

# South-East Queensland Water (Distribution and Retail Restructuring) Amendment Bill 2012

## Explanatory Notes

### General Outline

#### Policy objectives

The objectives of the Bill are to:

1. Enable an employer water business in South East Queensland (SEQ) the flexibility to operate under the ordinary industrial relations arrangements applying to similar employers, by removing the special industrial relations arrangements (such as the Workforce Frameworks and the transitional period requirements). The Workforce Frameworks are the *SEQ Distribution and Retail Water Reform Workforce Framework 2009* (the 2009 Workforce Framework) and the *SEQ Distribution and Retail Water Retransfer Workforce Framework 2012* (the 2012 Workforce Framework).
2. Enable relevant employers to not be required to comply with provisions in a document (such as an Enterprise Bargaining Agreement or employment contract) where there is an express reference to requirements to comply with the 2009 Workforce Framework. Provide appropriate transitional arrangements, leaving in place certain things done under the Workforce Frameworks prior to the effective date of their cessation or removal.
4. Ensure that continuity of service is not disrupted and that long service leave entitlements will properly apply to the retransfer of employees of Allconnex to a withdrawn council.
5. Ensure that each of the relevant parties bear their own withdrawal costs in relation to costs incurred after the end of 30 June 2012 which

they may have otherwise claimed in relation to the Workforce Framework 2012.

6. Provide clarity about how removing the special industrial relations arrangements affects or does not affect the existing provisions regarding retransfers, certifications and withdrawal costs.

## **Reason for the Policy Objectives**

### ***Workforce frameworks***

The SEQ water reforms implemented by the former Government provided for two key staff support frameworks to protect the conditions and entitlements of employees affected by these reforms. These were:

1. The 2009 Workforce Framework which protects the conditions and entitlements for certain employees who were affected by the transfer of water and wastewater services in 2010, from the 10 SEQ local governments to the three distributor-retailers.
2. The 2012 Workforce Framework which protects the conditions and entitlements for certain Allconnex employees transferring back to the council water businesses of Gold Coast, Logan and Redland City Councils a consequence of councils' decisions to re-establish council water businesses. These council water businesses will operate water and wastewater services from 1 July 2012.

By making the 2009 Workforce Framework and the 2012 Workforce Framework, various obligations and requirements were imposed on the distributor-retailers and withdrawn councils. These obligations and requirements are in addition to the ordinary industrial relations requirements that the distributor-retailers and the withdrawn councils would be required to comply with under the general law. In particular, the Frameworks provided for:

1. Job security – a prohibition on forced redundancies for the relevant period of the Framework (for approximately three years).
2. Moving and travel allowances – some staff are entitled to additional payments associated with having to live or travel to or from more remote places of employment than was the case when they were employed by their original council or Allconnex.

3. Salary maintenance – staying on higher salaries to match originating council or Allconnex payments for the three years (even if in a lower position).
4. Re-deployment training – to train staff for differing positions compared to their original position or existing Allconnex position.

The 2009 Workforce Framework covers the council staff transferred from the SEQ councils to the distributor-retailers, i.e. Unitywater, Queensland Urban Utilities (QUU) and Allconnex. The 2009 Workforce Framework also applied to some council staff who remained with a council (but doing distributor-retailer work under service level agreements) rather than being transferred to a distributor-retailer. The 2009 Workforce Framework commenced on 1 July 2010 and has a three year term which means it ends on 30 June 2013. However, the end date may vary as there were delays in some council affected employees transferring to the distributor-retailer.

The 2012 Workforce Framework, commenced (retrospectively) on 16 December 2011 and was to operate until 30 June 2015. The 2012 Workforce Framework only applies to Allconnex employees transferring back to the withdrawn councils and for those employees, replaces the 2009 Workforce Framework. The 2012 Workforce Framework does not apply to QUU or Unitywater.

Both Frameworks were developed in consultation with council representatives, relevant unions (e.g. the Australian Services Union, the Australian Workers' Union and the Queensland Council of Unions) and core State agencies such as the industrial relations unit of the then Department of Justice and Attorney-General.

