

Water Management (General) Regulation 2004

[2004-429]



New South Wales

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New South Wales

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Water Management (General) Regulation 2004



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Water Management (General) Regulation 2004*.

2 Commencement

This Regulation commences on 1 July 2004.

3 Definitions

(1) In this Regulation:

appointed day means:

- (a) in relation to a category or subcategory of access licence to which Part 2 of Chapter 3 of the Act applies or an entitlement from which such an access licence arises, the day appointed under section 55A of the Act in relation to that category or subcategory of access licence, or
- (b) in relation to a type or kind of approval to which Part 3 of Chapter 3 of the Act applies or an entitlement from which such an approval arises, the day appointed under section 88A of the Act in relation to that type or kind of approval.

Note—

Clause 9 of Schedule 10 to the Act provides that, in certain circumstances, the operation of those Parts is deferred in relation to particular entitlements.

authorised area, in relation to an entitlement, means the authorised area specified in the entitlement.

commercial activities means activities within the following categories recognised in the *Australian and New Zealand Standard Industry Classification* (ANZSIC), 1993 edition (Australian Bureau of Statistics publication, Catalogue No 1292.0):

- (a) construction (category E),

- (b) wholesale trade (category F),
- (c) retail trade (category G),
- (d) accommodation, cafes and restaurants (category H),
- (e) communication services (category J),
- (f) finance and insurance (category K),
- (g) property and business services (category L),
- (h) government administration and defence (category M),
- (i) education (category N),
- (j) health and community services (category O),
- (k) cultural and recreational services (category P),
- (l) personal and other services (category Q).

Note—

This definition replicates the definition of **associated commercial activities** in section 66 (3A) of the Act.

domestic consumption, in relation to land, means consumption for normal household purposes in domestic premises situated on the land.

Note—

This definition replicates the definition of **domestic consumption** in section 52 (3) of the Act.

entitlement means:

- (a) a licence, permit, authority, irrigation corporation licence or group licence referred to in Part 2 of the former 1912 Act, or
- (b) a right to take and use water referred to in section 38B of the former 1912 Act, or
- (c) a licence referred to in Part 5 of the former 1912 Act, or
- (d) an approval referred to in Part 8 of the former 1912 Act, or
- (e) a water management licence under Part 9 of the former 1912 Act, or
- (f) a permit under Part 3A of the former 1948 Act, or
- (g) an irrigation corporation licence under the former 1994 Act, or
- (h) any power under section 12 of the [Water Administration Act 1986](#) or section 8 of the former 1912 Act that, immediately before the appointed day, was exercisable by any person pursuant to an agreement between that person and the Ministerial

Corporation, or

- (i) any right to take water from an unlicensed bore (being a bore constructed as referred to in section 112 (1) (b) of the former 1912 Act) that was in force immediately before the appointed day, or
- (j) any arrangement that, immediately before 1 July 2004, was in force between a local council and the Ministerial Corporation, or
- (k) any other right, interest, privilege, permission or authority that is declared by this Regulation to be an entitlement for the purposes of this clause.

Note—

This definition replicates the definition of **entitlement** in clause 2 of Schedule 10 to the Act.

excluded work means a work referred to in Schedule 1.

general security entitlement means an entitlement that, pursuant to clause 4 of Schedule 10 to the Act, has been replaced by a regulated river (general security) access licence.

section 18 entitlement means an additional licence under section 18 (2) of the former 1912 Act.

section 20B entitlement means an authority for a joint water supply scheme under section 20B of the former 1912 Act that, immediately before the appointed day, was subject to a high flow condition.

section 20AA direction means a direction under section 20AA of the former 1912 Act.

stock watering, in relation to land, means the watering of stock animals being raised on the land, but does not include the use of water in connection with the raising of stock animals on an intensive commercial basis that are housed or kept in feedlots or buildings for all (or a substantial part) of the period during which the stock animals are being raised.

Note—

This definition replicates the definition of **stock watering** in section 52 (3) of the Act.

the Act means the [Water Management Act 2000](#).

the former 1912 Act means the [Water Act 1912](#).

the former 1948 Act means the [Rivers and Foreshores Improvement Act 1948](#).

the former 1994 Act means Division 3 of Part 4 of the [Irrigation Corporations Act 1994](#), as continued in force by clause 11 of the [Water Management \(Irrigation](#)

Corporations) Savings and Transitional Regulation 1995.

water year means a year commencing 1 July.

- (2) For the purposes of paragraph (k) of the definition of **entitlement** in clause 2 of Schedule 10 to the Act, any arrangement that, immediately before 1 July 2004, was in force between a local council and the Ministerial Corporation is declared to be an entitlement for the purposes of that clause.
- (3) Notes in the text of this Regulation do not form part of this Regulation.

4 Temporary extension of existing exemption

- (1) Any person who, immediately before 1 July 2004, was taking or using water by means of a work identified in either of the Schedules to the Amnesty Document is exempt from sections 341 (1), 342 (1) and 343 (1) of the Act and so may continue to take and use water by means of that work without the need for a water supply work approval for the work, an access licence for water taken by means of the work or a water use approval for the use of the water so taken.
- (2) The exemption conferred on a person by subclause (1):
 - (a) applies only while the person complies with such of the conditions set out in the Amnesty Document as are applicable to the work concerned, and
 - (b) ceases to have effect on 30 September 2005.
- (3) In this clause, **Amnesty Document** means the document entitled *NSW Water Amnesty Exemptions Provisions* prepared within the former Department of Land and Water Conservation, with document identifier 0377706, copies of which are available for inspection at the offices of the Department of Infrastructure, Planning and Natural Resources.

5 Pre-1999 existing works

- (1) This clause applies to the following kinds of water supply work whose construction had been completed before 1 January 1999 (**pre-1999 existing works**):
 - (a) impounding works that exceed the maximum capacity allowed by any relevant order in force under section 54 of the Act,
 - (b) dams and other works on rivers or lakes:
 - (i) constructed for landholders by a government agency, or
 - (ii) constructed by landholders with the approval of a government agency, or
 - (iii) constructed by landholders, where the works did not require a licence under Part 2 of the former 1912 Act under the then Government policy,

other than dams or other works that are also flood works,

- (c) works taking water, at a rate of not more than 5 megalitres per year, from rivers for the purposes of farming, washdowns, fruit and vegetable spraying or washing, or livestock shed cooling,
- (d) works previously exempted from the operation of Part 2 of the former 1912 Act by section 7 (1) of the [Hunter Valley Flood Mitigation Act 1956](#).

- (2) Clause 32 does not apply so as to require an application for a water supply work approval for a pre-1999 existing work to be advertised as referred to in section 92 of the Act.
- (3) Section 94 of the Act does not apply so as to require:
 - (a) an application for a water supply work approval for a pre-1999 existing work to be referred to a Commission of Inquiry, or
 - (b) a decision on such an application to be made having regard to a Commission of Inquiry's report into the application.
- (4) For the purposes of section 112 (1) (d) of the Act, an application for a water supply work approval for a pre-1999 existing work is prescribed as an application to which an embargo under section 110 or 111 of the Act does not apply.
- (5) Despite section 61 (1) (a) of the Act, the owner of a pre-1999 existing work may apply to the Minister for any category or subcategory of access licence for water taken by means of that work.

Part 2 Management plans

6 Water sharing provisions

- (1) For the purposes of section 21 (c) of the Act, circumstances in which there is insufficient water available in the relevant dam to provide for losses in the conveyance of water between the dam and the locations to which it is delivered (whether by evaporation, leakage or otherwise) are prescribed as circumstances in which the water so lost may be withdrawn from a water allocation account.
- (2) In this clause, **the relevant dam** means the dam from which water is released for delivery to the holder of an access licence.

7 Amendment of Minister's plans

- (1) On the commencement of this clause, each Minister's plan referred to in Schedule 2 is amended, in relation only to those references that relate to provisions of the [Water Management Act 2000](#):

- (a) by omitting the matter “section 42 (2)”, wherever occurring, and by inserting instead the matter “section 45 (1) (b)”, and
 - (b) by omitting the matter “section 71A”, wherever occurring, and by inserting instead the matter “section 71M”, and
 - (c) by omitting the matter “section 71B”, “section 71C”, “section 71D”, “section 71E”, “section 71F”, “section 71G”, “section 71H”, “section 71I”, “section 71J”, “section 71K” and “section 71L”, wherever occurring, and by inserting instead the matter “section 71O”, “section 71P”, “section 71Q”, “section 71R”, “section 71S”, “section 71T”, “section 71U”, “section 71V”, “section 71W”, “section 71Y” and “section 71Z” respectively.
- (2) On the commencement of this clause each Minister’s plan referred to in Schedule 2 is amended by omitting the words “environmental health water” and “supplementary environmental water” wherever occurring and by inserting instead the words “planned environmental water”.

Part 3 Access licences

Division 1 General

8 Categories of access licence

- (1) For the purposes of section 57 (1) (l) of the Act, each of the following categories of access licence are prescribed:
- (a) Murrumbidgee Irrigation (conveyance) access licence,
 - (b) Coleambally Irrigation (conveyance) access licence,
 - (c) floodplain harvesting access licence.
- (2) For the purposes of section 57 (2) of the Act, each subcategory specified in Column 2 of Schedule 3 in relation to a category of access licence referred to in Column 1 of that Schedule is a prescribed subcategory of the category so referred to.

9 Priorities between different categories of access licence

- (1) The following priorities are to be observed in relation to the access licences referred to in section 58 (1) (c) of the Act:
- (a) regulated river (conveyance) access licences, Murrumbidgee Irrigation (conveyance) access licences and Coleambally Irrigation (conveyance) access licences:
 - (i) have equal priority with each other, and
 - (ii) have priority over access licences referred to in paragraph (b),

(b) all other access licences referred to in section 58 (1) (c) of the Act have equal priority with each other.

(2) Any subcategory of access licence has equal priority with the access licence of which it is a subcategory and with any other subcategory of that licence.

10 Available water determinations

For the purposes of section 59 (2) of the Act, an available water determination referred to in section 59 (1) (a) of the Act is to be published in one or more local newspapers circulating generally throughout the areas and localities to which the determination relates.

11 Applications generally

(1) An application under Part 2 of Chapter 3 of the Act:

(a) must be in the approved form, and

(b) must be signed or otherwise authenticated by each party to the application, and

(c) must be accompanied by, or make provision for the payment of, the fee payable under section 114 of the Act in relation to the application, and

(d) must be lodged at, or sent by post to, an office of the Department.

(2) An application is incomplete unless it includes, or is accompanied by, all information required by the approved form.

Note—

Among other things, certain approved forms relating to dealings require information as to the price paid for water pursuant to the dealing.

(3) This clause does not apply to an application for the recording of any matter in the Access Register under section 71A of the Act.

12 Matters to be included in Water Access Licence Register

(1) For the purposes of section 71A (1) (h) of the Act, the matters to be recorded in the General Division of the Access Register include any memorandum of terms and conditions:

(a) that is lodged with the Minister by the holder, or prospective holder, of a security interest, and

(b) that is, or is intended to be, adopted by or incorporated in an instrument evidencing the existence of a security interest, as referred to in section 71D (1) (a) of the Act.

(2) For the purposes of section 71A (2) (b) of the Act, the matters to be recorded in the

Assignment Division of the Access Register include any agreement in the approved form that is signed by all the holders of an access licence and is submitted to the Minister, being an agreement that the person or persons specified in the agreement may, on behalf of the holders of the access licence, apply for an assignment dealing.

