

TASMANIA

WATER AND SEWERAGE INDUSTRY AMENDMENT BILL 2008

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**WATER AND SEWERAGE INDUSTRY
AMENDMENT BILL 2008**

*(Brought in by the Minister for Primary Industries and Water,
the Honourable David Edward Llewellyn)*

A BILL FOR

An Act to amend the *Water and Sewerage Industry Act 2008*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Water and Sewerage Industry Amendment Act 2008*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Principal Act

In this Act, the *Water and Sewerage Industry Act 2008** is referred to as the Principal Act.

*No. 13 of 2008

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “annual performance reporting requirements”:

“Appeal Tribunal” means the Resource Management and Planning Appeal Tribunal established under the *Resource Management and Planning Appeal Tribunal Act 1993*;

- (b) by inserting the following definition after the definition of “area of operations”:

“Australian Standard” means a standard issued by the Standards Association of Australia, being the body known as Standards Australia;

- (c) by inserting the following definition after the definition of “code”:

“combined system” means a system that is, or is to be, one for both sewage and stormwater;

- (d) by inserting the following definitions after the definition of “Common Services Corporation”:

“connection point” means –

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(a) the point at which the customer's pipes connect with the water infrastructure or sewerage infrastructure; or

(b) such other point as may be prescribed in the regulations;

“Corporation” has the same meaning as in the *Water and Sewerage Corporations Act 2008*;

(e) by inserting the following definition after the definition of “environmental harm”:

“fire hydrant” means an assembly installed on a water pipe which provides a valved outlet to permit a controlled supply of water to be taken from a pipeline for fire fighting purposes;

(f) by inserting the following definition after the definition of “interim licence”:

“land” includes –

(a) buildings and other structures erected on the land; and

(b) land covered with water; and

(c) water covering land;

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- (g) by inserting the following definition after the definition of “licence”:

“meter” means a device used for the measurement of the flow of water or sewage –

- (a) through water infrastructure or sewerage infrastructure; or
 - (b) such other infrastructure or system as may be prescribed in the regulations;
- (h) by inserting the following definition after the definition of “Ombudsman”:

“operational work”, in relation to water infrastructure and sewerage infrastructure, means –

- (a) locating, inspecting, testing, operating, maintaining, repairing, altering, adding to, installing, upgrading, replacing or removing the water infrastructure or sewerage infrastructure; or
- (b) excavating land in order to carry out work of a kind referred to in paragraph (a);

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- (i) by inserting the following definition after the definition of “person”:

“planning authority” means a planning authority within the meaning of the *Land Use Planning and Approvals Act 1993*;

- (j) by inserting the following definitions after the definition of “price determination”:

“protective work”, in relation to water infrastructure and sewerage infrastructure, means –

- (a) work that is necessary or expedient for the protection of infrastructure or public safety; or
- (b) excavating land in order to carry out work of a kind referred to in paragraph (a);

“public land” means –

- (a) land owned by the Crown; or
- (b) land owned by an instrumentality or agent of the Crown; or

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(c) land owned by a council that is public land under section 177A of the *Local Government Act 1993*;

(k) by inserting the following definition after the definition of “reserve supplier”:

“serviced land” means land referred to in section 56U(1)(b);

(l) by inserting “and includes the connection point” after “sewage” in paragraph (a) of the definition of “sewerage infrastructure”;

(m) by omitting “but” from the definition of “sewerage infrastructure” and substituting “and includes a combined system but”;

(n) by inserting the following definition after the definition of “sewerage service”:

“sewerage system” means the pipes, fittings, meters and other connected accessories required for or incidental to the discharge or conveyance of sewage to a regulated entity’s sewerage infrastructure, but does not include the regulated entity’s sewerage infrastructure;

(o) by inserting the following definition after the definition of “water”:

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“water and sewerage officer” means
an officer appointed under
section 56A;

- (p) by inserting “and includes the connection point” after “water” in paragraph (c) of the definition of “water infrastructure”;
- (q) by omitting “electricity.” from paragraph (b) of the definition of “water service” and substituting “electricity;”;
- (r) by inserting the following definition after the definition of “water service”:

“water system” means the pipes, fittings, meters and other connected accessories required for or incidental to the supply and measurement of water provided by a regulated entity, but does not include a regulated entity’s water infrastructure.

5. Section 20 amended (General provisions relating to codes)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “The” and substituting “Subject to subsection (1A), the”;
- (b) by inserting the following subsection after subsection (1):

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- (1A) The Regulator must issue a code for any matter prescribed in the regulations relating to or incidental to meters.

6. Section 47 amended (Emergency directions)

Section 47 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “Director of Environmental Management” and substituting “Director, Environment Protection Authority”;
- (b) by omitting from subsection (3) “Director of Environmental Management” and substituting “Director, Environment Protection Authority”.

7. Part 4, Division 2A inserted

After section 56 of the Principal Act, the following Division is inserted in Part 4:

Division 2A – Powers and obligations of regulated entities
Subdivision 1 – Water and sewerage officers

56A. Appointment of water and sewerage officers

- (1) A regulated entity may appoint persons employed by that regulated entity as water and sewerage officers.

- (2) In the exercise of a water and sewerage officer's powers under this Act, the water and sewerage officer is subject to control and direction by the relevant regulated entity.

56B. Conditions of appointment

- (1) A water and sewerage officer holds office for such period, and on such conditions, as are stated in the water and sewerage officer's instrument of appointment.
- (2) A water and sewerage officer may resign by written notice given to the relevant regulated entity.
- (3) A water and sewerage officer may be removed from office by the relevant regulated entity for any reason that the regulated entity considers sufficient.

