

# Water Industry Competition (General) Regulation 2021

[2021-497]



New South Wales

## Status Information

### Currency of version

Repealed version for 25 August 2023 to 29 February 2024 (accessed 18 July 2024 at 6:32)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**  
This Regulation was repealed by this Regulation, sec 57 on 1.3.2024.
- **Staged repeal status**  
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2026

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 March 2024

# Water Industry Competition (General) Regulation 2021



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	6
1 Name of Regulation .....	6
2 Commencement .....	6
3 Definitions .....	6
4 Transfers of water supplies and sewerage services .....	6
5 Small retail customers .....	7
<b>Part 2 Licensing of network operators and retail suppliers</b> .....	7
<b>Division 1 Network operators</b> .....	7
6 Applications for licences .....	7
7 Matters the Minister must be satisfied of in relation to licence applications—the Act, s 10(4)(e) .....	9
8 Purposes for which non-potable water may be used .....	9
9 Prescribed licence conditions—the Act, s 13(1)(a).....	10
<b>Division 2 Retail suppliers</b> .....	10
10 Applications for licences .....	10
11 Matters the Minister must be satisfied of in relation to licence applications—the Act, s 10(4)(e) .....	11
12 Purposes for which water may be supplied under a retail supplier’s licence .....	11
13 Prescribed licence conditions—the Act, s 13(1)(a).....	11
<b>Division 3 General</b> .....	12
14 Applications for variation of licence conditions .....	12

15 Combined applications .....	12
16 Combined plans.....	12
17 Persons to be notified about licence applications.....	13
18 Register of Licences—the Act, s 20.....	13
<b>Division 4 Exemptions from requirement for licence.....</b>	<b>15</b>
19 Water industry infrastructure exempt from requirement for licence .....	15
20 Water industry infrastructure on premises owned by 1 person exempt from requirement for licence .....	15
21 Phasing-in of requirements relating to infrastructure formerly exempt under Sch 3, s 7 or 13 .....	16
<b>Part 3 Retailers of last resort .....</b>	<b>17</b>
22 Contingency plans—the Act, s 55.....	17
23 Declaration of supply failure—the Act, s 56.....	17
24 Special circumstances contracts—the Act, s 57(3).....	18
25 Retailer of last resort supply fee.....	18
26 Notice of special circumstances contract to be sent to customers.....	18
<b>Part 4 Connecting development to infrastructure.....</b>	<b>18</b>
<b>Division 1 Preliminary .....</b>	<b>18</b>
27 Definitions .....	18
28 Certificates of compliance .....	19
<b>Division 2 Obligations of consent authority .....</b>	<b>19</b>
29 Consent authority to notify approval holder of development and building applications.....	19
<b>Division 3 Certificates of compliance .....</b>	<b>20</b>
30 Applications for certificates of compliance .....	20
31 Notice of requirements before grant of certificate of compliance .....	20
32 Grant of certificates of compliance.....	21
33 Conditions of certificates of compliance .....	22
34 Grant of certificates of compliance in stages .....	22
35 Enforcement.....	22
<b>Part 5 Conduct of significant pricing investigations by IPART.....</b>	<b>22</b>

<b>Division 1 Preliminary</b> .....	22
36 Definitions .....	22
37 Application of Part .....	23
38 Relationship of Part to applied IPART Act provisions .....	24
39 Summary of procedure for conducting significant pricing investigations .....	24
<b>Division 2 Issues paper</b> .....	25
40 IPART to publish issues paper .....	25
41 Invitation to make submissions on issues paper .....	25
<b>Division 3 Public hearing</b> .....	26
42 IPART to hold public hearing on issues paper .....	26
<b>Division 4 Draft report</b> .....	26
43 IPART to publish draft report .....	26
44 Invitation to make submissions on draft report .....	27
<b>Division 5 Final report</b> .....	27
45 Requirements before final report is issued .....	27
<b>Part 6 Miscellaneous</b> .....	28
46 Establishment of water industry code of conduct .....	28
47 Establishment of marketing code of conduct .....	28
48 Establishment of transfer code of conduct .....	29
49 Water restrictions .....	30
50 Prescribed water policy document .....	31
51 Internal review .....	31
52 Approved ombudsman scheme .....	31
53 Approved auditors .....	32
54 Availability of guidelines .....	32
55 Exemption from licensing requirements—transitional provision .....	32
56 Savings .....	33
57 Repeal .....	33
<b>Schedule 1 Conditions for network operators' licences</b> .....	33

<b>Schedule 2 Conditions for retail suppliers' licences .....</b>	<b>40</b>
<b>Schedule 3 Water industry infrastructure exempt from licensing requirement</b>	
.....	50
<b>Schedule 4 Dictionary .....</b>	<b>55</b>

# Water Industry Competition (General) Regulation 2021



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Water Industry Competition (General) Regulation 2021*.

### 2 Commencement

This Regulation commences on 1 September 2021 and is required to be published on the NSW legislation website.

**Note—**

This Regulation replaces the *Water Industry Competition (General) Regulation 2008*, which is repealed on 1 September 2021 by the *Subordinate Legislation Act 1989*, section 10(2).

### 3 Definitions

The Dictionary defines words used in this Regulation.

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

### 4 Transfers of water supplies and sewerage services

(1) Water supply to a premises is **transferred** if the ending, whether in whole or in part, of the supply of water to the premises by one of the following (the **transferor**), occurs for the purposes of, or at the same time as, the beginning of the supply of water to those premises by the other of the following (the **transferee**)—

- (a) from one licensed retail supplier to another,
- (b) from a licensed retail supplier to a public water utility,
- (c) from a public water utility to a licensed retail supplier.

(2) Sewerage services to a premises are **transferred** if the ending, whether in whole or in part, of the provision of the services to the premises by one of the following (the

**transferor**) occurs for the purposes of, or at the same time as, the beginning of the provision of the services to the premises by the other of the following (the **transferee**)—

- (a) from one licensed retail supplier to another,
  - (b) from a licensed retail supplier to a public water utility,
  - (c) from a public water utility to a licensed retail supplier.
- (3) For the purposes of this section it does not matter whether the occupier of the premises is the owner of the premises.

## 5 Small retail customers

- (1) For the purposes of the Act, definition of **small retail customer**, a person is a small retail customer in relation to water supply if the maximum rate at which water is supplied, under one or more water supply contracts, to all premises the person owns, leases or occupies is less than 15 megalitres a year.
- (2) A person is a small retail customer in relation to the provision of sewerage services if the maximum rate at which sewage is discharged, under one or more sewerage service contracts, from all premises the person owns, leases or occupies is less than 10.5 megalitres a year.

## Part 2 Licensing of network operators and retail suppliers

### Division 1 Network operators

#### 6 Applications for licences

- (1) An application for a network operator's licence for water infrastructure must address each of the matters referred to in the Act, section 10(4)(a)-(e) that is relevant to the licence and must include, or be accompanied by—
  - (a) information about the activities to be carried out under the licence and the area within which the activities are proposed to be carried out, and
  - (b) a comprehensive statement about—
    - (i) the events and circumstances that could adversely affect the applicant's ability to carry out the activities for which the licence is sought (an **adverse event or circumstance**), and
    - (ii) the probability of the occurrence of an adverse event or circumstance, and
    - (iii) the measures to be taken by the applicant to prevent or minimise the likelihood of an adverse event or circumstance, and

- (c) a comprehensive statement about the arrangements the applicant has made, or proposes to make, in relation to—
    - (i) the design, construction, operation and maintenance of the infrastructure, including particulars about the life-span of the infrastructure, the system redundancy built into the infrastructure and the arrangements for the renewal of the infrastructure, and
    - (ii) the continued safe and reliable performance of the infrastructure, and
    - (iii) the continuity of water supply, and
    - (iv) alternative water supplies when the infrastructure is inoperable, and
    - (v) the maintenance, monitoring and reporting of standards of service, and
  - (d) a comprehensive statement, in relation to the water supplied from the infrastructure, that specifies—
    - (i) if the water supplied is drinking water—how the 12 elements of the framework for the management of drinking water quality, as detailed in the Australian Drinking Water Guidelines, have been addressed and will be implemented and maintained, and
    - (ii) if the water supplied is non-potable water—
      - (A) how the 12 elements of the framework for the management of recycled water quality and use, as detailed in the Australian Guidelines for Water Recycling, have been addressed and will be implemented and maintained and,
      - (B) having regard to the guidelines, the purposes for which the water may and may not be used, and
  - (e) other information required for inclusion in the Register of Licences.
- (2) An application for a network operator’s licence for sewerage infrastructure must address each of the matters referred to in the Act, section 10(4) (a)–(e) that is relevant to the licence and must include, or be accompanied by—
- (a) information about the activities to be carried out under the licence and the area within which the activities are proposed to be carried out, and
  - (b) a comprehensive statement about—
    - (i) the events and circumstances that could adversely affect the applicant’s ability to carry out the activities for which the licence is sought (an **adverse event or circumstance**), and



- (ii) the probability of the occurrence of an adverse event or circumstance, and
    - (iii) the measures to be taken by the applicant to prevent or minimise the likelihood of an adverse event or circumstance, and
  - (c) a comprehensive statement about the arrangements the applicant has made, or proposes to make, in relation to—
    - (i) the design, construction, operation and maintenance of the infrastructure, including particulars about the life-span of the infrastructure, the system redundancy built into the infrastructure and the arrangements for the renewal of the infrastructure, and
    - (ii) the continued safe and reliable performance of the infrastructure, and
    - (iii) the continuity of sewerage services, and
    - (iv) alternative sewerage services when the infrastructure is inoperable, and
    - (v) the maintenance, monitoring and reporting of standards of service, and
  - (d) a comprehensive statement, in relation to the conveyance, treatment and disposal of sewage by means of the infrastructure, about—
    - (i) the way health and ecological assessments will be undertaken and
    - (ii) the way a concern arising from an assessment will be addressed, and
    - (iii) the arrangements for the disposal of waste from the infrastructure, and
  - (e) other information required for inclusion in the Register of Licences.
- (3) An applicant for a network operator’s licence for sewerage infrastructure is exempt from the requirements of subsection (2)(b) to the extent that the infrastructure is the subject of a licence under the *Protection of the Environment Operations Act 1997*.
- (4) For the purpose of considering the application, either the Minister or IPART may direct the applicant to give further information within a specified time.

**7 Matters the Minister must be satisfied of in relation to licence applications—the Act, s 10(4)(e)**

Before granting a network operator’s licence, the Minister must be satisfied the applicant has the capacity to carry out the activities the licence, if granted, would authorise in a way that does not present a significant risk of harm to the environment.

**8 Purposes for which non-potable water may be used**

- (1) A network operator’s licence for the construction, maintenance and operation of water infrastructure for the supply of non-potable water must specify the authorised

purposes for the water.

