

NORTHERN TERRITORY OF AUSTRALIA

WATER REGULATIONS 1992

As in force at 1 January 2023

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 2023

WATER REGULATIONS 1992

Regulations under the *Water Act 1992*

Part 1 Preliminary

1 Citation

These Regulations may be cited as the *Water Regulations 1992*.

2 Commencement

These Regulations shall come into operation on the commencement of the *Water Act 1992*.

2A Definitions

In these Regulations:

approved form means a form approved by the Controller under regulation 3(2).

infringement notice, see regulation 20.

infringement notice offence, see regulation 19(1).

prescribed amount, see regulation 19(2).

relevant land, in relation to an application made under the Act, means the land to which the application relates.

3 Applications and forms

- (1) A person who makes an application under the Act must lodge the application with the Agency.
- (2) The Controller may approve the forms to be used under the Act.
- (3) An application required to be in accordance with an approved form must include, or be accompanied by, all the information required by the form that is necessary for the person to whom the application is made to make a proper decision.

- (4) An application is taken to be lodged when sufficient information to enable a proper decision to be made under the Act is given to the Agency.
- (5) A public sector employee of the Agency may return, without further consideration, any application that does not include sufficient information to enable a proper decision to be made.

Part 2 Review

4 Review of action or decision of Controller

- (1) An application under section 30 of the Act:
 - (a) must be in accordance with the approved form; and
 - (b) for review of a decision to give a remediation notice – must be made within 14 days after the day the notice is given; and
 - (c) for review of another decision or action – must be made within 30 days after the day the applicant is notified of the decision or action.
- (2) If a Review Panel is convened for the purpose of advising the Minister on a matter to be reviewed, the Chairperson of the Panel must, in accordance with the approved form, cause details of the date, time and place at which the Panel will meet to consider the matter to be advised to the applicant.
- (3) If 2 or more applicants seek reviews on similar grounds in respect of matters concerning land in the same general locality, the Review Panel may consider the matters together.
- (4) The Minister shall advise an applicant of the Minister's decision on any matter referred to the Review Panel within one month after the Review Panel gives its advice to the Minister.

Part 3 Permits and licences

Division 1 Permits and licences except drilling licences

5 Water investigation permit

- (1) An application under section 36(1) of the Act for a permit to explore for water (a ***water investigation permit***) must be in accordance with the approved form.

- (2) The Controller may publish notice of the application in any manner that makes it publicly available in the Territory.
- (3) The notice must include the following:
 - (a) a description of the relevant land;
 - (b) the person to whom enquiries about the application may be directed;
 - (c) the way in which objections to the granting of the water investigation permit may be made;
 - (d) any other information determined by the Controller.
- (4) The costs of publishing the notice must be met by the applicant for the water investigation permit.
- (5) If a notice is published, the Controller must give a copy of the notice to the owners and occupiers of land in the vicinity of the relevant land that the Controller considers may be affected by the grant of the water investigation permit.
- (6) Subregulation (2) does not apply if the application is for the renewal of an existing water investigation permit and is made not later than 20 business days before the date on which the existing permit is due to expire.
- (7) A water investigation permit must be in the approved form.

6 Permit to interfere with waterway

- (1) An application under section 41(1) of the Act for a permit to interfere with a waterway must be in accordance with the approved form.
- (2) The Controller may publish notice of the application in any manner that makes it publicly available in the Territory.
- (3) The notice must include the following:
 - (a) a description of the relevant land;
 - (b) the person to whom enquiries about the application may be directed;
 - (c) the way in which objections to the granting of the permit may be made;
 - (d) any other information determined by the Controller.

- (4) The costs of publishing the notice must be met by the applicant for the permit.
- (5) If a notice is published, the Controller must give a copy of the notice to the owners and occupiers of land upstream or downstream of the relevant land that the Controller considers may be affected by the grant of the permit.
- (6) Subregulation (2) does not apply if the application is for the renewal of an existing permit and is made not later than 20 business days before the date on which the existing permit is due to expire.
- (7) A permit to interfere with a waterway must be in the approved form.

7 Bore work permit

- (1) An application under section 57(1) of the Act for a permit to carry out an operation referred to in section 56(1) of the Act (a **bore work permit**) must be in accordance with the approved form.
- (2) A bore work permit must be in the approved form.

8 Surface water extraction licence

- (1) An application under section 45(1) of the Act for a water extraction licence to take water (a **surface water extraction licence**) must be in accordance with the approved form.
- (2) A surface water extraction licence must be in the approved form.

9 Groundwater extraction licence

- (1) An application under section 60(1) of the Act for a water extraction licence to take water from a bore (a **groundwater extraction licence**) must be in accordance with the approved form.
- (2) A groundwater extraction licence must be in the approved form.

