

Western Australia

Rights in Water and Irrigation Regulations 1941

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Rights in Water and Irrigation Regulations 1941

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Compilation table

WATER AGENCIES (POWERS) ACT 1984

Rights in Water and Irrigation Regulations 1941

1. Citation

These regulations may be cited as the *Rights in Water and Irrigation Regulations 1941* ¹.

[Regulation 1 amended in Gazette 29 December 1995 p.6299.]

2. Interpretation

(1) In these regulations unless the contrary intention appears —
“**the Act**” means the *Rights in Water and Irrigation Act 1914* ².

(2) Other words and expressions used in these regulations have when so used the same respective meanings as are given to them in and for the purposes of the *Water Agencies (Powers) Act 1984* and the *Rights in Water and Irrigation Act 1914* ².

[Regulation 2 inserted in Gazette 5 July 1985 pp.2403-4; amended in Gazette 29 December 1995 p.6299.]

[Heading repealed in Gazette 5 July 1985 p.2404.]

[3. Repealed in Gazette 5 July 1985 p.2404.]

[Heading repealed in Gazette 5 July 1985 p.2404.]

[4. Repealed in Gazette 5 July 1985 p.2404.]

Special Licenses

5. Application for special licence

- (1) Every application for a special licence under section 12 (1) of the Act shall be in the form of Form 1 in Appendix 1.

[(2) repealed]

- (2a) An application for a special licence shall be accompanied by the amount of the annual fee prescribed by regulation 24 of these regulations in respect of the water course, lake, lagoon, swamp or marsh in relation to which the application for the special licence is made.

- (3) If the application is refused, the amount of the annual licence fee paid therewith shall be refunded to the applicant.

[Regulation 5 amended in Gazette 18 April 1975 p.1179; 19 October 1979 p.3275; 5 July 1985 p.2404; 29 June 1988 p.2111.]

6. Notice of application

The notice of an application for a special licence to be published by the Commission in accordance with section 12 (4) of the Act may contain any number of applications.

[Regulation 6 inserted in Gazette 19 October 1979 p.3275; amended in Gazette 5 July 1985 pp.2404 and 2405; 29 December 1995 pp.6299-6300.]

[7. Repealed in Gazette 19 October 1979 p.3276; 5 July 1985 p.2404.]

[8, 9. Repealed in Gazette 19 October 1979 p.3276.]

10. Form of special licence

Every special licence granted under section 12 of the Act shall be in the form or to the effect of the Form No. 2 in Appendix 1,

and shall be held upon and subject to the conditions stated in the license and to the provisions of the Act.

*[Regulation 10 amended in Gazette 5 July 1985 p.2404;
29 June 1988 p.2111.]*

[11, 12. Repealed in Gazette 11 May 1979 p.1246.]

Licences Under Section 13 of the Act

[Heading inserted in Gazette 5 July 1985 p.2404.]

13. Application for licence under section 13

- (1) Every application for a licence under section 13 of the Act shall be in writing, signed by the applicant, and shall contain the following particulars: —
 - (a) a sufficient description of the land in relation to which the water is required, to enable proper searches as to title to be made;
 - (b) the name or description of the watercourse, lake, lagoon, swamp, or marsh from which the water is to be taken;
 - (c) the use to which the land aforesaid is applied at the time of making the application;
 - (d) the quantity of water for which the license is sought;
 - (e) the purposes for which the water is to be utilized; and
 - (f) a map showing the location of the land aforesaid and indicating the point where diversion of water is proposed to be made.
- (2) An application referred to in subregulation (1) of this regulation shall be accompanied by the amount of the annual fee prescribed by regulation 24 of these regulations in respect of the water course, lake, lagoon, swamp or marsh in relation to which the application for a license is made.
- (3) If the application is refused, the amount of the annual license fee paid therewith shall be refunded to the applicant.

[Regulation 13 amended in Gazette 18 April 1975 p.1179; 11 May 1979 p.1246; 19 October 1979 p.3276; 5 July 1985 p.2404; 29 December 1995 p.6299.]

14. Notice of application

- (1) The Commission shall cause notice of every application to be published in the *Government Gazette* and in at least one issue of a newspaper circulating generally in the neighbourhood of the land, and shall direct copies of such notice to be served on such persons as it thinks fit, and shall appoint a time, not more than one month from the date of such notice or of the first of such advertisements within which objections to such applications may be delivered. Any number of applications may be included in the same notice.

[(2) deleted]

[Regulation 14 amended in Gazette 19 October 1979 p.3276; 5 July 1985 pp.2404 and 2405; 29 December 1995 pp.6299-300.]

15. Objections

- (1) Within the time limited as aforesaid any owner or occupier of land contiguous to such watercourse, lake, lagoon, swamp, or marsh within the distance of 4.8 kilometres, may, in writing, signed by him and addressed to the Commission, give notice of objection to the application and of the grounds of such objection.

[(2) deleted]

[Regulation 15 amended in Gazette 11 May 1979 p.1246; 19 October 1979 p.3276; 5 July 1985 p.2405; 29 December 1995 pp.6299-300.]

[16, 17. Repealed in Gazette 19 October 1979 p.3276.]

