

NORTHERN TERRITORY OF AUSTRALIA

WATER REGULATIONS

As in force at 26 November 2008

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NORTHERN TERRITORY OF AUSTRALIA

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WATER REGULATIONS

Regulations under the *Water Act*

Part 1 Preliminary

1 Citation

These Regulations may be cited as the *Water Regulations*.

2 Commencement

These Regulations shall come into operation on the commencement of the *Water Act 1992*.

2A Definitions

In these Regulations:

approved form means a form approved by the Controller under regulation 3(2).

relevant land, in relation to an application made under the Act, means the land to which the application relates.

3 Applications and forms

- (1) A person who makes an application under the Act must lodge the application with the Agency.
- (2) The Controller may approve the forms to be used under the Act.
- (3) An application required to be in accordance with an approved form must include, or be accompanied by, all the information required by the form that is necessary for the person to whom the application is made to make a proper decision.
- (4) If a person lodges an application with insufficient information to enable a proper decision to be made, a public sector employee of the Agency may return the application for proper completion.

Part 2 Review

4 Review of action or decision of controller

- (1) An application under section 30 of the Act shall:
 - (a) be in accordance with the approved form; and
 - (b) be made within 30 days after the notification to the applicant of the decision or action it is proposed should be reviewed.
- (2) Where a Review Panel is convened for the purpose of advising the Minister on a matter to be reviewed, the Chairman of the Panel shall, in accordance with the approved form, cause details of the date, time and place at which the Panel will meet to consider the matter to be advised to the applicant.
- (3) Where 2 or more applicants seek reviews on similar grounds in respect of matters concerning land in the same general locality, the Review Panel may consider the matters together.
- (4) The Minister shall advise an applicant of the Minister's decision on any matter referred to the Review Panel within one month after the Review Panel gives its advice to the Minister.

Part 3 Permits and licences

Division 1 Permits and licences except drilling licences

5 Water investigation permit

- (1) An application under section 36(1) of the Act for a permit to explore for water (a ***water investigation permit***) must be in accordance with the approved form.
- (2) The Controller may publish in a newspaper circulating in the locality where it is proposed to explore a notice that the application has been made.
- (3) The newspaper notice must include the following details:
 - (a) a description of the relevant land;
 - (b) the person to whom enquiries about the application may be directed;
 - (c) the way in which objections to the granting of the water investigation permit may be made.

- (4) The costs of publishing the newspaper notice must be met by the applicant for the water investigation permit.
- (5) If a newspaper notice is published, the Controller must give a copy of the notice to the owners and occupiers of land in the vicinity of the relevant land that the Controller considers may be affected by the grant of the water investigation permit.
- (6) Subregulation (2) does not apply if the application is for the renewal of an existing water investigation permit and is made not later than 1 month before the date on which the existing permit is due to expire.
- (7) A water investigation permit must be in the approved form.

6 Permit to construct or alter works

- (1) An application under section 41(1) of the Act for a permit to construct or alter a dam, water storage or water control structure (a **permit to construct or alter works**) must be in accordance with the approved form.
- (2) The Controller may publish in a newspaper circulating in the locality where it is proposed to carry out the work a notice that the application has been made.
- (3) The newspaper notice must include the following details:
 - (a) a description of the relevant land;
 - (b) the person to whom enquiries about the application may be directed;
 - (c) the way in which objections to the granting of the permit to construct or alter works may be made.
- (4) The costs of publishing the newspaper notice must be met by the applicant for the permit to construct or alter works.
- (5) If a newspaper notice is published, the Controller must give a copy of the notice to the owners and occupiers of land upstream or downstream of the relevant land that the Controller considers may be affected by the grant of the permit to construct or alter works.
- (6) Subregulation (2) does not apply if the application is for the renewal of an existing permit to construct or alter works and is made not later than 1 month before the date on which the existing permit is due to expire.
- (7) A permit to construct or alter works must be in the approved form.

7 Bore construction permit

- (1) An application under section 57(1) of the Act for a permit to carry out an operation referred to in section 56(1) of the Act (a **bore construction permit**) must be in accordance with the approved form.
- (2) A bore construction permit must be in the approved form.

8 Surface water extraction licence

- (1) An application under section 45(1) of the Act for a water extraction licence to take or use water (a **surface water extraction licence**) must be in accordance with the approved form.
- (2) A surface water extraction licence must be in the approved form.

9 Ground water extraction licence

- (1) An application under section 60(1) of the Act for a water extraction licence to take water from a bore (a **ground water extraction licence**) must be in accordance with the approved form.
- (2) A ground water extraction licence must be in the approved form.

