



New South Wales

Water Management (General) Amendment (Emergency Works Exemption) 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 facilitate the carrying out of urgent works (*emergency works*) to remove groundwater and overland flow water in response to emergency events by providing for exemptions from requirements under the *Water Management Act 2000* (*the Act*) that would otherwise apply to the works.

The exemptions relate to the following provisions of the Act—

- (a) section 60A(1) and (2), in relation to the holding of an access licence,
- (b) section 91A(1), in relation to the holding of a water use approval,
- (c) section 91B(1), in relation to the construction and use of a water supply work,
- (d) section 91E(1), in relation to the holding of a controlled activity approval.

It is a condition of each exemption that the person claiming the exemption gives specified information to the Natural Resources Access Regulator in relation to the relevant emergency works.

If water taken under the exemption in relation to the holding of an access licence is subsequently used for certain specified purposes (*secondary purposes*), the water is considered to have been taken for the relevant secondary purpose from the time of the subsequent use and the exemption does not apply in relation to the use for the secondary purpose.

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 (Emergency Works Exemption) 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 3 Definitions

Insert in alphabetical order in clause 3(1)—

emergency event means—

- (a) a sudden natural event, including a storm, flood, tree fall, bush fire, land slip or coastal inundation, or
- (b) a sudden ingress of water, into an excavation site, that is not—
 - (i) foreseen, or
 - (ii) a result of inadequate planning or assessment or the use of unsuitable materials or methods, or
- (c) an accident, or
- (d) an actual or imminent failure of infrastructure or equipment, including a rupture or breakage of piping infrastructure caused by natural ground movements, or
- (e) an unlawful act resulting in damage, including vandalism, arson or pollution.

emergency works means works carried out urgently, as a direct result of an emergency event, to remove groundwater or overland flow water for the purpose of reducing a significant risk to—

- (a) public health and safety, or
- (b) the environment, including groundwater systems, or
- (c) infrastructure or the construction of infrastructure.

Natural Resources Access Regulator means the body constituted by section 4 of the *Natural Resources Access Regulator Act 2017*.

[2] Clause 3A

Insert after clause 3—

3A Giving of information to Natural Resources Access Regulator

In this Regulation, a requirement to give information to the Natural Resources Access Regulator is met only if the information is given using the contact telephone number or email address published on the website of the Natural Resources Access Regulator.

[3] Clause 21 Exemption from requirement for access licence

Insert after clause 21(6)—

- (7) An exemption conferred by this clause in relation to the taking of groundwater or overland flow water for the purpose specified in Schedule 4, clause 17B (Emergency works) is subject to the condition that the person claiming the exemption must—
 - (a) before or as soon as reasonably possible after commencing the relevant emergency works, give the Natural Resources Access Regulator the following information—
 - (i) the person's name and contact details,
 - (ii) if applicable—the name and contact details of any other person by whom, or body by which, the works are to be carried out,

- (iii) the address of the site of the works,
- (iv) the nature of the emergency event resulting in the need to carry out the works,
- (v) the significant risk to be reduced by the works, and
- (b) within 14 days after completing the relevant emergency works, give the Natural Resources Access Regulator the following further information—
 - (i) the date of completion of the works,
 - (ii) the volume of groundwater or overland flow water extracted while carrying out the works,
 - (iii) if it is not possible to measure the volume of groundwater or overland flow water extracted while carrying out the works—an estimate of the volume.

[4] Clause 34 Exemption where the taking of the water is also exempt

Insert after clause 34(4)—

- (5) An exemption conferred by this clause in relation to an exemption under clause 21 in relation to the taking of groundwater or overland flow water for the purpose specified in Schedule 4, clause 17B (Emergency works) is subject to the condition that the person claiming the exemption must—
 - (a) before or as soon as reasonably possible after commencing the relevant emergency works, give the Natural Resources Access Regulator the following information—
 - (i) the person's name and contact details,
 - (ii) if applicable—the name and contact details of any other person by whom, or body by which, the works are to be carried out,
 - (iii) the address of the site of the works,
 - (iv) the nature of the emergency event resulting in the need to carry out the works,
 - (v) the significant risk to be reduced by the works, and
 - (b) within 14 days after completing the relevant emergency works, give the Natural Resources Access Regulator the following further information—
 - (i) the date of completion of the works,
 - (ii) the volume of groundwater or overland flow water extracted while carrying out the works,
 - (iii) if it is not possible to measure the volume of groundwater or overland flow water extracted while carrying out the works—an estimate of the volume.

[5] Clause 39 Exemptions relating to both construction and use of water supply works

Insert after clause 39(1)(g)—

- (h) any person, in relation to the construction or use of a water supply work for the purpose of carrying out emergency works.

[6] Clause 39(6)

Insert after clause 39(5)—

- (6) An exemption conferred by subclause (1)(h) is subject to the condition that the person claiming the exemption must—

- (a) before or as soon as reasonably possible after commencing the relevant emergency works, give the Natural Resources Access Regulator the following information—
 - (i) the person's name and contact details,
 - (ii) if applicable—the name and contact details of any other person by whom, or body by which, the works are to be carried out,
 - (iii) the address of the site of the works,
 - (iv) the nature of the emergency event resulting in the need to carry out the works,
 - (v) the significant risk to be reduced by the works, and
- (b) within 14 days after completing the relevant emergency works, give the Natural Resources Access Regulator the following further information—
 - (i) the date of completion of the works,
 - (ii) the volume of groundwater or overland flow water extracted while carrying out the works,
 - (iii) if it is not possible to measure the volume of groundwater or overland flow water extracted while carrying out the works—an estimate of the volume.

[7] Clause 42A

Insert after clause 42—

42A Controlled activities—all persons

- (1) A person is exempt from section 91E(1) of the Act in relation to controlled activities for the purpose of carrying out emergency works.
- (2) An exemption conferred by this clause is subject to the condition that the person claiming the exemption must—
 - (a) before or as soon as reasonably possible after commencing the relevant emergency works, give the Natural Resources Access Regulator the following information—
 - (i) the person's name and contact details,
 - (ii) if applicable—the name and contact details of any other person by whom, or body by which, the works are to be carried out,
 - (iii) the address of the site of the works,
 - (iv) the nature of the emergency event resulting in the need to carry out the works,
 - (v) the significant risk to be reduced by the works, and
 - (b) within 14 days after completing the relevant emergency works, give the Natural Resources Access Regulator the following further information—
 - (i) the date of completion of the works,
 - (ii) the volume of groundwater or overland flow water extracted while carrying out the works,
 - (iii) if it is not possible to measure the volume of groundwater or overland flow water extracted while carrying out the works—an estimate of the volume.

[8] Schedule 4 Exemptions

Insert after clause 17A—

17B Emergency works

- (1) Any person—in relation to the taking of groundwater or overland flow water for the purpose of carrying out emergency works.
- (2) However, if the person subsequently uses water taken under the exemption conferred by subclause (1) for a secondary purpose—
 - (a) the water is considered to have been taken for the secondary purpose, from the time of the subsequent use, for the purposes of the Act or any instrument made under the Act, and
 - (b) the exemption does not apply to the subsequent use.
- (3) In this clause—

secondary purpose means—

 - (a) domestic consumption, or
 - (b) supply to another person or body, or
 - (c) any other use from which a commercial benefit is or may be obtained.