

1990 - No. 50

**WATER BOARD ACT 1987 - REGULATION**  
(Water Board (Special Areas) Regulation 1989)

NEW SOUTH WALES



*[Published in Gazette No. 14 of 25 January 1990]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Water Board Act 1987, has been pleased to make the Regulation set forth hereunder.

TIM MOORE,  
Minister for Environment.

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**PART 1 - PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Water Board (Special Areas) Regulation 1989.

**Revocation**

2. By-law No. 13 made under the Metropolitan, Water, Sewerage, and Drainage Act 1924 is revoked.

**Definitions**

3. In this Regulation:

"authorised person" means:

- (a) an employee or other person acting on behalf of the Board;
- or

(b) a member of the Police Force;

**"Board land"** means land owned by or vested in the Board;

**"Crown land"** has the same meaning as in the Crown Lands Consolidation Act 1913;

**"herbicide"** means any substance capable of destroying, or preventing the spread of, any plants;

**"pesticide"** has the same meaning as in the Pesticides and Allied Chemicals Act 1978;

**"pollutant"** has the same meaning as in the Clean Waters Act 1970;

**"the Act"** means the Water Board Act 1987;

**"vehicle"** includes:

- (a) any apparatus drawn or propelled wholly or partly by an animal, volatile spirit, steam, gas, oil, electricity or wind and which is wholly or partly used for the conveyance of persons or things;
- (b) any trailer or caravan, whether or not it is in the course of being towed;
- (c) any motor vehicle, motor carriage or motor cycle; and
- (d) any cycle;

**"wastes"** has the same meaning as in the Clean Waters Act 1970.

#### **Notice by public agencies**

4. For the purposes of section 23 (1) of the Act, notice given to the Board must:

- (a) be in writing; and
- (b) be served (by post or by lodging it at an office of the Board) on the Board; and
- (c) contain a full description of the proposed activity and a statement of the objectives of the proposed activity; and
- (d) give at least 28 days' notice of the commencement of the proposed activity.

**PART 2 - REGULATION OF SPECIAL AREAS  
GENERALLY**

**Application of Part 2**

5. This Part applies to all special areas and to any part of a special area.

**Certain conduct prohibited unless approved**

6. A person must not, except with the Board's approval and in compliance with any conditions of the approval:

- (a) dam, divert or take any water from which the Board draws its supply or that is available for supply by the Board, if that water is in a special area; or
- (b) damage any tree or part of a tree in a special area or remove any tree or part of a tree from a special area; or
- (c) damage or pick any plant (including a shrub) or part of a plant in a special area or remove any plant or part of a plant from a special area; or
- (d) remove any rock, soil, sand, stone or similar substance within or from a special area; or
- (e) destroy, capture, injure, annoy or interfere with any animal, or interfere with the habitat of any animal, in a special area.

Maximum penalty \$10,000 in the case of a corporation, \$1,000 in any other case.

**Destruction of property in special areas**

7. A person must not, except with the Board's approval and in accordance with any conditions of the approval, remove, disturb, damage or deface any structure that is in a special area and is owned or controlled by the Board.

Maximum penalty \$10,000 in the case of a corporation, \$1,000 in any other case.

**Control of pollution and disease in special areas**

8. (1) A person must not bring into or leave in a special area any pollutant or wastes.

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(2) The owner or occupier of land in a special area must not erect, install or operate any sewage collection, treatment or disposal system on the land unless:

- (a) the system complies with any standards for such systems approved by the Board and notified to the person; and
- (b) the system is erected, installed or operated in compliance with any conditions imposed by the Board in respect of the system or of such systems in general.

(3) A person must comply with any direction given by the Board or an authorised person for:

- (a) the disposal of any pollutant or wastes in a special area, or of any other substance that is in a special area and that the Board considers may detrimentally affect any water in the area; or
- (b) the removal of any such pollutant, wastes or other substance from a special area.

Maximum penalty (subclauses (1), (2) and (3)): \$10,000 in the case of a corporation, \$1,000 in any other case.

(4) A person (including a body corporate) who becomes aware that any person, animal or property in a special area is carrying, infected with or affected by any water-borne infectious disease must notify the Board of that fact within 24 hours after first becoming so aware.

