Western Australia

Rights in Water and Irrigation Act 1914

Rights in Water and Irrigation Regulations 2000

As at 28 May 2026 Official Version
[PCO 02-p0-01] Published on www.legislation.wa.gov.au

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Rights in Water and Irrigation Regulations 2000

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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* [1].

2. Commencement

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

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.

[Regulation 3 amended: Gazette 5 Sep 2006 p. 3623; 22 Jun 2007 p. 2878 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6425 (disallowed: 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; and

(c) accompanied by the fee (if any) worked out in accordance with Part 7.

(2) An applicant for a permit must provide the Minister with any further information that the Minister may require.

[Regulation 4 amended: Gazette 22 Jun 2007 p. 2878 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6425 (disallowed: Gazette 11 Apr 2008 p. 1396); 23 Jun 2009 p. 2495; 30 Oct 2018 p. 4337.]

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;

(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: 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: 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

(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: 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: 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: 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: 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: 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: 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.

(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: 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: 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: 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: 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.

(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: Gazette 23 Jun 2009 p. 2495-6 and 2498.]

Part 3 — Licences under section 5C

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

*[**19, 20.** Deleted: Gazette 16 Dec 2014 p. 4766.]*

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: 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: Gazette 22 Jun 2007 p. 2880 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428 (disallowed: 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 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: 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: 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: 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.

(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: 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: 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: Gazette 22 Jun 2007 p. 2880 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428 (disallowed: 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: Gazette 23 Jun 2009 p. 2495-6.]

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: 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) a specified person is the 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.

[Regulation 31 amended: Gazette 8 Oct 2019 p. 3622.]

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; and

(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; and

(d) the fee (if any) worked out in accordance with Part 7.

(3) The plan, specification and statement accompanying an application are to be signed by the applicant and are to be dated.

[Regulation 33 amended: Gazette 22 Jun 2007 p. 2881 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428 (disallowed: Gazette 11 Apr 2008 p. 1396); 30 Oct 2018 p. 4337.]

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: 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.

(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: 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: 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: 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: 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.

[Regulation 40 amended: Gazette 22 Jun 2007 p. 2881 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6428-9 (disallowed: 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: Gazette 23 Jun 2009 p. 2495-7.]

Part 4A — Meters

[Heading inserted: Gazette 17 Dec 2002 p. 5912.]

41A. Terms used

In this Part —

coordinate references means Map Grid of Australia 1994 grid coordinates in Zone 50 of the Universal Transverse Mercator Grid System based on the Geocentric Datum of Australia;

Gnangara groundwater plan area means the area shown on the map in Schedule 4;

meter has the same meaning as in Schedule 1 clause 46(5) to the Act;

water entitlement has the same meaning as in Schedule 1 clause 17(4) to the Act;

water year means the period stated as the water year on a licence, or if no water year is stated on the licence, the period of 12 months beginning on the date on which the licence was granted.

[Regulation 41A inserted: Gazette 20 Feb 2018 p. 495-6.]

41B. Application of regulation 41C

(1) Regulation 41C applies to a licence referred to in column 1 of the Table on and after the date specified in column 2 of the Table.

Table

Licence	**Date**
A licence with a water entitlement of 500 000 kilolitres or more per water year	31 March 2018

Licence	**Date**
A licence with a water entitlement of 50 000 kilolitres or more but less than 500 000 kilolitres per water year	31 December 2018
A licence granted in respect of the Gnangara groundwater plan area with a water entitlement of 10 000 kilolitres or more but less than 50 000 kilolitres per water year	31 December 2019
All other licences with a water entitlement of 10 000 kilolitres or more but less than 50 000 kilolitres per water year	31 December 2020

(2) However, regulation 41C does not apply to a licence referred to in column 1 of the Table to subregulation (1) that —

(a) is issued for less than 12 months; or

(b) is issued in respect of a single user dam; or

(ba) is a licence granted for the taking of water from a water resource in one of the following areas, and under which water is taken through at least one draw-point on which a meter owned by the State is installed —

(i) the Gascoyne Groundwater Area under section 26B of the Act;

(ii) the Gascoyne River and all of its tributaries to which Part III Division 1B of the Act applies under section 6 of the Act;

(iii) the Carnarvon Irrigation District under Part IV of the Act;

(iv) the Carnarvon Irrigation Area under section 26B of the Act;

or

(c) is a licence to which —

(i) an alternative measurement method approved under regulation 41E applies; or

(ii) an exemption granted under regulation 41F applies.

