

Water Services Legislation Amendment and Repeal Bill 2011

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**Water Services Legislation Amendment and
Repeal Bill 2011**

A Bill for

An Act to —

- amend the *Country Areas Water Supply Act 1947*; and
- amend the *Metropolitan Water Authority Act 1982*; and
- amend the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*; and
- amend the *Rights in Water and Irrigation Act 1914*; and
- amend the *Water Agencies (Powers) Act 1984*; and
- amend the *Water Corporation Act 1995*; and
- amend the *Water Services Licensing Act 1995*; and
- repeal the *Country Towns Sewerage Act 1948*; and
- repeal the *Busselton Water Board (Supply of Water to Dunsborough) Act 2009*; and
- repeal the *Land Drainage Act 1925*; and
- repeal the *Land Drainage (Validation) Act 1996*; and
- repeal the *Water Boards Act 1904*; and
- repeal certain subsidiary legislation consequentially; and
- make consequential amendments to certain Acts,
and for related and incidental purposes.

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Water Services Legislation Amendment and Repeal Act 2011*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the Royal Assent;

8

9

(b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

10

**Part 2 — Country Areas Water Supply
Act 1947 amended**

3. Act amended

This Part amends the *Country Areas Water Supply Act 1947*.

4. Long title amended

In the long title delete the passage that begins with “**to make**” and ends with “**areas,**”.

5. Section 5 amended

In section 5(1) delete the definitions of:

Corporation

country water area

farm land

metropolitan area

officer

water board

Water Boards Act

Water Supply Act

water supply charge

6. Section 6 deleted

Delete section 6.

7. Section 8 deleted

Delete section 8.

s. 8

1 **8. Section 11 amended**

2 (1) In section 11(1):

3 (a) delete “*Land Drainage Act 1925*,” and insert:

4

5 *Water Services Act 2011*,

6

7 (b) delete “the Corporation” and insert:

8

9 a licensee (as defined in the *Water Services Act 2011*
10 section 3(1))

11

12 (2) In section 11(2) delete “The Corporation” and insert:

13

14 A licensee

15

16 **9. Section 12A inserted**

17 After section 11 insert:

18

19 **12A. Penalty for diverting or taking water**

20 Any person who, other than with the authority of the
21 Minister or under another written law, diverts water
22 from any watercourse or source of supply within any
23 catchment area or water reserve or does any act by
24 which the watercourse or source of supply may be
25 diverted or diminished in quantity or injured in quality
26 or purity is guilty of an offence.

27 Penalty:

28 (a) for an individual — a fine of \$10 000;

29 (b) for a body corporate — a fine of \$20 000.

30

1 **10. Parts IV, V, VI and VII deleted**

2 Delete Parts IV, V, VI and VII.

3 **11. Section 105 amended**

4 Delete section 105(1)(b), (c) and (d).

5 **12. Section 108 amended**

6 In section 108 delete “Minister or the Corporation,” and insert:

7

8 Minister,

9

10 **13. Section 111 amended**

11 In section 111 delete “or the Corporation”.

12 **14. Section 112 replaced**

13 Delete section 112 and insert:

14

15 **112. Obstructing Minister, officers or authorised persons**
16 **in performance of duty**

17 A person who obstructs —

18 (a) the Minister; or

19 (b) an officer of the Department; or

20 (c) a person authorised by the Minister,

21 in the performance of any act or thing which the
22 Minister, officer or person is authorised or required to
23 do in the execution of this Act or any regulation or
24 by-law made for the purposes of this Act commits an
25 offence.

26 Penalty: a fine of \$5 000.

27

s. 15

1 **15. Section 113 amended**

2 In section 113(1) delete “or the Corporation,”.

3 **16. Section 115 amended**

4 (1) Delete section 115(1) and insert:

5

6 (1) Proceedings for an offence against this Act may only
7 be taken by the Minister or an officer of the
8 Department or a person authorised to do so by the
9 Minister.

10

11 (2) In section 115(3) delete “sections 46 and” and insert:

12

13 section

14

15 **17. Section 116 deleted**

16 Delete section 116.

17 **18. Section 121 amended**

18 In section 121 delete “or the chief executive officer of the
19 Corporation”.

20 Note: The heading to amended section 121 is to read:

21 **Certificate of CEO evidence of certain facts**

22 **19. Section 122 deleted**

23 Delete section 122.

**Part 3 — *Metropolitan Water Authority*
Act 1982 amended**

20. Act amended

This Part amends the *Metropolitan Water Authority Act 1982*.

21. Long title replaced

Delete the long title and insert:

**An Act to provide for an Arterial Drainage Scheme and the
declaration of drainage courses.**

22. Section 1 amended

In section 1 delete “*Water Authority*” and insert:

Arterial Drainage

23. Section 4 amended

(1) In section 4(1) delete the definitions of:

channel

Corporation

drain

drainage area

drainage works

main drain

underground water

works

s. 24

- 1 (2) In section 4(1) insert in alphabetical order:
2
3 *drainage assets* has the meaning given in the *Water*
4 *Services Act 2011* section 108;
5 *licensee* has the meaning given in the *Water Services*
6 *Act 2011* section 3(1).
7
8 (3) In section 4(1) in the definition of *arterial drain*:
9 (a) delete “drain” and insert:
10
11 drainage asset
12
13 (b) delete “such” and insert:
14
15 an arterial drain
16
17 (4) Delete section 4(2).
18 **24. Part IV deleted**
19 Delete Part IV.
20 **25. Section 98 amended**
21 (1) In section 98(1) delete “the Corporation,” and insert:
22
23 all relevant licensees,
24
25 (2) Delete section 98(2)(g) and insert:
26
27 (g) any other matter or thing prescribed by
28 regulations made under the *Water Agencies*
29 *(Powers) Act 1984* for the purposes of this
30 section.
31

- 1 (3) Delete section 98(3)(a), (b) and (c) and insert:
2
3 (a) the classification of drainage assets as arterial
4 drains; and
5
6 (4) In section 98(4) delete “the Corporation” and insert:
7
8 all relevant licensees
9
10 (5) In section 98(5):
11 (a) delete “works” and insert:
12
13 drainage assets
14
15 (b) delete “the Corporation,” and insert:
16
17 relevant licensees,
18
19 (6) In section 98(2) after each of paragraphs (a) to (e) insert:
20
21 and
22

23 **26. Section 99 amended**

- 24 (1) In section 99(1):
25 (a) delete “drainage works” and insert:
26
27 drains
28

s. 27

- 1 (b) delete “thereof, or responsibility for particular works”
2 and insert:
3
4 of an arterial drain
5
- 6 (2) Delete section 99(2).
- 7 (3) In section 99(4):
8 (a) in paragraph (a) delete “drains” (first and third
9 occurrences) and insert:
10
11 drainage assets
12
- 13 (b) in paragraph (d) delete “the Corporation” and insert:
14
15 all relevant licensees
16
- 17 (c) in paragraph (d) delete “drain” (third occurrence) and
18 insert:
19
20 drainage asset
21
- 22 (d) in paragraph (e) delete “the Corporation” and insert:
23
24 the licensees
25
- 26 **27. Part IX Divisions 3 and 4 deleted**
27 Delete Part IX Divisions 3 and 4.

1 **28. Section 106 amended**

2 (1) In section 106(1):

3 (a) delete “main drain or arterial drain, or proposed main
4 drain or proposed arterial drain,” and insert:

5
6 drainage asset or proposed drainage asset,

7
8 (b) delete “works” and insert:

9
10 asset

11

12 (2) In section 106(2)(a) and (c) delete “the Corporation” and insert:

13

14 all relevant licensees

15

16 (3) In section 106(6)(a) delete “drainage works; but” and insert:

17

18 arterial drainage; but

19

20 **29. Section 107 amended**

21 (1) Delete section 107(1).

22 (2) In section 107(2):

23 (a) delete “may” (first occurrence) and insert:

24

25 must

26

s. 30

1 (b) delete “course and may give advice and issue guidelines
2 to the planning authority in accordance with section 66
3 of the *Water Agencies (Powers) Act 1984*.” and insert:

4
5 course.

6
7 (3) In section 107(4) delete “Part IV of the *Water Agencies*
8 (*Powers*) *Act 1984*.” and insert:

9
10 the *Water Services Act 2011* Part 5 Division 3.

11
12 **30. Section 108 deleted**

13 Delete section 108.

- 1
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- 23

31. Act amended

This Part amends the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

32. Section 5 amended

- (1) In section 5(1) delete the definitions of:
aquifer
artesian bore
Corporation
officer
prescribed
sewerage charge
sewerage works
water charge
water supply charge
waterworks
- (2) In section 5(1) in the definition of *watercourse* delete “(c);” and insert:

(c).
- (3) Delete section 5(2).

s. 33

1 **33. Section 14 amended**

2 (1) In section 14(1) delete “the Corporation” and insert:

3

4 a licensee (as defined in the *Water Services Act 2011*
5 section 3(1))

6

7 (2) In section 14(2) delete “The Corporation” and insert:

8

9 A licensee

10

11 **34. Section 16 amended**

12 In section 16(c) delete “Act” and insert:

13

14 act

15

16 **35. Part V deleted**

17 Delete Part V.

18 **36. Part VI heading replaced**

19 Delete the heading to Part VI and insert:

20

21 **Part VI — The protection of underground water**

22

23 **37. Part VI Divisions 1 and 2 deleted**

24 Delete Part VI Divisions 1 and 2.

25 **38. Part VI Division 3 heading deleted**

26 Delete the heading to Part VI Division 3.

1 **39. Section 57B amended**

2 (1) In section 57B(1)(a) delete “water under this Act;” and insert:

3

4 water;

5

6 (2) In section 57B(3) delete “Act” and insert:

7

8 act

9

10 **40. Part VI Division 4 deleted**

11 Delete Part VI Division 4.

12 **41. Parts VII and VIII deleted**

13 Delete Parts VII and VIII.

14 **42. Section 146 amended**

15 In section 146(1):

16 (a) in paragraph (d) delete “banks;” and insert:

17

18 banks.

19

20 (b) delete paragraphs (e) to (m).

21 **43. Section 148 deleted**

22 Delete section 148.

23 **44. Sections 150 to 152 deleted**

24 Delete sections 150 to 152.

25 **45. Section 153 amended**

26 In section 153 delete “or the Corporation”.

s. 46

1 **46. Sections 154 and 155 deleted**

2 Delete sections 154 and 155.

3 **47. Section 156 replaced**

4 Delete section 156 and insert:

5

6 **156. Obstructing Minister, officers or authorised persons**
7 **in performance of duty**

8 A person who obstructs —

9 (a) the Minister; or

10 (b) an officer of the Department; or

11 (c) a person authorised by the Minister,

12 in the performance of any act or thing which the
13 Minister, officer or person is authorised or required to
14 do in the execution of the *Metropolitan Arterial*
15 *Drainage Act 1982* or this Act commits an offence.

16 Penalty: a fine of \$5 000.

17

18 **48. Section 157 amended**

19 In section 157:

20 (a) delete “or the Corporation,”;

21 (b) delete “the *Metropolitan Water Authority Act 1982* or”.

22 **49. Section 158 amended**

23 In section 158 delete “the *Metropolitan Water Authority*
24 *Act 1982* or”.

25 **50. Section 158A amended**

26 In section 158A delete “the *Metropolitan Water Authority*
27 *Act 1982* or”.

1 **51. Section 159 amended**

2 Delete section 159(1) and insert:

3

4 (1) Proceedings for an offence against this Act may only
5 be taken by the Minister or an officer of the
6 Department or a person authorised to do so by the
7 Minister.