13 Dealings on default

For the purposes of section 71X of the Act, a notice referred to in subsection (1) (b) of that section with respect to an access licence to be transferred as a consequence of a default in the payment of a debt or performance of some other obligation under a contract or other legally enforceable arrangement secured by a security interest:

(a) must indicate:

(i) that it is a notice under that section, and

(ii) that the holder or co-holder of the licence is in default under the contract or arrangement, as specified in the notice, and

(iii) that steps that must be taken by the holder or co-holder of the licence to rectify the default, as specified in the notice, and

(iv) that, if those steps are not taken within 30 days after service of the notice, the access licence may be transferred pursuant to that section,

(b) must be served on a person in a manner in which a document may be served on a person under section 170 of the [Conveyancing Act 1919](#).

14 Cancellation of specific purpose access licences

For the purposes of section 77A (3) of the Act, the following criteria are prescribed as criteria that the Minister must consider when determining whether the purpose for which a specific purpose access licence was granted no longer exists:

(a) in the case of an access licence for the supply of water to a location in relation to any activity, whether that activity is still continued at that location or still requires a supply of water,

(b) in the case of an access licence for the supply of water to a town or community or to some other location for domestic purposes, whether anyone still resides in that town or community or at that location,

(c) in the case of an access licence for the supply of water to a location for stock purposes, whether there is still any stock at that location,

(d) in the case of an access licence for the supply of water for any purpose from any water source, whether the water previously supplied for that purpose from that water source is now supplied from some other water source.

15 Register of available water determinations

- (1) The following particulars must be recorded in the register of available water determinations kept under section 84 of the Act in relation to each available water determination made under section 59 of the Act:
 - (a) the terms of the determination,
 - (b) the date on which it was made,
 - (c) the water source or sources (or the parts of the water source or sources) to which it applies,
 - (d) in the case of a determination referred to in section 59 (1) (a) of the Act, the categories or subcategories of access licence to which it applies,
 - (e) in the case of a determination referred to in section 59 (1) (b) of the Act, the individual access licences to which it applies.
- (2) For the purposes of section 84 (3) of the Act, the following places are prescribed as places at which the register of available water determinations is to be made available for public inspection:
 - (a) the head office of the Department,
 - (b) each regional office of the Department.

16 Water allocation accounts

- (1) Water allocations are to be debited from an access licence's water allocation account:
 - (a) except as provided by paragraph (b), whenever water is taken by means of any of the access licence's nominated water supply works, or
 - (b) if the relevant water sharing plan so provides, whenever water is ordered in relation to any of the access licence's nominated water supply works.
- (2) If a water supply work is nominated in relation to two or more access licences, water allocations taken by means of, or ordered in relation to, the work are to be debited from the water allocation accounts for those access licences:
 - (a) to the extent to which the relevant water sharing provisions of a management plan establish priorities in that regard, in accordance with the priorities so established, and
 - (b) to the extent to which the relevant water sharing provisions of a management plan do not establish priorities in that regard:
 - (i) subject to subparagraph (ii), as nominated by the holder of the access licences concerned or, if the access licences are held by different people, as nominated

jointly by the holders, or

- (ii) if no such nomination is made or if such a nomination is incapable of being implemented, as determined by the Minister.

17 Claims for compensation

- (1) A claim under section 87 of the Act:
 - (a) must be in the approved form, and
 - (b) must be signed or otherwise authenticated by the claimant, and
 - (c) must be lodged at, or sent by post to, an office of the Department.
- (2) A claim is incomplete unless it includes, or is accompanied by, all information required by the approved form.

Division 2 Exemptions

18 Exemption from requirement for access licence

- (1) The following persons are exempt from section 341 (1) of the Act in relation to the taking of water from a water source:
 - (a) a roads authority (within the meaning of the *Roads Act 1993*), in relation to water required for road construction and road maintenance,
 - (b) any person lawfully engaged in the carriage of water for use for drought relief, in relation to water required for that purpose,
 - (c) any person lawfully engaged in the use of water for dust suppression,
 - (d) any person lawfully engaged in the hydrostatic testing of gas pipelines, in relation to water required for that purpose,
 - (e) any person lawfully engaged in prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*, in relation to water required for that purpose,
 - (f) any landholder, in relation to water required for the purpose of generating electricity for use for domestic consumption on that land (but only if the water is returned to the water source from which it was taken),
 - (g) any person lawfully engaged in the testing of a bore, in relation to water used for that purpose during the week following completion of the bore's construction,
 - (h) any person lawfully engaged in the operation of a hydro-electric power station in connection with a water supply work owned by the Ministerial Corporation,

- (i) all persons, in relation to the taking of water from or by means of an excluded work.

Note—

The use of a water supply work for the purpose of taking any such water may still require a water supply work approval under Part 3 of Chapter 3 of the Act.

- (1A) A person exempted under subclause (1) is also exempted from any mandatory conditions relating to access licences that are imposed on a water supply work approval.
- (2) A person who is engaged in an aquifer interference activity in connection with the mining or extraction of any material is exempt from the operation of section 341 (1) of the Act in relation to the taking of water from an aquifer if the water is taken in accordance with an aquifer interference approval with respect to that activity.

19 Applications for specific purpose access licences

For the purposes of section 61 (1) (a) of the Act, an application for the following categories and subcategories of specific purpose access licence may be made, but only for the following purposes:

- (a) a local water utility access licence (subcategory “domestic and commercial”), for the purpose of domestic consumption and commercial activities,
- (b) a domestic and stock access licence (subcategory “domestic”), for the purpose of domestic consumption,
- (c) an unregulated river access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities,
- (d) a regulated river (high security) access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities,
- (e) an aquifer access licence (subcategory “town water supply”), for the purpose of supply to communities for domestic consumption and commercial activities,
- (f) any category of specific purpose access licence (subcategory “Aboriginal cultural”), for Aboriginal cultural purposes.

20 Granting of access licences

An access licence for which an application may be made under section 61 (1) of the Act, or under clause 5 (5) of this Regulation, is exempt from the operation of section 63 (2) (a) of the Act.

21 Security holder's consent not required for certain dealings

The following are exempt from the requirements of section 71L (1) (c) of the Act:

- (a) the grant of a single access licence arising from an application under section 71U of the Act for the grant of an access licence to give effect to the transfer into the State of an interstate equivalent of an access licence together with an application under section 71P of the Act for consolidation of that licence with another licence,
- (b) an increase in the share or extraction component of an access licence in connection with the assignment of rights under section 71Q of the Act.

Division 3 Replacement supplementary water access licences

22 Gwydir

- (1) On 1 July 2004, a section 18 entitlement or section 20B entitlement with respect to the Gwydir is taken to have been replaced by a supplementary water access licence with a share component calculated in accordance with the following formula:

$$S_1 = \frac{D \times 178,000}{\Sigma D + \Sigma E}$$

where:

S₁ represents the share component for the supplementary water access licence, expressed in megalitres.

D (the base amount under this subclause) represents an area equivalent to 6 times the area (measured in hectares) of the authorised area in relation to the entitlement.

ΣD represents the sum of the base amounts under this subclause for all section 18 entitlements or section 20B entitlements with respect to the Gwydir.

ΣE represents the sum of the base amounts under subclause (2) for all general security entitlements with respect to the Gwydir.

- (2) On 1 July 2004, a general security entitlement with respect to the Gwydir is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component calculated in accordance with the following formula:

$$S_2 = \frac{E \times 178,000}{\Sigma D + \Sigma E}$$

where:

S₂ represents the share component for the supplementary water access licence, expressed in megalitres.

E (the base amount under this subclause) represents the volume of water authorised by the entitlement immediately before 1 July 2004.

ΣD represents the sum of the base amounts under subclause (1) for all section 18 entitlements or section 20B entitlements with respect to the Gwydir.

ΣE represents the sum of the base amounts under this subclause for all general security entitlements with respect to the Gwydir.

- (3) In this clause, a reference to the Gwydir is a reference to the Gwydir regulated river water source identified in the [Water Sharing Plan for the Gwydir Regulated River Water Source 2002](#), as in force on 1 July 2004.

23 Hunter

- (1) On 1 July 2004, the entitlement identified as 20MW000021 with respect to the Hunter is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component of 36,000 megalitres.
- (2) On 1 July 2004, a general security entitlement with respect to the Hunter (other than the entitlement referred to in subclause (1)) is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component equivalent to the greater of the following:
- (a) the greatest volume of water (in megalitres) taken in excess of the volume authorised by the entitlement in any water year between 1 July 1993 and 30 June 2000,
 - (b) the greatest volume of water (in megalitres) taken pursuant to a relevant section 20AA direction in any water year between 1 July 1993 and 30 June 1998.
- (3) In this clause, a reference to the Hunter is a reference to the Hunter regulated river water source identified in the [Water Sharing Plan for the Hunter Regulated River Water Source 2004](#), as in force on 1 July 2004.

24 Lower Darling

- (1) On 1 July 2004, a general security entitlement with respect to the Lower Darling is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component calculated in accordance with the following formula:

$$S = \frac{E \times 250,000}{\Sigma E}$$

where:

S represents the share component for the supplementary water access licence, expressed in megalitres.

E (the base amount under this subclause) represents the greatest volume of water (in megalitres) taken in excess of the entitlement in any water year between 1 July 1983 and 30 June 2001.

ΣE represents the sum of the base amounts under this subclause for all general security entitlements with respect to the Lower Darling.

- (2) In this clause, a reference to the Lower Darling is a reference to the Lower Darling regulated river water source identified in the *Water Sharing Plan for the Murray and Lower Darling Regulated Rivers Water Sources 2003*, as in force on 1 July 2004.

25 Lower Namoi

- (1) On 1 July 2004, a section 18 entitlement or section 20B entitlement with respect to the Lower Namoi is taken to have been replaced by a supplementary water access licence with a share component calculated as follows:

- (a) if **D** is equal to or greater than **G**, in accordance with the following formula:

$$S_1 = \frac{D \times 110,000}{\Sigma E}$$

- (b) if **D** is less than **G**, in accordance with whichever of the following formulae yield the lesser volume:

$$S_1 = \frac{G \times 110,000}{\Sigma E}$$

$$S_1 = \frac{(D + E) \times 110,000}{\Sigma E}$$

where:

S₁ represents the share component for the supplementary water access licence, expressed in megalitres.

D (the base amount under this subclause) represents the greater of:

- (a) the greatest volume of water taken pursuant to the entitlement in any water year between 1 July 1990 and 30 June 2001, and
- (b) one megalitre per hectare of the authorised area in relation to the entitlement.

G represents the average number of days per water year on which pumping water pursuant to the entitlement was permissible in the water years between 1 July 1990

and 30 June 2001, multiplied by the assessed pump capacity associated with the entitlement.

E represents the base amount under subclause (2) for the associated general security entitlement.

ΣE represents the sum of the base amounts under subclause (2) for all general security entitlements with respect to the Lower Namoi.

(2) On 1 July 2004, a general security entitlement with respect to the Lower Namoi is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component calculated as follows:

(a) if the holder of the general security entitlement:

- (i) is not also the holder of a section 18 entitlement or section 20B entitlement, or
- (ii) is also the holder of a section 18 entitlement or section 20B entitlement and D is equal to or greater than G,

in accordance with the following formula:

$$S_2 = \frac{E \times 110,000}{\Sigma E}$$

(b) if the holder of the general security entitlement is also the holder of a section 18 entitlement or section 20B entitlement and D is less than G, in accordance with the following formula:

$$S_2 = \frac{(D + E) \times 110,000}{\Sigma E} - S_1$$

where:

S₂ represents the share component for the supplementary water access licence, expressed in megalitres.

D represents the base amount under subclause (1) for the associated section 18 entitlement or section 20B entitlement.

