

Western Australia

**Water Services Legislation Amendment and
Repeal Act 2012**

As at 03 Sep 2012

No. 25 of 2012

Extract from www.slp.wa.gov.au, see that website for further information

Water Services Legislation Amendment and Repeal Act 2012

CONTENTS

Part 1 — Preliminary

- | | | |
|----|--------------|---|
| 1. | Short title | 2 |
| 2. | Commencement | 2 |

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

- | | | |
|-----|----------------------------------------------------------------------------------|---|
| 3. | Act amended | 3 |
| 4. | Long title amended | 3 |
| 5. | Section 5 amended | 3 |
| 6. | Section 6 deleted | 3 |
| 7. | Section 8 deleted | 3 |
| 8. | Section 11 amended | 4 |
| 9. | Section 12A inserted | 4 |
| | 12A. Penalty for diverting or taking water | 4 |
| 10. | Parts IV, V, VI and VII deleted | 5 |
| 11. | Section 105 amended | 5 |
| 12. | Section 108 amended | 5 |
| 13. | Section 111 amended | 5 |
| 14. | Section 112 replaced | 5 |
| | 112. Obstructing Minister, officers or authorised persons in performance of duty | 5 |
| 15. | Section 113 amended | 6 |
| 16. | Section 115 amended | 6 |
| 17. | Section 116 deleted | 6 |
| 18. | Section 121 amended | 6 |

19.	Section 122 deleted	6
Part 3 — Metropolitan Water Authority Act 1982 amended		
20.	Act amended	7
21.	Long title replaced	7
22.	Section 1 amended	7
23.	Section 4 amended	7
24.	Part IV deleted	8
25.	Section 98 amended	8
26.	Section 99 amended	9
27.	Part IX Divisions 3 and 4 deleted	10
28.	Section 106 amended	11
29.	Section 107 amended	11
30.	Section 108 deleted	12
Part 4 — Metropolitan Water Supply, Sewerage, and Drainage Act 1909 amended		
31.	Act amended	13
32.	Section 5 amended	13
33.	Section 14 amended	14
34.	Section 16 amended	14
35.	Part V deleted	14
36.	Part VI heading replaced	14
Part VI — The protection of underground water		
37.	Part VI Divisions 1 and 2 deleted	14
38.	Part VI Division 3 heading deleted	14
39.	Section 57B amended	15
40.	Part VI Division 4 deleted	15
41.	Parts VII and VIII deleted	15
42.	Section 146 amended	15
43.	Section 148 deleted	15
44.	Sections 150 to 152 deleted	15
45.	Section 153 amended	15
46.	Sections 154 and 155 deleted	16
47.	Section 156 replaced	16
	156. Obstructing Minister, officers or authorised persons in performance of duty	16
48.	Section 157 amended	16

49.	Section 158 amended	16
50.	Section 158A amended	16
51.	Section 159 amended	17
52.	Section 161 deleted	17
53.	Section 165 amended	17
54.	Section 166 deleted	17
55.	Schedule 9 deleted	17

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

56.	Act amended	18
57.	Long title amended	18
58.	Section 2 amended	18
59.	Section 26GZJ amended	18
60.	Section 27 amended	19
61.	Section 33 deleted	19
62.	Section 35 amended	19
63.	Section 36 amended	19
64.	Section 37 amended	19
65.	Section 38 amended	20
66.	Parts VII and X deleted	20
67.	Section 63 deleted	20
68.	Section 66 amended	20
69.	Section 69 amended	20
70.	Section 70 amended	20
71.	Section 71 amended	20
72.	Section 75 deleted	20
73.	Section 79A amended	20
74.	Schedule 1 Appendix amended	21

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

75.	Act amended	22
76.	Long title amended	22
77.	Section 3 amended	22
78.	Section 5 amended	23
79.	Section 8 amended	23
80.	Section 10 amended	23
81.	Section 14 amended	24
82.	Section 34 amended	24

