



New South Wales

Water Management (General) Amendment (Miscellaneous) Regulation 2005

under the

Water Management Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Management Act 2000*.

CRAIG KNOWLES, M.P.,
Minister for Natural Resources

Explanatory note

The object of this Regulation is to make provision with respect to various miscellaneous matters under the *Water Management Act 2000* (**the Act**). Schedules 1 and 4 insert matter relating to the following in the *Water Management (General) Regulation 2004* (**the Principal Regulation**):

- (a) forms used for the purposes of the Act,
- (b) matters to be included in the Water Access Licence Register kept under the Act,
- (c) the exercise of certain functions under the Act by the Minister rather than by the Director-General of the Department that administers the Act,
- (d) exemptions from certain requirements and provisions of the Act,
- (e) the correction of incorrect cross-references,
- (f) the issue of penalty notices for certain offences,
- (g) the repeal of the two Regulations that are incorporated in the Principal Regulation by Schedules 2 and 3 to this Regulation,
- (h) savings and transitional provisions relating to both the *Water Management Amendment Act 2004* and this Regulation.

For the purposes of consolidation, Schedules 2 and 3 to this Regulation insert in the Principal Regulation, without any changes (apart from the consequential amendment of cross-references), such substantive provisions of the *Water Management (Elections) Regulation 2002* and the *Water Management (General) Regulation 2002* as are of continuing effect. Both of those Regulations are repealed by clause 108 of the Principal Regulation, which is inserted in that Regulation by this Regulation.

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Explanatory note

This Regulation is made under the *Water Management Act 2000*, including section 400 (the general regulation-making power) and clause 1 of Schedule 9 (the power to make regulations of a savings or transitional nature).

Water Management (General) Amendment (Miscellaneous) Regulation 2005

under the

Water Management Act 2000

1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Miscellaneous) Regulation 2005*.

2 Amendment of Water Management (General) Regulation 2004

The *Water Management (General) Regulation 2004* is amended as set out in Schedules 1–4.

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Schedule 1 Amendments inserting new matter

Schedule 1 Amendments inserting new matter

(Clause 2)

[1] Clauses 11 (1) (a), 17 (1) (a), 31 (1) (a), 42 (1) and 44 (1)

Omit “in a form approved by the Director-General” wherever occurring.

Insert instead “in the approved form”.

[2] Clause 11 Applications generally

Insert after clause 11 (2):

Note. Among other things, certain approved forms relating to dealings require information as to the price paid for water pursuant to the dealing.

[3] Clause 12 Matters to be included in Water Access Licence Register

Insert at the end of the clause:

- (2) For the purposes of section 71A (2) (b) of the Act, the matters to be recorded in the Assignment Division of the Access Register include any agreement in the approved form that is signed by all the holders of an access licence and is submitted to the Minister, being an agreement that the person or persons specified in the agreement may, on behalf of the holders of the access licence, apply for an assignment dealing.

[4] Clauses 16 (2) (b) (ii), 31 (1) (b) and (3), 32 (3), 42 (2) and 44 (2) and Schedule 1 (4)

Omit “the Director-General” wherever occurring.

Insert instead “the Minister”.

[5] Clause 18 Exemption from requirement for access licence

Insert after the Note to clause 18 (1):

- (1A) A person exempted under subclause (1) is also exempted from any mandatory conditions relating to access licences that are imposed on a water supply work approval.

[6] Clause 21

Omit the clause. Insert instead:

21 Security holder's consent not required for certain dealings

The following are exempt from the requirements of section 71L (1) (c) of the Act:

- (a) the grant of a single access licence arising from an application under section 71U of the Act for the grant of an access licence to give effect to the transfer into the State of an interstate equivalent of an access licence together with an application under section 71P of the Act for consolidation of that licence with another licence,
- (b) an increase in the share or extraction component of an access licence in connection with the assignment of rights under section 71Q of the Act.

[7] Clause 28 Murrumbidgee

Omit "Part 2" from clause 28 (1). Insert instead "Part 1".

[8] Clause 38 Exemption from requirement for water use approval

Insert at the end of clause 38 (1) (h):

, or

- (i) the use of water for hydrostatic testing of gas pipelines, or
- (j) the use of water for Aboriginal cultural purposes, other than a use pursuant to an adaptive environmental water condition on an access licence (as referred to in section 8 (1) (b) of the Act).

[9] Clause 40 Exemption from operation of section 106

Insert "of the Act" after "Section 106".

[10] Clause 40 (a)

Omit "clause 21 (a)" and "by clause 21".

Insert instead "clause 18 (1) (a)" and "by clause 18", respectively.

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[11] Clauses 40A and 40B

Insert after clause 40:

40A Exemption from requirement for certain endorsement on dealings

Clause 2 (3) (b) of Schedule 1A to the Act does not apply in respect of any dealing other than a grant or cancellation of an access licence to give effect to an interstate transfer of an access licence (as referred to in section 71U of the Act).

40B Exemption from certain requirement concerning registration of security interests in replacement access licences

A person claiming a security interest in a replacement access licence is exempt from the requirement of clause 19 (5) (d) of Schedule 10 to the Act that the person advise the holder of the licence of the existence of the security interest claimed and give written notice of the advice to the Director-General, but only if the licence holder requests the Director-General, in writing, to register the security interest.

