

WATER SERVICES LEGISLATION AMENDMENT AND REPEAL BILL 2011

EXPLANATORY MEMORANDUM

The primary purpose of this Bill is to repeal the *Water Boards Act 1904* and amend the *Water Corporation Act 1995* to enhance the operations of the Busselton and AQWEST-Bunbury Water Boards. This will enable the Boards to provide the same range of services and operate under the same governance arrangements as the Water Corporation.

This Bill will implement the legislative reforms recommended by the 1999 *National Competition Policy* (NCP) *Legislation Review of the Water Boards Act 1904* and the 1999 *Busselton and AQWEST-Bunbury Water Boards Competitive Neutrality Reviews*. The recommendations of those reviews were endorsed by Cabinet in December 1999 and in February 2004.

The key legislative amendments recommended in the Reviews and embodied in this Bill are as follows:

National Competition Policy Review of the *Water Boards Act 1904*;

- enable the Water Boards to provide services outside their water area;
- allow Water Boards to provide a full range of water services (including sewerage, drainage, and irrigation);
- enable the Water Boards to make a profit;
- enable the Water Boards to enter into business arrangements;
- facilitate the adoption of a more commercial approach to service provision consistent with the principles of competitive neutrality; and
- enable the provision of CSO (Community Service Obligations) payments to Water Boards where applicable.

Competitive Neutrality Reviews of Busselton and AQWEST-Bunbury Water Boards

- prepare annual statements of corporate intent and strategic development plans;
- provide concessions to senior and pensioner customers;
- pay dividends to government with the dividend payments to be negotiated annually;
- earn a return on assets with the rate to be negotiated annually; and
- remain exempt from local government rates and charges.

The NCP Review of the *Water Boards Act 1904* noted when that Act was passed, the operation of public utilities along commercial lines was not envisaged. As a consequence the Act provides for the establishment of organisations capable of providing services to the

community in a non-competitive environment. The existing Act covers the functions and responsibilities of the Boards in considerable detail, all are highly prescriptive and not in keeping with the Water Corporation Act which would allow the Boards to act in a more commercial and competitive manner in the new competitive water industry environment. Another impediment to competition is that the *Water Boards Act* relates only to water supply impeding the Boards' opportunities to fully participate in the water industry.

The *Water Corporation Act 1995* on the other hand, is a modern government trading enterprise Act. It establishes the Water Corporation as an entity with a significant degree of independence and sets it a commercial focus. Ministerial oversight of the operations of the Corporation is provided through the Minister's approval of Statements of Corporate Intent and Strategic Development Plans developed by the Water Corporation.

Accordingly, it was determined that new enabling legislation for the Boards was necessary and would best be achieved by amending the *Water Corporation Act 1995* to cover the operations of the Boards. The Water Corporation and the Boards will all be 'corporations' for the purposes of the Act. This will mean that the Boards will have the same powers as the Water Corporation and can operate on a level playing field with the Corporation and other private providers in competing for the provision of services in the water industry. This will encourage competition and efficiencies for the water industry as a whole.

The secondary purpose of the Bill is to amend other pieces of legislation to ensure all legislation is consistent with the new water legislation regime which will commence with the Water Services Bill 2011. These amendments mainly involve removing old terminology and replacing it with terminology used in the Water Services Bill 2011. References to legislation which is no longer relevant in the new regime will also be removed. It is due to these additional amendments that it is necessary for the Water Services Legislation Amendment and Repeal Bill 2011 to come into force on the same day as the Water Services Bill 2011.

Outlined below is an examination of the contents of the Bill on a clause by clause basis.

Part 1 – Preliminary

This Part contains the title of the Act, and the relevant commencement provisions of the Act.

Clause 1: Short title

Short title and citation.

Clause 2: Commencement

This clause provides for the commencement of the Act.

Subclause (a) provides that Part 1 of the Act comes into operation on Royal Assent.

Subclause (b) provides that the rest of the Act comes into operation on the day on which the *Water Services Act 2011* comes into operation. This is required as that Act provides the powers under which all corporations will operate. For this reason, it is necessary that the Water Services Bill 2011 and the Water Services Legislation Amendment and Repeal Bill 2011 are enacted together to facilitate the operation of the new water legislation.

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

This Part contains the amendments to the *Country Areas Water Supply Act 1947*. It repeals sections related to the provision of water services by the Water Corporation. Sections dealing with the protection of water resources are retained.

Clause 3. Act amended

This clause explains that the amendments in this part are to be made to the *Country Areas Water Supply Act 1947*. This Act provides for the management of water for public water supplies outside the metropolitan area and enables the Water Corporation to provide water supply services.

Clause 4. Long title amended

The title is amended to delete the words “to make provision for the construction, maintenance and administration of reticulated supplies of water to country areas”. These matters will be provided for in the Water Services Bill 2011.

After amendment the title will read: “An Act to safeguard water supplies, to repeal the *Goldfields Water Supply Act 1902-1942* and for other incidental purposes.”

Clause 5. Section 5 amended

Section 5 provides definitions of terms used in the Act. The terms listed are no longer required due to the clauses in which they are mentioned being amended or deleted.

Clause 6. Section 6 deleted

Section 6 specifies the areas of the state in which the Act operates and excludes the Metropolitan Area. As it is no longer necessary to exclude the operation of this Act from the Metropolitan Area the section is deleted.

Clause 7. Section 8 deleted

Section 8 deals with the creation of country water areas. These areas designate where the water supply provisions of this Act are to apply. As the water supply provisions of this Act are being deleted this section is no longer needed.

Clause 8. Section 11 amended

Section 11 concerns the power to divert, intercept and store water. References in the section to the *Land Drainage Act 1925* (which is to be repealed by this Act) are changed to the Water Services Act. References to the Water Corporation are changed to “a licensee as defined in the Water Services Act”. This continues the application of this provision to the Water Corporation which will hold a licence. It also continues the ability of the provision to apply to other licensed water service providers, which was previously enabled through extension of enactments under regulations made under the *Water Services Licensing Act 1995*.

Clause 9. Section 12A inserted

Section 12A inserts a penalty for diverting or taking water. A provision to this effect is currently contained in Part V in section 45(1)(ca). Apart from section 45(1)(ca), the whole of

Part V relates to water service matters and is to be deleted. Therefore, rather than retaining section 45(1)(ca) in Part V, it has been included in Part II. This is consistent with the equivalent Part in the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* (Part IV).

Clause 10. Part IV, V, VI and VII deleted

Part IV concerns the construction and maintenance of water works. These provisions will be replaced by the Water Services Act. The part is therefore no longer needed.

Part V deals with the supply of water to properties. These provisions will be replaced by the Water Services Act.

Part VI concerns water rates. These provisions will be replaced by the Water Services Act.

Part VII concerns the payment of water supply charges. These provisions will be replaced by the Water Services Act.

Clause 11. Section 105 amended

Section 105 concerns the making of by-laws. The subclauses relating to the provision of water services by the Water Corporation are deleted.

Clause 12. Section 108 amended

Section 108 relates to the serving of a notice or demand when the name of the owner or occupier is unknown. References to the Water Corporation are deleted. The provision is retained as the Minister may need to serve notices for his or her functions under this Act.

Clause 13. Section 111 amended

Section 111 refers to the saving of civil remedy. References to the Water Corporation here are no longer relevant and are deleted.

Clause 14. Section 112 replaced

Section 112 creates an offence for obstructing Minister or the Corporation or officers in performance of duty. References to the Water Corporation here are no longer relevant and are deleted.

Clause 15. Section 113 amended

Section 113 is a penalty provision for refusing to give up possession of works that are acquired, held or used by the Crown or the Corporation. References to the Water Corporation here are no longer relevant and are deleted.

Clause 16. Section 115 amended

Section 115 deals with proceedings for an offence against a provision of this Act. The Water Corporation will no longer take proceedings for an offence against a provision of this Act, as these will be done by the Minister for Water or an officer of the Department of Water. The section is amended accordingly.

Clause 17. Section 116 deleted

Section 16 allows the Water Corporation to be represented by an officer in proceedings. As this is no longer relevant the section is deleted.

Clause 18. Section 121 amended

Section 121 sets out how evidence of certain facts may be established. References to the Water Corporation here are no longer relevant and are deleted.

Clause 19. Sections 122 deleted

This section allows the Governor to suspend the operation of the provisions of any local government Act, relating to water supply. This provision could be used to resolve conflicts between services provided by the Water Corporation under the *Country Areas Water Supply Act 1947* and services provided under local government legislation. The capacity to do this is no longer required as all providers of water supply services will be regulated by the Water Services Act. The clause is accordingly deleted.

Part 3 — *Metropolitan Water Authority Act 1982* amended**Clause 20. Act amended**

This part contains the amendments required to update the *Metropolitan Water Authority Act 1982*.

Clause 21. Long title replaced

The long title is amended to reflect the fact that the Act will no longer deal with water service charges and will only deal with the Arterial Drainage Scheme and drainage courses.

Clause 22. Section 1 amended

Section 1 is amended to replace a reference to “Water Authority” with a reference to “Arterial Drainage”. This renames the act as the “Metropolitan Arterial Drainage Act 1982”.

Clause 23. Section 4 amended

Section 4 is amended to delete terms that are no longer relevant to this Act.

Clause 24. Part IV deleted

Part IV concerns objections and reviews regarding water service charges. These powers will be covered by the Water Services Act and are no longer needed here.

Clause 25. Section 98 amended

Section 98 refers to the Arterial Drainage Scheme and sets out the matters that the Scheme must deal with. Currently the section refers only to the drainage activities of the Water Corporation. This is amended as other organisations may be licensed to provide drainage services. References to the Water Corporation are amended to “all relevant licensees under the Water Services Licensing Act 2011” to reflect this.

Subsection 98(2)(g) is deleted as “drainage areas” will no longer be proclaimed under this Act. Drainage areas are areas in which the Water Corporation may provide drainage services. These areas will be replaced by operating areas, provided for in the Water Services Bill 2011.

