

South Australia



ANNO QUADRAGESIMO NONO  
ELIZABETHAE II REGINAE  
A.D. 2000

**WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT  
ACT 2000**

No. 45 of 2000

[Assented to 13 July 2000]

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An Act to amend the Water Resources Act 1997.

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**SUMMARY OF PROVISIONS**

1. Short title
2. Amendment of s. 3—Interpretation
3. Amendment of s. 29—Licences
4. Amendment of s. 33—Method of fixing water (taking) allocations
5. Amendment of s. 34—Allocation of water
6. Insertion of s. 35A and 35B
  - 35A. Water (holding) allocations
  - 35B. Precedence to landowners in the allocation of water
7. Amendment of s. 36—Allocation on declaration of prescribed water resource
8. Amendment of s. 37—Reduction of water allocations
9. Amendment of s. 120—Interpretation
10. Amendment of s. 122—Declaration of levies by the Minister
11. Amendment of s. 138—Imposition of levy by constituent councils
12. Insertion of s. 159
  159. Review of Act by Minister

**The Parliament of South Australia enacts as follows:**

**Short title**

1. (1) This Act may be cited as the *Water Resources (Water Allocations) Amendment Act 2000*.

(2) The *Water Resources Act 1997* is referred to in this Act as "the principal Act".

**Amendment of s. 3—Interpretation**

2. Section 3 of the principal Act is amended—

(a) by striking out the definition of "water allocation" from subsection (1) and substituting the following definition:

"water allocation"—

(a) in respect of a water licence means the water (taking) allocation or the water (holding) allocation endorsed on the licence;

(b) in respect of water taken pursuant to an authorisation under section 11 means the maximum quantity of water that can be taken and used pursuant to the authorisation;;

(b) by inserting the following definition after the definition of "watercourse" in subsection (1):

"water (holding) allocation" in respect of a water licence means the quantity of water that the licensee is entitled to request that the Minister convert to a water (taking) allocation under Part 5 Division 2;;

(c) by inserting the following definition after the definition of "water resource" in subsection (1):

"water (taking) allocation" in respect of a water licence means the quantity of water that the licensee is entitled to take and use pursuant to the licence;;

(d) by inserting the following subsection after subsection (3):

(3a) The conversion of the whole or a part of a water (holding) allocation to a water (taking) allocation under section 35A will be taken for the purposes of this Act to be the allocation by the Minister of the quantity of water concerned as a water (taking) allocation endorsed on the relevant water licence.

**Amendment of s. 29—Licences**

3. Section 29 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) A water licence granted by the Minister under this Part—

- (a) will, if the licence is endorsed with a water (taking) allocation, authorise the holder of the licence to take water from the prescribed watercourse, lake or well or to take surface water from the surface water prescribed area specified in the licence;
- (b) will not, if the licence is endorsed with a water (holding) allocation but not a water (taking) allocation, authorise the taking of water but will enable the holder of the licence to make a request to the Minister to convert the allocation to a water (taking) allocation under section 35A.;

(b) by inserting the following paragraph after paragraph (a) of subsection (4):

- (ab) must, in the case of a licence endorsed with a water (taking) allocation, specify the part or parts of the resource from which the water may be taken.;

**Amendment of s. 33—Method of fixing water (taking) allocations**

4. Section 33 of the principal Act is amended by striking out "A water allocation" and substituting "A water (taking) allocation".

**Amendment of s. 34—Allocation of water**

5. Section 34 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) The water allocation, or a component of the water allocation, of a licence may be obtained—

- (a) from the Minister; or
- (b) from the holder of another licence; or
- (c) in the case of a water (taking) allocation, on conversion under section 35A of a water (holding) allocation or part of such an allocation.

**Insertion of s. 35A and 35B**

6. The following sections are inserted after section 35 of the principal Act:

**Water (holding) allocations**

35A. (1) If a water allocation plan provides for the endorsement of water (holding) allocations on water licences granted in relation to the plan's water resource, the Minister may endorse such allocations on water licences granted in relation to the resource.

(2) The purpose of a water (holding) allocation is to preserve the right (subject to this Act) of the holder of the licence to obtain a water (taking) allocation in respect of the quantity of water allocated by the water (holding) allocation.

(3) The quantity of water allocated from a water resource by a water (holding) allocation is reserved for the time when the water (holding) allocation is converted to a water (taking) allocation under subsection (7) and must not be allocated to any other licence or to any other purpose.

(4) Subsection (3) does not prevent a water (holding) allocation from being transferred to another licence.

(5) A water (holding) allocation may be the only allocation endorsed on a water licence or may be one of a number of components of the water allocation of the licence.

(6) When applying for a water allocation to be endorsed on a new licence or an existing licence (whether on allocation of the water by the Minister or on transfer from another licence), the applicant may request that the allocation be endorsed as a water (holding) allocation if the relevant water allocation plan provides for such allocations.

(7) At any time after the endorsement of a water (holding) allocation, the holder for the time being of the licence on which the allocation is for the time being endorsed may request that the Minister convert the whole or a part of the water (holding) allocation to a water (taking) allocation.

