



Queensland

South East Queensland Water (Restructuring) Act 2007

Act No. 58 of 2007



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Queensland

South East Queensland Water (Restructuring) Act 2007

Act No. 58 of 2007

**An Act to facilitate a restructure of the water industry in south
east Queensland, and for other purposes**

[Assented to 16 November 2007]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *South East Queensland Water (Restructuring) Act 2007*.

2 Commencement

The following provisions of this Act commence on a day to be fixed by proclamation—

- section 6(1)(c) and (d)
- schedule 2, amendment of the *Queensland Competition Authority Act 1997*.

3 Purpose

The purpose of this Act is to facilitate a restructure of the water industry in south east Queensland to deliver significant benefits to the community, including—

- (a) improved regional coordination and management of water supply; and
- (b) more efficient delivery of water services; and
- (c) enhanced customer service for water consumers; and
- (d) a clearer accountability framework for water supply security.

4 Extraterritorial application of Act

- (1) This Act applies both within and outside Queensland.
- (2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

5 Dictionary

The dictionary in schedule 3 defines particular words used in this Act.

Chapter 2 New water entities

Part 1 Establishment, powers and functions

6 Establishment of new water entities

- (1) The following entities (the *new water entities*) are established—
 - (a) the Queensland Bulk Water Supply Authority;
 - (b) the Queensland Bulk Water Transport Authority;
 - (c) the Queensland Manufactured Water Authority;
 - (d) the SEQ Water Grid Manager.
- (2) A new water entity is not a body corporate.

Note—

A new water entity does not have perpetual succession. See section 64.

- (3) A new water entity does not represent the State.

7 Powers of new water entities

- (1) A new water entity has all the powers of an individual and may, for example—
 - (a) enter into contracts; and
 - (b) acquire, hold, dispose of, and deal with property; and
 - (c) employ staff; and
 - (d) appoint agents and attorneys; and

- (e) engage consultants; and
 - (f) fix charges, and other terms, for services and other facilities it supplies; and
 - (g) do anything else necessary or convenient to be done for its functions.
- (2) Without limiting subsection (1), a new water entity has the powers given to it under an Act.
 - (3) However, a new water entity's powers are subject to any limitations under an Act.
 - (4) A new water entity may sue and be sued in the name it is given under section 6(1).

8 Authentication of documents

- (1) A document made by a new water entity, other than a document required to be sealed, is sufficiently made if it is signed by the entity's chief executive officer, the chairperson of the entity's board or another person authorised by the entity's board.

Example of a document—

an instrument under section 13 delegating a function of the entity

- (2) A document made by a new water entity that is required to be sealed is sufficiently made if it is sealed in the way authorised by its board and signed by the entity's chief executive officer, the chairperson of the entity's board or another person authorised by the entity's board.

9 Functions of new water entities other than the water grid manager

- (1) This section applies to a new water entity other than the water grid manager.
- (2) A new water entity has the following functions to the extent they are consistent with its operational and strategic plans—
 - (a) carrying out water activities and other ancillary activities;

- (b) supplying water services and other ancillary services;

Example of an ancillary service—

delivering a community education program relating to the entity's functions

- (c) supplying other services relating to the water industry, including—

(i) engineering services; and

(ii) services for operating or maintaining infrastructure; and

(iii) business management services; and

Example—

services for managing government or business initiatives to save water

(iv) energy generation; and

(v) scientific services;

- (d) developing water supply works;

- (e) improving the supply, delivery and quality of water, including by way of—

(i) riverine area protection; and

(ii) soil erosion control; and

(iii) land degradation treatment and prevention; and

(iv) nutrient management; and

(v) vegetation management;

- (f) using or managing the entity's land in ways that benefit the community, including for recreational purposes;

- (g) anything else likely to complement or enhance a function mentioned in paragraphs (a) to (f);

- (h) another function conferred under an Act.

10 Functions of the water grid manager

The water grid manager has the following functions to the extent they are consistent with its operational and strategic plans—

- (a) purchasing water services;
- (b) selling water;
- (c) anything else likely to complement or enhance a function mentioned in paragraph (a) or (b);
- (d) another function conferred under an Act.

11 Functions to be carried out commercially

- (1) The water grid manager must, as far as practicable, carry out its functions in a way that is consistent with sound commercial principles.
- (2) A water entity other than the water grid manager must carry out its functions as a commercial enterprise.
- (3) Subsection (2) does not apply to a water entity to the extent it is required under this Act to perform a community service obligation other than as a commercial enterprise.

12 Powers and functions in or out of Queensland

A new water entity may exercise its powers and perform its functions inside or outside Queensland.

13 Delegation

- (1) A new water entity may delegate a function to the chief executive officer of the entity or an appropriately qualified employee of the entity.
- (2) In this section—

appropriately qualified includes having qualifications, experience or standing appropriate for the function.

function includes power.

Part 2 **Boards**

Division 1 **Establishment, membership and related matters**

14 **Establishment and status of boards**

- (1) Each new water entity must have a board.
- (2) However, a new water entity is not constituted by the members of its board.

15 **Role of boards**

- (1) A new water entity's board is responsible for the way the entity performs its functions and exercises its powers.
- (2) The board's role includes—
 - (a) deciding the strategies and the operational, administrative and financial policies to be followed by the entity; and
 - (b) ensuring the entity performs its functions and exercises its powers in a proper, effective and efficient way; and
 - (c) ensuring that, so far as practicable, the entity acts under, and achieves the objects in, its strategic and operational plans; and
 - (d) accounting to the responsible Ministers, as required by an Act, for the entity's performance; and
 - (e) reviewing annually the performance of the entity's chief executive officer.

16 **Appointment of members**

- (1) A board is to consist of not less than 2 members, and not more than 5 members, appointed by the responsible Ministers.
- (2) In deciding whether to appoint a person as a member, the responsible Ministers must have regard to the person's ability

to contribute to the implementation of the entity's strategic and operational plans.

- (3) A person may not be appointed as a member if the person—
 - (a) is a public service employee; or
 - (b) is a councillor or employee of a local government; or
 - (c) is a member of the Queensland Water Commission; or
 - (d) is an insolvent under administration; or
 - (e) has a conviction, other than a spent conviction, for an indictable offence.
- (4) Subject to section 19, a member holds office for the term, not more than 3 years, stated in the member's appointment.
- (5) If otherwise qualified, a member is eligible for reappointment.

17 Chairperson

- (1) For each board, the responsible Ministers must appoint 1 of the members as its chairperson.
- (2) Subject to section 19, the chairperson holds office for the term, ending not later than his or her term of appointment as a member, stated in his or her appointment as chairperson.

18 Deputy chairperson

- (1) For each board, the responsible Ministers may appoint 1 of the members as its deputy chairperson.
- (2) Subject to section 19, the deputy chairperson holds office for the term, ending not later than his or her term of appointment as a member, stated in his or her appointment as deputy chairperson.
- (3) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or is, for another reason, unable to perform the functions of the office.

19 Terms and ending of appointments

- (1) This section applies to a person's appointment to the office of member of a board or chairperson or deputy chairperson of a board.
- (2) For matters not provided for under this Act, the person holds the office on the terms of appointment decided by the responsible Ministers.
- (3) Except as decided by the responsible Ministers, the person is not entitled to receive any payment, any interest in property or other valuable consideration or benefit—
 - (a) by way of remuneration as holder of the office; or
 - (b) in connection with retirement from the office or other ending of the office.
- (4) The responsible Ministers may, at any time, end the appointment for any reason or none.
- (5) The person may resign the office by giving a signed notice of resignation to the responsible Ministers at least the required period before the notice is to take effect.
- (6) The appointment ends if the person becomes someone who, under section 16(3), may not be appointed as a member.
- (7) A person's appointment as member of a board does not end only because the person's appointment as chairperson or deputy chairperson of the board has ended.
- (8) In this section—

required period means the period stated in the appointment or otherwise agreed with the responsible Ministers.

