

Water Legislation Amendment Bill 2013

Clause Notes

PART 1 – PRELIMINARY

Clause 1 **Short Title**

Clause 2 **Commencement**

This Act will commence on a day or days to be proclaimed.

PART 2 – WATER MANAGEMENT ACT 1999 AMENDED

Clause 3 **Principal Act**

The Principal Act referred to in this Part is the *Water Management Act 1999*.

Clause 4 **Section 3 amended (Interpretation)**

The definitions of ‘responsible water entity’ and ‘Special Act’ are rescinded as these are no longer applicable.

The term ‘administration licence’ is defined as a licence granted under Part 9 for the administrative control and responsibility of a water district.

The definition of ‘authorisation’ is amended to include reference to a ‘water access right’. Reference to ‘transfer’ is omitted from paragraph (a) as it is covered in paragraph (c). Paragraph (b) of the definition of authorisation is repealed as it is no longer required.

The term ‘licensed water entity’ is defined as a water entity holding an administration licence issued under Part 9A.

The term ‘limits of a rural water supply district’ is inserted to clarify the extent of a such a district and includes the water district as well as the vicinity of any source of supply and land required to bring water into the district or from one part of a district to another or for discharging surplus/drainage water from the district.

The term ‘nominated location’ is defined as the location within a rural water supply district which has been nominated by a person entitled to be supplied with water as the location at which they require water to be supplied.

**Clause 4
(continued)**

The definition of 'prior right' is amended to clarify that it relates to rights under Part 5 and 6.

The term 'rural water supply system' is inserted and refers to the infrastructure used to collect and deliver water located within the boundaries of a rural water supply district and may include watercourses and lakes.

The term 'security interest' is defined to include mortgages or charges over land with respect to a water licence, water access right or delivery right that secures the payment of a debt or other obligation under a contract or legally enforceable arrangement.

The term 'water access right' is defined to mean a water access right referred to in section 203D.

The term 'water delivery right' is defined to mean a water delivery right referred to in section 203R.

The term 'water district' is amended to replace irrigation district and water supply district with rural water supply district.

The term 'water entity' is amended to remove reference to a water management plan being administered by a water entity and to clarify that a water entity can be a company within the meaning of the *Irrigation Company Act 2011*.

The term 'water supply period' is defined as the period during which a licensed water entity supplies water.

The term 'works' is amended to remove the reference to a water entity responsible for a water management plan and to clarify that works can include buildings used for the purpose of a water district.

A new paragraph is inserted into subsection (2) that defines 'conveyance' for Part 6A as meaning the delivery of water within, and the taking of water from the beds and banks of a watercourse.

Clause 5

Section 10 amended (Delegation)

This clause amends subsection (3) by inserting the phrase 'licensed' before 'water entity'.

Section 10(5)(b) is amended to provide consistency with other amendments.

The non-delegable powers under section 10(5)(c) have been rescinded as that provision is no longer required.

- Clause 6** **Section 14 amended (Scope of water management plans)**
References in section 14 to water supply channel and water entity are removed as these are no longer relevant.
- Clause 7** **Sections 37 and 38 repealed**
Sections 37 and 38 are repealed thus removing the power for a water entity to administer a water management plan
- Clause 8** **Section 39 amended (Withdrawal of representation)**
Subsection (2) is omitted as it is no longer relevant given the repeal of other provisions in Part 4 relating to the administration of a water management plan by a water entity.
- Clause 9** **Sections 40, 41, 42, 43, 44 and 45 repealed**
Sections 40, 41, 42, 43, 44 and 45 relating to the administration of a water management plan by a water entity are no longer required and therefore repealed.
- Clause 10** **Section 46 amended (Powers of Minister)**
Paragraph (d) is omitted for consistency with other amendments in Part 4.
- Clause 11** **Section 47 repealed**
Section 47 is repealed as it relates to a water management plan being administered by a water entity and this provision is no longer required.
- Clause 12** **Section 53 amended (Exceptions to general rights)**
Section 53 is amended by inserting reference to an exemption under Part 6A and an authorisation to take water under Part 9A.
- Clause 13** **Section 54 amended (Licences)**
A new paragraph (da) is inserted into subsection (2) clarifying that a licence is not required if taking water in accordance with an authorisation under section 123A or an exemption from such an authorisation under Part 6A.

Paragraph (f) in subsection (2) is amended to refer to an authorisation to take water under Part 9A.
- Clause 14** **Section 61 amended (Notification of security interest)**
Subsections (1), (2), (4), (5), (6) and (8) are amended to substitute the term 'financial interest' with 'security interest'.
- Clause 15** **Section 69 amended (Variation of licences)**
Subsection (2)(h) is amended to correct the reference in Part 9 from section 192 to section 191.

Subsection (3) is amended to substitute the term 'financial interest' with 'security interest'.

- Clause 16** **Section 77 amended (Surrender of licences)**
Subsection (2) is amended to substitute the term ‘financial interest’ with ‘security interest’.
- Clause 17** **Section 87 amended (Re-allocation of water)**
Subsection (2)(c) is amended to substitute the term ‘financial interest’ with ‘security interest’.
- Clause 18** **Section 88 amended (Reduction of water allocations)**
Subsection (1) is amended to substitute the term ‘financial interest’ with ‘security interest’.
- Clause 19** **Section 100 amended (Withdrawal of application)**
Section 100 is amended to correct a drafting error.
- Clause 20** **Section 104 amended (Consent of parties with security interest)**
Subsection (1) is amended to substitute the term ‘financial interest’ with ‘security interest’.
- Clause 21** **Section 106 amended (Cancellation, &c, of licence on conviction for offence)**
Subsections (5) to (7) are amended to substitute the term ‘financial interest’ with ‘security interest’.
- Clause 22** **Section 123A substituted (Watercourse authority)**
Section 123A is substituted in order to clarify the requirements for conveying water via a watercourse. Under subsection (1), water may only be conveyed via a watercourse by a person holding a watercourse authority and that water is conveyed in accordance with that authorisation.
- Subsection (2) specifies that a watercourse authorisation is not required when:
- a water management plan specifies that a watercourse authorisation is not required; or
 - water is conveyed in a rural water supply system in a rural water supply district and prior approval has been obtained from a licensed water entity; or
 - an administration licence for a rural water supply district specifies that a watercourse authority is not required.
- Clause 23** **Section 123C amended (Determination of application)**
Subsection (1) is amended to allow for the Minister to approve an application as if it were an application of a more limited kind than made, if the applicant agrees.
- A new paragraph (c) is inserted into subsection (3) to provide for the notification of rights of review or appeal in relation to any refusal made under this section.

Clause 24 **Section 123D amended (Issue of watercourse authority)**
Paragraph (c) in subsection (3) is amended to insert the term 'conveyed'.

Clause 25 **Section 123E amended (Nature of watercourse authority)**
Paragraph (a) in subsection (1) is amended to omit both the terms 'stored' and 'special Act'.

A new paragraph (ab) is inserted into subsection (1) to clarify that a watercourse authorisation authorises the taking of conveyed water downstream.

Clause 26 **Section 123EA inserted (Variation of watercourse authority)**
Section 123EA is inserted to provide for variations to be made to a watercourse authority. Subsection (2) sets out how a watercourse authority may be varied (with the written consent of the holder of the authorisation, or on application by the holder of the authorisation or at times when the conditions of the authorisation specify that a variation can be made).

Subsections (3) to (6) outline the process for considering an application by a holder of a watercourse authority to vary an authorisation.

Subsection (7) sets out when a variation takes effect. Under subsection (8) a fresh form of a watercourse authority may be issued to reflect a variation.

Clause 27 **Section 123F amended (Cancellation or suspension of watercourse authority)**
A new paragraph (c) is inserted into subsection (3) to provide for the notification of rights of review or appeal in relation to any cancellation or suspension made under this section.

Clause 28 **Section 123G substituted (Exemptions)**
Section 123G is substituted in order to more clearly outline the nature of any exemption from the requirement to hold a watercourse authority. Subsection (1) enables the Minister to declare by order that all or part of a water entity's operations are exempt from the requirement to hold a watercourse authority. Such an order is a statutory rule (refer subsection (2)).

