



New South Wales

Water Management (General) Amendment (Metering) Regulation 2019

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*.

MELINDA PAVEY, MP
Minister for Water, Property and Housing

Explanatory note

The object of this Regulation is to amend the *Water Management (General) Regulation 2018* as follows—

- (a) to make the terminology used in relation to the application or disapplication of provisions relating to mandatory metering equipment conditions on water supply work approvals and certain other water licences and entitlements consistent with the terminology used in the *Water Management Act 2000*,
- (b) to postpone the commencement of the application of certain provisions,
- (c) to update references to certain water sharing plans,
- (d) to clarify the operation of certain permanent exemptions from mandatory metering equipment conditions,
- (e) to clarify that mandatory metering equipment conditions do not apply to certain inactive water supply works,
- (f) to make further provision regarding the obligations of duly qualified persons carrying out certain activities relating to metering equipment,
- (g) to make further provision regarding the recording of information under a mandatory condition where metering equipment cannot record the information,
- (h) to impose a mandatory condition on water supply work approvals and certain other water licences and entitlements to require water take data to be reported in certain circumstances where telemetry reporting is not otherwise required under a mandatory metering equipment condition,
- (i) to make further provision regarding recording of water taken where metering equipment is not required to comply with mandatory metering equipment conditions,
- (j) to make further provision regarding the standards and other requirements relating to metering equipment required under mandatory metering equipment conditions,
- (k) to extend an exemption from the requirement for controlled activity approvals in relation to certain controlled activities carried out on waterfront land by State owned bodies to Commonwealth owned bodies,
- (l) to make other amendments of a machinery or law revision nature.

This Regulation is made under the *Water Management Act 2000*, including sections 91I(3), 91IA(b), 91J, 115, 115A, 115B and 400 (the general regulation-making power).

Water Management (General) Amendment (Metering) Regulation 2019

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Water Management Act 2000

1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Metering) Regulation 2019*.

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 2018

[1] Clauses 230(1) and (2) and 231(1)–(3)

Omit “is not required to be complied with in respect of” wherever occurring.

Insert instead “does not apply to”.

[2] Clause 230 Temporary exemptions from mandatory metering equipment condition

Omit “(as in force on the commencement of this clause)” wherever occurring in clause 230(1).

Insert instead “(as in force on 1 July 2019)”.

[3] Clause 230(1)(a)

Omit “1 December 2020”. Insert instead “1 December 2021”.

[4] Clause 230(1)(a)

Omit the following—

Water Sharing Plan for the Lower Gwydir Groundwater Source 2003,
Water Sharing Plan for the Lower Macquarie Groundwater Sources
2003,
Water Sharing Plan for the Upper and Lower Namoi Groundwater
Sources 2003,

Insert instead in appropriate order—

Water Sharing Plan for the Lower Gwydir Groundwater Source 2019,
Water Sharing Plan for the Lower Macquarie Groundwater Sources
2019,
Water Sharing Plan for the Upper and Lower Namoi Groundwater
Sources 2019,

[5] Clause 230(1)(b)

Omit “1 December 2021”. Insert instead “1 December 2022”.

[6] Clause 230(1)(b)

Omit the following—

Water Sharing Plan for the Lower Murray Groundwater Source,
Water Sharing Plan for the Lower Murrumbidgee Groundwater
Sources 2003,

Insert instead in appropriate order—

Water Sharing Plan for the Lower Murray Groundwater Source 2019,
Water Sharing Plan for the Lower Murrumbidgee Groundwater
Sources 2019,

[7] Clause 230(1)(c)

Omit the following—

Water Sharing Plan for the Paterson Regulated River Water Source
2007,

Insert instead—

Water Sharing Plan for the Paterson Regulated River Water Source 2019,

[8] Clause 230(1)(c)

Insert in appropriate order—

Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019,

[9] Clause 230(2)(a)

Omit “1 December 2020”. Insert instead “1 December 2021”.

[10] Clause 230(2)(b)

Omit “1 December 2021”. Insert instead “1 December 2022”.

