

SOUTH AUSTRALIA

WATER RESOURCES REGULATIONS, 1990

REGULATIONS UNDER THE WATER RESOURCES ACT, 1990

Water Resources Regulations, 1990

being

No. 117 of 1990: *Gaz.* 28 June 1990, p. 1744¹

as varied by

No. 96 of 1991: *Gaz.* 27 June 1991, p. 2106²

No. 118 of 1992: *Gaz.* 25 June 1992, p. 1954³

No. 26 of 1993: *Gaz.* 25 February 1993, p. 722⁴

No. 55 of 1994: *Gaz.* 2 June 1994, p. 1586⁵

No. 100 of 1995: *Gaz.* 10 May 1995, p. 2104⁶

No. 140 of 1996: *Gaz.* 30 May 1996, p. 2814⁷

No. 248 of 1996: *Gaz.* 28 November 1996, p. 1783⁸

- ¹ Came into operation 1 July 1990: reg. 2.
- ² Came into operation 1 July 1991: reg. 2.
- ³ Came into operation 1 July 1992: reg. 2.
- ⁴ Came into operation 1 July 1993: reg. 2.
- ⁵ Came into operation 2 June 1994: reg. 2.
- ⁶ Came into operation 10 May 1995: reg. 2.
- ⁷ Came into operation 1 July 1996: reg. 2.
- ⁸ Came into operation 28 November 1996: reg. 2.

Note: Asterisks indicate repeal or deletion of text For further explanation see Appendix.

2.

PART I

PRELIMINARY

Citation

1. These regulations may be cited as the *Water Resources Regulations, 1990*.

Commencement

2. These regulations will come into operation on 1 July, 1990.

Interpretation

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

"the Act" means the *Water Resources Act, 1990*:

"local council" means a municipal or district council:

"public authority" has the same meaning as in Part VI of the Act:

"water protection area" means a part of the State in relation to which a declaration under section 42(3) of the Act declaring that part to be a water protection area is in force.

(2) A reference in these regulations to a person who owns land or to a landowner is a reference to the owner of land as defined in the Act.

Note: For definition of divisional penalties see Appendix 2.

3.

PART II

COMMITTEES

DIVISION I—COMMITTEES GENERALLY

Application of Division

4. This Division applies to all committees but is subject to Division II in its application to the Water Well Drilling Committee.

Appointment of members

5. (1) A person (other than a Public Service employee) must be selected for appointment as a member of a committee by one of the following methods:

- (a) by the Minister from a panel submitted by a body or other organization whose members have, in the Minister's opinion, a legitimate interest in the functions of the committee;
- (b) by the Minister from persons who have applied in response to an advertisement in a newspaper or journal circulating in that part of the State in which the watercourse, lake or wells in relation to which the committee is being established are situated;
- (c) by ballot of a class of persons who, in the Minister's opinion, have a legitimate interest in the functions of the committee.

(2) Public Service employees must not comprise more than one-half of the number of members of a committee.

(3) At least one member of a committee must be a woman and one must be a man.

(4) A member will be appointed for a term not exceeding three years and will, on the expiration of a term of office, be eligible for reappointment.

Presiding and deputy presiding member

6. (1) The Minister must appoint a member (the presiding member) to preside at meetings of the committee.

(2) The members of a committee must appoint a member (the deputy presiding member) to preside at meetings of the committee in the absence of the presiding member.

Procedures at meetings of committee

7. (1) The presiding member will preside at meetings of a committee or, in his or her absence, the deputy presiding member will preside or, in the absence of both of them, a member chosen by those present will preside.

(2) Subject to subregulation (3) a committee may act notwithstanding vacancies in its membership.

(3) The number of members that constitute a quorum is determined as follows:

- (a) if the number of members is even—half that number plus one;

4.

(b) if the number of members is odd—the first integer that is greater than half that number.

(4) A decision in which a majority of the members present at a meeting concur is a decision of the committee but if the members are equally divided the decision of the person presiding at the meeting is the decision of the committee.

