

TASMANIA

WATER LEGISLATION AMENDMENT BILL 2013

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – WATER MANAGEMENT ACT 1999 AMENDED

3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 10 amended (Delegation)
6. Section 14 amended (Scope of water management plans)
7. Sections 37 and 38 repealed
8. Section 39 amended (Withdrawal of representation)
9. Sections 40, 41, 42, 43, 44 and 45 repealed
10. Section 46 amended (Powers of Minister)
11. Section 47 repealed
12. Section 53 amended (Exceptions to general rights)
13. Section 54 amended (Licences)
14. Section 61 amended (Notification of security interest)
15. Section 69 amended (Variation of licences)
16. Section 77 amended (Surrender of licences)
17. Section 87 amended (Re-allocation of water)
18. Section 88 amended (Reduction of water allocations)

19. Section 100 amended (Withdrawal of application)
20. Section 104 amended (Consent of parties with security interest)
21. Section 106 amended (Cancellation, &c., of licence on conviction for offence)
22. Section 123A substituted
 - 123A. Watercourse authority
23. Section 123C amended (Determination of application)
24. Section 123D amended (Issue of watercourse authority)
25. Section 123E amended (Nature of watercourse authority)
26. Section 123EA inserted
 - 123EA. Variation of watercourse authority
27. Section 123F amended (Cancellation or suspension of watercourse authority)
28. Section 123G substituted
 - 123G. Exemptions
29. Part 9 substituted
 - PART 9 – Water Districts
 - Division 1 – Interpretation*
 166. Interpretation of Part
 - Division 2 – Water districts*
 167. Water districts
 168. Requirement for licence to administer water district
 169. Purpose of rural water supply district
 170. Purpose of riverworks district
 171. Purpose of hydro-electric district
 172. Purpose of drainage district
 - Division 3 – Application to establish water district*
 173. Application to establish water district
 174. Withdrawal of application
 175. Notice of application to establish water district
 176. Consideration of application
 177. Determination of application
 178. Notification of decision
 179. Declaration of water district
 - Division 4 – Licence to administer water district*
 180. Issue of licence to administer water district
 181. Variation of administration licence
 182. Cancellation of administration licence
 - Division 5 – Administration of water districts*
 183. Alteration of boundaries

- 184. Substitution of water entities
- 185. Transfer of administration licence on substitution of a water entity
- 186. Annual reports to Minister
- 187. Powers of Minister
- 188. Revocation of approval to administer water district
- 189. Effect of revocation of approval
- 190. Revocation of declaration of water district
- 191. Power to convert water allocations in rural water supply district

Division 6 – Powers of licensed water entities in districts

- 192. Power to acquire land
- 193. Powers to enter private land and undertake works
- 194. Powers to enter public land and undertake works
- 195. Appeal against notice
- 196. Application of Part 9A in respect of rural water supply districts
- 197. Compensation
- 198. Offences in connection with water districts
- 199. Further offences in rural water supply districts
- 200. Compensation payable to water entity

Division 7 – Rates for riverworks districts and drainage districts

- 201. Power to levy rates
- 202. Rates on Crown land
- 203. Procedure for rating

PART 9A – Supply and Delivery of Water in Rural Water Supply Districts

Division 1 – Interpretation

- 203A. Interpretation

Division 2 – Supply of water

- 203B. Supply of water within rural water supply districts
- 203C. General availability
- 203D. Water access rights
- 203E. Authority to take water from water resource within rural water supply system
- 203F. Details of a water access right
- 203G. Duration of water access rights
- 203H. Water access rights are personal property
- 203I. Notification of security interest
- 203J. Water access rights register
- 203K. Transfer of water access rights
- 203L. Variation of water access right
- 203M. Surrender of water access right

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

203O. Order for cancellation of water access right

Division 3 – Delivery of water

203P. Delivery of water within rural water supply districts

203Q. Requirements for supply and delivery of water

203R. Water delivery rights

203S. Details of a water delivery right

203T. Duration of water delivery rights

203U. Water delivery rights are personal property

203V. Notification of security interest

203W. Water delivery rights register

203X. Transfer of water delivery rights

203Y. Variation of water delivery right

203Z. Surrender of water delivery right

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

Division 4 – Rural water supply systems

203ZB. Interpretation of Division

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

203ZD. Connection to rural water supply systems

203ZE. Serviced land

203ZF. Reduction of extent of rural water supply system

203ZG. Protection of rural water supply systems

203ZH. Plans and maps of rural water supply districts

Division 5 – Limited or reduced availability of water

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

203ZJ. Notice of limited supply or reduced availability

Division 6 – By-laws

203ZK. Power to make by-laws

203ZL. Subjects of by-laws

203ZM. Application to make by-laws

203ZN. Regulatory impact statement

203ZO. Determination of application

203ZP. Issue of by-laws

203ZQ. Title and numbering of by-laws

203ZR. Legal effect of by-laws

203ZS. Application of by-laws

203ZT. Repeal and amendment of by-laws

203ZU. Contravention of by-laws

Division 7 – Charges

- 203ZV. Water supply, administration and construction charges
 - 203ZW. Declaration of water supply charges
 - 203ZX. Payment of water supply charges
 - 203ZY. Liability of charges in relation to water access rights and water delivery rights
 - 203ZZ. Liability of charges in relation to water supplied through general availability
 - 203ZZA. Stoppage of supply of water where payment of charges in arrears
 - 203ZZB. Interest on charges
 - 203ZZC. Remittance of interest and discount charges
 - 203ZZD. Action for non-payment of interest and charges
30. Section 204 substituted
 - 204. Administration of district
 31. Section 205 amended (Application to establish trust)
 32. Section 206B inserted
 - 206B. Rules of trust
 33. Section 206A amended (Establishment of trust)
 34. Section 211 amended (Constitution of trust)
 35. Section 223 amended (Dissolution of trusts)
 36. Section 226 repealed
 37. Section 226A inserted
 - 226A. Interpretation
 38. Section 227 amended (Power to install meters, &c.)
 39. Section 228 amended (Interference with meters)
 40. Section 229 amended (Power to undertake works)
 41. Section 231 substituted
 - 231. Power to charge for meters
 42. Section 237 amended (Appointment of authorised officers)
 43. Section 239 amended (Return of identity card)
 44. Section 240 amended (General powers of authorised officers)
 45. Section 244 amended (Entry on land for taking measurements)
 46. Section 270 amended (Interpretation of Division)
 47. Section 271 amended (Reviewable decisions)
 48. Section 274 amended (Interpretation of Division)

- 49. Section 275 amended (Appealable decisions)
- 50. Section 296 substituted
 - 296. Compensation not payable for stopping, &c., flow of water
- 51. Section 300A substituted
 - 300A. Replacement of authorisations
- 52. Section 304 amended (Fees and charges)
- 53. Section 307B inserted
 - 307B. Savings and transitional provisions consequent on *Water Legislation Amendment Act 2013*
- 54. Schedule 3 amended (Membership and Proceedings of Trusts)
- 55. Schedule 4 amended (Savings and transitional provisions)
- 56. Schedule 4B inserted
 - SCHEDULE 4B – SAVINGS AND TRANSITIONAL PROVISIONS CONSEQUENT ON WATER LEGISLATION AMENDMENT ACT 2013**
- 57. Schedule 5 amended (River Clyde Trust and River Clyde Irrigation District)

PART 3 – IRRIGATION COMPANY ACT 2011 AMENDED

- 58. Principal Act
- 59. Section 28 amended (Acquisition of land)

PART 4 – LAND USE PLANNING AND APPROVALS ACT 1993 AMENDED

- 60. Principal Act
- 61. Section 60A amended (Permit for certain works not required)

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

- 62. Principal Act
- 63. Part 8, Division 5 repealed

PART 6 – WAR SERVICE LAND SETTLEMENT ACT 1950 AMENDED

- 64. Principal Act
- 65. Section 10AA amended (Waterworks)

**PART 7 – WATER AND SEWERAGE INDUSTRY ACT 2008
AMENDED**

- 66. Principal Act
- 67. Section 56ZP substituted
 - 56ZP. Recreational use of public water supplies
 - 56ZPA. Power of Minister to require regulated entity to develop water storage areas for recreational use
 - 56ZPB. Power of Minister to perform work required

PART 8 – LEGISLATION REPEALED

- 68. Legislation repealed

PART 9 – REPEAL OF ACT

- 69. Repeal of Act

SCHEDULE 1 – LEGISLATION REPEALED

WATER LEGISLATION AMENDMENT BILL 2013

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

P. R. ALCOCK, *Clerk of the House*
20 August 2013

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

A BILL FOR

An Act to amend the *Water Management Act 1999* and various other Acts consequentially and to repeal the *Irrigation Clauses Act 1973* and the *Waterworks Clauses Act 1952*

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

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Water Legislation Amendment Act 2013*.

2. Commencement

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

Water Legislation Amendment Act 2013
Act No. of

s. 3

Part 2 – Water Management Act 1999 Amended

**PART 2 – WATER MANAGEMENT ACT 1999
AMENDED**

3. Principal Act

In this Part, the *Water Management Act 1999** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition before the definition of *Advisory Committee* in subsection (1):

administration licence means a licence granted and in force under Part 9 for administrative control of, and responsibility for, a water district;

- (b) by omitting “permit or transfer” from paragraph (a) of the definition of *authorisation* in subsection (1) and substituting “water access right or permit”;
- (c) by omitting paragraph (b) from the definition of *authorisation* in subsection (1);

*No. 45 of 1999

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 4

- (d) by inserting the following definitions after the definition of *licence* in subsection (1):

licensed water entity means a water entity holding an administration licence issued under Part 9;

limits of a rural water supply district means –

- (a) the water district; and
- (b) the vicinity of any source of supply; and
- (c) any lands required for –
 - (i) bringing water from a source of supply into the water district; or
 - (ii) bringing water from one part of the water district to another; or
 - (iii) discharging surplus or drainage water from the water district;

- (e) by inserting the following definition after the definition of *natural values* in subsection (1):

Water Legislation Amendment Act 2013
Act No. of

s. 4

Part 2 – Water Management Act 1999 Amended

nominated location means a location within a rural water supply district nominated by a person entitled to a supply of water as the location at which they require water to be supplied;

- (f) by inserting “Part 5 or 6 of” after “water under” in the definition of *prior right* in subsection (1);
- (g) by omitting the definition of *responsible water entity* from subsection (1);
- (h) by inserting the following definition after the definition of *riparian tenement* in subsection (1):

rural water supply system means a system of channels, pipes, structures, fittings and equipment –

- (a) located within the boundaries of a rural water supply district; and
- (b) used in the collection and delivery of water in that district –

and may include –

- (c) any watercourses and lakes used to supply water; and

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 4

(d) more than one source of supply;

- (i) by inserting the following definition after the definition of *Secretary* in subsection (1):

security interest means a mortgage or charge, or other arrangement of a kind prescribed by the regulations in respect of a water licence, water access right or water delivery right that secures the payment of a debt or the performance of some other obligation under a contract or other legally enforceable arrangement;

- (j) by omitting the definition of *special Act* from subsection (1);

- (k) by inserting the following definition after the definition of *waste* in subsection (1):

water access right means a water access right referred to in section 203D;

- (l) by omitting the definitions of *water district* and *water entity* from subsection (1) and substituting the following definitions:

water delivery right means a water delivery right referred to in section 203R;

Water Legislation Amendment Act 2013
Act No. of

s. 4

Part 2 – Water Management Act 1999 Amended

water district means a rural water supply district, riverworks district, hydro-electric district or drainage district created under Part 9;

water entity means –

- (a) a Government Business Enterprise; or
- (b) a council; or
- (c) an authority under Division 4 of Part 3 of the *Local Government Act 1993* or any other statutory authority; or
- (d) a body corporate under the Corporations Act; or
- (e) a trust established under Part 10; or
- (f) an electricity entity; or
- (g) a body registered under the *Cooperatives Act 1999*; or
- (h) a Regional Corporation within the meaning of the *Water and Sewerage Corporations Act 2012*; or

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 5

- (i) the Company within the meaning of the *Irrigation Company Act 2011*;

- (m) by inserting the following definition after the definition of *water resource* in subsection (1):
 - water supply period* means the period during which a licensed water entity supplies water;

- (n) by omitting “or a water management plan” from the definition of *works* in subsection (1);

- (o) by inserting “buildings,” after “all” in the definition of *works* in subsection (1);

- (p) by omitting “or plan” from the definition of *works* in subsection (1);

- (q) by omitting from subsection (2)(e) “licence.” and substituting “licence; and”;

- (r) by inserting the following paragraph after paragraph (e) in subsection (2):
 - (f) a reference to the conveyance of water is taken to be a reference to the delivery of water within, and the taking of water from, the beds and banks of the relevant watercourse.

Water Legislation Amendment Act 2013
Act No. of

s. 5

Part 2 – Water Management Act 1999 Amended

5. Section 10 amended (Delegation)

Section 10 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “licensed” after “to a”;
- (b) by inserting in subsection (3) “licensed” after “with that”;
- (c) by omitting paragraphs (b) and (c) from subsection (5) and substituting the following paragraph:
 - (b) any power conferred under section 11, 28, 31 or 34, Division 6 of Part 6 or section 137(2), 165L(5), 188(1), 190(1), 191 or 192(1); or

6. Section 14 amended (Scope of water management plans)

Section 14 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “, including a water supply channel declared under section 192(1)”;
- (b) by omitting paragraph (f) from subsection (3).

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 7

7. Sections 37 and 38 repealed

Sections 37 and 38 of the Principal Act are repealed.

8. Section 39 amended (Withdrawal of representation)

Section 39 of the Principal Act is amended by omitting subsection (2).

9. Sections 40, 41, 42, 43, 44 and 45 repealed

Sections 40, 41, 42, 43, 44 and 45 of the Principal Act are repealed.

10. Section 46 amended (Powers of Minister)

Section 46 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “purpose; and” and substituting “purpose.”;
- (b) by omitting paragraph (d).

11. Section 47 repealed

Section 47 of the Principal Act is repealed.