Subsection (3) clarifies that an exemption under subsection (1) may apply to part or all of a rural water supply district or a watercourse or part of a watercourse.

Subsection (4) states that an exemption will be subject to any conditions that the Minister thinks fit.

**Clause 28
(continued)**

Subsection (5) specifies that the Minister may determine that an exemption does not apply where one water district overlaps with another and there is a potential to adversely impact on the operation of the other entity.

Clause 29

Part 9 (substituted)

This Clause inserts two new Parts into the Act:

- Part 9 – Water Districts;
- Part 9A – Supply and Delivery of Water in Rural Water Supply Districts.

PART 9 – WATER DISTRICTS

Sections 166 to 203 are inserted to legislate in respect of the establishment and administration of water districts.

DIVISION 1 – INTERPRETATION

Division 1 provides definitions specific to the interpretation of Part 9.

Section 166 Interpretation of Part

The term ‘undertake works’ is defined in subsection (1) and includes works for the construction, erection, enlargement, modification, repair and removal of any works to which this Part applies.

Subsection (2) clarifies that for the purposes of Part 9, the powers given to a licensed water entity to enter land and undertake works includes work by an officer, servant, workman or an agent and also that wheeled or tracked vehicles may be used. It also provides that the power to administer a rural water supply district includes the power to do so via a third party.

DIVISION 2 – WATER DISTRICTS

Section 167 Water districts

Section 167 describes the types of water district that the Minister may declare and how the boundaries are defined. The following districts can be declared: rural water supply district; riverworks district; hydro-electric district; and drainage district.

Section 168 Requirement for licence to administer a water district

Section 168 legislates that a water entity must not undertake the administrative control of, or take responsibility for a water district unless it holds an administration licence which is issued under Part 9. This includes a penalty for non-compliance.

**Clause 29
(continued)**

Section 169 Purpose of rural water supply district

Subsection (1) defines the purpose for establishing a rural water supply district.

Subsection (2) outlines the activities a licensed water entity administering such a district may undertake.

Subsection (3) clarifies that a rural water supply district may also be referred to as an irrigation district.

Section 170 Purpose of riverworks district

Subsection (1) defines the purpose for establishing a riverworks district.

Subsection (2) outlines the activities a licensed water entity administering such a district may undertake.

Subsection (3) specifies that a riverworks district must not include land associated with forestry, unless the agreement from the Minister administering the *Forestry Act 1920* is obtained.

Section 171 Purpose of hydro-electric district

Subsection (1) defines the purpose for establishing a hydro-electric district.

Subsection (2) outlines the activities a licensed water entity administering such a district may undertake.

Section 172 Purpose of drainage district

Subsection (1) defines the purpose for establishing a drainage district.

Subsection (2) outlines the activities a licensed water entity administering such a district may undertake.

DIVISION 3 – APPLICATION TO ESTABLISH WATER DISTRICT

Section 173 Application to establish water district

Section 173 outlines the requirements for an application to establish a water district. Subsections (1) and (2) specify who may make an application to establish a water district.

Subsection (3) specifies the mandatory requirements to be included in an application.

Section 174 Withdrawal of application

Section 174 provides the power for an applicant to withdraw an application.

**Clause 29
(continued)**

Section 175 Notice of application to establish water district

Subsection (1) details the requirements for the Minister to give public notice of an application to establish a water district in the *Gazette* and a local newspaper.

Subsection (2) outlines the matters covered by a notice including the full details of the proposed water district and an invitation to make written representations in relation to the proposal for a period of at least 28 days.

Subsections (3) to (6) detail who else the Minister must consult with regarding an application.

Section 176 Consideration of application

Section 176 specifies that before the Minister makes a decision in relation to an application, due regard must be given to any representations that have been made as a result of a notice under section 175.

Section 177 Determination of application

Subsection (1) states that the Minister may approve or refuse an application to establish a water district.

Subsection (2) allows the Minister to amend a proposal in an application before approving it. In accordance with subsection (3), if such an amendment is substantial the Minister must notify the applicant.

Subsection (4) provides for an applicant to further amend or remake or withdraw an application.

Subsection (5) states that a further amended or remade application is to be treated as a new application under section 173.

Subsection (6) sets out the grounds on which the Minister must be satisfied before an application is approved or refused.

In accordance with subsection (7), approval by the Minister may be subject to conditions. Subsection (8) outlines the types of conditions that may be imposed.

Section 178 Notification of decision

Under subsection (1) the Minister must, within 7 days of making a decision to approve or refuse an application to establish a water district, notify the applicant of the decision and any appeal rights under Part 14.

Where an application has been approved, subsection (2) requires the Minister to notify any person who made a representation of the approval and any rights of review.

**Clause 29
(continued)**

Section 179 Declaration of water district

Subsection (1) provides that a water district is declared by publishing a notice in the *Gazette*. Such a notice is not a statutory rule (subsection (2)).

Subsection (3) also requires notification to be provided in a local newspaper.

DIVISION 4 – LICENCE TO ADMINISTER WATER DISTRICT

Section 180 Issue of licence to administer water district

Subsection (1) specifies that once a water district is declared, the Minister has 7 days to issue a water entity responsible for a district with an administration licence.

Subsections (2) to (4) outline the format and conditions associated with an administration licence.

Subsection (5) provides a penalty for contravening the conditions of an administration licence. The head of power for charging an annual administration licence fee is provided for in subsection (6).

Section 181 Variation of administration licence

Subsection (1) provides the head of power to vary an administration licence.

Subsection (2) details the circumstances under which an administration licence may be varied.

Specific provisions regarding the variation of an administration licence for an electricity entity have been included to reflect arrangements that are currently in place (refer subsection (3)).

Subsections (4), (5), (6) and (8) set out the process for the consideration of an application from a licensee to vary an administration licence.

Subsection (6) provides that the Minister may, if of the opinion that a variation applied for would result in significant changes to the administration of a water district, require the application to be treated as if it were a new application to establish a water district under section 173.

Subsection (9) states that the variation of an administration licence takes effect when the licensee is given notice of it or such later date as specified in a notice.

In accordance with subsection (10), the Minister may issue a fresh form of the licence to reflect variations made under this section.

**Clause 29
(continued)**

Subsection (11) clarifies that if an application for a variation is treated as a new application in accordance with subsection (6), and is granted, the old district is revoked.

Section 182 Cancellation of administration licence

Section 182 provides the legislative means by which an administration licence can be cancelled, namely on the revocation of a water district under section 190.

DIVISION 5 – ADMINISTRATION OF WATER DISTRICTS

Section 183 Alteration of boundaries

Subsection (1) states that the Minister may alter the boundaries of a water district by notice in the *Gazette* at the request of a licensed water entity.

Subsection (2) states that such a notice is not a statutory rule.

Subsection (3) requires any application, that would result in an increase in the area of land covered by a district of more than 10%, to be treated as a new application to establish a water district under section 173.

Subsection (4) requires an alteration to be consistent with any relevant water management plan.

Subsection (5) stipulates that any extension of a water district may not include land that lies within another water district without first obtaining the agreement of the entity administering the other district. Paragraph (a) states that such an agreement must not be unreasonably withheld. In accordance with paragraph (b), such an agreement may be subject to reasonable conditions that the other water entity may impose.

Subsection (6) provides for the Minister to include any conditions relating to the boundary alteration in the *Gazette* notice.

Subsection (7) states an administration licence is to be amended to take into account any boundary alterations and relevant licence conditions.

Subsection (8) clarifies that once an application is approved in accordance with subsection (3), the old district is revoked.

Section 184 Substitution of water entities

Subsection (1) provides for the substitution of water entities through a joint application.

Subsection (2) clarifies that an entity under subsection (1) may include persons proposing to create a water entity.

**Clause 29
(continued)**

Subsection (3) provides for the approval by the Minister of a request to substitute water entities. Such an approval may be made with or without conditions (subsection (4)) and conditions may include matters outlined in subsection (5).

Subsection (6) provides that the Minister may, if of the opinion that a proposed substitution of water entities would result in significant changes to the administration of a district, require that a request be treated as if it were a new application to establish a water district under section 173.

