

WATER AND SEWERAGE INDUSTRY (COMMUNITY SERVICE OBLIGATION) BILL 2009

NOTES ON CLAUSES

Clause 1 Short title.

Clause 2 Fixes the date of commencement of the Act as being 1 July 2009.

Clause 3 Subsection (1) defines:

“**billing period**” as the period of time in which an account received by a customer of a regulated entity starts and ends.

“**concession**” as the amount an eligible customer receives as a rebate off the total cost of a relevant fixed charge that a customer is liable to pay for the provision of a regulated service.

“**concession amount**” as the amount an eligible customer receives as a reduction to the total cost of a relevant fixed charge for a regulated service during a billing period.

“**eligible customer of a regulated entity in respect of a dwelling**” as a customer of a regulated entity who is eligible to receive a concession due to their ability to meet the eligibility criteria for the dwelling. A dwelling is a customer’s principal place of residence.

“**region**” as the northern region, north-western region or the southern region of Tasmania.

“**relevant regulated entity**” as a Regional Corporation under the *Water and Sewerage Corporations Act 2008*.

“**spouse**” to be a person who is married or in a significant relationship within the meaning of the *Relationships Act 2003* with that person.

“**statutory authority**” as in an incorporated or unincorporated body or authority that is established under the written law of the Commonwealth, State or royal prerogative.

Subsection (2) provides that, unless a contrary intention is stated in the Act, an expression used in the Act has the same meaning as in the *Water and Sewerage Industry Act 2008*.

Clause 4 Subsection (1) provides that the amount a customer who has been granted a concession is required to pay for a fixed charge in a billing period will be reduced by the amount of the concession for that billing period.

Subsection (2) provides that if a customer who has been granted a concession is only required to pay a fixed charge for either a water service or a sewerage service in a billing period, then the amount of the concession will be reduced by 50 per cent for that billing period.

Subsection (3) states that an eligible customer who has been granted a concession in a billing period cannot apply that concession to another billing period.

Subsection (4) defines “**fixed charge**” as a charge that is not calculated based on the volume of water supplied to, or the volume of sewage or waste removed from a dwelling. It does not include penalty or interest charges.

Clause 5 Clause 5 inserts provisions related to eligibility.

Under clause 5(1), a person is an eligible customer of a regulated entity in respect of a dwelling if -

- (a) the person is able to meet the eligibility criteria prescribed in regulations; and
- (b) the person is a customer of a regulated entity; and
- (c) the dwelling that the concession is to be applied to is the person’s principal place of residence.

Under clause 5(2), a person is also an eligible customer of a regulated entity if the person –

- (a) is a person prescribed in the regulations to be eligible for the concession; and
- (b) lives in a prescribed institution as specified in the regulations; and
- (c) is a customer of a regulated entity in relation to the dwelling; and
- (d) does not receive rental income from the dwelling; and
- (e) does not have a spouse or if the person has a spouse, the spouse resides in a prescribed institution and does not receive rental incomes from the dwelling.

Under clause 5(3), a person is also an eligible customer of a regulated entity if the person –

- (a) is a person prescribed in the regulations to be eligible for the concession; and
- (b) lives in a prescribed institution as specified in the regulations; and
- (c) is a customer of a regulated entity in relation to the dwelling; and
- (d) has a spouse who lives in the persons dwelling and that dwelling is the principle place of residence of the spouse and the spouse receives or does not receive rental income from the dwelling.

Under clause 5(4), a person is also an eligible customer of a regulated entity if the person –

- (a) is the surviving spouse of a person; and
- (b) the deceased person was granted a concession;
- (c) the surviving spouse occupies the dwelling as their principle place of residence; and
- (d) the person is a customer of the regulated entity in relation to that dwelling.

Under clause 5(5), an eligible customer and their spouse are only entitled to receive one concession between them.

Under clause 5(6), if a customer has been granted a concession under subsection (2) or (3), that person may only receive the concession for a period of two years from the time the concession is granted.

Under clause 5(7), a surviving spouse is only granted a concession under the deceased spouse's eligibility for a period up to two years after becoming a surviving spouse.

Clause 6

Clause 6(1) provides that a customer, who meets the eligibility criteria, may apply to a regulated entity for a concession to be granted for the fixed charge of a water service and/or a sewerage service they receive at their principal place of residence.

Clause 7 Clause 7 provides that an eligible customer may make an application for a concession at any time after they become a customer of a regulated entity. The commencement date of the concession is from the date the application is granted. The concession entitlement expires at the end of the billing period in which an eligible customer is no longer eligible. Where an application is received part way through the billing period, the concession amount will be allocated from the day it was granted by a regulated entity.

Clause 8 Subject to the satisfactory provision of information under section 6(2), clause 8 imposes an obligation on a regulated entity to determine, within 21 days of the application being lodged, whether the application for a concession is granted or refused.

This clause also provides that only one eligible customer of a regulated entity in respect of a dwelling may be granted a concession in respect of that dwelling.

Clause 9 Clause 9 requires that the regulations prescribe the base amount of the concession.

Councils within a region may increase the prescribed base amount of the concession for their region by placing a notice in the *Tasmanian Government Gazette* if more than 50 per cent of councils in that region agree to the increase.

If the councils increase the base rate, then despite the base amount prescribed in the regulations, the base amount is to be the higher amount determined by the councils.

