

# Fluoridation of Public Water Supplies Act 1957

As at 23 October 2014

**Does not include amendments by:**

*Water Industry Competition Amendment (Review) Act 2014 No 57* (not commenced)

**Reprint history (since 1972):**

Reprint No 1

14 October 1974

Reprint No 2

16 August 1976

Reprint No 3

6 October 1978

Reprint No 4

15 March 1984

Reprint No 5

30 October 1991

Reprint No 6

29 June 1999

**Long Title**

An Act to authorise and control the addition of fluorine to public water supplies; and for purposes connected therewith.

**1 Name of Act and commencement**

(1) This Act may be cited as the *Fluoridation of Public Water Supplies Act 1957*.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**2 Crown bound**

This Act binds the Crown.

**3 Definitions**

In this Act, unless the context or subject matter otherwise indicates or requires:

"Committee" means the Fluoridation of Public Water Supplies Advisory Committee constituted under this Act.

"**Fluorine**" includes any compound of fluorine.

"**Prescribed**" means prescribed by this Act or regulations.

"**Public water supply**" means any water supply used for supplying water to the public.

"**Regulations**" means regulations made under this Act.

"**Secretary**" means the Secretary of the Department of Health.

"**Water supply authority**" means any person or body, corporate or unincorporate, who or which supplies water to the public.

#### **4 Fluoridation of Public Water Supplies Advisory Committee**

(1) For the purposes of this Act there shall be constituted a Committee, to be called the Fluoridation of Public Water Supplies Advisory Committee, which shall consist of six persons.

(2) The members of the Committee shall be:

(a) a person nominated by the Minister, being an officer of the Department of Health or an employee of a public health organisation within the meaning of the *Health Services Act 1997*, and

(b) five persons (in this section referred to as "**appointed members**") appointed by the Minister.

Of the members so appointed:

(i) one shall be appointed from a panel of names submitted by the Australian Medical Association (NSW) Limited,

(ii) one shall be appointed from a panel of names submitted by the Australian Dental Association (New South Wales Branch),

(iii) one shall be appointed from a panel of names submitted by the Institution of Engineers (Australia),

(iv) one shall be appointed from a panel of names submitted by the Local Government and Shires Association of New South Wales, and

(v) one shall be appointed by the Minister after consultation with such persons or bodies, corporate or unincorporate as the Minister thinks fit.

(3)

(a) The member referred to in paragraph (a) of subsection (2) shall be chairperson of the Committee.

(b) The chairperson shall preside at all meetings of the Committee at which the chairperson is present.

In the absence of the chairperson from any meeting the members present shall appoint one of their number to preside at that meeting.

(4)

(a) The procedure for the calling of meetings of the Committee and for the conduct of business at such meetings shall, subject to any regulations in relation thereto and to this Act, be as determined by the Committee.

(b) At any meeting of the Committee three members shall form a quorum, and the decision of the majority of the members present at any meeting at which there is a quorum shall be the decision of the Committee.

(c) The chairperson or member presiding at any meeting of the Committee shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

- (5) The appointed members shall hold office for a period of three years and shall be eligible for reappointment.
- (6) If a casual vacancy occurs in the office of an appointed member, a member shall be appointed by the Minister to fill the vacant office and shall hold office for the balance of the predecessor's term of office.
- (7) The Minister may from time to time appoint a deputy to act in the place of any appointed member during the illness or absence of such appointed member.
- (8) The Minister may, for any cause which to the Minister seems sufficient, remove any member or deputy member from office.
- (9) A member, or a deputy member while acting in the place of a member, is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member or deputy member.

## **5 Functions of Committee**

- (1) The Committee may initiate and refer to the Minister:
  - (a) recommendations for making, altering or repealing any regulation,
  - (b) recommendations relating to the administration of this Act,
  - (c) proposals with respect to the addition of fluorine to public water supplies.
- (2) It shall be the duty of the Committee to consider and advise the Minister upon such matters and questions as the Minister may from time to time refer to it relating to:
  - (a) any proposal for making, altering or repealing any regulation,
  - (b) the administration of this Act,
  - (c) any proposal with respect to the addition of fluorine to public water supplies,
  - (d) the question of fluoridating a public water supply, as referred to the Secretary for consideration under section 6A.