8

9 **52. Section 161 deleted**

10 Delete section 161.

11 **53. Section 165 amended**

12 In section 165 delete “*Water Agencies (Powers) Act 1984*, the
13 *Metropolitan Water Authority Act 1982*” and insert:

14

15 *Water Agencies (Powers) Act 1984*

16

17 **54. Section 166 deleted**

18 Delete section 166.

19 **55. Schedule 9 deleted**

20 Delete Schedule 9.

1 **Part 5 — *Rights in Water and Irrigation***
2 ***Act 1914* amended**

3 **56. Act amended**

4 This Part amends the *Rights in Water and Irrigation Act 1914*.

5 **57. Long title amended**

6 In the long title delete “**water resources, to provide for**
7 **irrigation schemes,**” and insert:

8
9 **water resources,**

10
11 **58. Section 2 amended**

12 In section 2(1) delete the definitions of:

13 ***Corporation***

14 ***irrigation charge***

15 ***officer***

16 ***water charge***

17 **59. Section 26GZJ amended**

18 (1) In section 26GZJ(2) delete “an operating” and insert:

19
20 a water services

21
22 (2) Delete section 26GZJ(3) and insert:

23
24 (3) In subsection (2) —

25 ***water services licence*** means a licence under the *Water*
26 *Services Act 2011* that authorises the provision of a
27 water supply service or an irrigation service.
28

1 **60. Section 27 amended**

2 (1) Delete section 27(1)(ga) and insert:

3

4 (ga) charges that are to be paid by the holder of a
5 water services licence (as defined in
6 section 26GZJ(3)) in respect of water taken
7 under a licence issued under this Act; and

8

9 (2) In section 27(1) after each of paragraphs (e) to (g) and (h)
10 insert:

11

12 and

13

14 **61. Section 33 deleted**

15 Delete section 33.

16 **62. Section 35 amended**

17 In section 35 delete “or the Corporation, or against any officer
18 of the Corporation, or contractor under the Crown or the
19 Corporation,” and insert:

20

21 or against any contractor under the Crown,

22

23 **63. Section 36 amended**

24 (1) In section 36(1) delete “or the Corporation”.

25 (2) Delete section 36(2).

26 **64. Section 37 amended**

27 In section 37 delete “or the Corporation”.

s. 65

1 **65. Section 38 amended**

2 In section 38 delete “or the Corporation” (each occurrence).

3 **66. Parts VII and X deleted**

4 Delete Parts VII and X.

5 **67. Section 63 deleted**

6 Delete section 63.

7 **68. Section 66 amended**

8 In section 66(3) delete “or the Corporation, as the case
9 requires,”.

10 **69. Section 69 amended**

11 In section 69 delete “Crown, the Corporation” and insert:

12

13 Crown

14

15 **70. Section 70 amended**

16 In section 70:

17 (a) delete “the Corporation,” (each occurrence);

18 (b) delete “or the Corporation” (each occurrence).

19 **71. Section 71 amended**

20 In section 71 delete “or the Corporation,”.

21 **72. Section 75 deleted**

22 Delete section 75.

23 **73. Section 79A amended**

24 In section 79A delete “or the chief executive officer of the
25 Corporation, as the case requires,”.

1 **74. Schedule 1 Appendix amended**

2 In Schedule 1 Appendix:

3 (a) in item 1(b) delete “an operating licence under the *Water*
4 *Services Licensing Act 1995.*” and insert:

5
6 a licence under the *Water Services Act 2011*.

7
8 (b) in item 10 delete “Commission,” and insert:

9
10 Minister or the CEO,
11

1 **Part 6 — *Water Agencies (Powers) Act 1984* amended**

2 **75. Act amended**

3 This Part amends the *Water Agencies (Powers) Act 1984*.

4 **76. Long title amended**

5 In the long title delete “**powers, to give the Water**
6 **Corporation powers, to make other provisions in respect of**
7 **their functions,”** and insert:

8
9 **powers, to make other provisions in respect of the Minister’s**
10 **functions,**
11

12 **77. Section 3 amended**

13 (1) In section 3(1) delete the definitions of:

14 *charge*

15 *Corporation*

16 *gross rental value*

17 *local authority*

18 *officer*

19 *unimproved value*

20 *valuation*

21 *waste*

22 (2) In section 3(1) in the definition of *statutory authority* delete
23 “Minister, the CEO or the Corporation,” and insert:

24
25 Minister or the CEO,
26

27 (3) In section 3(1) in the definition of *works* delete “by the
28 Corporation for the purposes of water services or”.

1 **78. Section 5 amended**

2 (1) In section 5(1):

3 (a) in paragraph (a) delete “*Water Authority*” and insert:

4
5 *Arterial Drainage*

6
7 (b) in paragraph (f) delete “1947;” and insert:

8
9 1947.

10
11 (c) delete paragraphs (d), (e), (g), (h) and (i).

12 (2) After section 5(1) insert:

13
14 (2) In a provision of this Act that has effect by reference to
15 a past event or status, a reference to a relevant Act
16 includes a reference to an Act referred to subsection (1)
17 as in force immediately before the commencement of
18 the *Water Services Legislation Amendment and Repeal*
19 *Act 2011* section 78.

20

21 **79. Section 8 amended**

22 In section 8:

23 (a) delete “Corporation, or the”;

24 (b) delete “Corporation or the” (each occurrence).

25 Note: The heading to amended section 8 is to read:

26 **Vesting interest in land in Minister**

27 **80. Section 10 amended**

28 Delete section 10(2).

29 Note: The heading to amended section 10 is to read:

30 **Functions and powers of Minister — relation to other functions**
31 **and powers**

s. 81

1 **81. Section 14 amended**

2 In section 14(12) in the definition of *water services licensee*
3 delete “section 3 of the *Water Services Licensing Act 1995*.” and
4 insert:

5
6 the *Water Services Act 2011* section 3(1).
7

8 **82. Section 34 amended**

9 (1) In section 34(1) delete “or the Corporation of their respective
10 functions” and insert:

11
12 of functions
13

14 (2) In section 34(3):

15 (a) in paragraph (g) delete “watercourse;” and insert:

16
17 watercourse.
18

19 (b) delete paragraphs (h), (i), (j), (k), (l) and (n).

20 **83. Part III heading replaced**

21 Delete the heading to Part III and insert:

22
23 **Part III — Liability, indemnity etc.**
24

25 **84. Part III Divisions 1A and 2 deleted**

26 Delete Part III Divisions 1A and 2.

- 1 **85. Part III Division 6 heading deleted**
2 Delete the heading to Part III Division 6.
- 3 **86. Parts IV and V deleted**
4 Delete Parts IV and V.
- 5 **87. Section 70 amended**
6 In section 70(2) delete “or a person authorised by the
7 Corporation”.
- 8 **88. Section 71 amended**
9 (1) Delete section 71(1)(a)(i).
10 (2) In section 71(3):
11 (a) delete “Minister, or the Corporation by its officers or
12 agents,” and insert:
13 Minister
14 Minister
15 Minister
16 (b) delete “or the Corporation” (second occurrence).
- 17 **89. Section 72 amended**
18 In section 72(6):
19 (a) delete “or the Corporation” (first occurrence);
20 (b) delete “or the Corporation by its officers,”.

s. 90

1 **90. Section 73 amended**

2 In section 73(1):

3 (a) delete “Minister or the Corporation, an officer of the
4 Department or the Corporation or any other person who
5 pursuant to section 3(3) is deemed to be authorised to
6 exercise a power of the Minister or the Corporation,”
7 and insert:

8
9 Minister, an officer of the Department or any other
10 person who pursuant to section 3(3) is deemed to be
11 authorised to exercise a power of the Minister,
12

13 (b) in paragraph (b) delete “Minister or the Corporation, any
14 property sewer or any fixture or fitting; or” and insert:

15
16 Minister; or
17

18 (c) delete paragraphs (c) and (d);

19 (d) delete “or the Corporation” (second and third
20 occurrences).

21 **91. Section 78 amended**

22 (1) In section 78(1):

23 (a) delete “or the Corporation” (first and third occurrences);

24 (b) delete “Commission, the Minister or the Corporation”
25 and insert:

26
27 Commission or the Minister
28

1 (2) In section 78(2) delete “Commission, the Minister or the
2 Corporation” and insert:

3

4 Commission or the Minister

5

6 **92. Section 82 amended**

7 Delete section 82(1a).

8 **93. Section 83 amended**

9 (1) Delete section 83(1).

10 (2) In section 83(2) delete “subsections (1) and (1a)” and insert:

11

12 subsection (1a)

13

14 **94. Section 84 amended**

15 Delete section 84(1).

16 **95. Section 85 deleted**

17 Delete section 85.

18 **96. Section 86 amended**

19 In section 86 in the definition of *major works* delete
20 paragraph (b) and insert:

21

22 (b) such other works as the Minister considers, by
23 virtue of their location, size or nature, to be of
24 sufficient public interest to require public
25 advertisement and that an opportunity to object
26 or comment thereon should be given.

27

s. 97

1 **97. Section 87 amended**

2 Delete section 87(1).

3 **98. Section 88 amended**

4 In section 88(1) delete “works, and the Corporation must, before
5 submitting proposals to the Minister for the carrying out,
6 construction or provision of major”.

7 **99. Section 89 amended**

8 Delete section 89(3) and insert:

9
10 (3) Where the Minister so determines, and whether or not
11 by reason of objections or comments received, the
12 Minister may amend the proposal by making
13 alterations to the plans or proposals so deposited and
14 advise the persons who are, in the opinion of the
15 Minister, likely to be affected by such alterations.
16

17 **100. Section 90 deleted**

18 Delete section 90.

19 **101. Section 91 amended**

20 Delete section 91(1), (2) and (3).

21 **102. Section 95 amended**

22 Delete section 95(1), (2), (3) and (4).

1 **103. Section 97 amended**

2 Delete section 97(4) and insert:

3

4 (4) Where the Minister is satisfied that a deviation or
5 modification of a kind to which subsection (1), (2)
6 or (3) does not apply —

7 (a) is not inconsistent with the general proposal;
8 and

9 (b) is necessary in the public interest; and

10 (c) does not adversely affect the interest of any
11 person who is the owner or occupier of the land
12 where the works are to be situate,

13 the Minister may carry out the works as so varied,
14 despite the provisions of sections 88 and 89, or 93, 94
15 and 95, not having been complied with.

16

17 **104. Part VIII Divisions 3 and 4 deleted**

18 Delete Part VIII Divisions 3 and 4.

19 **105. Section 103 amended**

20 In section 103(11) delete “Corporation shall” and insert:

21

22 chief executive officer of a water corporation (as
23 defined in section 106(1A)) must

24

s. 106

1 **106. Section 106 amended**

2 (1) Before section 106(1) insert:

3

4 (1A) In this section —

5 *water corporation* means a corporation as defined in
6 the *Water Corporations Act 1995* section 3(1).
7

8 (2) In section 106(1) delete “the Water Corporation or a water
9 board” and insert:

10

11 a water corporation
12

13 (3) Delete section 106(4).

14 **107. Section 111 amended**

15 Delete section 111(4).

16 **108. Section 112 amended**

17 Delete section 112(3)(a).

18 **109. Various references to “Corporation” amended**

19 In the provisions listed in the Table:

20 (a) delete “or the Corporation” (each occurrence);

21 (b) delete “or the Corporation’s”;

22 (c) delete “or Corporation”.

