



New South Wales

Water Management (General) Amendment (Water Return Flow Rules and Exemptions) Regulation 2025

under the

Water Management Act 2000

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following regulation under the *Water Management Act 2000*.

ROSE JACKSON, MLC
Minister for Water

Explanatory note

The object of this regulation is to amend the *Water Management (General) Regulation 2025* to—

- (a) establish water return flow rules to enable water allocations that are used under prescribed access licences for taking water from regulated river water sources for certain environmental purposes to be recredited to the licences, and
- (b) provide exemptions subject to conditions from the requirement to hold a water access licence—
 - (i) for certain public authorities for taking water from unregulated river water sources for environmental purposes, and
 - (ii) for the Murray-Darling Basin Authority, Water NSW and other persons for taking water from regulated river water sources when delivering water in certain circumstances.

This regulation is made under the *Water Management Act 2000* (***the Act***), including section 400(2), which is a Henry VIII provision because it permits exemptions from the Act.

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1 Name of regulation

This regulation is the *Water Management (General) Amendment (Water Return Flow Rules and Exemptions) Regulation 2025*.

2 Commencement

This regulation commences on the day on which this regulation is published on the NSW legislation website.

Schedule 1 Amendment of Water Management (General) Regulation 2025

[1] Part 3, Division 1, Subdivision 3A

Insert after Part 3, Division 1, Subdivision 3—

Subdivision 3A Water return flow rules

30A Purpose of subdivision

For the Act, section 75(1), this subdivision establishes water return flow rules for used water allocations to be recredited to water allocation accounts for prescribed access licences.

30B Definition of “prescribed access licence”

For the Act, section 76(4), definition of *prescribed access licence*, a category or subcategory for an access licence held by the following is prescribed—

- (a) the Commonwealth Environmental Water Holder,
- (b) the Crown in right of New South Wales,
- (c) the Crown in right of the Commonwealth,
- (d) the Minister or another Minister,
- (e) the Ministerial Corporation,
- (f) another NSW government agency or statutory body representing the Crown.

30C Applications for used water allocations to be recredited

- (1) For the Act, section 76(3), the Minister may grant an application for used water allocations to be recredited to the water allocation account for a prescribed access licence if satisfied—
 - (a) the used water allocations were used under the prescribed access licence for taking water from a regulated river water source to act in accordance with a long-term watering plan, and
 - (b) an amount of the water taken from the regulated river water source has been returned to the regulated river water source, and
 - (c) the amount of used water allocations sought to be recredited are an estimate of the amount of water returned.
- (2) In this section—
long-term watering plan has the same meaning as in the *Basin Plan 2012* of the Commonwealth.

[2] Schedule 4 Access licence and approval exemptions

Insert after section 5—

5A Public authorities—taking water from unregulated river water sources for environmental purposes

- (1) A relevant person is exempt in relation to taking water from an unregulated river water source for an environmental purpose if the water taken was in the unregulated river water source as a result of being taken, whether by the person or another person, from a regulated river water source under an access

- licence for an environmental purpose or an exemption to which section 5B(1)(a) applies.
- (2) The amount of water taken under subsection (1) from the unregulated river water source must be an amount that—
- (a) is not more than the amount of water taken from the regulated river water source, and
 - (b) does not include an amount of water used to deliver the water taken from the regulated river water source.
- (3) An exemption conferred by this section is subject to the condition that the person must—
- (a) as soon as practicable after completion of the delivery of water or flows in relation to which the water was taken, record, in the approved form and approved manner, the amount of water taken, and
 - (b) record, in the approved form and approved manner, the works used in taking the water, and
 - (c) keep the records for 5 years after the records are made, and
 - (d) give a copy of the record to the Minister in an approved manner—
 - (i) not later than 28 days after the end of the water year in which the water was taken, or
 - (ii) by an earlier date if notified in writing by the Minister.
- (4) For subsection (3), a reference to completion of a delivery of water or flows includes completion of a delivery requiring one or more releases of water over a period of time before being completed.
- (5) In this section—
delivery of water, includes conveyance, release or supply.
relevant person means the following—
- (a) the Commonwealth Environmental Water Holder,
 - (b) the Crown in right of New South Wales,
 - (c) the Minister or another Minister,
 - (d) the Ministerial Corporation,
 - (e) Water NSW,
 - (f) another NSW government agency or statutory body representing the Crown,
 - (g) another person if requested by a person referred to in paragraphs (a)–(f) to take water in the circumstances referred to in subsection (1).

5B Water NSW taking water from regulated river water sources when making certain deliveries

- (1) A relevant person is exempt in relation to taking water from a regulated river water source that occurs as a result of the person carrying out one or both of the following activities—
- (a) the delivery of planned environmental water,
 - (b) the delivery of water in accordance with a relevant instrument.
- (2) In this section—
delivery of water, includes conveyance, release or supply.
relevant instrument means the following—

- (a) the Act or another Act,
- (b) a law of the Commonwealth,
- (c) the Murray-Darling Basin Agreement as set out in the *Water Act 2007* of the Commonwealth, Schedule 1,
- (d) an operating licence,
- (e) a water supply work approval.

relevant person means the following—

- (a) the Murray-Darling Basin Authority,
- (b) Water NSW,
- (c) another person if requested by Water NSW to take water in the circumstances referred to in subsection (1).

[3] Schedule 13 Dictionary

Insert in alphabetical order—

Commonwealth Environmental Water Holder has the same meaning as in the *Water Act 2007* of the Commonwealth.

regulated river water source means a water source from which an access licence of a category referring to regulated river authorises a person to take water.

Examples

regulated river (general security) access licence

regulated river (high security) access licence

unregulated river water source means a water source from which an access licence of a category referring to unregulated river authorises a person to take water.