- (2) The authorised purposes for the non-potable water are to be determined in accordance with the 12 elements of the framework for the management of recycled water quality and use, as detailed in the Australian Guidelines for Water Recycling.

## 9 Prescribed licence conditions—the Act, s 13(1)(a)

A network operator's licence is subject to the following conditions—

- (a) for a licence for the construction, maintenance and operation of water infrastructure—the conditions set out in Schedule 1, Parts 1 and 2,
- (b) for a licence for the construction, maintenance and operation of sewerage infrastructure—the conditions set out in Schedule 1, Parts 1 and 3.

### Note—

Other conditions may be imposed by the Minister under the Act, section 13(1)(b).

## Division 2 Retail suppliers

### 10 Applications for licences

- (1) An application for a retail supplier's licence for the supply of water must address each of the matters referred to in the Act, section 10(4)(a)–(e) that are relevant to the licence, and must include, or be accompanied by—
  - (a) information about the activities to be carried out under the licence and the area within which the activities are proposed to be carried out, and
  - (b) a comprehensive statement about—
    - (i) the events and circumstances that could adversely affect the applicant's ability to supply water (an **adverse event or circumstance**), and
    - (ii) the probability of the occurrence of an adverse event or circumstance, and
    - (iii) the measures to be taken by the applicant to prevent the occurrence, or minimise the effect, of an adverse event or circumstance, and to arrange for alternative supplies of water in response to an adverse event or circumstance, and
    - (iv) the arrangements the applicant has made, or proposes to make, in relation to complaint and debt recovery procedures, and
  - (c) other information required for inclusion in the Register of Licences.
- (2) An application for a retail supplier's licence for provision of sewerage services must address each of the matters referred to in the Act, section 10(4)(a)–(e) that are

relevant to the licence and must include, or be accompanied by—

- (a) information about the activities to be carried out under the licence and the area within which the activities are proposed to be carried out, and
  - (b) a comprehensive statement about—
    - (i) the events and circumstances that could adversely affect the applicant's ability to provide sewerage services (an **adverse event or circumstance**), and
    - (ii) the probability of the occurrence of an adverse event or circumstance, and
    - (iii) the measures to be taken by the applicant to prevent the occurrence, or minimise the effect, of an adverse event or circumstance, and to arrange for the provision of alternative sewerage services in response to an adverse event or circumstance, and
    - (iv) the arrangements the applicant has made, or proposes to make, in relation to complaint and debt recovery procedures, and
  - (c) other information required for inclusion in the Register of Licences.
- (3) For the purpose of considering the application, either the Minister or IPART may direct the applicant to give further information within a specified time.

**11 Matters the Minister must be satisfied of in relation to licence applications—the Act, s 10(4)(e)**

Before granting a retail supplier's licence, the Minister must be satisfied the applicant has the capacity to carry out the activities the licence, if granted, would authorise in a way that does not present a significant risk of harm to the environment.

**12 Purposes for which water may be supplied under a retail supplier's licence**

- (1) A retail supplier's licence must not authorise the supply of drinking water unless the water infrastructure from which the water is to be supplied is also authorised in relation to the supply of drinking water.
- (2) A retail supplier's licence authorising the supply of non-potable water must indicate the authorised purposes for the water, being the authorised purposes specified in the licence for the water infrastructure from which the water is to be supplied.

**13 Prescribed licence conditions—the Act, s 13(1)(a)**

- (1) A retail supplier's licence is subject to the following conditions—
  - (a) for a licence for the supply of water—the conditions set out in Schedule 2, Parts 1 and 2,
  - (b) for a licence for the provision of sewerage services—the conditions set out in

Schedule 2, Parts 1 and 3.

**Note—**

Other conditions may be imposed by the Minister under the Act, section 13(1)(b).

- (2) Schedule 2, sections 2, 3, 4, 5 and 9 apply only to licensees that supply water, or provide sewerage services, to small retail customers.

## **Division 3 General**

### **14 Applications for variation of licence conditions**

- (1) For the purposes of the Act, section 15, an application for variation of licence conditions—
- (a) must be in the form approved by the Minister, and
  - (b) must be lodged at the office of IPART.
- (2) The provisions of section 6(1), (2) and (4) apply to an application in relation to the conditions of a network operator's licence, to the extent the provisions are relevant to the application, in the same way the provisions apply to an application for a network operator's licence.
- (3) The provisions of section 10(1), (2) and (3) apply to an application in relation to the conditions of a retail supplier's licence, to the extent the provisions are relevant to the application, in the same way the provisions apply to an application for a retail supplier's licence.
- (4) Without limiting the matters the Minister may consider in relation to the conditions of a licence the Minister, in considering the conditions for a licence, must have regard to the principles set out in the Act, section 7(1).

### **15 Combined applications**

A single application under the Act, section 8 or 15 may relate to both—

- (a) a network operator's licence, and
- (b) a retail supplier's licence.

### **16 Combined plans**

- (1) An infrastructure operating plan, water quality plan, sewage management plan and retail supply management plan, prepared on behalf of the holder of one or more licences, may be contained in a single document.
- (2) Subsection (1) does not apply to the extent the Minister, by written notice given to the licensee, otherwise directs.

- (3) A required plan for water or sewerage infrastructure that is intended to connect with other water or sewerage infrastructure—
  - (a) must be consistent with any other required plan for the other infrastructure, and
  - (b) must demonstrate the infrastructure to which the required plan relates is compatible with the other infrastructure.

- (4) In this section—

**required plan** means—

- (a) an infrastructure operating plan, a water quality plan or a sewage management plan, or
- (b) in relation to a public water utility's infrastructure—a requirement in the nature of a plan specified in paragraph (a) to which the public water utility is subject under the public water utility's operating licence or otherwise.

#### **17 Persons to be notified about licence applications**

- (1) For the purposes of the Act, section 9(1)(b)(iii), the following persons are prescribed—
  - (a) the Minister administering the *Environmental Planning and Assessment Act 1979*,
  - (b) the Minister administering the *Protection of the Environment Operations Act 1997*.
- (2) If the applicant for a licence proposes to connect to or use water industry infrastructure of a public water utility as part of the activities in relation to which the licence is sought, IPART must promptly notify the public water utility of the licence application.

#### **18 Register of Licences—the Act, s 20**

- (1) For the purposes of the Act, section 20(2), the Register of Licences must include the following information in relation to each licence—
  - (a) the name of the licensee,
  - (b) the name of each person, other than the licensee, who is specified in the licence as being authorised—
    - (i) to construct, maintain and operate the water or sewerage infrastructure specified in the licence, or
    - (ii) to supply water, or provide sewerage services, by means of the water or sewerage infrastructure specified in the licence,
  - (c) the kind of licence, network operator's or retail supplier's, held by the licensee,
  - (d) the activities the licensee is authorised to carry out, as specified in the licence,

- (e) the date on which the licence was granted,
  - (f) the licensee's area of operations under the licence,
  - (g) any conditions imposed on the licence by the Minister under the Act, section 13(1)(b),
  - (h) any variation of licence conditions under the Act, section 15,
  - (i) details of any action taken against the licensee under the Act, section 16,
  - (j) other information required under subsections (2)–(5).
- (2) For a network operator's licence for water infrastructure, the Register of Licences must also include the following information—
- (a) each source from which the water handled by the infrastructure is derived,
  - (b) for non-potable water—the authorised purposes for the water,
  - (c) the identity of each licensed retail supplier or public water utility that has access to the infrastructure services provided by the infrastructure for the purpose of supplying water to its customers,
  - (d) a description of any other water infrastructure connected to the infrastructure.
- (3) For a network operator's licence for sewerage infrastructure, the Register of Licences must also include the following information—
- (a) the identity of each licensed retail supplier or public water utility that has access to infrastructure services provided by the infrastructure for the purpose of providing sewerage services to its customers,
  - (b) a description of any other sewerage infrastructure connected to the infrastructure,
  - (c) a description of the arrangements for the disposal of waste from the infrastructure.
- (4) For a retail supplier's licence for the supply of water, the Register of Licences must also include the following information—
- (a) a list of each licensed network operator or public water utility from whose water infrastructure the licensee supplies water to its customers,
  - (b) each source from which the water handled by the infrastructure is derived,
  - (c) a statement about whether or not any of the licensee's customers are small retail customers,
  - (d) details of any order under the Act, section 54 by which the licensee is declared to

be a retailer of last resort.

- (5) For a retail supplier's licence for the provision of sewerage services, the Register of Licences must also include the following information—
- (a) a list of each licensed network operator or public water utility by means of whose sewerage infrastructure the licensee provides sewerage services to its customers,
  - (b) a statement about whether or not any of the licensee's customers are small retail customers,
  - (c) details of any order under the Act, section 54 by which the licensee is declared to be a retailer of last resort.

## **Division 4 Exemptions from requirement for licence**

### **19 Water industry infrastructure exempt from requirement for licence**

For the purposes of the Act, section 5(4)(b), the water industry infrastructure specified in Schedule 3 is prescribed as water industry infrastructure to which the Act, section 5 does not apply.

**Note—**

The authority of a licence is not required for certain water industry infrastructure work or for the supply of water or a sewerage service by means of water industry infrastructure under section 5(1) for water industry infrastructure prescribed under this section.

### **20 Water industry infrastructure on premises owned by 1 person exempt from requirement for licence**

- (1) For the purposes of the Act, section 5(4)(b), water or sewerage infrastructure is prescribed if the infrastructure is—
- (a) wholly situated on premises owned by 1 person, and
  - (b) owned or controlled by the person.
- (2) Subsection (1) applies whether or not the whole or a part of the premises is leased to, or occupied by, another person.
- (3) For the purposes of this section, the following water or sewerage infrastructure is **excluded infrastructure**—
- (a) infrastructure used or to be used for supplying water or providing sewerage services to 30 or more premises, including each separate premises within a community land scheme, company title scheme or strata scheme, that are used or to be used for residential or small business purposes,
  - (b) infrastructure used or to be used for the production of drinking water, including a filtration, treatment or desalination facility, that has a design capacity of more

than 500 kilolitres a day,

(c) infrastructure used or to be used for the treatment of sewage, stormwater or recycled water that has a design capacity of more than 750 kilolitres a day.

(4) This section does not apply to excluded infrastructure constructed or first operated or altered in the following way after 21 May 2021—

(a) for infrastructure referred to in subsection (3)(a)—an alteration to increase the number of premises to be serviced by the infrastructure,

(b) for infrastructure referred to in subsection (3)(b) and (c)—an alteration to increase the design capacity of the infrastructure.

(5) In this section—

**community land scheme** means a scheme, other than a strata scheme, within the meaning of the [Community Land Management Act 1989](#).

**company title scheme** has the same meaning as in the [Retirement Villages Act 1999](#).

**design capacity**, in relation to infrastructure, includes the design capacity of a reticulation network connected to the infrastructure used to convey anything to or from the infrastructure.

