

TASMANIA

**WATER AND SEWERAGE INDUSTRY
(CONSEQUENTIAL AND TRANSITIONAL)
AMENDMENT BILL 2009**

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**WATER AND SEWERAGE INDUSTRY
(CONSEQUENTIAL AND TRANSITIONAL)
AMENDMENT BILL 2009**

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

A BILL FOR

**An Act to amend the *Water and Sewerage Industry
(Consequential and Transitional) Act 2008***

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

1. Short title

This Act may be cited as the *Water and Sewerage Industry (Consequential and Transitional) Amendment Act 2009*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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3. Principal Act

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

4. Section 2 substituted

Section 2 of the Principal Act is repealed and the following section substituted:

2. Commencement

- (1) This section commences on the day on which the *Water and Sewerage (Consequential and Transitional) Amendment Act 2009* commences.
- (2) Section 3 and Schedule 1 commence on a day to be proclaimed.
- (3) Section 4 and Schedule 2 commence on a day to be proclaimed.
- (4) Section 5 commences on a day to be proclaimed.
- (5) Section 6 commences on a day to be proclaimed.

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5. Section 3 substituted

Section 3 of the Principal Act is repealed and the following section substituted:

3. Consequential amendments

- (1) Schedule 1 has effect.
- (2) Where a provision of Schedule 1 inserts, amends, repeals, or substitutes, a provision of an Act, that provision of that Act is inserted, amended, repealed, or substituted, as specified in the provision of Schedule 1, on the day on which the provision of Schedule 1 is proclaimed to take effect.
- (3) A proclamation under subsection (2) may be combined with a proclamation under section 2(2).

6. Section 5 amended

Section 5 of the Principal Act is amended by omitting subsection (6).

7. Section 6 inserted

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

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6. Transitional provisions – charging

(1) In this section –

“local authority” means a local authority within the meaning of the *Sewers and Drains Act 1954*;

“local government amendments” means the amendments to the *Local Government Act 1993* that are specified in Schedule 1;

“relevant authority” means –

(a) a council; or

(b) a bulk water authority, within the meaning of the *Water and Sewerage Corporations Act 2008*, established as a joint authority under the *Local Government Act 1993*;

“sewers amendments” means the amendments to the *Sewers and Drains Act 1954* that are specified in Schedule 1;

“trade effluent charge” means a charge, for the carrying off and disposal of deleterious effluents, that was fixed and that applied under Part X of the *Sewers and Drains Act 1954*, as in force

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immediately before the sewers amendments took effect;

“trade effluent service” means a regulated service for which a trade effluent charge could have, but for the sewers amendments, been imposed;

“transitional period”, in relation to a customer of a regulated entity for a regulated service, means the period –

(a) beginning on the day on which the local government amendments take effect; and

(b) ending on the day on which the person –

(i) is taken under section 60(2) of the *Water and Sewerage Industry Act 2008* to have entered into a customer contract in relation to the regulated service; or

(ii) enters into a contract under section 61 of the

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Sewerage Industry
Act 2008 in
relation to the
regulated service;
or*

- (iii) ceases to be a customer of the entity;

“transitional service charge”, for a billing period in respect of a regulated service in relation to a customer of a regulated entity, means the amount, calculated by reference to the service charge or volumetric charge made under section 94 or 94A of the *Local Government Act 1993* in respect of the regulated service for the 2008-2009 financial year, that the customer would have been liable to pay to a relevant authority for the regulated service for the billing period if –

- (a) the local government amendments had not taken effect; and
- (b) the amount of the service charge or volumetric charge had remained the same for the financial

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year in which the person is a customer of the regulated entity; and

- (c) the customer had been a customer of the relevant authority at the time the charge was payable;

“transitional service rate”, in relation to a regulated service in respect of a customer of a regulated entity, means the amount of the service rate made under section 93 of the *Local Government Act 1993* in respect of the regulated service for the 2008-2009 financial year that the customer would have been liable to pay to a relevant authority for the regulated service if –

- (a) the local government amendments had not taken effect; and
- (b) the amount of the service rate had remained the same for the financial year in which the person is a customer of the regulated entity; and
- (c) the customer had been a customer of the relevant

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authority at the time the
rate was payable.

- (2) Unless the contrary intention appears or the expression is defined in subsection (1), an expression used in this section has the same meaning as it has in the *Water and Sewerage Industry Act 2008*.
- (3) If, but for the local government amendments, a relevant authority could have, under the *Local Government Act 1993*, issued to a person a notice requiring the person to pay a volumetric charge for water supplied to the person during a period before the amendments take effect, then, despite the amendments –
- (a) the relevant authority may issue the notice to the person under that Act; and
 - (b) the person is liable to pay to the relevant authority the charge specified in the notice, on the day specified in the notice as the day on which the person is liable to pay the charge; and
 - (c) the charge may be recovered under that Act –

as if the amendments had not taken effect.

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- (4) Despite the sewers amendments and the local government amendments, if a person would have, but for the sewers amendments, been liable to pay to a local authority a trade effluent charge for services provided before those amendments take effect, then –
 - (a) on the day specified, in a notice given to the person by the local authority, as the day on which the person is liable to pay to the local authority the charge specified in the notice, the person is liable to pay the charge to the local authority; and
 - (b) the charge may be recovered in the same way as the charge could have been recovered if the sewers amendments and the local government amendments had not taken effect.

- (5) A customer of a regulated entity in respect of a regulated service –
 - (a) may be charged by the entity, for a billing period, within the transitional period in respect of the customer, that is specified in a notice given to the customer by the regulated entity, the chargeable amount specified in the notice; and

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- (b) is liable to pay to the entity the chargeable amount, or a part of the chargeable amount, on the day specified in the notice as the day on which the customer is liable to pay that amount or the part of the amount.
- (6) For the purposes of subsection (5), the chargeable amount for a billing period in respect of a regulated service (other than a trade effluent service) in relation to a customer is the amount (as the chargeable amount is varied, if at all, under subsection (9)) equal to the total of –
 - (a) the transitional service charge, if any, in relation to the service for the billing period; and
 - (b) the relevant proportion of the transitional service rate, if any, in relation to the service.
- (7) For the purposes of subsection (6)(b), the relevant proportion of a transitional service rate for a billing period is, for each day within the billing period, the amount equivalent to 1/365th of the amount of the rate.
- (8) For the purposes of subsection (5), the chargeable amount for a billing period in respect of a regulated service that is a

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trade effluent service provided to a customer is the amount of the trade effluent charge that the customer would have been liable to pay for the billing period if the sewers amendments had not taken effect, as that chargeable amount is varied, if at all, under subsection (9).

- (9) For the purposes of subsections (6) and (8), if an interim order is made under section 88 of the *Water and Sewerage Industry Act 2008* in relation to a regulated service, the chargeable amount for a billing period may be varied so as to reflect the charges that may be imposed on the customer in accordance with the interim order.
- (10) A chargeable amount may only be varied under subsection (9) in respect of so much of a billing period as arises after the making of the order pursuant to which the variation is made.