56C. Water and sewerage officer's identity card

- (1) A regulated entity must provide each water and sewerage officer with an identity card.
- (2) The identity card is in force for the period specified in the card.
- (3) The identity card must –

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- (a) contain a photograph of the water and sewerage officer taken for the purpose; and
- (b) be signed by the water and sewerage officer; and
- (c) identify the person as a water and sewerage officer for the relevant regulated entity; and
- (d) be signed by the chief executive officer of the relevant regulated entity.

56D. Production of identity card

A water and sewerage officer must, before exercising a power that may affect a person, produce the officer's identity card for inspection on demand by the person.

Penalty: Fine not exceeding 10 penalty units.

Subdivision 2 – Functions and powers relating to water infrastructure and sewerage infrastructure

56E. Power to carry out work on public land

- (1) Subject to this section, a regulated entity may –

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- (a) install water infrastructure or sewerage infrastructure on public land; and
 - (b) carry out operational work or protective work on water infrastructure or sewerage infrastructure on public land; and
 - (c) carry out other work on public land for the provision of a water service or a sewerage service.
- (2) Subject to this section, a regulated entity must –
 - (a) unless otherwise agreed between the regulated entity and the authority responsible for the management of the public land (the “**responsible authority**”), or in the case of an emergency, give the responsible authority on whose land the regulated entity intends to carry out work not less than 7 days’ written notice of the regulated entity’s intention to carry out work on the land; and
 - (b) before commencing the work, secure the responsible authority’s agreement as to how the work is to be carried out.
- (3) Any agreement under subsection (2) may include conditions that the responsible

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authority considers appropriate in the public interest.

- (4) Prior notice is not required under subsection (2) for work of a kind prescribed by the regulations for the purposes of this section.
- (5) Agreement is not required under subsection (2) for work of a kind prescribed by the regulations for the purposes of this section.
- (6) In an emergency, a regulated entity may carry out any work specified in subsection (1) at any time and –
 - (a) may be accompanied by such other persons as the regulated entity considers necessary or appropriate; and
 - (b) may bring on to the land any vehicles and equipment that the regulated entity considers necessary or appropriate for the work which the regulated entity is to carry out on the land.
- (7) If the responsible authority, on being given notice under subsection (2), decides to –
 - (a) include, in the agreement under that subsection, conditions that the regulated entity considers unreasonable; or

- (b) dispute that the regulated entity is entitled to carry out the proposed work –

the regulated entity may appeal to the Appeal Tribunal.

- (8) Subsection (7) does not apply if the responsible authority is a Minister or a person or body to whom directions may be given by a Minister in respect of the matter in dispute.
- (9) Except as provided by subsection (10), the Appeal Tribunal is to hear and determine the appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.
- (10) Notwithstanding section 14(2) of the *Resource Management and Planning Appeal Tribunal Act 1993*, the Appeal Tribunal must not, under that section, allow any person other than the regulated entity and the responsible authority to be a party to the appeal.
- (11) A regulated entity must make good, to the satisfaction of the responsible authority, any damage caused by the exercise of powers under this section as soon as practicable.
- (12) If a regulated entity fails to make good, to the satisfaction of the responsible authority, any damage caused by the exercise of powers under this section, the

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responsible authority may make good the damage itself.

- (13) The cost of making good the damage referred to in subsection (12) may be recovered by the responsible authority in a court of competent jurisdiction as a debt owed to it by the regulated entity.
- (14) This section does not derogate from an obligation to comply with any other Act.

56F. Power to enter land for purposes related to water infrastructure and sewerage infrastructure

- (1) A water and sewerage officer of a regulated entity may –
 - (a) enter and remain on land to carry out preliminary investigations in connection with the installation of water infrastructure and sewerage infrastructure; or
 - (b) enter and remain on land where the water infrastructure or sewerage infrastructure of the regulated entity is situated to carry out operational work or protective work on the infrastructure; or
 - (c) enter and remain on any land for the purposes of carrying out

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operational or protective work on
land on which water
infrastructure or sewerage
infrastructure is situated.

- (2) A water and sewerage officer of a regulated entity may only exercise a power of entry under this section between the hours of 7 a.m. and 7 p.m. on any day.
- (3) Subject to this section, if a water and sewerage officer seeks to enter on land under this section, the officer must give the occupier of the land not less than 7 days' written notice stating the reason and the date and time of the proposed entry.
- (4) If the proposed entry is refused or obstructed, a water and sewerage officer may obtain a warrant under section 56ZN to enter on the land.
- (5) In an emergency, a water and sewerage officer may exercise a power of entry under this section –
 - (a) at any time and without prior notice if it is not practicable to give such notice; and
 - (b) if necessary in the circumstances, by the use of reasonable force.

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- (6) When a water and sewerage officer enters on land under this section, the officer –
 - (a) may be accompanied by such other persons as the officer considers necessary or appropriate; and
 - (b) may bring on to the land any vehicles and equipment that the officer considers necessary or appropriate for the work which the water and sewerage officer is to carry out on the land.
- (7) A water and sewerage officer must be accompanied by a police officer –
 - (a) when entering on land with the authority of a warrant under section 56ZN; and
 - (b) if it is practicable to do so, when entering on land by force in an emergency.
- (8) Subject to this section, a regulated entity must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.
- (9) If the owner of the land and the regulated entity do not agree as to the extent of compensation, or the regulated entity

refuses to pay compensation, the claim for compensation is to be determined –

- (a) if it is a minor civil claim within the meaning of the *Magistrates Court (Civil Division) Act 1992*, by the minor civil claims division of the Magistrates Court; or
- (b) in any other case, as if it were a disputed claim for compensation under the *Land Acquisition Act 1993*.

56G. Acquisition of land, &c.