E (the base amount under this subclause) represents the greater of:

- (a) the greatest volume of water taken pursuant to the relevant section 20AA direction in any water year between 1 July 1990 and 30 June 2001, and
- (b) one megalitre per hectare of the authorised area in relation to the general security entitlement.

G represents the average number of days per water year on which pumping water pursuant to the associated section 18 entitlement or section 20B entitlement was permissible in the water years between 1 July 1990 and 30 June 2001, multiplied by the assessed pump capacity associated with the entitlement.

S₁ represents the share component for the associated section 18 entitlement or section 20B entitlement under subclause (1).

ΣE represents the sum of the base amounts under this subclause for all general security entitlements with respect to the Lower Namoi.

- (3) For the purposes of this clause, a section 18 entitlement or section 20B entitlement and a general security entitlement are **associated** with each other if, under the former 1912 Act, the one was granted in relation to the other.
- (4) In this clause, a reference to the Lower Namoi is a reference to the Lower Namoi regulated river water source identified in the [Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003](#), as in force on 1 July 2004.

26 Macquarie and Cudgegong

- (1) On 1 July 2004, a section 18 entitlement or section 20B entitlement with respect to the Macquarie and Cudgegong is taken to have been replaced by a supplementary water access licence with a share component calculated in accordance with the following formula:

$$S_1 = \frac{D \times 50,000}{\Sigma D + \Sigma E}$$

where:

S₁ represents the share component for the supplementary water access licence, expressed in megalitres.

D (the base amount under this subclause) represents an area equivalent to 8 times the area (measured in hectares) of the authorised area in relation to the entitlement.

ΣD represents the sum of the base amounts under this subclause for all section 18 entitlements or section 20B entitlements with respect to the Macquarie and Cudgegong.

ΣE represents the sum of the base amounts under subclause (2) for all general security entitlements with respect to the Macquarie and Cudgegong.

- (2) On 1 July 2004, a general security entitlement with respect to the Macquarie and Cudgegong is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component calculated in accordance with the following formula:

$$S_2 = \frac{E \times 50,000}{\Sigma D + \Sigma E}$$

where:

S₂ represents the share component for the supplementary water access licence, expressed in megalitres.

E (the base amount under this subclause) represents the volume of water authorised by the entitlement immediately before 1 July 2004.

ΣD represents the sum of the base amounts under subclause (1) for all section 18 entitlements or section 20B entitlements with respect to the Macquarie and Cudgegong.

ΣE represents the sum of the base amounts under this subclause for all general security entitlements with respect to the Macquarie and Cudgegong.

- (3) In this clause, references to the Macquarie and Cudgegong are references to the Macquarie and Cudgegong regulated river water sources identified in the [Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2003](#), as in force on 1 July 2004.

27 Murray

- (1) On 1 July 2004, each entitlement with respect to the Murray referred to in Column 1 of Part 2 of Schedule 4 is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component equivalent to the volume of water (expressed in megalitres) specified in Column 2 of Schedule 4 with respect to that entitlement.
- (2) In this clause, a reference to the Murray is a reference to the Murray regulated river water source identified in the [Water Sharing Plan for the Murray and Lower Darling Regulated Rivers Water Sources 2003](#), as in force on 1 July 2004.

28 Murrumbidgee

- (1) On 1 July 2004, each entitlement with respect to the Murrumbidgee referred to in Column 1 of Part 1 of Schedule 4 is taken to have been replaced not only by the relevant access licence referred to in Schedule 11 to the Act but also by a supplementary water access licence with a share component equivalent to the volume of water (expressed in megalitres) specified in Column 2 of Schedule 4 with respect to that entitlement.
- (2) In this clause, a reference to the Murrumbidgee is a reference to the Murrumbidgee regulated river water source identified in the [Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2003](#), as in force on 1 July 2004.

29 Miscellaneous

- (1) A general security entitlement is not replaced by a supplementary water access licence if the share component for such a licence, calculated in accordance with this Division, would be zero.
- (2) A supplementary water access licence that has replaced a general security entitlement is subject to such conditions, not inconsistent with any mandatory conditions referred to in clause 20 of Schedule 10 to the Act, as were most recently applicable to the taking and use of water under the entitlement.

Part 4 Approvals

Division 1 General

30 Definition of “aquifer interference activity”

The following activities are prescribed for the purposes of paragraph (d) of the definition of ***aquifer interference activity*** in the Dictionary to the Act:

- (a) the extraction of silica sands,
- (b) the extraction of road base material.

31 Applications generally

- (1) An application under Part 3 of Chapter 3 of the Act:
 - (a) must be in the approved form, and
 - (b) must, if required by the Minister, include or be accompanied by an assessment of the likely impact of the water use, work or activity concerned, and
 - (c) must be signed or otherwise authenticated by each party to the application, and
 - (d) must be accompanied by, or make provision for the payment of, the fee payable under section 114 of the Act in relation to the application, and
 - (e) must be lodged at, or sent by post to, an office of the Department.
- (2) An application is incomplete unless it includes, or is accompanied by, all information required by the approved form.
- (3) An assessment referred to in subclause (1) (b) must be prepared in accordance with guidelines approved by the Minister.
- (4) The guidelines referred to in subclause (3):
 - (a) are to be made available for public inspection, free of charge, during normal business hours:

- (i) at the head office of the Department, and
- (ii) at each regional office of the Department, and
- (b) are to be published on the Department's internet website.

32 Advertising of applications for approvals: section 92 (7)

- (1) The following classes of applications are to be advertised, as referred to in section 92 (7) of the Act:
 - (a) applications for water supply work approvals for:
 - (i) works for the taking of water from a river, or
 - (ii) bores for the taking of water, other than bores used solely for taking water in accordance with a person's basic landholder rights, or
 - (iii) works (such as weirs) that have the effect of impounding water in a water source, or
 - (iv) works (such as tanks and dams) that are constructed or used for the purpose of capturing rainwater run-off,
 - (b) applications for water use approvals for irrigation,
 - (c) applications whose advertising is required by any relevant management plan.
- (2) An application referred to in subclause (1) (a) does not have to be advertised (unless so required by a management plan referred to in subclause (1) (c)) if the water supply work concerned is to be used:
 - (a) for a period of not more than 3 months, and
 - (b) for one of the following purposes:
 - (i) road construction or road maintenance by a roads authority (within the meaning of the [Roads Act 1993](#)), or
 - (ii) drought relief, or
 - (iii) dust suppression, or
 - (iv) prospecting or fossicking for minerals or petroleum under the [Mining Act 1992](#) or the [Petroleum \(Onshore\) Act 1991](#), or
 - (v) hydrostatic testing of gas pipelines.
- (3) An application for an approval must be advertised by the Minister by means of a notice published:

- (a) in a local newspaper, and
 - (b) in a newspaper circulating among such Aboriginal communities as could be affected by the granting of such an approval, and
 - (c) on the Department's internet website.
- (4) The notice must contain the following information:
- (a) the name of the applicant,
 - (b) the type of approval to which the application relates,
 - (c) particulars indicating the location to which the application relates,
 - (d) in the case of a water supply work approval, the capacity of the work and the water source and stream from which the work is proposed to take water,
 - (e) in the case of a water use approval, the purpose for which water is to be used under the approval,
 - (f) the form in which any objection against the application should be made for the purposes of section 93 of the Act,
 - (g) the address to which, and the time by which, any such objection should be made,
 - (h) the name and contact details for the relevant Departmental officer.

33 Matters affecting consideration of applications: section 96

For the purposes of section 96 (a) of the Act, the matters to be taken into consideration by the Minister in considering whether or not to grant an aquifer interference approval include whether the amount of water taken in the course of carrying out the aquifer interference activity to which the approval relates will exceed the total extraction limit for the aquifer set out in any relevant management plan.

34 Procedure for making objection to granting of approval

For the purposes of section 93 (1) of the Act, an objection to the granting of an approval:

- (a) must be in writing, and
- (b) must be signed or otherwise authenticated by the objector, and
- (c) must contain the name and address of the objector, and
- (d) must be lodged at, or sent by post to, the address specified in the notice referred to in clause 32 (4) (g) within 28 days after the notice was first published, and
- (e) must specify the grounds of the objection.

35 Register of approvals

For the purposes of section 113 (3) of the Act, the following places are prescribed as places at which the register kept under that section is to be made available for public inspection:

- (a) the head office of the Department,
- (b) each regional office of the Department.

36 Security deposits

- (1) This clause applies to any approval that is granted subject to a condition requiring the holder of the approval to reinstate land affected by the construction of any work or the carrying out of any activity.
- (2) An approval to which this clause applies may be granted subject to a further condition to the effect that, before commencing the construction of any work or the carrying out of any activity, the holder of the approval must provide the Minister with security for the cost of complying with the condition as to reinstatement.
- (3) The security is to be for such reasonable amount as is determined by the Minister and specified in the condition as to security.
- (4) The security may be provided, at the choice of the holder of the approval, by means of a deposit with the Minister or a guarantee satisfactory to the Minister.
- (5) Security provided by way of deposit may be paid out to meet the cost of complying with the condition as to reinstatement.
- (6) Any amount repaid to the applicant from a deposit is to be repaid together with any interest accrued as a consequence of its investment.

37 Access licences and approvals arising from former entitlements

A section 18 entitlement or section 20B entitlement that, immediately before 1 July 2004, was in force under the former 1912 Act is taken to have been replaced:

- (a) to the extent to which it entitles any person or body to use a specified water management work, by a water management work approval held by that person or body in respect of that work (subject to such of the conditions of the entitlement, not inconsistent with any mandatory conditions referred to in clause 20 of Schedule 10 to the Act, as are applicable to an approval of that kind), and
- (b) to the extent to which it entitles any person or body to use water on any land, by a water use approval held by that person or body in respect of that land (subject to such of the conditions of the entitlement, not inconsistent with any mandatory conditions referred to in clause 20 of Schedule 10 to the Act, as are applicable to an approval of

that kind).

Division 2 Exemptions

38 Exemption from requirement for water use approval

- (1) A person is exempt from section 342 (1) of the Act in relation to the use of water for any of the following purposes:
 - (a) the use of water for a purpose for which a development consent is in force under the *Environmental Planning and Assessment Act 1979*, other than the use of water for power generation by a major utility, or
 - (b) the use of water for road construction and road maintenance by a roads authority (within the meaning of the *Roads Act 1993*), or
 - (c) the use of water for drought relief, or
 - (d) the use of water for dust suppression, or
 - (e) the use of water taken from or by means of an excluded work, or
 - (f) the use of water for domestic consumption and stock watering, or
 - (g) the use of water for the purpose of prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*, or
 - (h) the use of water for the purpose of operating a hydro-electric power station in connection with a water supply work owned by the Ministerial Corporation, or
 - (i) the use of water for hydrostatic testing of gas pipelines, or
 - (j) the use of water for Aboriginal cultural purposes, other than a use pursuant to an adaptive environmental water condition on an access licence (as referred to in section 8 (1) (b) of the Act).
- (2) A person who is engaged in an aquifer interference activity in connection with the mining or extraction of any material is exempt from the operation of section 342 (1) of the Act in relation to the using of water from an aquifer if the water is used in accordance with an aquifer interference approval with respect to that activity.

39 Exemption from requirement for water supply work approval

- (1) A person is exempt from section 343 (1) (a) of the Act in relation to:
 - (a) the construction of an excluded work, or
 - (b) the construction of a dam or water bore to be used solely for the purpose of exercising domestic and stock rights in relation to a water source to which Part 3

of Chapter 3 of the Act does not apply, or

- (c) the construction of a water supply work to be used solely for the purpose of prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*, or
- (d) the construction of a water pipe for use solely for conveying water from one place to another, or
- (e) the construction of a water reticulation work on land the subject of a water use approval.