## **6 Addition of fluorine to public water supplies**

- (1) Notwithstanding anything contained in any other Act, a water supply authority may, subject to the provisions of this section and the regulations, add fluorine to any public water supply under its control.
- (1A) Notwithstanding anything contained in any other Act, a water supply authority shall, subject to this Act and the regulations, add fluorine to any public water supply under its control, if directed to do so by the Secretary.
- (2) A water supply authority shall not add fluorine to any public water supply except with the approval of or at the direction of the Secretary.
- (3) A person, not being a water supply authority, shall not add fluorine to any public water supply.
- (4) A water supply authority making application for the approval of the Secretary under the provisions of this section shall specify in the application the public water supply in respect of which the approval is sought and shall furnish to the Secretary such information as the Secretary may in any case require.
- (5)
  - (a) The Secretary may by notification published in the Gazette approve or refuse any such application.
  - (b) Such notification shall for the purpose of section 11 be deemed to be a regulation.
  - (c) Any approval granted by the Secretary under the provisions of this section shall be subject to:
    - (i) a condition requiring the water supply authority to whom the approval is granted to maintain the content of fluorine in the public water supply in respect of which the approval is granted at a concentration of not more than the maximum nor less than the minimum concentration (calculated as parts per million) specified in the instrument of approval,
    - (ii) a condition prohibiting such water supply authority from adding to

such public water supply fluorine in a form other than that specified in the instrument of approval, and

(iii) such other conditions as may in any case be determined by the Secretary and specified in the instrument of approval.

(d) The Secretary may at any time after granting any such approval:

(i) revoke the approval,

(ii) revoke any condition attached to the approval other than a condition attached thereto pursuant to subparagraph (i) or (ii) of paragraph (c),

(iii) vary any condition attached to the approval, or

(iv) attach new conditions to the approval.

(6) Any person, not being a water supply authority, who contravenes or fails to comply with any of the provisions of this section or any water supply authority contravening or failing to comply with any of the provisions of this section or any of the conditions attached to an approval granted to it under the provisions of this section, shall be guilty of an offence against this Act.

### **6A Directions**

(1) The Secretary may, by notification published in the Gazette, direct a water supply authority to add fluorine to a public water supply.

(2) A direction may be given only if the water supply authority has referred the question of fluoridating the public water supply to the Secretary for consideration and the Secretary has received the advice of the Committee as regards the question.

(2A) Subsection (2) does not apply in relation to a direction given to a licensed retail supplier within the meaning of the *Water Industry Competition Act 2006*.

(3) A direction is subject to:

(a) a term requiring the water supply authority to maintain the content of fluorine in the public water supply at a concentration of not more than the maximum nor less than the minimum concentration (calculated as parts per million) specified in the direction,

(b) a term prohibiting the water supply authority from adding to the public water supply fluorine in a form other than that specified in the direction, and

(c) such other terms as may be determined by the Secretary and specified in the direction.

(4) The Secretary may at any time after giving a direction:

(a) revoke the direction,

(b) revoke any term attached to the direction, other than a term referred to in subsection (3) (a) or (b),

(c) vary any term attached to the direction, or

(d) attach new terms to the direction.

(5) Any water supply authority contravening a direction or any terms attached to the direction is guilty of an offence against this Act.

### **6B Discontinuance of fluoridation**

(1) A water supply authority to which an approval has been granted or a direction has been given shall not discontinue fluoridating the public water supply concerned, unless the approval or direction is revoked by the Secretary.

(2) A water supply authority contravening this section is guilty of an offence against this Act.

### **7 Certificates to be evidence of certain matters**

(1) A certificate purporting to be signed by the Secretary certifying that any water supply authority has or has not been granted by the Secretary an approval under this Act to add fluorine to a public water supply specified in the certificate, that any such approval has or has not been revoked or that the conditions attached to any such approval are the conditions specified in the certificate, shall without proof of the signature or of the

official character of the person appearing to have signed the certificate be prima facie evidence of the matters certified in and by the certificate.

(2) A certificate purporting to be signed by the Secretary certifying that:

- (a) any water supply authority has or has not been directed by the Secretary to add fluorine to a public water supply specified in the certificate,
- (b) any such direction has or has not been revoked, or
- (c) the terms attached to any such direction are the terms specified in the certificate,

is without proof of the signature or the official character of the person appearing to have signed the certificate prima facie evidence of the matters certified in and by the certificate.