Subsection (7) clarifies that on substitution of water entities, by-laws made by the former entity will continue in force until rescinded or amended. The Minister may, in accordance with subsection (8), direct by a *Gazette* notice that by-laws cease to have effect or continue subject to amendments specified in a notice.

Subsection (9) states that such a notice is not a statutory rule.

Subsection (10) clarifies that if an application for substitution is treated as a new application under section 173 (in accordance with subsection 6), and is granted, the old district is revoked.

Subsection (11) stipulates that a hydro-electric district must only be administered by an electricity entity.

Section 185 Transfer of administration licence on the substitution of water entities

Subsection (1) requires that an administration licence is transferred on the substitution of water entities under section 184.

Subsection (2) provides that the Minister may amend an administration licence to take account of conditions specified under section 184(4).

Section 186 Annual reports to Minister

Subsection (1) requires a licensed water entity to provide annual reports to the Minister. Subsection (2) outlines what is to be contained in an annual report.

The Minister, in accordance with subsection (3), may accept an annual report prepared under any other Act.

Where a licensed water entity has not provided an annual report the Minister can formally direct it to do so under subsection (4), and if that direction is not complied with, a fine can be applied in accordance with subsection (5).

**Clause 29
(continued)**

Section 187 Powers of Minister

Section 187 specifies the powers of the Minister in ensuring the due administration of a water district, which include:

- undertaking surveys and inspections;
- taking measurements and samples of water and other materials which may affect water quality;
- undertaking environmental, water quality and other monitoring in any water resource in a district;
- entering land;
- requiring a licensed water entity to provide the Minister with information relating to the administration of a district;
- directing a licensed water entity to ensure administration of a district is consistent with the Act's objectives.

Section 188 Revocation of approval to administer water district

Section 188 details the process for revoking the approval of a licensed water entity to administer a water district.

Under subsection (1), the Minister may serve a notice on an entity giving it 60 days to show why the approval to administer a district should not be revoked. Paragraphs (a) to (d) in subsection (1) outline the circumstances under which the Minister may take such action.

Subsection (2) requires the Minister to consider submissions from a licensed water entity relating to why the Minister should not take action to revoke approval to administer a water district.

Subsection (3) provides for the Minister to take action against a licensed water entity by giving written notice. Paragraphs (a) to (c) set out the action that can be taken.

Under subsection (4) the Minister may, by *Gazette* notice, revoke a district and transfer the district's administration licence (in accordance with section 189). Such a revocation takes effect when notice is given or at a later date specified in the notice (see subsection (5)).

Subsection (6) provides for a letter of censure to a licensed water entity which may include a direction to rectify, within a specified time, any matter to which the censure letter relates. If that direction is not complied with, subsection (7) provides the head of power for the Minister to revoke approval to administer a water district.

In accordance with subsection (8), a notice under this section is not a statutory rule.

**Clause 29
(continued)**

Section 189 Effect of revocation of approval

Section 189 details the effect of revoking the approval for a water entity to administer a district, and sets out what may be provided for in a notice of revocation (see subsection (1)).

Subsections (2) and (3) provide for the transfer of an administration licence upon revocation of approval, and revocation of the declaration of a district in accordance with section 190 and consequential cancellation of an administration licence.

Section 190 Revocation of declaration of district

Subsection (1) provides for the revocation of a water district on application by a licensed water entity, or where the Minister thinks it appropriate. Revocation of a district is undertaken by a *Gazette* notice.

Subsection (2) states that a notice is not a statutory rule.

Subsection (3) provides that where a licensed water entity is an electricity entity, revocation of a water district may only be done with the consent of the electricity entity, or on the payment of compensation as provided for by subsection (4).

Subsection (5) requires that before revoking a district, the Minister must consult with persons with an authorisation to take water under Part 9A. Subsection (6) requires the Minister to take reasonable and practicable steps to ensure that people with a water access right or other authorisation to take water under Part 9A have an on-going entitlement to take water commensurate with that right or authorisation.

Subsection (7) outlines matters the Minister may make directions relating to (for example the sale or disposal of assets and on-going maintenance of works).

Subsection (8) states that an administration licence is cancelled when a district is revoked.

Subsection (9) provides for the recovery of expenses relating to the revocation of a water district from a water entity.

Section 191 Power to convert water allocations in rural water supply district

Subsection (1) provides that once a rural water supply district has been declared, the Minister may determine, by *Gazette* notice, that water allocations under Part 6 either:

- cease to have effect and are transferred to a licensed water entity, and replaced with a water access right; or
- continue to operate subject to any conditions specified by the Minister.

**Clause 29
(continued)**

Subsection (2) states that a notice is not a statutory rule. In accordance with subsection (3), a notice can be made subject to any conditions that the Minister thinks fit to further the objectives of the Act.

Under subsection (4), the Minister is required to seek representations from affected persons prior to making a declaration under subsection (1). Subsection (5) requires the Minister to have regard to any representations made.

Subsection (6) outlines the circumstances under which registered security interests on a water allocation are to attach to a water access right.

Subsection (7) states that the volume of water endorsed on a water access right is to be not less than the volume transferred to a licensed water entity.

Subsection (8) states that a declaration to covert rights cannot be made if it would be inconsistent with any relevant water management plan.

DIVISION 6 – POWERS OF LICENSED WATER ENTITIES IN DISTRICTS

Section 192 Power to acquire land

Subsection (1) provides a licensed water entity with the power to acquire land.

Subsection (2) provides for the disposal of land by a licensed water entity.

Subsection (3) clarifies that this section does not derogate from the application of any other Act relating to the acquisition, sale or disposal of land by a licensed water entity.

Section 193 Powers to enter private land and undertake works

Subsection (1) defines the meaning of the term 'land' in relation to different types of districts.

Subsection (2) sets out the powers a licensed water entity has to enter any private land and undertake works on giving notice.

In accordance with subsection (3), written notice can be given to the owner or occupier of the relevant land.

Subsection (4) requires that any notice given by a licensed water entity must state what the entity intends to do on the land and how long it will take.

**Clause 29
(continued)**

Subsection (5) legislates that in the case of unoccupied land, notice is to be given to the person shown on the valuation list or assessment roll of the relevant council.

Subsection (6) sets out the penalty for hindering or obstructing a licensed water entity from entering land and undertaking works.

Subsection (7) provides for the waiving of the need for a notice to enter land to undertake works urgently.

Subsection (8) sets out the penalty for a licensed water entity not giving notice in accordance with this section.

Section 194 Powers to enter public land and undertake works

Subsection (1) defines the term 'public land' in relation to different types of districts.

Subsection (2) sets out the powers a licensed water entity has to enter any public land and undertake works on giving notice.

Subsection (3)(a) states that unless otherwise agreed between a licensed water entity and a responsible authority, or in the case of an emergency, written notice regarding the undertaking of any works must be given to the responsible authority. In accordance with subsection (3)(b), a licensed water entity must obtain the responsible authority's agreement as to how the work is to be carried out.

Subsection (4) requires that any agreement under subsection (3) may include conditions that the responsible authority considers appropriate in the public interest.

Subsection (5) and (6) stipulate that the regulations may provide for the type of work for which prior notice or an agreement under subsection (3) are not required.

Subsection (7) legislates that in an emergency, a licensed water entity may carry out work specified in subsection (2) at any time.

Subsections (8), (9) and (10) provide clarity around how to deal with any damage that a licensed water entity may cause in exercising its powers under this section.

Subsection (11) states that this section does not derogate from the obligation to comply with any other Act.

Subsections (12) and (13) set out the penalties for non-compliance with this section.

**Clause 29
(continued)**

Section 195 Appeal against notice

Subsection (1) provides a licensed water entity with the ability to appeal to the Appeal Tribunal against any conditions or disputes relating to a notice given under section 194(3).

Subsection (2) states that subsection (1) does not apply if the responsible authority is a Minister, or person or body to whom directions may be given by a Minister, in respect of a matter in dispute.

Subsection (3) requires that an appeal is heard and determined in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*. In accordance with subsection (4), the only parties to the appeal are a licensed water entity and a responsible authority.

Section 196 Application of Part 9A in respect of rural water supply districts

Section 196 states that in addition to the powers conferred by Division 6 of Part 9, Part 9A details a range of other powers in respect of the operation and management of a rural water supply district.

