4 of this Act.	14 15 16
(3) A provisional private domestic and stock water supply and irrigation district constituted under the 1973 Act is taken to be a private domestic and stock water supply and irrigation district constituted under Part 2 of Chapter 4 of this Act.	17 18 19 20
(4) A private domestic and stock water supply and irrigation district constituted under the 1973 Act is taken to be a private domestic and stock water supply and irrigation district constituted under Part 2 of Chapter 4 of this Act.	21 22 23 24
39 Boards of management	25
(1) The Board of management of a provisional private district or private district under the 1973 Act is taken to be a private irrigation board under Part 2 of Chapter 4 of this Act.	26 27 28
(2) Subject to this Act, the members of a Board of management of a provisional private district or private district constituted under the 1973 Act continue to hold office as members of the corresponding private irrigation board under this Act for the residue of their respective terms of office under the 1973 Act.	29 30 31 32 33

40	Control and management of works	1
	Any work that, immediately before the appointed day, was under the control and management of the Board of management of a provisional private district or private district under the 1973 Act is taken to be under the control and management of the corresponding private irrigation board under Part 2 of Chapter 4 of this Act.	2 3 4 5 6
41	Rates and charges	7
	(1) Any rates and charges fixed by the Board of management of a provisional private district or private district under the 1973 Act before the appointed day are taken to have been fixed by the corresponding private irrigation board under Part 2 of Chapter 4 of this Act.	8 9 10 11
	(2) A certificate issued by the Board of management of a provisional private district or private district under the 1973 Act before the appointed day is taken to be a certificate issued by the corresponding private irrigation board under Part 2 of Chapter 4 of this Act.	12 13 14 15
42	Water allocations	16
	Any determination made by the Board of management of a provisional private district or private district under the 1973 Act before the appointed day is taken to be a determination made by the corresponding private irrigation board under Part 2 of Chapter 4 of this Act.	17 18 19 20 21
43	By-laws	22
	Any by-laws made the Board of management of a provisional private district or private district under the 1973 Act before the appointed day are taken to be by-laws made by the corresponding private irrigation board under Part 2 of Chapter 4 of this Act, and may be amended and repealed accordingly.	23 24 25 26 27
44	Regulations	28
	Any regulations in force under the 1973 Act immediately before the appointed day are taken to be regulations under this Act, and may be amended and repealed accordingly.	29 30 31 32

Division 10	Drainage Act 1939	1
45	Definition	2
	In this Division, <i>the 1939 Act</i> means the <i>Drainage Act 1939</i> , as in force immediately before the appointed day.	3 4
46	Valuations	5
	Any valuation in force in respect of a board under Division 1 of Part 5 of the 1939 Act immediately before the appointed day is taken to be a valuation in respect of a private drainage board under Division 4 of Part 3 of Chapter 4 of this Act.	6 7 8 9
47	Rates	10
	Any rate levied under Division 2 of Part 5 of the 1939 Act before the appointed day is taken to be a rate levied under Division 3 of Part 3 of Chapter 4 of this Act.	11 12 13
48	Regulations	14
	Any regulations in force under the 1939 Act immediately before the appointed day are taken to be regulations under this Act, and may be amended and repealed accordingly.	15 16 17 18
Division 11	Glennies Creek Dam Act 1979	19
49	Definition	20
	In this Division, <i>the 1979 Act</i> means the <i>Glennies Creek Dam Act 1979</i> , as in force immediately before the appointed day.	21 22
50	Supply of water to Macquarie Generation	23
(1)	The obligation to supply Macquarie Generation with water that the Ministerial Corporation had immediately before the appointed day under section 6 of the 1979 Act is taken to continue as if that Act had not been repealed.	24 25 26 27
	Note. Under section 6 of the 1979 Act, the obligation is expressed to be to supply Pacific Power. By virtue of an order under clause 3 of Schedule 5 to the <i>Energy Services Corporations Act 1995</i> , the right to that supply has been transferred from Pacific Power to Macquarie Generation.	28 29 30 31