### **8 Proof of certificate of analyst**

(1) An analyst analysing any substance submitted to the analyst may give a certificate of the result of the analysis.

(2) In any legal proceedings under this Act the production of a certificate purporting to be signed by an analyst shall be prima facie evidence of the identity of the substance analysed and of the result of such analysis without proof of the signature, employment, or appointment of the person appearing to have signed the certificate.

(3) For the purposes of this section "**analyst**" means any person employed by the Government of New South Wales as an analyst or any person who is an approved analyst within the meaning of the *Food Act 2003*.

### **9 Penalty**

Any person who is guilty of an offence against this Act shall be liable to a penalty not exceeding 50 penalty units, and in the case of a continuing offence, to a daily penalty not exceeding 5 penalty units.

### **10 Proceedings for offences**

Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a Magistrate.

### **11 Regulations**

(1) The Governor may make regulations not inconsistent with this Act for or with respect to:

- (a) the protection of persons employed in adding fluorine to any public water supply from inhaling fumes or dust containing fluorine,
- (b) the qualifications of persons employed in operating plant or equipment used for adding fluorine to any public water supply,
- (c) the disposal or destruction of containers from which fluorine has been removed for addition to any public water supply,
- (d) requiring a water supply authority to whom an approval under this Act has been granted or direction given to make analyses and the prescribed tests of samples of water taken at such points as the Secretary determines from the public water supply in respect of which such approval was granted or direction given and to forward to the Secretary samples of water so taken from such public water supply,
- (e) prescribing the method of making such analyses and tests and the times or intervals at which such analyses and tests shall be made,
- (f) the records to be kept for the purposes of this Act by a water supply authority to whom an approval under this Act has been granted or direction given,
- (g) all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may impose a penalty not exceeding 25 penalty units for any breach thereof, and in the case of a continuing breach, a daily penalty not exceeding 5 penalty units.

(3) The regulations may incorporate by reference, wholly or in part and with or without modification, any standards, rules, codes, specifications or methods, as in force at a particular time or as in force from time to time, prescribed or published by any authority or body (whether or not it is a New South Wales authority or body).

### Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cll	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Fluoridation of Public Water Supplies Act 1957 No 58*. Assented to 9.12.1957. Date of commencement, 3.4.1959, sec 1 (2) and GG No 33 of 20.3.1959, p 784. This Act has been amended as follows:

1965	No 33	<i>Decimal Currency Act 1965</i> . Assented to 20.12.1965. Date of commencement of sec 4, 14.2.1966, secs 1 (3), 2 (1) and the <i>Currency Act 1965</i> (Commonwealth), sec 2 (2).
1972	No 63	<i>Health Commission Act 1972</i> . Assented to 23.11.1972. Date of commencement of Sch, Part 1, 30.4.1973, sec 2 (c) and GG No 53 of 27.4.1973, p 1428.
1982	No 138	<i>Miscellaneous Acts (Health Administration) Amendment Act 1982</i> . Assented to 15.12.1982. Date of commencement of Sch 1, 17.12.1982, sec 2 (2) and GG No 177 of 17.12.1982, p 5869.
1987	No 48	<i>Statute Law (Miscellaneous Provisions) Act (No 1) 1987</i> . Assented to 28.5.1987. Date of commencement of Sch 32, except as provided by sec 2 (13), 1.9.1987, sec 2 (12) and GG No 136 of 28.8.1987, p 4809.
1989	No 50	<i>Fluoridation of Public Water Supplies (Amendment) Act 1989</i> . Assented to 19.5.1989. Date of commencement, 16.6.1989, sec 2 and GG No 73 of 16.6.1989, p 3501.
1989	No 231	<i>Food Act 1989</i> . Assented to 21.12.1989. Date of commencement of the provision of Sch 4 relating to the <i>Fluoridation of Public Water Supplies Act 1957</i> , 11.5.1990, sec 2 and GG No 62 of 11.5.1990, p 3728.
1990	No 108	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 1990</i> . Assented to 13.12.1990. Date of commencement of the provision of Sch 1 relating to the <i>Fluoridation of Public Water Supplies Act 1957</i> , assent, sec 2.
1991	No 53	<i>Hunter Water Board (Corporatisation) Act 1991</i> . Assented to 11.12.1991. Date of commencement of Sch 1, 1.1.1992, sec 2 and GG No 180 of 20.12.1991, p 10554.
1994	No 4	<i>Water Board (Corporatisation) Act 1994</i> . Assented to 12.12.1994. Date of commencement of Sch 7, 1.1.1995, sec 2 and GG No 170 of 16.12.1994, p 7400.

