

Queensland



SOUTH EAST QUEENSLAND WATER BOARD (REFORM FACILITATION) ACT 1999

**Reprinted as in force on 25 February 2000
(Act not amended up to this date)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 25 February 2000.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- omit provisions that are no longer required (s 40)
- omit the encating words (s 42A).

See endnotes for information about when provisions commenced.

Queensland



**SOUTH EAST QUEENSLAND WATER
BOARD (REFORM FACILITATION) ACT
1999**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	3
2	Commencement	3
3	Purposes of Act	3
4	Definitions	4
PART 2—TRANSFER OF BOARD'S UNDERTAKING		
5	Board's power to transfer its undertaking	4
6	Minister's approval to transfer	4
7	Minister's directions about transfer	5
8	Settlement day	5
9	Board to ensure transfer proceeds are paid to State	5
10	Dissolution of board	6
PART 3—MISCELLANEOUS		
11	Protection from liability	6
PART 5—TRANSITIONAL PROVISIONS, REPEAL AND MINOR AMENDMENTS		
15	State undertakes non-transferable civil liability	6
16	Constructing authority for particular land acquired under the Acquisition of Land Act 1967	7
17	South East Queensland Water Board By-law 1991 to continue in force ...	7

*South East Queensland Water Board (Reform
Facilitation) Act 1999*

18	Transitional regulations	7
19	Repeal of SEQWB Act	8

PART 6—EXPIRY

21	Expiry	8
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SCHEDULE 2

	DICTIONARY	9
--	-------------------------	---

ENDNOTES

1	Index to endnotes	10
2	Date to which amendments incorporated	10
3	Key	10
4	List of legislation	11
5	List of annotations	11

SOUTH EAST QUEENSLAND WATER BOARD (REFORM FACILITATION) ACT 1999

[reprinted as in force on 25 February 2000]

An Act to enable the South East Queensland Water Board to transfer its undertaking to a company wholly owned by the State and particular local governments and incorporated under the Corporations Law, to amend the *Water Resources Act 1989*, and for other purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *South East Queensland Water Board (Reform Facilitation) Act 1999*.

Commencement

2.(1) Parts 1 to 3, sections 14, 16 and 18 and schedule 2 commence on assent.

(2) The remaining provisions commence on the settlement day.

Purposes of Act

3.(1) The main purposes of this Act are—

- (a)** to enable the board to transfer its undertaking to the company; and
- (b)** to provide for Ministerial powers of direction for the transfer process.

*South East Queensland Water Board (Reform
Facilitation) Act 1999*

(2) To remove any doubt, it is declared that this Act does not give the company a power to acquire the board's undertaking that it would not otherwise have under the Corporations Law.

Definitions

4. The dictionary in schedule 2 defines particular words used in this Act.

PART 2—TRANSFER OF BOARD'S UNDERTAKING

Board's power to transfer its undertaking

5.(1) The board may transfer its undertaking to the company.

(2) The board may exercise its power under subsection (1) only with the Minister's approval and subject to any written directions of the Minister about the transfer.

(3) A transfer contrary to subsection (2) is of no effect.

(4) Also, the board may exercise a power (an "**incidental power**") that is incidental to the exercise of the power under subsection (1).

(5) An incidental power may be exercised without the Minister's approval.

(6) An incidental power exercised by the board before the commencement of this section is taken to be, and to always have been, as validly exercised as if it were exercised by the board after the commencement.

Minister's approval to transfer

6.(1) The board must obtain the Minister's approval for the exercise of the board's power under section 5(1) before the board transfers its undertaking to the company.

(2) The Minister may approve the exercise of the power only if the

*South East Queensland Water Board (Reform
Facilitation) Act 1999*

Minister is satisfied—

- (a) the State has obtained, or will obtain, a satisfactory indemnity for liabilities incurred by the State under sections 10(2) and 15; and
- (b) the officers and employees of the board will be offered employment with the company as part of the transfer, on their existing or equivalent terms and conditions of employment.

(3) Subsection (2)(b) does not affect the *Industrial Relations Act 1999*.

(4) Subsection (2)(b) does not apply to members of the board in the capacity of members.

Minister's directions about transfer

7.(1) Without limiting the Minister's power to give the board directions under section 5(2), the Minister may direct the board—

- (a) to exercise the power at a stated time; or
- (b) not to exercise the power until a stated time;

(2) The direction must be written and—

- (a) published in the gazette as soon as practicable after it is given; and
- (b) tabled in the Legislative Assembly within 14 sitting days after it is given.

Settlement day

8. The Minister must, by gazette notice, declare a day to be the settlement day.

Board to ensure transfer proceeds are paid to State

9. The board must ensure the transfer proceeds are paid to the State on the settlement day.

*South East Queensland Water Board (Reform
Facilitation) Act 1999*

Dissolution of board

10.(1) The board is dissolved and its members go out of office at the end of the settlement day.

