

South Australia

# **Landscape South Australia (Water Management) Regulations 2020**

under the *Landscape South Australia Act 2019*

---

## **Contents**

### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Interpretation

### **Part 2—Legislative definitions**

- 4 Definition of Mount Lofty Ranges Watershed

### **Part 3—Water allocation plans**

- 5 Consultation associated with proposed amendment

### **Part 4—Levies in respect of water**

- 6 Recovery costs
- 7 Refund of levies (section 87 of Act)
- 8 Recovery of penalty under section 88(6) of Act

### **Part 5—Meters**

- 9 Supply and installation of meters
- 10 Meters owned by Minister
- 11 Meters owned by other persons
- 12 Provisions applying to meters generally
- 13 Requirements as to installation, repair, testing etc of meters
- 14 Testing requirements
- 15 Minister's specifications
- 16 Compliance with Part

### **Part 6—General management, administration and protection provisions**

- 17 Rate at which drinking water may be taken
- 18 Activities subject to the operation of a plan or policy
- 19 Water affecting activities (section 104(5) and (6) of Act)
- 20 Expiation fees (section 104(7) of Act)
- 21 Prescribed date (section 111(1) of Act)
- 22 Notice to be given by relevant authority (section 113, 137 and 144 of Act)
- 23 Requirements as to representations under section 113, 137 or 144 of Act
- 24 Time for response by applicant
- 25 Well drillers' licence—prescribed conditions
- 26 Cancellation of water resource works approval—prescribed scheme (section 138 of Act)
- 27 Cancellation of site use approval—prescribed scheme (section 145 of Act)

## Part 7—Specific provisions relating to consumptive pools, water access entitlements and allocations

- 28 Transfers between consumptive pools
- 29 Classification of water access entitlements
- 30 Variation of water licences—policies and principles specified by water allocation plan
- 31 Water allocation plans—priorities for allocation according to management zones
- 32 Tagged interstate water trades
- 33 Joint applications to vary water take or use limits on water licence or approval

## Part 8—Forest water licences

- 34 Interpretation—harvesting (section 164 of Act)
- 35 Provision of notice to Minister (section 166 of Act)
- 36 Variations—allocations—prescribed period (section 168 of Act)
- 37 Approval for transfer of allocations—prescribed circumstances (section 169 of Act)
- 38 Variation—conditions—prescribed period (section 171 of Act)
- 39 Surrender of licences—prescribed circumstances (section 173 of Act)
- 40 Offences—prescribed rate (section 175 of Act)

## Part 9—Miscellaneous

- 41 Prescribed period (section 184 of Act)
  - 42 Availability of representations (section 113 of Act)
  - 43 Requirement to provide information to Minister
  - 44 Amendment of water affecting activities control policies
- 

# Part 1—Preliminary

## 1—Short title

These regulations may be cited as the *Landscape South Australia (Water Management) Regulations 2020*.

## 2—Commencement

These regulations come into operation on 1 July 2020.

## 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—  
*Act* means the *Landscape South Australia Act 2019*;  
*validate*—see subregulation (2).
- (2) For the purposes of these regulations, a reference to the validation of a meter is a reference to undertaking a set of steps to determine whether the meter and its installation comply with any specifications determined or approved by the Minister under these regulations.

## Part 2—Legislative definitions

### 4—Definition of Mount Lofty Ranges Watershed

For the purposes of the definition of *Mount Lofty Ranges Watershed* in section 3(1) of the Act, the area identified as the *Mount Lofty Ranges Watershed* in General Registry Plan No 001/2005 is prescribed.

## Part 3—Water allocation plans

### 5—Consultation associated with proposed amendment

- (1) For the purposes of section 55(3)(b) of the Act, the holders of licences must be given a notice in writing which—
  - (a) provides information about the nature and effect of the relevant proposal; and
  - (b) sets out details about how, and by when, a submission in relation to the proposed amendment must be made.
- (2) The period within which a submission may be made under subregulation (1) must be at least 2 months from the time that the notice is given to a holder of a licence.