There has also been added a capacity to prescribe other matters or things that the plans for the scheme can deal with.

In subclause (3) terms have been updated to be consistent with the terms used in the Water Services Bill 2011.

Clause 26. Section 99 amended

Section 99 deals with arterial drains. An arterial drain is a drain covered by the Arterial Drainage Scheme. Currently the section refers only to the Water Corporation. This is amended as other organisations may be licensed to provide drainage services in the area of the Arterial Drainage Scheme. References to the Water Corporation are amended to “all relevant licensees under the Water Services Licensing Act 2011” to reflect this.

Clause 27. Part IX Divisions 3 and 4 deleted

Division 3 deals with how the drains of the Water Corporation are identified. Division 4 deals with drainage areas. These areas are used for charging for services. These provisions are to be replaced by provisions in part 5 of the Water Services Licensing Bill 2011.

Clause 28. Section 106 amended

Section 106 concerns the declaration of a drainage course. Currently the section refers only to the Water Corporation. This is amended as other organisations may be licensed to provide drainage services in the area of the Arterial Drainage Scheme. References to the Water Corporation are amended to “all relevant licensees under the Water Services Licensing Act 2011” to reflect this.

Clause 29. Section 107 amended

Section 107 deals with developments in drainage courses. Currently the section refers only to the Water Corporation. This is amended as other organisations may be licensed to provide drainage services in the area of the Arterial Drainage Scheme. References to the Water Corporation are amended to “all relevant licensees under the Water Services Licensing Act 2011” to reflect this.

Clause 30. Section 108 deleted

Section 108 authorises the Water Corporation to undertake works in a drainage course. This section is no longer needed as the Water Services Act provides works powers for water service providers.

Part 4 — *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* amended

Clause 31. Act amended

This part contains the amendments required to update the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*.

Clause 32. Section 5 amended

Section 5 provides definitions of terms used in the Act. The terms listed are no longer required due to the clauses in which they are mentioned being amended or deleted.

Clause 33. Section 14 amended

Section 14 provides a power to divert, intercept, and store water. References to the Water Corporation are changed to “a licensee as defined in the Water Services Act”. This continues the application of this provision to the Water Corporation which will hold a licence. It also continues the ability of the provision to apply to other licensed water service providers, which was previously enabled through extension of enactments under regulations made under the *Water Services Licensing Act 1995*.

Clause 34. Section 16 amended

Section 16(c) is amended to correct a typographical error.

Clause 35. Part V deleted

Part V deals with the vesting of property and the construction and maintenance of works by water service providers. These matters are dealt with in the Water Services Act. This part is therefore no longer needed.

Clause 36. Part VI heading replaced

The heading of Part VI is amended from “Water Supply” to “The protection of underground water” to better reflect the purpose of this part.

Clause 37. Part VI divisions 1 and 2 deleted

These divisions deal with the provision of water supply services. These matters are dealt with in the Water Services Act.

Clause 38. Part VI Division 3 heading deleted

The subheading “The protection of underground water” has been deleted as this is now the heading to Part VI.

Clause 39. Section 57B amended

This section enables the Minister may make by-laws for protecting the purity of underground water within any pollution area for the supply of water. As the supply of water will be covered by the Water Services Act this amendment inserts a reference to the supply of water under that Act in the by-law making power.

Clause 40. Part VI Division 4 deleted

Division 4 of part VI deals with the creation of Public Water Supply Areas. The deleted provisions allowed water extraction to be managed in the metropolitan area, and gave priority to water used for public water supplies. They do not provide health safeguards through protecting water quality (which is managed under other sections of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*).

Where a Public Water Supply Areas is established, the Water Corporation (Corporation) is accorded a right to take water unless the area is also proclaimed under the *Rights in Water and Irrigation Act 1914* where that Act prevails. All other non-Crown water users within the Public Water Supply Areas require a licence issued under s57G of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*.

The *Rights in Water and Irrigation Act 1914* includes similar management provisions, which apply to proclaimed groundwater areas. All Public Water Supply Areas are also proclaimed groundwater areas under the *Rights in Water and Irrigation Act 1914*. As a result, water users in these areas now require authorisation under both Acts. These arrangement evolved through a series of water sector reforms since 1985.

Water resources are now managed under the *Rights in Water and Irrigation Act 1914* (which has more comprehensive licensing provisions), so the provisions to be repealed are redundant. As a result of this amendment, licences issued under s 57G of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* will be revoked.

Over 2300 licences were issued under s57G of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*. These licences are personal property and therefore do not run with land title. As land is sold, the number of valid licences has decreased.

Approximately 400 of these licenses are for commercial purposes, mainly irrigation. These licences will be replaced with licences to take water under section 5C of the *Rights in Water and Irrigation Act 1914*. These water users will be treated as though the area had just been proclaimed under the *Rights in Water and Irrigation Act 1914* (s 26B (5)). They will be issued with a licence to take water under the *Rights in Water and Irrigation Act 1914* unless they are ineligible to hold a licence. The conditions on the *Rights in Water and Irrigation Act 1914* licence may differ from those on their MWSSD Act licence, reflecting changes to water resource management since that time. Should water users consider these conditions unreasonable, they may appeal to the State Administrative Tribunal for review, during which time they may continue to take water.

There are also approximately 1200 licences for domestic use (i.e. garden bores). Garden bores are exempt from licensing under section 26C of the *Rights in Water and Irrigation Act 1914*. These garden bores will now only be permitted to irrigate 3 days per week, must not irrigate between 9am to 6pm and must comply with the winter sprinkler ban (June – August). These restrictions did not apply to their water use under their *Metropolitan Water Supply, Sewerage and Drainage Act 1909* licences, but apply to other garden bore users.

Clause 41. Part VII and Part VIII deleted

Part VII of the act deals with sewerage services. Part VIII deals with liability for and recovery of water charges. These matters are dealt with in the Water Services Act.

Clause 42. Section 146 amended

Section 146 enables the Minister to may make by-laws for the purposes of this Act. The following subsections are used for water service delivery purposes and are deleted as they are to are replaced by the Water Services Act:

- (4a) Defining and specifying the classes of industry from which liquid trade or factory wastes may be discharged into the sewers and the terms and conditions, whether general in application or applying in any particular case, upon which those wastes may be so discharged.

- (5) Protecting and preventing and remedying the waste, misuse, undue consumption, fouling, or contamination of water contained in or supplied from the water works or otherwise under the control of the Corporation.
- (16) Specifying the purposes for which, and the persons or classes of persons to whom, water services may be supplied under agreement, and the general and special terms and conditions upon which water services shall be so supplied.
- (17) Prescribing the quantity of water a consumer may take or consume for any specified purposes.
- (18) Fixing the level beyond which water supplied from the works may not be allowed to rise at any particular place within the Area.
- (20) Prohibiting any alteration of or interference with any meter, pipes, drain, property sewer, fixtures, or fittings, without the consent of or notice to the Corporation.
- (27) Modifying any of the forms contained in the Schedules.

Clause 43. Section 148 deleted

Section 148. is concerned with how landowners should notify water service providers of building or alterations for water service purposes. The section is deleted as this will be covered by the Water Services Act.

Clause 44. Sections 150 to 152 deleted

Section 150 deals with the service of notices and demands, 151 deals with notices binding on persons claiming under owner or occupier, and 152 covers the rights of occupiers. These sections are deleted as these matters will be covered by the Water Services Act.

Clause 45. Section 153 amended

Section 153 deals with the saving of civil remedy. References to the Water Corporation are deleted as these are no longer relevant.

Clause 46. Sections 154 and 155 deleted

Section 154 deals with the recovery of value of water misused. Section 155 Deals with sharing costs between property owners and occupiers. These matters are no longer relevant to this Act as the water service provisions have been deleted.

Clause 47. Section 156 replaced

Section 156 presently deals with obstructing the Minister or the Water Corporation or officers in performance of duty. The references to the Water Corporation are no longer relevant here and are deleted.

Clause 48. Section 157 amended

Section 157 establishes a penalty for refusing to give up possession of works. The references to the Water Corporation and the *Metropolitan Water Authority Act 1982* are no longer relevant here and are deleted.

Clause 49. Section 158 amended

Section 158 enables persons to be arrested for an offence under the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* and the *Metropolitan Water Authority Act 1982*. Reference to the *Metropolitan Water Authority Act 1982* has been deleted as that Act is being amended to delete all offence provisions.

Clause 50. Section 158A amended

Section 158A sets penalties for an offence under the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* and the *Metropolitan Water Authority Act 1982*. Reference to the *Metropolitan Water Authority Act 1982* has been deleted as that Act is being amended to delete all offence provisions.

Clause 51. Section 159 amended

This clause replaces subclause 159(1), removing the ability of the Water Corporation to undertake proceedings for an offence against this Act or the *Metropolitan Water Authority Act 1982*. Such a capacity is no longer required as proceedings under this Act will be taken by a Minister or an officer from the Department of Water authorised by the Minister.

Clause 52. Section 161 deleted

Section 161 allows that in any proceeding before a court, judge or person acting judicially, any authorised officer of the Corporation may represent the Corporation. As proceedings under this Act will be taken by a Minister or an officer from the Department of Water authorised by the Minister this section is no longer needed and is deleted.

Clause 53. Section 165 amended

This section deals with giving proof of ownership in legal proceedings. References to the *Metropolitan Water Authority Act 1982* are deleted as legal proceedings will not arise under this Act.

Clause 54. Section 166 deleted

This section allows the Governor to suspend the operation of the provisions of any local government Act, relating to water supply. The capacity to do this is no longer required as the regulation of water service provision will be done through provisions in the Water Services Bill that will apply to all water service providers, including local governments. The clause is accordingly deleted.

Clause 55. Schedule 9 deleted

The ninth schedule sets out a form to be used for notices issued under section 138. Section 138 was deleted in 1963. This schedule should have been deleted then but was overlooked.

