



Western Australia

Water Services Licensing Act 1995

**Water Services Licensing
(Extension of Enactments)
Regulations 1997**

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Western Australia

Water Services Licensing (Extension of Enactments) Regulations 1997

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Reprinted under the
Reprints Act 1984 as
at 2 September 2011

Western Australia

Water Services Licensing Act 1995²

Water Services Licensing (Extension of Enactments) Regulations 1997

1. Citation

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

[Regulation 1 amended in Gazette 9 Jul 1999 p. 3091;
16 Aug 2005 p. 3815.]

2. Commencement

The commencement of these regulations is governed by section 46 of the Act¹.

3. Terms used

(1) In these regulations —

operating area means the controlled area, or the part of a controlled area, to which the operating licence held by a prescribed licensee applies;

prescribed licensee means a licensee prescribed under regulation 4(1) or (2), as the case requires;

prescribed licensee (irrigation services) means a licensee prescribed under regulation 4(1).

r. 4

- (2) The expressions *operating area*, *operating licence*, *prescribed licensee* and *water services*, when used in a modification described in Schedule 1, have the same respective meanings as they have in the Act or these regulations.

[Regulation 3 amended in Gazette 9 Jul 1999 p. 3091; 31 Jul 2001 p. 3922-3.]

4. Prescribed licensees (Act s. 45(1))

- (1) The licensees specified in the Table to this subregulation are prescribed for the purposes of Parts 1 and 5 of Schedule 2 to the Act.

Table

Gascoyne Water Co-operative Limited
Ord Irrigation Co-operative Ltd
Preston Valley Irrigation Co-operative Limited
South West Irrigation Management Co-operative Limited

- (2) The licensee specified in the Table to this subregulation is prescribed for the purposes of Parts 1, 2 and 3 of Schedule 2 to the Act.

Table

Hamersley Iron Pty Ltd

[Regulation 4 inserted in Gazette 9 Jul 1999 p. 3091; amended in Gazette 31 Jul 2001 p. 3923; 16 Aug 2005 p. 3815.]

5. Modification of certain enactments

- (1) In relation to a prescribed licensee (irrigation services) the enactments specified in the first column of Schedule 1 are to be read as if they had been modified in the manner described in the second column of that Schedule.

- (2) In relation to Hamersley Iron Pty Ltd, the enactments specified in the first column of Schedule 1A are to be read as if they had been modified in the manner described in the second column of that Schedule.

[Regulation 5 inserted in Gazette 31 Jul 2001 p. 3923.]

6. Enactments which do not apply

- (1) The enactments specified in Division 1 of Schedule 2 do not apply in relation to a prescribed licensee (irrigation services).
- (2) The enactments specified in Division 2 of Schedule 2 do not apply in relation to Preston Valley Irrigation Co-operative Limited.
- (3) In relation to Hamersley Iron Pty Ltd the following enactments do not apply —
- (a) the provisions of the *Metropolitan Water Authority Act 1982* referred to in Parts 2 and 3 of Schedule 2 to the Act;
 - (b) the provisions of the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* referred to in Parts 2 and 3 of Schedule 2 to the Act;
 - (c) the enactments specified in Division 3 of Schedule 2.

[Regulation 6 amended in Gazette 9 Jul 1999 p. 3092; 31 Jul 2001 p. 3923-4.]

7. Claims for injury, loss or damage

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

r. 8

- (2) In subregulation (1) —
damage includes damage referred to in section 62(1) of the *Water Agencies (Powers) Act 1984*.

[Regulation 7 amended in Gazette 9 Jul 1999 p. 3092.]

8. Construction of certain references

- (1) In an enactment which applies in relation to a prescribed licensee (irrigation services), a reference to a Schedule 1 enactment is to be read as a reference to the Schedule 1 enactment as modified by operation of regulation 5(1).
- (1a) In an enactment which applies in relation to Hamersley Iron Pty Ltd, a reference to a Schedule 1A enactment is to be read as a reference to the Schedule 1A enactment as modified by operation of regulation 5(2).
- (2) An enactment which applies in relation to a prescribed licensee and which contains a reference to a Schedule 2 enactment is to be read as if the reference to the Schedule 2 enactment were excluded.

- (3) In this regulation —

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

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

Schedule 2 enactment means an enactment specified in Schedule 2.

*[Regulation 8 amended in Gazette 9 Jul 1999 p. 3092;
31 Jul 2001 p. 3924.]*

Schedule 1 — Modification of enactments (prescribed licensees (irrigation services))

[r. 5(1)]

[Heading inserted in Gazette 31 Jul 2001 p. 3925.]

