

Water Legislation Amendment (Competition Policy) Bill 2005

CONTENTS

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — *Country Areas Water Supply Act 1947*

3.	The Act amended	3
4.	Section 5 amended	3
5.	Section 14 amended	3
6.	Section 38 amended	4
7.	Section 71 repealed and consequential amendments (including to <i>Water Services Licensing Act 1995</i>)	4
8.	Section 81 amended	4
9.	Section 82 repealed and consequential amendment	4
10.	Section 83 inserted	5
11.	Section 88A inserted	6
12.	Section 112 amended	6
13.	Section 113 amended	7
14.	Section 114 amended	7

Part 3 — *Country Towns Sewerage Act 1948*

15.	The Act amended	8
16.	Section 3 amended	8
17.	Section 11 amended	8
18.	Section 24 amended	9
19.	Section 32 amended	9
20.	Section 33 amended	10

Contents

21.	Section 34 amended	10
22.	Section 36 amended	10
23.	Section 37 amended	11
24.	Section 39 amended	11
25.	Section 42 amended	11
26.	Section 44 amended	11
27.	Section 79 amended	11
28.	Section 81 repealed and consequential amendment to <i>Water Services Licensing Act 1995</i>	11
29.	Section 82 inserted	12
30.	Section 110 amended	13
31.	Section 111 amended	13
32.	Section 112 repealed	13
 Part 4 — <i>Land Administration Act 1997</i>		
33.	The Act amended	14
34.	Section 159 amended	14
35.	Section 160 amended	14
 Part 5 — <i>Metropolitan Water Supply, Sewerage, and Drainage Act 1909</i>		
36.	The Act amended	15
37.	Section 5 amended	15
38.	Section 15 amended	15
39.	Section 63 amended	15
40.	Section 64 amended	15
41.	Section 68 amended	16
42.	Section 69 amended	16
43.	Section 109 amended	16
44.	Section 112 inserted	17
45.	Section 124A repealed and heading deleted	18
46.	Section 146 amended	18
47.	Section 156 amended	18
48.	Section 157 amended	18
49.	Section 158 amended	18
50.	Section 158A amended	18
51.	Section 160 amended	19
52.	Seventh and Eighth Schedules repealed	19
53.	<i>Sentencing Act 1995</i> amended	19

Part 6 — *Rights In Water and Irrigation*
Act 1914

54.	The Act amended	20
55.	Section 73 amended	20

Part 7 — *Water Agencies (Powers)*
Act 1984

56.	The Act amended	21
57.	Section 41 amended	21
58.	Section 41A repealed	21
59.	Section 41B repealed	21
60.	Part III Division 2 inserted and consequential amendment to <i>Water Services Licensing Act 1995</i>	21
61.	Section 75 amended	23
62.	Section 81 amended and transitional	23

Part 8 — *Water Services Licensing*
Act 1995

63.	The Act amended	25
64.	Section 3 amended	25
65.	Part 3 Division 8A inserted	25
66.	Part 3 Division 8B inserted	29
67.	Schedule 2 amended	31

Western Australia

LEGISLATIVE ASSEMBLY

**Water Legislation Amendment (Competition
Policy) Bill 2005**

A Bill for

**An Act to amend various Acts relating to water for the purposes of
competition policy, and for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Water Legislation Amendment (Competition Policy) Act 2005*.

5 **2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

Part 2 — Country Areas Water Supply Act 1947

3. The Act amended

The amendments in this Part are to the *Country Areas Water Supply Act 1947** unless otherwise stated.

5 [* Reprinted as at 19 March 1999.
 For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 98.*]

4. Section 5 amended

10 Section 5(1) is amended after the definition of “prescribed” by
inserting the following definition —

“

“Registrar of Deeds” means the Registrar of Deeds
and Transfers under the *Registration of Deeds
Act 1856*;

15

”.