Division 2 Business

20 Conduct of business

Subject to this division, a board may conduct its business, including its meetings, in the way it considers appropriate.

21 Time and place of meetings

- (1) Board meetings are to be held at the times and places the board decides.
- (2) A board must meet at least once every 3 months.
- (3) The chairperson of a board may, at any time, call a meeting of the board.
- (4) The chairperson of a board must call a meeting of the board if asked, in writing, to do so by at least 2 members of the board.

22 Quorum

A quorum for a board is—

- (a) for a board with 2 members—both members; or
- (b) for a board with 3 or more members—3 members.

23 Presiding at meetings

- (1) The chairperson of a board is to preside at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting and the deputy chairperson is present, the deputy chairperson is to preside.
- (3) If the chairperson and deputy chairperson are both absent from a board meeting (including because of a vacancy in the office), a member chosen by the members present is to preside at the meeting.

24 Conduct of meetings

- (1) A question at a board meeting is decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) A member present at the meeting who abstains from voting is taken to have voted for the negative.

- (4) A board may hold meetings, or allow members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

- (5) A member who takes part in a meeting under subsection (4) is taken to be present at the meeting.
- (6) A resolution is validly made by a board, even if it is not passed at a board meeting, if—
- (a) notice of the resolution is given under procedures approved by the board; and
 - (b) a majority of the board members give written agreement to the resolution.

25 Minutes

- (1) A board must keep minutes of its meetings.
- (2) A board must keep a record of any resolutions made under section 24(6).

26 Disclosure of interests

- (1) This section applies to a member of a board (the *interested member*) if—
 - (a) the interested member has a direct or indirect interest in an issue being considered, or about to be considered, by the board; and
 - (b) the interest could conflict with the proper performance of the interested member's duties about the consideration of the issue.
- (2) After the relevant facts come to the interested member's knowledge, the member must disclose the nature of the interest to a board meeting.
- (3) Unless the board otherwise directs, the interested member must not—
 - (a) be present when the board considers the issue; or

- (b) take part in a decision of the board about the issue.
- (4) The interested member must not be present when the board is considering whether to give a direction under subsection (3).
- (5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—
 - (a) be present when the board is considering whether to give a direction under subsection (3) about the interested member; or
 - (b) take part in making the decision about giving the direction.
- (6) If—
 - (a) because of this section, a board member is not present at a board meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
 - (b) there would be a quorum if the member were present;
the remaining members present are a quorum of the board for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.
- (7) A disclosure under subsection (2) must be recorded in the board's minutes.

Part 3 Senior employees

Division 1 Chief executive officer

27 Appointment of chief executive officer

- (1) Each new water entity must have a chief executive officer.

- (2) The chief executive officer is to be appointed by the entity's board with the prior written approval of the responsible Ministers.
- (3) The chief executive officer is an employee of the entity.

28 Term of appointment

- (1) Subject to this section, the chief executive officer holds office for the term, not more than 5 years, stated in his or her contract of employment.
- (2) If otherwise qualified, the chief executive officer is eligible for reappointment.
- (3) The board may, at any time, end the appointment for any reason or none.
- (4) The ending of the appointment under subsection (3) does not affect any rights to compensation to which the chief executive officer is entitled under the contract of employment.
- (5) The chief executive officer may resign by giving a signed notice of resignation to the board at least the required period before the notice is to take effect.
- (6) The chief executive officer's appointment ends if he or she stops being qualified to be the chief executive officer.
- (7) In this section—

required period means the period stated in the chief executive's contract of employment or otherwise agreed with the board.

29 Conditions of appointment

For matters not provided for under this Act or stated in the contract of employment, the chief executive officer holds office on the terms of appointment decided by the board.

30 Qualifications for appointment

A person may not be appointed, or continue in office, as the chief executive officer if the person—

- (a) is an insolvent under administration; or
- (b) has a conviction, other than a spent conviction, for an indictable offence; or
- (c) is not able to manage a corporation because of the Corporations Act, part 2D.6; or
- (d) is named in the register held by ASIC under the Corporations Act, section 1274AA.

31 Chief executive officer's responsibilities

The chief executive officer of a new water entity is, under the entity's board, responsible for managing the entity's affairs under this Act and other relevant legislation and the board's policies.

32 Things done by chief executive officer

Anything done in the name of, or for, a new water entity by its chief executive officer is taken to have been done by the entity.

Division 2 Senior executives

33 Appointment of senior executives

The senior executives of a new water entity are to be appointed by its board with the prior written approval of the responsible Ministers.

Part 4 Reporting and accountability

Division 1 Application of other Acts

34 Application of financial Acts

- (1) A new water entity is—
 - (a) a statutory body under the FAA Act; and
 - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B, sets out the way in which a new water entity's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

35 Application of Crime and Misconduct Act 2001

A new water entity is a unit of public administration under the *Crime and Misconduct Act 2001*.

Division 2 Reporting generally

36 Quarterly reports

- (1) A new water entity's board must give the responsible Ministers a report on the entity's operations for each quarter in a financial year.
- (2) A quarterly report must be given to the responsible Ministers—
 - (a) within 6 weeks after the end of the quarter; or
 - (b) if another period after the end of the quarter is agreed between the board and the responsible Ministers—within the agreed period.
- (3) A quarterly report must contain the information required to be given in the report under the entity's operational plan.

(4) In this section—

quarter, in a financial year, means the following periods in the year—

- (a) 1 July to 30 September;
- (b) 1 October to 31 December;
- (c) 1 January to 31 March;
- (d) 1 April to 30 June.

37 Board to keep responsible Ministers informed

A new water entity's board must—

- (a) keep the responsible Ministers reasonably informed of the entity's operations, financial performance and financial position and its achievement of the objectives in its strategic and operational plans; and
- (b) give to the responsible Ministers reports and information that they need to enable them to make informed assessments of matters mentioned in paragraph (a); and
- (c) immediately inform the relevant Ministers of any matters that arise that, in the board's opinion, may—
 - (i) prevent, or significantly affect, achievement of the objectives in the entity's strategic and operational plans; or
 - (ii) significantly affect the entity's performance in delivering the outputs under its operational plan.

38 Reporting to department

- (1) The responsible Ministers may act under this section for the purpose of monitoring, assessing or reporting on a new water entity's performance of its functions.
- (2) The responsible Ministers may require the entity or its board to report to a department administered by a responsible

Minister by, for example, giving stated information at stated times to the chief executive of that department.

- (3) The entity or board must comply with the requirement.

39 Other reporting requirements

Sections 37 and 38 do not limit the matters of which the board is required to keep the responsible Ministers informed, or limit the reports or information that the board is required, or may be required, to give under another Act.

Division 3 Annual reports

40 Definition for div 3

In this division—

annual report, of a new water entity, means its annual report under the FAA Act.

41 Deletion of commercially sensitive matters from annual report

- (1) This section applies if a new water entity's board asks the responsible Ministers to delete from the copies of an annual report of the entity (and accompanying documents) that are to be made public a matter that is of a commercially sensitive nature.
- (2) The responsible Ministers may delete the matter from the copies of the annual report (and accompanying documents) that are laid before the Legislative Assembly or otherwise made public.