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

This part contains the amendments required to update the existing *Rights in Water and Irrigation Act 1914*. It predominantly concerns replacing the term “operating licence”, consistent with the existing legislation, with “water services licence” which is the terminology used in the amended legislation.

Clause 56. Act amended

This clause explains that the amendments in Part 5 are to the *Rights in Water and Irrigation Act 1914*.

Clause 57. Long title amended

This amends the title to the Act by deleting references to “providing for irrigation schemes”, which the Act will no longer do as provisions dealing with irrigation services are to be provided for in the Water Services Act.

Clause 58. Section 2 amended

This amendment deletes the terms *Corporation*, *irrigation charge*, *officer* and *water charge*. These deletions reflect the fact that the provisions of this Act will no longer be used by the Water Corporation to deliver irrigation services.

Clause 59. Section 26GZJ amended

This clause amends Section 26GZJ of the *Rights in Water and Irrigation Act 1914* to change the terminology used from an “operating licence” to a “water services licence”. This is to ensure consistent terminology is used across Western Australian water legislation and to avoid unnecessary confusion.

Subclause (1) changes the terminology in Section 26GZJ(2) of the Act from an “operating licence” to read “a water services licence”.

Subclause (2) deletes the definition of “operating licence” and replaces it with the definition for a “water services licence”. The new definition provides for a water supply service licence or an irrigation licence as created under the *Water Services Act 2011*.

Clause 60. Section 27 amended

This clause amends Section 27(ga) of the *Rights in Water and Irrigation Act 1914* to remove the term “operating licence” and make the provision consistent with the new legislation.

Clause 61. Section 33 deleted

Section 33 provides a power for the Water Corporation to construct and maintain irrigation works. In future this power will be provided to the Corporation as a licensee under the Water Services Act. It is therefore no longer needed here.

Clause 62. Section 35 amended

Section 35 deals with protection against claims for the loss of riparian rights or flooding. The amendment removes references to the Corporation which will no longer be relevant under this legislation.

Clause 63. Section 36 amended

Section 36 deals with protection compensation for easements for water. The amendment removes references to the Corporation which will no longer be making such easements under this legislation.

Clause 64. Section 37 amended

Section 37 deals with disputes over compensation. References to the Corporation that are no longer relevant have been deleted.

Clause 65. Section 38 amended

Section 38 deals with compensation principles. References to the Corporation that are no longer relevant have been deleted.

Clause 66. Part VII and X deleted

Part VII deals with the supply of water and water charges. As this is dealt with by the Water Services Act the Part is deleted. Part X deals with the making of bylaws for the supply of water to people. *The Rights in Water and Irrigation Act 1914* will no longer be dealing with water supply services and the part is therefore deleted.

Clause 67. Section 63 deleted

Section 63 provides a power for the Water Corporation to undertake work to render land fit for irrigation. Such works powers will in future be provided by the Water Services Act.

Clause 68. Section 66 amended

Section 66 deals with the service of notices and demands. References to the Water Corporation are no longer required and are deleted.

Clause 69. Section 69 amended

Section 69 deals with the saving of civil remedy. References to the Water Corporation are no longer required and are deleted.

Clause 70. Section 70 amended

Section 70 deals with obstructing authorised persons in performance of duty. References to the Water Corporation are no longer required and are deleted.

Clause 71. Section 71 amended

Section 71 creates a penalty for refusing to give up possession of works. References to the Water Corporation are no longer required and are deleted.

Clause 72. Section 75 deleted

Section 75 provides that in any proceeding before a court, judge or person acting judicially, any authorised officer of the Water Corporation may represent the Corporation in all respects as if he or she were the party concerned. This section is no longer required as the Corporation will no longer be bringing proceedings under this Act.

Clause 73. Section 79A amended

Section 79A creates means for providing proof of works. The References to the Water Corporation are no longer required and are deleted.

Clause 74. Schedule 1 Appendix amended

This clause makes amendment to the Appendix to Schedule 1 of the *Rights in Water and Irrigation Act 1914*, deleting “an operating licence under the *Water Services Licensing Act 1995*” and inserting: “a licence under the *Water Services Act 2011*”.

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

This Part contains the amendments required to the *Water Agencies (Powers) Act 1984*.

Clause 75. Act amended

This clause explains that the amendments in Part 6 are to the *Water Agencies (Powers) Act 1984*.

Clause 76. Long title amended

The long title is amended to reflect the fact that the Act will no longer be giving the Water Corporation powers.

Clause 77. Section 3 amended

This clause deletes definitions that are no longer required in the Act due to deletions and amendments.

Clause 78. Section 5 amended

Section 5 lists “relevant Acts” for the purposes of the *Water Agencies (Powers) Act 1984*. The amendment clause deletes the names of Acts which are being repealed.

Clause 79. Section 8 amended

This clause deals with the vesting of land in the Minister and the Water Corporation. As land will no longer be vested in the Water Corporation under this Act the references to the Corporation have been deleted.

Clause 80. Section 10 amended

Section 10 deals with the resolution of circumstances where the Water Corporation and Minister have corresponding powers to do something under the Act. As the Corporation’s powers under this Act are to be repealed subclause (2) is no longer required and is deleted.

Subclause (1) is retained as it deals with the Minister’s powers and functions under this Act in relation to other powers and functions of the Minister.

Clause 81. Section 14 amended

This clause alters the definition of “water services licence” in Section 14 of the Act to provide for a water services licence made under the *Water Services Act 2011*.

Clause 82. Section 34 amended

Section 34 is the bylaw making power in the *Water Agencies (Powers) Act 1984*. This clause deletes references to the Corporation as they are no longer relevant. References to water service related bylaws are also deleted.

Clause 83. Part III heading replaced

The heading for Part III “Financial Provisions” is replaced by “Liability, indemnity etc.” which better reflects the contents of this Part.

Clause 84. Part III Divisions 1A and 2 deleted

These divisions deal with the making of by-laws relating to the Water Corporation’s charges. These matters will be covered by the *Water Services Act 2011* and therefore the divisions are deleted.

Clause 85. Part III Division 6 heading deleted

The division heading is deleted as it has been replicated by the part heading.

Clause 86. Parts IV and V deleted

These parts deal with agreements for works and water services and access to land for rating. These parts will be covered by the *Water Services Act 2011* and therefore the parts are deleted.

Clause 87. Section 70 amended

Section 70 provides a power of entry for performing functions under the Act. References to the Water Corporation have been deleted as the Corporation will no longer have functions under this Act.

Clause 88. Section 71 amended

Section 71 provides a power of inspection to the Minister and the Water Corporation. References to the Water Corporation have been deleted as the Corporation will no longer have functions under this Act.

Clause 89. Section 72 amended

Section 72 provides deals with giving notice of entry by the Minister and the Water Corporation. References to the Water Corporation have been deleted as the Corporation will no longer have functions under this Act.

Clause 90. Section 73 amended

Section 73 entry in an emergency by the Minister and the Water Corporation. References to the Water Corporation have been deleted as the Corporation will no longer have functions under this Act.

Clause 91. Section 78 amended

Section 78 provides the Minister and the Water Corporation with a power to dispose of land. References to the Water Corporation have been deleted as the Corporation will no longer dispose of land using the powers given by this Act.

Clause 92. Section 82 amended

This clause deletes section 82(1a). That subsection enables the Water Corporation to carry out works. As the carrying out of works will be dealt with in the *Water Services Act 2011* these subsection is no longer needed.

Clause 93. Section 83 amended

Section 83 provides the Minister and the Water Corporation with powers to undertake works under this Act. References to the Water Corporation have been deleted as the Corporation will no longer have functions under this Act.

Clause 94. Section 84 amended

Section 84 deals with the ownership of works placed on land. References to the Water Corporation have been deleted as the Corporation will no longer have be undertaking works under this Act.

Clause 95. Section 85 deleted

Section 85 deals with the circumstances where the Water Corporation acquires local government water service works. The transfer of ownership of water service works will be dealt with in the Water Services Act so this provision is deleted.

Clause 96. Section 86 amended

Section 86 defines major, general and exempt works. References to the Water Corporation are deleted as they are no longer relevant.

Clause 97. Section 87 amended

Section 87 provides a power for the Minister and the Water Corporation to carry out major works. References to the Water Corporation are deleted as the Water Corporation will no longer be carrying out major works under this Act.

Clause 98. Section 88 amended

Section 88 sets out requirements on the Minister and the Water Corporation to give notice before undertaking major works. References to the Water Corporation are deleted as the Water Corporation will no longer be carrying out major works under this Act.

Clause 99. Section 89 amended

Section 89 sets out how objections and comments relating to major works are to be dealt with. References to the Water Corporation are deleted as the Water Corporation will no longer be carrying out major works under this Act.

Clause 100. Section 90 deleted

Section 90 sets out a process to be followed by the Water Corporation in order for the Minister to consider objections and comments on major works. As the Water Corporation will no longer be carrying out major works under this Act, this section is no longer relevant.

Clause 101. Section 91 amended

Section 91 sets out how alterations and extensions to major works are to be dealt with. Subsections (1), (2) and (3) which refer to works of the Water Corporation are deleted as the Water Corporation will no longer be carrying out major works under this Act.

Clause 102. Section 95 amended

Section 95 sets out how authorisations for major works are to be given. Subsections (1), (2) and (3) which refer to works of the Water Corporation are deleted as the Water Corporation will no longer be carrying out major works under this Act.

Clause 103. Section 97 amended

Section 97 sets out how deviation and modification of works are to be dealt with. References to works of the Water Corporation are deleted as the Water Corporation will no longer be carrying out works under this Act.

Clause 104. Part VIII Divisions 3 and 4 deleted

Part VIII division 3 deals with street works. Division 4 deals with provision of information on works by the Water Corporation. These provisions will be replaced by similar requirements in the Water Services Act.

Clause 105. Section 103 amended

Section 103 sets out how infringement notices can be given under this Act. Subclause 11 is amended so that the clause can apply to any water corporation, rather than just the Water Corporation.