(5) Subject to these regulations a committee may determine its own procedures.

Personal interest of member

8. A member of a committee who has a personal interest or a direct or indirect pecuniary interest in a matter under consideration by the committee is disqualified from participating in the committee's consideration of the matter.

Advice to the Minister

9. (1) If a committee wishes to advise the Minister on a matter that does not, or an element or elements of which do not, involve the implementation of existing policy the committee must forward the advice to the Council to enable the Council to consider the policy implications (if any) relating to the matter.

(2) The Council must forward advice received by it under subregulation (1) to the Minister.

(3) A committee must not give advice to the Minister in relation to the adoption of new policy or to changes in existing policy or that involves a departure from existing policy.

DIVISION II—THE WATER WELL DRILLING COMMITTEE

Application of Division

10. This Division applies only to the Water Well Drilling Committee.

Appointment of members

11. (1) The Water Well Drilling Committee must consist of at least four members of whom—

(a) one must be a hydrogeologist;

(b) one must be a person who has extensive experience in designing wells;

(c) one must be a person who has extensive experience as a well driller who has been selected by the Minister from a panel submitted by the South Australian branch of the Australian Drilling Industry Association;

and

(d) one must be a person who has extensive experience in well drilling and who is not a Public Service employee.

(2) Any additional members appointed by the Minister must be persons who have knowledge or experience that will be of value to the committee in carrying out its functions.

5.

(3) Regulation 5(1) and (3) does not apply to the appointment of members of the Water Well Drilling Committee.

(4) The Governor may appoint suitable persons to be deputies to the members of the committee and a deputy to a member must be appointed in the same manner as the member was appointed and must have the same qualifications for membership of the committee.

(5) A deputy may, in the absence of a member, act as a member of the committee.

Appointment of presiding member

12. The Minister must appoint a member (the presiding member) to preside at meetings of the committee and another member (the deputy presiding member) to preside at meetings of the committee in the absence of the presiding member.

Functions of the committee

13. The committee has the following functions in addition to those prescribed by section 19(10) of the Act:

- (a) to advise the Minister in relation to each application for the grant, renewal or variation of a well driller's licence;
 - (b) to advise the Minister, at his or her request, in relation to the use of any machinery or equipment pursuant to a well driller's licence;
 - (c) to advise the Minister and the Council in relation to the operation of Part VII of the Act and Part V of these regulations;
 - (d) functions that are delegated to it by the Minister;
- and
- (e) any other functions prescribed by these regulations.

PART III

TAKING OF WATER

DIVISION I—LICENCES

Transfer of land, etc.

14. (1) Subject to this regulation, a water recovery licence expires upon the holder of the licence losing the right to possession of the whole of the land to which the licence relates for any reason including the transfer of the land or expiry or termination of the lease under which the land was held.

(2) The former holder of a licence that has expired under subregulation (1) must, within 14 days of the expiry, give the Minister written notice of the circumstances giving rise to the expiry and must provide the Minister with such further information as the Minister requires.

Penalty: Division 9 fine.

(3) If within 14 days of the expiry of a licence under subregulation (1) the person who has become entitled to possession of the land applies to the Minister for a water recovery licence in respect of the land, that person may take water for use on the land until his or her application is granted or refused in accordance with the terms of the expired licence as if that licence had continued in force for his or her benefit.

Fee for grant or renewal of licence

14a. The fee payable on an application for the grant or renewal of a water recovery licence is prescribed by schedule 3.

Variation of licences

15. (1) A water recovery licence may be varied by the Minister on the application of the licensee.

(2) In order to transfer part of the water allocation of a licence to another licence both licences may be varied by the Minister on application by the licensees by reducing the allocation of the transferring licence and increasing the allocation of the receiving licence by a corresponding amount or where, in the opinion of the Minister, the proper management of the water resource so requires, by a lesser amount.

