



Western Australia

## **Rights in Water and Irrigation Regulations 2000**

Compare between:

[16 Mar 2010, 02-c0-02] and [01 Apr 2010, 02-d0-02]



## Rights in Water and Irrigation Regulations 2000

### Part 1 — Preliminary

**1. Citation**

These regulations may be cited as the *Rights in Water and Irrigation Regulations 2000*<sup>1, 2</sup>.

**2. Commencement**

These regulations come into operation on the same day as the *Rights in Water and Irrigation Amendment Act 2000* comes into operation<sup>1</sup>.

**3. Terms used**

In these regulations, unless the contrary intention appears —

*Act* means the *Rights in Water and Irrigation Act 1914*;

*approved* means approved in writing by the Minister;

*Department* means the department of the Public Service assisting in the administration of the Act;

*form* means a form set out in Schedule 3;

*licence* means a licence under section 5C;

*permit* means a permit referred to in section 11(2), 17(1) or (3) or 21A(1)(a);

*section* means a section of the Act.

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*[Regulation 3 amended in Gazette 5 Sep 2006 p. 3623;  
22 Jun 2007 p. 2878 (disallowed, see Gazette 27 Nov 2007  
p. 5910); 28 Dec 2007 p. 6425 (disallowed, see Gazette  
11 Apr 2008 p. 1396); 23 Jun 2009 p. 2495.]*

## **Part 2 — Permits**

### **4. Applications for permits**

- (1) An application for a permit must be —
  - (a) made to the Minister in a form specified for that purpose by the Minister; and
  - (b) accompanied by, or include, those plans or other information that are stated in the form to be required.
- (2) An applicant for a permit must provide the Minister with any further information that the Minister may require.

*[Regulation 4 amended in Gazette 22 Jun 2007 p. 2878 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6425 (disallowed, see Gazette 11 Apr 2008 p. 1396); 23 Jun 2009 p. 2495.]*

### **5. Advertising of applications**

- (1) The Minister may determine that an application, if granted, will be of sufficient impact on a water resource that it is desirable that it be publicly notified.
- (2) Where the Minister makes such a determination, the Minister is, by written notice given to the applicant, to inform the applicant of the determination and that the applicant is to arrange for there to be published in either or both of the following —
  - (a) a newspaper circulating daily in the State;
  - (b) a newspaper circulating in the locality to which the application relates,notice in accordance with subregulation (3).
- (3) A notice is to be in a form approved and is to state —
  - (a) that an application for a permit has been made;
  - (b) the section to which the permit relates;

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- (c) such details of the application as are necessary to identify the relevant water resource;
- (d) a brief description of the ambit of the permit applied for; and
- (e) that interested persons may within the time specified in the notice (which is to be not less than 14 days after the publication of the notice) make written submissions to the Minister regarding the application.

*[Regulation 5 amended in Gazette 23 Jun 2009 p. 2495.]*

**6. Applicant may make representations to Minister in some cases**

- (1) This regulation applies where the Minister proposes —
  - (a) to refuse an application for a permit; or
  - (b) to grant, or to undertake to grant, a permit subject to the inclusion of a term, condition or restriction that the Minister considers is inconsistent with the terms of the application.
- (2) The Minister is to notify the applicant —
  - (a) of the proposal; and
  - (b) that the applicant has a right to be heard by, or to make written submissions to, the Minister before the Minister makes a decision on the application.
- (3) Written submissions may be made by the applicant, as mentioned in subregulation (2)(b), within 30 days after the applicant is given notice under that subregulation.

*[Regulation 6 amended in Gazette 23 Jun 2009 p. 2495 and 2497.]*

**7. Deciding applications**

- (1) The grant or refusal of an application for a permit and the terms, conditions and restrictions to be included in the permit are, subject to regulation 8, at the discretion of the Minister.
- (2) In exercising that discretion the Minister is to have regard to all matters that the Minister considers relevant, including whether the proposal for which the permit is sought —
  - (a) is in the public interest;
  - (b) is ecologically sustainable;
  - (c) is environmentally acceptable;
  - (d) may prejudice current and future needs for water;
  - (e) would, in the opinion of the Minister, have a detrimental effect on another person;
  - (f) could be undertaken in another way;
  - (g) is in keeping with —
    - (i) local practices;
    - (ii) a relevant local by-law;
    - (iii) a plan approved under Part III Division 3D Subdivision 2 of the Act; or
    - (iv) relevant previous decisions in relation to such applications;or
  - (h) is consistent with —
    - (i) land use planning instruments;
    - (ii) the requirements and policies of other government agencies; or
    - (iii) any intergovernmental agreement or arrangement.
- (3) The Minister is not to have regard to the safety of —
  - (a) the design; or

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- (b) the method of construction, or operation,  
of the works, or action, that would be authorised by the permit.
- (4) The Minister is to have regard to any submissions under regulations 5(3)(e) and 6(3) before making the final decision.
- (5) The Minister may refuse to grant a permit to a person on the ground that the person has been convicted of an offence against a relevant Act.
- (6) The Minister may refuse to grant a permit to a person if not satisfied that the person has the resources, including the financial resources, to carry out the activities to which the permit relates.

*[Regulation 7 amended in Gazette 23 Jun 2009 p. 2495-6 and 2497.]*

**8. When Minister must refuse permit; Minister may undertake to grant permit in some cases**

- (1) The Minister must refuse to grant a permit to a person if the Minister considers that the person would not be willing or able to comply with the terms, conditions and restrictions that would be included in the permit.
- (2) If the Minister would grant a permit to an applicant if the applicant satisfies the Minister as to a matter, relevant to the grant of a permit under this Part, specified by the Minister, the Minister may undertake to grant the permit to the person if the person so satisfies the Minister within the term specified in the undertaking.

*[Regulation 8 amended in Gazette 23 Jun 2009 p. 2495-6 and 2497.]*



**9. Minister to notify applicant of decision etc.**

- (1) The Minister is to notify the outcome of the application and the terms, conditions and restrictions to be included in the permit to —
  - (a) the applicant; and
  - (b) if the application was publicly notified under regulation 5, to any person who made a submission under that regulation.
- (2) If the Minister —
  - (a) refuses the application; or
  - (b) grants, or undertakes to grant, the application subject to the inclusion of a term, condition or restriction that the Minister considers is inconsistent with the terms of the application,

the Minister is to notify the applicant of the reasons for the decision.

*[Regulation 9 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**10. Duration of permits**

- (1) A permit may be granted for —
  - (a) a fixed period of time; or
  - (b) an indefinite duration,as stated in the permit.
- (2) A permit for an indefinite duration continues in force until it is —
  - (a) suspended or cancelled under regulation 13; or
  - (b) surrendered under regulation 15.

**11. Applications for amendment of permits**

- (1) The holder of a permit may apply to the Minister at any time for amendment of the permit.
- (2) Regulations 4, 6, 7, 9, 10, 17, and 18 apply, with all necessary modifications, to an application under subregulation (1) as if it were an application for the grant of a permit.
- (3) An application under subregulation (1) is to be accompanied by the permit.

