

1996—No. 149

WATER SUPPLY AUTHORITIES ACT 1987—REGULATION

(Water Supply Authorities (Finance) Regulation 1996)

NEW SOUTH WALES



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

KIM YEADON, M.P.,
Minister for Land and Water Conservation.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Water Supply Authorities (Finance) Regulation 1996.

Commencement

2. This Regulation commences on 1 May 1996.

Application of Regulation

3. This Regulation applies to the following Authorities:

- (a) Broken Hill Water Board;
- (b) Cobar Water Board;
- (c) Gosford City Council;
- (d) Wyong Shire Council.

Definitions

4. In this Regulation:

“**apportionment factor**” means an apportionment factor determined under the Valuation of Land Act 1916;

“**dwelling**” means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate place of living;

“**land**” includes an estate or interest in land;

“**mixed development land**” has the same meaning as it has in section 58C (1) of the Valuation of Land Act 1916;

“**owner**” of land includes the holder of an estate or interest in the land;

“**the Act**” means the Water Supply Authorities Act 1987.

Area of operations of Authorities

5. For the purposes of section 13 (1) of the Act:

- (a) Broken Hill Water Board’s area of operations is the area of land shown cross-hatched on the map marked “Area of Operations of Broken Hill Water Board” deposited in the Office of the Board at Blende Street, Broken Hill; and
- (b) Cobar Water Board’s area of operations is the area shown on the plan numbered 54524 and deposited in the office of Cobar Shire Council; and
- (c) Gosford City Council’s area of operations is its area under the Local Government Act 1993; and
- (d) Wyong Shire Council’s area of operations is its area under the Local Government Act 1993.

PART 2—SERVICE CHARGES AND OTHER CHARGES

Fees and charges other than service charges

6. The fees and charges (other than service charges) that an Authority may, under section 30 (2) of the Act, impose for goods supplied, or for services provided, are to be determined by resolution.

Classification of land

7. For the purposes of section 32 of the Act, an Authority may classify land for the purpose of levying service charges according to one or more of the following factors:

- (a) the purpose for which the land is actually being used;
- (b) the intensity with which the land is being used for that purpose;
- (c) the purposes for which the land is capable of being used;

- (d) the nature and extent of water and sewerage services connected to the land.

Basis of levying service charges

8. (1) For the purposes of section 33 of the Act, an Authority may levy service charges according to one or more of the following bases:

- (a) the land value of the land within the meaning of the Valuation of Land Act 1916;
- (b) the assessed annual value of the land within the meaning of the Valuation of Land Act 1916;
- (c) the nominal size of the water service pipe supplying water to the land;
- (d) the size of the water meter registering water supply to the land;
- (e) the nominal size of the sewerage service pipe discharging sewage from the land;
- (f) the area of the land;
- (g) the cost of providing the service, as assessed by the Authority;
- (h) the degree of use of the service, as assessed by the Authority;
- (i) the classification of the land, as determined by the Authority under clause 7.

(2) A determination to levy service charges on a basis specified in subclause (1) (a) or (b) must specify the base date that is to apply.

(3) For the purposes of subclause (1) (c), the nominal size of a water service pipe supplying water to land is:

- (a) the nominal size of the pipe at the point where it joins the water meter registering water supply to the land; or
- (b) if there is no such water meter—the nominal size of the pipe at the point where it joins the Authority's water main.

(4) For the purposes of subclause (1) (e), the nominal size of the sewerage service pipe discharging sewage from the land is the nominal size of the pipe at the point where it joins the Authority's sewer.

(5) In this clause, “**nominal size**” has the same meaning as “nominal size (DN)” has in Australian Standard Specification number AS3500.0–1990 entitled “National plumbing and drainage code” of the Standards Association of Australia.

Method of levying service charge on dwelling under company title

9. (1) For the purposes of this Regulation:

- (a) a person who, because of the ownership of shares in a company, is entitled to occupy a dwelling in a building containing 2 or more such dwellings is taken to be the owner of the land comprising the dwelling; and
- (b) the land value of the land is that proportion of the land value of the land on which the building is erected as the number of shares in the company owned by the person bears to the total number of shares issued by the company.

(2) The secretary of such a company must notify the Authority of:

- (a) the names and addresses of all owners of shares in the company and of the number of shares issued to each owner; and
- (b) changes in ownership of any shares in the company.