## Part 4—Levies in respect of water

### 6—Recovery costs

- (1) The Minister may from time to time, by notice in the Gazette, determine a charge that may be imposed on account of any steps that may be taken by the Department in the administration of the Act if a person fails to pay a water levy in accordance with the requirements of the Act.
- (2) The charge must not exceed the Minister's determination of the reasonable costs to the Department of taking the relevant steps.
- (3) The charge will be recoverable as a debt due to the Crown.

### 7—Refund of levies (section 87 of Act)

- (1) In this regulation—

*donation* means a gift for no consideration;

*environmental donations entitlement* means a water licence or water allocation—

  - (a) that relates to water in a water resource that is subject to a water levy in respect of a particular financial year; and
  - (b) that is subject to conditions to the effect—
    - (i) that any water taken under or in connection with the licence or water allocation may only be used for an environmental purpose in a manner accredited by the regional landscape board specified in the condition; and

- (ii) that the person who is the holder of the licence or water allocation is accredited by the regional landscape board specified in the condition to receive, transfer or use donations of water for environmental purposes recognised by that board for the purposes of this regulation.
- (2) In connection with the operation of subregulation (1), a regional landscape board must, in deciding whether to issue an accreditation for the purposes of a water licence or water allocation being recognised as an environmental donations entitlement, apply any criteria determined by the Minister.
- (3) For the purposes of section 87 of the Act—
- (a) the donation of the whole or a part of a water access entitlement or water allocation to the holder of an environmental donations entitlement (for water to be used for environmental purposes) and
  - (b) the variation of conditions attached to a water licence or water allocation so that the licence or the water allocation will become an environmental donations entitlement,
- are recognised as natural resources management practices on which an application for a refund of a water levy may be based.
- (4) The maximum proportion of a water levy that may be subject to a refund (the *eligible levy amount*) is equal to the proportion of the allocation or water access entitlement donated, or within the ambit of the relevant condition, in the manner contemplated by subregulation (3).
- (5) The amount of any refund will be determined according to the following table:

<b>Date within the relevant financial year on which the donation or variation of conditions takes effect</b>	<b>Percentage of eligible levy amount payable</b>
1 July—10 July	100
11 July—31 October	75
1 November—31 January	50
1 February—31 March	25
1 April—30 June	0

## **8—Recovery of penalty under section 88(6) of Act**

Pursuant to section 88(6) of the Act, the following sections of Part 5 of the Act are prescribed:

- (a) section 77(10) and (12);
- (b) sections 78, 79 and 80;
- (c) section 83;
- (d) sections 85 and 86;
- (e) section 89.

## Part 5—Meters

### 9—Supply and installation of meters

- (1) In order to determine the quantity of water taken for the purposes of the Act the Minister may—
  - (a) supply, install or seal a meter; or
  - (b) by written notice, direct a person to supply or install a meter.
- (2) The Minister may require—
  - (a) an owner of land on which a meter supplied by the Minister is installed; or
  - (b) a person who is the holder of a water management authorisation, or who has the benefit of a water management authorisation, in respect of which any volume of water is to be measured by a meter supplied by the Minister (if not the owner of the relevant land),

to pay any costs involved with the supply, installation or sealing of the meter, which will then become a debt due by the owner of land under paragraph (a) or the person under paragraph (b) (as the case requires) to the Crown.
- (3) A meter supplied by the Minister remains the property of the Minister unless all relevant costs are paid under subregulation (2) or the Minister transfers property in the meter to another person.

### 10—Meters owned by Minister

- (1) A person who is the holder of a water management authorisation, or who has the benefit of a water management authorisation, in respect of which a meter owned by the Minister is to be used to measure the quantity of water taken or used in connection with the water management authorisation, is liable for rent for the meter comprised of the prescribed fee.
- (2) The Minister may enter land on which a meter owned by the Minister is installed to read, inspect, service, test, validate, maintain, seal, repair or replace the meter.
- (3) In this regulation—

*prescribed fee* means the fee prescribed under the Act for the purposes of rent for a meter.

