



New South Wales

Water Management (General) Amendment (Floodplain Harvesting Measurement) Regulation 2021

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* to impose mandatory conditions on a work approval in relation to a water supply work nominated for the purpose of capturing or storing water taken under the following arrangements—

- (a) a floodplain harvesting (regulated river) access licence,
- (b) a floodplain harvesting (unregulated river) access licence,
- (c) a basic landholder right and an access licence referred to in paragraph (a) or (b).

This Regulation is made under the *Water Management Act 2000*, including sections 91I, 91IA, 115, 115A, 365 and 400 (the general regulation-making power).

Note. This Regulation was tabled in the Legislative Council on 4 May 2021 (sitting day of 24 March 2021). The Water Management (General) Amendment (Floodplain Harvesting Measurement) Regulation 2021 was published on the NSW legislation website on 30 April 2021 and was disallowed in the Legislative Council on 6 May 2021.

Water Management (General) Amendment (Floodplain Harvesting Measurement) Regulation 2021

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1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Floodplain Harvesting Measurement) Regulation 2021*.

2 Commencement

This Regulation commences on 1 July 2021 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Water Management (General) Regulation 2018

[1] Clause 228 Interpretation

Insert in alphabetical order in clause 228(1)—

approval holder, for an approved work, means the holder of the water supply work approval relating to the approved work.

faulty, in relation to point-of-intake metering equipment or storage metering equipment, means equipment not operating properly or is not operating.

mandatory floodplains condition means the mandatory condition imposed on a water supply work approval under clause 238B or Division 3A, subdivision 2.

metered work means a water supply work in connection with which metering equipment has been installed.

point-of-intake metering equipment, for a water supply work, means equipment that measures the flow of water as it enters the water supply work.

primary metering equipment means the point-of-intake metering equipment or storage metering equipment for a water supply work.

registered surveyor means a person registered as a surveyor under the *Surveying and Spatial Information Act 2002* or a corresponding law of another State or a territory.

secondary metering device means a device or a type of device—

- (a) approved by the Minister, and
- (b) notice of the approval of which must be published in the Gazette, and
- (c) validated by a duly qualified person in accordance with the standards specified by the Minister.

storage metering equipment, for a water supply work, means metering equipment that measures the surface level of water in the work.

storage metering equipment standards means the storage metering equipment standards approved by the Minister and published in the Gazette.

survey benchmark standard means a survey benchmark standard approved by the Minister and published in the Gazette.

[2] Clause 236 Duly qualified persons

Insert after clause 236(15)—

- (16) A person who holds a current certification as a storage meter installer and validator issued by Irrigation Australia Limited is specified for storage metering equipment.
- (17) The following persons are specified for the purpose of determining if all water entering a water supply work is able to be measured by point-of-intake metering equipment as referred to in clause 238K(3)—
 - (a) a certified practising hydrographer,
 - (b) a registered engineer who has experience in assessing overland water flow.
- (18) The following persons are specified for the purpose of determining if point-of-intake metering equipment has been installed correctly as referred to in clause 238K(4)—
 - (a) a certified meter installer,

- (b) a certified practising hydrographer.
- (19) The following persons are specified for the purpose of validating a secondary metering device capable of measuring the volume of water in a water supply work by reference to the water level in the work—
 - (a) a registered surveyor,
 - (b) a person holding a degree of Bachelor of Surveying,
 - (c) a person holding a Diploma of Surveying,
 - (d) a person working under the supervision of a person referred to in paragraph (a)–(c),
 - (e) a registered engineer.
- (20) A registered surveyor is specified for validating survey benchmarks.

[3] Part 10, Divisions 3A and 3B

Insert after Part 10, Division 3—

Division 3A Metering equipment conditions for particular water supply work approvals

Subdivision 1 General

238A Application of Division

This Division applies to a water supply work approval under which an approved work is authorised to be constructed or used for the purpose of capturing or storing water taken—

- (a) under a floodplain harvesting (regulated river) access licence, or
- (b) under a floodplain harvesting (unregulated river) access licence, or
- (c) under a basic landholder right and an access licence referred to in paragraph (a) or (b).

