



## FACT SHEET SERIES – COMPLIANCE WITH NSW WATER MANAGEMENT LAWS

# Compliance powers

November 2015

DPI Water is responsible for managing the state's surface water and groundwater resources. A key part of this responsibility is ensuring compliance with NSW water management laws.

DPI Water works to prevent, detect and stop illegal water activities by:

- supporting voluntary compliance through education and providing information so water users and the community are aware of and understand their regulatory obligations
- monitoring compliance with the *Water Management Act 2000* (the Water Management Act) and *Water Act 1912* (the Water Act) and taking appropriate action when a breach occurs.

The Water Act is being progressively repealed and replaced by the Water Management Act, but some provisions are still in force.

Copies of the Acts and associated regulations are available on the NSW Government legislation site at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

### Why are compliance powers needed?

Water compliance powers help ensure water is shared between all lawful water users and the environment, and our water sources remain secure and sustainable for the long term.

While most water users follow the rules, some people carry out illegal water activities. Sometimes actions are deliberate and sometimes they happen because people do not know the law.

Water theft and harming a water source are serious crimes which can threaten water supplies for legitimate water users and harm the environment. Tough penalties, clear offences and robust investigatory and enforcement powers are consistent with compliance powers in other NSW legislation, such as pollution laws.

DPI Water has broad compliance powers to help deter would-be offenders and prevent water theft and other illegal activities that can affect water supplies for legitimate water users and harm the environment.

DPI Water authorised officers actively monitor water extraction and use to ensure water is taken and used lawfully.

The DPI Water Compliance Policy explains how we manage compliance with NSW water management laws. The policy is available on the DPI Water website at [www.water.nsw.gov.au](http://www.water.nsw.gov.au) under Water licensing > Compliance

### Who is a DPI Water authorised officer?

A DPI Water authorised officer (such as a water regulation officer, monitoring officer or investigator) is an officer appointed by the Minister to exercise certain powers under the Water Management Act and Water Act.

The powers of authorised officers can be exercised for any of the following purposes:

- determining whether there has been compliance with or a contravention of the Water Management Act, the Water Act or the regulations or any licence, approval, notice or requirement issued or made under the Water Management Act or the Water Act
- obtaining information or records for purposes connected with the administration of the Water Management Act or the Water Act
- generally for administering the Water Management Act, the Water Act and protecting the environment.

### Can a DPI Water authorised officer enter my property?

Yes, DPI Water authorised officers have powers to enter properties. However, these powers do not apply to any part of premises used only for residential purposes, which can only be entered with the permission of the occupier or under the authority of a search warrant.

These powers are necessary to enable authorised officers to administer NSW water management laws and investigate reports of suspected illegal water activities.

DPI Water requires its authorised officers to carry evidence of their authorisation such as photo ID or written authorisation. You can ask to see this.

### What powers to DPI Water authorised officers have?

DPI Water authorised officers have a number of powers including the power to:

- require people who are suspected of committing an offence to provide their name and address. Failing to comply or providing false information could result in a fine or prosecution.
- require people to answer questions for the purposes of administering the Water Management Act and Water Act, such as investigating suspected illegal activities. Failing to answer a question could result in a fine or prosecution. However, authorised officers will provide appropriate warnings when asking questions.
- record questions and answers
- undertake activities at properties (for example, inspect and test equipment)
- seize items relevant to their investigation (for example, invoices or equipment)
- require people to assist them (for example, turn on a pump)
- require people to supply information and records that are in their possession or to which they can obtain lawful access (for example, metering records)
- issue penalty infringement notices, which requires an offender to pay a fine of \$750 (individual) or \$1,500 (corporation).

Our authorised officers are trained to undertake their role in a professional manner that is:

- objective, fair and impartial
- consistent with the presumption of innocence
- within their authority
- in accordance with the law
- respectful of individuals.

### What can I be directed to do?

The Water Management Act contains powers to direct people to do certain things, including:

- stop certain activities
- remove unlawful works
- remediate waterfront land or the water source and protect it from harm
- prepare reports
- install and maintain metering equipment
- take action to protect water sources.

It is an offence not to comply with a direction. If you do not comply with a direction within the specified timeframe, there are powers enabling the Minister to get someone to undertake the required measures and recover the costs from you.

Directions can be issued to any person who has care, control or management of land, an activity, or work.

### Can DPI Water impose water restrictions?

Yes, DPI Water can impose water restrictions. An order can be issued to prohibit or restrict the taking of water from a specified water source, including an aquifer, for a specified period under section 324 of the Water Management Act.

DPI Water authorised officers monitor compliance with temporary water restriction orders.

### More information

This fact sheet is one in a series explaining water management compliance and associated issues.

You can find the fact sheet series and more information about licensing and compliance on the DPI Water website at [www.water.nsw.gov.au](http://www.water.nsw.gov.au) under Water Licensing.

For enquiries you can contact us:

- by phone 1800 353 104
- by email [water.enquiries@dpi.nsw.gov.au](mailto:water.enquiries@dpi.nsw.gov.au)

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Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (November 2015). However, because of advances in knowledge, users are reminded of the need to ensure that information upon which they rely is up to date and to check currency of the information with the appropriate officer of the Department of Primary Industries or the user's independent adviser.

Published by the Department of Primary Industries, a division of NSW Department of Industry, Skills and Regional Development.

2012-0171-b