

Queensland



SOUTH EAST QUEENSLAND WATER BOARD (REFORM FACILITATION) ACT 1999

**Reprinted as in force on 9 August 2001
(includes amendments up to Act No. 34 of 2000)**

Warning—see last endnote for uncommenced amendments

Reprint No. 1B

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 9 August 2001. 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.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints 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**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in the reprint, including 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 9 August 2001]

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

1 Short title

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

2 Commencement

(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.

3 Purposes of Act

(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.

(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.

4 Definitions

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

PART 2—TRANSFER OF BOARD'S UNDERTAKING

5 Board's power to transfer its undertaking

(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.

6 Minister's approval to transfer

(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 Minister is satisfied—

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- (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.

7 Minister's directions about transfer

(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.

8 Settlement day

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

9 Board to ensure payment of transfer proceeds

(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—

“prescribed entity” means—

- (a) Brisbane, Gold Coast, Ipswich, Logan or Redcliffe City Council; or

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Facilitation) Act 1999*

- (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).¹

“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%.

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

10 Dissolution of board

(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.

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

PART 3—MISCELLANEOUS

11 Protection from liability

(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

15 State undertakes non-transferable civil liability

(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.

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

(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.

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

(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.

19 Repeal of SEQWB Act

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

PART 6—EXPIRY

21 Expiry

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 9 August 2001. 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

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

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
1A	to Act No. 4 of 2000	22 March 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, 21 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))

Water Act 2000 No. 34 ss 1–2, 1145 sch 3

date of assent 13 September 2000

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force

6 List of annotations

Long title amd 2000 No. 34 s 1145 sch 3

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)

**7 Provisions that have not commenced and are not
incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Water Act 2000 No. 34 s 1145 sch 3 reads as follows—

**1 Long title, ‘, to amend the *Water Resources Act 1989*’—
*omit.***