



## **Water Amendment (Review Measures) Regulation 2016**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 24 November 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Barnaby Joyce  
Deputy Prime Minister and Minister for Agriculture and Water Resources

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## 1 Name

This is the *Water Amendment (Review Measures) Regulation 2016*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument	The day after this instrument is registered.	29 November 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Water Act 2007*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Enforceable undertakings

### *Water Regulations 2008*

#### 1 After Part 7

Insert:

### Part 8—Enforcement

#### Division 8.6—Enforceable undertakings

##### 8.01 Specified kinds of written undertaking

For the purposes of paragraph 163(2)(d) of the Act, this Division specifies kinds of written undertakings that the appropriate enforcement agency may accept from a person if the appropriate enforcement agency considers that an action taken by, or an omission of, the person constituted a contravention to which Part 8 of the Act applies.

Note 1: For the *appropriate enforcement agency* for a contravention to which Part 8 of the Act applies, see section 137 of the Act.

Note 2: For the contraventions to which Part 8 of the Act applies, see section 136 of the Act.

Note 3: An undertaking must be expressed to be an undertaking under section 163 of the Act (see subsection (3) of that section).

##### 8.02 Undertaking to pay refund, compensation or other restitution

This regulation specifies a written undertaking that the person will take specified action to pay, to a person who has suffered injury, loss or damage as a result of the action or omission referred to in regulation 8.01:

- (a) a refund; or
- (b) compensation; or
- (c) another kind of restitution.

##### 8.03 Undertaking to give information about another undertaking

This regulation specifies a written undertaking (a *monitoring undertaking*) that the person will give the appropriate enforcement agency specified information for the purpose of monitoring compliance with another specified undertaking, given by the person, that:

- (a) has been accepted under section 163 of the Act by the appropriate enforcement agency; or
- (b) is to be so accepted at the same time as the monitoring undertaking.

##### 8.04 Undertaking to publish information about matters relating to another undertaking

This regulation specifies a written undertaking (a *publication undertaking*) that the person will take specified action to publish specified information about matters relating to another specified undertaking, given by the person, that:

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- (a) has been accepted under section 163 of the Act by the appropriate enforcement agency; or
  - (b) is to be so accepted at the same time as the publication undertaking.

Examples: For example, the person may undertake to publish the information in any of the following ways:

- (a) in a newsletter;
- (b) in the print media;
- (c) by radio or television broadcasting;
- (d) on a website, such as the website of a local, State or Territory government or an industry body.

### **8.05 Undertaking to notify persons about another undertaking**

This regulation specifies a written undertaking (a *notification undertaking*) that the person will take specified action to notify a specified person, or persons in a specified class, about another specified undertaking, given by the person giving the notification undertaking, that:

- (a) has previously been accepted under section 163 of the Act by the appropriate enforcement agency; or
- (b) is to be so accepted at the same time as the notification undertaking.

Examples: For example, the person may undertake to notify the person, or persons in the class of persons, specified in the undertaking in the following ways:

- (a) in a newsletter delivered by direct mail;
- (b) by email;
- (c) by letter.

### **8.06 Undertaking to appoint person to review compliance with another undertaking**

This regulation specifies a written undertaking (a *review undertaking*) that:

- (a) the person will appoint, in writing, a specified person (the *reviewer*) to review the person's compliance with another specified undertaking, given by the person, that:
  - (i) has previously been accepted under section 163 of the Act by the appropriate enforcement agency; or
  - (ii) is to be so accepted at the same time as the review undertaking; and
- (b) the appointment will require the reviewer to:
  - (i) prepare a written draft report that sets out the findings and recommendations of the review; and
  - (ii) give the person an opportunity to give the reviewer written comments on the draft report; and
  - (iii) after considering the comments—prepare a written final report; and
  - (iv) give the final report, with the comments attached, to the person and the appropriate enforcement agency; and
- (c) the person will, after considering the final report, inform the appropriate enforcement agency, in writing, of the action (if any) that the person has taken or intends to take in response to the final report.

## **2 Before regulation 11.01**

Insert:

**Division 11.1—Transitional water resource plans—Victoria**

**3 In the appropriate position in Part 11**

Insert:

**Division 11.2—Amendments made by the Water Amendment (Review Measures) Regulation 2016**

**11.02 Amendments made by the *Water Amendment (Review Measures) Regulation 2016***

Division 8.6 of Part 8, as inserted by Schedule 1 to the *Water Amendment (Review Measures) Regulation 2016*, applies in relation to actions or omissions that occur on or after the day that Schedule commences.



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## Schedule 2—Minor amendments of Basin Plan

### *Water Regulations 2008*

#### **1 At the end of Division 2.1**

Add:

#### **2.03 Minor or non-substantive amendments of Basin Plan**

*Authority may make minor or non-substantive amendments*

- (1) For the purposes of paragraph 49(1)(a) of the Act, the Authority may make the kind of minor, or non-substantive, amendment of the Basin Plan to which subregulations (2) and (4) apply.

Note: An amendment under this regulation is a legislative instrument: see subsection 33(3) of the Act.

- (2) This subregulation applies to an amendment that:
- (a) goes only to a matter of spelling, punctuation, grammar or syntax, or the use of conjunctives and disjunctives; or
  - (b) updates a reference to:
    - (i) any law, or a provision of any law; or
    - (ii) a person, body or other entity, or an office, position, place, document or thing; or
  - (c) replaces a reference to a provision of any law with a different form of reference to the provision; or
  - (d) numbers or renumbers a provision of the Basin Plan; or
  - (e) changes the order of definitions or other provisions of the Basin Plan; or
  - (f) changes the way of referring to or expressing a number, year, date, time, amount of money or other amount, quantity or measurement; or
 

Example: A reference in a form to “this [blank] day of [blank] 20...” may be changed to “[Date]”.
  - (g) changes language that indicates gender or that could be taken to indicate gender; or
  - (h) omits a provision of the Basin Plan that has expired, the operation of which is exhausted or spent, or that is otherwise obsolete or redundant; or
  - (i) omits a reference to any law (or a provision of any law) that has expired, the operation of which is exhausted or spent, or that is otherwise obsolete or redundant; or
  - (j) corrects any of the following errors:
    - (i) errors in numbering, cross-referencing and alphabetical ordering;
    - (ii) errors in references to any law, or provisions of any law;
    - (iii) errors arising out of an amendment of any law;
    - (iv) any other errors of a nature similar to those mentioned in subparagraphs (i) to (iii); or
  - (k) affects the format, layout or printing style of the Basin Plan, or any other presentational aspect of the Basin Plan; or
  - (l) is consequential on any other change made to the Basin Plan under this regulation.

- (3) A reference in subregulation (2) to any law includes a reference to a law of the Commonwealth, a State or a Territory.
- (4) This subregulation applies to an amendment that does not alter:
  - (a) rights or obligations provided for by the Basin Plan; or
  - (b) the substance of the Basin Plan.

*Process of making minor or non-substantive amendments*

- (5) For the purposes of paragraph 49(1)(b) of the Act, the process of making an amendment under subregulation (1) is as follows:
  - (a) the Murray-Darling Basin Ministerial Council certifies in writing that the amendment does not alter any of the things listed in subregulation (4);
  - (b) the Authority makes the amendment.