



National Water Commission Amendment Act 2012

No. 70, 2012

**An Act to amend the *National Water Commission
Act 2004*, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 70, 2012

An Act to amend the *National Water Commission Act 2004*, and for related purposes

[Assented to 27 June 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *National Water Commission Amendment Act 2012*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	27 June 2012
2. Schedule 1, Part 1	1 July 2012.	1 July 2012
3. Schedule 1, Part 2	The day this Act receives the Royal Assent.	27 June 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments commencing on 1 July 2012

National Water Commission Act 2004

1 Section 4 (definition of *Australian Water Fund*)

Repeal the definition.

2 Section 4 (definition of *Australian Water Fund Account*)

Repeal the definition.

3 Section 4 (at the end of the definition of *COAG*)

Add “, and includes any subcommittee (however described) of COAG that deals with matters relating to water”.

4 Section 4 (definition of *Natural Resource Management Ministerial Council*)

Repeal the definition.

5 Saving provision—repeal of definition

Despite the repeal of the definition of *Natural Resource Management Ministerial Council* by this Schedule, that definition continues to apply, after this item commences, for the purposes of the *Water Act 2007* as if the repeal had not happened.

6 Subsections 7(1), (2) and (3)

Repeal the subsections, substitute:

- (1) The NWC has the following functions:
 - (a) if requested by COAG, to carry out audits to determine:
 - (i) whether parties to the NWI are implementing their commitments under the NWI, or any other agreement between the Commonwealth and a State or Territory, in relation to the parties’ management and regulation of their water resources; and
 - (ii) the effectiveness of that implementation;
 - (b) every 3 years:

Schedule 1 Amendments

Part 1 Amendments commencing on 1 July 2012

- (i) to assess the progress of parties to the NWI towards achieving the objectives and outcomes of, and within the timelines required by, the NWI; and
 - (ii) to advise COAG of those assessments; and
 - (iii) to advise and make recommendations to COAG on actions that the parties might take to better achieve those objectives and outcomes;
- (c) to conduct any other assessments in relation to matters relating to:
- (i) the NWI; or
 - (ii) any other agreement between the Commonwealth and a State or Territory, but only if that other agreement provides for the NWC to have this function;
- particularly in relation to matters that are significant for achieving the objectives and outcomes of the NWI;
- (d) to monitor areas that are significant for achieving the objectives and outcomes of the NWI;
- (e) to assist with the implementation of the NWI by providing information and guidance in relation to the functions mentioned in paragraphs (a) to (d), and to undertake activities that promote the objectives and outcomes of the NWI;
- (f) if requested to do so by the Minister, to advise and make recommendations to the Commonwealth in relation to the functions mentioned in paragraphs (a) to (d);
- (g) if requested to do so by the Minister, to advise and make recommendations to the Minister in relation to any Commonwealth program that relates to the management and regulation of Australia's water resources;
- (h) to advise COAG on whether a State or Territory is implementing its commitments under any agreement (other than the NWI) between the Commonwealth and the State or Territory relating to the management and regulation of Australia's water resources, but only if the agreement provides for the NWC to have this function;
- (i) if requested by COAG, to conduct any study or analysis, or to provide any report, in relation to:
- (i) matters of national significance relating to water (including the sustainable management of water resources and access to, and use of, water); or
 - (ii) the COAG Water Reform Framework;

- (j) any other function conferred by another law of the Commonwealth or prescribed by the regulations.

7 Transitional and application provision—functions

- (1) The National Water Commission is to conduct the first assessment for the purposes of paragraph 7(1)(b) of the *National Water Commission Act 2004* (as inserted by this Schedule) in 2014.
- (2) A function that is conferred on the National Water Commission, or prescribed, for the purposes of paragraph 7(1)(f) of the *National Water Commission Act 2004* (as in force immediately before this item commences) by a law that is, or regulations that are, in force at that time is taken, after that time, to have been conferred for the purposes of paragraph 7(1)(j) of that Act (as inserted by this Schedule).