(2a) The variation of licences under subregulation (2) may be subject to the consent of either or both of the licensees to the variation of the conditions or the inclusion of new conditions on either the transferring or receiving licence or on both of those licences.

(3) The Minister may grant or renew a water recovery licence on the condition precedent that the water allocation of another licence will be reduced.

(4) An application for the variation of a licence must be accompanied by the fee specified in schedule 3.

(5) The Minister may refund the whole or part of the fee if the application is unsuccessful.

Returns of water use

16. (1) Where the quantity of water taken pursuant to a licence is not measured by meter, the Minister may require the licensee to provide information relating to the quantity of water taken pursuant to the licence.

(2) A person who fails to comply with a requirement of the Minister under subregulation (1) is guilty of an offence.

Penalty: Division 8 fine.

Conditions on licences—water management plans

16A. (1) This regulation applies in relation to a proclaimed watercourse or lake or proclaimed wells in a particular part of the State if the Minister has, by notice published in the *Gazette*, declared that this regulation applies to the watercourse, lake or wells.

(2) A water recovery licence that authorises the taking of water from a watercourse, lake or well to which this regulation applies is subject to the following conditions:

(a) the holder of the licence must—

- (i) prepare a water management plan in accordance with guidelines provided by the Minister in relation to the water taken pursuant to the licence; and
- (ii) submit the plan to the Minister for adoption; and
- (iii) make amendments to the plan required by the Minister (if any) and resubmit the plan to the Minister for adoption; and

(b) the holder of the licence must comply with the plan adopted by the Minister.

(3) The Minister may exempt the holder of a licence from subregulation (2).

(4) In this regulation—

"**lake**" includes part of a lake;

"**watercourse**" includes part of a watercourse.

Rate for water taken illegally

16B. The excess rate for the purposes of section 34(3) of the Act is 88 cents per kilolitre.

DIVISION II—METERS

Supply and installation of meters

17. (1) In order to measure the quantity of water taken pursuant to a water recovery licence the Minister may—

(a) supply and install a meter;

or

8.

(b) by written notice, direct the licensee to supply and install a meter.

(2) The Minister may supply and install a meter and may require the owner of the land on which the meter is installed to pay the costs involved which will then become a debt due by the owner to the Minister.

(3) A meter supplied by the Minister remains the property of the Minister unless the costs of supply and installation are paid by the owner of the land or the Minister transfers property in the meter to the owner of the land.

Meters owned by the Minister

18. (1) A person who owns land on which a meter owned by the Minister is installed must pay rent for the meter at the rate prescribed in schedule 3.

(2) The Minister may enter land on which a meter owned by the Minister is installed to read, inspect, service, maintain, repair or replace the meter.

Meters owned by landowners

19. (1) The Minister may enter land on which a meter owned by the landowner is installed to read or inspect the meter.

(2) The Minister may, by notice in writing, direct a landowner to service, maintain, repair, replace or adjust a meter owned by the landowner if in the Minister's opinion such action is necessary.

Provisions applying to meters generally

20. (1) Where a meter is used to measure the quantity of water taken pursuant to a water recovery licence, it is a condition of the licence that—

- (a) the licensee must not take water except through the meter;
- (b) the licensee must not adjust or alter the meter without the Minister's authority;
- (c) the licensee must not damage or destroy the meter.

(2) A person must not—

- (a) adjust or alter a meter without the authority of the Minister;
- (b) damage or destroy a meter.

(3) A person who owns land on which a meter is installed—

- (a) must not permit sand, soil or any other material to be deposited on or around the meter;
- (b) must not permit deposits of sand, soil or any other material to build up around the meter;

and

9.

(c) must keep vegetation cleared away from the meter.

(4) Where a meter has been damaged or destroyed, the person who owns the land on which the meter is installed must, at the written direction of the Minister, repair or replace the meter.

Compliance with Division

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

Penalty: Division 8 fine.

