



New South Wales

# Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016

under the

Protection of the Environment Operations Act 1997

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

MARK SPEAKMAN, MP  
Minister for the Environment

## Explanatory note

The object of this Regulation is to make miscellaneous amendments to the *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002* (**the principal Regulation**) as a result of a review of that Regulation by the Minister for the Environment. This Regulation:

- (a) increases the thresholds at which all sectors of the Hunter River are considered to be in “flood flow” for the purposes of the tradeable emission scheme established by the principal Regulation, and
- (b) requires discharge licence holders, as a precondition to the use of credits in the scheme, to nominate an authorised discharge point to which those credits are assigned (as discharge licence holders may be authorised to discharge saline water into the Hunter River catchment from multiple authorised discharge points specified either in the one discharge licence or in multiple discharge licences), and
- (c) enables the Environment Protection Authority (EPA) to apply proceeds from auctions or sales of credits that exceed the costs of the scheme in any year towards the costs of the scheme in future years, and
- (d) repeals spent provisions of, and makes other amendments in the nature of statute law revision to, the principal Regulation, and
- (e) requires another review of the principal Regulation as soon as possible after 10 years from the commencement of this Regulation.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 295C, 295D, 295F, 295H and 323 (the general regulation-making power).

## **Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016**

under the

Protection of the Environment Operations Act 1997

### **1 Name of Regulation**

This Regulation is the *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016*.

### **2 Commencement**

This Regulation commences 3 months after the day on which it is published on the NSW legislation website.

## **Schedule 1      Amendment of Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Regulation 2002**

**[1]    Clause 3 Establishment of scheme and objects**

Omit “will be” and “the licence.” from the second paragraph of the note.

Insert instead “is” and “the discharge licence.”, respectively.

**[2]    Clause 3, note, third paragraph**

Omit the paragraph. Insert instead:

Credits in the scheme are created by the EPA. Credits have a limited lifespan of not more than 10 years. The EPA creates and sells new credits as existing credits expire. Provisions relating to the creation and sale of credits are set out in Part 4.

**[3]    Clause 3, note, fourth paragraph**

Omit “a person who holds a discharge licence”. Insert instead “a discharge licence holder”.

**[4]    Clause 3, note, fifth paragraph**

Omit the paragraph. Insert instead:

A credit is transferable in accordance with this Regulation. Any person may buy, hold and trade in credits. A credit does not confer any authority on the holder to discharge saline water unless the person also holds a discharge licence and the credit is assigned to an authorised discharge point specified in that discharge licence. Provisions relating to the assignment of credits to an authorised discharge point are set out in Part 4A. Provisions relating to the trading of credits are set out in Part 5.

**[5]    Clause 6**

Omit the clause (but not the note). Insert instead:

**6    Discharge licence and discharge licence holder**

For the purposes of this Regulation:

- (a) *discharge licence* means a licence that authorises the discharge of saline water into the Hunter River catchment from an authorised discharge point or points, and
- (b) *discharge licence holder* means a holder of a discharge licence.

**[6]    Part 2, Division 1, heading**

Omit the heading. Insert instead:

**Division 1      River blocks, flow ranges and site discharge periods**

**[7]    Clause 10 Classification of river blocks**

Omit clause 10 (2) (a)–(c). Insert instead:

- (a) a low flow block, or
- (b) a high flow block, or
- (c) a flood flow block.

**[8] Clause 11 Flow ranges**

Omit the **High flow range** and **Flood flow range** columns from the Table to the clause.

Insert instead:

<b>High flow range</b>	<b>Flood flow range</b>
1,000 ML per day–6,500 ML per day (inclusive)	Exceeds 6,500 ML per day
1,800 ML per day–16,500 ML per day (inclusive)	Exceeds 16,500 ML per day
2,000 ML per day–28,500 ML per day (inclusive)	Exceeds 28,500 ML per day

**[9] Clauses 12 (1)–(3), 13 (1)–(3) and 14 (1)–(3), headings**

Insert “**block**” after “**flow**” wherever occurring.

**[10] Clauses 12–14**

Omit “classified low flow”, “classified high flow” and “classified flood flow” wherever occurring.

Insert instead “classified as a low flow block”, “classified as a high flow block” and “classified as a flood flow block”, respectively.