(8) The Minister must determine a request under subsection (7) as though it were an application for the endorsement of a water (taking) allocation and must determine the request on the basis of this Act and the relevant water allocation plan at the time of the request.

(9) Depending on the water allocation plan and the other factors to be considered at that time, the Minister may determine that the quantity of the water (taking) allocation will be less than the quantity of the water (holding) allocation, or that part of it, that is converted to the water (taking) allocation.

(10) If the water (holding) allocation was endorsed on the licence subject to a condition restricting the part of the water resource from which water could be taken (pursuant to a subsequent water (taking) allocation), a water (taking) allocation endorsed on the licence on conversion of the whole or part of the water (holding) allocation cannot authorise the taking of water outside that part of the resource.

#### **Precedence to landowners in the allocation of water**

**35B.** (1) The purpose of this section is to enable a water allocation plan to give precedence for a limited period to applications for the allocation of available water from the plan's water resource by the owners of land identified in the plan.

(2) Where unallocated water is available for allocation in a water resource, the water allocation plan for the resource may provide that an owner of land identified in the plan may apply to the Minister for the endorsement on a new or existing licence of a water (taking) allocation or a water (holding) allocation.

(3) The plan must specify—

- (a) the quantity of water, or the means of determining the quantity of water, for which each owner of land can apply under this section; and
- (b) the period during which applications under this section will take precedence over applications for the allocation of water that are not made under this section.

(4) The only right given by this section is the right to have an application for a water allocation determined before an application that is not made under this section and in particular (but without limiting that statement) an owner of land who is entitled to apply under this section will not necessarily be entitled to take water pursuant to an allocation resulting from that application at a point that is situated on that land.

(5) This section does not limit the general right that an owner of land identified in the water allocation plan has under this Act to apply for a water (taking) allocation or a water (holding) allocation in respect of the water resource.

**Amendment of s. 36—Allocation on declaration of prescribed water resource**

7. Section 36 of the principal Act is amended—

- (a) by striking out "water allocation" from paragraph (b) of subsection (1) and substituting "water (taking) allocation";
- (b) by striking out "with the relevant water allocation plan and section 34" from subsection (8) and substituting "with this Act and the relevant water allocation plan".

**Amendment of s. 37—Reduction of water allocations**

8. Section 37 of the principal Act is amended by striking out "the water allocations of the licences that have been granted to take water from" from subsection (1) and substituting "both the water (taking) allocations and the water (holding) allocations of the licences that have been granted in relation to".

**Amendment of s. 120—Interpretation**

9. Section 120 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) For the purposes of this Division but not for any other purpose, a water licence that is endorsed with a water (holding) allocation will be taken in respect of that allocation to give the holder of the licence the right to take the quantity of water allocated.

(3) For the purposes of this Division, the Minister may declare on a water licence that is endorsed with a water (holding) allocation—

- (a) the part of the resource from which water may (notionally) be taken pursuant to the allocation; and
- (b) the purpose for which that water will (notionally) be used.

(4) The declaration by the Minister on a water licence of the matters referred to in subsection (3)(a) or (b) does not limit the Minister's discretion when determining the conditions of the conversion of the water (holding) allocation endorsed on the licence to a water (taking) allocation under section 35A.

**Amendment of s. 122—Declaration of levies by the Minister**

10. Section 122 of the principal Act is amended by inserting the following subsection after subsection (8):

(8a) Different levies for the right to take water may be declared in respect of the same water resource based on whether the water allocation is a water (taking) allocation or a water (holding) allocation.

**Amendment of s. 138—Imposition of levy by constituent councils**

11. Section 138 of the principal Act is amended—

- (a) by striking out paragraph (b) of subsection (5) and substituting the following paragraphs:

- (b) subject to subsection (5a), if two or more pieces of contiguous rateable land (that are within the area of the same council) are owned or occupied by the same person, only one levy may be imposed against the whole of that land; and
- (c) subject to subsection (5a), if two or more pieces of rateable land or aggregations of contiguous rateable land (that are within the area of the same council) are not contiguous with each other but are—
  - (i) owned or occupied by the same person; and
  - (ii) used to carry on the business of primary production and are managed as a single unit for that purpose,

only one levy may be imposed against the whole of that land (this paragraph applies in relation to the 2001/2002 financial year and succeeding financial years).;

- (b) by inserting the following subsection after subsection (5):

(5a) Paragraphs (b) and (c) of subsection (5) only apply to land if the owner of the land or some other person has, on or before 31 December in the financial year preceding the financial year to which the levy relates, satisfied the relevant constituent council that the paragraph concerned applies to the land.

**Insertion of s. 159**

- 12. The following section is inserted after section 158 of the principal Act:

**Review of Act by Minister**

159. (1) The Minister must cause a review of the operation of this Act to be conducted and a report on the results of the review to be submitted to him or her.

(2) The review and the report must be completed before the end of the 2001/2002 financial year.