### 11—Meters owned by other persons

- (1) The Minister may enter land on which a meter owned by a person other than the Minister is installed to read, inspect or seal the meter.
- (2) The Minister may, by notice in writing, direct a person to service, test, validate, maintain, repair, replace or adjust a meter being used by the person if in the Minister's opinion such action is necessary.

### 12—Provisions applying to meters generally

- (1) Where a meter is used to measure the quantity of water taken or used in a particular place—
  - (a) a person must not take water except through the meter; and

- (b) a person must not adjust or alter the meter, or tamper with a seal fixed to the meter, without the authority of the Minister; and
  - (c) a person must not damage or destroy the meter; and
  - (d) a person must not—
    - (i) cut through or into a pipe to which this paragraph applies under subregulation (2); or
    - (ii) install a fitting providing access to the inside of a pipe to which this paragraph applies under subregulation (2); or
    - (iii) change the configuration of, remove, or interfere in any other way with, a pipe to which this paragraph applies under subregulation (2),  
without the authority of the Minister.
- (2) Subregulation (1)(d) applies to—
- (a) the pipe connecting the water resource from which the water is taken to the meter; and
  - (b) the pipe on the other side of the meter to (and including) the S bend in the pipe or, where there is no S bend, the first T junction or elbow in the pipe, or any other distance of pipe determined in accordance with a specification determined or approved by the Minister.
- (3) A person must not—
- (a) remove a meter without the authority of the Minister; or
  - (b) replace a meter without the authority of the Minister.
- (4) In addition, any responsible person in relation to a meter—
- (a) must not permit sand, soil or any other material to be deposited on or around the meter; and
  - (b) must not permit deposits of sand, soil or any other material to build up around the meter; and
  - (c) must keep vegetation cleared away from the meter.
- (5) If a meter or its associated infrastructure is damaged or destroyed, a responsible person in relation to the meter must, at the written direction of the Minister, repair or replace the meter or its associated infrastructure.
- (6) In this regulation—
- associated infrastructure*** means any infrastructure, pipe or connecting part related to a meter that the Minister determines to be necessary to maintain the accuracy of a meter;
- responsible person*** in relation to a meter means—
- (a) an owner of land on which the meter is installed, other than the Crown or an agency or instrumentality of the Crown; and
  - (b) the person who is the holder of the water management authorisation, or who has the benefit of the water management authorisation, in relation to which a meter is required.

**13—Requirements as to installation, repair, testing etc of meters**

- (1) If a person is required to comply with a direction under this Part to supply and install a meter or to replace a meter, the new meter must—
  - (a) be rated by the manufacturer to an accuracy of at least plus or minus 2.5%; and
  - (b) meet any other specifications determined or approved by the Minister.
- (2) If a person is required to comply with a direction under this Part to install a meter, the meter must be installed in accordance with any specifications determined or approved by the Minister.
- (3) If a person is required to comply with a direction under this Part to service, test, validate, repair, replace or adjust a meter or its associated infrastructure, the person must engage a competent person approved by the Minister to do the testing, verification or other work and the testing, verification or other work must be done in accordance with specifications determined or approved by the Minister.
- (4) A person who is required to comply with a direction under this Part to service or repair a meter must ensure that only parts that are supplied or approved by the manufacturer of the meter are used.
- (5) If a person is required to comply with a direction under this Part to maintain a meter, the person must maintain the meter in accordance with any specification determined or approved by the Minister.
- (6) In this regulation—

*associated infrastructure* means any infrastructure, pipe or connecting part related to a meter that the Minister determines to be necessary to maintain the accuracy of a meter.

**14—Testing requirements**

- (1) The following requirements are prescribed for the purposes of section 79(5) of the Act.
- (2) A person must not remove a meter for testing without the authority of the Minister.
- (3) The security seals attached to a meter may only be removed by a person approved by the Minister.
- (4) A meter must be read—
  - (a) by a person approved by the Minister; or
  - (b) by the relevant person,immediately before it is removed.
- (5) A reading obtained under subregulation (4) must be provided in writing to the Minister within a period determined by the Minister.
- (6) A meter must be tested by a competent person approved by the Minister.
- (7) A meter must be tested and reinstalled, or a replacement meter must be installed, within 28 days after the Minister gives approval under subregulation (2) for the meter to be removed, or within a longer period determined or approved by the Minister.