Contents

83.	Part III heading replaced	24
	Part III — Liability, indemnity etc.	
84.	Part III Divisions 1A and 2 deleted	24
85.	Part III Division 6 heading deleted	25
86.	Parts IV and V deleted	25
87.	Section 70 amended	25
88.	Section 71 amended	25
89.	Section 72 amended	25
90.	Section 73 amended	26
91.	Section 78 amended	26
92.	Section 82 amended	27
93.	Section 83 amended	27
94.	Section 84 amended	27
95.	Section 85 deleted	27
96.	Section 86 amended	27
97.	Section 87 amended	28
98.	Section 88 amended	28
99.	Section 89 amended	28
100.	Section 90 deleted	28
101.	Section 91 amended	28
102.	Section 95 amended	28
103.	Section 97 amended	29
104.	Part VIII Divisions 3 and 4 deleted	29
105.	Section 103 amended	29
106.	Section 106 amended	30
107.	Section 111 amended	30
108.	Section 112 amended	30
109.	Various references to “Corporation” amended	30
	Part 7 — Water Corporation Act 1995 amended	
110.	Act amended	32
111.	Long title amended	32
112.	Section 1 amended	32
113.	Section 3 amended	32
114.	Section 4 amended	34
115.	Section 5A inserted	34
	5A. Nature of corporations	34
116.	Section 6 amended	35
117.	Section 7A inserted	35

	7A. Dissolution of bodies established by Governor	35	
118.	Section 7 amended		37
119.	Section 10 amended		38
120.	Section 13 amended		39
121.	Section 15 amended		39
122.	Section 20 amended		39
123.	Section 21 amended		39
124.	Section 22 amended		40
125.	Section 23 replaced		41
	23. Members of staff, duties imposed	41	
126.	Section 27 amended		41
127.	Section 28A inserted		42
	28A. Corporations may act at their discretion	42	
128.	Section 29 amended		42
129.	Section 31 amended		43
130.	Section 32 amended		45
131.	Section 34 amended		45
132.	Section 35 amended		46
133.	Section 36 amended		46
134.	Part 3 Division 3 heading amended		46
135.	Section 38 amended		47
136.	Section 40 amended		47
137.	Section 42 replaced		48
	42. Corporations established by Governor — first strategic development plan	48	
138.	Section 43 amended		48
139.	Section 45 amended		48
140.	Section 46 amended		49
141.	Section 47 amended		49
142.	Section 48 amended		49
143.	Section 51 replaced		50
	51. Corporations established by Governor — first statement of corporate intent	50	
144.	Section 52 amended		50
145.	Section 54 amended		50
146.	Section 55 amended		51
147.	Section 56 amended		51
148.	Section 57 amended		51
149.	Section 58 amended		52
150.	Section 59 amended		52
151.	Section 60 amended		52

Contents

152.	Section 65 amended	53
153.	Section 68 amended	53
154.	Section 69 amended	53
155.	Section 72 deleted	53
156.	Section 73 amended	53
157.	Section 76 amended	54
158.	Section 81 amended	54
159.	Section 85 amended	55
160.	Section 88 amended	56
161.	Section 89 amended	57
162.	Section 91 amended	57
163.	Sections 92, 93 and 94 inserted	57
	92. Minister may vest certain land in Water Corporation and make orders in respect of certain reserves	57
	93. Review of Act	59
	94. Transitional provisions	60
164.	Schedule 1 clause 1 amended	60
165.	Schedule 1 clause 2 amended	60
166.	Schedule 1 clause 4 amended	60
167.	Schedule 1 clause 5 amended	61
168.	Schedule 2 clause 2 amended	61
169.	Schedule 2 clause 4 amended	62
170.	Schedule 2 clause 5 amended	63
171.	Schedule 2 clause 7 amended	63
172.	Schedule 2 clause 8 amended	63
173.	Schedule 2 clause 12 amended	64
174.	Schedule 2 clause 14 amended	64
175.	Schedule 3 clause 2 amended	65
176.	Schedule 3 clause 6 amended	65
177.	Schedule 3 clause 7 amended	65
178.	Schedule 3 clause 10 amended	65
179.	Schedule 3 clause 13 amended	66
180.	Schedule 3 clause 15 amended	66
181.	Schedule 3 clause 16 amended	66
182.	Schedule 3 clause 20 amended	67
183.	Schedule 3 clause 23 amended	67
184.	Schedule 3 clause 28 amended	67
185.	Schedule 3 clause 31 amended	68
186.	Schedule 3 clause 35 amended	68
187.	Schedule 4 clause 2 amended	68

