



New South Wales

Hunter Water Regulation 2010

under the

Hunter Water Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Hunter Water Act 1991*.

PHILLIP COSTA, MP
Minister for Water

Explanatory note

The object of this Regulation is to remake, with some amendments, the provisions of the *Hunter Water (General) Regulation 2005* and the *Hunter Water (Special Areas) Regulation 2003*, which are repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation includes new provisions that prescribe certain offences under this Regulation as penalty notice offences and prescribes certain persons as authorised officers for the purposes of issuing penalty notices and creates an offence if a person damages a work or property of the Hunter Water Corporation and fails to notify the Corporation of the damage.

This Regulation also makes provision with respect to the following:

- (a) the regulation of activities within special areas,
- (b) the performance of plumbing or drainage work, including the requirement for a permit to do plumbing or drainage work,
- (c) applications for, and the granting of, permits,
- (d) the remedying of defective work,
- (e) the giving of certificates of compliance by persons who have completed plumbing or drainage work,
- (f) the imposition of restrictions on the use of water,
- (g) repeals, savings and formal matters.

This Regulation is made under the *Hunter Water Act 1991*, including sections 31A, 55 (1), 57, 69 (2) and 70 (the general regulation-making power).

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Clause 1 Hunter Water Regulation 2010

Part 1 Preliminary

Hunter Water Regulation 2010

under the

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Hunter Water Regulation 2010*.

2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Hunter Water (General) Regulation 2005* and the *Hunter Water (Special Areas) Regulation 2003* which are repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Corporation means Hunter Water Corporation.

the Act means the *Hunter Water Act 1991*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Special areas

Division 1 Preliminary

4 Definitions

In this Part:

Chichester Catchment Area means the area described in the proclamation under the *Hunter District Water Supply and Sewerage Act 1892* published in Gazette No 153 of 5 December 1924 at page 5461.

Note. A map (in zoomable pdf) accessible from the current version of this Regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

development consent means a development consent in force under the *Environmental Planning and Assessment Act 1979*.

Director-General means the Director-General of the Department of Environment, Climate Change and Water.

environment protection licence means an environment protection licence in force under the *Protection of the Environment Operations Act 1997*.

Grahamstown Catchment Area means the area described in the proclamation under *Hunter District Water, Sewerage and Drainage Act 1938* published in Gazette No 98 of 11 October 1963 at pages 2984 and 2985.

Note. A map (in zoomable pdf) accessible from the current version of this Regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

Nelson Bay Catchment Area means the area described in the following proclamations:

- (a) the proclamation under the *Hunter District Water, Sewerage and Drainage Act 1938* published in Gazette No 2 of 7 January 1949 at pages 10 and 11,
- (b) the proclamation under the *Hunter District Water, Sewerage and Drainage Act 1938* published in Gazette No 106 of 1 November 1963 at pages 3189 and 3190,
- (c) the proclamation under the *Water Supply Authorities Act 1987* published in Gazette No 159 of 21 October 1988 at page 5485.

Note. A map (in zoomable pdf) accessible from the current version of this Regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

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Part 2 Special areas

North Stockton Catchment Area means the area of land described in, and declared to be a special area by, the *Hunter Water (North Stockton Catchment Area) Order 1999* made under section 53 of the Act.

Note. A map (in zoomable pdf) accessible from the current version of this Regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

Tomago Sandbeds Catchment Area means the area described in proclamations under the *Hunter District Water, Sewerage and Drainage Act 1938* published as follows:

- (a) in Gazette No 89 of 11 July 1941 at pages 2482 and 2483,
- (b) in Gazette No 100 of 28 September 1945 at page 1703,
- (c) in Gazette No 31 of 21 March 1958 at page 734,
- (d) in Gazette No 91 of 25 August 1961 at page 2559.

Note. A map (in zoomable pdf) accessible from the current version of this Regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

Williams River Catchment Area means the area described in the proclamation under the *Hunter District Water, Sewerage and Drainage Act 1938* published in Gazette No 112 of 8 November 1963 at pages 3324 and 3325.

Note. A map (in zoomable pdf) accessible from the current version of this Regulation on the In force section of the NSW legislation website illustrates the extent of the catchment area.