18. Form of licence

Every license granted by the Commission under section 13 of the Act shall be in the Form No. 3 in Appendix 1, and shall be held upon and subject to the conditions stated in the license and to the provisions of the Act.

[Regulation 18 amended in Gazette 11 May 1979 p.1246; 29 December 1995 pp.6299-300.]

19. Licence holder may take water

The holder of a license may under his license divert, take, and use water to the extent and in respect of the land and in the manner specified in his license.

[Regulation 19 amended in Gazette 11 May 1979 p.1246; 5 July 1985 pp.2404 and 2405; 29 June 1988 p.2111.]

[20. Repealed in Gazette 18 April 1975 p.1179.]

[21, 22. Repealed in Gazette 11 May 1979 p.1246.]

General Conditions of Licences

[Heading inserted in Gazette 5 July 1985 p.2404.]

23. General conditions of licences

- (1) In addition to any other conditions which may be imposed, every special licence granted under section 12 of the Act and every licence granted under section 13 of the Act, shall be subject to regulation 23A, granted to the person to whom it is granted, and shall not be transferable or assignable to any other person, except with the express approval of the Commission, and then only upon and subject to such terms and conditions as the Commission may stipulate.
- (2) A reference in this regulation to a special licence granted under section 12 of the Act or a licence granted under section 13 of the Act includes respectively, a reference to a special licence

r. 23A

granted under section 15 of the Act, and to a licence granted under section 16 of the Act as in force before the coming into operation of the *Rights in Water and Irrigation Amendment Act 1984*.

[Regulation 23 inserted in Gazette 5 July 1985 p.2404; amended in Gazette 29 December 1995 pp.6299-300.]

Effect of License on Entry of New Occupier

23A. Effect of licence on entry of new occupier

- (1) Subject to this regulation, when a person becomes the occupier of any property in respect of which a license referred to in regulation 23 of these regulations (in this regulation called “**the previous license**”) was in force immediately before he occupied that property, the previous license shall, if he —
 - (a) complies with the special conditions or provisions or the terms, limitations and conditions, as the case may require, to which the previous license was then subject; and
 - (b) makes application under the Act within 30 days of occupying that property for a license to be granted in his own name,

be deemed to continue in force in relation to him until the application referred to in paragraph (b) of this subregulation has been finally disposed of.

- (2) Nothing in subregulation (1) of this regulation shall affect the holder of the previous license.

[Regulation 23A inserted in Gazette 11 May 1979 p.1246.]

24. Annual fee for special licence

The holder of a special license or license granted under section 13 of the Act in respect of a water course, lake, lagoon, swamp or marsh to which Division 1 of Part III of the Act

applies shall pay the annual fee specified in Appendix 2 in relation to that water course, lake, lagoon, swamp or marsh.

[Regulation 24 inserted in Gazette 19 October 1979 p.3276; amended in Gazette 26 June 1981 p.2322; 5 July 1985 p.2404; 27 June 1986 p.2141; 1 July 1987 p.2550; 29 June 1988 p.2111.]

[24A — 24F. Repealed in Gazette 10 December 1964 p.3968.]

Penalties

25. Penalty for breach of regulations or conditions

Any person who contravenes these regulations or fails to carry out any condition of the license held by him shall, in addition to the revocation of his license, as provided for in the Act and these regulations, be liable to a penalty not exceeding \$2 000 for each such contravention or breach.

[Regulation 25 amended in Gazette 11 May 1979 p.1246; 5 July 1985 p.2404.]

Appendix 1

FORMS

FORM 1

Water Agencies (Powers) Act 1984

[Reg. 5]

Rights in Water and Irrigation Act 1914 ²

APPLICATION FOR A SPECIAL LICENCE UNDER SECTION 12

To The Water and Rivers Commission of Western Australia:

Name, address and occupation of applicant/s	..........
Description and location of watercourse from which water is to be diverted and of land where water is to be used; Lot. No. or Location No. etc. (Include sketch plan).	Description Municipal District of
The use to which such land is applied at the time of application.	..... .....
The approximate date when the water is to be diverted.	..... .....
The quantity of water required.	..... .....
The purposes for which the water is to be utilized.	..... .....
The proposed method of diversion	..........
The date when any dam is to be constructed on the water course or channel cut for the purpose of such diversion with a description of the size of dam or channel.	..... ..... .....
The proposed method of bypassing water downstream from the dam and details of the bypassing	..........

arrangement.	..... .....
Description of any engines and pumps or other machinery to be used for the diversion of water from the watercourse.	..... .....
Development proposals for the future.	..... ..... ..... ..... .....
Remarks or further explanations	.........................

I/We,
of
in the state of Western Australia, being the owner/occupier of land described above, hereby apply for a licence under section 12 of the Act.

This19.....

