



New South Wales

Sydney Water Regulation 2017

under the

Sydney Water Act 1994

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Sydney Water Act 1994*.

DONALD HARWIN, MLC
Minister for Energy and Utilities

Explanatory note

The object of this Regulation is to remake, with various changes, the provisions of the *Sydney Water Regulation 2011*, which is repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the regulation of access to controlled areas (rather than just the Prospect Reservoir controlled area), including fees and charges payable in respect of entry into a controlled area,
- (b) the performance of certain plumbing or drainage work (***relevant plumbing or drainage work***) that affects Sydney Water Corporation (the ***Corporation***) (not being work that falls within the ambit of the *Plumbing and Drainage Act 2011* or certain exempt owner/occupier work under that Act), including the requirement for a permit to do that work and the remedying of defective work,
- (c) the imposition of restrictions on the use of water,
- (d) notification of damage to the Corporation's property,
- (e) the offences for which penalty notices may be given,
- (f) savings and formal matters.

This Regulation extends existing offences applying to the Prospect Reservoir controlled area to controlled areas generally, increases the maximum penalty for these offences and creates various new offences applying to controlled areas. The new offences prohibit vehicles, animals, agricultural activities, environmental or property damage, pollution, dumping of waste, or opening or interfering with gates or barriers. The maximum penalty for each offence relating to controlled areas is 100 penalty units (\$11,000) for an individual and 200 penalty units (\$22,000) for a corporation. Each offence applying to controlled areas is prescribed as a penalty notice offence for which the penalty notice amounts are \$750 for an individual and \$1,500 for a corporation.

This Regulation increases the penalty notice amount for certain offences under the Regulation (concerning failure to comply with the Plumbing Code of Australia in performing relevant plumbing or drainage work, failure to comply with a direction of the Corporation in relation to that work and use of water contrary to a notice restricting or regulating its use) from \$220 to \$750 for an individual and from \$550 to \$1,500 for a corporation.

This Regulation extends the offence of failing to immediately notify the Corporation of damage to the Corporation's property that occurs during plumbing and drainage work (within the meaning of the *Plumbing and Drainage Act 2011*), to damage to the Corporation's property however occurring, and makes the offence a penalty notice offence for which the penalty notice amount is \$750 for an individual and \$1,500 for a corporation.

This Regulation also prescribes as new penalty notice offences, certain offences under the *Sydney Water Act 1994* (concerning unauthorised connections, alterations and use of works and discharge into works) and an offence under the Regulation (concerning use of fittings for relevant plumbing or drainage work without the Corporation's approval). The penalty notice amounts for these offences are \$750 for an individual and \$1,500 for a corporation.

Other changes include enabling the Corporation to be satisfied of compliance with alternative requirements for fittings (instead of the specified Australian Standard) as a prerequisite to approving their use for relevant plumbing or drainage work, removing the requirement to give a certificate of compliance on completion of relevant plumbing or drainage work and enabling the Minister to impose restrictions on the use of water in the case of emergency (rather than in the case of accident).

This Regulation is made under the *Sydney Water Act 1994*, including sections 48A, 50, 89, 99 and 106 (the general regulation-making power).

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Sydney Water Regulation 2017*.

2 Commencement

This Regulation commences on 1 September 2017 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Sydney Water Regulation 2011*, which is repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *Sydney Water Act 1994*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

Part 2 Controlled areas

Note. A **controlled area** is an area of land declared by an order in force under section 88 of the Act to be a controlled area. A map showing controlled areas is available on the Corporation's website.

4 Definitions

In this Part:

authorised person means any of the following:

- (a) an employee of the Corporation,
- (b) a person or a member of a class of persons authorised in writing by the Corporation for the purposes of this Part,
- (c) a police officer.

vehicle includes the following:

- (a) a motor vehicle within the meaning of the *Road Transport Act 2013*,
- (b) a trailer or caravan, whether or not it is in the course of being towed,
- (c) an apparatus (other than a wheelchair, pram or stroller) that is propelled by human, animal or mechanical power, or by the wind, and that is used wholly or partly for the conveyance of persons or things,
- (d) a vessel within the meaning of the *Marine Safety Act 1998*.