5. Section 14 amended

Section 14(1) is amended by deleting all of the subsection after
“in addition to the powers conferred by those Acts,” and
inserting instead —

20

“

the powers conferred by the *Public Works Act 1902*
except that the *Public Works Act 1902* is to be read and
construed as though —

25

- (a) a reference in it to the Minister administering
that Act were a reference to the Corporation;
and
- (b) the provisions of the *Water Agencies (Powers)
Act 1984* relating to entry onto land and the
giving of notice had effect in substitution for
the provisions of Part 9 of the *Land*

30

s. 6

Administration Act 1997 relating to those matters, in relation to the construction of public works under the *Public Works Act 1902*.

”.

5 **6. Section 38 amended**

Section 38(2) is repealed.

**7. Section 71 repealed and consequential amendments
(including to *Water Services Licensing Act 1995*)**

(1) Section 71 is repealed.

10 (2) Section 115(1) is amended in Table 2 by deleting “71(2)”.

(3) Section 115(3) is amended by deleting “, 71”.

(4) The *Water Services Licensing Act 1995** Schedule 2 Part 2 is amended under the heading “*Country Areas Water Supply Act 1947*” by deleting “s.71”.

15 [* *Reprinted as at 28 July 2000.*

*For subsequent amendments see Western Australian
Legislation Information Tables for 2004, Table 1, p. 485.]*

8. Section 81 amended

20 Section 81 is amended by deleting “or by sale as hereinafter mentioned,”.

9. Section 82 repealed and consequential amendment

(1) Section 82 is repealed.

(2) Section 115(1) is amended in Table 2 by deleting “82”.

10. Section 83 inserted

Part VII Division 2 is amended by inserting before section 84 the following section —

“

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83. Application and expiry of this Division

- (1) Notice cannot be given under section 85(1) after section 10 of the *Water Legislation Amendment (Competition Policy) Act 2005* comes into operation.
- (2) For the purposes of this section, the time when notice is given under section 85(1) is when —
- 10 (a) it has been given to every person to whom that provision requires it to be given; and
- (b) it has been affixed upon the relevant land as required by section 85(2).
- 15 (3) When there is no longer any old section 85(1) notice in relation to which the other sections of this Division have any further effect, the Minister is required to publish a notice in the *Government Gazette* stating that this Division expires at the end of the day on which the
- 20 notice is published in the *Government Gazette*.
- (4) In subsection (3) —
- “**old section 85(1) notice**” means a notice that was given under section 85(1) at the time of, or before, the coming into operation of section 10 of the
- 25 *Water Legislation Amendment (Competition Policy) Act 2005*.
- (5) This Division expires as stated in the Minister’s notice under subsection (3).

”.

s. 11

11. Section 88A inserted

Part VII Division 3 is amended by inserting before section 89 the following section —

“

5

88A. Application and expiry of this Division

- (1) Notice cannot be given under section 90 after section 11 of the *Water Legislation Amendment (Competition Policy) Act 2005* comes into operation.
- (2) For the purposes of this section, the time when notice is given under section 90 is when all of the notice requirements of that section have been satisfied.
- (3) When there is no longer any old section 90 notice in relation to which the other sections of this Division have any further effect, the Minister is required to publish a notice in the *Government Gazette* stating that this Division expires at the end of the day on which the notice is published in the *Government Gazette*.
- (4) In subsection (3) —
- “old section 90 notice” means a notice that was given under section 90 at the time of, or before, the coming into operation of section 11 of the *Water Legislation Amendment (Competition Policy) Act 2005*.
- (5) This Division expires as stated in the Minister’s notice under subsection (3).

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25

”.

12. Section 112 amended

Section 112 is amended by deleting “\$500.” and inserting instead —

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“ \$5 000. ”.

13. Section 113 amended

Section 113(1) is amended by deleting “\$4 000 or imprisonment for 12 months.” and inserting instead —

“ \$10 000. ”.

5 **14. Section 114 amended**

Section 114 is amended by deleting “or the Corporation”.

Part 3 — *Country Towns Sewerage Act 1948*

15. The Act amended

The amendments in this Part are to the *Country Towns Sewerage Act 1948** unless otherwise stated.

