

South Australia

**GROUND WATER (QUALCO-SUNLANDS) CONTROL REGULATIONS
2000**

**REGULATIONS UNDER THE GROUND WATER (QUALCO-SUNLANDS) CONTROL
ACT 2000**

Ground Water (Qualco-Sunlands) Control Regulations 2000

being

No. 240 of 2000: *Gaz.* 5 October 2000, p. 2364¹

¹ Came into operation 5 October 2000: reg. 2.

N.B. The amendments effected to these regulations by Regulation No. 154 of 2002 have not come into operation.

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**PART 1
PRELIMINARY**

Citation

1. These regulations may be cited as the *Ground Water (Qualco-Sunlands) Control Regulations 2000*.

Commencement

2. These regulations come into operation on the day on which they are made.

Interpretation

3. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Ground Water (Qualco-Sunlands) Control Act 2000*.

"**the perched water table**" means the water table of the accumulation of underground water above the layer of Blanchetown Clay in the Scheme Area.

PART 2
SHARING THE COSTS OF THE SCHEME

DIVISION 1—PRELIMINARY

Interpretation

4. (1) In this Part, unless the contrary intention appears—

"**costs of the Scheme**" for a contribution year means—

- (a) the amount paid by the Treasurer to the Trust under section 47 of the Act for that year; and
- (b) the amount determined by the Minister to cover recovery costs referred to in section 46(6) of the Act for that year; and
- (c) the amount (if any) referred to in section 48(1)(c) of the Act;

"**pumping costs**" for a contribution year means the component of the costs referred to in section 46(4)(b) of the Act for that year;

"**the remaining costs of the Scheme**" for a contribution year means that part of the costs of the Scheme for that year that are not pumping costs.

(2) For the purposes of this Part, the risk management allocation attached to land in respect of a contribution year is the risk management allocation attached to the land at the commencement of that year.

DIVISION 2—THE FIRST FIVE YEARS

Application of this Division

5. This Division applies in relation to the 2000/2001, the 2001/2002, the 2002/2003, the 2003/2004 and the 2004/2005 contribution years.

Interpretation

6. In this Division—

"**notional maintenance costs**" for a contribution year means the amount determined by the Trust under regulation 7(1) in respect of that year;

"**notional mound reduction costs**" for a contribution year means the amount determined by the Trust under regulation 7(2) in respect of that year.

Determination of notional maintenance and mound reduction costs

7. (1) The Trust must determine in respect of each contribution year the amount (to be a notional amount for the purposes of this Division) that in its opinion will be required—

- (a) to cover the cost of pumping sufficient water into the disposal basins to prevent any increase in the volume of the ground water mound and the underground water above the layer of Blanchetown Clay in the Scheme Area during that year; and

5.

- (b) to cover the cost of pumping sufficient water into the disposal basins to ensure that the Governments' cost/benefit ratio and the Trust's cost/benefit ratio are equal as required by section 25 of the Act.

(2) The Trust must determine in respect of each of the first ten contribution years of the Scheme an amount (to be a notional amount for the purposes of this Division) that in its opinion would be required to cover the cost of pumping water into the disposal basins if the water table of the ground water mound is to be lowered over the first 10 years of the Scheme to be not less than three metres below the ground level of all, or almost all, of the irrigated land by the end of that period.

(3) The amounts determined under subregulation (2) must, as far as practicable, be equal in respect of each of the contribution years concerned.

Division of the pumping costs

8. The pumping costs for each contribution year are to be divided into two parts designated "A" and "B" so that the ratio of part A to part B is the same as the ratio of the notional maintenance costs to the notional mound reduction costs.

Sharing the costs of the Scheme

9. (1) Part A of the pumping costs for a contribution year are shared between the owners and occupiers of the category 1 and 2 land in proportion to the risk management allocations attached to their respective land.

(2) Part B of the pumping costs for a contribution year are shared between the owners and occupiers of category 1 land in proportion to the risk management allocations attached to their respective category 1 land.

(3) The remaining costs of the Scheme for that contribution year are shared between the owners and occupiers of the category 1 and 2 land in proportion to the risk management allocations attached to their respective land.

Liability for the unauthorised use of water

10. Where the use of water to irrigate land in a water usage year was unauthorised (*see* section 50 of the Act) the owner and occupier of the land on which the water was used are liable to pay an amount calculated in accordance with the following formula:

$$A = P \times UW \times UR$$

Where

A is the amount

P is—

- (a) if the total quantity of water used to irrigate the land concerned over the relevant block of three consecutive water usage years is 110 per cent or less of the total quantity of water authorised for irrigation during that block of three years—2; or

6.