*[Regulation 11 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**12. Minister may amend permit**

- (1) The Minister may, subject to this regulation and regulation 14, by notice in writing given to a permit holder —
  - (a) vary the duration of the permit;
  - (b) vary or remove any term, condition or restriction included in the permit; or
  - (c) include any new term, condition or restriction in the permit.
- (2) The Minister may only exercise a power described in subregulation (1) in relation to a permit if —
  - (a) the permit holder consents to the Minister doing so;
  - (b) in the opinion of the Minister, the exercise of the power is necessary or desirable —
    - (i) due to the detrimental effect of actions authorised by the permit on another person;
    - (ii) to protect the water resource to which the permit relates from unacceptable damage; or
    - (iii) to protect the associated environment from unacceptable damage;

*[(c) deleted]*

- (d) in the opinion of the Minister, the exercise of the power is necessary or desirable —
    - (i) in the public interest; or
    - (ii) to more effectively manage the use of the water resource;
  - (e) in the opinion of the Minister, the exercise of the power is necessary to prevent a serious inconsistency arising as a result of —
    - (i) the approval of a plan, or the alteration, revocation or substitution of a plan, under Part III Division 3D Subdivision 2 of the Act; or
    - (ii) the making, amendment or repeal of relevant local by-laws;
  - (f) the permit holder is convicted of an offence against a relevant Act;
  - (g) in the opinion of the Minister, the exercise of the power is necessary to comply with another written law of the State or a law of the Commonwealth; or
  - (h) the permit confers authority for the Minister to do so.
- (3) At the written request of the Minister, the permit holder is to give the permit to the Minister for amendment.

*[Regulation 12 amended in Gazette 17 Dec 2002 p. 5912;  
23 Jun 2009 p. 2495-6.]*

**13. Minister may suspend or cancel permit**

- (1) The Minister may, subject to this regulation and regulation 14, by notice in writing given to a permit holder —
- (a) suspend a permit —
    - (i) for a fixed period specified in the notice; or
    - (ii) until such time as the permit holder is notified by the Minister that the suspension no longer applies;

or

(b) cancel a permit.

(2) The Minister may only exercise a power described in subregulation (1) in relation to a permit if —

(a) in the opinion of the Minister, the exercise of the power is necessary or desirable —

(i) due to the detrimental effect of actions authorised by the permit on another person;

(ii) to protect the water resource to which the permit relates from unacceptable damage; or

(iii) to protect the associated environment from unacceptable damage;

(b) in the opinion of the Minister, the exercise of the power is necessary due to a serious inconsistency, which cannot be resolved by an amendment under regulation 12, arising as a result of —

(i) the approval of a plan, or the alteration, revocation or substitution of a plan, under Part III Division 3D Subdivision 2 of the Act; or

(ii) the making, amendment or repeal of relevant local by-laws;

(c) the permit holder —

(i) is convicted of an offence against a relevant Act; or

(ii) has contravened or failed to comply with any term, condition or restriction included in the permit;

(d) in the opinion of the Minister, the exercise of the power is necessary to comply with another written law of the State or a law of the Commonwealth;

(e) in the opinion of the Minister, the exercise of the power is necessary or desirable in the public interest; or

- (f) the permit confers authority for the Minister to do so.
- (3) The suspension or cancellation of a permit has effect to suspend or cancel the rights and privileges conferred by the permit but does not affect the duties imposed by the permit.
- (4) A permit holder must, within 7 days of receiving notice under subregulation (1) that the permit is suspended or cancelled give the permit to the Minister —
  - (a) to be annotated in accordance with subregulation (3) if any duties are imposed by the permit; or
  - (b) if no duties are imposed by the permit and the permit is —
    - (i) suspended, to be retained by the Minister until the suspension no longer applies; or
    - (ii) cancelled, to be retained by the Minister.

Penalty: \$2 000.

*[Regulation 13 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**14. Permit holder's rights before permit amended, suspended or cancelled**

- (1) Except as provided by subregulations (2) and (3), this regulation applies where the Minister proposes to exercise a power conferred by regulation 12 or 13.
- (2) This regulation does not apply to the proposed exercise of a power conferred by regulation 12 or 13 if the Minister is of the opinion that the exercise of the power is necessary to prevent loss of life or property or serious injury to persons or property.
- (3) This regulation does not apply to the proposed exercise of a power conferred by —
  - (a) regulation 12 in the circumstances mentioned in subregulation (2)(a) or (g) of that regulation; or
  - (b) regulation 13 in the circumstances mentioned in subregulation (2)(c)(i) of that regulation.

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- (4) Where this regulation applies, the Minister is to notify the permit holder —
- (a) of the proposal; and
  - (b) that the applicant has a right to be heard by, or to make written submissions to, the Minister before the Minister makes a decision to exercise the power.
- (5) Written submissions may be made by the permit holder, as mentioned in subregulation (4)(b), within such period after the applicant is given notice under that subregulation as is specified in the notice.
- (6) The Minister is to have regard to any submissions made by the permit holder under subregulation (5) before making the final decision.

*[Regulation 14 amended in Gazette 23 Jun 2009 p. 2495-6 and 2497.]*

**15. Surrender of permits**

A permit may be surrendered at any time to the Minister if the permit holder has complied with any terms, conditions or restrictions included in the permit relating to its surrender.

*[Regulation 15 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**16. Minister to be notified of change of ownership**

- (1) Where —
- (a) a permit holder is the owner of all the land to which the permit relates; and
  - (b) another person becomes the owner of that land in place of that permit holder (the *new owner*),

the permit holder and the new owner must give notice in writing of the change of ownership to the Minister within the period of 30 days after the day of the change of ownership.

Penalty: \$250.

- (2) Whether or not notice of change of ownership of land is given to the Minister under subregulation (1), the new owner is to be taken to be the permit holder.

*[Regulation 16 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**17. Terms, conditions and restrictions**

- (1) A permit is subject to the following conditions —
- (a) that the permit holder ensures that all other written laws regarding the work or action authorised by the permit are complied with;
  - (b) that where a condition attached to a permit relating to an alteration in work authorised under the permit has not been complied with within the time specified in the condition and after written notice to that effect has been given by the Minister, the Minister may take such action as is necessary to ensure the condition is complied with and may recover the cost of doing so from the permit holder as a debt due in a court of competent jurisdiction.
- (2) The Minister may, at his or her discretion, include in a permit any other term, condition or restriction but regulation 7(2) and (3) applies to the exercise of that discretion.

*[Regulation 17 amended in Gazette 23 Jun 2009 p. 2495-6 and 2497.]*

**18. Minister may direct compliance with permit condition**

- (1) If a permit holder fails to comply with any term, condition or restriction included in a permit, the Minister may direct that person to comply with that term, condition or restriction.
- (2) A direction under subregulation (1) must —
- (a) be given by written notice served on the permit holder; and
  - (b) specify the time within which the direction is to be complied with.