23

Table

s. 3(3)	s. 34(3)(b)
s. 36(1)(c), (3), (4), (6) and (7)	s. 62(1) and (3)

s. 63	s. 70(1), (2) and (3)
s. 71(1) and (2)	s. 72(1), (2), (4) and (7)
s. 73(3) and (4)	s. 75
s. 77	s. 79
s. 81(1), (2) and (3)	s. 83(2) and (3)
s. 84(2), (3) and (4)	s. 86 def. of <i>exempt works</i> par. (c)
s. 88(1)	s. 89(2)
s. 92	s. 93
s. 94(2) and (3)	s. 96
s. 97(1), (2) and (3)	

- 1 Note: The heading to amended section 81 is to read:
- 2 **Claims against Crown for use of land and application of *Public***
- 3 ***Works Act 1902***
- 4 Note: The heading to amended section 96 is to read:
- 5 **Minister to carry out exempt works**

1 **Part 7 — *Water Corporation Act 1995* amended**

2 **110. Act amended**

3 This Part amends the *Water Corporation Act 1995*.

4 **111. Long title amended**

5 In the long title delete “**establish a corporation**” and insert:

6
7 **establish, and to provide for the establishment of,**
8 **corporations**
9

10 **112. Section 1 amended**

11 In section 1 delete “*Corporation*” and insert:

12
13 *Corporations*
14

15 **113. Section 3 amended**

16 (1) In section 3(1) delete the definitions of:

17 *board*
18 *chief executive officer*
19 *corporation*
20 *director*
21 *member of staff*
22 *non-executive director*
23 *water service*

24 (2) In section 3(1) insert in alphabetical order:

25
26 *board*, of a corporation, means the board of directors of
27 the corporation under section 7;

- 1 **Bunbury Water Corporation** means the body
2 established by section 4(2);
- 3 **Busselton Water Corporation** means the body
4 established by section 4(3);
- 5 **chief executive officer**, of a corporation, means the
6 person holding the office of chief executive officer of
7 the corporation under section 13 and, except in
8 section 13, includes an acting chief executive officer
9 under section 13(5);
- 10 **corporation** means —
- 11 (a) a body established by section 4(1), (2) or (3); or
- 12 (b) a body established by the Governor under
13 section 4(4);
- 14 **director**, of a corporation, means a member of the
15 board of the corporation;
- 16 **member of staff**, of a corporation, means a person
17 engaged by the board of the corporation under
18 section 15;
- 19 **Water Corporation** means the body established by
20 section 4(1);
- 21 **water service** has the meaning given in the Water
22 Services Act section 3(1);
- 23 **Water Services Act** means the *Water Services*
24 *Act 2011*.
- 25
- 26 (3) In section 3(1) in the definition of **executive officer**:
- 27 (a) delete “**officer** means” and insert:
- 28
- 29 **officer**, of a corporation, means
- 30
- 31 (b) delete “the” (first occurrence).

s. 114

- 1 (4) In section 3(1) in the definition of *subsidiary* delete “*subsidiary*
2 means —” and insert:

3

4 *subsidiary*, of a corporation, means —

5

6 **114. Section 4 amended**

7 Delete section 4(2), (3) and (4) and insert:

8

- 9 (2) There is established a body called the Bunbury Water
10 Corporation.
- 11 (3) There is established a body called the Busselton Water
12 Corporation.
- 13 (4) The Governor may, by order published in the *Gazette*,
14 establish a body with the name specified in the order.
- 15 (5) The Governor cannot establish a body under
16 subsection (4) without the concurrence of the
17 Treasurer.

18

19 Note: The heading to amended section 4 is to read:

20 **Water corporations established**

21 **115. Section 5A inserted**

22 After section 4 insert:

23

24 **5A. Nature of corporations**

- 25 (1) Each corporation is a body corporate with perpetual
26 succession.
- 27 (2) Proceedings may be taken by or against a corporation
28 in its corporate name.

- 1 (3) A corporation may use, and operate under, one or more
2 trading names approved by the Minister being —
3 (a) an abbreviation or adaptation of its corporate
4 name; or
5 (b) a name other than its corporate name.
6

7 **116. Section 6 amended**

8 Delete section 6(1) and insert:
9

- 10 (1) A corporation is not, and is not to become, a public
11 sector body under the *Public Sector Management*
12 *Act 1994*.
13

14 Note: The heading to amended section 6 is to read:

15 **Corporations and officers not part of public sector**

16 **117. Section 7A inserted**

17 At the end of Part 2 Division 1 insert:
18

19 **7A. Dissolution of bodies established by Governor**

- 20 (1) The Governor may, with the concurrence of the
21 Treasurer, by order published in the *Gazette*, dissolve a
22 body established under section 4(4).
23 (2) The order may deal with anything to be done, or that
24 occurs, because of the dissolution of the body,
25 including any of the following —
26 (a) the assignment or disposal of assets of the
27 body, including assets that are on, in, over or
28 under land that is not the property of the body;
29 (b) the assignment or discharge of liabilities of the
30 body;

s. 117

- 1 (c) the substitution of a specified person for the
2 body as a party to specified proceedings;
- 3 (d) the modification of specified agreements and
4 instruments (other than enactments) referring to
5 the body;
- 6 (e) proceedings and remedies that might have been
7 commenced by, or available to or against, the
8 body being commenced by, or becoming
9 available to or against, a specified person;
- 10 (f) any act, matter or thing done or omitted to be
11 done by, to or in respect of the body before the
12 dissolution;
- 13 (g) the taking possession of books, documents or
14 other records, however compiled or stored,
15 relating to the operations of the body;
- 16 (h) the making and submission of any outstanding
17 reports under Part 4 Division 3 and a final
18 report in respect of the body;
- 19 (i) the continuation of the body with the powers
20 that are necessary or convenient for the
21 purposes of doing anything under the order
22 (including making and submitting the reports
23 referred to in paragraph (h));
- 24 (j) the exemption from any State tax of anything
25 that occurs by operation of, or under, the order.
- 26 (3) In subsection (2) —
27 *specified* means specified in the order.

- 1 (4) Anything that occurs by operation of, or under, the
2 order does not give rise to a breach of an existing right
3 or obligation (whether contractual or not) or any
4 remedy that did not already exist.
5

6 **118. Section 7 amended**

- 7 (1) Delete section 7(1) and insert:
8

9 (1) Each corporation is to have a board of directors
10 comprising 6 or 7 persons appointed by the Governor
11 on the nomination of the Minister.

12 (2A) The chief executive officer of a corporation may be a
13 director of the corporation.

14 (2B) A member of staff of a corporation cannot to be a
15 director of the corporation.
16

- 17 (2) In section 7(2):

- 18 (a) after “board” (first occurrence) insert:
19

20 of a corporation
21

- 22 (b) delete paragraph (b) and insert:
23

24 (b) in the case of a nomination for appointment to
25 the board of a regional water corporation — the
26 nominee is a person ordinarily resident in an
27 operating area of the corporation so far as is
28 necessary for the majority of the directors of
29 the corporation, at the time of the appointment,
30 to be persons so resident.
31

s. 119

1 (3) After section 7(2) insert:

2

3 (3A) In subsection (2)(b) —

4 *operating area*, of a corporation, means an operating
5 area of a licence held by the corporation under the
6 Water Services Act;

7 *regional water corporation* means the Bunbury Water
8 Corporation or the Busselton Water Corporation.

9 (3B) The Minister need only comply with subsection (2)(b)
10 to the extent practicable.
11

12 (4) In section 7(3) delete “an office of non-executive director” and
13 insert:

14

15 the membership of the board of a corporation
16

17 **119. Section 10 amended**

18 (1) Before section 10(1) insert:

19

20 (1A) This section applies to a director of a corporation who
21 is not the chief executive officer of the corporation.
22

23 (2) In section 10(1) delete “A non-executive” and insert:

24

25 The
26

27 (3) In section 10(2) delete “a non-executive director who” and
28 insert:

29

30 the director if he or she
31

1 **120. Section 13 amended**

2 Delete section 13(1) and insert:

3

4 (1) Each corporation must have a chief executive officer.

5

6 **121. Section 15 amended**

7 Delete section 15(1) and insert:

8

9 (1) The power to engage and manage the staff of a
10 corporation is vested in its board.

11

12 **122. Section 20 amended**

13 In section 20:

14 (a) in paragraph (a) delete “directors;” and insert:

15

16 directors of a corporation; and

17

18 (b) in paragraph (b) delete “the corporation” and insert:

19

20 a corporation

21

22 **123. Section 21 amended**

23 (1) Delete section 21(1) and (2) and insert:

24

25 (1) Schedule 2 clauses 2 to 11, 15 and 16 apply to the chief
26 executive officer of a corporation as if references to a
27 director were replaced by references to a chief
28 executive officer.

s. 124

1 (2) Schedule 2 clauses 4 and 7 to 11 apply to a former
2 executive officer of a corporation as if references to a
3 former director were replaced by references to a former
4 chief executive officer.

5 (3A) The application of the clauses referred to in
6 subsections (1) and (2) to the chief executive officer
7 and a former chief executive officer, respectively, is in
8 addition to any application those clauses have to the
9 person in the capacity of director or former director of
10 the corporation.
11

12 (2) In section 21(3) delete “chief executive officer or a former chief
13 executive officer” and insert:

14
15 person
16

17 **124. Section 22 amended**

18 (1) In section 22(1) delete “Clauses 2 to 5, 7 to 11, 15 and 16 of
19 Schedule 2 apply to an executive officer” and insert:

20
21 Schedule 2 clauses 2 to 5, 7 to 11, 15 and 16 apply to
22 an executive officer of a corporation
23

24 (2) In section 22(2) delete “Clauses 4 and 7 to 11 of Schedule 2
25 apply to a former executive officer” and insert:

26
27 Schedule 2 clauses 4 and 7 to 11 apply to a former
28 executive officer of a corporation
29

1 **125. Section 23 replaced**

2 Delete section 23 and insert:

3

4 **23. Members of staff, duties imposed**

5 (1) In this section —

6 *former member of staff* means a former member of
7 staff other than a former executive officer;

8 *member of staff* means a member of staff other than an
9 executive officer.

10 (2) Schedule 2 clauses 4, 5 and 7 to 11 apply to a member
11 of staff as if references to a director were replaced by
12 references to a member of staff.

13 (3) Schedule 2 clauses 4 and 7 to 11 apply to a former
14 member of staff as if references to a director were
15 replaced by references to a former member of staff.

16

17 **126. Section 27 amended**

18 (1) Delete section 27(3) and insert:

19

20 (3) If the performance of any of a corporation's functions
21 referred to in subsection (1)(a) or (b) requires that the
22 corporation hold a licence under the Water Services
23 Act, the corporation may only perform that function in
24 accordance with the terms and conditions of such a
25 licence.

26

27 (2) Delete section 27(5) and (6).

s. 127

1 (3) In section 27(7) delete the definition of *wastewater* and insert:

2

3 *wastewater* has the meaning given in the Water
4 Services Act section 3(1).

5

6 **127. Section 28A inserted**

7 After section 27 insert:

8

9 **28A. Corporations may act at their discretion**

10 The fact that a corporation has a function given to it by
11 this Act does not impose a duty on it to do any
12 particular thing and, subject to —

13 (a) this Act; and

14 (b) any direction given to the corporation under
15 this Act,

16 it has a discretion as to how and when it performs the
17 function.

18

19 **128. Section 29 amended**

20 (1) In section 29(2) delete “the corporation” (first and second
21 occurrences) and insert:

22

23 a corporation

24

25 (2) Delete section 29(4) and insert:

26

27 (4) If the generality of any power conferred on a
28 corporation by this Act is restricted by any provision of
29 the Water Services Act, that restriction applies, despite
30 this Act.

31

1 **129. Section 31 amended**

2 (1) After section 31(1) insert:

3

4 (2A) The Minister cannot give approval under subsection (1)
5 without the concurrence of the Treasurer.

6

7 (2) Delete section 31(2) and insert:

8

9 (2) A corporation must ensure that the constitution of
10 every subsidiary of the corporation that under a written
11 law or the Corporations Act is required to have a
12 constitution —

13 (a) contains provisions to the effect of those set out
14 in Schedule 4; and

15 (b) is consistent with this Act; and

16 (c) is not amended in a way that is inconsistent
17 with this Act.