(3) Nothing in subregulation (2) prevents the Minister from including in a licence referred to in subregulation (2) any term, condition or restriction in relation to metering.

[Regulation 41B inserted: Gazette 20 Feb 2018 p. 496-7; amended: Gazette 8 Oct 2019 p. 3622-3.]

41C. Licence subject to metering conditions

(1) Each licence is subject to the conditions that the licensee must —

(a) install a meter on each water draw-point through which water is taken under the licence; and

(b) for each meter installed under paragraph (a) —

(i) maintain the meter in good condition and ensure that it is operating within a range of plus or minus 5% of the quantity of water that passes through it when tested in field conditions; and

(ii) provide the Minister with the information listed in subregulation (2) within 30 days of the installation; and

(iii) notify the Minister within 7 days of detecting a malfunction of the meter; and

(iv) record the meter reading at the end of each month; and

(v) provide a copy of the meter readings recorded under subparagraph (iv) to the Minister within 30 days after the end of the relevant water year.

Penalty for this subregulation: A fine of $2 000 and a daily penalty of $200.

(2) For the purposes of subregulation (1)(b)(ii), the information is —

(a) the coordinate references relating to the location of the meter or another approved description of its location; and

(b) the date on which the meter was installed; and

(c) the meter reading at the time of installation; and

(d) the make, size, type and serial number of the meter; and

(e) drawings or annotated photographs of the meter after its installation that show —

(i) the length of pipe connecting the draw-point to the upstream flange of the meter; and

(ii) the length of pipe between the downstream flange of the meter and the first-bend or take-off; and

(iii) the direction of the water flow through the meter; and

(f) a copy of the manufacturer's specifications for installation of the meter or written advice from the person who installed the meter that it complies with the manufacturer's specifications for installation.

(3) For the purposes of complying with subregulation (1)(b)(v), if a licensee has installed 2 or more meters to measure the quantity of water taken from 2 or more water draw-points, the Minister may approve the licensee providing a combined abstraction

reading for all of the water taken under the licence instead of providing individual meter readings.

(4) The meter readings required under subregulation (1)(b)(v) must be provided using the Department's electronic online system provided for that purpose unless the Minister approves another method for providing the readings in any particular case.

[Regulation 41C inserted: Gazette 20 Feb 2018 p. 497-8; amended: Gazette 8 Oct 2019 p. 3623.]

41D. Minister may direct compliance with metering conditions

(1) If a licensee fails to comply with any of the metering conditions specified in regulation 41C(1), the Minister may direct the licensee to comply with those conditions.

(2) A direction under subregulation (1) must —

(a) be given by written notice served on the licensee; and

(b) specify the time within which the direction is to be complied with.

(3) If the licensee 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 licensee 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 from the licensee as a debt due to the State in a court of competent jurisdiction.

Penalty for this subregulation: A fine of $2 000 and a daily penalty of $200.

[Regulation 41D inserted: Gazette 20 Feb 2018 p. 498-9.]

41E. Minister may approve alternative measurement method

(1) The Minister may, in any particular case, approve an alternative measurement method for measuring the quantity of water taken under a licence if satisfied on reasonable grounds that it is impracticable to install a meter under regulation 41C to measure the quantity of water taken under the licence.

(2) If the Minister approves an alternative measurement method under subregulation (1), the licensee must comply with that method to measure the quantity of water taken under the licence.

[Regulation 41E inserted: Gazette 20 Feb 2018 p. 499.]

41F. Exemption from requirement to measure quantity of water taken under licence

(1) The Minister may, in any particular case, grant an exemption from the requirement to measure the quantity of water taken under a licence if satisfied on reasonable grounds that —

(a) it is impracticable to install a meter under regulation 41C to measure the quantity of water taken under the licence; and

(b) it is inappropriate to use an alternative measurement method for measuring the quantity of water taken under the licence.

(2) The Minister may revoke an exemption granted under subregulation (1) if the licensee fails to comply with any terms, conditions or restrictions included in the licence that relate to the taking of water or the measurement of the quantity of water taken.

[Regulation 41F inserted: Gazette 20 Feb 2018 p. 499; amended: Gazette 8 Oct 2019 p. 3623.]

*[**42A.** Inserted: Gazette 28 Dec 2007 p. 6429 (disallowed: 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 licensee.

(2) The State may recover the costs due under subregulation (1) as a debt due to the State from the licensee in a court of competent jurisdiction.