42 Annual report may include a summary of a matter

An annual report of a new water entity may include a summary of a matter required to be included in the annual report, rather than a full statement of the matter, if—

- (a) the summary indicates that is a summary only; and

- (b) a full statement of the matter is laid before the Legislative Assembly at the same time as a copy of the annual report is laid before the Legislative Assembly.

43 Matters to be included in annual report

A new water entity's annual report for a financial year must include copies of all directions given to the entity by the responsible Ministers under this chapter during the financial year.

Division 4 Strategic and operational plans

44 Interaction with the FAA Act

- (1) If something is required to be done under this division and the same thing, or something to the same effect, is required to be done under the FAA Act, compliance with this division is sufficient compliance with the FAA Act.
- (2) Otherwise, the requirements under this division are in addition to the requirements under the FAA Act.
- (3) If there is an inconsistency between this division and the FAA Act, this division prevails to the extent of the inconsistency.

45 Draft strategic and operational plans

- (1) Before 31 March each year, a new water entity's board must prepare, and submit to the responsible Ministers for their agreement, a draft strategic plan and a draft operational plan for the entity for the next financial year.
- (2) The board and the responsible Ministers must try to reach agreement on the draft plans as soon as possible and, in any event, not later than the start of the financial year.

46 Procedures

- (1) The responsible Ministers may return the draft strategic or operational plan to the board and ask the board—

- (a) to consider, or further consider, a stated thing and deal with the thing in the draft plan; and
 - (b) to revise the draft plan in the light of its consideration or further consideration.
- (2) The board must comply with the request as a matter of urgency.
- (3) If the draft plan has not been agreed to by the responsible Ministers by 1 month before the start of the financial year, the responsible Ministers may, by written notice, direct the board—
- (a) to take stated steps in relation to the draft plan; or
 - (b) to make stated modifications of the draft plan.
- (4) The board must immediately comply with the direction and include a copy of the direction in the plan.

47 Strategic or operational plan pending agreement

- (1) This section applies if the responsible Ministers and the board have not agreed to the draft strategic or operational plan before the start of the relevant financial year.
- (2) The draft plan submitted, or last submitted, by the board to the responsible Ministers before the start of the financial year, with any modifications made by the board, whether before or after that time, at the direction of the responsible Ministers, is taken to be the entity's strategic or operational plan.
- (3) Subsection (2) applies until a draft strategic or operational plan becomes the entity's strategic or operational plan under section 48.

48 Strategic or operational plan on agreement

When the draft strategic or operational plan has been agreed to in writing by the responsible Ministers, it becomes the entity's strategic or operational plan for the relevant financial year.

49 Compliance with strategic and operational plans

A new water entity must comply with its strategic and operational plans for a financial year.

50 Modifications of strategic or operational plan

- (1) The board of a new water entity may modify the entity's strategic or operational plan only with the written agreement of the responsible Ministers.
- (2) The responsible Ministers may, by written notice, direct the board of a new water entity to modify the entity's strategic or operational plan.

51 Content of operational plan

A new water entity's operational plan for a financial year must include—

- (a) the entity's objectives; and
- (b) the entity's capital structure; and
- (c) an outline of the following matters—
 - (i) the nature and scope of the activities proposed to be undertaken by the entity during the financial year;
 - (ii) the entity's main undertakings for the financial year;
 - (iii) an outline of the borrowings made or proposed to be made by the entity;
 - (iv) an outline of the entity's policies for minimising or managing any risk of investments and borrowings that may adversely affect its financial stability; and
- (d) for a new water entity other than the water grid manager, an outline of the following matters—
 - (i) the major infrastructure investments proposed to be undertaken by the entity during the financial year;

- (ii) an outline of the entity's policies relating to the recreational use of the entity's premises and other infrastructure; and
- (e) the matters required under section 57.

Part 5 Annual returns

52 Non-application to water grid manager

This part does not apply to the water grid manager.

53 Requirement to pay annual return

- (1) A new water entity must pay to the State, for each financial year, an annual return of the amount decided under this part.
- (2) The return must be paid within 6 months after the end of the financial year for which it is payable or a longer period allowed by the responsible Ministers.

54 Amount of annual return

- (1) During the period from 1 to 15 May in each financial year a new water entity must give to the responsible Ministers—
 - (a) an estimate of the entity's net profit for the financial year; and
 - (b) a recommendation about the amount of the annual return to be paid for the financial year.
- (2) Before the end of the financial year, the responsible Ministers must either approve the recommendation or give the entity a direction to pay an annual return of a different stated amount.
- (3) The amount of the annual return must not be more than the amount of the estimated net profit given to the responsible Ministers under subsection (1)(a).
- (4) In this section—

net profit, of a new water entity for a financial year, means the entity's total profit for the financial year after—

- (a) providing for income tax or its equivalent; and
- (b) excluding any unrealised capital gains from upwards revaluation of non-current assets.

profit has the meaning given by the accounting standards that apply to the entity under the FAA Act.

Part 6 Community service obligations

55 Non-application to water grid manager

This part does not apply to the water grid manager.

56 Meaning of *community service obligations*

The *community service obligations* of a new water entity are the obligations to perform activities that the entity's board establishes to the satisfaction of the responsible Ministers—

- (a) are not in the entity's commercial interests to perform; and
- (b) arise because of a request or direction under section 46¹ or a direction under section 50, 58 or 61.²

57 Community service obligations to be stated in operational plan

- (1) The community service obligations that a new water entity is to perform are to be stated in its operational plan.

1 Section 46 (Procedures)

2 Section 50 (Modifications of strategic or operational plan), 58 (Direction not to dispose of stated asset) or 61 (Responsible Ministers may give directions in public interest)

- (2) The costings of, funding for, or other arrangements to make adjustments relating to, a new water entity's community service obligations are also to be stated in its operational plan.
- (3) A new water entity's operational plan is conclusive, as between the government and the entity, of—
 - (a) the nature and extent of the entity's community service obligations; and
 - (b) the ways in which, and the extent to which, the entity is to be compensated by the government for performing its community service obligations.

Part 7 **Acquisition and disposal of assets and subsidiaries**

58 Direction not to dispose of stated asset

- (1) The responsible Ministers may, after consultation with a new water entity's board, give the board a written direction requiring the entity or a subsidiary of the entity not to dispose of a stated asset.
- (2) The board must ensure the direction is complied with in relation to the entity and must, as far as practicable, ensure it is complied with in relation to any relevant subsidiary.
- (3) The responsible Ministers must publish a copy of the direction in the gazette within 21 days after it is given.

59 Disposal of main undertakings

- (1) A new water entity may dispose of any of its main undertakings only with the prior written approval of the responsible Ministers.
- (2) In this section—

main undertakings, of a new water entity, means the undertakings stated to be its main undertakings in its strategic or operational plan.

60 Acquiring and disposing of subsidiaries

A new water entity may not, without the prior written approval of the responsible Ministers—

- (a) form, or participate in the formation of, a company that will become a subsidiary of the entity; or
- (b) acquire shares or participate in any other transaction that will result in a body corporate becoming or ceasing to be a subsidiary of the entity.

Part 8 Other government direction

61 Responsible Ministers may give directions in public interest

- (1) The responsible Ministers may give a new water entity's board a written direction in relation to the entity and its subsidiaries if the responsible Ministers are satisfied that, because of exceptional circumstances, it is necessary to give the direction in the public interest.
- (2) The board must ensure the direction is complied with in relation to the entity and must, as far as practicable, ensure it is complied with in relation to its subsidiaries.
- (3) Before giving the direction, the responsible Ministers must—
 - (a) consult with the board; and
 - (b) for a new water entity other than the water grid manager, ask the board to advise them whether, in its opinion, complying with the direction would not be in the commercial interests of the entity or any of its subsidiaries.

