

Passed by both Houses



New South Wales

Independent Pricing and Regulatory Tribunal Amendment (Accredited State Water Regulator) Bill 2015

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2015

Clerk of the Parliaments



New South Wales

Independent Pricing and Regulatory Tribunal Amendment (Accredited State Water Regulator) Bill 2015

Act No , 2015

An Act to amend the *Independent Pricing and Regulatory Tribunal Act 1992* to enable the Tribunal to approve or determine charges for the provision of certain water infrastructure services in the Murray-Darling Basin.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Independent Pricing and Regulatory Tribunal Amendment (Accredited State Water Regulator) Act 2015*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Independent Pricing and Regulatory Tribunal Act 1992 No 39

[1] Part 3B

Insert after Part 3A:

Part 3B Approval or determination of Murray-Darling Basin water charges

24AE Definitions

In this Part:

ACCC means the Australian Competition and Consumer Commission established by section 6A of the *Competition and Consumer Act 2010* of the Commonwealth.

accredited arrangements has the same meaning as in the Commonwealth Water Charge Rules.

applied provisions means the Commonwealth provisions as applied by section 24AG.

Basin water resources has the same meaning as **State water resources** has in the Commonwealth Water Charge Rules in relation to New South Wales.

Commonwealth provisions has the same meaning as **applied provisions** has in rule 59 (2) of the Commonwealth Water Charge Rules.

Commonwealth Water Charge Rules means the *Water Charge (Infrastructure) Rules 2010* of the Commonwealth.

Part 6 operator has the same meaning as in the Commonwealth Water Charge Rules.

Part 7 operator has the same meaning as in the Commonwealth Water Charge Rules.

regulated charge has the same meaning as in the Commonwealth Water Charge Rules.

Regulator has the same meaning as in the Commonwealth Water Charge Rules.

24AF Interpretation of applied provisions

- (1) Subject to subsection (2), the *Acts Interpretation Act 1901* of the Commonwealth applies as a law of this State in relation to the applied provisions as if the applied provisions were a Commonwealth Act and each rule of the applied provisions were a section of a Commonwealth Act.
- (2) The *Acts Interpretation Act 1901* of the Commonwealth applies to the applied provisions only to the extent to which that Act applies to the Commonwealth Water Charge Rules.
- (3) The following provisions apply to the applied provisions:
 - (a) expressions used in the applied provisions have the same meaning as in the *Water Act 2007* of the Commonwealth,
 - (b) the applied provisions are to be read and construed subject to the *Water Act 2007* of the Commonwealth and so as not to exceed the rule-making power in section 92 of that Act or any other ancillary rule-making powers in that Act,

- (c) if a provision of the applied provisions would, but for paragraph (b), be construed as being in excess of any rule-making power referred to in that paragraph, it is taken to have effect to the extent to which it does not exceed that rule-making power.
- (4) The *Interpretation Act 1987* of New South Wales does not apply in relation to the applied provisions.

24AG Application of Commonwealth provisions

In respect of Basin water resources, the Commonwealth provisions, as in force from time to time, apply as a law of this State.

24AH Functions of Tribunal

The Tribunal has all the functions conferred on a Regulator under the applied provisions.

24AI Operation of applied provisions

Without limiting section 24AG, the applied provisions have effect only while the arrangements referred to in section 24AJ (a) are accredited arrangements.

24AJ Application for accreditation

The Tribunal may:

- (a) apply to the ACCC for section 24AH (to the extent to which it provides for the approval or determination by the Tribunal of regulated charges of Part 6 operators and Part 7 operators relating to Basin water resources in accordance with the applied provisions) to be accredited as accredited arrangements, and
- (b) do anything else necessary to enable those arrangements to be so accredited.

24AK Tribunal not subject to Ministerial control in exercise of functions

Despite any provision of this Act or any other law to the contrary, the Tribunal is not subject to the control or direction of any Minister in the exercise of its functions under the applied provisions.

24AL Notification of approval, revocation or cessation of accreditation

- (1) If the ACCC approves an application for accreditation of the arrangements referred to in section 24AJ (a) as accredited arrangements, the Tribunal must publish notice of that approval within 7 days after that approval.
- (2) A notice under subsection (1) must:
 - (a) be published in the Gazette and on the Tribunal's website, and
 - (b) include a copy of the ACCC's decision to approve the application and the date on which the accreditation takes effect.
- (3) If the ACCC revokes the accreditation of the arrangements referred to in section 24AJ (a) as accredited arrangements, the Tribunal must publish notice of that revocation within 7 days after that revocation.
- (4) A notice under subsection (3) must:
 - (a) be published in the Gazette and on the Tribunal's website, and
 - (b) include a copy of the ACCC's decision to revoke the accreditation and the date on which the revocation takes effect.

- (5) If accreditation of the arrangements referred to in section 24AJ (a) as accredited arrangements ceases to have effect, the Tribunal must publish notice of that fact within 7 days after the date on which that accreditation ceases to have effect.
- (6) A notice under subsection (5) must:
 - (a) be published in the Gazette and on the Tribunal's website, and
 - (b) include the date on which the accreditation ceases to have effect.

Note. Part 9 of the Commonwealth Water Charge Rules provides for the approval of an application for accreditation of arrangements and the revocation of the accreditation. In accordance with that Part, the ACCC is required to publish notice of the approval or revocation on its website.

[2] Schedule 1 Government agencies for which Tribunal has standing reference

Insert "(but excluding any services provided by Water NSW in respect of which fees and charges may be approved or determined in accordance with Part 6 or 7 of the *Water Charge (Infrastructure) Rules 2010* of the Commonwealth or the applied provisions, within the meaning of Part 3B)" after "Water NSW".