12. Section 53 amended (Exceptions to general rights)

Section 53(a) of the Principal Act is amended as follows:

Water Legislation Amendment Act 2013
Act No. of

s. 13

Part 2 – Water Management Act 1999 Amended

- (a) by inserting in subparagraph (vii) “or an exemption from such an authorisation under Part 6A” after “section 123A”;
- (b) by inserting the following subparagraph after subparagraph (x):
 - (xi) a water access right or other authorisation to take water from a water resource under Part 9A; or

13. Section 54 amended (Licences)

Section 54(2) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (d):
 - (da) an authorisation under section 123A or an exemption from such an authorisation under Part 6A; or
- (b) by omitting paragraph (f) and substituting the following paragraph:
 - (f) a water access right or other authorisation to take water from a water resource under Part 9A.

14. Section 61 amended (Notification of security interest)

Section 61 of the Principal Act is amended as follows:

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 15

- (a) by omitting from subsection (1) “financial” and substituting “security”;
- (b) by omitting from subsection (2) “financial” and substituting “security”;
- (c) by omitting from subsection (4) “financial” and substituting “security”;
- (d) by omitting from subsection (5) “financial” and substituting “security”;
- (e) by omitting from subsection (6) “financial” and substituting “security”;
- (f) by omitting from subsection (8) “financial” and substituting “security”.

15. Section 69 amended (Variation of licences)

Section 69 of the Principal Act is amended as follows:

- (a) by omitting paragraph (h) from subsection (2) and substituting the following paragraph:
 - (h) to give effect to a declaration under section 191.
- (b) by omitting from subsection (3) “financial” and substituting “security”.

16. Section 77 amended (Surrender of licences)

Section 77(2) of the Principal Act is amended by omitting “financial” and substituting “security”.

Water Legislation Amendment Act 2013
Act No. of

s. 17

Part 2 – Water Management Act 1999 Amended

17. Section 87 amended (Re-allocation of water)

Section 87(2)(c) of the Principal Act is amended by omitting “financial” and substituting “security”.

18. Section 88 amended (Reduction of water allocations)

Section 88(1) of the Principal Act is amended by omitting “financial” and substituting “security”.

19. Section 100 amended (Withdrawal of application)

Section 100(2) of the Principal Act is amended by omitting “section 97(1)(b)” and substituting “section 12A(a)”.

20. Section 104 amended (Consent of parties with security interest)

Section 104(1) of the Principal Act is amended by omitting “financial” and substituting “security”.

21. Section 106 amended (Cancellation, &c., of licence on conviction for offence)

Section 106 of the Principal Act is amended as follows:

- (a) by omitting from subsection (5) “financial” and substituting “security”;

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 22

- (b) by omitting from subsection (6) “financial” and substituting “security”;
- (c) by omitting from subsection (7) “financial” and substituting “security”.

22. Section 123A substituted

Section 123A of the Principal Act is repealed and the following section is substituted:

123A. Watercourse authority

- (1) A person must not convey, via a watercourse, water that has been taken pursuant to this Act unless –
 - (a) the person holds an authority (in this Part referred to as a *watercourse authority*) authorising the person to convey that water via that watercourse; and
 - (b) that water is conveyed in accordance with that watercourse authority.

Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 50 penalty units for each day during which the offence continues.

- (2) Subsection (1) does not apply to the conveyance of water –

Water Legislation Amendment Act 2013
Act No. of

s. 23

Part 2 – Water Management Act 1999 Amended

- (a) where a relevant water management plan provides that water may be conveyed without the authority of a watercourse authority; or
- (b) where –
 - (i) water is to be conveyed within a rural water supply system; and
 - (ii) the relevant administration licence for the rural water supply district specifies circumstances under which the relevant licensed water entity may approve the conveyance of water; and
 - (iii) prior approval from the relevant licensed water entity to convey water has been obtained; or
- (c) where an administration licence specifies that a watercourse authority is not required.

23. Section 123C amended (Determination of application)

Section 123C of the Principal Act is amended as follows:

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 24

- (a) by inserting the following paragraph after paragraph (a) in subsection (1):
 - (ab) if the applicant agrees, approve the application as if it were an application of a more limited kind than that made; or
- (b) by omitting from subsection (3)(b) “refusal.” and substituting “refusal; and”;
- (c) by inserting the following paragraph after paragraph (b) in subsection (3):
 - (c) any rights of review or appeal under Part 14.

24. Section 123D amended (Issue of watercourse authority)

Section 123D(3)(c) of the Principal Act is amended by inserting “, conveyed” after “released”.

25. Section 123E amended (Nature of watercourse authority)

Section 123E(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (a) “and stored under and pursuant to this Act or the special Act” and substituting “under this Act”;

Water Legislation Amendment Act 2013
Act No. of

s. 26

Part 2 – Water Management Act 1999 Amended

(b) by inserting the following paragraph after paragraph (a):

(ab) authorises the taking of conveyed water from a watercourse in accordance with the conditions of the watercourse authority; and

26. Section 123EA inserted

After section 123E of the Principal Act, the following section is inserted in Part 6A:

123EA. Variation of watercourse authority

(1) The Minister may vary a watercourse authority in accordance with this section.

(2) The watercourse authority may be varied –

(a) with the written consent of the holder of a watercourse authority; or

(b) on application by the holder of a watercourse authority; or

(c) where the watercourse authority specifies when the conditions on the authorisation may be varied, at or within the times so specified if the Minister reasonably determines that the variation is necessary or desirable to further the objectives of this Act.

Water Legislation Amendment Act 2013
Act No. of

- (3) An application under subsection (2)(b) must be in accordance with section 12A.
- (4) In considering an application under subsection (2)(b), the Minister may –
 - (a) approve the application; or
 - (b) if the applicant agrees, approve the application as if it were an application of a more limited kind than applied for; or
 - (c) refuse the application.
- (5) The Minister must approve the application if reasonably satisfied that the watercourse authority as proposed to be varied –
 - (a) would be consistent with the objectives of this Act and any relevant water management plan; and
 - (b) would not result in material or serious environmental harm or environmental nuisance; and
 - (c) would not adversely impact on other persons taking water from the relevant water resource or on the commercial operations of major users of water from that resource; and

Water Legislation Amendment Act 2013
Act No. of

s. 27

Part 2 – Water Management Act 1999 Amended

- (d) would not adversely impact on public safety.
- (6) If the Minister refuses the application, he or she is to notify the applicant as soon as practicable of –
 - (a) the refusal; and
 - (b) the reasons for the refusal; and
 - (c) any rights of review or appeal under Part 14.
- (7) The variation of a watercourse authority under this section takes effect when the holder of the watercourse authority is given notice of the variation or on such later date as the Minister, by the notice, specifies.
- (8) The Minister, on varying a watercourse authority may issue a fresh form of the authority to reflect the variation.

27. Section 123F amended (Cancellation or suspension of watercourse authority)

Section 123F(3) of the Principal Act is amended as follows:

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

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 28

- (c) any rights of review or appeal under Part 14.

28. Section 123G substituted

Section 123G of the Principal Act is repealed and the following section is substituted:

123G. Exemptions

- (1) The Minister may, by order, declare that part or all of a water entity's operation is exempt from the requirement to have a watercourse authority.
- (2) An order under subsection (1) is a statutory rule.
- (3) For the purposes of subsection (1), and without limiting the Minister's discretion, the Minister may exempt a water entity by reference to –
 - (a) a rural water supply district or part of such a district; or
 - (b) a watercourse or part of a watercourse.
- (4) An exemption is subject to any conditions that the Minister thinks fit.
- (5) The Minister may determine that an exemption does not apply where 2 or more rural water supply districts overlap and there is potential to adversely impact

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

on the operation of a relevant water entity.

29. Part 9 substituted

Part 9 of the Principal Act is repealed and the following Parts are substituted:

PART 9 – WATER DISTRICTS

Division 1 – Interpretation

166. Interpretation of Part

(1) In this Part –

undertake works includes to undertake works for the construction, erection, enlargement, modification, repair or removal of any works to which this Part applies.

(2) For the purposes of this Part, a power given to a licensed water entity –

(a) to enter land or to do works on land includes a power to do so with or by an officer, servant, workman or agent and with a wheeled or tracked vehicle; and

(b) to administer a rural water supply district includes a power to do so via a third party.

Division 2 – Water districts

167. Water districts

(1) The Minister may declare –

- (a) a rural water supply district; or
- (b) a riverworks district; or
- (c) a hydro-electric district; or
- (d) a drainage district –

so as to give a water entity administrative control of, and responsibility for, that water district.

(2) A water district referred to in subsection (1)(b), (c) or (d) may be defined as –

- (a) the whole or part of a catchment area of a certain watercourse or lake; or
- (b) a specified area of land.

(3) A rural water supply district referred to in subsection (1)(a) must be defined as a specified area of land.

168. Requirement for licence to administer water district

A water entity must not undertake the administrative control of, or

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

responsibility for, a water district unless that water entity holds an administration licence issued under this Part.

Penalty: Fine not exceeding 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.

169. Purpose of rural water supply district

- (1) A rural water supply district may be established so as to enable the licensed water entity to provide, maintain, operate and manage a rural water supply system supplying water for irrigation and any other purpose.
- (2) A licensed water entity administering a rural water supply district may do any act, matter or thing for any or all of the following purposes:
 - (a) undertaking works;
 - (b) acquiring works, leasing works or otherwise acquiring the right to use works;
 - (c) managing and maintaining any works under its control;
 - (d) measuring the flow or levels of water in, or the quantity of water

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

taken by any person from, any water resource in the district;

- (e) undertaking environmental, water quality or any other monitoring in any water resource in the district;
- (f) for any purpose referred to in, or incidental to, an administration licence relating to the rural water supply district;
- (g) for any purpose referred to in, or incidental to, a water licence relating to the rural water supply district –

but only to the extent that that act, matter or thing –

- (h) is consistent with –
 - (i) the objectives of this Act; and
 - (ii) any relevant water management plan; and
- (i) could not reasonably be expected to lead to material environmental harm or serious environmental harm.

- (3) A rural water supply district may also be referred to as an irrigation district.

170. Purpose of riverworks district

- (1) A riverworks district may be established so as to enable the licensed water entity to undertake riverworks for the benefit of owners of land in a particular area.
- (2) A licensed water entity administering a riverworks district may do any act, matter or thing for any or all of the following purposes:
 - (a) removing, cutting and trimming vegetation and other matter in or on the bed and banks of watercourses and lakes, overhanging them or likely to fall into them and cause environmental harm or pose a risk to public safety or property;
 - (b) undertaking works in channels so as to stabilise streambeds and streambanks and mitigating the adverse effects of flooding;
 - (c) protecting the banks of watercourses and lakes by the use of vegetation, riparian fencing and appropriate river engineering techniques;
 - (d) removing obstructions where appropriate technical advice has identified that those obstructions are contributing to flooding or streambank damage;

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

-
- (e) changing the course of watercourses;
 - (f) controlling or regulating the flow of water in watercourses;
 - (g) raising or lowering the level of lakes;
 - (h) planting trees and other vegetation for the purpose of slowing down water running into watercourses and lakes and of protecting banks of watercourses and lakes;
 - (i) protecting areas of important natural values, such as native vegetation, threatened species, sites of geo-conservation significance, significant habitat and sites of historic, cultural or Aboriginal significance;
 - (j) the maintenance, repair, control and management of watercourses and lakes, or of any works specified in this section or of the places where they are, or have been, carried out;
 - (k) undertaking environmental, water quality or any other monitoring in any water resource in the riverworks district;

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

(l) any purpose referred to in, or incidental to, an administration licence relating to the riverworks district;

(m) any other similar activity which may assist in giving effect to the objectives of this Act or any relevant management plan –

but only to the extent that that act, matter or thing –

(n) is consistent with –

(i) the objectives of this Act;
and

(ii) any relevant water management plan; and

(o) could not reasonably be expected to lead to material environmental harm or serious environmental harm.

(3) A riverworks district must not include –

(a) a State forest; or

(b) Crown land subject to a forest permit under the *Forestry Act 1920*; or

(c) land acquired by the Crown for the purposes of forestry –

unless the agreement of the Minister administering the *Forestry Act 1920* is obtained.

171. Purpose of hydro-electric district

- (1) A hydro-electric district may be established so as to enable the licensed water entity to provide, maintain, operate and manage works associated with the generation of electricity and undertake related activities.
- (2) A licensed water entity administering a hydro-electric district may do any act, matter or thing for any or all of the following purposes:
 - (a) undertaking any activities referred to in section 170;
 - (b) measuring the flow or levels of water in, or the quantity of water taken by any person from, any watercourse or lake in the district;
 - (c) undertaking environmental, water quality or any other monitoring in any watercourse or lake in the district;
 - (d) conserving and regulating water in watercourses and lakes in the district and purifying and protecting that water from pollution;

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (e) any purpose referred to in, or incidental to, a special licence relating to the hydro-electric district –

but only to the extent that that act, matter or thing –

- (f) is consistent with –

- (i) the objectives of this Act;
and

- (ii) any relevant water management plan, subject to section 112; and

- (g) could not reasonably be expected to lead to material environmental harm or serious environmental harm.

172. Purpose of drainage district

- (1) A drainage district may be established so as to enable the licensed water entity to undertake drainage works for the benefit of owners of land in a particular area.
- (2) A licensed water entity administering a drainage district may do any act, matter or thing for any or all of the following purposes:
 - (a) deepening, widening, straightening, diverting or otherwise improving any existing

Water Legislation Amendment Act 2013
Act No. of

drain or outfall for water, within the drainage district, and removing obstructions to drains or outfalls for water, and raising, widening or otherwise altering any existing defence against water;

- (b) making any new drain or new outfall for water, erecting any new defence against water, erecting any machinery and doing any other act required for the drainage of the drainage district;
- (c) making, maintaining, altering or discontinuing all such works of any kind or description and erecting such buildings and machinery within the drainage district as may be necessary to carry out its responsibilities;
- (d) erecting and maintaining fences on the boundaries of any drain and providing, constructing and maintaining bridges over any drain;
- (e) erecting, constructing and maintaining dams, tanks and other means of storing and conserving water as may be necessary to carry out its responsibilities;

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (f) undertaking environmental, water quality or any other monitoring in any water resource in the district;
- (g) for any purpose referred to in, or incidental to, an administration licence relating to the drainage district;
- (h) any other similar activity which may assist in giving effect to the objectives of this Act or any relevant management plan –

but only to the extent that that act, matter or thing –

- (i) is consistent with –
 - (i) the objectives of this Act;
and
 - (ii) any relevant water management plan; and
- (j) could not reasonably be expected to lead to material environmental harm or serious environmental harm.