18

19 (3) In section 31(3):

20 (a) delete “The corporation” and insert:

21

22 A corporation

23

24 (b) delete “memorandum and articles of association” and
25 insert:

26

27 constitution

28

s. 129

- 1 (4) In section 31(4):
2 (a) delete “articles of association” and insert:
3 constitution
4
5 (b) delete “the corporation.” and insert:
6 a corporation.
7
8
9
10 (5) After section 31(4) insert:
11
12 (5) A director, the chief executive officer or a member of
13 staff of a corporation may, with the approval of the
14 board of the corporation, become —
15 (a) a member of the committee of an incorporated
16 association; or
17 (b) a director of a company,
18 that is or is to be a subsidiary of the corporation and
19 may represent the interests of the corporation on that
20 committee or the board of directors of that company.
21 (6) Neither —
22 (a) subsection (2) or (3); nor
23 (b) the provisions referred to in subsection (2)(a)
24 included in the constitution of a subsidiary,
25 make a corporation or the Minister a director of a
26 subsidiary of the corporation for the purposes of the
27 Corporations Act.
28 (7) Subsections (1) to (6) and Schedule 4, as in force
29 immediately after the *Water Services Legislation*
30 *Amendment and Repeal Act 2011* section 129 came
31 into operation, are declared to be Corporations

1 legislation displacement provisions for the purposes of
2 the Corporations Act section 5G in relation to the
3 Corporations legislation to which Part 1.1A of that Act
4 applies generally.
5

6 **130. Section 32 amended**

7 (1) In section 32(2):

8 (a) in paragraph (a) delete “the corporation” (first
9 occurrence) and insert:

10 a corporation
11
12

13 (b) in paragraph (c) delete “amount.” and insert:

14 amount for the corporation.
15
16

17 (2) In section 32(4) after “amount” insert:

18
19 for a corporation
20

21 **131. Section 34 amended**

22 In section 34:

23 (a) after “addition to” insert:

24 the requirements under
25
26

27 (b) delete “the corporation” and insert:

28 a corporation
29
30

s. 132

1 **132. Section 35 amended**

2 (1) After section 35(2)(a) insert:

3

4 (ba) the chief executive officer; or

5

6 (2) In section 35(4) after “delegate” insert:

7

8 of a corporation

9

10 (3) In section 35(2) after each of paragraphs (a) and (b) insert:

11

12 or

13

14 **133. Section 36 amended**

15 Delete section 36(1)(a) and (b) and insert:

16

17 (a) any arrangement involving or relating to a
18 corporation or any subsidiary of the corporation
19 or the performance by a corporation of any of
20 its functions; or

21 (b) any act or thing proposed to be done in the
22 State by a corporation or any subsidiary of the
23 corporation in the performance of its functions;
24 or

25

26 **134. Part 3 Division 3 heading amended**

27 In the heading to Part 3 Division 3 after “**with**” insert:

28

29 **a**

30

1 **135. Section 38 amended**

2 (1) In section 38(1):

3 (a) after “person” (first occurrence) insert:

4

5 (the *third party*)

6

7 (b) after “person” (second occurrence) insert:

8

9 (the *second party*)

10

11 (c) delete “the corporation” and insert:

12

13 a corporation

14

15 (2) In section 38(2):

16 (a) delete “person” (first occurrence) and insert:

17

18 party

19

20 (b) delete “first person” and insert:

21

22 third party

23

24 **136. Section 40 amended**

25 In section 40(2)(b) delete “another person” and insert:

26

27 the second party

28

137. Section 42 replaced

Corporations established by Governor — first strategic development plan

138. Section 43 amended

for a corporation and any subsidiary of the corporation

(1) In section 45(1) delete “the draft strategic development plan to the board” and insert:

(2) In section 45(3) delete “If a draft strategic development plan has not been agreed to by the Minister” and insert:

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1 **140. Section 46 amended**

2 In section 46(1):

3 (a) delete “If the Minister has not agreed to” and insert:

4

5 If the board of a corporation and the Minister have not
6 reached agreement on

7

8 (b) after “subsidiary” insert:

9

10 of the corporation

11

12 **141. Section 47 amended**

13 In section 47 delete “When a draft strategic development plan is
14 agreed to by the Minister,” and insert:

15

16 When the board of a corporation and the Minister have
17 reached agreement on a draft strategic development
18 plan,

19

20 **142. Section 48 amended**

21 In section 48(3) after “direction” insert:

22

23 to the board under subsection (2),

24

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1 **143. Section 51 replaced**

2 Delete section 51 and insert:

3

4 **51. Corporations established by Governor — first**
5 **statement of corporate intent**

6 In respect of a corporation established by the Governor
7 under section 4(4), the first statement of corporate
8 intent for the corporation is to be for the first financial
9 year to start after the day on which the order referred to
10 in section 4(4) comes into operation.
11

12 **144. Section 52 amended**

13 (1) In section 52(1) after “intent” insert:

14

15 for a corporation and any subsidiary of the corporation
16

17 (2) In section 52(2) delete “for the corporation and any subsidiary”.

18 **145. Section 54 amended**

19 (1) In section 54(1):

20 (a) delete “the” (first occurrence) and insert:

21

22 a

23

24 (b) after “board” insert:

25

26 of a corporation
27

- 1 (2) In section 54(3) delete “If a draft statement of corporate intent
2 has not been agreed to by the Minister” and insert:

3

4 If the board and the Minister have not reached
5 agreement on a draft statement of corporate intent
6

7 **146. Section 55 amended**

8 In section 55(1):

- 9 (a) delete “If the Minister has not agreed to” and insert:

10

11 If the board of a corporation and the Minister have not
12 reached agreement on

13

- 14 (b) after “subsidiary” insert:

15

16 of the corporation
17

18 **147. Section 56 amended**

19 In section 56(1) delete “When a draft statement of corporate
20 intent is agreed to by the Minister,” and insert:

21

22 When the board of a corporation and the Minister have
23 reached agreement on a draft statement of corporate
24 intent,
25

26 **148. Section 57 amended**

27 In section 57(3) delete “direction,” and insert:

28

29 direction to the board under subsection (2),
30

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1 **149. Section 58 amended**

2 In section 58(2) delete “under” and insert:

3

4 described in

5

6 **150. Section 59 amended**

7 (1) In section 59(1):

8 (a) after “The” insert:

9

10 board of a

11

12 (b) delete “subsidiary.” and insert:

13

14 subsidiary of the corporation.

15

16 (2) In section 59(4) delete “corporation” and insert:

17

18 board

19

20 **151. Section 60 amended**

21 In section 60(1):

22 (a) after “The” insert:

23

24 board of a

25

26 (b) after “subsidiary” insert:

27

28 of the corporation

29

1 **152. Section 65 amended**

2 In section 65(1) delete “and the board” and insert:

3

4 to a corporation and the board of the corporation

5

6 **153. Section 68 amended**

7 Delete section 68(1)(a) and insert:

8

9 (a) to have information in the possession of a
10 corporation and any subsidiary of the
11 corporation; and

12

13 **154. Section 69 amended**

14 In section 69 after “The” insert:

15

16 board of a

17

18 **155. Section 72 deleted**

19 Delete section 72.

20 **156. Section 73 amended**

21 In section 73(1) delete “An” and insert:

22

23 For each corporation, an

24

s. 157

1 **157. Section 76 amended**

2 In section 76:

3 (a) delete “The corporation” and insert:

4

5 A corporation

6

7 (b) delete “section 75,” and insert:

8

9 section 75 or the *Local Government Act 1995*
10 section 6.26(2)(a)(i),

11

12 **158. Section 81 amended**

13 (1) Delete section 81(1) and insert:

14

15 (1) The Minister may, with the concurrence of the
16 Treasurer and in accordance with subsections (2), (3A),
17 (3B), (3) and (4), by notice to a corporation, impose
18 monetary limits on the exercise by the corporation of
19 the powers conferred by section 80.

20

21 (2) In section 81(2) after “limit” insert:

22

23 for the Water Corporation

24

25 (3) After section 81(2) insert:

26

27 (3A) The monetary limit for the Bunbury Water Corporation
28 and the Busselton Water Corporation is to be
29 determined for the exercise of those powers in the
30 financial year following the day on which the *Water*

- 1 *Services Legislation Amendment and Repeal Act 2011*
2 section 158 comes into operation.
- 3 (3B) The monetary limit for a corporation established by the
4 Governor under section 4(4) is to be determined for the
5 exercise of those powers in the financial year following
6 the day on which the order referred to in section 4(4)
7 comes into operation.
8
- 9 (4) In section 81(3) delete “That limit” and insert:
10
- 11 A limit referred to in subsection (2), (3A) or (3B)
12
- 13 (5) In section 81(4) after “force” insert:
14
- 15 for a corporation
16
- 17 (6) Delete section 81(5) and insert:
18
- 19 (5) A corporation must comply with any limit for the time
20 being in force for the corporation.
21

22 **159. Section 85 amended**

- 23 In section 85:
- 24 (a) delete “Schedule 3,” and insert:
25
- 26 Schedule 3 of this Act,
27
- 28 (b) delete “the corporation” and insert:
29
- 30 a corporation
31

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1 **160. Section 88 amended**

2 (1) In section 88(1) delete “The” and insert:

3

4 Each

5

6 (2) Delete section 88(2) and insert:

7

8 (2) A document is duly executed by a corporation if —

9 (a) the common seal of the corporation is affixed to
10 it in the presence of —

11 (i) 2 directors; or

12 (ii) a director and the chief executive
13 officer; or

14 (iii) a director and an executive officer;

15 or

16 (b) it is signed on behalf of the corporation by a
17 person or persons referred to in subsection (4).

18

19 (3) In section 88(4):

20 (a) delete “The corporation” and insert:

21

22 A corporation

23

24 (b) delete “director or” and insert:

25

26 director, the chief executive officer,

27

1 **161. Section 89 amended**

2 In section 89(1) delete “the corporation” (first occurrence) and
3 insert:

4
5 a corporation
6

7 **162. Section 91 amended**

8 In section 91(2) delete “*Water Services Licensing Act 1995*,”
9 and insert:

10
11 Water Services Act,
12

13 **163. Sections 92, 93 and 94 inserted**

14 After section 91 insert:

15
16 **92. Minister may vest certain land in Water**
17 **Corporation and make orders in respect of certain**
18 **reserves**

19 (1) In this section —

20 *former water authority* means —

- 21 (a) a Minister of the State; or
22 (b) an agency, authority or instrumentality of the
23 State; or
24 (c) a body, whether incorporated or not,
25 established or continued for a public purpose by
26 or under a written law,

27 who or that, at any time before the commencement of
28 section 4(1) of this Act, performed functions relating to
29 the provision of water services;

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- 1 **order** means an order made under subsection (2) or (3),
2 as the case requires;
- 3 **relevant official**, in relation to an estate or interest in
4 land, or a reserve, specified in an order, means —
- 5 (a) the Registrar of Titles; or
6 (b) the Registrar of Deeds and Transfers; or
7 (c) any other person authorised by a written law to
8 register or otherwise act on dealings affecting
9 land,
- 10 according to which of them, if any, is responsible for
11 registering or otherwise acting on dealings affecting the
12 estate or interest or the reserve.
- 13 (2) The Minister may, by order published in the *Gazette*,
14 direct that an estate or interest in land specified in the
15 order be vested in the Water Corporation if —
- 16 (a) the estate or interest was previously vested in a
17 former water authority or the State; and
18 (b) the estate or interest is, or is to be, used by the
19 Water Corporation for the purposes of this Act
20 or the Water Services Act.
- 21 (3) The Minister may, by order published in the *Gazette*,
22 direct that the care, control and management of a
23 reserve (as defined in the *Land Administration*
24 *Act 1997* section 3(1)) specified in the order is to be
25 placed with the Water Corporation under the *Land*
26 *Administration Act 1997* section 46, if —
- 27 (a) the care, control and management of the reserve
28 was previously placed with a former water
29 authority under that section; and
30 (b) the reserve is, or is to be, used by the Water
31 Corporation for the purposes of this Act or the
32 Water Services Act.