**[11] Clause 12 Classification of block—upper sector**

Omit “for those sectors” from clause 12 (1) (b).

Insert instead “for that sector (or for both those sectors)”.

**[12] Clause 14 Classification of block—lower sector**

Omit “the sector” from clause 14 (3). Insert instead “the lower sector”.

**[13] Clauses 14A and 14B**

Insert after clause 14:

**14A Link between classifications and authorised discharge points**

- (1) A block that is classified in relation to a particular sector has that same classification in relation to each authorised discharge point that is in that sector.

**Note.** For example, a block that is classified as a high flow block in relation to the upper sector is also a high flow block in relation to all authorised discharge points in the upper sector.

- (2) For the purposes of the scheme, an authorised discharge point is taken to be in the sector into which any saline water discharged from the authorised discharge point first flows.

**14B Services Co-ordinator to determine site discharge periods**

- (1) The Services Co-ordinator is to determine the site discharge periods for each authorised discharge point.
- (2) A site discharge period for an authorised discharge point is a period in which discharges of saline water are permitted from that authorised discharge point, subject to Part 3.
- (3) A site discharge period is to be determined for every block that is a high flow block or a flood flow block in relation to the authorised discharge point concerned.

- (4) Accordingly, the determination must specify:
  - (a) the authorised discharge point to which it applies, and
  - (b) the block to which it applies.
- (5) There are to be no site discharge periods for low flow blocks.  
**Note.** The object of this restriction is to ensure that discharges of saline water are made into high flow and flood flow blocks, and not into low flow blocks.
- (6) In determining a site discharge period, the Services Co-ordinator is to ensure that any discharge of saline water that is made from an authorised discharge point is made into the high flow block or flood flow block concerned.
- (7) The start and finish times for a site discharge period are to be determined by the Services Co-ordinator based on an estimate of the time it will take a discharge from an authorised discharge point to reach and mix with a block as it passes through the sector in which the authorised discharge point is located.
- (8) In determining a site discharge period, the Services Co-ordinator may make such adjustments as the Services Co-ordinator thinks fit to optimise water quality. For example, the Services Co-ordinator may adjust the start and finish times so as to ensure discharges mix with the higher flows of the block.
- (9) The start and finish times for each site discharge period, in relation to a particular high flow or flood flow block, are to be entered in the River Register.

**[14] Clause 15 River Register**

Omit clause 15 (3). Insert instead:

- (3) The River Register may be kept wholly or partly by electronic means (including by means of an internet service).

**[15] Clause 15 (5)**

Omit the subclause (but not the note). Insert instead:

- (5) If the River Register is kept wholly or partly by electronic means, subclause (4) may be complied with by providing any of the following:
  - (a) access to a computer that can be used to view the River Register,
  - (b) a hard copy (such as a computer print-out) of the River Register,
  - (c) a soft copy (that is, an electronic file) of the River Register by email or on a data storage device,
  - (d) access to the River Register through an internet service.

**[16] Part 3 Discharge rules**

Insert after the heading to the Part:

**Note.** This Part sets out the discharge rules, which are aimed at ensuring that discharges of saline water into the Hunter River catchment do not cause a salinity target to be exceeded (clause 17).

Under the discharge rules, saline water may be discharged only from an authorised discharge point (clause 19) during a site discharge period (clause 20). The maximum volume of saline water that may be discharged from an authorised discharge point is:

- (a) in relation to a high flow block—the volume discharge limit (as calculated in accordance with Division 3) or the tributary protection limit for the authorised discharge point, whichever is the lower (clause 22A), and
- (b) in relation to a flood flow block—the tributary protection limit for the authorised discharge point (clause 26).

**[17] Clause 18 Definitions**

Omit the definition of *relevant sector*.

**[18] Clause 21 Services Co-ordinator to determine site discharge period**

Omit the clause.

**[19] Clause 22**

Omit the clause. Insert instead:

**22 No discharge in contravention of maximum discharge volume**

It is a condition of a discharge licence that the discharge licence holder does not cause or permit saline water to be discharged from an authorised discharge point during a site discharge period in excess of the maximum discharge volume for that authorised discharge point, calculated in accordance with this Part.

**Note.** Under the Act, the maximum penalty for a contravention of a licence condition is \$1,000,000 (in the case of a corporation) or \$250,000 (in the case of an individual). Further penalties apply to continuing offences.