(3) A service charge is not payable by the company to the extent to which it is payable by the owners of shares in the company.

Determinations by Authority

10. A determination made by an Authority under section 34 (1) of the Act is to be made by resolution.

Application of apportionment factor

11. A service charge that is levied on mixed development land on the basis of the land value, or the assessed annual value, of the land is to be apportioned between the various parts of the land in accordance with the apportionment factor for the land.

Payment of service charges and other charges

12. Payment to an Authority of a service charge or other charge:

- (a) is due within the time; and
- (b) may be made in any manner,

notified by the Authority when giving notice of the service charge or other charge.

Payment by instalments

13. (1) An Authority may notify a person liable to pay service charges levied, or other charges imposed, that payment of the service charges or other charges may be made to the Authority by a stated number of instalments of specified amounts.

(2) If there is a failure to make a payment in accordance with the notification, the total unpaid balance may be treated by the Authority as an overdue amount of service charges or other charges even if payment by instalments had commenced.

Rate of interest on unpaid amounts

14. (1) The maximum rate of interest prescribed for the purposes of section 38 of the Act is the maximum rate of interest on overdue rates and charges specified for the time being by the Minister administering the Local Government Act 1993 for the purposes of section 566 (3) of that Act.

(2) An Authority may determine different rates of interest for different unpaid amounts.

(3) Interest may not be charged in respect of a period commencing earlier than 7 days after the debtor is notified that interest may be charged.

General power to defer or waive payment of service charges or other charges or fees

15. (1) An Authority may, if of the opinion that reasonable cause has been shown:

- (a) defer payment of a service charge, or any other charge or fee, on such conditions as it thinks fit; or
- (b) waive such a payment or any part of it.

(2) An Authority may establish an account from which to fund any such deferral or waiver.

Adjustment of service charge

16. (1) If a service charge has been levied on land on the basis of a classification made by an Authority under clause 7 and the Authority later decides that the classification was incorrect, the Authority is to adjust the service charge according to the correct classification.

(2) If a service charge has been levied, or has been adjusted under subclause (1), on land on the basis of a classification made by an Authority under clause 7 and the land later ceases to belong to that class, the Authority is to adjust the service charge according to the new classification, on and from the date of the change of classification.

(3) If an apportionment factor on which a service charge in respect of mixed development land is based ceases to be appropriate and is redetermined, the Authority is to adjust the service charge on the basis of the redetermined apportionment factor from the date of the redetermination.

(4) An adjustment may take into account more than one change of class or redetermination of an apportionment factor occurring or made during the period to which the adjustment relates.

(5) If the Authority has not acted under subclause (1), (2), (3) or (4) and an application for it to do so is made to the Authority in writing stating the grounds of the application, the Authority:

(a) may act under subclause (1), (2), (3) or (4) or may refuse to do so; and

(b) must give the applicant written notice of its decision.

(6) If a service charge is adjusted under this clause, the Authority:

(a) must give written notice of the adjustment to the person liable to pay the service charge; and

(b) may recover any increase as if it were part of the service charge even if an objection or appeal has been lodged but not determined; and

(c) must refund any amount by which a service charge already paid has been decreased or credit the amount towards payment of any amount then payable by the person liable to pay the service charge to the Authority.

Objection to certain service charges

17. (1) If a service charge is levied on land on the basis of a classification made by an Authority under clause 7, the person liable to pay the service charge may, within one month after being served with notice of the levying of the service charge, object to the service charge.

(2) If an adjustment made under clause 16 results in a service charge being increased, the person liable to pay the amount of the increase may, within one month after being given notice of the increase, object to the adjustment.

(3) If application is made to an Authority under clause 16 to adjust a service charge and the Authority:

(a) refuses to adjust the service charge; or

(b) refuses to adjust the service charge in the manner sought in the application,

the applicant may, within one month after being notified of the refusal, object to the refusal.

(4) An objection:

(a) under subclause (1) may be made only on the ground that the classification of the land according to which the service charge was levied was incorrect; or

(b) under subclause (2) may be made only on the ground that the classification of the land according to which the service charge was adjusted was incorrect; or

(c) under subclause (3) may be made only on the ground that the refusal by the Authority was incorrect.

