



New South Wales

Water Management (General) Amendment (Aquifer Interference) Regulation 2011

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*.

KATRINA HODGKINSON, MP
Minister for Primary Industries

Explanatory note

The object of this Regulation is to amend the *Water Management (General) Regulation 2004*:

- (a) to limit an exemption from the requirement for an access licence under the *Water Management Act 2000* for the taking of water from a water source that currently applies to persons lawfully engaged in prospecting or fossicking for minerals or petroleum, so that the exemption applies only to their taking of up to 3 megalitres of water for that purpose in any year commencing 1 July, and
- (b) to provide that the limitation will not apply to such prospecting or fossicking pursuant to existing authorities, and
- (c) to omit an exemption from the requirement for an access licence for the taking of water from an aquifer in connection with mining or extracting material in certain circumstances, and
- (d) to insert transitional provisions retaining until 1 February 2012 certain entitlements under the *Water Act 1912* to take water for the purpose of prospecting or fossicking for minerals or petroleum.

This Regulation is made under the *Water Management Act 2000*, including section 400 (the general regulation-making power) and clause 1 of Schedule 9.

2011 No 309

Water Management (General) Amendment (Aquifer Interference)
Clause 1 Regulation 2011

Water Management (General) Amendment (Aquifer Interference) Regulation 2011

under the

Water Management Act 2000

1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Aquifer Interference) Regulation 2011*.

2 Commencement

This Regulation commences on 30 June 2011 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Water Management (General) Regulation 2004

[1] Clause 18 Exemption from requirement for access licence

Omit clause 18 (1) (e). Insert instead:

- (e) any person lawfully engaged in prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*, in relation to:
 - (i) the taking of water required for such prospecting or fossicking pursuant to a lease, licence, mineral claim or environmental assessment permit under the *Mining Act 1992* or a petroleum title under the *Petroleum (Onshore) Act 1991* (an **authority**), up to a maximum of 3 megalitres for all such prospecting or fossicking pursuant to each such authority in any water year, and
 - (ii) the taking of up to 3 megalitres of water required for all other such prospecting or fossicking in any water year,

[2] Clause 18 (2)

Omit the subclause.

[3] Schedule 7, heading

Omit “and transitional”. Insert instead “, transitional and other”.

[4] Schedule 7, Part 7

Insert after clause 26:

Part 7 Transitional provisions relating to prospecting and fossicking exemption from requirement for access licence

27 Continuation of existing exemption

- (1) A person who was exempted under former clause 18 (1) (e) immediately before 30 June 2011 in relation to the taking of water required for prospecting or fossicking pursuant to an authority is taken to continue to be exempted under former clause 18 (1) (e) in relation to such taking of water, until the authority is modified or ceases to be in force.

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Schedule 1 Amendment of Water Management (General) Regulation 2004

(2) In this clause:

authority means a lease, licence, mineral claim or environmental assessment permit under the *Mining Act 1992* or a petroleum title under the *Petroleum (Onshore) Act 1991*.

former clause 18 (1) (e) means clause 18 (1) (e) as in force immediately before 30 June 2011.

28 Certain prospecting and fossicking entitlements to continue under 1912 Act for transitional period

- (1) This clause applies to an entitlement (a **relevant entitlement**) if:
- (a) the appointed day in relation to the entitlement occurs at any time during the period commencing on 30 June 2011 and ending before 1 February 2012 (the **transitional period**), and
 - (b) immediately before that appointed day the entitlement authorised the taking of water for the purpose of prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991* (the **relevant purpose**).
- (2) For the purposes of subclause (1), the **appointed day** in relation to a relevant entitlement is the day that would have been the appointed day (within the meaning of clause 3 (1) of this Regulation) in relation to the entitlement had this clause not applied to the entitlement.
- (3) During the transitional period:
- (a) Schedule 10 (Conversion of former entitlements to access licences and approvals) to the Act does not apply to a relevant entitlement to the extent that the entitlement relates to the relevant purpose, and
 - (b) the provisions of the former 1912 Act continue to apply in relation to the entitlement to the extent that the entitlement relates to the relevant purpose, unless the entitlement is cancelled, permanently lapses or otherwise ceases to be in force or have effect under that Act before the end of the transitional period, and
 - (c) Parts 2 and 3 of Chapter 3 of the Act do not apply in relation to the entitlement to the extent that the entitlement relates to the relevant purpose and while it continues to be in force or have effect under the former 1912 Act.
- (4) On and from 1 February 2012, the following provisions will apply to any relevant entitlement to the extent it relates to the relevant purpose and is still in force or effect immediately before

that day as if 1 February 2012 were the appointed day in relation to that entitlement:

- (a) Parts 2 and 3 of Chapter 3 of the Act,
 - (b) Schedule 10 to the Act.
- (5) Nothing in this clause affects the application of the Act to a relevant entitlement to the extent that the entitlement relates to a purpose other than a relevant purpose.
- (6) For the purposes of clause 1 (4) of Schedule 9 to the Act, this clause has effect despite any provision to the contrary in Schedule 10 to the Act.