(b) if—

- (i) the percentage referred to in paragraph (a) is greater than 110 per cent; or
- (ii) no water was authorised for irrigation of the land concerned by a risk management allocation during the relevant block of three consecutive water usage years—4

UW is the quantity of unauthorised water (expressed in megalitres) used, or taken to be used, in the water usage year on the land

UR is the unauthorised rate and is—

- (a) the rate per megalitre of risk management allocation payable by the owners and occupiers of the category 1 and 2 land for the relevant contribution year under regulation 9(1); or
- (b) the rate per megalitre of risk management allocation payable by the owners and occupiers of the category 1 land for the relevant contribution year under regulation 9(2),

whichever is the greater.

DIVISION 3—AFTER THE FIRST FIVE YEARS

Application of this Division

11. This Division applies in relation to the 2005/2006 and subsequent contribution years.

Interpretation

12. (1) In this Division—

"**notional maintenance costs**" for a contribution year means the amount determined by the Trust under regulation 13(1)(a) in respect of that year;

"**notional mound reduction costs**" for a contribution year means the amount determined by the Trust under regulation 13(1)(c) in respect of that year;

"**notional River Murray salinity reduction costs**" for a contribution year means the amount determined by the Trust under regulation 13(1)(b) in respect of that year.

(2) Determinations of shares under this Division will be based initially on the assumption that the quantity of water to be used to irrigate each property during the relevant water usage year will be the same as the quantity used in the immediately preceding water usage year but are subject to redetermination under section 49 of the Act.

Determination of notional costs

13. (1) The Trust must determine in respect of each contribution year three amounts (each amount to be a notional amount for the purposes of this Division) as follows:

- (a) the amount that in its opinion will be required to cover the cost of pumping sufficient water into the disposal basins to prevent any increase in the volume of the ground water mound and the underground water above the layer of Blanchetown Clay in the Scheme Area during that year;
- (b) the amount that in its opinion will be required to cover the cost of pumping sufficient water into the disposal basins to ensure that the Governments' cost/benefit ratio and the Trust's cost/benefit ratio are equal as required by section 25 of the Act;
- (c) the amount in respect of each of the first 10 contribution years of the Scheme that in its opinion would be required to cover the cost of pumping water into the disposal basins if the water table of the ground water mound is to be lowered over the first 10 years of the Scheme to be not less than three metres below the ground level of all, or almost all, the irrigated land by the end of that period.

(2) The amount determined under subregulation (1)(c) must, as far as practicable, be equal in respect of each of the contribution years concerned.

Division of the pumping costs

14. The pumping costs for each contribution year are to be divided into three parts designated "A", "B" and "C" so that the ratio of part A to part B to part C is the same as the ratio of the notional maintenance costs to the notional River Murray salinity reduction costs to the notional mound reduction costs for that year.

Sharing the costs of the Scheme

15. (1) Part A of the pumping costs for a contribution year are shared between the owners and occupiers of the category 1 and 2 land in proportion to the quantities of water used to irrigate their land during the corresponding water usage year.

(2) Part B of the pumping costs for a contribution year are shared between the owners and occupiers of the category 1 and 2 land in proportion to the risk management allocations attached to their respective land.

(3) Part C of the pumping costs for a contribution year are shared between the owners and occupiers of the category 1 land in proportion to the quantities of water used to irrigate their category 1 land during the corresponding water usage year.

(4) The remaining costs of the Scheme for that contribution year are shared between the owners and occupiers of the category 1 and 2 land in proportion to the risk management allocations attached to their respective land.

Liability for the unauthorised use of water

16. Where the use of water to irrigate land in a water usage year was unauthorised (*see* section 50 of the Act) the owner and occupier of the land on which the water was used are liable to pay an amount calculated in accordance with the following formula:

$$A = P \times UW \times UR$$

Where

A is the amount

P is—

(a) if the total quantity of water used to irrigate the land concerned over the relevant block of three consecutive water usage years is 110 per cent or less of the total quantity of water authorised for irrigation during that block of three years—1; or

(b) if—

(i) the percentage referred to in paragraph (a) is greater than 110 per cent; or

(ii) no water was authorised for irrigation of the land concerned by a risk management allocation during the relevant block of three consecutive water usage years—3

UW is the quantity of unauthorised water (expressed in megalitres) used, or taken to be used, in the water usage year on the land

UR is the unauthorised rate and is—

(a) the rate per megalitre payable by the owners and occupiers of the category 1 and 2 land for the relevant contribution year under regulation 15(1); or

(b) the rate per megalitre payable by the owners and occupiers of the category 1 land for the relevant contribution year under regulation 15(3),

whichever is the greater.

PART 3
CATEGORIES OF LAND

Categories of land

17. (1) Irrigated land in the Scheme Area is divided into category 1 land and category 2 land.