- (4) The responsible Ministers must publish a copy of the direction in the gazette within 21 days after it is given.

62 Liability for Commonwealth tax equivalents

- (1) The responsible Ministers may issue a manual (the *tax equivalents manual*) about deciding the tax equivalents to be paid by a new water entity.
- (2) Without limiting subsection (1), the tax equivalents manual may provide for—
- (a) rulings by the tax assessor appointed under subsection (3) on issues about tax equivalents, including the application of rulings under a Commonwealth Act about Commonwealth tax; and
 - (b) the lodging of returns by new water entities; and
 - (c) assessing returns; and
 - (d) the functions and powers of the tax assessor appointed under subsection (3); and
 - (e) objections and appeals against assessments and rulings.
- (3) The responsible Ministers may appoint a person to be the tax assessor under the tax equivalents manual.
- (4) A new water entity must, as required under the tax equivalents manual, pay tax equivalents to the responsible Ministers for payment into the consolidated fund.
- (5) The responsible Ministers must table a copy of the tax equivalents manual, and each amendment of the manual, in the Legislative Assembly within 14 sitting days after the manual is issued or the amendment made.
- (6) In this section—

Commonwealth tax means tax imposed under a Commonwealth Act.

tax equivalents means amounts paid by a new water entity to the responsible Ministers, for payment into the consolidated fund, as the value of benefits derived by the entity because it is not liable to pay Commonwealth tax that would be payable by it if it were not a new water entity.

63 New water entity and board not otherwise subject to government direction

Except as otherwise provided by an Act, a new water entity and its board are not subject to direction by or on behalf of the government.

Part 9 Expiry

64 Expiry of new water entities

- (1) A new water entity expires at the end of 99 years after it is established.
- (2) The State is the successor in law of a new water entity that has expired.
- (3) Without limiting subsection (2), on the expiry of a new water entity—
 - (a) an asset or liability of the entity immediately before the expiry becomes an asset or liability of the State; and
 - (b) an employee of the entity immediately before the expiry becomes an employee of the State; and
 - (c) an agreement in force immediately before the expiry between the entity and another entity becomes an agreement between the State and the other entity; and
 - (d) a legal proceeding that, before the expiry, may be taken or was being taken by or against the entity may be taken or continued by or against the State.
- (4) A regulation may make provision about any matter necessary or convenient for giving effect to this section, including provision about—
 - (a) the transfer of an employee of the entity to a government entity, and the employee's rights; or
 - (b) the application of instruments relating to the entity; or
 - (c) the entity's records.

- (5) In this section—
record includes any document.

Chapter 3 The project

Part 1 Preliminary

65 Water entities

- (1) Each of the following entities is a *water entity*—
- (a) a new water entity;
 - (b) each local government that is a water entity under subsection (3);
 - (c) Queensland Water Infrastructure Pty Ltd (ACN 119 634 427);
 - (d) South East Queensland (Gold Coast) Desalination Company Ltd (ACN 122 413 316);
 - (e) South East Queensland Water Corporation Ltd (ACN 088 729 766);
 - (f) Southern Regional Water Pipeline Company Pty Ltd (ACN 117 898 174);
 - (g) SunWater;
 - (h) Western Corridor Recycled Water Pty Ltd (ACN 124 226 777);
 - (i) an entity prescribed under a regulation for this section.
- (2) A regulation under subsection (1)(i) may only prescribe—
- (a) an entity established under an Act; or
 - (b) a corporation ultimately owned by another water entity or the State.

- (3) The following provisions apply in relation to the local governments mentioned in schedule 1—
- (a) if the same local government is mentioned in column 1 and column 2, that local government is a water entity;
 - (b) a joint local government mentioned in column 1 is a water entity until it ceases to exist;
 - (c) otherwise—
 - (i) a local government mentioned in column 2 is a water entity from its changeover day; and
 - (ii) until the changeover day for a local government mentioned in column 2, each local government mentioned opposite in column 1 is a water entity.
- (4) In this section—

changeover day, for a local government, means the changeover day under the *Local Government Act 1993*, section 159YE for the local government's area.

66 The project

The *project* is the taking of steps, for the purpose of this Act—

- (a) to establish new water entities; and
- (b) to facilitate transfers, from water entities to new water entities, of particular assets and liabilities, instruments and employees; and
- (c) to preserve the entitlements of transferred employees; and
- (d) for other matters relating to the matters mentioned in paragraphs (a) to (c) or the continuing operation of water entities.

Part 2 Particular Ministerial powers

67 Transfer notice

- (1) For the purpose of the project, the Minister may, by gazette notice (a *transfer notice*), do any of the following—
 - (a) transfer shares in a water entity to another water entity;
 - (b) transfer an asset or liability of a water entity to another water entity;
 - (c) make provision about the consideration for a share, asset or liability transferred under paragraph (a) or (b) or for something else done under a transfer notice;
 - (d) for trust land for which a water entity is the trustee—
 - (i) remove the water entity as trustee; or
 - (ii) appoint another water entity as trustee; or
 - (iii) change the purpose for which the trust land was reserved or granted in trust, including to a purpose other than a community purpose;
 - (e) provide whether and, if so, the extent to which a water entity is the successor in law of another water entity;
 - (f) make provision for a legal proceeding that is being, or may be, taken by or against a water entity to be continued or taken by or against another water entity;
 - (g) make provision about the application of instruments to a water entity, including—
 - (i) whether a water entity is a party to an instrument; and
 - (ii) whether an instrument is taken to have been made by a water entity or given to, by or in favour of a water entity; and
 - (iii) whether a reference to an entity in an instrument is a reference to a water entity; and
 - (iv) whether, under an instrument, an amount is or may become payable to or by a water entity or other

property is, or may be, transferred to or by a water entity;

- (h) transfer an employee of a water entity to another water entity;
 - (i) subject to section 90,³ make provision about the employees of a water entity transferred under paragraph (h) and their rights;
 - (j) make provision about the records of a water entity;
 - (k) make provision about an incidental, consequential or supplemental matter the Minister considers necessary or convenient for effectively carrying out the project.
- (2) A transfer notice may include conditions applying to something done under the notice.
 - (3) A transfer notice may transfer an asset attached to land without transferring the land, even though the asset would otherwise be a part of the land.
 - (4) If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice (for example, because of the size or nature of the matter), the Minister may provide for the matter by including a reference in the transfer notice to another document that is—
 - (a) signed by the Minister; and
 - (b) kept available, at a place stated in the transfer notice, for inspection by the persons to whom the matter relates.
 - (5) The transfer of a liability of a water entity under this section discharges the entity from the liability.
 - (6) A transfer notice has effect despite any other law or instrument.
 - (7) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.
 - (8) Unless the context otherwise requires, a reference in this section to a water entity includes the State and the Coordinator-General.

3 Section 90 (Preservation of rights of transferred employees)

(9) In this section—

authority includes accreditation, allocation, approval, certificate, entitlement, exemption, licence, manual, notice, permit and plan.

Coordinator-General means the Coordinator-General under the *State Development and Public Works Organisation Act 1971*.

employee, of a water entity, does not include a director of the entity.

instrument includes an application or authority under an Act.

record includes any document.

trust land means land dedicated as a reserve, or granted in fee simple in trust, under the *Land Act 1994*, chapter 3, part 1.