[11] Clause 230(3)

Omit “is required to be complied with”. Insert instead “applies”.

[12] Clause 230(3)

Omit “1 December 2019”. Insert instead “1 December 2020”.

[13] Clause 231 Permanent exemptions from mandatory metering equipment condition

Insert after clause 231(1)(f)—

(g) the work is not nominated in an access licence.

[14] Clause 231(2) and (3)

Insert “, or that are nominated works in the same access licence,” after “authorities apply,” wherever occurring.

[15] Clause 231(4A) and (4B)

Insert after clause 231(4)—

(4A) Subclause (1)(b) does not apply to a water supply work if subclause (2) applies to the work.

(4B) Subclause (1)(c) does not apply to a water supply work if subclause (3) applies to the work.

[16] Clause 231(5)

Omit the subclause. Insert instead—

(5) For the purposes of subclauses (2) and (3), those provisions do not apply to a water supply work that is—

(a) a work that is authorised to be used only if another work to which the same authority applies is not capable of being used because of a mechanical or electrical failure, and

(b) being used in those authorised circumstances.

[17] Clause 232

Omit the clause. Insert instead—

232 Inactive water supply works

The mandatory metering equipment condition does not apply to a work that is or may be used to take water under an authority if—

- (a) the authority under which the work is or may be used to take water indicates that the work is inactive, and
- (b) the authority is subject to conditions that prohibit the work from being used to take water while it is inactive and from being capable of taking water from a water source while it is inactive, and
- (c) the conditions referred to in paragraph (b) are complied with.

[18] Clause 233 Exemptions by Minister

Omit “from complying with the mandatory metering equipment condition” in clause 233(1).

Insert instead “from the application of the mandatory metering equipment condition to the holder or the class of holders”.

[19] Clause 236 Duly qualified persons

Insert “, but only in relation to telemetry maintenance activities” after “technician” in clause 236(12)(b).

[20] Clause 237 Obligations of duly qualified persons

Insert “and manner” after “approved form” wherever occurring in clause 237(1)–(3).

[21] Clause 237(2)(a) and (b)

Omit the paragraphs. Insert instead—

- (a) confirming that the metering equipment complies or does not comply with the matters required to be checked in accordance with AS 4747, and
- (b) if matters checked do not comply with AS 4747, specifying the reasons why the equipment does not comply and the modifications that are required for compliance or that the equipment cannot be modified to enable compliance.

[22] Clause 237(3A)

Insert after clause 237(3)—

- (3A) The certificate referred to in subclauses (1)–(3) must be given to the relevant person within 7 days after the certification, validation or checking, as applicable, occurs.

[23] Clause 237(4A)

Insert after clause 237(4)—

- (4A) The notification referred to in subclause (4) must be given to the Minister within 7 days after the duly qualified person becoming aware of, or forming the suspicion about, the tampering of the equipment.

[24] Clause 238 Metering records

Omit “to the person” from clause 238(1)(a).

[25] Clause 238(1)(b1)

Insert after clause 238(1)(b)—

- (b1) a copy of a report made under clause 244A(2),

[26] Clause 241 Reporting faulty metering equipment

Insert “and manner” after “approved form”.

[27] Clause 243 Repairs to faulty metering equipment

Insert “and manner” after “approved form” in clause 243(7).

[28] Clause 244 Mandatory condition relating to other reporting

Omit “other than under an authority” from clause 244(2)(a).

Insert instead “other than under an access licence or a licence or other entitlement under the former 1912 Act”.

[29] Clause 244(2)(b) and (c)

Omit the paragraphs. Insert instead—

- (b) if the authority is subject to a condition that the holder must confirm specified matters before water is taken in accordance with the authority—record, in the approved form and manner, the means by which the holder confirmed those specified matters, and
- (c) record the information not later than 24 hours after any day during which water is taken as referred to in paragraph (a) or (b).

[30] Clause 244(2A) and (2B)

Insert after clause 244(2)—

- (2A) Subclause (2)(b) does not apply in relation to water taken from a regulated river.
- (2B) A record under subclause (2)(a) is to be given to the Minister in an approved form and manner.

