

Authorised Version No. 001
Water (Resource Management)
Regulations 2017

S.R. No. 123/2017

Authorised Version as at
29 November 2017

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Water (Resource Management)
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Part 1—Preliminary

1 Objective

The objective of these Regulations is to prescribe—

- (a) fees for applications to the Minister relating to water shares, water allocations and related dealings under the **Water Act 1989**; and
- (b) fees for lodging documents with the Registrar of the water register or making recordings in the water register; and
- (c) fees for applications to amend or search the water register; and
- (d) persons who may search the water register for prescribed classes of information or records recorded in the water register; and
- (e) the classes of information or records recorded in the water register that may be searched by a prescribed person; and
- (f) the purpose for which a licence under section 51 of the **Water Act 1989** may be issued within a declared water system; and
- (g) certain persons and classes of person to be occupiers for the purpose of water-use registration.

2 Authorising provision

These Regulations are made under section 324 of the **Water Act 1989**.

3 Commencement

These Regulations come into operation on 29 November 2017.

4 Revocation

The following Regulations are **revoked**—

- (a) Water (Resource Management) Regulations 2007¹;
- (b) Water (Resource Management) Amendment Regulations 2009²;
- (c) Water (Resource Management) Amendment Regulations 2010³;
- (d) Water (Resource Management) Amendment Regulations 2012⁴;
- (e) Water (Resource Management) Amendment Regulations 2013⁵;
- (f) Water (Resource Management) Amendment Regulations 2014⁶.

5 Definitions

In these Regulations—

automated lodgement process means the process for enabling the making of an application through the Victorian Water Register website;

Note

The Victorian Water Register website is at <http://waterregister.vic.gov.au>.

the Act means the **Water Act 1989**;

water allocation group application means any one of the following combinations of applications in relation to the same water share, water allocation or use of water—

- (a) an application made under section 33X(1)(ba) of the Act together with an application made under section 33TB of the Act;
- (b) an application made under section 33X(1)(c) of the Act together with any one or more of the following—
 - (i) an application made under section 33TB of the Act;
 - (ii) an application made under section 33X(1)(ba) of the Act;
 - (iii) an application made under section 33AG(1) of the Act;
 - (iv) an application made under section 33AI(1) of the Act;
 - (v) an application made under section 64K(2) of the Act;
- (c) an application made under section 64K(2) of the Act together with any one or more of the following—
 - (i) an application made under section 33TB of the Act;
 - (ii) an application made under section 33X(1)(ba) of the Act;
 - (iii) an application made under section 33AG(1) of the Act;

- (iv) an application made under section 33AI(1) of the Act;

water limited term transfer group application

means an application made under section 33X(1)(b) of the Act when made together with either one or both of the following applications, in relation to the same water allocation—

- (a) an application made under section 33TB of the Act;
- (b) an application made under section 33X(1)(ba) of the Act;

water share change group application means either one of the following combinations of applications in relation to the same water share or water allocation—

- (a) an application made under section 33AQ of the Act together with any one or more of the following—
 - (i) an application made under section 33R of the Act;
 - (ii) an application made under section 33TB of the Act;
 - (iii) an application made under section 33X(1)(ba) of the Act;
 - (iv) an application made under section 33Y(1) of the Act;
 - (v) an application made under section 33Z(1) of the Act;
 - (vi) an application made under section 33AI(1) of the Act;
- (b) an application made under section 33R of the Act together with either one or both of the following—

- (i) an application made under section 33TB of the Act;
- (ii) an application made under section 33X(1)(ba) of the Act;

water share consolidation group application

means an application in respect of 2 or more water shares made under section 33Z(1) of the Act when made together with an application made under section 33X(1)(ba) of the Act in relation to those same water shares;

water share divide group application means an application in respect of a water share made under section 33Y(1) of the Act when made together with an application made under section 33X(1)(ba) of the Act in relation to the same water share;

water share issue group application means either one of the following combinations of applications in relation to the same water share—

- (a) an application made under section 33L(1) of the Act when made together with an application made under section 33X(1)(ba) of the Act;
- (b) an application made under section 33M of the Act when made together with an application made under section 33X(1)(ba) of the Act;

water share transfer group application means an application made under section 33X(1)(a) of the Act when made together with any one or more of the following applications, in relation to the same water share—

- (a) an application made under section 33R of the Act;
- (b) an application made under section 33TB of the Act;
- (c) an application made under section 33X(1)(ba) of the Act;
- (d) an application made under section 33Y(1) of the Act;
- (e) an application made under section 33AI(1) of the Act;
- (f) an application made under section 33AQ of the Act;

water take group application means an application made under section 33AI(1) of the Act when made together with either one or both of the following applications, in relation to the same water allocation—

- (a) an application made under section 33TB of the Act;
- (b) an application made under section 33X(1)(ba) of the Act.