5 [* Reprinted as at 9 November 2001.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 101-2.*]

16. Section 3 amended

10 Section 3(1) is amended after the definition of “prescribed” by
inserting the following definition —

“

“**Registrar of Deeds**” means the Registrar of Deeds
and Transfers under the *Registration of Deeds
Act 1856*;

15

”.

17. Section 11 amended

- (1) Section 11(1) is amended by deleting all of the subsection after
“in addition to the powers conferred by those Acts,” up to the
end of paragraph (b) and inserting instead —

20

“

the powers conferred by the *Public Works Act 1902*
except that the *Public Works Act 1902* is to be read and
construed as though —

- 25 (a) a reference in it to the Minister administering
that Act were a reference to the Corporation;
and
- (b) the provisions of the *Water Agencies (Powers)
Act 1984* relating to entry onto land and the
giving of notice had effect in substitution for
30 the provisions of Part 9 of the *Land
Administration Act 1997* relating to those

matters, in relation to the construction of public works under the *Public Works Act 1902*.

”.

- 5 (2) Section 11(1) is amended by deleting “Provided that the Corporation shall not exercise any of such powers in any locality, not being situate in a sewerage area where the local government of the district in which such locality is situate is itself desirous of undertaking such works.”.

18. Section 24 amended

10 Section 24(2) is amended as follows:

- (a) by deleting “by the Corporation but at the expense and risk of the water board,” and inserting instead —

“

by, and at the expense and risk of, the Corporation,

15

”;

- (b) by deleting “fixtures; for which purposes or any of them the Corporation may give such directions to the water board as the Corporation may think fit, and it shall be the duty of the water board to give effect to all such directions according to their tenor, and within the time and in the manner stated in the direction.” and inserting instead —

20

“ fixtures. ”.

19. Section 32 amended

25 Section 32 is amended by deleting “forfeit and pay to the Corporation a sum not exceeding \$2 000,” and inserting instead —

“

be liable to a penalty not exceeding —

30

- (c) for an individual — \$10 000; or
(d) for a body corporate — \$20 000,

”.

s. 20

20. Section 33 amended

Section 33 is amended by deleting “forfeit and pay to the Corporation a sum not exceeding \$1 000, and \$100 for every day during which such default shall continue.” and inserting instead —

“

be liable to a penalty not exceeding —

(a) for an individual — \$10 000; or

(b) for a body corporate — \$20 000.

”.

21. Section 34 amended

Section 34 is amended as follows:

(a) by deleting “forfeit and pay to the Corporation a sum not exceeding \$2 000” and inserting instead —

“

be liable to a penalty not exceeding —

(c) for an individual — \$10 000; or

(d) for a body corporate — \$20 000,

”;

(b) by deleting “ascertained, determined, and recovered in the same manner as such forfeited sum.” and inserting instead —

“

recoverable as a debt in a court of competent jurisdiction.

”.

22. Section 36 amended

Section 36(3) is amended by deleting “, not exceeding 5%,”.

23. Section 37 amended

Section 37(2) is amended by deleting “5% per annum or at such lesser” and inserting instead —

“ such ”.

5 **24. Section 39 amended**

Section 39(1) is amended by deleting “forfeit and pay” and inserting instead —

“ be liable to ”.

25. Section 42 amended

10 Section 42(2) is amended by deleting “forfeit and pay a sum” and inserting instead —

“ be liable to a penalty ”.

26. Section 44 amended

15 Section 44 is amended by deleting “forfeit for every such offence a sum not exceeding \$1 000 over and above” and inserting instead —

“

be liable for every such offence to a penalty not exceeding \$1 000 and shall, in addition, be liable to pay to the Corporation

”.

27. Section 79 amended

Section 79 is amended by deleting “or by sale as hereinafter mentioned,”.

