

South Australia

Landscape South Australia (Transitional Provisions) (Miscellaneous) Variation Regulations 2020

under the *Landscape South Australia Act 2019*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Landscape South Australia (Transitional Provisions) Regulations 2019*

- 4 Variation of heading to Part 2
- 5 Variation of regulation 5—Regional NRM boards
- 6 Insertion of regulations 6 to 8
 - 6 NRM groups
 - 7 NRM Committees
 - 8 Financial statements and annual reports
- 7 Insertion of Parts 3 to 5

Part 3—Financial matters (including levies)

- 9 Amounts outstanding under *Water Resources Act 1997*
- 10 Funds to assist in implementation of Act
- 11 Additional transitional financial years

Part 4—Water management

- 12 General
- 13 Bundled water licences

Part 5—Miscellaneous

- 14 Regional landscape board staff
 - 15 Landscape affecting activities
 - 16 Control or quarantining of a plant or animal
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Landscape South Australia (Transitional Provisions) (Miscellaneous) Variation Regulations 2020*.

2—Commencement

These regulations come into operation on 9 April 2020.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Landscape South Australia (Transitional Provisions) Regulations 2019*

4—Variation of heading to Part 2

Heading to Part 2—delete "Establishment of boards" and substitute:

Governance

5—Variation of regulation 5—Regional NRM boards

Regulation 5—after its present contents (now to be designated as subregulation (1)) insert:

- (2) In connection with the operation of Schedule 5 clause 90(1) of the Act—
 - (a) if a person is appointed under that clause as the sole member of a regional NRM board—they will be taken to be the presiding member of the board under the repealed Act; and
 - (b) if 2 or more persons are appointed under that clause as the members of a regional NRM board—the Minister may appoint 1 of the persons as the presiding member of the board under the repealed Act.

6—Insertion of regulations 6 to 8

After regulation 5 insert:

6—NRM groups

- (1) An NRM group that has not been abolished under section 46 of the repealed Act before the designated day will continue in existence until abolished by the Minister by notice in the Gazette under this regulation.
- (2) In connection with subregulation (1)—
 - (a) subject to any direction of the Minister, the NRM group will be responsible to the regional landscape board or boards with regions that coincide with any part of the area within which the NRM group operates; and
 - (b) sections 47 to 62 (inclusive), other than section 61, of the repealed Act will continue to apply to and in relation to the NRM group subject to the following provisions:
 - (i) a reference in those sections to a relevant regional NRM board or boards will be taken to be a reference to the relevant regional landscape board or boards referred to in paragraph (a); and

- (ii) a reference in those sections to a relevant regional NRM plan will be taken to include a reference to a relevant regional landscape plan; and
 - (iii) the functions of the NRM group will include supporting the objects of the Act and assisting in other ways to support the administration of the Act at the local level; and
 - (c) on the abolition of the NRM group the Minister may, by notice in the Gazette, provide for the vesting or distribution of any outstanding property, assets or rights of the NRM group, and attach any liability of the NRM group to the Minister or to a regional landscape board (as the Minister thinks fit).
- (3) In this regulation—
- designated day* means the designated day under Schedule 5 clause 90 of the Act.

7—NRM Committees

- (1) A committee established by a regional NRM board under section 35 of the repealed Act and in existence immediately before the designated day will, subject to the Act, be taken to be a committee established under section 36 of the Act by a regional landscape board or boards with a region, or any part of a region that coincides with the region of the NRM board (and then may be reconstituted or dissolved by the regional landscape board or boards as they think fit).
- (2) In this regulation—
- designated day* means the designated day under Schedule 5 clause 90 of the Act.

8—Financial statements and annual reports

- (1) The Chief Executive will be responsible for—
- (a) the finalisation of the accounts and financial statements for the 2019/2020 financial year for regional NRM boards and NRM groups; and
 - (b) the preparation of an annual report relating to the activities of regional NRM boards and NRM groups for the 2019/2020 financial year.
- (2) Subregulation (1) does not apply in relation to an NRM group that continues in existence during any part of the 2020/2021 financial year.
- (3) If a regional landscape board established during the 2019/2020 financial year does not hold any money during that financial year, the board is not required to prepare and provide an annual report for that financial year to the Minister.

7—Insertion of Parts 3 to 5

After regulation 8 insert:

Part 3—Financial matters (including levies)

9—Amounts outstanding under *Water Resources Act 1997*

- (1) This regulation applies to—
 - (a) a levy or penalty declared under the relevant Act; and
 - (b) interest payable under the relevant Act (including interest that may be declared on account of any default under the relevant Act); and
 - (c) any rental for water meters; and
 - (d) any other fee or amount payable under the relevant Act.
- (2) An amount or liability to which this regulation applies is prescribed for the purposes of Schedule 5 clause 96(d) of the Act.
- (3) An amount or liability to which this regulation applies that is recovered under the repealed Act—
 - (a) will, subject to the operation of Schedule 5 clause 97 of the Act, be paid into the NRM Fund; and
 - (b) will be applied—
 - (i) for any purpose for which it could be applied before the relevant day; or
 - (ii) for any purpose connected with the operation of the repealed Act or the *Landscape South Australia Act 2019*.
- (4) In this regulation—

relevant Act means the *Water Resources Act 1997*;

relevant day means the day on which Parts 1 and 8 of the relevant Act are repealed.

10—Funds to assist in implementation of Act

A regional NRM board may apply any part of its fund under section 120 of the repealed Act in providing support to the implementation of the *Landscape South Australia Act 2019*.

