



New South Wales

# Water Legislation Amendment Bill 2024

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Water Management Act 2000* (the ***Water Management Act***)—
  - (i) to make further provision for regulation-making powers about water management and water supply authorities, and
  - (ii) to validate access licences and approvals that purportedly replaced certain entitlements under the *Water Act 1912*, and
  - (iii) to address other miscellaneous matters,
- (b) to amend the *Sydney Water Act 1994* (the ***Sydney Water Act***) to make further provision for regulation-making powers in relation to controlled areas and works, and the *Sydney Water Regulation 2017* to make consequential amendments,
- (c) to amend the *Water NSW Act 2014* (the ***Water NSW Act***) to make further provision for regulation-making powers in relation to controlled areas, special areas and the Regulatory Authority,
- (d) to make minor consequential amendments to regulations,
- (e) to repeal the *Water Management Amendment Act 2010* and the *Water Management Amendment Act 2014*.

Certain amendments proposed by this Bill include indirect Henry VIII provisions in the *Water Management Act*. The proposed amendments clarify that exemptions from the Act prescribed by the regulations may have certain conditions imposed by the regulations and the Minister and that the regulations may permit the Minister to exempt persons from the Act in certain circumstances.

## 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 Water Management Act 2000 No 92**

### **Regulation-making powers about water management**

**Schedule 1[4]** provides that the regulations under the Water Management Act may make provision for procedures in relation to debiting water allocations from a water allocation account for an access licence.

**Schedule 1[5]** clarifies the regulation-making powers under the Water Management Act about exemptions of persons from the requirement to hold an access licence. Proposed section 88A permits the Minister to determine certain matters about the exemptions and impose conditions of the exemptions in relation to emergencies. This is an indirect Henry VIII provision.

**Schedule 1[7] and [9]** clarify the regulation-making powers under the Water Management Act about mandatory conditions on access licences and approvals in relation to metering, including providing that the regulations may permit the Minister to grant exemptions from the mandatory conditions. This is an indirect Henry VIII provision.

**Schedule 1[8]** inserts proposed Chapter 3, Part 3, Division 7 to clarify that the regulations under the Water Management Act may permit the Minister to grant exemptions for public authorities from the requirement to hold water supply work approvals in relation to drought. The proposed amendment also clarifies that the regulations may impose certain kinds of conditions of the exemptions. This is an indirect Henry VIII provision. **Schedule 1[31]** makes a consequential amendment.

### **Regulation-making powers about water supply authorities**

**Schedule 1[11]** clarifies that the regulations under the Water Management Act may make provision about the Minister's approval of a water supply authority constructing, maintaining and operating water management works and other associated works.

**Schedule 1[12]** sets out the granting of approvals for the discharge of substances into a water supply authority's sewerage or drainage system in the Water Management Act. Proposed section 300A also clarifies the regulation-making powers under the Water Management Act in relation to the regulation and prohibition of the discharge of substances into a water supply authority's sewerage system or drainage system, the granting of discharge approvals by water supply authorities and requirements of a water supply authority's policy on discharge approvals. **Schedule 1[10]** makes a consequential amendment.

**Schedule 1[13]** clarifies the regulation-making powers under the Water Management Act in relation to the supply and quality of water, the measurement of the supply of water, drainage areas, firefighting services and fire hydrants.

**Schedule 1[14]** clarifies the regulation-making powers in relation to special areas.

**Schedule 1[15]** clarifies the kinds of fees and charges a water supply authority may impose and the regulation-making powers under the Water Management Act in relation to fees and charges for water supply.

**Schedule 1[17]** clarifies the regulation-making powers under the Water Management Act about the carrying out of plumbing work. **Schedule 1[16]** makes a consequential amendment.

**Schedule 1[18]** makes consequential amendments related to regulation-making powers.

### **Miscellaneous**

**Schedule 1[2]** permits the provisions of a management plan to deal with the advertisement of applications for approvals. **Schedule 1[6]** provides that management plans may require applications for approvals to be advertised.

