



New South Wales

Water (Part 2—General) Amendment (Entitlements Transfer Process) Regulation 2009

under the

Water Act 1912

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Act 1912*.

PHILLIP COSTA, MP
Minister for Water

Explanatory note

Part 3 of the *Water (Part 2—General) Regulation 1997* provides for a scheme for transfers between holders of licences, authorities and group licences of rights to take and use water from a water source that is not the subject of a volumetric water allocations scheme under Division 4B of Part 2 of the *Water Act 1912*.

The object of this Regulation is to provide that the Water Administration Ministerial Corporation may acquire and dispose of such water rights under that scheme.

This Regulation is made under the *Water Act 1912*, including section 27 (1) (c1).

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Clause 1 Regulation 2009

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1 Name of Regulation

This Regulation is the *Water (Part 2—General) Amendment (Entitlements Transfer Process) Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Water (Part 2—General) Regulation 1997

[1] Clause 16 Definitions

Insert in appropriate order:

transferee means the person or body to which any rights to take and use water under an entitlement are transferred by operation of a provision of this Part.

transferor means the person or body from which any rights to take and use water under an entitlement held by that person or body are transferred by operation of a provision of this Part.

[2] Clause 17 Application of Part

Omit clause 17 (3).

[3] Clause 18

Omit the clause. Insert instead:

18 Transfer of water rights

- (1) The holder of an entitlement (other than the Ministerial Corporation) may transfer the whole or part of the holder's rights to take and use water under the entitlement:
 - (a) subject to the approval of the Ministerial Corporation, to the holder of another entitlement or (in the case of a permanent transfer) to a person who is an applicant for an entitlement, or
 - (b) to the Ministerial Corporation, by notice in writing given to the Ministerial Corporation.
- (2) The Ministerial Corporation, as holder of an entitlement, may transfer, on the application of the transferee, the whole or part of the Ministerial Corporation's rights to take and use water under the entitlement to the holder of another entitlement or (in the case of a permanent transfer) to a person who is an applicant for an entitlement.

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[4] Clause 18A

Insert after the heading to Division 2 of Part 3:

18A Application of Division

This Division does not apply to a transfer from the holder of an entitlement to the Ministerial Corporation of rights to take and use water.

[5] Clause 19 Applications for transfer generally

Insert after clause 19 (2):

- (3) Subclause (2) (a) does not apply to a transfer from the Ministerial Corporation to another person or body of rights to take and use water.

[6] Clause 24 Giving effect to transfers of rights

Insert “between the holder of an entitlement and a person other than the Ministerial Corporation” after “use water” wherever occurring in clause 24 (1) and (2).

[7] Clause 24 (3)

Insert after section 24 (2):

- (3) A permanent or temporary transfer of rights to take and use water between a holder of an entitlement and the Ministerial Corporation is to be effected, after the receipt of the relevant notice referred to in clause 18 (1) (b) or the approval of the relevant application referred to in clause 23, by:
 - (a) the issue of a new entitlement to the transferee, or
 - (b) altering the conditions to which the entitlements of the transferor and transferee are subject.
- (4) The Ministerial Corporation may refuse to give effect to a transfer of rights to take and use water to or from the Ministerial Corporation for any or no reason.