(5) An objection is to be made by lodging with the Authority, or by serving on the Authority by post, a written statement of the ground under subsection (4) for the objection and the reasons why the objector believes the ground exists.

(6) An Authority:

(a) may allow, or disallow, an objection; and

(b) must give the objector written notice of its decision on the objection.

Appeal relating to objection to service charge

18. (1) An objector under clause 17 who is dissatisfied with the decision of the Authority on the objection may appeal to the Land and Environment Court against the decision not later than one month after being notified of the decision.

(2) The only ground for an appeal against a decision on an objection is the ground on which the objection was made.

(3) The Land and Environment Court may allow or dismiss an appeal in whole or in part.

PART 3—REDUCTION AND POSTPONEMENT OF SERVICE CHARGES AND OTHER CHARGES

Division 1—Preliminary

Application of Part

19. (1) This Part applies to the reduction and postponement of service charges and other charges levied by an Authority that is not a local government council.

(2) In the case of an Authority that is a local government council, the provisions of the Local Government Act 1993 (and the regulations under that Act) that apply to the reduction and postponement of rates and charges under that Act apply to the reduction and postponement of service charges and other charges under the Water Supply Authorities Act 1987.

(3) Subclause (2) does not extend to the requirement, under section 581 of the Local Government Act 1993, for councils to be reimbursed for a proportion of amounts written off under that Act.

Definitions

20. (1) In this Part:

“consumption charge” means a charge (other than a service charge) imposed by an Authority for the consumption of water;

“eligible pensioner”, in relation to a dwelling, means a person who occupies the dwelling as his or her sole or principal place of living and:

- (a) who receives a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 of the Commonwealth, or a service pension under Part III of the Veterans’ Entitlements Act 1986 of the Commonwealth, and who is the holder of a pensioner concession card issued by or on behalf of the Commonwealth; or
- (b) who receives a pension from the Commonwealth Department of Veterans’ Affairs as:
 - (i) the widow or widower of a member of the Australian Defence or Peacekeeping Forces; or
 - (ii) the unmarried mother of a deceased unmarried member of either of those Forces; or
 - (iii) the widowed mother of a deceased unmarried member of either of those Forces,

and does not have income and assets that would prevent the person from being granted a pensioner concession card (assuming he or she was eligible for such a card); or

who receives a special rate of pension under section 24 of the Veterans’ Entitlements Act 1986 of the Commonwealth.

“instalment”, in relation to a service charge, means an instalment payable under clause 13 in respect of the charge;

“service charge” includes an instalment of a service charge;

“water service charge” includes a drainage service charge levied in conjunction with the water service charge.

(2) In this Part, a reference to the time at which a service charge is levied is, in the case of an instalment of the service charge, a reference to the time at which the instalment is due for payment.

Division 2—Reductions for pensioners**When entitlement arises**

- 21.** An Authority is to reduce a service charge under this Division if:
- (a) an application for the reduction is made to the Authority by an eligible pensioner; and
 - (b) as at the day on which the service charge is levied, the Authority is satisfied that the eligible pensioner is solely or jointly liable for payment of the service charge; and
 - (c) evidence is produced to the Authority sufficient to enable the reduction to be calculated.

Eligible pensioner solely liable or jointly liable for service charge

22. (1) An eligible pensioner who is liable for any service charge for land is entitled to a reduction in the amount that he or she is liable to pay, for all service charges for that land, of an amount equal to his or her nominal liability for all service charges for the land divided by the total number of persons by whom those service charges are payable.

(2) For the purposes of this clause, an eligible pensioner's nominal liability for all service charges for land is the lesser of the following amounts:

- (a) an amount equivalent to one half of the sum of all service charges payable for that land in respect of the current charging period; or
- (b) an amount equivalent to:
 - (i) the amount specified by the Minister, for the purposes of this clause, by order published in the Gazette; or
 - (ii) if the only service charge payable for that land is a water service charge, one half of the amount referred to in subparagraph (i).

Reduction of instalment

23. The amount of reduction of an instalment to which an eligible pensioner is entitled is (subject to any necessary adjustment in the case of unequal instalments) an amount equal to the amount of the reduction that would have been authorised under this Division if:

- (a) the person liable to pay the service charge of which the instalment is a part had been entitled to a reduction of the service charge under this Division at the time it was levied; and
- (b) the service charge had not been paid by instalments,

divided by the number of instalments payable divided by the total number of persons by whom the service charges or water service charge for that land are or is payable.