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- | | |
|--|---|
| (2) This clause ceases to have effect: | 1 |
| (a) on the expiry of 2 years after the appointed day, or | 2 |
| (b) on the day on which a proclamation adding Macquarie | 3 |
| Generation's name to Schedule 2 takes effect, | 4 |
| whichever occurs first. | 5 |

Dictionary

(Section 4)

	1
	2
<i>access licence</i> means an access licence referred to in section 47.	3
<i>activity approval</i> means a controlled activity approval or an aquifer interference approval.	4
	5
<i>approval</i> means a water use approval, a water management work approval or an activity approval.	6
	7
<i>aquifer</i> means a geological structure or formation, or an artificial landfill, that is permeated with water or is capable of being permeated with water.	8
	9
	10
<i>aquifer interference approval</i> means an approval referred to in section 82.	11
	12
<i>authorised officer</i> , in relation to a provision of this Act, means a person authorised by the Minister to exercise the functions conferred on an authorised officer by that provision, whether generally or in a particular case.	13
	14
	15
	16
<i>available water</i> , in relation to a water management area or water source, means the water that is available in that area or water source in accordance with an available water determination that is in force in respect of that area or water source.	17
	18
	19
	20
<i>available water determination</i> means a determination referred to in section 50.	21
	22
<i>basic landholder rights</i> means domestic and stock rights or harvestable rights.	23
	24
<i>bulk access regime</i> means a bulk access regime established by a management plan, as referred to in section 17 (1) (e), or by a Minister's plan, and includes a bulk access regime as varied by the Minister under section 38.	25
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	28
<i>coastal waters of the State</i> has the same meaning as it has in Part 10 of the <i>Interpretation Act 1987</i> .	29
	30
<i>construct</i> a work includes install, alter or extend the work.	31

<i>controlled activity</i> means:	1
(a) the erection of a building, or	2
(b) the carrying out of a work, or	3
(c) the removal of extractive material from land, or	4
(d) the carrying out of landfill operations.	5
<i>controlled activity approval</i> means an approval referred to in section 82.	6 7
<i>Crown land</i> has the same meaning as it has in the <i>Crown Lands Act 1989</i> .	8 9
<i>deemed regional environmental plan</i> means a management plan of the kind referred to in section 20 (3) (a).	10 11
<i>Department</i> means the Department of Land and Water Conservation.	12
<i>development</i> and <i>carry out development</i> have the same meanings as they have in the <i>Environmental Planning and Assessment Act 1979</i> .	13 14
<i>development consent</i> has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i> .	15 16
<i>Director-General</i> means the Director-General of the Department.	17
<i>domestic and stock rights</i> means the rights conferred on a landholder by section 44.	18 19
<i>drainage management principles</i> means the principles referred to in section 22.	20 21
<i>drainage work</i> means a work (such as a pump, pipe or channel) that is constructed or used for the purpose of draining water from land, including a reticulated system of such works, and includes all associated pipes, sluices, valves and equipment, but does not include:	22 23 24 25
(a) any sewage work, or	26
(b) any work declared by the regulations not to be a drainage work.	27
<i>drainage work approval</i> means an approval referred to in section 81.	28
<i>environment</i> includes all aspects of the surroundings of human beings, whether affecting them as individuals or in their social groupings.	29 30
<i>environmental water principles</i> means environmental water principles established by a management plan or Minister's plan.	31 32
<i>estuary</i> means the waters between the mouth of a river and the coastal waters of the State.	33 34