Schedule 2 Amendments inserting substantive provisions of the Water Management (Elections) Regulation 2002

(Clause 2)

[1] Part 7

Insert after Part 6:

Part 7 Elections

Note. For consolidation purposes, this Part inserts such of the substantive provisions of the *Water Management (Elections) Regulation 2002* as are required to be retained (without altering those provisions in any way, except for updating cross-references). The *Water Management (Elections) Regulation 2002* is repealed by clause 108 of this Regulation.

Division 1 Definitions

46 Definitions

(1) In this Part:

calling of the ballot for an election means the date on which a notice is first published for the election under clause 70.

calling of the election for an election means the date on which a notice is published for the election under clause 64.

close of enrolments for an election means the final time and date fixed by the returning officer for the close of enrolments in the election.

close of exhibition of the roll for an election means the final time and date fixed by the returning officer for the exhibition of the roll in the election.

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations in the election.

close of the ballot for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

election means:

- (a) an election of members of a private irrigation board referred to in Part 2 of Chapter 4 of the Act, or
- (b) an election of directors of a private drainage board referred to in Part 3 of Chapter 4 of the Act, or

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- (c) an election of members of a private water trust referred to in Part 4 of Chapter 4 of the Act.

final roll for an election means the roll prepared by the returning officer under Subdivision 2 of Division 6.

preliminary roll for an election means the roll prepared by the returning officer under clause 58.

returning officer means:

- (a) in the case of an election of members of a private irrigation board—the person appointed under clause 57 to be the returning officer for the election, and
- (b) in the case of an election of directors of a private drainage board—the person appointed under clause 56 to be the returning officer for the election, and
- (c) in the case of an election of members of a private water trust—the person appointed under clause 56 to be the returning officer for the election.
- (2) In this Part, a reference to a Form is a reference to a Form set out in Schedule 5.

Division 2 Division of private irrigation districts into zones

47 Division of private irrigation districts into zones

- (1) For the purposes of the first election of members of a private irrigation board, the Minister may divide a private irrigation district into zones.
- (2) For the purposes of the second and any later election of members of a private irrigation board, the private irrigation board may divide a private irrigation district into zones.
- (3) If a private irrigation district is divided into zones, the Minister or the board must:
- (a) subject to section 148 (3) of the Act, determine the number of members to be elected by the voters of each zone, and
- (b) show the zones on the plan of the private irrigation district exhibited as referred to in section 143 (3) (c) of the Act.

Division 3 Who is eligible to be elected at an election?

48 Eligibility for election as a member of a private irrigation board

A person (including a corporation) is eligible to be elected as a member of a private irrigation board if the person is entitled to vote in the election.

49 Eligibility for election as director of a private drainage board

- (1) A person is eligible to be elected as director of a private drainage board if the person is entitled to vote in the election.
- (2) However, a person is ineligible for election if the person:
 - (a) has not before nomination paid all moneys that were at any time before the end of the month preceding that in which nomination day falls, due by the person to the board, or
 - (b) has been convicted in New South Wales of a serious indictable offence or has been convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be a serious indictable offence.

50 Eligibility for election as member of a private water trust

- (1) A person is eligible to be elected as a member of a private water trust if the person is entitled to vote in the election.
- (2) However, a person who has been convicted of any serious indictable offence is ineligible to be elected as a member of a private water trust or to act as a member of a private water trust.

Division 4 Who is entitled to vote in an election?

51 Persons entitled to vote in election of members of a private irrigation board

- (1) A person is entitled to vote in an election of members of a private irrigation board if the person is an owner of land within the private irrigation district of that board.
- (2) Except as provided by subclauses (3) and (4), at any such election:
 - (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes where the area irrigated does not exceed 80 hectares, or
 - (ii) 3 votes where the area irrigated exceeds 80 hectares.

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- (3) At an election for the West Corrugan Private Domestic and Stock Water Supply and Irrigation District:
 - (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes where the quantity of water allocated to the holding is up to 200 megalitres, or
 - (ii) 3 votes where the quantity of water allocated to the holding is over 200 megalitres.
- (4) At an election for the Narromine Private Domestic and Stock Water Supply and Irrigation District:
 - (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes where the allocation is up to 150 megalitres, and
 - (ii) one vote for each 150 megalitres by which the allocation exceeds 150 megalitres, but only to a maximum of 10 votes.

52 Persons entitled to vote in election of directors of a private drainage board

- (1) A person is entitled to vote in an election of directors of a private drainage board if the person is the owner of land within the drainage district of that board.
- (2) At any such election:
 - (a) the owner of land not exceeding 20 hectares is entitled to one vote, and
 - (b) the owner of land exceeding 20 hectares but not exceeding 120 hectares is entitled to 2 votes, and
 - (c) the owner of land exceeding 120 hectares is entitled to 3 votes.
- (3) If the Crown is in the roll of voters the votes may be exercised by:
 - (a) any director appointed to the board by the Minister, or
 - (b) if a director has not been appointed to the board by the Minister, by a public servant authorised in writing for that purpose by the Ministerial Corporation.