**small business** means a business that employs less than 20 individuals.

**strata scheme** has the same meaning as in the [Strata Schemes Management Act 2015](#).

## **21 Phasing-in of requirements relating to infrastructure formerly exempt under Sch 3, s 7 or 13**

(1) This section applies to—

(a) water industry infrastructure referred to in Schedule 3, section 7(a) that has been connected to water industry infrastructure operated by a public water utility for more than one year, and

(b) water infrastructure referred to in Schedule 3, section 13(a), that has been connected to water infrastructure operated by a public water utility for more than one year.

(2) In applying the following provisions to the infrastructure—

(a) Schedule 1, sections 6(1) and 7(1) are to be construed as if the words “Before commencing to operate water infrastructure commercially” were replaced by the words “Within 6 months after being granted a network operator’s licence for water



infrastructure”,

- (b) Schedule 1, sections 13(1) and 14(1) are to be construed as if the words “Before commencing to operate sewerage infrastructure commercially” were replaced by the words “Within 6 months after being granted a network operator’s licence for sewerage infrastructure”.

### **Part 3 Retailers of last resort**

#### **22 Contingency plans—the Act, s 55**

A contingency plan prepared by a retailer of last resort must—

- (a) identify the water or sewerage infrastructure from which it proposes to supply water, or provide sewerage services, to supply failure customers, and
- (b) outline the arrangements the retailer has, or proposes to make, with the service provider for the infrastructure for supplying water, or providing sewerage services, to supply failure customers, and
- (c) indicate the additional costs the retailer is likely to incur if the retailer has to supply water, or provide sewerage services, to supply failure customers, and
- (d) indicate any limitations, including limitations about capacity and reliability, in the retailer’s ability to supply water, or provide sewerage services, to supply failure customers, and
- (e) indicate any consequential effects on the retailer’s ability to supply water, or provide sewerage services, to the retailer’s other customers that are likely to arise if the retailer has to supply water, or provide sewerage services, to supply failure customers.

#### **23 Declaration of supply failure—the Act, s 56**

- (1) For the purposes of the Act, section 56(2), the following circumstances are prescribed—
  - (a) where, as a consequence of action taken under the Act, section 15 or 16, the licensee is no longer authorised to supply water or provide sewerage services to its customers in all or part of its area of operations,
  - (b) where the licensee has refused to supply water or provide sewerage services to the licensee’s small retail customers in all or part of its area of operations without having made adequate arrangements for the transfer of the water supply or sewerage services to another licensed retail supplier or public water utility,
  - (c) where the licensee has given written notice to the Minister of the licensee’s intention to terminate the supply of water, or the provision of sewerage services,

to some or all of its customers,

(d) where the licensee is unable, or the Minister is satisfied the licensee is imminently likely to become unable, to supply water or provide sewerage services to its customers in all or part of its area of operations.

(2) As soon as practicable after a supply failure is declared in relation to a licensed retail supplier, the supplier must provide the relevant retailer of last resort with the information required to be provided under the transfer code of conduct in the circumstances.

#### **24 Special circumstances contracts—the Act, s 57(3)**

- (1) The terms a retailer of last resort supplies its small retail customers are prescribed as the terms of that retailer's special circumstances contract.
- (2) If the retailer of last resort supplies different small retail customers under different contracts, the prescribed terms are the terms of the contracts the Minister notifies the retailer of having been approved by the Minister for that purpose.

#### **25 Retailer of last resort supply fee**

A retailer of last resort may require a transferred customer to pay a last resort supply fee not exceeding an amount determined by the Minister on the recommendation of IPART.

#### **26 Notice of special circumstances contract to be sent to customers**

As soon as practicable after a person becomes a supply failure customer the retailer of last resort must give the customer—

- (a) notice that the person has become a supply failure customer, and
- (b) a copy of the special circumstances contract, specified in section 24, relevant to the customer.

### **Part 4 Connecting development to infrastructure**

#### **Division 1 Preliminary**

##### **27 Definitions**

In this Part—

**approval holder** for water industry infrastructure means the holder of a network operator licence authorising the infrastructure to be constructed, operated or maintained.

**certificate of compliance**—see section 28.

**consent authority** means an authority responsible for determining an application for

development authorisation.

**developer** means a person who has made an application for development authorisation.

**development** means an activity to which an application for development authorisation relates.

**development authorisation** means—

- (a) a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or
- (b) an approval under the *Environmental Planning and Assessment Act 1979*, Part 5, or
- (c) an approval under the *Local Government Act 1993*, Chapter 7, Part 1 for the erection of a building.

**requirements notice** see section 31(1).

## 28 Certificates of compliance

For the purposes of this Part, a certificate of compliance is a certificate issued under this Part by an approval holder for water industry infrastructure certifying that—

- (a) the reasonable requirements of the approval holder in relation to connection to the water industry infrastructure have been complied with, or
- (b) no requirements were imposed by the approval holder.

## Division 2 Obligations of consent authority

### 29 Consent authority to notify approval holder of development and building applications

- (1) A consent authority must give an approval holder for water industry infrastructure notice of an application for development authorisation received by the consent authority if, in the opinion of the consent authority, the development would significantly affect the operation of the infrastructure, for example by—
  - (a) increasing the demand for water supplied by means of the infrastructure, or
  - (b) increasing the amount of sewage to be removed by means of the infrastructure, or
  - (c) damaging or interfering with, or adversely affecting the operation of, the infrastructure.
- (2) The consent authority is not required to give notice of the application if it decides—
  - (a) not to approve the application, or
  - (b) to approve the application with a condition that the developer must obtain a

certificate of compliance from the approval holder.

- (3) The consent authority must take into account a submission made by the approval holder in relation to an application for development authorisation that is the subject of a notice under subsection (1), in determining whether to—
  - (a) approve the application, or
  - (b) attach conditions to the development authorisation.
- (4) Despite subsection (3), the consent authority may approve the application at any time if the consent authority imposes a condition that the developer must obtain a certificate of compliance from the approval holder.
- (5) If no submissions are received by the consent authority within 21 days after the notice was given to the approval holder, the consent authority may assume the approval holder has no submissions to make in relation to an application of which notice has been given under this section.

## **Division 3 Certificates of compliance**

### **30 Applications for certificates of compliance**

- (1) If a developer proposes to connect a development to water industry infrastructure operated, or to be operated, under the Act, the developer may apply to the approval holder for the infrastructure for a compliance certificate, whether or not it is a requirement of the development authorisation to obtain the certificate.
- (2) The application must be accompanied by—
  - (a) a copy of the application for development authorisation, or
  - (b) if the application has been approved—a copy of the development authorisation.

### **31 Notice of requirements before grant of certificate of compliance**

- (1) If an application for a certificate of compliance is made, the approval holder may, before proceeding further with the application, serve a notice (**a requirements notice**) on the developer requiring the developer to do any one or more of the following—
  - (a) pay an amount to the approval holder, or as directed by the approval holder, to cover the whole or an appropriate part of relevant costs as assessed by the approval holder either in the notice or in another notice,
  - (b) enter into one or more agreements providing for one or more of the following—
    - (i) the payment of the amount to the approval holder, or as directed by the approval holder,

- (ii) the construction, or the construction and the manner of construction, of works specified in the notice, being works for the purposes of connecting the development to the water industry infrastructure,
    - (iii) the transfer of works to the approval holder,
  - (c) provide reasonable security, in a form approved by the approval holder, for performance of an agreement under paragraph (b),
  - (d) attend to additional or ancillary matters necessary to give effect to one or more requirements imposed under paragraphs (a)-(c) as specified by the approval holder.
- (2) The approval holder may withdraw a requirement contained in a notice under this section and the requirement is taken to have not been made.
- (3) In this section—
- relevant costs** means—
- (a) the full cost, based on net present value, historical cost or any other appropriate basis, and having regard, if the approval holder considers it appropriate, to expected operating costs and revenues, of water industry infrastructure that—
    - (i) benefits or is available to the land, and
    - (ii) is constructed, or is to be constructed, by or on behalf of, or at the request of, or under an agreement with, the approval holder or a predecessor of the approval holder, and
  - (b) the full cost of amplification of the approval holder's water industry infrastructure in consequence of the proposed development, and
  - (c) the investment costs incurred by the approval holder or a predecessor of the approval holder and by developers in relation to the existing and proposed water industry infrastructure referred to in paragraphs (a) and (b).

### **32 Grant of certificates of compliance**

If an application is made to the approval holder for a certificate of compliance, the approval holder—

- (a) may grant the developer a certificate of compliance, without serving a requirements notice on the developer, or
- (b) must grant the developer a certificate of compliance, if the approval holder is satisfied a requirements notice served on the developer has been complied with, or
- (c) must, at the developer's request, grant the developer a certificate of compliance, if no

certificate of compliance has been granted to, and no requirements notice has been served on, the developer—

- (i) within 60 days after the making of an application for the certificate, or
- (ii) within a further period approved by IPART that is notified to the developer within the 60 days.

### **33 Conditions of certificates of compliance**

- (1) A certificate of compliance may be granted unconditionally or subject to specified conditions, including a condition to the effect that the grant is conditional on carrying out the terms of an agreement entered into under a requirements notice.
- (2) The requirement to obtain a certificate of compliance is taken not to be complied with until the conditions attached to the certificate or requirements notice have been complied with.
- (3) An unconditional certificate of compliance may be granted to replace a certificate of compliance already granted subject to conditions.

### **34 Grant of certificates of compliance in stages**

- (1) A certificate of compliance may, instead of being issued in relation to all of the development, be issued progressively in relation to any or all of the stages of the development.
- (2) A certificate of compliance may be granted to replace one or more already granted.

### **35 Enforcement**

- (1) Any money owing to a person as a consequence of a requirements notice may be recovered in a court of competent jurisdiction as if it were a debt due to the person.
- (2) Nothing in this section affects a power or remedy the person otherwise has.

## **Part 5 Conduct of significant pricing investigations by IPART**

### **Division 1 Preliminary**

#### **36 Definitions**

In this Part—

***draft report***—see section 43.

***investigated monopoly supplier***, in relation to a significant pricing investigation, means the monopoly supplier providing the investigated service.

***investigated service***, in relation to a significant pricing investigation, means the service

that is the subject of the investigation.

**IPART Act** means the *Independent Pricing and Regulatory Tribunal Act 1992*.

**IPART website** means—

- (a) the website with the URL of [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au), or
- (b) another website, used by IPART to provide public access to IPART's reports.

**issues paper**—see section 40.

**pricing methodology**, in relation to a determination of pricing for an investigated service, means the methodology applied, or proposed to be applied, for the purpose of determining the appropriate pricing for the service.