5 Application of Part

This Part applies to the following special areas:

- (a) Chichester Catchment Area,
- (b) Grahamstown Catchment Area,
- (c) Nelson Bay Catchment Area,
- (d) North Stockton Catchment Area,
- (e) Tomago Sandbeds Catchment Area,
- (f) Williams River Catchment Area.

Note. The Chichester, Grahamstown, Nelson Bay, Tomago Sandbeds and Williams River Catchment Areas are all taken to be special areas by virtue of section 53 (3) of the Act.

Division 2 Special areas generally

6 Division does not apply to Williams River Catchment Area

Despite clause 5, this Division does not apply to the Williams River Catchment Area.

7 Agriculture

- (1) A person must not engage in any of the following in a special area:

- (a) aquaculture,
- (b) intensive livestock agriculture,
- (c) intensive plant agriculture.

Maximum penalty: 100 penalty units in the case of a corporation, or 70 penalty units in any other case.

- (2) This clause does not apply to anything that is done in accordance with:

- (a) an approval given by the Director-General, or
- (b) an approval under Part 3A of, or a development consent under Part 4 of, the *Environmental Planning and Assessment Act 1979*, or
- (c) an environment protection licence.

- (3) In this clause:

aquaculture, *intensive livestock agriculture* and *intensive plant agriculture* have the same meanings as they have in the standard instrument prescribed under section 33A (1) of the *Environmental Planning and Assessment Act 1979*.

8 Sewage disposal

- (1) The owner or occupier of land in a special area must not erect, install or operate any on-site sewage management facility on the land.

Maximum penalty: 100 penalty units in the case of a corporation, or 70 penalty units in any other case.

- (2) This clause does not apply to anything done in accordance with:

- (a) an approval under Part 3A of, or a development consent under Part 4 of, the *Environmental Planning and Assessment Act 1979*, or
- (b) an approval granted under the *Local Government Act 1993*, or
- (c) an environment protection licence.

Division 3 Specific restrictions

9 Chichester and Grahamstown Storage Reservoirs

- (1) This clause applies to the Chichester Storage Reservoir in the Chichester Catchment Area and Grahamstown Storage Reservoir in the Grahamstown Catchment Area.

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Part 2 Special areas

(2) A person must not, except in accordance with an approval given by the Director-General:

- (a) enter, bathe or swim or allow any other person, or any animal in the person's control, to enter, bathe or swim in a reservoir to which this clause applies, or
- (b) fish or use a boat or any other water craft or allow any other person to fish or use a boat or any other water craft in any such reservoir.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

10 Nelson Bay, North Stockton and Tomago Sandbeds

(1) A person must not engage in any extractive industry in the Nelson Bay Catchment Area, North Stockton Catchment Area or Tomago Sandbeds Catchment Area otherwise than in accordance with an approval given by the Director-General.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

(2) In this clause:

extractive industry includes mining and any other disturbance of geologic material for the extraction of minerals or other geological constituents.

11 Williams River

(1) This clause applies to that part of the Williams River in the Williams River Catchment Area that is within 2.5 kilometres upstream, or 0.5 kilometres downstream, of the Seaham Weir.

(2) A person must not use, or allow any other person to use, a boat or any other water craft in that part of the Williams River to which this clause applies unless the boat or water craft is used in accordance with an approval given by the Director-General.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

Division 4 Miscellaneous

12 Pollution of waters

(1) A person must not pollute any waters in a special area.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

- (2) A person does not commit an offence under subclause (1) in respect of anything that is done in accordance with an environment protection licence.
- (3) The Director-General may give a direction for:
- (a) the management or disposal of any substance in a special area that the Director-General considers may detrimentally affect any waters in the area concerned, or
 - (b) the removal of any such substance from a special area or the relocation of the substance to another place in that area.
- (4) A person given a direction under subclause (3) must comply with it.
Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in any other case.
- (5) In this clause:
pollute, in relation to waters, has the same meaning as *pollution of waters* has in the *Protection of the Environment Operations Act 1997*, but extends to include disturbing geological or other matter (whether natural or artificial) in such a manner as to change, or to be likely to change, the physical, chemical or biological condition of the waters.
Note. Section 7 of the *Interpretation Act 1987* provides that, if an Act or instrument defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.
waters has the same meaning as it has in the *Protection of the Environment Operations Act 1997*.

