

WA302

WATER SERVICES COORDINATION ACT 1995
WATER SERVICES COORDINATION (EXTENSION OF
ENACTMENTS) (SWIMCO) REGULATIONS 1997

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Water Services Coordination (Extension of Enactments) (SWIMCO) Regulations 1997*.

Commencement

2. The commencement of these regulations is governed by section 46 of the Act.

Interpretation

3. In these regulations —

“operating area” means the controlled area, or the part of a controlled area, to which the operating licence held by SWIMCO applies;

“SWIMCO” means the licensee known as South West Irrigation Management Cooperative Limited.

Prescribed licensee, s. 45 (1)

4. SWIMCO is prescribed for the purposes of Parts 1 and 5 of Schedule 2 to the Act.

Modification of certain enactments

5. In relation to SWIMCO, the enactments specified in the first column of Schedule 1 are modified in the manner described in the second column of that Schedule.

Enactments which do not apply

6. The enactments specified in Schedule 2 do not apply in relation to SWIMCO.

Claims for injury, loss or damage

7. (1) Any claim for compensation in respect of injury, loss or damage arising from the exercise or purported exercise by SWIMCO of a power under the *Water Agencies (Powers) Act 1984* may be determined by arbitration in accordance with its operating licence.

(2) In subregulation (1) —

“damage” includes damage referred to in section 62 (1) of the *Water Agencies (Powers) Act 1984*.

Construction of certain references

8. (1) In an enactment which applies in relation to SWIMCO, a reference to a Schedule 1 enactment is to be read as a reference to the Schedule 1 enactment as modified by operation of regulation 5.

(2) An enactment which applies in relation to SWIMCO and which contains a reference to a Schedule 2 enactment is to be read as if the reference to the Schedule 2 enactment were excluded.

(3) In this regulation —

“Schedule 1 enactment” means an enactment specified in the first column of Schedule 1;

“Schedule 2 enactment” means an enactment specified in Schedule 2.

SCHEDULE 1 — MODIFICATION OF ENACTMENTS

[Regulation 5]

Enactment

Modification

Water Agencies (Powers) Act 1984

s. 3 (1) (definition of “officer”)

In paragraph (b), delete “engaged under section 15 of the *Water Corporation Act 1995*”.

Enactment	Modification
s. 3 (1) (definition of "works")	<p>Delete "includes waterworks, sewerage works, drainage works and irrigation works", substitute the following —</p> <p style="padding-left: 40px;">" means works, ".</p> <p>Delete "plant", substitute the following —</p> <p style="padding-left: 40px;">" plant, ".</p> <p>Delete "water services or by the Commission for the assessment, control or management of water resources", substitute the following —</p> <p style="padding-left: 40px;">" providing the water services specified in its operating licence ".</p>
s. 34 (3)	<p>In paragraph (b), delete "of the Commission or", substitute the following —</p> <p style="padding-left: 40px;">" under the control or management of ".</p> <p>In paragraph (i) (ii), delete "property of", substitute the following —</p> <p style="padding-left: 40px;">" property under the control or management of ".</p> <p>In paragraph (k), delete "the Corporation's".</p>
s. 62 (1)	Delete "the Act or".
s. 70	<p>In subsections (1) and (2), delete ", premises or thing" in each place it occurs.</p> <p>Insert after subsection (4), the following subsections —</p> <p style="padding-left: 40px;">" (5) Where an owner or occupier of land wishes to make a claim for trespass against SWIMCO in respect of the exercise of a power of entry conferred by this Part, the owner or occupier may refer the claim for arbitration in accordance with the operating licence.</p> <p style="padding-left: 80px;">(6) On a referral under subsection (5), the arbitrator is to determine whether the exercise of the power of entry was unlawful and the compensation (if any) payable to the owner or occupier. "</p>
s. 71	<p>In subsection (1), delete "this Act and any relevant Act", substitute the following —</p> <p style="padding-left: 40px;">" its functions under its operating licence ".</p>

Enactment	Modification
	In subsection (1) (a) (ii) delete "of the Commission or", substitute the following — <p style="margin-left: 40px;">" under the control or management of "</p>
s. 72 (1), (2), (3), (6) & (7)	In subsections (1) (a) and (b) and (3), delete ", premises or thing" in each place it occurs. Delete ", premises or thing" in each place it occurs.
s. 73 (1) (b)	Delete from "the works" to the end of the paragraph, substitute the following — <p style="margin-left: 40px;">" works; "</p>
s. 83 (1)	Delete "this Act or a relevant Act", substitute the following — <p style="margin-left: 40px;">" its operating licence "</p> Delete paragraph (a), substitute the following paragraph — <p style="margin-left: 40px;">" (a) enter upon any land or street and acquire, provide or construct —</p> <p style="margin-left: 80px;">(i) irrigation works; or</p> <p style="margin-left: 80px;">(ii) non-potable water supply works,</p> <p style="margin-left: 40px;">and may do all such things as may be necessary or convenient for the construction, maintenance, repair, alteration, replacement, use, discontinuance or removal of such works and any ancillary works; "</p>
s. 83 (2)	Delete "this Act or a relevant Act", substitute the following — <p style="margin-left: 40px;">" its functions under its operating licence "</p> In paragraph (a), delete ", 93, 94, 112 and 112A", substitute the following — <p style="margin-left: 40px;">" and 93 "</p>
s. 86 (definition of "exempt works")	In paragraph (c), delete "vested in the Commission or", substitute the following — <p style="margin-left: 40px;">" under the control or management of "</p>
s. 102 (2)	Delete "during the office hours of the Corporation", substitute the following — <p style="margin-left: 40px;">" after reasonable notice has been given by the interested person "</p>

Enactment	Modification
<i>Rights in Water and Irrigation Act 1914</i>	
s. 33	Delete "any irrigation district", substitute the following — " its operating area ".
s. 36	Delete "and of the <i>Water Agencies (Powers) Act 1984</i> ".
s. 37	Delete "under the provisions of the <i>Commercial Arbitration Act 1985</i> ", substitute the following — " in accordance with the operating licence. "
s. 42 (1)	Delete "the Irrigation District", substitute the following — " an operating area " Delete "alone". In the proviso — (a) insert after "for such purposes," the following — " as are authorized by its operating licence "; (b) delete "or beyond the boundaries of an irrigation district", substitute the following — " its operating area "; (c) insert after "other persons," the following — " subject to its operating licence, "; (d) delete "the by-laws and payment of the prescribed charges", substitute the following — " its operating licence "
s. 42A (1)	Delete "the provisions of this Act", substitute the following — " its operating licence "
s. 71	Delete "vested in or under the control of the Commission or", substitute the following — " under the control or management of " Delete "and to be imprisoned for any period not exceeding 6 months".

SCHEDULE 2 — ENACTMENTS WHICH DO NOT APPLY

[Regulation 6]

Water Agencies (Powers) Act 1984

s. 41	s. 63
s. 41B	s. 67 (10)
s. 41E	s. 67A
s. 41F	s. 67B
s. 41G	s. 68
s. 41GA	s. 69
s. 41H	s. 69A
s. 41J	s. 69B
s. 41K	s. 70 (3) (c)
s. 41M	s. 83 (1) (b)
s. 62 (2)	s. 84 (2)

Rights in Water and Irrigation Act 1914

s. 38	s. 41 (3)
s. 39E	s. 42 (2)
s. 39G	s. 63
s. 39I	s. 69

By Command of the Lieutenant-Governor and deputy of the Governor,

J. PRITCHARD, Clerk of the Executive Council.