9A Waste discharge licence

- (1) An application under section 74(1) of the Act for a licence to carry out an action otherwise prohibited by section 73 of the Act (a **waste discharge licence**) must be in accordance with the approved form.
- (2) A waste discharge licence must be in the approved form.

Division 2 Drilling Licences and Qualifications

10 Drilling licence

- (1) An application under section 49(1) of the Act for a drilling licence must be in accordance with the approved form.
- (2) The kinds of drilling licences the Controller may grant are as follows:
 - (a) Drilling Licence Class 1;
 - (b) Drilling Licence Class 2;
 - (c) Drilling Licence Class 3 (restricted or unrestricted).
- (3) A drilling licence must be in the approved form.

11 Section 53 – prescribed information and samples

- (1) This regulation prescribes the information and samples the Controller may require the holder of a drilling licence (the *licensee*) to provide under section 53 of the Act in connection with work carried out on a bore under the licence.
- (2) The prescribed information is any of the following:
 - (a) information about the bore, including:
 - (i) the name of the bore's owner; and
 - (ii) the name of the bore; and
 - (iii) a sketch and brief description of the bore's location; and
 - (iv) the bore's final construction status (for example, whether the bore is capped, equipped, backfilled or abandoned);
 - (b) information about the work carried out, including:
 - (i) the dates on which the work started and ended; and
 - (ii) the contractor and driller carrying out the work and whether it was carried out under the supervision of the licensee; and
 - (iii) the nature of the work, including the method of drilling, the diameter of the hole drilled, and the casing and packing used;
 - (c) information about the strata and water bearing beds found in the bore;
 - (d) information necessary for the Controller to ensure the licensee has complied with the Act.
- (3) The prescribed samples are 1 or both of the following:
 - (a) representative samples of strata, each of approximately 250 grams and including a sample of each change of strata observed in the bore:
 - (i) taken from the bore at intervals not exceeding 3 metres; and
 - (ii) secured in clean bags, preferably made of plastic, each at least 10cm x 15cm in size and 0.1mm thick;

- (b) a representative sample of at least 1 litre of water:
 - (i) taken from each water cut encountered during bore drilling operations; and
 - (ii) preserved in a clean bottle that is completely filled and tightly stoppered or sealed.
- (4) A bag or bottle in which a sample is kept must be clearly marked to identify the bore from which, and the depth at which, the sample was taken.

12 Drillers' Qualifications Advisory Committee

- (1) The Drillers' Qualifications Advisory Committee shall be constituted by 8 members appointed by the Minister:
 - (a) 2 of whom shall be qualified as hydrogeologists or groundwater engineers;
 - (b) 2 of whom shall have, in the Minister's opinion, adequate experience in the planning and conduct of drilling operations;
 - (c) 2 of whom shall be appointed to represent users and shall be persons who, in the Minister's opinion, are not involved in the drilling industry or employed in the public sector; and
 - (d) 2 of whom shall be appointed from a panel of not less than 3 names submitted to the Minister by the Australian Drilling Industry Association or, if no such panel is nominated, then as the Minister thinks fit.
- (2) The Minister shall appoint one of the members of the Committee to be its chairman and such other members, in the order the Minister chooses, to be its acting chairman in the absence of the Chairman from a meeting of the Committee.
- (3) The Chairman shall call such meetings of the Committee as the Controller directs.
- (4) At a meeting of the Committee:
 - (a) the Chairman and 3 other members, one from each of the categories of members other than the Chairman's, constitute a quorum;
 - (b) questions arising shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes the matter shall be taken to have been defeated; and

- (c) subject to this regulation, the Committee shall determine the procedure to be followed at or in connection with the meeting.
- (5) The Committee shall keep records of its meetings.
- (6) In this regulation **Chairman** includes an acting chairman while so acting.

13 Functions of Committee

- (1) The functions of the Drillers' Qualifications Advisory Committee are to advise the Controller:
 - (a) in relation to the granting, renewal or variation of Drilling Licences;
 - (b) in relation to the operation of Division 2 of Part 6 of the Act; and
 - (c) on matters referred to it by the Controller.

14 Qualifications

For the purposes of section 49(1)(b) of the Act, the prescribed qualifications are a pass in such examinations set or nominated by the Drillers' Qualifications Advisory Committee as the Committee thinks appropriate for the type of work proposed to be carried out under the Drilling Licence, or such other qualifications and/or experience as the Committee or the Controller considers to be equivalent to those qualifications.

