



New South Wales

# Hunter Catchment Management Trust Regulation 1997

under the

Catchment Management Act 1989

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Catchment Management Act 1989*.

KIM YEADON, M.P.,

Minister for Land and Water Conservation

## Explanatory note

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the *Hunter Catchment Management Regulation 1991*. The new Regulation deals with the following matters:

- (a) the purposes of the Hunter Catchment Management Trust and the requirement for it to produce a map depicting its area (Part 2),
- (b) the procedures for the levying of contributions to the Trust from owners of land within catchment contribution areas (Division 1 of Part 31,
- (c) the liability of owners of such land to pay contributions so levied (Division 2 of Part 3),
- (d) the recovery of contributions so levied from the owners of such land (Division 3 of Part 3),
- (e) other matters of a minor, ancillary nature (Parts 1 and 4).

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Explanatory note

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This Regulation is made under the *Catchment Management Act 1989*, including section 63 (the general regulation making power) and sections 26, 41, 43, 44, 48 and 51.

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

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## 1997 No 440

Clause 1 Hunter Catchment Management Trust Regulation 1997

Part 1 Preliminary

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# Hunter Catchment Management Trust Regulation 1997

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Hunter Catchment Management Trust Regulation 1997*.

### 2 Commencement

This Regulation commences on 1 September 1997.

### 3 Definitions

In this Regulation:

*contribution* means a catchment contribution within the meaning of the Act.

*member Catchment Management Committee* means a Catchment Management Committee whose catchment area, or any part of whose catchment area, is within the Trust area of the Trust.

*the Act* means the *Catchment Management Act 1989*.

*Trust* means the Hunter Catchment Management Trust.

### 4 Notes

The explanatory note and table of contents do not form part of this Regulation.

## **Part 2 Trust purpose and area**

### **5 Catchment management purpose of Trust: section 26**

For the purposes of section 26 of the Act, the total catchment management purpose of the Trust is to promote and co-ordinate the sustainable use and management of land, water, vegetation and other natural resources in its Trust area on a water catchment basis, so as to balance resource utilisation and conservation.

### **6 Trust area**

- (1) The Trust area of the Trust is the area referred to in clause 4 of Schedule 6 to the Act.
- (2) A map depicting the Trust area of the Trust is to be retained in the office of the Trust and may be inspected by any person free of charge at any time when the office is open.

### **7 Exercise of functions**

In exercising its functions, the Trust:

- (a) must encourage the protection and, where appropriate, the restoration of its Trust area, and
- (b) must co-ordinate and facilitate the ecologically sustainable use, development and management of natural resources, flood plains and built environments within its Trust area, and
- (c) must foster orderly and appropriate physical, environmental and socioeconomic planning and management within its Trust area.

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Division 1

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### **Part 3      Catchment contributions**

#### **Division 1    Levy procedure**

##### **8 Basis of levying contributions: section 41**

For the purposes of section 41 of the Act, a contribution is to be levied according to the land value, within the meaning of the *Valuation of Land Act 1926*, of all land within the catchment contribution area that has a land value in excess of \$300 and is ratable for the time being under the *Local Government Act 1993*.

##### **9 Determinations relating to contributions: section 43**

A determination for the purposes of section 43 of the Act is to be made by resolution of the Trust.

##### **10 Service of notice of contribution: section 44**

A notice for the purposes of section 44 of the Act:

- (a) may be served personally or by post, and
- (b) may be served separately or, if the Trust so resolves, together with or so as to form part of a council rate notice or other statutory notice served on the owner of the parcel of land in respect of which the relevant contribution has been levied.

#### **Division 2    Liability to pay contributions**

##### **11 Expenses of tracing persons**

- (1) The Trust may add to the amount of a contribution any reasonable out-of-pocket expenses incurred in tracing the person liable to pay the contribution.
- (2) Those expenses may be recovered as contributions at the same time as any contributions and without the need to give any notice concerning them.

##### **12 Crown land held on lease**

If land of the Crown is leased to a person for private purposes, any contribution in respect of the land is payable:

- (a) if the lease has been transferred by way of mortgage, by the mortgagor or (if the Trust fails to recover it from the mortgagor) by the mortgagee, or
- (b) in any other case, by the lessee.

### **13 Successive Crown leases in the same charging year**

- (1) This clause applies to land:
  - (a) that, in the same charging year for the Trust, 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 Trust has levied a contribution for that year.
- (2) In relation to land to which this clause applies, the Trust:
  - (a) may make between successive lessees such adjustment (if any) of the contribution, whether paid or unpaid, as the Trust considers to be proper, and
  - (b) may recover from each lessee the proportion of the contribution fixed for the lessee by the adjustment, and
  - (c) may make any refund resulting from the adjustment.