[Regulation 42 inserted: Gazette 23 Jun 2009 p. 2498; amended: Gazette 20 Feb 2018 p. 500-1.]

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 licensee that that meter be tested because the licensee is dissatisfied with a reading from the meter.

(3) Where on testing a meter it is found that —

(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 licensee is to pay the cost of the test.

(4) The cost paid by the licensee under subregulation (3)(b) is not to exceed the fee set out in Schedule 1 Part 1.

[Regulation 44 amended: Gazette 22 Jun 2007 p. 2881 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6429 (disallowed: Gazette 11 Apr 2008 p. 1396); 23 Jun 2009 p. 2495-7; 20 Feb 2018 p. 500-1.]

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 licensee.

[Regulation 45 amended: Gazette 23 Jun 2009 p. 2495-7; 20 Feb 2018 p. 500-1.]

46. Evidence of water taken from well

A notice —

(a) under regulation 45(2); or

(b) given to a licensee 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: Gazette 23 Jun 2009 p. 2495-7; 20 Feb 2018 p. 500-1.]

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 licensee; 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: Gazette 23 Jun 2009 p. 2495-7; 20 Feb 2018 p. 500-1.]

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: Gazette 22 Jun 2007 p. 2881 (disallowed: Gazette 27 Nov 2007 p. 5910); 28 Dec 2007 p. 6429 (disallowed: Gazette 11 Apr 2008 p. 1396).]

[Part 5A (r. 49A-49O) deleted: 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: 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, any person employed in the Department who is authorised in writing by a prescribed person is authorised to give an infringement notice in respect of an offence prescribed by regulation 50.

[Regulation 52A inserted: Gazette 16 Mar 2010 p. 985; amended: Gazette 20 Dec 2011 p. 5411.]

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) Chief Executive Officer;

(b) Deputy Director General Approvals;

(c) Executive Director Statewide Delivery;

(ca) Director Statewide Delivery - Water Regulation;

(cb) Director Statewide Delivery - Integration;

(d) Director Regulatory Capability;

(e) Regional Director.

[Regulation 52B inserted: SL 2021/173 r. 4; amended: SL 2025/91 r. 4.]

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: 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.

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: 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.** Deleted: Gazette 16 Dec 2014 p. 4766.]*

*[**56A.** Inserted: Gazette 28 Dec 2007 p. 6429-30 (disallowed: 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: Gazette 23 Jun 2009 p. 2495-7.]

Part 7 — Fees for applications for permits and section 5C and section 26D licences

[Heading inserted: Gazette 30 Oct 2018 p. 4338.]

58. Terms used

In this Part —

allocation limit, of a water resource, means the annual volume of water that is, for the purposes of the Act, allocated for consumptive use;

Note for this definition:

The allocation limit of a water resource is determined by the Department for the purposes of assessing applications for section 5C licences.

allocation status, of a water resource at a particular time, means —

(a) the proportion of the allocation limit for the water resource that can be taken under section 5C licences and other rights in effect at that time; or

(b) that there is no allocation limit for the water resource at that time;

applicable allocation status, of a water resource in relation to an application, means —

(a) the allocation status of the water resource as published on the Department's website on the day on which the application is made; or

(b) if no allocation status is published on that day — the allocation status of the water resource most recently published on the website;

application means an application for —

(a) the grant of a permit; or

(b) the grant, renewal or amendment of a section 5C licence; or

(c) the grant of a section 26D licence;

consumptive use means taking water under section 5C licences and other rights (including riparian rights and rights under other written laws);

Department's website means a website maintained by or on behalf of the Department;

extraction operation means an operation to remove any of the following from private land for the purpose of sale —

(a) limestone, rock or gravel;

(b) shale, other than oil shale;

(c) sand, other than mineral sand, silica sand or garnet sand;

(d) clay, other than kaolin, bentonite, attapulgite or montmorillonite;

geothermal energy operation has the meaning given in the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967* section 5(1);

GHG operation has the meaning given in the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967* section 5(1);

mining operations has the meaning given in the *Mining Act 1978* section 8(1);

mining tenement has the meaning given in the *Mining Act 1978* section 8(1);

petroleum, geothermal or GHG title means a permit, drilling reservation, access authority, special prospecting authority, lease or licence under the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967*;

petroleum operation has the meaning given in the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967* section 5(1);

pipeline licence means a licence under the *Petroleum and Greenhouse Gas Pipelines Act 1969*;

pipeline operation has the meaning given in the *Petroleum and Greenhouse Gas Pipelines Act 1969* section 4(1);

private land, for the purposes of the definition of ***extraction operation***, has the meaning given in the *Mining Act 1978* section 8(1);

section 5C licence means a licence under section 5C;

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

water services licence means a licence under the *Water Services Act 2012* Part 2 Division 2;

water supply service has the meaning given in the *Water Services Act 2012* section 3(1).

