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No. 122]

PERTH: TUESDAY, 9th DECEMBER

[1969

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Crown Law Department,  
Perth, 8th December, 1969.

THE undermentioned Regulations made under the provisions of the Swan River Conservation Act, 1958, and amended from time to time up to and including the 11th November, 1969 are reprinted as so amended pursuant to the Reprinting of Regulations Act, 1954 by authority of the Minister for Justice.

W. J. ROBINSON,  
Under Secretary for Law.

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SWAN RIVER CONSERVATION ACT, 1958.

### SWAN RIVER CONSERVATION REGULATIONS, 1961.

Published in the *Government Gazette* on the 15th May, 1961 and incorporating the amendments thereto published in the *Government Gazette* on the 22nd September, 1969, and the amendments that, pursuant to the provisions of section 8 of the Decimal Currency Act, 1965, are deemed for the purposes of this reprint to be amendments to the regulations; and reprinted pursuant to the Reprinting of Regulations Act, 1954.

Reprinted pursuant to the Reprinting of Regulations Act, 1954 by authority of the Minister for Justice, dated 5th December, 1969.

SWAN RIVER CONSERVATION ACT, 1958.

SWAN RIVER CONSERVATION REGULATIONS, 1961.

PART 1—PRELIMINARY.

Citation.

1. These regulations may be cited as the Swan River Conservation Regulations, 1961.

Interpretation.

Reg. 2.  
Amended  
by G.G.  
22/9/69,  
p. 2879.

2. (1) In these regulations unless the context requires otherwise—

“Appendix” means the appendix to these regulations;

“Secretary” means the Secretary to the Board;

“the Act” means the Swan River Conservation Act, 1958;

“wastes” means industrial wastes and any other matter likely to pollute any waters;

“waters” means waters within the meaning of subsection (1) of section 4 of the Act and waters of the Swan River and its tributaries that are from time to time defined pursuant to subsection (2) of that section as waters to which the Act applies.

- (2) Expressions used in these regulations have the respective meanings given them by the Act.

PART II—SEAL OF THE BOARD.

3. The form of the official seal of the Board is—



4. The Secretary is responsible for the care of the official seal and shall keep it in safe custody.
5. The official seal shall not be fixed to any document unless—
  - (a) the Board has, at any meeting, directed that the official seal be affixed to that document; and
  - (b) it is affixed by the Secretary in the presence of the Chairman or his deputy, and one other member of the Board or his deputy.

## PART III—BUSINESS OF THE BOARD.

## Meetings.

6. The Secretary shall cause to be given to each member of the Board notice of any meeting of the Board, at least three clear days before the date fixed for the meeting; but if in the opinion of the Chairman it is desirable, in the case of emergency, so to do, shorter notice of a special meeting may be so given.

7. Where, at any meeting of the Board, a quorum is not constituted, the business set down for that meeting shall be included in the business of the next meeting of the Board.

8. An entry in the minute book, signed by the Chairman, that a resolution has been carried or lost at any meeting, shall be conclusive evidence of that fact.

9. A resolution of the Board shall not be revoked or altered unless notice of the intention to propose the revocation or alteration is given in writing to each of the members of the Board, three clear days before the meeting at which the revocation or alteration is to be proposed.

10. Where a member intends to propose the revocation or alteration of a resolution of the Board he may, in lieu of giving notice to each member personally, as required by regulation 9 of these regulations, at any meeting of the Board give notice in writing of his intention to propose the revocation or alteration at the next following meeting of the Board.

11. Where notice of motion has been given as provided by regulation 10 of these regulations, the Secretary, when giving notice of the next meeting to members of the Board, shall annex thereto a copy of that notice of motion.

12. (1) The Board may appoint any sub-committee, comprising such members of the Board as it considers necessary for the conduct of the business of the Board; and that sub-committee shall have power to co-opt any person or persons it considers desirable.

(2) Where the Board delegates to a sub-committee power to act, the delegation shall be under seal, as provided by section 16(1) of the Act.

## Correspondence.

13. Any correspondence by the Board shall be signed by the Chairman or the Secretary or any other person, as may be authorised by the Chairman of the Board.

## Accounts.

14. Accounts due and payable by the Board shall be passed by resolution, duly carried at a meeting of the Board, but the Secretary may authorise payment, where necessary, in anticipation of, and subject to, confirmation by the Board.