- (8) A meter must be tested in accordance with any specifications determined or approved by the Minister.
- (9) A certificate relating to the testing must be provided to the Minister within 14 days after the meter is tested or within a longer period determined or approved by the Minister.
- (10) The certificate must be in a form determined or approved by the Minister.
- (11) If a meter is found to be outside an accuracy rating of plus or minus 4%, the meter must not be reinstalled unless or until—
- (a) the meter is refurbished in accordance with a specification determined or approved by the Minister; and
  - (b) the Minister is provided with a certificate of accuracy (certifying the accuracy of the meter to plus or minus 4%).
- (12) A meter must be reinstalled in accordance with specifications determined or approved by the Minister.
- (13) If the security seal that connects the meter register to the meter body is broken at any stage relating to the removal, testing, refurbishment or reinstallation of a meter, the seal must be replaced by a person approved by the Minister.
- (14) A meter must be read—
- (a) by a person approved by the Minister; or
  - (b) by the relevant person,
- immediately after it is installed.
- (15) A reading obtained under subregulation (14) must be provided in writing to the Minister within a period determined by the Minister.
- (16) Despite a preceding subregulation—
- (a) a meter may, with the approval of the Minister, be tested without being removed; and
  - (b) any such testing of a meter on site must be conducted in accordance with any specification determined or approved by the Minister (including, without limitation, as to the accuracy rating of the meter); and
  - (c) if a meter tested under this subregulation is found to be outside the accuracy rating specified by the Minister under paragraph (b)—
    - (i) the meter must be refurbished in accordance with specifications determined or approved by the Minister; and
    - (ii) if the meter is removed as part of its refurbishment, the meter must be reinstalled in accordance with specifications determined or approved by the Minister; and
    - (iii) the Minister must, after the refurbishment of the meter, be provided with a certificate of accuracy (certifying the accuracy of the meter to within an accuracy rating set out in specifications determined or approved by the Minister).
- (17) In this regulation—



*relevant person* means the person who is liable to pay the relevant levy, as contemplated by section 79(5) of the Act.

### **15—Minister's specifications**

For the purposes of this Part, specifications determined or approved by the Minister may be of general, limited or varied application according to—

- (a) whether the meter is tested on site or following the meter's removal; and
- (b) any other specified circumstances or factor to which the specifications are expressed to apply.

### **16—Compliance with Part**

- (1) A person who fails to comply with a direction of the Minister under this Part, or who contravenes or fails to comply with a provision of this Part, is guilty of an offence.

Maximum penalty: \$7 000.

Expiation fee: \$350.

- (2) Subregulation (1) does not apply in relation to regulation 12 (which is subject to enforcement under section 79(5) of the Act).
- (3) If a person fails to comply with a direction of the Minister under this Part or contravenes or fails to comply with a provision of this Part, the Minister may enter the land concerned and take such action as the Minister thinks fit to remedy the contravention or failure and the Minister's costs will be a debt due to the Crown by the person who has contravened or failed to comply with the provision or failed to comply with the direction.

## **Part 6—General management, administration and protection provisions**

### **17—Rate at which drinking water may be taken**

The rate of 100 litres per day is prescribed for the purposes of section 100(7) of the Act.

### **18—Activities subject to the operation of a plan or policy**

Using water in the course of carrying on a business in a landscape management region at a rate that exceeds the rate prescribed by a water allocation plan or a water affecting activities control policy applying in relation to that region (or a relevant part of the region), if the water has been brought from a water resource in some other part of the region specified in the plan or policy (as the case may be) by means of a pipe or channel, is prescribed as an activity under section 104(4)(1) of the Act.