[Regulation 58 inserted: Gazette 30 Oct 2018 p. 4338-9; amended: SL 2026/83 r. 4.]

59. Mining purposes and public water supply purposes

(1) Water is taken for mining purposes or for public water supply purposes if the proposed use of the water is for mining purposes or for public water supply purposes.

(2) Water is used for mining purposes if it is used —

(a) by the holder of a mining tenement in or in relation to a mining operation; or

(b) by the holder of a petroleum, geothermal or GHG title in or in relation to a petroleum operation, geothermal energy operation or GHG operation; or

(c) by the holder of a pipeline licence in or in relation to a pipeline operation; or

(d) in or in relation to an extraction operation.

(3) An activity is for mining purposes if it is carried out —

(a) by the holder of a mining tenement in or in relation to a mining operation; or

(b) by the holder of a petroleum, geothermal or GHG title in or in relation to a petroleum operation, geothermal energy operation or GHG operation; or

(c) by the holder of a pipeline licence in or in relation to a pipeline operation; or

(d) in or in relation to an extraction operation.

(4) Water is used for public water supply purposes if it is used by the holder of a water services licence in or in relation to the provision of a potable water supply service.

(5) An activity is for public water supply purposes if it is carried out by or on behalf of the holder of a water services licence in or in relation to the provision of a potable water supply service.

[Regulation 59 inserted: Gazette 30 Oct 2018 p. 4339-40; amended: SL 2026/83 r. 5.]

60. Fee for application for grant of permit

(1) For the purposes of regulation 4(1)(c), the fee for an application for the grant of a permit is —

(a) if the activity to be authorised by the permit is, to some extent, for mining purposes or for public water supply purposes (whether or not for the taking of water for such purposes) — the fee worked out under subregulation (2); or

(b) otherwise — nil.

(2) The fee is the applicable fee set out in the Table according to the assessment level applicable to the water resource in respect of which the application is made.

Table — Applicable fee

Assessment level		
low	medium	high

Assessment level		
$2 477	$3 302	$4 128

(3) The assessment level applicable to the water resource is —

(a) if the allocation status of the water resource is relevant to the application — worked out in accordance with the Table; or

(b) otherwise — low.

Table — Assessment level

Applicable allocation status of water resource				
≤ 30%	> 30% but ≤ 70%	> 70% but ≤ 100%	> 100%	no allocation limit
low	low	medium	high	low

Note for this Table:

> signifies more than

≤ signifies less than or equal to

[Regulation 60 inserted: Gazette 30 Oct 2018 p. 4340-1.]

61. Fee for application for grant, renewal or amendment of s. 5C licence

(1) For the purposes of Schedule 1 clauses 4(1)(d), 22(1)(b) and 23(3) of the Act, the fee for an application for the grant, renewal or amendment of a section 5C licence is —

(a) if the low volume exemption does not apply and at least some of the water to be taken under the licence is for mining purposes or for public water supply purposes — the fee worked out under subregulation (3); or

(b) if the low volume exemption applies and at least some of the water to be taken under the licence is for mining purposes or for public water supply purposes — $200; or

(c) otherwise — nil.

(2) The low volume exemption applies in relation to an application if the maximum volume of water that may be taken under the licence, if granted, renewed or amended in accordance with the application, does not exceed 1 500 kL/annum.

(3) The fee is —

(a) if the application is for the grant of a licence — the applicable fee set out in item 1 of the Table according to the assessment level applicable to the water resource in respect of which the application is made; or

(b) if the application is for the renewal of the licence — the applicable fee set out in item 2 of the Table according to the assessment level applicable to the water resource in respect of which the application is made; or

(c) if the application is for the amendment of the licence and the amendment requires an assessment of the impact on the water resource in respect of which the application is made — the applicable fee set out in item 3 of the Table according to the assessment level applicable to the water resource.

Table — Applicable fee

Item	Type of application	Assessment level		
		low	medium	high
1.	new licence	$5 357	$7 143	$8 929
2.	renewal of licence	$4 001	$5 335	$6 668

Item	Type of application	Assessment level		
		low	medium	high
3.	amendment of licence	$4 407	$5 876	$7 345

(4) The assessment level applicable to the water resource is —

(a) if the allocation status of the water resource is relevant to the application — worked out in accordance with the Table; or

(b) otherwise — low.