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1995	No 99	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 1995</i> . Assented to 21.12.1995. Date of commencement of Sch 3, 3 months after assent, sec 2 (3).
1997	No 147	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 1997</i> . Assented to 17.12.1997. Date of commencement of Sch 1.11, assent, sec 2 (2).
	No 154	<i>Health Services Act 1997</i> . Assented to 19.12.1997. Date of commencement, 1.7.1998, sec 2 and GG No 97 of 26.6.1998, p 4423.
1999	No 85	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 1999</i> . Assented to 3.12.1999. Date of commencement of Sch 2.23, assent, sec 2 (2).
2001	No 121	<i>Justices Legislation Repeal and Amendment Act 2001</i> . Assented to 19.12.2001. Date of commencement of Sch 2, 7.7.2003, sec 2 and GG No 104 of 27.6.2003, p 5978.
2003	No 43	<i>Food Act 2003</i> . Assented to 8.9.2003. Date of commencement of Sch 1, 23.2.2004, sec 2 and GG No 42 of 20.2.2004, p 711.
2006	No 104	<i>Water Industry Competition Act 2006</i> . Assented to 27.11.2006. Date of commencement, 8.8.2008, sec 2 and GG No 95 of 8.8.2008, p 7438.
2013	No 111	<i>Statute Law (Miscellaneous Provisions) Act (No 2) 2013</i> . Assented to 3.12.2013. Date of commencement of Sch 2, 3.1.2014, sec 2 (1).

This Act has also been amended pursuant to an order under secs 8 (2) and 9 (3) of the *Reprints Act 1972 No 48* (formerly *Acts Reprinting Act 1972*). Order dated 8.10.1974, and published in Gazette No 123 of 11.10.1974, p 3990, declaring that the *Fluoridation of Public Water Supplies Act 1957* is an enactment to which sec 8 (2) and sec 9 (3) of the *Acts Reprinting Act 1972* apply.

Table of amendments No reference is made to certain amendments made by the *Decimal Currency Act 1965*, the *Reprints Act 1972*, and Schedule 3 (amendments replacing gender-specific language) to the *Statute Law (Miscellaneous Provisions) Act (No 2) 1995*.

Sec 3	Am 1972 No 63, Sch; 1982 No 138, Sch 1.
Sec 4	Am 1972 No 63, Sch; 1982 No 138, Sch 1, 1989 No 50, Sch 1 (1); 1990 No 108, Sch 1; 1997 No 154, Sch 6.12; 1999 No 85, Sch 2.23; 2013 No 111, Sch 2.6.
Sec 5	Am 1972 No 63, Sch; 1982 No 138, Sch 1, 1989 No 50, Sch 1 (2).
Sec 6	Am 1972 No 63, Sch; 1982 No 138, Sch 1, 1989 No 50, Sch 1 (3).
Sec 6A	Ins 1989 No 50, Sch 1 (4). Am 2006 No 104, Sch 3.3.
Sec 6B	Ins 1989 No 50, Sch 1 (4).
Sec 7	Am 1972 No 63, Sch; 1982 No 138, Sch 1, 1989 No 50, Sch 1 (5).
Sec 8	Am 1989 No 231, Sch 4; 2003 No 43, Sch 1.3.
Sec 9	Am 1989 No 50, Sch 1 (6).

Sec 10	Am 1989 No 50, Sch 1 (7); 2001 No 121, Sch 2.119.
Sec 11	Am 1972 No 63, Sch; 1982 No 138, Sch 1; 1987 No 48, Sch 32; 1989 No 50, Sch 1 (8); 1991 No 53, Sch 1; 1994 No 88, Sch 7; 1997 No 147, Sch 1.11.