25 **28. Section 81 repealed and consequential amendment to *Water Services Licensing Act 1995***

(1) Section 81 is repealed.

s. 29

- (2) The *Water Services Licensing Act 1995** Schedule 2 Part 3 is amended under the heading “*Country Towns Sewerage Act 1948*” by deleting “s.81”.

[* Reprinted as at 28 July 2000.

5 For subsequent amendments see *Western Australian Legislation Information Tables for 2004, Table 1, p. 485.*]

29. Section 82 inserted

Part VII Division (2) is amended by inserting before section 83 the following section —

10 “

82. Application and expiry of this Division

- (1) Notice cannot be given under section 84 after section 29 of the *Water Legislation Amendment (Competition Policy) Act 2005* comes into operation.
- 15 (2) For the purposes of this section, the time when notice is given under section 84 is when all of the notice requirements of that section have been satisfied.
- (3) When there is no longer any old section 84 notice in relation to which the other sections of this Division have any further effect, the Minister is required to publish a notice in the *Government Gazette* stating that this Division expires at the end of the day on which the notice is published in the *Government Gazette*.
- 20 (4) In subsection (3) —
- 25 “**old section 84 notice**” means a notice that was given under section 84 at the time of, or before, the coming into operation of section 29 of the *Water Legislation Amendment (Competition Policy) Act 2005*.
- 30 (5) This Division expires as stated in the Minister’s notice under subsection (3).

”.

30. Section 110 amended

Section 110 is amended by deleting “\$500.” and inserting instead —

“ \$5 000. ”.

5 **31. Section 111 amended**

Section 111 is amended by deleting “\$4 000, and to be imprisoned for any period not exceeding 12 months.” and inserting instead —

“ \$10 000. ”.

10 **32. Section 112 repealed**

Section 112 is repealed.

Part 4 — *Land Administration Act 1997*

33. The Act amended

The amendments in this Part are to the *Land Administration Act 1997**.

5 [* Reprinted as at 22 June 2001.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 240-1.*]

34. Section 159 amended

10 Section 159 is amended by inserting after paragraph (e) the
following paragraph —

“

(ea) the Minister responsible for administering the
Water Services Licensing Act 1995;

”.

15 **35. Section 160 amended**

Section 160(1) is amended as follows:

(a) in paragraph (e), by deleting “or Corporation” in both
places where it occurs;

20 (b) by inserting after paragraph (e) the following
paragraph —

“

25 (ea) in the case of the Minister referred to in
section 159(ea), to the holder of a licence
granted for the purposes of section 18 of the
Water Services Licensing Act 1995 or to any
officer of the holder of the licence;

”.

**Part 5 — Metropolitan Water Supply, Sewerage, and
Drainage Act 1909**

36. The Act amended

5 The amendments in this Part are to the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909** unless otherwise stated.

 [* Reprinted as at 29 January 1999.
 For subsequent amendments see *Western Australian Legislation Information Tables for 2004, Table 1, p. 287.*]

10 **37. Section 5 amended**

 Section 5(1) is amended after the definition of “prescribed” by inserting the following definition —

 “
 “Registrar of Deeds” means the Registrar of Deeds
15 and Transfers under the *Registration of Deeds Act 1856*;
 ”.

38. Section 15 amended

 Section 15 is amended by deleting “or the Corporation”.

20 **39. Section 63 amended**

 Section 63(1) is amended by deleting “forfeit and pay” and inserting instead —

 “ be liable to ”.

40. Section 64 amended

25 (1) Section 64(2) is amended by deleting “\$80,” and inserting instead —

 “ \$1 000, ”.

s. 41

- (2) Section 64(4) is amended by deleting “\$40.” and inserting instead —

“ \$500. ”.

41. Section 68 amended

- 5 Section 68 is amended by deleting “forfeit for every such offence a sum not exceeding \$1 000 over and above” and inserting instead —

“

- 10 be liable for every such offence to a penalty not exceeding \$1 000 and shall, in addition, be liable to pay to the Corporation

”.