188.	Schedule 4 clause 4 amended	69
189.	Schedule 5 inserted	69
	Schedule 5 — Transitional provisions	
	Division 1 — Transitional provisions relating to <i>Water Services Legislation Amendment and Repeal Act 2012</i>	
	Subdivision 1 — Preliminary	
	1. Terms used	69
	2. Application of <i>Interpretation Act 1984</i>	70
	Subdivision 2 — Continuation of former Boards	
	3. Bunbury Water Board continues	71
	4. Busselton Water Board continues	71
	5. Members of former Boards	71
	6. Operating licences of former Boards	72
	7. Supply of water to Water Corporation under <i>Busselton Water Board (Supply of Water to Dunsborough) Act 2009</i>	72
	Subdivision 3 — Staff of former Boards	
	8. Term used: PSM Act	73
	9. Transition of employment	73
	10. Election as to employment	74
	11. Application of PSM Act Part 6 to persons who make an election	74
	12. Arrangements for return to the Public Sector	75
	13. Contracts for services	76
	Subdivision 4 — Provisions as to accountability and financial provisions	
	14. Strategic development plans	76
	15. Statements of corporate intent	76
	16. Financial reporting	77
	17. Water Funds	77
	18. Payments to the State under Part 5 Division 2	77
	Subdivision 5 — Miscellaneous	
	19. References to former Boards	78
	20. References to repealed Act	78
	21. Transitional regulations	78
	22. Relationship of provisions of this Division to transitional regulations	79
190.	Other provisions amended	80
	Part 8 — <i>Water Services Licensing Act 1995</i> amended	
191.	Act amended	85

Contents

192.	Long title amended	85
193.	Section 1 amended	85
194.	Section 3 amended	85
195.	Parts 2, 3 and 4 deleted	86
196.	Section 62 amended	86
197.	Schedules 1 and 2 deleted	86

Part 9 — Repeals

198.	Drainage legislation repealed	87
199.	Irrigation legislation repealed	87
200.	Sewerage legislation repealed	87
201.	Water boards legislation repealed	87
202.	Other legislation repealed	88

Part 10 — Other Acts amended

203.	<i>Aboriginal Heritage Act 1972</i> amended	89
204.	<i>Anglican Church of Australia (Diocesan Trustees) Act 1888</i> amended	89
205.	<i>Building Services (Complaint Resolution and Administration) Act 2011</i> amended	90
206.	<i>Bulk Handling Act 1967</i> amended	90
207.	<i>Conservation and Land Management Act 1984</i> amended	90
208.	<i>Constitution Acts Amendment Act 1899</i> amended	91
209.	<i>Economic Regulation Authority Act 2003</i> amended	91
210.	<i>Energy Operators (Powers) Act 1979</i> amended	93
211.	<i>Environmental Protection Act 1986</i> amended	93
212.	<i>Financial Management Act 2006</i> amended	93
213.	<i>Fire Brigades Act 1942</i> amended	94
214.	<i>Fluoridation of Public Water Supplies Act 1966</i> amended	94
215.	<i>Hale School Act 1876</i> amended	95
216.	<i>Health Act 1911</i> amended	95
217.	<i>Home Building Contracts Act 1991</i> amended	95
218.	<i>Housing Act 1980</i> amended	96
219.	<i>Kambalda Water and Wastewater Facilities (Transfer to Water Corporation) Act 2004</i> amended	96
220.	<i>Land Administration Act 1997</i> amended	97
221.	<i>Parliamentary Commissioner Act 1971</i> amended	97
222.	<i>Planning and Development Act 2005</i> amended	98

223.	<i>Presbyterian Church Act 1908</i> amended	99
224.	<i>Public Sector Management Act 1994</i> amended	99
225.	<i>Public Works Act 1902</i> amended	99
226.	<i>Rates and Charges (Rebates and Deferments) Act 1992</i> amended	100
227.	<i>Residential Parks (Long-stay Tenants) Act 2006</i> amended	101
228.	<i>Sentencing Act 1995</i> amended	102
229.	<i>Soil and Land Conservation Act 1945</i> amended	102
230.	<i>State Records Act 2000</i> amended	102
231.	<i>Statutory Corporations (Liability of Directors) Act 1996</i> amended	103
232.	<i>Strata Titles Act 1985</i> amended	103
	67. Water service charges under the <i>Water Services Act 2012</i>	103
233.	<i>Swan and Canning Rivers Management Act 2006</i> amended	104

Western Australia

Water Services Legislation Amendment and Repeal Act 2012

No. 25 of 2012

An Act to —

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

[Assented to 3 September 2012]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Water Services Legislation Amendment and Repeal Act 2012*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

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

3. Act amended

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

4. Long title amended

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

5. Section 5 amended

In section 5(1) delete the definitions of:

Corporation

country water area

farm land

metropolitan area

officer

water board

Water Boards Act

Water Supply Act

water supply charge

6. Section 6 deleted

Delete section 6.