Table — Assessment level

Volume	Applicable allocation status of water resource				
	≤ 30%	> 30% but ≤ 70%	> 70% but ≤ 100%	> 100%	no allocation limit
< 50 000 kL/annum	low	low	medium	high	low
≥ 50 000 but < 500 000 kL/annum	low	medium	high	high	low
≥ 500 000 kL/annum	high	high	high	high	low

Note for this Table:

> signifies more than

≥ signifies more than or equal to

< signifies less than

≤ signifies less than or equal to

(5) For the purposes of the Table to subregulation (4) —

volume, in relation to an application, means the maximum volume of water that may be taken under the licence if granted, renewed or amended in accordance with the application, regardless of whether only some of the water is to be taken for mining purposes or for public water supply purposes.

[Regulation 61 inserted: Gazette 30 Oct 2018 p. 4341-3.]

62. Fee for application for grant of s. 26D licence

(1) For the purposes of regulation 33(2)(d), the fee for an application for the grant of a section 26D licence is —

(a) if the proposed use of the water is, to some extent, for mining purposes or for public water supply purposes — the fee worked out under subregulation (2); or

(b) otherwise — nil.

(2) The fee is the applicable fee set out in the Table according to the assessment level applicable to the water resource in respect of which the application is made.

Table — Applicable fee

Assessment level		
low	medium	high
$172	$215	$269

(3) The assessment level applicable to the water resource is —

(a) if the allocation status of the water resource is relevant to the application — worked out in accordance with the Table; or

(b) otherwise — low.

Table — Assessment level

Applicable allocation status of water resource				
≤ 30%	> 30% but ≤ 70%	> 70% but ≤ 100%	> 100%	no allocation limit
low	low	medium	high	low

Note for this Table:

> signifies more than

≤ signifies less than or equal to

[Regulation 62 inserted: Gazette 30 Oct 2018 p. 4343.]

63. Publication of applicable allocation status of water resources

For the purposes of the definition of ***applicable allocation status*** in regulation 58, the CEO must, for each water resource to which section 5C applies, publish its allocation status on the Department's website and, to the extent practicable, keep that status up-to-date.

[Regulation 63 inserted: Gazette 30 Oct 2018 p. 4343-4.]

64. Fee waiver, reduction or refund

The CEO may, in a particular case, refund, reduce or waive, in whole or in part, a fee paid or payable under this Part if the CEO considers it appropriate to do so.

[Regulation 64 inserted: Gazette 30 Oct 2018 p. 4344.]

Part 8 — Transitional provision

[Heading inserted: SL 2026/83 r. 6.]

65. Transitional provision for *Rights in Water and Irrigation Amendment (Petroleum Legislation) Regulations 2026*

(1) In this regulation —

commencement day means the day on which the *Petroleum Legislation Amendment Act 2024* sections 3, 176 and 210 come into operation;

former Form 1 means Form 1 as it was immediately before commencement day;

GHG title has the meaning given in the *Petroleum, Geothermal Energy and Greenhouse Gas Storage Act 1967* section 69A(1);

greenhouse gas pipeline has the meaning given in the *Petroleum and Greenhouse Gas Pipelines Act 1969* section 4(1);

pipeline licence means a licence under the *Petroleum and Greenhouse Gas Pipelines Act 1969*.

(2) An application for a licence under section 26D may be made using former Form 1 during the period of 6 months beginning on commencement day.

(3) Subregulation (2) does not apply in relation to an application for a licence under section 26D if —

(a) the proposed use of the water is, to some extent, for mining purposes within the meaning of regulation 59(2); and

(b) the water is proposed to be used —

(i) by the holder of a GHG title; or

(ii) by the holder of a pipeline licence for a greenhouse gas pipeline.

[Regulation 65 inserted: SL 2026/83 r. 6.]

Schedule 1 — Fees

Part 1 — Fees relating to licences and permits

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

		Fee
[1, 2.	*deleted]*	
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: Gazette 17 Dec 2002 p. 5917-18; 22 Jun 2007 p. 2882-3 (disallowed: Gazette 27 Nov 2007 p. 5910); Part 1 inserted as Division 1: Gazette 28 Dec 2007 p. 6430-1 (disallowed: Gazette 11 Apr 2008 p. 1396); 16 Dec 2014 p. 4766.]