13 Approvals given by Director-General

- (1) An approval given by the Director-General for the purposes of this Part is to be in writing, may be given unconditionally or subject to conditions and may be varied or revoked by the Director-General (by written notice served on the holder of the approval) at any time and for any reason.
- (2) In exercising any function with respect to the giving, variation or revocation of an approval in connection with any special area, the Director-General must have primary regard to the need to prevent water in the special area from becoming polluted or contaminated.

14 Notices by public agencies

For the purposes of section 55 (1) of the Act, the notice to be given to the Director-General:

- (a) must be in writing, and
- (b) must be served on the Director-General, either by post or by lodging it at an office of the NSW Office of Water, and

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- (c) must contain a full description of the function that is intended to be exercised and of any proposed activity associated with the exercise of that function (together with a statement of the objectives of the proposed activity).

Part 3 Plumbing and drainage work

15 Definitions

In this Part:

approved means approved by the Corporation.

AS 5200.000 means AS 5200.000—2006, *Technical specification for plumbing and drainage products—Procedures for certification of plumbing and drainage products*, published by Standards Australia.

certificate of compliance means a certificate of the kind referred to in clause 25.

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 residence.

exempt plumbing or drainage work means work that:

- (a) involves repairing a tap or showerhead in a dwelling or installing water-restricting or flow-regulating devices to tap end fittings (including showerheads) in a dwelling, and
- (b) does not involve repairing any thermostatic mixing valve, tempering valve or backflow prevention device, and
- (c) is carried out by an owner or occupier of the dwelling or by a person who does not receive payment or other consideration for carrying out that work and who is authorised to carry out the work by an owner or occupier of the dwelling.

fitting includes any pipe, apparatus or fixture used for plumbing or drainage work.

permit means a permit granted by the Corporation under this Part and in force.

Plumbing and Drainage Code of Practice means the *New South Wales Code of Practice Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales (available from the Corporation).

plumbing or drainage work means work comprising or affecting:

- (a) a water supply service pipe or its connection to a water main of the Corporation, or
- (b) a sewerage service pipe or its connection to a sewer main of the Corporation, or
- (c) a stormwater drainage service drain or its connection to a stormwater drain of the Corporation.

repair includes make good, replace, reconstruct, remove, alter, cleanse or clear.

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Part 3 Plumbing and drainage work

sewerage service pipe means a pipe connecting premises to a sewer main of the Corporation, and includes the fittings connected to the pipe.

stormwater drainage service drain means a stormwater drain connecting premises to a stormwater drain of the Corporation, and includes the fittings connected to the drain.

water supply service pipe means a pipe connecting premises to a water main of the Corporation, and includes the fittings connected to the pipe.

16 Must comply with Code of Practice

- (1) A person must not do any plumbing or drainage work otherwise than in accordance with the Plumbing and Drainage Code of Practice.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (2) This clause does not apply to exempt plumbing or drainage work.

17 Must use approved fittings

- (1) A person must not use any fitting for plumbing or drainage work unless the fitting is approved.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (2) The Corporation may, before it approves a fitting of a particular kind:
 - (a) require:
 - (i) a fitting of that kind to be submitted to the Corporation for examination and testing, or
 - (ii) submission to the Corporation of a satisfactory result of tests of a fitting of that kind carried out by an approved person or body, and
 - (b) require fittings of that kind to be manufactured under an approved system of quality assurance.
- (3) The Corporation must not approve the construction or use of a particular kind of fitting unless it is satisfied that it complies with the requirements of AS 5200.000.

18 Must notify Corporation

A person who proposes to do plumbing or drainage work must notify the Corporation at least 2 working days before commencing the work.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

19 Must be authorised by permit

- (1) A person must not do plumbing or drainage work unless authorised by a permit to do the work.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.
- (2) A person is not guilty of an offence under this clause if:
 - (a) the work is done in an emergency:
 - (i) to prevent waste of water, or
 - (ii) to restore a water supply that has been shut off to prevent waste of water, or
 - (iii) to free a choked pipe, or
 - (iv) to prevent damage to property, and
 - (b) the person obtains a permit for the work as soon as practicable after the work is done.
- (3) This clause does not apply to:
 - (a) plumbing or drainage work done by an employee of the Corporation, or
 - (b) exempt plumbing or drainage work.