## Engagement of Personnel.

15. (1) The Board may engage personnel, either in a full time or part time capacity, to assist in carrying out the work and functions of the Board and that personnel may include a Secretary, who shall be the Chief Administrative Officer of the Board, and inspectors.

(2) The Board, by resolution, shall fix the salary and conditions of appointment and employment, in the case of each engagement.

## PART IV—PRESERVATION OF PURITY OF WATERS.

## Wastes—Standards.

16. (1) The Board shall determine the standard of wastes in respect of any application to discharge wastes into any of the waters, in accordance with the circumstances of the case, and having regard to the type of industry, the quantity, composition and temperature of the wastes to be discharged, the conditions and usage of the waters and any other relevant factor.

(2) Any determination made under this regulation shall be in accordance with general standards and principles approved by the Rivers and Waters Technical Advisory Committee.

17. (1) In considering an application made under Division A of Part V of these regulations, the Board shall have regard to broad principles, and generally any wastes which it is proposed to discharge into the waters shall not contain—

- (a) sewage;
- (b) acidity or alkalinity outside the range of a pH value between pH5 and pH9;
- (c) poisons; or
- (d) any substance which is likely—
  - (i) to contribute to the formation of sludge or other deposit;
  - (ii) to contribute to the formation of scum, fat, oil, grease or floating material;
  - (iii) to contribute to the formation of objectionable odours or discolouration;
  - (iv) to be injurious to marine or animal or human life; or
  - (v) to deplete excessively the oxygen content of the waters.

(2) Without limiting the generality of the provisions of sub-regulation (1) of this regulation, wastes shall not be discharged into any of the waters—

- (a) if it is reasonably practicable to dispose of them satisfactorily, in some other manner.
- (b) unless every reasonable and practicable step has been taken to improve the quality and appearance of the wastes, prior to discharge; and
- (c) unless they conform with any bacterial, physical and chemical standards as may from time to time be laid down by the Board.

18. It is not the responsibility of the Board to specify the design, location, type of construction or particular manner in which any operation causing or threatening to cause a condition of pollution might be corrected; and any person ordered to correct the condition of any wastes shall correct the condition in a lawful manner.

19. (1) Consideration of any application for a permit to discharge any wastes shall be governed by the type of discharge and the ability of the waters to absorb the wastes, without detriment or deterioration.

(2) A permit may be for specified types of wastes and the quantity of wastes which will be taken into the waters shall be governed by the number of similar or other types of wastes already being discharged in the waters and any other relevant factor.

## Inspectors.

20. (1) Any inspector appointed by the Board, pursuant to the provisions of regulation 15 of these regulations, shall carry, and whenever required produce, an authority to act as such, issued under the Seal of the Board.

- (2) An inspector has authority—
- (a) to enter and inspect any land or premises, on a foreshore, or which is so located that, in his opinion, wastes from the land or premises may find their way to, and discharge into, any of the waters;
  - (b) to board and inspect any vessel on, or structure or premises over, any of the waters; and
  - (c) to take and carry away a sample or samples of any matter whether wastes or not, being or being likely to be, discharged into the waters.
- (3) Any person hindering or obstructing an inspector acting in the course of his duties commits an offence against these regulations.

#### Rubbish and Litter.

21. Any person depositing rubbish, litter or other objectionable matter in or on any part of the waters or foreshores or adjacent to the foreshores, in any place where it or any of its components is, or is likely to be, or become, a source of pollution, commits an offence against these regulations.

22. (1) The Board, an inspector or a person authorised by the Board, may serve notice on the owner or occupier of any property on which there has accumulated, or on any person who has deposited in any waters or on the foreshore, any rubbish, litter or matter, including such matter as is mentioned in regulation 21 of these regulations, requiring that person to remove that rubbish, litter or matter within a period prescribed by the notice.

(2) Any person who, having been served with a notice, pursuant to this regulation, fails or neglects to comply with the provisions of that notice commits an offence against these regulations.

(3) Where a person fails to comply with a notice served under this regulation, the Board may remove, or cause to be removed, the rubbish, litter or matter to which the notice relates and may, without prejudice to sub-regulation (2) of this regulation, recover judgment, in any court of competent jurisdiction, for the cost of that removal, against the person to whom the notice is directed.