(2) If a person fails to comply with a direction of the Minister under this Division or contravenes or fails to comply with a provision of this Division 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 Minister by the person who has contravened or failed to comply with the provision or failed to comply with the direction.

(3) Where a licensee fails to comply with a direction of the Minister under this Division or contravenes or fails to comply with any other provision of this Division the Minister may, by written notice to the licensee, cancel the licence.

Evidentiary

22. (1) In legal proceedings a meter will be taken to have accurately recorded the quantity of water taken unless it is proved to be inaccurate by more than five per cent.

(2) Subregulation (1) does not apply in relation to proceedings for an offence against section 34(1) of the Act.

Testing of meters

23. (1) Upon a written application by a licensee for the testing of a meter and payment of the fee prescribed by schedule 3, the Minister must test the meter.

(2) If the meter is found to be inaccurate by more than five per cent the Minister must refund the fee.

Reading meters

24. (1) Meters must be read as nearly as practicable to the beginning and end of the period for which the quantity of water taken is to be determined.

(2) Where it is likely that a determination of water quantity made by reference to meter readings is substantially inaccurate because of delays in taking the readings or because of malfunctioning of the meter, the Minister may make an assessment of the quantity of water taken.

(3) Where an assessment has not been made under subregulation (2) the quantity of water determined on the basis of meter readings taken in accordance with subregulation (1) will, in legal proceedings in the absence of proof to the contrary, be taken to be the quantity of water taken pursuant to the licence during the relevant period.

(4) Where an assessment has been made under subregulation (2), the quantity assessed will, in legal proceedings in the absence of proof to the contrary, be taken to be the quantity of water taken pursuant to the licence.

DIVISION III—OVERUSE AND UNDERUSE OF WATER

* * * * *

Water allocation

26. (1) The Minister may, when granting or renewing a water recovery licence divide the term of the licence into a number of separate periods and fix the same, or a different, water allocation in respect of each period.

(2) Where a licensee has used water in excess of the water allocation for a particular period of the licence, the Minister may, by written notice served on the licensee, reduce the water allocation for the next succeeding period of the licence or where a licensee has used less than the allocation for such a period, the Minister may, by written notice served on the licensee, increase the water allocation for the next succeeding period of the licence.

(3) The amount of the reduction or increase must not exceed the quantity of water overused or underused.

Charges for excess water

27. Where a licensee uses water in excess of the water allocation of the licence, the licensee must, if required to do so by the Minister, pay to the Minister charges at the rate determined by the Minister by notice published in the *Gazette* in respect of that excess water.

Notice of intention as to exercise of Minister's powers

28. The Minister may, by notice in the *Gazette*, give notice of the manner in which he or she intends exercising his or her powers under this Division.

DIVISION IV—SURPLUS WATER

Application of Division

29. This Division applies only in relation to a licence if the water taken pursuant to the licence is measured by a meter.

Interpretation

30. In this Division unless the contrary intention appears—

"the basic allocation" in relation to a licence means the quantity of water estimated by the Minister pursuant to regulation 31(3) as being the quantity of water that the licensee would have taken during a surplus period if there had not been a surplus flow of water in the watercourse during that period:

"surplus period" in relation to a watercourse means a period declared by notice under regulation 31(1) to be a period of surplus flow of water in the watercourse:

"surplus water" means the additional quantity of water that may be taken pursuant to a licence during a surplus period:

"water allocation period" in relation to a licence means a period of the term of the licence in respect of which a water allocation has been fixed under regulation 26(1).

Declaration of surplus period

31. (1) Where there is, or the Minister anticipates that there will be, a surplus flow of water in a watercourse, the Minister may, by notice published in the *Gazette*, declare that a period specified in the notice is a surplus period in relation to the watercourse, or a specified part of the watercourse.

(2) A licensee who is authorized to take water pursuant to the licence from a watercourse, or part of a watercourse, specified in a notice under subregulation (1) may request the Minister to estimate the quantity of water (the basic allocation) that the licensee would have taken during the surplus period if there had not been a flow of surplus water in the watercourse.