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- (3) If a permit holder to whom a direction has been given does not comply with the direction within the specified time, or any additional time allowed by the Minister —
- (a) the person commits an offence; and
  - (b) the Minister may —
    - (i) do all or part of whatever the direction requires to be done; and
    - (ii) recover the costs and expenses incurred in doing so as a debt due to the State by the person.

Penalty: \$2 000 and daily penalty of \$200.

*[Regulation 18 amended in Gazette 23 Jun 2009 p. 2495-6 and 2498.]*



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### **Part 3 — Licences under section 5C**

[19A. *Inserted in Gazette 28 Dec 2007 p. 6426 (disallowed, see Gazette 11 Apr 2008 p. 1396).*]

#### **19. Fees for application for licence and amendment and renewal**

The fee to accompany an application —

- (a) for a licence under clause 4(1)(d); or
- (b) renewal of a licence under clause 22(1)(b),

of Schedule 1 to the Act is the amount of any relevant annual fee for the watercourse to which the licence relates, as specified in item 1 in Schedule 1 Part 1.

*[Regulation 19 inserted in Gazette 22 Jun 2007 p. 2878-9 (disallowed, see Gazette 27 Nov 2007 p. 5910); replaced in Gazette 28 Dec 2007 p. 6426 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

#### **20. Annual fees for licences**

- (1) An annual fee is payable for a licence in respect of a watercourse specified in item 1 of Schedule 1 Part 1.
- (2) The annual fee specified opposite the relevant watercourse in item 1 of Schedule 1 Part 1 is the amount of the annual fee for a licence in respect of that watercourse.
- (3) An annual fee is not payable for the first year of a licence.
- (4) If the annual fee for a licence granted for a fixed period is paid when the licence is granted, the fee for that period may be reduced by 10%.
- (5) Payment of an annual fee is to be made by the licensee not more than 14 days after each anniversary of the date on which the licence was granted.
- (6) If payment of an annual fee is not made in accordance with subregulation (5), the late fee specified in item 2 of Schedule 1

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Part 1 is payable for each month, or part of a month, that the annual fee remains unpaid.

- (7) If a licensee fails to pay the annual fee and the late fee referred to in subregulation (6) not more than 6 months after the annual fee became payable, the Minister may cancel the licence in accordance with Schedule 1 to the Act.
- (8) The circumstances set out in subregulation (7) are prescribed circumstances for the purpose of clause 25(2)(g) of Schedule 1 to the Act.

*[Regulation 20 amended in Gazette 22 Jun 2007 p. 2879-80 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6426-8 (disallowed, see Gazette 11 Apr 2008 p. 1396); 23 Jun 2009 p. 2495-6 and 2498.]*

**21. Renewal of licence**

- (1) An application for the renewal of a licence that is in force for a fixed period must be made before the expiry of the licence.
- (2) An application for a renewal that is made after the expiry of the licence may be taken by the Minister to be an application for a licence under clause 4(1) of Schedule 1 to the Act.

*[Regulation 21 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**22. Fee for certified copy of licence**

- (1) The fee payable for a duplicate licence is the fee specified in item 4 of Schedule 1 Part 1.
- (2) A duplicate licence is to be a copy of the licence certified as a correct copy by the Minister.

*[Regulation 22 amended in Gazette 22 Jun 2007 p. 2880 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428 (disallowed, see Gazette 11 Apr 2008 p. 1396); 23 Jun 2009 p. 2495-6.]*

**23. Advertising applications (Act Sch. 1 cl. 5)**

- (1) In this regulation —  
*water entitlement* has the same meaning as in clause 28 of Schedule 1 to the Act.
- (2) The Minister is to notify a person who has made an application referred to in subregulation (3) by written notice given to that person that the person is to arrange for there to be published in —
- (a) a newspaper circulating daily in the State; and
  - (b) a newspaper circulating in the locality to which the application relates,
- notice in accordance with subregulation (4).
- (3) An application referred to in subregulation (2) is an application for a licence or, to amend a licence to increase a water entitlement under that licence, where —
- (a) the application relates to an underground water source and —
    - (i) the water proposed to be taken under the licence is more than 100 000 kilolitres per year, or if the application is to amend the licence, an increase in the water to be taken under the licence by more than that amount; or
    - (ii) the Minister is of the opinion that an application, if granted, will be of sufficient impact on a water resource that it is desirable that it be publicly notified;
- or
- (b) the application relates to a water course or wetland unless —
    - (i) any relevant plan approved under Part III Division 3D Subdivision 2 of the Act specifies

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that advertising of licences of this description is not required; or

- (ii) the Minister is of the opinion that an application, if granted, will not be of sufficient impact on a water resource that it is desirable that it be publicly notified.

- (4) A notice is to be in a form approved and is to state —
  - (a) that an application for a licence under section 5C has been made;
  - (b) such details of the application as are necessary to identify the relevant water resource;
  - (c) a brief description of the ambit of the licence applied for;
  - (d) that interested persons may within the time specified in the notice (which is to be not less than 14 days after the publication of the notice) make written submissions to the Minister regarding the application; and
  - (e) that if a submission made under paragraph (d) contains an objection, that the person making the submission is to specify what action, if any, the person considers would overcome the objection.
- (5) The Minister is to have regard to any submission made by a person under subregulation (4)(d) within the time specified in the notice before making the final decision.

*[Regulation 23 amended in Gazette 17 Dec 2002 p. 5912; 23 Jun 2009 p. 2495-6 and 2497.]*

**24. Security interest holders may make submissions on application**

- (1) A person who has been given written details of an application under section 26GZO(b) may within the time specified by written notice given by the Minister (which is to be not less than

14 days after the notice is given) make written submissions to the Minister regarding the application.

- (2) The Minister is to have regard to any submission made under subregulation (1) within the time specified in the notice before making the final decision with respect to an application under section 26GZO.

*[Regulation 24 amended in Gazette 23 Jun 2009 p. 2495-6 and 2497.]*

**25. Licensee no longer eligible to hold licence to inform Minister**

- (1) A licensee who ceases, or who has reason to suspect that he or she may have ceased, to be eligible in terms of clause 3 of Schedule 1 to the Act to hold a licence is to inform the Minister in writing of that fact within 30 days of the licensee ceasing to be eligible.

Penalty: \$1 000.

- (2) On receiving notice under subregulation (1) the Minister is to inform the licensee in writing of the time when the licence will be terminated.
- (3) At the request of a licensee referred to in subregulation (1), the Minister may agree in writing that the licence is to be terminated at the end of a period, not exceeding 6 months from the time the Minister received notice under subregulation (1).

*[Regulation 25 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**26. Removal of endorsement that licence is subject to Act Sch. 1 cl. 20**

- (1) If the Minister is satisfied that a licensee is no longer obliged by an agreement with another person referred to in clause 19 of Schedule 1 to the Act, or that it is no longer appropriate for the Minister to recognise such an obligation, the Minister may remove an endorsement from a licence under that clause.

