



New South Wales

Water Management Amendment Bill 2009

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Water Management Act 2000* and the *State Water Corporation Act 2004* as follows:

- (a) to confer power on the Water Administration Ministerial Corporation (the **Ministerial Corporation**) and the State Water Corporation to install, maintain and replace metering equipment,
- (b) to clarify the powers to give directions as to metering equipment,
- (c) to provide for certain instruments to be notified on the NSW legislation website rather than being published in the Government Gazette,
- (d) to make other consequential and minor amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Schedule 1 Amendment of Water Management Act 2000 No 92

Metering equipment

Schedule 1 [11] inserts proposed sections 372A and 372B. Proposed section 372A confers the function of installing and removing metering equipment on the Ministerial Corporation and enables further functions of maintaining, repairing, improving, replacing and operating metering equipment to be conferred by regulations. Such regulations may be limited in their application and may provide for the functions to be conferred, or not conferred, exclusively on the Ministerial Corporation. Proposed section 372B provides that metering equipment installed by the Ministerial Corporation does not become the property of the Ministerial Corporation and also provides that compensation is not payable for loss or damage suffered as a result of the removal by the Ministerial Corporation of metering equipment it installed.

Schedule 1 [3] extends the offence of taking water when metering equipment is not working to equipment installed by or with the written authority of the Ministerial Corporation or the State Water Corporation.

Schedule 1 [4] excludes things done to metering equipment by or with the written authority of the Ministerial Corporation or the State Water Corporation from the offence of tampering with metering equipment. The amendment also limits the exclusion from the offence currently given to duly qualified persons, and the new exclusion for specified persons, to work done on equipment that is not equipment that may only be worked on by those Corporations.

Schedule 1 [5] inserts proposed section 91N. The proposed section makes it clear that the Ministerial Corporation and the State Water Corporation are not required to obtain approvals to construct or use metering equipment.

Schedule 1 [13] makes it clear that metering equipment is included within the meaning of *drainage work* for the purposes of the *Water Management Act 2000*.

Schedule 1 [14] makes it clear that metering equipment is included within the meaning of *flood work* for the purposes of the *Water Management Act 2000*.

Schedule 1 [15] includes telemetry equipment within the meaning of *metering equipment* for the purposes of the *Water Management Act 2000*.

Schedule 1 [16] makes it clear that metering equipment is included within the meaning of *water supply work* for the purposes of the *Water Management Act 2000*.

Directions by Minister

Section 326 of the *Water Management Act 2000* currently enables the Minister to direct landholders or persons who control water supply works to take specified measures to install metering equipment in connection with such works. Such a direction is taken to include a direction to properly maintain and seal the equipment using a duly qualified person.

Schedule 1 [6] enables a direction to be given requiring metering equipment to be replaced or metering equipment to be properly maintained. **Schedule 1 [8]** makes a consequential amendment.

Schedule 1 [7] enables a direction for the installation of a meter to require either the proper maintenance of the equipment or the sealing of the equipment, or both.

Schedule 1 [9] enables a direction to be made to require that only a specified person or persons may install, maintain or seal metering equipment. **Schedule 1 [10]** makes a consequential amendment.

Notification on the NSW legislation website

Schedule 1 [1] replaces the existing requirements to publish the following instruments in the Government Gazette with a requirement to notify them on the NSW legislation website:

- (a) water management plans,
- (b) orders amending or repealing water management plans,
- (c) Minister's water management plan,
- (d) harvestable rights orders,
- (e) orders establishing access licence dealing principles,
- (f) orders establishing mandatory guidelines for the taking and use of water for domestic consumption and stock watering by landholders.

Other amendments

Schedule 1 [2] repeals section 71ZA as a consequence of the operation of rules relating to the water market between States made under the *Water Act 2007* of the Commonwealth.

Schedule 1 [12] enables regulations containing provisions of a savings or transitional nature to be made as a consequence of the proposed Act.

Schedule 2 Amendment of State Water Corporation Act 2004 No 40

Metering equipment

Schedule 2 [1] inserts a definition of *metering equipment*.

Schedule 2 [2] makes it clear that the State Water Corporation is to be the owner of metering equipment installed by the Corporation and confers on the Corporation the same powers in respect of metering equipment that it has with respect to works, including installing, operating, repairing and replacing the equipment.

Schedule 2 [3] inserts proposed section 22A. Proposed section 22A extends the State Water Corporation's powers with respect to metering equipment to include equipment that the Corporation does not own, if the operating licence for the

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Corporation so provides. It also confers power to test metering equipment and enables regulations to be made limiting the application of the State Water Corporation's powers relating to metering equipment. Such regulations may also provide for the functions to be conferred, or not conferred, exclusively on the State Water Corporation.