Representatives of councils and relevant unions had the joint responsibility to develop the two Frameworks. However, both parties were unable to agree to critical issues relating to job security and the affected parties under the Frameworks. The former Government's decision was to provide for (a) a three year job security term that commenced on the transfer of an employee; and (b) a broad definition of affected party to cover certain council employees affected by the reform process. The distributor-retailers and councils have since strongly argued that these provisions are higher than what other businesses would have to comply with and prevented them from implementing business changes to improve efficiency and reduce customer delivery costs, and that the 2012 Workforce Framework could be expected to have a similar effect.

The Bill will amend the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (the DR Act) to terminate the 2009 Workforce Framework at the end of 30 June 2012, revoke the effect of the 2012 Workforce Framework and repeal the associated statutory workforce provisions for employees transferring from Allconnex to the withdrawn councils. The practical effect of this Bill is to shorten the application of the 2009 Workforce Framework by one year and prevent the 2012 Workforce Framework from having any affect from its commencement in December 2011, replacing its affect with the 2009 Workforce Framework until 30 June 2012.

The policy intent for ending the application of the Frameworks is to, as far as possible, put the councils and distributor-retailers back in a position where they can manage their industrial relations arrangements in the ordinary way, without additional mandated requirements.

Appropriate transitional provisions have been included to ensure things done or started under either Framework are valid and can be sensibly completed. Similarly, the Bill provides for a measure of employee protection by mandating that employees who may have been given payments under the retrospectively removed 2012 Workforce Framework, are not required to repay these payments.

Provisions have also been included to allow an express requirement of the 2009 Workforce Framework to be not complied with in a document (such as an Enterprise Bargaining Agreement or contract). This measure is to support the removal of the 2009 Workforce Framework. It does not however remove commitments contained in a document which are independent of the 2009 Workforce Framework. That is, if there is a commitment in a document (even if it is on a similar topic to the 2009 Workforce Framework), it is not to be read down unless there is a specific reference to the 2009 Workforce Framework. The policy intent was to relieve employers of the requirement to comply with the 2009 Framework, without going so far as to completely re-write the employers' own Enterprise Bargaining Agreements. Employers will be free to honour the requirements if they choose, or renegotiate matters where their Enterprise Bargaining Agreement expressly commits them to comply with the 2009 Framework in some particular way.

### ***Transition period arrangements***

In addition to the Frameworks, the legislation which introduced the 2010 and 2012 Workforce Frameworks put in place ‘transition period’ arrangements for transferring employees.

The transition period arrangements ensure each owner-council’s Enterprise Bargaining Agreement (EB) applied to the employees transferred, until such time as the newly created water businesses developed their own EBs. For example, in 2010, the owner-councils’ existing EBs applied to staff being transferred to Allconnex, Unitywater or QUU, until the distributor-retailers could develop their own EBs (see s 83 of the DR Act).

A similar transition period arrangement has been included in the DR Act to cover Allconnex employees transferring to the withdrawn councils (see ss. 92EL to 92EP).

As Unitywater and QUU have now developed their own EBs, the transition period arrangements in s 83 no longer applies for their employees.

Allconnex is still subject to its transition period arrangements in s 92EL, as it does not have its own EB. This means Allconnex employees are currently working under a withdrawn council’s EB. For example, an Allconnex employee who was originally transferred from Redland City Council would be protected by the Redland City Council EB (with some minor exceptions). An employee who did not come from a council but joined Allconnex after it commenced operations on 1 July 2010, would be subject to the council EB for the area where the employee was situated (e.g. the Gold Coast City Council EB if the employee worked in an Allconnex office situated in the Gold Coast area).

While the Workforce Frameworks are to be discontinued, the policy intent is to continue the application of the protections for employees of Allconnex under s 83 until such time as they retransfer to a withdrawn council at 30 June 2012. In other words, for Allconnex, the transition period arrangements are removed from the end of 30 June 2012. The s 83 provisions have already ended for QUU and Unitywater as they already have their own EBs in place.

### ***No indemnity clauses***

Due to the tight timeframes in which the parties have had to prepare for the Allconnex retransfer and the retrospective removal of the 2012 Framework, the Bill seeks to protect Allconnex and the withdrawn councils from claims based on representation or commitments that may have been made by them

whilst the 2012 Framework was on foot. The policy intention is to ensure that, in particular, the withdrawn councils can give effect to the legislative changes without the threat of claims arising from things that may have been done under, or in expectation of the continued operation of, the 2012 Framework.