68 Project direction

- (1) The Minister may give a direction (a **project direction**) to a water entity or its board requiring the entity or board to do something the Minister considers necessary or convenient for effectively carrying out the project.
- (2) Without limiting subsection (1), a project direction may be about—
 - (a) winding up a company; or
 - (b) executing an instrument; or
 - (c) disclosing information; or
 - (d) for a new water entity, according particular terms and conditions of employment to its new employees during a stated period after its establishment.
- (3) A project direction must be in writing, signed by the Minister.
- (4) A water entity must comply with a project direction given to it.
- (5) A water entity's board must—
 - (a) if a project direction is given to the board—comply with the direction; or

- (b) if a project direction is given to the entity—take the action necessary to ensure the entity complies with the direction.
- (6) A water entity’s employees must help the entity or board to comply with a project direction given to the entity or board.
- (7) In this section—
board includes, for a local government, its councillors.
new employees, of a new water entity, means employees of the entity other than—
- (a) employees transferred from another water entity under a transfer notice; or
- (b) the entity’s chief executive officer.

Part 3 **Matters relating to the Water Act**

Division 1 **Preliminary**

69 **Definitions for pt 3**

In this part—

Water Act means the *Water Act 2000*.

Water regulation means the *Water Regulation 2002*.

70 **Words have meanings given by the Water Act**

Words defined in the *Water Act* and used in this part have the same meanings as they have in the *Water Act*.

Division 2 Matters relating to new water entities

71 Non-application to water grid manager

This division does not apply to the water grid manager.

72 New water entities are service providers

A new water entity is a water service provider.

73 Entry into service provider register

- (1) As soon as practicable after the first time that water supply works are transferred to a new water entity under a transfer notice, the entity must notify the regulator of the services for which it is to be registered.
- (2) The entity must give the regulator any other information requested by the regulator for the purpose of registration.
- (3) The regulator must register the entity as a service provider for the services and give the entity notice of the registration.
- (4) The entity is a water service provider from its establishment, regardless of when it is registered.
- (5) The Water Act, sections 371 and 372 do not apply to the registration.
- (6) In this section—
register means register in the service provider register.

74 Submission of plans

- (1) The Water Act, sections 410 and 429E apply to a new water entity as if a reference in the sections to the period of 1 year after the day the service provider is registered were a reference to the period of 18 months after the entity's establishment.
- (2) The Water Act, section 414D applies to a new water entity as if a reference in the section to the period of 2 years after the

day the service provider is registered were a reference to the period of 18 months after the entity's establishment.

75 Application of pricing direction

- (1) This section applies if—
 - (a) under a transfer notice, water infrastructure and an interim resource operations licence applying to the water infrastructure are transferred from SunWater to a new water entity; and
 - (b) as a result of the transfer, a customer of SunWater becomes a customer of the new water entity; and
 - (c) at the time of the transfer, the *Rural Water Pricing Direction Notice (No. 1) 2006* (the **direction**) applies to the price of water taken by the customer.
- (2) The direction, as in force at the time of the transfer, applies to the new water entity, in relation to the price of water taken by the customer, as if a reference in the direction to SunWater were a reference to the new water entity.
- (3) The application of the direction under subsection (2) continues until 30 June 2011 unless its application to the new water entity is ended earlier under a direction given under the Water Act, section 1013D.

Division 3 Matters relating to water entities

76 Automatic transfer of instruments relating to transferred works

- (1) This section applies if water supply works are transferred from a water entity to another water entity (the **transferee**) under a transfer notice.
- (2) Any Water Act instrument relating to the water supply works is also transferred to the transferee.
- (3) Subsection (2) applies subject to any specific provision about the transfer of the instrument under the transfer notice.

- (4) The water chief executive may take the action that is necessary or convenient for the transfer of a Water Act instrument under this section, including—
- (a) updating a register or other record; and
 - (b) amending, cancelling or issuing a Water Act instrument.
- (5) The water chief executive may take action under subsection (4) although the Water Act does not provide for the taking of the action or provides for taking the action in a different way.

Example—

Water infrastructure is transferred from a water entity (the *transferor*) to another water entity (the *transferee*) under a transfer notice. At the time of the transfer, the transferor held an interim resource operations licence (an *IROL*) for the operation of the water infrastructure and had made an application to amend the licence that had not yet been decided.

Acting under subsection (4), the water chief executive—

- (a) amends the IROL held by the transferor, and grants another IROL to the transferee, despite the provisions of the Water Act, chapter 2, part 5, division 2 that would otherwise apply to the granting or amendment of an IROL; and
 - (b) amends the application to amend the IROL so it shows the transferee as the applicant, even though there is no provision in the Water Act for the transfer of an application of that type.
- (6) The operation of the Water Act, chapter 9, part 1 relating to a continuing authority is not affected by its transfer under this section.
- (7) In this section—

continuing authority means—

- (a) an authority continued in force under the Water Act, section 1037 or 1037A; or
- (b) a licence, permit or allocation notice taken to be in force under the Water Act, section 1048A.

Water Act instrument—

1 A *Water Act instrument* means—

- (a) a water allocation, interim water allocation, licence, permit or notice in force under the Water Act; or

- (b) an application for an instrument mentioned in paragraph (a) that has not been finally dealt with under the Water Act.

2 A *Water Act instrument* includes a continuing authority.
water chief executive means the chief executive under the Water Act.

77 **References to SEQ Water relating to particular transferred authority**

If the authority mentioned in the Water Act, section 387A is transferred from SEQ Water to another water entity, any of the following references to SEQ Water is taken to be a reference to the other entity—

- (a) a reference in the Water Act, chapter 3, part 2, division 2A;
- (b) a reference in a supply contract in force under that division.

78 **Transfer of infrastructure**

- (1) This section applies to the transfer, under a transfer notice, of the ownership of a water entity's infrastructure for a registered service.
- (2) The water entity must notify the regulator of the transfer and give the regulator any information about the transfer that the regulator requires.
- (3) The regulator must act under the Water Act, section 375(1) as if the water entity had complied with the Water Act, section 374.
- (4) The Water Act, sections 374 and 375(2) do not apply to the transfer.
- (5) Registration under the Water Act, section 375 is taken to have happened at the same time as the transfer.

Part 4 Application of other laws and instruments

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

- (1) This section applies to land acquired by a local government as a constructing authority under the *Acquisition of Land Act 1967*.
- (2) If the land is transferred to a water entity under this chapter, the water entity is, for section 41 of that Act, taken to be the constructing authority that acquired that land on the day it was acquired.

80 Matters relating to the Integrated Planning Act 1997

- (1) This section applies to the transfer of development infrastructure, under this chapter, from a local government to another water entity that is not a local government.
- (2) The transfer does not affect the validity of any of the following done, whether before or after the transfer, in relation to the development infrastructure—
 - (a) an infrastructure charge or cost levied by the local government under IPA, chapter 5, part 1;
 - (b) a condition imposed by the local government under IPA, chapter 5, part 1 or section 6.1.31.
- (3) In this section—
development infrastructure see IPA, schedule 10.

IPA means the *Integrated Planning Act 1997*.

81 Non-liability for State taxes

- (1) A water entity is not liable to pay a State tax in relation to—
 - (a) anything done under a transfer notice; or
 - (b) a transfer of an instrument under the *Water Act 2000*, or other transaction, under part 3.

(2) In this section—

State tax means a fee, levy or charge imposed under an Act, including—

- (a) duty under the *Duties Act 2001*; and
- (b) a fee or charge under the *Land Act 1994*, *Land Title Act 1994* or the *Water Act 2000*.

Part 5 Other matters

82 Time within which Minister may act

The Minister may not perform a function or exercise a power under this chapter more than 3 years after the commencement of this chapter.

83 Chapter applies despite other laws and instruments

A thing may be done under this chapter despite any other law or instrument.