(2) Subclause (1) (c), (d) and (e) do not apply to a water supply work constructed on any of the following land:

- (a) land declared to be critical habitat under Part 3 of the *Threatened Species Conservation Act 1995* or Division 3 of Part 7A of the *Fisheries Management Act 1994*, or
- (b) land that is a heritage conservation area within the meaning of an environmental planning instrument that applies to the land under the *Environmental Planning and Assessment Act 1979*,
- (c) land that is an Aboriginal place within the meaning of the *National Parks and Wildlife Act 1974*,
- (d) land that is reserved for any purpose under the *National Parks and Wildlife Act 1974*,
- (e) land the subject of a conservation agreement in force under section 69B of the *National Parks and Wildlife Act 1974*,
- (f) land the subject of a property agreement in force under section 40 of the *Native Vegetation Conservation Act 1997*,
- (g) land within a State forest within the meaning of the *Forestry Act 1916*,
- (h) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies,
- (i) land to which *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
- (j) waterfront land.

(3) A person is exempt from section 343 (1) (a1) of the Act in relation to the use of:

- (a) any excluded work, or

- (b) a dam or water bore used solely for the purpose of exercising domestic and stock rights in relation to a water source to which Part 3 of Chapter 3 of the Act does not apply, or
 - (c) any water supply work used solely for the purpose of prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*, or
 - (d) any water pipe used solely for conveying water from one place to another, or
 - (e) any water reticulation work that is situated on land the subject of a water use approval, or
 - (f) any water storage work, water reticulation work or water impounding work that was in use before 1 July 2004 in relation to water taken pursuant to an entitlement or pursuant to (the previously repealed) section 7 (7) of the former 1912 Act, or
 - (g) any hydro-electric power station that is operated in connection with a water supply work owned by the Ministerial Corporation.
- (4) A person who is engaged in an aquifer interference activity in connection with the mining or extraction of any material is exempt from the operation of section 343 (1) of the Act in relation to the construction or use of a water management work for the purpose of taking and using water from an aquifer if the water is taken and used in accordance with an aquifer interference approval with respect to that activity.
- (5) In this clause, **water reticulation work** means a work (such as a water pipe or irrigation channel) that is constructed or used for the purpose of conveying water to the point at which it is to be used (including a reticulated system of such works and all associated pipes, sluices, valves and equipment), but does not include:
- (a) any work that receives water from a water supply work under the control or management of the Sydney Water Corporation, the Hunter Water Corporation or a local water utility, or
 - (b) any work that is also a flood work.

40 Exemption from operation of section 106

Section 106 of the Act does not apply to:

- (a) a water management work approval for a work used by a person referred to in clause 18 (1) (a), (b), (c) or (d) solely for taking water for a purpose for which the person is exempt by clause 18 from the requirement for an access licence, or
- (b) a water use approval for the use of water for such a purpose.

40A Exemption from requirement for certain endorsement on dealings

Clause 2 (3) (b) of Schedule 1A to the Act does not apply in respect of any dealing other than a grant or cancellation of an access licence to give effect to an interstate transfer of an access licence (as referred to in section 71U of the Act).

40B Exemption from certain requirement concerning registration of security interests in replacement access licences

A person claiming a security interest in a replacement access licence is exempt from the requirement of clause 19 (5) (d) of Schedule 10 to the Act that the person advise the holder of the licence of the existence of the security interest claimed and give written notice of the advice to the Director-General, but only if the licence holder requests the Director-General, in writing, to register the security interest.

Part 5 Fees and charges

41 Fees and charges

- (1) A charging authority may waive or reduce any fee or charge imposed under the Act.
- (2) In this clause, **charging authority**, in relation to a fee or charge, means the person or body (other than the Minister) that imposes the fee or charge.

Part 6 Irrigation corporations

Division 1 Inclusion of land within irrigation corporation's area of operations

42 Applications to include land within area of operations: section 128

- (1) An application under section 128 of the Act must be in the approved form.

Note—

Section 128 (2) of the Act requires an application to identify the land to be included in an irrigation corporation's area of operations.

- (2) An application under section 128 of the Act with respect to land that is more than 15 per cent of the irrigation corporation's existing area of operations must be advertised by the Minister by means of a notice published:
 - (a) in a local newspaper, and
 - (b) on the Department's internet website.
- (3) The notice must contain the following information:
 - (a) the name of the applicants,
 - (b) the name of the irrigation corporation within whose area of operations the

application seeks to include land,

- (c) the purpose of the application (that is, to seek the inclusion of the land to which the application relates within the irrigation corporation's area of operations),
- (d) the area of the land to which the application relates,
- (e) the general location of the land (by lot and deposited plan number or by such other description as formally identifies the land),
- (f) the address to which, and the time by which, objections to the application should be made for the purposes of section 129 of the Act.

43 Objections to inclusion of land within area of operations: section 129

For the purposes of section 129 of the Act, an objection to the inclusion of land within an irrigation corporation's area of operations:

- (a) must be in writing, and
- (b) must be signed or otherwise authenticated by the objector, and
- (c) must contain the name and address of the objector, and
- (d) must be lodged at, or sent by post to, the address specified in the notice, as referred to in clause 42 (3) (f), within 28 days after the notice was first published, and
- (e) must specify the grounds of the objection.

Division 2 Exclusion of land from irrigation corporation's area of operations

44 Applications to exclude land from area of operations: section 132

- (1) An application under section 132 of the Act must be in the approved form.

Note—

Section 132 (2) of the Act requires an application to identify the land to be excluded from an irrigation corporation's area of operations.

- (2) An application under section 132 of the Act with respect to land that is more than 15 per cent of the irrigation corporation's existing area of operations must be advertised by the Minister by means of a notice published:
 - (a) in a local newspaper, and
 - (b) on the Department's internet website.
- (3) The notice must contain the following information:
 - (a) the name of the applicants,

- (b) the name of the irrigation corporation from whose area of operations the application seeks to exclude land,
- (c) the purpose of the application (that is, to seek the exclusion of the land to which the application relates from the irrigation corporation's area of operations),
- (d) the area of the land to which the application relates,
- (e) the general location of the land (by lot and deposited plan number or by such other description as formally identifies the land),
- (f) the address to which, and the time by which, objections to the application should be made for the purposes of section 133 of the Act.

45 Objections to exclusion of land from area of operations: section 133

For the purposes of section 133 of the Act, an objection to the exclusion of land from an irrigation corporation's area of operations:

- (a) must be in writing, and
- (b) must be signed or otherwise authenticated by the objector, and
- (c) must contain the name and address of the objector, and
- (d) must be lodged at, or sent by post to, the address specified in the notice, as referred to in clause 44 (3) (f), within 28 days after the notice was first published, and
- (e) must specify the grounds of the objection.

Part 7 Elections

Note—

For consolidation purposes, this Part inserts such of the substantive provisions of the [Water Management \(Elections\) Regulation 2002](#) as are required to be retained (without altering those provisions in any way, except for updating cross-references). The [Water Management \(Elections\) Regulation 2002](#) is repealed by clause 108 of this Regulation.

Division 1 Definitions

46 Definitions

- (1) In this Part:

calling of the ballot for an election means the date on which a notice is first published for the election under clause 70.

calling of the election for an election means the date on which a notice is published for the election under clause 64.

close of enrolments for an election means the final time and date fixed by the

returning officer for the close of enrolments in the election.

close of exhibition of the roll for an election means the final time and date fixed by the returning officer for the exhibition of the roll in the election.

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations in the election.

close of the ballot for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

election means:

- (a) an election of members of a private irrigation board referred to in Part 2 of Chapter 4 of the Act, or
- (b) an election of directors of a private drainage board referred to in Part 3 of Chapter 4 of the Act, or
- (c) an election of members of a private water trust referred to in Part 4 of Chapter 4 of the Act.

final roll for an election means the roll prepared by the returning officer under Subdivision 2 of Division 6.

preliminary roll for an election means the roll prepared by the returning officer under clause 58.

returning officer means:

- (a) in the case of an election of members of a private irrigation board—the person appointed under clause 57 to be the returning officer for the election, and
- (b) in the case of an election of directors of a private drainage board—the person appointed under clause 56 to be the returning officer for the election, and
- (c) in the case of an election of members of a private water trust—the person appointed under clause 56 to be the returning officer for the election.

(2) In this Part, a reference to a Form is a reference to a Form set out in Schedule 5.

Division 2 Division of private irrigation districts into zones

47 Division of private irrigation districts into zones

- (1) For the purposes of the first election of members of a private irrigation board, the Minister may divide a private irrigation district into zones.
- (2) For the purposes of the second and any later election of members of a private

irrigation board, the private irrigation board may divide a private irrigation district into zones.

- (3) If a private irrigation district is divided into zones, the Minister or the board must:
- (a) subject to section 148 (3) of the Act, determine the number of members to be elected by the voters of each zone, and
 - (b) show the zones on the plan of the private irrigation district exhibited as referred to in section 143 (3) (c) of the Act.

Division 3 Who is eligible to be elected at an election?

48 Eligibility for election as a member of a private irrigation board

A person (including a corporation) is eligible to be elected as a member of a private irrigation board if the person is entitled to vote in the election.

49 Eligibility for election as director of a private drainage board

- (1) A person is eligible to be elected as director of a private drainage board if the person is entitled to vote in the election.
- (2) However, a person is ineligible for election if the person:
- (a) has not before nomination paid all moneys that were at any time before the end of the month preceding that in which nomination day falls, due by the person to the board, or
 - (b) has been convicted in New South Wales of a serious indictable offence or has been convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be a serious indictable offence.

50 Eligibility for election as member of a private water trust

- (1) A person is eligible to be elected as a member of a private water trust if the person is entitled to vote in the election.
- (2) However, a person who has been convicted of any serious indictable offence is ineligible to be elected as a member of a private water trust or to act as a member of a private water trust.

Division 4 Who is entitled to vote in an election?

51 Persons entitled to vote in election of members of a private irrigation board

- (1) A person is entitled to vote in an election of members of a private irrigation board if the person is an owner of land within the private irrigation district of that board.

- (2) Except as provided by subclauses (3) and (4), at any such election:
 - (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes where the area irrigated does not exceed 80 hectares, or
 - (ii) 3 votes where the area irrigated exceeds 80 hectares.
- (3) At an election for the West Corrugan Private Domestic and Stock Water Supply and Irrigation District:
 - (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes where the quantity of water allocated to the holding is up to 200 megalitres, or
 - (ii) 3 votes where the quantity of water allocated to the holding is over 200 megalitres.
- (4) At an election for the Narromine Private Domestic and Stock Water Supply and Irrigation District:
 - (a) the owner of a non-irrigated holding is entitled to one vote, and
 - (b) the owner of an irrigated holding is entitled to:
 - (i) 2 votes where the allocation is up to 150 megalitres, and
 - (ii) one vote for each 150 megalitres by which the allocation exceeds 150 megalitres,but only to a maximum of 10 votes.

52 Persons entitled to vote in election of directors of a private drainage board

- (1) A person is entitled to vote in an election of directors of a private drainage board if the person is the owner of land within the drainage district of that board.
- (2) At any such election:
 - (a) the owner of land not exceeding 20 hectares is entitled to one vote, and
 - (b) the owner of land exceeding 20 hectares but not exceeding 120 hectares is entitled to 2 votes, and
 - (c) the owner of land exceeding 120 hectares is entitled to 3 votes.
- (3) If the Crown is in the roll of voters the votes may be exercised by:

- (a) any director appointed to the board by the Minister, or
- (b) if a director has not been appointed to the board by the Minister, by a public servant authorised in writing for that purpose by the Ministerial Corporation.