Section 197 Compensation

Subsection (1) provides for the payment of compensation by a licensed water entity in the event of any damage caused in the course of administering a water district.

Subsection (2) limits the timeframe during which a person must make a claim for compensation. This applies if a licensed water entity serves a notice on a person requiring them to make a claim for compensation.

Subsection (3) provides for resolution over the amounts of compensation.

Section 198 Offences in connection with water districts

Section 198 details the offences in connection with a water district.

Section 199 Further offences in rural water supply districts

Section 199 prescribes additional offences that apply in rural water supply districts. Subsection (1) prescribes the penalty for taking water without a water access right or authorisation under section 203C.

Where water is taken in a rural water supply district in accordance with the matters outlined in subsection (2), then the offence provision in subsection (1) does not apply.

**Clause 29
(continued)**

Subsection (3) prescribes a penalty for taking water in excess of a relevant water access right and contravening any relevant terms and conditions or by-laws.

Section 200 Compensation payable to water entity

Subsections (1) and (2) provide for compensation to be paid to a water entity.

DIVISION 7 – RATES FOR RIVERWORKS AND DRAINAGE DISTRICTS

Section 201 Power to levy rates

Subsection (1) provides a licensed water entity the power to determine and levy rates in riverworks and drainage districts.

Under subsection (2), different rates may be levied in different parts of a district.

Section 202 Rates on Crown land

Section 202 provides the power for the Treasurer to pay for rates on unoccupied crown land within riverworks and drainage districts, from the Consolidated Fund.

Section 203 Procedure for rating

Subsection (1) provides for the procedure by which rates are to be levied on owners of properties in a water district.

Subsection (2) provides for rates in a water district to be levied annually.

Subsection (3) provides that rates levied in a water district are not subject to remission under the *Local Government (Rates and Charges Remissions) Act 1991*.

Subsection (4) provides for the remittance of any rates with the Minister's approval.

PART 9A – SUPPLY AND DELIVERY OF WATER IN RURAL WATER SUPPLY DISTRICTS

Sections 203A to 203ZZD are inserted to legislate in respect of the supply and delivery of water in a rural water supply district.

DIVISION 1 – INTERPRETATION

Section 203A Interpretation

This section defines the specific meaning of the terms 'licensed water entity' and 'register' in relation to Part 9A.

**Clause 29
(continued)**

The term 'licensed water entity' is defined as a licensed water entity with the primary purpose of supplying water in a rural water supply district in accordance with an administration licence.

The term 'register' means a register of water access rights or water delivery rights kept by a licensed water entity.

DIVISION 2 – SUPPLY OF WATER

Section 203B Supply of water within rural water supply districts

Subsection (1) outlines how water may be supplied in a rural water supply district, under either or both the system of water access rights or under the system of general availability.

Subsection (2) describes the rights under subsection (1)(a) as either a water access right or irrigation right.

Section 203C General availability

Subsection (1) enables a licensed water entity to authorise any person to take water that the entity makes available. Water can be made available either by agreement with the person or in accordance with by-laws made under this Act.

Subsection (2) states that an authorisation under subsection (1) is subject to any terms, conditions and by-laws that the licensed water entity thinks fit.

Under subsection (3), the authorisation may be granted free of charge or for a fee.

Subsection (4) clarifies that an authorisation under this section is not a water access right.

Section 203D Water access rights

Subsection (1) provides for the granting of water access rights by a licensed water entity.

Under subsection (2), the grant of a water access right is subject to any terms and conditions and by-laws that the licensed water entity thinks fit.

Subsection (3) provides that a water access right may be granted free of charge or for a fee.

Under subsection (4) a licensed water entity may refuse to grant a water access right if there is insufficient water available for supply.

**Clause 29
(continued)**

Section 203E Authority to take water from water resource within rural water supply system

Section 203E describes the authority of a water access, authorising the holder of the right to take supplied water from a water resource within a rural water supply system, in accordance with that right and subject to:

- the requirements of any relevant water management plan or other plans determined by the licensed water entity; and
- any conditions specified in the right; and
- any requirement to hold a water delivery right under section 203Q.

Section 203F Details of a water access right

Section 203F outlines the matters that are to be, or may be detailed on a water access right. This includes specifying:

- the name and address of the right holder;
- the water resource or rural water supply system from which water is to be supplied or taken;
- the location to which water is to be supplied or from which it is to be taken;
- the surety with which water can be expected to be available for supply and taking;
- conditions under which the right holder may take water;
- conditions under which water is to be supplied; and
- when the licensed water entity may vary the conditions of a right.

Section 203G Duration of water access rights

This section specifies that unless revoked earlier, a water access right remains in force for such period as the licensed water entity determines and specifies in the right.

Section 203H Water access rights are personal property

Section 203H states that a water access right is the personal property of the owner or holder of the right and is alienable in accordance with provisions in Part 9A relating to transfers and surrender of rights and any other laws in relation to the passing of property.

Section 203I Notification of security interest

Subsection (1) provides for the holder of a water access right or a person with a security interest in that right to notify a licensed water entity of a security interest in that water access right.

Subsection (2) clarifies that a person is not taken to have a security interest by virtue of the fact that they are a shareholder or member of a body corporate that holds a water access right.

Subsection (3) provides that the licensed water entity on notification under subsection (1) must record that interest in the

**Clause 29
(continued)**

register.

Under subsection (4), where a notification is made by a person with a security interest in the right, a licensed water entity is not required to make a notation on the register until information is provided to verify that interest.

Subsection (5) details the actions that a licensed water entity must undertake where a person who makes a notification under subsection (3) wishes to remove or amend that notation.

Section 203J Water access rights register

Subsection (1) specifies the requirement for a licensed water entity to keep a register of all water access rights.

Under subsection (2), the Minister can direct by notice what information is to be contained in a water access rights register. Subsection (3) provides for the Minister, by notice, to require a licensed water entity to provide a copy of the register to either the Minister or another person. A penalty for non-compliance is provided in subsection (4).

Subsection (5) states that a licensed water entity may make publicly available any information contained in the register it thinks fit.

Section 203K Transfer of water access rights

Subsection (1) provides the power for the holder of a water access right to transfer all or part of a water access right with the approval of a licensed water entity and on payment of a fee (if any). Subsection (1) also states that a transfer may be made by a person with a security interest who is entitled to transfer a right in accordance with section 203O(5).

Transfers may be on a temporary or permanent basis (refer subsection (2)).

Subsection (3) requires that prior to approving a transfer, a licensed water entity may issue a 'statement of obligations' to both the transferor and transferee that outlines the terms, conditions, charges, and constraints or limitations relating to the supply or delivery of water to a nominated location.

Subsection (4) clarifies that where a licensed water entity approves a transfer its obligation to supply water is subject to section 203ZC and any terms and conditions relating to the supply and delivery of water to a nominated location.

In accordance with subsection (5), a water access right that has been transferred for a limited period reverts to the transferor at

**Clause 29
(continued)**

the end of the period.

Subsection (6) provides that a licensed water entity must not approve a transfer unless consent has been obtained by any person with a security interest in the right. However, as specified in subsection (7), this does not apply when the transfer is for less than 12 months or the transferor and transferee are the same person.

Section 203L Variation of water access right

Section 203L enables a licensed water entity to vary a water access right under the circumstances outlined in subsection (2).

Subsection (3) requires the written consent of a security interest holder for any variation made in accordance with subsections (2)(a) and (b).

Section 203M Surrender of water access right

Subsection (1) provides for a right holder to surrender all or part of a water access right.

Subsection (2) provides that a surrender will not be effective unless all outstanding fees have been assessed by the licensed water entity as having been paid and the written consent of any person with a security interest in the water access right has been obtained.

Section 203N Cancellation of water access right for non-payment of fees and charges

Subsection (1) provides for the cancellation of a water access right when fees or other charges are more than 120 days overdue.

Subsection (2) requires notification to be given to any security interest holders of the proposed cancellation.

Subsection (3) clarifies that either the right holder or a security interest holder may pay the debt to avoid cancellation.

Subsection (4) specifies how a notice under this section may be given.

