

NEW SOUTH WALES
DRAFT GOVERNMENT BILL

Water Management Amendment Bill 2018

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public consultation draft

NEW SOUTH WALES
DRAFT GOVERNMENT BILL

Water Management Amendment Bill 2018

No , 2018

A Bill for

An Act to amend the *Water Management Act 2000* with respect to water management plans, conditions of approvals and licences, metering, the provision of information and measures to protect environmental water; and for other purposes.

Water Management Amendment Bill 2018 [NSW]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Water Management Amendment Act 2018*.

2 Commencement

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

Schedule 1 Amendment of Water Management Act 2000 No 92

[1] Section 66 Conditions of access licence generally

Insert after section 66 (1):

- (1AA) An access licence is subject to any mandatory conditions imposed by the regulations.

[2] Sections 66 (1A), 67 (3), 100 (1A) and 102 (3)

Insert “(other than conditions imposed by the regulations)” after “Mandatory conditions” wherever occurring.

[3] Section 71QA

Insert after section 71Q:

71QA Assignment of individual daily extraction component

- (1) For the purposes of this section, an *individual daily extraction component* means an entitlement of the holder of an access licence to take a specified volume of water on a specified day, whether or not it is limited to specified rates or in specified circumstances.
- (2) The holders of two or more access licences may apply to the Minister for consent to the assignment of the rights to individual daily extraction components between one or more of the holders.
- (3) An application may be made to assign an individual daily extraction component for a specified day or a specified period, or in specified circumstances, or both, and may relate to the whole or part of an individual daily extraction component.
- (4) An application may only be made if the licences are of the same category with respect to the same water source.
- (5) The Minister may consent to the assignment of rights between the access licences concerned by:
 - (a) a reduction or removal of the whole or part of one or more individual daily extraction components of one or more of the licences, and
 - (b) a corresponding increase in the individual daily extraction components of the others.
- (6) A reduction or increase may be specified by the Minister to have effect for a specified period, or in specified circumstances, or both.
- (7) The assignment of a right to an individual daily extraction component does not entitle the assignee to extract water in excess of the assignee’s water allocation.
- (8) A holder of an access licence may assign a right to an individual daily extraction component whether or not the holder has any available water allocation credited to the holder’s water allocation account.
- (9) An access licence is not cancelled merely because, as a result of an assignment under this section, it has a zero extraction component for the time being.

[4] Section 71U Interstate transfer of access licences

Insert “and Part 5 of Chapter 3” after “section 63 (4), (5), (6) and (7)” in section 71U (4).

[5] Section 71Y General

Insert “71QA,” before “71T” in section 71Y (1).

[6] Section 85AA

Insert after section 85:

85AA Daily extraction accounts

- (1) Individual daily extraction components imposed on an access licence are to be recorded in the water allocation account.
- (2) For each access licence, the Minister is to cause an account to be kept of:
 - (a) any individual daily extraction component that is acquired under section 71QA, and
 - (b) any individual daily extraction component that is assigned under section 71QA.
- (3) The regulations may make provision for or with respect to the particulars that are to be recorded in a water allocation account for the purposes of this section.

[7] Section 87D

Insert after section 87C:

87D Information about rights to take water from water sources

- (1) The Minister may arrange for the publication of the following information about a water source on a publicly accessible website approved by the Minister:
 - (a) whether or not water can be taken by access licence holders from a particular part of the water source on a particular day or at a particular time on a particular day, in accordance with an applicable water sharing plan or a particular condition of an access licence,
 - (b) the amount of water that can be taken from a particular part of the water source on a particular day or at a particular time on a particular day, in accordance with an applicable water sharing plan or a particular condition of an access licence.
- (2) For the purposes of this Act, a person is taken to be permitted to take water in accordance with a water sharing plan or a condition of an access licence if the person is entitled to take water under that plan or licence and takes water in accordance with information published under this section.
- (3) This section does not:
 - (a) permit a person to take water if to do so would contravene a condition of an access licence that is not the subject of information published under this section, or
 - (b) prevent a person from taking water if the person is otherwise permitted to do so under an access licence or under this Act.

[8] Section 91H Failure to install, use or maintain metering equipment

Insert “or use” after “install” wherever occurring in section 91H (1).

[9] Section 91H (1) (c)

Insert at the end of section 91H (1) (b):

or

(c) a regulation made under Part 6 of Chapter 3,

[10] Section 91J Metering records

Insert at the end of the section:

- (2) A person must not in or in connection with a metering record required to be kept under this Act, or a requirement of a regulation under Part 6 of Chapter 3, make a statement or furnish any information that the person knows to be false or misleading in a material particular.
Tier 2 penalty.

[11] Section 100 Conditions of approval generally

Insert after section 100 (1):

- (1AA) An approval is subject to any mandatory conditions imposed by the regulations.