Maximum penalty (subclause (4)): \$5,000 in the case of a corporation, \$500 in any other case.

**Stock control in special areas**

9. (1) The owner or person in charge of any stock must ensure that the stock does not enter any Crown land, or Board land, in a special area.

(2) An authorised person may take any of the following action if stock enters any such land:

- (a) drive the stock away, or remove the stock, from the land;
- (b) impound, sell, destroy or otherwise dispose of the stock.

(3) If an authorised person takes any such action:

- (a) the owner and person in charge of the stock are jointly and severally liable to the Board for all costs incurred by the Board as a result of the action being taken; and

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(b) the Board may recover the amount of those costs from the owner or person in charge as a debt due to the Board.

Maximum penalty \$5,000 in the case of a corporation, \$500 in any other case.

**Removal of buildings from special areas**

**10. (1)** The Board may give to the owner of land in a special area a direction in writing requiring the owner to remove any building or works on the land to such place, and by such date, as the Board may direct if the Board has reasonable grounds to believe that the direction is necessary to prevent or minimise pollution of water to be supplied by the Board.

**(2)** The owner must comply with any such direction.

Maximum penalty \$10,000 in the case of a corporation, \$1,000 in any other case.

**Information requested by authorised person**

**11.** A person must not give to an authorised person any false or misleading information, knowing it to be false or misleading, in response to a request for information by the authorised person in the course of exercising the functions of an authorised person in relation to a special area.

Maximum penalty \$5,000 in the case of a corporation, \$500 in any other case.

**Investigation of suspected contraventions**

**12. (1)** An authorised person who has reason to believe that a person has in his or her possession or control, in contravention or because of a contravention or intended contravention of this Regulation, any matter or thing may request the person to:

- (a) surrender the matter or thing into the officer's possession and control; or
- (b) make any vehicle or receptacle available for inspection by the authorised person for the purpose of investigating the suspected contravention or intended contravention.

**(2)** If a person fails to comply with the authorised person's request, the authorised person may direct the person to leave the special area immediately.

(3) A person to whom an authorised person gives such a direction must comply with the direction.

Maximum penalty \$5,000 in the case of a corporation, \$500 in any other case.

#### **Fees and charges**

13. (1) The Board may from time to time determine fees or charges payable in respect of the entry by persons or vehicles into a special area or any part of a special area for tours or for recreational purposes.

(2) A person who is liable to pay fees or charges so determined may be denied entry unless they are paid on request by an authorised person.

### **PART 3 - ADDITIONAL REGULATION OF CONDUCT IN PORTIONS OF CERTAIN SPECIAL AREAS AND CERTAIN BOARD LAND**

#### **Application of Part 3**

14. (1) This Part applies to land identified in Schedule 1, being portions of certain special areas and certain Board land.

(2) For the purposes of this Part, the land so identified is a Schedule 1 area.

(3) This Part does not limit the operation of any other provision of this Regulation in the provision's application to a Schedule 1 area or to part of a Schedule 1 area.

#### **Entry into Schedule 1 areas**

15. (1) A person must not enter or remain in a Schedule 1 area except:

- (a) with the Board's approval; and
- (b) in compliance with any conditions of the approval.

Maximum penalty for an offence under subclause (1) (a): \$10,000 in the case of a corporation, \$1,000 in any other case.

Maximum penalty for an offence under subclause (1) (b): \$5,000 in the case of a corporation, \$500 in any other case.

(2) This clause does not apply to privately owned land.

**Fishing in Schedule 1 areas**

16. A person must not fish in any water in a Schedule 1 area.

Maximum penalty \$5,000 in the case of a corporation, \$500 in any other case.

**Swimming and sailing in Schedule 1 areas**

17. A person must not, except with the Board's approval and in compliance with any conditions of the approval:

- (a) swim or wash in or cause any animal, animal matter, plant or plant matter to enter or remain in any water in a Schedule 1 area; or
- (b) drive, row, sail or paddle any boat or other water borne craft on any such water.

