



Offences and penalties

Complying with NSW water management laws

Fact sheet

The Natural Resources Access Regulator (NRAR) is an independent regulator established under the NSW Natural Resources Access Regulator Act 2017.

We ensure the lawful use of water so communities and the environment get their fair share.

NRAR is equally committed to making it easy to follow the water management rules as we are to enforcing them when they are broken.

NSW water management legislation outlines the types of breaches and penalties that may apply when the water laws are broken.

Unlawful water take and harming a water source are serious breaches that can threaten water supplies for authorised water users and the environment.

NRAR monitors and enforces compliance with the *Water Management Act 2000* (WM Act) and the *Water Act 1912* (the Water Act). The WM Act replaces the Water Act for all areas where a Water Sharing Plan applies.

Unlawful activities and breaches

Breaches under the WM Act broadly relate to the take and use of water, works affecting waterfront land or aquifers, water metering and bore drilling. Other breaches relate to failure to comply with enforcement actions, evidence gathering and false or misleading information.

Some key breaches and penalties under the WM Act are outlined below.

Water-take licence and approval breaches include:

- taking water, including groundwater, without holding a water access licence
- using water without a water use approval
- using water supply works, such as pumps, bores and dams, without a water management work approval
- taking water when there is not enough water in the water allocation account for an access licence
- failing to comply with the terms and conditions of a licence or approval
- taking water or using works while a licence or approval is suspended.

Offences relating to flood works and works affecting waterfront land or aquifers include:

- constructing flood works on floodplains, such as levee banks, without a flood work approval
- carrying out works on waterfront land (within 40 meters of the banks of a watercourse) without a controlled activity approval
- harming an aquifer or waterfront land by affecting its capacity to hold or carry water
- failing to comply with the terms and conditions of an approval.

Metering and record-keeping offences include:

- failing to install a meter when required
- taking water when a meter is not working or failing to report a malfunctioning meter
- not using water-take logbooks when required
- damaging, destroying, or improperly operating a water meter.

Other key breaches include:

- drilling a bore when not authorised by a driller's licence
- not complying with a direction, including a stop-work order or an order to remove unlawful works
- not complying with a notice to provide information or records during an investigation
- interfering with seized objects
- a related person of a corporation, such as a director, obtaining monetary benefits through someone else's breach
- providing false or misleading information in relation to an application, a requirement or for any purpose under the WM Act.

Exemptions from some licence and approval requirements may apply to low-impact activities under certain conditions. This includes basic landholder rights, such as taking water for domestic use or to water stock, and constructing small dams on minor streams, known as harvestable rights dams.

Parties that can be held liable for a breach

Anyone who causes or permits a breach under the WM Act, or arranges for another person to commit an offence, is liable for the breach. If a landholder engages a contractor who commits a breach, both the landholder and contractor are liable.

Property occupiers and co-holders of licences and approvals can be held accountable for breaches on their property or breaches of their licence or approval.

Penalties

There are substantial maximum penalties for breaches under the WM Act. Criminal offence provisions that deal with intentional or negligent conduct are identified as Tier 1 offences. Civil penalty provisions also apply for key breaches under the WM Act, except for Tier 1 criminal offences. Civil penalty Tier A contraventions attract the highest possible penalties under the WM Act.

Tier 1 offences

The maximum penalty for individuals is \$1.1 million and/or prison terms of two years and, in the case of a continuing offence, a further penalty of \$132,000 for each day the offence continues.

The maximum penalty for corporations is \$5.005 million and, in the case of a continuing offence, a further penalty of \$264,000 for each day the offence continues.

Tier 2 offences

The maximum penalty for individuals is \$500,500 and, in the case of a continuing offence, a further penalty of \$66,000 for each day the offence continues.

The maximum penalty for corporations is \$2.002 million and, in the case of a continuing offence, a further penalty of \$132,000 for each day the offence continues.

Tier A civil contraventions

The maximum penalty for individuals is the greater of \$4.9995 million or 5 times the value of water taken, and in the case of a continuing contravention, a further penalty of \$242,000 for each day the contravention continues.

The maximum penalty for corporations is the greater of \$9.999 million or 5 times the value of the water taken, and in the case of a continuing contravention, a further penalty of \$495,000 for each day the contravention continues.

Tier B civil contraventions

The maximum penalty for individuals is \$4.9995 million, and in the case of a continuing contravention, a further penalty of \$242,000 for each day the contravention continues.

The maximum penalty for corporations is \$9.999 million and in the case of a continuing contravention, a further penalty of \$495,000 for each day the contravention continues.

Tier C civil contraventions

The maximum penalty for individuals is \$2.53 million and in the case of a continuing contravention, a further penalty of \$121,000 for each day the contravention continues.

The maximum penalty for corporations is \$5.060 million, and in the case of a continuing contravention, a further penalty of \$242,000 for each day the contravention continues.



Penalty notices

Offences can also result in penalty notices being issued. The penalties for severe offences are set at \$7,700 for individuals and \$15,400 for corporations, while other offences are \$3,000 and \$6,000 respectively.

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More information

To contact NRAR, you can write to us at nrar.enquiries@nrar.nsw.gov.au

Find more information about how to comply with the water laws on the NRAR website at nrar.nsw.gov.au or scan the QR code below to find out more about what penalties apply and how we respond when the rules are broken.