#### PART V.—PERMITS.

##### Division A—Wastes and Effluents.

23. The discharge either directly or indirectly of wastes into any of the waters or into any drain or open-cut or natural drainage channel connecting to those waters, is subject to a permit being issued under the authority of the Board; and subject to the provisions of subregulation (2) of regulation 30 of these regulations, a person shall not so discharge wastes without first obtaining a permit therefor.

24. Every applicant for a permit shall apply by means of Form No. 1 in the Appendix.

25. Every applicant shall submit full information regarding the composition, quantity, temperature, type, maximum rate of discharge and condition of any wastes and furnish such further information as may, from time to time, be required by the Board.

26. (1) The Board shall consider each application and may, at its discretion, grant or refuse a permit in respect of the whole or any part of the application.

(2) The Board may impose conditions under which any wastes may be discharged in any of the waters and any person not complying with those conditions commits an offence against these regulations.

(3) A permit issued by the Board under regulation 23 of these regulations shall specify the nature or types of the wastes; and should there be any subsequent change in the nature or types of the wastes, the person to whom the permit was issued shall forthwith advise the Board of the nature of that change.

27. (1) A permit shall be for such prescribed period, not exceeding twelve months, as may be determined by the Board and upon the expiry of that period the person to whom the permit was issued shall, if continuing to discharge wastes into any of the waters make application for renewal of the permit.

(2) Any person continuing to discharge wastes into any of the waters, after the expiry of a permit therefor, commits an offence against these regulations.

28. If, in the opinion of the Board, after issue of a permit there is any change in the nature of the wastes or in the conditions, or use, of the waters, the Board may re-examine the permit and may amend or revise its requirements, as it thinks fit or cancel the permit.

29. Any person using any of the waters for industrial purposes or discharging either directly or indirectly any wastes into those waters at the commencement of the Act, shall, at the request of the Board or an Inspector, apply for a permit in respect of any existing points of entry, on or before the 1st July, 1961, and a person failing so to apply commits an offence against these regulations.

30. (1) The Board shall, as soon as practicable, examine any application made pursuant to regulation 29 of these regulations and determine whether a permit should or should not be issued and may specify such conditions as it thinks necessary.

(2) Pending determination as to the issue of a permit under this regulation, the person or industry concerned may continue to utilise any existing method of discharge of wastes.

Division B—Jetties, Wharves, Bridges and River Structures  
Generally and Reclamation and Dredging.

31. (1) The construction or alteration of any jetty, wharf, bridge or river structure generally and the undertaking of any dredging or reclamation project in or over the waters is subject to a permit being issued, under the authority of the Board, and a person shall not commence any such construction or undertaking without first obtaining a permit therefor.

(2) Every applicant for a permit shall apply by means of Form No. 2 in the Appendix, in triplicate, and submit the application to the Board, through the Harbour and Light Department or the Lands Department, as the case may require.

32. Every applicant shall submit, in triplicate, full information regarding the intended structure or proposed work and shall furnish such further information as may, from time to time, be required by the Board or the relevant Department.

33. The Board shall consider any application made under this Division and may at its discretion grant or refuse a permit, in respect of the whole or any part of the application; and may attach such conditions as to the grant of a permit, as it thinks fit.

34. Any person who, having obtained a permit under this Division, does not comply with any condition attaching to the permit commits an offence against these regulations.

35. Every permit under this Division shall be for such prescribed period, not exceeding twelve months, as may be determined by the Board.

36. (1) The Board may renew any permit issued under this Division for such further period or periods as it may determine, but any renewal shall have regard to the condition and use of the structures, and to any change in conditions and usage of the waters.

(2) Any person who continues the construction, alteration or use of any jetty, wharf, bridge or river structure generally or the undertaking of any dredging or reclamation project, after the expiry of a permit, therefor, commits an offence against these regulations.

37. (1) The owner or occupier of any structure in or over the waters existing at the commencement of this Act, shall make application for a permit through the Harbour and Light Department on or before the 1st July, 1961, for leave to continue using that structure; and a person failing or neglecting so to apply commits an offence against these regulations.

