

The objects of this Bill are as follows:

(a) to amend the *Water Industry Competition Act 2006*:

- (i) to provide that a licensed network operator is not required to hold a retail supplier's licence in addition to its network operator's licence in order to supply water or provide sewerage services to a public water utility, and
- (ii) to enable retail suppliers' licences to be granted that authorise both the supply of water and the provision of sewerage services, and
- (iii) to specify additional licensing principles to be taken into account when determining whether to grant licences or impose conditions on licences under the Act, and
- (iv) to enable conditions to be imposed on retail suppliers' licences that authorise the supply of drinking water so as to promote the equitable sharing of the costs of water industry infrastructure that significantly contributes to water security, and
- (v) to clarify the circumstances in which a licence may not be granted under the Act to a corporation because it is connected to a disqualified corporation, and
- (vi) to confer certain powers of entry to land on certain licensed network operators and to provide for disputes and complaints about the exercise of such powers to be subject to the ombudsman scheme approved under the Act, and
- (vii) to provide that generally water industry infrastructure is owned by the person that constructs or installs it or any person that subsequently acquires it, and
- (viii) to make provision for savings and transitional matters consequent on the enactment of the proposed Act and a matter in the nature of statute law revision,

(b) to amend the *Water Industry Competition (General) Regulation 2008*:

- (i) to require the Independent Pricing and Regulatory Tribunal (**IPART**) to notify public water utilities about the making of certain kinds of applications for a licence under the *Water Industry Competition Act 2006* involving their water industry infrastructure, and
- (ii) to extend transitional arrangements in relation to certain infrastructure that is currently exempt from licensing requirements under the *Water Industry Competition Act 2006*, and
- (iii) to enable transfer codes of conduct to be made that relate to public water utilities as well as to licensed retail suppliers, and
- (iv) to rationalise and simplify certain prescribed conditions for licences granted under the *Water Industry Competition Act 2006*, and
- (v) to make other amendments that are consequential on the amendments made to the *Water Industry Competition Act 2006* by the proposed Act,

(c) to amend the *Local Government (General) Regulation 2005* to exempt certain licensees under the *Water Industry Competition Act 2006* from the requirement to obtain additional local council approval for certain activities that are already authorised by their licences.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Water Industry Competition Act 2006 No 104

Schedule 1 [1] provides that a licensed network operator is not required to hold a retailer supplier's licence in addition to its network operator's licence in order to supply water or provide sewerage services to a public water utility.

Schedule 1 [2] enables a single retail supplier's licence to be granted that authorises both the supply of water and the provision of sewerage services by the same licensee.

Schedule 1 [3] confirms that a reference to consumers in the licensing principles of the Act is a reference to consumers generally and not limited to the consumers of services to be provided by a proposed licensee.

Schedule 1 [4] and [5] provide for the following additional licensing principles to be taken into account when determining whether to grant a licence or impose conditions on a licence under the Act:

- (a) the promotion of policies set out in any prescribed water policy document (being a plan or other policy document concerning the use of water resources issued by or on behalf of the Government that is prescribed by the regulations),
- (b) the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence,
- (c) the promotion of the equitable sharing among participants in the drinking water market of the costs of water industry infrastructure that significantly contributes to water security.

Schedule 1 [6] provides that a licence may not be granted under the Act to a corporation that is a related entity (within the meaning of the *Corporations Act 2001* of the Commonwealth) of a disqualified corporation only if the disqualified corporation would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise if granted. Currently, a corporation is prevented from being granted a licence simply because it is a related entity of a disqualified corporation.

Schedule 1 [28] makes a consequential amendment.

Schedule 1 [7] enables the Minister to impose certain conditions on a retail supplier's licence that authorises the licensee to supply drinking water. In the case of such a licence, the Minister may impose conditions that the Minister is satisfied promote the equitable sharing among public water utilities and licensed retail suppliers of drinking water of the costs of water industry infrastructure that significantly contributes to water security, including (but not limited to) the following:

- (a) a condition requiring the licensee to obtain a specified proportion of the water that it supplies under the authority of its licence by means of specified water industry infrastructure,
- (b) a condition requiring the licensee to contribute to the costs of specified water industry infrastructure (whether or not it is used to provide the licensee with the water that it is authorised to supply under the licence) calculated in a specified manner and payable to a specified person or persons.