### ***Withdrawal cost provisions***

Under the existing withdrawal cost provisions, Logan and Redland City Councils are entitled to claim certain withdrawal costs from Gold Coast City Council, when they occur in connection with the retransfer of employees. These costs would likely include costs relating to the 2012 Workforce Framework, such as development and implementation of the Framework. As the Framework is effectively being retrospectively removed from its commencement (i.e. on 16 December 2011), the relevant parties are being allowed to recover costs incurred prior to 30 June 2012, in relation to the 2012 Workforce Framework.

### ***Long service leave preservations***

An additional amendment will ensure the staff of Allconnex can transfer to the withdrawn councils with their long service leave entitlements preserved.

## **Achievement of policy objectives**

The policy will be achieved by the Bill providing, amongst other things:

1. From 30 June 2012, ceasing the operation of the 2009 Workforce Framework in relation to QUU, Unitywater and Allconnex.
2. The 2012 Workforce Framework which applied from 16 December 2011 in relation to entitlements for the transfer of employees out of Allconnex, is ended and is taken never to have applied – and is replaced by the 2009 Workforce Framework for the Allconnex employees until 30 June 2012.
3. Preservation of things done and things started under either of the Frameworks.
4. Prevention of recovery of payments made to affected Allconnex staff under the 2012 Workforce Framework prior to assent of the Bill.
5. Ending, from 30 June 2012, the application of the transitional period requirements in s 83 applying to Allconnex staff transferring back to a withdrawn council.

6. Preventing a right arising due to Allconnex and its withdrawn councils having made certain representations or agreements that relied on the existence and continued existence, of the 2012 Workforce Framework.
7. Deeming provisions to ensure that the staff of Allconnex will transition back to councils with their long service leave entitlements preserved.
8. Prevention of any cost incurred after the end of 30 June 2012 which relates to the 2012 Workforce Framework from being recovered as a withdrawal cost.
9. Other technical amendments to remove references to the mandated industrial relations arrangements and clarifying the position in relation to their removal.

### **Alternative ways of achieving policy objectives**

The primary policy objective is to place the relevant water businesses (i.e. the distributor-retailers and from 1 July 2012 the withdrawn councils) back in the position where they can manage their industrial relations matters in the same way as applies to other employers. This involves the removal of the 2009 Workforce Framework retrospectively from the end of 30 June 2012 and ceasing the affect of the 2012 Workforce Framework retrospectively from the time of its commencement on 16 December 2011.

One option was for the Minister to repeal the decision or instrument administratively under the same provisions under which they were made, relying on the provisions of s 24AA of the *Acts Interpretation Act 1954*.

While an administrative repeal may be legally effective, the following issues would arise:

- An administrative repeal of the instruments would only be effective from the time of repeal. Legislation is necessary to provide the desired retrospective effect, in particular for the 2012 Workforce Framework applying to Allconnex.
- The desired protection for Allconnex and council employers as a result of the retrospective removal of the 2012 Workforce Framework could not be implemented without legislation.
- An administrative repeal of the Frameworks would have lead to confusion about the interaction with other parts of the legislation

which reference the Frameworks (particularly compliance or consistency with the Frameworks).

- Providing the distributor-retailers and withdrawn councils with necessary flexibility to deal with staff, also required removing the ‘transitional period’ requirements, which supported the Workforce Frameworks and could only be removed by legislative change.

These requirements effectively applied the industrial relations arrangements in place just prior to the transfer of an employee to the new employer – until such time as the new employer could make specific industrial relations arrangements (e.g. EBs). For example, an employee transferred to Allconnex from Redland City Council, would have had the Council’s EB applied to that employee whilst employed with Allconnex, until Allconnex negotiated its own EB. With the impending Allconnex break-up, the initial plans to make an Allconnex EB have been abandoned, and the transitional period requirements mean that the employee would be subject to the same Redland EB which applied while the employee was employed by Allconnex, even if this employee was subsequently retransferred to the Gold Coast City Council.