**[20] Part 3, Division 3, heading**

Omit “**Volume discharge limit**”. Insert instead “**Maximum discharge volume**”.

**[21] Part 3, Division 3, note**

Omit the note.

**[22] Clause 22A**

Insert before clause 23:

**22A Maximum discharge volume**

The maximum discharge volume for an authorised discharge point is, during a site discharge period for a high flow block:

- (a) the volume discharge limit for the block, determined in accordance with this Division, or
- (b) the tributary protection limit (if any) for the authorised discharge point, whichever is the lower.

**Note.** The tributary protection limit (if any) for saline water discharges is specified in the discharge licence that authorises discharges from the authorised discharge point.

**[23] Clause 23 High flow block—determination of volume discharge limit**

Omit clause 23 (1). Insert instead:

- (1) The volume discharge limit for an authorised discharge point, in relation to a high flow block, is to be determined in accordance with the following steps:

**Step 1: Determine the number of credits available for use**

The number of credits available for use is to be determined as follows:

$$E = Cr \times D$$

Where:

*E* is the number of credits available for use.

*Cr* is the number of credits assigned to the authorised discharge point in relation to the block at the start of the discharge (as entered in the Credit Register), being credits that are in force, and excluding any credits forfeited under this Regulation or that are excluded under Part 4A or 5.

**Note.** Parts 4–5 explain credit holdings, assignment of credits to an authorised discharge point and trading in credits. Under Parts 4A and 5, a credit that is assigned or transferred in contravention of the Regulation cannot be counted towards the volume discharge limit for an authorised discharge point.

*D* is the sector credit discount factor for the block at the start of the discharge.

**Step 2: Determine the salt discharge limit for the authorised discharge point**

The salt discharge limit for the authorised discharge point is to be determined as follows:

$$L = \frac{T \times E}{1,000}$$

Where:

*L* is the salt discharge limit for the authorised discharge point (in tonnes).

*T* is the total allowable discharge for the block (in tonnes) at the start of the discharge.

*E* is the number of credits available for use, being the amount determined in step 1 rounded down to the nearest whole number.

**Step 3: Calculate the salt concentration of the water to be discharged**

The salt concentration of the water to be discharged is to be calculated as follows:

$$C = \frac{EC \times F}{1,000}$$

Where:

*C* is the salt concentration of the water to be discharged from the authorised discharge point, measured in tonnes per megalitre.

*EC* is the mean electrical conductivity of the water discharged from the authorised discharge point, measured in microSiemens per centimetre, calculated in accordance with subclause (2).

*F* is the conversion factor set out in the discharge licence.

**Step 4: Determine the volume discharge limit**

The volume discharge limit for the authorised discharge point is to be determined as follows:

$$V = \frac{L}{C}$$

Where:

*V* is the volume discharge limit for the authorised discharge point in relation to the block (in megalitres).

*L* is the salt discharge limit for the authorised discharge point in relation to the block (calculated in step 2).

*C* is the salt concentration in the saline water to be discharged (calculated in step 3).

**[24] Clause 24 Sector credit discount factor—high flow block**

Omit clause 24 (1). Insert instead:

- (1) The Services Co-ordinator is to determine a sector credit discount factor that is to be applied in relation to a high flow block while it is in a particular sector.
- (1A) In determining a sector credit discount factor, the Services Co-ordinator is to ensure that the full exercise of credit entitlements does not result in a high flow salinity target for any sector being exceeded.

**[25] Clause 25 Total allowable discharge of salt**

Omit clause 25 (2) and (3). Insert instead:

- (2) The total allowable discharge of salt is to be determined by calculating the maximum amount of salt that may be discharged into the Hunter River catchment during a block so that, taking into account the river flow and background salinity levels, the salinity target for the lower sector in relation to that block is not exceeded.

**[26] Part 3, Division 4, heading**

Omit “**Volume discharge limit**”. Insert instead “**Maximum discharge volume**”.

**[27] Clause 26**

Omit the clause (and the note following the clause). Insert instead:

**26 Maximum discharge volume**

- (1) The maximum discharge volume for an authorised discharge point is, during a site discharge period for a flood flow block, the tributary protection limit for the authorised discharge point.  
**Note.** The tributary protection limit (if any) for saline water discharges is specified in the discharge licence that authorises discharges from the authorised discharge point.
- (2) This clause does not apply if there is a trading rules order in force.