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- (2) Before removing an endorsement from a licence, the Minister is to give written notice to the third party (within the meaning of clause 19 of Schedule 1 to the Act) and to the licensee.
- (3) A person who has been given written notice under subregulation (2) may within the time specified in that notice (which is to be not less than 14 days after the notice is given) make written submissions to the Minister regarding the removal of the endorsement.
- (4) The Minister is to have regard to any submission made under subregulation (3) within the time specified in the notice before making the final decision with respect to the removal of the endorsement.

*[Regulation 26 amended in Gazette 23 Jun 2009 p. 2495-6 and 2497.]*

**27. Prescribed circumstances where Minister may suspend or cancel a licence (Act Sch. 1 cl. 25)**

- (1) For the purpose of clause 25(2)(g) of Schedule 1 to the Act, the circumstances to which subregulation (2) applies are circumstances where the Minister may suspend or cancel a licence under clause 25(1) of that Schedule.
- (2) This subregulation applies to the circumstances that, in the opinion of the Minister, in making a decision to grant a licence to the licensee, the Minister has relied on information that the licensee supplied to the Minister —
  - (a) that the licensee knew to be false or misleading in a material particular;
  - (b) that was false in a material particular and was supplied with reckless disregard as to whether the information was false or misleading in a material particular; or
  - (c) that omitted some information without which the information supplied was, to the licensee's knowledge, misleading in a material particular.

*[Regulation 27 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**28. Application for approval to transfer licence, water entitlement or agreement, submissions and responses about (Act Sch. 1 cl. 35)**

- (1) A submission under clause 35(3) of Schedule 1 to the Act must be made within 30 days after the person making the submission received notice of the application under that clause.
- (2) For the purpose of clause 35(5) of Schedule 1 to the Act, a response under clause 35(4) of that Schedule must be made within 14 days after the relevant material is given to the applicant.

*[Regulation 28 amended in Gazette 22 Jun 2007 p. 2880 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

**29. Licensee to return licence on suspension and cancellation**

A licensee must, within 7 days of receiving notice from the Minister that a licence held by the licensee is suspended or cancelled under clause 25 of Schedule 1 to the Act, give the licence to the Minister —

- (a) to be annotated in accordance with clause 25(3) of that Schedule if any duties are imposed by the licence; or
- (b) if no duties are imposed by the licence and the licence is —
  - (i) suspended, to be retained by the Minister until the suspension no longer applies; and
  - (ii) cancelled, to be retained by the Minister.

Penalty: \$2 000.

*[Regulation 29 amended in Gazette 23 Jun 2009 p. 2495-6.]*

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**30. Licence to be provided to Minister in certain cases  
(Act Sch. 1 cl. 23, 24 and 32)**

- (1) An application for approval of a transfer a licence, water entitlement or agreement referred to in clause 30 of Schedule 1 to the Act under clause 32 of that Schedule, is to be accompanied by each licence relevant to the transfer.
- (2) An application for the amendment of a licence under clause 23 of Schedule 1 to the Act is to be accompanied by the licence.
- (3) A licensee must, within 7 days of receiving notice from the Minister that a licence held by the licensee is to be amended under clause 24 of Schedule 1 to the Act give that licence to the Minister for the endorsement of the amendment.

*[Regulation 30 amended in Gazette 23 Jun 2009 p. 2495-6.]*

**31. Evidence**

In proceedings for an offence under the Act, an averment that —

- (a) a licence under this Act was given, or was given to a specified person or at a specified time;
- (b) that a specified person is the licence holder of a particular licence or permit; or
- (c) an instrument, within the meaning of section 26GZH, is registered under Part III Division 3E of the Act or was registered at a specified time,

is to be taken to have been proved unless the contrary is shown.



## **Part 4 — Licences under section 26D regarding wells**

### **32. Terms used**

In this Part, unless the context otherwise requires —

**licence** means a licence under section 26D;

**well** means —

- (a) an artesian well; and
- (b) a non-artesian well for which a licence is required under section 26B(3)(c).

### **33. Applications for licences**

- (1) An application for a licence is to be in the form of Form 1.
- (2) An application is to be accompanied by —
  - (a) a plan or tracing of a plan, drawn to scale, and having bearings, distances, measurements or Australian mapping grid co-ordinates marked on it so that the geographical location of the well, or proposed well, can be accurately ascertained;
  - (b) the specifications of the construction of the well; and
  - (c) a statement setting out the purposes for which it is proposed to construct the well, with particulars of the types of use to which any water taken from the well is proposed to be put.
- (3) The plan, specification and statement accompanying an application are to be signed by the applicant and are to be dated.

*[Regulation 33 amended in Gazette 22 Jun 2007 p. 2881 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

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**34. Applicant may make representations to Minister in some cases**

- (1) This regulation applies where the Minister proposes —
  - (a) to refuse an application for a licence;
  - (b) to grant, or undertake to grant, a licence subject to the inclusion of a term, limitation or condition that the Minister considers is inconsistent with the terms of the application; or
  - (c) to grant, or undertake to grant, a licence subject to an alteration to, or in connection with, the proposed work or the plans or specifications.
- (2) The Minister is to notify the applicant —
  - (a) of the proposal; and
  - (b) that the applicant has a right to be heard by, or to make written submissions to, the Minister before the Minister makes a decision on the application.
- (3) Written submissions may be made by the applicant, as mentioned in subregulation (2)(b), within 30 days after the applicant is given notice under that subregulation.

*[Regulation 34 amended in Gazette 23 Jun 2009 p. 2495-6 and 2497-8.]*

**35. Deciding applications**

- (1) The grant or refusal of an application for a licence and the terms, limitations and conditions to be included in the licence are, subject to regulation 36, at the discretion of the Minister.
- (2) In exercising that discretion the Minister is to have regard to all matters that the Minister considers relevant, including whether the construction or action proposed in the application —
  - (a) is in the public interest;
  - (b) is ecologically sustainable;

- (c) is environmentally acceptable;
  - (d) may prejudice other current and future needs for water;
  - (e) would, in the opinion of the Minister, have a detrimental effect on another person;
  - (f) is in keeping with —
    - (i) local practices;
    - (ii) a relevant local by-law;
    - (iii) a plan approved under Part III Division 3D Subdivision 2 of the Act; or
    - (iv) relevant previous decisions in relation to such applications;
  - or
  - (g) is consistent with —
    - (i) land use planning instruments;
    - (ii) the requirements and policies of other government agencies; or
    - (iii) any intergovernmental agreement or arrangement.
- (3) The Minister is not to have regard to the safety of —
- (a) the design; or
  - (b) the method of construction, or operation,
- of the well or works to the well that would be authorised by the licence.
- (4) The Minister is to have regard to any submissions made by the applicant under regulation 34(3) before making the final decision.
- (5) The Minister may refuse to grant a licence to a person on the ground that the person has been convicted of an offence against a relevant Act.

**r. 36**

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- (6) The Minister may refuse to grant a licence to a person if not satisfied that the person has the resources, including the financial resources, to carry out the activities to which the licence relates.