238B Mandatory floodplains condition

- (1) For the purposes of section 115 of the Act, it is a mandatory condition of a water supply work approval to which this Division applies that the following equipment is installed, used and maintained in connection with an approved work that is authorised to be constructed or used to capture or store water under the approval—
 - (a) point-of-intake metering equipment,
 - (b) storage metering equipment.
- (2) The holder of an approval is taken to have complied with a particular aspect of the condition imposed by this clause if the holder has complied with the applicable requirements set out in this Regulation.
- (3) The mandatory floodplains condition does not apply to an approved work that is or may be used to capture or store water under an approval if—
 - (a) the approval indicates the work is inactive, and
 - (b) the approval is subject to conditions prohibiting the approved work from—
 - (i) being used to take water while the work is inactive, and
 - (ii) being capable of taking water from a water source while the work is inactive, and

- (c) the approval holder complies with the conditions in paragraph (b).

238C Exemptions by Minister

- (1) The Minister may, at the Minister's discretion or on the application of an approval holder, exempt an approval holder or a class of approval holders from the application of the mandatory floodplains condition to the holder or the class of holders.
- (2) The Minister may grant an exemption only if the Minister is satisfied it is not possible for water captured or stored using the approved work to be measured by—
 - (a) point-of-intake metering equipment, or
 - (b) storage metering equipment.
- (3) An exemption may be unconditional or granted subject to conditions.
- (4) The Minister may amend or revoke an exemption at any time.
- (5) The Minister must notify the following matters relating to a class of approval holders on the Department's website—
 - (a) an exemption,
 - (b) the amendment of an exemption,
 - (c) the revocation of an exemption.

238D Reporting faulty metering equipment

- (1) For the purposes of sections 91IA and 115 of the Act, it is a mandatory condition of a water supply work approval to which this Division applies that the approval holder must notify the Minister if the point-of-intake metering equipment or storage metering equipment for the approved work is faulty.
- (2) The notice under subclause (1) must be in the approved form and contain the following particulars—
 - (a) the approval holder's name and contact details,
 - (b) the type and location of the metered work,
 - (c) the relevant approval or access licence numbers,
 - (d) the purposes for which water taken from the metered work is used,
 - (e) a description of the method to be used to determine the quantity of water taken while the equipment is faulty.

Subdivision 2 Measurement period

238E Measurement period—general

- (1) For the purposes of section 115 of the Act, it is a mandatory condition of a water supply work approval to which this Division applies that the approval holder must notify the Minister in the approved form of each measurement period for an approved work that is authorised to be constructed or used to capture or store water under the approval.
- (2) The approval holder must not take water outside a notified measurement period with a water supply work nominated for the purpose of capturing or storing water under the following—
 - (a) a floodplain harvesting (regulated river) access licence,
 - (b) a floodplain harvesting (unregulated river) access licence.

238F Measurement period—approved works

- (1) The measurement period for the approved works begins when the overland flow collected and impounded by 1 or more of the works—
 - (a) has commenced filling infrastructure, including surge areas, field storage and dams, used to hold water, or
 - (b) is not able to be isolated from water taken under—
 - (i) an access licence other than the following—
 - (A) a floodplain harvesting (regulated river) access licence,
 - (B) a floodplain harvesting (unregulated river) access licence,
 - (ii) a basic landholder right,
 - (iii) an exemption from holding an access licence.
- (2) During a measurement period the approval holder may take and use water from an approved work unless—
 - (a) the water being taken and used is accounted for under—
 - (i) an access licence other than the following—
 - (A) a floodplain harvesting (regulated river) access licence,
 - (B) a floodplain harvesting (unregulated river) access licence,or
 - (ii) a basic landholder right, or
 - (iii) an exemption from holding an access licence, and
 - (b) the water being taken is measured—
 - (i) using point-of-intake metering equipment, or
 - (ii) was taken during a previous measurement period.
- (3) For an approved work in connection with which storage metering equipment is installed and used—
 - (a) water may be removed from the work, but not at the same time as water is being added to the work, and
 - (b) if water is removed from the work, the following must be recorded—
 - (i) the date and time immediately before the water is removed,
 - (ii) the date and time immediately after the water is removed.
- (4) The measurement period for the approved works ends when—
 - (a) overland flow is no longer being collected and impounded by 1 or more of the works, and
 - (b) all infrastructure, including surge areas, field storage and dams, used to hold water during the measurement period is empty.