Application by person who becomes eligible pensioner after charge or contribution is levied

24. If a person becomes an eligible pensioner after the day on which a service charge or consumption charge is levied, the person is entitled to a reduction of the service charge or consumption charge proportionate to the number of days remaining after the day on which the person becomes an eligible pensioner in the year in which the service charge or consumption charge is levied.

Division 3—Other reductions

Extension of reduction to avoid hardship

25. (1) If the Minister considers it proper to do so to avoid hardship, the Minister may, by order, direct that:

- (a) a person specified in the order:
 - (i) who occupies a dwelling as his or her sole or principal place of living together with an eligible pensioner for whom the dwelling is his or her sole or principal place of living; and
 - (ii) who is jointly liable with that eligible pensioner or with that eligible pensioner and one or more other persons for a service charge for the land on which that dwelling is situated; and
 - (iii) who would not otherwise be entitled to a reduction of the service charge under this Part; or
- (b) any person belonging to a class of persons specified in the order, being persons referred to in paragraph (a),

is taken, for the purposes of this Part, to be or to have been an eligible pensioner.

(2) If the Minister considers it proper to do so to avoid hardship, the Minister may, by order, direct that:

- (a) an eligible pensioner specified in the order who, although not liable, or although not liable jointly with one or more persons, to do so, has, for a period as, in the opinion of the Minister, warrants the making of the order under this clause, paid the whole of the

service charges for the land on which that dwelling is situated or is, in the opinion of the Minister, likely to pay the whole of the service charges in circumstances that in the opinion of the Minister to warrant the making of an order under this subclause; or

- (b) any person belonging to a class of persons specified in the order, being persons referred to in paragraph (a),

is taken, for the purposes of this Part, to be or to have been the person solely liable in respect of the land on which the dwelling is situated.

(3) An order under this clause:

- (a) takes effect on the day that it is made or on such earlier or later day as is specified in the order; and
- (b) has effect according to its terms.

Division 4—General provisions concerning reductions

Making of application

26. (1) An application to an Authority under this Part must be made to the Authority within the time, and in the manner, determined by the Authority.

(2) A person who makes a wilfully false statement in an application under this Part is guilty of an offence.

Maximum penalty: 20 penalty units.

Refund of certain overpayments

27. If a person:

- (a) has paid in full a service charge or consumption charge for a charging year; and
- (b) would have been entitled to a reduction of the service charge or consumption charge if it had been paid by instalments; and
- (c) applies to the Authority for a refund of the amount of the reduction,

the Authority must make the refund or credit the amount towards payment of any amount then payable in relation to the land concerned by the person liable to pay the amount to the Authority.

Exoneration from liability

28. An eligible pensioner is not liable for a service charge or consumption charge beyond the amount of his or her liability as reduced in accordance with this Part.

Recovery of amount of reduction

29. An Authority is not entitled to repayment of an amount by which a service charge or consumption charge is reduced under this Part unless the reduction was made on the basis of a false statement in the application for the reduction.

Division 5—Postponement of service charges**Application for postponement of service charge**

30. (1) This Division applies to a parcel of land:

- (a) that is the site of a single dwelling-house used or occupied as such; and
- (b) that is zoned or otherwise designated for use by an environmental planning instrument under the Environmental Planning and Assessment Act 1979 for the purposes of industry, commerce or the erection of residential flat buildings; and
- (c) in respect of which a service charge is levied on the basis of section 33 (2) (a) of the Act.

(2) The person liable for payment of a service charge levied by an Authority on land to which this Division applies may apply to the Authority for relief from payment of the service charge for the current charging year.

Application to be referred to Valuer-General

31. (1) The Authority must refer the application to the Valuer-General to determine the attributable part of the land value of the land if the Authority is satisfied that the land is land to which this Division applies.

(2) The Valuer-General is, on determination of the attributable part of the land value of the land, to notify the Authority of the determination.

Attributable part of land value of land

32. The attributable part of the land value of the land is determined by deducting from the land value the value that the land would have if the land could be used only as the site of a single dwelling-house.