Maximum penalty \$10,000 in the case of a corporation, \$1,000 in any other case.

**PART 4 - ADDITIONAL REGULATION OF CONDUCT IN SPECIFIED SPECIAL AREAS**

**Application of Part 4**

18. (1) This Part applies to the special areas identified in Schedule 2.

(2) For the purposes of this Part, each of the special areas so identified is a Schedule 2 area.

(3) This Part does not limit the operation of any other provision of this Regulation in the provision's application to a Schedule 2 area or to part of a Schedule 2 area.

**Prohibited conduct in Schedule 2 areas unless authorised or on private property**

19. A person must not, except with the Board's approval and In compliance with any conditions of the approval or unless on private property:

- (a) drive or ride any vehicle or ride or lead any animal into or on a Schedule 2 area; or

- (b) bring into or have in the person's possession in a Schedule 2 area any plant or part of a plant, or an animal, that is not native to New South Wales; or
- (c) bring into or have in the person's possession in a Schedule 2 area any firearm or prohibited weapon (within the meaning of the Firearms and Dangerous Weapons Act 1973) unless the person is a member of the Police Force acting in connection with the performance of that person's duties as such a member; or
- (d) land any aircraft (including an ultra-light aircraft, hang-glider and balloon) on a Schedule 2 area; or
- (e) on or by any public road in a Schedule 2 area, sell or offer for sale any goods.

Maximum penalty for an offence under paragraph (a), (b), (c) or (d): \$5,000 in the case of a corporation, \$500 in any other case.

Maximum penalty for an offence under paragraph (e): \$10,000 in the case of a corporation, \$1,000 in any other case.

#### **Gates to Schedule 2 areas not to be opened**

**20.** A person must not open any gate, or remove any barrier to entrance, into any Crown land or Board land in a Schedule 2 area except:

- (a) with the Board's approval; and
- (b) in compliance with any conditions of the approval.

Maximum penalty for an offence involving the removal of a barrier to entrance: \$10,000 in the case of a corporation, \$1,000 in any other case.

Maximum penalty for an offence involving the opening of a gate: \$5,000 in the case of a corporation, \$500 in any other case.

#### **Swimming and sailing in Schedule 2 areas**

**21.** A person must not, except with the Board's approval and in compliance with any conditions of the approval

- (a) swim or wash in or cause any animal, animal matter, plant or plant matter to enter or remain in any water in a Schedule 2 area; or
- (b) drive, row, sail or paddle any boat or other water borne craft on any such water.



Maximum penalty \$10,000 in the case of a corporation, \$1,000 in any other case.

**Camping and picnicking only in reserved areas**

22. (1) In this clause:

"**camp**" means reside temporarily, whether or not in a tent, caravan, cabin or other structure.

(2) The Board may reserve any portion of Crown land, or Board land, in a Schedule 2 area for camping or picnicking by means of signs displayed on or adjacent to the portion.

(3) The Board may impose conditions, not inconsistent with the Act or this Regulation, subject to which a person may use a reserved portion of land for camping or picnicking.

(4) A person must not camp or picnic on a portion of Crown land, or Board land, in a Schedule 2 area unless:

- (a) the portion is reserved for that purpose by signs displayed pursuant to subclause (2); and
- (b) the person complies with any conditions imposed pursuant to subclause (3); and
- (c) the person pays the charges (if any) payable in respect of the person's camping or picnicking on the portion.

Maximum penalty for an offence under subclause (4) (a) involving camping: \$10,000 in the case of a corporation, \$1,000 in any other case.

Maximum penalty for any other offence: \$5,000 in the case of a corporation, \$500 in any other case.

**Fires on Schedule 2 areas**

23. (1) A person must not:

- (a) light any fire in a Schedule 2 area unless in a fire place approved by the Board; or
- (b) do anything in a Schedule 2 area that may cause a fire to be elsewhere than in a fire place approved by the Board.

(2) The occupier of any private property in a Schedule 2 area must not burn any bush, stubble, timber, trees, grass or other material on the property for the purpose of clearing the property or burning a fire break unless the occupier has given the Board at least 24 hours' notice of the proposed burning.