20 Application for permit

- (1) An application for a permit:
 - (a) must be made in an approved form, and
 - (b) must be lodged at an office of the Corporation.
- (2) An applicant must pay the fee determined by the Corporation for the issue of a permit.

21 Refusal of permits

- (1) The Corporation may refuse to grant a permit to a person who, in its opinion, has previously carried out plumbing or drainage work in contravention of the Act, this Regulation or a direction under the Act or this Regulation.
- (2) The Corporation may also refuse to grant a permit to a person while any relevant information that was not supplied with the application and that has been requested by the Corporation from the applicant is outstanding.

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Clause 22 Hunter Water Regulation 2010

Part 3 Plumbing and drainage work

22 Conditions of permits

- (1) The Corporation may grant a permit subject to conditions.
- (2) A person must not contravene a condition of a permit.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

23 Suspension or cancellation of permit

- (1) The Corporation may, by written notice served on the holder of a permit, suspend or cancel the permit if:
 - (a) the permit was granted on the basis of false or misleading information, or
 - (b) the holder of the permit has contravened a condition of the permit, or
 - (c) the holder of the permit has contravened the Act, this Regulation or a direction under the Act or this Regulation.
- (2) The notice must set out the reason for the suspension or cancellation.
- (3) The Corporation may suspend or cancel a permit at the request of:
 - (a) the holder of the permit, or
 - (b) the owner, or duly authorised agent of the owner, of the premises on which the work authorised by the permit is to be, or is being, done.

24 Defective plumbing or drainage work

- (1) The Corporation may, by written notice served on a person who is carrying out (or has carried out) plumbing or drainage work, direct the person:
 - (a) to repair, as specified by the Corporation, work done otherwise than in a tradesmanlike manner, or
 - (b) to bring into conformity with the Plumbing and Drainage Code of Practice work done otherwise than in accordance with that Code, or
 - (c) to repair or replace, as specified by the Corporation, a defective fitting used in any of the work done, or
 - (d) to bring into conformity with the Corporation's approval any fitting that does not comply with the approval.
- (2) A person to whom such a direction is given must not fail to comply with the direction.
Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

- (3) If a direction is given to a person before a certificate of compliance is given for the work, the person must not continue with the work until the direction has been complied with.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

- (4) A direction is of no effect if it is issued more than 2 years after the work to which it relates has been completed.

25 Must give certificate of compliance after work completed

- (1) A person who does plumbing or drainage work must, within 48 hours after completing the work:

- (a) give the Corporation a certificate of compliance duly completed and signed by the person, and
- (b) give a copy of the certificate to the owner of the premises on which the work was done or to which the work was connected.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

- (2) A certificate of compliance must be in the approved form (as supplied by the Corporation) and must certify that the plumbing or drainage work to which it relates has been completed in accordance with the Plumbing and Drainage Code of Practice.

- (3) This clause does not apply to:

- (a) plumbing or drainage work done by an employee of the Corporation, or
- (b) exempt plumbing or drainage work.

26 Exemption from certain requirements

- (1) The Corporation may exempt a person, or any specified class of persons, from any or all of the following requirements of this Part:

- (a) the requirement to hold a permit authorising the doing of plumbing or drainage work,
- (b) the requirement to notify the Corporation before doing plumbing or drainage work,
- (c) the requirement to complete a certificate of compliance with respect to plumbing or drainage work,
- (d) the requirement to use only approved fittings for plumbing or drainage work.

- (2) An exemption under subclause (1) (a), (b) or (c) may relate to plumbing or drainage work generally or to any specified kind or kinds of plumbing work.

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Clause 26 Hunter Water Regulation 2010

Part 3 Plumbing and drainage work

- (3) An exemption under subclause (1) (d) may relate to fittings generally or to any specified kind or kinds of fitting.
- (4) The Corporation may vary or revoke any exemption under this clause.
- (5) Notice of any exemption granted under this clause, or of any variation or revocation of such an exemption, may be given in such manner as the Corporation considers appropriate.
- (6) A person in respect of whom an exemption under this clause ceases to have effect by reason of the variation or revocation of the exemption is not guilty of an offence under this Part as a result of the exemption having ceased to have effect unless it is established that he or she was aware of the variation or revocation of the exemption.
- (7) A person is taken to be aware of the variation or revocation of an exemption if written notice of that fact is served on the person, either personally or by post.
- (8) Subclause (7) does not affect any other means by which a person may be made aware of the variation or revocation of an exemption.