(2) Any person undertaking a dredging or reclamation project at the commencement of these regulations shall make application for a permit through the Lands Department on or before the 1st July, 1961, for leave to continue with that project; and a person failing or neglecting so to apply commits an offence against these regulations.

38. (1) The Board shall as soon as practicable examine any application made under regulation 37 of these regulations and determine whether a permit should or should not be issued, and may specify such conditions as it thinks fit.

(2) Pending determination as to the issue of a permit under this regulation, the owner of a structure or person undertaking a dredging or reclamation project to which this regulation applies may continue to use the structure or continue the dredging or reclamation, as the case may be.

#### Division C—Fees Payable on Application for a Permit.

39. The following fees are payable, namely:—

	\$
On initial application for a permit to discharge wastes into the waters .....	6.30
(Where the Board considers it necessary to have samples analysed, the applicant shall, in addition to the foregoing fee, meet the cost of any fees incurred, including fees normally charged by the Government Chemical Laboratories for that analysis.)	
On application for renewal of a permit .....	2.10
On application for a permit to construct jetties, wharves, bridges, structures, and for reclamation and dredging (exclusive of any normal departmental charges)	Nil

#### Division D—Appeals Against Refusal to Issue a Permit or Give an Approval.

40. (1) Any person aggrieved—

- (a) by a refusal of the Board to grant a permit or give an approval under the Act; or
- (b) by a condition imposed by the Board as a condition of a permit, renewal of a permit, or approval,

may appeal against the refusal or, as the case may be, the condition, to the Minister.

(2) An appeal shall be lodged with the Minister within twenty-eight days of the Board's decision being communicated to the person thereby aggrieved.

(3) The Minister shall deal with the appeal and determine the issue, as soon as practicable after lodgment of the appeal.

(4) The Minister may, in his discretion, extend the time for lodgment of an appeal.

(5) The Minister may make such inquiries as he considers necessary and may determine any issue, with or without hearing the parties, and may call for the advice of the Rivers and Waters Technical Advisory Committee.

41. Within the time and in the manner prescribed by rules of Court, any person aggrieved by the decision of the Minister may appeal to a Judge of the Supreme Court against that decision.

#### PART VI—PROSECUTIONS.

42. A prosecution for an offence under these regulations shall be undertaken only with the approval of the Board and the consent of the Minister, on the complaint of a person duly authorised, by resolution of the Board, to make that complaint.

#### Penalty.

43. Subject to section 30 of the Act, any person contravening these regulations is liable to a maximum penalty of \$20 and thereafter, where applicable, to a maximum daily penalty of 50 cents per day during the continuance of the breach.

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Form No. 1.

The Swan River Conservation Board.

APPLICATION FOR A PERMIT TO DISCHARGE WASTES INTO THE WATERS.

We, the undersigned, hereby make an application to discharge wastes into the waters.

Name .....

Address .....

Name of business or industry .....

Type of business or industry .....

Location of industry .....

Date on which it is proposed to begin discharging the wastes .....

Date .....

Signature.



In support of the above application the following information is submitted.

Nature of wastes to be discharged .....

Period over which wastes are produced .....

Quantities of wastes, maximum and minimum—

Quantities—Per hour .....

Per day .....

Per week .....

Expected temperature of wastes at point of discharge .....

Chemical analysis of proposed wastes .....

Point at which it is proposed to discharge wastes .....

Manner of discharge, i.e., drain, channel, tributary, main river .....

Manner in which it is proposed to treat wastes prior to discharge .....

Each application must be supported by sketches, plans and details of any plant installed to treat any wastes prior to discharge to the waters (in triplicate).

Form No. 2.

The Swan River Conservation Board.

APPLICATION FOR A PERMIT TO CONSTRUCT OR ALTER A JETTY, WHARF, BRIDGE OR OTHER RIVER STRUCTURE OR TO CONTINUE USING SUCH STRUCTURE OR TO UNDERTAKE OR CONTINUE ANY DREDGING OR RE-CLAMATION PROJECT.

Name of applicant .....

Address .....

Business or industry .....

Type of structure, work or project .....

Location of structure, work or project .....

Date proposed commencement .....

Date .....

Signature.

Note.—This application should be supported by a sketch in triplicate showing location of proposed work, and specifications and drawings also in triplicate showing details and nature of the project.