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

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

	Registration	**Fee**
1.	Application for notation of security interest	$70
2.	Removal of notation of security interest	$70
3.	Variation of notation of security interest	$70

	Access to register	
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: Gazette 30 Dec 2004 p. 7000.]

Schedule 2 — Prescribed offences and modified penalties

[r. 50 and 51]

[Heading inserted: Gazette 5 Sep 2006 p. 3624.]

	Offence	Modified penalty
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
5A.	An offence against regulation 41C(1)	$400
6.	An offence against regulation 43	$400

[Schedule 2 inserted: Gazette 5 Sep 2006 p. 3624; amended: Gazette 20 Feb 2018 p. 499.]

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

Name of applicant	.....
Postal address for applicant	.....
Description of the land in respect of which the application is made *[Land descriptions to be as they appear on certificate of title, certificate of Crown land title or TENGRAPH]*	....
Does the applicant own the land?	....
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	....
If there is another licence under section 26D in respect of the land, provide the licence number	....
Purpose of application	new well/bore/excavation/soak..... enlargement or deepening of existing well/bore/excavation/soak ..... other (describe) .....

If the applicant is a water services licensee, specify water services provider name and licence number	....
Is the application related to public water supply purposes?	....
Is the application related to mining purposes? **If so, include details as relevant:** • **mining tenement number(s), mine name and mine field** • **details of petroleum, geothermal or GHG title(s)** • **pipeline licence number(s)**	....
Proposed water use: • **specify whether the use is commercial or not** • **specify volume of water to be used** • **include detailed description of purposes for which water to be used** • **specify duration of use and licence**	....
Declaration by applicant	I, ...apply for a licence under section 26D of the *Rights in Water and Irrigation Act 1914*. ..... (signature or seal of applicant)

[Form 1 inserted: SL 2026/83 r. 7.]

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

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

Part 2: Details of the person who carried out the work	
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:	.....

Part 3: Location of well					
Property address of well					
Well coordinates: ☐ GPS reading ☐ Estimate					
Zone		Easting/ Latitude		Northing/ Longitude	
		Datum		GPS reliability	
***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

☐ Pressure cement grouted ☐ Tremmie

Casing diameter (mm O.D)	Depth	
	From (m)	To (m)

Total depth drilled (from ground level)		Geophysical log required as condition of licence?	☐ Yes ☐ No	Geophysical log taken? (If so, attach log and contractor details)	☐ Yes ☐ No

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

Part 5: Particulars of well			
Well name / number			
Drilling start[1]		Drilling completion[2]	

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	☐ Rotary air ☐ Cable tool ☐ Auger ☐ Rotary mud ☐ Sludge ☐ Other (specify) _____
Final status of well	☐ Ready to operate ☐ Decommissioned ☐ Other (specify) _____
Purpose (use) of well	☐ Production ☐ Investigation ☐ Monitoring ☐ Other (specify) _____

Part 6: Well development			
Date (dd/mm/yy)		Duration of development	..... hours
Method	☐ Airlift ☐ Pump ☐ Jetting ☐ Surging		
	Development pump rate (e.g. L/s, m^3/day)		

Part 7: Pump testing (If applicable)					
Date start (dd/mm/yy)		Date end (dd/mm/yy)		Duration of test	..... hours
☐ Step test ☐ Constant rate ☐ Other					
Constant rate - Pump rate (e.g. m3/day)			Pump type (e.g. submersible)		
			Water rest level prior to test (m)		
Measurements taken from ☐ Top of casing (TOC) ☐ Ground level (GL) ☐ Other (specify) _____					
Elevation of measurement reference point if known (metres AHD)		☐ GPS ☐ Estimate ☐ Other (specify) _____			
Final drawdown	m	Recommended supply (e.g. m3/day)			
Final drawdown is the distance between the static water level measured prior to the test and the water level measured at the end of the pumping test.					

Comments .....

Part 8: Field samples				
Collection method (e.g. pump test, airlift)				
Conductivity (e.g. mS/m)		☐ Temperature compensated ☐ Temperature uncompensated	pH	
Water temperature at test				

Comments .....

Part 9: Lab samples				
Lab samples taken (Please attach)	☐ Yes ☐ No	TDS (e.g. mg/l)		Please submit samples separately to form if not received before the one month submission deadline.

Part 10: Water levels			
SWL (Static water level)	m	Water cut at	m
Measurements taken from	☐ Top of casing (TOC) ☐ Ground level (GL) ☐ Other (specify) _____		
Date of reading (dd/mm/yy)			

Comments .....

