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**WATER**

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WA301

Rights in Water and Irrigation Act 1914

**Rights in Water and Irrigation Amendment  
Regulations (No. 2) 2018**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Rights in Water and Irrigation Amendment Regulations (No. 2) 2018*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the 14<sup>th</sup> day after that day.

**3. Regulations amended**

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

**4. Regulation 4 amended**

In regulation 4(1):

- (a) in paragraph (b) delete “required.” and insert:  
  
required; and
- (b) after paragraph (b) insert:  
  
(c) accompanied by the fee (if any) worked out in accordance with Part 7.

**5. Regulation 33 amended**

In regulation 33(2):

- (a) in paragraph (a) delete “ascertained;” and insert:  
  
ascertained; and
- (b) in paragraph (c) delete “put.” and insert:  
  
put; and
- (c) after paragraph (c) insert:  
  
(d) the fee (if any) worked out in accordance with Part 7.

**6. Regulation 58 deleted**

Delete regulation 58.

7. **Part 7 inserted**

After Part 6 insert:

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

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;

**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 operation** has the meaning given in the *Petroleum and Geothermal Energy Resources Act 1967* section 5(1);

**petroleum pipeline licence** means a licence under the *Petroleum Pipelines Act 1969* section 10;

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

**pipeline operation** has the meaning given in the *Petroleum 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).

## 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 or geothermal title in or in relation to a petroleum operation; or
  - (c) by the holder of a petroleum 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 or geothermal title in or in relation to a petroleum operation; or
  - (c) by the holder of a petroleum 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.

**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
\$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**

<b>Applicable allocation status of water resource</b>				
$\leq 30\%$	$> 30\%$ but $\leq 70\%$	$> 70\%$ but $\leq 100\%$	$> 100\%$	no allocation limit
low	low	medium	high	low

Note for this Table:

> signifies more than

$\leq$  signifies less than or equal to

**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
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.

**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				
$\leq 30\%$	$> 30\%$ but $\leq 70\%$	$> 70\%$ but $\leq 100\%$	$> 100\%$	no allocation limit
low	low	medium	high	low

Note for this Table:

> signifies more than

$\leq$  signifies less than or equal to

**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





<b>Proposed water use:</b>	.....
• <b>specify whether the use is commercial or not</b>	.....
• <b>specify volume of water to be used</b>	.....
• <b>include detailed description of purposes for which water to be used</b>	.....
• <b>specify duration of use and licence</b>	.....

R. NEILSON, Clerk of the Executive Council.

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