Division 3 – Application to establish water district

173. Application to establish water district

- (1) Subject to subsection (2), an application for the establishment of a water district

Water Legislation Amendment Act 2013
Act No. of

may be made to the Minister by any or all of the following:

- (a) a water entity;
 - (b) a person;
 - (c) a group of persons.
- (2) An application for the establishment of a hydro-electric district may only be made to the Minister by an electricity entity which holds a special licence under section 115(2).
- (3) The application must –
- (a) be in accordance with section 12A; and
 - (b) specify the type of water district to be established; and
 - (c) state the purpose for which the declaration of the district is required; and
 - (d) define the boundaries of the water district in accordance with section 167(2) and (3); and
 - (e) provide details of any works proposed to be undertaken following the establishment of the district; and
 - (f) provide details of the proposed or existing water entity; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (g) specify the proposed arrangements for the administration and on-going operation and management of the proposed district; and
- (h) unless the application is made by a council, specify the names and addresses of all landowners in the area concerned.

174. Withdrawal of application

An applicant may withdraw an application at any time after the Minister receives it and before he or she approves it.

175. Notice of application to establish water district

- (1) The Minister must give notice of an application under section 173 in the *Gazette* and in a local newspaper.
- (2) Notice under subsection (1) is to –
 - (a) include full details of the application; and
 - (b) invite written representations from any persons who may be affected by the application; and
 - (c) state a period of at least 28 days from the publication of the notice

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

in the *Gazette* during which the representations may be made and the address to which they are to be sent.

- (3) If the application affects Crown land, the Minister must give notice in writing of the application to the Minister administering the *Crown Lands Act 1976*.
- (4) The Minister must consult with any councils owning land in the proposed district, unless the council is the applicant.
- (5) If the application is for a riverworks district or a drainage district, the Minister must consult with the Director.
- (6) If the application for a proposed water district is wholly or partly within an existing water district, the Minister must consult with the water entity administering the existing water district.

176. Consideration of application

Before making a decision in relation to an application to which section 173 applies, the Minister must have regard to any representations made in accordance with a notice under section 175.

177. Determination of application

- (1) Subject to subsections (2), (3), (4) and (5), after considering an application to establish a water district, the Minister may –
 - (a) approve the application; or
 - (b) refuse the application.
- (2) The Minister may amend a proposal in an application before approving it if he or she considers it desirable after taking into account any representations or advice received under section 175.
- (3) If an amendment under subsection (2) is substantial, in the Minister’s opinion, the Minister must –
 - (a) notify the applicant; and
 - (b) give the applicant an explanation of the amendment; and
 - (c) consult with the applicant with respect to the amendment.
- (4) The applicant may further amend or remake the application or may withdraw it in accordance with section 174.
- (5) An application further amended or remade under subsection (4) is to be treated as a new application under section 173.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (6) The Minister must approve an application if he or she is reasonably satisfied that the establishment of the water district –
- (a) would be consistent with the objectives of this Act and any relevant water management plan; and
 - (b) would not result in material or serious environmental harm or environmental nuisance; and
 - (c) would not have a significant adverse impact on –
 - (i) other persons taking water from the relevant water resource; or
 - (ii) the commercial operations of a major user of water from that water resource; and
 - (d) would not have a significant adverse impact on the administration of another water district.
- (7) An approval under subsection (6) may be subject to any conditions that the Minister thinks fit.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (8) Without limiting the Minister's discretion, the conditions of approval of a water district may include conditions –
- (a) ensuring that, where the application is made by a person or group of persons, the approval is conditional on the establishment of a water entity; and
 - (b) specifying operating and administrative conditions to be placed on the administration licence issued under section 180; and
 - (c) specifying when different parts of the administration licence come into effect.

178. Notification of decision

- (1) Within 7 days after making a decision under section 177(1), the Minister must give the applicant written notice of the decision and of any rights of review or appeal under Part 14.
- (2) Where an application is approved under section 177(1), the Minister must give any person who has made a representation under section 175 written notice of the approval and of any rights of review.

179. Declaration of water district

- (1) Where an application has been approved under section 177(1), the Minister, by notice published in the *Gazette*, is to declare the water district.
- (2) The notice is not a statutory rule.
- (3) The Minister must, within 14 days after publication of the notice, give notice of the declaration of a water district under subsection (1) in a local newspaper.

Division 4 – Licence to administer water district

180. Issue of licence to administer water district

- (1) Within 7 days after giving notice of a declaration under section 179(1), the Minister is to issue the water entity with an administration licence.
- (2) The administration licence –
 - (a) is to be in an approved form; and
 - (b) is to state the name of the water entity that holds the administration licence; and
 - (c) is to specify the district to which the administration licence applies; and
 - (d) is to specify the purpose of the water district (including the

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- geographic location in which activities may be conducted); and
- (e) may be issued on such conditions as the Minister thinks fit, having regard to the objectives of this Act and any conditions of approval for the establishment of the water district under section 177; and
 - (f) may specify when the Minister may vary the conditions of the administration licence.
- (3) Without limiting subsection (2)(e), the Minister may impose conditions requiring the water entity administering a water district to –
- (a) have and maintain the capacity (including technical, financial and organisational capacity) to carry out the activities authorised by the administration licence; or
 - (b) apply standards for undertaking monitoring and compliance within the water district; or
 - (c) deal with any other matters relevant to the administration and on-going management and operation of the water district; or
 - (d) fulfil any other obligations prescribed in the regulations.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (4) Without limiting subsection (2)(e), the Minister may impose conditions on the administration licence for a rural water supply district relating to –
- (a) the use of natural watercourses within the limits of that district; and
 - (b) the circumstances under which a licensed water entity may approve the conveyance of water within a rural water supply system.
- (5) A licensed water entity must not contravene a condition of an administration licence.

Penalty: Fine not exceeding 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.

- (6) The Minister may charge an annual administration licence fee as prescribed by the regulations, which may differentiate according to the type of water district being administered by the administration licence.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

181. Variation of administration licence

- (1) The Minister may vary an administration licence in accordance with this section.
- (2) The administration licence may be varied –
 - (a) on the Minister's own motion with the written consent of the licensee; or
 - (b) on an application by the licensee; or
 - (c) where the administration licence specifies when the conditions of the administration licence may be varied, at or within the times so specified if the Minister reasonably determines that the variation is necessary or desirable to further the objectives of this Act; or
 - (d) to be consistent with a water management plan; or
 - (e) on the substitution of a water entity under section 184; or
 - (f) as a result of Ministerial action against a water entity under section 188; or
 - (g) on the alteration of the district boundaries under section 183.

Water Legislation Amendment Act 2013
Act No. of

- (3) In the case of a licensed water entity that is an electricity entity administering a hydro-electric district, an administration licence may only be varied in accordance with subsection (2)(a), (b) or (g).
- (4) For the purposes of subsection (2)(b), the application must be in accordance with section 12A.
- (5) For the purposes of subsection (2)(b), the Minister, subject to subsection (6), may –
 - (a) approve the application; or
 - (b) if the applicant agrees, approve the application as if it were for a variation of a more limited kind than that applied for; or
 - (c) refuse the application.
- (6) If the Minister is of the opinion that a variation applied for in accordance with subsection (2)(b) would result in significant changes to the administration of the relevant water district, he or she may require the application to be treated as if it were a new application to establish a water district under section 173.
- (7) The Minister must not approve an application under this section unless he or she is reasonably satisfied that the variation –

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (a) would be consistent with the objectives of this Act and any relevant water management plan; and
 - (b) would not result in material or serious environmental harm or environmental nuisance; and
 - (c) would not have a significant adverse impact on –
 - (i) other persons taking water from the relevant water resource; or
 - (ii) the commercial operations of a major user of water from that water resource; and
 - (d) would not adversely impact on the operations of another water entity.
- (8) If the Minister refuses the application, he or she is to notify the licensee as soon as practicable of –
- (a) the refusal; and
 - (b) the reasons for the refusal; and
 - (c) any rights of review or appeal under Part 14.
- (9) The variation of an administration licence under this section takes effect

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

when the licensee is given notice of it or on such later date as the Minister specifies in the notice.

(10) The Minister, on varying an administration licence, may issue a fresh form of the licence to reflect the variation.

(11) Where –

(a) an application for a variation of an administration licence is treated as a new application in accordance with subsection (6); and

(b) the application is granted –

the water district that was in existence immediately before the grant of the application is revoked.

182. Cancellation of administration licence

An administration licence may be cancelled in accordance with the revocation of the declaration of a water district under section 190.

Division 5 – Administration of water districts

183. Alteration of boundaries

- (1) The Minister may, at the request of a licensed water entity and by notice published in the *Gazette* –
 - (a) alter the boundaries of the water entity's water district so as to increase or decrease the area of land within the district; and
 - (b) alter the boundaries of the water district by adding lakes or watercourses within its boundaries to, or excluding them from, the water district.
- (2) The notice is not a statutory rule.
- (3) Where an alteration of a water district under subsection (1) would result in an increase in the area of land included in the district by more than 10%, the licensed water entity must apply under section 173 as if the request for the alteration were a new application to establish a water district.
- (4) An alteration of the boundaries of a water district is to be consistent with any relevant water management plan.
- (5) An extension of a water district under this section may not include land that lies

Water Legislation Amendment Act 2013
Act No. of

within any part of another water district without the agreement of the licensed water entity for that other district, which agreement –

- (a) may not be unreasonably withheld; and
 - (b) may be subject to reasonable conditions imposed by that other water entity.
- (6) If the alteration of the boundaries of the water district is subject to any such conditions, the Minister must include those conditions in the notice made under subsection (1).
- (7) The administration licence issued under section 180 is to be amended to take account of –
- (a) any alteration made to the boundaries of the water district under this section; and
 - (b) any amended administration licence conditions resulting from that alteration.
- (8) On the approval of an application that is made under subsection (3) as a result of the extension of a water district, the water district that was in existence immediately before the extension is revoked.

184. Substitution of water entities

- (1) At the joint request of 2 water entities, the Minister may approve the substitution of a licensed water entity by another water entity.
- (2) For the purposes of subsection (1), a water entity may include a person or a group of persons proposing to create a water entity.
- (3) The Minister may agree to the request if there is no significant change to the administration of the relevant water district, other than changes arising from the substitution of the water entity.
- (4) An approval under subsection (3) may be with or without conditions and, where the request is made by a person or group of persons, the approval is to be conditional on the establishment of the proposed water entity.
- (5) Conditions imposed under subsection (4) may, without limitation, relate to arrangements for dealing with –
 - (a) part or all of the assets of the water entity that is being replaced as the licensed water entity; and
 - (b) maintenance or management of works in the district.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (6) If the Minister is of the opinion that the proposed substitution would result in significant changes to the administration of the relevant water district, he or she may require the request to be treated as if it were a new application to establish a water district under section 173.
- (7) On the substitution of a licensed water entity by another water entity under this section, any by-laws made by the former water entity and in force immediately before the substitution are, subject to subsection (8), to continue in force until they are rescinded or amended by the substituted water entity.
- (8) The Minister may, by notice published in the *Gazette*, direct that the by-laws are to cease to have effect or are to continue in force subject to any amendments specified in the notice.
- (9) The notice is not a statutory rule.
- (10) Where –
 - (a) an application is treated as a new application in accordance with subsection (6); and
 - (b) the application is granted –the water district that was in existence immediately before the grant of the application is revoked.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (11) Nothing in this section permits the administration of a hydro-electric district by a water entity that is not an electricity entity.

185. Transfer of administration licence on substitution of a water entity

- (1) An administration licence must be transferred on the substitution of water entities under section 184.
- (2) The Minister may amend the administration licence to take account of conditions specified under section 184(4).

186. Annual reports to Minister

- (1) By 30 September each year and at any other time when so required by the Minister, a licensed water entity must provide the Minister with a written report on its administration of a water district during the preceding financial year.
- (2) The report is to include –
- (a) a full independently audited financial statement of all matters relating to the water entity's administration of its water district; and

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (b) details of all activities undertaken in discharging its responsibilities as a licensed water entity; and
 - (c) evidence of compliance with the conditions of a relevant administration licence; and
 - (d) such other information as the Minister may require for the purpose of ensuring the due administration of the water district.
- (3) Where a licensed water entity is required to provide an annual report under any other Act, the provision of that report is sufficient compliance with this section unless the Minister requires a report to be prepared in accordance with subsection (1).
- (4) The Minister may give a licensed water entity that has failed to comply with this section a notice directing it to provide the Minister with the required report by or within such time as the Minister, by the notice, specifies.
- (5) A licensed water entity that is given a Ministerial direction under subsection (4) must comply with that direction.

Penalty: Fine not exceeding 50 penalty units.

187. Powers of Minister

For the purpose of ensuring the due administration of a water district, the Minister may –

- (a) undertake surveys and inspections; and
- (b) take measurements and samples of water and any other material which may affect the quality of water; and
- (c) undertake environmental, water quality or any other monitoring in any water resource in the district; and
- (d) enter on land for any such purpose; and
- (e) require the licensed water entity to provide the Minister with information relating to any activity arising from, or for the purpose of, the administration of the district or the construction or operation of any related works; and
- (f) direct the licensed water entity, with respect to any aspect of its administration of a water district, to take action to ensure that its administration is consistent with the objectives of this Act.

188. Revocation of approval to administer water district

(1) Where –

- (a) a licensed water entity fails to comply with a requirement to provide the Minister with any information relating to any activity arising from, or for the purpose of, the administration of a water district; or
- (b) a licensed water entity does, or omits to do, any act that is a material contravention of the administration licence of the water district; or
- (c) a licensed water entity has contravened this Act and in the Minister's opinion the contravention is so serious as to warrant action under this section; or
- (d) the Minister is satisfied that a licensed water entity has been guilty of serious neglect, mismanagement or incompetence in the discharge of its responsibilities –

the Minister may serve on the licensed water entity a notice in writing affording the entity an opportunity to show cause within the period of 60 days from the

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

date of service why the Minister should not take action under this section for revocation of approval to administer a water district.