5 Corporation's consent

- (1) A person does not commit an offence under this Part by reason of anything done or omitted to be done with the consent of the Corporation and in accordance with any conditions to which that consent is subject.
- (2) An authorised person may direct a person to leave a controlled area or any part of a controlled area if the authorised person reasonably believes that the person has failed to comply with a condition of consent.
- (3) A person must comply with any direction given to the person under subclause (2).
Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

6 Manner of consent

- (1) The Corporation may grant its consent by means of:
 - (a) a sign or notice displayed on the land or part of the land to which the sign or notice relates, or
 - (b) a written notice to a person (in the form of a licence, permit, approval or any other written form).
- (2) The Corporation may grant its consent as follows:
 - (a) generally or in a particular case,
 - (b) to a particular person or to persons belonging to a particular class of persons,
 - (c) unconditionally or subject to conditions,
 - (d) for a specified period of time or until the consent is revoked by the Corporation.
- (3) Without affecting the generality of subclause (2) (c), the conditions the Corporation may impose may include, but are not limited to, conditions relating to the protection of water quality and managing visitor behaviour (such as by restricting the lighting of fires, camping, disposal of waste, damage or interference with flora or fauna, the

removal of matter from land, the entry of vehicles or animals onto land or the conducting of commercial or other activities).

- (4) The Corporation may revoke or modify its consent at any time by any of the means specified in subclause (1).

7 Entry to controlled area

A person must not enter or remain on a controlled area.

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

8 Vehicles and animals

A person must not:

- (a) bring or release an animal into a controlled area, or
- (b) allow an unrestrained animal for which the person is responsible, to enter or remain in a controlled area, or
- (c) drive or ride, or be a passenger in or on, a vehicle in a controlled area, or
- (d) park a vehicle, or leave a vehicle parked, in a controlled area.

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

9 Agriculture

- (1) A person must not use land, or carry out any activity, in a controlled area for the purpose of agriculture.

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

- (2) In this clause:

agriculture has the same meaning as it has in the standard instrument prescribed under section 33A (1) of the *Environmental Planning and Assessment Act 1979*.

10 Damage to property or environment in controlled areas

- (1) A person must not:

- (a) damage, remove, deface, disturb or otherwise interfere with any structure, sign, fixture, work or other property of the Corporation in a controlled area, or
- (b) damage or remove any plant or part of a plant in a controlled area, or
- (c) remove any rock, soil, sand, stone or similar substance in a controlled area.

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

- (2) In this clause:

plant means any aquatic or terrestrial plant and includes a shrub or tree.

11 Control of waste and pollution

- (1) A person must not:

- (a) bring into or leave in a controlled area any waste, or
- (b) cause the pollution of waters on land in a controlled area.

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

- (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 in force under the *Protection of the Environment Operations Act 1997*.
- (3) In this clause:
pollution of waters and *waste* have the same meanings as in the *Protection of the Environment Operations Act 1997*.

12 Gates or barriers on or to controlled areas

- (1) A person must not open, pass, remove, interfere with, damage or obstruct any gate or barrier in or to a controlled area.
Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.
- (2) In this clause:
barrier includes any obstruction that has been positioned or created, by any means, so as to restrict or obstruct access to any road, track, trail, path or route.

13 Fees and charges

- (1) The Corporation may from time to time determine the fees or charges payable in respect of the entry by persons or vehicles to any part of a controlled area.
- (2) A person who is liable to pay fees or charges so determined may be denied entry to the part of the controlled area unless the fees or charges are paid on the request of an authorised person.

Part 3 Plumbing and drainage

14 Application of Part and Plumbing and Drainage Act 2011

- (1) This Part applies to plumbing or drainage work that affects the Corporation, but not to the following work:
 - (a) plumbing and drainage work within the meaning of the *Plumbing and Drainage Act 2011*, or
 - (b) work that is exempt owner/occupier work under section 4 (5) (e) of the *Plumbing and Drainage Act 2011*.
- (2) In this clause, ***plumbing or drainage work that affects the Corporation*** means work comprising or affecting:
 - (a) a water supply service pipe or its connection to a water main of the Corporation, or
 - (b) a recycled (or reclaimed) water pipe or its connection to a water main of the Corporation, or
 - (c) the installation of a device to divert or treat greywater, or
 - (d) a sewerage service pipe or its connection to a sewer main of the Corporation, or
 - (e) a stormwater drainage service drain or its connection to a stormwater drain of the Corporation.

Note. The *Plumbing and Drainage Act 2011* sets out the standards and other requirements for plumbing and drainage work within the meaning of that Act.

15 Definitions

In this Part:

approved means approved by the Corporation.