.....
.....
Signature of Applicant/s

App. 1

FORM 2

Water Agencies (Powers) Act 1984

[Reg. 10]

Rights in Water and Irrigation Act 1914²

SPECIAL LICENCE UNDER SECTION 12

Name, address, and occupation of licensee or of licensees	..........
Description of land, being site of Works	Local Authority Lot, Location, or Lease No.
Nature and description of work, and name of watercourse, lake, lagoon, swamp, or marsh from which water may be taken Quantity of water which may be taken.	..... ..... ..... .....
Purposes for which the licensee or licensees may utilise water	...............
Period for which licence is granted	..........
Remarks and references to plans, descriptions, and statement deposited with application, and the terms, limitations, and conditions, if any, upon which the licence is granted	....................

This licence is granted under section 12 of the *Rights in Water and Irrigation Act 1914²*, to
(being the owner/occupier of the parcel of land described herein), in respect of the works described herein, and referred to in the application, and plans and descriptions and statement of the purposes for which it is proposed to utilise the water, deposited by or on behalf of the abovenamed, as finally approved by me.

This 19.....

.....
Authorized Officer

FORM 3

Water Agencies (Powers) Act 1984

[Reg. 18]

Rights in Water and Irrigation Act 1914²

LICENCE UNDER SECTION 13

Name, address and occupation of licensee or licensees	...............
Description of land, being site of works	Local Authority Lot Location or Lease No.
Nature and description of work, and name of watercourse, lake, lagoon, swamp, or marsh from which water may be taken	....................
Quantity of water which may be taken	..........
Purposes for which licensee or licensees may utilise water	..........
Period for which licence is granted	.....
Remarks and references to plans, descriptions and statement deposited with application and the terms, limitations and conditions (if any) upon which licence is granted	...............

This licence is granted under section 13 of the Act to (being the owner (or occupier) of the parcel of land described herein) in respect of the works described herein and referred to in the application, and plans and descriptions and statement of the purposes for which it is proposed to utilise the water, deposited by or on behalf of the said as finally approved by me.

This 19.....

.....
Authorized Officer

*[Appendix 1 amended in Gazette 11 May 1979 p.1246;
19 October 1979 pp.3276-7; 5 July 1985 pp.2405-7; 29 June
1988 p.2111; 29 December 1995 p.6300.]*

Appendix 2

[reg. 24]

	Fee
Stony Brook.....	\$129.50
Canning River.....	\$57.75
Serpentine River.....	\$57.75
Dandalup River.....	\$57.75

[Appendix 2 inserted in Gazette 30 June 1995 p.2779.]

Notes

- ^{1.} This reprint is a compilation as at 23 April 1996 of the *Rights in Water and Irrigation Regulations 1941* and includes the amendments effected by the regulations referred to in the following Table.

Compilation table

Citation	Gazettal	Commencement
<i>Rights in Water and Irrigation Act Regulations 1941</i>	5 Dec 1941 pp.1754-61	5 Dec 1941
Amending regulations	17 Sep 1964 pp.3274-5	17 Sep 1964
Amending regulations	10 Dec 1964 p.3968	10 Dec 1964
Amending regulations	18 Apr 1975 p.1179	18 Apr 1975
Amending regulations	11 May 1979 pp.1245-6	11 May 1979
Amending regulations	19 Oct 1979 pp.3275-8	19 Oct 1979
Amending regulations	26 Jun 1981 p.2322	26 Jun 1981
<i>Rights in Water and Irrigation Amendment Regulations 1985</i>	5 Jul 1985 pp.2403-7	5 Jul 1985
<i>Rights in Water and Irrigation Amendment Regulation 1986</i>	27 Jun 1986 p.2141	1 Jul 1986 (see regulation 2)
<i>Rights in Water and Irrigation Amendment Regulations 1987</i>	1 Jul 1987 p.2550	1 Jul 1987
<i>Rights in Water and Irrigation Amendment Regulations 1988</i>	29 Jun 1988 p.2111	1 Jul 1988 (see regulation 2)
<i>Rights in Water and Irrigation Amendment Regulations 1981</i>	29 Jun 1989 p.1869	1 Jul 1989 (see regulation 2)
<i>Rights in Water and Irrigation Amendment Regulations 1990</i>	29 Jun 1990 pp.3248-9	1 Jul 1990 (see regulation 2)
<i>Rights in Water and Irrigation Amendment Regulations 1991</i>	28 Jun 1991 pp.3289-90	1 Jul 1991 (see regulation 2)
<i>Rights in Water and Irrigation</i>	26 Jun 1992	1 Jul 1992 (see regulation 2)

Rights in Water and Irrigation Regulations 1941

Citation	Gazettal	Commencement
<i>Amendment Regulations 1992</i>	p.2845	
<i>Rights in Water and Irrigation Amendment Regulations 1993</i>	1 Jul 1993 p.3213	1 Jul 1993
<i>Rights in Water and Irrigation Amendment Regulations 1994</i>	29 Jun 1994 p.3157	1 Jul 1994 (see regulation 2)
<i>Rights in Water and Irrigation Amendment Regulations 1995</i>	30 Jun 1995 p.2779	1 Jul 1995 (see regulation 2)
<i>Water Agencies (Amendment and Repeal) Regulations 1995 Pt 6</i>	29 Dec 1995 pp.6299-6300	1 Jan 1996 (see regulation 2 and <i>Gazette</i> 29 Dec 1995 p.6291)

² Now see the *Water Agencies (Powers) Act 1984*.