- (2) The licensed water entity, within the period allowed by the notice, may arrange with the Minister for the making of submissions to the Minister as to why any such action should not be taken and the Minister must consider any submissions so made.
- (3) The Minister may, after that period, take action against the licensed water entity as the Minister thinks fit by giving written notice to the entity –
 - (a) of the revocation of approval for the entity to administer the relevant water district; or
 - (b) of the variation of the administration licence for the water district; or
 - (c) in the form of a letter of censure.
- (4) Subject to subsection 3(a), the Minister may, by notice published in the *Gazette* and in accordance with this section, revoke the approval for the licensed water entity to administer the district and transfer the administration licence in accordance with section 189.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (5) A revocation of approval under this section takes effect when the notice is given or on a later date specified in the notice.
- (6) A letter of censure may censure the licensed water entity in respect of any matter arising from the administration of the water district and may include a direction to the entity to rectify within a specified time any matter giving rise to the letter of censure.
- (7) If the direction is not complied with in the specified time, the Minister may, by notice published in the *Gazette*, revoke the approval of the licensed water entity to administer the water district without affording it a further opportunity to be heard.
- (8) A notice under this section is not a statutory rule.

189. Effect of revocation of approval

- (1) On a revocation of approval under section 188 the notice published in the *Gazette* may –
 - (a) provide for the substitution of the Minister or any suitable water entity as the authority to administer the water district but without otherwise affecting the administration of the district; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (b) authorise the new water entity to maintain and manage the works of the former water entity relating to the administration of the water district; and
- (c) provide that –
 - (i) directions be made in relation to arrangements for dealing with part or all of the assets of the former water entity; and
 - (ii) any legal proceedings pending immediately before the substitution and which were instituted by, or against, the substituted water entity may be continued by or against the new water entity; and
 - (iii) any legal proceedings by, or against, the substituted water entity to enforce a right that had accrued, and was in existence, immediately before the substitution may be commenced by or against the new water entity; and
 - (iv) a judgment or order of a court obtained before the

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

substitution by or against the substituted water entity may be enforced by or against the new water entity; and

(v) a document addressed to the substituted water entity may be served on the new water entity; and

(vi) a contract made or entered into by the substituted water entity before the substitution but not performed or discharged before that day is taken to have been made or entered into by the new water entity.

(2) In the case where a new water entity or the Minister is to administer the water district, the administration licence is transferred to that water entity or to the Minister.

(3) In the case where the Minister is not able to substitute a new water entity to administer the water district, the Minister may –

(a) revoke the declaration of the district in accordance with section 190; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (b) cancel the administration licence issued under section 180.

190. Revocation of declaration of water district

- (1) On application by a licensed water entity or where the Minister is satisfied that the continuation of a water district is not appropriate for the purpose for which the district was declared, the Minister may, by notice published in the *Gazette*, revoke the declaration of the water district.
- (2) The notice is not a statutory rule.
- (3) Where a licensed water entity is an electricity entity, the Minister may not exercise his or her powers under subsection (1) except with the consent of the electricity entity or on payment of compensation as provided by subsection (4).
- (4) For the purposes of subsection (3) –
 - (a) compensation is to be paid from the Consolidated Fund without further or other appropriation than this section; and
 - (b) in default of agreement between the Minister and the electricity entity, the arbitrator is to be nominated by the president for the time being of the Australian

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

Centre for International
Commercial Arbitration; and

- (c) the amount of compensation is to be determined in accordance with the *Commercial Arbitration Act 2011*.
- (5) The Minister may not exercise his or her powers under subsection (1), without first consulting with all persons who have a water access right or other authorisation to take water under Part 9A.
- (6) On the revocation of the declaration of a rural water supply district, the Minister must take all reasonably practicable steps to ensure that all persons who have 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.
- (7) On the revocation, the Minister may give directions in relation to –
 - (a) the sale or disposal of assets; and
 - (b) on-going maintenance of works; and
 - (c) the distribution of the proceeds from the sale of assets.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (8) On the revocation, the administration licence for the district is cancelled.
- (9) On the revocation, the Minister may recover from the water entity in any court of competent jurisdiction as a debt due to the Crown any expense actually and reasonably incurred by the Minister in making the revocation.

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

- (1) Following the declaration of a rural water supply district under section 179, the Minister may, by notice published in the *Gazette*, declare that any water allocation of a licence, under which water may be taken out of the specified part of a watercourse within a specified rural water supply district –
 - (a) ceases to have effect and, if the Minister so directs, is to be –
 - (i) transferred to the licensed water entity; and
 - (ii) replaced by a water access right under which water is to be supplied by a licensed water entity; or
 - (b) continues to have effect but subject to such conditions as the Minister may specify.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

-
- (2) A notice under subsection (1) is not a statutory rule.
 - (3) The notice may be made subject to any conditions that the Minister thinks fit to further the objectives of this Act.
 - (4) The Minister must publish notification of his or her intention to make a declaration under subsection (1) in the *Gazette* and in a local newspaper, inviting any persons who would be affected by the declaration to make representations, within a period of 14 days from the date of gazettal, as to why the declaration should not be made.
 - (5) Before making a declaration under subsection (1), the Minister must have regard to any representations made in accordance with subsection (4).
 - (6) If subsection (1)(a) applies, any registered security interests in the relevant authorisation, or the relevant water allocation, are to attach to the water access right.
 - (7) The volume of water under a water access right under subsection (1)(a)(ii) is to be not less than the volume transferred from a water allocation under subsection (1)(a)(i).
 - (8) The Minister must not make a declaration under this section if it would be inconsistent with any relevant water management plan.

Division 6 – Powers of licensed water entities in districts

192. Power to acquire land

- (1) Subject to subsection (3), a licensed water entity may, with the approval of the Minister, acquire land for the purposes of this Part in accordance with the *Land Acquisition Act 1993*.
- (2) Subject to subsection (3), a licensed water entity may sell or otherwise dispose of any land acquired under subsection (1) that is no longer required for the purposes of this Part.
- (3) This section does not derogate from the application of any other Act relating to the acquisition, sale or disposal of land by a water entity.

193. Powers to enter private land and undertake works

- (1) In this section –

land means, in relation to –

- (a) a rural water supply district, any private land within the limits of that rural water supply district; and
- (b) a riverworks district, hydro-electric district or

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

drainage district, any private land within the district boundaries.

- (2) Where necessary to do any act, matter or thing for any of the purposes specified in section 169(2), section 170(2), section 171(2) or section 172(2), a licensed water entity may –
- (a) on giving notice in accordance with section 242 –
 - (i) enter any land; and
 - (ii) pass over the land with persons, vehicles and machinery; and
 - (iii) inspect any of its works or works that it has the right to use; and
 - (iv) undertake routine maintenance of any of its works or works that it has the right to use; and
 - (v) undertake monitoring, conduct surveys, take levels, examine and test the soil and set out works on that land; and
 - (b) on giving 14 days' written notice in accordance with this section, enter land and undertake any

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

activities required to construct, or carry out major maintenance on, its works.

- (3) Written notice under subsection (2) is to be given to the owner and the occupier of any relevant land.
- (4) Notice under subsection (2) is to include a brief statement of what the licensed water entity intends to do on the land and an estimate of how long it will take to do it.
- (5) If the land appears to be unoccupied, notice must be given to the person shown in the valuation list or assessment roll of the relevant council as the owner at his or her address shown in the list or roll.
- (6) An owner or occupier of land must not hinder or obstruct a licensed water entity from entering land for the purposes of this section.

Penalty: Fine not exceeding 50 penalty units.

- (7) If the entry on land is required urgently by reason of imminent danger to human or animal life or to protect any works of the licensed water entity or the environment, a notice under subsection (2) is not required.
- (8) A licensed water entity must give notice in accordance with this section.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

Penalty: Fine not exceeding 100 penalty units.

194. Powers to enter public land and undertake works

(1) In this section –

public land means, in relation to –

- (a) a rural water supply district, any public land within the limits of that rural water supply district; and
- (b) a riverworks district, hydro-electric district or drainage district, any public land within that district –

and includes any land managed by a Crown agency or authority.

(2) Where necessary to do any act, matter or thing for any of the purposes specified in section 169(2), section 170(2), section 171(2) or section 172(2), a licensed water entity may –

(a) on giving notice in accordance with section 242 –

- (i) enter any land; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (ii) pass over the land with persons, vehicles and machinery; and
 - (iii) inspect any of its works or works that it has the right to use; and
 - (iv) undertake routine maintenance of any of its works or works that it has the right to use; and
 - (v) undertake monitoring, conduct surveys, take levels, examine and test the soil and set out works on that land; and
- (b) on giving 14 days' written notice in accordance with this section, enter any public land and undertake any activities required to construct, or carry out major maintenance on, any of its works on any public land.
- (3) Subject to this section, a licensed water entity must –
- (a) unless otherwise agreed between the licensed water entity and the authority responsible for the management of the public land (the *responsible authority*), or in the case of an emergency, give the responsible authority on

Water Legislation Amendment Act 2013
Act No. of

whose land the licensed water entity intends to carry out work written notice, in accordance with subsection (2), of the licensed water entity's intention to carry out work on the land; and

- (b) before commencing the work, secure the responsible authority's agreement as to how the work is to be carried out.
- (4) Any agreement under subsection (3) may include conditions that the responsible authority considers appropriate in the public interest.
- (5) Prior notice is not required under subsection (3) for work of a kind prescribed by the regulations for the purposes of this section.
- (6) Agreement is not required under subsection (3) for work of a kind prescribed by the regulations for the purposes of this section.
- (7) In an emergency, a licensed water entity may carry out any work specified in subsection (2) at any time and –
 - (a) may be accompanied by such other persons as the licensed water entity considers necessary or appropriate; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (b) may bring on to the land any vehicles and equipment that the licensed water entity considers necessary or appropriate for the work which the licensed water entity is to carry out on the land.
- (8) A licensed water entity must make good, to the satisfaction of the responsible authority, any damage caused by the exercise of powers under this section as soon as practicable.
- (9) If a licensed water entity fails to make good, to the satisfaction of the responsible authority, any damage caused by the exercise of powers under this section, the responsible authority may make good the damage itself.
- (10) The cost of making good the damage referred to in subsection (9) may be recovered by the responsible authority in a court of competent jurisdiction as a debt owed to it by the licensed water entity.
- (11) This section does not derogate from an obligation to comply with any other Act.
- (12) A licensed water entity must give notice in accordance with this section.

Penalty: Fine not exceeding 100 penalty units.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (13) A licensed water entity must comply with any requirements of a responsible authority in accordance with this section.

Penalty: Fine not exceeding 100 penalty units.

195. Appeal against notice

- (1) If the responsible authority, on being given notice under section 194(3), decides to –
- (a) include, in the agreement under that subsection, conditions that the licensed water entity considers unreasonable; or
 - (b) dispute that the licensed water entity is entitled to carry out the proposed work –

the licensed water entity may appeal to the Appeal Tribunal.

- (2) Subsection (1) does not apply if the responsible authority is a Minister, or a person or body to whom directions may be given by a Minister in respect of the matter in dispute.
- (3) Except as provided by subsection (4), the Appeal Tribunal is to hear and determine the appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (4) Notwithstanding section 14(2) of the *Resource Management and Planning Appeal Tribunal Act 1993*, the Appeal Tribunal must not, under that section, allow any person other than the licensed water entity and the responsible authority to be a party to the appeal.

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

In addition to the powers conferred by this Division, Part 9A also applies in respect of rural water supply districts.

197. Compensation

- (1) In carrying out its responsibilities for the administration of a water district, a licensed water entity must do as little damage as practicable and must pay compensation for any damage it causes.
- (2) If a licensed water entity serves notice on a person requiring him or her to make a claim for compensation for damage arising from the exercise of the water entity's powers, the person must make any claim for compensation within 6 months after the service of the notice.
- (3) If a claimant and the licensed water entity do not agree on the amount of compensation payable under subsection

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

(1), the claim for compensation is to be determined –

- (a) if it is a small claim, by the small claims division of the Magistrates Court; or
- (b) in any other case, as if it were a disputed claim under the *Land Acquisition Act 1993*.

198. Offences in connection with water districts

A person must not –

- (a) destroy, damage or interfere with any structure, appliance or other work or installation constructed, managed or maintained by a licensed water entity in order to meet its responsibility for administering a water district; or
- (b) without the consent of the licensed water entity, make any drain which empties, either directly or indirectly, into any watercourse or drain where it is part of a water district; or
- (c) obstruct, hinder, delay, threaten or assault a person who is –
 - (i) authorised to enter on land under section 193 or 194; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (ii) acting in accordance with either section; or
- (d) destroy, damage or tamper with any work of a licensed water entity; or
- (e) permit an animal to cause damage to a drain or watercourse of a licensed water entity; or
- (f) draw any log, tree or timber, or drive any vehicle, across a drain of a licensed water entity, except over a bridge provided for the purpose; or
- (g) remove soil, sand, gravel or shingle from land owned or occupied by a licensed water entity.

Penalty: Fine not exceeding 50 penalty units.

199. Further offences in rural water supply districts

- (1) A person must not, without a water access right or authorisation from a licensed water entity under section 203C, take water from a rural water supply system.

Penalty: Fine not exceeding 500 penalty units and, in the case of a

Water Legislation Amendment Act 2013
Act No. of

continuing offence, a further fine not exceeding 50 penalty units for each day during which the offence continues.

- (2) However, subsection (1) does not apply to the taking of water from a water resource within a rural water supply system –
- (a) under and in accordance with –
 - (i) Part 5; or
 - (ii) an exemption under section 11; or
 - (iii) a licence under Part 6; or
 - (iv) a permission under section 90; or
 - (v) an authorisation under section 90A; or
 - (vi) an authorisation under section 123A or an exemption from such an authorisation under section 123G; or
 - (vii) a direction under section 280D; or
 - (b) directly from a dam or other works not under the control of the licensed water entity if the water in the dam or works has

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

previously been taken under and
in accordance with this Act.

- (3) A person with a water access right, or an authorisation from a licensed water entity under section 203C, must not –
- (a) take water in excess of that right or authorisation; or
 - (b) contravene any terms, conditions or by-laws relating to that right or authorisation.

Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 50 penalty units for each day during which the offence continues.

200. Compensation payable to water entity

- (1) A court by which a person is convicted of an offence against section 198 or 199 may, where the complaint contains a claim for damages arising from the commission of the offence, order the defendant to pay to the licensed water entity damages representing the actual or expected cost of restoring its works or repairing damage.
- (2) For the purposes of subsection (1) –

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (a) the licensed water entity is taken to be the complainant in the proceedings; and
- (b) an amount of damages ordered to be paid is recoverable in a court of competent jurisdiction as if it were a debt owing to the licensed water entity.