- (1) A regulated entity is an acquiring authority under the *Land Acquisition Act 1993* and may acquire land under that Act for the purposes of the operations that the regulated entity is authorised to carry on under its licence.
- (2) Without limiting subsection (1), a regulated entity –
 - (a) is taken to be a public authority for the purposes of section 90A(1) of the *Conveyancing and Law of Property Act 1884* and, accordingly, may acquire by compulsory process an easement referred to in that section; and

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- (b) may enter into, or acquire, the benefit of a covenant in gross, within the meaning of section 90AB of that Act.
- (3) Notwithstanding subsections (1) and (2), a regulated entity may acquire land by compulsory process only if the acquisition is authorised in writing by the Minister.
- (4) Regulations may be made under this Act modifying the *Land Acquisition Act 1993* in its application to the acquisition of land by regulated entities under that Act, but not so as to affect the monetary entitlements of persons from whom land is acquired.

56H. Acquisition and use of land for water infrastructure and sewerage infrastructure

- (1) Where –
 - (a) a regulated entity acquires land under this Act for the purposes of undertaking operational work or protective work on water infrastructure or sewerage infrastructure; and
 - (b) the dimensions of the land are within limits fixed by the regulations; and

- (c) the proposed use of the land complies with requirements imposed by the regulations for the purposes of this section –

a subdivision of land necessary to give effect to the acquisition is not to be regarded as development for the purposes of the *Land Use Planning and Approvals Act 1993* and is not subject in any other way to that Act.

- (2) If the use of the land complies with requirements imposed by the regulations, the use is not affected by the *Land Use Planning and Approvals Act 1993*.

56I. Work on water infrastructure and sewerage infrastructure

Where –

- (a) a regulated entity proposes to carry out work on the construction, installation, modification, maintenance, demolition or replacement of water infrastructure or sewerage infrastructure; and
- (b) the work is of a kind prescribed in the regulations and meets the criteria specified in the regulations –

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the work is not to be regarded as development or use for the purposes of the *Land Use Planning and Approvals Act 1993* and is not subject in any other way to that Act.

56J. Extensions to water infrastructure and sewerage infrastructure

- (1) A person may, in writing, request a regulated entity to extend or expand its water infrastructure or sewerage infrastructure.
- (2) A price and service plan submitted by a regulated entity for approval by the Regulator under section 65 must include –
 - (a) a policy that sets out the circumstances in which it will extend and expand its water infrastructure and sewerage infrastructure, including the circumstances in which it will extend or expand its water infrastructure or sewerage infrastructure at the request of a person; and
 - (b) the terms and conditions that will apply to such an extension or expansion.

- (3) A regulated entity must extend or expand its water infrastructure or sewerage infrastructure in accordance with its price and service plan approved by the Regulator under section 65.
- (4) Until a price and service plan is approved by the Regulator under section 65, the regulated entity must develop a policy that sets out the circumstances in which it will extend and expand its water infrastructure and sewerage infrastructure and include in that policy the terms and conditions that will apply to such an extension or expansion.
- (5) The regulated entity must publish on its website the policy and terms and conditions referred to in subsection (4).

56K. Right to cut off supply where repairs are necessary

- (1) A regulated entity may, for the purpose of carrying out operational work, protective work or any similar work, cut off the provision of a water service or a sewerage service for a reasonable period without any liability for failure to provide a water service or sewerage service.
- (2) If a regulated entity exercises its power under subsection (1), it must give reasonable notice, in writing, to all

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persons whose water service or sewerage service is to be cut off, of the time when it is expected to be cut off and when it will be restored.

Penalty: Fine not exceeding 50 penalty units.

- (3) If the water service or sewerage service fails or is cut off in an emergency, the regulated entity is not required to give notice under subsection (2).

56L. Regulated entity may reduce or restrict water supply

- (1) A regulated entity may reduce or restrict the quantity of water supplied to any person if –
- (a) the regulated entity is, because of a shortage of water or for any other unavoidable cause, unable to supply the quantity of water which would otherwise be supplied to the person; or
 - (b) the regulated entity believes that the reduction or restriction is necessary to avoid future water shortages.
- (2) If a regulated entity exercises its power under subsection (1), it must publish in a newspaper circulating generally in the

area in which the reduction or restriction is to apply, a notice of the proposed reduction or restriction.

- (3) A regulated entity that reduces or restricts the supply of water to a person in accordance with this section is not liable to any claim or demand in respect of the reduction or restriction.
- (4) A regulated entity that reduces or restricts the supply of water to a person must do so in accordance with this Act or regulations made under this Act in relation to water restrictions.

56M. Regulated entity may cut off supply of regulated services to avert danger

A regulated entity may, without incurring any liability for failure to provide a water service or sewerage service, cut off the supply of a water service or sewerage service to any relevant region, area or land if it is, in the regulated entity's opinion, necessary to do so to avert danger to any person or property.

Subdivision 3 – Planning referrals

56N. Interpretation

In this Subdivision –

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“application” means an application to a planning authority –

- (a) for a discretionary development permit or permitted development permit; or
- (b) for a combined permit;

“combined permit” means a permit for a development or use combined with the planning scheme amendment process to which Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993* applies;

“condition” includes restriction;

“discretionary development permit” means a permit for a development or use to which section 57 of the *Land Use Planning and Approvals Act 1993* applies;

“notice” means written notification including a copy of the application, and of all plans and other documents submitted with the application;

“permitted development permit” means a permit for a development or use to which section 58 of the *Land Use Planning and Approvals Act 1993* applies.