Example—

The Minister may, by a transfer notice, transfer a trustee lease under the *Land Act 1994* without the written approvals that would otherwise be required for a transfer under section 58 of that Act.

84 Decisions not reviewable

(1) A decision under this chapter—

- (a) is final and conclusive; and
- (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

(2) In this section—

decision includes a decision or conduct leading up to or forming part of the process of making a decision.

85 Effect on legal relationships

(1) Nothing done under this chapter (including a thing done by, or in compliance with, a transfer notice or project direction)—

(a) makes a relevant entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or

(b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or

(c) is taken to fulfil a condition that—

(i) allows a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or

(ii) allows a person to enforce an obligation contained in an instrument or requires a person to perform an obligation contained in an instrument; or

(iii) requires any money to be paid before its stated maturity; or

(d) releases a surety or other obligee, wholly or partly, from an obligation.

(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this chapter, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.

Example—

A contract entered into by a water entity provides that the entity agrees not to transfer a particular asset without a particular person's consent and that, if the consent is given, it may be subject to particular conditions.

If the asset is transferred to another water entity under a transfer notice, the consent required under the contract is taken to have been given unconditionally.

- (3) If, apart from this Act, giving notice to a person would be necessary to do something under this chapter, the notice is taken to have been given.
- (4) In this section—
relevant entity means—
 - (a) the State or an employee or agent of the State; or
 - (b) a water entity, a member of a water entity's board or an employee or agent of a water entity.

86 Excluded matter for Corporations Act

Anything done by the Minister under part 2⁴ is an excluded matter for the Corporations Act, section 5F,⁵ in relation to the Corporations Act, chapter 2D.⁶

87 Disclosure and use of information for the project

- (1) A person may disclose information in the possession or control of a water entity, for the purpose of the project, to—
 - (a) a person involved in the project; or
 - (b) a water entity, a member of a water entity's board or an employee or agent of a water entity.
- (2) A water entity or its board must comply with a request by the Minister for the disclosure of information under subsection (1) to a person.
- (3) A person may use information in the possession or control of a water entity for the purpose of the project.

4 Part 2 (Particular ministerial powers)

5 Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)

6 Corporations Act, chapter 2D (Officers and employees)

- (4) Also, to remove any doubt, it is declared that a person may disclose or use information in compliance with a transfer notice or project direction.
- (5) A person who, acting honestly, discloses or uses information under this section is not liable, civilly, criminally or under an administrative process, for the disclosure or use.

88 Registering authority to register or record transfer

- (1) A registering authority must, on written application by a transferee entity, register or record in the appropriate way the transfer of an asset, liability or instrument under a transfer notice to the transferee entity.
- (2) The transferee entity must comply with any relevant procedures required by the registering authority for the purpose of registering or recording the transfer.

Example—

The registering authority may require the transferee entity to complete and submit a particular form.

- (3) In this section—

registering authority means the registrar of titles or another entity required or authorised by law to register or record transactions affecting assets, liabilities or instruments.

transferee entity means the entity to which an asset, liability or instrument is transferred under a transfer notice.

89 Entry to, and use of, water entity's land after transfer of asset attached to the land

- (1) This section applies if—
 - (a) a water entity owns land to which an asset is attached; and
 - (b) the land or asset is transferred under a transfer notice; and
 - (c) after the transfer, a water entity (the ***asset owner***) owns the asset and another water entity (the ***land owner***) owns or occupies the land to which the asset is attached.

- (2) An employee or agent of the asset owner may enter the land or a structure on the land, at all reasonable times, if the entry is—
- (a) necessary to do something relating to the asset for the exercise of the asset owner's functions as a water entity; or
 - (b) necessary for the continued use of the asset in a way it was lawfully used before the transfer.

Examples of things for which entry may be necessary—

- carrying facilities into, through, across or under the land
 - performing work in the land
 - inspecting, operating, changing, maintaining, removing, repairing or replacing the asset
- (3) Also, the asset owner may allow other persons to enter the land or a structure on the land at the times stated, and as otherwise provided for, in the transfer notice.
- (4) Subsections (2) and (3) do not apply to the entry of a structure, or the part of a structure, used for residential purposes.
- (5) Subsections (2) and (3) do not limit the making of other agreements between the asset owner and land owner about entry to, or use of, the land.
- (6) The land owner may not, without the asset owner's written consent—
- (a) interfere with the asset; or
 - (b) take any step to change the use of the land; or
 - (c) carry out material works or make material improvements to the land; or
 - (d) transfer the land to someone else; or
 - (e) grant rights to anyone else in relation to the land that are inconsistent with the land owner's use of the land at the time of the transfer.
- (7) The asset owner may give a written request to the registrar of titles to record the following information (the ***prescribed information***)—

- (a) that this section applies to the land;
 - (b) a description of the asset;
 - (c) the name of the asset owner.
- (8) On receiving the request, the registrar of titles must make a record in a way that a search of the register kept by the registrar under any Act relating to the land will show the prescribed information.
- (9) On written request from the asset owner, the registrar of titles must cancel a record made under subsection (8).
- (10) If the land owner incurs loss or damage because of the asset owner's exercise of a power under this section, the land owner is entitled to be paid compensation by the asset owner as worked out under the transfer notice or otherwise agreed between them.
- (11) A reference in this section to land to which an asset is attached is a reference to—
- (a) the parcel of land, for which there is an instrument of title, that includes the particular area covered by the asset; and
 - (b) for subsections (2) and (3), other contiguous land owned or occupied by the land owner.

90 Preservation of rights of transferred employees

- (1) This section applies to the transfer of an employee of a water entity (the *former employer*) to a new water entity (the *new employer*) under a transfer notice.
- (2) Subject to subsection (3), the employee's terms and conditions of employment during the transitional period are the same terms and conditions (the *transferred conditions*) as applied to the employee immediately before the transfer, and are not decided by reference to any other law or instrument about minimum terms and conditions of employment.
- (3) During the transitional period—
- (a) if the employee has transferred conditions derived from a prescribed industrial instrument, a notional agreement

- preserving State awards derived only from a State law or an APCS, the employee may enforce the transferred conditions as if they were derived from an industrial instrument under the IRA; and
- (b) if the employee has transferred conditions derived from a prescribed industrial instrument—
- (i) the employee is taken to be employed by the new employer under an industrial instrument for the purpose of the IRA, chapter 3; and
- (ii) the transferred conditions are taken to include any dispute resolution clause that, under the transfer notice, applies to the new employer and the employee during the transitional period.
- (4) A dispute resolution clause mentioned in subsection (3)(b)(ii) applies to the exclusion of any other dispute resolution clause that would otherwise apply under the transferred conditions.
- (5) The transfer does not—
- (a) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
- (b) constitute a termination of employment by the former employer, retrenchment or redundancy; or
- (c) entitle the employee to a payment or other benefit because he or she is no longer employed by the former employer; or
- (d) require the former employer to make any payment in relation to the employee's accrued rights to recreation, sick, long service or other leave irrespective of any arrangement between the former employer and the employee.
- (6) The transfer has effect despite any other law, contract or other instrument.
- (7) In this section—
- APCS** means an Australian Pay and Classification Scale under the WRA.