(3) Upon receiving a request under subregulation (2) the Minister must make the necessary estimation and serve notice of it on the licensee.

(4) The additional water that a licensee may take during a surplus period must be stated in a notice under subregulation (1) and may be expressed in the notice as a percentage of the basic allocation or as a fixed amount or as a combination of a percentage of the basic allocation and a fixed amount.

Variation of water allocation

32. (1) Where a notice has been published under regulation 31(1), the water allocation of a water allocation period of a licence that includes a surplus period will be varied as follows:

- (a) the water allocation of the surplus period will be the basic allocation plus the surplus water;
- (b) the water allocation for the remainder of the water allocation period will be the original water allocation for that period less the basic allocation.

(2) The Minister must determine the quantity of water used during a surplus period by taking meter readings at, or as close as practicable to, the beginning and end of the period.

PART IV

WATER QUALITY

DIVISION I—NOTICES UNDER SECTION 51

Notices under section 51

33. (1) The prescribed particulars to be set out in a notice under section 51(1) of the Act are as follows:

- (a) the name and address of the applicant;
 - (b) —
 - (i) the locality (and name if applicable) of the surface or underground water that will be, or will be at risk of being, affected if the licence is granted or renewed;
 - (ii) the locality in which, and the depth at which, material is to be stored pursuant to the licence;
- or
- (iii) a description of the act or activity and the place at which it will be undertaken pursuant to the licence;
- (c) the nature and quantity of the material involved.

(2) The prescribed particulars of a licence to be included in a notice published under section 51(4) are as follows—

- (a) the name and address of the licensee;
 - (b) —
 - (i) the locality (and name if applicable) of the surface or underground water that will be, or will be at risk of being, affected as a result of the granting or renewal of the licence;
 - (ii) the locality in which, and the depth at which, material may be stored pursuant to the licence;
- or
- (iii) a description of the act or activity and the place at which it may be undertaken pursuant to the licence;
- (c) the nature and quantity of the material involved;

- (d) the term of the licence;
- (e) the conditions (if any) to which the licence is subject.

DIVISION II—REGULATION OF CERTAIN ACTIVITIES

Authority for this Division

34. This Division is made pursuant to section 46 of the Act.

Interpretation

35. In this Division and in schedules 1 and 2, unless the contrary intention appears—

"berth" means permanent or temporary sleeping accommodation:

"commercial passenger vessel" means a vessel used for the conveyance of passengers for hire or other monetary reward:

"galley" means any part of a vessel used for the preparation of food:

"length" in relation to a vessel means the maximum overall length of the vessel:

"waste" does not include water that has been used for bathing or showering or for washing clothing.

Control of waste on classified vessels

36. (1) This regulation applies to, and in relation to, vessels of a class described in schedule 1.

(2) A person who is the owner, or is in charge, of a vessel that is on, or on the banks of, a watercourse or lake must not use the vessel unless he or she ensures—

- (a) that all waste brought onto, or generated on, the vessel is stored in a container from which it cannot escape;
- (b) that the container referred to in paragraph (a)—
 - (i) is designed and constructed to facilitate cleaning;and
 - (ii) is maintained in working order and in a hygienic condition;
- (c) that the vessel is fitted with a suitable toilet that is connected to a waste holding tank that complies with schedule 2;
- (d) that the toilet and holding tank are maintained in working order and in a hygienic condition;
- (e) that the holding tank is not used to dispose of any material other than human waste;

- (f) that neither—
- (i) a garbage grinder;
- nor
- (ii) a portable toilet that does not provide for waste retention,
- is brought onto or kept on the vessel.

(3) The Minister may exempt a person from subregulation (2)(c) on such conditions as the Minister thinks fit and may vary or revoke such an exemption at any time.