7. Section 8 deleted

Delete section 8.

8. Section 11 amended

(1) In section 11(1):

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

Water Services Act 2012,

(b) delete “the Corporation” and insert:

a licensee (as defined in the *Water Services Act 2012*
section 3(1))

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

A licensee

9. Section 12A inserted

After section 11 insert:

12A. Penalty for diverting or taking water

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

Penalty:

- (a) for an individual — a fine of \$10 000;
- (b) for a body corporate — a fine of \$20 000.

10. Parts IV, V, VI and VII deleted

Delete Parts IV, V, VI and VII.

11. Section 105 amended

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

12. Section 108 amended

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

Minister,

13. Section 111 amended

In section 111 delete “or the Corporation”.

14. Section 112 replaced

Delete section 112 and insert:

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

A person who obstructs —

- (a) the Minister; or
- (b) an officer of the Department; or
- (c) a person authorised by the Minister,

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

Penalty: a fine of \$5 000.

s. 15

15. Section 113 amended

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

16. Section 115 amended

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

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

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

section

17. Section 116 deleted

Delete section 116.

18. Section 121 amended

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

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

Certificate of CEO evidence of certain facts

19. Section 122 deleted

Delete section 122.

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

20. Act amended

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

21. Long title replaced

Delete the long title and insert:

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

22. Section 1 amended

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

Arterial Drainage

23. Section 4 amended

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

channel

Corporation

drain

drainage area

drainage works

main drain

underground water

works

- (2) In section 4(1) insert in alphabetical order:

drainage assets has the meaning given in the *Water Services Act 2012* section 108;

licensee has the meaning given in the *Water Services Act 2012* section 3(1).

- (3) In section 4(1) in the definition of *arterial drain*:

- (a) delete “drain” and insert:

drainage asset

- (b) delete “such” and insert:

an arterial drain

- (4) Delete section 4(2).

24. Part IV deleted

Delete Part IV.

25. Section 98 amended

- (1) In section 98(1) delete “the Corporation,” and insert:

all relevant licensees,

- (2) Delete section 98(2)(g) and insert:

- (g) any other matter or thing prescribed by regulations made under the *Water Agencies (Powers) Act 1984* for the purposes of this section.

- (3) Delete section 98(3)(a), (b) and (c) and insert:
- (a) the classification of drainage assets as arterial drains; and
- (4) In section 98(4) delete “the Corporation” and insert:
- all relevant licensees
- (5) In section 98(5):
- (a) delete “works” and insert:
- drainage assets
- (b) delete “the Corporation,” and insert:
- relevant licensees,
- (6) In section 98(2) after each of paragraphs (a) to (e) insert:
- and

26. Section 99 amended

- (1) In section 99(1):
- (a) delete “drainage works” and insert:
- drains

s. 27

- (b) delete “thereof, or responsibility for particular works”
and insert:

of an arterial drain

- (2) Delete section 99(2).

- (3) In section 99(4):

- (a) in paragraph (a) delete “drains” (first and third occurrences) and insert:

drainage assets

- (b) in paragraph (d) delete “the Corporation” and insert:

all relevant licensees

- (c) in paragraph (d) delete “drain” (third occurrence) and insert:

drainage asset

- (d) in paragraph (e) delete “the Corporation” and insert:

the licensees

27. Part IX Divisions 3 and 4 deleted

Delete Part IX Divisions 3 and 4.

28. Section 106 amended

- (1) In section 106(1):
 - (a) delete “main drain or arterial drain, or proposed main drain or proposed arterial drain,” and insert:

drainage asset or proposed drainage asset,
 - (b) delete “works” and insert:

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

all relevant licensees
- (3) In section 106(6)(a) delete “drainage works; but” and insert:

arterial drainage; but

29. Section 107 amended

- (1) Delete section 107(1).
- (2) In section 107(2):
 - (a) delete “may” (first occurrence) and insert:

must

s. 30

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

course.

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

the *Water Services Act 2012* Part 5 Division 3.

30. Section 108 deleted

Delete section 108.