238G Measurement period—records

- (1) The approval holder must record, in the approved form, the amount of water captured and stored using the approved works during each 24 hour period throughout the measurement period for the works.
- (2) The approval holder must—
 - (a) keep records in the approved form of the following—
 - (i) water added to the approved works taken under the authority of an access licence, basic landholder right or exemption referred to in clause 238F(1)(b),

- (ii) water taken from the approved works under the authority of an access licence, basic landholder right or exemption referred to in clause 238F(1)(b), and
- (b) report fortnightly to the Minister in the approved form on the following matters—
 - (i) water taken from an approved work under the authority of an access licence, basic landholder right or exemption referred to in clause 238F(1)(b),
 - (ii) during a measurement period—records of water added to an approved work under the authority of an access licence, basic landholder right or exemption referred to in clause 238F(1)(b), and
- (c) provide the Minister, in the approved form, a copy of records—
 - (i) kept under subclause (1), on a fortnightly basis during the measurement period for the works, and
 - (ii) made between the last fortnightly report and the end of the measurement period, not later than 14 days after the end of the measurement period.

Subdivision 3 Repairs and reporting requirements

238H Repairs to faulty metering equipment

- (1) For the purposes of section 115 of the Act, it is a mandatory condition of a water supply work approval that the holder of the approval who captures and stores water using a metered work while the metered work's point-of-intake metering equipment or storage metering equipment is faulty must comply with this clause.
- (2) The approval holder must repair the equipment, or cause it to be repaired, within—
 - (a) 21 days of becoming aware the equipment is faulty, or
 - (b) a further period permitted under this clause.
- (3) If the approval holder becomes aware the equipment is not able to be repaired within the period specified in subclause (2), the approval holder—
 - (a) must notify the Minister in the approved form, and
 - (b) may seek an extension of the period within which repairs are to be carried out.
- (4) An application for an extension must set out—
 - (a) the reasons why the repair is not able to be carried out within the specified period, and
 - (b) the date by which the equipment is proposed to be repaired.
- (5) The Minister may, by written notice given to the approval holder, extend the repair period by a specified period.
- (6) The approval holder may make more than 1 application to extend the repair period.
- (7) The approval holder must give the following information to the Minister in the approved form not later than 28 days after the faulty metering equipment is repaired—
 - (a) the date the equipment was repaired,

- (b) a description of the repairs,
- (c) evidence of the repairs, which may include a statement from the person who repaired the equipment,
- (d) the name of the person who repaired the equipment.

238I Mandatory condition relating to other reporting

For the purposes of section 115 of the Act, it is a mandatory condition of a water supply work approval to which this Division applies and is the subject of the mandatory floodplains condition that the approval holder must, not more than 14 days after the end of each month forming part of a measurement period under clause 238G, give the Minister in the approved form—

- (a) the records made during the month, under clause 238G, for each approved work under the approval, or
- (b) if no water was taken, a statement indicating no water was taken.

238J Application of Schedule 8 to floodplain access licences

If there is an inconsistency between a condition imposed under this Division and a provision of Schedule 8 for an approval to which this Division applies, the condition imposed under this Division prevails.