Clause 106. Section 106 amended

Section 106 deals with how directions may be given to the Water Boards created under the *Water Boards Act 1904* and the Water Corporation. The amendment deals with the repeal of the *Water Boards Act 1904* and the transition of those Boards to corporations under the *Water Corporations Act 1995*.

Clause 107. Section 111 amended

Section 111 provides a protection for persons (other than the Water Corporation) from liability when performing functions under this Act. As the Corporation will not be performing functions under this Act references to it are redundant and have been deleted.

Clause 108. Section 112 amended

Section 112 deals with confidential information. As the Corporation will not be performing functions under this Act references to it are redundant and have been deleted.

Clause 109. Various references to “Corporation” amended

Various redundant references to the Water Corporation have been deleted. These provisions are no longer required as replacement provisions provided for in the Water Services Bill 2011.

Part 7 — *Water Corporation Act 1995* amended

This Part contains the amendments required to the existing *Water Corporation Act 1995* to extend its provisions to the operation of the Busselton and AQWEST-Bunbury Water Boards.

Clause 110. Act amended

This clause explains that the amendments in Part 7 are to the *Water Corporation Act 1995*.

Clause 111. Long title amended

This clause amends the long title of the *Water Corporation Act 1995* to broaden it to provide for the establishment of various “corporations” not only “a corporation” (the Water Corporation) as is currently the case.

Clause 112. Section 1 amended

This clause amends Section 1 (Short title) of the *Water Corporation Act 1995* to read *Water Corporations Act 1995* rather than *Water Corporation Act 1995*. This broadens the title to cover the existing Boards and any subsequent Corporations established by the Governor – See Clause 43 below for further explanation.

Clause 113. Section 3 amended

This clause amends Section 3 of the *Water Corporation Act 1995* which defines terms used in the existing *Water Corporation Act 1995* by adding new, or amending existing, interpretations.

Subclause (1) deletes the existing definitions of “board”, “chief executive officer”, “corporation”, “director”, “member of staff”, “non-executive director” and “water services”.

Subclause (2) inserts a series of new definitions into the Act in alphabetical order. The definition of “non-executive director” is not replaced in the amended legislation as it is no longer required see Clause 48 and 49 for further explanation. The inserted definitions are as follows;

“board” - the definition is broadened from existing legislation to mean the board of any corporation established under the Act.

“Busselton Water Corporation” and “Bunbury Water Corporation” – new definitions relating to the names of the Corporations established under Section 4 of the Act are inserted.

“chief executive officer” – the addition of the words “of a corporation” is necessary as there will be more than one corporation under the Act.

“corporation” – the new definition of corporation accommodates the Water Corporation, the Bunbury and Busselton Water Corporations and any other Corporations established

by the Governor under Section 4(4) of the *Water Corporation Act 1995* – see Clause 43 below for further explanation.

“director” – the definition of director is further clarified to provide that the director of the corporation is a member of the board of that corporation. The addition of the words “of a corporation” are necessary as there is more than one corporation under the Act.

“member of staff” - the new definition accounts for there being more than one corporation under the amended Act and clarifies that a member of staff is engaged by the Board of a Corporation under Section 15.

“Water Corporation” - the definition is inserted to clarify that the Water Corporation is the body established in Section 4(1) of the Act.

“water service” - a new definition is inserted which refers to the meaning given to the term in the *Water Services Bill 2011*. Under that Bill water services is defined to mean water supply, sewerage, irrigation or drainage. The *Water Corporation Act 1995* is amended to ensure consistency with the new Water Services legislation.

“Water Services Act” - this definition provides that any reference to Water Services Act means a reference to the *Water Services Act 2011*.

Subclause (3) amends the definition of “executive officer” to account for there being more than one corporation under the amended *Water Corporation Act 1995*.

Subclause (4) amends the definition of “subsidiary” to include the wording “of a corporation” to account for there being more than one corporation under the amended Act.

Clause 114. Section 4 amended

This clause amends section 4 of the *Water Corporation Act 1995*, so it relates to all corporations established under the Act. The section is amended by repealing the existing section 4(2), (3) and (4) which related to the nature of the Water Corporation. These provisions, now relating to all corporations are dealt with in a new section, Section 5A.

Four new subsections are inserted into section 4 of the Act. Section 4(2) relates to the body established as the Bunbury Water Corporation, 4(3) relates to the body established as the Busselton Water Corporation, 4(4) and 4(5) relate to the Governor’s ability to establish a body by order published in the Government Gazette. This reflects the power available in *Water Boards Act 1904* section 6(4).

Clause 115. Section 5A inserted

This clause inserts a new section 5A into the *Water Corporation Act 1995* relating to the nature of corporations. By Cause 114 above these existing provisions were deleted from Section 4 and this clause reinserts them into the new section. Section 5A provides details on the nature of the corporations established such as “each corporation is a body corporate with perpetual succession”, “proceedings may be taken by or against a corporation in its corporate name”, and allows for a corporation to use and operate under, one or more trading names as approved by the Minister.

Clause 116. Section 6 amended

This clause amends section 6 of the *Water Corporation Act 1995* which relates to corporations not being part of the public sector. This section is amended by deleting “part of the Public Service” and inserting instead “a public sector body under the *Public Sector Management Act 1994*”. This amendment reflects currently accepted terminology. Subclause (2) inserts the wording “of a corporation” to section 6(2) to account for the Act covering more than one corporation as was the case previously. This clause will have the effect of placing the current Water Boards and their staff on the same footing as the Water Corporation and its staff. See related clause 129 which provides for transitional issues arising for the Boards from this amendment.

The clause also has a note that the heading to section 6 of the Act be altered to read “Corporations and officers not part of the public sector”.

Clause 117. Section 7A inserted

This clause provides the Governor with the power to dissolve a body established under section 4(4) in the same way as it was established by way of order in the Government Gazette. This provision continues an existing power available in the *Water Boards Act 1904* section 6(4). The provision does not give the Governor the power to dissolve the Water Corporation, Bunbury Water Corporation or the Busselton Water Corporation, only those bodies established under section 4(4).

Clause 118. Section 7 amended

This clause amends Section 7 of the Act which provides for the composition of, and appointment to, the board of directors of a corporation.

Subclause (1) repeals section 7(1) of the *Water Corporation Act 1995* and replaces it with three new subsections providing for the composition of the boards of corporations established under the Act, that the chief executive officer of a corporation may be appointed as a director of the Corporation (but does not have to be) and preventing members of staff being directors. The existing subsection 7(1) makes the chief executive officer automatically a director of the board. This provision allows flexibility in the boards’ composition, and is consistent with section 8 of the *Electricity Corporations Act 2005*.

Subclause (2) deletes Section 7(2)(b) of the Act which currently provides that no member of staff other than the chief executive officer is a director. This issue is now covered by new Section 7(2B) of the Act which provides that a “member of staff” cannot be a director of the corporation. A “member of staff” is defined as a person engaged by the Board under Section 15. The chief executive officer is engaged by the board under Section 13 of the Act and as such does not fit into the category of a member of staff. Given this there is no need for the exception that no member of staff (except for the chief executive officer) can be a director.

A new subsection (2)(b) is inserted providing for the principle of the majority of directors of a board of a regional corporation being ordinarily resident in the operation area of the corporation. This will ensure the Boards maintain their regional character.

Subclause (3) defines the term “operating area” of a corporation to mean the operating area of a licence held by that corporation and “regional water corporation” to mean the Bunbury and Busselton Water Corporations. When considered with Section 7(2)(b) of the Act the result is

that certain appointment restrictions will apply to the Bunbury and Busselton Water Corporations; a nominee for appointment to the board should ordinarily be resident in the operating area of the corporation.

Subclause (4) amends section 7(3) to take account of the change to 7(1) that removes the requirement that the chief executive officer of a water corporation is automatically a director on the board.

Clause 119. Section 10 amended

This clause amends section 10 of the *Water Corporation Act 1995* which relates to remuneration of directors. The amendments relate to all corporations, remove reference to out of date wording such as ‘non-executive director’ and mean that remuneration applies only to directors who are not the chief executive officer. Section 10 of the Act is consistent with section 29 of the *Water Boards Act 1904* which was amended to include this provision in 2003.

Clause 120. Section 13 amended

This clause amends section 13 of the *Water Corporation Act 1995* which relates to provisions regarding the chief executive officer of a corporation. Subclause one provides that each corporation must have a chief executive officer.

Clause 121. Section 15 amended

This clause amends section 15 of the Act which relates to provisions about staff. It is amended to reflect that the Act applies to more than one corporation.

Clause 122. Section 20 amended

Amends section 20 of the Act which relates to duties of directors of a corporation. This section is amended to reflect that the Act covers more than one corporation.

Clause 123. Section 21 amended

This clause amends section 21 of the Act which relates to duties of the chief executive officer of a corporation. This section is amended to reflect that the Act applies to more than one corporation and a chief executive officer may be, but will not necessarily be, a director on the board.

Clause 124. Section 22 amended

This clause amends Section 22 of the Act which relates to duties imposed on Executive Officers. This section is amended to reflect that the Act covers more than one Corporation. See Clauses 168 to 174 below which amend Schedule 2 of the Act. This schedule relates to the duties of directors and as outlined in Section 22.

Clause 125. Section 23 replaced

This clause amends Section 23 of the Act which relates to duties imposed on members of staff of a corporation. This section is amended to reflect that the Act applies to more than one

corporation. It is also amended to correct an error in the existing provision which applies clause 5 of Schedule 2 of the Act to former members of staff.

Clause 5 of Schedule 2 relates to misuse of a position. As a former member of staff no longer has a position it would appear that this clause is irrelevant. By deleting this clause from section 23(2) this provision becomes consistent with sections 21(2) and 22(2) of the Act which relate to former Chief Executive Officers and Executive Officers of a corporation. See clauses 168 to 174 below which amend Schedule 2 of the Act. This schedule relates to the duties of directors and as outlined in section 23 members of staff of a corporation.