**public hearing**, in relation to an issues paper, means a public hearing held under section 42 on the paper.

**significant methodological change**, in relation to a significant pricing investigation, means a change in the pricing methodology applied, or proposed to be applied, to the investigated service that IPART considers is significantly different from the methodology previously applied to—

- (a) the determination of the pricing for the investigated service, or
- (b) the determination of pricing for services of a kind to which the investigated service belongs.

**significant pricing investigation**—see section 37(1).

### 37 Application of Part

- (1) This Part applies in relation to the conduct of an investigation by IPART for a determination of the pricing (a **significant pricing investigation**) of a water supply service or sewerage service provided by a monopoly supplier that has been referred to IPART by the Minister under the Act, section 52(1)(a), whether before or after the commencement of this Part if—
  - (a) the investigation is begun after the 23 March 2012, and
  - (b) a declaration under the Act, section 51 is in force in relation to the service, and
  - (c) IPART is satisfied that, at the time IPART begins the investigation, the book value of the assets used by the monopoly supplier to provide the service exceeds \$1 billion (\$1,000,000,000).

#### Note—

The Act, section 51 enables the Minister, by order published in the Gazette, to declare a specified licensed

retail supplier or licensed network operator is a monopoly supplier in relation to a specified water supply or sewerage service, a specified area or a specified class of customers.

The book value of the assets of a business is the value given to those assets in the accounts of the business.

- (2) IPART is taken to have complied with the provisions of this Part about the conduct of a significant pricing investigation if IPART has substantially complied with, or has taken all reasonable steps to comply with, the provisions.

### **38 Relationship of Part to applied IPART Act provisions**

- (1) In the event of an inconsistency between a provision of this Part and a provision of the IPART Act, Part 3, Division 7, the provision of this Part prevails to the extent of the inconsistency.

**Note—**

The Act, section 52(2) provides that the provisions of the IPART Act, Part 3 in relation to government monopoly services apply to and in respect of a matter referred to IPART under the Act, section 52 in the same way as they apply to and in respect of a matter referred to IPART under the IPART Act, section 12. However, the Act, section 91(2) provides that the provisions of the IPART Act, Part 3, Division 7 (Investigations) apply except to the extent the regulations otherwise provide.

- (2) Nothing in this Part is intended to limit the application of any other provision of the IPART Act, Part 3 in that Act's application to significant pricing investigations.

### **39 Summary of procedure for conducting significant pricing investigations**

- (1) The following is a summary of the procedure set out in this Part for the conduct of significant pricing investigations—

- (a) **IPART publishes issues paper and invites submissions**

IPART first publishes an issues paper on the investigation. It then invites submissions on the issues paper from the investigated monopoly supplier and other persons who wish to make submissions. See Division 2.

- (b) **IPART holds public hearing**

IPART holds a public hearing on the published issues paper and hears further submissions on the paper. See Division 3.

- (c) **IPART publishes draft report and invites submissions**

After holding the public hearing and considering submissions on the issues paper, IPART publishes a draft report for the investigation setting out its proposed determination of pricing, its proposed pricing methodology and responses to submissions made in relation to the issues paper. It then invites submissions on the draft report from the investigated monopoly supplier and other persons who wish to make submissions. See Division 4.



**(d) Requirements before IPART publishes final report**

Before IPART publishes the final report for the investigation, it must consider the submissions made on the draft report and include certain matters in the report concerning its pricing methodology and approach to the investigation. See Division 5.

- (2) This section does not affect the meaning or interpretation of a provision of this Part that it summarises.

## **Division 2 Issues paper**

### **40 IPART to publish issues paper**

- (1) IPART must, as soon as it considers appropriate after the commencement of a significant pricing investigation, prepare an issues paper about the investigation.
- (2) The issues paper must set out the following matters—
  - (a) the pricing methodology and the general approach IPART proposes to adopt in conducting the investigation,
  - (b) any significant methodological changes IPART proposes to consider,
  - (c) the date or dates on which IPART proposes to hold public hearings on the paper.
- (3) The issues paper may include other matters IPART considers appropriate.
- (4) A copy of the issues paper must be—
  - (a) given to the investigated monopoly supplier, and
  - (b) published on the IPART website for access by members of the public.
- (5) Without limiting the application of the IPART Act, section 22A(3), written submissions about the issues paper made by the investigated monopoly supplier are to be made available to members of the public on the IPART website.

**Note—**

The IPART Act, section 22A(3) enables IPART to restrict the disclosure of information contained in documents it makes available.

### **41 Invitation to make submissions on issues paper**

- (1) IPART must invite submissions to be made concerning the issues paper published for a significant pricing investigation from—
  - (a) the investigated monopoly supplier, and
  - (b) any other person who wants to make a submission.

- (2) IPART must also invite submissions to be made about submissions made by the investigated monopoly supplier on the issues paper.
- (3) Submissions are to be made in writing unless they are made orally at a public hearing on the issues paper.
- (4) IPART is to specify a final date for the making of submissions.
- (5) IPART may specify different final dates for submissions by the investigated monopoly supplier and submissions by other persons and may extend the time for making submissions if IPART considers it appropriate.

### **Division 3 Public hearing**

#### **42 IPART to hold public hearing on issues paper**

- (1) IPART must hold a public hearing to hear submissions on an issues paper it has published on a significant pricing investigation.
- (2) IPART may hold a public hearing over one or more days.
- (3) IPART may hear oral submissions on the issues paper at the public hearing from the investigated monopoly supplier and other persons IPART considers appropriate.

### **Division 4 Draft report**

#### **43 IPART to publish draft report**

- (1) IPART must prepare a draft report for a significant pricing investigation as soon as IPART considers appropriate after the conclusion of the public hearing on the issues paper for the investigation.
- (2) Before preparing the draft report, IPART must consider all submissions made to it on the issues paper for the investigation, and on the investigated monopoly supplier's submissions, that it considers material.
- (3) The draft report must include the following matters—
  - (a) the determination of pricing IPART proposes to make,
  - (b) the pricing methodology for the proposed determination,
  - (c) any significant methodological changes and the reasons for those changes,
  - (d) the assumptions IPART has made for the proposed determination and the reasons for the assumptions,
  - (e) IPART's response to submissions received on the issues paper that IPART considers material, including the reasons for accepting or not accepting, whether wholly or

in part, material submissions made by the investigated monopoly supplier.

- (4) The draft report may include other matters IPART considers appropriate.
- (5) A copy of the draft report must be—
  - (a) given to the investigated monopoly supplier, and
  - (b) published on the IPART website for access by members of the public.

#### **44 Invitation to make submissions on draft report**

- (1) IPART must invite submissions to be made about the draft report published for a significant pricing investigation from—
  - (a) the investigated monopoly supplier, and
  - (b) any other person who wants to make a submission.
- (2) Submissions must be made in writing.
- (3) IPART must specify a final date for the making of submissions.
- (4) IPART may specify different final dates for submissions by the investigated monopoly supplier and submissions by other persons and may extend the time for making submissions if IPART considers it appropriate.

### **Division 5 Final report**

#### **45 Requirements before final report is issued**

- (1) Before IPART issues the final report for a significant pricing investigation, IPART must—
  - (a) consider all submissions made to it on the draft report for the investigation that it considers material, and
  - (b) ensure the matters referred to in subsection (2) are included in the report.
- (2) The final report must include the following matters—
  - (a) the pricing methodology applied for the determination of pricing IPART has made,
  - (b) any significant methodological changes and the reasons for the changes,
  - (c) the assumptions IPART has made for the determination and the reasons for the assumptions,
  - (d) IPART's response to submissions received on the draft report that IPART considers material, including the reasons for accepting or not accepting, whether wholly or in part, material submissions made by the investigated monopoly supplier.

- (3) The final report may include other matters IPART considers appropriate.

## **Part 6 Miscellaneous**

### **46 Establishment of water industry code of conduct**

- (1) The Minister may, by order published in the Gazette, establish a code of conduct in relation to the respective responsibilities of licensed network operators, licensed retail suppliers and public water utilities.
- (2) The water industry code of conduct may make provision for matters concerning the responsibilities referred to in subsection (1) that the Minister considers appropriate.
- (3) Without limiting subsection (2), the water industry code of conduct may make provision for the following matters—
- (a) responsibility for water quality,
  - (b) liability in the event of the unavailability of water,
  - (c) liability in the event of infrastructure failure,
  - (d) fees and charges payable in respect of the use of infrastructure,
  - (e) responsibility for handling customer complaints.
- (4) A licensed network operator, licensed retail supplier or public water utility must not contravene the water industry code of conduct.
- Maximum penalty—
- (a) for a corporation—200 penalty units, or
  - (b) otherwise—50 penalty units.

### **47 Establishment of marketing code of conduct**

- (1) The Minister may, by order published in the Gazette, establish a code of conduct for the marketing of water supplies and sewerage services.
- (2) The marketing code of conduct may make provision for the matters concerning the marketing of water supplies and sewerage services that the Minister considers appropriate.
- (3) Without limiting subsection (2), the marketing code of conduct may make provision for the following matters—
- (a) standards of conduct to be observed by marketers, whether marketing in person or by phone, by letter, by fax or by email,

(b) the information to be provided by marketers to persons to whom they are marketing,

(c) the cooling-off periods to be available to new customers.

(4) A marketer must not contravene the marketing code of conduct.

Maximum penalty—

(a) for a corporation—200 penalty units, or

(b) otherwise—50 penalty units.

(5) In this section—

**marketer** means any of the following persons who promote the supply of water or the provision of sewerage services for the purpose of attracting or retaining customers—

(a) a person who is a licensed retail supplier,

(b) a person who, under a retail supplier's licence, is authorised to supply water or provide sewerage services,

(c) a person who acts as agent of a licensed retail supplier, including a licensed network operator,

(d) a person who acts as an intermediary between one or more customers and a licensed retail supplier.

#### **48 Establishment of transfer code of conduct**

(1) The Minister may, by order published in the Gazette, establish a code of conduct for the transfer of water supplies or sewerage services to, from or between licensed retail suppliers or public water utilities, or both.

(2) The transfer code of conduct may make provision for the matters concerning the transfer of water supplies or sewerage services that the Minister considers appropriate.

(3) Without limiting subsection (2), the transfer code of conduct may make provision for the following matters—

(a) the information a licensed retail supplier must provide to the relevant retailer of last resort in the event a supply failure is declared in relation to the retail supplier,

(b) the procedures to be observed by transferors, transferees and relevant service providers when water supplies or sewerage services are transferred,

(c) the period of time within which transferors, transferees and relevant service providers must comply with their obligations under the code.

- (4) A transferor, transferee or relevant service provider must not contravene the transfer code of conduct.

Maximum penalty—

- (a) for a corporation—200 penalty units, or  
(b) otherwise—50 penalty units.