This measure was originally intended to guard against a loss or change of entitlements arising out of the Allconnex breakup, until such time as each of the councils could make new EBs which were negotiated with the relevant transferred staff. The new policy objective is to allow councils’ own existing arrangements to apply rather than mandated provisions, allowing councils the freedom to either have transferring staff operate under their own existing EBs, or to make new ones if they choose. As these transitional period arrangements were imposed via legislation, there is no option but legislative change to achieve the policy intent.

For these reasons, the removal of the Frameworks and the transitional period arrangements are to be achieved through the Bill.

A further policy objective of the Bill is to stipulate that withdrawal costs (in relation to the 2012 Workforce Framework applying to Allconnex and the withdrawn councils) cannot be claimed for withdrawal costs that are incurred after 30 June 2012. There was an alternative option to be able to stipulate this exemption under the regulation making power provided by s 92BW(2)(d) of the DR Act. While this was possible, the provisions of the Bill provide that the 2012 Workforce Framework was never in effect. Without legislative clarity, there would have been confusion as to whether costs associated with the development and pre-implementation of the 2012



Workforce Framework could have been recovered if the Framework was taken never to have had effect. The Bill clarifies that the costs incurred can in fact be recovered, but only costs incurred up to the date that the Bill comes into effect.

For the long service leave provisions, legislation was necessary to ensure protection was provided at the time of the retransferring of staff from Allconnex to their withdrawn councils.

### **Estimated cost for government implementation**

This Bill primarily deals with matters to be implemented by the relevant distributor-retailers and withdrawn councils and as such, has no costs to the Government.

Employers now have the choice to implement workforce arrangements that best align with their business and planning operations. Any cost savings would be a decision for the employer.

### **Consistency with fundamental legislative principles**

Legislation should not adversely affect rights or liberties, or impose obligations retrospectively (s 4(3)(g) of the Legislative Standards Act)

The two Workforce Frameworks being removed, are already in operation. The impact of removal depends on the extent of protection or entitlement contained within the EBs employees will be working under. For at least some staff, the removal of these Frameworks may result in exposure to forced redundancies and loss of other associated entitlements such as salary maintenance provisions and travel allowances. In this case, the potential adverse affects to employees are to be balanced against removing Frameworks imposed by the State Government and returning the normal industrial relations arrangements to the employer distributor-retailers and withdrawn councils.

However, the arrangements that would then apply to the affected employees would not necessarily be significantly different. For example, the QUU EB already contains a provision preventing redundancy for the same period as the 2009 Workforce Framework, although this is not the case for each distributor-retailer and withdrawn council.

The 2012 Workforce Framework is being retrospectively ceased as at 16 December 2011. However, the Bill does provide some mitigation against these effects by ensuring that the 2009 Workforce Framework replaces the

2012 Workforce Framework for Allconnex employees until 30 June 2012 to 'fill the gap' as best as possible. This provides some transitional protections for things done between the making of the 2012 Workforce Framework on 16 December 2011 and 30 June 2012. In addition, Allconnex employees are protected from having to repay any payments to them under the 2012 Workforce Framework.

Legislation should have sufficient regard to the rights and liberties of individuals and provide for natural justice (s 4(3)(b) of the Legislative Standards Act)

The Bill is likely to breach the principles of natural justice which require that something should not be done to a person that will deprive the person of some right, interest, or legitimate expectation of a benefit without the person being given an adequate opportunity to present the person's case to the decision-maker. The Bill will result in the removal of the two Workforce Frameworks without prior consultation with key stakeholders and employees regarding the potential loss of job protection rights.

Legislation should not confer immunity from proceedings (s 4(3)(h) of the Legislative Standards Act)

Clause 20, section 126, potentially breaches the principle that legislation should not confer immunity from proceedings without adequate justification. The amendment is designed to afford protection to Allconnex and the withdrawn councils, in the event they made representations or agreements with employees on the assumption of the existence and continued existence of the 2012 Workforce Framework. For example, an employer may have negotiated arrangements with particular retransferring staff. In the circumstance where these assumptions are being removed without consultation, it is appropriate to protect employers against potential claims brought by employees which arise due to a change in the legislation.