- 1 (4) An order takes effect —
2 (a) at the beginning of the day after the day on
3 which the order is published in the *Gazette*; or
4 (b) if a later day is specified in the order — at the
5 beginning of that day.
- 6 (5) When an order takes effect —
7 (a) in the case of an order under subsection (2) —
8 each estate or interest in land specified in the
9 order vests in the Water Corporation by force
10 of this paragraph; or
11 (b) in the case of an order under subsection (3) —
12 the care, control and management of each
13 reserve specified in the order is, by force of this
14 paragraph, placed with the Water Corporation
15 as if it were so placed under the *Land*
16 *Administration Act 1997* section 46.
- 17 (6) The Minister must give a copy of the order to each
18 relevant official who must do all things necessary to
19 show the effect of subsection (5)(a) or (b), as the case
20 requires.

21 **93. Review of Act**

- 22 (1) The Minister must carry out a review of the operation
23 and effectiveness of this Act as soon as practicable
24 after every fifth anniversary of the commencement of
25 the *Water Services Legislation Amendment and Repeal*
26 *Act 2011* section 163, and in the course of that review
27 the Minister must consider and have regard to —
28 (a) the adequacy of the penalties imposed under
29 this Act; and
30 (b) any other matter that appears to the Minister to
31 be relevant to the operation and effectiveness of
32 this Act.

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- 1 (2) The Minister must prepare a report based on the review
2 carried out under subsection (1) and, as soon as
3 practicable after the preparation of the report, cause it
4 to be laid before each House of Parliament.

5 **94. Transitional provisions**

6 Schedule 5 sets out transitional provisions.
7

8 **164. Schedule 1 clause 1 amended**

9 In Schedule 1 clause 1 in the definition of *director* after
10 “capacity” insert:
11

12 (if any)
13

14 **165. Schedule 1 clause 2 amended**

15 In Schedule 1 clause 2(4) after “appointed” (first occurrence)
16 insert:
17

18 to the board of a corporation
19

20 **166. Schedule 1 clause 4 amended**

21 Delete Schedule 1 clause 4(1) and insert:
22

- 23 (1) For each corporation, the Governor is to appoint a director
24 of the corporation to be chairperson and another to be
25 deputy chairperson of the board, appointments in each case
26 being made on the nomination of the Minister.
27

1 **167. Schedule 1 clause 5 amended**

2 (1) In Schedule 1 clause 5(1):

3 (a) after “director” (first occurrence) insert:

4
5 of a corporation

6
7 (b) after “director” (second occurrence) insert:

8
9 of the corporation

10

11 (2) In Schedule 1 clause 5(2):

12 (a) delete “Except” and insert:

13
14 If the chief executive officer of a corporation is a director of
15 the corporation then, except

16

17 (b) delete “director.” and insert:

18
19 director of the corporation.

20

21 **168. Schedule 2 clause 2 amended**

22 (1) In Schedule 2 clause 2:

23 (a) delete “A director” and insert:

24
25 (1) A director of a corporation

26

27 (b) delete the Penalty.

28 (2) At the end of Schedule 2 clause 2 insert:

29

30 (2) A person who contravenes subclause (1) —

31 (a) with intent to deceive or defraud —

32 (i) the corporation; or

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- 1 (ii) creditors of the corporation or of any other
2 person;
3 or
4 (b) for any other fraudulent purpose,
5 commits a crime.
6 Penalty: a fine of \$20 000 or imprisonment for 5 years, or
7 both.
8 Summary conviction penalty: a fine of \$12 000 or
9 imprisonment for 3 years, or both.
10 (3) If subclause (2) does not apply, a person who contravenes
11 subclause (1) commits an offence.
12 Penalty: a fine of \$5 000.
13

14 **169. Schedule 2 clause 4 amended**

- 15 (1) In Schedule 2 clause 4:
16 (a) delete “A director or a former director” and insert:
17
18 (1) A director or a former director of a corporation
19
20 (b) delete the Penalty.
21 (2) At the end of Schedule 2 clause 4 insert:
22
23 (2) A person who contravenes subclause (1) commits a crime.
24 Penalty: a fine of \$20 000 or imprisonment for 5 years, or
25 both.
26 Summary conviction penalty: a fine of \$12 000 or
27 imprisonment for 3 years, or both.
28

1 **170. Schedule 2 clause 5 amended**

2 (1) In Schedule 2 clause 5:

3 (a) delete “A director” and insert:

4

5 (1) A director of a corporation

6

7 (b) delete the Penalty.

8 (2) At the end of Schedule 2 clause 5 insert:

9

10 (2) A person who contravenes subclause (1) commits a crime.

11 Penalty: a fine of \$20 000 or imprisonment for 5 years, or
12 both.

13 Summary conviction penalty: a fine of \$12 000 or
14 imprisonment for 3 years, or both.

15

16 **171. Schedule 2 clause 7 amended**

17 In Schedule 2 clause 7(b) after “corporation” (first occurrence)
18 insert:

19

20 concerned

21

22 **172. Schedule 2 clause 8 amended**

23 In Schedule 2 clause 8 after “corporation” (first occurrence)
24 insert:

25

26 concerned

27

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1 **173. Schedule 2 clause 12 amended**

2 Delete Schedule 2 clause 12(1) and insert:

3

4 (1A) In subclause (1) —

5 *notifiable interest* means an interest in the matter that will,
6 under clause 13(1), disqualify the director from voting on
7 the matter at a meeting of the board unless allowed to do so
8 by a resolution under clause 13(3) or a declaration under
9 clause 13(6).

10 (1) A director of a corporation who has a notifiable interest in a
11 matter involving the corporation must, as soon as possible
12 after the relevant facts have come to the director's
13 knowledge, disclose the nature of the interest at a meeting of
14 the board of the corporation.

15 Penalty: a fine of \$5 000.

16

17 **174. Schedule 2 clause 14 amended**

18 Delete Schedule 2 clause 14(2) and insert:

19

20 (2) A director of a corporation who is knowingly concerned in a
21 contravention of subclause (1) by the corporation (whether
22 or not in relation to the director) —

23 (a) with intent to deceive or defraud —

24 (i) the corporation; or

25 (ii) creditors of the corporation or of any other
26 person;

27 or

28 (b) for any other fraudulent purpose,

29 commits a crime.

30 Penalty: a fine of \$20 000 or imprisonment for 5 years, or
31 both.

32 Summary conviction penalty: a fine of \$12 000 or
33 imprisonment for 3 years, or both.

1 (3A) If subclause (2)(a) or (b) does not apply, the director
2 commits an offence.

3 Penalty: a fine of \$5 000.
4

5 **175. Schedule 3 clause 2 amended**

6 In Schedule 3 clause 2(1) delete “The” and insert:
7

8 Each
9

10 **176. Schedule 3 clause 6 amended**

11 In Schedule 3 clause 6 delete “the” and insert:
12

13 each
14

15 **177. Schedule 3 clause 7 amended**

16 Delete Schedule 3 clause 7(2) and insert:
17

18 (2) The financial statements for the year are to be prepared in
19 accordance with the accounting standards.
20

21 **178. Schedule 3 clause 10 amended**

22 In Schedule 3 clause 10(1) delete “The” and insert:
23

24 Each
25

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1 **179. Schedule 3 clause 13 amended**

2 (1) In Schedule 3 clause 13:

3 (a) delete “The” and insert:

4

5 (1) The

6

7 (b) in paragraph (c) delete “and each” and insert:

8

9 and, subject to subclause (2), each

10

11 (2) At the end of Schedule 3 clause 13 insert:

12

13 (2) Regulations made under section 91 may, in respect of the
14 Bunbury Water Corporation, the Busselton Water
15 Corporation or a body established by the Governor under
16 section 4(4), prescribe a lesser number of named officers for
17 the purposes of subclause (1)(c).

18

19 **180. Schedule 3 clause 15 amended**

20 In Schedule 3 clause 15(a) after “report” insert:

21

22 of a corporation

23

24 **181. Schedule 3 clause 16 amended**

25 In Schedule 3 clause 16(1) after “financial report” insert:

26

27 of a corporation

28

1 **182. Schedule 3 clause 20 amended**

2 In Schedule 3 clause 20(1) after “report” insert:

3

4 of a corporation

5

6 **183. Schedule 3 clause 23 amended**

7 In Schedule 3 clause 23(1) delete “the” (first occurrence) and
8 insert:

9

10 each

11

12 **184. Schedule 3 clause 28 amended**

13 In Schedule 3 clause 28(1):

14 (a) delete “the corporation,” and insert:

15

16 a corporation,

17

18 (b) delete “any” and insert:

19

20 either or both

21

22 (c) in paragraph (b) delete “corporation;” and insert:

23

24 corporation.

25

26 (d) delete paragraph (c).

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1 **185. Schedule 3 clause 31 amended**

2 Delete Schedule 3 clause 31(1) and (2) and insert:

3

4 (1) A director of a corporation must take all reasonable steps to
5 comply with, or to secure compliance with, Divisions 2
6 and 3.

7 (2) A person who contravenes subclause (1) with intent to
8 deceive or defraud the Minister or the Treasurer or creditors
9 of the corporation commits a crime.

10 Penalty: a fine of \$20 000 or imprisonment for 5 years, or
11 both.

12 Summary conviction penalty: a fine of \$12 000 or
13 imprisonment for 3 years, or both.

14 (3A) If subclause (2) does not apply, a person who contravenes
15 subclause (1) commits an offence.

16 Penalty: a fine of \$5 000.

17

18 **186. Schedule 3 clause 35 amended**

19 In Schedule 3 clause 35(2) delete “The” and insert:

20

21 Each

22

23 **187. Schedule 4 clause 2 amended**

24 In Schedule 4 clause 2(3) delete “memorandum and articles of
25 association” and insert:

26

27 constitution

28

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- 1 **former Board** means —
- 2 (a) the Bunbury Water Board; or
- 3 (b) the Busselton Water Board;
- 4 **relevant corporation**, in relation to a former Board, means
- 5 the corporation that is a continuation of the former Board
- 6 under clause 3 or 4;
- 7 **repealed Act** means the *Water Boards Act 1904*.
- 8 **2. Application of Interpretation Act 1984**
- 9 (1) If a provision of the amended Act deals with a matter dealt
- 10 with by a provision of the repealed Act, then for the
- 11 purposes of the provisions of the *Interpretation Act 1984*
- 12 about the repeal of enactments and the substitution of other
- 13 enactments for those so repealed —
- 14 (a) the provision of the repealed Act is to be taken to
- 15 have been repealed and re-enacted by the
- 16 amended Act; and
- 17 (b) a reference to the commencement of the repealing
- 18 law is to be taken to be a reference to
- 19 commencement day.
- 20 (2) Despite subclause (1), the *Interpretation Act 1984*
- 21 sections 36(d) (to the extent to which it applies to subsidiary
- 22 legislation) and 38 do not apply to the repeal of the *Water*
- 23 *Boards Act 1904* by the *Water Services Legislation*
- 24 *Amendment and Repeal Act 2011* section 201.
- 25 (3) This Division does not limit the operation of the
- 26 *Interpretation Act 1984* except to the extent provided for by
- 27 this clause.
- 28 (4) The provisions of this Division and of the regulations made
- 29 for the purposes of this Division prevail over the provisions
- 30 of the *Interpretation Act 1984* to the extent of any
- 31 inconsistency.

Subdivision 2 — Continuation of former Boards

3. Bunbury Water Board continues

- (1) The Bunbury Water Corporation is a continuation of, and is the same legal entity as, the Bunbury Water Board, and rights and liabilities of or in relation to the Bunbury Water Board continue as rights and liabilities of or in relation to the Bunbury Water Corporation.
- (2) On commencement day, the name “Aqwest” becomes a trading name of the Bunbury Water Corporation, as if approved by the Minister under section 5A(3) of the amended Act.

4. Busselton Water Board continues

- (1) The Busselton Water Corporation is a continuation of, and is the same legal entity as, the Busselton Water Board, and rights and liabilities of or in relation to the Busselton Water Board continue as rights and liabilities of or in relation to the Busselton Water Corporation.
- (2) On commencement day, the name “Busselton Water” becomes a trading name of the Busselton Water Corporation, as if approved by the Minister under section 5A(3) of the amended Act.