42. Section 69 amended

Section 69 is amended as follows:

- 15 (a) by deleting “exceeding \$2 000,” and inserting instead —

“

exceeding —

(a) for an individual — \$10 000; or

(b) for a body corporate — \$20 000,

20

”;

- (b) by deleting “ascertained, determined, and recovered in the same manner as such forfeited sum.” and inserting instead —

“

25

recoverable as a debt in a court of competent jurisdiction.

”.

43. Section 109 amended

- 30 Section 109 is amended by deleting “or by sale as hereinafter mentioned,”.

44. Section 112 inserted

Part VIII is amended by inserting after the heading before section 113 the following section —

“

5

112. Application and expiry of this Division

- (1) Notice cannot be given under section 114(1) after section 44 of the *Water Legislation Amendment (Competition Policy) Act 2005* comes into operation.
- (2) For the purposes of this section, the time when notice is given under section 114(1) is when —
- 10 (a) it has been given to every person to whom that provision requires it to be given; and
- (b) it has been affixed upon the relevant land as required by section 114(3).
- 15 (3) When there is no longer any old section 114(1) notice in relation to which the other sections of this Division have any further effect, the Minister is required to publish a notice in the *Government Gazette* stating that this Division expires at the end of the day on which the
- 20 notice is published in the *Government Gazette*.
- (4) This Division expires as stated in the Minister’s notice under subsection (3).
- (5) In this section —
- 25 **“old section 114(1) notice”** means a notice that was given under section 114(1) at the time of, or before, the coming into operation of section 44 of the *Water Legislation Amendment (Competition Policy) Act 2005*;
- “this Division”** means this section and sections 113 to 117 and the heading before this section.
- 30

”.

s. 45

45. Section 124A repealed and heading deleted

Section 124A is repealed and the heading before that section is deleted.

46. Section 146 amended

5 Section 146(1)(20) is amended by deleting “Corporation; and prohibiting the sale by any person to whom water is supplied by the Corporation of water supplied, except with the authority in writing of the Corporation.” and inserting instead —

“ Corporation. ”.

10 **47. Section 156 amended**

Section 156 is amended in the penalty provision by deleting “\$500.” and inserting instead —

“ \$5 000. ”.

48. Section 157 amended

15 Section 157 is amended in the penalty provision by deleting “\$1 000.” and inserting instead —

“ \$10 000. ”.

49. Section 158 amended

Section 158 is amended by deleting “or the Corporation”.

20 **50. Section 158A amended**

Section 158A is amended by deleting “\$200 and if the offence is a continuing one to a further fine not exceeding \$20 for every day or part of a day during which the offence has continued.” and inserting instead —

25 “ \$10 000. ”.

51. Section 160 amended

Section 160 is amended by deleting “or the Corporation” in the 3 places where it occurs.

52. Seventh and Eighth Schedules repealed

5 The Seventh Schedule and the Eighth Schedule are repealed.

53. Sentencing Act 1995 amended

(1) The amendments in this section are to the *Sentencing Act 1995**.

[* *Reprint 3 as at 10 October 2003.*

10 *For subsequent amendments see 2004 Index to Legislation of Western Australia, Table 1, p. 409.]*

(2) Schedule 1 is amended as follows:

(a) by deleting the item relating to the *Metropolitan Water Authority Act 1982*;

15 (b) by deleting the item relating to the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

Part 6 — *Rights In Water and Irrigation Act 1914*

54. The Act amended

The amendment in this Part is to the *Rights in Water and Irrigation Act 1914**.

5 [* Reprinted as at 10 January 2001.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 389.*]

55. Section 73 amended

Section 73 is amended by deleting “or the Corporation”.

Part 7 — Water Agencies (Powers) Act 1984

56. The Act amended

The amendments in this Part are to the *Water Agencies (Powers) Act 1984**.

5 [* Reprinted as at 4 January 2000.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 481.*]

57. Section 41 amended

(1) Section 41(1)(g) is amended as follows:

- 10 (a) by deleting “, notwithstanding the limits imposed by
sections 41A and 41B,”;
(b) by deleting “, subject to those limits,”.

