

# Water Management (General) Regulation 2002

As at 3 April 2002

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Management Act 2000* . Minister for Land and Water Conservation

## **Explanatory note**

The object of this Regulation is to remake and consolidate certain Regulations, and certain provisions of other Regulations, currently in force under the *Water Management Act 2000* . This Regulation remakes the following:

(a) without substantial alteration--the *Water Management (Hunter Valley Flood Mitigation) Regulation 1997* , the *Water Management (Lowbidgee Flood Control and Irrigation Works) Regulation 1996* and the *Water Management (Private Drainage Boards--General) Regulation 1995* , and

(b) with necessary modifications--the provisions of the *Water Management (Private Water Trusts--General) Regulation 1995* , other than such of those provisions as are of a savings or transitional nature.

This Regulation makes provision for the following matters:

(a) private drainage boards (Part 2),

(b) private water trusts (Part 3),

(c) Hunter Valley flood mitigation works (Part 4),

(d) Lowbidgee flood control and irrigation works (Part 5),

(e) other minor, consequential and ancillary matters (Parts 1 and 6).

This Regulation is made under the *Water Management Act 2000* , including sections 206, 209, 224-226, 263, 266, 277 and 400 (the general regulation-making power) and clauses 37 and 48 of Schedule 9 (which carry over regulations made under repealed Acts).

## **Part 1 - Preliminary**

### **1 Name of Regulation**

This Regulation is the *Water Management (General) Regulation 2002* .

### **2 Commencement**

This Regulation commences on 1 April 2002.

### **3 Definition**

In this Regulation:

**the Act** means the *Water Management Act 2000* .

## **Part 2 - Private drainage boards**

### **Division 1 - Constitution and procedure**

#### **4 Quorum**

The number of directors that constitute a quorum for a private drainage board is:

- (a) if the board consists of 3 directors--2, or
- (b) if the board consists of 4 or 5 directors--3, or
- (c) if the board consists of 6 or 7 directors--4.

## **Division 2 - Finance**

### **5 Rate book**

(1) For the purposes of section 209 of the Act, a rate book is to be in a form containing the following particulars:

- (a) assessment number,
- (b) name of ratepayer,
- (c) additional charges for current year,
- (d) payment received,
- (e) receipt number,
- (f) date of payment,
- (g) current rates,
- (h) arrears of rates carried forward,
- (i) arrears,
- (j) total,
- (k) total due.

(2) For the purposes of section 209 (2) of the Act, any particular relating to a rate may be altered.

(3) For the purposes of section 209 (4) of the Act, an alteration or amendment in a rate book is to be made, signed and dated by the private drainage board's Secretary and countersigned by the chairperson.

### **6 Rates**

Rate notices by which rates are levied under section 206 of the Act must be in a form approved by the Ministerial Corporation.

### **7 Keeping of books and accounts**

A private drainage board is to keep proper books and accounts that show full, true and regular accountings of all money received and paid by the private drainage board and the purposes for which money has been received or paid.

### **8 Banking**

Money received by a private drainage board must be paid into an authorised deposit-taking institution to the credit of an account in the name of the private drainage board.

## **Part 3 - Private water trusts**

### **Division 1 - Constitution and procedure**

#### **9 Meetings of members of a private water trust**

(1) Ordinary meetings of members of a private water trust are to be held at any time that the members from time to time determine.

(2) The chairperson of a private water trust, or a majority of the members of a private water trust, may at any time call a special meeting of members of a private water trust.

(3) Seven days notice of an ordinary meeting, and reasonable notice of a special meeting, must be given in writing to each member of a private water trust.

(4) No business, other than the business stated in the notice of the meeting, is to be transacted at the special meeting.

## **10 Special general meetings**

For the purposes of sections 224 (2), 225 (2) and 226 of the Act, the prescribed manner of giving notice is:

- (a) by personal delivery, or
- (b) by post, or
- (c) by facsimile transmission, or
- (d) by e-mail.

## **11 Quorum**

The quorum for a meeting of a private water trust is:

- (a) if the trust comprises 3 members--2 members, or
- (b) if the trust comprises 5 members--3 members.

## **12 Chairperson**

- (1) The chairperson is to preside at a meeting of members of a private water trust.
- (2) If the chairperson is not present, the members of a private water trust then present are to appoint one of their number to act as chairperson.

## **13 Voting**

- (1) Any question arising at a meeting of members of a private water trust is to be decided by a majority of votes of the members present.
- (2) In the case of an equality of votes the chairperson has a casting vote.

## **14 Minutes**

- (1) The members of a private water trust must cause minutes of the proceedings of each meeting to be kept.
- (2) The minute books are to be open for inspection by the members of a private water trust and any ratepayer within the water supply district at any reasonable time.

## **15 Special general meetings of voters**

- (1) The chairperson is to preside at a special general meeting of voters.
- (2) In the absence of the chairperson an appointed member of the private water trust may preside at the meeting or, if there is no appointed member of the private water trust present, an elected member of the private water trust selected by the members of the private water trust present may preside.

## **Division 2 - Finance**

### **16 Rate book**

- (1) On fixing rates under section 232 of the Act on land in a water supply district the members of a private water trust must enter the rates in a rate book.
- (2) The rate book is to be kept in a form approved by the Ministerial Corporation.

### **17 Correction of rate book**

- (1) Any necessary corrections of the rate book must be made at a meeting of the members of a private water trust and be signed and dated by the Chairperson.
- (2) A correction affecting the amount of a rate must not be made after notice of the amount has been given to the person liable (except in the case of a correction arising from an appeal).

### **18 Payment of rates**

- (1) Rates are payable by instalments if the members of a private water trust so decide.
- (2) A rate or an instalment of a rate is not recoverable until 30 days after notice of the amount due has been served on the ratepayer at the ratepayer's last known or usual address.