Clause 126. Section 27 amended

This clause amends section 27 of the Act which relates to functions of a corporation. This section is amended to reflect that the Act applies to more than one corporation, and to amend section 27(3) by removing reference to the *Water Services Licensing Act 1995* and replacing it with reference to the *Water Services Act 2011*. This Act repeals the *Water Services Licensing Act 1995*.

Subclause (2) repeals section 27(5) and (6) of the *Water Corporation Act 1995*, as these provisions are replaced by a new clause 28A which is to be inserted.

Subclause (3) matches the definition of wastewater to that used in the Water Services Bill 2011.

Clause 127. Section 28A inserted

This clause inserts a new section 28A into the Act after section 27. This section replaces repealed section 27(5) of the *Water Corporation Act 1995* as per clause 69(5) above. Section 27(5) was a provision put into the *Water Corporation Act* at the time of drafting to be consistent with the *Electricity Corporation Act 1994*. However, this provision was repealed and replaced in the *Electricity Corporations Act 2005*. For the purposes of consistency, therefore, section 27(5) is repealed and a similar provision to s.56 of the *Electricity Corporations Act 2005* is inserted into the *Water Corporation Act 1995* as section 28A - Corporation may act at their discretion.

This section provides the water corporations discretion as to how and when they perform their functions, subject to this Act and any direction given by the Minister under the Act.

As section 28A is subject to this Act it has no effect on the operation of section 27(3) which provides that a corporation may only perform functions in accordance with a licence issued under the *Water Services Act 2011*.

Clause 128. Section 29 amended

This clause amends section 29 of the Act which relates to powers of corporations established under the Act. The amendment reflects that the Act applies to more than one corporation and replaces references to repealed Acts.

Clause 129. Section 31 amended

This clause amends section 31 of the Act which relates to a corporation acquiring a subsidiary. The amendment reflects that the Act applies to more than one corporation and

updates the Act with current terminology by the removal of the term “memorandum and articles of association” and replacement with the term “constitution” which is consistent with the *Corporations Act 2001 (Cth)*.

A new subsection (5) provides for the board to approve a director, the chief executive officer or a member of staff becoming office bearer of a subsidiary of the corporation. This provision is consistent with other government trading enterprises legislation, such as the *Electricity Corporations Act 2005* section 65(3).

New subsection (6) clarifies that neither a corporation nor the Minister become directors of a subsidiary for the purposes of the corporations Act through the provisions of section 31.

New subsection (7) declares section 31 and schedule 4 of the Act are to be “Corporations legislation displacement provisions” for the purpose of section 5G of the *Corporations Act 2001 (Cth)*, thereby allowing the constitution of a subsidiary to include the required provisions, even if the procedures and requirements of the *Corporations Act 2001 (Cth)* are not complied with in relation to those provisions.

Clause 130. Section 32 amended

This clause amends section 32 of the Act which relates to transactions which require ministerial approval. The amendments outlined in this clause reflect that the Act applies to more than one corporation.

Clause 131. Section 34 amended

This clause amends section 34 of the Act which requires the Minister be consulted on major initiatives. It is amended to include the words “requirements under” in relation to section 32 to make the wording of the section more clear. It is also amended to account for the Act applying to more than one corporation.

Clause 132. Section 35 amended

This clause amends section 35 of the Act which relates to Delegations. The amendment reflects that the Act applies to more than one corporation.

The section is also amended to expressly allow delegations to the chief executive officer. This is necessary due to Clause 188 subclause 1, discussed above, which amends the Act so that the Chief Executive Officer may or may not be a director on the Board of a Corporation covered under the Act. Prior to this amendment the Act provided that the Chief Executive Officer was automatically a director, therefore delegations to the CEO could be made under section 35(2)(a), but as a CEO is no longer automatically a director it is necessary to make express reference to the CEO in section 35(2)(a)(a). This amendment is consistent with the *Electricity Corporations Act 2005* section 71(2)(b).

Clause 133. Section 36 amended

This clause amends section 36 which relates to the ability of the Governor to make regulations. The amendments reflect that the Act shall apply to more than one corporation.

Clause 134. Part 3 Division 3 heading amended

This clause amends the heading to Part 3 Division 3 by inserting “a” so that the heading reads “Protection of persons dealing with a corporation”. This reflects that the Act applies to more than one corporation.

Clause 135. Section 38 amended

This clause amends section 38 which relates to the entitlement of a third party to make assumptions in respect of dealings involving a corporation. The amendment clarifies the provisions and makes it consistent with the head note to the section. This amendment is consistent with section 77 of the *Electricity Corporations Act 2005*.

Clause 136. Section 40 amended

This clause amends section 40 of the Act and is consequential to the amendment of section 38 referred to in Clause 135, above.

Clause 137. Section 42 replaced

This clause replaces the existing section 42 of the Act which is a transitional provision regarding strategic development plans. The existing transitional provision related to the establishment of the Water Corporation in 1995. The new transitional provision relates to the first strategic plan produced by the corporations now covered by the Act such as Busselton Water Corporation, Bunbury Water Corporation and any new corporations created by the Governor under the new section 4(4) of the Act. This provision provides the timing for the preparation of the first strategic development plan by those respective corporations.

Clauses 138 to 142

- 138. Section 43 amended
- 139. Section 45 amended
- 140. Section 46 amended
- 141. Section 47 amended
- 142. Section 48 amended

These clauses amend sections 43 and 45 to 48 of the Act which relate to provisions regarding strategic development plans. These sections are amended to reflect that the Act applies to more than one corporation. The amendments also allow for the board of a corporation and the Minister negotiate an agreement on the strategic development plans; as oppose to previously seeking Ministerial approval.

Clause 143. Section 51 replaced

This clause replaces the existing section 51 of the Act which is a transitional provision regarding statements of corporate intent. The existing transitional provision related to the establishment of the Water Corporation in 1995. The new transitional provision relates to the first statements of corporate intent produced by the corporations now covered by the Act such as Busselton Water Corporation, Bunbury Water Corporation and any new corporations created by the Governor under the new section 4(4) of the Act. This provision provides the timing for the preparation of the first statements of corporate intent by those respective corporations.

Clauses 144 to 148

- 144. Section 52 amended
- 145. Section 54 amended
- 146. Section 55 amended
- 147. Section 56 amended
- 148. Section 57 amended

These clauses amend sections 52 and 54 to 57 of the Act regarding statements of corporate intent. The amendments reflect that the Act applies to more than one corporation.

Clauses 149. Section 58 amended

Section 58 describes actions that the Minister may take in respect to a statement of corporate intent. This amendment clarifies the language in the section as the Minister will be taking an action described in the section.

Clauses 150 and 151

- 150. Section 59 amended
- 151. Section 60 amended

These clauses amend sections 59 and 60 of the Act which provide instructions as to preparation of quarterly and annual reports. These sections are amended to reflect that the Act applies to more than one corporation and to clarify that the boards of the corporations are responsible for ensuring the preparation of and delivery of, the quarterly and annual reports.

Clause 152: Section 65 amended

This clause amends section 65 of the Act which relates to ministerial directions. The amendment is required as the Act applies to more than one corporation.

Clauses 153. Section 68 amended

This clause amends Sections 68 of the Act which provides for consultation between the board of a corporation and the Minister, and provides that the Minister is entitled to access certain information. The amendments reflect that the Act applies to more than one corporation.

Clause 154. Section 69 amended

This clause amends section 69 of the Act which previously required the Water Corporation to keep the Minister informed on matters. The amendment imposes the requirement on the board of each corporation.

Clause 155. Section 72 deleted

This clause repeals section 72 of the Act which relates to capital and allotment of shares and also repeals the *Water Corporation (Authorised Capital) Regulations 1997*. This section was necessary when the Act was introduced in 1995. At that time the Water Authority was divided into other entities and the Water Corporation was formed. This section provided that the amount of authorised capital and number and nominal value of the shares was to be

prescribed by regulation. The abovementioned regulations prescribed one share for the Water Corporation. Section 72 also provides that the share be allotted to the Minister. In the case of the Water Boards it is not necessary to allocate a share and it is no longer required in the legislation. This is consistent with the *Electricity Corporations Act 2005* which does not provide for allocation of shares. The deletion of this provision will have no effect on the operations of the Water Corporation or the new corporations under the Act.

Clause 156. Section 73 amended

This clause amends section 73 of the Act which relates to bank accounts. This section is amended to reflect that the Act applies to more than one corporation. Clause 189 adds a transitional provision providing for a continuation of existing bank account arrangements.

Clause 157. Section 76 amended

This clause amends section 76 of the Act which relates to payment of monies in lieu of rates. The amendment reflects that the Act applies to more than one corporation and also makes the provision consistent with section 124 of the *Electricity Corporations Act 2005*. The amendment inserts a reference to section 6.26(2)(a)(i) of the *Local Government Act 1995* which provides that land is not rateable land if it is the property of the Crown and is being used or held for a public purpose. Section 76 of the Act provides that local government rates or charges that would have been paid to local government were it not for section 75 of the Act or the *Local Government Act* provision outlined above are to be paid to the Treasurer. This provision will apply to all corporations covered under this Act.

Clause 158. Section 81 amended

This clause amends section 81 of the Act which relates to borrowing limits for corporations. This section provides timings as to when borrowing limits are to be determined and how they can be varied. This section has been amended to cover all corporations which are established by or under the Act.

Clauses 159. Section 85 amended

This clause amends section 85 of the Act which relates to the *Financial Management Act 2006* and the *Auditor General Act 2006* and limits the application of the provisions of those Acts to those referred to in schedule 3 of the Water Corporations Act.

Clause 160. Section 88 amended

This clause amends section 88 of the Act which relates to execution of documents. This section is amended to reflect that the Act applies to more than one corporation and that the chief executive officer might not be a director. The amendment is consistent with section 135(2)(a) and (4) of the *Electricity Corporations Act 2005*.

Clause 161. Section 89 amended

This clause amends Section 89 of the Act which provides for the contracting formalities of the corporation. This section is amended to reflect that the Act applies to more than one corporation.