(2) Section 41(1)(k) is amended by deleting “but subject to
section 41A,”.

15 58. Section 41A repealed

Section 41A is repealed.

59. Section 41B repealed

Section 41B is repealed.

20 60. Part III Division 2 inserted and consequential amendment to *Water Services Licensing Act 1995*

(1) After Part III Division 1A the following Division is inserted —
“

Division 2 — Agreements as to charges

42. Agreements for different liability

- 25 (1) The Corporation and a person who would be liable to
pay a statutory charge (the “customer”) may agree

s. 60

that, instead of becoming liable to pay a statutory charge described in the agreement, the customer will become liable as specified in the agreement.

5 (2) The agreement may provide for statutory charge provisions identified in the agreement to apply, with any modifications that may be agreed, in relation to the customer's agreed liability.

10 (3) The agreement has effect according to its terms, except that a person who is not bound by the agreement cannot be placed in a less favourable position than the person would have been in if the agreement had not been made.

15 (4) In this section —
 “**agreed liability**” means the customer's liability under the agreement that is instead of liability to pay the statutory charge;

 “**statutory charge**” means a charge under Division 1A relating to the provision by the Corporation of water services in relation to land;

20 “**statutory charge provisions**” means provisions of this Act or a relevant Act that would have applied in relation to the customer's liability to pay a statutory charge if the customer's agreed liability had not been substituted for it.

25 ”.

(2) The *Water Services Licensing Act 1995** Schedule 2 Part 1 is amended under the heading “*Water Agencies (Powers) Act 1984*” by inserting after “s.41M” —

“ s.42 ”.

30 [* Reprinted as at 28 July 2000.
 For subsequent amendments see *Western Australian Legislation Information Tables for 2004, Table 1, p. 485.*]

61. Section 75 amended

Section 75(1) is amended as follows:

- (a) by deleting “seeks to acquire” and inserting instead —
“ seeks the acquisition of ”;
- 5 (b) by deleting “Commission or the Corporation may,
subject to section 81(11), acquire such lesser estate or
interest and shall not be required to acquire” and
inserting instead —
10 “
lesser estate or interest may, subject to section 81(11),
be acquired instead of acquiring
”.

62. Section 81 amended and transitional

- 15 (1) Section 81(4), (5), (6), (7), (8), (9), (10), (11), (12), and (13) are
amended by deleting “or the Corporation” in each place where it
occurs.
 - (2) Any procedure that —
 - (a) has begun under the *Water Agencies (Powers) Act 1984*
section 81 in relation to —
 - 20 (i) the acquisition by the Corporation of land or an
estate or interest in land; or
 - (ii) the claiming, determination, assessment or
recovery of compensation payable by the
Corporation in relation to such an acquisition;
 - 25 and
 - (b) has not been completed immediately before the
commencement of this section,
- may be continued and completed under section 81 of that Act as
if subsection (1) had not been enacted.

(3) In subsection (2) —

“Corporation” has the meaning given to that term in the *Water Agencies (Powers) Act 1984* section 3(1).

Part 8 — Water Services Licensing Act 1995

63. The Act amended

The amendments in this Part are to the *Water Services Licensing Act 1995**.

5 [* Reprinted as at 28 July 2000.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 485.*]

64. Section 3 amended

10 Section 3 is amended after the definition of “plumber” by
inserting the following definition —

“

“**Registrar of Deeds**” means the Registrar of Deeds
and Transfers under the *Registration of Deeds
Act 1856*;

15

”.

65. Part 3 Division 8A inserted

After Part 3 Division 8 the following Division is inserted —

“

Division 8A — Powers relating to land

20 44A. Power of public authority to grant certain interests

(1) In this section —

“**public authority**” means —

- 25 (a) a Minister of the State;
- (b) an agency, authority or instrumentality of the
State or a local government; or
- (c) a body, whether corporate or unincorporate,
that is established or continued for a public
purpose by or under a written law and
prescribed for the purposes of this definition;

“relevant interest” means a lease, easement, licence or other authority necessary or expedient to enable the licensee to construct, alter, operate or maintain water services works.