Division 3B Metering equipment standards for particular water supply work approvals

238K Mandatory requirements for point-of-intake metering equipment

- (1) This clause sets out the applicable requirements for point-of-intake metering equipment for an approved work for the purposes of clause 238B(2).
- (2) The point-of-intake metering equipment must be installed to measure the flow of all water entering the approved work.
- (3) A duly qualified person must inspect all floodplain harvesting intake points for the approved work to determine if all water entering the work is able to be measured by point-of-intake metering equipment that complies with the requirements of Schedule 8.
- (4) A duly qualified person must inspect all floodplain harvesting intake points for the approved work to determine if the point-of-intake metering equipment has been installed in compliance with the requirements of Schedule 8.
- (5) The approval holder must ensure point-of-intake metering equipment is maintained in accordance with the requirements of Schedule 8, clause 2(4).

238L Mandatory requirements for storage metering equipment

- (1) This clause sets out the applicable requirements for storage metering equipment for an approved work for the purposes of clause 238B(2).
- (2) The storage metering equipment must be installed to determine variation in the water level of water stored in the approved work.
- (3) The storage metering equipment for the approved work must—
 - (a) meet the relevant specifications set out in the approved storage metering equipment standards, and
 - (b) be installed and validated by a duly qualified person in accordance with the approved storage metering equipment standards.

- (4) Storage metering equipment must be calibrated by a duly qualified person—
 - (a) in accordance with the approved storage metering equipment standards, and
 - (b) by reference to a survey benchmark.
- (5) The survey benchmark must be—
 - (a) installed, in relation to the approved work, in accordance with a survey benchmark standard by—
 - (i) a registered surveyor, or
 - (ii) a person or a class of persons approved by the Minister by notice published in the Gazette, and
 - (b) validated by—
 - (i) a registered surveyor, or
 - (ii) a person or a class of persons approved by the Minister by notice published in the Gazette.
- (6) Storage metering equipment must have—
 - (a) data logging capacity to enable the equipment to collect, record and store water storage data in accordance with data logging and telemetry specifications approved by the Minister under Schedule 8, clause 10, and
 - (b) telemetry capacity to transmit data relating to water usage that complies with the approved data logging and telemetry specifications approved by the Minister under Schedule 8, clause 10, and
 - (c) tamper evident seals, locks, controls or other devices that comply with the requirements of Schedule 8, clause 5.
- (7) The approval holder must ensure storage metering equipment is maintained in accordance with the storage metering equipment standards.

238M Storage curve documents

- (1) The Minister may adopt a storage curve for a nominated approved work.
- (2) If the approval holder for the work becomes aware of the adopted storage curve for the work being inaccurate by more than 5% of the volume of the work at a specified water level, the approval holder must within 21 days of becoming aware of the inaccuracy—
 - (a) notify the Minister, and
 - (b) submit a revised storage curve for the work to the Minister.
- (3) The approval holder for the work may, at any other time, submit a revised storage curve for the work to the Minister.
- (4) A revised storage curve submitted under subclause (2) or (3) must be—
 - (a) in the approved form, and
 - (b) certified by a registered surveyor as meeting the relevant specifications set out in the storage curve standards approved by the Minister.
- (5) A revised storage curve submitted under subclause (2) or (3) is taken to be adopted by the Minister 24 hours after the revised storage curve is submitted unless the approval holder is given notice that the revised storage curve will not be adopted.

- (6) A revised storage curve taken to be adopted under subclause (5) takes effect as the adopted storage curve for the work and any previously adopted storage curve for the work ceases to have effect.
- (7) The Minister must give notice of the adoption of a revised storage curve to the approval holder for the work.
- (8) If a revised storage curve is not adopted by the Minister, the existing adopted storage curve remains in force.
- (9) In this clause—
adopted storage curve means a storage curve adopted by the Minister under this clause.
storage curve, for a nominated approved work, means a document that indicates the volume of water in the work by reference to the surface level of the water in the work as measured by the storage metering equipment installed for the work.
storage curve standards means the storage curve standards approved by the Minister and published in the Gazette.