Clause 162. Section 91 amended

This clause amends section 91 of the Act which provides for the Governor to make regulations which are required or permitted under the Act. This section previously provided that, should there be a conflict or inconsistency between provisions in regulations under this Act or provisions in regulations under the *Water Agencies (Powers) Act 1984* or the *Water Services Licensing Act 1995*, the provisions of the regulations made under those Acts prevail. Those two Acts will be repealed and their provisions incorporated into the *Water Services Act 2011*. Therefore section 91 has been amended to provide that regulations made under the *Water Services Act 2011* will be the prevailing provisions in the case of any conflict or inconsistency with regulations made under this Act.

Clause 163. Section 92, 93 and 94 inserted

Clause 92 enables the Minister to vest land in the Water Corporation. This will replace a provision in the *Water Agencies (Powers) Act 1984* (section 8) which does a similar thing. The clause is needed as some land used by the Water Corporation was vested in the name of predecessor agencies, such as the Water Authority of Western Australia. It also allows the Minister to make orders placing reserves under the care control and management of the Water Corporation if the reserve had been placed under the care control and management of a predecessor agency.

The new clause 93 inserts a requirement to review the Act every five years.

This clause inserts a new section 94 which provides for the setting out in schedule 5 of transitional provisions relating to the repeal of the *Water Boards Act 1904* and amendments to the *Water Corporation Act 1995*.

Clause 164. Schedule 1 clause 1 amended

This clause amends clause 1 of schedule 1 of the Act by inserting the wording “if any” into the definition of “director” this is to account for amendment at Clause 48(1) above which provides that a chief executive officer may or may not be a director of a board under the Act.

Clause 165 to Clause 167.

165. Schedule 1 clause 2 amended

166. Schedule 1 clause 4 amended

167. Schedule 1 clause 5 amended

These clauses amend clauses 2, 4 and 5 of Schedule 1 of the Act which contain provisions relating to the constitution and proceedings of Boards. The amendments to those clauses are to reflect that the Act now applies to more than one Board and that the chief executive officer may not necessarily be a director of a corporation.

Clauses 168. to Clause 170.

168. Schedule 2 clause 2 amended

169. Schedule 2 clause 4 amended

170. Schedule 2 clause 5 amended

These clauses amend clauses 2, 4 and 5 of Schedule 2 of the Act. The purpose of the amendments is to;

- 1) Reflect that the Act now applies to more than one corporation; and
- 2) Provide for a summary conviction penalty. The *Water Corporations Act* previously had no provision for summary conviction penalties making it inconsistent with schedule 2 of the *Electricity Corporations Act 2005* and part 3 of the *Corporations (Liability of Directors) Act 1996 (Cth)*. A summary conviction penalty has been applied to schedule 2 clauses 2, 4 and 5.

Clause 171. Schedule 2 clause 7 amended. Clause 172. Schedule 2 clause 8 amended

These clauses amend clauses 7 and 8 of schedule 2 of the Act which relate to compensation and recovery actions where a director is convicted of an offence under clauses 2 to 5 of schedule 2. The amendments are to reflect that the Act now applies to more than one corporation.

Clause 173. Schedule 2 clause 12 amended

This clause amends clause 12 of schedule 2 of the Act which relates to a director's duty to disclose interests in contracts. Clause 12 is amended by inserting a new definition of "notifiable interest" into the schedule, and also increases the penalty from \$1,000 to \$5,000 for failure to disclose such an interest. The insertion of notifiable interest and the increase in the penalty makes clause 12 consistent with the schedule 2, clause 12 of the *Electricity Corporations Act 2005*.

Clause 174. Schedule 2 clause 14 amended

This clause amends clause 14 of Schedule 2 of the Act which relates to prohibition on loans to directors and related persons. It is amended to reflect that the Act applies to more than one corporation and to provide a for summary conviction penalty to correct an anomaly in the *Water Corporation Act 1995*. The provision of a summary conviction penalty makes the Act consistent with schedule 2, clause 14 of the *Electricity Corporations Act 2005*.

Clauses 175 and 176

175. Schedule 3 clause 2 amended

176. Schedule 3 clause 6 amended

These clauses amend clauses 2 and 6 of Schedule 3 of the Act. Schedule 3 provides for the financial administration and audit of the corporations covered under the Act. Clauses 2 and 6 have been amended to reflect that the Act applies to more than one corporation.

Clause 177 Schedule 3 clause 7 amended

Clause 7 (2) sets out the information to be included in the Annual Report, and is based on accounting standards in the Commonwealth Corporations Act. These standards change from time to time. To allow for these changes the amended clause refers to the accounting standards instead of listing the information to be provided.

Clause 178 Schedule 3 clause 10 amended

Clause 10 creates a requirement for an annual directors' report. The clause is amended to reflect that the Act applies to more than one corporation.

Clause 179 Schedule 3 clause 13 amended

Clause 13 sets out other specified matters to be included in the annual directors' report. In (1) the clause is amended to reflect that the Act applies to more than one corporation.

Subclause (2) requires reporting of details of the 5 highest paid officers of a corporation. As this may represent a high proportion of the staff of a small corporation, regulations may be made to designate a smaller number of staff.

Clause 180 to 183

180. Schedule 3 clause 15 amended

181. Schedule 3 clause 16 amended

182. Schedule 3 clause 20 amended

183. Schedule 3 clause 23 amended

Clauses 15, 16 and 20 deal with auditing of financial reports of the Corporation. Clause 23 concerns the designation of financial years. The clauses are amended to apply to more than one corporation.

Clause 184. Schedule 3 clause 28 amended

Clause 28 deals with the Treasurer's power to exempt directors and the Corporation from the requirements of division 2 and division 3 of schedule 3. The clause is amended to reflect that the Act applies to more than one corporation.

The capacity to exempt the Auditor General from the requirements in these divisions is not required. Subclause (c) has therefore been deleted.

Clause 185. Schedule 3 clause 31 amended

This clause amends schedule 3 clause 31 which relates to penalties for contravention of divisions 2 & 3 of schedule 3. These divisions relate to keeping financial records and requiring financial reporting. Clause 31 is amended to provide for a summary conviction penalty which previously the Act did not provide. This makes the Act consistent with schedule 4, clause 31 of the *Electricity Corporations Act 2005*.

Clause 186. Schedule 3 clause 35 amended

This clause amends schedule 3 clause 35 which relates to the deadline for reporting to the Minister. This clause has been amended to reflect that the Act applies to more than one corporation.

Clauses 187. Schedule 4 clause 2 amended. Clause 188 schedule 4 clause 4 amended

This clause amends Schedule 4 of the Act by removing reference to “memorandum and articles of association” and replacing it with “constitution”. The amendment is to update the Act with current terminology and is now consistent with the *Corporations Act 2001 (Cth)*. See related Clause 74 above.

Clause 189. Schedule 5 inserted

This clause adds new Schedule 5 to the Act. The schedule sets out the transitional provisions required to ensure that the new legislative regime comes into force with minimal disruption for established service providers.

Schedule 5 Transitional Provisions

Subdivision 1 - Preliminary

Clause 1. Terms used

This clause provides for the interpretation of terms used in the new Schedule 5.

Clause 2. Application of *Interpretation Act 1984*

This clause provides for the application of section 36 of the *Interpretation Act 1984* in relation to provisions of the amended Act and the repealed Act that deal with the same matter. In this instance the provision of the amended Act is the one in force. With respect to subsidiary legislation, sections 36 and 38 *Interpretation Act 1984* will not apply to the repeal of the *Water Boards Act 1904*. This clause effectively means that subsidiary legislation made under the *Water Boards Act 1904* will cease to have effect once the *Water Boards Act 1904* is repealed.

Subdivision 2 – Continuation of former Boards

Clause 3. Bunbury Water Board continues

This clause provides that the Bunbury Water Corporation is a continuation of the same legal entity as the Bunbury Water Board. The clause also provides for the recognised trading name of Bunbury Water Corporation as “Aqwest” which is allowable under section 5A(3) of the Act.

Clause 4. Busselton Water Board continues

This clause provides that the Busselton Water Corporation is a continuation of the same legal entity as the Busselton Water Board. The clause also provides for the recognised trading name of Busselton Water Corporation as “Busselton Water” which is allowable under section 5A(3) of the Act.

Clause 5. Members of former Boards

This clause provides for the continuation of terms of board members appointed prior to the commencement day of the *Water Services Legislation Amendment and Repeal Act 2011*. This will mean that members of the

Busselton and Bunbury Water Boards and the Chairmen of the Boards will retain their position for the balance of their term on the same terms and conditions that applied prior to commencement of the Act.

Clause 6. Operating licences of former Boards

The clause provides for the operating licences of former boards to become water services licences as if granted under the new Water Services Act with the new corporations to be the licence holder. Provision is made for the term, conditions and operating area of the licence to continue as before.

Clause 7. Supply of water to Water Corporation under *Busselton Water Board (Supply of Water to Dunsborough) Act 2009*.

The *Busselton Water Board (Supply of Water to Dunsborough) Act 2009* enables an agreement for the Busselton Water Board to sell bulk water to the Water Corporation to supply the town of Dunsborough. The Act will be repealed as the Board will have the capacity to make a bulk water agreement as a water corporation once the Water Services Legislation Amendment and Repeal Bill is passed. This clause allows the agreement to continue despite repeal of the Act.

Subdivision 3 – Staff of former Boards

Clause 8. Terms used: PSM Act

This clause defines the terms used in this division and references to the PSM Act (the *Public Sector Management Act 1994*).

Clause 9. Transition of employment

This clause relates to staff appointed by Busselton and Bunbury Water Boards under section 31 of the *Water Boards Act 1904* (repealed Act) prior to the commencement of the *Water Services Legislation Amendment and Repeal Act 2011*. This clause provides that the staff are taken to have been appointed by the Board of the relevant corporation under section 13 or 15 of the Water Corporations Act.

Subclauses 2 and 3 preserve employment rights of those staff in relation to remuneration or accrued rights in respect of annual leave, long service leave, sick or any other leave, rights under a superannuation scheme or continuity of service.