### **19—Water affecting activities (section 104(5) and (6) of Act)**

- (1) A person is exempt from the operation of paragraph (a) of section 104(5) of the Act if the water allocation plan for the relevant water resource provides that a water resource works approval is not required in the relevant case.
- (2) A person is exempt from the operation of paragraph (b) of section 104(5) of the Act if the water allocation plan for the relevant water resource provides that a site use approval is not required in the relevant case.

- (3) A water allocation plan may, in making provision for the purposes of subregulation (1) or (2), provide that a person must not construct, maintain or operate works, or use water or surface water, unless authorised by a water licence and must, in doing so, comply with the conditions of the water licence and any relevant water allocation.
- (4) Subject to subregulation (5), a person is exempt from the operation of paragraph (a) or (b) of section 104(5) of the Act if the person may lawfully take water from the prescribed watercourse, lake or well or surface water prescribed area under the Act without holding a water allocation that relates to the relevant water resource.
- (5) Subregulation (4) does not apply in relation to a prescribed watercourse, lake or well or surface water prescribed area to the extent that the water allocation plan for the relevant water resource requires a water resource works approval or site use approval in the relevant case.

#### **20—Expiation fees (section 104(7) of Act)**

For the purposes of the imposition of an expiation fee under section 104(7) of the Act, any condition of a water management authorisation or permit is prescribed.

#### **21—Prescribed date (section 111(1) of Act)**

For the purposes of section 111(1) of the Act, the prescribed date is 2 July 1997.

#### **22—Notice to be given by relevant authority (section 113, 137 and 144 of Act)**

- (1) The notices referred to in section 113(2)(a), 137(a)(i) and 144(a)(i) of the Act must be given by the relevant authority or Minister in accordance with section 222 of the Act.
- (2) The notices referred to in section 113(2)(c), 137(a)(iii) and 144(a)(iii) must be given by the relevant authority or Minister in such manner as the relevant authority or Minister (as the case may be) determines to be appropriate, after giving due consideration to the extent to which a particular form of publication may be effective in bringing the notice to the attention of persons who are most likely to have a particular interest in the notice (without requiring personal service).
- (3) A notice under this regulation must—
  - (a) set out the relevant particulars of the application; and
  - (b) identify the land that will be affected by the grant or refusal of the application to which the notice relates; and
  - (c) include an address at which a copy of the application may be inspected during normal office hours; and
  - (d) set out the text of regulation 23.

#### **23—Requirements as to representations under section 113, 137 or 144 of Act**

A representation under section 113(3), 137(b) or 144(b) of the Act must—

- (a) be in writing; and

- (b) be made within 20 business days after the notice referred to in regulation 22(1) is given to the person making the representation or, in the case of a member of the public, within 20 business days after notice is given by the relevant authority or Minister (as the case may be) under regulation 22(2); and
- (c) state the name and address of the person making the representation; and
- (d) if 2 or more persons make the same representation, nominate 1 of them to represent the others for procedural purposes; and
- (e) state whether or not the person making the representation wishes to appear before the relevant authority or Minister (as the case requires) to be heard in support of the representation.

**24—Time for response by applicant**

- (1) 10 business days is prescribed for the purposes of sections 113(5), 137(d) and 144(d) of the Act.
- (2) The period referred to in subregulation (1) may be increased by the relevant authority or Minister (as the case requires) if, in the opinion of the relevant authority or Minister in the circumstances of the particular case, that period is too short.

**25—Well drillers' licence—prescribed conditions**

The following are prescribed under section 115(3) of the Act in relation to well drillers' licences:

- (a) the licensee must keep such records as the Chief Executive directs in such manner and for such period as the Chief Executive directs;
- (b) the licensee must, at the direction of the Chief Executive or an authorised officer, produce records referred to in paragraph (a) to the Chief Executive or authorised officer for inspection or copying;
- (c) the licensee must not, in pursuance of the licence, commence an activity that requires a permit or water resource works approval under the Act unless the licensee has sighted the permit or approval;
- (d) the licensee must, at the direction of the Chief Executive or an authorised officer, take samples of water or other material from a well being drilled by the licensee and must submit the samples to the Chief Executive or authorised officer for inspection and analysis;
- (e) the licensee must comply with directions given by the Chief Executive in relation to drilling, plugging, backfilling or sealing a well or to the repair, replacement or alteration of the casing, lining or screen of a well if those directions are given to the licensee by the Chief Executive or published in the Gazette;
- (f) the licensee must comply with the terms of any condition, permit or approval under the Act that relates to, or authorises, the work that the licensee is performing.