Savings and transitional provisions

Schedule 2 [4] enables regulations containing provisions of a savings or transitional nature to be made as a consequence of the proposed Act.

First print



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Water Management Amendment Bill 2009

No. , 2009

A Bill for

An Act to amend the *Water Management Act 2000* and the *State Water Corporation Act 2004* with respect to the installation, operation and maintenance of meters; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Water Management Amendment Act 2009</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1	Amendment of Water Management Act	1
	2000 No 92	2
[1]	Sections 41 (1) and (3), 45 (1), (5) and (6), 47 (2), 50 (1), 54 (1), 71Z (1) and 336B (1)	3
	Omit “in the Gazette” wherever occurring.	4
	Insert instead “on the NSW legislation website”.	5
[2]	Section 71ZA Removal of certain restrictions on dealings relating to irrigation corporations	6
	Omit the section.	7
[3]	Section 91I Taking water when metering equipment not working	8
	Omit section 91I (4). Insert instead:	9
	(4) In this section, <i>metered work</i> means a water management work in connection with which metering equipment has been installed:	10
	(a) pursuant to the conditions of an access licence or approval, or	11
	(b) pursuant to a direction under section 326, or	12
	(c) by or with the written authority of the Ministerial Corporation or the State Water Corporation.	13
[4]	Section 91K Meter tampering	14
	Omit section 91K (4). Insert instead:	15
	(4) This section does not apply to anything:	16
	(a) that a duly qualified person, or a person specified under section 326 (2A), does to metering equipment (other than metering equipment that may only be maintained, repaired, modified or replaced by the Ministerial Corporation or the State Water Corporation) for the sole purpose of maintaining, repairing or replacing the equipment, or	17
	(b) that is done to metering equipment by or with the written authority of the Ministerial Corporation or the State Water Corporation under this Act or the <i>State Water Corporation Act 2004</i> .	18

[5] Section 91N	1
Insert after section 91M:	2
91N Corporations not required to hold approvals	3
Nothing in sections 91A–91D requires the Ministerial Corporation or the State Water Corporation to obtain an approval for the construction or use of metering equipment.	4 5 6
[6] Section 326 Directions to install and maintain metering equipment	7
Insert “, replace or to properly maintain” after “install” in section 326 (1).	8
[7] Section 326 (2)	9
Omit “A direction”.	10
Insert instead “Unless the direction otherwise specifies, a direction”.	11
[8] Section 326 (2)	12
Insert “or replace” after “install”.	13
[9] Section 326 (2A)	14
Insert after section 326 (2):	15
(2A) A direction under this section may specify the only person or persons who may install, replace, maintain or seal metering equipment.	16 17 18
[10] Section 326 (3)	19
Insert “or a person specified under subsection (2A)” after “person”.	20
[11] Sections 372A and 372B	21
Insert after section 372:	22
372A Metering equipment functions	23
(1) Conferral of metering equipment functions	24
The Ministerial Corporation may install, test and remove metering equipment.	25 26
(2) If the regulations so provide, the Ministerial Corporation has the following functions:	27
(a) to maintain, repair, modify and replace metering equipment (whether or not that equipment was installed by the Corporation),	28 29 30 31
(b) to operate metering equipment.	32

(3)	Regulations under subsection (2) may provide that the Ministerial Corporation is, or is not, to exercise such functions to the exclusion of any other person and may limit the exercise of the functions to:	1
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(a)	specified water sources or classes of water sources, or	5
(b)	a specified area, or	6
(c)	specified access licences or approvals or classes of access licences or approvals in specified areas, or	7
		8
(d)	specified works or classes of works.	9
(4)	Operation of section	10
	The functions conferred by this section are in addition to any functions conferred on the Ministerial Corporation under this Act or the <i>Water Act 1912</i> in relation to water management works or other works.	11
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(5)	This section and any regulations made under this section have effect despite any other provision of this Act or the <i>Water Act 1912</i> .	15
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(6)	A direction under section 326, or a condition of an access licence or approval, ceases to have effect during any period that the exercise of a function is conferred exclusively on the Ministerial Corporation by or under this section, if the direction or condition requires the exercise of, or relates to the exercise of, that function.	18
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(7)	Subsection (6) does not affect the operation of, or enforcement of, a direction under section 326 or a condition of an access licence or approval in relation to any period before the direction or condition ceased to have effect.	23
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(8)	In this section, a reference to an access licence or approval includes a reference to an entitlement (within the meaning of clause 2 of Schedule 10) that confers a corresponding authority.	27
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372B	Interests and rights in metering equipment	30
(1)	Metering equipment installed or replaced by the Ministerial Corporation is not the property of the Ministerial Corporation, except as otherwise provided by this Act or the <i>Water Act 1912</i> or regulations under this Act or that Act.	31
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(2)	No compensation is payable by or on behalf of the Crown to any person who suffers loss or damage because of the removal by the Ministerial Corporation of metering equipment installed by the Ministerial Corporation.	35
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		37
		38