56O. Application to go to relevant regulated entity

(1) If a planning authority receives an application in relation to any matter that would –

- (a) increase the demand for water supplied by the relevant regulated entity; or
- (b) increase the amount of sewage or toxins that is to be removed by, or discharged into, the relevant regulated entity's sewerage infrastructure; or
- (c) damage or interfere with the relevant regulated entity's works; or
- (d) adversely affect the relevant regulated entity's operations –

the planning authority must, without delay, give the relevant regulated entity notice of the application, unless it is relieved from doing so under subsection (2).

(2) The planning authority is not required to give notice of the application –

- (a) if it decides to refuse to grant the application under section 57(2) of the *Land Use Planning and Approvals Act 1993*; or

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- (b) if the application is one which is exempted by the regulations from the requirement for notice to be given of it to a regulated entity.
- (3) The planning authority must, without delay, provide the relevant regulated entity –
 - (a) with any additional information provided under section 43E or 54 of the *Land Use Planning and Approvals Act 1993* in relation to an application that is the subject of a notice under subsection (1); and
 - (b) with details of any amendments to an application that is the subject of a notice under subsection (1) unless the planning authority considers that the amendment to the application would not adversely affect the interests of the regulated entity.

56P. Action by relevant regulated entity

- (1) The relevant regulated entity may make submissions to the planning authority on an application that is the subject of a notice under section 56O(1) and the relevant regulated entity is taken to be a person who has made representations under section 43F(5) or 57(5) of the *Land*

Use Planning and Approvals Act 1993 if it has made any such submissions.

- (2) A submission made under subsection (1) by a regulated entity to a planning authority may include a submission that –
- (a) the regulated entity does not object to the granting of the permit; or
 - (b) the regulated entity does not object if the permit is subject to conditions specified by the regulated entity; or
 - (c) in the case of a discretionary development permit or combined permit, the regulated entity objects to the granting of the permit on any specified ground.
- (3) The planning authority may assume that the relevant regulated entity has no submissions to make in relation to an application of which notice has been given under section 56O(1) if no such submissions are received by the planning authority within 14 days after the notice was given to the relevant regulated entity or within such further period the planning authority may allow.
- (4) Notwithstanding subsection (3), the planning authority must allow a reasonable further period if it receives

notice under section 56T(1) that the regulated entity requires additional information.

56Q. Planning authority's decision

- (1) The planning authority must take into account any submissions made by the relevant regulated entity under section 56P(1) in relation to an application that is the subject of a notice under section 56O(1), in determining whether to grant the permit, to attach conditions to it or to refuse to grant a discretionary development permit or a combined permit.
- (2) In deciding to grant the permit, the planning authority must –
 - (a) include any condition that a relevant regulated entity requires; and
 - (b) not attach a condition to a permit which conflicts with any condition included under paragraph (a).
- (3) If a regulated entity makes a submission under section 56P(1) objecting to the grant of a discretionary development permit or combined permit, the planning authority must refuse to grant the permit.

- (4) For the purposes of this Subdivision, the planning authority is taken to have power under the *Land Use Planning and Approvals Act 1993* to –
 - (a) impose any conditions that the regulated entity requires under section 56P(2)(b); or
 - (b) refuse to grant a permit that the regulated entity has objected to the granting of under section 56P(2)(c).

56R. Notification of decision and appeal

- (1) The planning authority must, in relation to an application of which notice has been given under section 56O(1) whether or not the relevant regulated entity has provided any submission in relation to such an application, provide the relevant regulated entity with –
 - (a) a copy of any permit which it decides to grant; and
 - (b) a copy of any permit amended in accordance with section 43J, 43K, 55 or 56 of the *Land Use Planning and Approvals Act 1993*; and
 - (c) a notice of its decision to refuse a permit under section 43F(1)(b)(ii)

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or 57(2) of the *Land Use Planning and Approvals Act 1993*.

- (2) The planning authority must give the relevant regulated entity notice of an appeal under section 61 of the *Land Use Planning and Approvals Act 1993* in relation to an application in respect of which notice has been given under section 56O(1).
- (3) If an appeal under section 61 of the *Land Use Planning and Approvals Act 1993* relates wholly or partly to –
 - (a) the refusal of an application by a planning authority as a result of any submissions made by the relevant regulated entity under section 56P(1); or
 - (b) the imposition of conditions on a permit by a planning authority, as required by a relevant regulated entity, under section 56Q(2) –

the relevant regulated entity is taken to be a party to that appeal.

56S. Referral to regulated entities of draft amendments to planning schemes

- (1) If a planning authority initiates an amendment, under section 34 of the *Land*

Use Planning and Approvals Act 1993, of a planning scheme administered by it, the planning authority must refer the draft amendment to the relevant regulated entity.

- (2) The relevant regulated entity may, within the period determined in accordance with section 38 of the *Land Use Planning and Approvals Act 1993*, submit representations in relation to the draft amendment to the planning authority, and any representations submitted by a relevant regulated entity are taken to be representations submitted in accordance with section 39 of the *Land Use Planning and Approvals Act 1993*.

56T. Additional information

- (1) A regulated entity may, by notice in writing served on the planning authority within the period of 7 days from the day on which it receives a notice under section 56O(1), require the planning authority to provide it with additional information before it considers the application.
- (2) If the period specified in subsection (1) includes any days on which the office of the planning authority is closed during normal business hours in that part of the State where the land subject to the

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application is situated, that period is to be extended by the number of those days.

- (3) If the regulated entity requires the planning authority to provide it with additional information under subsection (1), the period referred to in section 57(6)(b) or 58(2) of the *Land Use Planning and Approvals Act 1993*, whichever is applicable, does not run while the request for information has not been answered to the satisfaction of the regulated entity.
- (4) The regulated entity must, within 7 days from the date it receives the additional information under subsection (1), notify the planning authority if the request for information has not been answered to its satisfaction, and in that notification require the planning authority to provide it with the additional information.