53 Persons entitled to vote in election of members of a private water trust

- (1) A person is entitled to vote in an election of members of a private water trust if the person is the owner of land within the water supply district of the trust.
- (2) At an election of members of a private water trust placed in charge of irrigation works, or works for the prevention of floods or the control of floodwaters within the Murray Basin:
 - (a) the owner of an area of land not exceeding 20 hectares is entitled to one vote, and
 - (b) the owner of an area of land exceeding 20 hectares, but not exceeding 120 hectares, is entitled to 2 votes, and
 - (c) the owner of an area of land exceeding 120 hectares is entitled to 3 votes.
- (3) At an election of members of a private water trust in charge of water supplies for domestic and stock purposes:
 - (a) the owner of an area of land not exceeding 800 hectares is entitled to one vote, and
 - (b) the owner of an area of land exceeding 800 hectares, but not exceeding 4,000 hectares, is entitled to 2 votes, and
 - (c) the owner of an area of land exceeding 4,000 hectares is entitled to 3 votes.
- (4) A person who is entitled to vote under this clause may by instrument in writing authorise the trustees to place on the roll of voters the name of some other person instead of the person's own name. In such a case, the name of the other person is to be placed on the roll instead of the name of the person.
- (5) For the purposes of this clause, a person whose name is on the roll pursuant to an authority of the owner of a property is to be taken to be the owner of the area of land included in the property.

54 No other persons entitled to vote

A person is entitled to vote in an election only if:

- (a) the person has an entitlement set out in this Division, and
- (b) as at the close of enrolments, the person's name is included in the final roll for the

election.

55 Enrolment of representatives

- (1) If land is owned:
 - (a) by a corporation—the corporation is taken to be included in the final roll for an election only if the secretary of the corporation or some other nominee is included in that roll as the representative of the corporation, or
 - (b) by more than one trustee or legal personal representative (whether as administrators or executors) on behalf of the estate of a person—the trustees are, or the estate is, taken to be included in the final roll for an election only if a nominee of those trustees or legal personal representatives is so included in that roll as the representative of the trustees or estate.
- (2) Only one person may be nominated to vote in the election as a representative of the corporation, trustees or estate concerned.

Division 5 Who is the returning officer?

56 Returning officer for election of members of a private water trust or directors of a private drainage board

- (1) For the purpose of an election of members of a private water trust or directors of a private drainage board, the returning officer is the person appointed by the trust or board (as the case requires) to be the returning officer for the election.
- (2) Without limiting subclause (1), the secretary of a private drainage board may be appointed as the returning officer for an election.

57 Returning officer for election of members of a private irrigation board

- (1) For the purposes of the first election of members of a private irrigation board after the commencement of section 149 of the Act, the Minister is to appoint a returning officer.
- (2) For the purpose of any other election of members of a private irrigation board, the returning officer is to be appointed by the board.
- (3) Without limiting subclause (2), the secretary of a private irrigation board may be appointed as the returning officer for an election.

Division 6 Rolls

Subdivision 1 Preparation and exhibition of preliminary roll

58 Preparation of preliminary roll

- (1) The returning officer for an election must prepare and keep:

- (a) a preliminary roll of the persons who, in the opinion of the returning officer, are eligible to vote in the election, and
 - (b) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in that roll.
- (2) The preliminary roll:
- (a) must contain the names and last known addresses of each sole owner of land within the district, and
 - (b) if there is more than one owner of any such land—must contain the name and last known address of any one of them who was, by notice in writing given to the returning officer, last nominated for the purposes of this paragraph by all the owners of the land, and
 - (c) must describe the area of land held by each, and
 - (d) must contain the number of votes to which each is entitled, and
 - (e) must be certified by the returning officer in accordance with Form 1.
- (3) This clause does not apply to an election held as a consequence of an earlier election that has failed if a preliminary roll for the earlier election has already been prepared by the returning officer.

59 Exhibition of preliminary roll

The returning officer must cause copies of the preliminary roll to be exhibited for public inspection:

- (a) at the places where applications for enrolment and objections against enrolment may be lodged, and
- (b) for a period of at least 14 days.

Subdivision 2 Preparation of final roll

60 Applications for enrolment by persons not already enrolled

- (1) A person whose name does not appear on the preliminary roll for an election may apply for enrolment in the final roll for the election.
- (2) The application must be in Form 2 and must be lodged with the returning officer before the close of enrolments.
- (3) On receipt of the application, the returning officer:
 - (a) if satisfied that the applicant is entitled to vote, must accept the application and enter the name and address of the applicant in the final roll, or

- (b) if not so satisfied, must reject the application and inform the applicant in writing that the application has been rejected, or
- (c) if the application is not in the proper form or is incomplete, must return the application for correction or completion and consider the duly corrected or completed application in accordance with this clause.

61 Objections to enrolment

- (1) Before the close of enrolments, the returning officer and any person who is entitled to vote in an election may object to the inclusion of the name of any person in the final roll.
- (2) An objection:
 - (a) must be in Form 3, and
 - (b) must state the grounds on which it is made, and
 - (c) must be signed by the objector, and
 - (d) must be lodged with the returning officer.
- (3) The returning officer must send particulars of an objection to the person to whom the objection relates.
- (4) The person to whom an objection relates may lodge a written reply with the returning officer within 14 days after the date on which particulars of the objection were sent to that person.
- (5) The returning officer must consider each objection, and any reply received within that 14-day period, and may make such inquiries as the returning officer thinks fit.
- (6) The returning officer may accept or reject an objection.
- (7) If the returning officer accepts an objection, the returning officer must exclude from the final roll for the election the name of the person to whom the objection relates and must inform that person and the objector, in writing, that the person's name is so excluded.
- (8) If the returning officer rejects an objection, the returning officer must notify the person to whom the objection relates and the objector, in writing, that the returning officer has rejected the objection.
- (9) The returning officer may require a person who lodges an objection, or who replies to an objection, to verify the objection or reply by statutory declaration.
- (10) For the purpose of enabling the returning officer to make a decision to accept or reject an objection to the inclusion of the name of a person in the final roll, the

returning officer may require a person to furnish the returning officer with such information regarding the person objected to as the returning officer may specify.

62 Postponement of ballot not to affect final roll

The validity of the final roll for an election is not affected by the postponement of the close of the ballot by a notice published after the close of exhibition of the roll, and the roll remains the final roll for the election.

Division 7 Calling of the election

63 Final roll must be prepared before election called

- (1) The final roll in relation to an election must be prepared in accordance with Division 6 before the calling of an election.
- (2) This clause does not apply to an election held as a consequence of an earlier election that has failed if a final roll for the earlier election has already been prepared by the returning officer.

64 Notice of election

- (1) The returning officer must fix a time and place for an election and cause notice of that fact:
 - (a) to be posted to every person eligible to vote at the election, or
 - (b) to be published in a newspaper circulating generally throughout the relevant board or trust's district.
- (2) The notice:
 - (a) must state that an election is to be held for the purpose specified, and
 - (b) must call for nominations of candidates, and
 - (c) must specify the date (***the nomination day***) and time for the close of nominations, and
 - (d) must advise where nomination forms can be obtained, and
 - (e) must advise where nominations may be lodged, and
 - (f) must, in the case of a notice sent to eligible voters, contain a nomination form, and
 - (g) must advise when and where the final roll for the election will be available on public exhibition.
- (3) The time specified in the notice for the close of nominations must be at least 14 days after notice is given.

65 Postponement of nomination day

- (1) Despite clause 64 (3), the returning officer may postpone the nomination day for a period not exceeding 14 days by a notice in a form similar to, and published in the same manner as, a notice referred to in clause 64 (1).
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 8 Nominations

66 Eligibility for nomination

Any person is eligible for nomination as a candidate for election if the person is eligible, under Division 3, to be elected.

67 Nomination of candidates

- (1) A nomination of a candidate:
 - (a) must be in Form 4, and
 - (b) must be made by at least 2 persons (other than the candidate) who each are eligible to vote in the election, and
 - (c) must be endorsed with, or accompanied by, the consent of the nominee, and
 - (d) must be lodged with the returning officer before the close of nominations.
- (2) If the returning officer is of the opinion that an insufficient number of persons by whom a candidate has been nominated are eligible to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.
- (3) A candidate who has been nominated in an election may withdraw the nomination at any time before the close of nominations by notice in writing addressed to the returning officer.

68 Uncontested elections

If the number of persons who have been duly nominated as candidates by the close of nominations does not exceed the number of persons to be elected, each of those persons is taken to have been elected.

69 Contested elections

If the number of persons who have been duly nominated as candidates by the close of nominations exceeds the number of persons to be elected, a ballot must be held.

Division 9 Calling of the ballot

70 Notice of ballot

- (1) As soon as practicable after it becomes apparent to the returning officer that a ballot is required to be taken in respect of an election, the returning officer must cause notice that a ballot is to be taken:
 - (a) to be published in at least one newspaper circulating locally in the area to which the election relates, or
 - (b) to be sent by post to each person whose name is included in the final roll at the address shown on the roll.
- (2) The notice:
 - (a) must state that a ballot is to be taken, and
 - (b) must fix a time and date for the close of the ballot, and
 - (c) must, in the case of a notice in a newspaper, advise where copies of the final roll will be exhibited.
- (3) The notice must also state that it is compulsory for persons who wish to vote in the election to be enrolled in the final roll for the election.
- (4) The close of the ballot must not be earlier than 28 days after the calling of the ballot.

71 Postponement of ballot

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of the ballot by a notice published in the same way as the notice stating that a ballot is to be held.
- (2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Division 10 The ballot

72 Printing of ballot-papers

- (1) As soon as practicable after the close of enrolments in an election, the returning officer:
 - (a) must determine the order in which the candidates' names are to be listed on a ballot-paper by means of a lot, and
 - (b) must cause sufficient ballot-papers to be printed to enable a ballot-paper to be sent to each person included in the final roll for the election.

- (2) A ballot-paper for an election must contain:
 - (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
 - (b) if the returning officer considers that the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
 - (c) such directions as to the manner in which a vote is to be recorded and returned to the returning officer as the returning officer considers appropriate.
- (3) The directions to voters must include a direction that the voter must record a vote by placing a cross in the square set opposite the name of each candidate for whom he or she votes.

73 Distribution of ballot-papers

As soon as practicable after the printing of the ballot-papers for an election, the returning officer must send to each person included in the final roll for the election:

- (a) a ballot-paper that is initialled by the returning officer, and
- (b) an unsealed envelope (***the voter's envelope***) addressed to the returning officer and bearing on the back the words "NAME AND ADDRESS OF VOTER" and "SIGNATURE OF VOTER", together with appropriate spaces for the insertion of a name, address and signature, and
- (c) another unsealed envelope (***the posting envelope***) that:
 - (i) is large enough to accommodate the voter's envelope if that envelope is folded, and
 - (ii) is addressed to the returning officer, and
 - (iii) is reply-paid.

74 Duplicate ballot-papers

- (1) At any time before the close of the ballot, the returning officer may issue to a voter a duplicate ballot-paper and envelope if the voter satisfies the returning officer by statutory declaration:
 - (a) that the original ballot-paper has been spoiled, lost or destroyed, and
 - (b) that the voter has not already voted in the election to which the ballot-paper relates.
- (2) The returning officer must maintain a record of all duplicate ballot-papers issued under this clause.