IRA means the *Industrial Relations Act 1999*.

notional agreement preserving State awards see the WRA, schedule 8, clause 31.

prescribed industrial instrument means any of the following—

- (a) an award under the IRA or the WRA;
- (b) a transitional award under the WRA, schedule 6;
- (c) a QWA under the IRA;
- (d) a workplace agreement;
- (e) a certified agreement under the IRA;
- (f) a pre-reform AWA under the WRA;
- (g) a pre-reform certified agreement under the WRA, schedule 7;
- (h) an old IR agreement under the WRA, schedule 7;
- (i) a notional agreement preserving State awards that is derived from a State award;
- (j) a preserved State agreement under the WRA.

transitional period means the period from the time of the employee's transfer to the new employer until whichever of the following happens first—

- (a) the employee becomes covered by a new agreement made under the IRA that provides that it replaces some or all of the transferred conditions;
- (b) if the employee's transferred conditions are not derived from a prescribed industrial instrument—a new contract of employment is agreed between the new employer and the employee that provides that it replaces the transferred conditions.

workplace agreement has the meaning given by the WRA, section 4(1) and does not have the extended meaning given by the WRA, section 324.

WRA means the *Workplace Relations Act 1996* (Cwlth).

91 Prohibition on retrenchment because of project

- (1) A water entity must not take any action to end a transferred employee's employment with the water entity by redundancy, other than voluntary redundancy, if the action is taken, whether completely or partly and whether directly or indirectly, because of the carrying out of the project.
- (2) For deciding whether a water entity has contravened subsection (1), the reason given by a water entity for taking action to end a transferred employee's employment must be considered but is not conclusive.
- (3) Subsection (1) applies only to an action taken before 1 March 2011.
- (4) In this section—
transferred employee, of a water entity, means an employee transferred to the entity under a transfer notice.

Chapter 4 Other matters

Part 1 Miscellaneous

92 Staff support framework

- (1) The Minister may approve a framework (a *staff support framework*) directed at ensuring—
 - (a) the proper transition of employees transferred, under a transfer notice, from a water entity to another water entity; and
 - (b) the appropriate and fair treatment of other employees of water entities affected by the project.
- (2) As soon as practicable after approving a staff support framework, the Minister must—
 - (a) notify the making of the approval; and

- (b) give a copy of the framework to each water entity to which it applies; and
- (c) publish a copy of the framework in the way the Minister considers appropriate.

Example—

The Minister may publish the framework on the department's website.

- (3) The notice made under subsection (2)(a) (the *approval notice*) is subordinate legislation.
- (4) A staff support framework takes effect on the day the approval notice is notified or published in the gazette or, if a later day is stated in the approval notice or the framework, on that day.
- (5) It is the responsibility of each water entity to ensure, to the extent a staff support framework applies to the entity, that the entity acts in conformity with the framework.

93 Things done by, or given to, responsible Ministers

- (1) If, under this Act, a thing is required to be done or may be done by the responsible Ministers, the thing is to be done by the Ministers jointly.
- (2) If, under this Act, a thing is required to be given or may be given to the responsible Ministers, the thing is to be given to each of the Ministers.
- (3) However, if the responsible Ministers' offices are held, or the functions of the offices are being performed, by 1 person, the thing may be done by, or given to, that person alone.

94 Delegation by Minister

- (1) The Minister may delegate the Minister's functions under this Act, except functions as a responsible Minister or under section 67,⁷ to the chief executive of the department.
- (2) In this section—

⁷ Section 67 (Transfer notice)

functions includes powers.

95 Evidentiary aids

- (1) This section applies to a proceeding under this Act.
- (2) A certificate signed by the Minister stating any of the following matters is evidence of the matter—
 - (a) that a stated thing was, or is being, done for the purpose of the project;
 - (b) that a stated person is, or was at a stated time, involved in the project;
 - (c) that a stated direction given by the Minister related to the project.
- (3) A document certified by the Minister to be a copy of a project direction is evidence of the direction.

96 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 2 Transitional provisions

97 Appointment of first chief executive officer

- (1) Despite section 27(2), the responsible Ministers may appoint a new water entity's first chief executive officer.
- (2) If the responsible Ministers act under subsection (1), this Act applies in relation to the appointee as if he or she had been appointed under section 27.

98 Appointment of board members

- (1) Section 16(2) does not apply to the appointment of a member of a new water entity's board before the entity's first strategic

and operational plans are agreed to by the responsible Ministers.

- (2) Despite section 16(3)(a), any of the following persons may be appointed as a member of a new water entity's board for a period ending not later than 1 year after the entity's establishment—
 - (a) the chief executive of the treasury department;
 - (b) a deputy to the chief executive of the treasury department;
 - (c) the chief executive of the infrastructure department.
- (3) Despite section 16(3)(c), a member of the Queensland Water Commission may be appointed as a member of the board of the water grid manager for a period ending on or before 30 June 2009.

99 New water entity's first strategic and operational plans

- (1) This section applies to a new water entity's first strategic and operational plans.
- (2) The time within which the entity's board must prepare and submit a draft of each plan under section 45 is 3 months after the entity's establishment or another time agreed between the board and the responsible Ministers.
- (3) If a draft plan has not been agreed to within 1 month after its submission to the responsible Ministers, the responsible Ministers may give a direction under section 46(3).
- (4) The period for which the strategic or operational plan applies is—
 - (a) the remainder of the financial year in which it is agreed to by the relevant Ministers; and
 - (b) if the entity and the responsible Ministers agree the plan is also to apply for the following financial year, for that financial year.

100 New water entity's first quarterly plan

Section 36⁸ does not apply to a new water entity in relation to a quarter before the quarter in which its first operational plan is agreed to by the responsible Ministers.

101 New water entity's first plans under FAA Act

- (1) This section applies to the plans for a financial year, other than a strategic or operational plan, that a new water entity is required to prepare and submit under the FAA Act.
- (2) Having regard to when the entity is established, and any other relevant circumstances, the responsible Ministers may agree to the first plans being prepared and submitted at a time later than would otherwise apply under the FAA Act.
- (3) If the responsible Ministers act under subsection (2) in relation to a plan, the period for which the plan applies is—
 - (a) the remainder of the financial year in which it is submitted; and
 - (b) if the entity and the responsible Ministers agree the plan is also to apply for the following financial year, for that financial year.

102 Annual return for a new water entity's first financial year

No annual return is payable by a new water entity under chapter 2, part 5 for the financial year in which the entity is established.

103 Amendment of regulation

The amendment of the *Statutory Bodies Financial Arrangements Regulation 2007* or the *Water Regulation 2002* by this Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 3 Amendments

Division 1 Amendment of Superannuation (State Public Sector) Act 1990

104 Act amended in div 1

This division amends the *Superannuation (State Public Sector) Act 1990*.

105 Amendment of s 2 (Interpretation)

Section 2(1), definitions *defined benefit asset* and *defined benefit member*—
omit.

106 Amendment of s 3 (Establishment of board)

- (1) Section 3(5)—
omit.
- (2) Section 3(3A) and (4)—
renumber as section 3(4) and (5).

107 Amendment of s 6F (Delegation by board)

Section 6F(3)—
omit.

108 Amendment of s 11 (Investment of fund)

- (1) Section 11(2)—
omit.
- (2) Section 11(4), from ‘, or a particular’—
omit, insert—
‘or a particular part of the fund.’.

- (3) Section 11(3) and (4)—
renumber as section 11(2) and (3).

109 Omission of s 11A (Investment of defined benefit assets)

Section 11A—
omit.

110 Amendment of s 31A (Transfer of employees)

- (1) Section 31A(6)—
renumber as section 31A(7).
- (2) Section 31A—
insert—
- ‘(6) The Minister may delegate the Minister’s power under subsection (1) to the chief executive.’.

111 Amendment of s 43 (QIC continues as investment manager)

Section 43(3) and (4)—
omit, insert—

- ‘(3) The appointment continues until it is revoked by the board.’.

**Division 2 Amendment of State Development
and Public Works Organisation Act
1971**

112 Act amended in div 2

This division amends the *State Development and Public Works Organisation Act 1971*.