Subdivision 4 – Connections and serviced properties

56U. Connections

- (1) A price and service plan submitted by a regulated entity for approval by the Regulator under section 65 must include –
 - (a) a policy that sets out the circumstances in which the regulated entity will permit an owner of land to connect, or

relocate or adjust a connection, to the regulated entity's water infrastructure or sewerage infrastructure; and

- (b) a description of the land, whether identified by individual title or by locality, it will permit to be connected to the regulated entity's water infrastructure or sewerage infrastructure.
- (2) A regulated entity must permit an owner of land to connect, relocate or adjust a connection to its water infrastructure or sewerage infrastructure in accordance with its price and service plan approved by the Regulator under section 65.
- (3) The terms and conditions of connection, relocation or adjustment to a regulated entity's water infrastructure or sewerage infrastructure specified in a price and service plan approved by the Regulator under section 65 are binding on the successors in title of the owner or assigns in respect of that land.
- (4) Until a price and service plan is approved by the Regulator under section 65, the regulated entity must develop a policy that sets out the circumstances in which the regulated entity will permit a connection or relocation or adjustment of a connection to its water infrastructure or sewerage infrastructure and a description

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of the land that it will permit to be connected to its water infrastructure or sewerage infrastructure.

- (5) The regulated entity must publish on its website the policy and a description of the land referred to in subsection (4).

56V. Requirement to connect or disconnect

- (1) A regulated entity may, by notice served on the owner or occupier of serviced land, require the owner or occupier –
- (a) to connect the land to the regulated entity's water infrastructure or sewerage infrastructure for the purpose of providing that land with water services or sewerage services if, after consulting with the Director of Public Health, within the meaning of the *Public Health Act 1997*, the Director is of the opinion that the connection is to be made in the interests of health or safety; or
 - (b) to remove any existing connection between that land and the regulated entity's water infrastructure or sewerage infrastructure if –

- (i) that connection has been made in contravention of section 56U or it contravenes any regulation made under this Act; or
- (ii) in the opinion of the regulated entity, it is necessary to do so –
 - (A) to protect water purity; or
 - (B) in the interests of health, safety or the environment; or
 - (C) to prevent damage to the regulated entity's water infrastructure or sewerage infrastructure; or
- (c) to carry out any work that the regulated entity considers necessary for the provision of a service that is required to be provided to that land –

within the time specified in the notice, or any longer time allowed by the regulated entity.

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- (2) Before a regulated entity serves a notice on the owner or occupier of serviced land requiring the owner or occupier to remove any existing connection between the serviced land and the regulated entity's water infrastructure or sewerage infrastructure, the regulated entity must consult with the Director of Public Health, within the meaning of the *Public Health Act 1997*, to ensure that the removal of the connection is in accordance with that Act.
- (3) The owner or occupier of land who has been served with a notice under subsection (1) must comply with the notice within the time specified, or any longer time allowed by the regulated entity.

Penalty: Fine not exceeding 50 penalty units.

- (4) If an owner or occupier of land who has been served with a notice under subsection (1) does not comply with the notice within the time specified, or any longer time allowed by the regulated entity, the regulated entity may –
 - (a) do the things that the owner or occupier was required by the notice to do; and
 - (b) recover from the owner or occupier its reasonable costs of

doing so, other than costs that are prescribed in the regulations to be the responsibility of the regulated entity.

- (5) The owner or occupier of land who has been issued with a notice under subsection (1) may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision by the regulated entity to serve the notice.

56W. Structures over works

- (1) Unless subsection (6) applies, a person must not, without a regulated entity's consent, cause or permit –
- (a) any prescribed structure to be built, or any filling to be placed, on land over which –
 - (i) an easement exists in favour of the regulated entity; or
 - (ii) an easement exists for water infrastructure or sewerage infrastructure; or
 - (b) any prescribed structure to be built, or any filling to be placed, within 2 metres laterally of any

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water infrastructure or sewerage infrastructure of the regulated entity or such other distance as is prescribed in the regulations; or

- (c) any prescribed structure to be built above or below any area prohibited by paragraph (b); or
- (d) to be removed any soil, rock or other matter that supports, protects or covers any works of the regulated entity.

Penalty: Fine not exceeding 100 penalty units.

- (2) An application for the regulated entity's consent under subsection (1) must be made in the manner determined by the regulated entity, and must be accompanied by any plans and other information that the regulated entity requires.
- (3) The regulated entity may –
 - (a) refuse its consent; or
 - (b) consent; or
 - (c) consent subject to any terms and conditions that it thinks fit.
- (4) A person who, with the consent of a regulated entity, causes or permits anything referred to in subsection (1) to

be done must make sure that it is done in accordance with any terms and conditions subject to which the regulated entity gave its consent.

Penalty: Fine not exceeding 100 penalty units.

- (5) Terms and conditions subject to which the regulated entity consents are binding on the successors in title or assigns of the person who applied for that consent.
- (6) Subsection (1) does not apply in respect of the authority responsible for the management of a road if it is necessary for the authority to do anything referred to in that subsection for the purpose of constructing a road or conducting maintenance works on a road.

56X. Removal of trees

- (1) A regulated entity may, by notice in writing, require the owner of any land to remove any tree on that land if the regulated entity reasonably decides that the tree is obstructing or damaging the regulated entity's works or that it is likely to obstruct or damage them.
- (2) If the tree required to be removed is not on land over which –

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(a) an easement exists in favour of the regulated entity; or

(b) an easement exists for water infrastructure or sewerage infrastructure –

the regulated entity must, subject to subsection (7), pay compensation to the owner of the land under the *Land Acquisition Act 1993*.

(3) The owner may, within 7 days after receiving a notice under subsection (1) to remove a tree, object to the regulated entity.