11—Additional transitional financial years

- (1) In relation to a prescribed transitional financial year—
 - (a) the annual business plan of a regional landscape board does not need to be consistent with a regional landscape plan insofar as that plan is a regional NRM plan that has been applied and adopted under Schedule 5 Part 30 of the Act; and

- (b) the Minister may extend the scheme established under Schedule 5 clause 95(4) of the Act so that it applies in relation to 1 or both of the prescribed transitional financial years, subject to the following qualifications:
 - (i) subsections (4) to (10) of section 51 of the Act will apply in relation to those prescribed transitional financial years;
 - (ii) the scheme may not modify the requirements of sections 66, 71 or 76 of the Act in relation to those prescribed transitional financial years,but otherwise the scheme may continue to apply as set out in Schedule 5 clause 95 of the Act.

- (2) In this regulation—

prescribed transitional financial year means the 2023/2024 financial year and the 2024/2025 financial year.

Part 4—Water management

12—General

- (1) The following regulations will, on and from the designated day, continue to have force and effect as if they were regulations made under the relevant provisions of the Act (and may be varied or revoked by the Governor under the Act):
 - (a) the *Natural Resources Management (Eastern and Western Mount Lofty Ranges—Prescribed Water Resources) (Exemption of Certain Existing Users) Regulations 2012*;
 - (b) the *Natural Resources Management (Marne Saunders Prescribed Water Resources Area—Reduction of Water Access Entitlements) Regulations 2009*;
 - (c) the *Natural Resources Management (Peake, Roby and Sherlock Prescribed Wells Area—Reduction of Water Access Entitlements) Regulations 2010*.
- (2) A direction given to an owner of land under section 134 of the repealed Act, and in effect immediately before the designated day, will continue to have effect as if it had been given under section 111 of the Act.
- (3) A proclamation under section 142 or Schedule 2 of the repealed Act, and in effect immediately before the designated day, will continue to have effect as if it were a proclamation made under the corresponding provisions of the Act (and may be varied or revoked by the Governor under the Act).

- (4) A determination of the Minister under section 146(4) of the repealed Act, and in effect immediately before the designated day, will continue to have effect as if it had been made under the corresponding section of the Act (and may be varied by the Minister under the Act).
- (5) A procedure established by the Minister in relation to applications for licences under section 147(2) of the repealed Act, as in effect immediately before the designated day, may continue to have effect under section 122 of the Act.
- (6) A determination of the Minister under section 152(7)(b) of the repealed Act, or any policy established by the Minister for the purposes of that section, and in effect immediately before the designated day, will continue to have effect as if it had been made under the corresponding section of the Act.
- (7) A requirement, direction, approval, specification or determination of the Minister under Part 3 of the *Natural Resources Management (Financial Provisions) Regulations 2005*, and in effect immediately before the designated day, will continue to have effect as if it had been made under the corresponding regulations under the Act (and may be varied by the Minister on or after the designated day as the Minister thinks fit).
- (8) A direction under regulation 20 of the *Natural Resources Management (General) Regulations 2005*, and in effect immediately before the designated day, will continue to have effect as if it had been made under the corresponding regulations under the Act (and in the case of a direction of the Chief Officer, that will be taken to be a direction of the Chief Executive, and any such direction may be varied on or after the designated day).
- (9) In this regulation—
designated day means the designated day under Schedule 5 clause 101 of the Act.

13—Bundled water licences

- (1) A quantity of water included as part of a water licence, as determined under a water allocation plan or section 164N of the repealed Act or section 155 of the Act, and as referred to in Schedule 5 clause 102(1)(b) of the Act, may be taken to be a water access entitlement (and may then be transferred or otherwise dealt with as a water access entitlement under the Act).
- (2) A water allocation plan is not required to comply with the requirements of section 53(1)(c) and (d) of the Act in relation to a prescribed water resource under Schedule 5 clause 102 of the Act.
- (3) A water allocation plan that relates to a prescribed water resource under Schedule 5 clause 102 of the Act may be reviewed or amended without the need to make provision for—
 - (a) a matter referred to in section 53(1)(c) or (d) of the Act; or

- (b) any other matter that is subject to the operation of Schedule 5 clause 102 of the Act.
- (4) This regulation applies in relation to a particular prescribed water resource until the designated day for the prescribed water resource under Schedule 5 clause 102 of the Act.

Part 5—Miscellaneous

14—Regional landscape board staff

- (1) This regulation applies in relation to any person employed under section 35(4) of the Act before 1 July 2021.
- (2) Until 1 July 2021, the Chief Executive (rather than the general manager of a regional landscape board) will, after obtaining the approval of the Commissioner for Public Sector Employment, determine the terms and conditions of employment of a person to whom this regulation applies.

15—Landscape affecting activities

The Minister may approve a landscape affecting activities control policy, and make any consequential amendment to a regional landscape plan, by notice in the Gazette, without the application or adoption of any other procedures under the Act for approval or amendment if the Minister certifies, in the notice, that the policy is making provision in relation to the conservation, management or protection of any landscape in the same terms, or substantially the same terms, as provisions that have been applying under the regional landscape plan.

16—Control or quarantining of a plant or animal

A notice of the Minister under section 187 of the repealed Act, and in effect immediately before the designated day under Schedule 5 clause 101 of the Act, will continue to have effect as if it had been made under the corresponding section of the Act (and may be varied or revoked by the Minister under the Act).

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 9 April 2020

No 41 of 2020