Section 203O Order for cancellation of water access right

Subsection (1) provides for a licensed water entity to apply to a magistrate for an order to cancel a water access right and any associated water delivery right when a right holder is convicted of an offence under Part 9 that has caused significant adverse impacts on other persons or the environment.

**Clause 29
(continued)**

Subsection (2) specifies that only a licensed water entity and a right holder may be party to any proceedings.

A magistrate may grant or dismiss an application (subsection 3). Subsection (4) sets out the conditions under which a magistrate may grant an application and order the cancellation of a water access right and any associated water delivery right.

In accordance with subsection (5), a security interest holder may apply to the licensed water entity for approval to transfer the water access right under section 203K (or any associated water delivery right under section 203X).

Subsection (6) specifies how a notice under this section may be given.

DIVISION 3 – DELIVERY OF WATER

Section 203P Delivery of water within rural water supply districts

This section specifies that a licensed water entity may deliver water to holders of water access rights using a system of water delivery rights.

Section 203Q Requirements for supply and delivery of water

Section 203Q clarifies that where a system of water delivery rights is in operation, both a water access right and a water delivery right are required for the supply and delivery of water.

Section 203R Water delivery rights

Subsection (1) specifies that a licensed water entity may grant the holder of a water access right a right to the delivery of a certain quantity of water to a nominated location.

Under subsection (2), the grant of a water delivery right is subject to any terms and conditions and by-laws that the licensed water entity thinks fit.

Subsection (3) provides that a water delivery right may be granted free of charge or for a fee.

Section 203S Details of a water delivery right

Section 203S outlines the matters that are to be, or may be detailed on a water delivery right. This includes specifying:

- the name and address of the right holder;
- the delivery capacity available to the holder of the right for delivery of water to a specified location;

**Clause 29
(continued)**

- conditions under which water is to be delivered; and
- when the licensed water entity may vary the conditions of a right.

Section 203T Duration of water delivery rights

This section specifies that unless revoked earlier, a water delivery right remains in force for such period as the licensed water entity determines and specifies in the right.

Section 203U Water delivery rights are personal property

Section 203U states that a water delivery right is the personal property of the holder of the right and is alienable in accordance with provisions in Part 9A relating to transfers and surrender of water delivery rights.

Section 203V Notification of security interest

Subsection (1) provides for the holder of a water access right or a person with a security interest in that right to notify a licensed water entity of a security interest in that water delivery right.

Subsection (2) clarifies that a person is not taken to have a security interest by virtue of the fact that they are a shareholder or member of a body corporate that holds a water delivery right.

Subsection (3) provides that the licensed water entity, on notification under subsection (1), must record that interest in the register.

Under subsection (4), where a notification is made by a person with a security interest in the right, a licensed water entity is not required to make a notation on the register until information is provided to verify that interest.

Subsection (5) details the actions that a licensed water entity must undertake where a person who made a notification under subsection (3) wishes to remove or amend that notation.

Section 203W Water delivery rights register

Subsection (1) specifies the requirement for a licensed water entity to keep a register of all water delivery rights.

Under subsection (2), the Minister can direct, by notice, what information is to be contained in a water delivery rights register.

Subsection (3) provides for the Minister, by notice, to require a licensed water entity to provide a copy of the register to either the Minister or another person. A penalty for non-compliance is provided in subsection (4).

**Clause 29
(continued)**

Subsection (5) states that a licensed water entity may make publicly available any information contained in the register it thinks fit.

Section 203X Transfer of water delivery rights

Subsection (1) provides the power for the holder of a water delivery right to transfer all or part of a water delivery right with the approval of a licensed water entity and on payment of a fee (if any). Transfers may be on a temporary or permanent basis (refer subsection (2)).

In accordance with subsection (3), a water delivery right that has been transferred for a limited period reverts to the transferor at the end of the period.

Subsection (4) provides that a licensed water entity must not approve a transfer unless consent has been obtained by any person with a security interest in the right. However as specified in subsection (5), this does not apply when the transfer is for less than 12 months or the transferor and transferee are the same person.

Section 203Y Variation of water delivery right

Section 203Y enables a licensed water entity to vary a water delivery right under the circumstances outlined in subsection (2).

Subsection (3) requires the written consent of a security interest holder for any variation made in accordance with subsections (2)(a) and (b).

Section 203Z Surrender of water delivery right

Subsection (1) provides for a right holder to surrender all or part of a water delivery right.

Subsection (2) provides that a surrender will not be effective unless all outstanding fees have been assessed by the licensed water entity as having been paid and the written consent of any person with a security interest in the water delivery right has been obtained.

Section 203ZA Cancellation of water delivery right for non-payment of fees and charges

Subsection (1) provides for the cancellation of a water delivery right when fees or other charges are more than 120 days overdue.

Subsection (2) requires notification to be given to any security interest holders of the proposed cancellation.

**Clause 29
(continued)**

Subsection (3) clarifies that either the right holder or a security interest holder may pay the debt to avoid cancellation.

Subsection (4) specifies how a notice under this section may be given.

DIVISION 4 – RURAL WATER SUPPLY SYSTEMS

Section 203ZB Interpretation of Division

Section 203ZB defines the term ‘serviced land’ as land identified by individual title or locality that a licensed water entity agrees to supply and deliver water to.

Section 203ZC Nomination of location for supply and delivery of water

Subsection (1) provides for a person entitled to the supply of water under section 203B to nominate a location for which water is to be supplied and delivered. In accordance with subsection (2), the nomination may be made at the time a water access right or other authorisation is granted or from time to time.

Subsection (3) states that a nominated location may be within a rural water supply system, or outside with the agreement of the licensed water entity.

Subsection (4) specifies that where a licensed water entity agrees to supply water to a location outside a rural water supply system, the location may be situated on either the boundary of a piece of land in a district, or on the boundary of the district.

Subsection (5) clarifies that notwithstanding subsection (4)(a), a licensed water entity may agree to supply water other than to the boundary of a piece of land.

Subsection (6) clarifies that water supplied outside a rural water supply system can be conveyed or distributed outside a rural water supply district.

Subsection (7) clarifies that where a system of water delivery rights operates, a licensed water entity is required to supply and deliver water to a nominated location only if a person holds both a water access right and a water delivery right relevant to the nominated location, and only to the extent that the delivery right provides for the delivery of water to the nominated location.

Subsection (8) clarifies the arrangements that apply to the agreement of a licensed water entity under subsection (3)(b).

**Clause 29
(continued)**

Section 203ZD Connection to rural water supply systems

Subsection (1) requires that where a location has been nominated for the supply and delivery of water in accordance with section 203ZC, a licensed water entity must undertake works necessary to allow connection with a rural water supply system.

Subsection (2) outlines the process to be undertaken by a licensed water entity when the supply and delivery of water to a nominated location is not technically feasible.

Subsection (3) states a licensed water entity is responsible providing and maintaining any works necessary for connection to a rural water supply system (at its expense).

Subsection (4) provides the head of power for a licensed water entity to levy construction charges in accordance with section 203ZV.

Section 203ZE Serviced land

For the purposes of section 203ZC(3)(b), subsection (1) states that a licensed water entity may, by way of by-laws, identify serviced land within a rural water supply district.

Subsection (2) provides that where serviced land has been identified in accordance with subsection (1), a licensed water must agree to any location nominated under section 203ZC(3)(b) that lies within that area and extend a rural water supply system to service such locations.

Subsection (3) clarifies that any location nominated must be on the boundary of a piece of land at the point closest to where the rural water supply system is to be extended.

Subsection (4) clarifies that where a licensed water entity does not identify serviced land under subsection (1), it must extend a rural water supply system as necessary to service any locations nominated and agreed under section 203ZC(3)(b) that lie within or on the boundary of the rural water supply district.

Section 203ZF Reduction of extent of rural water supply system

Section 203ZF provides that a licensed water entity may only reduce the extent of a rural water supply system with the Minister's approval.

Section 203ZG Protection of rural water supply systems

Subsections (1) and (2) protects rural water supply systems from the actions of persons that have not been approved by a licensed water entity.