[31] Clause 244(3)

Omit the subclause. Insert instead—

- (3) If, immediately before an authority became the subject of a mandatory metering equipment condition, the authority was subject to a condition requiring the holder to record information of a kind referred to in subclause (2) in relation to a work, the authority is taken to be amended by removing the condition, and any other condition relating to keeping logbooks to record or report water that is taken, in relation to that work.

[32] Clause 244(5) and (6)

Omit clause 244(5). Insert instead—

- (5) This clause does not apply to an authority until the day specified as follows for the works concerned—
 - (a) 1 December 2021 for the following—
 - (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(a) applies,

- (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(a),
 - (b) 1 December 2022 for the following—
 - (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(b) applies,
 - (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(b),
 - (c) 1 December 2023 for the following—
 - (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(c) applies,
 - (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(c).
- (6) Despite subclause (5), this clause applies to a work that is a pump for surface water that is 500 mm or greater or is the subject of an authority that applies to a work of that kind on and from 1 December 2020.

[33] Clause 244A

Insert after clause 244—

244A Mandatory condition relating to reporting where no telemetry otherwise required

- (1) A condition imposed by this clause is a mandatory condition for the purposes of sections 115 and 115A(b) of the Act.
- (2) It is a condition of each authority that is the subject of a mandatory metering equipment condition that, if clause 6(2) of Schedule 8 provides that the clause does not apply to metering equipment used in conjunction with a work, the holder of the authority must report the water taken using the work to the Minister in accordance with this clause.
- (3) A report of water taken using a work must be made in the approved form and manner.
- (4) This clause does not apply in relation to the following—
 - (a) a work used to take water if metering equipment that complies with clause 6 of Schedule 8 is installed, used and complies with the telemetry specifications set out in the approved data logging and telemetry specifications (within the meaning of that Schedule) so that data regarding water taken is transmitted in accordance with those specifications,
 - (b) water taken from a regulated river.
- (5) This clause does not apply to an authority until the day specified as follows for the works concerned—
 - (a) 1 December 2021 for the following—
 - (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(a) applies,

- (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(a),
- (b) 1 December 2022 for the following—
 - (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(b) applies,
 - (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(b),
- (c) 1 December 2023 for the following—
 - (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(c) applies,
 - (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(c).
- (6) Despite subclause (5), this clause applies to a work that is a pump for surface water that is 500 mm or greater or is the subject of an authority that applies to a work of that kind on and from 1 December 2020.

[34] Clause 250 Mandatory condition requiring record of water taken where metering equipment not otherwise required to comply

Omit clause 250(1)(b). Insert instead—

- (b) separately record when water is taken using a work to which the authority applies under a basic landholder right or in other circumstances other than under an access licence or a licence or entitlement under the former 1912 Act, and
- (c) if the authority is subject to a condition that the holder must confirm specified matters before water is taken in accordance with the authority—record the means by which the holder confirmed those specified matters.

[35] Clause 250(2)–(2C)

Omit clause 250(2). Insert instead—

- (2) Subclause (1)(c) does not apply in relation to water taken from a regulated river.
- (2A) The record made under this clause must—
 - (a) be made not later than 24 hours after any day during which water is taken, and
 - (b) be made in an approved form and manner, and
 - (c) be kept for a period of 5 years.
- (2B) A record made under subclause (1)(a), (b) or (c) must be given to the Minister in an approved form and manner not later than 28 days after the end of the water year in which the water was taken or matters confirmed.
- (2C) If, during a water year, the holder of the authority to which this clause applies does not take any water using the work concerned, it is a mandatory condition of the authority that the holder must make a record of that fact in an approved

form and manner and give it to the Minister not later than 28 days after the end of that water year.

[36] Clause 250(3)

Omit the subclause. Insert instead—

- (3) If, immediately before an authority became the subject of the condition imposed under this clause, the authority was subject to a condition requiring the holder to record information of a kind referred to in subclause (1) in relation to a work, the authority is taken to be amended by removing the condition, and any other condition relating to keeping logbooks to record or report water that is taken, in relation to that work.

