



New South Wales

Water Management (General) Amendment (Advertising Requirements and Compliance Audits) 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* as follows—

- (a) to provide that the Minister must advertise an application for an approval under the *Water Management Act 2000* (*the Act*) by a notice published on—
 - (i) the Department’s website, or
 - (ii) a publicly available website maintained by WaterNSW or the Natural Resources Access Regulator,
- (b) to make provision for compliance audits to be undertaken by the holder of an access licence or an approval at the direction of the Minister under the Act, section 326A, including providing for the following—
 - (i) the payment of the costs of compliance audits by holders,
 - (ii) requirements for the form and content of compliance audits,
 - (iii) certification of compliance audits,
 - (iv) persons who are qualified to undertake compliance audits.

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1 Name of Regulation

This Regulation is the *Water Management (General) Amendment (Advertising Requirements and Compliance Audits) Regulation 2021*.

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 26 Advertising of applications for approvals

Omit clause 26(7). Insert instead—

- (7) An application for an approval must be advertised by the Minister by a notice published on—
 - (a) the Department’s website, or
 - (b) a publicly available website maintained by WaterNSW, or
 - (c) a publicly available website maintained by the Natural Resources Access Regulator.

[2] Clause 258A

Insert after clause 258—

258A Compliance audits—the Act, ss 326A and 400(1)(e)

- (1) This clause applies to the holder of an access licence or an approval who has been directed by the Minister to undertake a compliance audit to the satisfaction of the Minister.
- (2) The person carrying out the compliance audit must prepare a report on the results of the compliance audit (a *compliance audit report*) that includes the following—
 - (a) an assessment of whether the holder has complied with the compliance requirements,
 - (b) an assessment of how the holder has complied with the compliance requirements,
 - (c) an assessment of the risks of non-compliance with the compliance requirements,
 - (d) recommendations to remedy non-compliance or risks of non-compliance identified in the compliance audit,
 - (e) references to all documents and information considered by the holder and the compliance auditor, if not the holder, in carrying out the compliance audit.
- (3) The holder must submit the compliance audit report within the time specified by the Minister, accompanied by—
 - (a) if the compliance audit is carried out by the holder—a declaration signed by the holder certifying that the report is complete and accurate and the holder has not knowingly included false or misleading information, or
 - (b) if the compliance audit is carried out by a compliance auditor—
 - (i) a declaration signed by the holder certifying that the holder has not knowingly provided false or misleading information to the auditor in carrying out the audit, and
 - (ii) a declaration signed by the auditor certifying that the report is complete and accurate and the auditor has not knowingly included false or misleading information, and
 - (iii) a declaration signed by the auditor setting out the auditor’s qualifications.

- (4) The Minister may require the holder to provide the information used in preparing the compliance audit report within 5 years after the report is submitted to the Minister.
- (5) The holder must pay the costs of the compliance audit and all associated costs, including the cost of preparing the compliance audit report.
- (6) The following persons are qualified to carry out compliance audits—
- (a) if required by the direction—
 - (i) the holder of the access licence or the approval, or
 - (ii) a certified meter installer, or
 - (iii) a certified practising hydrographer, or
 - (iv) a person who holds a qualification issued by an Australian university, and who has at least 10 years experience, in a field of engineering or environmental science sufficient to enable the person to assess compliance with legal requirements under the Act, as they relate to the holder's activities,
 - (b) a person qualified as an auditor for the purposes of the Australian and New Zealand Standard entitled AS/NZS ISO 14001:2016, *Environmental management systems—Requirements with guidance for use*, as in force from time to time.
- (7) In this clause—
- certified meter installer*** has the same meaning as in clause 236(1).
 - certified practising hydrographer*** has the same meaning as in clause 236(1).
 - compliance requirement*** means a requirement, specified in the direction, that is—
 - (a) a condition on the holder's access licence or approval, or
 - (b) another requirement applying to the holder under the Act or this Regulation.