8 Subsection 7(5)

Omit “paragraph (2)(c) or”.

9 Paragraph 8(1)(b)

Omit “3, but no more than 6,”, substitute “2, but no more than 4,”.

10 Subsections 8(2) and (3)

Omit “3”, substitute “2”.

11 Subsection 19(1)

Omit “8 meetings”, substitute “5 meetings”.

12 Application provision—meetings

The amendment of subsection 19(1) of the *National Water Commission Act 2004* made by this Schedule applies in relation to 2012 and later calendar years.

13 Subsection 19(3)

Omit “4 Commissioners”, substitute “3 Commissioners”.

14 Paragraph 24(1)(a)

Repeal the paragraph, substitute:

- (a) to administer financial assistance, awarded by the Minister to particular projects relating to Australia’s water resources,

Schedule 1 Amendments

Part 1 Amendments commencing on 1 July 2012

from any Commonwealth program referred to in paragraph 7(1)(g); and

15 Subsection 25(2)

Omit “3 years”, substitute “5 years”.

16 At the end of subsection 25(3)

Add:

Note: A person who is appointed as both the CEO and a Commissioner would be appointed for up to 5 years as CEO, and up to 3 years as a Commissioner (see subsection (2) of this section and subsection 11(2)).

17 Part 5 (heading)

Repeal the heading, substitute:

Part 5—Reviews of the NWC

18 Section 38 (heading)

Repeal the heading, substitute:

38 Reviews of the NWC

19 Subsection 38(1)

Omit “After the NWC has reviewed the NWI comprehensively and advised COAG of the outcome of the review (as required by paragraph 7(2)(i)), a review”, substitute “Reviews”.

20 Subsection 38(2)

Repeal the subsection, substitute:

- (2) A review must be conducted before the end of:
 - (a) 2017; and
 - (b) every following 5 year period.
- (2A) If COAG has provided for a review to be conducted in accordance with a process, the review must be conducted in accordance with that process.
- (2B) A written report must be made about a review.

21 Part 6

Repeal the Part.

22 Section 44

Repeal the section, substitute:

44 Public availability of certain documents

- (1) The NWC must make any audit or assessment done for the purposes of paragraph 7(1)(a), (b) or (c) (including any advice given or recommendation made for the purposes of any of those paragraphs) available to the public on the NWC's website, unless the Minister does not agree.
- (2) If the Minister does not agree under subsection (1), the Minister must advise the NWC of the reasons for not agreeing. The NWC must make these reasons available to the public on the NWC's website.
- (3) The NWC must not make any advice or recommendation (other than an advice or recommendation referred to in subsection (1)) available to the public without the agreement of the Minister.

23 Subsection 45(2)

Omit "the Australian Water Fund Account or another Commonwealth program referred to in subparagraph 7(1)(d)(ii)", substitute "a Commonwealth program referred to in paragraph 7(1)(g)".

24 Application provision—financial assistance and annual report

The amendment of subsection 45(2) of the *National Water Commission Act 2004* made by this Schedule applies in relation to the financial year ending on 30 June 2013 and later financial years.

Part 2—Amendments commencing on Royal Assent

National Water Commission Act 2004

25 Section 39

Repeal the section.

26 Paragraph 43(c)

Repeal the paragraph, substitute:

- (c) the record or disclosure:
 - (i) is not made in the course of performing that, or any other, function or duty for the purposes of this Act; and
 - (ii) is not required or permitted by any other law.

27 Subsection 45(1)

Omit “within 60 days”.

28 Application provision—annual reports

The amendment of subsection 45(1) of the *National Water Commission Act 2004* made by this Schedule applies in relation to the financial year ending on 30 June 2012 and later financial years.

*[Minister’s second reading speech made in—
Senate on 22 March 2012
House of Representatives on 21 June 2012]*

(31/12)