<i>exercise</i> a function includes perform a duty.	1
<i>extractive material</i> means earth, sand, gravel, rock, mud, clay or any other such substance.	2 3
<i>flood work</i> means a work (such as a barrage, causeway, cutting or embankment):	4 5
(a) that is situated:	6
(i) in or in the vicinity of a river, estuary or lake, or	7
(ii) within a floodplain, and	8
(b) that is of such a size or configuration that, regardless of the purpose for which it is constructed or used, it is likely to have a significant effect on:	9 10 11
(i) the flow of water to or from a river, estuary or lake, or	12
(ii) the distribution or flow of floodwater in times of flood,	13
and includes all associated pipes, valves and equipment, but does not include any work declared by the regulations not to be a flood work.	14 15
<i>flood work approval</i> means an approval referred to in section 81.	16
<i>floodplain</i> means land declared by the regulations to be a floodplain.	17
<i>Floodplain Development Manual</i> means the floodplain development manual referred to in section 733 of the <i>Local Government Act 1993</i> , as most recently notified under section 733 (5) (a) of that Act.	18 19 20
<i>floodplain management principles</i> mean the principles referred to in section 26.	21 22
<i>function</i> includes a power, authority and duty.	23
<i>harvestable rights</i> mean the rights conferred on a landholder by a harvestable rights order.	24 25
<i>harvestable rights area</i> means an area of land that is constituted as a harvestable rights area by a harvestable rights order.	26 27
<i>harvestable rights order</i> means an order in force under section 46.	28
<i>implementation program</i> means a program referred to in section 43.	29
<i>irrigation corporation</i> means an irrigation corporation referred to in Part 1 of Chapter 4.	30 31

lake includes:	1
(a) a wetland, a lagoon, a saltmarsh and any collection of still water, whether perennial or intermittent and whether natural or artificial, and	2 3 4
(b) any water declared by the regulations to be a lake,	5
but does not include any water declared by the regulations not to be a lake.	6 7
land includes any water source, and also includes the land on or in which any water source is situated.	8 9
landholder , in relation to land, means:	10
(a) the owner of the land or (if the owner is not in occupation of the land) the lawful occupier of the land, or	11 12
(b) the local council, in the case of land that comprises:	13
(i) a public road vested in, or under the control or management of, the local council, or	14 15
(ii) the site of a work that is, or is proposed to be, constructed for the local council.	16 17
local council means the council of a local government area.	18
local newspaper , in relation to any area or locality, means a newspaper circulating within that area or locality.	19 20
local transfer rules means rules referred to in section 18 (1) (d), whether established by a management plan or Minister's plan.	21 22
local water utility means:	23
(a) a water supply authority established by this Act, or	24
(b) a council or county council exercising water supply functions under Division 2 of Part 3 of Chapter 6 of the <i>Local Government Act 1993</i> .	25 26 27
major utility means a person or body referred to in Schedule 2.	28
management committee means a committee referred to in section 9.	29
management plan means a plan referred to in section 12 and, in relation to any land that is not within a water management area, or is within a water management area for which there is no relevant management plan, includes a Minister's plan.	30 31 32 33
Ministerial Corporation means the Water Administration Ministerial Corporation constituted by section 382.	34 35

Minister's plan means a plan referred to in section 42.	1
owner of land means the only person who, or each person who jointly or severally, at law or in equity:	2
	3
(a) is entitled to the land for an estate of freehold in possession, or	4
(b) is a person to whom the Crown has contracted to sell the land under the <i>Crown Lands Act 1989</i> , or	5
	6
(c) is entitled to receive, or receives, or if the land were let to a tenant would be entitled to receive, the rents and profits of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise,	7
	8
	9
	10
and, in relation to land of the Crown other than land for which there is an owner under paragraph (b) or (c), means the Crown.	11
	12
principles of ecologically sustainable development means the principles of ecologically sustainable development described in section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i> .	13
	14
	15
private drainage board means a private drainage board referred to in Part 3 of Chapter 4.	16
	17
private irrigation board means a private irrigation board referred to in Part 2 of Chapter 4.	18
	19
private water trust means a private water trust referred to in Part 4 of Chapter 4.	20
	21
public authority means:	22
(a) a Minister of the Crown, or	23
(b) a Government Department or Administrative Office, or	24
(c) a statutory body representing the Crown, or	25
(d) a statutory State owned corporation (or any of its subsidiaries) within the meaning of the <i>State Owned Corporations Act 1989</i> , or	26
	27
	28
(e) a council or county council within the meaning of the <i>Local Government Act 1993</i> ,	29
	30
but does not include any person or body declared by the regulations not to be a public authority.	31
	32
regulated river means a river that is declared by the Minister, by order published in the Gazette, to be a regulated river.	33
	34