9AA Fee for groundwater extraction licence for petroleum activity that includes hydraulic fracturing

- (1) The holder of the licence must pay a fee for the grant or issue, under section 60(1) of the Act, of a water extraction licence to take water from a bore if the beneficial use under the licence is petroleum activity that includes hydraulic fracturing.
- (2) The fee is \$3 000 (exclusive of GST) for each year, or part of a year, of the period of the licence.

Example for subregulation (2)

A water extraction licence granted for a period of 3 years has a fee of \$9 000.

- (3) The fee is payable by the holder of the licence in annual instalments (equal to the amount of the annual fee) on:
- (a) the date the licence is granted or issued; and
 - (b) each subsequent anniversary of the grant or issue of the licence.

Example for subregulation (3)

If the period is 3 years and the fee is \$9 000, the annual instalment is \$3 000.

- (4) If the licence is transferred under section 92 of the Act or amended or modified under section 93(1) of the Act and a new licence is issued to replace it, the holder of the new licence is to be credited any amount of the fee already paid under the previous licence in relation to any overlapping period of the new licence.

Example for subregulation (4)

A licence is granted for the period from 1 July 2023 to 30 June 2025. It is amended and a new licence is issued to replace it on 1 December 2024. The licence holder will be credited the amount already paid for the overlapping period from 1 December 2024 to 30 June 2025.

9A Waste discharge licence

- (1) An application under section 74(1) of the Act for a licence to carry out an action otherwise prohibited by section 73 of the Act (a **waste discharge licence**) must be in accordance with the approved form.
- (2) A waste discharge licence must be in the approved form.

Division 2 Drilling Licences and Qualifications

10 Drilling licence

- (1) An application under section 49(1) of the Act for a drilling licence must be in accordance with the approved form.
- (2) The kinds of drilling licences the Controller may grant are as follows:
- (a) Drilling Licence Class 1;
 - (b) Drilling Licence Class 2;
 - (c) Drilling Licence Class 3.
- (3) A drilling licence must be in the approved form.

11 Section 53 – prescribed information and samples

- (1) This regulation prescribes the information and samples the Controller may require the holder of a drilling licence (the *licensee*) to provide under section 53 of the Act in connection with work carried out on a bore under the licence.
- (2) The prescribed information is any of the following:
 - (a) information about the bore, including:
 - (i) the name of the bore's owner; and
 - (ii) the name of the bore; and
 - (iii) a sketch and brief description of the bore's location; and
 - (iv) the bore's final construction status (for example, whether the bore is capped, equipped, backfilled or abandoned);
 - (b) information about the work carried out, including:
 - (i) the dates on which the work started and ended; and
 - (ii) the contractor and driller carrying out the work and whether it was carried out under the supervision of the licensee; and
 - (iii) the nature of the work, including the method of drilling, the diameter of the hole drilled, and the casing and packing used;
 - (c) information about the strata and water bearing beds found in the bore;
 - (d) information necessary for the Controller to ensure the licensee has complied with the Act.
- (3) The prescribed samples are 1 or both of the following:
 - (a) representative samples of strata, each of approximately 250 grams and including a sample of each change of strata observed in the bore:
 - (i) taken from the bore at intervals not exceeding 3 metres; and
 - (ii) secured in clean bags, preferably made of plastic, each at least 10cm x 15cm in size and 0.1mm thick;

- (b) a representative sample of at least 1 litre of water:
 - (i) taken from each water cut encountered during bore drilling operations; and
 - (ii) preserved in a clean bottle that is completely filled and tightly stoppered or sealed.
- (4) A bag or bottle in which a sample is kept must be clearly marked to identify the bore from which, and the depth at which, the sample was taken.

12 Functions of Drillers' Qualifications Advisory Committee

The functions of the Drillers' Qualifications Advisory Committee are to advise the Controller:

- (a) in relation to the granting, renewal or variation of drilling licences; and
- (b) in relation to the operation of Part 6, Division 2 of the Act; and
- (c) on matters referred to it by the Controller.

13 Membership

- (1) The Drillers' Qualifications Advisory Committee consists of 8 members.
- (2) At least 4 members must be persons who, in the Minister's opinion, have skills, knowledge and experience in one or more of the following areas:
 - (a) hydrogeology;
 - (b) groundwater engineering;
 - (c) planning and conduct of drilling operations.
- (3) At least 2 members must be persons who are:
 - (a) representatives of users of drilling services; and
 - (b) not employed in the public sector; and
 - (c) in the Minister's opinion, not involved in the drilling industry.
- (4) Before appointing a person to be a member, the Minister must have regard to the range and level of skills, knowledge and experience required among the members of the Committee to enable it to perform its functions.