Division 1 — Water Agencies (Powers) Act 1984

[Heading inserted in Gazette 31 Jul 2001 p. 3925.]

- s. 3(1) (definition of **officer**) In paragraph (b), delete “engaged under section 15 of the *Water Corporation Act 1995*”.
- s. 3(1) (definition of **works**) Delete “plant”, substitute the following —
“ plant, ”.
Delete “water services or by the Minister for the assessment, control or management of water resources”, substitute the following —
“ providing the water services specified in its operating licence ”.
- s. 34(1) Delete “the Minister or the Corporation of their respective functions under this Act or any relevant Act.”, insert instead —
“ the prescribed licensee of its functions under its operating licence. ”.
- s. 34(3) In paragraph (b), delete “of the Minister or”, substitute the following —
“ under the control or management of ”.
In paragraph (i)(ii), delete “property of”, substitute the following —
“ property under the control or management of ”.
In paragraph (k), delete “the Corporation’s”.
- s. 62(1) Delete “the Act or”.

Water Services Licensing (Extension of Enactments) Regulations 1997

Schedule 1 Modification of enactments (prescribed licensees (irrigation services))

Division 1 Water Agencies (Powers) Act 1984

- s. 70 In subsections (1) and (2), delete “, premises or thing” in each place it occurs.
- Insert after subsection (4), the following subsections —
- “ (5) Where an owner or occupier of land wishes to make a claim for trespass against a prescribed licensee in respect of the exercise of a power of entry conferred by this Part, the owner or occupier may refer the claim for arbitration in accordance with the operating licence.
- (6) On a referral under subsection (5), the arbitrator is to determine whether the exercise of the power of entry was unlawful and the compensation (if any) payable to the owner or occupier. ”.
- s. 71 In subsection (1), delete “this Act and any relevant Act”, substitute the following —
- “ its functions under its operating licence ”.
- In subsection (1)(a)(ii) delete “of the Minister or”, substitute the following —
- “ under the control or management of ”.
- In subsections (1)(a) and (b) and (3), delete “, premises or thing” in each place it occurs.
- s. 72(1), (2), (3), (6) & (7) Delete “, premises or thing” in each place it occurs.
- s. 73(1)(b) Delete from “the works” to the end of the paragraph, substitute the following —
- “ works; ”.
- s. 83(1) Delete “this Act or a relevant Act”, substitute the following —
- “ its operating licence ”.

Delete paragraph (a), substitute the following paragraph —

“ (a) enter upon any land or street and acquire, provide or construct —
(i) irrigation works; or
(ii) non-potable water supply works,
and may do all such things as may be necessary or convenient for the construction, maintenance, repair, alteration, replacement, use, discontinuance or removal of such works and any ancillary works; ”.

- s. 83(2) Delete “this Act or a relevant Act”, substitute the following —
“ its functions under its operating licence ”.
In paragraph (a), delete “, 93, and 94”, substitute the following —
“ and 93 ”.
- s. 86 (definition of *exempt works*) In paragraph (c), delete “vested in the Minister or”, substitute the following —
“ under the control or management of ”.
- s. 102(2) Delete “during the office hours of the Corporation”, substitute the following —
“ after reasonable notice has been given by the interested person ”.

[Division 1 amended in Gazette 9 Jul 1999 p. 3092; 31 Jul 2001 p. 3925; 23 Nov 2010 p. 5859-60.]

Division 2 — Rights in Water and Irrigation Act 1914

[Heading inserted in Gazette 31 Jul 2001 p. 3925.]

- s. 33 Delete “any irrigation district”, substitute the following —
“ its operating area ”.

Water Services Licensing (Extension of Enactments) Regulations 1997

Schedule 1 Modification of enactments (prescribed licensees (irrigation services))

Division 2 Rights in Water and Irrigation Act 1914

- s. 36 Delete “and of the *Water Agencies (Powers) Act 1984*”.
- s. 37 Delete “under the provisions of the *Commercial Arbitration Act 1985*.”, substitute the following —
“ in accordance with the operating licence. ”.
- s. 42(1) Delete “the Irrigation District”, substitute the following —
“ an operating area ”.
Delete “alone”.
In the proviso —
(a) insert after “for such purposes,” the following —
“ as are authorised by its operating licence ”;
(b) delete “or beyond the boundaries of an irrigation district”, substitute the following —
“ its operating area ”;
(c) insert after “other persons,” the following —
“ subject to its operating licence, ”;
(d) delete “the by-laws and payment of the prescribed charges”, substitute the following —
“ its operating licence ”.
- s. 42A(1) Delete “the provisions of this Act”, substitute the following —
“ its operating licence ”.