- 5 (2) A public authority may grant to a licensee, on such terms and conditions as are agreed between the authority and the licensee, a relevant interest in respect of land held by the public authority in fee simple.

10 **44B. Taking of interest or easement for purposes of licence**

- 15 (1) For the purpose of enabling a licensee to provide any water service as authorised by a licence, an interest in land or easement over land may be taken under Part 9 of the *Land Administration Act 1997* as if for a public work within the meaning of that Act.
- 20 (2) The power conferred by subsection (1) can only be exercised on the recommendation of the Minister administering this Act.
- 25 (3) If requested to do so in a written objection served under section 175 of the *Land Administration Act 1997*, the Minister as defined in section 3(1) of that Act (the **“LAA Minister”**), after consultation with the licensee, may vary the proposal to take an interest or easement in accordance with this section so that —
- 30 (a) instead of the whole of the interest that was proposed to be taken, a lesser estate or interest that is sufficient for the purposes of the licensee is proposed to be taken; or
- (b) instead of a partial interest that was proposed to be taken, the whole of an interest is proposed to be taken.
- (4) The LAA Minister may, by notice published in the *Gazette*, delegate to the Minister administering this Act

the power conferred on the LAA Minister by subsection (3).

- (5) If in the opinion of the Minister administering this Act an interest in land or easement over land is appropriate to a licensee's needs in respect of —

(a) major works or general works, as defined in section 86 of the *Water Agencies (Powers) Act 1984*; or

(b) any other works of a kind prescribed for the purposes of this subsection,

that Minister is to advise the licensee of that opinion and the licensee is required to acquire that interest in land or easement over land where practicable by agreement but otherwise by the taking of the land under Part 9 of the *Land Administration Act 1997* as if for a public work within the meaning of that Act.

- (6) The requirement imposed by subsection (5) does not extend to land that is vested in, or otherwise occupied or managed by or on behalf of, the State or a public authority as defined in section 44A(1).

- (7) Any costs and expenses incurred in the taking of an interest or easement under this section —

(a) are to be paid by the licensee; and

(b) may be recovered in a court of competent jurisdiction as a debt due from the licensee to the State.

- (8) For the purposes of this section a reference in Part 9 of the *Land Administration Act 1997* to an interest in land includes an easement over land.

44C. Vesting of interest or easement

- (1) Despite anything in Part 9 of the *Land Administration Act 1997*, on the taking of an interest in land or

- 5 easement over land under section 44B, the interest or
 easement vests in the licensee for the purpose of
 enabling the licensee to provide any water service as
 authorised by a licence except to the extent that, under
10 section 178(7) of that Act, the taking order continues
 any specified estate, interest, right or privilege of any
 person to the use, occupation or enjoyment of the land,
 or any specified part of the land.
- (2) Part 9 of the *Land Administration Act 1997* applies,
10 with all necessary changes, in relation to the recording
 or registering of an interest or easement taken under
 section 44B.
- (3) Where, whether by agreement or compulsory
15 acquisition, any interest in land or easement is vested
 in a licensee and the land is subsequently affected by a
 taking order under Part 9 of the *Land Administration*
 Act 1997 then despite section 179 of that Act —
- (a) the licensee's interest or easement continues
 unless the licensee otherwise agrees; and
- 20 (b) the licensee is a person having an interest in the
 land for the purposes of section 202 of that Act.

44D. Proceedings and liability

- 25 (1) Proceedings in respect of compensation, or otherwise
 for the purpose of complying with Parts 9 and 10 of the
 Land Administration Act 1997, may be taken against
 the licensee.
- 30 (2) The licensee is liable in respect of the taking of an
 interest in land or easement over land under
 section 44B to the same extent as the Minister
 administering the *Land Administration Act 1997* would
 have been liable if the taking had been for the purpose
 of a public work.