**Schedule 1[3]** provides that a supplementary water (Lowbidgee) access licence, a type of specific purpose access licence, cannot be cancelled by the Minister under the Water Management Act, section 77A.

**Schedule 1[19] and [20]** make amendments to provide consistent expression across all provisions dealing with regulation-making powers.

**Schedule 1[21]** clarifies the regulation-making power under the Water Management Act about security deposits.

**Schedule 1[23]** provides that certain entitlements under the *Water Act 1912* are validly replaced by access licences and approvals.

**Schedule 1[25]–[30]** transfer uncommenced amendments to the Act by the *Water Management Amendment Act 2010* and the *Water Management Amendment Act 2014* to the Water Management Act. **Schedule 1[22]** provides the transferred amendments are transferred provisions for the purposes of the *Interpretation Act 1987*, section 30A. **Schedule 1[1] and [24]** make consequential amendments.

## **Schedule 2      Amendment of Sydney Water Act 1994 No 88**

### **Regulation-making powers about works**

**Schedule 2[1]** clarifies the regulation-making powers under the Sydney Water Act about the authorisation of a person connecting to, altering or using a work owned by the Sydney Water Corporation (the *Corporation*) and directions by the Corporation about the activities and works.

**Schedule 2[3]** clarifies the regulation-making powers under the Sydney Water Act in relation to water supply, sewerage or stormwater drainage works that connect with the Corporation's pipes, sewers or drains.

**Schedule 2[8]** clarifies that the regulations may impose requirements for the notification of damage to works or other property of the Corporation.

### **Regulation-making powers about controlled areas**

**Schedule 2[2]** clarifies the regulation-making powers under the Sydney Water Act in relation to controlled areas.

### **Miscellaneous**

**Schedule 2[4]–[6], [9] and [10]** make amendments to provide consistent expression across all provisions dealing with regulation-making powers.

**Schedule 2[7]** clarifies that the regulations may impose restrictions or regulate the supply and use of water in the area of operations in an emergency.

## **Schedule 3      Amendment of Water NSW Act 2014 No 74**

### **Regulation-making powers about Regulatory Authority**

**Schedule 3[1]** clarifies the regulation-making powers under the Water NSW Act about the notice given by the Regulatory Authority to a public agency before the public agency is permitted to exercise functions in a special area.

**Schedule 3[4]** clarifies that the regulations under the Water NSW Act may confer or impose compliance roles under other legislation in relation to activities within a controlled area, or that affect or may affect a controlled area, on the Regulatory Authority.

**Schedule 3[6]** clarifies that the regulations under the Water NSW Act may specify the limits of the compliance roles conferred or imposed on the Regulatory Authority.

**Schedule 3[7]** clarifies that the regulation-making powers under the Water NSW Act may provide for the circumstances in which the Regulatory Authority exercises or does not exercise its functions, the keeping of registers and the imposition of fees for copies of the registers.

### **Regulation-making powers about special areas and controlled areas**

**Schedule 3[2]** clarifies the regulation-making powers under the Act in relation to special areas.

**Schedule 3[3]** clarifies the regulation-making powers under the Act in relation to controlled areas.

### **Miscellaneous**

**Schedule 3[5], [8] and [9]** make amendments to provide consistent expression across all provisions dealing with regulation-making powers.

## **Schedule 4 Consequential amendments**

The schedule makes minor amendments to the *Sydney Water Regulation 2017* and the *Water Management (General) Regulation 2018* consequent on the proposed amendments made to the Sydney Water Act by Schedule 2[2] and the Water Management Act by Schedule 1[14] in relation to references to authorised persons and authorised officers.

## **Schedule 5 Repeals**

**Schedule 5[1] and [2]** repeal the *Water Management Amendment Act 2010* and the *Water Management Amendment Act 2014* as a result of proposed amendments made to the Water Management Act by Schedule 1[22] and [25]–[30], transferring all uncommenced provisions of the Acts to the Water Management Act.