Part 2—Fees for applications in relation to water shares and water allocation

6 Fee for application for issue of a water share

The prescribed fee for an application made under section 33L(1) of the Act is 13·57 fee units.

7 Fee for application for issue of a water share by holder of interstate right

The prescribed fee for an application made under section 33M of the Act is 13·57 fee units.

8 Fee for application for variation of a water share

The prescribed fee for an application made under section 33R of the Act is 11·43 fee units.

9 Fee for application to revoke a standing direction

The prescribed fee for an application made under section 33TB is 6·04 fee units.

10 Fee for application for transfer of ownership of water share under Division 5 of Part 3A of the Act

The prescribed fee for an application made under section 33X(1)(a) of the Act is 13·57 fee units.

11 Fee for application to give a limited term transfer under Division 5 of Part 3A of the Act

The prescribed fee for an application made under section 33X(1)(b) of the Act is 13·57 fee units.

12 Fee for application to give a standing direction

The prescribed fee for an application made under section 33X(1)(ba) is 6·04 fee units.

13 Fee for application to give a water allocation assignment under Division 5 of Part 3A of the Act

The prescribed fee for an application made under section 33X(1)(c) of the Act is—

- (a) if the application is made through the automated lodgement process, 3·20 fee units; or
- (b) if the application is made other than by way of the automated lodgement process, 6·04 fee units.

14 Fee for application to divide a water share

The prescribed fee for an application made under section 33Y(1) of the Act is 11·43 fee units.

15 Fee for application to consolidate water shares

The prescribed fee for an application made under section 33Z(1) of the Act is 11·43 fee units.

16 Fee for application to surrender a water share to the Crown

The prescribed fee for an application made under section 33AA(1) of the Act is 11·43 fee units.

17 Fee for application to cancel a water share where interstate rights are obtained

The prescribed fee for an application made under section 33AB(1) of the Act is 13·57 fee units.

18 Fee for application for Ministerial approval to take interstate water

The prescribed fee for an application made under section 33AG(1) of the Act is 13·57 fee units.

19 Fee for application for Ministerial approval to take water outside the associated water system

The prescribed fee for an application made under section 33AI(1) of the Act is 11·43 fee units.

20 Fee for application to associate or revoke the association of a water share with land

The prescribed fee for an application made under section 33AQ(1) of the Act is 11·43 fee units.

21 Fee for an application to use water on land

For the purposes of section 64K(3)(d) of the Act, the prescribed fee for an application to the Minister for approval to use water on land is—

- (a) if the application is made through the automated lodgement process, 3·20 fee units; or
- (b) if the application is made other than by way of the automated lodgement process, 6·04 fee units.

22 Group applications

Despite regulations 6 to 21—

- (a) in the case of a person who makes a water share change group application, the prescribed fee is 11·43 fee units;
- (b) in the case of a person who makes a water share consolidation group application, the prescribed fee is 11·43 fee units;
- (c) in the case of a person who makes a water share divide group application, the prescribed fee is 11·43 fee units;
- (d) in the case of a person who makes a water share issue group application, the prescribed fee is 13·57 fee units;
- (e) in the case of a person who makes a water share transfer group application, the prescribed fee is 13·57 fee units;

- (f) in the case of a person who makes a water limited term transfer group application, the prescribed fee is 13·57 fee units;
- (g) in the case of a person who makes a water take group application, the prescribed fee is 11·43 fee units;
- (h) in the case of a person who makes a water allocation group application, the prescribed fee is—
 - (i) if the application is made through the automated lodgement process, 3·20 fee units; or
 - (ii) if the application is made other than by way of the automated lodgement process, 6·04 fee units.

23 Exception to regulations in this Part

Despite regulations 13 and 22, no application fee is payable if—

- (a) a person makes an application under section 33X(1)(c) of the Act for approval to make an assignment under section 33U(1) or 33V(1) of the Act; and
- (b) the Authority responsible for the water system from which the water was allocated considers it appropriate that the person be excepted from the payment of that fee.