Maximum penalty \$10,000 in the case of a corporation, \$1,000 in any other case.

**Pesticides and pest control etc. in Schedule 2 areas**

**24.** A person must not, except with the Board's approval and in compliance with any conditions of the approval:

- (a) bring into, or use or keep in, a Schedule 2 area any pesticide or herbicide; or
- (b) take steps to control or eradicate by the use of pesticides or herbicides any feral animal, animal pest or noxious weed in a Schedule 2 area.

Maximum penalty \$5,000 in the case of a corporation, \$500 in any other case.

**Animal husbandry in Schedule 2 areas**

**25. (1)** A person must not erect, maintain or use any cow yard, poultry house, animal feed lot, stockyard or stable in each case within 100 metres (or such greater distance as the Board may determine by notice published in the Gazette) of any stream, reservoir or water course in a Schedule 2 area.

**(2)** A person must not maintain, use or erect any structures in a Schedule 2 area for any intensive animal feed lot, intensive poultry operation, trout farm or other concentrated agricultural activity identified by the Board as a hazard to water to be supplied by the Board unless:

- (a) with the Board's approval; and
- (b) in compliance with any conditions of the approval.

Maximum penalty \$10,000 in the case of a corporation, \$1,000 in any other case.

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**SCHEDULE 1**

(Cl. 14)

The following portions of land, as shown coloured pink on the map marked "Schedule 1 Areas" deposited at the offices of the Board:

- (a) such portions of special areas as the Board may determine from time to time and notify by signs erected on the portions concerned;
- (b) the area of land surrounding the stored water in Lake Burragorang extending from the full supply level of the Lake for a distance of 3 kilometres;
- (c) the catchment areas of Broughton's Pass Weir, Pheasant's Nest Weir and Woronora Dam.

Prospect reservoir and the area of land surrounding the reservoir, as shown coloured red on the map marked "Prospect Reservoir - Schedule 1 Area" deposited at the offices of the Board.

Water transfer structures (being canals, tunnels, pipelines, water mains or drainage channels) on Board land.

## SCHEDULE 2

(Cl. 18)

Devines Weir Catchment Area as proclaimed in Gazette No. 103 of 29 August 1969.

Fitzroy Falls Catchment Area as proclaimed in Gazette No. 11 of 4 February 1977.

Metropolitan Catchment Area as proclaimed in Gazette No. 79 of 13 July 1923 and amended by proclamation published in Gazette No. 79 of 26 May 1933.

O'Hares Creek Catchment Area as proclaimed in Gazette No. 51 of 14 April 1927 and amended by proclamation published in Gazette No. 178 of 21 September 1934.

Penrith Catchment Area as proclaimed in Gazette No. 113 of 8 October 1971.

Richmond Catchment Area as proclaimed in Gazette No. 113 of 8 October 1971.

Shoalhaven Catchment Area as proclaimed in Gazette No. 51 of 10 April 1970.

Warragamba Catchment Area as proclaimed in Gazette No. 122 of 4 September 1942 and amended by proclamations published in Gazettes Nos. 1 of 1 January 1944 and 77 of 4 August 1944.

Windsor Catchment Area as proclaimed in Gazette No. 113 of 8 October 1971.

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Wingecarribee Catchment Area as proclaimed in Gazette No. 156 of 14 December 1973.

Woronora Catchment Area as proclaimed in Gazette No. 37 of 21 March 1941.

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**SCHEDULES**

**EXPLANATORY NOTE**

The object of this Regulation is to make provision for the protection of “special areas” (formerly catchment areas) under the Water Board Act 1987.

The provisions of Part 2 of the Regulation are applicable to all special areas. In addition, the provisions of Part 3 are applicable to areas identified in Schedule 1 and the provisions of Part 4 are applicable to the areas identified in Schedule 2.

The provisions of the Regulation include provision for the following:

- (a) regulation of the recreational use of special areas (including camping);
  - (b) regulation of the use of vehicles and aircraft;
  - (c) protection of animal and plant life;
  - (d) restrictions on the use of pesticides and herbicides and control of pollution and disease;
  - (e) stock control;
  - (f) lighting of fires.
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