**Clause 29
(continued)**

Under subsection (3), a licensed water entity can serve a notice on an occupier or owner of land to ensure they protect water supply systems. If the notice is not complied with, the licensed water entity has the power to enter the land and undertake any appropriate works as a due debt by the landowner or occupier in question (subsection (4)).

Subsection (5) provides a penalty for non-compliance with this section.

Subsection (6) clarifies what a rural water supply system includes for the purposes of subsections (1) to (3).

Section 203ZH Plans and maps of rural water supply districts

Section 203ZH requires the licensed water entity to maintain and keep up to date plans and maps of their works within a rural water supply district.

DIVISION 5 – LIMITED OR REDUCED AVAILABILITY OF WATER

Section 203ZI Power to limit supply or reduce water made available by licensed water entity

Subsection (1) specifies that a licensed water entity may limit or suspend the supply or delivery of water or reduce the amount of water available under a water access right.

Subsection (2) details a range of circumstances when a limitation, suspension or reduction may be made.

Subsection (3) clarifies that any action taken by a licensed water entity under subsection (1) may result in reducing the amount of water available or limiting the supply of water by different amounts or proportions according to the sureties attached a water access right or any other factors that the entity thinks fit.

The arrangements for limiting the amount of water supplied or reducing the amount of water made available in the circumstances referred to in subsections (2)(c) and (d) is outlined in subsection (4).

Subsection (5) provides that licensed water entities will not incur any civil liability for actions taken under this section.

Subsection (6) provides that fees may be waived or reduced where the supply of water has been limited or discontinued.

**Clause 29
(continued)**

Section 203ZJ Notice of limited supply or reduced availability

Subsections (1) to (3) allow a licensed water entity, by notice, to limit or prohibit the taking of water from a rural water supply system, or make announcements regarding the volume of water available before the start of the water supply period and from time to time thereafter. A notice may be published in a newspaper or on the internet, or served personally or by post on a person, or sent by email, phone, fax or sms.

Subsection (4) specifies when a notice takes effect and its duration.

Subsection (5) requires a licensed water entity to inform persons entitled to a supply of water under section 203B of the primary method by which it intends to publish notices (newspaper or internet).

Subsection (6) places the onus on a person entitled to the supply of water under section 203B to ensure they have informed themselves, prior to taking water, of availability of water and any limitations or prohibitions on taking water under Part 9A.

Subsection (7) prescribes the maximum penalty for contravening a notice under this section.

DIVISION 6 – BY-LAWS

Section 203ZK Power to make by-laws

This section specifies that a licensed water entity that does not have the power to make by-laws under the *Local Government Act 1993*, may, under this Division, make by-laws.

Section 203ZL Subject of by-laws

Subsection (1) outlines the matters that may be covered in by-laws

Subsection (2) clarifies that a by-law may amend or revoke a previous by-law.

Section 203ZM Application to make by-laws

Subsection (1) requires a licensed water entity to apply to the Minister for endorsement of by-laws.

Subsection (2) sets out the requirements of an application to the Minister for endorsement of by-laws.

Section 203ZN Regulatory impact statement

Subsection (1) enables the Minister to require an applicant to prepare a Regulatory Impact Statement in relation to proposed

**Clause 29
(continued)**

by-laws.

Subsection (2) states that a Regulatory Impact Statement must be in accordance with the requirements of the *Subordinate Legislation Act 1992*.

Section 203ZO Determination of application

Subsection (1) specifies that the Minister must approve or refuse an application to make by-laws.

Subsection (2) outlines the circumstances under which by-laws are not to be approved.

Subsection (3) states that if an application to make by-laws is refused, the Minister is to notify a licensed water entity of the reasons for refusal and any appeal rights.

Section 203ZP Issue of by-laws

Under subsection (1), the Minister must notify an applicant within 7 days of approval of an application to make by-laws. Once notified by the Minister, a licensed water entity may make by-laws under its common seal and has 21 days to publish a notice in the *Gazette* in relation to the making of the by-laws (subsections (2) and (3)).

Subsection (4) specifies that by-laws take effect in accordance with section 47 of the *Acts Interpretation Act 1931* and are to be tabled in both Houses of Parliament within 10 days of a *Gazette* notice (subsection (5)).

Subsection (6) requires a licensed water entity to make by-laws publicly available for inspection or purchase, with the purchase price to be no more than the approximate cost of providing the document (refer subsection (7)).

Section 203ZQ Title and numbering of by-laws

Section 203ZQ outlines the requirements for the title and numbering of by-laws.

Section 203ZR Legal effect of by-laws

The parties bound under by-laws are set out in section 203ZR.

Section 203ZS Application of by-laws

Section 203ZS clarifies that by-laws can apply to the whole or parts of a rural water supply district. Provisions can also be made to refer to matters or things in general terms.

Section 203ZT Repeal and amendment of by-laws

Subsection (1) specifies that by-laws may be repealed or amended by another by-law.

**Clause 29
(continued)**

Subsection (2) provides for the disallowance of by-laws in accordance with the requirements of the *Acts Interpretation Act 1931*.

Section 203ZU Contravention of by-laws

Subsection (1) sets out what action a licensed water entity may undertake when a person contravenes a by-law.

Subsection (2) details the maximum fines for failing to comply with a notice.

Subsection (3) clarifies that a notice provided under subsection (1) must not be inconsistent with by-laws or a condition of a water access right.

DIVISION 7 – CHARGES

Section 203ZV Water supply, administration and construction charges

Subsection (1) provides the power for a licensed water entity to levy water supply charges based on a number of factors outlined in paragraphs (a) to (c).

Subsection (2) clarifies that subsection (1)(b) applies to water supplied under a water access right or through general availability, or delivered under a water delivery right.

Subsection (3) details those matters upon which water supply charges can be declared.

Subsection (4) states that water supply charges must be the same for similar conditions of supply.

Subsection (5) clarifies that water supply charges may be imposed by a licensed water entity to provide a service or to meet its other liabilities, or to provide for maintenance, construction and other associated costs.

Subsection (6) specifies that administrative charges may be levied.

Under subsection (7), a period of not less than 30 days is to be provided for the payment of water supply charges.

Section 203ZW Declaration of water supply charges

Subsection (1) states that any water supply charges are to be declared before the charge is imposed. In accordance with subsection (2), a charge is not to be increased within 6 months of being declared.

**Clause 29
(continued)**

Section 203ZX Payment of water supply charges

Subsection (1) details when water supply charges are to be paid.

Subsection (2) details where water supply charges are to be paid.

Section 203ZY Liability of charges in relation to water access rights and water delivery rights

Subsection (1) clarifies that liability for payment of charges for water supplied through a water access right or water delivery right lies with a right holder. Under subsection (2), the notice of the amount payable is to be served on the holder of a right.

Subsection (3) states that this section operates subject to the provisions of any agreement between a licensed water entity and a right holder.

Subsection (4) defines charges as water supply charges and any other amount that a person supplied with water owes to a licensed water entity.

Section 203ZZ Liability of charges in relation to water supplied through general availability

Subsection (1) clarifies that liability for payment of charges for water supplied through general availability lies with a person supplied with water under section 203C.

Under subsection (2) the notice of the amount payable is to be served on the person liable for the charges.

Subsection (3) states that this section operates subject to the provisions of any agreement between a licensed water entity and a person for the supply or delivery of water.

Subsection (4) defines charges as water supply charges and any other amount that a person supplied with water owes to a licensed water entity.

Section 203ZZA Stoppage of supply of water where payment of charges in arrears

Subsection (1) allows a licensed water entity to, after 24 hours notice, cut off the supply of water for non-payment of some water supply charges.

Subsection (2) provides that the expense of cutting off supply may be recovered in the same manner as water supply charges are recovered.

**Clause 29
(continued)**

Section 203ZZB Interest on charges

Subsection (1) provides the head of power for a licensed water entity to charge interest on money owing from charges incurred under section 203ZV.

In accordance with subsection (2), interest may only be charged from the due date until the debtor pays the money.

Section 203ZZC Remittance of interest and discount charges

Subsection (1) provides for the remittance or discount of any interest payable by a licensed water entity.

Subsection (2) provides for the discounting of any charges to encourage early payment.