Legislation should have sufficient regard to the institution of Parliament and only appropriately delegate power in appropriate cases (section 4(4)(a)).

Clause 129 introduces a power to make a transitional regulation to provide for the stated matters where the Bill has not provided for this. While this is a delegated power, the prior Scrutiny of Legislation Committee has indicated that transitional regulations are appropriate, provided that the regulation ceases within a year of coming into effect.

## Consultation

### *Community*

No community consultation has been undertaken.

### *Government*

Consultation within government has been limited to the Department of the Premier and Cabinet, Queensland Treasury and the Public Service Commission. These agencies have not objected to the submission.

## Notes on Provisions

**Clause 1 Short title** provides that the Act may be cited as the *South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012*.

**Clause 2 Commencement** provides that the Act is taken to have commenced at the end of 30 June 2012. This is a retrospective provision which commences the provisions of the Act although they will have been assented to after 30 June 2012.

**Clause 3 Act amended** provides that this Act amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**Clause 4 Amendment of s 58 (Requirements for certification statement)** inserts an explanatory note to reflect that the 2009 Workforce Framework and the transitional period arrangements in s 83 are no longer in place from the end of 30 June 2012 as ss 79 and 83 are repealed by this Bill.

**Clause 5 Amendment of s 65 (Transfer direction)** inserts an explanatory note to reflect that the 2009 Workforce Framework is no longer in place from the end of 30 June 2012 as s 79 is repealed by this Bill.

**Clause 6 Amendment of ch 3, pt 4, hdg (Workforce provisions)** amends the heading of the relevant part to reflect the content of the part as amended.

**Clause 7 Omission of ch 3, pt 4, div 1 and div 2 heading** omits the current Division 1 (i.e. the 2009 Workforce Framework provisions in s 79

and the consistency provision in s 80). Together with the transitional provisions in clause 127, the effect of the provisions is that the 2009 Workforce Framework ceases to have effect for *all* three distributor-retailers from the end of 30 June 2012.

In addition to removing the 2009 Workforce Framework, this clause removes the Division 2 heading.

**Clause 8 Amendment of s 81 (Application of div 2)** makes amendments to the stated headings.

**Clause 9 Omission of s 83 (Preservation of rights of transferred employees during transitional period)** omits s 83 which provided for the transitional period arrangements for the transfers into a distributor-retailer. It should be noted that for clarity, other provisions of the Bill continue the application of s 83 to the relevant employees of Allconnex up to the end of the 30 June 2012.

**Clause 10 Amendment of s 92AZ (Content requirements)** inserts an explanatory note to reflect that the provision providing for the approval of the 2012 Workforce Framework has been repealed.

**Clause 11 Amendment of s 92BD (Retransfer direction)** removes subsections 92BD(2)(c) and (d). This clause effectively removes the power of the Minister to make a retransfer direction which requires a retransfer scheme to be consistent with the 2012 Workforce Framework or for any retransfer direction to require compliance with the 2012 Workforce Framework. As a purpose of the Bill is to remove the effect of the Framework it is appropriate to remove the Minister's power in relation to making directions about compliance with the 2012 Framework. For clarity, while the powers to make directions about compliance with the 2012 Workforce Framework have been removed, nothing prevents the Minister from making a direction which relates to staff matters if the matter is not about compliance with the 2012 Workforce Framework. The clause also makes minor technical changes to reflect that there are only two (non-exhaustive) matters listed in section s 92BD.

**Clause 12 Amendment of s 92BF (Effect of retransfer document)** removes the reference to the effect of any retransfer document being subject to the 2012 Workforce Framework. This is consistent with the repeal of the 2012 Workforce Framework.

**Clause 13 Amendment of s 92BW (What are *withdrawal costs*)** provides that from the beginning of 1 July 2012, costs incurred in relation to the

2012 Workforce Framework are not included as a withdrawal cost under s 92BW. Any costs incurred prior to the beginning of 1 July 2012 may still be claimed as a withdrawal cost in the usual way, even though the 2012 Workforce Framework itself was of no effect.

For clarity, nothing in the amendment is intended to prevent a claim for a withdrawal cost in relation to the 2012 Workforce Framework which was incurred and realised prior to the beginning of 1 July 2012, from being made after 1 July 2012.