Determination of attributable part of land value by Valuer-General

33. The Valuer-General must not, in determining the attributable part of the land value of the land, take into account any portion of the land that the Valuer-General considers to be in excess of that which is reasonably necessary to be occupied or used in conjunction with the single dwelling-house.

Redetermination of attributable part of land value

34. (1) An Authority is to request the Valuer-General to redetermine the attributable part of the land value of the land if the valuation on the basis of which the existing determination was made:

- (a) ceases to be the land value on which a service charge is levied; or
- (b) is altered on objection or on correction of a clerical error or misdescription.

(2) The Valuer-General is, on redetermination of the attributable part of the land value of the land, to notify the Authority of the redetermination.

Use of determination of attributable part of land value

35. The attributable part of the land value determined, or redetermined, by the Valuer-General may be used by an Authority for the purpose of deferring service charges only while the circumstances that made the land eligible for a deferral of service charges under this Division continue to exist and the valuation of the land value for which the determination was made remains in use for the purpose of levying service charges.

Postponement of service charge

36. The Authority must postpone payment of such part of the service charge levied in a charging year as remains after deducting from the service charge levied the amount of the service charge that would have been levied if the land value of the land had not included the attributable part.

Interest on postponed service charges

37. Interest accrues on parts of service charges postponed under this Division as if the service charges were overdue service charges and, for this purpose, the due dates for payment are taken to be the respective dates on which the parts of the service charges that were payable became due.

Paid service charge to be refunded

38. On receiving a redetermination of the attributable part of the land value of the land, the Authority:

- (a) must refund any amount that was overpaid or credit the amount towards payment of any amount then payable in relation to the land by the person liable to pay the amount to the Authority; or
- (b) may recover as arrears any amount that was not paid,

pending receipt of the redetermination.

Entitlement to postponement ceases

39. A person ceases to be entitled to a postponement of a service charge under this Division if the whole of the parcel of land used or occupied solely as a site of a single dwelling-house ceases to be so used or occupied.

Change of circumstances

40. If an applicable parcel ceases to be used or occupied solely as the site of a single dwelling-house after a postponement of payment under this Division:

- (a) the person liable for payment of the service charge must notify the Authority of the date of cessation of the use; and
- (b) the total amount postponed during the period of 5 charging years that last preceded cessation of the use becomes payable to the Authority and may be recovered on the expiration of one month after cessation of the use.

Service charge to be written off after 5 years

41. (1) If 5 years have elapsed since the commencement of a charging year for which part of the service charges levied on land have been postponed under this Division, the part postponed and any interest accrued on that part must be written off by the Authority.

(2) Nothing in this clause affects the right of the Authority to recover service charges and interest, even though they have been written off under this clause, if it subsequently appears to the Authority that they should not have been written off.

PART 4—VALUATIONS**Authority may request valuation or determination by Valuer-General**

42. (1) An Authority may request the Valuer-General to value land that has not been valued, or has not been separately valued, under the Valuation of Land Act 1916.

(2) An Authority may request the Valuer-General to value land if the Authority considers that the valuation of the land under the Valuation of Land Act 1916 is not the true value, is not sufficiently detailed or should be apportioned:

- (a) because a building has been erected, altered, demolished or damaged by fire; or
- (b) because land has been subdivided; or
- (c) for any other reason.

(3) If the assessed annual value of land has not been determined and an Authority proposes to:

- (a) levy a service charge on the land; or
- (b) adjust a service charge levied on the land,

on the basis of the assessed annual value, the Authority may request the Valuer-General to determine the assessed annual value.

(4) If an Authority considers that:

- (a) an apportionment factor should be determined for specific mixed development land; or
- (b) an apportionment factor in force for specific mixed development land has ceased to be appropriate,

the Authority may request the Valuer-General to determine or redetermine the apportionment factor.

(5) The Valuer-General is, on the making of a valuation, determination or redetermination under this clause, to notify the Authority of the valuation, determination or redetermination.

Objection to valuation or determination

43. (1) The lodging of an objection to a valuation, determination or redetermination does not, pending a final decision on the objection, affect the valuation, determination or redetermination to which the objection relates, and any service charge may be levied or recovered as if there had been no objection.

