



New South Wales

Water Management (General) Amendment (Groundwater Exemptions) 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 provide for exemptions from the requirement to hold a water access licence under the *Water Management Act 2000* for the following activities—

- (a) the taking of more than 3 megalitres of groundwater in a water year from specified groundwater sources when using a water supply work for the purposes of excavation required for certain construction work in certain circumstances,
- (b) the taking of up to 3 megalitres of groundwater in a water year by certain aquifer interference activities for a purpose other than its consumption or supply. (This exemption replaces 3 existing exemptions that apply in relation to the taking of water for prospecting or fossicking, water bore testing and the taking of water from or by an exempt monitoring bore.)

Each exemption is conditional on the person claiming the exemption meeting certain record keeping requirements in relation to water taken under the exemption.

This Regulation is made under the *Water Management Act 2000*, including section 400 (the general regulation-making power) and, in particular, section 400(2).

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1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Groundwater Exemptions) 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] Clause 21 Exemption from requirement for access licence

Insert after clause 21(5)—

- (6) An exemption conferred by this clause with respect to the taking of water for the purposes and in the circumstances specified in clause 7 of Schedule 4 (Water taken in course of certain aquifer interference activities) is subject to the condition that the person claiming the exemption must—
 - (a) record water taken for which the exemption is claimed, and
 - (b) make the record not later than 24 hours after water is taken, and
 - (c) make the record in an approved form and manner, and
 - (d) keep the record for a period of 5 years, and
 - (e) give the record to the Minister in an approved form and manner—
 - (i) not later than 28 days after the end of the water year in which the water was taken, or
 - (ii) if the Minister directs the person in writing to give the record to the Minister on an earlier date, by that date.

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

Insert after clause 230(4)—

- (5) Despite any other provision of this clause, the mandatory metering equipment condition is required to be complied with in respect of a water supply work being used to take groundwater under an exemption specified in clause 17A of Schedule 4, subject to the following—
 - (a) clause 4(3) of Schedule 8 is not required to be complied with,
 - (b) the person claiming the exemption specified in clause 17A must—
 - (i) record water taken using the work for which the exemption is claimed in the approved form and manner, and
 - (ii) give a copy of the record to the Minister not later than 28 days after the end of the water year in which the water was taken (or by an earlier date notified by the Minister in writing to the person).

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

Insert after clause 231(5)—

- (6) Despite any other provision of this clause, the mandatory metering equipment condition is required to be complied with in respect of a water supply work being used to take groundwater under an exemption specified in clause 17A of Schedule 4, subject to the following—
 - (a) clause 4(3) of Schedule 8 is not required to be complied with,
 - (b) the person claiming the exemption specified in clause 17A must—
 - (i) record water taken using the work for which the exemption is claimed in the approved form and manner, and
 - (ii) give a copy of the record to the Minister not later than 28 days after the end of the water year in which the water was taken (or by an earlier date notified by the Minister in writing to the person).

[4] Clause 238 Metering records

Insert before clause 238(1)(a)—

- (a1) a copy of a record made under clause 230(5)(b) or 231(6)(b),

[5] Schedule 4 Exemptions

Omit clause 7. Insert instead—

7 Water taken in course of certain aquifer interference activities

- (1) Any person lawfully engaged in an aquifer interference activity carried out in connection with an authorised project—in relation to the taking of up to 3 megalitres of groundwater from a groundwater source by one or more of those activities in a water year, if the taking of that groundwater is not for the purpose of its consumption or supply.
- (2) Without limiting subclause (1), the exemption conferred by that subclause (the **exemption**) applies to the taking of groundwater by the aquifer interference activity for the purpose of lawfully carrying out any of the following activities—
- (a) exploration for minerals (including coal) or petroleum,
 - (b) quarrying, excavation, dredging or exploration for stone, aggregate, sand or gravel,
 - (c) excavation required for the construction of a building, road or infrastructure,
 - (d) creation of an artificial lake that intersects with groundwater,
 - (e) remediation of groundwater contamination,
 - (f) investigation of groundwater resources or geotechnical investigation,
 - (g) testing of water quality from monitoring bores,
 - (h) conduct of pumping tests to investigate bore capacity or the capacity or connectivity of groundwater systems,
 - (i) operation of ground source heating or cooling systems.
- (3) Despite subclauses (1) and (2), the exemption does not apply in relation to the taking of groundwater in the course of or incidental to mining for minerals (including coal) or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*.
- (4) To avoid doubt, the maximum volume of groundwater that may be taken from a groundwater source under the exemption by all aquifer interference activities carried out in connection with an authorised project is 3 megalitres in a water year.
- Note.** Accordingly, once the 3 megalitre limit is reached, no further claim may be made for the exemption (whether by the same or a different person) in relation to the taking of groundwater in the water year from the groundwater source in connection with the authorised project. See clause 17A of this Schedule for a related exemption that applies to the taking of more than 3 megalitres of groundwater for excavation.
- (5) In this clause—
- authorised project** means an activity—
- (a) that is the subject of a consent, approval or other lawful authority conferred by or under an Act, or
 - (b) to which Division 5.1 of the *Environmental Planning and Assessment Act 1979* applies, or

(c) that is exempt development under that Act.

building has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

mineral has the same meaning as it has in the *Mining Act 1992*.

petroleum has the same meaning as it has in the *Petroleum (Onshore) Act 1991*.

[6] Schedule 4, clauses 9 and 10

Omit the clauses.

[7] Schedule 4, clause 17A

Insert after clause 17 in Part 1—

17A Taking groundwater for excavation

- (1) The holder of a water supply work approval in relation to the taking of more than 3 megalitres of groundwater in a water year using the water supply work to which the approval relates, but only if—
 - (a) the water supply work approval is subject to a condition that limits the amount of water that can be taken using the water supply work during a water year, and
 - (b) the taking of groundwater is for the purposes of excavation required for the construction of a building, road or infrastructure (other than in the course of carrying out mining operations or prospecting operations), and
 - (c) the taking of groundwater is carried out in accordance with the conditions of the water supply work approval.
- (2) This clause applies to the taking of water only from the following groundwater sources—
 - (a) Botany Sands Groundwater Source under the *Water Sharing Plan for the Greater Metropolitan Region Groundwater Sources 2011*,
 - (b) a groundwater source specified by the Minister, by order published in the Gazette, for the purposes of this clause.
- (3) The exemption conferred by this clause in respect of a particular groundwater source ceases to have effect—
 - (a) 6 months after the date on which Minister makes a declaration under section 65 of the Act in respect of the groundwater source, or
 - (b) on 1 July 2021,whichever occurs first.
- (4) In this clause—

building has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

mining operations and **prospecting operations** have the same meanings as they have in the *Mining Act 1992*.