Subclause 4 provides that part 6 of the *Public Sector Management Act 1994* does not apply in relation to transition of the employment of a person by this clause except as provided by clause 12 (below). Part 6 of the *Public Sector Management Act 1994* deals with the redeployment and redundancy of employees. This is because the matters that Part 6 deals with are specifically covered by clause 10 – 13.

Clause 10. Election as to employment

This clause provides that an employee of the Busselton and Bunbury Water Boards may elect to remain in the public sector rather than be transferred to the new corporation. To elect to remain in the public sector the employee must be a permanent employee and must make an election within 2 years of the date the Act commences.

Clause 11. Application of PSM Act Part 6 to persons who make an election

This clause sets out how part 6 of the *Public Sector Management Act 1994* will apply to employees that elect to remain in the public sector.

Subclause 1 provides that part 6 will apply until the employee is placed in a public sector agency or the election is withdrawn.

Subclause 2 provides that part 6 will apply as though the employee's position was abolished and the employee was registered for redeployment.

Clause 12. Arrangements for return to the Public Sector

This clause sets out how the Corporations and Department will make arrangements to place employees that have elected to remain employed in the public sector.

Clause 13. Contracts for services

The clause provides that a person engaged under a contract for services made with a former board will continue to be engaged as if the contract had been made by the person with the relevant new corporation.

Subdivision 4 – Provisions as to accountability and financial provisions

Clause 14. Strategic development plans

This clause allows for the prescription of the period to be covered by the first strategic development plan of a corporation.

Clause 15. Statements of corporate intent

This clause allows for the prescription of the financial year to be covered by the first statement of corporate intent of a corporation.

Clause 16. Financial Reporting

This clause provides for the reporting requirements under part 5 of the *Financial Management Act* for the Boards to continue to the end of the current financial year at the time the *Water Services Legislation Amendment and Repeal Act 2011* came into effect, after which the requirements of the *Water Corporation Act 1995, as amended by the Water Services Legislation*

Amendment and Repeal Act 2011, would apply. This would mean that the Boards would report in accordance with the *Financial Management Act* to the next 30 June, switching to the *Water Services Legislation Amendment and Repeal Act 2011* reporting requirements thereafter. This would enable the first annual report prepared under the *Water Services Legislation Amendment and Repeal Act 2011* to include a comparison with the statement of corporate intent as required by section 61(1)(b).

Clause 17. Water Funds

The clause provides for bank accounts held by the former boards to become an account of the relevant corporation as if established under the *Water Corporations Act 1995*.

Clause 18. Payments to the State under Part 5 Division 2

This clause allows for the prescription of financial year for the payment of dividends and payments in lieu of rates.

Subdivision 5 - Miscellaneous

Clause 19. References to former Boards

This clause provides that where a written law or other document or instrument makes reference to the Busselton or Bunbury Water Board it is to be taken as a reference to the Busselton or Bunbury Water Corporation.

Clause 20. References to repealed Act

This clause provides that where a written law or other document or instrument makes reference to a repealed Act or provision the reference is taken to be a reference to the replacement Act or provision.

Clause 21. Transitional regulations

This clause provides power to prepare regulations where Part 2 of the *Water Corporations Act 1995*, as amended, has not sufficiently provided for a transitional arrangement, and the regulations may be made to have effect from commencement date of the *Water Services Legislation Amendment and Repeal Act 2011*. Subclause (3) outlines that a provision of the regulations will not operate in a manner prejudicial to any person, or impose any liabilities on any person in respect of anything done or omitted to be done prior to the publication of the regulations.

Clause 22. Relationship of provisions of this Division to transitional regulations

This clause enables the making of transitional regulations that are inconsistent with this division in order to manage the transition of the Water Boards to the new Act.

Clause 190. Other provisions amended

This clause amends references in the Act to the “Corporation” or “Water Corporation” to “corporations” or “water corporations”. This clause has been amended to reflect that the Act applies to more than one corporation.

Part 8 – *Water Services Licensing Act 1995* amended

This Part contains the amendments to the *Water Services Licensing Act 1995*. The *Water Services Licensing Act* shall continue to apply but shall only regulate the plumbing industry.

Clause 191. Act amended

This clause explains that the amendments in Part 8 are to the *Water Services Licensing Act 1995*.

Clause 192. Long title amended

This clause amends the long title of the Act to remove references to the licensing of water services and the functions of the Economic Regulation Authority. The title is amended to mention only the licensing and regulation of plumbers.

Clause 193. Section 1 amended

This clause amends Section 1 of the Act, renaming it the *Plumbers Licensing Act 1995*.

Clause 194. Section 3 amended

This clause amends Section 3 of the Act to remove those definitions that are no longer required when the Act only applies to regulate plumbers.

Clause 195. Parts 2, 3 and 4 deleted

This clause removes Parts 2, 3 and 4 from the Act. Part 2 relates to the role of the Economic Regulation Authority, Part 3 to the licensing of water service providers and Part 4 to inspectors. These parts are no longer required as the Act shall only apply to the regulation of plumbers. The topics of the repealed Parts will be regulated in the *Water Services Act 2011* which is to commence simultaneously with this Act.

Clause 196. Section 62 amended

This amendment changes the review provision in the Act from a single one off review to a regular review process. This will ensure the Act is kept up to date and relevant.

Clause 197. Schedules 1 and 2 deleted

This clause deletes Schedules 1 and 2 from the Act. Schedule 1 lists the terms and conditions of the water service licences. Schedule 2 provides a list of enactments that may apply to licensees other than the Corporation. These Schedules are no longer required as the Act

relates only to the regulation of plumbers. Schedule 1 will now be covered by the *Water Services Act 2011*.

Part 9 – Repeals

This Part provides that the *Water Services Amendment and Repeal Act 2011* will repeal certain Acts and subsidiary legislation currently in force. This legislation is replaced by the Water Services Bill and the amended *Water Corporations Act 1995*.

Clause 198. Drainage legislation repealed
Clause 199. Irrigation legislation repealed
Clause 200. Sewerage legislation repealed
Clause 201. Water boards legislation repealed
Clause 202. Other legislation repealed

Part 10 – Other Acts amended

Clause 203. *Aboriginal Heritage Act 1972* amended

Under s.18 of the *Aboriginal Heritage Act 1972* landowners must make an application to the Aboriginal Cultural Material Committee for approval to do things that may affect an Aboriginal site. This clause will allow water service providers to make submissions to the Aboriginal Cultural Material Committee as though they are landowners. The amendment is similar to provisions enabling energy service providers to make applications to the Committee as though they are landowners.

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

This clause makes amendment to section 5A(6) of the *Anglican Church of Australia (Diocesan Trustees) Act 1888*. Section 5A(6) provides that a school or college is not rateable land, in certain circumstances, under the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*. The amendment retains that the land will not be rateable in certain circumstances but this is now covered under the *Water Services Act 2011*.

Clause 205. *Builders' Registration Act 1939* amended

This clause amends section 12A(7) of the *Builder's Registration Act 1939*. Section 12A(7) of the Act cites the *Water Services Licensing Act 1995*. As the *Water Services Licensing Act 1995* has since been amended to refer only to the regulation of plumbers it was necessary to change the short title reference to the "*Plumbers Licensing Act 1995*".

Clause 206. *Bulk Handling Act 1967* amended

This clause makes amendment to Section 52A of the *Bulk Handling Act 1939*. Section 52A refers to the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*. This reference is to be replaced with reference to the *Water Services Act 2011*.

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

This clause makes amendment to section 3 of the *Conservation and Land Management Act 1984*. This amendment is to reflect that the *Water Boards Act 1904* has been repealed. As no public water catchment areas had been proclaimed under Section 36(1)(b) of the *Water*

Boards Act 1904 no further amendment is required to other legislation to preserve proclaimed catchment areas.

Section 53 of the *Conservation and Land Management Act 1984* is also amended by clause 207. The amendment to Section 53 is required to reflect that the water service licensing in the *Water Services Licensing Act 1995* is now controlled by the *Water Services Act 2011*.

Clause 208. *Constitution Acts Amendment Act 1899* amended

This clause makes amendment to Schedule V Part 3 of the *Constitution Acts Amendment Act 1899*. The amendment is to reflect the corporations established under section 4 of the *Water Corporations Act 1995*. It is also amended to delete reference to the *Water Boards Act 1904* which is being repealed.

Clause 209. *Economic Regulation Authority Act 2003* amended

This clause amends section 20(5) of the *Economic Regulation Authority Act 2003* by removing reference to the “water board constituted under the *Water Boards Act 1904*”, and “the Water Corporation established by the *Water Corporation Act 1995*” as relevant entities for the purposes of that Act and replacement of details of those bodies established by or under the *Water Corporations Act 1995* section 4 as relevant entities.

This clause also amends Section 25 of the *Economic Regulation Authority Act 2003* by changing a reference to the *Water Services Licensing Act 1995* to the relevant provision in the *Water Services Act 2011*.

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

This consequential amendment relates to section 42 of the *Energy Operators (Powers) Act 1979*. This section provides that where an energy operator has rights to water, those rights are to be exercised in a way that causes the least interference with the powers, authorities and functions of the Water Corporation or a water board.

It amends the section by removing reference to the Water Corporation and Water Boards and replaces it with wording that covers all holders of licences issued under the *Water Services Act*.

Clause 211. *Environmental Protection Act 1986* amended

This amendment to the definition of *designated area* reflects the changes made to the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* which has deleted references to Public Water Supply Areas. An incorrect reference to section 26 of the *Rights in Water and Irrigation Act 1914* is corrected to read 26B.

Clause 212. *Financial Management Act 2006* amended

This consequential amendment relates to Schedule 1 of the *Financial Management Act 2006*. It removes reference to the Busselton and Bunbury Water Boards from Schedule 1. This is to reflect that on commencement of the *Water Services Legislation Amendment and Repeal Act 2011* the application of the *Financial Management Act 2006* will be limited to only certain provisions as set out in the *Water Corporations Act 1995*.

