

c2025-167D
OPP--Opposition

LEGISLATIVE COUNCIL

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

First print

Proposed amendments

- No. 1 **Commencement**
Page 2, clause 2, lines 6–14. Omit all words on the lines. Insert instead—
This Act commences on 1 July 2026.
- No. 2 **Additional functions of Regulator**
Page 3, Schedule 1. Insert after line 35—
[9A] Schedule 2 Additional functions of Regulator
Omit clause 1(a).
- No. 3 **Minister may charge for water taken without approval**
Page 3, Schedule 1[10], lines 36–38. Omit all words on the lines.
- No. 4 **Minister may charge for water taken without approval**
Page 9, Schedule 3[20], proposed section 60G(7), lines 1–9. Omit all words on the lines. Insert instead—
(7) The Minister must not impose a charge or order a debit under this section if the person—
(a) has been found guilty of an offence for the same conduct, or
(b) has been made the subject of a civil penalty order for the same conduct.
- No. 5 **Limitation period**
Page 9, Schedule 3[20], proposed section 60G(8), line 10. Omit “6 years”. Insert instead “3 years”.
- No. 6 **Suspension and cancellation of access licences**
Page 9, Schedule 3[25], lines 25 and 26. Omit all words on the lines.
- No. 7 **Suspension and cancellation of access licences**
Page 9, Schedule 3[26], proposed section 78(1)(b1), line 29. Omit “the Minister reasonably believes”.

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- No. 8 **Self-incrimination**
Page 10, Schedule 3[36], lines 22–40. Omit all words on the lines.
- No. 9 **Minister may charge for water taken without approval**
Pages 15 and 16, Schedule 3[61], line 18 on page 15 to line 31 on page 16. Omit all words on the lines.
- No. 10 **Suspension and cancellation of access licences**
Page 16, Schedule 3[63], lines 36 and 37. Omit all words on the lines.
- No. 11 **Suspension and cancellation of access licences**
Page 16, Schedule 3[64], proposed section 109(1)(b1), line 40. Omit “the Minister reasonably believes”.
- No. 12 **Release of seized things**
Page 21, Schedule 3[91], proposed section 339J(1), line 37. Omit “12 months”. Insert instead “6 months”.
- No. 13 **Release of seized things**
Page 21, Schedule 3[91], proposed section 339J. Insert after line 40—
 (1A) The Minister must not extend the return period for a thing unless satisfied the thing is required by the Regulator for—
 (a) the investigation of a suspected contravention of this Act or the regulations, or
 (b) proceedings commenced, or intended to be commenced, by the Regulator for a contravention of this Act or the regulations.
- No. 14 **Due diligence defence**
Page 24, Schedule 3[103], proposed section 341. Insert after line 22—
 (3) It is a defence in proceedings under this section if the related person satisfies the court that—
 (a) the related person was not in a position to influence the conduct of the corporation in relation to the underlying matter, or
 (b) the related person used all due diligence to prevent the commission of the underlying matter by the corporation.
- No. 15 **Harm to environment**
Page 25, Schedule 3[116], line 29–34. Omit all words on the lines.
- No. 16 **Monetary benefits**
Pages 25 and 26, Schedule 3[117], proposed sections 353F and 353FA, line 36 on page 25 to line 31 on page 26. Omit all words on the lines. Insert instead “Insert after section 353F—”.
- No. 17 **Minister may charge for water taken without approval [to be moved only if Amendment No 16 is not supported]**
Page 26, Schedule 3[117], proposed section 353F(2)(e), lines 14–16. Omit all words on the lines. Insert instead “under section 60G,”.
- No. 18 **Matters to be considered when imposing penalty**
Page 29, Schedule 3[127], proposed section 364A(1)(b1), line 28. Omit “impact, likely impact or potential impact”. Insert instead “impact or likely impact”.
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- No. 19 **Matters to be considered when imposing penalty**
Page 29, Schedule 3[127], proposed section 364A(1)(b2), line 31. Omit “impact, likely impact or potential impact”. Insert instead “impact or likely impact”.
- No. 20 **Matters to be considered when imposing penalty**
Page 29, Schedule 3[127], proposed section 364A(1)(c), line 35. Omit “harm, likely harm or potential harm”. Insert instead “harm or likely harm”.
- No. 21 **Matters to be considered when imposing penalty**
Page 29, Schedule 3[128], proposed section 364A(1)(d), line 39. Omit “harm, likely harm or potential harm”. Insert instead “harm or likely harm”.
- No. 22 **Matters to be considered when imposing penalty**
Page 30, Schedule 3[129], line 2. Omit “, likely harm or potential harm”. Insert instead “or likely harm”.
- No. 23 **Minister may charge for water taken without approval**
Page 30, Schedule 3[131], proposed section 364A(1)(l) and (m), lines 9–12. Omit all words on the lines. Insert instead—
(l) a civil penalty order made against the person for substantially the same conduct.
- No. 24 **Legal proceedings**
Pages 30 and 31, Schedule 3[134], line 40 on page 30 to line 27 on page 31. Omit all words on the lines.
- No. 25 **Minister may charge for water taken without approval**
Page 31, Schedule 3[136], lines 31–33. Omit all words on the lines.
- No. 26 **Civil penalty levels**
Page 33, Schedule 3[137], proposed section 370F, lines 23–27. Omit all words on the lines. Insert instead—