**26—Cancellation of water resource works approval—prescribed scheme  
(section 138 of Act)**

- (1) Subject to this regulation, the Minister may cancel a water resource works approval—
  - (a) if works within the ambit of the approval are not constructed or substantially completed within 2 years from the date of issue of the water resource works approval; or
  - (b) if works within the ambit of the approval are not used because the works have been removed and have not, within 1 year of the date of the removal, been replaced by the construction of similar works; or
  - (c) on the application of the holder of a water resource works approval—if works within the ambit of the approval are not used, or used to any significant degree, over a continuous period of 1 year or more; or
  - (d) if—
    - (i) over a continuous period of 5 years or more, works within the ambit of the approval have not been used, or used to any significant degree; and
    - (ii) after consulting with the holder of the approval, the Minister considers that the works will not be used, or used to any significant degree, in the manner specified in the approval.
- (2) The Minister must, at least 1 month before cancelling a water resource works approval under subregulation (1)(a) or (b), notify the holder of the water resource works approval of the Minister's intention to cancel the water resource works approval.
- (3) The Minister must not cancel a water resource works approval under this regulation if it appears to the Minister that the cancellation would have an unreasonable impact on a water resource or other form of natural resource.

**27—Cancellation of site use approval—prescribed scheme (section 145 of Act)**

- (1) Subject to this regulation, the Minister may cancel a site use approval in the following circumstances:
  - (a) on the application of the holder of a site use approval;
  - (b) if, as a result of the provisions of a relevant water allocation plan, the Minister considers that the site use approval is no longer required;
  - (c) if the Minister considers it necessary or appropriate to cancel the site use approval as a result of a division of land, or the acquisition of land by an agency or instrumentality of the Crown or a council;
  - (d) if—
    - (i) there has been no water use of the kind specified in the site use approval for at least 5 years; and
    - (ii) after consulting with the holder of the site use approval, the Minister considers that the purpose or purposes for which the site use approval was granted will not be carried out at that place in the future.

- (2) The Minister must not cancel a site use approval under this regulation if it appears to the Minister that the cancellation would have an unreasonable impact on a water resource or other form of natural resource.

## **Part 7—Specific provisions relating to consumptive pools, water access entitlements and allocations**

### **28—Transfers between consumptive pools**

- (1) A water allocation plan may determine (subject to the provisions of the water allocation plan) that a portion of the water within a consumptive pool will be available for the purposes of any transfer of—
  - (a) a water access entitlement, or part of a water access entitlement; or
  - (b) a water allocation,where the transfer is to occur between 2 consumptive pools with the same prescribed water resource, or between 2 consumptive pools for 2 prescribed water resources that are both managed under the water allocation plan.
- (2) A share of water available in the consumptive pools will take into account the extent to which transfers may be allowed under subregulation (1).
- (3) A water allocation plan should only provide for transfers under subregulation (1) if—
  - (a) there is a reasonable connection (including from a management perspective) between the consumptive pools; and
  - (b) there is sufficient capacity within the relevant consumptive pool (as determined under the water allocation plan, or by the Minister in accordance with the provisions of the water allocation plan) for water to be taken from the water resource on account of any such transfers.

### **29—Classification of water access entitlements**

- (1) For the purposes of section 121 of the Act and without limiting the factors that may be specified by a water allocation plan, access to a share of water in a consumptive pool, as represented by a water access entitlement, may be classified according to 1 or more of the following characteristics:
  - (a) the purpose for which the water is used;
  - (b) the priority or reliability of allocations (with reliability being the frequency with which water allocated under a water access entitlement is able to be supplied in full);
  - (c) tradability;
  - (d) entitlement to any carry-overs;
  - (e) association with a management zone;
  - (f) any other characteristic identified in the water allocation plan.
- (2) For the purposes of Schedule 4 clause 6(g) of the Act, information relating to the class and reliability of a water access entitlement is prescribed.

