

Water Management (General) Regulation 2025 – Emergency Works Exemption

This document answers frequently asked questions about the Emergency Works Exemption under the Water Management (General) Regulation 2025 (the Regulation).

What does the exemption do?

It allows a public or private sector entity to carry out urgent dewatering in emergency situations without needing to apply for and hold a:

- water access licence for the water removed
- water supply works approval for the works used to remove the water
- water use approval for the use of the water removed
- controlled activity approval for works undertaken in the vicinity of a watercourse.

The activity must clearly be emergency works as defined in the Regulation and summarised below. It does not apply to any further (secondary) use of the water that is removed.

What are emergency works?

It is a work carried out urgently, as a direct result of an emergency event, to remove groundwater or overland flow water for the purpose of reducing a significant risk to:

- public health or safety
- the environment, including groundwater systems
- infrastructure or the construction of infrastructure.

It would include, for example, the removal of water from an excavation that had to be dug to fix a burst water supply pipe or sewer pipe.

Emergency works are limited to doing only what is necessary to address the significant risk. Any further activities done after the immediate risk has been addressed are not covered by this exemption and the entity must apply for and hold relevant water access licence and approvals.

For licence and approvals information visit water.nsw.gov.au/licensing-and-approvals.

What is not an emergency work?

- Works that are, or ought reasonably to be, included in a planned schedule of maintenance or repairs.
- Works that would have been required to be carried out even if the relevant emergency event had not happened.

Examples of work that is not emergency work include the removal of groundwater from a site which has filled with water due to sub-standard construction planning or using building equipment to keep water out.

What is an emergency event?

To be able to claim the exemption, the work must be carried out in direct response to one of the following events:

- a sudden natural event, including a storm, flood, tree fall, bush fire, landslip or coastal inundation
- a sudden ingress of water, into an excavation site, that is not:
 - foreseen
 - a result of inadequate planning or assessment or the use of unsuitable materials or methods
- an accident
- an actual or imminent failure of infrastructure or equipment, including a rupture or breakage of piping infrastructure caused by natural ground movements
- an unlawful act resulting in damage, including vandalism, arson or pollution.

This means the exemption covers legitimate unplanned emergencies, such as the sheet piling in a building construction site cracking and resulting in the excavation filling quickly with groundwater that needs urgent removal to prevent further damage or injury.

What am I required to do before starting emergency work under this exemption?

You must record the following information:

- your name and contact details – if the works are being done for an organisation or company, the name and contact details of the relevant person in that organisation or company should be provided
- the address of the site of the works – if there is no street address, describe the location/s or specify GPS coordinates or provide a good description of where the works are, to enable a departmental officer to locate the works to undertake a site inspection

- the nature of the emergency event resulting in the need to carry out the works
- the significant risk to be reduced by the works (that is, the public health or safety, environmental, infrastructure or construction risk).

You are required to keep a record of this information for 5 years.

What am I required to do after completing the emergency work under the exemption?

Within 14 days of completing the emergency work, you must make a record of the:

- date of completion of the works
- volume of groundwater or overland flow water extracted while carrying out the works or, if the volume cannot be measured, an estimate of the volume.

If the volume of water removed can be measured (for example, by a meter on a pump), then the take must be recorded throughout the course of the emergency work and the *actual* total volume of water taken must be reported.

If the volume cannot be measured, then an *estimated* total volume of water removed through the duration of the work must be provided. This might be the case if the water naturally drains away rather than needing to be pumped out, or if the groundwater and/or overland flow water is mixed in with water or sewage flowing from a broken pipe. The estimate of take in these cases should be as accurate as possible.

You are required to keep a record of this information for 5 years.

Can I take water under the exemption while a temporary water restriction made under section 324 of the *Water Management Act 2000* is in force and applies to that same take?

No. The emergency works exemption only exempts a person from offences relating to a failure to hold an access licence (s 60A), a water use approval (s 91A), a water supply work (s 91 B) or a controlled activity approval (s 91E). This exemption does not exempt a person from the offence of failing to comply with a s 324 order under s 336C.

Is the volume of water taken under the exemption limited?

There is no limit on the volume of water that can be removed. It is expected that the minimum volume possible will be removed to fix the emergency situation. This acknowledges that emergency stations and dewatering activities cause delays and costs to corporations, councils and businesses. It is in their interest to remove as much water as possible, as quickly as possible.

The exemption does not authorise the take of water beyond the work needed to reduce the significant risk caused by the emergency event. It does not allow for longer term take or take

associated with standard construction and maintenance activities or normal risk management situations.

Is there a set time limit for the exemption for each emergency work undertaken?

There is no time limit on the exemption, for the same reasons outlined in the answer above.

Emergency works that take longer than the expected time may be closely scrutinised to ensure the exemption only covers the take of water needed to carry out legitimate emergency works and only to the point that the significant risk has been reduced (not eliminated altogether).

Emergency works are limited to doing only what is necessary to address the significant risk. Any further activities done after the immediate risk has been addressed are not covered by this exemption and the entity will be required to apply for and hold relevant water access licence and approvals.

For licence and approvals information visit water.nsw.gov.au/licensing-and-approvals.

Can I use the water removed during emergency works for another purpose?

The exemption does not cover use of the water removed for a secondary purpose — such as domestic consumption, supplying it to another person or body, or any other use from which a commercial benefit is or may be obtained. If the water taken is used for another purpose, the standard licensing and approvals requirements apply in relation to that use.

Water removed under this exemption will normally be returned to the groundwater source (through reinjection or infiltration) or released into the stormwater system.

This means that if a water access licence and/or a form of approval is ordinarily required to take and use this water from a water source, you must hold the relevant approval and have sufficient entitlement in a water account to cover the full volume of water taken.

Does this exemption apply to floodplain harvesting?

No. Any overland flow water taken under this exemption that is used for irrigation or stored for later irrigation use must be accounted for under either another relevant exemption or under a floodplain harvesting licence and entitlement (once they have been issued in each of the five northern NSW valleys).

Why does this exemption include the take of overland flow water as well as groundwater?

This covers situations where groundwater might seep into an excavation hole, and rainfall runoff also spills into the hole during a rain event.

Note that the definition of overland flow water (s 4A of the *Water Management Act 2000*) does not include water that is flowing over or lying on the bed of a river, lake or estuary. Therefore, any water taken directly from a stream, river, lake or estuary during emergency works must be covered by the relevant water access licence and/or approval that would ordinarily apply to the take of that water.

Does this exemption remove the need to hold a licence or approvals under the legislation?

No. The requirements of other acts and regulations continue to apply. For example, any water pollution requirements under the *Protection of the Environment Operations Act 1997* still apply in relation to releasing water into a groundwater source or the stormwater system.

More information

This document is one in a series explaining water management and associated issues. You can find this series and more information about licensing and approvals on the department's website at water.nsw.gov.au/licensing-and-approvals.

Copies of the acts and associated regulations are available on the NSW Government legislation website at legislation.nsw.gov.au

For enquiries, call Water Enquires on 1300 081 047 (business hours) or email water.enquiries@dcceew.nsw.gov.au, or call NRAR on 1800 633 362 or email nrar.enquiries@nrar.nsw.gov.au