370F Civil penalty levels

The following table sets out the maximum civil penalties under this Act—

Tier	Penalty for individuals		Penalty for corporations	
	Penalty	Additional penalty for each day contravention continues	Penalty	Additional penalty for each day contravention continues
Tier A	10,000 penalty units	1,200 penalty units	45,500 penalty units	2,400 penalty units
Tier B	4,550 penalty units	600 penalty units	18,200 penalty units	1,200 penalty units
Tier C	100 penalty units	—	100 penalty units	—

- No. 27 **Limitation period**
Page 34, Schedule 3[137], proposed section 370G, line 4. Omit “6 years”. Insert instead “3 years”.

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- No. 28 **Criminal proceedings during civil proceedings**
Page 34, Schedule 3[137], proposed section 370J(2), lines 21–25. Omit all words on the lines. Insert instead—
- (2) Proceedings stayed under this section must be dismissed if, in the criminal proceedings, the person is—
 - (a) convicted or found guilty, or
 - (b) found not guilty.
- No. 29 **Criminal proceedings after civil proceedings**
Page 34, Schedule 3[137], proposed section 370K, lines 27–30. Omit all words on the lines. Insert instead—
- Criminal proceedings must not be commenced against a person if a civil penalty order has been made against the person, under this Act or another law, for substantially the same conduct.
- No. 30 **Civil proceedings after criminal proceedings**
Page 34, Schedule 3[137], proposed section 370L, lines 32–34. Omit all words on the lines. Insert instead—
- The Court must not make a civil penalty order against a person if the person has, for an offence under this Act or another law in relation to substantially the same conduct, been—
- (a) convicted or found guilty, or
 - (b) found not guilty.
- No. 31 **Proof of state of mind**
Page 35, Schedule 3[137], proposed section 370Q(2), line 33. Omit “section”. Insert instead “section 91J(2), 340A(2), 344(1) or (2),”.
- No. 32 **Minister may charge for water taken without approval**
Page 36, Schedule 3[137], proposed section 370S(2)(g) and (h), lines 32–34. Omit all words on the lines. Insert instead—
- (g) other matters the Court considers relevant.
- No. 33 **Transitional provisions—offences**
Pages 38 and 39, Schedule 3[146], line 36 on page 38 to line 4 on page 39. Omit all words on the lines.
- No. 34 **Transitional provisions—charges for water taken without approval**
Page 39, Schedule 3[146], lines 5–7. Omit all words on the lines.
- No. 35 **Transitional provisions—orders relating to monetary benefits**
Page 39, Schedule 3[146], lines 8–10. Omit all words on the lines.
- No. 36 **Transitional provisions—cancellation orders**
Page 39, Schedule 3[146], lines 11–13. Omit all words on the lines.
- No. 37 **Transitional provisions—community benefit projects**
Page 39, Schedule 3[146], lines 14–17. Omit all words on the lines.
- No. 38 **Transitional provisions—jurisdictional limits**
Page 39, Schedule 3[146], lines 18–21. Omit all words on the lines.
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- No. 39 **Transitional provisions—multiple contraventions**
Page 39, Schedule 3[146], lines 22–27. Omit all words on the lines.
- No. 40 **Transitional provisions—use of photographs and images**
Page 39, Schedule 3[146], lines 28–34. Omit all words on the lines.
- No. 41 **Transitional provisions—orders for contravention of civil penalty provisions**
Page 39, Schedule 3[146], lines 35–38. Omit all words on the lines.
- No. 42 **Minister may charge for water taken without approval**
Page 40, Schedule 3[152], proposed definition of *administrative penalty*, paragraph (a), line 26. Omit “or 91O”.
- No. 43 **Penalty levels**
Page 42, Schedule 4[1], lines 3 and 4. Omit all words on the lines.
- No. 44 **Compliance cost notices**
Page 42, Schedule 4[2], proposed section 140A(2), lines 18–22. Omit all words on the lines. Insert instead—

 (2) The amount to be paid under a compliance cost notice must be calculated by reference to the hourly pay rate of the departmental officers undertaking the relevant compliance functions.
- No. 45 **Transitional provisions—penalty notices**
Page 43, Schedule 4[5], lines 6–11. Omit all words on the lines.