*[Regulation 35 amended in Gazette 23 Jun 2009 p. 2495-7 and 2497-8.]*

**36. When Minister must refuse licence; Minister may undertake to grant licence in some cases**

- (1) The Minister must refuse to grant a licence to a person if the Minister considers that the person would not be willing or able to comply with the terms, limitations and conditions that would be included in the licence.
- (2) If the Minister would grant a licence to an applicant if the applicant satisfies the Minister as to a matter, relevant to the grant of a licence under this Part, specified by the Minister, the Minister may undertake to grant the licence to the person if the person so satisfies the Minister within the term specified in the undertaking.

*[Regulation 36 amended in Gazette 23 Jun 2009 p. 2495-7 and 2497-8.]*

**37. Minister to notify applicant of decision etc.**

- (1) The Minister is to notify the outcome of the application and the terms, limitations and conditions to be included in the licence to the applicant.
- (2) If the Minister —
- (a) refuses the application;
  - (b) grants, or undertakes to grant, the application subject to the inclusion of a term, limitation or condition that the Minister considers is inconsistent with the terms of the application; or

- (c) grants, or undertakes to grant, a licence subject to an alteration to, or in connection with, the proposed work or the plans or specifications,

the Minister is to notify the applicant of the reasons for the decision.

*[Regulation 37 amended in Gazette 23 Jun 2009 p. 2495-7.]*

**38. Information on work on artesian wells to be provided at certain times**

A person who holds a licence in respect of an artesian well must give to the Minister information regarding the work to which the licence relates in the form approved —

- (a) within 5 days after the end of each month during which that work is being undertaken; and
- (b) within one month after the completion of that work.

*[Regulation 38 amended in Gazette 23 Jun 2009 p. 2495-7.]*

**39. Information on non-artesian wells prescribed (Act s. 26E)**

Form 2 is prescribed for the purposes of section 26E and the information to be prescribed under that section is the information required to be provided in accordance with that form.

**40. Application for an amended licence (Act s. 26F(3))**

An application for an amended licence under section 26F(3) is to be accompanied by —

- (a) the licence;
- (b) a statement setting out the amendments required to the licence;
- (c) a statement setting out why the amendment is required.

**r. 41**

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*[Regulation 40 amended in Gazette 22 Jun 2007 p. 2881 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428-9 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

**41. Cancelled licence to be given to Minister**

A licensee must, within 7 days of receiving notice from the Minister that a licence held by the licensee is cancelled under the Act, give the licence to the Minister.

Penalty: \$2 000.

*[Regulation 41 amended in Gazette 23 Jun 2009 p. 2495-7.]*

## Part 4A — Meters

*[Heading inserted in Gazette 17 Dec 2002 p. 5912.]*

*[42A. Inserted in Gazette 28 Dec 2007 p. 6429 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

### 42. Damage to meters

- (1) Any repairs required to a meter provided by the State are to be carried out, or to be caused to be carried out, by the Minister and the cost of those repairs is to be paid by the licence holder.
- (2) The State may recover the costs due under subregulation (1) as a debt due to the State from the licence holder in a court of competent jurisdiction.

*[Regulation 42 inserted in Gazette 23 Jun 2009 p. 2498.]*

### 43. Interfering with meters

A person must not —

- (a) damage a meter; or
- (b) install, or alter, a meter or any associated fittings so that the meter does not accurately measure the quantity of water being taken from a well.

Penalty: \$2 000.

### 44. Testing meters

- (1) The Minister may at any time cause a test of a meter to be made.
- (2) The Minister is to cause a test of a meter to be made within 7 days of receiving a written request from a licence holder that that meter be tested because the licence holder is dissatisfied with a reading from the meter.
- (3) Where on testing a meter it is found that —

**r. 45**

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- (a) the meter registers more than 5% in excess of the quantity that actually passes through it when tested, the Minister is to pay the cost of the test; or
  - (b) the meter registers less than 5% in excess of the quantity that actually passes through it when tested, the licence holder is to pay the cost of the test.
- (4) The cost paid by the licence holder under subregulation (3)(b) is not to exceed the fee set out in Schedule 1 Part 1.

*[Regulation 44 amended in Gazette 22 Jun 2007 p. 2881 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6429 (disallowed, see Gazette 11 Apr 2008 p. 1396); 23 Jun 2009 p. 2495-7.]*

**45.     Estimating water used where meter out of order or inaccurate**

- (1) Where —
- (a) on testing, a meter has been found not to be in proper order;
  - (b) a meter has been removed for repair; or
  - (c) a meter was, or any associated fittings were, installed or altered so that the meter did not accurately measure the quantity of water being taken,
- the Minister may estimate the quantity of water concerned —
- (d) by reference to an average of the quantity of water supplied during another period;
  - (e) by adjusting the quantity registered by the meter to take account of the error found upon testing the meter; or
  - (f) on such other basis as the Minister may determine.
- (2) Notice stating the estimated quantity of water taken from a well during any particular period is to be given by the Minister to the licence holder.

*[Regulation 45 amended in Gazette 23 Jun 2009 p. 2495-7.]*



**46. Evidence of water taken from well**

A notice —

- (a) under regulation 45(2); or
- (b) given to a licence holder by the Minister stating the quantity of water taken from a well during any particular period,

is, in the absence of proof to the contrary, to be presumed to be the amount taken from the well.

*[Regulation 46 amended in Gazette 23 Jun 2009 p. 2495-7.]*

## **Part 5 — Registration of instruments**

### **47. Terms used**

In this Part —

*clause* means a clause of Schedule 1 to the Act;

*register* means the register to be kept under section 26GZI.

### **48. Prescribed details for register (Act s. 26GZJ)**

The following details are prescribed under section 26GZJ(1)(g) as additional details to be set out in the register in respect of an instrument that is a licence under section 5C —

- (a) where relevant, the volume of water that may be taken under the licence;
- (b) if an agreement referred to in clause 30 relating to the taking of water under the licence has been approved by the Minister under that clause, details relating to that agreement, including —
  - (i) the name and business address of the person who entered into the agreement with the licence holder; and
  - (ii) period for which it is of effect;
- (c) details of any notation endorsed on the licence by the Minister under clause 19(b) showing that the licence is subject to clause 20;
- (d) a notation that an application under clause 32 for approval of the transfer of a licence or a water entitlement or of an agreement referred to in clause 30 that has been made but not yet determined by the Minister; and
- (e) a notation that an undertaking has been given by the Minister to approve an agreement under clause 30 or a transfer under clause 31.

*[Regulation 48 amended in Gazette 23 Jun 2009 p. 2495-7.]*

**49. Fees in relation to the register (Sch. 1 Part 2)**

A fee set out in Schedule 1 Part 2 is the fee to be paid in respect of the matter described opposite the fee.