[Division 2 amended in Gazette 23 Nov 2010 p. 5860.]

Schedule 1A — Modification of enactments (Hamersley Iron Pty Ltd)

[r. 5(2)]

[Heading inserted in Gazette 31 Jul 2001 p. 3925.]

Division 1 — Water Agencies (Powers) Act 1984

[Heading inserted in Gazette 31 Jul 2001 p. 3925.]

- s. 3(1) (definition of *officer*) In paragraph (b), delete “engaged under section 15 of the *Water Corporation Act 1995*”.
- s. 3(1) (definition of *works*) Delete “water services or by the Minister for the assessment, control or management of water resources”, insert instead —
“
 providing the water services specified in its operating licence
”.
- s. 34(1) Delete “the Minister or the Corporation of their respective functions under this Act or any relevant Act.”, insert instead —
“
 the prescribed licensee of its functions under its operating licence.
”.
- s. 41(1) Delete “this Act and any relevant Act”, insert instead —
“ its operating licence ”.
- s. 70 Insert after subsection (4), the following subsections —
“
 (5) Where an owner or occupier of land wishes to make a claim for trespass against a prescribed licensee in respect of the exercise of a power of entry conferred by this Part, the owner or occupier may refer the claim for arbitration in accordance with the operating licence.

(6) On a referral under subsection (5), the arbitrator is to determine whether the exercise of the power of entry was unlawful and the compensation (if any) payable to the owner or occupier.

”.

- s. 71(1) Delete “this Act and any relevant Act”, insert instead —
“ its functions under its operating licence ”.
- s. 83(1) Delete “this Act or a relevant Act”, insert instead —
“ its operating licence ”.
- s. 83(2) Delete “this Act or a relevant Act”, insert instead —
“ its functions under its operating licence ”.

[Division 1 inserted in Gazette 31 Jul 2001 p. 3925-7; amended in Gazette 23 Nov 2010 p. 5860.]

Division 2 — Country Areas Water Supply Act 1947

[Heading inserted in Gazette 31 Jul 2001 p. 3927.]

- s. 11(1) Insert after “water reserve” in the first place where it occurs —
“ in its operating area ”.
- s. 28(2) Delete “a country water area”, insert instead —
“ its operating area ”.
- s. 30(1) Delete “a country water area”, insert instead —
“ the prescribed licensee’s operating area ”.
- s. 31(1) Delete “this Act”, insert instead —
“ its operating licence ”.
- s. 40 Delete “this Act”, insert instead —
“ the prescribed licensee’s operating licence ”.
- s. 42(1) Delete “this Act”, insert instead —
“ its operating licence ”.

- s. 43A(1) Delete “a country water area”, insert instead —
“ the prescribed licensee’s operating area ”.
- s. 44(1) Delete “this Act”, insert instead —
“ its operating licence ”.
- s. 45(4) Delete “this Act”, insert instead —
“ its operating licence ”.

[Division 2 inserted in Gazette 31 Jul 2001 p. 3927.]

Division 3 — Country Towns Sewerage Act 1948

[Heading inserted in Gazette 31 Jul 2001 p. 3927.]

- s. 23 Delete “a sewerage area”, insert instead —
“ its operating area ”.
- s. 23A(1) Delete “a sewerage area”, insert instead —
“ the prescribed licensee’s operating area ”.
- s. 25 Delete “any sewerage”, insert instead —
“ its operating ”.
- s. 29(1) Insert after “any land” —
“ in its operating area ”.
- s. 31(1) Insert after “any land” —
“ in its operating area ”.
- s. 35(1) Delete “the area”, insert instead —
“ its operating area ”.
- s. 36(1) Insert after “any land” —
“ in its operating area ”.
- s. 41A(1) Delete “a sewerage area”, insert instead —
“ the prescribed licensee’s operating area ”.

Water Services Licensing (Extension of Enactments) Regulations 1997

Schedule 1A Modification of enactments (Hamersley Iron Pty Ltd)

Division 3 Country Towns Sewerage Act 1948

s. 46 Delete “any sewerage”, insert instead —
“ its operating ”.