Division 7 – Rates for riverworks districts and drainage districts

201. Power to levy rates

- (1) A licensed water entity may, with the approval of the Minister, determine and levy rates in order to provide for the costs necessarily incurred –
 - (a) in the administration of a riverworks district or drainage district; and
 - (b) in constructing, maintaining and operating works necessary for the purpose for which the district was declared.
- (2) In determining and levying rates for the purposes of a riverworks district or drainage district, a licensed water entity may impose different rates in different areas according to different benefits for owners or occupiers of land in those areas.

202. Rates on Crown land

All rates made in respect of unoccupied Crown land within a riverworks district or drainage district are to be paid to the licensed water entity by the Treasurer out of the Consolidated Fund without further appropriation than this section.

203. Procedure for rating

- (1) A licensed water entity may levy rates on the owners of properties within the water district in the same manner as service rates in respect of those properties are levied under the *Local Government Act 1993*.
- (2) The amount of rates is to be determined by the licensed water entity and is to be levied annually.
- (3) Rates levied under this Division are not subject to a remission under the *Local Government (Rates and Charges Remissions) Act 1991*.
- (4) A licensed water entity may, with the Minister's approval, remit any rate, wholly or in part, where it is of opinion that to levy it would cause serious financial hardship to the person liable to pay.

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

Division 1 – Interpretation

203A. Interpretation

In this Part –

licensed water entity means a licensed water entity with the primary purpose of supplying water in a rural water supply district in accordance with an administration licence;

register means –

- (a) a register of water access rights kept by a licensed water entity under section 203J; or
- (b) a register of water delivery rights kept by a licensed water entity under section 203W.

Division 2 – Supply of water

203B. Supply of water within rural water supply districts

- (1) The supply of water for irrigation and other purposes may be provided under either or both of the following:

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (a) the system of water access rights;
 - (b) the system of general availability.
- (2) A right under subsection (1)(a), may be either –
- (a) an irrigation right; or
 - (b) a water access right.

203C. General availability

- (1) Under the system of general availability, a licensed water entity administering a rural water supply district may authorise a person, either by agreement with the person or in accordance with by-laws made under this Act, to take water that the entity makes available.
- (2) An authorisation under subsection (1) is subject to any terms, conditions or by-laws that the licensed water entity thinks fit to support the operation of the rural water supply district.
- (3) An authorisation may be granted for financial consideration or free of charge.
- (4) For the avoidance of doubt, an authorisation under this section is not a water access right.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203D. Water access rights

- (1) Under the system of water access rights, a licensed water entity may grant a person a right to be supplied with a certain quantity of water.
- (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 to support the operation of the rural water supply district.
- (3) Water access rights may be granted for financial consideration or free of charge.
- (4) A licensed water entity may refuse to grant a water access right if there is insufficient water available for supply.

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

A water access right authorises the holder of the right to take supplied water from a water resource within a rural water supply system in accordance with the right and is subject to –

- (a) any relevant water management plan or other plans determined by the licensed water entity responsible for administering the district; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (b) any condition specified in the right; and
- (c) any requirement to hold a water delivery right under section 203Q.

203F. Details of a water access right

A water access right –

- (a) is to specify the name and address of the holder of the right; and
- (b) may specify the water resource or rural water supply system from which the water is to be supplied or taken; and
- (c) may specify the location to which the water is to be supplied or from which it is to be taken; and
- (d) may, where the licensed water entity considers it to be appropriate, specify the surety with which water can be expected to be available for supply and taking; and
- (e) may specify conditions under which the holder of the right may take water; and
- (f) may specify conditions under which the water is to be supplied,

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

including but not limited to,
conditions relating to –

- (i) infrastructure required to supply and deliver water; and
- (ii) any delivery constraints within the rural water supply system; and
- (g) may specify when the licensed water entity may vary the conditions of the right; and
- (h) may specify such other conditions and matters as the licensed water entity thinks fit.

203G. Duration of water access rights

Unless revoked earlier under section 190, 203N or 203O, a water access right remains in force for such period as the licensed water entity determines and specifies in the right.

203H. Water access rights are personal property

A water access right is the personal property of the owner or holder of the right and is alienable in accordance with sections 203K and 203M and any other law relating to the passing of property.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

203I. Notification of security interest

- (1) A holder of a water access right, or a person with a security interest in the right, is to provide the licensed water entity in writing with details of the interest.
- (2) A person is not taken to have a security interest for the purposes of subsection (1) by reason only of the fact that he or she is a shareholder in, or a member of, a body corporate that holds the water access right.
- (3) Subject to subsection (4), on receipt of notification under subsection (1), the licensed water entity must make a notation in the relevant register to that effect.
- (4) Where notification under subsection (1) is made by a person with a security interest in the right, a licensed water entity is not required to make a notation in the relevant register until such information required to verify the security interest has been provided to the entity.
- (5) Where the register includes a notation made under subsection (3) that a specified person has a security interest in a water access right, the licensed water entity must, on written notification by that person that that interest –

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (a) no longer exists, remove that notation from the register; or
- (b) has been varied, amend that notation in the register accordingly.

203J. Water access rights register

- (1) The licensed water entity must keep a register of all water access rights in the entity's rural water supply district.
- (2) The register of water access rights and security interests is to be in such form and contain such information as the Minister, by notice, from time to time directs.
- (3) The Minister, by notice, may –
 - (a) require that the licensed water entity provide the Minister or another person with a copy of the register (or the register as it existed on a specified date); and
 - (b) require that that copy be provided in a particular format.
- (4) The licensed water entity must comply with the Minister's notice.

Penalty: Fine not exceeding 50 penalty units.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

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

203K. Transfer of water access rights

- (1) The holder of a water access right or a person entitled under section 203O(5) may, with the approval of the licensed water entity and on payment of a fee, if any, transfer all or a part of the right.
- (2) The transfer of a water access right under subsection (1) may be absolute or for a limited period.
- (3) Before approving the transfer under subsection (1), a licensed water entity may issue a statement of obligations to the transferor and transferee outlining –
- (a) the terms, conditions and charges relating to the supply or delivery of water to a nominated location; or
 - (b) any constraints or limitations on the supply or delivery of water to a nominated location; or
 - (c) any other matters the licensed water entity thinks relevant.
- (4) Where a licensed water entity approves a transfer, its obligation to supply water is subject to section 203ZC and any terms

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

or conditions relating to the supply and delivery of water to a nominated location.

- (5) Where a transfer under this section is for a limited period, a water access right that has been transferred is taken to revert to the transferor when the period expires.
- (6) The licensed water entity must not approve the transfer unless satisfied, from written evidence, that each person with a security interest in the relevant water access right consents to the transfer.
- (7) Subsection (6) does not apply if –
 - (a) the licensed water entity is satisfied that the transfer will be only for a period not exceeding 12 months and the relevant water access right will revert to the transferor immediately after that period expires; or
 - (b) the transferor and transferee are the same person.

203L. Variation of water access right

- (1) The licensed water entity may vary the conditions of a water access right as provided by this section.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (2) The conditions of a water access right may be varied –
- (a) with the written consent of the holder of the water access right and of any other persons as required by subsection (3); or
 - (b) subject to subsection (3), on application by the holder of the water access right; or
 - (c) where the conditions of a water access right specify the time when, or the circumstances under which, the conditions of the right may be varied; or
 - (d) if so provided by a water management plan; or
 - (e) on a transfer under section 203K to the extent that the variation is necessary to address any matters relating to the supply or delivery of water to a nominated location.
- (3) If, in the case of a variation under subsection (2)(a) or (b), the relevant register includes a notation that a person has a security interest in the water access right, the written consent of that person to the variation is required unless the effect of the variation is to increase the quantity of water assigned to the right.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203M. Surrender of water access right

- (1) Subject to subsection (2), the holder of a water access right may surrender all or part of his or her right at any time by giving the licensed water entity written notice to that effect.
- (2) A surrender is of no effect unless –
 - (a) all outstanding fees and charges have been assessed by the licensed water entity as having been paid; and
 - (b) if the relevant register includes a notation that a person has a security interest in the water access right, the written consent of that person has been obtained.

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

- (1) Where a fee or charge or other money payable in respect of the water access right is not paid within 120 days of the due date, a licensed water entity may cancel that right on giving 30 days' notice in writing to the holder of the right of its intention to do so.
- (2) Where the register includes a notation that a person has a security interest in a water access right that the licensed water entity proposes to cancel, the licensed

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

water entity must notify that person of the proposed cancellation at least 30 days before it takes effect.

- (3) Where a cancellation is proposed under subsection (1), the notice is to specify that the holder of the right or a person having a security interest in the water access right may pay the outstanding fee or charge, in which case the proposed cancellation will have no effect.
- (4) A notice given under this section may be given to the person in writing, or if, after reasonable inquiry, the person's whereabouts are unknown, given by means of a notice in the *Gazette* or local newspaper, or both.

2030. Order for cancellation of water access right

- (1) The licensed water entity may apply to a magistrate for an order to cancel a water access right and any associated water delivery rights, if the holder of the right is convicted of an offence against section 198(a) or (b) or section 199 which has resulted in a significant adverse impact on any other person or material environmental harm or serious environmental harm.
- (2) Only the following persons may be a party to the proceedings on the application:

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (a) the licensed water entity;
 - (b) the holder of the water access right.
- (3) Subject to subsections (4) and (5), the magistrate may grant or dismiss the application.
- (4) The magistrate may grant the application and order the cancellation of the water access right and any associated water delivery rights if –
- (a) the licensed water entity has given the magistrate, either orally or by affidavit, any information that the magistrate requires concerning the grounds on which the order is sought; and
 - (b) the prescribed requirements, if any, relating to the making or hearing of the application have been met; and
 - (c) the magistrate is satisfied that there are reasonable grounds for making the order.
- (5) Where the magistrate has granted an order to cancel the water access right and any associated water delivery rights, the licensed water entity is to notify a person having a security interest in the right that they may apply to the licensed water entity for approval to transfer the right

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

under section 203K or section 203X on such conditions as the licensed water entity may require for the purposes of this Part.

- (6) A notice given under this section may be given to the person in writing, or if, after reasonable inquiry, the person's whereabouts are unknown, given by means of a notice in the *Gazette* or local newspaper, or both.

Division 3 – Delivery of water

203P. Delivery of water within rural water supply districts

In the administration of a rural water supply district, a licensed water entity may deliver water to holders of water access rights using the system of water delivery rights.

203Q. Requirements for supply and delivery of water

Where the 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.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203R. Water delivery rights

- (1) Under the system of water delivery rights, 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 location nominated under section 203ZC.
- (2) The grant of a water delivery right is subject to any terms, conditions or by-laws that the licensed water entity thinks fit to support the operation of the rural water supply district.
- (3) Water delivery rights may be granted for financial consideration or free of charge.

203S. Details of a water delivery right

A water delivery right –

- (a) is to specify the name and address of the holder of the right; and
- (b) is to specify the delivery capacity available to the holder of the right for delivery of water to a specified location, or part, of a rural water supply system, in terms of the volume of water able to be delivered or the rate at which water may be delivered; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (c) may specify conditions under which the water is to be delivered, including but not limited to, conditions relating to –
 - (i) infrastructure required to deliver water; and
 - (ii) delivery constraints within the rural water supply system; and
- (d) may specify when the licensed water entity may vary the conditions of the right.

203T. Duration of water delivery rights

Unless revoked earlier under section 190, 203O or 203ZA, a water delivery right remains in force for such period as the licensed water entity determines and specifies in the right.

203U. Water delivery rights are personal property

A water delivery right is the personal property of the holder of the right and is alienable in accordance with sections 203X and 203Z and any other law relating to the passing of property.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203V. Notification of security interest

- (1) The holder of a water delivery right, or a person with a security interest in the right, is to provide the licensed water entity in writing with details of the interest.
- (2) A person is not taken to have a security interest for the purposes of subsection (1) by reason only of the fact that he or she is a shareholder in, or a member of, a body corporate that holds the water delivery right.
- (3) Subject to subsection (4), on receipt of notification under subsection (1), the licensed water entity must make a notation in the register to that effect.
- (4) Where notification under subsection (1) is made by a person with a security interest in the right, a licensed water entity is not required to make a notation in the relevant register until such information required to verify the security interest has been provided to the entity.
- (5) Where the register includes a notation made under subsection (3) that a specified person has a security interest in a water delivery right, the licensed water entity must, on written notification by that person that that interest –

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (a) no longer exists, remove that notation from the register; or
- (b) has been varied, amend that notation in the register accordingly.

203W. Water delivery rights register

- (1) The licensed water entity must keep a register of all water delivery rights in the entity's rural water supply district.
- (2) The register of water delivery rights and security interests is to be in such form and contain such information as the Minister, by notice, from time to time directs.
- (3) The Minister, by notice, may –
 - (a) require that the licensed water entity provide the Minister or another person with a copy of the register (or the register as it existed on a specified date); and
 - (b) require that that copy be provided in a particular format.
- (4) The licensed water entity must comply with the Minister's notice.

Penalty: Fine not exceeding 50 penalty units.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (5) A licensed water entity may make publicly available any information it thinks fit.

203X. Transfer of water delivery rights

- (1) The holder of a water delivery right may, with the approval of the licensed water entity and on payment of a fee, if any, transfer all or a part of the right.
- (2) The transfer of a water delivery right under subsection (1) may be absolute or for a limited period.
- (3) Where a transfer under this section is for a limited period, a water delivery right that has been transferred is taken to revert to the transferor when the period expires.
- (4) The licensed water entity must not approve the transfer unless satisfied, from written evidence, that each person with a security interest in the relevant water delivery right consents to the transfer.
- (5) Subsection (4) does not apply if –
- (a) the licensed water entity is satisfied that the transfer will be only for a period not exceeding 12 months and the relevant water delivery right will revert to the

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

transferor immediately after that period expires; or

- (b) the transferor and transferee are the same person.

203Y. Variation of water delivery right

- (1) The licensed water entity may vary the conditions of a water delivery right as provided by this section.
- (2) The water delivery right may be varied –
 - (a) with the written consent of the holder of the right and of any other persons as required by subsection (3); or
 - (b) subject to subsection (3), on application by the holder of the right; or
 - (c) where the right specifies when the conditions of the right may be varied, at or within the times so specified if the licensed water entity reasonably determined that the variation is necessary or desirable to further the objectives of this Act; or
 - (d) on a transfer under section 203X; or

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (e) if the licensed water entity is authorised to do so under section 203Z.
- (3) If, in the case of a variation under subsection (2)(a) or (b), the register includes a notation that a person has a security interest in the water delivery right, the written consent of that person to the variation is required unless the effect of the variation is to increase the delivery capacity assigned to the right.