*[Regulation 49 amended in Gazette 22 Jun 2007 p. 2881 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6429 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

*[Part 5A (r. 49A-49O) deleted in Gazette 30 Dec 2004 p. 7000.]*

## Part 6 — Miscellaneous

### 50. Prescribed offences

An offence against the *Rights in Water and Irrigation Act 1914* or these regulations set out in column 1 of Schedule 2 is prescribed to be an offence that may be dealt with under section 103 of the *Water Agencies (Powers) Act 1984*.

[Regulation 50 amended in Gazette 14 Jun 2002 p. 2835.]

### 51. Modified penalties

The modified penalty set out in column 2 of Schedule 2 opposite an offence referred to in column 1 is the prescribed modified penalty which applies in respect of that offence for the purposes of section 103(3)(a) of the *Water Agencies (Powers) Act 1984*.

### 52A. Persons authorised to give infringement notices

For the purposes of the *Water Agencies (Powers) Act 1984* section- 103, ~~each of any person employed in the following persons~~ Department who is authorised in writing by the chief executive officer is authorised to give an infringement notice in respect of an offence prescribed by regulation- 50—.

- ~~(a) any person employed in the Department who is authorised in writing by the chief executive officer of the Department to give such notices;~~
- ~~(b) any person who is authorised under the *Water Agencies (Infringements) Regulations 1994* regulation 5(2) to give an infringement notice in respect of an offence under the *Water Agencies (Water Use) By-laws 2007* by law 4.~~

[Regulation 52A inserted in Gazette ~~23 Jun 2009~~ 16 Mar 2010 p. ~~2498-9985~~.]

**52B. Prescribed persons for infringement notices**

For the purposes of the *Water Agencies (Powers) Act 1984* section 103, a person holding or acting in any of the following offices in the Department is a prescribed person in relation to an infringement notice given in respect of an offence prescribed by regulation 50 —

- (a) the chief executive officer;
- (b) the Director, Regional Management and Water Information;
- (c) the Manager, Regional Integration Branch;
- (d) the Coordinator, Compliance and Enforcement Unit.

*[Regulation 52B inserted in Gazette 23 Jun 2009 p. 2499.]*

**52. Designated person for infringement notices**

For the purposes of the *Water Agencies (Powers) Act 1984* section 103, a person holding or acting in the office of chief finance officer (within the meaning of that term in the *Financial Management Act 2006* section 57) for the Department is the designated person to whom payment may be made of a modified penalty for an offence prescribed by regulation 50.

*[Regulation 52 inserted in Gazette 23 Jun 2009 p. 2499.]*

**53. Form of infringement notice**

An infringement notice under section 103(2) of the *Water Agencies (Powers) Act 1984* is to be in the form of Form 3.

**54. Form of notice of withdrawal of infringement notice**

A notice to be sent under section 103(6) of the *Water Agencies (Powers) Act 1984* is to be in the form of Form 4.

**r. 55A**

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**55A. Form of certificate for authorised person**

A certificate issued under the *Water Agencies (Powers) Act 1984* section 103(11) to an authorised person must be in the form of Form 5.

*[Regulation 55A inserted in Gazette 23 Jun 2009 p. 2499.]*

**55. Unauthorised alteration of infringement notices**

A person who, not being an authorised person, makes any alteration to an infringement notice commits an offence.

Penalty: \$200.

**56. Certain fees non refundable**

The fees specified in items 1 and 2 of Schedule 1 Part 1 are not refundable in whole or in part if the application is unsuccessful or the licence or permit is cancelled or suspended.

*[Regulation 56 amended in Gazette 22 Jun 2007 p. 2881 (disallowed, see Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6429 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

*[56A. Inserted in Gazette 28 Dec 2007 p. 6429-30 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

**57. False or misleading information in respect of applications**

A person who makes a statement under these regulations to the Minister that —

- (a) the person knows to be false or misleading in a material particular;
- (b) was false in a material particular and was supplied with reckless disregard as to whether the information was false or misleading in a material particular; or
- (c) omits anything without which the statement is, to the person's knowledge, misleading in a material particular,

commits an offence.

Penalty: \$2 000.

*[Regulation 57 amended in Gazette 23 Jun 2009 p. 2495-7.]*

*[58. Omitted under the Reprints Act 1984 s. 7(4)(f).]*

## **Schedule 1 — Fees**

### **Part 1 — Fees relating to licences and permits**

*[Heading inserted as Division 1 in Gazette 28 Dec 2007 p. 6430 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

	<b>Fee</b>
1. Annual fee for licence (reg. 20(1))	
Stony Brook	\$130
Canning River	\$60
Serpentine River	\$60
Dandalup River	\$60
2. Late fee for annual licence fee (reg. 20(6))	\$20
3. Application for approval of transfer of a licence, water entitlement or agreement referred to in clause 30 of Schedule 1 to the Act (cl. 32(1)(c) of that Schedule)	\$200
4. Fee for certified duplicate of a licence (cl. 45 of Schedule 1 to the Act and reg. 22(1))	\$50
5. Maximum amount for meter test (reg. 44(4))	\$500

*[Part 1 amended in Gazette 17 Dec 2002 p. 5917-18; 22 Jun 2007 p. 2882-3 (disallowed, see Gazette 27 Nov 2007 p. 5910); Part 1 inserted as Division 1 in Gazette 28 Dec 2007 p. 6430-1 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*



**Part 2 — Registration of instruments in the register and access to the register**

*[Heading amended in Gazette 22 Jun 2007 p. 2883 (disallowed, see Gazette 27 Nov 2007 p. 5910); Part 2 heading inserted as Division 2 in Gazette 28 Dec 2007 p. 6431 (disallowed, see Gazette 11 Apr 2008 p. 1396).]*

	<b>Registration</b>	<b>Fee</b>
1.	Application for notation of security interest	\$70
2.	Removal of notation of security interest	\$70
3.	Variation of notation of security interest	\$70
	<b>Access to register</b>	
1.	Copy of an entry in, or an extract from, the register (s. 26GZI(4))	\$25 for the first page, \$1 for each additional page

*[Part 3 deleted in Gazette 30 Dec 2004 p. 7000.]*

**Schedule 2 — Prescribed offences and modified penalties**

[r. 50 and 51]

*[Heading inserted in Gazette 5 Sep 2006 p. 3624.]*

<b>Offence</b>	<b>Modified penalty</b>
1. An offence against section 5C of the Act other than an offence described in item 2	\$500
2. An offence against section 5C of the Act constituted by taking water from an underground water source in an area, and from a well, specified in an order under section 26C(2) and not using that water in accordance with that order	\$100
3. An offence against section 26E(1) of the Act	\$150
4. An offence against section 26G(3) of the Act	\$500
5. An offence against section 26GC(2) of the Act	\$500
6. An offence against regulation 43	\$400

*[Schedule 2 inserted in Gazette 5 Sep 2006 p. 3624.]*

**Schedule 3 — Forms**

**Form 1**

[r. 33(1)]

*Rights in Water and Irrigation Act 1914*  
*Water Agencies (Powers) Act 1984*

**Application for a licence under the  
*Rights in Water and Irrigation Act 1914 s. 26D***

<b>Name of applicant</b>	..... .....
<b>Postal address for applicant</b>	..... ..... .....
<b>Description of the land the application is made in respect of</b>	..... ..... .....
<b>Does the applicant own the land?</b>	..... .....
<b>If the applicant does not own the land, describe the interest that would entitle the applicant to hold a licence in respect of the land</b>	..... ..... ..... .....
<b>If there is another licence under section 26D in respect of the land, provide the licence number</b>	..... ..... .....
<b>Purpose of application</b>	new well/bore/excavation/soak..... enlargement or deepening of existing well/bore/excavation/soak..... other (describe).....

