

Water Market Amendment Rules 2010

I, PENELOPE YING YEN WONG, Minister for Climate Change and Water, having regard to advice given by the Australian Competition and Consumer Commission, make the following Rules under section 97 of the *Water Act 2007*.

Dated 2010

Minister for Climate Change and Water

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Part 1

Preliminary

1 Name of Rules

These Rules are the *Water Market Amendment Rules 2010*.

2 Commencement

(1) Rules 1 to 3 and Schedule 1 commence on the day after the Rules are registered.

(2) Rule 4 and Schedule 2 are taken to have commenced on 23 June 2009.

3 Amendment of *Water Market Rules 2009* – *Schedule 1*

Schedule 1 amends the *Water Market Rules 2009*.

4 Amendment of *Water Market Rules 2009* – *Schedule 2*

Schedule 2 amends the *Water Market Rules 2009*.

Schedule 1— Amendments

1 Part 3, Paragraph 7(1)(b)

Delete ", including the number of units or volume of water to which the person is entitled under the irrigation right".

2 Part 3, Paragraph 7(1)(c)

Delete Paragraph 7(1)(c), substitute:

- (c) the details of the contractual or other arrangements, including—
 - (i) the number of units or volume of water to which the person is entitled under the irrigation right as at the date of receipt of the notice; and
 - (ii) such details as are reasonably necessary to confirm the accuracy of the calculation of the number of units or volume; and

3 Part 3, Paragraph 7(2)(a)

Delete "in respect of the current financial year" (where twice occurring).

4 Part 4, Subrule 10

After subrule 10(1), insert:

- (1A) If a person's water delivery right has been converted from an entitlement to a volume of water to an entitlement on a flow rate basis or other basis:
 - (a) subrule (1) applies to the entitlement under the water delivery right as if it were an entitlement to the delivery of a volume of water; and
 - (b) for the purposes of determining that volume, the irrigation infrastructure operator:
 - (i) must convert the entitlement under the water delivery right to a volume of water by applying the same formula as was used when the entitlement was converted to the flow rate basis or other basis (subject to any necessary adjustment on account of

any restructure of the entitlement after its conversion); and

- (ii) must provide to the person details in writing that reasonably confirm that the requirement for security is in accordance with paragraph (1)(b).

(1B) Where a person, by written notice given to an irrigation infrastructure operator under subrule 8(1), requires the continuation of a right to have water delivered by the operator after transformation of the whole or a part of an irrigation right and:

- (a) when first issued, the right to have water delivered is an entitlement to a specified number of units under a water delivery right, being an entitlement:
 - (i) to the same number of units as the number of units to which the person is entitled under the irrigation right; or
 - (ii) to a number of units reasonably representing the person's right immediately before the issue and agreed in writing by the person and the operator; and
- (b) after the transformation, the person:
 - (i) ceases to hold any part of that irrigation right (except as provided in subrule 7(8)); or
 - (ii) subject to subrule (1C), the number of units to which the person is entitled under the water delivery right in respect of the current financial year is more than 5 times the number of units to which the person is entitled in respect of that year under the irrigation right (excluding, if the person holds a part of an irrigation right as provided in subrule 7(8), the number of units taken to be the share of a fixed network loss):

the operator may, subject to this rule, require security to be given by the person for the payment of fees or charges for access to the operator's irrigation network for the delivery of water to the person after the transformation.

(1C) Subparagraph (1B)(b)(ii) does not apply if there is any change to the entitlement to a specified number of units under the water delivery right after it is first issued (otherwise than as a result of the acquisition, transfer or termination of units initiated by the holder of the right).

Schedule 2— Amendment

1 Part 6, Subrule 16(1)

Delete subrule 16(1), substitute:

- (1) An irrigation infrastructure operator must not do, or fail to do, an act in a way that prevents, or unreasonably delays, the transformation of the whole or part of an irrigation right against the operator.

Civil penalty: 200 penalty units.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au
2. These Rules amend the *Water Market Rules 2009*, which commenced on 23 June 2009.