#### **49 Water restrictions**

- (1) This section applies to any part of a licensee's area of operations in relation to which an order under the following Acts restricts the use or consumption of water supplied by a public water utility (a **local water restrictions order**)—

- (a) the *Local Government Act 1993*,  
(b) the *Water Management Act 2000*,  
(c) the *Hunter Water Act 1991*,  
(d) the *Sydney Water Act 1994*.

- (2) The Minister may, by notice published in the Gazette, declare that a local water restrictions order, as in force from time to time, applies to and in respect of the use or consumption of water supplied by the licensee in the same way it applies to and in respect of the use or consumption of water supplied by the public water utility.
- (3) A declaration under subsection (2) may not be made if the licensee derives its water from a different water source to that from which the public water utility derives its water unless the Minister is satisfied the circumstances giving rise to the local water restrictions order apply to both water sources.
- (4) The Minister may, by order in writing, authorise a public water utility by which a local water restrictions order may be made to make a declaration under this section on the Minister's behalf.
- (5) A declaration made by a public water utility authorised under subsection (4) may be included in the same instrument as the local water restrictions order to which it relates.
- (6) A person who uses or consumes water in contravention of a local water restrictions order, as applied by this section, is guilty of an offence.

Maximum penalty—

- (a) for a corporation—50 penalty units, or  
(b) otherwise—5 penalty units.

## 50 Prescribed water policy document

For the purposes of the Act, section 7(3), definition **prescribed water policy document**, the *Metropolitan Water Plan* published by the New South Wales Government, as in force from time to time, is prescribed

### Note—

A copy of the latest *Metropolitan Water Plan* is available on the Department's website.

## 51 Internal review

(1) For the purposes of the Act, section 47(2)(c), a failure to make a decision on an application for a review under the Act, section 47 within 20 business days after the application is made is taken to be a refusal to alter the decision to which the application relates.

(2) In this section—

**business day** means a day that is not a Saturday, Sunday or public holiday.

## 52 Approved ombudsman scheme

(1) For the purposes of the Act, section 49(1)(b), the following classes of disputes and complaints are prescribed as disputes and complaints in relation to which an ombudsman scheme may be approved—

(a) disputes and complaints in relation to the marketing of water supplies or sewerage services,

(b) disputes and complaints arising in connection with water supply contracts and sewerage service contracts,

(c) disputes and complaints in relation to the transfer of water supplies or sewerage services.

(2) The ombudsman appointed under an approved ombudsman scheme must—

(a) give copies of all public reports issued by the ombudsman to the Minister, and

(b) give notice to the Minister of changes in the policies and procedures to be adopted in connection with the scheme.

(3) Without limiting subsection (2), the Minister may from time to time require the ombudsman appointed under an approved ombudsman scheme to provide the Minister with reports on the operation of the scheme, including—

(a) particulars about the extent to which the scheme is meeting the objectives referred to in the Act, section 49(2), and

(b) particulars about the extent to which the scheme has met relevant best practice

benchmarks, and

- (c) particulars about the extent to which licensees or specified licensees and other persons bound by the scheme have complied with their obligations under the scheme.

### **53 Approved auditors**

For the purposes of this Regulation, a reference to an **approved auditor**, in relation to a matter affecting a licensee, is a reference to—

- (a) a person nominated by IPART, or
- (b) a person chosen by the licensee from a panel of persons nominated by IPART, or
- (c) a person nominated by the licensee and approved by IPART.

### **54 Availability of guidelines**

Paper copies of the Australian Drinking Water Guidelines and the Australian Guidelines for Water Recycling are to be kept available for inspection by the public at the offices of IPART and electronic copies are to be made accessible to the public on or from IPART's website.

### **55 Exemption from licensing requirements—transitional provision**

- (1) This section applies to any water or sewerage infrastructure—
  - (a) whose construction commenced before 8 August 2008, or
  - (b) that was being operated immediately before 8 August 2008.
- (2) Water or sewerage infrastructure to which this section applies is exempt from the operation of the Act, section 5 until the earlier of—
  - (a) 8 August 2010, or
  - (b) if an application for a licence in relation to the infrastructure is lodged at the office of IPART before that date—
    - (i) until the application is finally determined, or
    - (ii) until the applicant is notified by IPART that the applicant has failed to comply with a direction to supply further information under section 6(4) or 10(3),
- (3) In their application to infrastructure to which this section applies—
  - (a) Schedule 1, sections 6(1) and 7(1) are to be construed as if the words “Before commencing to operate water infrastructure commercially” were replaced by the words “Within 6 months after being granted a network operator’s licence for water infrastructure”, and



- (b) Schedule 1, sections 13(1) and 14(1) are to be construed as if the words “Before commencing to operate sewerage infrastructure commercially” were replaced by the words “Within 6 months after being granted a network operator’s licence for sewerage infrastructure”.

## **56 Savings**

Any act, matter or thing that, immediately before the repeal of the *Water Industry Competition (General) Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.

## **57 Repeal**

This regulation is repealed on 1 March 2024.

# **Schedule 1 Conditions for network operators’ licences**

section 9

## **Part 1 Licence conditions for all licences**

### **1 Provision of information**

- (1) The licensee must provide the Minister or IPART with information the Minister or IPART may from time to time direct in relation to the licensee’s activities under the licence, and must provide the information within the time specified in the direction.
- (2) The licensee must immediately notify the following persons of an incident in the conduct of the licensee’s activities that threatens, or could threaten, water quality, public health or safety—
  - (a) IPART,
  - (b) the Minister administering the *Public Health Act 2010*,
  - (c) the Minister administering the Act, Part 2,
  - (d) a licensed retail supplier supplying water or provides sewerage services by means of the licensee’s infrastructure,
  - (e) any other licensed network operator or public water utility whose infrastructure is connected to the licensee’s infrastructure.
- (3) The licensee must permit—
  - (a) the publication on IPART’s website of the matters concerning the licensee that are required to be recorded on the Register of Licences, and
  - (b) the disclosure between relevant government agencies of information the licensee has provided to any of the agencies, and

(c) the disclosure to the general public of information about incidents reported under subsection (2).

(4) In this section—

**relevant government agency** means any Minister or Division of the Government Service involved in the administration of the Act, or to which information is provided under the Act, this Regulation or a licence condition.

## **2 Commercial operation of water or sewerage infrastructure**

- (1) The licensee must not bring new water or sewerage infrastructure into commercial operation without the written approval of the Minister.
- (2) The Minister must not give an approval under subsection (1) unless the Minister has been provided with a report, prepared by an approved auditor in the way the Minister directs, that indicates the infrastructure—
  - (a) complies with the requirements of this Regulation and the licence conditions, and
  - (b) is capable of operating safely and in accordance with its infrastructure operating plan and its water quality or sewage management plan.
- (3) For the purposes of this section, infrastructure that extends or expands existing infrastructure is not new infrastructure unless its design, construction or operation—
  - (a) involves different technology to that used in connection with the existing infrastructure, or
  - (b) is inconsistent with the infrastructure operating plan, or the water quality plan or sewage management plan, for the existing infrastructure.

## **3 Safe and reliable network**

The licensee must ensure its water or sewerage infrastructure is properly designed and constructed, operated in a safe and reliable way and maintained in a proper condition, having regard to—

- (a) the purposes for which it is licensed, and
- (b) the licence conditions, and
- (c) publicly available standards or codes relating to the design, construction, operation and maintenance of the infrastructure.

## **4 Environmental protection**

- (1) The licensee must comply with the requirements of the following, in relation to the protection of the environment—

- (a) the *Environmental Planning and Assessment Act 1979* and an environmental planning instrument under that Act,
- (b) the *Protection of the Environment Operations Act 1997* and a regulation under that Act.

(2) Subsection (1) applies only in relation to the licensee's activities under the licence.

## **5 Codes of conduct**

To the extent a water industry code of conduct, marketing code of conduct and transfer code of conduct applies to a network operator, the licensee must comply with the code.

## **Part 2 Additional conditions for licences for water infrastructure**

### **6 Infrastructure operating plans**

- (1) Before commencing to operate water infrastructure commercially, the licensed network operator for the infrastructure must prepare, and give IPART, an infrastructure operating plan indicating the arrangements the licensee has made, or proposes to make, in relation to—
  - (a) the design, construction, operation and maintenance of the infrastructure, including particulars about the life-span of the infrastructure, the system redundancy built into the infrastructure and the arrangements for the renewal of the infrastructure, and
  - (b) the continued safe and reliable performance of the infrastructure, and
  - (c) the continuity of water supply, and
  - (d) alternative water supplies when the infrastructure is inoperable, and
  - (e) the maintenance, monitoring and reporting of standards of service.
- (2) The licensee—
  - (a) must ensure that its infrastructure operating plan is fully implemented and kept under regular review and, in particular, that all of its activities are carried out in accordance with the plan, and
  - (b) must, if the Minister directs, amend its infrastructure operating plan in accordance with the Minister's direction.
- (3) If the Minister or IPART demands, or if a significant change is made to the licensee's infrastructure operating plan, the licensee—
  - (a) must provide the Minister or IPART with a report, prepared by an approved auditor in the way the Minister or IPART may, having regard to the purpose for which it is

licensed, direct—

(i) about the adequacy of the plan, and

(ii) about the condition of the infrastructure, or

(b) must pay the Minister's or IPART's costs of conducting an investigation into the adequacy of the plan or the condition of the infrastructure.

## **7 Water quality plans**

- (1) Before commencing to operate water infrastructure commercially, the licensed network operator for the infrastructure must prepare, and forward to IPART, a water quality plan, in relation to the water supplied from the infrastructure, that specifies—
  - (a) if the water supplied is drinking water—how the 12 elements of the framework for the management of drinking water quality, as detailed in the Australian Drinking Water Guidelines, have been addressed and will be implemented, and
  - (b) if the water supplied is non-potable water—
    - (i) how the 12 elements of the framework for the management of recycled water quality and use, as detailed in the Australian Guidelines for Water Recycling, have been addressed and will be implemented, and
    - (ii) having regard to the guidelines, the purposes for which the water may or may not be used.
- (2) A water quality plan in relation to water infrastructure for drinking water must be consistent with the Australian Drinking Water Guidelines.
- (3) A water quality plan in relation to water infrastructure for non-potable water must be consistent with the Australian Guidelines for Water Recycling.
- (4) The licensee—
  - (a) must ensure the licensee's water quality plan is fully implemented and kept under regular review and that all of the licensee's activities are carried out in accordance with the plan, and
  - (b) must, if the Minister directs, amend the licensee's water quality plan in accordance with the Minister's direction.
- (5) If the Minister or IPART demands, or if a significant change is made to the licensee's water quality plan, the licensee—
  - (a) must provide the Minister or IPART with a report, prepared by an approved auditor in the way the Minister or IPART may direct, about the adequacy of the plan, or
  - (b) must pay the Minister's or IPART's costs of conducting an investigation into the

adequacy of the plan.