53 Persons entitled to vote in election of members of a private water trust

- (1) A person is entitled to vote in an election of members of a private water trust if the person is the owner of land within the water supply district of the trust.
- (2) At an election of members of a private water trust placed in charge of irrigation works, or works for the prevention of floods or the control of floodwaters within the Murray Basin:
 - (a) the owner of an area of land not exceeding 20 hectares is entitled to one vote, and
 - (b) the owner of an area of land exceeding 20 hectares, but not exceeding 120 hectares, is entitled to 2 votes, and
 - (c) the owner of an area of land exceeding 120 hectares is entitled to 3 votes.
- (3) At an election of members of a private water trust in charge of water supplies for domestic and stock purposes:
 - (a) the owner of an area of land not exceeding 800 hectares is entitled to one vote, and
 - (b) the owner of an area of land exceeding 800 hectares, but not exceeding 4,000 hectares, is entitled to 2 votes, and
 - (c) the owner of an area of land exceeding 4,000 hectares is entitled to 3 votes.
- (4) A person who is entitled to vote under this clause may by instrument in writing authorise the trustees to place on the roll of voters the name of some other person instead of the person's own name. In such a case, the name of the other person is to be placed on the roll instead of the name of the person.
- (5) For the purposes of this clause, a person whose name is on the roll pursuant to an authority of the owner of a property is to be taken to be the owner of the area of land included in the property.

54 No other persons entitled to vote

A person is entitled to vote in an election only if:

- (a) the person has an entitlement set out in this Division, and
- (b) as at the close of enrolments, the person's name is included in the final roll for the election.

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55 Enrolment of representatives

- (1) If land is owned:
 - (a) by a corporation—the corporation is taken to be included in the final roll for an election only if the secretary of the corporation or some other nominee is included in that roll as the representative of the corporation, or
 - (b) by more than one trustee or legal personal representative (whether as administrators or executors) on behalf of the estate of a person—the trustees are, or the estate is, taken to be included in the final roll for an election only if a nominee of those trustees or legal personal representatives is so included in that roll as the representative of the trustees or estate.
- (2) Only one person may be nominated to vote in the election as a representative of the corporation, trustees or estate concerned.

Division 5 Who is the returning officer?

56 Returning officer for election of members of a private water trust or directors of a private drainage board

- (1) For the purpose of an election of members of a private water trust or directors of a private drainage board, the returning officer is the person appointed by the trust or board (as the case requires) to be the returning officer for the election.
- (2) Without limiting subclause (1), the secretary of a private drainage board may be appointed as the returning officer for an election.

57 Returning officer for election of members of a private irrigation board

- (1) For the purposes of the first election of members of a private irrigation board after the commencement of section 149 of the Act, the Minister is to appoint a returning officer.
- (2) For the purpose of any other election of members of a private irrigation board, the returning officer is to be appointed by the board.
- (3) Without limiting subclause (2), the secretary of a private irrigation board may be appointed as the returning officer for an election.

Division 6 Rolls

Subdivision 1 Preparation and exhibition of preliminary roll

58 Preparation of preliminary roll

- (1) The returning officer for an election must prepare and keep:
 - (a) a preliminary roll of the persons who, in the opinion of the returning officer, are eligible to vote in the election, and
 - (b) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in that roll.
- (2) The preliminary roll:
 - (a) must contain the names and last known addresses of each sole owner of land within the district, and
 - (b) if there is more than one owner of any such land—must contain the name and last known address of any one of them who was, by notice in writing given to the returning officer, last nominated for the purposes of this paragraph by all the owners of the land, and
 - (c) must describe the area of land held by each, and
 - (d) must contain the number of votes to which each is entitled, and
 - (e) must be certified by the returning officer in accordance with Form 1.
- (3) This clause does not apply to an election held as a consequence of an earlier election that has failed if a preliminary roll for the earlier election has already been prepared by the returning officer.

59 Exhibition of preliminary roll

The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged, and
- (b) for a period of at least 14 days.

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Subdivision 2 Preparation of final roll

60 Applications for enrolment by persons not already enrolled

- (1) A person whose name does not appear on the preliminary roll for an election may apply for enrolment in the final roll for the election.
- (2) The application must be in Form 2 and must be lodged with the returning officer before the close of enrolments.
- (3) On receipt of the application, the returning officer:
 - (a) if satisfied that the applicant is entitled to vote, must accept the application and enter the name and address of the applicant in the final roll, or
 - (b) if not so satisfied, must reject the application and inform the applicant in writing that the application has been rejected, or
 - (c) if the application is not in the proper form or is incomplete, must return the application for correction or completion and consider the duly corrected or completed application in accordance with this clause.

61 Objections to enrolment

- (1) Before the close of enrolments, the returning officer and any person who is entitled to vote in an election may object to the inclusion of the name of any person in the final roll.
- (2) An objection:
 - (a) must be in Form 3, and
 - (b) must state the grounds on which it is made, and
 - (c) must be signed by the objector, and
 - (d) must be lodged with the returning officer.
- (3) The returning officer must send particulars of an objection to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 14 days after the date on which particulars of the objection were sent to that person.
- (5) The returning officer must consider each objection, and any reply received within that 14-day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or reject an objection.

