

THE WATER ACT 2007 (EXTRACT)

Water Information Part 7
Functions and powers of the Bureau and Director of Meteorology Division 2

Section 120

Division 2—Functions and powers of the Bureau and Director of Meteorology

120 Additional functions of the Bureau

The Bureau has the following functions in addition to its functions under the *Meteorology Act 1955*:

- (a) collecting, holding, managing, interpreting and disseminating Australia's water information;
- (b) providing regular reports on the status of Australia's water resources and patterns of usage of those resources;
- (c) providing regular forecasts on the future availability of Australia's water resources;
- (d) compiling and maintaining water accounts for Australia, including a set of water accounts to be known as the National Water Account;
- (e) issuing National Water Information Standards;
- (f) giving advice on matters relating to water information;
- (g) undertaking and commissioning investigations to enhance understanding of Australia's water resources;
- (h) any other matter, relating to water information, specified in the regulations.

121 Contents of the National Water Account

The National Water Account is to include such matters (if any) as are specified in the regulations.

122 Publishing water accounts

- (1) The Director of Meteorology must annually publish the National Water Account in a form readily accessible by the public.
- (2) The Director of Meteorology may publish other water accounts from time to time.

- (3) This section does not prevent parts or all of the National Water Account, or any other water accounts, from being updated at any other time.

123 Publishing water information

- (1) The Director of Meteorology may at any time publish, in a form readily accessible by the public, particular water information that the Bureau holds.
- (2) However, the Director of Meteorology must not:
 - (a) publish particular water information if he or she believes it would not be in the public interest; or
 - (b) publish water information in a way that expressly identifies a person's water use, unless the water information:
 - (i) is already published; or
 - (ii) is otherwise publicly available in a form that expressly identifies the person's water use.

Division 3—Water information

124 Object of this Division

The object of this Division is to enable the Bureau to fulfil its function of collecting water information.

125 Meaning of *water information* etc.

In this Act:

water information means any raw data, or any value added information product, that relates to:

- (a) the availability, distribution, quantity, quality, use, trading or cost of water; or
 - (b) water access rights, water delivery rights or irrigation rights;
- and includes contextual information relating to water (such as land use information, geological information and ecological information).

126 Giving of water information to the Bureau

- (1) A person specified in the regulations, or included in a class of persons specified in the regulations, must give to the Bureau a copy of water information of a kind specified in the regulations that is in the person's possession, custody or control (whether held electronically or in any other form).
- (2) The copy must be given to the Bureau within the time specified in the regulations.
- (3) The water information contained in the copy:
 - (a) must be given in the form or manner specified in the regulations; and
 - (b) must comply with any applicable National Water Information Standards.
- (4) A person must not contravene an obligation imposed on the person under this section.

Civil penalty: 50 penalty units.

- (5) A person must not, in purported compliance with a requirement under this section, give to the Bureau information that is false or misleading in a material particular.

Civil penalty: 60 penalty units.

- (6) Subsection (4) does not apply to the extent that the person has a reasonable excuse. However, a person does not have a reasonable excuse merely because the water information in question is:
- (a) of a commercial nature; or
 - (b) subject to an obligation of confidentiality arising from a commercial relationship; or
 - (c) commercially sensitive.

127 Director of Meteorology may require water information

- (1) The Director of Meteorology may, in writing, require any person, or each person included in a class of persons, to give specified water information to the Bureau:
- (a) within a specified period of time; and
 - (b) in a specified form or manner; and
 - (c) in accordance with any applicable National Water Information Standards.

- (2) A person must not fail to comply with a requirement under this section.

Civil penalty: 50 penalty units.

- (3) A person must not, in purported compliance with a requirement under this section, give to the Bureau information that is false or misleading in a material particular.

Civil penalty: 60 penalty units.

- (4) Subsection (2) does not apply to the extent that the person has a reasonable excuse. However, a person does not have a reasonable excuse merely because the water information in question is:
- (a) of a commercial nature; or

- (b) subject to an obligation of confidentiality arising from a commercial relationship; or
- (c) commercially sensitive.

128 Prohibitions on disclosure of information do not apply

This Division has effect despite any law of the Commonwealth, a State or a Territory prohibiting disclosure of the information.

129 Ownership etc. of information unaffected by its disclosure

- (1) Giving information under this Division does not affect a person's property rights with respect to that information.
- (2) This section does not prevent the use of the information by the Bureau for any purpose that is relevant to any of the Bureau's functions under this Act or any other Act.

Division 4—National Water Information Standards

130 National Water Information Standards

- (1) The Director of Meteorology may, by legislative instrument, issue National Water Information Standards relating to water information.
- (2) Without limiting subsection (1), the National Water Information Standards may deal with all or any of the following:
 - (a) collecting water information;
 - (b) measuring water;
 - (c) monitoring water;
 - (d) analysing water;
 - (e) transmitting water information;
 - (f) accessing water information;
 - (g) retaining and storing water information;
 - (h) reporting water information;
 - (i) water accounting;
 - (j) any other matter relating to water information that is specified in the regulations.

131 Adoption of other standards

- (1) In issuing National Water Information Standards, the Director of Meteorology may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in a standard:
 - (a) as in force or existing at a particular time; or
 - (b) as in force or existing from time to time;that relates to water information and that any other person or body has made or issued.
- (2) Subsection (1) has effect despite anything in subsection 14(2) of the *Legislative Instruments Act 2003*.

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- (3) If the Director of Meteorology makes provision in relation to a matter by applying, adopting or incorporating a matter contained in a standard that another person or body has made or issued, the Director of Meteorology must ensure that:
- (a) the text of the matter applied, adopted or incorporated is made publicly available on the Bureau's website, unless that text is set out in the relevant National Water Information Standard; and
 - (b) if the text of the matter is applied, adopted or incorporated as in force or existing from time to time—any subsequent amendments of that text are made publicly available on that website.

132 Consultations in preparing National Water Information Standards

- (1) The Director of Meteorology must consult with the States in preparing National Water Information Standards.
- (2) In preparing National Water Information Standards, the Director of Meteorology may undertake such other consultation as he or she considers appropriate.

133 Compliance notices

- (1) If a person has contravened a requirement of the National Water Information Standards, the Minister or an authorised person appointed by the Minister may give the person a notice requiring the person to rectify the contravention, and comply with that requirement, within the time specified in the notice.
- (2) A person must not fail to comply with a notice given to the person under this section.
Civil penalty: 60 penalty units.
- (3) Subsection (2) does not apply to the extent that the person has a reasonable excuse.

Division 5—Miscellaneous

134 Delegation by Director of Meteorology

- (1) The Director of Meteorology may, in writing, delegate all or any of his or her functions and powers under this Part (other than sections 130 and 131) to an SES employee or acting SES employee.
- (2) The Director of Meteorology may, by writing, delegate any or all of his or her functions and powers under this Part to a person who holds, or acts in, an office or position:
 - (a) with a State or a Territory, or an authority of a State or a Territory; and
 - (b) at a level equivalent to that of an SES employee;if the State, Territory or authority agrees to the delegation.
- (3) A delegate under subsection (1) or (2) must comply with any written directions of the Director of Meteorology.

135 Directions by Minister

- (1) The Minister may, by notice in writing to the Director of Meteorology, give directions with respect to the performance of the Bureau's functions or the exercise of its powers.
- (2) The Director of Meteorology must comply with any such direction.
- (3) A direction made under subsection (1) is a legislative instrument, but neither section 42 (disallowance) nor Part 6 (sunsetting) of the *Legislative Instruments Act 2003* applies to the direction.