Part 3—Water register fees

Division 1—Water share dealings

24 Fees for recording water share or related dealings

The following fees are prescribed for making a recording in the water register—

- (a) for recording a transfer of ownership of a water share under section 84J(1)(a) of the Act, the fee is 8·71 fee units;
- (b) for recording a limited term transfer of a water share under section 84J(1)(b) of the Act, the fee is 8·71 fee units;
- (c) for recording the surrender of a limited term transfer of a water share under section 84JA(1) of the Act, the fee is 4·36 fee units;
- (d) for recording the transmission of a water share to the legal personal representative of the deceased owner of the water share under section 84K(1)(a) of the Act, the fee is 8·71 fee units;
- (e) for recording the transmission of a holding of a limited term transfer of a water share to the legal personal representative of the deceased holder of the limited term transfer under section 84K(1)(b) of the Act, the fee is 8·71 fee units;
- (f) for recording the transmission of an interest as a mortgagee of a water share to the legal personal representative of the deceased owner of the interest under section 84K(1)(c) of the Act, the fee is 8·71 fee units;

- (g) for recording a transmission under section 84L(1)(a) of the Act to the survivor of joint owners of a water share, the fee is 8·71 fee units;
- (h) for recording a transmission under section 84L(1)(b) of the Act to the survivor of joint holders of a limited term transfer of a water share, the fee is 8·71 fee units;
- (i) for recording a transmission under section 84L(1)(c) of the Act to the survivor of joint holders of a mortgagee interest in a water share, the fee is 8·71 fee units;
- (j) for recording the transmission of a water share under section 84M of the Act to the trustee in bankruptcy of the owner of the water share, the fee is 8·71 fee units;
- (k) for recording a memorandum of common provisions under section 84P(1) of the Act, the fee is 8·71 fee units.

25 Fees for recording mortgage related dealings

- (1) The prescribed fee for recording in the water register a mortgage of a water share under clause 1 of Schedule 12A to the Act is 4·36 fee units.
- (2) The prescribed fee for recording in the water register a variation of the terms of a recorded mortgage of a water share under clause 2(3) of Schedule 12A to the Act is 4·36 fee units.
- (3) The prescribed fee for recording in the water register a variation of the principal sum or interest secured by a recorded mortgage of a water share under clause 2(3) of Schedule 12A to the Act is 4·36 fee units.

- (4) The prescribed fee for recording in the water register the variation of priority of the recorded mortgages of a water share under clause 3 of Schedule 12A to the Act is 4·36 fee units.
- (5) The prescribed fee for recording in the water register the transfer of a mortgage of a water share under clause 4 of Schedule 12A to the Act is 4·36 fee units.
- (6) The prescribed fee for recording in the water register a discharge of a mortgage of a water share under clause 10 of Schedule 12A to the Act is 4·36 fee units.

26 Fee for recording that matter referred to arbitration

- (1) For the purposes of section 84I(i) of the Act, the referral of a matter to arbitration under clause 19 of Schedule 15 to the Act is a prescribed matter to be recorded in the water register.
- (2) The fee for recording in the water register the referral of a matter to arbitration under clause 19 of Schedule 15 to the Act is 4·36 fee units.

27 Fee for providing a certificate as to matter in the part of the water register or in records of information maintained by the Registrar

The fee for the issuing of a certificate by a recording body under section 84ZK(1) of the Act for the purposes of proceedings in any court or tribunal is 4·36 fee units.

28 Waiver of Division 1 fees

- (1) The Registrar may waive a fee specified in regulation 24 or 25 if—
 - (a) the fee is incurred by a person seeking to make an application under the Act to make a recording in the water register; and

- (b) that recording is made as a result of reaching an agreement in respect of ownership of a water share under clause 17(2) of Schedule 15 to the Act.
- (2) Despite regulation 25(6), the Registrar may waive the prescribed fee for recording in the water register a discharge of a mortgage of a water share, if—
 - (a) the discharge was in respect of a mortgage that was deemed to be a mortgage over a water share under clause 26 of Schedule 15 to the Act; and
 - (b) the recording in the water register of the discharge of the mortgage is lodged within 6 months after the appointed day within the meaning of the Act.
- (3) The Registrar may waive a fee specified in this Division which is payable to the Registrar by a person if the Registrar is satisfied that there are circumstances justifying the waiver, including any hardship affecting the person liable to pay the fee.

Division 2—Searching or amending the water register

29 Search of the water register for information or records

For the purposes of section 84X(3) of the Act—

- (a) a prescribed purpose is the undertaking of a valuation under section 13DC of the **Valuation of Land Act 1960**; and
- (b) a prescribed person is a person appointed in accordance with section 13DA(1) of the **Valuation of Land Act 1960**; and

- (c) the prescribed class of information or records is any information or records held by the recording body that the person referred to in paragraph (b) believes is reasonably required for the purposes of undertaking a valuation under section 13DC of the **Valuation of Land Act 1960**.