**[28] Part 3, Division 5, heading**

Omit the heading.

**[29] Clause 27 Imposition of trading rules by EPA**

Omit clause 27 (1). Insert instead:

- (1) If at any time it appears that a flood flow salinity target has been exceeded, the EPA may conduct an investigation to determine whether the flood flow salinity target was exceeded as a result of discharges of saline water by participants in the scheme.

**[30] Clause 27 (2)**

Omit “targets were”. Insert instead “target was”.



**[31] Clause 28**

Omit clauses 28–31. Insert instead:

**28 Effect of trading rules order**

- (1) If there is a trading rules order in force, the maximum discharge volume for an authorised discharge point is, during a site discharge period for a flood flow block:
  - (a) the volume discharge limit for the block, determined in accordance with Division 3 (as modified by this clause), or
  - (b) the tributary protection limit (if any) for the authorised discharge point, whichever is the lower.
- (2) For the purposes of this clause, Division 3 applies as if:
  - (a) a reference to a high flow block were a reference to a flood flow block, and
  - (b) a reference to a high flow salinity target for a sector were a reference to the flood flow salinity target for that sector.

**[32] Clause 33 Record keeping requirements**

Omit “held by the licence holder” from clause 33 (1) (g).

Insert instead “assigned to the relevant authorised discharge point”.

**[33] Clause 33 (1) (h)**

Omit “the holder” where secondly occurring. Insert instead “the discharge licence holder”.

**[34] Clause 34 Reporting requirements**

Omit “the holder” where secondly occurring in clause 34 (1).

Insert instead “the discharge licence holder”.

**[35] Clause 35 Defence—emergency dilution arrangements**

Omit “(Maximum discharge during site discharge period)” from clause 35 (1) (a).

Insert instead “(No discharge in contravention of maximum discharge volume)”.

**[36] Clause 35 (6)**

Omit “licence holder’s tributary protection limit”.

Insert instead “tributary protection limit for an authorised discharge point”.

**[37] Clauses 37 and 37A**

Omit clause 37. Insert instead:

**37 Authority conferred by credit**

- (1) A credit assigned to an authorised discharge point confers authority to discharge from the authorised discharge point 0.1% of the total allowable discharge for a high flow block, subject to the discharge rules, during the period in which the credit remains in force.
- (2) If a trading rules order is in force, a credit assigned to an authorised discharge point also confers authority to discharge from the authorised discharge point 0.1% of the total allowable discharge for a flood flow block, subject to the discharge rules, during the period in which the credit remains in force.

- (3) A credit does not confer any authority on a person to discharge saline water unless:
- (a) the person holds a discharge licence, and
  - (b) the credit is assigned to an authorised discharge point specified in that discharge licence.

**37A Use of credit**

- (1) A credit may be used once only in relation to a particular block.
- (2) A credit is taken to be used in relation to a block when it is included in the calculation of a volume discharge limit for an authorised discharge point as it relates to that block.

**[38] Part 4, Divisions 2 and 3**

Omit the Divisions.

**[39] Clause 46 New credits to be created every 2 years**

Omit clause 46 (1). Insert instead:

- (1) The EPA is to create 200 credits in the scheme every 2 years, for the purpose of replacing the 200 credits that expire every 2 years.
- Note.** Clause 40 (now repealed) required the EPA to create 1,000 credits on the creation of the scheme, of which:
- (a) 200 had a lifespan ending on 30 June 2004, and
  - (b) 200 had a lifespan ending on 30 June 2006, and
  - (c) 200 had a lifespan ending on 30 June 2008, and
  - (d) 200 had a lifespan ending on 30 June 2010, and
  - (e) 200 had a lifespan ending on 30 June 2012.

**[40] Clause 49 Sale of residual first issue credits**

Omit the clause.

**[41] Part 4A**

Insert after Part 4:

**Part 4A Assignment of credits to authorised discharge point**

**Note.** This Part requires a discharge licence holder to assign a credit to an authorised discharge point as a precondition to using the credit and sets out rules about how a credit may be so assigned.