**Clause 14 Amendment of s 92CL (Application of Judicial Review Act 1991 to particular decisions)** inserts an explanatory note to reflect that the provision providing for the approval of the 2012 Workforce Framework has been repealed.

**Clause 15 Amendment of ch 3A, pt 8, hdg (Workforce provisions)** changes the heading of part 8 to reflect the removal of the current Division 1 (i.e. the 2012 Workforce Framework provisions).

**Clause 16 Omission of ch 3A, pt 8, div 1, div 2 hdg and div 2, sdiv 1 hdg** omits the current Chapter 3A, part 8, division 1, being the provisions in ss 92EC to 92EH (i.e. the 2012 Workforce Framework provisions and the provisions requiring retransfer schemes to be consistent with the Framework). Together with the transitional provisions in clause 127, the effect of these provisions is that the 2012 Workforce Framework is ended retrospectively on 16 December 2011. It should be noted that whilst the provisions in s 92EE (2) are being removed (i.e. the ceasing of the effect of the 2009 Workforce Framework in relation to Allconnex once the 2012 Workforce Framework commenced on 16 December 2011) – there are transitional provisions in s 127 which have the effect of re-enlivening the application of the 2009 Workforce Framework for the period of 16 December 2011 to 30 June 2012, when it is ended for all distributor-retailers under s 125. This ensures that although the 2012 Workforce Framework (applying to the retransfer of Allconnex employees to the withdrawn councils) has had no effect since its commencement – the 2009 Workforce Framework protections which applied for the transfer into Allconnex at 1 July 2010, are still in place while employees remain employed by Allconnex.

The clause also amends the relevant headings of division 2, and of subdivision 1 of division 2. This reflects the removal of the 2012 Workforce Framework provisions.

**Clause 17 Amendment of s 92EI (Application of div 2)** amends the relevant heading stated.

**Clause 18 Omission of ch 3A, pt 8, div 2, sdiv 2 hdg** amends the relevant heading stated.

**Clause 19 Omission of ch 3A, pt 8, div 2, sdiv 3 (Preservation of employees' rights during retransfer period)** omits the provisions in subdivision 3 (i.e. ss 92EL to 92EP). These provisions applied the industrial relations arrangements in place during employment with Allconnex, to the employee after retransfer to a withdrawn council. This was to apply until the withdrawn councils (Gold Coast City Council, Redland City Council and Logan City Council) could make new EBs for the retransferred staff. Together with clause 9, these sections have the effect of ending the transitional period arrangements in ss 92EL to 92EP at the end of 30 June 2012.

After that time, staff retransferred back to the relevant withdrawn councils will have their employment conditions determined by regard to the existing council EBs to the extent that those agreements can be applied to them. This is due to the application of s 166 of the *Industrial Relations Act 1999* (IR Act), which provides that a certified agreement binds the employer (the named councils within their own agreement) and all persons who are, while the agreement operates, relevant employees.

A “relevant employee” is defined by Schedule 5 of the IR Act “for a certified agreement, means an employee whose employment is, or will be, subject to the agreement”. As such, a transferred employee will be bound by the existing council EBs if the employee is within the scope of its application and classification/salary structure. If not (for example, employees on common law contracts), then the employee will be retransferred back on their existing employment contract terms.

**Clause 20 Insertion of new ch 6, pt 7**

**Part 7**                      **Transitional provisions for  
South-East Queensland Water  
(Distribution and Retail  
Restructuring) Amendment Act  
2012**

**Section 124 Definitions for pt 7** provides specific definitions for part seven containing transitional provisions.

**Section 125 Cessation of staff support framework** provides the cessation of the application of the 2009 Workforce Framework from the end of 30 June 2012. It also provides that for anything done prior to the end of 30 June 2012 under the 2009 Workforce Framework is not invalidated or affected by its cessation and that things started under the 2009 Workforce Framework before the end of 30 June 2012 may be completed as if the 2009 Workforce Framework has not been repealed. Similarly, for things relating to the original transfer schemes or a transfer notice relating to the establishment of the distributor-retailers in 2010, the transitional provisions continue to require consistency between the 2009 Workforce Framework and the transfer schemes or notice.

