

TASMANIA

WATER AND SEWERAGE INDUSTRY AMENDMENT BILL 2012

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WATER AND SEWERAGE INDUSTRY AMENDMENT BILL 2012

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
23 August 2012

*(Brought in by the Minister for Primary Industries and Water,
the Honourable Bryan Alexander Green)*

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 2012*.

2. Commencement

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

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3. Principal Act

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

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 *meter*:

meter reader means a person authorised to be a meter reader under section 56ZAA;

- (b) by omitting the definition of *trade waste* and substituting the following definition:

trade waste means liquid waste generated other than in the course of domestic activities and includes liquid waste generated by any trade, industrial, commercial, educational, medical, dental, veterinary, agricultural, horticultural, scientific research or experimental activities;

*No. 13 of 2008

5. Section 56L amended (Regulated entity may reduce or restrict water supply)

Section 56L of the Principal Act is amended by inserting after subsection (2) the following subsections:

(2A) A regulated entity, on a day that has been declared under section 70 of the *Fire Service Act 1979* to be a day of total fire ban, may reduce or restrict the quantity of water supplied to any person.

(2B) As soon as practicable after –

(a) a regulated entity becomes aware that a day of total fire ban has been declared under section 70 of the *Fire Service Act 1979*; and

(b) the regulated entity forms the intention to reduce or restrict the quantity of water that may be supplied to any person on that day –

the regulated entity must take reasonable steps to inform persons, situated in the area in which the reduction or restriction applies or is to apply, of the reduction or restriction.

6. Sections 56ZAA and 56ZAB inserted

Before section 56ZA of the Principal Act, the following sections are inserted in Subdivision 5:

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56ZAA. Meter readers

- (1) A regulated entity, by instrument in writing, may authorise a person to be a meter reader.
- (2) A person may be authorised by a regulated entity to be a meter reader, whether or not the person is employed by the regulated entity.
- (3) In the exercise of a meter reader's powers under this Act, the meter reader is subject to control and direction by the relevant regulated entity.
- (4) A meter reader is authorised for the period stated in the meter reader's instrument of authorisation.
- (5) A meter reader is authorised on the conditions specified in the meter reader's instrument of authorisation.
- (6) An authorisation of a person as a meter reader may be revoked by the regulated entity.
- (7) In the exercise of a power under this Act, a meter reader must do as little damage as possible.

56ZAB. Meter reader's identity card

- (1) A regulated entity must provide an identity card to each meter reader who is authorised by the entity.

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- (2) The identity card is in force for the period specified on the card.
- (3) The identity card must –
 - (a) contain a photograph of the meter reader taken for the purpose; and
 - (b) be signed by the meter reader; and
 - (c) identify the person as a meter reader for the relevant regulated entity; and
 - (d) be signed by the chief executive officer of the relevant regulated entity.
- (4) A meter reader must, before exercising a power under section 56ZA that may affect a person, produce the meter reader's identity card for inspection on demand by the person.

Penalty: Fine not exceeding 10 penalty units.

7. Section 56ZA amended (Entry to install and read meters)

Section 56ZA of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or a meter reader” after “officer”;

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- (b) by inserting in subsection (2) “, or a meter reader,” after “officer”.

8. Section 56ZK amended (Obstruction)

Section 56ZK of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “or a meter reader” after “agent”;
- (b) by inserting in paragraph (b) “or a meter reader” after “agent”.

9. Part 4, Division 2A, Subdivision 8 inserted

After section 56ZR of the Principal Act, the following Subdivision is inserted in Division 2A:

Subdivision 8 – Transitional matters – trade waste

56ZS. Interpretation

- (1) In this Subdivision –

Miscellaneous Amendments Act
means the *Water and Sewerage
Legislation (Miscellaneous
Amendments) Act 2009*;

transitional consent means a relevant
instrument to which this
Subdivision applies.

- (2) In this Subdivision, a ***relevant instrument*** is –

- (a) a special plumbing permit, the terms and conditions of which are to be taken under section 20(2) of the Miscellaneous Amendments Act to be the terms and conditions of a consent granted under section 56ZI of this Act; or
- (b) a trade waste agreement, the terms and conditions of which are to be taken under section 20(2) and (3) of the Miscellaneous Amendments Act to be the terms and conditions of a consent granted under section 56ZI of this Act; or
- (c) a consent that is granted under section 56ZI of this Act pursuant to an application to which section 20(5) of the Miscellaneous Amendments Act applies.

56ZT. Application of Subdivision

This Subdivision applies to a relevant instrument –

- (a) that is in force immediately before the day on which this Subdivision commences; and
- (b) that does not contain a term or provision specifying the date on which the relevant instrument is to cease to be in force.