- (7) If the returning officer accepts an objection, the returning officer must exclude from the final roll for the election the name of the person to whom the objection relates and must inform that person and the objector, in writing, that the person's name is so excluded.
- (8) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector, in writing, that the returning officer has rejected the objection.
- (9) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.
- (10) For the purpose of enabling the returning officer to make a decision to accept or reject an objection to the inclusion of the name of a person in the final roll, the returning officer may require a person to furnish the returning officer with such information regarding the person objected to as the returning officer may specify.

62 Postponement of ballot not to affect final roll

The validity of the final roll for an election is not affected by the postponement of the close of the ballot by a notice published after the close of exhibition of the roll, and the roll remains the final roll for the election.

Division 7 Calling of the election**63 Final roll must be prepared before election called**

- (1) The final roll in relation to an election must be prepared in accordance with Division 6 before the calling of an election.
- (2) This clause does not apply to an election held as a consequence of an earlier election that has failed if a final roll for the earlier election has already been prepared by the returning officer.

64 Notice of election

- (1) The returning officer must fix a time and place for an election and cause notice of that fact:
 - (a) to be posted to every person eligible to vote at the election,
or
 - (b) to be published in a newspaper circulating generally throughout the relevant board or trust's district.

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- (2) The notice:
 - (a) must state that an election is to be held for the purpose specified, and
 - (b) must call for nominations of candidates, and
 - (c) must specify the date (*the nomination day*) and time for the close of nominations, and
 - (d) must advise where nomination forms can be obtained, and
 - (e) must advise where nominations may be lodged, and
 - (f) must, in the case of a notice sent to eligible voters, contain a nomination form, and
 - (g) must advise when and where the final roll for the election will be available on public exhibition.
- (3) The time specified in the notice for the close of nominations must be at least 14 days after notice is given.

65 Postponement of nomination day

- (1) Despite clause 64 (3), the returning officer may postpone the nomination day for a period not exceeding 14 days by a notice in a form similar to, and published in the same manner as, a notice referred to in clause 64 (1).
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 8 Nominations

66 Eligibility for nomination

Any person is eligible for nomination as a candidate for election if the person is eligible, under Division 3, to be elected.

67 Nomination of candidates

- (1) A nomination of a candidate:
 - (a) must be in Form 4, and
 - (b) must be made by at least 2 persons (other than the candidate) who each are eligible to vote in the election, and
 - (c) must be endorsed with, or accompanied by, the consent of the nominee, and
 - (d) must be lodged with the returning officer before the close of nominations.

- (2) If the returning officer is of the opinion that an insufficient number of persons by whom a candidate has been nominated are eligible to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.
- (3) A candidate who has been nominated in an election may withdraw the nomination at any time before the close of nominations by notice in writing addressed to the returning officer.

68 Uncontested elections

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is taken to have been elected.

69 Contested elections

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected, a ballot must be held.

Division 9 Calling of the ballot**70 Notice of ballot**

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be taken in respect of an election, the returning officer must cause notice that a ballot is to be taken:
 - (a) to be published in at least one newspaper circulating locally in the area to which the election relates, or
 - (b) to be sent by post to each person whose name is included in the final roll at the address shown on the roll.
- (2) The notice:
 - (a) must state that a ballot is to be taken, and
 - (b) must fix a time and date for the close of the ballot, and
 - (c) must, in the case of a notice in a newspaper, advise where copies of the final roll will be exhibited.
- (3) The notice must also state that it is compulsory for persons who wish to vote in the election to be enrolled in the final roll for the election.

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- (4) The close of the ballot must not be earlier than 28 days after the calling of the ballot.

71 Postponement of ballot

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of the ballot by a notice published in the same way as the notice stating that a ballot is to be held.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 10 The ballot

72 Printing of ballot-papers

- (1) As soon as practicable after the close of enrolments in an election, the returning officer:
 - (a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a lot, and
 - (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the final roll for the election.
- (2) A ballot-paper for an election must contain:
 - (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
 - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
 - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include a direction that the voter must record a vote by placing a cross in the square set opposite the name of each candidate for whom he or she votes.

73 Distribution of ballot-papers

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the final roll for the election:

- (a) a ballot-paper that is initialled by the returning officer, and

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- (b) an unsealed envelope (*the voter's envelope*) addressed to the returning officer and bearing on the back the words "NAME AND ADDRESS OF VOTER" and "SIGNATURE OF VOTER", together with appropriate spaces for the insertion of a name, address and signature, and
 - (c) another unsealed envelope (*the posting envelope*) that:
 - (i) is large enough to accommodate the voter's envelope if that envelope is folded, and
 - (ii) is addressed to the returning officer, and
 - (iii) is reply-paid.

74 Duplicate ballot-papers

- (1) At any time before the close of the ballot, the returning officer may issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
 - (a) that the original ballot-paper has been spoilt, lost or destroyed, and
 - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer must maintain a record of all duplicate ballot-papers issued under this clause.

75 Recording of votes

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must vote for no more than the number of persons to be elected, and
- (c) must place the completed ballot-paper (folded so that the vote cannot be seen) in the voter's envelope, and
- (d) must seal the voter's envelope, and
- (e) must complete the person's full name and address on, and must sign, the back of the voter's envelope, and
- (f) must seal the voter's envelope in the posting envelope, and
- (g) must return the envelopes to the returning officer so as to be received before the close of the ballot.