**49A Authorised discharge point to be nominated**

- (1) A credit cannot be used in relation to an authorised discharge point unless the credit has been assigned to that authorised discharge point.
- (2) For the purposes of this Part, a credit is *assigned* to an authorised discharge point if that authorised discharge point is nominated in accordance with this Part as the authorised discharge point at which the credit is to be used.
- (3) An assignment may be made only by the holder of the credit or a person acting with the authority of the holder of the credit.
- (4) The holder of a credit, or a person acting with the authority of the holder, may at any time withdraw the assignment of a credit and make a new assignment of the credit, subject to this Part.

- (5) The assignment of a credit, or the withdrawal of an assignment, is to be entered in the Credit Register in accordance with arrangements approved by the EPA.  
**Note.** The assignment of a credit, or the withdrawal of an assignment, does not take effect until it is entered in the Credit Register: see clause 63A.
- (6) It is a condition of a discharge licence that the discharge licence holder does not use, in relation to an authorised discharge point, a credit that is not assigned to that authorised discharge point.

**49B How a credit may be assigned**

A credit may be assigned to an authorised discharge point as follows:

- (a) as it relates to a particular block,
- (b) as it relates to a particular series of blocks, being blocks that occur in a sequential order,
- (c) as it relates to all remaining blocks in the lifespan of the credit.

**49C Rules about assignment of credits**

- (1) A part of a credit cannot be assigned to an authorised discharge point.
- (2) A credit cannot be assigned to an authorised discharge point unless:
  - (a) the holder of the credit holds a discharge licence, and
  - (b) the authorised discharge point is specified in that discharge licence.
- (3) A credit cannot be assigned to an authorised discharge point if:
  - (a) the site discharge period for the authorised discharge point, as it relates to the block to which the assignment applies, has ended, or
  - (b) the credit, as it relates to the block to which the assignment applies, has been used at another authorised discharge point, or
  - (c) the authorised discharge point is in a restricted sector, unless subclause (4) applies.
- (4) An assignment of a credit to an authorised discharge point in a restricted sector can be made if, immediately before the assignment, the credit was assigned to another authorised discharge point that is in the same sector.
- (5) It is a condition of a discharge licence that the discharge licence holder does not assign a credit in contravention of this clause.
- (6) An authorised discharge point is in a *restricted sector* if a sector credit discount factor of less than one applies to blocks in the sector that the authorised discharge point is in.

**49D Effect of contravention of assignment rules on volume discharge limit**

- (1) If a credit is assigned, in respect of a block, to an authorised discharge point in contravention of this Part, the credit is to be excluded from the calculation of the volume discharge limit for the authorised discharge point in respect of that block.
- (2) Subclause (1) applies even if the assignment of the credit is entered in the Credit Register.

**Note.** A contravention of the provisions of this Regulation may also result in an enforcement or forfeiture order being made against a person under Part 8.

**[42] Clause 50 Trading in credits**

Omit “assigned or” from clause 50 (3).

**[43] Clause 50 (4)**

Insert after clause 50 (3):

- (4) A credit cannot be assigned, except as permitted by Part 4A.

**[44] Clause 51 Trading facility to be established**

Omit “on-line service” wherever occurring. Insert instead “internet service”.

**[45] Clause 52 Registration of credit traders**

Omit clause 52 (1)–(4). Insert instead:

- (1) The Registrar may, on application in a form approved by the Registrar, register a person as a credit trader.

**[46] Clause 52 (8)**

Omit the subclause.

**[47] Part 5, Division 2, note**

Insert after the heading to the Division:

**Note.** This Division sets out rules relating to the transfer of credits. A credit transferred under this Division cannot be used unless it has been assigned to an authorised discharge point: see Part 4A.

**[48] Clauses 57–59**

Omit clauses 57–60. Insert instead:

**57 Credits only transferable to registered credit traders**

A credit may only be transferred to a registered credit trader.

**58 Partial transfers not permitted**

A part of a credit, as it relates to a particular block, is not transferable.

**59 Transfer not permitted after credit used**

A person must not transfer, or purport to transfer, a credit as it relates to a particular block to any person after using the credit.

**[49] Clause 62 Effect of contravention of trading rules on volume discharge limit**

Insert “for the authorised discharge point” after “volume discharge limit” in clause 62 (2).