(4) A regulated entity must take into account any objection made to it under subsection (3) and must advise the owner, in writing, of its decision in relation to the objection and the reasons for its decision.

(5) If the owner refuses or fails to comply with the notice under subsection (1) –

(a) within the time specified in the notice; or

(b) if the owner has objected, within 7 days after the owner receives notice from the regulated entity that the objection is not upheld; or

- (c) within any longer time allowed by the regulated entity –

the regulated entity may, after giving 21 days' notice of its intention to do so, remove the tree and recover from the owner the reasonable costs of the removal.

- (6) The regulated entity may recover from the owner the reasonable cost of any repairs to the regulated entity's works that are necessary to repair the damage caused by a tree that is removed by the owner or the regulated entity after service of a notice under subsection (1).
- (7) A regulated entity is not liable to pay compensation for the removal of a tree that is planted after the completion of the works of the regulated entity that are obstructed, damaged or at risk.
- (8) The owner of land who is aggrieved by the decision of the regulated entity under subsection (4) may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.

56Y. Notice to repair

- (1) A regulated entity may, by notice served on the owner of land, require the owner to repair or carry out maintenance on,

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within the time specified in the notice or any longer time allowed by the regulated entity, any water or sewerage works on that land or that connect the land to the water infrastructure or sewerage infrastructure of the regulated entity or that are necessary for any service provided to the land by the regulated entity.

- (2) Any notice received under subsection (1) may not require any repairs or maintenance on any works referred to in subsection (1) to be carried out otherwise than in accordance with the *Building Act 2000*.
- (3) If a notice to repair is not complied with within the time specified in it, or any longer time allowed by the regulated entity, the regulated entity may carry out the required repairs and recover its reasonable costs from each owner on whom the notice was served, other than costs that are prescribed to be the responsibility of the regulated entity.

56Z. Notice of contravention

- (1) A regulated entity may, by notice served on a person who is in contravention of –
 - (a) a provision of this Division or the regulations; or

- (b) a requirement made by the regulated entity under this Division or the regulations; or
- (c) a condition of a permit imposed by a planning authority as required by a relevant regulated entity under section 56Q(2) –

require that person, or the owner of any land in relation to which the contravention occurs, to take any action specified in the notice, within the time (being not less than 2 days) that is specified in the notice or any longer time allowed by the regulated entity, to remedy the contravention.

- (2) A person on whom a notice of contravention is served must cause the notice to be complied with within the time specified, or any longer time allowed by the regulated entity.

Penalty: Fine not exceeding 100 penalty units.

- (3) If a notice of contravention is not complied with within the time specified or any longer time allowed by the regulated entity, the regulated entity may –
 - (a) carry out any works and take any other action that it decides is necessary to remedy the contravention, and recover its

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reasonable costs from the person on whom the notice was served; and

- (b) remove or disconnect any service to the land in relation to which the contravention occurs, and recover its reasonable costs from the person on whom the notice was served; and
 - (c) apply to a court for an injunction restraining the person on whom the notice was served from contravening the notice.
- (4) If a regulated entity removes or disconnects any service to land under subsection (3)(b), the removal or disconnection is to be in accordance with any code or licence issued under this Act with which a regulated entity must comply.

Subdivision 5 – Installation, reading and testing of meters

56ZA. Entry to install and read meters

- (1) A water and sewerage officer may enter on land to –
 - (a) read, or check the accuracy of, a meter; and
 - (b) install, repair, modify or replace a meter or adjoining pipe work; and

- (c) examine any water system or sewerage system.
- (2) A water and sewerage officer of a regulated entity may only exercise the power of entry between the hours of 7 a.m. and 7 p.m. on any day, unless the regulated entity determines that an emergency exists.
- (3) If entry is refused or obstructed, the regulated entity, by notice in writing to the owner or occupier of the land, may request entry, stating the reason, date and time of proposed entry.
- (4) If entry is refused again, the regulated entity may –
 - (a) restrict the supply of water if it is possible to do so without entering on the land; or
 - (b) if it is not possible to restrict the supply of water without entering on the land, obtain a warrant under section 56ZO to enter on land to restrict the water supply.
- (5) The regulated entity must remove the restriction to the supply of water if –
 - (a) the owner or occupier consents to the entry and pays an appropriate fee; and
 - (b) it is safe to enter on the land.

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- (6) The appropriate fee referred to in subsection (5)(a) may include the reasonable costs incurred in the installation or removal of a device used to restrict the supply of water.

56ZB. Installation and replacement of meters

- (1) A regulated entity may install a meter at any time or at the request of a person.
- (2) A regulated entity may replace an existing meter.
- (3) A regulated entity is not to install a meter contrary to any requirements of the *National Measurement Act 1960* of the Commonwealth or any Australian Standard prescribed in the regulations.
- (4) A regulated entity may charge a person for the reasonable cost of –
 - (a) a meter; and
 - (b) installing a meter.
- (5) A person is not entitled to charge the regulated entity any rent or charge in relation to a meter installed by the regulated entity.
- (6) If a regulated entity intends to install a meter on any land or intends to replace an existing meter on any land, it may, after consultation with the owner of the

land, determine the location of the meter on that land.

56ZC. Ownership of meter

- (1) A regulated entity is the owner of a meter connected directly or indirectly to its water infrastructure or sewerage infrastructure whether installed before or after the commencement of this Division for the purpose of providing water services or sewerage services to a person.
- (2) A person does not acquire any interest in a meter –
 - (a) on the sale of land on which the meter is installed; or
 - (b) as a result of bankruptcy or other legal proceedings against the owner of the land on which the meter is installed.

56ZD. Damage, destruction or removal of meter

A person, without lawful authority, must not –

- (a) modify, cause damage to, or destroy, a meter; or
- (b) remove a meter.