(2) The division of irrigated land under subregulation (1) is based on the classification of irrigated land under section 33 of the Act as being at a high, medium or low risk of irrigation induced waterlogging and salinisation in respect of rising levels of the ground water mound and in respect of rising levels of the perched water table so that—

- (a) land is category 1 land if it is—
 - (i) at high risk from rising levels of the ground water mound or the perched water table; or
 - (ii) at medium risk from rising levels of the ground water mound and the perched water table; and
- (b) land is category 2 land if it is—
 - (i) at medium risk from rising levels of the ground water mound and at low risk from rising levels of the perched water table; or
 - (ii) at low risk from rising levels of the ground water mound but at medium or low risk from rising levels of the perched water table.

PART 4
IRRIGATION DECLARATION

Irrigation declaration

18. (1) The Trust must within seven days after the commencement of this regulation serve on the owner of each irrigated property a form of irrigation declaration which the owner may, but is not required to, complete in relation to the 2000/2001 contribution year.

(2) An irrigation declaration for the 2000/2001 contribution year—

- (a) must, if it is to have any force or effect for the purposes of the Act and these regulations, be completed and returned to the Trust within 28 days after the commencement of this regulation; and
- (b) may include an application under section 41 of the Act for the initial risk management allocation referred to in that section.

(3) The Trust must, on or before 30 June 2001 and on or before 30 June in each succeeding year, serve on the owner of each irrigated property to which, or to part of which, a risk management allocation is attached a form of irrigation declaration to be completed by the owner in relation to the next contribution year.

(4) Each owner referred to in subregulation (3) must complete and return the irrigation declaration to the Trust on or before 31 July preceding that contribution year.

(5) An irrigation declaration—

- (a) must include the following information:
 - (i) information identifying the area or areas of land comprising the whole or part of the irrigated property (excluding any areas identified under subparagraph (vi)) that are situated in the Scheme Area that are to be irrigated during the current water usage year using water taken pursuant to a water licence; and
 - (ii) the category or categories of the land referred to in subparagraph (i) and if more than one category is involved, the boundaries of the land in each category; and
 - (iii) the method of irrigation (including the method for monitoring irrigation efficiency) to be used and, if more than one method is to be used, the area and category of the land to which each method will apply during the current water usage year; and
 - (iv) the waterlogging and salinity risk management allocation attached to the land and, if the land is divided into two categories, the risk management allocation attached to the land in each category (this subparagraph does not apply to the irrigation declaration for the 2000/2001 contribution year); and

- (v) if the risk management allocation in respect of either category of land is less than that declared in the previous year's irrigation declaration—the reason for the reduction; and
 - (vi) information identifying the area or areas of land (if any) that are to be irrigated during the current water usage year with zero impact (certified by the Minister) on waterlogging and salinisation of land and salinity levels in the River Murray; and
 - (vii) the crop or crops cultivated during the immediately preceding water usage year and the area and category of land on which the crop was, or each of the crops were, cultivated during that year;
- (b) must state the quantity of water used to irrigate each category of land comprising the irrigated property to which the declaration relates in the water usage year immediately preceding the current water usage year;
- (c) may include an application for an increase in the risk management allocation in respect of one or both of the categories of land comprising the irrigated property.
- (6) If an owner—
- (a) makes an application under subregulation (5)(c); and
 - (b) is (where the applications by owners cannot be fully satisfied) prepared to accept in partial satisfaction of his or her application (without prejudice to his or her right to have the application satisfied in full in subsequent years) a risk management allocation that represents less than the share of the available excess risk management capacity of the Scheme that he or she is entitled to under section 43(8) of the Act,

he or she must state in the irrigation declaration that fact and the risk management allocation that he or she is prepared to accept.

- (7) If an owner—
- (a) completes and returns an irrigation declaration for the 2001/2002 or a subsequent contribution year to the Trust on or before 31 July as required by subregulation (4); and
 - (b) subsequently satisfies the Trust on or before the following 31 August that the declaration includes a genuine error,

the owner may on or before 31 August provide another declaration to the Trust in substitution for the previous declaration that corrects the error but does not make any other changes to the previous declaration.

Risk Management allocations attached to highest risk land

19. A new risk management allocation or an increase in an existing allocation referred to in section 45(4) of the Act may be attached to the category of land having the highest degree of risk but only if—

- (a) it is a term of the agreement under that section that the additional risk management allocation be attached to that category of land; and
- (b) the Minister is satisfied that irrigation pursuant to the new or increased risk management allocation will not—
 - (i) increase the risk of waterlogging or salinisation of any other land having the highest degree of risk in the Scheme Area; or
 - (ii) increase the share payable under the Act by any other owner of that category of land.