(4) Subregulation (2)(c) does not apply in relation to a vessel that carries a portable toilet in working order that provides for waste retention if the vessel is not on, or in the vicinity of, surface water for more than one month at a time.

Control of waste on other vessels

37. (1) This regulation applies to all vessels other than those vessels to which regulation 36 applies.

(2) A person who is the owner, or is in charge, of a vessel that is on, or on the banks of, a watercourse or lake must not use the vessel unless he or she ensures—

- (a) that a garbage grinder is not brought onto or kept on the vessel;
- (b) that a container (if any) used to store waste on the vessel is sealed;
- (c) that a portable toilet (if any) on the vessel provides for waste retention and is in working order.

Use of waste disposal facility

38. A person who uses a waste disposal facility provided or approved by the Minister must comply with all directions—

- (a) displayed in the vicinity of the facility;
- or
- (b) given in writing to the person by the Minister.

Penalty: Division 8 fine.

DIVISION III—LICENCES

Fee for grant or renewal of licence

38a. The fee payable on an application for the grant or renewal of a licence authorizing the disposal, escape or storage of material or an act or activity contrary to Division II of Part V of the Act is prescribed by schedule 3.

15.

PART IVA

OBSTRUCTION OF WATERCOURSES AND LAKES

Fee for permit

38b. The fee payable on an application for a permit under section 60 of the Act is prescribed by schedule 3.

PART V

WELL DRILLERS' LICENCES

Qualifications for licence

39. Before being granted a well driller's licence an applicant must have satisfied the Water Well Drillers' Committee that he or she has the knowledge or experience, to carry out well drilling operations competently.

Fee for grant or renewal of licence

40. The fee payable on an application for the grant or renewal of a licence is prescribed by schedule 3.

Term of licences

41. (1) Subject to subregulation (2) the term of a licence will be three years.

(2) The Minister may grant a licence on probation and may terminate such a licence at any time.

Condition of licences

42. All licences will be subject to the following conditions:

- (a) the licensee must keep such records as the Minister directs;
- (b) the licensee must submit samples of water and other material from a well to the Minister at the Minister's direction;
- (c) the licensee must comply with the permit issued under section 67 of the Act in relation to each well drilled pursuant to the licence.

Variation of licence

43. The Minister may vary a licence on application by the licensee and payment of the fee prescribed by schedule 3.

17.

PART VA

WELLS

Fee for permit to drill a well, etc.

43a. The fee payable on an application for a permit to drill a well or carry out other work in relation to a well is prescribed by schedule 3.

PART VI

APPEALS TO THE TRIBUNAL

Appeals

44. (1) An appeal to the Tribunal must be in writing and must—
- (a) state the appellant's full name and an address for the service of notices;
 - (b) include particulars of the decision, direction, prohibition or restriction appealed against;
 - (c) state the date on which the appellant received notice of the decision, direction, prohibition or restriction;
 - (d) set out briefly the grounds of appeal;
 - (e) be signed by the appellant or on his or her behalf.
- (2) The Tribunal must forward a copy of an appeal to the Minister.
- (3) The appellant may, by notice in writing to the Tribunal, withdraw an appeal.

PART VII

EXEMPTIONS

Exemptions—storage or disposal underground

45. (1) Subject to subregulation (2), a person may, notwithstanding section 45 of the Act—

- (a) store material used in lawful mining or quarrying operations in the mine or quarry in which those operations are conducted;
- (b) dispose of human waste underground;
- (c) store human waste in a waste transfer station;
- (d) during the construction of a building, store material in an excavation excavated for the purpose of constructing the building;
- (e) park a vehicle in an underground car park;
- (f) store material in an underground house in the normal course of residing in the house.
- (g) store water in a dam or underground tank.

(2) An exemption does not operate under subregulation (1) in relation to material that has degraded surface or underground water.