Division 3C Obligations of duly qualified persons

238N Obligations of duly qualified persons—inspections

- (1) A duly qualified person who performs an inspection of a water supply work under clause 238K(3) must give a certificate to the approval holder for the water supply work confirming if—
 - (a) water entering the work is able to be measured by equipment that complies with the requirements of Schedule 8, or
 - (b) water entering the work is not able to be measured by equipment that complies with the requirements of Schedule 8.
- (2) A duly qualified person who performs an inspection of a water supply work under clause 238K(4) must give a certificate to the approval holder for the water supply work confirming if—
 - (a) the point-of-intake metering equipment for the water supply work is connected in compliance with the requirements of Schedule 8, or
 - (b) the point-of-intake metering equipment for the water supply work is not connected in compliance with the requirements of Schedule 8.

238O Obligations of duly qualified persons—validation

- (1) A duly qualified person who validates storage metering equipment for a water supply work in accordance with the storage metering equipment standards must give a certificate to the person for whom the validation is undertaken—
 - (a) confirming if the equipment complies or does not comply with the matters required to be checked in accordance with the storage metering equipment standards, and
 - (b) if the matters checked do not comply with the storage metering equipment standards—
 - (i) specifying the reasons why the equipment does not comply and the modifications required for compliance, or
 - (ii) stating the equipment is not able to be modified to enable compliance.

- (2) A duly qualified person who validates a survey benchmark, in relation to a water supply work, in accordance with a survey benchmark standard must give a certificate to the person for whom the validation is undertaken—
 - (a) confirming the benchmark complies or does not comply with the matters required to be checked in accordance with the survey benchmark standard, and
 - (b) if the matters checked do not comply with the survey benchmark standard—
 - (i) specifying the reasons why the benchmark does not comply and the modifications required for compliance, or
 - (ii) stating the benchmark is not able to be modified to enable compliance.
- (3) A duly qualified person who validates point-of-intake metering equipment for a water supply work in accordance with Schedule 8, clause 7 must give a certificate to the person for whom the validation is undertaken—
 - (a) confirming the equipment complies or does not comply with the matters required to be checked in accordance with AS 4747, and
 - (b) if the matters checked do not comply with AS 4747—
 - (i) specifying the reasons why the equipment does not comply and the modifications required for compliance, or
 - (ii) stating the equipment is not able to be modified to enable compliance.

238P Obligations of duly qualified persons—checking

- (1) A duly qualified person who checks point-of-intake metering equipment for a water supply work for accuracy under Schedule 8, clause 9 must give a certificate to the person for whom the check is undertaken certifying whether or not the maximum permissible error of the metering equipment does or does not exceed plus or minus 5% in the field.
- (2) A duly qualified person who checks storage metering equipment for a water supply work for accuracy under Schedule 8, clause 9 must give a certificate to the person for whom the check is undertaken certifying whether or not the maximum permissible error of the metering equipment exceeds plus or minus 10 millimetres in the field.

238Q Obligations of duly qualified persons—general

- (1) A certificate referred to in clauses 238N–238P must be—
 - (a) in the approved form, and
 - (b) given to the approval holder for the water supply work within 7 days after the certification, validation or checking occurs.
- (2) A duly qualified person who installs metering equipment or carries out other work on metering equipment must notify the Minister in the approved form if the person knows or reasonably suspects the equipment has been tampered with.
- (3) The notification referred to in subclause (2) must be given to the Minister within 7 days after the duly qualified person becomes aware of, or forms the suspicion about, the tampering with the equipment.
- (4) A duly qualified person must comply with this Division.
Maximum penalty—20 penalty units.

238R Faulty metering equipment

For the purposes of section 91I(3) of the Act, section 91I(1)(b) and (2) of the Act do not apply if—

- (a) the water supply work has a secondary metering device installed, and
- (b) the following records are provided to the Minister—
 - (i) a record of the last available reading of the primary metering equipment before it became faulty,
 - (ii) a record of the first available reading of the secondary metering device after the primary metering equipment became faulty.