56ZU. Variation of certain instruments relating to trade waste

- (1) The terms and conditions of a transitional consent may be varied as agreed between the regulated entity, and the person, to whom the consent relates.
- (2) A regulated entity may notify a person to whom a transitional consent relates that –
 - (a) the person is required to enter into negotiations in relation to the terms and conditions of the consent; and
 - (b) the person is, for that purpose, to contact a person specified in the notice.
- (3) A notice under subsection (2) is to include a summary of the process by which the terms and conditions of a transitional consent may be varied under this Subdivision and the consequences of the terms and conditions not being so varied.
- (4) If, before the end of the period of 3 years after the date on which a notice is issued under subsection (2) by a regulated entity to a person to whom a transitional consent relates, the regulated entity and the person have not agreed to vary the terms and conditions of the consent, the regulated entity may issue a notice (*warning notice*) to the person.

- (5) A warning notice to a person is a notice stating that –
- (a) the consent to which the notice relates will cease to be in force at the end of the period of 3 months after the date on which the warning notice is issued, unless –
 - (i) an application is made to the Regulator under subsection (6); or
 - (ii) the person agrees to vary the terms and conditions of the consent so that they are the same as, or include, the terms and conditions set out in the notice; and
 - (b) the person may apply to the Regulator, before the end of the period of 14 days after the date on which the warning notice is issued, for the Regulator to determine the terms and conditions of the consent under subsection (1).
- (6) A person, before the end of the period of 14 days after a warning notice in relation to a transitional consent is issued to the person, may apply to the Regulator to determine the terms and conditions that are to be the terms and conditions of the

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transitional consent to which the notice applies.

- (7) If an application is not made under subsection (6) in relation to a transitional consent to which a warning notice relates and the terms and conditions of the consent are not varied under this Subdivision, then, despite any provision in the Miscellaneous Amendments Act, at the end of the period of 3 months after the date on which the warning notice is issued –
- (a) the transitional consent ceases to be in force; and
 - (b) a regulated entity ceases to be required to take all reasonable steps to provide or make arrangements for the provision, to the area of land to which the consent relates, of sewerage services consisting of the removal of trade waste; and
 - (c) if section 56ZS(2)(a) or section 56ZS(2)(b) applies in relation to the transitional consent, the transitional consent ceases to be a special plumbing permit or trade waste agreement.

56ZV. Determination by Regulator of applications

- (1) The Regulator, after receiving an application under section 56ZU(6) in relation to a transitional consent, is to determine the terms and conditions of the consent.
- (2) The Regulator is to –
 - (a) take all reasonable steps to make a determination under subsection (1) in relation to a transitional consent within 12 months after having received an application in relation to the consent under section 56ZU(6); and
 - (b) comply with the prescribed procedures, if any, in relation to the making of a determination under subsection (1); and
 - (c) have regard to the prescribed matters, if any, before making a determination under subsection (1).
- (3) Despite section 20 of the Miscellaneous Amendments Act, the terms and conditions determined under subsection (1) in relation to a transitional consent are to be taken to be the terms and conditions of –
 - (a) the transitional consent; and

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(b) the special plumbing permit or trade waste agreement, if any, that is the transitional consent –

on and from the date specified in the determination as the date on and from which the terms and conditions are to be in force, until the consent ceases to be in force.

- (4) Nothing in subsection (3) affects the application of section 56ZU(1) to a transitional consent.
- (5) The Regulator may issue a notice (a ***reimbursement notice***) to a regulated entity, or a person, to whom a transitional consent relates, if the terms and conditions of the consent have been determined under subsection (1).
- (6) A reimbursement notice in relation to a transitional consent is to specify that the regulated entity, or the person, to whom the notice is issued is required to reimburse to the Regulator the amount specified in the notice.
- (7) The amount specified in a reimbursement notice in relation to a transitional consent is to be the amount that the Regulator thinks fit of the costs that have been reasonably incurred by the Regulator in making a determination under subsection (1) in relation to the transitional consent.

- (8) The Regulator may, under subsection (5), issue to a regulated entity and a person separate reimbursement notices in relation to a transitional consent, apportioning between the entity and the person all or part of the costs that have been reasonably incurred by the Regulator in making a determination under subsection (1) in relation to the transitional consent.
- (9) An amount specified in a reimbursement notice issued to a regulated entity or a person under subsection (5) is a debt due and payable to the Regulator by the entity or person, respectively, before the end of the period of 30 days after the notice is issued.

10. Section 96 amended (General investigative powers of officers)

Section 96(1) of the Principal Act is amended by omitting “Division” and substituting “Part”.

11. Section 99 amended (Compensation)

Section 99 of the Principal Act is amended by omitting “or water and sewerage officer” and substituting “, water and sewerage officer or meter reader”.

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12. Section 102 amended (False or misleading information)

Section 102 of the Principal Act is amended by inserting “, a water and sewerage officer, a meter reader” after “entity”.

13. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.