75 Recording of votes

In order to vote in an election, a person:

- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
- (b) must vote for no more than the number of persons to be elected, and
- (c) must place the completed ballot-paper (folded so that the vote cannot be seen) in the voter's envelope, and
- (d) must seal the voter's envelope, and
- (e) must complete the person's full name and address on, and must sign, the back of the voter's envelope, and
- (f) must seal the voter's envelope in the posting envelope, and
- (g) must return the envelopes to the returning officer so as to be received before the close of the ballot.

Division 11 The scrutiny

76 Receipt of ballot-papers

- (1) The returning officer must reject (without opening it) any voter's envelope purporting to contain a ballot-paper if the envelope is not received before the close of the ballot or is received unsealed.
- (2) The returning officer must examine the name on the back of the voter's envelope and, without opening the envelope:
 - (a) must accept the ballot-paper in the envelope for further scrutiny and draw a line through the name on the roll that corresponds to the name on the back of the envelope, if satisfied that a person of that name is included in the final roll for the election, or
 - (b) must reject the ballot-paper in the envelope, if not so satisfied or if a name, address or signature does not appear on the back of the envelope.
- (3) The returning officer may reject a ballot-paper without opening the voter's envelope if, after making such inquiries as the returning officer thinks fit:
 - (a) the returning officer is unable to identify the signature on the back of the envelope, or
 - (b) it appears to the returning officer that the signature on the back of the envelope is not the signature of the person whose name and address appear on the back of

the envelope.

77 Ascertaining result of ballot

The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

78 Poll clerks

- (1) The returning officer may appoint poll clerks if required.
- (2) A candidate must not be a poll clerk.

79 Scrutineers

- (1) Each voter in a ballot is entitled to request, by notice in writing given to the returning officer at any time after the close of enrolments for the ballot, the appointment of a person specified in the notice (who may, but need not, be the voter concerned) as a scrutineer for the purposes of the ballot.
- (2) The returning officer may appoint a maximum of 10 persons as scrutineers for a ballot.
- (3) The persons are to be appointed in the order in which the requests for their appointments were received by the returning officer in accordance with subclause (1).
- (4) A person must not be appointed as a scrutineer unless the person consents to the appointment.
- (5) A candidate must not be appointed as a scrutineer.
- (6) A scrutineer's functions include scrutinising the receipt of ballot-papers under clause 76.

80 Scrutiny of votes

- (1) The scrutiny of votes in a ballot is to be conducted as follows:
 - (a) the returning officer is to produce, unopened, the voter's envelopes containing the ballot-papers accepted for scrutiny,
 - (b) in the case of an election of members of a private irrigation board—the returning officer is to ascertain the zone to which the vote relates (where applicable) and place the voter's envelope with other such envelopes for that zone,
 - (c) the returning officer is then to open each such envelope, extract the ballot-paper and (without unfolding it) place it in an appropriate box or other container, with (in the case of an election of members of a private irrigation board) separate boxes or other containers for each zone (where applicable),

- (d) when the ballot-papers from all the voter's envelopes have been placed in the box or other container, the returning officer is then to open the box or other container and remove the ballot-papers,
 - (e) the returning officer is then to examine each ballot-paper and reject those that are informal,
 - (f) the returning officer is then to proceed to count the votes and ascertain the result of the election.
- (2) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal if:
- (a) it is not initialled by the returning officer, or
 - (b) it has on it any mark or writing that the returning officer considers could enable any person to identify the voter who completed it, or
 - (c) it has not been completed in accordance with the directions shown on it.
- (3) A ballot-paper is not to be rejected as informal merely because of any mark or writing on it that is not authorised or required by this Regulation if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

81 Counting of votes

The result of a ballot for an election must be ascertained (zone by zone, where applicable) by the returning officer as follows:

- (a) if there is one person to be elected in the election—the candidate who received the highest number of votes is to be declared to be elected,
- (b) if there are 2 or more persons to be elected in the election—the candidates, not exceeding in number the number of persons to be elected, who received the highest number of votes are to be declared to be elected,
- (c) if there is an equality of votes—the returning officer is to determine by lot the candidate to be elected.

82 Notice of result of election

- (1) As soon as practicable after a candidate in an election has been elected, the returning officer must notify the Minister in writing of the name of the candidate elected.
- (2) As soon as practicable after declaration of a poll, the returning officer must issue to each person elected a notice in writing of the result of the election.

Division 12 General

83 Election of directors of private drainage boards or members of private water trusts

- (1) An election of directors of a private drainage board must be held:
 - (a) in the case of the first election held under this Regulation, on the third anniversary of the election of the board immediately before 1 April 2002, and
 - (b) every 3 years after that.
- (2) An election of the members of a private water trust must be held:
 - (a) in the case of the first election held under this Regulation, on the third anniversary of the election of the members of the trust immediately before 1 April 2002, and
 - (b) every 3 years after that.
- (3) Each person who, immediately before 1 April 2002, was a director of a private drainage board or a member of a private water trust is taken to have continued in office as a director of a private drainage board or a member of a private water trust for the residue of the term for which the person was elected.

84 Decisions of returning officer final

If the returning officer is permitted or required by the Act or this Regulation to make a decision on any matter relating to the taking of a ballot in any election, the decision of the returning officer on that matter is final.

85 Disposal of election papers

After the declaration of a ballot, the returning officer must keep all papers connected with the election for at least 12 months after the election.

86 Offences

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in any election in which the person is not entitled to vote, or
- (c) make a false or wilfully misleading statement (not being a statement verified by statutory declaration):
 - (i) to the returning officer in connection with any election, or
 - (ii) in any document that the person furnishes for the purposes of any election, or
- (d) apply for enrolment in respect of any election in respect of which the person is already enrolled.

Maximum penalty: 1 penalty unit.

Part 8 Private drainage boards

Note—

For consolidation purposes, this Part inserts such of the substantive provisions of the *Water Management (General) Regulation 2002* as are required to be retained (without altering those provisions in any way). The *Water Management (General) Regulation 2002* is repealed by clause 108 of this Regulation.

Division 1 Constitution and procedure

87 Quorum

The number of directors that constitute a quorum for a private drainage board is:

- (a) if the board consists of 3 directors—2, or
- (b) if the board consists of 4 or 5 directors—3, or
- (c) if the board consists of 6 or 7 directors—4.

Division 2 Finance

88 Rate book

- (1) For the purposes of section 209 of the Act, a rate book is to be in a form containing the following particulars:
 - (a) assessment number,
 - (b) name of ratepayer,
 - (c) additional charges for current year,
 - (d) payment received,
 - (e) receipt number,
 - (f) date of payment,
 - (g) current rates,
 - (h) arrears of rates carried forward,
 - (i) arrears,
 - (j) total,
 - (k) total due.
- (2) For the purposes of section 209 (2) of the Act, any particular relating to a rate may be altered.

- (3) For the purposes of section 209 (4) of the Act, an alteration or amendment in a rate book is to be made, signed and dated by the private drainage board's Secretary and countersigned by the chairperson.

89 Rates

Rate notices by which rates are levied under section 206 of the Act must be in a form approved by the Ministerial Corporation.

90 Keeping of books and accounts

A private drainage board is to keep proper books and accounts that show full, true and regular accountings of all money received and paid by the private drainage board and the purposes for which money has been received or paid.

91 Banking

Money received by a private drainage board must be paid into an authorised deposit-taking institution to the credit of an account in the name of the private drainage board.

Part 9 Private water trusts

Division 1 Constitution and procedure

92 Meetings of members of a private water trust

- (1) Ordinary meetings of members of a private water trust are to be held at any time that the members from time to time determine.
- (2) The chairperson of a private water trust, or a majority of the members of a private water trust, may at any time call a special meeting of members of a private water trust.
- (3) Seven days' notice of an ordinary meeting, and reasonable notice of a special meeting, must be given in writing to each member of a private water trust.
- (4) No business, other than the business stated in the notice of the meeting, is to be transacted at the special meeting.

93 Special general meetings

For the purposes of sections 224 (2), 225 (2) and 226 of the Act, the prescribed manner of giving notice is:

- (a) by personal delivery, or
- (b) by post, or
- (c) by facsimile transmission, or

- (d) by e-mail.

94 Quorum

The quorum for a meeting of a private water trust is:

- (a) if the trust comprises 3 members—2 members, or
- (b) if the trust comprises 5 members—3 members.

95 Chairperson

- (1) The chairperson is to preside at a meeting of members of a private water trust.
- (2) If the chairperson is not present, the members of a private water trust then present are to appoint one of their number to act as chairperson.

96 Voting

- (1) Any question arising at a meeting of members of a private water trust is to be decided by a majority of votes of the members present.
- (2) In the case of an equality of votes the chairperson has a casting vote.

97 Minutes

- (1) The members of a private water trust must cause minutes of the proceedings of each meeting to be kept.
- (2) The minute books are to be open for inspection by the members of a private water trust and any ratepayer within the water supply district at any reasonable time.

98 Special general meetings of voters

- (1) The chairperson is to preside at a special general meeting of voters.
- (2) In the absence of the chairperson an appointed member of the private water trust may preside at the meeting or, if there is no appointed member of the private water trust present, an elected member of the private water trust selected by the members of the private water trust present may preside.

Division 2 Finance

99 Rate book

- (1) On fixing rates under section 232 of the Act on land in a water supply district the members of a private water trust must enter the rates in a rate book.
- (2) The rate book is to be kept in a form approved by the Ministerial Corporation.

100 Correction of rate book

- (1) Any necessary corrections of the rate book must be made at a meeting of the members of a private water trust and be signed and dated by the Chairperson.
- (2) A correction affecting the amount of a rate must not be made after notice of the amount has been given to the person liable (except in the case of a correction arising from an appeal).

101 Payment of rates

- (1) Rates are payable by instalments if the members of a private water trust so decide.
- (2) A rate or an instalment of a rate is not recoverable until 30 days after notice of the amount due has been served on the ratepayer at the ratepayer's last known or usual address.

102 Appeals

- (1) An appeal by a landholder under section 232 (6) of the Act against the amount at which the landholder is rated must be lodged within 21 days after notice of the amount has been given to the landholder.
- (2) Notice of the appeal, in a form approved by the Ministerial Corporation, must be given to a Magistrate having jurisdiction in any part of the private water trust district and to the Secretary of the trust.

Division 3 Miscellaneous

103 Members of a private water trust's accounts

- (1) Money received by members of a private water trust in the operation of a private water trust must be paid into an authorised deposit-taking institution to the credit of an account in the name of the members of the private water trust.
- (2) All expenses incurred by members of a private water trust in the discharge of duties imposed on them by the Act are payable out of the funds at the disposal of the members of the private water trust under the Act.

Part 10 Hunter Valley flood mitigation works

104 Statement of particulars of program of works

The additional particulars to be set out in a statement under section 263 (3) of the Act are as follows:

- (a) an estimate of the cost to be incurred during the financial year to which the statement relates in respect of each work included in the program of flood works referred to in section 263 (1) of the Act,

- (b) an estimate of the amount of any compensation payable or likely to become payable during that financial year as a consequence of the undertaking of each such work,
- (c) an estimate of the cost of maintenance work in respect of works previously completed that the Minister considers should be carried out during that financial year,
- (d) an estimate of the amount of any compensation (other than compensation in respect of the works referred to in paragraph (a)) payable or to become payable by the Minister during that financial year,
- (e) an estimate of the amount of any payment to be made by the Minister during that financial year under section 261 (2) of the Act,
- (f) the percentage of the cost of the construction, carrying out and maintenance of any of the works referred to in paragraph (a), and of the amount of compensation payable or likely to become payable by the Minister as a consequence of the construction, carrying out and maintenance of such work, that a council will be liable to contribute under section 260 of the Act,
- (g) an estimate of the amount of any payments that a council will be required to make during that financial year under section 265 of the Act,
- (h) an estimate of the amount of any payment that is likely to be received during that financial year under section 261 of the Act from a public authority in respect of any work referred to in paragraph (a),
- (i) the amount (if any) of any payment made by the Hunter Catchment Management Trust under section 262 of the Act during the previous financial year that remained unexpended at the close of that year.