Part 11: Declaration and signature	
Capacity of person making declaration [tick one box]	☐ An individual who carried out the work. ☐ An officer who is a director or secretary of a corporation that carried out the work. ☐ 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: 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**:

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

WHAT YOU MUST DO:

1. **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 and Environmental Regulation
[insert address]

If you wish to do so but are unable to make payment within 21 days you may apply to the Department 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) some or all of the following action may be taken — your driver's licence may be suspended, your vehicle licence may be suspended or cancelled, you may be disqualified from holding or obtaining a driver's licence or vehicle licence, your vehicle may be immobilised or have its number plates removed, your details may be published on a website, your earnings or bank accounts may be garnished, and your property may be seized and sold; 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: Gazette 14 Jun 2002 p. 2837; 5 Sep 2006 p. 3625; 4 Apr 2008 p. 1313; 23 Jun 2009 p. 2500; 20 Aug 2013 p. 3846; 15 Sep 2017 p. 4795; SL 2020/173 r. 4; SL 2021/173 r. 5.]

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.

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

[Form 4 amended: 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 *or* Chief executive officer of the Water Corporation on behalf of the Water Corporation.*

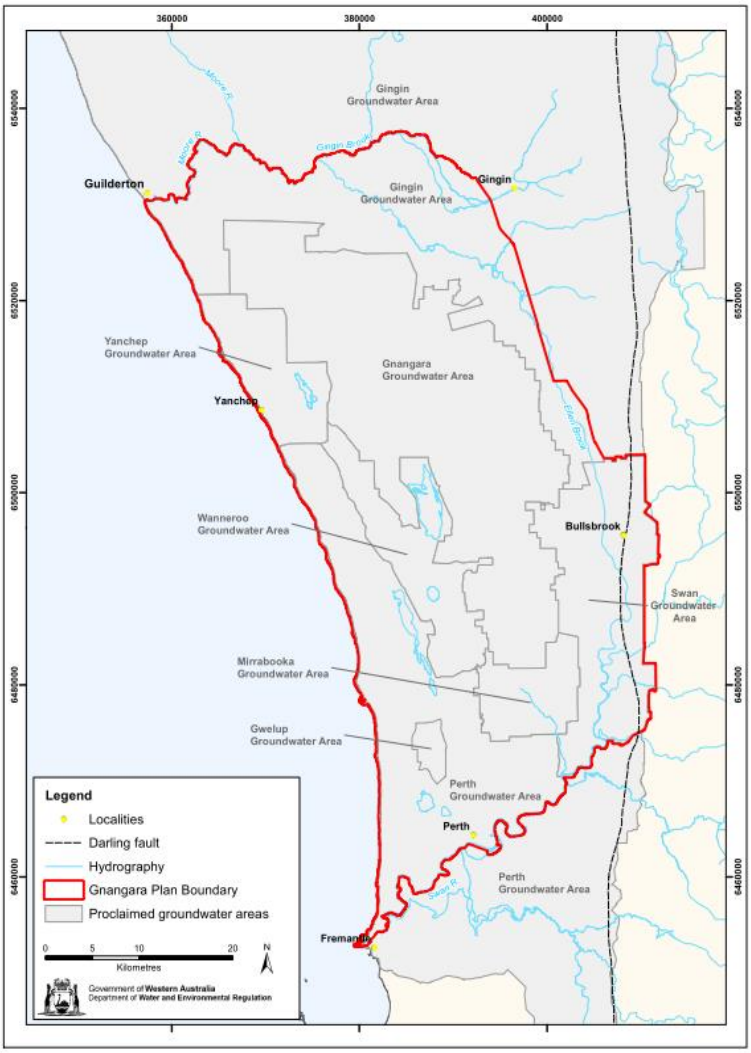
* Delete the inapplicable.

[Form 5 amended: Gazette 14 Jun 2002 p. 2837; 23 Jun 2009 p. 2501; 15 Sep 2017 p. 4795.]

Schedule 4 — Gnangara groundwater plan area

[r. 41A]

[Heading inserted: Gazette 20 Feb 2018 p. 500.]



[Schedule 4 inserted: Gazette 20 Feb 2018 p. 500.]

