



New South Wales

Water Management (General) Amendment (Value of Water Illegally Taken) Regulation 2015

under the

Water Management Act 2000

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

NIALL BLAIR, MLC
Minister for Lands and Water

Explanatory note

The object of this Regulation is to prescribe the methods to be used to determine the value of water illegally taken from a water source to which Part 2 of Chapter 3 of the *Water Management Act 2000* applies (that is, water taken without, or otherwise than authorised by, an access licence), for the purposes of the Minister imposing a charge for that water (which may include a penalty component).

This Regulation is made under the *Water Management Act 2000*, including sections 60G (1) (a) (which allows the Minister to charge for water illegally taken, with the water having a value as determined by the regulations) and 400 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Value of Water Illegally Taken) Regulation 2015*.

2 Commencement

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

Schedule 1 Amendment of Water Management (General) Regulation 2011

Clause 17A

Insert after clause 17:

17A Determining value of water illegally taken

- (1) For the purposes of section 60G (1) (a) of the Act, the value of water illegally taken from a water source is to be determined in accordance with this clause.

(2) **No trading prices published for any period**

If no trading price data has been published for any period for the water source, the value of water illegally taken is to be determined by multiplying the relevant published water access (entitlement) charge for the valley in which the water source is located for the water year in which the illegal taking of water began (expressed in dollars per megalitre) by the volume of water illegally taken (expressed in megalitres).

(3) **Trading prices published for month or some or all months in which water illegally taken**

If trading price data has been published for the water source for the month or some or all of the months in which water was illegally taken, the value of water illegally taken is to be determined by establishing the weighted average trading price for the water source published for the month or months in which water was illegally taken (expressed in dollars per megalitre) and multiplying that weighted average by the volume of water illegally taken (expressed in megalitres).

(4) **Trading prices published for year in which illegal taking of water began and illegal taking of water began in previous water year**

If the illegal taking of water began in a water year previous to the current water year and trading price data has been published for the water source for that previous water year but not for the month or months in which water was illegally taken, the value of water illegally taken is to be determined by establishing the weighted average trading price for the water source published for that previous water year (expressed in dollars per megalitre) and multiplying it by the volume of water illegally taken (expressed in megalitres).

(5) **Trading prices published but not for month or months in which water illegally taken and illegal taking of water began in current water year**

If the illegal taking of water began in the current water year and no trading price data has been published for the water source for the month or months in which water was illegally taken (whether or not trading price data has been published for the water source for any other month in the current year) and:

- (a) trading price data has been published for the water year previous to the current water year—the value of water illegally taken is to be determined by establishing the weighted average trading price for the water source published for that previous water year (expressed in dollars per megalitre) and multiplying that weighted average by the volume of water illegally taken (expressed in megalitres), or
- (b) trading price data has not been published for the water year previous to the current water year—the value of water illegally taken is to be determined by multiplying the published water access (entitlement) charge for the valley in which the water source is located for that

previous water year (expressed in dollars per megalitre) by the volume of water illegally taken (expressed in megalitres).

(6) **No trading prices published for year in which illegal taking of water began and illegal taking of water began in previous water year**

If the illegal taking of water began in a water year previous to the current water year and no trading price data has been published for the water source for any month during that previous water year, the value of water illegally taken is to be determined by multiplying the published water access (entitlement) charge for the valley in which the water source is located for that previous water year (expressed in dollars per megalitre) by the volume of water illegally taken (expressed in megalitres).

(7) In this clause:

illegally taken means taken in contravention of Division 1A of Part 2 of the Act.

published means published on the website of the Department of Primary Industries.

trading price data means data about assignments of water allocations under section 71T of the Act occurring in any month, but not any other dealings.

water access (entitlement) charge is the annual charge per unit of entitlement that would be payable under the 1-part tariff for an unregulated river access licence or an aquifer access licence, as imposed by the Minister pursuant to section 114 of the Act.

Note 1. This definition does not apply to regulated river access licences because regulated rivers have trading prices.

Note 2. Details relating to the 1-part tariff for unregulated river access licences and aquifer access licences are published on the website of the Department of Primary Industries.