Other exemptions—section 54

46. (1) Disposal or escape of material is authorized under section 54 of the Act as follows:

- (a) disposal or escape of effluent from a sewage treatment plant or common effluent drainage scheme operated or administered by a Government Department, statutory authority or local council;

Expires 30 June, 1991, if the plant or scheme is situated within a water protection area;

Expires 30 June, 1993, if the plant or scheme is situated outside a water protection area;

- (b) escape of material from a sewer caused by entry of stormwater into the sewer;

Expires 30 June, 1991, if the sewer is situated within a water protection area;

Expires 30 June, 1993, if the sewer is situated outside a water protection area;

- (c) disposal or escape of waste water from a place of residence to a septic tank or other disposal system authorized by the Central Board of Health if the septic tank or other system is maintained in accordance with the requirements of the Central Board of Health;

(d) disposal or escape of stormwater;

(e) disposal or escape of waste generated by a piggery of 10 sows or less;

Expires 30 June, 1991, if the piggery is situated within a water protection area;

Expires 30 June, 1993, if the piggery is situated outside a water protection area;

(f) escape of irrigation water lawfully taken from the River Murray and disposal of such water if the method of disposal is not substantially different from that used in relation to the same land immediately before the commencement of the Act;

Expires 30 June, 1993;

(g) disposal or escape of waste generated by a dairy;

Expires 30 June, 1992;

(h) escape of material from a waste depot operated by a local council pursuant to a licence granted under the *Waste Management Act, 1987*;

Expires 30 June, 1991, if the depot is situated within a water protection area;

Expires 30 June, 1993, if the depot is situated outside a water protection area;

(i) disposal of material into a dam or reservoir that has a capacity of more than 20 megalitres and that is under the control of the Minister or a public authority if in the opinion of the Minister or public authority the material will improve the usefulness of the water for domestic, commercial, industrial or other purposes.

(2) If, immediately before the commencement of the Act, effluent to which subregulation (1)(a) would otherwise apply or waste to which subregulation (1)(e) or (g) would otherwise apply was subject to treatment, subregulation (1) will not apply to that effluent or waste unless the standard to which it was treated immediately before the commencement of the Act is maintained or improved upon.

(3) The Minister may, by notice in writing served on a person, impose conditions on the operation of subregulation (1) in relation to that person.

Exemption from section 59—primary producers

47. A person who is engaged in primary production is exempted from the operation of section 59 of the Act in relation to any act or activity in the normal course of primary production except an act or activity that restricts or accelerates the flow of water in a watercourse or alters the course of a watercourse.

SCHEDULE 1

Vessels To Which Division II of Part IV Applies

1. Division II of Part IV applies to the following vessels:

- (a) vessels that provide sleeping accommodation and are six metres or more in length;
- (b) vessels that have a galley;
- (c) vessels provided with a toilet;
- (d) commercial passenger vessels that are six metres or more in length.

2. For the purposes of schedule 2 the vessels referred to in clause 1 are classified as follows:

		12 metres or more in length	9 metres or more in length but less than 12 metres in length	6 metres or more in length but less than 9 metres in length	less than 6 metres in length but having a toilet or galley
9 or more berths	A	A	A	A	A
5 to 8 berths	A	B	B	B	B
3 or 4 berths	A	B	C	C	C
1 or 2 berths	A	B	D	D	D
No berths but having a galley or toilet or being a commercial passenger vessel	A	B	D	D	D

SCHEDULE 2

Toilet Holding Tanks

1. Toilet holding tanks and fittings must be made from—

(a) stainless steel, polyester, fibreglass, polyvinyl chloride or some similar non-corroding material;

or

(b) any other material if the inside of the tank is lined with fibreglass or rubber so that no waste material can escape past or through the lining.

2. The capacity of holding tanks must be at least that set out in the following table:

Volume (litres)	Class of vessel (see clause 2 of schedule 1)
180	A
140	B
70	C
30	D

3. The inner surface of a tank must be smooth and free from projections and a tank must be shaped to facilitate self-cleansing.