Clause 213. *Fire Brigades Act 1942* amended

This consequential amendment relates to section 54 and 55 of the *Fire Brigades Act 1942*. It adds a definition of a water service licensee and deletes sections regarding fire hydrants that duplicate those in the *Water Services Act*.

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

This clause amends section 5 of the *Fluoridation of Public Water Supplies Act 1966*. Section 5 relates to composition of the Fluoridation of Public Water Supplies Advisory Committee. Section 5(2)(b) states that the committee consist of a staff member from the Water Corporation established by the *Water Corporation Act 1995*. This section has been amended to reflect that the title of the *Water Corporation Act 1995* has been amended to *Water Corporations Act 1995* and specifically identify that it is a staff member from the Water Corporation which is established under section 4(1) of the *Water Corporations Act 1995*.

Clause 215. *Hale School Act 1876* amended

This clause amends Section 12 of the *Hale School Act 1876*. Section 12 provides that vacant land held by the Board of the school is exempt from rating under the provisions of certain Acts, one being the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*. The amendment removes the reference to the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* and provides that the land shall be exempt from water service charges under the *Water Services Act 2011*.

Clause 216. *Health Act 1911* amended

This clause amends section 63A of the *Health Act 1911*. The section is amended by deleting reference to the Water Corporation established under the *Water Corporation Act 1995* and inserting instead “the holder of a licence granted under the *Water Services Act 2011* section 11. This amendment reflects the fact that under the *Water Services Act* the Water Corporation is not the only possible provider of drainage and sewerage services that a local government sewer or drain may be connected to.

Clause 217. *Home Building Contracts Act 1991* amended

This consequential amendment relates to section 9 of the *Home Building Contracts Act 1991*. Section 9(1)(c) and (d) are concerned with the “notification of building or alteration” provisions (*Metropolitan Water Supply, Sewerage and Drainage Act* section 148, *Country Areas Water Supply Act* section 43A and *Country Towns Sewerage Act* section 41A). These provisions are to be replaced by the *Water Services Act* section [63]. Therefore, section 9(1)(c) and (d) have been amended to refer to directly to this section.

Clause 218. *Housing Act 1980* amended

This consequential amendment is to section 38 of the *Housing Act 1980*. Section 38 is amended by replacing the definition of local government. The original definition included reference to the *Water Boards Act 1904* repealed by this Act and the *Water Agencies (Powers) Act 1984* which will be repealed as part of the suite of Bills consolidating water legislation currently also before Parliament. This amendment means that the definition now makes reference to the *Water Services Act 2011*.

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

This clause makes amendment to section 3 of the *Kambalda Water and Wastewater Facilities (Transfer to the Water Corporation) Act 2004*. It is amended to update the definition of “Water Corporation” to link it to the Water Corporation established under section 4(1) of the *Water Corporations Act 1995*. This keeps the reference to the Water Corporation correct otherwise the reference would have related to any corporation formed under section 4 of the Act, in this case it only applies to the Water Corporation.

Clause 220. *Land Administration Act 1997* amended

This consequential amendment relates to Sections 159 and 160 of the *Land Administration Act 1997*. Section 159 is amended to make reference to the Minister responsible for administering the *Water Services Act 2011* as the original Act referred to, the *Water Services Licensing Act*, has been amended and now applies to plumbing and not water services.

The amendment to Section 160 also removes a reference to the *Water Services Licensing Act 1995*. This is replaced with an equivalent reference to the *Water Services Act 2011*.

Clause 221. *Parliamentary Commissioner Act 1971* amended

This clause makes amendments to the *Parliamentary Commissioner Act 1971* to enable the Parliamentary Commissioner to support the Water Service Ombudsman created under the *Water Services Act*.

Clause 222. *Planning and Development Act 2005* amended

This clause amends Sections 10 and 167(1)(b)(ii) of the *Planning and Development Act 2005*. Section 167 relates to the creation of easements over land. Subsection (b)(ii) provides that an easement could be created in favour of a licensee under the *Water Services Licensing Act 1995*. The amendment inserts a reference to the *Water Services Act 2011* in the place of the *Water Services Licensing Act 1995* as the later act has been amended and no longer regulates the provision of water services.

Clause 223. *Presbyterian Church Act 1908* amended

This consequential amendment relates to Section 21 of the *Presbyterian Church Act 1908*. Section 21(6) *Presbyterian Church Act 1908* exempts certain land from rates imposed by the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*. This reference to the Act is replaced with a reference to the *Water Services Act 2011*. The exemption from the imposition of rates is maintained.

Clause 224. *Public Sector Management Act 1994* amended

This consequential amendment relates to Schedule 1 of the *Public Sector Management Act 1994* which lists entities which are not organisations for the purposes of that Act. It is amended to remove reference to the Water Corporation only and replace with all bodies established under section 4 of the *Water Corporations Act 1995* thereby including the Busselton and Bunbury Water Corporation and any future organisations established by the Governor.

Clause 225. *Public Works Act 1902* amended

This consequential amendment relates to sections 5A and 5B of the *Public Works Act 1902*. The sections are amended by deleting references to the *Water Corporation Act 1995* and replacing it with references to the *Water Services Act 2011*.

The effect of these amendments is that the Minister responsible for the *Water Services Act* may be delegated the powers of the Minister administering the *Public Works Act 1902*. The Minister may under 5B delegate these powers to the holder of a water service licence.

This approach is consistent with that taken for electricity service providers and provides a mechanism for the Minister to undertake works necessary for water service provision or delegate those powers to water service providers. Referring to water service licence holders rather than just the Water Corporation reflect the fact that there may be organisations other than the Corporation undertaking public water works.

Clause 226. *Rates and Charges (Rebates and Deferments) Act 1992* amended

This consequential amendment relates to sections 3 and 16 of the *Rates and Charges (Rebates and Deferments) Act 1992*. The amendment to section 3 removes reference to the *Water Boards Act 1904* and the *Water Agencies (Powers) Act 1984* (this Act will be partially repealed by the *Water Services Act 2011*) and replacing it with reference to the *Water Services Act 2011*.

The amendments to section 16(4) and proposed section 16(5) will mean that only prescribed private licensees will be able to make a claim for and receive reimbursement (rather than any licensee under the *Water Services Act*).

Water corporations established by or under the *Water Corporations Act 1995* are excluded from the operation of section 16 for the reason that those bodies will receive community service payments from Treasury (see *Water Corporation Act* section 52(2)(j),(k) and (l)).

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

This clause makes amendments to the *Rates and Charges (Rebates and Deferments) Act 1992* that are required because the *Water Boards Act* is being repealed.

The *Rates and Charges (Rebates and Deferments) Act* sets out processes for administrative authorities to provide to pensioners and other eligible persons rebates and deferments on prescribed charges.

The Amendments to section 16(4) and proposed section 16(5) are based on the policy that only prescribed private licensees should be able to make a claim for and receive reimbursement (rather than any licenses under the *Water Services Act*. Water corporations established by or under the *Water Corporations Act 1995* are excluded from the operation of section 16 on the basis that those bodies will receive community service payments from Treasury.

Clause 228. *Sentencing Act 1995* amended

This consequential amendment relates to Schedule 1 of the *Sentencing Act 1995*. This removes a requirement for fines under the *Water Boards Act 1904* to be paid to the Water

Boards rather than the consolidated account. The effect of this amendment will be that fines currently paid to the Water Boards will now be paid into consolidated revenue.

The clause also removes a requirement that fines under the *Land Drainage Act 1925* be paid to the Water Corporation. This is consistent with government policy that fines should not be paid to government trading enterprises.

Clause 229. *Soil and Land Conservation Act 1945* amended

This amends the *Soil and Land Conservation Act 1945* reflecting that the *Land Drainage Act 1925* is to be repealed.

Clause 230. *State Records Act 2000* amended

This consequential amendment is to Schedule 3 item 1 of the *State Records Act 2000*. It is amended by deletion of reference to the Water Corporation established by the *Water Corporation Act 1995* and replacement with all bodies established under section 4 of the *Water Corporations Act 1995*. This will mean a change in status for the Water Boards from Schedule 1 organisations to Schedule 3 organisations. The obligations on a Schedule 3 organisation under the *State Records Act 2000* are less onerous than a Schedule 1 organisation and therefore the Boards will not be disadvantaged in any way by the change in status this amendment will provide.

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

This consequential amendment relates to Schedule 1 of the *Statutory Corporations (Liability of Directors) Act 1996*. Schedule 1 is amended by deletion of reference to the Bunbury and Busselton Water Boards. As the Boards will now be corporations established under section 4 of the *Water Corporations Act 1995* they will be covered by sections 65 and 71 and Schedule 2 clauses 2 to 11 of that Act. These provisions are a replication of the provisions set out in the *Statutory Corporations (Liability of Directors) Act 1996*. Accordingly, there is no need for the corporations established under the *Water Corporations Act 1995* to be listed in Schedule 1 of the abovementioned Act. The same approach is taken in the *Electricity Corporations Act 2005*.

Clause 232. *Strata Titles Act 1985* amended

The amendment deletes section 60(4) which refers to “A charge made under the *Water Agencies (Powers) Act 1984* that relates to the provision of a water service, within the meaning of that Act, in respect of land shall be taken, for the purposes of this section, and section 61, to be a rate. Such charges will in future be applied under the Water Services Act.

This is replaced by a new s.67 that provides for the purposes of the Division that a statutory water service charge that applies in respect of land is to be taken to be a rate made and levied by an authority (that is, the licensee to whom the charge is payable); and the licensee is to be taken to be an authority authorised to make and levy the rate on the land.

This means that licensees will receive registered plans under s.60 of the Act, and under section 66 may collect water charges from a strata company where the quantity of water used by each proprietor is not measured.

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

This consequential amendment is to Schedule 5 of the *Swan and Canning Rivers Management Act 2006*. Schedule 5 is amended by updating the title of the Act from the *Water Corporation Act 1995* to the *Water Corporations Act 1995*.