203Z. Surrender of water delivery right

- (1) Subject to subsection (2), the holder of a water delivery right may surrender all or part of his or her right at any time by giving the licensed water entity written notice to that effect.
- (2) A surrender is of no effect unless –
 - (a) all outstanding fees and charges have been assessed by the licensed water entity as having been paid; and
 - (b) if the register includes a notation that a person has a security interest in the water access right, the written consent of that person has been obtained.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

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

- (1) Where a fee or charge or other money payable in respect of the water delivery right is not paid within the period of 120 days commencing on the due date, a licensed water entity may cancel that right on giving 30 days' notice in writing to the holder of the right of its intention to do so.
- (2) Where the register includes a notation that a person has a security interest in a water delivery right that the licensed water entity proposes to cancel, the licensed water entity must notify that person of the proposed cancellation at least 30 days before it takes effect.
- (3) Where a cancellation is proposed under subsection (1), the notice is to specify that the holder of the right or a person having a security interest in the water delivery right may pay the outstanding licence fee, in which case the proposed cancellation will have no effect.
- (4) A notice given under this section may be given to the person in writing, or if, after reasonable inquiry, the person's whereabouts are unknown, given by means of a notice in the *Gazette* or local newspaper, or both.

Division 4 – Rural water supply systems

203ZB. Interpretation of Division

In this Division –

serviced land means the land, whether identified by individual title or by locality, to which a licensed water entity agrees to supply and deliver water.

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

- (1) Subject to subsection (7), a person entitled under section 203B to a supply of water may nominate the location at which he or she requires the water to be supplied and delivered.
- (2) A nomination under subsection (1) may be made at the time the water access right or other authorisation to take water under Part 9A is granted or from time to time.
- (3) The location nominated under subsection (1) may be –
 - (a) within the rural water supply system; or
 - (b) outside the rural water supply system, with the agreement of the licensed water entity.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (4) Where a licensed water entity agrees to supply and deliver water to a location nominated under subsection (3)(b), that location may be situated –
 - (a) on the boundary of a piece of land in the rural water supply district; or
 - (b) on the boundary of the rural water supply district.
- (5) For the purposes of subsection (4)(a), a licensed water entity may agree to supply and deliver water to a location that is not on the boundary of a piece of land.
- (6) For the purposes of subsection (3)(b), water supplied by a licensed water entity may be conveyed or distributed outside the rural water supply district.
- (7) Where a system of water delivery rights is in operation under Division 3, the licensed water entity is required to supply and deliver water to a location nominated under subsection (1) –
 - (a) only if the person holds both a water access right and a water delivery right relevant to the nominated location; and
 - (b) only to the extent that the water delivery right provides for the delivery of water to the nominated location.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (8) For the purposes of subsection (3)(b), the agreement of a licensed water entity –
- (a) must not be unreasonably withheld; and
 - (b) may be limited where the licensed water entity determines that –
 - (i) supply and delivery of water is not technically feasible at the nominated location; or
 - (ii) the person who has nominated the location is unable to meet all the costs associated with the connection at the nominated location, including any costs necessary to upgrade any aspect of a rural water supply system to enable the supply and delivery of water at that location.

203ZD. Connection to rural water supply systems

- (1) Subject to section 203ZC(3), upon a nomination under section 203ZC(1), the licensed water entity must undertake any works necessary to allow connection to a rural water supply system.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (2) If supply and delivery of water is not technically feasible at a location nominated under section 203ZC(3)(a), the licensed water entity must –
 - (a) notify the person –
 - (i) that it is unable to supply and deliver water to that nominated location and the reasons for that decision; and
 - (ii) of the nearest alternative location at which a connection can be made; and
 - (b) undertake any works necessary to allow connection at the nearest feasible location.
- (3) Any works necessary to allow connection to a rural water supply system are to be provided and maintained by and at the expense of the water entity.
- (4) The licensed water entity may levy charges in accordance with section 203ZV to recover costs for any connection or the maintenance of any connection.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203ZE. Serviced land

- (1) For the purposes of section 203ZC(3)(b), a licensed water entity may, by way of by-laws, identify serviced land within the rural water supply district.
- (2) Where the licensed water entity has identified serviced land under subsection (1), it must agree to any location nominated under section 203ZC(3)(b) that lies within that serviced land and extend the rural water supply system as necessary to service any such location.
- (3) For the purposes of subsection (2), 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.
- (4) Where a licensed water entity does not identify serviced land under subsection (1), it must extend the rural water supply system as necessary to service any location nominated and agreed under section 203ZC(3)(b) that lies within, or on the boundary of, the rural water supply district.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

203ZF. Reduction of extent of rural water supply system

A licensed water entity may only reduce the extent of the rural supply system with the approval of the Minister.

203ZG. Protection of rural water supply systems

(1) A person must not –

- (a) connect a channel or pipe to a rural water supply system of a licensed water entity; or
- (b) place a structure or install equipment in, over or immediately adjacent to a channel or pipe connected to a rural water supply system of a licensed water entity –

unless he or she does so at the direction, or with the approval, of the licensed water entity.

(2) A person –

- (a) must not block or impede the flow of water in any part of a rural water supply system except at the direction, or with the approval, of the licensed water entity; and
- (b) must ensure that channels and pipes on his or her land that form

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

part of a rural water supply system provided by a licensed water entity, are protected from damage that is reasonably foreseeable.

- (3) A licensed water entity may by notice served on an owner or occupier of land direct that person –
- (a) to erect fences to keep stock or other animals away from any infrastructure located on the land that forms part of a rural water supply system; or
 - (b) to comply with the requirements of one or more of the other provisions of this section.
- (4) If a person fails to comply with a notice, the licensed water entity may enter the relevant land and take the action specified in the notice and such other action as the licensed water entity considers appropriate in the circumstances and the licensed water entity's costs will be a debt due by the person to the licensed water entity.
- (5) A person who contravenes or fails to comply with a provision of this section, or of a notice served under subsection (3), is guilty of an offence.

Penalty: Fine not exceeding 50 penalty units.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (6) For the purposes of subsections (1), (2) and (3), a rural water supply system includes any infrastructure, watercourse or lake that is used to support the supply of water in a rural water supply district and that is located within the limits of that district.

203ZH. Plans and maps of rural water supply districts

A licensed water entity is required to maintain and keep up-to-date plans, maps and records portraying the works, distribution networks, serviced land, channels and pipes within its rural water supply district.

Division 5 – Limited or reduced availability of water

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

- (1) A licensed water entity may –
- (a) limit or suspend the supply or delivery of water during a water supply period; or
 - (b) reduce the amount of water available under a water access right.
- (2) A limitation, reduction or suspension under subsection (1) may only be made if –

Water Legislation Amendment Act 2013
Act No. of

- (a) the water that is available to the licensed water entity is insufficient to meet the supply obligations; or
- (b) the water that is available to the licensed water entity is unsuitable for the purpose for which it is to be supplied; or
- (c) the licensed water entity is acting in response to a reduction in a water allocation of its licence under section 88; or
- (d) the licensed water entity is acting in response to a restriction on the taking of water under section 94; or
- (e) the licensed water entity is acting in response to a condition of its administration licence; or
- (f) the licensed water entity is acting in accordance with a water licence or other statutory approval; or
- (g) the person entitled to supply has –
 - (i) failed to pay charges or interest on charges under this Act; or
 - (ii) contravened or failed to comply with a term or

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- condition or by-law on or under which the licensed water entity supplies or delivers water; or
- (iii) contravened or failed to comply with a condition imposed under this Act; or
- (iv) contravened or failed to comply with a provision of this Act or with a direction of the licensed water entity under this Act; or
- (v) been convicted of an offence against section 198 or 199; or
- (h) if despite using reasonable endeavours the licensed water entity cannot deliver water to a nominated location under section 203ZC; or
- (i) where delivery is interrupted by routine inspection, maintenance or repairs (where a minimum of 7 calendar days' notice is given); or
- (j) as a result of any event of *force majeure* that is beyond the reasonable control of either party; or

Water Legislation Amendment Act 2013
Act No. of

- (k) as a result of any situation or event dangerous to people, property, animals or the environment.
- (3) Subject to subsection (4), a licensed water entity may, in taking action under subsection (1), reduce the amount of water available, or limit the supply of water, by different amounts or proportions according to the surety attaching to the water access right and other such factors as the licensed water entity thinks fit.
- (4) A limitation in the amount of water supplied or a reduction in the amount of water made available by a licensed water entity in the circumstances referred to in subsection (2)(c) or (d) must be in proportion to the amount of the reduction under the relevant section of the Act.
- (5) A licensed water entity incurs no civil liability in respect of action taken by it under this section.
- (6) A licensed water entity that limits or discontinues the supply of water may reduce or waive any amount of money payable to it for the supply of water in accordance with the water access right.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

203ZJ. Notice of limited supply or reduced availability

- (1) Where a circumstance mentioned in section 203ZI(2)(a) to (f), inclusive, or paragraph (h) occurs, the licensed water entity may by notice –
 - (a) limit or prohibit the taking of water from a rural water supply system; and
 - (b) make an announcement regarding the volume of water available, before the start of the water supply period and from time to time thereafter.
- (2) Where a circumstance mentioned in section 203ZI(2)(g) occurs, the licensed water entity must by notice served personally or by post on a person, limit or prohibit the taking of water from a rural water supply system.
- (3) Notice under subsection (1) is to be –
 - (a) published in a local newspaper or on the internet; or
 - (b) served personally or by post on a person; or
 - (c) sent by email, telephone, facsimile or short message service.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

- (4) A notice under subsection (1) or (2) –
 - (a) takes effect at a time that is specified in the notice for that purpose; and
 - (b) remains in force for such period as is specified in the notice.
- (5) Where a licensed water entity intends to publish a notice in accordance with subsection (3)(a), the licensed water entity must inform any person entitled under section 203B to a supply of water of –
 - (a) the primary method by which it intends to make notices available; and
 - (b) any changes made from time to time of, or in relation to, that method.
- (6) A person entitled under section 203B to a supply of water must inform themselves of availability, limitations or prohibitions placed under this section before taking water under this Part.
- (7) A person must not contravene a notice under this section.

Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 50 penalty units for

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

each day during which the
offence continues.

Division 6 – By-laws

203ZK. Power to make by-laws

A licensed water entity that has no power under the *Local Government Act 1993* to make by-laws may, subject to this Division, make by-laws for the purposes of this Act.

203ZL. Subjects of by-laws

- (1) A licensed water entity may make by-laws with respect to the following:
 - (a) the determination, granting and variation of water access rights and water delivery rights;
 - (b) the regulation of the charges, terms and conditions upon which water will be supplied and delivered to any person under the authority of this Part;
 - (c) the determination of any water supply period;
 - (d) the identification of any areas of serviceable land within the rural water supply district to which it agrees to supply and deliver water;

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

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- (e) the regulation of the form, material, dimensions, description, construction and arrangement of pipelines, channels and other apparatus, for the purposes of the administration of the rural water supply district and the prohibition of the use of any pipelines, channels and other apparatus which do not conform to the requirements of the by-laws;
 - (f) the prevention of misuse of water;
 - (g) the prevention of damage to any part of the rural water supply system.
- (2) A by-law may amend or revoke a previous by-law.

203ZM. Application to make by-laws

- (1) A licensed water entity may apply to the Minister for endorsement of by-laws that are consistent with this Act.
- (2) The application must –
 - (a) be in accordance with section 12A; and
 - (b) include a sealed copy of the proposed by-law; and
 - (c) include a statement explaining –

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (i) the purpose and effect of the by-law; and
- (ii) the outcomes of public consultations in respect of the by-law; and
- (d) include certification of the proposed by-law –
 - (i) by the chairman of the licensed water entity; and
 - (ii) by a legal practitioner that its provisions are in accordance with the law; and
- (e) a statement regarding the outcomes of any public consultation in respect of the by-law.

203ZN. Regulatory impact statement

- (1) The Minister by notice may require the applicant to prepare a regulatory impact statement in relation to the proposed by-law.
- (2) A regulatory impact statement is to be prepared in accordance with the requirements of the *Subordinate Legislation Act 1992*.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203ZO. Determination of application

- (1) Subject to subsection (2), after considering the application to make by-laws, the Minister may –
 - (a) approve the application; or
 - (b) refuse the application.
- (2) The Minister must not approve a by-law that –
 - (a) is unreasonable; or
 - (b) adversely and unfairly discriminates against any owner or occupier of land; or
 - (c) adversely affects the health, welfare or safety of any person; or
 - (d) is inconsistent with the administration licence for a rural water supply district under section 180; or
 - (e) restricts competition or has a significant impact on business unless the outcome is justified in the public interest; or
 - (f) exempts a person from prosecution for nuisance at common law; or

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (g) permits a rate, charge, fee or fine fixed by that by-law to be determined, altered or substituted otherwise than by amendment to the by-law.
- (3) If the Minister refuses an application, he or she is to notify the applicant as soon as practicable of –
 - (a) the refusal; and
 - (b) the reasons for the refusal; and
 - (c) any rights of review or appeal under Part 14.

203ZP. Issue of by-laws

- (1) Within 7 days after approving an application for by-laws, the Minister is to notify the applicant of the approval.
- (2) On notification by the Minister under subsection (1), the licensed water entity is to make the by-law under its common seal.
- (3) The licensed water entity must publish in the *Gazette* within 21 days after making the by-law a notice detailing –
 - (a) the name of the by-law title; and
 - (b) the district to which the by-law relates; and

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

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- (c) the subject matter of the by-law;
and
 - (d) the year the by-law was made.
- (4) The by-law is to take effect in accordance with section 47 of the *Acts Interpretation Act 1931*.
- (5) The by-law is to be laid before each House of Parliament within 10 sitting-days of gazettal in accordance with section 47 of the *Acts Interpretation Act 1931*.
- (6) The licensed water entity must keep by-laws made under this section and must make available copies for inspection or purchase by the public.

Penalty: Fine not exceeding 10 penalty units.