<p><b>Proposed water use, please specify —</b></p> <ul style="list-style-type: none"><li>• if the use is commercial or non commercial</li><li>• the volume of water to be used</li><li>• the water use</li><li>• the duration of the use (and licence)</li></ul>	
<p><b>Declaration by applicant</b></p>	<p>I,.....apply for a licence under section 26D of the <i>Rights in Water and Irrigation Act 1914</i>. ..... (signature or seal of applicant)</p>

*[Form 1 amended in Gazette 23 Jun 2009 p. 2500.]*

**Form 2**

[r. 39]

*Rights in Water and Irrigation Act 1914*  
*Water Agencies (Powers) Act 1984*

**Information to be provided under the  
*Rights in Water and Irrigation Act 1914* s. 26E after constructing or  
deepening a non-artesian well**

<b>Part 1: Details of any licence granted for the work under the <i>Rights in Water and Irrigation Act 1914</i> section 26D</b>	
Licence No:	
Licensee's full name	

<b>Part 2: Details of the person who carried out the work</b>	
Company, corporate, trading or business name of person who carried out the work (Full name)	
Driller's name (Full name)	.....
Postal Address:	.....
Business Phone:	.....
Business Fax:	.....
Mobile Phone:	.....
Email:	.....

<b>Part 3: Location of well</b>	
Property address of well	

Well coordinates:     GPS reading                       Estimate

Zone	<input style="width: 90%;" type="text"/>	Easting/ Latitude	<input style="width: 90%;" type="text"/>	Northing/ Longitude	<input style="width: 90%;" type="text"/>
		Datum	<input style="width: 90%;" type="text"/>	GPS reliability	<input style="width: 90%;" type="text"/>

**Location plan:** please sketch below a plan showing the position of the well in relation to buildings, boundaries, roads, nearest cross roads and any other features or information to assist in locating the well.\*

**Part 4: Construction details**  
 Note: *All measurements to be taken from ground level.*

**Well construction diagram:** please sketch below a diagram showing the construction of the well.\*

Production casing details					
Material	Nominal bore	Diameter O.D (mm)	Wall thickness (mm)	Depth	
				From (m)	To (m)

Screens/slots				
Screens/slot (Type)	Diameter O.D (mm)	Aperture (mm)	Top of screen (m)	Bottom of screen (m)

Gravel pack details		
Gravel size (mm)	From (m)	To (m)

Annular fill		
Material Type	From (m)	To (m)

Cementing detail		
<input type="checkbox"/> Pressure cement grouted <input type="checkbox"/> Tremmie		
Casing diameter (mm O.D)	Depth	
	From (m)	To (m)

Total depth drilled (from	<input style="width: 80%;" type="text"/>	Geophysical log required as condition of licence?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Geophysical log taken? (If so, attach log and	<input type="checkbox"/> Yes <input type="checkbox"/> No
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ground level)   contractor details)

From (m)	To (m)	Strata description.*

**Part 5: Particulars of well**

Well name / number			
Drilling start <sup>1</sup>		Drilling completion <sup>2</sup>	

1. Drilling start date refers to the date drilling begins. Do not include set up date.      2. Drilling completion date includes well development and testing.

Drilling method used	<input type="checkbox"/> Rotary air <input type="checkbox"/> Cable tool <input type="checkbox"/> Auger <input type="checkbox"/> Rotary mud <input type="checkbox"/> Sludge <input type="checkbox"/> Other (specify) _____
Final status of well	<input type="checkbox"/> Ready to operate <input type="checkbox"/> Decommissioned <input type="checkbox"/> Other (specify) _____
Purpose (use) of well	<input type="checkbox"/> Production <input type="checkbox"/> Investigation <input type="checkbox"/> Monitoring <input type="checkbox"/> Other (specify) _____

**Part 6: Well development**

Date (dd/mm/yy)		Duration of development	..... hours
Method	<input type="checkbox"/> Airlift <input type="checkbox"/> Pump <input type="checkbox"/> Jetting <input type="checkbox"/> Surging	Development pump rate (e.g. L/s, m <sup>3</sup> /day)	





<b>Part 10: Water levels</b>			
SWL (Static water level)	m	Water cut at	m
Measurements taken from	<input type="checkbox"/> Top of casing (TOC) <input type="checkbox"/> Ground level (GL) <input type="checkbox"/> Other (specify) _____		
Date of reading (dd/mm/yy)			

Comments .....

<b>Part 11: Declaration and signature</b>	
Capacity of person making declaration  [tick one box]	<input type="checkbox"/> An individual who carried out the work.  <input type="checkbox"/> An officer who is a director or secretary of a corporation that carried out the work.  <input type="checkbox"/> other [describe]

I, \_\_\_\_\_ (name of person making declaration) declare that the information provided on this form is true and correct.

\_\_\_\_\_  
 Signature of person making declaration

\_\_\_\_\_  
 Date

\* If there is insufficient space, please use, and attach, a separate page.

[Form 2 inserted in Gazette 15 Sep 2009 p. 3599-604.]

**Form 3**

[r. 53]

*Water Agencies (Powers) Act 1984 s. 103(2)*

**Infringement notice**

No. ....

Surname (Block letters) .....

Other names (in full) .....

Address .....

Town or suburb and postcode .....

It is alleged that you committed an **offence**:

<b>Where and when</b>	At ..... on the ..... day of ..... 2000
<b>Details of offence</b>	Section/Regulation..... Description of offence .....
<b>Modified penalty</b>	\$
<b>Information about this notice</b>	Date: ..... Issued at: ..... By: ..... Signature of authorised person: .....

**WHAT YOU MUST DO:**

- You may dispose of this matter by paying the modified penalty within a period of 21 days after this notice is given.**

**PAY THE MODIFIED PENALTY TO:**

**The Chief Finance Officer  
Department of Water  
PO Box K822  
PERTH WA 6842**

If you wish to do so but are unable to make payment within 21 days you may apply to the Department of Water for an extension of time within which the modified penalty may be paid.