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

31. Act amended

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

32. Section 5 amended

- (1) In section 5(1) delete the definitions of:

aquifer

artesian bore

Corporation

officer

prescribed

sewerage charge

sewerage works

water charge

water supply charge

waterworks

- (2) In section 5(1) in the definition of *watercourse* delete “(c);” and insert:

(c).

- (3) Delete section 5(2).

s. 33

33. Section 14 amended

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

a licensee (as defined in the *Water Services Act 2012*
section 3(1))

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

A licensee

34. Section 16 amended

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

act

35. Part V deleted

Delete Part V.

36. Part VI heading replaced

Delete the heading to Part VI and insert:

Part VI — The protection of underground water

37. Part VI Divisions 1 and 2 deleted

Delete Part VI Divisions 1 and 2.

38. Part VI Division 3 heading deleted

Delete the heading to Part VI Division 3.

39. Section 57B amended

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

water;

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

act

40. Part VI Division 4 deleted

Delete Part VI Division 4.

41. Parts VII and VIII deleted

Delete Parts VII and VIII.

42. Section 146 amended

In section 146(1):

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

banks.

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

43. Section 148 deleted

Delete section 148.

44. Sections 150 to 152 deleted

Delete sections 150 to 152.

45. Section 153 amended

In section 153 delete “or the Corporation”.

s. 46

46. Sections 154 and 155 deleted

Delete sections 154 and 155.

47. Section 156 replaced

Delete section 156 and insert:

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

A person who obstructs —

- (a) the Minister; or
- (b) an officer of the Department; or
- (c) a person authorised by the Minister,

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

Penalty: a fine of \$5 000.

48. Section 157 amended

In section 157:

- (a) delete “or the Corporation,”;
- (b) delete “the *Metropolitan Water Authority Act 1982* or”.

49. Section 158 amended

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

50. Section 158A amended

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

51. Section 159 amended

Delete section 159(1) and insert:

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

52. Section 161 deleted

Delete section 161.

53. Section 165 amended

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

Water Agencies (Powers) Act 1984

54. Section 166 deleted

Delete section 166.

55. Schedule 9 deleted

Delete Schedule 9.

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

56. Act amended

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

57. Long title amended

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

water resources,

58. Section 2 amended

In section 2(1) delete the definitions of:

Corporation

irrigation charge

officer

water charge

59. Section 26GZJ amended

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

a water services

- (2) Delete section 26GZJ(3) and insert:

- (3) In subsection (2) —

water services licence means a licence under the *Water Services Act 2012* that authorises the provision of a water supply service or an irrigation service.

60. Section 27 amended

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

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

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

and

61. Section 33 deleted

Delete section 33.

62. Section 35 amended

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

or against any contractor under the Crown,

63. Section 36 amended

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

(2) Delete section 36(2).

64. Section 37 amended

In section 37 delete “or the Corporation”.

s. 65

65. Section 38 amended

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

66. Parts VII and X deleted

Delete Parts VII and X.

67. Section 63 deleted

Delete section 63.

68. Section 66 amended

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

69. Section 69 amended

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

Crown

70. Section 70 amended

In section 70:

- (a) delete “the Corporation,” (each occurrence);
- (b) delete “or the Corporation” (each occurrence).

71. Section 71 amended

In section 71 delete “or the Corporation,”.

72. Section 75 deleted

Delete section 75.

73. Section 79A amended

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

74. Schedule 1 Appendix amended

In Schedule 1 Appendix:

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

a licence under the *Water Services Act 2012*.

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

Minister or the CEO,

Part 6 — Water Agencies (Powers) Act 1984 amended

75. Act amended

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

76. Long title amended

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

powers, to make other provisions in respect of the Minister’s functions,

77. Section 3 amended

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

charge

Corporation

gross rental value

local authority

officer

unimproved value

valuation

waste

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

Minister or the CEO,

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

78. Section 5 amended

- (1) In section 5(1):
- (a) in paragraph (a) delete “*Water Authority*” and insert:

Arterial Drainage
 - (b) in paragraph (f) delete “1947;” and insert:

1947.
 - (c) delete paragraphs (d), (e), (g), (h) and (i).
- (2) After section 5(1) insert:
- (2) In a provision of this Act that has effect by reference to a past event or status, a reference to a relevant Act includes a reference to an Act referred to subsection (1) as in force immediately before the commencement of the *Water Services Legislation Amendment and Repeal Act 2012* section 78.