- (7) The purchase price under subsection (6) is to be no greater than the approximate cost to the licensed water entity of providing the document.

203ZQ. Title and numbering of by-laws

A by-law of a licensed water entity is to –

- (a) have in its title a reference to –
 - (i) the water district to which it relates; and

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (ii) the subject matter of the by-law; and
 - (iii) the year in which it is made; and
- (b) be numbered so that no other by-law relating to that water district and subject matter has the same number in that year.

203ZR. Legal effect of by-laws

A by-law is binding on –

- (a) the licensed water entity; and
- (b) the holder of a water access right in a rural water supply district; and
- (c) the holder of a water delivery right in a rural water supply district; and
- (d) those persons with a right to a supply of water under a system of general availability.

203ZS. Application of by-laws

By-laws may be made to apply to the whole, or separately to a part or parts, of a rural water supply district, and make provision for matters or things to be referred to in general terms.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203ZT. Repeal and amendment of by-laws

- (1) A by-law may be repealed or amended –
 - (a) by another by-law; or
 - (b) on the recommendation of the Minister.
- (2) If a by-law or part of a by-law is disallowed under section 47 of the *Acts Interpretation Act 1931*, the Minister, by notice in the *Gazette*, is to notify –
 - (a) the fact of the disallowance; and
 - (b) the date of the disallowance.

203ZU. Contravention of by-laws

- (1) If a person contravenes a by-law, the licensed water entity may give a written notice requiring the person –
 - (a) in the case of a continuing contravention, to refrain from further contravention; and
 - (b) in any case, to take specified action to remedy the contravention within a specified period stated in the notice.
- (2) A person must comply with a notice under subsection (1) within the time specified in the notice.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

Penalty: Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 50 penalty units for each day during which the offence continues.

- (3) The licensed water entity must not give a notice under subsection (1) that is inconsistent with the by-laws or a condition of a water access right or water delivery right.

Division 7 – Charges

203ZV. Water supply, administration and construction charges

- (1) A licensed water entity may, in respect of a financial year or part of a financial year, levy, by way of by-laws or otherwise, a water supply charge or water supply charges based on any or all of the following:
- (a) the volume of water specified in the water access right;
 - (b) the volume of water supplied or delivered during the charging period to which the declaration applies;
 - (c) such other factor or factors as the licensed water entity thinks fit.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

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- (2) Subsection (1)(b) refers to water supplied under a water access right or through general availability or delivered under a water delivery right.
- (3) A licensed water entity may declare different water supply charges –
- (a) in respect of the type of water access right or delivery right; or
 - (b) in respect of water supplied or delivered in different parts of a rural water supply system; or
 - (c) for water supplied for irrigation purposes, stock and domestic purposes or other purposes; or
 - (d) in respect of the time of year that water is to be supplied or delivered; or
 - (e) in respect of the time of day that water is to be supplied or delivered; or
 - (f) on any other basis identified in the terms and conditions of a water access right or water delivery right.
- (4) Water supply charges under this section must be the same for similar conditions of supply.

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

- (5) A licensed water entity may impose a water supply charge or charges in relation to the supply of water under this Part in order –
 - (a) to provide a service or to enable it to meet its other liabilities; and
 - (b) to provide for maintenance, construction and other costs and to provide for future capital costs connected with the operation of the rural water supply district under this Act.
- (6) A licensed water entity may levy, by way of by-laws or otherwise, administrative charges to recover its costs for providing any administrative services it is required to perform on behalf of holders of water access rights or water delivery rights and any person having a security interest in a right.
- (7) A period of not less than 30 days from the date of imposition must be provided for the payment of any water supply charges.

203ZW. Declaration of water supply charges

- (1) A water supply charge is to be declared before the charge is imposed.
- (2) A charge must not be increased within the 6-month period after it is declared.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

203ZX. Payment of water supply charges

- (1) Water supply charges are to be paid on the day specified in the account, or on demand, if no date is specified in the account.
- (2) Water supply charges are to be paid at a place for payment as specified in the account.

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

- (1) The holder of a water access right or water delivery right is liable for the payment of charges and interest on charges relating to water supplied or delivered in accordance with that right.
- (2) Notice of the amount payable by way of charges, fixing the date on which the amount becomes payable, must be served on the holder of a water access right or water delivery right.
- (3) This section operates subject to the provisions of any agreement between the licensed water entity and a holder of a water access right or water delivery right for the supply or delivery of water.
- (4) In this section –

charges means water supply charges
and includes any other amount in

Water Legislation Amendment Act 2013
Act No. of

s. 29

Part 2 – Water Management Act 1999 Amended

which a person is indebted to a licensed water entity under this Part or under an agreement made under this Part.

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

- (1) A person supplied with water through general availability is liable for the payment of charges and interest on charges relating to water supplied in accordance with section 203C.
- (2) Notice of the amount payable by way of charges, fixing the date on which the amount becomes payable, must be served on the person liable for the charges.
- (3) This section operates subject to the provisions of any agreement between the licensed water entity and a person for the supply or delivery of water.
- (4) In this section –

charges means water supply charges and includes any other amount in which a person is indebted to a licensed water entity under this Part or under an agreement made under this Part.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 29

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

- (1) If a person liable to pay any amount of a water supply charge neglects to pay that amount within due time after it has been lawfully demanded, the licensed water entity may, after 24 hours' notice, cut off the supply of water to the person who is liable for the charge.
- (2) The expense of cutting off the supply under subsection (1) may be recovered in the same manner as that in which the water supply charge is recovered.

203ZZB. Interest on charges

- (1) The licensed water entity may charge interest on any money owed arising from a charge incurred under section 203ZV.
- (2) Interest may be charged from the due date until the debtor pays the money.

203ZZC. Remittance of interest and discount charges

- (1) A licensed water entity may remit the whole, or part, of the amount of any interest payable to the entity.
- (2) A licensed water entity may discount charges to encourage early payment of the charges.

Water Legislation Amendment Act 2013
Act No. of

s. 30

Part 2 – Water Management Act 1999 Amended

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

Where water supply charges and interest have not been paid under this Part, the licensed water entity may –

- (a) limit or suspend the supply or delivery of water or reduce the amount of water available in accordance with section 203ZI; and
- (b) seek recovery of costs through a court of competent jurisdiction as a debt due to the entity.

30. Section 204 substituted

Section 204 of the Principal Act is repealed and the following section is substituted:

204. Administration of district

This Part has effect where an application presented to the Minister under section 173 proposes that a licensed water entity is to be a trust.

31. Section 205 amended (Application to establish trust)

Section 205 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 32

- (1) An application for the establishment of a trust may be made to the Minister.

32. Section 206B inserted

After section 206A of the Principal Act, the following section is inserted in Division 1:

206B. Rules of trust

- (1) A trust may have a set of rules relating to its membership, management and operation.
- (2) The trust rules –
 - (a) must comply with any prescribed requirements; and
 - (b) must not contain a provision that is contrary to, or inconsistent with, this Act.
- (3) The rules of a trust bind the trust and the members of the trust.
- (4) Subject to subsection (2), the Minister may, at the request of a trust, approve rules for the trust.
- (5) Subject to subsection (2), the Minister, at the request of a trust, may approve an amendment to, or substitution of, the rules of a trust.

Water Legislation Amendment Act 2013
Act No. of

s. 33

Part 2 – Water Management Act 1999 Amended

33. Section 206A amended (Establishment of trust)

Section 206A of the Principal Act is amended by omitting subsection (3).

34. Section 211 amended (Constitution of trust)

Section 211 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2) All of the trustees of a board are to be elected.

35. Section 223 amended (Dissolution of trusts)

Section 223 of the Principal Act is amended as follows:

- (a) by omitting paragraphs (a), (b), (c), (d) and (e) from subsection (1) and substituting the following paragraphs:
 - (a) has, under section 188, revoked approval for the trust to be a licensed water entity for administering a water district; or
 - (b) has received a written application from the trust requesting its dissolution as a consequence of the substitution of a water entity under section 184 or the revocation of the declaration of a district under section 190.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 36

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- (b) by omitting from subsection (3)(a) “trust’s application” and substituting “proposed dissolution”;
 - (c) by inserting the following subsection after subsection (3):
 - (4) A notice under subsection (3) is to include details of any directions that the Minister proposes in relation to –
 - (a) the sale or disposal of assets; or
 - (b) on-going maintenance works; or
 - (c) the distribution of the proceeds from the sale of assets.

36. Section 226 repealed

Section 226 of the Principal Act is repealed.

37. Section 226A inserted

Before section 227 of the Principal Act, the following section is inserted in Part 11:

226A. Interpretation

In this Part –

licensed water entity means a water entity that holds an administration

Water Legislation Amendment Act 2013
Act No. of

s. 38

Part 2 – Water Management Act 1999 Amended

licence issued under Part 9 in respect of the administration of a rural water supply district;

water resource includes, in addition to the matters set out in section 3, a channel supplying water to any person.

38. Section 227 amended (Power to install meters, &c.)

Section 227 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or a licensed water entity” after “Minister”;
- (b) by inserting in subsection (2)(e) “or licensed water entity” after “Minister”;
- (c) by inserting “and a water access right or other authorisation to take water from a water resource under Part 9A” after “licence” in the definition of *authorisation* in subsection (4).

39. Section 228 amended (Interference with meters)

Section 228 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or the relevant licensed water entity” after “Minister”;

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 40

- (b) by inserting in subsection (2) “or licensed water entity” after “The Minister”;
- (c) by inserting in subsection (2) “or licensed water entity” after “the Minister”.

40. Section 229 amended (Power to undertake works)

Section 229 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or a licensed water entity” after “by the Minister”;
- (b) by inserting in subsection (1) “or licensed water entity” after “section 227(2), the Minister”;
- (c) by inserting in subsection (2) “or licensed water entity” after “Minister”.

41. Section 231 substituted

Section 231 of the Principal Act is repealed and the following section is substituted:

231. Power to charge for meters

- (1) The Minister or a licensed water entity may charge a person for the use, maintenance and testing of a meter installed under section 227(1).

Water Legislation Amendment Act 2013
Act No. of

s. 42

Part 2 – Water Management Act 1999 Amended

- (2) Any such charge is payable by the person and is recoverable as a debt due to the Crown or the licensed water entity by the person in a court of competent jurisdiction.

42. Section 237 amended (Appointment of authorised officers)

Section 237 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Minister” and substituting “Secretary”;
- (b) by omitting from subsection (1) “council” twice occurring and substituting “licensed water entity”;
- (c) by omitting from subsection (3) “Minister” and substituting “Secretary”;
- (d) by omitting from subsection (4) “Minister” and substituting “Secretary”.

43. Section 239 amended (Return of identity card)

Section 239 of the Principal Act is amended by omitting “Minister” and substituting “Secretary”.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 44

44. Section 240 amended (General powers of authorised officers)

Section 240(m) of the Principal Act is amended by omitting “waterworks” and substituting “works”.

45. Section 244 amended (Entry on land for taking measurements)

Section 244(1) of the Principal Act is amended by omitting “responsible” from paragraph (b) of the definition of *authorised person* and substituting “licensed”.

46. Section 270 amended (Interpretation of Division)

Section 270 of the Principal Act is amended as follows:

- (a) by omitting paragraph (a);
- (b) by omitting from paragraph (c)(ii) “financial” and substituting “security”;
- (c) by omitting from paragraph (d) “section 80(4)(a)” and substituting “section 80(2)(a)”;
- (d) by omitting from paragraph (d)(ii) “financial” and substituting “security”;
- (e) by omitting from paragraph (e) “section 80(4)(b)” and substituting “section 80(2)(b)”;

Water Legislation Amendment Act 2013
Act No. of

s. 46

Part 2 – Water Management Act 1999 Amended

- (f) by omitting from paragraph (e)(ii) “financial” and substituting “security”;
- (g) by omitting from paragraph (g)(ii) “financial” and substituting “security”;
- (h) by omitting paragraph (i);
- (i) by omitting from paragraph (j)(ii) “financial” and substituting “security”;
- (j) by omitting from paragraph (l) “135.”;
- (k) by inserting in paragraph (la) “section 123C,” after “under”;
- (l) by inserting in paragraph (lb) “section 123EA,” after “to”;
- (m) by inserting in paragraph (lc) “section 123F,” after “under”;
- (n) by omitting paragraph (m) and substituting the following paragraph:
 - (m) in respect of a refusal under section 181(5)(c), the licensed water entity;
- (o) by omitting from paragraph (n) “section 180(1)” and substituting “section 183”;
- (p) by omitting from paragraph (n)(i) “relevant” and substituting “licensed”;
- (q) by omitting paragraph (o) and substituting the following paragraph:

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 47

- (o) in respect of a refusal under section 203ZO(1)(b), the applicant;

47. Section 271 amended (Reviewable decisions)

Section 271(1) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a);
- (b) by omitting from paragraph (b) “, 101(1) or 183(1)” and substituting “or 101(1)”;
- (c) by omitting paragraph (d);
- (d) by omitting from paragraph (f) “135, 145” and substituting “147”;
- (e) by omitting paragraph (h) and substituting the following paragraph:
 - (h) a refusal under section 181(5)(c);
- (f) by inserting in paragraph (ja) “section 123C,” after “under”;
- (g) by inserting in paragraph (jb) “section 123EA,” after “to”;
- (h) by inserting in paragraph (jc) “section 123F,” after “under”;
- (i) by omitting from paragraph (k) “section 180(1)” and substituting “section 183(1)”;

Water Legislation Amendment Act 2013
Act No. of

s. 48

Part 2 – Water Management Act 1999 Amended

(j) by inserting the following paragraph after paragraph (k):

(ka) a refusal under section 203ZO(1)(b);

(k) by omitting paragraph (l).

48. Section 274 amended (Interpretation of Division)

Section 274(1) of the Principal Act is amended as follows:

(a) by omitting from paragraph (f) “section 176(2)” and substituting “section 177(1)”;

(b) by omitting from paragraph (f) “section 176(5)” and substituting “section 177(7)”;

(c) by omitting from paragraph (f)(ii) “section 174” and substituting “section 175”;

(d) by inserting the following paragraph after paragraph (f):

(fa) in respect of an approval under section 192(1) –

(i) the licensed water entity;
and

(ii) the owner or occupier of the land to be acquired;
and

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 49

- (iii) a person with a security interest in the land to be acquired;

49. Section 275 amended (Appealable decisions)

Section 275 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “or 101(1)” and substituting “, 101(1) or section 192(1)”;
- (b) by omitting from paragraph (c) “or 98” and substituting “, 98 or 181(5)(c)”;
- (c) by inserting in paragraph (d) “or section 181(2)(c)” after “section 69(2)(c)”;
- (d) by omitting from paragraph (i) “135,”;
- (e) by omitting from paragraph (k) “section 176(2)” and substituting “section 177(1)”;
- (f) by omitting from paragraph (k) “section 176(5)” and substituting “section 177(7)”.