5. Members of former Boards

- (1) A person who, immediately before commencement day, was a member of a former Board becomes, on commencement day —
 - (a) a director of the board of the relevant corporation as if appointed by the Governor, on the nomination of the Minister, under section 7 of the amended Act; and
 - (b) if the person was, immediately before commencement day, the chairman of the former Board — the chairperson of the board of the relevant corporation as if appointed by the

- 1 Governor, on the nomination of the Minister, under
2 Schedule 1 clause 4 of the amended Act.
- 3 (2) A person to whom subclause (1) applies holds office,
4 subject to the amended Act, until the expiration of the term
5 of office, and on the same terms and conditions, that applied
6 to the person immediately before commencement day.
- 7 **6. Operating licences of former Boards**
- 8 (1) An operating licence held by a former Board under the
9 *Water Services Licensing Act 1995* immediately before
10 commencement day (the ***former licence***) becomes, on
11 commencement day, a licence under the Water Services Act
12 as if granted under section 11 of that Act.
- 13 (2) The licence remains in force until the day on which the
14 former licence would have expired.
- 15 (3) The licence authorises the provision of water supply
16 services in the area of the State to which the former licence
17 applied immediately before commencement day.
- 18 (4) For the purposes of the Water Services Act, the area of the
19 State referred to in subclause (3) is the operating area of the
20 licence for the provision of water supply services.
- 21 (5) The licence is subject to the same terms and conditions as
22 those to which the former licence was subject immediately
23 before commencement day, to the extent that those terms
24 and conditions are not inconsistent with the Water
25 Services Act.
- 26 (6) The licence has effect subject to the Water Services Act and
27 so, for example, the licence may be cancelled or amended.
- 28 **7. Supply of water to Water Corporation under *Busselton***
29 ***Water Board (Supply of Water to Dunsborough) Act 2009***
- 30 (1) This clause applies to a supply of water to the Water
31 Corporation under the *Busselton Water Board (Supply of*
32 *Water to Dunsborough) Act 2009* (before the repeal of that
33 Act) that is to continue on and after commencement day.

- 1 (2) The repeal of the *Busselton Water Board (Supply of Water*
2 *to Dunsborough) Act 2009* does not affect —
- 3 (a) the supply of water; or
- 4 (b) any agreement about the supply of water; or
- 5 (c) anything to be done under, for or in relation to such
- 6 an agreement or the supply of water.
- 7 (3) The supply of water becomes, on commencement day, a
- 8 supply of water under the amended Act.

9 **Subdivision 3 — Staff of former Boards**

10 **8. Term used: PSM Act**

- 11 (1) In this Subdivision —
- 12 *PSM Act* means the *Public Sector Management Act 1994*.
- 13 (2) If a term has a meaning given in the PSM Act, it has the
- 14 same meaning in this Subdivision.
- 15 (3) In this Subdivision a reference to the PSM Act Part 6
- 16 includes the regulations referred to in section 94 of that Act.

17 **9. Transition of employment**

- 18 (1) A person who, immediately before commencement day, was
- 19 an officer of a former Board under section 31 of the
- 20 repealed Act becomes, on commencement day —
- 21 (a) if the person was the chief executive officer of the
- 22 former Board — the chief executive officer of the
- 23 relevant corporation as if appointed by the board of
- 24 the corporation, with the concurrence of the
- 25 Minister, under section 13 of the amended Act; or
- 26 (b) if paragraph (a) does not apply — a member of staff
- 27 of the relevant corporation as if engaged by the
- 28 board of the corporation under section 15 of the
- 29 amended Act.
- 30 (2) Except as otherwise agreed by a person to whom
- 31 subclause (1) applies, the person's remuneration, existing,
- 32 accruing or accrued rights, rights under a superannuation

- 1 scheme or fund and continuity of service are not affected,
2 prejudiced or interrupted by the operation of subclause (1)
3 or the former Board ceasing to be an organisation under the
4 PSM Act.
- 5 (3) For the purposes of this clause, a person's service with a
6 former Board is to be taken to have been with the relevant
7 corporation.
- 8 (4) Except as provided by clause 11, the PSM Act Part 6 does
9 not apply in relation to the transition of the employment of a
10 person by this clause.
- 11 **10. Election as to employment**
- 12 (1) A person who becomes a member of staff of a corporation
13 because of clause 9(1)(b) may, by written notice given to the
14 corporation, elect to return to the Public Sector.
- 15 (2) A person cannot make an election if, immediately before
16 commencement day, the person was —
- 17 (a) employed under a contract of employment that has a
18 fixed term; or
- 19 (b) a casual employee or a seasonal employee.
- 20 (3) A person cannot make an election after the end of the period
21 of 2 years after commencement day.
- 22 (4) A person may withdraw an election at any time by giving
23 the corporation written notice to that effect.
- 24 (5) A person who makes an election and then withdraws it
25 cannot make another election.
- 26 **11. Application of PSM Act Part 6 to persons who make an**
27 **election**
- 28 (1) If a person makes an election under clause 10(1), the
29 PSM Act Part 6 applies in respect of the person until —
- 30 (a) the person is employed for an indefinite period in a
31 public sector body in accordance with that Part; or

- 1 (b) the person otherwise ceases to be a member of staff
2 of the corporation; or
- 3 (c) the person withdraws the election under
4 clause 10(4),
- 5 whichever occurs first.
- 6 (2) While the PSM Act Part 6 applies in respect of the person
7 under subclause (1), it applies, with any necessary changes,
8 as if —
- 9 (a) the person were an employee of an organisation
10 whose office, post or position in the organisation
11 has been abolished; and
- 12 (b) the office, post or position was at the same level of
13 classification as the substantive office, post or
14 position held by the person immediately before
15 commencement day; and
- 16 (c) the board of the corporation were the employing
17 authority of the person; and
- 18 (d) the person were registered under the *Public Sector*
19 *Management (Redeployment and Redundancy)*
20 *Regulations 1994* Part 4.

21 **12. Arrangements for return to the Public Sector**

- 22 (1) If a person makes an election under clause 10(1) or
23 withdraws an election under clause 10(4), the corporation,
24 as soon as practicable, must give the Public Sector
25 Commissioner written notice of the election or the
26 withdrawal, as the case requires.
- 27 (2) If a person makes an election under clause 10(1), the
28 corporation and the Public Sector Commissioner must make
29 the necessary arrangements to facilitate the operation of
30 clause 11 in respect of the person.
- 31 (3) Subclause (4) applies if a person who makes an election
32 under clause 10(1) is employed for an indefinite period in a
33 public sector body in accordance with the PSM Act Part 6 as
34 applied by clause 11.

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- 1 (4) The corporation must comply with any requirements in the
2 Treasurer's instructions issued under the *Financial*
3 *Management Act 2006* section 78 relating to the making of
4 payments by an employing authority for liabilities relating
5 to employees whose employing authority changes as if —
6 (a) the corporation were an employing authority to
7 which those instructions applied; and
8 (b) the person were an employee to whom those
9 instructions applied.
- 10 (5) If a corporation incurs costs as a result of the operation of
11 this clause or clause 10 or 11, the Treasurer may pay an
12 amount to the corporation to reimburse the corporation for
13 any or all of those costs.
- 14 **13. Contracts for services**
- 15 (1) A person engaged by a former Board under a contract for
16 services that is in force immediately before commencement
17 day becomes, on commencement day, a person engaged by
18 the relevant corporation as if engaged under section 29(2)(f)
19 of the amended Act.
- 20 (2) Except as otherwise agreed by the person engaged under the
21 contract, the operation of subclause (1) does not affect the
22 terms and conditions of the contract.

23 **Subdivision 4 — Provisions as to accountability and**
24 **financial provisions**

- 25 **14. Strategic development plans**
- 26 The first strategic development plan for a corporation under
27 Part 4 Division 1 is to be in respect of a period starting on
28 the day prescribed for the corporation for the purposes of
29 this clause.
- 30 **15. Statements of corporate intent**
- 31 The first statement of corporate intent for a corporation
32 under Part 4 Division 2 is to be in respect of the financial
33 year prescribed for the corporation for the purposes of this
34 clause.

16. Financial reporting

- (1) The first financial year in respect of which the reporting requirements in Part 4 Division 3 apply to a corporation is to be the financial year prescribed for the corporation for the purposes of this clause.
- (2) The *Financial Management Act 2006* Part 5 Division 2 continues to apply to a corporation in respect of the financial years ending before the financial year prescribed for the corporation under subclause (1) as if the *Water Services Legislation Amendment and Repeal Act 2011* section 212 had not been enacted.

17. Water Funds

- (1) In this clause —
bank has the meaning given in the *Financial Management Act 2006* section 3.
- (2) An account that, immediately before commencement day, was maintained by a former Board at a bank for the purposes of section 111 of the repealed Act becomes, on commencement day, an account for the relevant corporation under section 73(1)(b) of the amended Act as if established under that section with the approval of the Treasurer.

18. Payments to the State under Part 5 Division 2

- (1) The first financial year in respect of which section 76 applies to a corporation is to be the financial year prescribed for the corporation for the purposes of this subclause.
- (2) The first financial year in respect of which section 79 applies to a corporation is to be the financial year prescribed for the corporation for the purposes of this subclause.

Subdivision 5 — Miscellaneous

19. References to former Boards

Unless the context otherwise requires, a reference in a written law or other document or instrument to a former Board includes a reference to the relevant corporation.

20. References to repealed Act

(1) Unless the context otherwise requires, a reference in a written law or other document or instrument to the repealed Act includes a reference to the amended Act.

(2) Unless the context otherwise requires, a reference in a written law or other document or instrument to a provision of the repealed Act (the *old provision*) includes, if there is a provision of the amended Act (the *new provision*) that deals with the matter dealt with by the old provision, a reference to the new provision.

21. Transitional regulations

- (1) The regulations may —
- (a) deal with all matters of a savings or transitional nature arising as a result of the enactment of the *Water Services Legislation Amendment and Repeal Act 2011* Part 7 and of section 201; and
 - (b) clarify or vary the provisions of this Division; and
 - (c) amend or repeal subsidiary legislation consequentially on enactment of the *Water Services Legislation Amendment and Repeal Act 2011* Part 7 and of section 201.
- (2) Regulations made for the purposes of this clause may —
- (a) be expressed to have effect despite another written law; and
 - (b) provide that a specified provision of a written law does not apply, or applies with specified modifications, to or in relation to a matter.

- 1 (3) The power in this clause to amend subsidiary legislation
2 made under another Act does not prevent that legislation
3 from being amended under that Act.
- 4 (4) If regulations made for the purposes of this clause provide
5 that a specified state of affairs is to be taken to have existed,
6 or not to have existed, on and from a day that is earlier than
7 the day on which the regulations are published in the
8 *Gazette* but not earlier than commencement day, the
9 regulations have effect according to their terms.
- 10 (5) If regulations contain a provision referred to in
11 subclause (4), the provision does not operate so as to —
- 12 (a) affect, in a manner prejudicial to any person (other
13 than the State, an authority of the State or a local
14 government), the rights of that person existing
15 before the day of publication of those regulations;
16 or
- 17 (b) impose liabilities on any person (other than the
18 State, an authority of the State or a local
19 government) in respect of anything done or omitted
20 to be done before the day of publication of those
21 regulations.
- 22 (6) Regulations made for the purposes of this clause in relation
23 to a matter referred to in subclause (2) must be made within
24 such period as is reasonably and practicably necessary to
25 deal with the transitional matters that arise as a result of the
26 enactment of the *Water Services Legislation Amendment*
27 *and Repeal Act 2011* Part 7 and of section 201.