4. The toilet pan must—

(a) be located as close as practicable to the top of the holding tank;

(b) be fitted with a mechanical or water seal that prevents the escape of gas from the holding tank.

5. The outlet pipe from the holding tank must be at least 40 millimetres in diameter, must be rigid and designed so that the tank cannot overflow.

6. The outlet end of the outlet pipe must—

(a) be rigidly fixed to the vessel and must be accessible and readily identifiable from the deck of the vessel;

(b) be fitted with the female side of a Treloar-Kamlock quick coupling or some other quick coupling approved by the Minister;

(c) be fitted with a gas tight cover to protect the seal.

7. The point of connection of the outlet pipe to the tank must ensure that the depth of the waste remaining in the tank after evacuation is not more than 40 millimetres.

8. A vent pipe at least 40 millimetres in diameter must be connected to the top of the tank and must end at a point outside of the vessel that is more than 300 millimetres above the toilet seat.

9. (1) Water to flush a holding tank must be supplied by means of a pipe of at least 40 millimetres diameter fixed to the top of the tank.

(2) The other end of this pipe must—

(a) be rigidly fixed to the vessel and must be accessible and readily identified from the deck of the vessel;

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(b) be fitted with the female side of a Treloar-Kamlock quick coupling or some other quick coupling approved by the Minister;

(c) be fitted with a gas tight cover to protect the seal.

10. A holding tank and all fittings attached to it (except the vent pipe) must be gas tight.

11. A holding tank must not be provided with a means by which the contents of the tank can overflow from it.

SCHEDULE 3*Fees*

1. Subject to clause 2, the following fees are payable under the Act and these regulations:

(a) On application for—

	Fee for a period of 12 months or less, ending 30 June (\$)
grant of water recovery licence	120.00
renewal of water recovery licence	30.00
grant of well driller's licence	134.00
renewal of well driller's licence	66.00

(b) On application for—

	Fee (\$)
variation of water recovery licence (for every 1 000 kilolitres or part thereof by which the water allocation under the licence is sought to be varied)	13.00
grant of permit under section 60 of the Act to engage in certain activities in relation to a watercourse or lake	30.00
variation of well driller's licence	103.00
grant of permit to drill a well or carry out other work in relation to a well	30.00

(c) Rent for meter

	Rent for a period of 12 months or less, ending 30 June (\$)
Nominal size of meter—	
less than 50 mm	110.00
50 to 100 mm	160.00
150 mm	236.00
200 to 380 mm	270.00
407 to 610 mm	324.00

(d) Meter testing fee Estimated cost quoted by Minister.

2. Notwithstanding clause 1 the fee payable—

(a) on application for a licence or permit referred to in clause 1(a) for a period ending on or before 30 June 1995; or

(b) on application for a variation or grant referred to in clause 1(b) lodged on or before 30 June 1995; or

(c) in respect of rent for a meter for a period ending on or before 30 June 1995; or

(d) on application for the testing of a meter lodged on or before 30 June 1995,

is the fee payable under these regulations as in force immediately prior to the commencement of this schedule.

APPENDIX 1

Legislative History

Regulation 14a:	inserted by 96, 1991, reg. 3
Regulation 15(2):	substituted by 248, 1996, reg. 4
Regulation 15(2a):	inserted by 248, 1996, reg. 4
Regulations 16A and 16B:	inserted by 248, 1996, reg. 5
Regulation 25:	revoked by 248, 1996, reg. 6
	Division III of Part IV comprising reg. 38a and heading inserted by 96, 1991, reg. 4
	Part IVA comprising reg. 38b and heading inserted by 96, 1991, reg. 5
	Part VA comprising reg. 43a and heading inserted by 96, 1991, reg. 6
Schedule 3:	substituted by 96, 1991, reg. 7; 118, 1992, reg. 3; 26, 1993, reg. 3; 55, 1994, reg. 3; 100, 1995, reg. 3; varied by 140, 1996, reg. 3

APPENDIX 2**DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.