238S Mandatory requirements for secondary metering devices

For the purposes of section 115 of the Act, an approval holder who uses a secondary measuring device due to a fault with the primary metering equipment must comply with the following requirements—

- (a) the approval holder must record the reading of the secondary device—
 - (i) if the primary metering equipment is faulty at the start of the measurement period—within 24 hours of the start of the measurement period, or
 - (ii) if the primary metering equipment becomes faulty during the measurement period—within 24 hours of becoming aware the primary metering equipment is faulty,
- (b) if water is removed from the approved work during the measurement period, the following must be recorded immediately before, and again immediately after, the water is removed—
 - (i) the reading of the secondary metering device,
 - (ii) the date and time of the reading,
- (c) the approval holder must record the reading of the secondary measuring device within 24 hours of the end of the measurement period,
- (d) the approval holder must provide records under this clause, in the approved form, to the Minister not later than 14 days after the end of the measurement period,
- (e) the approval holder must keep a record made under this clause for 5 years after the end of the measurement period.

238T Metering records

- (1) For the purposes of section 91J of the Act, the holder of a water supply work approval subject to the mandatory floodplains condition must keep the following metering records for a period of 5 years—
 - (a) a certificate provided under Division 3C by a duly qualified person in relation to the following—
 - (i) point-of-intake metering equipment,
 - (ii) storage metering equipment,
 - (iii) a survey benchmark,
 - (iv) a storage curve document,
 - (v) a secondary metering device,
 - (b) a copy of a report given to the Minister under Schedule 8, clause 8 or 9,
 - (c) a copy of a written certification given to the Minister under Schedule 8, clause 9(2)(b).

- (2) For the purposes of section 115 of the Act, it is a condition of an approval subject to the mandatory floodplains condition that the approval holder must give the Minister the following within 28 days of receiving the certificate—
 - (a) a copy of a certificate provided under clause 238O(3) or 238P(1) or (2),
 - (b) a copy of a certificate referred to in subclause (1)(a).

Division 3D Transitional provisions

238U Transitional provision—metering equipment installed before 14 February 2020

- (1) If primary metering equipment was installed on or before 14 February 2020 on a water supply work nominated under a floodplain harvesting (regulated river) access licence or a floodplain harvesting (unregulated river) access licence for the purpose of measuring water taken or collected under a licence, the work may continue to be used for the life of the equipment despite a new condition imposed under Division 3A if—
 - (a) tamper evident seals are affixed in accordance with Schedule 8, clause 5, and
 - (b) for point-of-intake metering equipment or storage metering equipment, the equipment is fitted with a device that complies with the data logging and telemetry specifications approved by the Minister, and
 - (c) for storage metering equipment, a duly qualified person certifies—
 - (i) the equipment includes a digital measurement sensor, and
 - (ii) the equipment is fitted with a telemetry device that complies with paragraph (b), and
 - (iii) the equipment and the telemetry device are operating properly, and
 - (iv) the equipment was installed in accordance with the manufacturer's instructions, and
 - (v) the equipment was calibrated by a duly qualified person by reference to a survey benchmark installed and validated as described in clause 238L(5), and
 - (d) for storage metering equipment that does not meet the storage metering equipment standards—
 - (i) evidence from the manufacturer that the equipment operated within 10 millimetres accuracy in laboratory conditions before it was installed, or
 - (ii) a certificate from a certified storage meter installer and validator or a certified practising hydrographer that the equipment operated within 10 millimetres accuracy in the field after it was installed, or
 - (iii) evidence of whether the equipment operated within 10 millimetres in a NATA-accredited laboratory, which is accredited for the relevant test method, after the equipment was installed, and
 - (e) for point-of-intake measuring equipment—
 - (i) installed to measure open-flow channels, the equipment was validated by a duly qualified person in accordance with AS 4747 not more than 12 months before the report is given to the Minister under subclause (2), or