28 **22. Relationship of provisions of this Division to transitional**
29 **regulations**

30 The provisions of the regulations made for the purposes of
31 this Division prevail over the provisions of this Division to
32 the extent of any inconsistency.
33

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190. Other provisions amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
Pt. 2 heading	Corporation	corporations
Pt. 2 Div. 1 heading	Water Corporation	water corporations
s. 5, 19(1) and (2), 27(4), 28, 29(1) and (3), 30(1), 31(1), 35(1), 71(1), 80(1) and (3), 82(1)	The corporation	A corporation
s. 6(2), 15(3), 19(4), 25(3) after “staff”		of a corporation
Pt. 2 Div. 2 heading	Board	Boards
s. 7(4)(a), 8, 9, 12(1), 13(5), 16(1), 17(1), 24(1), 25(1), 26(1), 41(1) and (2), 44, 48(1) and (2), 50(1) and (2), 53, 56(3), 57(1), 62(1), 67, 84(1) after “board”		of a corporation
s. 11(1) after “director” (first occurrence)		of a corporation

Provision	Delete	Insert
s. 12(3), 19(1), 24(1) after “staff”		of the corporation
s. 13(2)(a), (4) and (6), 14 after “officer”		of a corporation
s. 13(2) and (4), 68(2)(a) after “board”		of the corporation
s. 13(5) after “officer” (first occurrence)		of the corporation
s. 18, 57(2), 70(1), 79(2) and (5) after “board” (first occurrence)		of a corporation
s. 19(4), 27(1), 32(1), 35(6), 37(1), 60(3), 61(2), 63, 71(1), 74, 79(1)(a), 83(4), 84(2), 86(1), 88(3), 89(3)	the corporation	a corporation
Pt. 3 heading after “ powers ”		of corporations
s. 27(2), 61(1), 64(1), 75, 81(6) and (7), 83(1)	the corporation (first occurrence)	a corporation
s. 32(3)	the corporation’s	a corporation’s

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Provision	Delete	Insert
s. 32(3), 41(1), 50(1), 68(2)(c) and (4), 70(4) after “subsidiary”		of the corporation
s. 60(4) after “subsidiary”		of a corporation
s. 61(1), 70(1) after “subsidiary” (first occurrence)		of the corporation
s. 66(1)(a) after “board” (first occurrence)		of the corporation
Sch. 1 cl. 2(1), 3(1) and (2), Sch. 2 cl. 3, 13(4), Sch. 3 cl. 5(1) after “director”		of a corporation
Sch. 1 cl. 6(1), 9 after “board” (first occurrence)		of a corporation
Sch. 1 cl. 6(2) and (5), 10, 11, Sch. 2 cl. 13(5) after “board”		of a corporation
Sch. 1 cl. 8(1) after “directors” (first occurrence)		of a corporation

Provision	Delete	Insert
Sch. 1 cl. 8(1), Sch. 2 cl. 13(1) after “board”		of the corporation
Sch. 2 cl. 6(1), 13(1) and (2), 16(1), (2) and (3) after “director” (first occurrence)		of a corporation
Sch. 2 cl. 13(2) after “subsidiary”		of the corporation
Sch. 2 cl. 14(1), Sch. 3 cl. 4(1), 24(2)	The corporation	A corporation
Sch. 2 cl. 15(1) and (5)	The corporation or a subsidiary	A corporation or a subsidiary of the corporation
Sch. 2 cl. 15(2) and (3)	the corporation or a subsidiary	a corporation or a subsidiary of the corporation
Sch. 3 cl. 4(4), 17(a), 21, 23(2), 36, 38(1) and (2), 45(4)	the corporation	a corporation
Sch. 3 cl. 17(b) after “officer”		of the corporation
Sch. 3 cl. 19, 45(1)	the corporation (first occurrence)	a corporation

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Provision	Delete	Insert
Sch. 3 cl. 24(3) after “directors”		of the corporation

1 Note: The heading to amended section 5 is to read:

2 **Corporations not agents of Crown**

1 **Part 8 — *Water Services Licensing Act 1995* amended**

2 **191. Act amended**

3 This Part amends the *Water Services Licensing Act 1995*.

4 **192. Long title amended**

5 In the long title delete “**to establish a scheme for the licensing**
6 **of water services, to confer functions on the Economic**
7 **Regulation Authority in respect of that scheme and other**
8 **matters,”.**

9 **193. Section 1 amended**

10 In section 1 delete “*Water Services*” and insert:

11

12 *Plumbers*

13

14 **194. Section 3 amended**

15 (1) In section 3 delete the definitions of:

16 *Authority*

17 *controlled area*

18 *inspector*

19 *irrigation*

20 *licence*

21 *licensee*

22 *operating licence*

23 *Registrar of Deeds*

24 *watercourse*

25 *water services*

26 *water services works*

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1 (2) In section 3 in the definition of *plumber* delete “59I;” and
2 insert:

3

4 59I.

5

6 **195. Parts 2, 3 and 4 deleted**

7 Delete Parts 2, 3 and 4.

8 **196. Section 62 amended**

9 In section 62(1) delete “the expiry of 5 years from its
10 commencement.” and insert:

11

12 every 5th anniversary of the commencement of the
13 *Water Services Legislation Amendment and Repeal*
14 *Act 2011* section 191.

15

16 **197. Schedules 1 and 2 deleted**

17 Delete Schedules 1 and 2.

Part 9 — Repeals

198. Drainage legislation repealed

These written laws are repealed:

- (a) the *Land Drainage Act 1925*;
- (b) the *Land Drainage (Validation) Act 1996*;
- (c) the *Land Drainage Regulations 1978*;
- (d) the *Land Drainage By-laws 1986*.

199. Irrigation legislation repealed

These written laws are repealed:

- (a) the *Carnarvon Irrigation District By-laws 1962*;
- (b) the *Harvey, Waroona and Collie River Irrigation Districts By-laws 1975*;
- (c) the *Ord Irrigation District By-laws 1963*;
- (d) the *Water Agencies (Preston Valley Irrigation Services) By-laws 1969*.

200. Sewerage legislation repealed

These written laws are repealed:

- (a) the *Country Towns Sewerage Act 1948*;
- (b) the *Country Towns Sewerage By-laws 1952*.

201. Water boards legislation repealed

These written laws are repealed:

- (a) the *Water Boards Act 1904*;
- (b) the *Busselton Water Board (Supply of Water to Dunsborough) Act 2009*;
- (c) the *Water Boards (Bunbury) Regulations 1997*;
- (d) the *Water Boards (Busselton) Regulations 2002*;
- (e) the *Bunbury Water Board By-laws*;

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- 1 (f) the *Busselton By-laws: Penalties*;
- 2 (g) the *Busselton Long Service Leave By-laws*;
- 3 (h) the *Busselton Water Area By-laws 1994*;
- 4 (i) the *Busselton Water Board - By-laws Relating to Long*
- 5 *Service Leave for Employees*.

6 **202. Other legislation repealed**

7 These written laws are repealed:

- 8 (a) the *Metropolitan Water Authority (Miscellaneous)*
- 9 *By-laws 1982*;
- 10 (b) the *Water Agencies (Charges) By-laws 1987*;
- 11 (c) the *Water Corporation (Authorised Capital)*
- 12 *Regulations 1997*;
- 13 (d) the *Water Services Licensing (Extension of Enactments)*
- 14 *Regulations 1997*.

Part 10 — Other Acts amended

203. *Aboriginal Heritage Act 1972* amended

(1) This section amends the *Aboriginal Heritage Act 1972*.

(2) In section 18(1a):

(a) in paragraph (b) delete “land.” and insert:

land; or

(b) after paragraph (b) insert:

(c) the person is the holder of a licence under the
Water Services Act 2011 as a result of which
the person has rights or powers in respect of the
land.

**204. *Anglican Church of Australia (Diocesan Trustees) Act 1888*
amended**

(1) This section amends the *Anglican Church of Australia*
(Diocesan Trustees) Act 1888.

(2) In section 5A(6) delete “or the *Metropolitan Water Supply,*
Sewerage and Drainage Act 1909,” and insert:

is not subject to statutory water service charges under
the *Water Services Act 2011* unless the land is
connected to water service works as defined in
section 3(1) of that Act,

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1 **205. *Building Services (Complaint Resolution and Administration)***
2 ***Act 2011* amended**

3 (1) This section amends the *Building Services (Complaint*
4 *Resolution and Administration) Act 2011*.

5 (2) In section 3 in the definitions of ***building service Act***
6 paragraph (f), ***plumbing work*** and ***vocational regulatory body***
7 paragraph (b) delete “*Water Services*” and insert:

8
9 *Plumbers*
10

11 (3) In section 92(5)(e) delete “*Water Services*” and insert:

12
13 *Plumbers*
14

15 **206. *Bulk Handling Act 1967* amended**

16 (1) This section amends the *Bulk Handling Act 1967*.

17 (2) Delete section 52A.

18 **207. *Conservation and Land Management Act 1984* amended**

19 (1) This section amends the *Conservation and Land Management*
20 *Act 1984*.

21 (2) In section 3 in the definition of ***public water catchment area***:

22 (a) in paragraph (b)(ii) delete “*1909; or*” and insert:

23
24 *1909;*
25

26 (b) delete paragraph (b)(iii).

- 1 (3) In section 53 in the definition of *relevant water utility* delete
2 paragraph (b) and insert:

3
4 (b) a licence under the *Water Services Act 2011*.
5

6 **208. *Constitution Acts Amendment Act 1899* amended**

- 7 (1) This section amends the *Constitution Acts Amendment Act 1899*.

- 8 (2) In Schedule V Part 3 delete the item relating to the board of
9 directors of the Water Corporation and insert:

10
11 The board of directors of a corporation established by the Governor
12 under the *Water Corporations Act 1995* section 4(4).

13 The board of directors of the Bunbury Water Corporation established
14 by the *Water Corporations Act 1995* section 4(2).

15 The board of directors of the Busselton Water Corporation established
16 by the *Water Corporations Act 1995* section 4(3).

17 The board of directors of the Water Corporation established by the
18 *Water Corporations Act 1995* section 4(1).
19

- 20 (3) In Schedule V Part 3 in the item relating to the Plumbers
21 Licensing Board delete “*Water Services*” and insert:

22
23 *Plumbers*
24

- 25 (4) In Schedule V Part 3 delete the item relating to water board
26 constituted under the *Water Boards Act 1904*.

27 **209. *Economic Regulation Authority Act 2003* amended**

- 28 (1) This section amends the *Economic Regulation Authority*
29 *Act 2003*.

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- 1 (2) In section 20(5) in the definition of *relevant entity*:
- 2 (a) delete paragraphs (a) and (b) and insert:
- 3
- 4 (a) a body established by or under the *Water*
- 5 *Corporations Act 1995* section 4, namely —
- 6 (i) the Water Corporation; or
- 7 (ii) the Bunbury Water Corporation; or
- 8 (iii) the Busselton Water Corporation; or
- 9 (iv) a body established by the Governor;
- 10 or
- 11
- 12 (b) in paragraph (c)(iii) delete “Corporation; and” and
- 13 insert:
- 14
- 15 Corporation; or
- 16
- 17 (3) In section 20 after subsection (1)(a) and in subsection (5) in the
- 18 definition of *relevant entity* after each of paragraph (c)(i)
- 19 and (ii) insert:
- 20
- 21 or
- 22
- 23 (4) In section 25(e) delete “section 4 of the *Water Services*
- 24 *Licensing Act 1995*; and” and insert:
- 25
- 26 the *Water Services Act 2011* section 207; and
- 27

1 **210. *Energy Operators (Powers) Act 1979* amended**

2 (1) This section amends the *Energy Operators (Powers) Act 1979*.

3 (2) Delete section 42(2)(a) and insert:

4

5 (a) the powers, authorities and functions of a
6 licensee as defined in the *Water Services*
7 *Act 2011* section 3(1), the Minister
8 administering the *Water Agencies (Powers)*
9 *Act 1984* and any statutory authority within the
10 meaning of that Act; and

11

12 **211. *Environmental Protection Act 1986* amended**

13 (1) This section amends the *Environmental Protection Act 1986*.