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 Code of Australia means the document entitled *Plumbing Code of Australia*, produced for all State governments by the Australian Building Codes Board, as in force from time to time.

plumbing or drainage work means plumbing or drainage work to which this Part applies.

recycled (or reclaimed) water pipe means a pipe connecting premises to a recycled water main of the Corporation or to a greywater diversion or treatment system and includes the fittings connected to the pipe.

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

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 Compliance with Plumbing Code of Australia

A person must not do any plumbing or drainage work otherwise than in accordance with the Plumbing Code of Australia.

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

17 Use of approved fittings

- (1) A person must not use any fitting for plumbing or drainage work unless the fitting is approved for that use.

Note. Clause 15 defines **approved** to mean approved by the Corporation.

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

- (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:
- (a) the requirements of AS 5200.000—2006, and any additional requirements determined by the Corporation for the fitting and published on the Corporation's website, or
 - (b) if the Corporation considers that the requirements of AS 5200.000—2006 are not relevant to the fitting, the requirements determined by the Corporation for the fitting and published on the Corporation's website.
- (4) In this clause:
- AS 5200.000—2006** means AS 5200.000—2006, *Technical specification for plumbing and drainage products, Part 000: Procedures for certification of plumbing and drainage products*, published by Standards Australia.

18 Work 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: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

- (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 plumbing or drainage work done by or on behalf of the Corporation.

19 Application for permit

- (1) An application for a permit:
- (a) must be made in an approved form, and
 - (b) must be lodged:
 - (i) by email to an email address specified for that purpose on the Corporation's website, or
 - (ii) in the case of an online application for a permit—by electronic submission through the Corporation's website, or
 - (iii) by any other electronic means for lodging applications for permits that may be indicated on the Corporation's website, unless otherwise permitted by the Corporation.
- (2) An applicant must pay the fee determined by the Corporation for the granting of a permit.

20 Refusal of permit

- (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 or a regulation under the Act or a direction under the Act or any such 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.

21 Conditions of permits

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

22 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 Part or a direction under the Act or this Part.
- (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.

23 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 accordance with good trade practice, or
 - (b) to bring into conformity with the Plumbing Code of Australia work done otherwise than in accordance with that Code, or
 - (c) to repair, 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 so directed by the Corporation must not fail to comply with the direction.
Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.
- (3) A direction is of no effect if it is issued more than 2 years after the work to which it relates has been completed.

Part 4 Miscellaneous

24 Restrictions on use of water

- (1) The Minister, by notice, may 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) The Minister may issue a notice only if the Minister considers:
 - (a) that it is necessary to do so in the case of drought or other emergency, or
 - (b) that it is otherwise necessary to do so in the public interest and for the purpose of maintaining water supply.
- (3) A notice:
 - (a) must be published in the Gazette or 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 published), and
 - (d) has effect despite the provisions of any contract relating to the supply of water by the Corporation.
- (4) A person must not use water contrary to a notice under this clause.
Maximum penalty: 5 penalty units in the case of an individual or 50 penalty units in the case of a corporation.
- (5) 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.
- (6) The Minister may revoke a notice under subclause (1) by a further notice published in accordance with subclause (3) (a).

25 Corporation to be notified of damage to its works or other property

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

Maximum penalty: 100 penalty units in the case of an individual or 200 penalty units in the case of a corporation.

26 Savings

Any act, matter or thing that, immediately before the repeal of the *Sydney Water Regulation 2011*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

For the purposes of section 50 of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

Column 1	Column 2	Column 3
Provision	Penalty for an individual	Penalty for a corporation
Offences under the Act		
Section 48	\$2,200	\$4,400
Section 48A (1)	\$750	\$1,500
Section 49 (1)	\$750	\$1,500
Offences under this Regulation		
Clause 5 (3)	\$750	\$1,500
Clause 7	\$750	\$1,500
Clause 8 (a), (b), (c) or (d)	\$750	\$1,500
Clause 9 (1)	\$750	\$1,500
Clause 10 (1) (a), (b) or (c)	\$750	\$1,500
Clause 11 (1) (a) or (b)	\$750	\$1,500
Clause 12 (1)	\$750	\$1,500
Clause 16	\$750	\$1,500
Clause 17 (1)	\$750	\$1,500
Clause 23 (2)	\$750	\$1,500
Clause 24 (4)	\$220	\$550
Clause 25	\$750	\$1,500