[Division 3 inserted in Gazette 31 Jul 2001 p. 3927-8.]

Schedule 2 — Enactments which do not apply

[r. 6]

Division 1

[Heading inserted in Gazette 31 Jul 2001 p. 3928.]

Water Agencies (Powers) Act 1984

| | |
|-----------|-------------|
| s. 62(2) | s. 69 |
| s. 63 | s. 69A |
| s. 67(10) | s. 69B |
| s. 67A | s. 70(3)(c) |
| s. 67B | s. 83(1)(b) |
| s. 68 | s. 84(2) |

Rights in Water and Irrigation Act 1914

| | |
|--------|----------|
| s. 38 | s. 41(3) |
| s. 39E | s. 63 |
| s. 39G | s. 69 |
| s. 39I | |

[Division 1, formerly Part 1, renamed as Division 1 in Gazette 31 Jul 2001 p. 3928; amended in Gazette 16 Aug 2005 p. 3816.]

Division 2

[Heading inserted in Gazette 31 Jul 2001 p. 3928.]

Water Agencies (Powers) Act 1984

| | |
|-------|--------|
| s. 98 | s. 100 |
| s. 99 | s. 101 |

[Division 2 inserted as Part 2 in Gazette 9 Jul 1999 p. 3092; renamed as Division 2 in Gazette 31 Jul 2001 p. 3928; correction to reprint in Gazette 1 Oct 2004 p. 4284; amended in Gazette 23 Nov 2010 p. 5860.]

Division 3

[Heading inserted in Gazette 31 Jul 2001 p. 3928.]

Country Areas Water Supply Act 1947

s. 35

Water Agencies (Powers) Act 1984

s. 62(2)

s. 84(2)

[Division 3 inserted in Gazette 31 Jul 2001 p. 3928; amended in Gazette 23 Nov 2010 p. 5860.]

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Notes

¹ This reprint is a compilation as at 2 September 2011 of the *Water Services Licensing (Extension of Enactments) Regulations 1997* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

| Citation | Gazettal | Commencement |
|---|---------------------------|---|
| <i>Water Services Coordination (Extension of Enactments) (SWIMCO) Regulations 1997</i> ³ | 9 May 1997 p. 2314-19 | 26 Aug 1997 (see r. 2 and <i>Gazette</i> 29 Aug 1997 p. 4901) |
| <i>Water Services Coordination (Extension of Enactments) (SWIMCO) Amendment Regulations 1999</i> | 9 Jul 1999 p. 3090-2 | 13 Oct 1999 (see r. 2 and <i>Gazette</i> 2 Nov 1999 p. 5478) |
| <i>Water Services Coordination (Extension of Enactments) Amendment Regulations 2001</i> | 31 Jul 2001 p. 3922-8 | 27 Sep 2001 (see note to r. 1 and <i>Gazette</i> 6 Nov 2001 p. 5853) |
| Reprint 1: The <i>Water Services Coordination (Extension of Enactments) Regulations 1997</i> as at 6 Feb 2004 (includes amendments listed above) (correction in <i>Gazette</i> 1 Oct 2004 p. 4284) | | |
| <i>Water Services Coordination (Extension of Enactments) Amendment Regulations 2005</i> | 16 Aug 2005 p. 3815-16 | 21 Oct 2005 (see note to r. 1 and <i>Gazette</i> 4 Nov 2005 p. 5326) |
| <i>Water Services Licensing (Extension of Enactments) Amendment Regulations 2010</i> | 23 Nov 2010 p. 5858-60 | 14 Apr 2011 (see r. 2 and <i>Gazette</i> 24 Jun 2011 p. 2534) |
| Reprint 2: The <i>Water Services Licensing (Extension of Enactments) Regulations 1997</i> as at 2 Sep 2011 (includes amendments listed above) | | |

² Formerly referred to as the *Water Services Coordination Act 1995* the short title of which was changed to the *Water Services Licensing Act 1995* by the *Economic Regulation Authority Act 2003* s. 62. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

³ Now known as the *Water Services Licensing (Extension of Enactments) Regulations 1997*; citation changed (see note under r. 1).

Defined Terms

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) |
|--|---------------------|
| damage | 7(2) |
| operating area..... | 3(1) |
| prescribed licensee | 3(1) |
| prescribed licensee (irrigation services)..... | 3(1) |
| Schedule 1 enactment | 8(3) |
| Schedule 1A enactment..... | 8(3) |
| Schedule 2 enactment | 8(3) |