### **19 Appeals**

- (1) An appeal by a landholder under section 232 (6) of the Act against the amount at which the landholder is rated must be lodged within 21 days after notice of the amount has been given to the landholder.
- (2) Notice of the appeal, in a form approved by the Ministerial Corporation, must be

given to a Magistrate having jurisdiction in any part of the private water trust district and to the Secretary of the trust.

### **Division 3 - Miscellaneous**

#### **20 Members of a private water trust's accounts**

(1) Money received by members of a private water trust in the operation of a private water trust must be paid into an authorised deposit-taking institution to the credit of an account in the name of the members of the private water trust.

(2) All expenses incurred by members of a private water trust in the discharge of duties imposed on them by the Act are payable out of the funds at the disposal of the members of the private water trust under the Act.

### **Part 4 - Hunter Valley flood mitigation works**

#### **21 Statement of particulars of program of works**

The additional particulars to be set out in a statement under section 263 (3) of the Act are as follows:

- (a) an estimate of the cost to be incurred during the financial year to which the statement relates in respect of each work included in the program of flood works referred to in section 263 (1) of the Act,
- (b) an estimate of the amount of any compensation payable or likely to become payable during that financial year as a consequence of the undertaking of each such work,
- (c) an estimate of the cost of maintenance work in respect of works previously completed that the Minister considers should be carried out during that financial year,
- (d) an estimate of the amount of any compensation (other than compensation in respect of the works referred to in paragraph (a)) payable or to become payable by the Minister during that financial year,
- (e) an estimate of the amount of any payment to be made by the Minister during that financial year under section 261 (2) of the Act,
- (f) the percentage of the cost of the construction, carrying out and maintenance of any of the works referred to in paragraph (a), and of the amount of compensation payable or likely to become payable by the Minister as a consequence of the construction, carrying out and maintenance of such work, that a council will be liable to contribute under section 260 of the Act,
- (g) an estimate of the amount of any payments that a council will be required to make during that financial year under section 265 of the Act,
- (h) an estimate of the amount of any payment that is likely to be received during that financial year under section 261 of the Act from a public authority in respect of any work referred to in paragraph (a),
- (i) the amount (if any) of any payment made by the Hunter Catchment Management Trust under section 262 of the Act during the previous financial year that remained unexpended at the close of that year.

#### **22 Statement of cost of maintenance and compensation**

The additional particulars to be set out in a statement under section 266 (1) of the Act are as follows:

- (a) an estimate of the cost of any maintenance that the Minister considers should be undertaken during the financial year to which the statement relates in respect of each work referred to in section 265 of the Act,
- (b) an estimate of the amount of any compensation likely to become payable during that financial year by the Minister as a consequence of any such maintenance,
- (c) an estimate of the amount of compensation payable or likely to become payable during that financial year by the Minister as a consequence of any maintenance of each

work referred to in paragraph (a) carried out during any previous financial year,  
(d) the percentage that, under section 260 of the Act, the Minister has determined that the council should contribute to the cost of any such construction and maintenance,  
(e) the amount (if any) of any payment made by the council under section 265 of the Act during any previous financial year that remained unexpended at the end of the immediately preceding financial year.

## **Part 5 - Lowbidgee flood control and irrigation works**

### **23 Payment of rates**

(1) A landholder in respect of a holding within the Lowbidgee district within the meaning of Part 3 of Chapter 5 of the Act is to be notified, by means of a notice of assessment, of:

- (a) the rate fixed by the Minister for the current year, and
- (b) the amount payable by the landholder, in accordance with that rate (subject to any variation by the Minister), for the year commencing on 1 July to which the notice relates.

(2) The amount specified in the notice is to be paid to the Minister on or before the date for payment specified in the notice. That date must not be less than 28 days after the date of issue of the notice.

(3) If a holding first becomes subject to a rate after 1 July in any year, the amount of the rate is to be apportioned, for the period from the date from which the holding becomes subject to the rate until the 30 June next following, on the basis of the proportion of the rate that that period bears to the whole year.

## **Part 6 - Miscellaneous**

### **24 Amendment of Water Management (Irrigation Corporations) Regulation 1995**

The *Water Management (Irrigation Corporations) Regulation 1995* is amended by inserting "Savings and Transitional" before "Regulation" where secondly occurring in clause 1.

### **25 Amendment of Water Management (Private Water Trusts--General) Regulation 1995**

The *Water Management (Private Water Trusts--General) Regulation 1995* is amended as follows:

- (a) by inserting "Savings and Transitional" before "Regulation" where secondly occurring in clause 1,
- (b) by omitting clauses 5-15 and 18.

### **26 Repeal**

The following regulations are repealed:

- (a) the *Water Management (Hunter Valley Flood Mitigation) Regulation 1997* ,
- (b) the *Water Management (Lowbidgee Flood Control and Irrigation Works) Regulation 1996* ,
- (c) the *Water Management (Private Drainage Boards--General) Regulation 1995* .

### **27 Savings**

(1) In this clause, **repealed provision** means:

- (a) a provision of the *Water Management (Hunter Valley Flood Mitigation) Regulation 1997* , and
- (b) a provision of the *Water Management (Lowbidgee Flood Control and Irrigation Works) Regulation 1996* , and
- (c) a provision of the *Water Management (Private Drainage Boards--General) Regulation 1995* , and
- (d) clauses 5-15 and 18 of the *Water Management (Private Water Trusts--General) Regulation 1995* .

(2) Any act, matter or thing that, immediately before the repeal of a repealed provision,

had effect under a repealed provision is taken to have effect under this Regulation.

**Historical notes**

Table of amending instruments *Water Management (General) Regulation 2002* published in Gazette No 67 of 28.3.2002, p 2022.