13A Meetings

- (1) The chairperson must convene a meeting of the Drillers' Qualifications Advisory Committee as directed by the Controller.
- (2) At a meeting of the Committee:
 - (a) the chairperson and 3 other members constitute a quorum; and
 - (b) questions arising must be determined by the majority vote of the members present and voting; and
 - (c) subject to this regulation, the Committee must determine the procedure to be followed at or in connection with the meeting.
- (3) The Committee must keep records of its meetings.

14 Qualifications

For the purposes of section 49(1)(b) of the Act, the prescribed qualifications are a pass in such examinations set or nominated by the Drillers' Qualifications Advisory Committee as the Committee thinks appropriate for the type of work proposed to be carried out under the Drilling Licence, or such other qualifications and/or experience as the Committee or the Controller considers to be equivalent to those qualifications.

Division 3 General

15 Renewal of permits and licences

- (1) A person who holds a permit or licence may renew it by applying for another permit or licence in accordance with the appropriate approved form.
- (2) The application must be lodged before the following:
 - (a) in the case of a water extraction licence or a licence under Part 6B of the Act – the 120th business day before the day the licence expires;
 - (b) in the case of a waste discharge licence – the 60th business day before the day the licence expires;
 - (c) in the case of a permit – the 20th business day before the day the permit expires.

16 Permits or licences lost or destroyed

If a permit or licence document has been lost or destroyed, the Controller may, on receipt of a statutory declaration as to the circumstances of the loss or destruction and of any other evidence the Controller considers necessary, issue a duplicate permit or licence which has the word "duplicate" endorsed on it.

17 Register of licences

For section 95(2)(b) of the Act, the register must contain the following information for each water extraction licence and licence under Part 6B of the Act:

- (a) the name and address of the holder of the licence;
- (b) the date on which the licence is due to expire;
- (c) the location of the property from which the water is currently taken;
- (d) the maximum quantity of water that may be taken annually;
- (e) the source of the water that may be taken.

18 Joint interests

- (1) A joint application for an approval:
 - (a) must be in accordance with the approved form for the application; and
 - (b) must be made in the name of each joint applicant; and
 - (c) must include the address of each joint applicant; and
 - (d) must be signed by each joint applicant unless the applicants are using an agent in accordance with paragraph (e); and
 - (e) may be made by an agent on the applicants' behalf if the agent has written authorisation to do so and lodges the authorisation with the application.
- (2) After considering the application, any objections to the application and the applicants' replies to those objections, the Controller:
 - (a) must determine whether or not to grant an approval to the applicants jointly and to which applicants to grant the approval; and

- (b) may include special conditions on the approval that the Controller considers appropriate.
- (3) It is a condition of every joint approval that each joint holder is jointly and severally:
 - (a) bound by the terms and conditions; and
 - (b) liable for any fee or other amount payable; and
 - (c) bound to comply with all notices and directions given or served under the Act unless the notice or direction relates to any thing, measure or work on the land of one or more but not all of the joint holders.
- (4) If, under section 93(1) of the Act, the Controller, by notice, amends the terms and conditions of a joint approval, the Controller may specify in the notice the manner in which the respective entitlements of each of the joint holders are amended by the notice.
- (5) If, under section 93(2) of the Act, the Controller, by notice, revokes or suspends a joint approval, the Controller may specify in the notice the manner in which the respective entitlements of each of the holders are revoked or suspended.
- (6) If an application, notice or other document is permitted or required to be served on the joint holders of an approval, service on one joint holder is taken to be service on every joint holder.
- (7) In this regulation:

approval means a licence, permit or other authorisation granted under the Act.

Part 4 Infringement notice offences

19 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in the Schedule.
- (2) The prescribed amount for an infringement notice offence is as follows:
 - (a) for an offence specified in the Schedule, Part 1 – the amount payable under section 8 of the *Environmental Offences and Penalties Act 1996* for the specified environmental offence level of the offence;

- (b) for an offence specified in the Schedule, Part 2 – the monetary value of the number of penalty units specified for the offence.

20 When infringement notice may be given

If an authorised officer believes on reasonable grounds that a person has committed an infringement notice offence, the officer may give a notice (an ***infringement notice***) to the person.

21 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
 - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;

- (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

22 Electronic payment and payment by cheque

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the Fines Recovery Unit's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

23 Withdrawal of infringement notice

- (1) The Controller may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
- (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

24 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Part does not:
- (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.

- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Part 5 Transitional matters for Water Legislation Miscellaneous Amendments Act 2019

25 Application of regulation 15

- (1) Regulation 15, as in force immediately before the commencement, continues to apply in relation to an application to renew a water extraction licence that is due to expire on a date that is earlier than 9 months after the commencement.
- (2) In this section:

commencement means the day on which the *Water Legislation Miscellaneous Amendments Act 2019* commences.