Division 3 General

15 Renewal of permits and licences

- (1) A person who holds a permit or licence (an **existing licence**) may renew the existing licence by lodging an application in accordance with the appropriate approved form.
- (2) An application to renew an existing licence must be lodged not later than 1 month before the date on which the licence is due to expire.
- (3) If the Controller renews an existing licence, the Controller must issue a further licence to the applicant.

16 Permits or licences lost or destroyed

Where a permit or licence document has been lost or destroyed, the Controller may, on receipt of a statutory declaration as to the circumstances of the loss or destruction and of any other evidence he or she considers necessary, issue a duplicate permit or licence

which shall have the word "duplicate" endorsed on it.

17 Register of water extraction licences

The register of water extraction licences must contain the following information in relation to each water extraction licence in force:

- (a) the name and address of the holder of the licence;
- (b) the date on which the licence is due to expire;
- (c) the location of the property from which the water is currently taken;
- (d) the maximum quantity of water that may be taken annually;
- (e) the source of the water that may be taken.

18 Joint interests

- (1) Every joint application for a licence, permit or consent shall be in accordance with the appropriate approved form for such an application but shall be in the names of and signed by each joint applicant, or his or her agent, and shall bear the address of each such applicant.
- (2) The Controller, after considering the application, the objections, if any, and all replies to such objections made by one or more of the joint applicants, shall determine whether or not a licence, permit or consent:
 - (a) shall be granted to the applicants jointly;
 - (b) shall be granted to one or more of the applicants, but not to all the applicants,

and may include as a condition of the licence, permit or consent such special conditions concerning the joint and several obligations of the applicants as the Controller thinks fit.

- (3) It shall be a condition of every joint licence, permit or consent:
 - (a) that each joint holder is jointly and severally bound by the terms and conditions;
 - (b) that each joint holder is jointly and severally liable for any fees or other amounts payable or which may become payable under the Act;

- (c) that where one joint holder is convicted of an offence against the Act, each and every joint holder shall be deemed also to have committed the offence and may be convicted of it and shall be liable to the penalty prescribed unless the joint holder proves that he did not know and had no reasonable means of knowing of the commission of the offence at the time of its commission; and
 - (d) that each joint holder is jointly and severally bound to comply with all notices and directions given under the Act, except where the notice or direction relates to any thing, measure or work on the land of one or more, but not all, such holders, in which case the notice or direction shall specify which joint holders shall be bound to comply therewith and are liable for a failure so to do.
- (4) Where, pursuant to section 93(1) of the Act, the Controller, by notice, amends or modifies the terms and conditions of a joint licence, permit or consent, the Controller may specify in the notice the manner in which the respective entitlements of each of the joint holders are amended or modified by the notice.
 - (5) Where pursuant to section 93(2) of the Act the Controller, by notice, revokes or suspends a joint licence, permit or consent, the Controller may specify in the notice the manner in which the respective entitlements of each of the holders are revoked or suspended.
 - (6) Where an application, notice or other document is permitted or required to be served on the joint holders of a licence, permit or consent, service on any one such joint holder shall be deemed to be service on every joint holder.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2**LIST OF LEGISLATION*****Water Regulations (SL No. 28, 1992)***

Notified	30 June 1992
Commenced	1 July 1992 (r 2, s 2 <i>Water Act 1992</i> (Act No. 19, 1992) and <i>Gaz S35</i> , 30 June 1992)

Amendments of Water Regulations (SL No. 23, 1994)

Notified	10 August 1994
Commenced	10 August 1994

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date	18 June 1999
Commenced	18 June 1999

Amendment of Water Regulations (SL No. 2, 2002)

Notified	13 February 2002
Commenced	13 February 2002

Water Amendment Regulations (SL No. 31, 2008)

Notified	26 November 2008
Commenced	26 November 2008 (r 2, s 2 <i>Water Amendment Act 2007</i> (Act No. 33, 2007) and <i>Gaz G47</i> , 26 November 2008, p 6)

3**LIST OF AMENDMENTS**

r 2A	ins No. 31, 2008, r 4
r 3	sub No. 31, 2008, r 5
r 4	amd No. 31, 2008, r 11
pt 3	
div 1 hdg	sub No. 31, 2008, r 6
rr 5 – 9	sub No. 31, 2008, r 6
r 9A	ins No. 23, 1994, r 1
	sub No. 31, 2008, r 6
rr 10 – 11	sub No. 31, 2008, r 7

ENDNOTES

- r 15 sub No. 31, 2008, r 8
r 17 amd No. 23, 1994, r 2
 sub No. 31, 2008, r 9
r 18 amd No. 31, 2008, r 11
sch amd Act No. 27, 1999, s 16; No. 2, 2002
 rep No. 31, 2008, r 10