



New South Wales

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

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Independent Pricing and Regulatory Tribunal Act 1992* to enable the Independent Pricing and Regulatory Tribunal (the **Tribunal**) to apply under the *Water Charge (Infrastructure) Rules 2010* of the Commonwealth (the **Commonwealth Water Charge Rules**) for the accreditation of arrangements under which the Tribunal approves or determines charges for the provision of certain water infrastructure services relating to water resources in that part of the Murray-Darling Basin that is located in New South Wales (**Basin water resources**). For that purpose, the Bill:

- (a) applies certain provisions of the Commonwealth Water Charge Rules as a law of New South Wales and gives those applied provisions effect during the period of accreditation, and
- (b) confers on the Tribunal the functions of a Regulator under those applied provisions, and
- (c) provides that the Tribunal is not subject to the control or direction of any Minister in the exercise of those functions, and
- (d) provides for the notification of the approval, revocation or cessation of the accreditation, and
- (e) provides for the interpretation of the applied provisions.

## 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 on the date of assent to the proposed Act.

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

**Schedule 1 [1]** inserts Part 3B (proposed sections 24AE–24AL) into the *Independent Pricing and Regulatory Tribunal Act 1992* which contains the following provisions:

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

**Proposed section 24AE** defines expressions used in the proposed Part.

**Proposed section 24AF** applies the *Acts Interpretation Act 1901* of the Commonwealth (the *Commonwealth Interpretation Act*) as a law of New South Wales in relation to the provisions of the Commonwealth Water Charge Rules applied by proposed section 24AG (the *applied provisions*). The application of that Act to the Commonwealth Water Charge Rules is limited by section 5 of the *Water Act 2007* of the Commonwealth (the *Commonwealth Water Act*). Accordingly, the proposed section provides that the Commonwealth Interpretation Act applies to the applied provisions only to the extent to which it applies to the Commonwealth Water Charge Rules. The proposed section also provides that expressions used in the applied provisions have the same meaning as in the Commonwealth Water Act and are to be read and construed subject to that Act and so as not to exceed its rule-making power. The *Interpretation Act 1987* of New South Wales does not apply in relation to the applied provisions.

**Proposed sections 24AG, 24AH, 24AI and 24AK** provide for various matters that are preconditions (as set out in Schedule 5 to the Commonwealth Water Charge Rules) to the approval of an application for accreditation of arrangements. **Proposed section 24AG** applies the Commonwealth provisions as a law of New South Wales. **Proposed section 24AH** confers on the Tribunal all the functions of a Regulator under the applied provisions, which include the power to approve or determine charges for the provision of certain water infrastructure services relating to Basin water resources. **Proposed section 24AI** provides that the applied provisions have effect only during the period of the accreditation of arrangements. **Proposed section 24AK** provides that the Tribunal is not subject to Ministerial control or direction in the exercise of its functions under the applied provisions.

**Proposed section 24AJ** enables the Tribunal to apply to the Australian Competition and Consumer Commission for the accreditation of arrangements under which the Tribunal approves or determines charges for the provision of certain water infrastructure services relating to Basin water resources.

**Proposed section 24AL** provides for public notification by the Tribunal of the approval of an application for accreditation of arrangements or the revocation or cessation of such an accreditation.

**Schedule 1 [2]** makes it clear that the Tribunal is not [2] required under the *Independent Pricing and Regulatory Tribunal Act 1992* to conduct investigations and make reports to the Minister on the determination of the pricing for, or a periodic review of pricing policies in respect of, certain water infrastructure services provided by Water NSW in relation to Basin water resources.