113 Insertion of new s 153J

Part 6, division 8—

insert—

‘153J Delegation of Minister’s functions under div 8

‘(1) The Minister may delegate the Minister’s functions under this division to an appropriately qualified public service officer or an appropriately qualified person employed under this Act.

‘(2) In this section—

appropriately qualified, in relation to a delegated function, includes having the qualifications, experience or standing to perform the function.

Example of standing—

a person’s classification level in the public service

functions includes powers.’.

Division 3 Amendment of Transport Infrastructure Act 1994

114 Act amended in div 3

This division amends the *Transport Infrastructure Act 1994*.

115 Insertion of new s 85B

After section 85A—

insert—

‘85B Application of Queensland Heritage Act 1992 for development for a franchised road

‘(1) This section applies to development for a franchised road if the development is proposed to be carried out in relation to a registered place under the *Queensland Heritage Act 1992*.

‘(2) The development is taken to be development proposed to be carried out by the State to which section 45 of that Act applies.

‘(3) In this section—

development see the *Integrated Planning Act 1997*, section 1.3.2.’.

116 Insertion of new s 93A

After section 93—

insert—

‘93A Application of Queensland Heritage Act 1992 for development for a toll road

‘(1) This section applies to development for a toll road if the development is proposed to be carried out in relation to a registered place under the *Queensland Heritage Act 1992*.

‘(2) The development is taken to be development proposed to be carried out by the State to which section 45 of that Act applies.

‘(3) In this section—

development see the *Integrated Planning Act 1997*, section 1.3.2.’.

Division 4 Amendment of other laws

117 Laws amended in sch 2

Schedule 2 amends the laws mentioned in it.

Schedule 1 Local governments that are water entities

section 65(3)

Local governments before reform	Local governments after reform
Brisbane City Council	Brisbane City Council
Gold Coast City Council	Gold Coast City Council
Ipswich City Council	Ipswich City Council
Gatton Shire Council and Laidley Shire Council	Lockyer Valley Regional Council
Logan City Council	Logan City Council
Caboolture Shire Council, Pine Rivers Shire Council and Redcliffe City Council	Moreton Bay Regional Council
Redland Shire Council	Redland City Council
Beaudesert Shire Council and Boonah Shire Council	Scenic Rim Regional Council
Esk Shire Council and Kilcoy Shire Council	Somerset Regional Council
Caloundra City Council, Maroochy Shire Council and Noosa Shire Council	Sunshine Coast Regional Council
Caloundra–Maroochy Water Supply Board	...
Esk–Gatton–Laidley Water Board	...

Schedule 2 Amendment of other laws

section 117

Local Government Act 1993

1 Chapter 17, part 4—

insert—

‘1193AA Provision for local government employees transferred to new water entities

- ‘(1) This section applies if, under a transfer notice under the water restructuring Act, employees of a local government are transferred to a new water entity other than the water grid manager.
- ‘(2) A transferred employee is eligible to be a member of the scheme.
- ‘(3) The new water entity is taken to be a local government entity for this chapter, but only in relation to its employment of transferred employees.
- ‘(4) For this chapter, a transferred employee who was a permanent employee immediately before the transfer continues to be a permanent employee.
- ‘(5) In this section—

new water entities see the water restructuring Act, section 6(1).

scheme means the Local Government Superannuation Scheme under section 1180(1).

transferred employee means an employee mentioned in subsection (1).

water grid manager means the SEQ Water Grid Manager established under the water restructuring Act, section 6(1)(d).

water restructuring Act means the *South East Queensland Water (Restructuring) Act 2007*.’.

Schedule 2 (continued)

Queensland Competition Authority Act 1997

2 **Schedule, definition *water supplier*—**

omit, insert—

‘*water supplier* means an entity, other than the State or a government agency, that—

- (a) carries on, or negotiates to carry on, a water supply activity; and
- (b) is not owned, whether legally or beneficially and whether entirely or in part, by the State or a government agency.’.

Statutory Bodies Financial Arrangements Regulation 2007

3 **Schedule 2—**

insert—

‘*South East Queensland Water* a new water entity’.
(*Restructuring*) Act 2007

4 **Schedule 5—**

insert—

‘*South East Queensland Water* a new water entity’.
(*Restructuring*) Act 2007

Schedule 2 (continued)

5 **Schedule 8—**

insert—

‘South East Queensland Water (Restructuring) Act 2007 a new water entity’.

Water Act 2000

6 **After section 1013C—**

insert—

‘1013D Minister’s and Treasurer’s power to give joint directions to new water entities

- ‘(1) The Minister and Treasurer may give a new water entity a written joint direction if the Minister and Treasurer are satisfied it is necessary to give the direction—
- (a) to give effect to this Act; or
 - (b) to facilitate water industry reform in the State; or
 - (c) to ensure a financially viable water industry in the State.
- ‘(2) The new water entity must comply with the direction.
- ‘(3) The Minister must gazette a copy of the direction within 21 days after it is given.
- ‘(4) In this section—
- new water entities* see the *South East Queensland Water (Restructuring) Act 2007*, section 6(1).’.

Schedule 2 (continued)

Water Regulation 2002

7 Schedule 10A—

insert—

‘a new water entity under the *South East Queensland Water (Restructuring) Act 2007*’.

Schedule 3 Dictionary

section 5

agent, of an entity, includes a person engaged by the entity.

annual report, of a new water entity, for chapter 2, part 4, division 3, see section 40.

annual return means the annual return payable under chapter 2, part 5.

board—

- (a) generally, means a new water entity's board; and
- (b) in relation to a chief executive officer, means the board of the new water entity of which he or she is the chief executive officer.

Caloundra–Maroochy Water Supply Board means the joint local government of that name.

community service obligations see section 56.

Esk–Gatton–Laidley Water Board means the joint local government of that name.

FAA Act means the *Financial Administration and Audit Act 1977*.

government entity see the *Public Service Act 1996*, section 21.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659⁹ applies to the indictable offence.

information includes a document.

infrastructure department means the department in which the *Water Act 2000*, chapter 2, part 2, division 2A is administered.

9 Criminal Code, section 659 (Effect of summary conviction for indictable offences)

Schedule 3 (continued)

insolvent under administration see the Corporations Act, section 9.

instrument includes an oral agreement.

new water entities see section 6(1).

operational plan, of a new water entity, means the entity's operational plan in force under chapter 2, part 4, division 4.

person involved in the project means an employee or agent of the State who is involved in carrying out the project in the course of the employment or agency.

project see section 66.

project direction see section 68.

responsible Ministers, in relation to a new water entity, means—

- (a) the Minister administering this Act; and
- (b) the Minister administering the entity.

senior executive, of a new water entity, includes the holder of an office in the entity that reports directly to the entity's chief executive officer and that is commensurate with an office held by a senior executive under the *Public Service Act 1996*.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

strategic plan, of a new water entity, means the entity's strategic plan in force under chapter 2, part 4, division 4.

subsidiary, of a new water entity, means a body corporate that would be a subsidiary of the new water entity under the Corporations Act, part 1.2, division 6 if the new water entity were a body corporate.

SunWater means the GOC of that name.

Schedule 3 (continued)

transfer notice see section 67.

treasury department means the department in which the FAA Act, part 2 is administered.

Water Act, for chapter 3, part 3, see section 69.

water activity means an activity mentioned in the *Water Act 2000*, schedule 4, definition *water activity*.

water entity see section 65.

water grid manager means the SEQ Water Grid Manager established under section 6.

Water regulation, for chapter 3, part 3, see section 69.

water service see the *Water Act 2000*, schedule 4.

water supply works see the *Water Act 2000*, schedule 4.