Clause 9 also provides that the regulations may prescribe a percentage amount by which the base amount of the concession is to be increased or decreased for a financial year. If the regulations prescribe a percentage amount by which the base rate must be altered, then despite the original base amount prescribed in the regulations and any agreement made by councils to increase the base rate in a given year, then the base amount –

(a) changes by the same percentage amount prescribed in the regulations; and

(b) is the base amount from the previous year plus the percentage change prescribed in the regulations.

The concession amount that an eligible customer will receive for each day within a billing period is equal to $1/365^{\text{th}}$ of the base amount for a given financial year.

- Clause 10 Clause 10 provides that an eligible customer, who has been granted a concession by a regulated entity, must, unless there is a good reason, notify the regulated entity, in a manner agreed by the regulated entity, within 21 days of ceasing to be an eligible customer. The penalty for non-compliance is two penalty units (\$240).
- Clause 11 Clause 11 creates an offence of providing information under this Act knowing it to be false or misleading or omitting any matter from a statement knowing that without that matter the statement is false or misleading. The penalty for non-compliance is two penalty units (\$240).
- Clause 12 The provision provides that a regulated entity must include information on the availability of concessions for eligible customers on all accounts sent to customers.
- Clause 13 Clause 13 provides that a regulated entity may send a person granted a concession under the Act a written notice requesting that they repay to the regulated entity an amount specified in the written notice. A regulated entity may only require a person to repay an amount of a concession if the regulated entity is satisfied that the person was not entitled to the concession.
- Clause 14 Clause 14 provides that a council must reimburse the relevant regulated entity in its region for the concession amount that the regulated entity pays to concession holders in that council's municipality, in a given financial year.
- Clause 15 Clause 15 provides that the councils in a region must enter into an agreement, within six months of the Act coming into force, with the relevant regulated entity established in the region to provide, at a minimum, provisions relating to -
- (a) the way in which councils make payments to their relevant regulated entity;
 - (b) the timing of the payments;
 - (c) the manner in which disputes between the relevant regulated entity and the councils in relation to the matters set out in the agreement are to be resolved; and
 - (d) information and records in relation to concessions granted to the eligible customers of a relevant regulated entity, which need to be provided to councils by the relevant regulated entities.

Clause 15 also provides that the agreement may allow a penalty to be imposed on a council, as specified in the agreement, for failing to pay an amount that is due to a relevant regulated entity under the agreement.

If a relevant regulated entity and the councils in a region do not reach an agreement, the Treasurer is to prepare an agreement for the purpose of this Act. In preparing the agreement, the Treasurer must have regard to any draft agreement in which more than half of the councils in the region have agreed. The regulated entity and the councils in that region are taken to have entered into an agreement under this section on the day specified in the agreement.

Agreements are to remain in force for a period of not more than three years and further agreements must be entered into no later than six months before the expiry of an existing agreement. However, failure to reach an agreement within this six month period does not invalidate an existing agreement.

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| Clause 16 | This provision provides that, unless the contrary intention appears, a notice under this Act is not a statutory rule for the purposes of the <i>Rules Publication Act 1953</i> . |
| Clause 17 | Clause 17 provides that the Governor may make regulations for the purposes of this Act. |
| Clause 18 | The provision provides that the administration of this Act is assigned to the Treasurer and the department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance. |
| Clause 19 | Clause 19 prescribes for transitional provisions that provide that all existing customers of councils who would be eligible to receive the pensioner rate remission as at 1 July 2009 are automatically taken to be eligible for the water and sewerage concession. |

Subsection (1) provides that an “**automatically eligible person**” means a person or a surviving spouse:

- (a) who, immediately preceding the commencement of this Act, is an eligible pensioner under the *Local Government (Rates and Charges Remissions) Act 1991*; and
- (b) had been granted a concession under that Act that was in effect immediately preceding the commencement of this Act.

Clause 19 requires that councils in a region must, within 30 days of the commencement day of the Act, provide the regulated entities with relevant information relating to customers who are automatically taken to be eligible for the concession on 1 July 2009. The regulated entities must inform concession holders within 60 days of the commencement date of the Act of their eligibility status.

Despite this, a person ceases to be an eligible customer of a regulated entity under section 5(1), (2) or (3) if those sections cease to apply to an eligible customer or their spouse.

Furthermore, despite subsection 5(6), which provides that a surviving spouse may be entitled to receive a concession up to two years after the death of their partner (and their partner was an eligible customer and a concession had been granted to them), a concession is no longer payable to a surviving spouse if they have received a rebate or the concession under this Act or the Local Government (Rates and Charges) Act, for a period of two years.

Clause 19 also requires a regulated entity to inform each automatically eligible person in writing of their eligibility status by 1 September 2009.

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| Clause 20 | This section provides that the <i>Local Government (Rates and Charges Remissions) Regulations 2004</i> are referred to as the Principal Regulations. |
| Clause 21 | This section provides that regulation 5 of the Local Government (Rates and Charges Remissions) Regulations is amended so that the maximum indexed remitted amount of the pensioner rate remission, for 2009-10, to water and sewerage customers is \$262. |
| Clause 22 | This section provides that the amendment or the conclusion of regulation 5 does not prevent the amendment of regulation 5 by another regulation. |