(2) After the board has been dissolved, the State stands in the place of the board for the transfer contract.

PART 3—MISCELLANEOUS

Protection from liability

11.(1) The Minister or a member of the board does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the State.

PART 5—TRANSITIONAL PROVISIONS, REPEAL AND MINOR AMENDMENTS

State undertakes non-transferable civil liability

15.(1) *This section applies only to an act done or omission made before the settlement day in relation to the board's undertaking that gives rise to a civil liability that, at law, can not be transferred to the company.*

(2) *After the settlement day, the State stands in the place of the board for the act or omission.*

(3) *This section is a law to which the Acts Interpretation Act 1954, section 20A applies.¹*

¹ This provision had not commenced on or before the reprint date.

*South East Queensland Water Board (Reform
Facilitation) Act 1999*

**Constructing authority for particular land acquired under the
Acquisition of Land Act 1967**

16.(1) This section applies to land acquired by the board as a constructing authority under the *Acquisition of Land Act 1967*.

(2) If the State acquires the land from the board before the settlement day, the State is, for section 41 of that Act, taken to be the constructing authority that acquired the land on the day it was acquired.

(3) If the land is transferred to the company as part of the board's undertaking, the company is, for section 41 of that Act, taken to be the constructing authority that acquired the land on the day it was acquired.

South East Queensland Water Board By-law 1991 to continue in force

17.(1) *The South East Queensland Water Board By-law 1991—*

(a) *continues in force despite the repeal of the SEQWB Act; and*

(b) *must be read—*

(i) *as if references in the by-law to the board were references to the company; and*

(ii) *with any other changes necessary to make the by-law consistent with this Act and adapt its operation for this Act.*

(2) *An authorised officer whose appointment under the by-law is in force immediately before the commencement of this section is taken, on the commencement, to be an authorised officer of the company for the by-law.*

(3) *Unless the by-law is sooner repealed, the by-law expires 2 years after the commencement.²*

Transitional regulations

18.(1) A regulation may make provision about any matter for which—

² This provision had not commenced on or before the reprint date.

*South East Queensland Water Board (Reform
Facilitation) Act 1999*

- (a) it is necessary or convenient to make provision to allow or facilitate the doing of anything to achieve the purposes of this Act; and
 - (b) this Act does not make provision or sufficient provision.
- (2) A regulation under this section—
- (a) may only be made within 1 year after the commencement of this section; and
 - (b) expires 1 year after the regulation commences.
- (3) This section expires 1 year after it commences.

Repeal of SEQWB Act

19. The SEQWB Act is repealed at the end of the settlement day.³

PART 6—EXPIRY

Expiry

21. This Act expires 2 years after the settlement day.⁴

³ This provision had not commenced on or before the reprint date.

⁴ Part 6 had not commenced on or before the reprint date.

SCHEDULE 2

DICTIONARY

section 4

“asset”, of the board, does not include water.

“board” means the South East Queensland Water Board established under the SEQWB Act.

“company” means a company—

- (a) wholly owned by the State and the following local governments, in whatever proportions—
 - (i) Brisbane, Gold Coast, Ipswich, Logan and Redcliffe city councils;
 - (ii) Beaudesert, Caboolture, Esk, Gatton, Kilcoy, Laidley and Pine Rivers shire councils; and
- (b) formed or to be formed under the Corporations Law.

“liability”, of the board, includes a contingent liability.

“SEQWB Act” means the *South East Queensland Water Board Act 1979*.

“settlement day” means the day declared under section 8.

“transfer” means—

- (a) entering into a contract, whether conditional or not, for the transfer of the board’s undertaking to the company; and
- (b) completing the contract.

“undertaking”, of the board, means all the board’s assets and liabilities at the settlement day.

ENDNOTES

1 Index to endnotes

		Page
2	Date to which amendments incorporated	10
3	Key	10
4	List of legislation	11
5	List of annotations	11

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the South East Queensland Water Board (Reform Facilitation) Act 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 List of legislation

South East Queensland Water Board (Reform Facilitation) Act 1999 No. 46

date of assent 17 September 1999

ss 12–13, 15, 17, 19–21, sch 1 commence on settlement day (see ss 2(2), 8)

remaining provisions commenced on date of assent (see s 2(1))

exp 2 years after the settlement day (see ss 21, 8)

5 List of annotations

PART 4—AMENDMENT OF WATER RESOURCES ACT 1989

pt 4 (ss 12–14) om R1 (see RA s 40)

State undertakes non-transferable civil liability

s 15 AIA s 20A applies (see s 15(3))

Transitional regulations

s 18 exp 17 September 2000 (see s 18(3))

Act amended

s 20 om R1 (see RA s 40)

SCHEDULE 1—ACT AMENDED

om R1 (see RA s 40)