[12] Chapter 3, Parts 5 and 6

Insert after Part 4 of Chapter 3:

Part 5 Conditions imposed by regulations

115 Regulations may impose mandatory conditions relating to metering equipment and ceasing to take water

- (1) The regulations may impose mandatory conditions on water supply work approvals relating to the following:
- (a) metering equipment,
 - (b) prohibiting or limiting the use of the water supply work to take water in specified circumstances,
 - (c) requiring notice to be given of a change to or the replacement of the water supply work, or any part of it, that results in an increase in the capacity to take water.
- (2) A mandatory condition prohibiting or limiting the taking of water may be imposed only for the purpose of protecting environmental water or managing water for environmental purposes.
- (3) A mandatory condition may be imposed on particular approvals or classes of approvals.

115A Regulations may impose mandatory conditions relating to extraction of water

- (1) The regulations may impose mandatory conditions on access licences limiting the extraction of water.
- (2) A mandatory condition may be imposed only for the purpose of protecting environmental water or managing water for environmental purposes.
- (3) A mandatory condition may be imposed on all access licences for a specified water source or access licences for water sources within a specified part of the State.

115B Mandatory conditions generally

- (1) The regulations may provide for the following:
 - (a) notification to holders of approvals or access licences of mandatory conditions imposed under this Part,
 - (b) the imposition of a mandatory condition under this Part on a licence or other entitlement in force under the *Water Act 1912* and deeming any such condition to be imposed under that Act,
 - (c) that a mandatory condition imposed under this Part has effect despite any other approval or licence or condition of an approval or licence under this Act or the *Water Act 1912* or any other instrument made under this Act or that Act.
- (2) The imposition of a mandatory condition on an access licence relating to the extraction of water does not give rise to a claim for compensation under Division 9 of Part 2 of Chapter 3.

Part 6 Regulations relating to water supply works

115C Metering equipment

- (1) This section applies to a water supply work, whether or not an approval is required to install or use the water supply work.
- (2) Regulations may be made for or with respect to metering equipment in connection with water supply works.
- (3) In particular, and without limiting subsection (2), regulations may be made for or with respect to the following:
 - (a) requiring the holders of water supply work approvals to install, use and maintain metering equipment,
 - (b) requiring persons who have control and management of water supply works to install, use and maintain metering equipment,
 - (c) setting out standards and other requirements for metering equipment to be used in connection with water supply works,
 - (d) setting out standards and other requirements for the location and installation of metering equipment,
 - (e) the keeping of metering records relating to maintenance of metering equipment and use of water during periods when metering equipment is not able to be used and to any other matters specified by the regulations.

[13] Chapter 7, Part 1, Division 2, heading

Insert “**and metering**” after “**water**”.

[14] Section 324 Temporary water restrictions

Insert after section 324 (1):

- (1A) If satisfied that it is necessary to do so for the purpose of managing water for environmental purposes, the Minister may, subject to any requirements of the regulations, by order in writing, direct that, for a specified period, the taking of water from a specified water source is prohibited, or is subject to specified restrictions, as the case requires.

[15] Section 324 (4)

Insert “, (1A)” after “subsection (1)”.

[16] Section 326 Directions relating to metering equipment

Insert “, use” after “replace” in section 326 (1).

[17] Section 367 Evidentiary certificates

Insert after section 367 (2) (v):

- (w) specified information relating to the taking of water from a specified water source under a specified water sharing plan or condition of an access licence was, or was not, displayed on a website approved by the Minister,

[18] Section 391B

Insert after section 391A:

391B Administration and transparency of water information

- (1) Regulations may be made for or with respect to the following:
 - (a) the disclosure of information held on a register established under this Act,
 - (b) the disclosure of information about water allocation accounts of individuals or corporations who hold access licences or approvals under this Act,
 - (c) the disclosure of information about the taking of water from particular water sources or water sources within a particular part of the State,
 - (d) the keeping and form of registers of information authorised to be disclosed under this Act,
 - (e) the fees payable for access to information.
- (2) Information may be disclosed in accordance with a regulation made under this section despite any prohibition in, or the need to comply with a requirement of, any Act or law (in particular, the *Privacy and Personal Information Protection Act 1998* (other than Part 6 of that Act)).

[19] Schedule 1B Provisions relating to exit from co-held access licence

Insert at the end of clause 3:

- (3) If an individual daily extraction component was imposed on the original licence, the water allocation accounts for the original access licence and the new access licence are to be adjusted to reflect the provisions made by this clause.

[20] Dictionary

Insert after paragraph (b) of the definition of *assignment dealing*:

- (c) an assignment of the whole or part of one or more individual daily extraction components as referred to in section 71QA.

[21] Dictionary, definition of “individual daily extraction component”

Insert in alphabetical order:

individual daily extraction component—see section 71QA (1).

Schedule 2 Amendment of Natural Resources Access Regulator Act 2017 No 64

Section 12 Regulator to determine whether proceedings for offences should be instituted

Insert after section 12 (3):

- (3A) Regulations may be made for or with respect to authorising the Regulator to publish information about the exercise of enforcement powers under the natural resources management legislation.
- (3B) Information may be disclosed in accordance with a regulation made under this section despite any prohibition in, or the need to comply with a requirement of, any Act or law (in particular, the *Privacy and Personal Information Protection Act 1998* (other than Part 6 of that Act)).