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Division 11 The scrutiny

76 Receipt of ballot-papers

- (1) The returning officer must reject (without opening it) any voter's envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.
- (2) The returning officer must examine the name on the back of the voter's envelope and, without opening the envelope:
 - (a) must accept the ballot-paper in the envelope for further scrutiny and draw a line through the name on the roll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the final roll for the election, or
 - (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.
- (3) The returning officer may reject a ballot-paper without opening the voter's envelope if, after making such inquiries as the returning officer thinks fit:
 - (a) the returning officer is unable to identify the signature on the back of the envelope, or
 - (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of the envelope.

77 Ascertaining result of ballot

The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

78 Poll clerks

- (1) The returning officer may appoint poll clerks if required.
- (2) A candidate must not be a poll clerk.

79 Scrutineers

- (1) Each voter in a ballot is entitled to request, by notice in writing given to the returning officer at any time after the close of enrolments for the ballot, the appointment of a person specified in the notice (who may, but need not, be the voter concerned) as a scrutineer for the purposes of the ballot.

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- (2) The returning officer may appoint a maximum of 10 persons as scrutineers for a ballot.
 - (3) The persons are to be appointed in the order in which the requests for their appointments were received by the returning officer in accordance with subclause (1).
 - (4) A person must not be appointed as a scrutineer unless the person consents to the appointment.
 - (5) A candidate must not be appointed as a scrutineer.
 - (6) A scrutineer's functions include scrutinising the receipt of ballot-papers under clause 76.

80 Scrutiny of votes

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
 - (a) the returning officer is to produce, unopened, the voter's envelopes containing the ballot-papers accepted for scrutiny,
 - (b) in the case of an election of members of a private irrigation board—the returning officer is to ascertain the zone to which the vote relates (where applicable) and place the voter's envelope with other such envelopes for that zone,
 - (c) the returning officer is then to open each such envelope, extract the ballot-paper and (without unfolding it) place it in an appropriate box or other container, with (in the case of an election of members of a private irrigation board) separate boxes or other containers for each zone (where applicable),
 - (d) when the ballot-papers from all the voter's envelopes have been placed in the box or other container, the returning officer is then to open the box or other container and remove the ballot-papers,
 - (e) the returning officer is then to examine each ballot-paper and reject those that are informal,
 - (f) the returning officer is then to proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal if:
 - (a) it is not initialled by the returning officer, or
 - (b) it has on it any mark or writing that the returning officer considers could enable any person to identify the voter who completed it, or

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- (c) it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper is not to be rejected as informal merely because of any mark or writing on it that is not authorised or required by this Regulation if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

81 Counting of votes

The result of a ballot for an election must be ascertained (zone by zone, where applicable) by the returning officer as follows:

- (a) if there is one person to be elected in the election—the candidate who received the highest number of votes is to be declared to be elected,
- (b) if there are 2 or more persons to be elected in the election—the candidates, not exceeding in number the number of persons to be elected, who received the highest number of votes are to be declared to be elected,
- (c) if there is an equality of votes—the returning officer is to determine by lot the candidate to be elected.

82 Notice of result of election

- (1) As soon as practicable after a candidate in an election has been elected, the returning officer must notify the Minister in writing of the name of the candidate elected.
- (2) As soon as practicable after declaration of a poll, the returning officer must issue to each person elected a notice in writing of the result of the election.

Division 12 General

83 Election of directors of private drainage boards or members of private water trusts

- (1) An election of directors of a private drainage board must be held:
 - (a) in the case of the first election held under this Regulation, on the third anniversary of the election of the board immediately before 1 April 2002, and
 - (b) every 3 years after that.
- (2) An election of the members of a private water trust must be held:
 - (a) in the case of the first election held under this Regulation, on the third anniversary of the election of the members of the trust immediately before 1 April 2002, and

(b) every 3 years after that.

- (3) Each person who, immediately before 1 April 2002, was a director of a private drainage board or a member of a private water trust is taken to have continued in office as a director of a private drainage board or a member of a private water trust for the residue of the term for which the person was elected.

84 Decisions of returning officer final

If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot in any election, the decision of the returning officer on that matter is final.

85 Disposal of election papers

After the declaration of a ballot, the returning officer must keep all papers connected with the election for at least 12 months after the election.

86 Offences

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in any election in which the person is not entitled to vote, or
- (c) make a false or wilfully misleading statement (not being a statement verified by statutory declaration):
 - (i) to the returning officer in connection with any election, or
 - (ii) in any document that the person furnishes for the purposes of any election, or
- (d) apply for enrolment in respect of any election in respect of which the person is already enrolled.

Maximum penalty: 1 penalty unit.

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[2] Schedule 5

Insert after Schedule 4:

Schedule 5 Forms

(Clause 46)

Form 1 Certificate

(Water Management (General) Regulation 2004, clause 58 (2) (e))

I certify that this roll contains the full names (*consecutively numbered and listed in alphabetical order*) and addresses of those persons who, in my opinion, are entitled to vote in the election in relation to which this roll has been prepared.

