

Catchment Management Authorities (Hunter Central Rivers) Regulation 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Catchment Management Authorities Act 2003*.

Minister for Climate Change and the Environment

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Hunter-Central Rivers Catchment Management Authority Regulation 2005*, which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the levying of catchment contributions within the catchment contribution area of the Hunter-Central Rivers Catchment Management Authority,
- (b) the liability of owners of land within the catchment contribution area to pay contributions so levied,
- (c) the recovery of contributions so levied from the owners of such land,
- (d) savings and formal matters.

This Regulation is made under the *Catchment Management Authorities Act 2003*, including section 40 (the general regulation-making power) and clauses 2 (2) (b), 4 (1), 6 (1), 7 (2), 11 (1) and 14 (1) of Schedule 4.

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010*.

2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

This Regulation replaces the *Hunter-Central Rivers Catchment Management Authority Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation: "**catchment contribution**" and "**catchment contribution area**" have the same meanings as they have in Schedule 4 to the Act. "**the Act**" means the *Catchment Management Authorities Act 2003*. "**the Authority**" means the Hunter-Central Rivers Catchment Management Authority. "**the Board**" means the Hunter-Central Rivers Catchment Management Authority Board.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 – Levying of catchment contributions

4 Authority may levy catchment contributions

(1) For the purposes of clause 2 (2) (b) of Schedule 4 to the Act, the Authority is

authorised to levy a catchment contribution on any land within its area of operations that is within a catchment contribution area.

(2) The Authority is to maintain a map that depicts all land within its area of operations that is within a catchment contribution area.

(3) The map is to be available in the office of the Authority and may be inspected by any person free of charge at any time the office is open.

5 Basis of levying catchment contributions

For the purposes of clause 4 (1) of Schedule 4 to the Act, a contribution is to be levied according to the land value (within the meaning of the *Valuation of Land Act 1916*) of all land within the catchment contribution area that has a land value greater than \$300 and that is ratable for the time being under the *Local Government Act 1993*.

6 Determinations relating to catchment contributions

For the purposes of clause 6 (1) of Schedule 4 to the Act, the Authority must not make a determination under that subclause unless a draft of the proposed determination has been made available to each of the members of the Board.

7 Service of notice

For the purposes of clause 7 (2) of Schedule 4 to the Act, the notice under that subclause:

(a) may be served personally or by post, and

(b) may be served separately or, if the Authority so decides, together with or so as to form part of a council rate notice or other statutory notice served on the owner of the parcel of land in respect of which a catchment contribution has been levied.

Part 3 – Liability to pay catchment contributions

8 Expenses of tracing persons

(1) The Authority may add to the amount of catchment contribution any reasonable expenses incurred in tracing the person liable to pay the catchment contribution.

(2) Those expenses may be recovered as catchment contributions at the same time as any catchment contributions and without the need to give notice concerning them.

9 Liability of joint owners

(1) If land within the catchment contribution area is owned or held jointly by 2 or more persons:

(a) they are jointly and severally liable for payment of the catchment contribution in respect of the land, and

(b) as between themselves, each is liable only for such part of the contribution as is proportionate to the interest owned or held by the person in the land.

(2) If one of those persons pays more than that person's proportionate part of a catchment contribution, he or she may recover the excess by way of contribution from the other persons.

10 Liability on disposing of land

(1) The liability of a person to pay a catchment contribution in respect of any land does not cease on disposal of the land if notice of the contribution, in a form approved by the Authority:

(a) was given before disposal of the land, or

(b) is given after the disposal of the land, but before notice of the disposal is given to the Authority.

(2) If a person:

(a) disposes of any land, and

(b) pays a contribution levied on the land that became payable to the Authority after disposal of the land and before the notice of the disposal is given to the

Authority,

the person may recover the amount of the catchment contribution from the person who acquired the land.

(3) Without limiting subclause (1), a person is taken to have given notice of the disposal of the land if notice of the disposal is lodged with the Registrar-General in accordance with the *Conveyancing Act 1919* or the *Real Property Act 1900* (as the case may be).

11 Daily basis of apportionment of catchment contribution

As between a person liable to pay a catchment contribution in respect of land, and:

- (a) a person who acquires the land, or
- (b) the persons from whom the land was acquired,

the catchment contribution is to be apportioned on a daily basis.

12 Liability of new owner

(1) A person who, by becoming the owner of land, becomes liable to pay a catchment contribution levied on the land is liable for payment of all current catchment contributions, and all arrears of contributions, levied on the land even if notice of them was not given to the person until after the person became the owner of the land.

(2) A person who:

- (a) becomes the owner of land, and
- (b) pays to the Authority a catchment contribution in respect of the land that was payable before the person became the owner,

may recover the whole or a proper proportion of the catchment contribution from the persons liable for the payment at the time the notice was served.

13 Proportionate liability for catchment contributions

(1) A catchment contribution is proportionate to the portion of the year for which the land is leviable and to the portion of the land that is leviable.

(2) If an amount of catchment contribution is paid in excess of the liability for a catchment contribution because of the operation of this clause, the Authority:

- (a) must refund the amount of the excess, or
- (b) must credit it towards payment of any amount then payable to the Authority by the person who would otherwise be entitled to a refund.

Part 4 – Recovery of catchment contributions

14 Collection of catchment contributions

An appropriate local agency with which the Authority has entered into an agreement for the collection of catchment contributions on behalf of the Authority under clause 9 of Schedule 4 to the Act must remit to the Authority, as soon as practicable after the expiration of each calendar month (but in all cases within 30 days after the collection of such contributions), the money collected by it in payment of the contribution during that month, less any amount the local agency is entitled to retain as a commission in accordance with the agreement.

15 Interest on overdue contributions

For the purposes of clause 11 (1) of Schedule 4 to the Act, the prescribed rate of interest payable on overdue catchment contributions in respect of land is the rate of interest set under section 566 (3) of the *Local Government Act 1993* by the local council for the local government area in which the land is located.

16 Waiver or deferral of payment

The Authority may, in the case of hardship:

- (a) defer payment of a catchment contribution, or

(b) waive payment of a catchment contribution or any part of it.

17 Fee for certificate as to amount payable on land

For the purposes of clause 14 (1) of Schedule 4 to the Act, the prescribed fee for a certificate in respect of land is an amount equal to the approved fee charged for a certificate under section 603 of the *Local Government Act 1993* by the local council for the local government area in which the land is located.

Part 5 – Miscellaneous

18 Savings

Any act, matter or thing that, immediately before the repeal of the *Hunter-Central Rivers Catchment Management Authority Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010 (470)*. LW 27.8.2010. Date of commencement, 1.9.2010, cl 2.