105 Statement of cost of maintenance and compensation

The additional particulars to be set out in a statement under section 266 (1) of the Act are as follows:

- (a) an estimate of the cost of any maintenance that the Minister considers should be undertaken during the financial year to which the statement relates in respect of each work referred to in section 265 of the Act,
- (b) an estimate of the amount of any compensation likely to become payable during that financial year by the Minister as a consequence of any such maintenance,
- (c) an estimate of the amount of compensation payable or likely to become payable during that financial year by the Minister as a consequence of any maintenance of each work referred to in paragraph (a) carried out during any previous financial year,
- (d) the percentage that, under section 260 of the Act, the Minister has determined that the council should contribute to the cost of any such construction and maintenance,

- (e) the amount (if any) of any payment made by the council under section 265 of the Act during any previous financial year that remained unexpended at the end of the immediately preceding financial year.

Part 11 Lowbidgee flood control and irrigation works

106 Payment of rates

- (1) A landholder in respect of a holding within the Lowbidgee district within the meaning of Part 3 of Chapter 5 of the Act is to be notified, by means of a notice of assessment, of:
 - (a) the rate fixed by the Minister for the current year, and
 - (b) the amount payable by the landholder, in accordance with that rate (subject to any variation by the Minister), for the year commencing on 1 July to which the notice relates.
- (2) The amount specified in the notice is to be paid to the Minister on or before the date for payment specified in the notice. That date must not be less than 28 days after the date of issue of the notice.
- (3) If a holding first becomes subject to a rate after 1 July in any year, the amount of the rate is to be apportioned, for the period from the date from which the holding becomes subject to the rate until the 30 June next following, on the basis of the proportion of the rate that that period bears to the whole year.

Part 12 Penalty notices for certain offences

107 Penalty notice offences

For the purposes of section 365 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 6 is declared to be a penalty notice offence, and
- (b) the penalty prescribed for such an offence is:
 - (i) in the case of a penalty payable by an individual—the penalty specified in Column 2 of Schedule 6 in relation to the offence, and
 - (ii) in the case of a penalty payable by a corporation—the penalty specified in Column 3 of Schedule 6 in relation to the offence.

Part 13 Miscellaneous

108 Repeals

The following Regulations are repealed:

- (a) the *Water Management (Elections) Regulation 2002*,
- (b) the *Water Management (General) Regulation 2002*.

109 Savings and transitional provisions

Schedule 7 has effect.

Schedule 1 Excluded works

(Clause 3)

- (1)** Dams solely for the control or prevention of soil erosion, provided no water is reticulated or pumped from such dams and the size of the structure is the minimum necessary to fulfil the erosion control function, and provided such dams are located on a minor stream referred to in section 53 (3) (b) of the Act. However, if such a dam is fenced off for erosion control purposes water may be reticulated to a stock drinking trough in an adjoining paddock without prejudicing the exempt status.
- (2)** Dams solely for flood detention and mitigation, provided no water is reticulated or pumped from such dams and provided such dams are located on a minor stream referred to in section 53 (3) (b) of the Act.
- (3)** Dams solely for the capture, containment and recirculation of drainage and/or effluent, consistent with best management practice or required by a public authority to prevent the contamination of a water source, provided such dams are located on a minor stream referred to in section 53 (3) (b) of the Act.
- (4)** Dams approved in writing by the Minister for specific environmental management purposes, provided such dams are located on a minor stream referred to in section 53 (3) (b) of the Act.
- (5)** Rainwater tanks collecting water from roofs only.
- (6)** Works impounding water which exceed the harvestable rights referred to in an order under section 54 of the Act and:
 - (a) were constructed before 1 January 1999, and
 - (b) are used only for domestic consumption and stock watering or do not result in the extraction of water, and
 - (c) are located on a minor stream referred to in section 53 (3) (b) of the Act, and
 - (d) from which water is being used only on the landholding on which the dam is located.
- (7)** Dams or excavations located on a river or lake constructed under section 7 of the *Water Act 1912* prior to 1 January 2001, provided such dams are used only for stock, domestic or stock and domestic purposes, or for purposes which do not require extraction of water.
- (8)** Works in the Western Division which are located on lakes shown in the legend of the 1:100 000 topographic maps issued by the Land Information Centre (formerly the Central Mapping Authority)

applying at 1 January 1999 to that Division as “Lake Mainly Dry”.

- (9) Works in the Western Division constructed prior to 1 January 1999 impounding water on the areas of land shown in the legend of the maps referred to in paragraph (8) as land subject to flooding or inundation, or lakes shown as “perennial” or “intermittent”, where the water is used only for stock, domestic or stock and domestic purposes, or for purposes which do not require extraction of water.

Schedule 2 Minister’s plans to be amended

(Clause 7)

Water Sharing Plan for the Adelong Creek Water Source 2003

Water Sharing Plan for the Alstonville Plateau Groundwater Sources 2003

Water Sharing Plan for the Apsley River Water Source 2003

Water Sharing Plan for the Castlereagh River above Binnaway Water Source 2003

Water Sharing Plan for the Commissioners Waters Water Source 2003

Water Sharing Plan for the Coopers Creek Water Source 2003

Water Sharing Plan for the Dorrigo Plateau Surface Water Source and Dorrigo Basalt Groundwater Source 2003

Water Sharing Plan for the Gwydir Regulated River Water Source 2002

Water Sharing Plan for the Hunter Regulated River Water Source 2004

Water Sharing Plan for the Jiliby Jiliby Creek Water Source 2003

Water Sharing Plan for the Kangaroo River Water Source 2003

Water Sharing Plan for the Karuah River Water Source 2003

Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Water Sharing Plan for the Lachlan Regulated River Water Source 2003

Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2003

Water Sharing Plan for the Mandagery Creek Water Source 2003

Water Sharing Plan for the Murray and Lower Darling Regulated Rivers Water Sources 2003

Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2003

Water Sharing Plan for the Ourimbah Creek Water Source 2003

Water Sharing Plan for the Phillips Creek, Mooki River, Quirindi Creek and Warrah Creek Water Sources 2003

Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003

Water Sharing Plan for the Stuarts Point Groundwater Source 2003

Water Sharing Plan for the Tarcutta Creek Water Source 2003

Water Sharing Plan for the Tenterfield Creek Water Source 2003

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Water Sharing Plan for the Toorumbee Creek Water Source 2003

Water Sharing Plan for the Upper Billabong Water Source 2003

Water Sharing Plan for the Upper Brunswick River Water Source 2003

Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003

Water Sharing Plan for the Wandella Creek Water Source 2003

Water Sharing Plan for the Wybong Creek Water Source 2003

Schedule 3 Categories and subcategories of licences

(Clause 8 (2))

Column 1	Column 2
Category of access licence	Subcategory of access licence
Regulated river (high security)	Aboriginal commercial Aboriginal cultural Community and education Research Town water supply
Regulated river (general security)	Aboriginal commercial Community and education Research
Local water utility	Domestic and commercial
Major utility	Power generation Urban water
Domestic and stock	Domestic Stock Town water supply
Unregulated river	Aboriginal commercial Aboriginal cultural Community and education Research Town water supply
Aquifer	Aboriginal commercial Aboriginal cultural Community and education Research Town water supply

Schedule 4 Supplementary access licence share components

(Clauses 27 and 28)

Part 1 Murrumbidgee

Column 1	Column 2
Water Act entitlement	Share component volume—(megalitres)
40SA810H	1129
40SA967H	297
40SL21181H	795
40SL23730H	639.5
40SL29503H	639.5
40SL39533H	1510
40SL29207H	194
40SL34982H	649
40SL51045H	1672
40SA896H	3000
40GL000155	1322.5
40SA000596	37
40SA000696	672
40SA000758	957.5
40SA001470	46
40SA001484	852
40SA001485	280
40SA001957	706
40SA005502	286.5
40SA005508	1269.5
40SA005513	1269
40SA005532	196.5
40SA005534	102
40SA005538	280.5
40SA005539	113.5

40SA005568	196
40SA005571	11068.3
40SA005573	401.5
40SA005574	1202
40SA005576	9417.5
40SA005578	288
40SA005579	425.5
40SA005582	137.5
40SA005584	394
40SA005585	4003
40SA005589	1061
40SA005591	782.5
40SA005592	29.5
40SA005596	223.5
40SA005597	4419
40SA005601	89
40SA005603	6085
40SA005607	25
40SA005611	294
40SA005612	772.5
40SA005613	666
40SA005614	266.5
40SL005828	9.5
40SL008741	6
40SL013884	1.5
40SL016414	4
40SL017240	273.5
40SL018212	29.5
40SL019393	222.5
40SL020950	18
40SL021194	455

40SL023371	2
40SL023975	241
40SL024640	669.5
40SL025119	15
40SL025127	1
40SL027230	98.5
40SL027599	0.5
40SL027913	172.5
40SL028291	134
40SL028614	129.5
40SL029139	112.5
40SL029644	10.5
40SL029645	1.5
40SL029651	11.5
40SL029760	2
40SL029770	390
40SL030675	552
40SL031386	74
40SL031413	46.5
40SL034503	18.5
40SL035302	41
40SL036156	17
40SL036279	131
40SL036544	219
40SL038517	218
40SL038604	147.5
40SL038658	883.5
40SL038671	25
40SL040949	6
40SL040956	110.5
40SL041130	177.5

40SL041131	144.5
40SL041211	7.5
40SL042651	171
40SL043121	117.5
40SL043282	25.5
40SL043514	48
40SL044081	7.5
40SL044367	233
40SL044408	87.5
40SL045526	75.5
40SL046557	255.5
40SL046908	21
40SL047033	175.5
40SL047233	174
40SL047725	390
40SL048171	1.5
40SL048187	144.5
40SL048758	310
40SL048762	206
40SL049209	7.5
40SL049885	467
40SL050336	14.5
40SL050856	137
40SL051000	224
40SL051001	16
40SL051228	1152
40SL051371	102
40SL051460	5.5
40SL051844	10.5
40SL052075	14.5
40SL070000	186.5

40SL070004	68
40SL070046	180.5
40SL070053	167
40SL070054	16.5
40SL070081	2886
40SL070120	737
40SL070140	354.5
40SL070160	603
40SL070169	272
40SL070175	595
40SL070183	2491.5
40SL070186	93.5
40SL070204	7.5
40SL070219	29
40SL070882	10
40SL070273	1076
40SL070286	2.5
40SL070299	140
40SL070301	5
40SL070302	28
40SL070462	39.5
40SL070471	167.5
40SL070490	3
40SL070496	379
40SL070503	159.5
40SL070513	100
40SL070531	114
40SL070559	8.5
40SL070560	15.5
40SL070562	3
40SL070575	157

40SL070578	20.5
40SL070601	363.5
40SL070649	1049
40SL070670	2350
40SL070721	6143
40SL070728	108.5
40SL070730	7
40SL070733	116
40SL070748	106.5
40SL070749	41
40SL070780	257.5
40SL070784	847.5
40SL070796	37.5
40SL070797	0.5
40SL070810	2017
40SL070820	32
40SL070848	129
40SL070850	8
40SL070856	27
40SL070881	410
40SL070884	3
40SL070922	756
57SA001252	597.5
57SA001607	46.5
57SA007505	3220
57SA007508	96
57SA007509	17.5
57SA007511	1867
57SL039492	623
57SL040554	114
57SL040570	670