**[50] Part 5A, heading**

Omit the heading to Division 3 of Part 5. Insert instead:

## **Part 5A Credit Register**

**[51] Clause 63 Credit Register**

Insert after clause 63 (2) (a):

- (a1) the authorised discharge point (if any) to which the credit, as it relates to a block, is assigned,

**[52] Clause 63 (3)–(6)**

Omit clause 63 (3). Insert instead:

- (3) The Credit Register is to be in a form determined by the EPA.
- (4) The Credit Register may be kept wholly or partly by electronic means (including by means of an internet service).
- (5) The Credit Register is to be made available for inspection by members of the public at an office of the Registrar in a manner approved by the EPA.
- (6) If the Credit Register is kept wholly or partly by electronic means, subclause (5) may be complied with by providing any of the following:
  - (a) access to a computer that can be used to view the Credit Register,
  - (b) a hard copy (such as a computer print-out) of the Credit Register,
  - (c) a soft copy (that is, an electronic file) of the Credit Register by email or on a data storage device,
  - (d) access to the Credit Register through an internet service.

**[53] Clause 63A**

Insert after clause 63:

**63A Assignments to be entered in Credit Register**

- (1) The assignment of a credit does not take effect until it is entered in the Credit Register, in accordance with such arrangements for the entry of transactions as may be approved by the EPA from time to time.
- (2) The following information, in relation to the assignment of a credit, is to be entered in the Credit Register (in accordance with the arrangements referred to in subclause (1)):
  - (a) the authorised discharge point (if any) from which the credit is assigned,  
**Note.** There will be no such authorised discharge point in the case of a first assignment of a credit.
  - (b) the authorised discharge point (if any) to which the credit is assigned,  
**Note.** There will be no such authorised discharge point if the assignment of the credit is withdrawn without reassignment.
  - (c) the date and time at which the assignment occurred,
  - (d) the number of credits assigned and the blocks to which the assignment applies,
  - (e) such other particulars as the Registrar considers appropriate.
- (3) In this clause, *assignment* of a credit includes withdrawal of an assignment.

**[54] Clause 64 Transfers to be entered in Credit Register**

Insert after clause 64 (3) (c):

- (d) such other particulars as the Registrar considers appropriate.

**[55] Clause 68 Functions of EPA**

Omit “the contract or arrangement” where firstly occurring in clause 68 (3).

Insert instead “a contract or arrangement under which the Services Co-ordinator is appointed”.

**[56] Clause 70 Appointment of Operations Committee**

Omit “licence holders” from clause 70 (2) (b). Insert instead “discharge licence holders”.

**[57] Clause 70 (2) (e) and (f)**

Omit the paragraphs. Insert instead:

- (e) 1 person who is a member of a committee or other organisation concerned in the management of the Hunter River or of any other river in the Hunter River catchment (who may be a member of the Hunter Region Local Board of Local Land Services, who is additional to the person referred to in paragraph (a)),
- (f) 1 person who is employed in the Department of Industry, Skills and Regional Development.

**[58] Clause 70 (7)**

Omit the subclause.

**[59] Clause 72 Failure by Operations Committee to perform functions**

Insert “do either or both of the following” after “the EPA may” in clause 72 (1).

**[60] Clause 72 (1) (a)**

Omit “and”.

**[61] Clause 74 Calculation of contribution**

Omit “their licence” from the note. Insert instead “their discharge licence”.

**[62] Clause 75 Contribution on credit holdings**

Omit “and licence holders” from the note. Insert instead “and as discharge licence holders”.

**[63] Clause 76 Contribution on discharge licence**

Omit “and licence holders” from the note. Insert instead “and as discharge licence holders”.

**[64] Clause 84**

Omit the clause. Insert instead:

**84 Auction and sale proceeds**

- (1) When calculating the total contributions amount for a scheme year (the *current scheme year*), the EPA is to deduct from the total cost of the scheme for the current scheme year the proceeds of credit sales for the previous scheme year. The total contributions amount is to be reduced accordingly.
- (2) If the proceeds of credit sales for the previous scheme year exceeds the total cost of the scheme for the current scheme year, the EPA may deduct the amount of the excess (or any part of the excess) from the total cost of the scheme in any scheme year that follows the current scheme year. The total contributions amount is to be reduced accordingly.
- (3) In this clause, the *proceeds of credit sales* for a scheme year means the total proceeds of any auction or other sale of credits by the EPA held during that scheme year.