### **14 Liability of joint owners**

- (1) If land is owned or held jointly by two or more persons liable to pay a contribution in respect of the land:
  - (a) they are each jointly and severally liable for payment of the contribution, and
  - (b) as between themselves, each is liable only for such part of the contribution as is proportionate to the interest owned or held by the person in the land.
- (2) If one of those persons pays more than that person's proportionate part of a contribution, he or she may recover the excess by way of contribution from the other persons.

### **15 Liability on disposing of land**

- (1) The liability of a person to pay a contribution in respect of any land does not cease on disposal of the land if notice of the contribution:

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Division 2

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- (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 Trust.
- (2) If a person:
- (a) disposes of any land, and
  - (b) pays a contribution levied on the land that became payable to the Trust after disposal of the land and before the approved notice of the disposal is given to the Trust,
- the person may recover the amount of the contribution from the person who acquired the land.
- (3) In this clause, **approved notice** means written notice in a form approved by the Water Administration Ministerial Corporation.
- (4) Approved notice of a disposal of land is taken to have been given to the Trust when a notice is lodged with the Registrar-General under section 39 (1) (b) of the *Real Property Act 1900* or section 184E (4A) of the *Conveyancing Act 1919*.

### 16 Daily basis of apportionment of contribution

As between a person liable to pay a contribution in respect of land and:

- (a) a person who acquires the land, or
  - (b) the person from whom the land was acquired,
- the contribution is to be apportioned on a daily basis.

### 17 Liability of new owner

- (1) A person who, by becoming the owner of land, becomes liable to pay a contribution levied on the land is liable for payment of all current contribution, and all arrears of contributions levied on 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 the Trust a contribution in respect of the land that was payable before the person became the owner,
- may recover the whole or a proper proportion of the contribution from the person liable for its payment at the time the notice of the contribution was served.



- (3) This clause does not apply to a person who holds land under a lease from the Crown or the Trust (whether or not the land was previously held under such a lease) that was granted after the contribution was levied.

### 18 Liability of occupier

- (1) An occupier of land in respect of which a contribution has remained unpaid for at least one month after becoming due is liable for payment of the contribution if the Trust serves on the occupier a notice requiring the payment to be made.
- (2) An occupier who pays a contribution in accordance with a notice served under subclause (1) may set off the amount paid against rent due.
- (3) If no rent is due, or if the amount paid to the Trust exceeds the rent due, the occupier may:
- (a) set off the amount paid, or the excess, against accruing rent, or
  - (b) recover the amount paid, or the excess, as a debt due from the owner to the occupier.
- (4) An occupier who pays a contribution for a period extending beyond the term of the tenancy may recover the amount paid as a debt due from the owner to the occupier.
- (5) The receipt of the Trust 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.

### 19 Proportionate liability for contributions

- (1) A contribution is proportionate to the portion of the year for which the land is leviable and to the portion of the land that is leviable.
- (2) If an amount of contribution is paid in excess of the liability for a contribution because of the operation of this clause, the Trust:
- (a) must refund the amount of the excess, or

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- (b) must credit it towards payment of any amount then payable to the Trust by the person who would otherwise be entitled to a refund.

### **Division 3 Recovery of contributions**

#### **20 Collection of contributions**

A local authority with which the Trust has entered into an agreement for the collection of contributions on behalf of the Trust must remit to the Trust as soon as practicable after the expiration of each month (but in all cases within 30 days after the collection of such contributions) the money collected by it in payment of the contribution during that month, less any amount the local authority is entitled to retain as commission in accordance with the agreement.

#### **21 Interest on overdue contributions: section 48**

The prescribed rate of interest for the purposes of section 48 of the Act is the rate for the time being applicable under section 95 of the *Supreme Court Act 1970* to a judgment debt.

#### **22 Fee for certificate as to amount payable on parcel of land: section 51**

For the purposes of section 51 of the Act, the prescribed fee is an amount equal to the fee charged by the local council covering the land in question for a certificate from the council containing particulars of the amount (if any) payable to the council in respect of council rates.

#### **23 General power to defer or waive payment**

- (1) The Trust may:
  - (a) defer payment of a contribution, or any other charge or fee, on such conditions as it thinks fit, or
  - (b) waive such a payment or any part of it,if the Trust is of the opinion that reasonable cause has been shown for the deferral or waiver.
- (2) The Trust may establish an account from which to fund any such deferral or waiver.

## Part 4      Miscellaneous

### 24 Repeal

- (1) The *Hunter Catchment Management Trust Regulation 1991* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Hunter Catchment Management Trust Regulation 1991*, had effect under that Regulation continues to have effect under this Regulation.