(2) If a valuation, determination or redetermination is altered on objection, the Authority must make any necessary adjustments and:

- (a) must refund any excess payment or credit the amount of the excess towards payment of any amount then payable by the objector to the Authority; or
 - (b) may recover as arrears any amount not paid,
- as a consequence of the adjustments.

PART 5—DRAINAGE AREAS

Notice of drainage area

44. (1) On the declaration under section 28 of the Act of a drainage area for an Authority, the Authority must deposit a map of the drainage area in its office.

(2) The Authority must make the map available for inspection at reasonable times during its ordinary office hours.

(3) The Authority must serve on each owner of land in the drainage area, personally or by post at the address of the owner last known to the Authority, a notice to the effect that:

- (a) the drainage area has been declared; and
- (b) a map of the drainage area may be inspected at a specified place or specified places; and
- (c) drainage service charges are to be levied on land in the drainage area within a specified time; and
- (d) an objection to inclusion of the owner's land in the drainage area may be lodged with the Authority but only on the ground that surface or run-off water could not drain from the objector's land into the drainage area; and
- (e) an objection must be in writing and must be lodged with the Authority before a specified date (being a date that is not earlier than 14 days after service of the notice); and
- (f) an objection will be referred by the Authority to an adjudicator for determination; and
- (g) an objector is not entitled to appear, or be represented, before the adjudicator without being required by the adjudicator to do so.

(4) The Authority:

- (a) must appoint a person (other than a person subject to the direction and control of the Authority) as an adjudicator on objections relating to a particular drainage area; and

- (b) must refer all duly lodged objections to the adjudicator; and
- (c) must serve on each objector, personally or by post at the address of the objector last known to the Authority, notice of the decision of the adjudicator on the objection.

PART 6—MISCELLANEOUS

Rate of interest payable by owner on expense incurred by occupier

45. The prescribed rate of interest for the purposes of section 29 (5) of the Act is the maximum rate of interest on overdue rates and charges specified for the time being by the Minister administering the Local Government Act 1993 for the purposes of section 566 (3) of that Act.

Meters

46. (1) An Authority may install, and may charge hire for:

- (a) meters for measuring the quantity of water supplied; and
- (b) pipes and apparatus for the conveyance, reception and storage of water.

(2) An Authority may, instead of acting under subclause (1), require an owner, occupier or other person requiring a supply of water:

- (a) to install the meters, pipes or apparatus referred to in that subclause; and
- (b) to effect the installation in accordance with the Authority's requirements; and
- (c) to maintain the installation in good working order.

Cutting of supply

47. An Authority may cut off the supply of water to land in any one or more of the following circumstances:

- (a) if a meter or instrument used to measure the supply is out of repair or, in the opinion of the Authority, is registering incorrectly;
- (b) if service charges or other charges relating to the land are unpaid;
- (c) in order to effect repairs or to clean a main;
- (d) if the Authority is of the opinion that it is unavoidably necessary to do so or because of an accident;
- (e) if the owner, occupier or person requiring a supply of water fails to comply with the conditions of supply or the requirements of the Authority in relation to the installation, repair or alteration of a

meter or other instrument for measuring water or of water or sewerage connections, pipes, fittings or appliances connected, or intended to be connected, directly or indirectly to a main;

- (f) in order to repair or alter such connections, pipes, fittings or appliances;
- (g) if the owner, occupier or person requiring a supply of water fails to do anything that, under a provision of the Act or of a regulation made under the Act, ought to be done to prevent waste, misuse, undue consumption or contamination of the water of, or supplied by, the Authority;
- (h) if it is necessary to do so in order to conserve supplies in a time of drought or other scarcity.

Service of notices

48. (1) A notice under the Act to a Department of the Government may be served on the Department Head.

(2) A notice under the Act to a corporation constituted by or under an Act may be served:

- (a) by leaving it at the principal or other office of the corporation with a person apparently employed there who seems to be at least 16 years old; or
- (b) in any manner authorised by or under the Act by which the corporation is constituted.

(3) A notice under the Act to a person liable for payment of a service charge or other charge, or to a person who is owner or occupier of land or a building, may be served:

- (a) personally; or
- (b) by leaving it, at the place where the person to be served lives or carries on business, with a person apparently employed or residing there who seems to be at least 16 years old; or
- (c) by post to the residence or place of business of the person to be served last known to the Authority serving the notice; or
- (d) by affixing it to a conspicuous part of the land or building.