[37] Clause 250(5)(a) and (b)

Omit the paragraphs. Insert instead—

- (a) metering equipment that complies with Schedule 8 is installed and used in relation to a work used to take water and the person using the work complies with—
- (i) the requirements of clause 244A, or
 - (ii) the telemetry specifications set out in the approved data logging and telemetry specifications (within the meaning of that Schedule) so that data regarding water taken is transmitted in accordance with those specifications, or
- (b) the water supply work is subject to a mandatory metering equipment condition (within the meaning of Part 10), or

[38] Clause 250(6)

Omit the subclause. Insert instead—

- (6) This clause does not apply to an authority until the day specified as follows for the works concerned—
- (a) 1 December 2021 for the following—
- (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(a) applies,
 - (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(a),
- (b) 1 December 2022 for the following—
- (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(b) applies,
 - (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(b),
- (c) 1 December 2023 for the following—
- (i) a work that takes or may be used to take water from a water source to which a water sharing plan described in clause 230(1)(c) applies,
 - (ii) a work that is or may be used to take water under a licence or entitlement under the former 1912 Act described in clause 230(2)(c).

- [39] Schedule 4, clause 37, Activities by State or Commonwealth owned bodies**
Omit “a Government agency” from the clause. Insert instead “the Commonwealth”.
- [40] Schedule 8 Metering equipment**
Insert at the end of clause 5(2)(c)—
 , and
 (d) be supplied by a body approved by the Minister by order published on the Department’s website, and
 (e) be installed, or broken, only by a duly qualified person, an authorised officer or a member of staff of Water NSW.
- [41] Schedule 8, clause 6(1)**
Omit “1 December 2019”. Insert instead “1 December 2020”.
- [42] Schedule 8, clause 6(2)(a)**
Omit “a water supply work approval”. Insert instead “an authority”.
- [43] Schedule 8, clause 6(2)(b)**
Omit the paragraph. Insert instead—
 (b) a work that is authorised by an authority to take water from a groundwater source.
- [44] Schedule 8, clause 7(1) and (2)**
Insert “in accordance with AS 4747” after “must be validated” wherever occurring.
- [45] Schedule 8, clause 9(3)(a1)**
Insert after clause 9(3)(a)—
 (a1) after any subsequent maintenance work on the metering equipment is carried out that affects its metrological performance, the metering equipment is checked for accuracy by a duly qualified person, and
- [46] Schedule 8, clause 9(3A)**
Insert after clause 9(3)—
 (3A) For the purposes of the application of clause 7 to metering equipment referred to in subclause (3) that is—
 (a) not metering equipment installed in connection with an open channel, the first interval of 5 years for validation after the application day is taken to end 5 years after the existing validation, or
 (b) metering equipment installed in connection with an open channel, the first interval of 12 months for validation after the application day is taken to end 12 months after the existing validation.
- [47] Schedule 8, clause 9(7)**
Insert after clause 9(6)—
 (7) In this clause, *metrological performance* has the same meaning as it has in AS 4747.

[48] Schedule 9 Water sources requiring metering equipment for small water supply works

Omit the following—

- (a) *Water Sharing Plan for the Lower Gwydir Groundwater Source 2003,*
- (c) *Water Sharing Plan for the Lower Macquarie Groundwater Sources 2003,*
- (d) *Water Sharing Plan for the Lower Murray Groundwater Source,*
- (e) *Water Sharing Plan for the Lower Murrumbidgee Groundwater Sources 2003,*
- (g) *Water Sharing Plan for the Upper and Lower Namoi Groundwater Sources 2003.*

Insert instead—

- (a) *Water Sharing Plan for the Lower Gwydir Groundwater Source 2019,*
- (c) *Water Sharing Plan for the Lower Macquarie Groundwater Sources 2019,*
- (d) *Water Sharing Plan for the Lower Murray Groundwater Source 2019,*
- (e) *Water Sharing Plan for the Lower Murrumbidgee Groundwater Sources 2019,*
- (g) *Water Sharing Plan for the Upper and Lower Namoi Groundwater Sources 2019.*