**30—Variation of water licences—policies and principles specified by water allocation plan**

- (1) For the purposes of section 53(1)(k) of the Act, a water allocation plan may specify policies and principles that are relevant to the Minister making a decision under section 124 of the Act in relation to the variation of a water licence.
- (2) Without limiting subregulation (1), those policies or principles may provide for—
  - (a) the conversion of water access entitlements on account of any transfer; and
  - (b) the reclassification of water access entitlements, including on account of changes in reliability.

**31—Water allocation plans—priorities for allocation according to management zones**

- (1) For the purposes of section 53(1)(k) of the Act, a water allocation plan may set out a framework or scheme for how water in a consumptive pool that is available for allocation is to be prioritised for allocation to different classes of entitlement within the consumptive pool.
- (2) Without limiting subregulation (1), a water allocation plan may—
  - (a) specify different principles for the reduction or variation of water access entitlements; or
  - (b) specify different principles for the allocation of water, or for the reduction or variation of water allocations,

according to management zones established by the water allocation plan.

**32—Tagged interstate water trades**

- (1) If—
  - (a) a transfer of a water allocation is being undertaken (or is proposed to be undertaken) under an Interstate Water Entitlements Transfer Scheme; and
  - (b) the transfer is (or is proposed to be) part of a series of transfers (including a series of 2) to occur under that scheme; and
  - (c) the person who is to obtain the benefit of each transfer—
    - (i) is the same person each time; and
    - (ii) holds an entitlement under a corresponding law of another jurisdiction (being an entitlement that is relevant to the transfer of the water allocation either by giving rise to the water allocation or by receiving the benefit of the water allocation); and
  - (d) the scheme under which the transfer of allocation is occurring is supported by an intergovernmental agreement that, under a determination of the Minister, is recognised for the purposes of this regulation,

then—

- (e) a fee (being the fee prescribed under the Act) is payable in relation to an application to register the transfers (or proposed transfers) under the scheme; but

- (f) no fee is payable, in relation to any transfers in the series once the registration has occurred.
- (2) Nothing in subregulation (1) derogates from any other requirement under the Act—
  - (a) to provide information, or a notice or other document or instrument, in connection with the provision, delivery or receipt of water (or an entitlement to water); or
  - (b) to hold a water resource works approval or a site use approval in an appropriate case.

### **33—Joint applications to vary water take or use limits on water licence or approval**

- (1) A joint application may be made by the holders of—
  - (a) 2 or more water licences; or
  - (b) 2 or more water resource works approvals; or
  - (c) 2 or more site use approvals,for a variation prescribed under subregulation (2).
- (2) The following variations are prescribed:
  - (a) the variation of conditions of water licences, water resource works approvals or site use approvals (as the case may be), so that a volume of water that may be taken, collected, used, diverted or extracted under the licences or approvals (as applies in the appropriate case) may be reduced under one or more instruments and increased under the other instrument or instruments;
  - (b) the variation of maximum volumes of water under section 135(1)(b) or 142(1)(b) of the Act in relation to water resource works approvals or site use approvals (as the case may be), so that a volume of water that may be taken, collected, used, diverted or extracted under the approvals (as applies in the appropriate case) may be reduced under one or more instruments and increased under the other instrument or instruments
- (3) A variation under subregulation (1) must be consistent with section 124(3), 136(4) or 143(3) of the Act (as the case requires).

## **Part 8—Forest water licences**

### **34—Interpretation—harvesting (section 164 of Act)**

- (1) For the purposes of section 164 of the Act, a reference to harvesting does not include the following activities:
  - (a) forest thinning;
  - (b) salvage operations following instances of pest incursion, wind-throw, fire or other such harmful or damaging events to forest vegetation;
  - (c) an activity specified in the water allocation plan relating to the declared forestry area as an activity that does not constitute harvesting.
- (2) In this regulation—

*forest thinning* means the selective removal of a proportion of the trees from a commercial forest, primarily undertaken to improve the growth rate or health of the remaining trees in the forest, but does not include clear-felling.