79. Section 8 amended

- In section 8:
- (a) delete “Corporation, or the”;
 - (b) delete “Corporation or the” (each occurrence).

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

Vesting interest in land in Minister

80. Section 10 amended

Delete section 10(2).

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

Functions and powers of Minister — relation to other functions and powers

s. 81

81. Section 14 amended

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

the *Water Services Act 2012* section 3(1).

82. Section 34 amended

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

of functions

- (2) In section 34(3):

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

watercourse.

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

83. Part III heading replaced

Delete the heading to Part III and insert:

Part III — Liability, indemnity etc.

84. Part III Divisions 1A and 2 deleted

Delete Part III Divisions 1A and 2.

85. Part III Division 6 heading deleted

Delete the heading to Part III Division 6.

86. Parts IV and V deleted

Delete Parts IV and V.

87. Section 70 amended

In section 70(2) delete “or a person authorised by the Corporation”.

88. Section 71 amended

(1) Delete section 71(1)(a)(i).

(2) In section 71(3):

(a) delete “Minister, or the Corporation by its officers or agents,” and insert:

Minister

(b) delete “or the Corporation” (second occurrence).

89. Section 72 amended

In section 72(6):

(a) delete “or the Corporation” (first occurrence);

(b) delete “or the Corporation by its officers,”.

s. 90

90. Section 73 amended

In section 73(1):

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

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

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

Minister; or

- (c) delete paragraphs (c) and (d);
- (d) delete “or the Corporation” (second and third occurrences).

91. Section 78 amended

(1) In section 78(1):

- (a) delete “or the Corporation” (first and third occurrences);
- (b) delete “Commission, the Minister or the Corporation” and insert:

Commission or the Minister

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

Commission or the Minister

92. Section 82 amended

Delete section 82(1a).

93. Section 83 amended

- (1) Delete section 83(1).
(2) In section 83(2) delete “subsections (1) and (1a)” and insert:

subsection (1a)

94. Section 84 amended

Delete section 84(1).

95. Section 85 deleted

Delete section 85.

96. Section 86 amended

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

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

s. 97

97. Section 87 amended

Delete section 87(1).

98. Section 88 amended

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

99. Section 89 amended

Delete section 89(3) and insert:

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

100. Section 90 deleted

Delete section 90.

101. Section 91 amended

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

102. Section 95 amended

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

103. Section 97 amended

Delete section 97(4) and insert:

- (4) Where the Minister is satisfied that a deviation or modification of a kind to which subsection (1), (2) or (3) does not apply —
- (a) is not inconsistent with the general proposal; and
 - (b) is necessary in the public interest; and
 - (c) does not adversely affect the interest of any person who is the owner or occupier of the land where the works are to be situated,

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

104. Part VIII Divisions 3 and 4 deleted

Delete Part VIII Divisions 3 and 4.

105. Section 103 amended

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

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

s. 106

106. Section 106 amended

(1) Before section 106(1) insert:

(1A) In this section —

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

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

a water corporation

(3) Delete section 106(4).

107. Section 111 amended

Delete section 111(4).

108. Section 112 amended

Delete section 112(3)(a).

109. Various references to “Corporation” amended

In the provisions listed in the Table:

- (a) delete “or the Corporation” (each occurrence);
- (b) delete “or the Corporation’s”;
- (c) delete “or Corporation”.

Table

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

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

Note: The heading to amended section 81 is to read:

Claims against Crown for use of land and application of *Public Works Act 1902*

Note: The heading to amended section 96 is to read:

Minister to carry out exempt works

Part 7 — Water Corporation Act 1995 amended

110. Act amended

This Part amends the *Water Corporation Act 1995*.

111. Long title amended

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

**establish, and to provide for the establishment of,
corporations**

112. Section 1 amended

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

Corporations

113. Section 3 amended

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

board

chief executive officer

corporation

director

member of staff

non-executive director

water service

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

board, of a corporation, means the board of directors of
the corporation under section 7;

Bunbury Water Corporation means the body established by section 4(2);

Busselton Water Corporation means the body established by section 4(3);

chief executive officer, of a corporation, means the person holding the office of chief executive officer of the corporation under section 13 and, except in section 13, includes an acting chief executive officer under section 13(5);

corporation means —

- (a) a body established by section 4(1), (2) or (3); or
- (b) a body established by the Governor under section 4(4);

director, of a corporation, means a member of the board of the corporation;

member of staff, of a corporation, means a person engaged by the board of the corporation under section 15;

Water Corporation means the body established by section 4(1);

water service has the meaning given in the Water Services Act section 3(1);

Water Services Act means the *Water Services Act 2012*.