Schedule 1 [8] confers regulation-making powers on the Governor concerning the calculation of contributions for the purpose of imposing any such conditions.

Schedule 1 [9] makes it clear that nothing in Part 3 (Access to infrastructure services) limits the power of the Minister to impose conditions on a licence granted under the Act.

Schedule 1 [19] provides for the ombudsman scheme approved under the Act to extend to licensed retail suppliers who provide sewerage services (whether or not in combination with the supply of water) under their licences.

Schedule 1 [21] provides that generally water industry infrastructure is owned by the person that constructs or installs it or any person that subsequently acquires title to it, whether or not the land in, on, under or over which it is situated is owned by that person. It also provides that water industry infrastructure that a network operator's licence authorises the licensee to construct, maintain or operate is not to be taken in execution of any judgment against a person (other than the owner of the infrastructure or the licensee) under any process of a court.

Schedule 1 [23] confers standard powers of entry to land on authorised licensed network operators in connection with the inspection, maintenance and repair of water industry infrastructure that the licensees are authorised to construct, maintain or operate under their licences.

Schedule 1 [27] defines an **authorised licensed network operator** to mean a licensed network operator that is a prescribed authority within the meaning of section 88A of the *Conveyancing Act 1919* and **Schedule 1 [29]** inserts a definition of **land** for the purposes of the exercise of entry powers under the Act.

Schedule 1 [10]–[18] and [20] ensure that the ombudsman scheme approved under the Act will extend to disputes and complaints about the exercise of these powers by authorised licensed network operators.

Schedule 1 [22] makes a consequential amendment.

Schedule 1 [24] enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [25] makes an amendment in the nature of statute law revision.

Schedule 1 [26] makes provision in relation to certain savings and transitional matters consequent on the enactment of the proposed Act.

Schedule 2 Amendment of other legislation

2.1 Local Government (General) Regulation 2005

Schedule 2.1 amends the *Local Government (General) Regulation 2005* to exempt licensees under the *Water Industry Competition Act 2006* from being required to obtain additional local council approval under section 68 of the *Local Government Act 1993* for certain activities if those activities are already authorised to be carried out under the licensee's licence.

2.2 Water Industry Competition (General) Regulation 2008

Schedule 2.2 [4] requires IPART to notify a public water utility about the making of an application for a licence under the *Water Industry Competition Act 2006* if the applicant proposes to connect to or use the water industry infrastructure of the utility.

Schedule 2.2 [3] makes a consequential amendment.

Schedule 2.2 [5]–[7]:

(a) provide for a current exemption from the licensing requirements of the *Water Industry Competition Act 2006* in connection with certain infrastructure set out in clause 19A of the Regulation to continue for an additional year (that is, until the end of 17 June 2013), and

(b) provide that the continued exemption applies in relation to infrastructure regardless of when it was constructed or installed, and

(c) modify the time frame for compliance with a prescribed condition of a retail supplier's licence in its application to such infrastructure.

Schedule 2.2 [8] enables transfer codes of conduct to be made that relate to public water utilities as well as to licensed retail suppliers. A transfer code of conduct will be a code established by the Minister, by order published in the Gazette, for the transfer of water supplies or sewerage services to, from or between licensed retail suppliers or public water utilities (or both).

Schedule 2.2 [9] prescribes the *Metropolitan Water Plan* published by the New South Wales Government, as in force from time to time, for the purposes of one of the licensing principles to be inserted in the *Water Industry Competition Act 2006* by Schedule 1 [4] and [5].

Schedule 2.2 [10] removes a requirement under a current prescribed licence condition of a network operator's licence to publish the licensee's infrastructure operating plan and water quality plan on its website.

Schedule 2.2 [11] consolidates certain requirements under current prescribed licence conditions of retail suppliers' licences relating to the preparation and auditing of retail supply management plans and the publication of certain information by licensees on their websites. The consolidated requirements will enable a licensee to prepare a single retail supply management plan if the licensee both supplies water and provides sewerage services under its licence.

Schedule 2.2 [1], [2], [12] and [13] make consequential amendments.