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Schedule 1 Amendment of Water Management Act 2000 No 92

[12] Schedule 9 Savings, transitional and other provisions	1
Insert at the end of clause 1 (1):	2
<i>Water Management Amendment Act 2009</i>	3
[13] Dictionary	4
Omit “and equipment” from the definition of <i>drainage work</i> .	5
Insert instead “, metering equipment and other equipment”.	6
[14] Dictionary, definition of “flood work”	7
Omit “and equipment”.	8
Insert instead “, metering equipment and other equipment”.	9
[15] Dictionary, definition of “metering equipment”	10
Omit “water or other meter and any ancillary wiring, pipework,”.	11
Insert instead “device used for or in connection with measuring the flow of water and any ancillary wiring, pipework, telemetry equipment”.	12
	13
[16] Dictionary, definition of “water supply work”	14
Omit “and equipment”.	15
Insert instead “, metering equipment and other equipment”.	16

Schedule 2	Amendment of State Water Corporation Act 2004 No 40	1
		2
[1] Section 3 Definitions		3
	Insert in alphabetical order in section 3 (1):	4
	<i>metering equipment</i> includes any device used for or in connection with measuring the flow of water and any ancillary wiring, pipework, telemetry equipment or apparatus and any supporting structure.	5 6 7 8
[2] Section 21 Ownership of works		9
	Insert after section 21 (4):	10
	(5) In this section, <i>works</i> includes metering equipment.	11
[3] Section 22A		12
	Insert after section 22:	13
22A Metering equipment functions		14
(1) Conferral of functions		15
	The Corporation may, if the operating licence so provides, operate, replace, repair, maintain, remove, connect, disconnect or modify metering equipment that the Corporation does not own.	16 17 18
(2)	The Corporation may from time to time test any metering equipment that it owns or any other metering equipment in respect of which it exercises functions under this section.	19 20 21
(3)	The regulations may provide that the Corporation is, or is not, to exercise any of its functions with respect to the operation, replacement, repair, maintenance, removal, connection, disconnection or modification of metering equipment under section 21 or this section to the exclusion of any other person and may limit the exercise of any of those functions to:	22 23 24 25 26 27
	(a) specified water sources or classes of water sources, or	28
	(b) a specified area, or	29
	(c) specified access licences or approvals or classes of access licences or approvals for specified areas, or	30 31
	(d) specified works or classes of works.	32

(4) Operation of sections	1
The functions conferred by section 21 and this section in respect of metering equipment are in addition to any functions conferred on the Corporation under the <i>Water Management Act 2000</i> or the <i>Water Act 1912</i> in relation to water management works or other works.	2 3 4 5 6
(5) The conferral of functions by section 21 and this section in respect of metering equipment, and any regulations under this section, have effect despite any other provision of the <i>Water Management Act 2000</i> or the <i>Water Act 1912</i> .	7 8 9 10
(6) A direction under section 326 of the <i>Water Management Act 2000</i> , or a condition of an access licence or approval under that Act, ceases to have effect during any period that the exercise of a function is conferred exclusively on the Corporation by or under section 21 or this section, if the direction or condition requires the exercise of, or relates to the exercise of, that function.	11 12 13 14 15 16
(7) Subsections (5) and (6) do not apply to a direction given to the Corporation or an access licence or approval held by the Corporation.	17 18 19
(8) Subsection (6) does not affect the operation of, or enforcement of, a direction under section 326 or a condition of an access licence or approval in relation to any period before the direction or condition ceased to have effect.	20 21 22 23
(9) In this section, a reference to an access licence or approval includes a reference to an entitlement (within the meaning of clause 2 of Schedule 10 to the <i>Water Management Act 2000</i>) that confers a corresponding authority.	24 25 26 27
[4] Schedule 4 Savings, transitional and other provisions	28
Insert at the end of clause 1 (1):	29
<i>Water Management Amendment Act 2009</i>	30