Part 4 Miscellaneous

27 Must notify Corporation of damage to its works or property

A person who damages a work or other property of the Corporation must immediately notify the Corporation of the damage.

Maximum penalty: 200 penalty units in the case of a corporation, or 100 penalty units in any other case.

28 Restrictions on use of water

- (1) If the Minister considers it necessary to do so in the case of drought or other emergency, or the Minister is for some other reason of the opinion that it is necessary in the public interest and for the purpose of maintaining water supply, the Minister may, by notice, regulate or restrict any one or more of the following:
 - (a) the purposes for which water may be used,
 - (b) the times when water may be used,
 - (c) the quantities of water that may be used,
 - (d) the means or methods of the use of water.
- (2) Any such notice regulating or restricting the use of water:
 - (a) is required to be published in the Gazette and in a newspaper circulating in the area of operations of the Corporation, and
 - (b) may apply to the whole of the area of operations of the Corporation or to such part of that area as is specified in the notice, and
 - (c) takes effect on the date specified in the notice (being a date that is not earlier than the date on which the notice is first published), and
 - (d) has effect despite the provisions of any contract relating to the supply of water by the Corporation.
- (3) A person must not use water contrary to a notice under this clause.
Maximum penalty: 50 penalty units in the case of a corporation, or 5 penalty units in any other case.
- (4) The Corporation may cut off or restrict the supply of water to any land if the owner, occupier or person requiring a supply of water fails to comply with a notice under this clause regulating or restricting the use of water.

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Clause 29 Hunter Water Regulation 2010

Part 4 Miscellaneous

29 Penalty notice offences

For the purposes of section 31A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and
- (b) the penalty prescribed for such an offence is:
 - (i) if the person alleged to have committed the offence is an individual, the amount specified opposite the provision in Column 2 of the Schedule, or
 - (ii) if the person alleged to have committed the offence is a corporation, the amount specified in Column 3 of the Schedule.

30 Authorised officers for penalty notices

- (1) For the purposes of section 31A (9) of the Act, a person is an authorised officer if the person is a member of any one or more of the following classes of persons:
 - (a) police officers,
 - (b) members of staff of the Corporation,
 - (c) members of staff of the Department of Environment, Climate Change and Water who are authorised to serve a penalty notice under any one or more of the following provisions:
 - (i) section 192 of the *National Parks and Wildlife Act 1974*,
 - (ii) section 224 of the *Protection of the Environment Operations Act 1997*,
 - (iii) section 365 of the *Water Management Act 2000*,
 - (d) persons who are prescribed officers within the meaning of section 30D of the *Maritime Services Act 1935*,
 - (e) members of staff of Dungog Shire Council or Port Stephens Council who are authorised to serve a penalty notice under section 679 of the *Local Government Act 1993*.
- (2) A member of staff of the Corporation is an authorised officer only if the Corporation has duly authorised that person to exercise the functions of an authorised officer.

31 Savings

Any act, matter or thing that, immediately before the repeal of the *Hunter Water (General) Regulation 2005* or the *Hunter Water (Special Areas) Regulation 2003*, had effect under either of those Regulations continues to have effect under this Regulation.

32 Repeal

The Hunter Water (Transitional) Regulation 1999 is repealed.

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Schedule 1 Penalty notice offences

Schedule 1 Penalty notice offences

(Clause 29)

Column 1	Column 2	Column 3
Provision	Penalty for an individual	Penalty for a corporation
Offences under this Regulation		
Clause 7 (1)	\$650	\$900
Clause 8 (1)	\$650	\$900
Clause 9 (2)	\$750	\$1,500
Clause 10 (1)	\$750	\$1,500
Clause 11 (2)	\$750	\$1,500
Clause 12 (4)	\$450	\$900
Clause 28 (3)	\$220	\$550