Notes

This is a compilation of the *Rights in Water and Irrigation Regulations 2000* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
Rights in Water and Irrigation Regulations 2000	10 Jan 2001 p. 165-210	10 Jan 2001 (see r. 2 and *Gazette* 10 Jan 2001 p. 163)
Rights in Water and Irrigation Amendment Regulations 2002	14 Jun 2002 p. 2835-7	14 Jun 2002
Rights in Water and Irrigation Amendment Regulations (No. 2) 2002	17 Dec 2002 p. 5911-18	17 Dec 2002
Rights in Water and Irrigation Amendment Regulations 2004	30 Dec 2004 p. 7000	1 Jan 2005 (see r. 2 and *Gazette* 31 Dec 2004 p. 7130)
Rights in Water and Irrigation Amendment Regulations 2006	5 Sep 2006 p. 3623-5	5 Sep 2006
Reprint 1: The *Rights in Water and Irrigation Regulations 2000* as at 9 Feb 2007 (includes amendments listed above)		
Rights in Water and Irrigation Amendment Regulations 2007 [2]	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))
Rights in Water and Irrigation Amendment Regulations (No. 2) 2007	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))
Rights in Water and Irrigation Amendment Regulations (No. 3) 2007 [3]	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))
Rights in Water and Irrigation Amendment Regulations 2008	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))
Rights in Water and Irrigation Amendment Regulations 2009	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))

Citation	Published	Commencement
Reprint 2: The *Rights in Water and Irrigation Regulations 2000* as at 7 Aug 2009 (includes amendments listed above)		
Rights in Water and Irrigation Amendment Regulations (No. 2) 2009	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))
Rights in Water and Irrigation Amendment Regulations 2010	16 Mar 2010 p. 985	r. 1 and 2: 16 Mar 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Apr 2010 (see r. 2(b))
Rights in Water and Irrigation Amendment Regulations 2011	20 Dec 2011 p. 5411	r. 1 and 2: 20 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Dec 2011 (see r. 2(b))
Rights in Water and Irrigation Amendment Regulations 2013	20 Aug 2013 p. 3846	r. 1 and 2: 20 Aug 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Aug 2013 (see r. 2(b) and *Gazette* 20 Aug 2013 p. 3815)
Rights in Water and Irrigation Amendment Regulations 2014	16 Dec 2014 p. 4766	r. 1 and 2: 16 Dec 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 17 Dec 2014 (see r. 2(b))
Water Legislation Amendment Regulations 2017 Pt. 2	15 Sep 2017 p. 4794-6	16 Sep 2017 (see r. 2(b))
Rights in Water and Irrigation Amendment Regulations 2018	20 Feb 2018 p. 495-501	r. 1 and 2: 20 Feb 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Feb 2018 (see r. 2(b))
Rights in Water and Irrigation Amendment Regulations (No. 2) 2018	30 Oct 2018 p. 4336-45	r. 1 and 2: 30 Oct 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Nov 2018 (see r. 2(b))
Rights in Water and Irrigation Amendment Regulations 2019	8 Oct 2019 p. 3622-3	r. 1 and 2: 8 Oct 2019 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Oct 2019 (see r. 2(b))
Water Regulations Amendment (Infringement Notices) Regulations 2020 Pt. 2	SL 2020/173 25 Sep 2020	29 Sep 2020 (see r. 2(b) and SL 2020/159 cl. 2(a))

Citation	Published	Commencement
Water Regulations Amendment (Infringement Notices) Regulations 2021 Pt. 2	SL 2021/173 8 Oct 2021	9 Oct 2021 (see r. 2(b))
Water Regulations Amendment (Infringement Notices) Regulations 2025 Pt. 2	SL 2025/91 11 Jun 2025	12 Jun 2025 (see r. 2(b))
Rights in Water and Irrigation Amendment (Petroleum Legislation) Regulations 2026	SL 2026/83 27 May 2026	r. 1 and 2: 27 May 2026 (see r. 2(a)); Regulations other than r. 1 and 2: 28 May 2026 (see r. 2(b) and SL 2026/70 cl. 2)

Other notes

[1] 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.

[2] Disallowed 22 Nov 2007 see *Gazette* 27 Nov 2007 p. 5910.

[3] Disallowed 8 Apr 2008 see *Gazette* 11 Apr 2008 p. 1396.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
Act	3
allocation limit	58
allocation status	58
applicable allocation status	58
application	58
approved	3
clause	47
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Department	3
Department's website	58
extraction operation	58
form	3
former Form 1	65(1)
geothermal energy operation	58
GHG operation	58
GHG title	65(1)
Gnangara groundwater plan area	41A
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well 32

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