**[65] Clause 86 General enforcement power of EPA**

Insert “, do either or both of the following” after “a person” in clause 86 (1).

**[66] Clause 86 (1) (a)**

Omit “and”.

**[67] Clauses 86 (2) (b) and (7) and 88 (2) (b)**

Omit “licence” wherever occurring. Insert instead “discharge licence”.

**[68] Clause 91 Offence of providing false information**

Omit the note. Insert instead:

**Note.**

**Other enforcement powers**

The Act also provides that certain offences can be dealt with by the issue of a penalty notice (sometimes referred to as an on the spot fine) by an authorised officer. An officer or employee of the EPA is, by regulations under the Act, authorised to issue a penalty notice for the offence of contravening a licence condition (including the discharge licence conditions referred to in Part 3 of this Regulation). In such a case, the on the spot fine is \$15,000 (in the case of a corporation) or \$7,500 (in the case of an individual). If the offence is dealt with by a court, the maximum penalty that the court can impose for the offence is \$1,000,000 (in the case of a corporation) or \$250,000 (in the case of an individual).

**[69] Clauses 93 and 94**

Omit the clauses. Insert instead:

**93 Application of amendments**

The amendments made to this Regulation by the *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016* extend to a credit created before the commencement of that Regulation.

**94 Review of Regulation—timetable**

The Minister is to review this Regulation as soon as possible after the period of 10 years from the commencement of the *Protection of the Environment Operations (Hunter River Salinity Trading Scheme) Amendment Regulation 2016*.

**[70] Part 10 Savings and transitional provisions**

Omit the Part.

**[71] Schedule 1 Allocation of first issue credits**

Omit the Schedule.

**[72] Dictionary**

Omit the definitions of *discharge licence*, *first issue credit*, *lower sector reference point*, *middle sector reference point*, *on-line service*, *pilot scheme*, *pilot scheme credit*, *relevant licence*, *residual first issue credit*, *site discharge period*, *trading rules order*, *tributary protection limit*, *upper sector reference point* and *volume discharge limit*.

Insert in alphabetical order:

*assign* a credit to an authorised discharge point has the meaning given by Part 4A.

*discharge licence* is defined in clause 6 (a).

*discharge licence holder* is defined in clause 6 (b).

**internet service** means a service provided by or through the facilities of a computer communication system and access through a telecommunications network that allows for:

- (a) the input, output or examination of computer data or computer programs, or
- (b) the transmission of computer data from one computer to another.

**lower sector reference point** means the Hunter River gauging station number 210129 at Singleton, or another gauging station nominated as the lower sector reference point on the website of the EPA.

**middle sector reference point** means the Hunter River gauging station number 210127 immediately upstream of the confluence of the Hunter River and Glennies Creek, or another gauging station nominated as the middle sector reference point on the website of the EPA.

**sector credit discount factor** has the meaning given by Part 3 (see clause 18).

**site discharge period**, in relation to an authorised discharge point, means the site discharge period determined by the Services Co-ordinator under clause 14B for a high flow or flood flow block and entered in the River Register.

**trading rules order**—see clause 27.

**tributary protection limit** for an authorised discharge point means a volume specified in a discharge licence as the maximum volume of saline water that may be discharged from the authorised discharge point during any specified period.

**upper sector reference point** means the Hunter River gauging station number 210055 upstream of the confluence of the Hunter River and the Goulburn River at Denman, or another gauging station nominated as the upper sector reference point on the website of the EPA.

**volume discharge limit** for an authorised discharge point in relation to a block means the volume discharge limit calculated under Part 3.

**[73] The whole Regulation (except where otherwise amended by this Schedule)**

Omit each term specified in Column 1 of the following table wherever occurring.

Insert instead the term specified opposite in Column 2.

<b>Column 1</b>	<b>Column 2</b>
A holder of a discharge licence	A discharge licence holder
a licence holder	a discharge licence holder
A licence holder	A discharge licence holder
A licence holder's	A discharge licence holder's
the holder of a discharge licence	a discharge licence holder
the holder of the discharge licence	the discharge licence holder
the holder of the licence	the discharge licence holder
the holder's	the discharge licence holder's
the licence holder	the discharge licence holder
the licence holder's	the discharge licence holder's
The licence holder's	The discharge licence holder's