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- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) an individual, a fine not exceeding 100 penalty units.

Subdivision 6 – Functions and powers of regulated entities relating to fire protection

56ZE. Installation of fire hydrants

- (1) A regulated entity must install fire hydrants at such convenient distances, and at such places, as are necessary for the ready supply of water to control and extinguish fires.
- (2) Subsection (1) does not apply –
 - (a) so as to require fire hydrants to be installed on any water pipe that is less than 100 millimetres in diameter; or
 - (b) so as to require fire hydrants to be installed if the supply of water through the regulated entity's water infrastructure system is not sufficient for the operation of fire hydrants.
- (3) A regulated entity may remove any fire hydrant referred to in subsection (1) if, after consultation with the Chief Officer,

within the meaning of the *Fire Service Act 1979*, it is satisfied on reasonable grounds that the fire hydrant is no longer needed.

56ZF. Maintenance and marking of fire hydrants

- (1) A regulated entity must ensure that all fire hydrants owned or controlled by it are maintained in effective working order.

Penalty: Fine not exceeding 100 penalty units.

- (2) A regulated entity must provide conspicuous markers for fire hydrants owned or controlled by it.

Penalty: Fine not exceeding 100 penalty units.

56ZG. Supply of water to fire hydrant

A regulated entity must at all times keep charged with water any water infrastructure supplying water to a fire hydrant owned or controlled by it, unless prevented from doing so –

- (a) by drought or other emergency;
or

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- (b) while the regulated entity is carrying out operational works, protective works or any similar works to water infrastructure or sewerage infrastructure that prevents the continuous supply.

Penalty: Fine not exceeding 100 penalty units.

56ZH. Use of fire hydrant by authorised persons

- (1) A person authorised by the Chief Officer, within the meaning of the *Fire Service Act 1979*, or any person authorised to do so by a regulated entity may take water from a fire hydrant, without payment, for the purpose of controlling or extinguishing fires.
- (2) Subject to subsection (1), a person must not take water from a fire hydrant unless the Chief Officer or regulated entity has authorised the person to do so.

Penalty: Fine not exceeding 100 penalty units.

- (3) A person must not use a fire hydrant otherwise than for the following purposes:
 - (a) the purpose of controlling or extinguishing a fire;

- (b) another purpose approved by the Chief Officer or relevant regulated entity.

Penalty: Fine not exceeding 100 penalty units.

Subdivision 7 – General

56ZI. Interference with water infrastructure or sewerage infrastructure

- (1) A person must not cause or permit –
 - (a) any works to be connected to the water infrastructure or sewerage infrastructure of a regulated entity except in accordance with this Division; or
 - (b) the alteration or removal of, or interference with, the water infrastructure or sewerage infrastructure of a regulated entity without the regulated entity's consent; or
 - (c) anything to be discharged into the water infrastructure or sewerage infrastructure of a regulated entity without the regulated entity's consent.

Penalty: In the case of –

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- (a) a body corporate, a fine not exceeding 500 penalty units; or
 - (b) an individual, a fine not exceeding 200 penalty units.
- (2) Subsection (1)(c) does not apply to the use of water infrastructure or sewerage infrastructure by a person in accordance with a customer contract or other contract or arrangement entered into by the regulated entity and that person.

56ZJ. Diversion of water or sewage

- (1) A person, without lawful authority, must not –
 - (a) take or divert water or sewage from water infrastructure or sewerage infrastructure; or
 - (b) install a device to bypass a meter.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
 - (b) an individual, a fine not exceeding 200 penalty units.

- (2) In any proceedings under this section, the following is evidence of the unlawful taking or diversion of water or sewage:
- (a) the finding of a device or connection that would have enabled the unlawful taking or diversion of water or sewage;
 - (b) the tampering with the meter by the defendant or someone acting with the authority of the defendant.

56ZK. Obstruction

A person –

- (a) without reasonable excuse, must not obstruct a water and sewerage officer or his or her agent; or
- (b) must not intimidate or threaten a water and sewerage officer or his or her agent –

in performing any function or exercising any power under this Division.

Penalty: Fine not exceeding 100 penalty units.

56ZL. Order for costs

A court, in addition to imposing a penalty for an offence under section 56ZD, 56ZI, 56ZJ or 56ZK, may make an order for costs in respect of any damage caused as a result of that offence.

56ZM. Recovery for loss or damage

If a person is convicted of an offence under this Division, the relevant regulated entity may recover from the person, as a debt due to the regulated entity, the amount of the loss, or the reasonable cost of repairing any damage, caused by the commission of the offence.

56ZN. Application and issue of warrant

- (1) A water and sewerage officer may apply to a justice of the peace for a warrant to enter a place specified in the application for the purposes of performing his or her functions, or exercising his or her powers, under this Act.
- (2) A justice of the peace may issue a warrant to assist the water and sewerage officer in the exercise of his or her powers under this Act.

- (3) A warrant authorises the water and sewerage officer, with any assistants and by any force reasonably necessary –
 - (a) to enter the place specified in the warrant; and
 - (b) to do anything authorised by this Act, at any time, or within any period, specified in the warrant.
- (4) A warrant is to specify the date on which, and the time at which, the warrant ceases to have effect.

