

Queensland



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

**Reprinted as in force on 22 March 2000  
(includes amendments up to Act No. 4 of 2000)**

**Reprint No. 1A**

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## Information about this reprint

This Act is reprinted as at 22 March 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



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

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

[as amended by all amendments that commenced on or before 22 March 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.

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(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

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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 payment of transfer proceeds**

9.(1) The board must ensure each prescribed entity is paid an amount equal to the entity's prescribed percentage of the transfer proceeds.

(2) The payments must be made on the settlement day.

(3) In this section—

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**“prescribed entity”** means—

- (a) Brisbane, Gold Coast, Ipswich, Logan or Redcliffe City Council;  
or
- (b) Beaudesert, Caboolture, Esk, Gatton, Kilcoy, Laidley or Pine Rivers Shire Council; or
- (c) Queensland Treasury Holdings Pty Ltd (A.C.N. 011 027 295).<sup>1</sup>

**“prescribed percentage”**, of the transfer proceeds for a prescribed entity, means—

- (a) for Brisbane City Council—45%; or
- (b) for Beaudesert Shire Council—0.50%; or
- (c) for Caboolture Shire Council—3.50%; or
- (d) for Esk Shire Council—0.75%; or
- (e) for Gatton Shire Council—0.75%; or
- (f) for Gold Coast City Council—1.25%; or
- (g) for Ipswich City Council—10.30%; or
- (h) for Kilcoy Shire Council—0.40%; or
- (i) for Laidley Shire Council—0.75%; or
- (j) for Logan City Council—9.40%; or
- (k) for Pine Rivers Shire Council—5.40%; or
- (l) for Redcliffe City Council—2%; or
- (m) for Queensland Treasury Holdings Pty Ltd (A.C.N. 011 027 295)—20%.

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<sup>1</sup> Queensland Treasury Holdings Pty Ltd is a government entity under the *Government Owned Corporations Act 1993*.



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**“transfer proceeds”** means the purchase price under the transfer contract as adjusted under the contract.

### **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.

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

**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.

**Transitional regulations**

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

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- (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.

**PART 6—EXPIRY**

**Expiry**

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

## **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

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 22 March 2000. 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.

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### 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 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	25 February 2000

### 5 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 commenced on 17 March 2000 (see ss 2(2), 8 and notice pubd gaz 16 March 2000 p 989)

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

exp 17 March 2002 (see ss 2(2), 8 and notice pubd gaz 16 March 2000 p 989)

as amended by—

**Local Government and Other Legislation Amendment Act 2000 No. 4 ss 1, 2(5)  
pt 8**

date of assent 16 March 2000

commenced on date of assent (see s 2(5))

## **6 List of annotations**

**Board to ensure payment of transfer proceeds**

s 9 sub 2000 No. 4 s 90

**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)