<i>river</i> includes:	1
(a) any watercourse, whether perennial or intermittent, flowing in a natural channel, or in a natural channel artificially improved, and	2 3 4
(b) any tributary, branch or other watercourse into or from which a watercourse referred to in paragraph (a) flows, and	5 6
(c) anything declared by the regulations to be a river,	7
but does not include anything declared by the regulations not to be a river.	8 9
<i>sewage work</i> means a work (such as a pump, pipe or channel) that is constructed or used for the purpose of removing sewage from land, including a reticulated system of such works, and includes all associated pipes, sluices, valves and equipment, but does not include any work declared by the regulations not to be a sewage work.	10 11 12 13 14
<i>State's water rights</i> means the rights referred to in section 393 (1).	15
<i>transfer principles</i> means principles established under section 60 for the transfer of access licences and the water allocations under an access licence.	16 17 18
<i>unregulated river</i> means a river that is not a regulated river.	19
<i>use</i> a water management work means:	20
(a) in relation to a water supply work:	21
(i) to operate the work for the purpose of taking water from a water source or supplying land with water taken (whether directly or indirectly) from a water source, or	22 23 24
(ii) to allow the work to operate for that purpose, or	25
(b) in relation to a drainage work:	26
(i) to operate the work for the purpose of draining water from land, or	27 28
(ii) to allow the work to operate for that purpose, or	29
(c) in relation to a flood work:	30
(i) to operate the work for the purpose of influencing the flow of floodwater in the vicinity of the land on which the work is situated, or	31 32 33
(ii) to allow the work to operate for that purpose.	34
<i>Water Advisory Council</i> means the Water Advisory Council established by section 380.	35 36

water allocation means the water to which the holder of an access licence is entitled from time to time under the licence.	1 2
water authorisation means a water authorisation referred to in section 281.	3 4
water bore means a bore that is used:	5
(a) for the purpose of finding an aquifer, or	6
(b) for the purpose of testing the production capacity or water quality of an aquifer, or	7 8
(c) for the purpose of taking water from, or discharging water into, an aquifer, or	9 10
(d) for any other purpose prescribed by the regulations,	11
being a bore that has been artificially created, widened, lengthened or modified by means of drilling, boring, augering, digging or jetting.	12 13
water management area means an area of land that is constituted as a water management area by an order in force under section 8.	14 15
water management work means a water supply work, a drainage work or a flood work.	16 17
water management work approval means a water supply work approval, a drainage work approval or a flood work approval.	18 19
water return flow rules means rules established under section 64 for the regaining of water allocations under an access licence.	20 21
water source means a river, estuary, lake or aquifer, and includes the coastal waters of the State.	22 23
water source protection zone , in relation to a water management area, means a zone that is declared to be a water source protection zone by the management plan for that area.	24 25 26
water supply authority means a water supply authority referred to in Schedule 3.	27 28
water supply work means:	29
(a) a work (such as a water pump or water bore) that is constructed or used for the purpose of taking water from a water source, or	30 31 32
(b) a work (such as a tank or dam) that is constructed or used for the purpose of:	33
(i) capturing or storing rainwater run-off, or	34 35
(ii) storing water taken from a water source, or	36

- (c) a work (such as a water pipe or irrigation channel) that is constructed or used for the purpose of conveying water to the point at which it is to be used,
 - including a reticulated system of such works, and includes all associated pipes, sluices, valves and equipment, but does not include:
 - (d) any work that receives water from a water supply work under the control or management of the Sydney Water Board, the Hunter Water Board or a local water utility, or
 - (e) any work declared by the regulations as not being a water supply work.
- water supply work approval*** means an approval referred to in section 81.
- water use approval*** means an approval referred to in section 80.
- waterfront land*** means an area of land comprising:
- (a) a river, estuary or lake, or
 - (b) if the regulations so provide, the coastal waters of the State, or
 - (c) land within the prescribed distance inland of:
 - (i) the high bank (or, if there is no high bank, the mean water level) of any river or lake, or
 - (ii) the mean high water mark along the waterfront of any estuary or of the coastal waters of the State,
- where the prescribed distance is 40 metres or (if the regulations prescribe a lesser distance, either generally or in relation to a particular location or class of locations) that lesser distance.