## **8 Water meters**

- (1) A water meter connected to a licensee's water main must comply with the requirements of the document entitled the *Plumbing Code of Australia*, produced for all State governments by the Australian Building Codes Board, as in force from time to time.
- (2) While water is being supplied to premises for which a water meter has been installed, the licensee must ensure—
  - (a) the water meter is properly maintained and periodically tested, and
  - (b) the water meter is read at intervals of no more than 4 months, and
  - (c) written notice of each meter reading is sent to the relevant licensed retail supplier.

## **9 Drinking water**

The licensee under a licence for water infrastructure to supply drinking water must ensure the water supplied—

- (a) is fit for human consumption, and
- (b) complies with any requirements of the licence conditions, and
- (c) complies with any requirements under the *Public Health Act 2010* in relation to the supply of safe drinking water.

## **10 Non-potable water**

The licensee under a licence for water infrastructure to supply non-potable water for a particular purpose must ensure the water supplied—

- (a) is fit for that purpose, and
- (b) complies with any requirements of the licence conditions.

## **11 Customer connections**

The licensee must not allow a customer's installation to be connected to the licensee's water main unless the installation is code compliant, within the meaning of the *Plumbing and Drainage Act 2011*.

## **12 Matters to be contained on licensee's website**

The licensee must have a website on which the following matters are available for inspection by members of the public—

- (a) a plan showing the nature and general location of the infrastructure,

- (b) the most recent auditor's report under section 6 that applies to the licensee,
- (c) the most recent auditor's report under section 7 that applies to the licensee.

## **Part 3 Additional conditions for licences for sewerage infrastructure**

### **13 Infrastructure operating plans**

- (1) Before commencing to operate sewerage infrastructure commercially, the licensed network operator for the infrastructure must prepare, and give IPART, an infrastructure operating plan indicating the arrangements the licensee has made, or proposes to make, in relation to—
  - (a) the design, construction, operation and maintenance of the infrastructure, including particulars about the life-span of the infrastructure, the system redundancy built into the infrastructure and the arrangements for the renewal of the infrastructure, and
  - (b) the continued safe and reliable performance of the infrastructure, and
  - (c) the continuity of sewerage services, and
  - (d) alternative sewerage services when the infrastructure is inoperable, and
  - (e) the maintenance, monitoring and reporting of standards of service.
- (2) The licensee—
  - (a) must ensure that its infrastructure operating plan is fully implemented and kept under regular review and, in particular, that all of its activities are carried out in accordance with the plan, and
  - (b) must, if the Minister directs, amend its infrastructure operating plan in accordance with the Minister's direction.
- (3) If the Minister or IPART demands, or if a significant change is made to its infrastructure operating plan, the licensee—
  - (a) must provide the Minister or IPART with a report, prepared by an approved auditor in the way the Minister or IPART directs—
    - (i) about the adequacy of the plan, and
    - (ii) about the condition of its infrastructure,having regard to the purpose for which it is licensed, or
  - (b) must pay the Minister's or IPART's costs of conducting an investigation into the adequacy of the plan or the condition of the licensee's infrastructure.

#### **14 Sewage management plans**

- (1) Before commencing to operate sewerage infrastructure commercially, the licensed network operator for the infrastructure must prepare, and give IPART, a sewage management plan, in relation to the conveyance, treatment and disposal of sewage by means of the infrastructure, that indicates—
  - (a) the way health and ecological assessments will be undertaken, and
  - (b) the way a concern arising from an assessment will be addressed, and
  - (c) the arrangements for the disposal of waste from the infrastructure.
- (2) An applicant for a network operator's licence for sewerage infrastructure is exempt from the requirement for a sewage management plan to the extent the infrastructure is the subject of a licence under the [Protection of the Environment Operations Act 1997](#).
- (3) The licensee—
  - (a) must ensure its sewage management plan is fully implemented and kept under regular review and all of its activities are carried out in accordance with the plan, and
  - (b) must, if the Minister directs, amend its sewage management plan in accordance with the Minister's direction.
- (4) If the Minister or IPART demands, or if a significant change is made to the licensee's sewage management plan, the licensee—
  - (a) must provide the Minister or IPART with a report, prepared by an approved auditor in the way the Minister or IPART directs, about the adequacy of the plan, or
  - (b) must pay the Minister's or IPART's costs of conducting an investigation into the adequacy of the plan.

#### **15 Matters to be contained on licensee's website**

The licensee must have a website on which the following matters are available for inspection by members of the public—

- (a) a plan showing the nature and general location of the separate components of the infrastructure, that is, each component used for the treatment, storage, conveyance or reticulation of sewage,
- (b) the licensee's infrastructure operating plan,
- (c) the licensee's sewage management plan,
- (d) the most recent auditor's report under section 13 that applies to the licensee,

- (e) the most recent auditor's report under section 14 that applies to the licensee.

## Schedule 2 Conditions for retail suppliers' licences

section 13

### Part 1 Licence conditions for all licences

#### 1 Provision of information

- (1) The licensee must provide the Minister or IPART with information the Minister or IPART may from time to time direct in relation to the licensee's activities under the licence, and must provide the information within the time specified in the direction.
- (2) The licensee must immediately notify the following persons of an incident in the conduct of its activities that threatens, or could threaten, water quality, public health or safety—
  - (a) IPART,
  - (b) the Minister administering the *Public Health Act 2010*,
  - (c) the Minister administering the Act, Part 2,
  - (d) any licensed network operator by means of whose infrastructure the retailer supplies water or provides sewerage services.
- (3) The licensee must permit—
  - (a) the publication on IPART's website of the matters concerning the licensee that are required to be recorded on the Register of Licences, and
  - (b) the disclosure between relevant government agencies of information the licensee has provided to any of the agencies, and
  - (c) the disclosure to the general public of information about incidents reported under subsection (2).
- (4) In this section—

**relevant government agency** means a Minister or Division of the Government Service involved in the administration of the Act, or to which information is provided under the Act, this Regulation or a licence condition.

#### 2 Implementation of government policy with respect to social programs

- (1) The licensee—
  - (a) must implement a relevant government policy that applies to the licensee, and
  - (b) must ensure details of a relevant government policy are given to each of its



customers at least once every quarter, and

- (c) must give a report to IPART and to the relevant Department Head, as soon as practicable after the end of each quarter, about—
  - (i) the identity of each customer to whom payment assistance, discount or rebate has been given during the quarter under a relevant government policy, and
  - (ii) the amount of the payment assistance, discount or rebate, and
- (d) must give a report to a licensee to which there is a transfer of water supplies or sewerage services for a customer referred to in paragraph (c)(i), as soon as practicable after the transfer takes effect, about—
  - (i) the fact the customer has been receiving payment assistance, discount or rebate under a relevant government policy, and
  - (ii) the amount of the payment assistance, discount or rebate.

(2) This section does not apply to a licence for the supply of water to a customer who also receives water from a public water utility, another licensee or another person unless the water supplied under the licence is or includes drinking water.

(3) In this section—

**quarter** means the 3-month period ending 31 March, 30 June, 30 September or 31 December in each year.

**relevant Department Head** means the Secretary of the Department of Planning, Industry and Environment.

### **3 Customers to be notified of translation services**

- (1) A notice the licensee is required to send to its customers, whether by the Act, this Regulation or a licence condition, must include, or be accompanied by, information about the existence of, and the telephone numbers for, community translation services that are available.
- (2) The information is to be given—
  - (a) in English, Arabic, Cantonese, Greek, Italian, Spanish and Vietnamese, and
  - (b) in other languages spoken by more than 3 per cent of the population within the licensee's area of operations.

### **4 Code of practice for customer complaints**

- (1) The licensee—
  - (a) must establish and comply with a code of practice for customer complaints,

whether in relation to—

- (i) the supply of water, or the provision of sewerage services, by the licensee, or
  - (ii) the operation of the water or sewerage infrastructure from which the water is supplied or the services provided, and
- (b) must provide copies of the code of practice to the Minister, IPART and the ombudsman, and
- (c) must keep its customers informed about—
- (i) the provisions of the code of practice, and
  - (ii) the existence of the ombudsman, and the procedure for referring complaints or disputes to the ombudsman, and
- (d) must give periodic reports to the Minister and IPART, in relation to the complaints it receives, in the way, and containing the information, the Minister or IPART requires.
- (2) A code of practice referred to in subsection (1) must conform to the requirements of AS/ISO 10002—2006.
- (3) In this section—

**AS/ISO 10002—2006** means the Australian Standard entitled AS ISO 10002—2006, *Customer Satisfaction—Guidelines for complaints handling in organizations*, as published by Standards Australia in April 2006.

## 5 Code of practice for debt recovery

- (1) The licensee—
- (a) must establish and comply with a code of practice for debt recovery, and
  - (b) must provide copies of the code of practice to the Minister, IPART and the ombudsman, and
  - (c) must keep its customers informed about the provisions of that code of practice.
- (2) The code must provide for the deferment, in whole or in part, of payments owed by customers suffering financial hardship.

## 6 Codes of conduct

The licensee must comply with a water industry code of conduct, marketing code of conduct and transfer code of conduct.

## 7 Environmental protection

- (1) The licensee must comply with the requirements of the following in relation to the protection of the environment—
  - (a) the *Environmental Planning and Assessment Act 1979* and an environmental planning instrument under that Act,
  - (b) the *Protection of the Environment Operations Act 1997* and a regulation under that Act.
- (2) Subsection (1) applies only in relation to the licensee's activities under the licence.

## 8 Retail supply management plans

- (1) Before commencing to carry out activities under a retail supplier's licence, the licensee must prepare, and give IPART, a retail supply management plan indicating the arrangements the licensee has made, or proposes to make, in relation to—
  - (a) the events and circumstances that could adversely affect the licensee's ability to supply water or provide sewerage services, or both, (an **adverse event or circumstance**) as authorised by the licence, and
  - (b) the probability of the occurrence of an adverse event or circumstance, and
  - (c) the measures to be taken by the licensee—
    - (i) to prevent the occurrence, or minimise the effect, of an adverse event or circumstance, and
    - (ii) to arrange for alternative supplies of water or the provision of sewerage services, or both, as authorised by the licence, in response to an adverse event or circumstance, and
  - (d) the arrangements the licensee has made, or proposes to make, to ensure the licensee complies with—
    - (i) the licensee's code of practice for complaints by small retail customers and the licensee's code of practice for debt recovery from small retail customers, and
    - (ii) the marketing code of conduct and the transfer code of conduct.
- (2) The licensee—
  - (a) must ensure that the licensee's retail supply management plan is fully implemented and kept under regular review and that all of the licensee's activities are carried out in accordance with the plan, and
  - (b) must, if the Minister directs, amend the retail supply management plan in accordance with the Minister's direction.

