



New South Wales

Water Management (General) Amendment (Miscellaneous) Regulation 2009

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*.

PHILLIP COSTA, MP
Minister for Water

Explanatory note

The objects of this Regulation are:

- (a) to amend the *Water Management (General) Regulation 2004* so as:
 - (i) to make provision with respect to entitlements authorising the taking of water from the NSW Border Rivers water source, being entitlements that are to become access licences to which Part 2 of Chapter 3 of the *Water Management Act 2000* applies, and
 - (ii) to extend the time for registering security interests in certain access licences that came into being on 1 July 2004, and
 - (iii) to increase the share component of one of the access licences that came into being on 1 July 2004, and
 - (iv) to make other amendments of a minor nature, and
- (b) to amend Schedule 11 to the *Water Management Act 2000* as a consequence of the amendments referred to in paragraph (a) (i).

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

2009 No 282

Water Management (General) Amendment (Miscellaneous) Regulation
Clause 1 2009

Water Management (General) Amendment (Miscellaneous) Regulation 2009

under the

Water Management Act 2000

1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Miscellaneous) Regulation 2009*.

2 Commencement

- (1) This Regulation commences on 1 July 2009, except as provided by subclauses (2) and (3).
- (2) Schedule 1 [4] is taken to have commenced on 30 June 2009.
- (3) Schedule 1 [6] is taken to have commenced on 1 July 2004.
- (4) This Regulation is required to be published on the NSW legislation website.

Note. Subclauses (2) and (3) are made pursuant to the power conferred by clause 1 (2) of Schedule 9 to the *Water Management Act 2000*.

Schedule 1 Amendment of Water Management (General) Regulation 2004

[1] Clause 3 Definitions

Insert “, regulated river (general security—A class) access licence or regulated river (general security—B class) access licence” after “regulated river (general security) access licence” in the definition of *general security entitlement* in clause 3 (1).

[2] Clause 8 Categories of access licence

Insert after clause 8 (1) (e):

- (f) regulated river (general security—A class) access licence,
- (g) regulated river (general security—B class) access licence.

[3] Clause 18 Exemption from requirement for access licence

Omit “60A (1)–(3)” from clause 18 (1). Insert instead “60A (1) and (2)”.

[4] Clause 29AA Extension of time for registration of security interests

Omit clause 29AA (3). Insert instead:

- (3) Pursuant to clause 1 of Schedule 9 to the Act, clause 19 of Schedule 10 to the Act is to be construed, in its application to an access licence to which this clause applies, as if the reference in clause 19 (11) to 36 months were a reference to:
 - (a) except as provided by paragraphs (b) and (c), 48 months or,
 - (b) in the case of an access licence arising from an entitlement referred to in Schedule 4AA (other than one referred to in paragraph (c)), 60 months, or
 - (c) in the case of an access licence arising from an entitlement numbered 30SA004518, 50SA000207, 60SA008558, 70SA009598, 80SA000962, 80SA010605, 90SA011551 or 90SL051364, 72 months.

2009 No 282

Water Management (General) Amendment (Miscellaneous) Regulation
2009

Schedule 1 Amendment of Water Management (General) Regulation 2004

[5] Part 3, Division 10

Insert after Division 9 of Part 3:

**Division 10 Replacement access licences for
entitlements for the NSW Border Rivers
(1 July 2009)**

29Y Application of Division

- (1) This Division applies to and in respect of:
 - (a) each entitlement with respect to the NSW Border Rivers,
and
 - (b) each access licence arising from any such entitlement.
- (2) In this Division, a reference to the *NSW Border Rivers* is a reference to the NSW Border Rivers Regulated River Water Source identified in the *Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2009*, as in force on 1 July 2009.

29Z Supplementary water access licences

- (1) On 1 July 2009, an A or B component entitlement is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component calculated in accordance with the following formula:

$$S = \frac{D \times 120,000}{\Sigma D}$$

where:

S represents the share component for the supplementary water access licence, expressed in unit shares.