(4) A notice under the Act may be served on a person who appears to be absent from the State, and who has authorised service on an agent, by serving it on the agent of the person as if the agent were the person to be served.

(5) If a notice relates to unoccupied land or premises and the address of the owner is not known to the Authority serving the notice, it may be served by an advertisement that:

- (a) is published in a newspaper circulating in the Authority's area; and
 - (b) states the name of the owner of the land or premises, if known to the Authority; and
 - (c) if the notice is notice of a service charge — states its amount, the period to which the charge relates and that a detailed notice of the service charge may be obtained at the office of the Authority; and
 - (d) states that the advertisement operates as service of the notice.
- (6) It is a sufficient description of the addressee of a notice to be served if the notice specifies "the owner", "the occupier" or other apt description.

Recording of service charge

49. (1) An Authority must keep records relating to each service charge as required by the Ministerial Corporation and must keep the records in a manner approved by the Ministerial Corporation.

(2) An amendment of the records kept under this clause may be made by:

- (a) inserting the name of a person who claims to be, and is, entitled to be recorded as owner or occupier; or
- (b) inserting the name of a person to whom an account for a service charge should have been rendered or who has, since the levying of a service charge, become liable to pay it; or
- (c) omitting the name of a person whose name should not have been recorded; or
- (d) increasing or reducing the amount of a service charge, whether as a result of an error in recording or notifying it, as a result of an adjustment or objection or as a result of an appeal; or
- (e) inserting particulars of land that should have been the subject of a service charge; or
- (f) by making such other amendments as will ensure conformity of the records with the Act.

(3) A liability to make a payment as a result of an amendment accrues on the making of the amendment but the payment is not overdue if made within one month after notice of the amendment and of the resulting liability has been given to the person liable.

Expenses of tracing persons

50. (1) An Authority may add to the amount of a service charge or other charge any reasonable out-of-pocket expenses incurred in tracing the person liable to pay the service charge or other charge.

(2) Those expenses may be recovered as service charges or other charges, at the same time as any service charges or other charges and without the need to give any notice concerning them.

Crown land held on lease

51. If land that is vested in the Crown or in a public body is leased to a person for private purposes, a service charge in respect of the land is payable by the lessee but, if the lessee fails to pay the service charge and the land has been transferred by way of mortgage, the service charge is payable by the mortgagee.

Successive Crown lessees in the same charging year

52. (1) This clause applies to land:

- (a) that, in the same charging year for an Authority, is held successively by 2 or more lessees under a lease from the Crown (whether or not with an interval between them); and
- (b) in respect of which the Authority has levied a service charge for that year.

(2) In relation to land to which this clause applies, the Authority:

- (a) may make between the successive lessees such adjustment (if any) of the service charge, whether paid or unpaid, as the Authority considers to be proper; and
- (b) may recover from each lessee the proportion of the service charge fixed for the lessee by the adjustment; and
- (c) may make a refund resulting from the adjustment.

Liability of joint owners

53. (1) If land is owned or held jointly by 2 or more persons liable to pay a service charge in respect of the land:

- (a) they are each jointly and severally liable for payment of the service charge; and
- (b) as between themselves, each is only liable for such part of the service charge as is proportionate to the interest owned or held by the person in the land.

(2) If one person referred to in this clause pays more than the proportionate part of a service charge that the person is required by this clause to pay, the excess may be recovered by way of contribution from the others jointly liable.

Liability on disposing of land

54. (1) The liability of a person to pay a service charge levied by an Authority in respect of land does not cease on disposal of the land if notice of the service charge:

- (a) was given before disposal of the land; or
- (b) is given after disposal of the land and before the approved notice of the disposal is given to the Authority.

(2) A person who:

- (a) disposes of land; and
- (b) pays, after disposal of the land and before the approved notice of the disposal is given to the Authority, a service charge levied on the land in respect of a period after the disposal of the land,

may recover the amount of the service charge from the person who acquired the land.

(3) A notice lodged with the Registrar-General under section 39 (1B) of the Real Property Act 1900 or section 184E (4A) of the Conveyancing Act 1919 is to be treated as an approved notice for the purposes of this clause.