50. Section 296 substituted

Section 296 of the Principal Act is repealed and the following section is substituted:

Water Legislation Amendment Act 2013
Act No. of

s. 51

Part 2 – Water Management Act 1999 Amended

296. Compensation not payable for stopping, &c., flow of water

- (1) Where the exercise of rights under a licence or a permit has the effect of stopping, reducing or diverting the flow of water in a watercourse, compensation is not payable by the Minister to any person adversely affected.
- (2) Where the exercise of a water access right or other authorisation to take water from a water resource under Part 9A has the effect of stopping, reducing or diverting the flow of water in a rural water supply system, compensation is not payable by the licensed water entity to any person adversely affected.

51. Section 300A substituted

Section 300A of the Principal Act is repealed and the following section is substituted:

300A. Replacement of authorisations

- (1) The Minister, on receipt of the prescribed fee, may give the holder of a licence or other authorisation under this Act a replacement for the licence or other authorisation if the Minister is satisfied that the original has been –
 - (a) stolen, lost or destroyed; or

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 52

- (b) damaged to a degree that renders it unsuitable for use.
- (2) A licensed water entity, on receipt of any fee specified by the entity in by-laws, may give the holder of a water access right or other authorisation to take water from a water resource under Part 9A a replacement for the authorisation if the water entity is satisfied that the original has been –
 - (a) stolen, lost or destroyed; or
 - (b) damaged to a degree that renders it unsuitable for use.

52. Section 304 amended (Fees and charges)

Section 304(1)(c) of the Principal Act is amended as follows:

- (a) by inserting “licensed” after “and a”;
- (b) by omitting “or a water management plan”.

53. Section 307B inserted

After section 307A of the Principal Act, the following section is inserted in Division 5:

Water Legislation Amendment Act 2013
Act No. of

s. 54

Part 2 – Water Management Act 1999 Amended

307B. Savings and transitional provisions consequent on *Water Legislation Amendment Act 2013*

Schedule 4B has effect with respect to savings and transitional matters consequent on the commencement of all of the provisions of the *Water Legislation Amendment Act 2013*

54. Schedule 3 amended (Membership and Proceedings of Trusts)

Part 2 of Schedule 3 to the Principal Act is amended as follows:

- (a) by inserting “rural” after “administers a” in the definition of *concerned water entity* in clause 1;
- (b) by omitting “or the special Act” from the definition of *concerned water entity* in clause 1;
- (c) by omitting “board;” from the definition of *meeting* in clause 1 and substituting “board.”;
- (d) by omitting the definition of *special Act* from clause 1;
- (e) by omitting from clause 7(b) “or the special Act”.

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 55

55. Schedule 4 amended (Savings and transitional provisions)

Clause 14(1)(a) of Schedule 4 to the Principal Act is amended by omitting “financial” and substituting “security”.

56. Schedule 4B inserted

After Schedule 4A to the Principal Act, the following Schedule is inserted:

**SCHEDULE 4B – SAVINGS AND TRANSITIONAL
PROVISIONS CONSEQUENT ON WATER
LEGISLATION AMENDMENT ACT 2013**

Section 307B

1. Interpretation

In this Schedule –

amended Act means this Act as amended by the *Water Legislation Amendment Act 2013*.

commencement day means the day on which section one of the *Water Legislation Amendment Act 2013* commences;

ICA means the *Irrigation Clauses Act 1973*.

Water Legislation Amendment Act 2013
Act No. of

s. 56

Part 2 – Water Management Act 1999 Amended

2. Saving for applications to establish a water district

- (1) Where, immediately before the commencement day, an application to establish a water district was pending before the Minister, the Minister must consider the application and evidence provided in support of it as if section one of the *Water Legislation Amendment Act 2013* had not commenced.
- (2) This clause expires 6 months after the commencement day.

3. Saving for water districts and entities

- (1) A water district in force immediately before the commencement day is taken to be a water district under the amended Act.
- (2) An entity that, immediately before the commencement day, was a responsible water entity is, on that day, taken to be a licensed water entity in accordance with Division 4 of Part 9.
- (3) The administration of a district is subject to any conditions of approval under section 176(5) that existed immediately before the commencement day.
- (4) Within 3 months after the commencement day, the Minister is to issue an administration licence to the

Water Legislation Amendment Act 2013
Act No. of

relevant licensed water entity for each rural water supply district, riverworks district, hydro-electric district and drainage district.

- (5) Subject to subclause (7) and for the purposes of subclause (4), the administration licence for each relevant district is subject to –
- (a) any conditions of approval under section 176(5) that existed immediately before the commencement day; and
 - (b) any conditions, whether imposed before or after the commencement day, relating to when the Minister may vary the conditions of the licence.
- (6) In the case of a rural water supply district, riverworks district or drainage district where no conditions of approval under subclause (5)(a) exist –
- (a) the Minister may, after consulting with the licensed water entity, determine that an administration licence is subject to any conditions determined by the Minister to give effect to the objectives of this Act; and
 - (b) the period mentioned in subclause (4) is extended by a further 3 months.

Water Legislation Amendment Act 2013
Act No. of

s. 56

Part 2 – Water Management Act 1999 Amended

- (7) The Minister may extend the period referred to in subclauses (4) and (6)(b) by written notice to the relevant licensed water entity.

4. Defining water district boundaries

- (1) A licensed water entity administering a water district in force immediately before the commencement day that does not have a map defining its boundaries, prepared and stored in accordance with the Central Plan Register (CPR) requirements, may apply to the Minister for the formalisation of the water district boundaries in accordance with the CPR requirements.
- (2) Before approving or refusing an application under subsection (1), the Minister must consider all available evidence regarding the proposed water district boundaries.
- (3) If the Minister approves the application, an approved map is to be prepared and stored in the Central Plan Register.

5. General savings and transitional provisions

On and from the commencement day –

- (a) a district that immediately before the commencement day was an irrigation district or a water

Water Legislation Amendment Act 2013
Act No. of

supply district is to be known as a rural water supply district; and

- (b) an irrigation right in force under the ICA immediately before the commencement day is taken to be a right, on the same terms and conditions, granted under Part 9A of this Act; and
- (c) a by-law in force under section 46 of the ICA immediately before the commencement day is taken to be a by-law in force on the same terms and conditions under Division 6 of Part 9A of this Act; and
- (d) 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; and
- (e) any claim for compensation in relation to a water district that has been lodged before the commencement day but not determined is to be determined as if section one of the *Water Legislation Amendment Act 2013* had not commenced; and

Water Legislation Amendment Act 2013
Act No. of

s. 56

Part 2 – Water Management Act 1999 Amended

- (f) any proceedings for an offence against this Act or the ICA in relation to a water district that have been commenced before the commencement day but not determined are to be determined as if section one of the *Water Legislation Amendment Act 2013* had not commenced; and
- (g) any rates or water supply charges levied in a water district under this Act, the *Waterworks Clauses Act 1952* or the ICA, before the commencement day, are taken to have been levied under the amended Act; and
- (h) any right to a supply of water under general availability or as a domestic right under the ICA in effect immediately before the commencement day is taken to have been granted in accordance with the amended Act; and
- (i) any right to a 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; and
- (j) any authorised officer appointed by the Minister before the

Water Legislation Amendment Act 2013
Act No. of

Part 2 – Water Management Act 1999 Amended

s. 57

commencement day continues as if his or her appointment were made by the Secretary under the amended Act.

6. Regulations

- (1) The Governor may make regulations of a savings and transitional nature consequent on the enactment of the *Water Legislation Amendment Act 2013*.
- (2) A regulation made under subclause (1) in respect of any matter may take effect when on a day on which any provision of that Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.
- (3) On and after the commencement day, the provisions of Division 4 of Part 15 have, subject to any necessary modification, the same application to regulations made under subclause (1) as they have to any of the regulations to which that Division applied immediately before the commencement day.

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

Schedule 5 to the Principal Act is amended as follows:

Water Legislation Amendment Act 2013
Act No. of

s. 57

Part 2 – Water Management Act 1999 Amended

- (a) by omitting the definition of *responsible water entity* from clause 1 and substituting the following definition:

licensed water entity means the licensed water entity responsible for the River Clyde Irrigation District;

- (b) by omitting from clause 3(1) “responsible” first occurring and substituting “licensed”;
- (c) by omitting from clause 3(1) “the *Irrigation Clauses Act 1973*” and substituting “this Act”;
- (d) by omitting from clause 3(1)(a) “responsible” and substituting “licensed”;
- (e) by omitting from clause 3(2) “responsible” and substituting “licensed”;
- (f) by omitting from clause 3(3) “responsible” and substituting “licensed”.

Water Legislation Amendment Act 2013
Act No. of

Part 3 – Irrigation Company Act 2011 Amended

s. 58

**PART 3 – IRRIGATION COMPANY ACT 2011
AMENDED**

58. Principal Act

In this Part, the *Irrigation Company Act 2011** is referred to as the Principal Act.

59. Section 28 amended (Acquisition of land)

Section 28(2)(a) of the Principal Act is amended by omitting “section 183 of the *Water Management Act 1999*” and substituting “section 192 of the *Water Management Act 1999*”.

*No. 12 of 2011

Water Legislation Amendment Act 2013
Act No. of

s. 60

Part 4 – Land Use Planning and Approvals Act 1993 Amended

**PART 4 – LAND USE PLANNING AND APPROVALS
ACT 1993 AMENDED**

60. Principal Act

In this Part, the *Land Use Planning and Approvals Act 1993** is referred to as the Principal Act.

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

Section 60A of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “a water management plan or”;
- (b) by omitting “*Water Management Act 1999*,” from the definition of *water entity* in subsection (3) and substituting “*Water Management Act 1999*.”;
- (c) by omitting the definition of *water management plan* from subsection (3).

*No. 70 of 1993

Water Legislation Amendment Act 2013
Act No. of

Part 5 – Local Government (Building and Miscellaneous Provisions) Act
1993 Amended

s. 62

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

62. Principal Act

In this Part, the *Local Government (Building and Miscellaneous Provisions) Act 1993** is referred to as the Principal Act.

63. Part 8, Division 5 repealed

Division 5 of Part 8 of the Principal Act is repealed.

*No. 96 of 1993

Water Legislation Amendment Act 2013
Act No. of

s. 64

Part 6 – War Service Land Settlement Act 1950 Amended

**PART 6 – WAR SERVICE LAND SETTLEMENT ACT
1950 AMENDED**

64. Principal Act

In this Part, the *War Service Land Settlement Act 1950** is referred to as the Principal Act.

65. Section 10AA amended (Waterworks)

Section 10AA(2)(a) of the Principal Act is amended by omitting “*Waterworks Clauses Act 1952* shall apply” and substituting “*Water Management Act 1999* applies”.

*No. 82 of 1950

Water Legislation Amendment Act 2013
Act No. of

Part 7 – Water and Sewerage Industry Act 2008 Amended

s. 66

**PART 7 – WATER AND SEWERAGE INDUSTRY ACT
2008 AMENDED**

66. Principal Act

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

67. Section 56ZP substituted

Section 56ZP of the Principal Act is repealed and the following sections are substituted:

56ZP. Recreational use of public water supplies

(1) In this section –

water storage area means land that is used for the storage of water and any land appurtenant to any such land.

(2) A regulated entity is to make each water storage area situated on land owned by the entity available for recreational purposes in the best interests of the public so long as that use is not inconsistent with the entity's obligations relating to water as referred to in the *Public Health Act 1997*.

(3) Where –

*No. 13 of 2008

Water Legislation Amendment Act 2013
Act No. of

s. 67

Part 7 – Water and Sewerage Industry Act 2008 Amended

(a) a source of supply is used for the supply of water direct to consumers for domestic purposes; and

(b) the water so supplied is not subject to any treatment other than chlorination –

a regulated entity must not permit any swimming, boating, fishing or any other use of the source of supply by virtue of which persons may come into contact with the water.

(4) A regulated entity must publish on its website –

(a) the circumstances in which it will make each of its water storages available for recreational purposes; and

(b) the terms and conditions applying to that availability.

56ZPA. Power of Minister to require regulated entity to develop water storage areas for recreational use

(1) In this section –

water storage area means land that is used for the storage of water and any land appurtenant to any such land.

Water Legislation Amendment Act 2013
Act No. of

- (2) Where a regulated entity fails to make a water storage area available in accordance with section 56ZP, the Minister may, after consultation with the entity, serve on it an order requiring the entity to make the water storage area available, and to develop it, in such manner, in such time, and for such public recreational purposes, as may be specified in the order.
- (3) An order served on a regulated entity under subsection (2) 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.
- (4) On receipt of an order under subsection (2), the regulated entity is to make the order and the development plan specified in it publicly available.
- (5) A regulated entity must comply with an order under subsection (2).

Penalty: Fine not exceeding 100 penalty units.

56ZPB. Power of Minister to perform work required

Where a regulated entity fails for a period of 6 months to comply with an order served on it under section 56ZPA(2), the Minister may –

- (a) perform all or any of the work to which the order relates; and

Water Legislation Amendment Act 2013
Act No. of

s. 67

Part 7 – Water and Sewerage Industry Act 2008 Amended

- (b) recover from the regulated entity in any court of competent jurisdiction the reasonable cost of doing that work.

Water Legislation Amendment Act 2013
Act No. of

Part 8 – Legislation repealed

s. 68

PART 8 – LEGISLATION REPEALED

68. Legislation repealed

The legislation specified in Schedule 1 is repealed.

Water Legislation Amendment Act 2013
Act No. of

s. 69

Part 9 – Repeal of Act

PART 9 – REPEAL OF ACT

69. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.

Water Legislation Amendment Act 2013
Act No. of

sch. 1

SCHEDULE 1 – LEGISLATION REPEALED

Section 68

Waterworks Clauses Act 1952 (No. 86 of 1952)

Irrigation Clauses Act 1973 (No. 39 of 1973)