(3) In section 3(1) in the definition of ***executive officer***:

- (a) delete “***officer*** means” and insert:

officer, of a corporation, means

- (b) delete “the” (first occurrence).

s. 114

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

subsidiary, of a corporation, means —

114. Section 4 amended

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

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

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

Water corporations established

115. Section 5A inserted

After section 4 insert:

5A. Nature of corporations

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

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

116. Section 6 amended

Delete section 6(1) and insert:

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

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

Corporations and officers not part of public sector

117. Section 7A inserted

At the end of Part 2 Division 1 insert:

7A. Dissolution of bodies established by Governor

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

s. 117

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

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

118. Section 7 amended

- (1) Delete section 7(1) and insert:
- (1) Each corporation is to have a board of directors comprising 6 or 7 persons appointed by the Governor on the nomination of the Minister.
 - (2A) The chief executive officer of a corporation may be a director of the corporation.
 - (2B) A member of staff of a corporation cannot to be a director of the corporation.
- (2) In section 7(2):
- (a) after “board” (first occurrence) insert:

of a corporation
 - (b) delete paragraph (b) and insert:

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

s. 119

(3) After section 7(2) insert:

(3A) In subsection (2)(b) —

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

regional water corporation means the Bunbury Water Corporation or the Busselton Water Corporation.

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

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

the membership of the board of a corporation

119. Section 10 amended

(1) Before section 10(1) insert:

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

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

The

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

the director if he or she

120. Section 13 amended

Delete section 13(1) and insert:

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

121. Section 15 amended

Delete section 15(1) and insert:

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

122. Section 20 amended

In section 20:

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

directors of a corporation; and

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

a corporation

123. Section 21 amended

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

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

s. 124

- (2) Schedule 2 clauses 4 and 7 to 11 apply to a former executive officer of a corporation as if references to a former director were replaced by references to a former chief executive officer.
 - (3A) The application of the clauses referred to in subsections (1) and (2) to the chief executive officer and a former chief executive officer, respectively, is in addition to any application those clauses have to the person in the capacity of director or former director of the corporation.
- (2) In section 21(3) delete “chief executive officer or a former chief executive officer” and insert:
- person

124. Section 22 amended

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

Schedule 2 clauses 2 to 5, 7 to 11, 15 and 16 apply to an executive officer of a corporation
- (2) In section 22(2) delete “Clauses 4 and 7 to 11 of Schedule 2 apply to a former executive officer” and insert:

Schedule 2 clauses 4 and 7 to 11 apply to a former executive officer of a corporation

125. Section 23 replaced

Delete section 23 and insert:

23. Members of staff, duties imposed

- (1) In this section —
former member of staff means a former member of staff other than a former executive officer;
member of staff means a member of staff other than an executive officer.
- (2) Schedule 2 clauses 4, 5 and 7 to 11 apply to a member of staff as if references to a director were replaced by references to a member of staff.
- (3) Schedule 2 clauses 4 and 7 to 11 apply to a former member of staff as if references to a director were replaced by references to a former member of staff.

126. Section 27 amended

- (1) Delete section 27(3) and insert:
 - (3) If the performance of any of a corporation's functions referred to in subsection (1)(a) or (b) requires that the corporation hold a licence under the Water Services Act, the corporation may only perform that function in accordance with the terms and conditions of such a licence.
- (2) Delete section 27(5) and (6).

s. 127

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

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

127. Section 28A inserted

After section 27 insert:

28A. Corporations may act at their discretion

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

- (a) this Act; and
- (b) any direction given to the corporation under this Act,

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

128. Section 29 amended

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

a corporation

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

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

129. Section 31 amended

(1) After section 31(1) insert:

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

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

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

- (a) contains provisions to the effect of those set out in Schedule 4; and
- (b) is consistent with this Act; and
- (c) is not amended in a way that is inconsistent with this Act.