Schedule Infringement notice offences, environmental offence levels and prescribed amounts

regulation 19

Part 1

Provision	Environmental offence level
<i>Water Act 1992</i>	
section 16(2D)	3
section 16(2F)	4
section 76	3

Part 2

Provision	Prescribed amount in penalty units	
	for individual	for body corporate
<i>Water Act 1992</i>		
sections 37(1), 40(1), 42(1), 44(1), 46(1) and 48(1)	5	10
section 50(1)	5	
section 55(2)	2	5
sections 56(1), 58(1), 59(1), 61(1), 66(1) and 68(1)	5	10
section 71(1)	2	5
section 71L(1)	5	10
section 79(3)	2	5
section 81(1)	1	3
section 96(3)	2	5

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Water Regulations (SL No. 28, 1992)***

Notified	30 June 1992
Commenced	1 July 1992 (r 2, s 2 <i>Water Act 1992</i> (Act No. 19, 1992) and <i>Gaz S35</i> , 30 June 1992)

Amendments of Water Regulations (SL No. 23, 1994)

Notified	10 August 1994
Commenced	10 August 1994

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date	18 June 1999
Commenced	18 June 1999

Amendment of Water Regulations (SL No. 2, 2002)

Notified	13 February 2002
Commenced	13 February 2002

Water Amendment Regulations (SL No. 31, 2008)

Notified	26 November 2008
Commenced	26 November 2008 (r 2, s 2 <i>Water Amendment Act 2007</i> (Act No. 33, 2007) and <i>Gaz G47</i> , 26 November 2008, p 6)

Water Legislation Amendment Act 2018 (Act No. 29, 2018)

Assent date	4 December 2018
Commenced	31 December 2018 (<i>Gaz S107</i> , 17 December 2018)

Water Legislation Miscellaneous Amendment Act 2019 (Act No. 26, 2019)

Assent date	2 September 2019
Commenced	25 September 2019 (<i>Gaz G39</i> , 25 September 2019, p 2)

Statute Law Revision Act 2020 (Act No. 26, 2020)

Assent date	19 November 2020
Commenced	20 November 2020 (s 2)

Statute Law Amendment (Territory Economic Reconstruction) Act 2021 (Act No. 19, 2021)

Assent date 31 August 2021
 Commenced pt 6: 2 October 2021; rem: 29 September 2021 (*Gaz* G39, 29 September 2021, p 1)

Water Amendment Regulations 2022 (SL No. 25, 2022)

Notified 20 December 2022
 Commenced 1 January 2023

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: rr 1 and 21 and sch.

4 LIST OF AMENDMENTS

r 2A	ins No. 31, 2008, r 4 amd Act No. 29, 2018, s 47
r 3	sub No. 31, 2008, r 5 amd Act No. 19, 2021, s 129
r 4 pt 3 div 1 hdg	amd No. 31, 2008, r 11; Act No. 29, 2018, s 48; Act No. 26, 2020, s 3, sub No. 31, 2008, r 6
r 5	sub No. 31, 2008, r 6 amd Act No. 19, 2021, s 130
r 6	sub No. 31, 2008, r 6 amd Act No. 29, 2018, s 49; Act No. 19, 2021, s 131
r 7	sub No. 31, 2008, r 6 amd Act No. 29, 2018, s 50
r 8	sub No. 31, 2008, r 6 amd Act No. 26, 2020, s 3
r 9	sub No. 31, 2008, r 6 amd Act No. 26, 2019, s 16
r 9AA	ins No. 25, 2022, r 4
r 9A	ins No. 23, 1994, r 1 sub No. 31, 2008, r 6 amd Act No. 26, 2020, s 3
r 10	sub No. 31, 2008, r 7 amd Act No. 26, 2019, s 12
r 11	sub No. 31, 2008, r 7
rr 12 – 13	sub Act No. 26, 2019, s 13
r 13A	ins Act No. 26, 2019, s 13
r 15	sub No. 31, 2008, r 8 amd Act No. 26, 2019, s 14 sub Act No. 19, 2021, s 132
r 16	amd Act No. 26, 2020, s 3
r 17	amd No. 23, 1994, r 2 sub No. 31, 2008, r 9 amd Act No. 19, 2021, s 133
r 18	amd No. 31, 2008, r 11 sub Act No. 29, 2018, s 51
pt 4 hdg	ins Act No. 29, 2018, s 51
r 19	ins Act No. 29, 2018, s 51 amd Act No. 19, 2021, s 134

ENDNOTES

rr 20 – 24 ins Act No. 29, 2018, s 51
pt 5 hdg ins Act No. 26, 2019, s 15
r 25 ins Act No. 26, 2019, s 15
sch amd Act No. 27, 1999, s 16; No. 2, 2002
 rep No. 31, 2008, r 10
 ins Act No. 29, 2018, s 51
 sub Act No. 19, 2021, s 135