D represents the sum of:

- (a) the volume of water for A component irrigation, and
- (b) the volume of water for B component irrigation,

as authorised by the A or B component entitlement immediately before 1 July 2009.

ΣD represents the sum of the volumes of water for A or B component irrigation for all A or B component entitlements.

- (2) In this clause:

A or B component entitlement means a licence under section 12 or 13 of the former 1912 Act, or an authority under section 20B of that Act, being a licence or authority with respect to the NSW

Border Rivers that is described as including a volume of water for A component irrigation or B component irrigation, or both.

unit share has the same meaning as it has in the *Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2009*, as in force on 1 July 2009.

29ZA Registration of security interests in replacement access licences

- (1) Pursuant to clause 1 of Schedule 9 to the Act, clause 19 of Schedule 10 to the Act is to be construed as if the reference in clause 19 (5) to the commencement of Part 2 of Schedule 10 to the Act were a reference to 1 July 2009.
- (2) Pursuant to clause 1 of Schedule 9 to the Act, the following subclauses are taken to be inserted after clause 19 (10) of Schedule 10:
 - (10A) Subclause (10B) applies only to an access licence arising from an entitlement with respect to land in respect of which an interest was, immediately before 1 July 2009, registered under the *Real Property Act 1900* or under the *Corporations Act 2001* of the Commonwealth.
 - (10B) No dealing that requires the consent of the holder of a security interest may be registered in relation to an access licence until the expiry of the prescribed period unless, before the expiry of that period, the holder of the interest:
 - (a) has lodged with the Director-General a notice of the kind referred to in subclause (5) (d), or
 - (b) has notified the Director-General that the holder does not propose to seek registration of the interest in the Access Register.

29ZB Entitlements held by 2 or more co-holders

Pursuant to clause 1 of Schedule 9 to the Act, clause 23 of Schedule 10 to the Act is taken to have been replaced by the following clause:

23 Entitlements held by 2 or more co-holders

Two or more co-holders of a replacement access licence are taken to hold the access licence:

- (a) if the Minister has a record of the shares in which the former entitlement was held immediately before the appointed day, in the

2009 No 282

Water Management (General) Amendment (Miscellaneous) Regulation
2009

Schedule 1 Amendment of Water Management (General) Regulation 2004

- same shares as the former entitlement was so held, or
- (b) if the Minister has no such record, but within 2 months after sending a written request to the co-holders seeking information as to their shareholding the Director-General receives:
 - (i) a notice, signed by or on behalf of each of them, by which they agree as to the shares in which they hold the access licence, or
 - (ii) a notice, signed by any one of them, to the effect that legal proceedings have been commenced for the purpose of obtaining a declaration as to the shares in which they hold the access licence, in the agreed shares referred to in the notice under subparagraph (i), or in the shares determined pursuant to the legal proceedings referred to in the notice under subparagraph (ii), as the case may be, or
 - (c) in any other case, as tenants in common with the entitlements conferred by the licence under section 56 apportioned equally between them.

[6] Schedule 4 Supplementary access licence share components

Omit the matter relating to “50SL051158” from Columns 1 and 2 of Part 2.

Insert instead:

50SL051158

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[7] Schedule 4AA, heading

Omit “access licences”. Insert instead “entitlements”.

Schedule 2 Amendment of Water Management Act 2000

[1] Schedule 11 Categories of access licence

Insert in Columns 2, 3 and 4, after the matter relating to “Irrigation”, opposite “Section 12 or section 13 licence” in Column 1:

A component irrigation	Regulated river (general security—A class)	Nil
B component irrigation	Regulated river (general security—B class)	Nil

[2] Schedule 11

Insert in Columns 2, 3 and 4, after the matter relating to “Irrigation”, opposite “Section 20B authority (not high flow)” in Column 1:

A component irrigation	Regulated river (general security—A class)	Nil
B component irrigation	Regulated river (general security—B class)	Nil