Section 203ZZD Action for non-payment of interest and charges

This section details the action that may be taken by a licensed water entity for non-payment of interest and other charges. A licensed water entity may cease to supply water or recover costs through court action.

Clause 30

Section 204 substituted (Administration of district or water management plan)

Section 204 is substituted for consistency with amendments to Parts 4 and 9.

Clause 31

Section 205 amended (Application to establish trust)

Subsection (1) is omitted and substituted for consistency with amendments to Parts 4 and 9.

Clause 32

Section 206B inserted (Rules of trust)

Subsection (1) specifies that a trust may have a set of rules relating to its membership, management and operation.

Subsection (2) details that trust rules must comply with any prescribed requirements and must not be inconsistent with the Act.

Subsection (3) states that the rules of a trust are binding on the trust and its members.

Subsection (4) enables the Minister to approve rules of a trust.

In accordance with subsection (5), the Minister may at the request of a trust, approve an amendment or substitution to the rules of a trust.

Clause 33

Section 206A amended (Establishment of trust)

Subsection (3) is omitted from section 206A as it is covered in the new section 206B.

- Clause 34** **Section 211 amended (Constitution of trust)**
Subsection (2) is amended to require all trustees to be elected.
- Clause 35** **Section 223 amended (Dissolution of trusts)**
Subsection (1) is amended for consistency with revocation provisions in Part 9.
- Subsection (3) is amended to clarify that a notice applies to a proposed dissolution.
- Subsection (4) is inserted to require a notice of a trust's dissolution to include details of any Ministerial direction given in relation to the sale and disposal of assets, on-going maintenance works or the distribution of the proceeds from the sale of assets.
- Clause 36** **Section 226 repealed**
Section 226 is repealed for consistency with amendments to Part 9.
- Clause 37** **Section 226A inserted (Interpretation)**
The term 'licensed water entity' is defined in relation to Part 11 as a water entity that holds an administration licence for a rural water supply district.
- The term 'water resource' is defined in relation to Part 11 as including, in addition to the matters set out in section 3, a channel supplying water to any person.
- Clause 38** **Section 227 amended (Power to install meters, &c.)**
Subsections (1) and (2)(e) are amended to include reference to a licensed water entity.
- Subsection (4) is amended to include reference to a water access right or other authorisation to take water from a water resource under Part 9A.
- Clause 39** **Section 228 amended (Interference with meters)**
Subsections (1) and (2) are amended to include reference to a licensed water entity.
- Clause 40** **Section 229 amended (Power to undertake works)**
Subsections (1) and (2) are amended to include reference to a licensed water entity.
- Clause 41** **Section 231 substituted (Power to charge for meters)**
Subsection (1) provides for the Minister or a licensed water entity to charge a person for the use, maintenance or testing of a meter.

- Clause 41 (continued)** Subsection (2) clarifies that any charges are recoverable as a debt to the Crown or the licensed water entity.
- Clause 42** **Section 237 amended (Appointment of authorised officers)**
Subsections (1), (3) and (4) are amended to substitute references to the Minister with references to the Secretary.

Subsection (1) is amended to substitute references to ‘council’ with references to ‘licensed water entity’.
- Clause 43** **Section 239 amended (Return of identity card)**
This section is amended to substitute Minister with Secretary.
- Clause 44** **Section 240 amended (General powers of authorised officers)**
Paragraph (m) is amended to substitute ‘waterworks’ with ‘works’.
- Clause 45** **Section 244 amended (Entry onto land for taking measurements)**
Subsection (1) is amended to replace the term ‘responsible water entity’ with ‘licensed water entity’.
- Clause 46** **Section 270 amended (Interpretation of Division)**
Section 270 is amended as follows.

Paragraphs (a) and (i) are omitted.

Paragraphs (c)(ii), (d)(ii), (e)(ii), (g)(ii) and (j)(ii) are amended to substitute the term ‘financial’ with the term ‘security’.

Paragraphs (d) and (e) are amended to substitute ‘section 80(4)(b)’ with ‘section 80(2)(b)’ in order to correct a drafting error.

Paragraph (l) is amended to omit the reference to section 135.

Paragraph (la) is amended to insert a reference to section 123C.

Paragraph (lb) is amended to insert a reference to section 123EA.

Paragraph (lc) is amended to insert a reference to section 123F.

Paragraph (m) is substituted with a new provision that refers to a licensed water entity as the interested person in respect of a refusal under section 181(5)(c).

**Clause 46
(continued)**

Paragraph (n) is amended to substitute 'section 180(1)' and the term 'relevant' with 'section 183' and the term 'licensed' respectively.

Paragraph (o) is substituted with a new provision that refers to an applicant as the interested person in respect of a refusal under section 203ZO(1)(b).

Clause 47

Section 271 amended (Reviewable decisions)

Subsection (1) is amended as follows.

Paragraphs (a), (d) and (l) are omitted.

Reference to section 183(1) is omitted from paragraph (b).

Reference to section 135 and 145 are omitted from paragraph (f) and substituted with a reference to section 147.

Paragraph (h) is substituted with a new provision that refers to a refusal under section 181(5)(c).

Paragraph (ja) is amended to insert a reference to section 123C.

Paragraph (jb) is amended to insert a reference to section 123EA.

Paragraph (jc) is amended to insert a reference to section 123F.

Paragraph (k) is amended to substitute 'section 180(1)' with 'section 183(1)'.

A new paragraph (ka) is inserted to include a refusal under section 203ZO(1)(b).

Clause 48

Section 274 amended (Interpretation of Division)

Reference to sections 176(2) and 176(5) are omitted from paragraph (f) and substituted with a reference to sections 177(1) and 177(7) respectively.

Reference to section 174 is omitted from paragraph (f)(ii) and substituted with a reference to section 175.

A new paragraph (fa) is inserted to define 'interested persons' for the purposes of an approval under section 192(1).

Clause 49

Section 275 amended (Appealable decisions)

Paragraph (b) is amended to insert a reference to section 192(1).

**Clause 49
(continued)**

Paragraph (c) is amended to insert a reference to section 181(5)(c).

Paragraph (d) is amended to insert a reference to section 181(2)(c).

Paragraph (i) is amended to omit the reference to section 135.

Reference to sections 176(2) and 176(5) is omitted from paragraph (k) and substituted with a reference to sections 177(1) and 177(7) respectively.

Clause 50

Section 296 substituted (Compensation not payable for stopping, &c., flow of water)

This section is substituted with new provisions relating to compensation payable by a licensed water entity.

Subsection (1) states that where the exercise of rights under a licence or permit stops, reduces or diverts the flow of water, the Minister is not required to pay compensation to persons adversely affected.

Similar powers prevail in subsection (2) in relation to rights under Part 9A where a licensed water entity is not liable to pay compensation.

Clause 51

Section 300A substituted (Replacement of authorisations)

This section is substituted with new provisions relating to the replacement of authorisations by a licensed water entity.

Subsection (1) provides the Minister with the power to replace lost, stolen or damaged licences or other authorisations. Similar powers prevail in subsection (2) for licensed water entities.

Clause 52

Section 304 amended (Fees and charges)

Subsection (1)(c) is amended for consistency with amendments to Part 4 and the term 'licensed' is included to clarify that this section relates to water entities holding an administration licence.

Clause 53

Section 307B inserted (Savings and transitional provisions consequent on the *Water Legislation Amendment Act 2013*)

This clause inserts Schedule 4B that has a range of savings and transitional provisions consequent on the *Water Legislation Amendment Act 2013*.

Clause 54 **Schedule 3 amended (Membership and Proceedings of Trusts)**

PART 2 –PROCEEDINGS

Clause 1 (Interpretation of Part)

Clause 1 is amended to remove the reference to the ‘special Act’ and to clarify that it applies to rural water supply districts.

Clause 7 (Trustee with pecuniary interest not to vote)

Clause 7(b) is amended to remove the reference to the ‘special Act’.

Clause 55 **Schedule 4 amended (Savings and transitional provisions)**

Clause (14)(1)(a) is amended to substitute the term ‘financial interest’ with ‘security interest’.