30 Fees to search the water register

For the purposes of section 84ZA(2)(a) of the Act, the prescribed fee is—

- (a) in the case of a search initiated by accessing an online search facility established by the Registrar for the purposes of searching the water register, 1 fee unit; or
- (b) in the case of a search made by the Registrar or the Minister on behalf of the applicant and where a hard copy of the results of that search are provided to the applicant—
 - (i) if the search is for current information or records, 1·91 fee units; or
 - (ii) if the search is for non-current information or records, 1·91 fee units; or
 - (iii) if the search is for documents, 1 fee unit.

31 Fee to correct or amend the water register

- (1) For the purposes of section 84ZB(4)(b)(i) of the Act—
 - (a) no prescribed fee is payable to correct or amend an address recorded on the water register; and
 - (b) in all other cases, the prescribed fee to correct or amend the water register is 8·71 fee units.

- (2) The Registrar may waive the fee referred to in subregulation (1)(b) if the application for the amendment or correction to the water register is made—
- (a) to correct an error made by the Registrar; or
 - (b) as a result of reaching an agreement in respect of ownership of a water share under clause 17(2) of Schedule 15 to the Act.

32 Waiver of Division 2 fees

The Registrar may waive a fee specified in this Division which is payable to the Registrar by a person if the Registrar is satisfied that there are circumstances justifying the waiver, including any hardship affecting the person liable to pay the fee.

Part 4—Prescribed purpose for applications for licences under section 51(1) for taking and using water in declared water systems

33 Prescribed purpose for applications for licences for taking and using water in declared water systems

(1) For the purposes of section 51(1AA)(b) of the Act, a prescribed purpose is watering of cattle or other stock if—

- (a) the applicant occupies land abutting Crown land; and
- (b) the Crown land abuts a waterway; and
- (c) the applicant—

- (i) holds a relevant licence over the Crown land and the Crown land was fenced off on or after 30 September 2004 to exclude cattle or other stock access to the waterway; or

- (ii) previously held a relevant licence over the Crown land and that licence was cancelled, surrendered or not renewed in order to implement a recommendation of the Victorian Environmental Assessment Council, or was surrendered as part of an arrangement for the Crown land to be managed by a committee of management.

(2) In this regulation—

relevant licence means—

- (a) a licence granted under section 130 of the **Land Act 1958** in respect of a water frontage that permits grazing or riparian management; or

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Part 4—Prescribed purpose for applications for licences under section 51(1)
for taking and using water in declared water systems

- (b) a licence granted under section 138
of the **Land Act 1958** in respect
of a water frontage that permits
conservation management or riparian
management;

water frontage has the same meaning as in
section 3(1) of the **Land Act 1958**.

Part 5—Prescribed persons to be occupiers for the purposes of water-use registration

34 Prescribed persons

For the purposes of the definition of *occupier* in section 64APAA of the Act, the following persons and classes of person are prescribed as occupiers in relation to that land—

- (a) the Water Holder;
- (b) an incorporated body responsible for supplying or delivering water to land owned or occupied by persons who are represented by the incorporated body;

Note

An incorporated body includes the incorporated committee of a community water supply scheme established under section 244 of the Act.

- (c) a person responsible for undertaking road construction or maintenance activities on land that requires the use of water;
- (d) a person responsible for undertaking an activity that requires the use of water on land for dust suppression.

Note

Section 3(1) of the Act defines *person* as an individual or an incorporated body for the purposes of water-use registration.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Water (Resource Management) Regulations 2017, S.R. No. 123/2017 were made on 28 November 2017 by the Governor in Council under section 324 of the **Water Act 1989**, No. 80/1989 and came into operation on 29 November 2017: regulation 3.

The Water (Resource Management) Regulations 2017 will sunset 10 years after the day of making on 28 November 2027 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before

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1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

2 Table of Amendments

There are no amendments made to the Water (Resource Management) Regulations 2017 by statutory rules, subordinate instruments and Acts.

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Reg. 4(a): S.R. No. 75/2007 as amended by S.R. Nos 123/2009, 139/2010, 88/2012, 163/2013 and 69/2014 and extended in operation by S.R. No. 56/2017.

² Reg. 4(b): S.R. No. 123/2009.

³ Reg. 4(c): S.R. No. 139/2010.

⁴ Reg. 4(d): S.R. No. 88/2012.

⁵ Reg. 4(e): S.R. No. 163/2013.

⁶ Reg. 4(f): S.R. No. 69/2014.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2017 is \$14.22. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.