- (3) If the Minister or IPART so demands, or if a significant change is made to its retail supply management plan, the licensee—
  - (a) must provide the Minister or IPART with a report, prepared by an approved auditor in the way the Minister or IPART directs, about the adequacy of the plan, or
  - (b) must pay the Minister's or IPART's costs of conducting an investigation into the adequacy of the plan.

## **9 Matters to be contained on licensee's website**

The licensee must have a website on which the following matters are available for inspection by members of the public—

- (a) if the licensee is authorised to supply water under the retail supplier's licence—
  - (i) the licensee's standard water supply contract for small retail customers, and
  - (ii) a water restriction order that is in force in its area of operations,
- (b) if the licensee is authorised to provide sewerage services under the retail supplier's licence—the licensee's sewerage service contract for small retail customers,
- (c) the licensee's retail supply management plan,
- (d) the licensee's code of practice for complaints by small retail customers,
- (e) the licensee's code of practice for debt recovery from small retail customers,
- (f) details of any relevant government policy applying to the licensee,
- (g) the most recent auditor's report under section 8 applying to the licensee.

## **Part 2 Additional conditions for licences for water supply**

### **10 Non-potable water to match customer's needs**

- (1) The licensee under a retail supplier's licence for the supply of non-potable water—
  - (a) must inform any customer to which non-potable water is supplied about the authorised purposes in relation to that water, and
  - (b) must not supply non-potable water to a customer for use for an unauthorised purpose.
- (2) Subsection (1)(b) does not prevent the supply of non-potable water to a customer for use for an unauthorised purpose if the water is to be processed by the customer to become water for which the purpose is an authorised purpose.

### **11 Obligation not to over-commit**

- (1) The licensee must not enter into water supply arrangements under which it assumes obligations it is unable to meet, or advertise that the licensee is willing to enter into water supply arrangements, having regard to—
  - (a) the capacity of the relevant water source to supply water or the volume of water available to the licensee from the water source, and
  - (b) the quality of the water derived from the water source, and
  - (c) the water infrastructure from which the water is to be supplied, and
  - (d) the conditions on which the licensee has access to the infrastructure services provided by the infrastructure, whether under an access agreement, access determination or otherwise.
- (2) The licensee must not enter into a water supply arrangement with a customer unless the premises to which the water is to be supplied are connected to, or readily connectible to, a water main to which the licensee has access, whether under an access agreement, access determination or otherwise.

### **12 Notice of intended termination of water supply**

- (1) The licensee must not terminate the supply of water to a customer within the whole or part of its area of operations unless it has given at least 14 days' written notice of the licensee's intention to terminate the supply to the Minister and IPART.
- (2) This section does not apply in relation to any customer, other than a small retail customer, with whom the licensee has entered into a water supply arrangement that sets out procedures to be followed in connection with the interruption or termination of water supply.

### **13 Notice of water restrictions**

The licensee must ensure its customers are kept informed of a water restriction applying to the customer in a bill or other correspondence the licensee sends to the customer while the restriction is in force.

### **14 Water to be supplied under contract to small retail customers**

- (1) The licensee must not supply water to a small retail customer otherwise than under a water supply contract.
- (2) The water supply contract must address each of the matters referred to in the Table to this section.
- (3) The water supply contract must also provide that the licensee must not, as a consequence of the customer's non-payment of a debt—

- (a) disconnect the customer's premises from the licensee's water main, or
  - (b) reduce the flow of drinking water from the main below that necessary for basic sustenance and hygiene.
- (4) A licensee proposing to supply water to a small retail customer on terms that are different to those set out in the licensee's standard water supply contract referred to in section 9(a)(i) must notify the customer of the various differences before the customer enters into the contract.
- (5) Before entering into a contract to supply water to a small retail customer, the licensee must provide the customer with a disclosure notice that specifies—
- (a) the customer's name, and the address of the premises to be supplied, and
  - (b) the date on which supply is to commence, and
  - (c) the fees and charges that will be payable for the supply, and
  - (d) the circumstances in which the customer's premises may be disconnected from the water main, and
  - (e) the licensee's procedures for handling customer complaints, and
  - (f) the existence of any government-funded rebates for which the customer may be eligible, and
  - (g) where the customer can obtain a copy of the contract.

**Table**

The name and address of the customer

The location of the premises to which water is to be supplied

The date on and from which, and, if applicable, the date until which, water is to be supplied

The licensee's current charges for the supply of water

The way in which the customer will be notified of a change in the licensee's charges for the supply of water

The availability of payment assistance, discounts and rebates under any government policy with respect to social programs for the supply of water

The information to be included in a bill for the supply of water, which must include information about past and present water consumption

The length of the billing period for a bill for the supply of water

The time allowed for payment of a bill for the supply of water and the way payment may be made

The procedures available for dealing with disputed bills, including procedures for reconciling under-charging or over-charging

The charges applicable to overdue accounts and dishonoured payments

The charges applicable to connecting the customer's premises to the relevant water main

Any other charges that may be applicable

The arrangements for responding to requests by customers for meter testing

A description of the customer's connection point to the relevant water main

The identity of the service provider by means of whose infrastructure water is to be supplied to the customer

The licensee's postal address and telephone number

The arrangements under which access may be gained to the customer's premises for meter inspection and other purposes

The arrangements to be made in the event the customer vacates the premises to which the licensee supplies water

The allocation of responsibility for maintaining and testing water meters

The water source, or water sources, from which the licensee derives its supply of water

The rate at which water is to be available for supply to the customer's premises, whether generally or during specified periods

The minimum pressure at which water is to be supplied

The purposes for which the water may be used

The precautions that have been taken to prevent cross-contamination with other water

The precautions the customer must take to prevent cross-contamination with other water and contamination of a water source

The circumstances in which water may not be available for supply to the customer's premises, the notice that will be given to customers and the arrangements in place for the supply of water in those circumstances

## **Part 3 Additional conditions for licences for sewerage services supply**

### **15 Obligation not to over-commit**

- (1) The licensee must not enter into sewerage service arrangements under which it assumes obligations the licensee is unable to meet, or advertise that it is willing to enter into arrangements, having regard to—
  - (a) the sewerage infrastructure from which the services are to be provided, and

- (b) limitations on the capacity of the infrastructure to dispose of waste, and
  - (c) the conditions on which the licensee has access to the infrastructure services provided by the infrastructure, whether under an access agreement, access determination or otherwise.
- (2) The licensee must not enter into a sewerage service arrangement with a customer unless the premises to which the service is to be provided are connected to, or readily connectible to, a sewer main to which the licensee has access, whether under an access agreement, access determination or otherwise.

#### **16 Notice of intended termination of sewerage services**

The licensee must not terminate the provision of sewerage services to a customer within the whole or part of its area of operations unless the licensee has given at least 14 days' written notice of the licensee's intention to terminate the provision of sewerage services to the Minister and IPART.

#### **17 Sewerage services to be provided under contract**

- (1) The licensee must not provide a sewerage service to a small retail customer otherwise than under a sewerage service contract.
- (2) The contract must address each of the matters referred to in the Table to this section.
- (3) The contract must also provide that the licensee must not, as a consequence of the customer's non-payment of a debt—
- (a) disconnect the customer's premises from the licensee's sewer main, or
  - (b) reduce the flow of sewage into the main below that necessary for basic hygiene.
- (4) Before entering into a contract to supply a sewerage service to a small retail customer, the licensee must provide the customer with a disclosure notice specifying—
- (a) the customer's name, and the address of the premises to be supplied, and
  - (b) the date on which supply is to commence, and
  - (c) the fees and charges that will be payable in respect of the supply, and
  - (d) the circumstances in which the customer's premises may be disconnected from the sewer main, and
  - (e) the licensee's procedures for handling customer complaints, and
  - (f) the existence of any government-funded rebates for which the customer may be eligible, and



(g) where the customer can obtain a copy of the contract.

**Table**

The name and address of the customer

The location of the premises to which sewerage services are to be provided

The date on and from which, and, if applicable, the date until which, sewerage services are to be provided

The precautions to be taken by the customer to prevent blockages or damage to the sewer main

The licensee's current charges for the provision of sewerage services

The way in which the customer will be notified of a change in the licensee's charges for the provision of sewerage services

The availability of payment assistance, discounts and rebates under any government policy with respect to social programs for the provision of sewerage services

The information to be included in a bill for the provision of sewerage services, which, where sewage discharge is metered, must include information about past and present sewage discharge

The length of the billing period for a bill for the provision of sewerage services

The time allowed for payment of a bill for the provision of sewerage services and the way payment may be made

The procedures available for dealing with disputed bills, including procedures for reconciling under-charging or over-charging

The charges applicable to overdue accounts and dishonoured payments

The charges applicable to connecting the customer's premises to the relevant sewer main

Any other charges that may be applicable

A description of the customer's connection point to the relevant sewer main

The identity of the service provider by means of whose sewerage infrastructure sewerage services are to be provided to the customer

The licensee's postal address and telephone number

The arrangements under which access may be gained to the customer's premises for meter inspection and other purposes

The arrangements to be made in the event the customer vacates the premises to which the licensee provides sewerage services

The nature of the matter to be discharged into the sewer main

The rate at which matter may be discharged into the sewer main from the customer's premises, whether generally or during specified periods

The arrangements in place to deal with sewage blockages or overflows

The arrangements in place in relation to the repair and maintenance of the sewerage infrastructure from which the sewerage service is to be provided

The precautions the customer must take to prevent contamination of a water source

The circumstances in which the sewerage service may not be available for the customer's premises, the notice that will be given to customers and the arrangements in place for the provision of sewerage services in those circumstances

## Schedule 3 Water industry infrastructure exempt from licensing requirement

section 19

### Note—

This Schedule prescribes the water industry infrastructure that is exempt from the requirement in the Act, section 5 that water industry infrastructure must be licensed. It is noted that—

- (a) the definition of **sewerage infrastructure** in the Act does not include any pipe, fitting or apparatus situated upstream of a customer's connection point to a sewer main, so the Act, section 5 would not require this type of infrastructure to be licensed, and
- (b) the definition of **water infrastructure** in the Act does not include any pipe, fitting or apparatus situated downstream of a customer's connection point to a water main or any pipe, fitting or apparatus situated upstream of a customer's connection point to a stormwater drain, so the Act, section 5 would not require this type of infrastructure to be licensed.

### 1 Water industry infrastructure constructed, maintained or operated for or on behalf of—

- (a) a public water utility, or
- (b) a licensed network operator.

### 2 Water infrastructure—

- (a) that is a water supply work within the meaning of the *Water Management Act 2000*, and
- (b) that is used solely for the purpose of taking water under an entitlement created by any of the following provisions of the *Water Management Act 2000*—
  - (i) section 52 (Domestic and stock rights),
  - (ii) section 53 (Harvestable rights),
  - (iii) section 55 (Native title rights),
  - (iv) section 56 (Access licences),
  - (v) section 89 (Water use approvals),

(vi) section 90 (Water management work approvals),

(vii) section 91 (Activity approvals).