It should be noted that prior to amendment, the 2009 Workforce Framework ceased application to Allconnex due to s 92EE(2) which applied the 2012 Workforce Framework instead of the 2009 Workforce Framework. Section 127 now declares the 2009 Workforce Framework did not cease to apply to Allconnex employees after 16 December 2011 (i.e. the commencement date of the now removed 2012 Workforce Framework). The 2009 Workforce Framework has been 'turned on' from 16 December 2011, but only applied to Allconnex employees until 30 June 2012, under this s 125, which ceases the application of the 2009 Workforce Framework for all distributor-retailers, including Allconnex. This ensures that despite the retrospective cessation of the 2012 Workforce Framework from December 2011, that the protections under the 2009 Workforce Framework apply to Allconnex employees until their transfer to a withdrawn council.

Section 125(2)(b) has the effect that any requirement in a document to act in accordance with the 2009 Workforce Framework, does not apply from 30 June 2012. This provision is intended to address the relevant employer's obligation to comply with requirements to comply with the 2009 Workforce Framework from 30 June 2012 given its repeal in this Bill. This is only to the extent that the requirement is expressly referred to as a Framework requirement. The section does not invalidate a part of a document such as an EB which has the same content matter as the Framework (s 125(3)(b)). It would keep alive parts of documents (such as EBs) which independently require something that may be similar to Framework provisions provided the document does not expressly refer to the 2009 Workforce Framework.

**Section 126 Retransfer staff support framework taken never to have had effect** provides a correlating transitional provision, similar to s 125, but for the 2012 Workforce Framework, which only applies to Allconnex (to provide for staff entitlements and protections in going back to Allconnex's withdrawn councils). The section provides that from the end of 30 June 2012, the 2012 Workforce Framework is of no effect and is taken never to have had effect. This retrospective provision effectively means that the 2012 Workforce Framework is not applied from its commencement on 16 December 2011. The provision does however contain a provision to keep on foot things started or done under the 2012 Workforce Framework (or purportedly done under the Framework). This provision provides a measure of protection against the retrospective 'undoing' of the Framework. Similarly, the section provides for a provision against recovery of payments made to an affected employee under the 2012 Workforce Framework. This provision is operative for the retransfer period, being from 16 December 2011 (when the 2012 Workforce Framework is removed) to the assent of the legislation.

Additionally, the section provides for certain protection for Allconnex and its withdrawn councils in relation to certain representations to, or agreements with, affected employees made before 30 June 2012, which may have been made on the assumption that the 2012 Workforce Framework was or would be in place.

**Section 127 Effect of former s 92EE on staff support framework** declares that the original 2009 Workforce Framework did not cease to apply for Allconnex employees and the withdrawn councils on 16 December 2011, when the 2012 Workforce Framework would have commenced prior to this Bill removing s 92EE(2). Section 127 continues



the 2009 industrial relations protections which were designed to be in place for council employees transferring into Allconnex. However, this protection is only until the end of 30 June 2012, when the application of the 2009 Workforce Framework is ended for all distributor-retailers, including Allconnex. In summary, for Allconnex, the 2009 Workforce Framework is now in place for the period of 16 December 2011 to the end of 30 June 2012.

**Section 128 Application of particular provisions of *Local Government (Operations) Regulation 2010* to withdrawn council's employees** provides for employees of Allconnex (whether under a Framework or not) to transfer to a withdrawn council, with their long service leave entitlements preserved. The provisions in s 99 of the *Local Government (Operations) Regulation 2010* are intended to operate to preserve long service leave entitlements when an employee of a distributor-retailer transfers to a council. Due to a technical drafting issue in that regulation, there is a need to ensure that, for the transfer of Allconnex employees to a withdrawn council, the regulation operates as intended. This section is of limited application and only applies in relation to the Allconnex employees transferring to a withdrawn council. It does not amend the regulation itself and nothing prevents further amendment of that regulation.

**Section 129 Transitional regulation-making power** provides for a transitional regulation making power for the matters listed to operate for 12 months.

**Clause 21 Amendment of schedule (Dictionary)** omits definitions that are no longer required.