44E. Easements in gross

An easement may be taken under section 44B without there being a dominant tenement and there may be made appurtenant or annexed to any such easement another easement or the benefit of a restriction as to the user of the land.

”.

66. Part 3 Division 8B inserted

Before Part 3 Division 9 the following Division is inserted —

“

Division 8B — Powers for recovering charges

44F. Prohibition on dealings in land

(1) In this section —

“**Registrar**” means the Registrar of Titles or Registrar of Deeds, according to which of them is responsible for registering a memorial referred to in this section;

“**water services charge**”, in relation to land, means a charge made under the *Water Agencies (Powers) Act 1984* in respect of that land relating to —

- (a) the provision of a water supply under the *Country Areas Water Supply Act 1947*;
- (b) the provision of sewerage under the *Country Towns Sewerage Act 1948*; or
- (c) the provision, under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* or the *Metropolitan Water Authority Act 1982*, of any water services as defined in section 3(1) of the *Water Agencies (Powers) Act 1984*,

s. 66

and includes an amount owing for a combination of those charges and also includes interest on any amount owing.

- 5 (2) This section does not apply to a prescribed licensee or a licensee belonging to a prescribed class of licensees.
- 10 (3) If, in relation to any land, the payment of an amount due to a licensee in respect of any water services charge is in arrears, the licensee may lodge a memorial to that effect with the Registrar who, on payment of the prescribed fee, is to register the memorial and make appropriate endorsements on the title and records relating to that land.
- 15 (4) Until the memorial is withdrawn under subsection (5), the Registrar is not to register, without the written consent of the licensee, an instrument affecting the land that was lodged for registration after the memorial was lodged.
- 20 (5) If the payment of an amount referred to in a memorial registered under subsection (3) is no longer to any extent in arrears, the licensee is to withdraw the memorial by delivering to the Registrar a withdrawal of memorial signed by an authorised officer of the licensee, and the Registrar is then to record the withdrawal of memorial on the title and records relating to the land.
- 25 (6) A memorial under subsection (3) or withdrawal of memorial under subsection (5) is to be in a form approved by the Registrar.

44G. Transitional provision

30 A memorial that, when section 45 of the *Water Legislation Amendment (Competition Policy) Act 2005* comes into operation, has been delivered or registered under section 124A of the *Metropolitan Water Supply*,

Sewerage, and Drainage Act 1909 but not endorsed under subsection (3) of that section is to be regarded as having been lodged or registered, as the case requires, under this section.

5

”.

67. Schedule 2 amended

- (1) Schedule 2 Part 1 is amended under the heading “*Water Agencies (Powers) Act 1984*” as follows:

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- (a) by deleting “s.3 (definitions of “officer” and “works”) and inserting instead —

“ s.3 (definition of “works”) ”;

- (b) by deleting “s.62(1)” and inserting instead —

“ s.62 ”;

- (c) after “s.73” by inserting —

15

“

s.75

s.77

s.78

s.79

s.81

”.

- (2) Schedule 2 Part 2 is amended under the heading “*Country Areas Water Supply Act 1947*” by inserting after “s.78” —

“ s.81 ”.

20

- (3) Schedule 2 Part 2 is amended under the heading “*Metropolitan Water Supply, Sewerage and Drainage Act 1909*” as follows:

- (a) after “s.14” by inserting —

“ s.36 ”;

- (b) after “s.105B” by inserting —

25

“ s.109 ”.

s. 67

- (4) Schedule 2 Part 3 is amended under the heading “*Metropolitan Water Supply, Sewerage and Drainage Act 1909*” by inserting after “s.70” —

“

s.103

s.109

5

”.

- (5) Schedule 2 Part 4 is amended under the heading “*Land Drainage Act 1925*” as follows:

- (a) before “s.64” by inserting —

“ s.60 ”;

10

- (b) by deleting “s.73”, “s.74”, “s.81”, “s.81A”, “s.85”, “s.94”, and “s.100B”.

- (6) Schedule 2 Part 5 is amended after “s.39E” by inserting —

“ s.39F ”.

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