57SL040740	423.5
57SL041608	427
57SL041789	571
57SL042307	55.5
57SL042308	257
57SL042504	154
57SL044052	683.5
57SL045023	248.5
57SL046494	304.5
57SL047016	739
57SL047393	570.5
57SL047534	352.5
57SL048139	653.5
57SL049227	43
57SL049284	130
57SL049297	345
57SL049339	696.5
57SL050777	175.5
57SL051127	349
57SL051247	937.5
57SL080000	134
57SL080002	130
57SL080003	411
57SL080007	266
57SL080008	31
57SL080009	266.5
57SL080011	435.5
57SL080014	49
57SL080016	287.5
57SL080018	252
57SL080020	552.5

57SL080021	512
57SL080025	26
57SL080029	360.5
57SL080033	720
57SL080034	1450
40IC000004	25,995.5
40IC000005	25,649

Part 2 Murray

Column 1	Column 2
Water Act entitlement	Share component volume—(megalitres)
50GL0000218	5060
50GL000217	521
50IC0000002	221704
50IT0000006	705
50IT0000007	722
50SA000475	33
50SA001328	223
50SA001407	313
50SA001462	66
50SA001516	6
50SA001616	71
50SA001881	976
50SA001882	383
50SA006534	108
50SA006545	142
50SA006556	72
50SA006625	30
50SA006580	154
50SA006582	439
50SA006587	205

50SA006599	20
50SA006606	216
50SL001956	17
50SL002807	418
50SL005692	336
50SL009493	299
50SL009721	88
50SL010115	53
50SL011344	35
50SL011650	47
50SL013889	40
50SL014403	45
50SL014977	27
50SL015231	4
50SL015243	195
50SL015571	8
50SL015946	3
50SL016321	1
50SL017280	165
50SL017870	56
50SL018749	165
50SL018883	155
50SL018934	4
50SL019363	65
50SL019964	37
50SL020150	101
50SL020490	23
50SL020553	81
50SL021217	64
50SL021578	23
50SL021625	14

50SL021787	37
50SL022068	77
50SL022992	2
50SL023124	18
50SL023685	36
50SL025418	113
50SL025600	40
50SL027029	8
50SL027147	82
50SL027292	3
50SL027372	111
50SL028828	32
50SL029108	10
50SL029205	27
50SL029515	7
50SL029626	29
50SL029804	39
50SL031197	44
50SL031274	90
50SL031770	29
50SL031783	269
50SL033071	279
50SL033164	124
50SL033368	179
50SL033369	374
50SL033836	98
50SL033967	25
50SL033968	38
50SL034118	37
50SL034254	51
50SL034519	2

50SL034631	170
50SL035071	147
50SL035904	35
50SL035961	48
50SL036309	180
50SL036757	14
50SL037050	2
50SL037491	28
50SL037503	258
50SL037540	156
50SL037902	183
50SL038046	8
50SL038048	24
50SL038230	12
50SL038516	3
50SL038520	3
50SL039358	201
50SL040128	68
50SL040804	33
50SL040918	80
50SL041183	14
50SL041185	249
50SL041292	25
50SL042972	156
50SL043090	5
50SL043997	4
50SL044004	276
50SL044005	399
50SL044275	42
50SL046385	27
50SL047353	15

50SL047354	92
50SL047390	111
50SL047543	93
50SL048149	172
50SL049246	368
50SL049259	10
50SL049270	38
50SL049422	107
50SL049834	140
50SL050449	112
50SL051028	49
50SL051029	43
50SL051048	105
50SL051158	245
50SL051220	104
50SL051625	27
50SL075094	71
50SL075112	65
50SL075137	20
50SL075151	166
50SL075201	287
50SL075226	66
50SL075429	61
50SL075226	66
50SL075248	171
50SL075265	438
50SL075275	352
50SL075292	15
50SL075321	1276
50SL075323	4
50SL075326	10

50SL075331	184
50SL075332	59
50SL075367	134
50SL075368	12
50SL075392	2
50SL075403	335
50SL075410	60
50SL075431	497
50SL075440	326
50SL075456	107
50SL075457	7
50SL075472	330
50SL075487	31
50SL075488	86
50SL075515	14
50SL075582	10
50SL075544	456
50SL075550	59
60IT000009	255
60SA008559	31
60SL034780	125
60SL043793	1
60SL045033	7
60SL085440	166
60SL048224	1239
60SL049934	83
60SL085024	161
60SL085118	92
60SL085129	56
60SL085247	99
60SL085276	186

60SL085302	11
60SL085425	50
50SL34922	54
50SL25758	15
50SL16515	75
50SL49742	49
50SL49743	49
50SL49803	21
50SL49249	59
50SL44218	149
50SL49988	25
50SL44392	149
50SL49800	75
50SL40717	149
50SL42147	156
50SL39082	50
50SL48504	161
50SL22045	174
50SL75000	31
50SL48526	149
50SL50973	149
50SL50974	149
50SL44243	61
50SL42471	149
50SL49239	74
50SL49252	40
50SL50153	149
50IC000002	221,704

Schedule 5 Forms

(Clause 46)

Form 1 Certificate

(*Water Management (General) Regulation 2004*, clause 58 (2) (e))

I certify that this roll contains the full names (*consecutively numbered and listed in alphabetical order*) and addresses of those persons who, in my opinion, are entitled to vote in the election in relation to which this roll has been prepared.

The first and last entries in the roll are as follows:

First Entry:

No:

Name:

Address:

Last Entry:

No:

Name:

Address:

Dated:

Signed:

Form 2 Application for enrolment

(*Water Management (General) Regulation 2004*, clause 60 (2))

Surname:

Given Names:

Postal Address:

Postcode:

Telephone No:

Address of property on which enrolment is based:

Local government area in which the property is situated:

I apply to be enrolled in the final roll for the following election and in any subsequent election (*specify the election to which the application relates*).

I am applying for enrolment:

(a) *as the sole owner of property,

(b) *as the representative of a corporation on behalf of which the property is owned,

(c) *as the representative of the trustees or legal personal representatives of a person or estate.

Particulars of *corporation/*trustee/*legal personal representative in respect of whom or which the applicant is the representative *(*see paragraphs (b) and (c) above*):

Name:

Postal Address:

I declare that *I have/*the person that I represent has, as at the calling of the election, the qualifications to vote.

I further declare that, to the best of my knowledge, the information contained in this application is true.

Dated:

Signed:

* *Delete whichever is inapplicable.*

Form 3 Objection to enrolment

(Water Management (General) Regulation 2004, clause 61 (2) (a))

I object to the inclusion in the final roll for the following election: *(specify the election to which the objection relates)* of the name of *(name in full)* of *(postal address)*.

This objection is based on the following grounds: *(specify the grounds of the objection)*

Name of objector:

Postal Address:

Telephone No:

Dated:

Signed:

Form 4 Nomination of candidate

(Water Management (General) Regulation 2004, clause 67 (1) (a))

We nominate *(name in full)* of *(postal address)* as a candidate for the following election: *(specify the election to which the nomination relates and any zone in which the election is to be held)*.

We declare that we are each entitled to vote in the election.

Name in full: Address: Signature:

1

2

3

4

5

6

Note—

This nomination must be completed by not fewer than 2 persons (other than the candidate), each of whom is qualified to vote under the *Water Management (General) Regulation 2004* in respect of the election.

I, *(name in full)* consent to being a candidate at the election to which this nomination relates.

Postal address:

Telephone No:

Date of birth:

Dated:

Signed:

Schedule 6 Penalty notice offences

(Clause 107)

Column 1	Column 2	Column 3
Provision of Act	Penalty for individual	Penalty for corporation
Section 341 (1)	\$750	\$1500
Section 342 (1)	\$750	\$1500
Section 343 (1)	\$750	\$1500
Section 344 (1)	\$750	\$1500
Section 345 (1)	\$750	\$1500

Section 346 (1)	\$750	\$1500
Section 346 (2)	\$750	\$1500
Section 347 (1)	\$750	\$1500
Section 349	\$750	\$1500
Section 350	\$500	\$1000
Section 353	\$500	\$1000

Schedule 7 Savings and transitional provisions

(Clause 109)

Part 1 Provisions relating to the **Water Management Amendment Act 2004**

1 Transfer of certain access licences

A purchaser of land may apply to the Minister to record in the Access Register a general dealing under section 71M of the Act transferring an access licence to the purchaser, but only if:

- (a) the purchase included an entitlement that was, on the appointed day, replaced by the licence to be transferred, and
- (b) settlement of the purchase took place before the appointed day, and
- (c) as at the appointed day:
 - (i) the purchaser's interest in the land had not been recorded on the folio of the Register kept under the *Real Property Act 1900* in relation to the land, or
 - (ii) the conveyance effecting the transfer of the land had not been registered in the General Register of Deeds kept under the *Conveyancing Act 1919*,as the case may require.

2 Deemed term transfers

For the purpose of enabling a term transfer referred to in clause 10 (3) of Schedule 10 to the Act to be recorded in the Access Register, the current occupier (within the meaning of clause 10 (1) of that Schedule) of the land concerned is to:

- (a) apply to the Director-General in the approved form for the recording of the transfer, and
- (b) provide the Director-General with evidence in the approved form of the current occupier's occupation (including its proposed duration) of the land.

Note—

A term transfer of water entitlements conferred by an access licence is a **general dealing** within the meaning of the Act. Section 71A (1) (b) of the Act requires all general dealings to be recorded in the General Division of the Access Register kept under the Act. Section 71B (1) provides that any matter required to be recorded in that Division has no effect until it is so recorded and takes effect on being recorded.

3 Entitlements held by co-owners in a replacement access licence

Two or more co-holders of a replacement access licence referred to in clause 23 (1) of Schedule 10 to the Act who wish to make an election of the kind referred to in clause 23 (2) of that Schedule but do not receive a request to do so under that subclause may apply under section 73 of the Act for the recording of an alteration in the way in which they hold the licence.

4 Murrumbidgee entitlements

This Regulation is taken to have been made with the following amendments to Schedule 4:

- (a) the share component volume in megalitres shown in Column 2 in relation to Water Act entitlement 40IC000005 at the end of Part 1 is “34,400” instead of “25,649”,
- (b) the following matter appears in appropriate order in Columns 1 and 2, respectively, of Part 1:

40SL24994H	3,402
40SL34102H	6,773
40SL36994H	2,000

**Part 2 Provisions relating to Water Management (General)
Amendment (Miscellaneous) Regulation 2005**

5 Definition

In this Part:

the amending Regulation means the *Water Management (General) Amendment (Miscellaneous) Regulation 2005*.

6 Approved forms

A form approved by the Director-General for the purposes of clause 11 (1) (a), 17 (1) (a), 31 (1) (a), 42 (1) or 44 (1) before the commencement of Schedule 1 [1] to the amending Regulation is taken, on and from that commencement, to have been approved by the Minister.

7 Action taken by Director-General

Anything done by the Director-General under clause 16 (2) (b), 31 (1) (b) or (3), 32 (3), 42 (2), 44 (2) or Schedule 1 (4) before the commencement of Schedule 1 [4] to the amending Regulation is taken (to the extent that it has continuing effect), on and from that commencement, to have been done by the Minister.

8 Saving relating to repealed Regulations

Any act, matter or thing that, immediately before the repeal of the *Water Management (Elections) Regulation 2002* or the *Water Management (General) Regulation 2002*, had effect under the Regulation concerned continues to have effect under this Regulation.