### **35—Provision of notice to Minister (section 166 of Act)**

- (1) Notice of a transfer under section 166(6) of the Act must be furnished to the Minister in a manner and form and within a period determined by the Minister.
- (2) Notice of an assignment under section 166(7) of the Act must be furnished to the Minister in a manner and form and within a period determined by the Minister.

### **36—Variations—allocations—prescribed period (section 168 of Act)**

For the purposes of section 168(1)(b) of the Act, the period of 18 months is prescribed.

### **37—Approval for transfer of allocations—prescribed circumstances (section 169 of Act)**

- (1) For the purposes of section 169(7)(d) of the Act, the Minister must refuse an application for a transfer if the applicant has not paid a water levy, or a part of a water levy, and the Minister thinks that it is appropriate to refuse the application on the basis of the non-payment.
- (2) For the purposes of section 169(9) of the act, the forest manager may not deal with a water allocation attached to the licence if the result would be that the water allocation attached to the licence would fall below the water required to offset the impact of the forest on the relevant water resource (as determined under the relevant water allocation plan).

### **38—Variation—conditions—prescribed period (section 171 of Act)**

For the purposes of section 171(1)(b) of the Act, the period of 18 months is prescribed.

### **39—Surrender of licences—prescribed circumstances (section 173 of Act)**

For the purposes of section 173 of the Act, a licensee may surrender a forest water licence in circumstances where the commercial forest the subject of the forest water licence has been permanently removed.

### **40—Offences—prescribed rate (section 175 of Act)**

For the purposes of section 175(2)(a)(i) of the Act, the prescribed rate is \$25 per kilolitre.

## **Part 9—Miscellaneous**

### **41—Prescribed period (section 184 of Act)**

For the purposes of section 184(3) of the Act, the period of 3 months from the date of application is prescribed.



**42—Availability of representations (section 113 of Act)**

- (1) For the purposes of section 113 of the Act, the relevant authority must ensure that a copy of any representation made under section 113(3) of the Act, and of any response made under section 113(4) of the Act, is available for inspection by members of the public for at least 12 months after the relevant authority gives it decision on the application.
- (2) No fee is payable to inspect a representation while it is to be available under subregulation (1).

**43—Requirement to provide information to Minister**

- (1) SA Water and all other persons who provide reticulated water supply or sewerage services and all persons who provide water drainage services must, at the request of the Minister, provide the Minister with the following information:
  - (a) the location of the infrastructure used by the person to provide those services;
  - (b) the materials used in the construction of the infrastructure;
  - (c) the capacity of the infrastructure;
  - (d) in the case of SA Water or any other person who provides reticulated water supply services—
    - (i) the source, volume and quantity of the water flowing into reservoirs and other storage facilities under by SA Water or the other person; and
    - (ii) the volume and quality of water held in storage; and
    - (iii) the volume of water lost to evaporation or leakage from storage facilities; and
    - (iv) the volume and quality of water discharged from storage facilities for supply to customers or for any other purpose;
  - (e) in the case of SA Water or any other person who provides sewerage or other water drainage services—
    - (i) the volume and quality of water in the sewerage or water drainage system; and
    - (ii) the volume and quality of water discharged from the sewerage or water drainage system;
  - (f) such other information as the Minister may determine.
- (2) Section 9(3) of the Act applies to the kinds of information referred to in subregulation (1) including information requested by the Minister under subregulation (1)(f).

**44—Amendment of water affecting activities control policies**

Pursuant to Schedule 2 clause 4(8)(b) of the Act, the provisions of Schedule 2 clause 4 do not apply to an amendment of a water affecting activities control policy by a prescribed authority if the amendment is—

- (a) to correct an error in the policy; or

(b) to make a change of form (not involving a change of substance) in the policy.

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council

on

No            of 2020