56ZO. Urgent situations

- (1) A water and sewerage officer may apply to a justice of the peace for a warrant by telephone, facsimile, electronic mail or other prescribed means if the officer considers the urgency of the situation requires it.
- (2) The justice of the peace may complete and sign the warrant in the same way as for a warrant applied for in person if satisfied that there are reasonable grounds for issuing the warrant urgently.
- (3) The justice of the peace must –
 - (a) inform the relevant water and sewerage officer of –

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- (i) the terms of the warrant;
and
 - (ii) the date on which, and the
time at which, the warrant
was signed; and
 - (iii) the date on which, and the
time at which, the warrant
ceases to have effect; and
 - (b) record on the warrant the reasons
for granting it.
- (4) The relevant water and sewerage officer
must –
- (a) complete a form of warrant in the
same terms as the warrant signed
by the justice of the peace; and
 - (b) write on the form –
 - (i) the name of the justice of
the peace; and
 - (ii) the date on which, and the
time at which, the warrant
was signed; and
 - (c) send the completed form of
warrant to the justice of the peace
not later than the day after the
warrant is executed or ceases to
have effect.
- (5) On receipt of the form of warrant, the
justice of the peace must attach it to the

warrant that the justice of the peace signed.

- (6) A form of warrant completed by a water and sewerage officer under subsection (4) has the same force as a warrant signed by the justice of the peace under subsection (2).

56ZP. Recreational use of public water supplies

For the purposes of Part IIIA of the *Waterworks Clauses Act 1952*, a Corporation is taken to be an undertaker within the meaning of that Act and, in the application of that Part to a Corporation, any reference in that Part to a water storage area is taken to be a reference to land that is used for the storage of water for supply to the public for domestic purposes and any land appurtenant to any such storage area.

56ZQ. Land information request

- (1) A person may apply in writing to a regulated entity for a certificate in respect of information concerning water and sewerage relating to land specified and clearly identified in the application.
- (2) The regulated entity, on receipt of an application made in accordance with subsection (1), is to issue a certificate in

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the prescribed form with answers to prescribed questions that are attached to the certificate.

- (3) A certificate under subsection (2) relates only to information that the regulated entity has on record as at the date of issue of the certificate.
- (4) The person referred to in subsection (1) is to pay to the regulated entity the prescribed fee on or before the issue of the certificate.
- (5) A regulated entity, on request, may provide in or with the certificate any other information or document relating to the land that the regulated entity considers relevant.
- (6) A regulated entity does not incur any liability in respect of any information provided in good faith from sources external to the regulated entity.
- (7) A person, with the consent of the occupier or owner of specified land, may request in writing to a regulated entity that an inspection be carried out of that land to obtain supplementary water infrastructure or sewerage infrastructure information relevant to that land.
- (8) If a regulated entity agrees to a request under subsection (5) or (7), the regulated entity may impose any reasonable charges for costs incurred.

(9) In this section –

“land” includes –

- (a) any buildings and other structures erected on the land; and
- (b) land covered with water; and
- (c) water covering land; and
- (d) any estate, interest, easement, privilege or right in or over land.

56ZR. Distillery Creek discharge

The relevant regulated entity may discharge the water for the cleaning out of the filtration plant at Distillery Creek into Distillery Creek below the Waverley Woollen Mills, or into the North Esk River, although that discharge may contain flock or other impurities that are the result of the filtration.

8. Section 65 amended (Price and service plan)

Section 65(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “service.” and substituting “service; and”;
- (b) by inserting the following paragraph after paragraph (d):

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- (e) any other matter required under this Act.

9. Section 68A inserted

After section 68 of the Principal Act, the following section is inserted in Division 5:

68A. Service charges

- (1) A price and service plan submitted by a regulated entity for approval under section 65 must include –
 - (a) a policy that sets out the circumstances in which the regulated entity will impose a service charge in relation to serviced land; and
 - (b) the amount of, or method of determining the amount of, the service charge, in relation to water infrastructure or sewerage infrastructure or water services or sewerage services.
- (2) A regulated entity may determine that a service charge applies in relation to water services or sewerage services to land referred to in subsection (1) if –
 - (a) a water service or sewerage service is provided through a connection to a pipe or sewer that

is not owned by the regulated entity; or

(b) a water service or sewerage service is available through a regulated entity's water infrastructure or sewerage infrastructure but is not connected to a water system or sewerage system; or

(c) a water service or sewerage service is provided other than through a connection point.

(3) The owner of any land to which –

(a) a service charge applies under a price and service plan approved by the Regulator under section 65; and

(b) a service rate or service charge applies under section 95 of the *Local Government Act 1993*, immediately before the commencement of this Division –

is liable for the payment of the service charge.

(4) Subject to subsection (7), a regulated entity may not charge a service charge under this section, unless notice is –

(a) served on the owner of the land; and

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- (b) published in a newspaper circulating generally in the area in which the land is situated.
- (5) A regulated entity must cause a copy of the notice under subsection (4) to be available for inspection at its offices and on its website.
- (6) A notice under subsection (4) must –
 - (a) define the locality to which it applies; and
 - (b) specify the services available; and
 - (c) generally identify the land to which the services are available; and
 - (d) fix a date on and from which the service charge will be payable, being a date not less than 3 months from the date of the notice.
- (7) A regulated entity may, without written notice, charge a service charge in respect of land that was the subject of a service rate or service charge under section 95 of the *Local Government Act 1993*, immediately before the commencement of this Division, in the same amount and on the same terms and conditions that applied immediately before the commencement of this Division or as

otherwise adjusted by an interim price order made under section 88.

- (8) A service charge specified in subsection (7) applies until a price and service plan is approved by the Regulator under section 65.

10. Section 70 amended (State of the industry report)

Section 70(4) of the Principal Act is amended by omitting “Director of Environmental Management” and substituting “Director, Environment Protection Authority”.

11. Section 88 amended (Interim price order)

Section 88 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) The Treasurer may, by notice published in the *Gazette* and in daily newspapers published and circulating in Tasmania, make an interim order in relation to –
- (a) the prices, terms and conditions for the provision of a regulated service; and
 - (b) the service standards, terms and conditions for the provision of a regulated service.