The first and last entries in the roll are as follows:

First Entry:

No:

Name:

Address:

Last Entry:

No:

Name:

Address:

Dated:

Signed:

Form 2 Application for enrolment

(Water Management (General) Regulation 2004, clause 60 (2))

Surname:

Given Names:

Postal Address:

Postcode:

Telephone No:

Address of property on which enrolment is based:

Local government area in which the property is situated:

I apply to be enrolled in the final roll for the following election and in any subsequent election (*specify the election to which the application relates*).

I am applying for enrolment:

- (a) *as the sole owner of property,
- (b) *as the representative of a corporation on behalf of which the property is owned,
- (c) *as the representative of the trustees or legal personal representatives of a person or estate.

Particulars of *corporation/*trustee/*legal personal representative in respect of whom or which the applicant is the representative **(see paragraphs (b) and (c) above):*

Name:

Postal Address:

I declare that *I have/*the person that I represent has, as at the calling of the election, the qualifications to vote.

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated:

Signed:

** Delete whichever is inapplicable.*

Form 3 Objection to enrolment

(Water Management (General) Regulation 2004, clause 61 (2) (a))

I object to the inclusion in the final roll for the following election: *(specify the election to which the objection relates)* of the name of *(name in full)* of *(postal address)*.

This objection is based on the following grounds: *(specify the grounds of the objection)*

Name of objector:

Postal Address:

Telephone No:

Dated:

Signed:

Form 4 Nomination of candidate

(Water Management (General) Regulation 2004, clause 67 (1) (a))

We nominate *(name in full)* of *(postal address)* as a candidate for the following election: *(specify the election to which the nomination relates and any zone in which the election is to be held)*.

We declare that we are each entitled to vote in the election.

Name in full:

Address:

Signature:

- 1
- 2
- 3
- 4
- 5
- 6

Note. This nomination must be completed by not fewer than 2 persons (other than the candidate), each of whom is qualified to vote under the *Water Management (General) Regulation 2004* in respect of the election.

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I, (*name in full*) consent to being a candidate at the election to which this nomination
relates.

Postal address:

Telephone No:

Date of birth:

Dated:

Signed:

Schedule 3 Amendments inserting substantive provisions of the Water Management (General) Regulation 2002

(Clause 2)

Parts 8–11

Insert after Part 7 (as inserted by Schedule 2 to this Regulation):

Part 8 Private drainage boards

Note. For consolidation purposes, this Part inserts such of the substantive provisions of the *Water Management (General) Regulation 2002* as are required to be retained (without altering those provisions in any way). The *Water Management (General) Regulation 2002* is repealed by clause 108 of this Regulation.

Division 1 Constitution and procedure

87 Quorum

The number of directors that constitute a quorum for a private drainage board is:

- (a) if the board consists of 3 directors—2, or
- (b) if the board consists of 4 or 5 directors—3, or
- (c) if the board consists of 6 or 7 directors—4.

Division 2 Finance

88 Rate book

- (1) For the purposes of section 209 of the Act, a rate book is to be in a form containing the following particulars:
 - (a) assessment number,
 - (b) name of ratepayer,
 - (c) additional charges for current year,
 - (d) payment received,
 - (e) receipt number,
 - (f) date of payment,
 - (g) current rates,
 - (h) arrears of rates carried forward,
 - (i) arrears,

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- (j) total,
- (k) total due.

- (2) For the purposes of section 209 (2) of the Act, any particular relating to a rate may be altered.
- (3) For the purposes of section 209 (4) of the Act, an alteration or amendment in a rate book is to be made, signed and dated by the private drainage board's Secretary and countersigned by the chairperson.

89 Rates

Rate notices by which rates are levied under section 206 of the Act must be in a form approved by the Ministerial Corporation.

90 Keeping of books and accounts

A private drainage board is to keep proper books and accounts that show full, true and regular accountings of all money received and paid by the private drainage board and the purposes for which money has been received or paid.

91 Banking

Money received by a private drainage board must be paid into an authorised deposit-taking institution to the credit of an account in the name of the private drainage board.

Part 9 Private water trusts

Division 1 Constitution and procedure

92 Meetings of members of a private water trust

- (1) Ordinary meetings of members of a private water trust are to be held at any time that the members from time to time determine.
- (2) The chairperson of a private water trust, or a majority of the members of a private water trust, may at any time call a special meeting of members of a private water trust.
- (3) Seven days' notice of an ordinary meeting, and reasonable notice of a special meeting, must be given in writing to each member of a private water trust.
- (4) No business, other than the business stated in the notice of the meeting, is to be transacted at the special meeting.

93 Special general meetings

For the purposes of sections 224 (2), 225 (2) and 226 of the Act, the prescribed manner of giving notice is:

- (a) by personal delivery, or
- (b) by post, or
- (c) by facsimile transmission, or
- (d) by e-mail.

94 Quorum

The quorum for a meeting of a private water trust is:

- (a) if the trust comprises 3 members—2 members, or
- (b) if the trust comprises 5 members—3 members.

95 Chairperson

- (1) The chairperson is to preside at a meeting of members of a private water trust.
- (2) If the chairperson is not present, the members of a private water trust then present are to appoint one of their number to act as chairperson.

96 Voting

- (1) Any question arising at a meeting of members of a private water trust is to be decided by a majority of votes of the members present.
- (2) In the case of an equality of votes the chairperson has a casting vote.