- (ii) installed to measure closed or partially closed conduit flows, the equipment was validated by a duly qualified person in accordance with AS 4747 not more than 5 years before the report is given to the Minister under subclause (2), and
 - (iii) the equipment was found by the duly qualified person to comply with the matters required to be checked on validation.
- (2) An approval holder who intends to rely on this clause must give a report to the Minister in the approved form and that includes the following matters—
 - (a) certifying the action taken by the approval holder to comply with the requirements of subclause (1) in relation to the metering equipment,
 - (b) accompanied by documents given to the approval holder by the duly qualified person reporting on or relating to the checks carried out by the duly qualified person,
 - (c) certifying the checks were carried out not more than 5 years before the report is given to the Minister.
- (3) In this clause—

NATA-accredited laboratory means a testing laboratory accredited by the National Association of Testing Authorities, Australia (NATA) or recognised by NATA either solely or with someone else.

238V Transitional provision—metering equipment installed after 14 February 2020

- (1) An approval holder who installs primary metering equipment in accordance with the guidelines after 14 February 2020 but before the commencement of the *Water Management (General) Amendment (Floodplain Harvesting Measurement) Regulation 2021* on a water supply work nominated under a floodplain harvesting (regulated river) access licence or a floodplain harvesting (unregulated river) access licence for the purpose of measuring water taken or collected under a licence is taken to have installed the equipment in accordance with the mandatory floodplains condition if—
 - (a) for point-of-intake metering equipment, a duly qualified person for metering equipment certifies in writing that the duly qualified person is satisfied—
 - (i) the equipment complies with the point-of-intake metering equipment guideline, and
 - (ii) the equipment was installed and validated in accordance with the point-of-intake metering equipment guideline,
 - (b) for storage metering equipment, the holder of current certification as a storage meter installer and validator issued by Irrigation Australia Limited certifies in writing that the holder is satisfied—
 - (i) the equipment complies with the storage metering equipment guideline, and
 - (ii) the equipment was installed and validated in accordance with the storage metering equipment guideline.
- (2) For the avoidance of doubt, a storage curve document in relation to storage metering equipment subject to this clause does not need not be adopted until the date on which the *Water Management (General) Amendment (Floodplain Harvesting Measurement) Regulation 2021* commences.
- (3) In this clause—

point-of-intake metering equipment guideline means the document titled *Floodplain Harvesting Measurement—Point-of-intake measurement method*

published by the NSW Department of Planning, Industry and Environment in February 2021.

storage metering equipment guideline means the document titled *Floodplain Harvesting Measurement—Existing storage metering equipment* published by the NSW Department of Planning, Industry and Environment in February 2021.

238W Transitional provision—small capacity and infrequently used water supply works

- (1) A person is not required to comply with the mandatory floodplains condition in relation to an approved work not used to take water until the day that is 6 months after the day on which the relevant management plan relating to water sharing makes provision for floodplain harvesting.
- (2) However, if the relevant management plan relating to water sharing is made before 1 January 2022, the date for the purposes of subclause (1) is taken to be 1 July 2022 for the following water supply works—
 - (a) the capacity of the work is less than 1,000 megalitres,
 - (b) the capacity of the work is equal to or more than 1,000 megalitres and the work was used to collect or take water in less than 1 in every 7 years on average between 1987 and 2019.
- (3) Despite subclause (1), for an approved work that is used to take water before the work is required to comply with the mandatory floodplains condition, the work may be used to take water if—
 - (a) the work has a secondary metering device installed in accordance with the mandatory floodplains condition, and
 - (b) the approval holder complies with the requirements of clause 238S as if a reference to a fault with the primary metering equipment is a reference to the taking of water to which this clause applies.

[4] Schedule 7 Penalty notice offences

Insert in appropriate order in columns 1 and 2 of the table in the matter relating to penalty notice offences under the Regulation—

Clause 237(5)	\$500
Clause 238Q(4)	\$500