**OR**    IF YOU DO NOT PAY THE MODIFIED PENALTY

**2.**    **A prosecution notice may be issued against you for the alleged offence, in which case the matter will be dealt with by a COURT.**

**OR**

**The modified penalty may be recovered by the Fines Enforcement Registry, in which case —**

- (a) additional administrative charges may be incurred;**
- (b) action may be taken to suspend your Motor Driver's Licence or Vehicle Licence until you have paid in full the modified penalty and any additional charge; and**
- (c) you will be given an opportunity to elect to have a prosecution notice for the alleged offence dealt with by a COURT.**

**PAYMENTS AFTER THE DUE DATE CAN ONLY BE MADE WITH A FINAL DEMAND LETTER WHICH INCURS AN ADDITIONAL ENFORCEMENT FEE.**

*[Form 3 amended in Gazette 14 Jun 2002 p. 2837; 5 Sep 2006 p. 3625; 4 Apr 2008 p. 1313; 23 Jun 2009 p. 2500.]*

**Form 4**

[r. 54]

*Water Agencies (Powers) Act 1984 s. 103(6)*

**Notice of withdrawal of infringement notice**

No. ....

Surname (Block letters) .....

Other names (in full) .....

Address .....

Town or suburb and postcode .....

Infringement Notice No. .... Date .... / .... / .....

**AN INFRINGEMENT NOTICE GIVEN TO YOU HAS BEEN  
WITHDRAWN AND NO FURTHER ACTION WILL BE  
TAKEN\*/A SUMMONS WILL BE ISSUED\***

\* Delete where not applicable.

<b>Information about the withdrawn notice</b>	Date of issue: ..... Alleged offence: ..... Notice number: .....
<b>Information about this notice</b>	Date: ..... Issued at: ..... By: ..... Signature of prescribed person: ..... Title of the office held by the prescribed person: .....

*[Form 4 amended in Gazette 14 Jun 2002 p. 2837; 23 Jun 2009 p. 2500.]*

**Form 5**

*Rights in Water and Irrigation Act 1914*  
*Water Agencies (Powers) Act 1984 s. 103(11)*

**Certificate that person is an authorised person**

No. ....

Photograph of authorised person

.....  
(Name)

.....  
(Signature)

.....  
(Title of the office held by the authorised person)

.....  
(Date of issue)

.....  
(Date of expiry)

This is to certify that the person identified on this certificate is authorised, in accordance with section 103 of the *Water Agencies (Powers) Act 1984*, to give infringement notices under the *Rights in Water and Irrigation Regulations 2000*.

Signed: .....

Chief executive officer of the Department of Water *or*  
Chief executive officer of the Water Corporation on behalf of the Water Corporation.\*

\* Delete the inapplicable.

*[Form 5 amended in Gazette 14 Jun 2002 p. 2837; 23 Jun 2009 p. 2501.]*

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**Notes**

<sup>1</sup> This is a compilation of the *Rights in Water and Irrigation Regulations 2000* and includes the amendments made by the other written laws referred to in the following table<sup>1a</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Rights in Water and Irrigation Regulations 2000</i>	10 Jan 2001 p. 165-210	10 Jan 2001 (see r. 2 and <i>Gazette</i> 10 Jan 2001 p. 163)
<i>Rights in Water and Irrigation Amendment Regulations 2002</i>	14 Jun 2002 p. 2835-7	14 Jun 2002
<i>Rights in Water and Irrigation Amendment Regulations (No. 2) 2002</i>	17 Dec 2002 p. 5911-18	17 Dec 2002
<i>Rights in Water and Irrigation Amendment Regulations 2004</i>	30 Dec 2004 p. 7000	1 Jan 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Rights in Water and Irrigation Amendment Regulations 2006</i>	5 Sep 2006 p. 3623-5	5 Sep 2006
<b>Reprint 1: The Rights in Water and Irrigation Regulations 2000 as at 9 Feb 2007</b> (includes amendments listed above)		
<i>Rights in Water and Irrigation Amendment Regulations 2007</i> <sup>4</sup>	22 Jun 2007 p. 2877-83	r. 1 and 2: 22 Jun 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2007 (see r. 2(b))
<i>Rights in Water and Irrigation Amendment Regulations (No. 2) 2007</i>	12 Oct 2007 p. 5510-11	r. 1 and 2: 12 Oct 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Oct 2007 (see r. 2(b))
<i>Rights in Water and Irrigation Amendment Regulations (No. 3) 2007</i> <sup>5</sup>	28 Dec 2007 p. 6425-31	r. 1 and 2: 28 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Dec 2007 (see r. 2(b))
<i>Rights in Water and Irrigation Amendment Regulations 2008</i>	4 Apr 2008 p. 1312-13	r. 1 and 2: 4 Apr 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 5 Apr 2008 (see r. 2(b))

Citation	Gazettal	Commencement
<i>Rights in Water and Irrigation Amendment Regulations 2009</i>	23 Jun 2009 p. 2495-501	r. 1 and 2: 23 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Jun 2009 (see r. 2(b))
<b>Reprint 2: The Rights in Water and Irrigation Regulations 2000 as at 7 Aug 2009</b> (includes amendments listed above)		
<i>Rights in Water and Irrigation Amendment Regulations (No. 2) 2009</i>	15 Sep 2009 p. 3599-604	r. 1 and 2: 15 Sep 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 16 Sep 2009 (see r. 2(b))

~~<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.~~

**~~Provisions that have not come into operation~~**

Citation	Gazettal	Commencement
<i>Rights in Water and Irrigation Amendment Regulations 2010</i> <del>r. 3 and 4<sup>6</sup></del>	16 Mar 2010 p. 985	<a href="#">r. 1 and 2: 16 Mar 2010</a> <a href="#">(see r. 2(a));</a> <a href="#">Regulations other than r. 1 and 2:</a> 1 Apr 2010 (see r. 2(b))

<sup>2</sup> These regulations have effect for the purposes of the *Rights in Water and Irrigation Act 1914* but the formal power to make them is given by the *Water Agencies (Powers) Act 1984* s. 37.

<sup>3</sup> Under the *Financial Management (Transitional Provisions) Act 2006* s. 19 a reference in a written law or other document or instrument to the *Financial Administration and Audit Act 1985* may, where the context so requires, be read as if it had been amended to be a reference to the *Financial Management Act 2006* or to the *Auditor General Act 2006*, or to both those Acts, as the case requires.

<sup>4</sup> Disallowed 22 Nov 2007 see *Gazette* 27 Nov 2007 p. 5910.

<sup>5</sup> Disallowed 8 Apr 2008 see *Gazette* 11 Apr 2008 p. 1396.

~~<sup>6</sup> On the date as at which this compilation was prepared, the *Rights in Water and Irrigation Amendment Regulations 2010* r. 3 and 4 had not come into operation. They read as follows:~~



**~~3. Regulations amended~~**

~~These regulations amend the *Rights in Water and Irrigation Regulations 2000*.~~

**~~4. Regulation 52A replaced~~**

~~Delete regulation 52A and insert:~~

**~~52A. Persons authorised to give infringement notices~~**

~~For the purposes of the *Water Agencies (Powers) Act 1984* section 103, any person employed in the Department who is authorised in writing by the chief executive officer is authorised to give an infringement notice in respect of an offence prescribed by regulation 50.~~