



New South Wales

Water Management Legislation Amendment (Stronger Enforcement and Penalties) Bill 2025

Explanatory note

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

Overview of Bill

The objects of this Bill are—

- (a) to amend the *Water Management Act 2000* (**the Act**) to—
 - (i) establish a system of civil penalties for contraventions of the Act or the regulations, and
 - (ii) update the Minister’s power to impose financial charges for water illegally taken or taken without authority, and
 - (iii) address matters relating to the metering of water and the attestation of volumes of water taken under a licence, and
 - (iv) provide additional orders that may be made by a court, including in relation to the forfeiture of monetary benefits obtained as a result of a contravention, and
- (b) to amend the *Natural Resources Access Regulator Act 2017* to address concerns about the ability of the Natural Resources Access Regulator (the **Regulator**) to take action in relation to contraventions of the Act or the regulations, and
- (c) to make consequential amendments to the following legislation—
 - (i) the *Crimes (Appeal and Review) Act 2001*,
 - (ii) the *Criminal Appeal Act 1912*,
 - (iii) the *Land and Environment Court Act 1979*,
 - (iv) the *Natural Resources Access Regulator Regulation 2023*,
 - (v) the *Water Management (General) Regulation 2025*.

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.

Schedule 1 Amendment of Natural Resources Access Regulator Act 2017 No 64

Schedule 1[2] makes an amendment to clarify the authority of the Regulator to prosecute offences and take proceedings for contraventions of civil penalty provisions under the Act. **Schedule 1[1], [5] and [7]** make consequential amendments.

Schedule 1[3], [4], [6] and [8]–[14] make amendments consequential on amendments made by Schedule 3.

Schedule 2 Amendment of Natural Resources Access Regulator Regulation 2023

Schedule 2[1] and [2] make amendments consequential on Schedule 1[7] and [8].

Schedule 3 Amendment of Water Management Act 2000 No 92

Schedule 3[2], [11] and [18] make amendments to clarify references to water sources where water may have been taken from more than one water source.

Schedule 3[5], [51], [74] and [130] make amendments of a statute law revision nature.

Schedule 3[19], [20] and [61] make amendments to the Minister's power to require a person to make a payment via an administrative charge for water illegally taken. **Schedule 3[21]–[23], [27]–[30], [33], [65], [66], [121]–[125], [135], [136] and [138]** make consequential amendments.

Schedule 3[24]–[26], [31], [32], [62]–[64], [67] and [68] make amendments to the way water access licences and water use approvals are suspended or cancelled, including to provide that, if a licence is cancelled by the Minister under section 78, the water allocation for the licence and water credited to the water allocation account for the licence are forfeited to the Crown.

Schedule 3[36] inserts proposed section 88AB, which provides that a water access licence holder who is required to periodically attest the volume of water taken under the licence may not refuse to give the attestation on the basis that the attestation may incriminate the holder or otherwise expose the holder to a penalty.

Schedule 3[38] inserts proposed section 91AB to clarify the operation of provisions concerning the installation of water metering equipment.

Schedule 3[69] and [83] make amendments consequential on the insertion of the definition of *Regulator* in the dictionary.

Schedule 3[76]–[79] make amendments relating to certifying the accuracy of water metering equipment.

Schedule 3[81] inserts proposed section 336A, which provides for the Minister to issue a notice directing a person to pay the costs associated with monitoring the person's compliance with a direction given under Chapter 7, Part 1.

Schedule 3[84] inserts proposed Chapter 7, Part 1, Division 9, which provides for the Minister to appoint a person to take remedial measures if the person directed to take the remedial measures fails to do so.

Schedule 3[86] makes an amendment to clarify that authorised officers may carry out their functions using remotely controlled aircraft, vehicles and vessels.

Schedule 3[91] inserts proposed Chapter 7, Part 2, Division 3A, which provides for the handling of things seized by an authorised officer under section 339B.

Schedule 3[103] inserts proposed section 341, which provides that a person who obtains a monetary benefit as a result of the commission by another person of a contravention of the Act or the regulations also commits a contravention.

Schedule 3[116] amends section 353 to provide that a court may, when making orders, consider potential harm to the environment. **Schedule 3[128] and [129]** make consequential amendments.

Schedule 3[117]–[119] make amendments concerning the orders a court may make when dealing with contraventions of the Act or the regulations, including orders to forfeit monetary benefits and orders to cancel an access licence or an approval.

Schedule 3[120] inserts proposed Chapter 7, Part 3B, which provides for a court that has ordered a person to carry out a specified project or activity to require the person to give the Regulator a financial assurance guaranteeing the project or activity.

Schedule 3[126] provides for an increase in the maximum penalties that may be imposed by the Local Court.

Schedule 3[127] amends section 364A(1) to provide that a court must, when determining a penalty under the Act or the regulations, consider the impact of the offence on Aboriginal people.

Schedule 3[134] inserts proposed section 367C, which provides that multiple contraventions under a single provision may be dealt with as a single matter or individually, and proposed section 367D, which provides for the use of photographs and other images in proceedings for a contravention.

Schedule 3[137] inserts proposed Chapter 7, Part 6 to make provision for civil penalty orders for contraventions of the Act as an alternative to criminal penalties. **Schedule 3[1], [3], [4], [6]–[10], [12]–[17], [34], [35], [37], [39]–[50], [52]–[60], [70]–[73], [75], [80], [82], [85], [87]–[90], [92]–[102], [104]–[115], [131]–[133] and [147]–[151]** make consequential amendments.

Schedule 3[139] and [140] amend section 394 to allow for additional ways a document may be served electronically.

Schedule 3[141] inserts proposed section 394A to provide that the regulations may prescribe methodologies to be used when the Minister or a court is determining the value or volume of water taken or used.

Schedule 3[142]–[144] amend section 397 to provide that authorised persons under the Act, the Regulator and members of staff of the Regulator do not have personal liability for acts or omissions done in good faith under the Act.

Schedule 3[145] amends section 400 to increase the maximum monetary penalty that may be prescribed for a contravention under the regulations.

Schedule 3[146] makes amendments of a savings and transitional nature.

Schedule 3[152] makes consequential amendments to the dictionary.

Schedule 4 Amendment of Water Management (General) Regulation 2025

Schedule 4[1] makes amendments consequential on the amendment made by Schedule 3[145] to increase maximum penalties for certain offences. **Schedule 4[4]** makes a consequential amendment.

Schedule 4[2] provides for the content of a compliance cost notice and is consequential on the amendment made by Schedule 3[81].

Schedule 4[3] and [6] make amendments consequential on the amendments made by Schedule 3[152].

Schedule 4[5] makes an amendment consequential on Schedule 3[141].

Schedule 5 Amendment of other Acts

Schedule 5.1[1]–[7] make amendments to the *Crimes (Appeal and Review) Act 2001* to provide that the Regulator may, in cases where it acted as the prosecutor, appeal to the Land and Environment Court from decisions of the Local Court. The proposed amendments are consequential on the amendments made by Schedule 1[2].

Schedule 5.2[1]–[3] make amendments to the *Criminal Appeal Act 1912* to provide that the Natural Resources Access Regulator may, in cases where it acted as the prosecutor, appeal to the Court of Criminal Appeal from decisions of the Land and Environment Court. The proposed amendments are consequential on the amendments made by Schedule 1[2].

Schedule 5.3[1] and [2] make amendments to the *Land and Environment Court Act 1979* to confer jurisdiction on the Land and Environment Court for matters under the *Water Management Act 2000*. The proposed amendments are consequential on the amendments made by Schedule 3[117] and [120].