**3**

(1) Water infrastructure—

(a) that is a work to which the [Water Act 1912](#), Part 2, extends, and

(b) that is used solely for the purpose of taking water pursuant to an entitlement to take and use water created by the issue of the following under the [Water Act 1912](#)—

(i) a licence under Part 2, Division 3,

(ii) a permit under Part 2, Division 3B,

(iii) an authority under Part 2, Division 4,

(iv) a group licence under Part 2, Division 4A,

(v) an entitlement under section 20AB.

(2) In this section—

**work to which the Water Act 1912, Part 2, extends** has the same meaning as **Work to which this Part extends** in the [Water Act 1912](#), section 5.

**4** Water infrastructure—

(a) that is a work constructed pursuant to the authority conferred by a licence under the [Water Act 1912](#), Part 5 (Artesian wells), Division 3, and

(b) that is used solely for the purpose of taking water under the authority conferred by a licence that Division.

**5** Water industry infrastructure used to supply potable water or provide sewerage services, or both, to public water utilities or network licence holders, or both—

(a) from an entity in the Australian Capital Territory licensed under the *Utilities Act 2000* of the Australian Capital Territory to provide a water or sewerage service, within the meaning of that Act, or

(b) from a water authority in Queensland that is established, and exercises water or sewerage functions, under the *Water Act 2000* of Queensland, or

(c) from an authority in Victoria that is established, and exercises water or sewerage functions, under the *Water Act 1989* of Victoria, or

(d) from the South Australian Water Corporation, established, and exercising functions, under the

*South Australian Water Corporation Act 1994* of South Australia.

- 6** Water infrastructure operated by Icon Water Limited that is used to supply potable water to the Australian Capital Territory or Queanbeyan City Council from the Googong Dam Area, as authorised under the *Canberra Water Supply (Googong Dam) Act 1974* of the Commonwealth.
- 7** Water industry infrastructure—
- (a) that services land that is managed by—
- (i) a Local Aboriginal Land Council constituted under the *Aboriginal Land Rights Act 1983*, or
- (ii) a registered native title body corporate within the meaning of the *Native Title Act 1993* of the Commonwealth, or
- (iii) an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth, and
- (b) that—
- (i) is not able to be connected to water industry infrastructure operated by a public water utility because it is not practicable or economical to connect the infrastructure, or
- (ii) has been able to be connected to water industry infrastructure operated by a public water utility for less than a year, and that, before that ability arose, was not able to be connected to water industry infrastructure operated by a public water utility.

**Note—**

This section exempts certain water industry infrastructure that is not able to be connected to water industry infrastructure operated by a public water utility, or that has been able to be connected for less than a year. Once it is able to be connected, there is a period of one year during which the exemption continues to apply and then the Act, section 5 requires the water industry infrastructure to be licensed.

- 8** Water industry infrastructure that is used to supply potable water or provide sewerage services, or both, and—
- (a) that is owned by—
- (i) an entity in the Australian Capital Territory licensed under the *Utilities Act 2000* of the Australian Capital Territory to provide a water or sewerage service, within the meaning of that Act, or
- (ii) a water authority in Queensland that is established, and exercises water or sewerage functions, under the *Water Act 2000* of Queensland, or
- (iii) an authority in Victoria that is established, and exercises water or sewerage functions, under the *Water Act 1989* of Victoria, or
- (iv) the South Australian Water Corporation, established, and exercising functions, under the *South Australian Water Corporation Act 1994* of South Australia, and
- (b) that services land managed by—

- (i) a Local Aboriginal Land Council constituted under the *Aboriginal Land Rights Act 1983*, or
- (ii) a registered native title body corporate within the meaning of the *Native Title Act 1993* of the Commonwealth, or
- (iii) an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth.

**9**

(1) Water industry infrastructure—

- (a) that is located only on land on which one dwelling house or dual occupancy is located, whether or not the dwelling is used for a business purpose, and
- (b) that is used solely for the purpose of supplying water or a sewerage service to the dwelling house or dual occupancy.

(2) In this section—

**dual occupancy** has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**dwelling house** has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**10** Water industry infrastructure—

- (a) that is owned by a customer of a public water utility or licensed retail supplier to whom water is supplied, or to whom sewerage services are provided, by the public water utility or licensed retail supplier, and
- (b) that either—
  - (i) is used by the customer solely to reticulate or convey that water, or provide sewerage services, to another person but only if the person is one of the following—
    - (A) a tenant of the customer,
    - (B) a lessee of the customer,
    - (C) if the customer is the manager of a strata plan—an owner of lots in the strata plan,
    - (D) if the customer is the operator of a retirement village—a resident of the retirement village,
    - (E) if the customer is the operator of a community within the meaning of the *Residential (Land Lease) Communities Act 2013*— a home owner in the community,
    - (F) if the customer is the park owner of a holiday park, within the meaning of the *Holiday Parks (Long-term Casual Occupation) Act 2002*—an occupant of that holiday park, or
  - (ii) services land managed by—

- (A) a Local Aboriginal Land Council constituted under the *Aboriginal Land Rights Act 1983*, or
- (B) a registered native title body corporate within the meaning of the *Native Title Act 1993* of the Commonwealth, or
- (C) an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth, and

(c) that does not involve the further treatment of the water or sewage and the water or sewerage service is supplied at a cost that represents no more than the cost of providing the water or sewerage service and the cost of the operation and maintenance of the infrastructure.

**11** Water infrastructure used solely for the purpose of stormwater drainage.

**12** Water infrastructure—

- (a) that is owned by a customer of a public water utility or licensed retail supplier to whom a supply of water is supplied by that public water utility or licensed retail supplier, and
- (b) that is used by that customer solely to heat or chill that water in order to provide heating and cooling services to its customers and the water is not further treated.

**13** Water infrastructure—

- (a) that is used for the production, treatment, filtration, storage, conveyance or reticulation of water sourced only from roof water, and
- (b) that—
  - (i) is not able to be connected to water infrastructure operated by a public water utility because it is not practicable or economical to connect the infrastructure, or
  - (ii) has been able to be connected to water infrastructure operated by a public water utility for less than a year, and that, before that, was not able to be connected to water infrastructure operated by a public water utility.

**Note—**

This section exempts certain water infrastructure that is not able to be connected to water infrastructure operated by a public water utility, or that has been able to be connected for less than a year. Once it is able to be connected, there is a period of one year during which the exemption continues to apply and then the Act, section 5 requires the water infrastructure to be licensed.

**14** Water infrastructure used for the production, treatment, filtration, storage, conveyance or reticulation of water sourced only from roof water if—

- (a) the water is supplied for a non-potable use, and
- (b) the water is supplied without charge, either in the form of a fee or a requirement for other consideration.

**15** Water industry infrastructure used for the treatment of industrial wastewater, other than sewage, for irrigated agriculture, but only if the irrigated agriculture—

- (a) is carried out in accordance with an environment protection licence, within the meaning of the *Protection of the Environment Operations Act 1997*, and
- (b) is not carried out for food production purposes.

## Schedule 4 Dictionary

section 3

**approval holder** for Part 4—see section 27.

**approved auditor**—see section 53.

**Australian Drinking Water Guidelines** means the document entitled *Australian Drinking Water Guidelines*, published by the Australian Government, the National Health and Medical Research Council and the Natural Resource Management Ministerial Council, as in force from time to time.

**Australian Guidelines for Water Recycling** means the following documents published by the Environment Protection and Heritage Council, the Natural Resource Management Ministerial Council and the Australian Health Ministers' Conference, as in force from time to time—

- (a) the document entitled *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1)*,
- (b) the document entitled *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 2)*.

**authorised purpose**, in relation to non-potable water, means a purpose specified in the relevant network operator's licence as a purpose for which the water may be used.

**certificate of compliance** for Part 4—see section 28.

**consent authority** for Part 4—see section 27.

**developer** for Part 4—see section 27.

**development** for Part 4—see section 27.

**development authorisation** for Part 4—see section 27.

**draft report** for Part 4—see section 43.

**drinking water** means water intended, or likely, to be used for the following purposes, whether or not the water is used for other purposes—

- (a) for human consumption,
- (b) for purposes connected with human consumption, including the washing or cooling of food or the making of ice for consumption or the preservation of unpackaged food.

**Note—**

This definition corresponds to the definition of **drinking water** in the *Public Health Act 2010*, Part 3, Division 1.

**infrastructure operating plan** means a plan prepared in accordance with Schedule 1, section 6 or 13 and includes an amendment of the plan that the Minister directs to be made to the plan.

**investigated monopoly supplier** for Part 5—see section 36.

**investigated service** for Part 5—see section 36.

**IPART Act** for Part 5—see section 36.

**IPART website** for Part 5—see section 36.

**issues paper** for Part 5—see section 40.

**market** means to promote the supply of water by a licensed retail supplier, or the provision of sewerage services by a licensed retail supplier, for the purpose of attracting customers for the supplier.

**marketing code of conduct** means a code of conduct for the marketing of water supplies and sewerage services, as established by the Minister under section 47, as amended from time to time.

**non-potable water** means water that is not drinking water.

**pricing methodology** for Part 5—see section 36.

**public hearing** for Part 5—see section 36.

**Register of Licences** means the register referred to in the Act, section 20.

**relevant government policy** means government policy with respect to social programs for the supply of water and the provision of sewerage services.

**requirements notice** for Part 4—see section 27.

**retail supply management plan** means a plan prepared in accordance with Schedule 2, section 8 and includes an amendment of that plan the Minister directs to be made to the plan.

**roof water** means rainwater collected from the roofs of buildings.

**sewage management plan** means a plan prepared in accordance with Schedule 1, section 14 and includes an amendment of that plan the Minister directs to be made to the plan.

**significant methodological change** for Part 5—see section 36.

**significant pricing investigation** for Part 5—see section 37(1).

**small retail customer**—see section 5.

**social program for the supply of water and the provision of sewerage services** has the same meaning as in the Act, section 13(4).

**stormwater** means rainwater that has run off any urban trafficable surface, including a pavement, car park, road, garden or urban vegetated open space.



**supply failure customer** means a person who, under the Act, section 57(3) becomes a customer of a retailer of last resort as a result of a declaration of supply failure under the Act, section 56.

**the Act** means the [Water Industry Competition Act 2006](#).

**transfer**—see section 4.

**transfer code of conduct** means a code of conduct for the transfer of water supplies or sewerage services, as established by the Minister under section 48, and as amended from time to time.

**water industry code of conduct** means a code of conduct in relation to the respective responsibilities of licensed network operators, licensed retail suppliers and public water utilities, as established by the Minister in accordance with section 46, as amended from time to time.

**water quality plan** means a plan prepared in accordance with Schedule 1, section 7, and includes an amendment of that plan the Minister directs be made to the plan.