97 Minutes

- (1) The members of a private water trust must cause minutes of the proceedings of each meeting to be kept.
- (2) The minute books are to be open for inspection by the members of a private water trust and any ratepayer within the water supply district at any reasonable time.

98 Special general meetings of voters

- (1) The chairperson is to preside at a special general meeting of voters.
- (2) In the absence of the chairperson an appointed member of the private water trust may preside at the meeting or, if there is no

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appointed member of the private water trust present, an elected member of the private water trust selected by the members of the private water trust present may preside.

Division 2 Finance**99 Rate book**

- (1) On fixing rates under section 232 of the Act on land in a water supply district the members of a private water trust must enter the rates in a rate book.
- (2) The rate book is to be kept in a form approved by the Ministerial Corporation.

100 Correction of rate book

- (1) Any necessary corrections of the rate book must be made at a meeting of the members of a private water trust and be signed and dated by the Chairperson.
- (2) A correction affecting the amount of a rate must not be made after notice of the amount has been given to the person liable (except in the case of a correction arising from an appeal).

101 Payment of rates

- (1) Rates are payable by instalments if the members of a private water trust so decide.
- (2) A rate or an instalment of a rate is not recoverable until 30 days after notice of the amount due has been served on the ratepayer at the ratepayer's last known or usual address.

102 Appeals

- (1) An appeal by a landholder under section 232 (6) of the Act against the amount at which the landholder is rated must be lodged within 21 days after notice of the amount has been given to the landholder.
- (2) Notice of the appeal, in a form approved by the Ministerial Corporation, must be given to a Magistrate having jurisdiction in any part of the private water trust district and to the Secretary of the trust.

Division 3 Miscellaneous

103 Members of a private water trust's accounts

- (1) Money received by members of a private water trust in the operation of a private water trust must be paid into an authorised deposit-taking institution to the credit of an account in the name of the members of the private water trust.
- (2) All expenses incurred by members of a private water trust in the discharge of duties imposed on them by the Act are payable out of the funds at the disposal of the members of the private water trust under the Act.

Part 10 Hunter Valley flood mitigation works

104 Statement of particulars of program of works

The additional particulars to be set out in a statement under section 263 (3) of the Act are as follows:

- (a) an estimate of the cost to be incurred during the financial year to which the statement relates in respect of each work included in the program of flood works referred to in section 263 (1) of the Act,
- (b) an estimate of the amount of any compensation payable or likely to become payable during that financial year as a consequence of the undertaking of each such work,
- (c) an estimate of the cost of maintenance work in respect of works previously completed that the Minister considers should be carried out during that financial year,
- (d) an estimate of the amount of any compensation (other than compensation in respect of the works referred to in paragraph (a)) payable or to become payable by the Minister during that financial year,
- (e) an estimate of the amount of any payment to be made by the Minister during that financial year under section 261 (2) of the Act,
- (f) the percentage of the cost of the construction, carrying out and maintenance of any of the works referred to in paragraph (a), and of the amount of compensation payable or likely to become payable by the Minister as a consequence of the construction, carrying out and maintenance of such work, that a council will be liable to contribute under section 260 of the Act,

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- (g) an estimate of the amount of any payments that a council will be required to make during that financial year under section 265 of the Act,
- (h) an estimate of the amount of any payment that is likely to be received during that financial year under section 261 of the Act from a public authority in respect of any work referred to in paragraph (a),
- (i) the amount (if any) of any payment made by the Hunter Catchment Management Trust under section 262 of the Act during the previous financial year that remained unexpended at the close of that year.

105 Statement of cost of maintenance and compensation

The additional particulars to be set out in a statement under section 266 (1) of the Act are as follows:

- (a) an estimate of the cost of any maintenance that the Minister considers should be undertaken during the financial year to which the statement relates in respect of each work referred to in section 265 of the Act,
- (b) an estimate of the amount of any compensation likely to become payable during that financial year by the Minister as a consequence of any such maintenance,
- (c) an estimate of the amount of compensation payable or likely to become payable during that financial year by the Minister as a consequence of any maintenance of each work referred to in paragraph (a) carried out during any previous financial year,
- (d) the percentage that, under section 260 of the Act, the Minister has determined that the council should contribute to the cost of any such construction and maintenance,
- (e) the amount (if any) of any payment made by the council under section 265 of the Act during any previous financial year that remained unexpended at the end of the immediately preceding financial year.

Part 11 Lowbidgee flood control and irrigation works

106 Payment of rates

- (1) A landholder in respect of a holding within the Lowbidgee district within the meaning of Part 3 of Chapter 5 of the Act is to be notified, by means of a notice of assessment, of:

- (a) the rate fixed by the Minister for the current year, and
 - (b) the amount payable by the landholder, in accordance with that rate (subject to any variation by the Minister), for the year commencing on 1 July to which the notice relates.
- (2) The amount specified in the notice is to be paid to the Minister on or before the date for payment specified in the notice. That date must not be less than 28 days after the date of issue of the notice.
- (3) If a holding first becomes subject to a rate after 1 July in any year, the amount of the rate is to be apportioned, for the period from the date from which the holding becomes subject to the rate until the 30 June next following, on the basis of the proportion of the rate that that period bears to the whole year.