(4) In this clause, “**approved notice**” means written notice in a form approved by the Ministerial Corporation.

Daily basis of apportionment of service charge

55. As between a person liable to pay a service charge in respect of land and:

- (a) a person who acquires the land; or
- (b) the person from whom the land was acquired,

the service charge is to be apportioned on a daily basis.

Liability of new owner

56. (1) A person who, by becoming the owner of land, becomes liable to pay a service charge or other charge levied on, or applicable to, the land is, subject to section 41 (3) of the Act, liable for payment of all current service charges and other charges, and for all arrears of service charges and other charges, levied on, or applicable to, the land even if notice of them was not given to the person until after the person became the owner of the land.

(2) A person who:

- (a) becomes the owner of land; and

- (b) pays to an Authority a service charge or other charge in respect of the land that was payable before the person became the owner,

may recover the whole or a proper proportion of the service charge or other charge from the person liable for its payment at the time notice of the service charge was served.

(3) This clause does not apply to a person who holds land under a lease from the Crown or the Authority (whether or not the land was previously held under such a lease) that was granted after the service charge or other charge was levied or became applicable.

Liability of occupier

57. (1) An occupier of land in respect of which a service charge has remained unpaid for at least one month after becoming due is liable for payment of the service charge if the Authority serves on the occupier a notice requiring the payment to be made.

(2) An occupier who pays a service charge in accordance with a notice served under this clause may set off the amount paid against rent due.

(3) If no rent is due, or if the amount paid to the Authority exceeds the rent due, the occupier:

(a) may set off the amount paid, or the excess, against accruing rent;
or

(b) may recover the amount paid, or the excess, as a debt due from the owner to the occupier.

(4) An occupier who pays a service charge for a period extending beyond the expiration of the right of occupancy may recover the amount paid as a debt due from the owner to the occupier.

(5) The receipt of the Authority for an amount paid under this clause is, to the extent of the amount shown in the receipt, a discharge of the occupier from payment of the rent.

(6) In this clause:

“rent” includes money payable under a lease, licence or permit;

“service charge” includes a charge for excess water.

Proportionate liability for service charge

58. (1) A service charge is proportionate to the portion of the year for which the land is liable and to the portion of the land that is liable.

(2) If an amount of service charge is paid in excess of the liability for a service charge because of the operation of this clause, the Authority must refund the amount of the excess or credit it towards payment of any amount then payable to the Authority by the person who would otherwise be entitled to a refund.

Repeal

59. (1) The following Regulations are repealed:

- (a) the Water Supply Authorities (Area of Operations) Regulation 1987;
- (b) the Water Supply Authorities (Finance) Regulation 1987.

(2) Any act, matter or thing that, immediately before the repeal of a Regulation referred to in subclause (1), had effect under that Regulation continues to have effect under this Regulation.

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EXPLANATORY NOTE

The objects of this Regulation are:

- (a) to repeal the Water Supply Authorities (Area of Operations) Regulation 1987 and the Water Supply Authorities (Finance) Regulation 1987; and
- (b) to remake that part of the Water Supply Authorities (Area of Operations) Regulation 1987 as relates to Gosford City Council and Wyong Shire Council; and
- (c) to replace the Water Supply Authorities (Finance) Regulation 1987 with a new Regulation that is in substantially the same form as the repealed Regulation.

This Regulation applies to Broken Hill Water Board, Cobar Water Board, Gosford City Council and Wyong Shire Council. The Regulation deals with the following matters:

- (a) the area of operations of each of the Water Supply Authorities that it covers;
- (b) the levying, payment and adjustment of service charges and other charges, and objections and appeals concerning the levying of such charges;
- (c) reductions of service charges, including reductions relating to pensioner and the postponement of service charges;
- (d) valuations and determinations for the purposes of levying service charges, and objections concerning valuations and determinations;
- (e) notification of the declaration of drainage areas and objections to such declarations;
- (f) miscellaneous matters, including installation of water meters and other apparatus, cutting of water supply, service of notices, recording of service charges and liability for payment of service charges on Crown land and following the disposal of land.

This Regulation is made under the Water Supply Authorities Act 1987, including section 66 (the general regulation-making power) and sections 13, 29, 30, 32, 33 and 38.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