Clause 56 **Schedule 4B inserted (Savings and Transitional Provisions Consequent on *Water Legislation Amendment Act 2013*)**

A new Schedule 4B is inserted into the Act which includes a number of savings and transitional provisions consequent on the amendments to Parts 9 and 9A.

Clause 1 (Interpretation)

Amended Act is defined as the *Water Management Act 1999* as amended by the *Water Legislation Amendment Act 2013*.

Commencement day is defined as the day on which section 1 of this Amendment Act commences.

Clause 2 (Saving for applications to establish a water district)

Subclause (1) states that an application for a water district pending before the Minister before the *Water Legislation Amendment Act 2013* commences is to be considered as if the Act has not commenced.

Subclause (2) states that Clause 2 expires six months after the commencement day.

Clause 3 (Saving for water districts and entities)

Subclause (1) specifies that a water district in force before the commencement day is taken to be a water district under the amended Act.

Subclause (2) specifies that a responsible water entity that existed before the commencement day is taken to be a licensed water entity under the amended Act.

Subclause (3) provides that the administration of a district is subject to any condition of approval under section 176(5) that existed before the commencement day.

**Clause 56
(continued)**

In accordance with subclause (4), the Minister must issue an administration licence for each district to the relevant licensed water entities within 3 months of the commencement day.

Subclause (5) outlines the conditions that are to apply to administration licences issued under subclause (4).

Subclause (6) outlines the process and timeframe for determining conditions on an administration licence where no conditions of approval existed. This applies for rural water supply, riverworks and drainage districts.

Subclause (7) enables the Minister to extend the timeframes referred to in subclauses (4) and (6)(b) by written notice to a relevant entity.

Clause 4 (Defining water district boundaries)

Subclause (1) states that where a licensed water entity that was in force before the commencement day does not have a Central Plan Register map it may apply to the Minister to have the district boundaries formalised.

Subclause (2) requires the Minister to consider all the available evidence before approving or refusing an application made under subclause (1).

Subclause (3) requires an approved map to be prepared and stored in line with the Central Plan Register.

Clause 5 (General savings and transitional provisions)

Subclause (a) clarifies that irrigation and water supply districts are to be known as rural water supply districts.

Subclause (b) states that any irrigation rights in force under the *Irrigation Clauses Act 1973* immediately before the commencement day are taken to be, on the same terms and conditions, water access rights under Part 9A,

Subclause (c) provides that a by-law that was in force under the repealed *Irrigation Clauses Act 1973* is taken to be a by-law under Part 9A of the *Water Management Act 1999*.

Subclause (d) states that any notification, permission or authority in relation to undertaking works in a water district in effect immediately before the commencement day is taken to have been made, given or issued under the amended Act.

Subclause (e) provides that any claim for compensation in relation to a water district lodged before the commencement day but not determined is to be determined as if the *Water*

**Clause 56
(continued)**

Legislation Amendment Act 2013 had not commenced.

Subclause (f) provides for any proceedings for an offence against the *Water Management Act 1999* or *Irrigation Clauses Act 1973* in relation to a water district that have been commenced before the commencement day but not determined are to be determined as if the *Water Legislation Amendment Act 2013* had not commenced.

Subclause (g) enables any rates or water supply charges levied in a water district under the *Water Management Act 1999*, *Irrigation Clauses Act 1973* or *Waterworks Clauses Act 1952* before the commencement day are taken to have been levied under the *Water Management Act 1999* as amended by the *Water Legislation Amendment Act 2013*.

Subclause (h) provides for any right to a supply of water under general availability or as a domestic right under the *Irrigation Clauses Act 1973* in effect immediately before the commencement day is taken to have been granted in accordance with the amended Act.

Subclause (i) states that any right to the supply of water under Part III of the *Waterworks Clauses Act 1952* in effect immediately before the commencement day is taken to have been granted in accordance with the amended Act.

Subclause (j) states that any authorised officer appointed by the Minister before the commencement day continues as if his or her appointment were made by the Secretary under the amended Act.

Clause 6 (Regulations)

Subclause (1) states that the Governor may make regulations of a savings and transitional nature consequent on the *Water Legislation Amendment Act 2013*.

Subclause (2) specifies when a regulation made under subclause (1) takes effect.

Subclause (3) states that Division 4 of Part 15 applies to regulations made under subclause (1).

Clause 57

Schedule 5 amended (River Clyde Trust and River Clyde Irrigation District)

Clause 1 (Interpretation)

The term responsible water entity is replaced with the term 'licensed water entity' for consistency with the rest of the Act.

**Clause 57
(continued)**

Clause 3 (Powers responsible water entity)

The reference to the *Irrigation Clauses Act 1973* is substituted with a reference to the *Water Management Act 1999*.

Subclause 3(1) is amended to substitute the term 'responsible' with the term 'licensed'.

PART 3 – IRRIGATION COMPANY ACT 2011 AMENDED

Clause 58

Principal Act

The Principal Act referred to in this Part is the *Irrigation Company Act 2011*.

Clause 59

Section 28 amended (Acquisition of land)

Subsection (2)(a) is amended for consistency with amendments to Part 9 of the *Water Management Act 1999*.

PART 4 – LAND USE PLANNING AND APPROVALS ACT 1993 AMENDED

Clause 60

Principal Act

The Principal Act referred to in this Part is the *Land Use Planning and Approvals Act 1993*.

Clause 61

Section 60A amended (Permit for certain works not required)

Subsection (2) is amended to remove the reference to a water management plan.

Subsection (3) is amended to omit the definition of a water management plan.

PART 5 – LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993 AMENDED

Clause 62

Principal Act

The Principal Act referred to in this Part is the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Clause 63

Part 8, Division 5 repealed

Division 5 (irrigation undertakings) of Part 8 is repealed.

PART 6 – WAR SERVICE LAND SETTLEMENT ACT 1950 AMENDED

- Clause 64** **Principal Act**
The Principal Act referred to in this Part is the *War Service Land Settlement Act 1950*.
- Clause 65** **Section 10AA amended (Waterworks)**
Subsection (2)(a) is amended to substitute ‘*Waterworks Clauses Act 1952*’ with ‘*Water Management Act 1999*’.

PART 7 – WATER AND SEWERAGE INDUSTRY ACT 2008 AMENDED

- Clause 66** **Principal Act**
The Principal Act referred to in this Part is the *Water and Sewerage Industry Act 2008*.
- Clause 67** **Section 56ZP substituted**
Section 56ZP Recreational use of public water supplies
Subsection (1) defines the term ‘water storage area’ as the land used to store water and any appurtenant land.
- Subsection (2) requires a regulated entity to make each water storage area available for recreational purposes so long as that use is not inconsistent with the entity’s obligations under the *Public Health Act 1997*.
- Subsection (3) clarifies the circumstances under which a regulated entity must not permit any recreational use of a water storage area.
- Under subsection (4) a regulated entity is required to publish certain information on its website relating to the availability of its water storages for recreational purposes.
- Section 56ZPA Power of Minister to require regulated entity to develop water storage areas for recreational use
Subsection (1) defines the term ‘water storage area’ as the land used to store water and any appurtenant land.
- Subsection (2) outlines the Minister’s power to serve an order on a regulated entity, that has failed to make a water storage area available for recreational use, requiring the entity to make the water storage area available.
- Subsection (3) states that an order is to include an indemnity on behalf of the Crown against any liability incurred by the entity as a result of complying with the order.

**Clause 67
(continued)**

Subsection (4) requires a regulated entity to make certain information publicly available.

Subsection (5) requires a regulated entity to comply with an order and sets out a penalty for non-compliance.

Section 56ZPB Power of Minister to perform work required

Section 56ZPB provides the Minister with power to perform work and recover costs as a result of a regulated entity not complying with an order issued under section 56ZPA.

PART 8 – LEGISLATION REPEALED

Clause 68

Legislation repealed

This clause details that legislation to be repealed is specified in Schedule 1 of the Bill.

PART 9 – REPEAL OF ACT

Clause 69

Repeal of Act

This clause allows for the repeal of this Act on the ninetieth day from the day on which it commences.

SCHEDULE 1 – LEGISLATION REPEALED

Lists the Acts repealed by this Bill including the *Waterworks Clauses Act 1952* and the *Irrigation Clauses Act 1973*.