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Schedule 4 Further amendments inserting new matter

Schedule 4 Further amendments inserting new matter

(Clause 2)

[1] Parts 12 and 13

Insert after Part 11 (as inserted by Schedule 3 to this Regulation):

Part 12 Penalty notices for certain offences

107 Penalty notice offences

For the purposes of section 365 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 6 is declared to be a penalty notice offence, and
- (b) the penalty prescribed for such an offence is:
 - (i) in the case of a penalty payable by an individual—the penalty specified in Column 2 of Schedule 6 in relation to the offence, and
 - (ii) in the case of a penalty payable by a corporation—the penalty specified in Column 3 of Schedule 6 in relation to the offence.

Part 13 Miscellaneous

108 Repeals

The following Regulations are repealed:

- (a) the *Water Management (Elections) Regulation 2002*,
- (b) the *Water Management (General) Regulation 2002*.

109 Savings and transitional provisions

Schedule 7 has effect.

[2] Schedules 6 and 7

Insert after Schedule 5 (as inserted by Schedule 2 to this Regulation):

Schedule 6 Penalty notice offences

(Clause 107)

Column 1	Column 2	Column 3
Provision of Act	Penalty for individual	Penalty for corporation
Section 341 (1)	\$750	\$1500
Section 342 (1)	\$750	\$1500
Section 343 (1)	\$750	\$1500
Section 344 (1)	\$750	\$1500
Section 345 (1)	\$750	\$1500
Section 346 (1)	\$750	\$1500
Section 346 (2)	\$750	\$1500
Section 347 (1)	\$750	\$1500
Section 349	\$750	\$1500
Section 350	\$500	\$1000
Section 353	\$500	\$1000

Schedule 7 Savings and transitional provisions

(Clause 109)

Part 1 Provisions relating to the Water Management Amendment Act 2004

1 Transfer of certain access licences

A purchaser of land may apply to the Minister to record in the Access Register a general dealing under section 71M of the Act transferring an access licence to the purchaser, but only if:

- (a) the purchase included an entitlement that was, on the appointed day, replaced by the licence to be transferred, and

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- (b) settlement of the purchase took place before the appointed day, and
- (c) as at the appointed day:
 - (i) the purchaser's interest in the land had not been recorded on the folio of the Register kept under the *Real Property Act 1900* in relation to the land, or
 - (ii) the conveyance effecting the transfer of the land had not been registered in the General Register of Deeds kept under the *Conveyancing Act 1919*,as the case may require.

2 Deemed term transfers

For the purpose of enabling a term transfer referred to in clause 10 (3) of Schedule 10 to the Act to be recorded in the Access Register, the current occupier (within the meaning of clause 10 (1) of that Schedule) of the land concerned is to:

- (a) apply to the Director-General in the approved form for the recording of the transfer, and
- (b) provide the Director-General with evidence in the approved form of the current occupier's occupation (including its proposed duration) of the land.

Note. A term transfer of water entitlements conferred by an access licence is a **general dealing** within the meaning of the Act. Section 71A (1) (b) of the Act requires all general dealings to be recorded in the General Division of the Access Register kept under the Act. Section 71B (1) provides that any matter required to be recorded in that Division has no effect until it is so recorded and takes effect on being recorded.

3 Entitlements held by co-owners in a replacement access licence

Two or more co-holders of a replacement access licence referred to in clause 23 (1) of Schedule 10 to the Act who wish to make an election of the kind referred to in clause 23 (2) of that Schedule but do not receive a request to do so under that subclause may apply under section 73 of the Act for the recording of an alteration in the way in which they hold the licence.

4 Murrumbidgee entitlements

This Regulation is taken to have been made with the following amendments to Schedule 4:

- (a) the share component volume in megalitres shown in Column 2 in relation to Water Act entitlement 40IC000005 at the end of Part 1 is "34,400" instead of "25,649",

- (b) the following matter appears in appropriate order in Columns 1 and 2, respectively, of Part 1:

40SL24994H	3,402
40SL34102H	6,773
40SL36994H	2,000

Part 2 Provisions relating to Water Management (General) Amendment (Miscellaneous) Regulation 2005

5 Definition

In this Part:

the amending Regulation means the *Water Management (General) Amendment (Miscellaneous) Regulation 2005*.

6 Approved forms

A form approved by the Director-General for the purposes of clause 11 (1) (a), 17 (1) (a), 31 (1) (a), 42 (1) or 44 (1) before the commencement of Schedule 1 [1] to the amending Regulation is taken, on and from that commencement, to have been approved by the Minister.

7 Action taken by Director-General

Anything done by the Director-General under clause 16 (2) (b), 31 (1) (b) or (3), 32 (3), 42 (2), 44 (2) or Schedule 1 (4) before the commencement of Schedule 1 [4] to the amending Regulation is taken (to the extent that it has continuing effect), on and from that commencement, to have been done by the Minister.

8 Saving relating to repealed Regulations

Any act, matter or thing that, immediately before the repeal of the *Water Management (Elections) Regulation 2002* or the *Water Management (General) Regulation 2002*, had effect under the Regulation concerned continues to have effect under this Regulation.