14 (2) In section 57(5) in the definition of ***designated area***:

15 (a) in paragraph (b) delete “or Public Water Supply Area”;

16 (b) in paragraph (c) delete “water-course, lake, lagoon,
17 swamp or marsh” and insert:

18

19 watercourse or wetland

20

21 (c) in paragraph (d) delete “section 26,” and insert:

22

23 section 26B,

24

25 **212. *Financial Management Act 2006* amended**

26 (1) This section amends the *Financial Management Act 2006*.

27 (2) In Schedule 1 delete “Bunbury Water Board”.

28 (3) In Schedule 1 delete “Busselton Water Board”.

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1 **213. *Fire Brigades Act 1942* amended**

2 (1) This section amends the *Fire Brigades Act 1942*.

3 (2) Delete sections 54 and 55.

4 (3) At the beginning of section 61 insert:

5

6 (1) In this section —

7 *water services licensee* means a licensee as defined in
8 the *Water Services Act 2011* section 3(1).

9

10 (4) In section 61:

11 (a) delete “The Authority,” and insert:

12

13 (2) The Authority,

14

15 (b) delete “water supply authority” and insert:

16

17 water services licensee

18

19 **214. *Fluoridation of Public Water Supplies Act 1966* amended**

20 (1) This section amends the *Fluoridation of Public Water Supplies*
21 *Act 1966*.

22 (2) In section 5(2)(b) delete “*Water Corporation Act 1995*” and
23 insert:

24

25 *Water Corporations Act 1995* section 4(1)

26

1 **215. *Hale School Act 1876* amended**

2 (1) This section amends the *Hale School Act 1876*.

3 (2) In section 12 delete “and the *Metropolitan Water Supply,*
4 *Sewerage, and Drainage Act 1909*” and insert:

5
6 and, if the land is not connected to water service works
7 as defined in the *Water Services Act 2011* section 3(1),
8 from statutory water service charges under that Act
9

10 **216. *Health Act 1911* amended**

11 (1) This section amends the *Health Act 1911*.

12 (2) In section 63A delete “Water Corporation established by the
13 *Water Corporation Act 1995*” and insert:

14
15 a licensee as defined in the *Water Services Act 2011*
16 section 3(1)
17

18 **217. *Home Building Contracts Act 1991* amended**

19 (1) This section amends the *Home Building Contracts Act 1991*.

20 (2) In section 9(1):

21 (a) in paragraph (c) delete “Water Act,” and insert:

22
23 *Water Services Act 2011* section 82,
24

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- 1 (b) in paragraph (d) delete “under the Water Act by the
2 Water Corporation (established by the *Water*
3 *Corporation Act 1995*)” and insert:

4
5 by a licensee under the *Water Services*
6 *Act 2011* section 82
7

- 8 (3) Delete section 9(6).

9 **218. *Housing Act 1980* amended**

- 10 (1) This section amends the *Housing Act 1980*.

- 11 (2) In section 38(1) after “government” insert:

12
13 or with the *Water Services Act 2011*
14

- 15 (3) In section 38(2) delete the definition of ***local government***.

- 16 (4) In section 38(2) in the definition of ***additions*** delete “fittings;”
17 and insert:

18
19 fittings.
20

21 **219. *Kambalda Water and Wastewater Facilities (Transfer to Water***
22 ***Corporation) Act 2004* amended**

- 23 (1) This section amends the *Kambalda Water and Wastewater*
24 *Facilities (Transfer to Water Corporation) Act 2004*.

- 25 (2) In section 3 in the definition of ***Water Corporation*** delete
26 “section 4 of the *Water Corporation Act 1995*,” and insert:

27
28 the *Water Corporations Act 1995* section 4(1);
29

1 **220. *Land Administration Act 1997* amended**

2 (1) This section amends the *Land Administration Act 1997*.

3 (2) In section 159(eb) delete “*Water Services Licensing Act 1995*;”
4 and insert:

5
6 *Water Services Act 2011*;

7
8 (3) In section 160(1)(eb) delete “for the purposes of section 18 of
9 the *Water Services Licensing Act 1995* or to any officer” and
10 insert:

11
12 under the *Water Services Act 2011* section 11
13 or to any officer or employee
14

15 **221. *Parliamentary Commissioner Act 1971* amended**

16 (1) This section amends the *Parliamentary Commissioner Act 1971*.

17 (2) In section 34(1) after “energy ombudsman scheme” insert:

18
19 or a water ombudsman scheme
20

21 (3) In section 34(4) delete “energy ombudsman”.

22 (4) In section 34(5) delete “under the” and insert:

23
24 under an
25

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1 (5) In section 34(7) insert in alphabetical order:

2

3 *water ombudsman scheme* means a scheme approved
4 under the *Water Services Act 2011* Part 4.

5

6 (6) In section 34(7) in the definition of *governing body*:

7 (a) after “ombudsman scheme” insert:

8

9 or a water ombudsman scheme

10

11 (b) delete “scheme.” and insert:

12

13 scheme;

14

15 Note: The heading to amended section 34 is to read:

16 **Energy and water ombudsman schemes**

17 **222. *Planning and Development Act 2005* amended**

18 (1) This section amends the *Planning and Development Act 2005*.

19 (2) Delete section 10(1)(c)(ii) and insert:

20

21 (ii) the chief executive officer of the
22 department principally assisting in the
23 administration of the *Water Agencies*
24 (*Powers*) *Act 1984*; and

25

26 (3) In section 167(1)(b)(ii) delete “*Water Services Licensing*
27 *Act 1995*,” and insert:

28

29 *Water Services Act 2011* section 3(1),

30

1 **223. *Presbyterian Church Act 1908* amended**

2 (1) This section amends the *Presbyterian Church Act 1908*.

3 (2) In section 21(6) delete “1995 or the *Metropolitan Water Supply,*
4 *Sewerage, and Drainage Act 1909*” and insert:

5
6 *1995*, is not subject to statutory water service charges
7 under the *Water Services Act 2011* unless the land is
8 connected to water service works as defined in
9 section 3(1) of that Act,
10

11 **224. *Public Sector Management Act 1994* amended**

12 (1) This section amends the *Public Sector Management Act 1994*.

13 (2) Delete Schedule 1 item 19 and insert:
14

19 A body established by or under the *Water Corporations*
 Act 1995 section 4, namely —

- (i) the Water Corporation; and
- (ii) the Bunbury Water Corporation; and
- (iii) the Busselton Water Corporation; and
- (iv) a body established by the Governor.

15

16 **225. *Public Works Act 1902* amended**

17 (1) This section amends the *Public Works Act 1902*.

18 (2) In section 5A(e) delete “*Water Corporation Act 1995*” and
19 insert:
20

21 *Water Services Act 2011*
22

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- 1 (3) In section 5B(1):
- 2 (a) in paragraph (c)(iii) delete “Corporation; and” and
- 3 insert:
- 4
- 5 Corporation; or
- 6
- 7 (b) in paragraph (d) delete “Water Corporation established
- 8 by the *Water Corporation Act 1995* or an officer of that
- 9 corporation;” and insert:
- 10
- 11 holder of a licence granted under the *Water*
- 12 *Services Act 2011* section 11 or to any officer
- 13 or employee of the holder of the licence;
- 14
- 15 **226. *Rates and Charges (Rebates and Deferments)***
- 16 ***Act 1992* amended**
- 17 (1) This section amends the *Rates and Charges (Rebates and*
- 18 *Deferments) Act 1992*.
- 19 (2) In section 3(1) delete the definition of ***Water Board***.
- 20 (3) In section 3(1) in the definition of ***prescribed charge*** delete
- 21 paragraph (b)(i) and (ii) and insert:
- 22
- 23 (i) the *Water Services Act 2011*; or
- 24
- 25 (4) In section 3(1):
- 26 (a) in the definition of ***the pension means test*** after
- 27 paragraph (a)(i) insert:
- 28 and
- 29
- 30
- 31 (b) in the definition of ***dependant*** after each of
- 32 paragraphs (a) and (ab), the definition of ***eligibility*** after

1 each of paragraphs (a) and (a)(i) and (ii) and the
2 definition of *prescribed charge* after each of
3 paragraphs (a) and (b) insert:

4
5 or
6

7 (5) In section 16(4):

8 (a) delete “Water Board” (first occurrence) and insert:

9
10 prescribed licensee
11

12 (b) delete “Water Board” (second occurrence) and insert:

13
14 licensee
15

16 (6) After section 16(4) insert:

17
18 (5) In subsection (4) —

19 *prescribed licensee* means a licensee under the *Water*
20 *Services Act 2011* (other than a body established by or
21 under the *Water Corporations Act 1995* section 4 or a
22 local government) who is prescribed for the purposes
23 of subsection (4).
24

25 **227. Residential Parks (Long-stay Tenants) Act 2006 amended**

26 (1) This section amends the *Residential Parks (Long-stay Tenants)*
27 *Act 2006*.

28 (2) Delete Schedule 1 clause 15(c) and insert:

29
30 (c) the *Water Services Act 2011*, except a charge for the
31 volume of water consumed.
32

228. *Sentencing Act 1995* amended

- (1) This section amends the *Sentencing Act 1995*.
- (2) In Schedule 1 delete the item relating to the *Land Drainage Act 1925*.
- (3) In Schedule 1 delete the item relating to the *Water Boards Act 1904*.

229. *Soil and Land Conservation Act 1945* amended

- (1) This section amends the *Soil and Land Conservation Act 1945*.
- (2) In the Schedule:
 - (a) delete “*Land Drainage Act 1925*”;
 - (b) after “*Stock (Identification and Movement) Act 1970*” insert:

Water Services Act 2011

230. *State Records Act 2000* amended

- (1) This section amends the *State Records Act 2000*.
- (2) In Schedule 3 delete item 2 and insert:
 2. A body established by or under the *Water Corporations Act 1995* section 4, namely —
 - (i) the Water Corporation; and
 - (ii) the Bunbury Water Corporation; and
 - (iii) the Busselton Water Corporation; and
 - (iv) a body established by the Governor.
- (3) In Schedule 3 item 1 after each of subitems (i) and (ii) insert:

and

1 **231. *Statutory Corporations (Liability of Directors)***
2 ***Act 1996 amended***

3 (1) This section amends the *Statutory Corporations (Liability of*
4 *Directors) Act 1996*.

5 (2) In Schedule 1 delete the item relating to the Bunbury
6 Water Board.

7 (3) In Schedule 1 delete the item relating to the Busselton
8 Water Board.

9 **232. *Strata Titles Act 1985 amended***

10 (1) This section amends the *Strata Titles Act 1985*.

11 (2) Delete section 60(4).

12 (3) In section 66 after “an authority” insert:

13
14 (including a licensee as defined in the *Water Services*
15 *Act 2011* section 3(1))
16

17 (4) At the end of Part IV Division 5 insert:
18

19 **67. Water service charges under the *Water Services***
20 ***Act 2011***

21 For the purposes of this Division —

- 22 (a) a statutory water service charge (as defined in
23 the *Water Services Act 2011* section 71(1)) that
24 applies in respect of land is to be taken to be a
25 rate made and levied by an authority (that is,
26 the licensee to whom the charge is payable);
27 and

s. 233

- 1 (b) the licensee is to be taken to be an authority
2 authorised to make and levy the rate on the
3 land.
4

5 **233. *Swan and Canning Rivers Management Act 2006* amended**

- 6 (1) This section amends the *Swan and Canning Rivers Management*
7 *Act 2006*.

- 8 (2) In Schedule 5 item 1:

- 9 (a) delete subitem (m);
10 (b) in subitem (cc) delete “*Water and Rivers Commission*
11 *Act 1995*,” and insert:

12
13 *Water Agencies (Powers) Act 1984*;
14

- 15 (c) in subitem (dd) delete “*Water Corporation Act 1995*,” and
16 insert:

17
18 *Water Corporations Act 1995*;
19

- 20 (d) after subitem (dd) insert:

21
22 (eea) the *Water Services Act 2011*;
23

- 24 (3) In Schedule 5 item 16 delete “*Water Services Licensing Act 1995*.”
25 and insert:

26
27 *Water Services Act 2011* section 3(1).
28

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