(3) In section 31(3):

(a) delete “The corporation” and insert:

A corporation

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

constitution

s. 129

- (4) In section 31(4):
- (a) delete “articles of association” and insert:

constitution
 - (b) delete “the corporation.” and insert:

a corporation.
- (5) After section 31(4) insert:
- (5) A director, the chief executive officer or a member of staff of a corporation may, with the approval of the board of the corporation, become —
- (a) a member of the committee of an incorporated association; or
 - (b) a director of a company,
- that is or is to be a subsidiary of the corporation and may represent the interests of the corporation on that committee or the board of directors of that company.
- (6) Neither —
- (a) subsection (2) or (3); nor
 - (b) the provisions referred to in subsection (2)(a) included in the constitution of a subsidiary,
- make a corporation or the Minister a director of a subsidiary of the corporation for the purposes of the Corporations Act.
- (7) Subsections (1) to (6) and Schedule 4, as in force immediately after the *Water Services Legislation Amendment and Repeal Act 2012* section 129 came into operation, are declared to be Corporations

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

130. Section 32 amended

- (1) In section 32(2):
- (a) in paragraph (a) delete “the corporation” (first occurrence) and insert:

a corporation
 - (b) in paragraph (c) delete “amount.” and insert:

amount for the corporation.

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

for a corporation

131. Section 34 amended

In section 34:

- (a) after “addition to” insert:

the requirements under
- (b) delete “the corporation” and insert:

a corporation

s. 132

132. Section 35 amended

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

(ba) the chief executive officer; or

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

of a corporation

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

or

133. Section 36 amended

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

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

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

134. Part 3 Division 3 heading amended

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

a

135. Section 38 amended

(1) In section 38(1):

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

(the *third party*)

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

(the *second party*)

(c) delete “the corporation” and insert:

a corporation

(2) In section 38(2):

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

party

(b) delete “first person” and insert:

third party

136. Section 40 amended

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

the second party

s. 137

137. Section 42 replaced

Delete section 42 and insert:

42. Corporations established by Governor — first strategic development plan

In respect of a corporation established by the Governor under section 4(4), the first strategic development plan for the corporation is to be for a period starting at the commencement of the first financial year after the day on which the order referred to in section 4(4) comes into operation.

138. Section 43 amended

In section 43(1) after “plan” insert:

for a corporation and any subsidiary of the corporation

139. Section 45 amended

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

a draft strategic development plan to the board of a corporation

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

If the board and the Minister have not reached agreement on a draft strategic development plan

140. Section 46 amended

In section 46(1):

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

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

- (b) after “subsidiary” insert:

of the corporation

141. Section 47 amended

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

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

142. Section 48 amended

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

to the board under subsection (2),

s. 143

143. Section 51 replaced

Delete section 51 and insert:

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

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

144. Section 52 amended

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

for a corporation and any subsidiary of the corporation

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

145. Section 54 amended

(1) In section 54(1):

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

a

(b) after “board” insert:

of a corporation

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

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

146. Section 55 amended

In section 55(1):

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

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

- (b) after “subsidiary” insert:

of the corporation

147. Section 56 amended

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

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

148. Section 57 amended

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

direction to the board under subsection (2),

s. 149

149. Section 58 amended

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

described in

150. Section 59 amended

(1) In section 59(1):

(a) after “The” insert:

board of a

(b) delete “subsidiary.” and insert:

subsidiary of the corporation.

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

board

151. Section 60 amended

In section 60(1):

(a) after “The” insert:

board of a

(b) after “subsidiary” insert:

of the corporation

152. Section 65 amended

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

to a corporation and the board of the corporation

153. Section 68 amended

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

- (a) to have information in the possession of a corporation and any subsidiary of the corporation; and

154. Section 69 amended

In section 69 after “The” insert:

board of a

155. Section 72 deleted

Delete section 72.

156. Section 73 amended

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

For each corporation, an

s. 157

157. Section 76 amended

In section 76:

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

A corporation

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

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

158. Section 81 amended

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

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

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

for the Water Corporation

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

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

Services Legislation Amendment and Repeal Act 2012
section 158 comes into operation.

- (3B) The monetary limit for a corporation established by the Governor under section 4(4) is to be determined for the exercise of those powers in the financial year following the day on which the order referred to in section 4(4) comes into operation.

- (4) In section 81(3) delete “That limit” and insert:

A limit referred to in subsection (2), (3A) or (3B)

- (5) In section 81(4) after “force” insert:

for a corporation

- (6) Delete section 81(5) and insert:

- (5) A corporation must comply with any limit for the time being in force for the corporation.

159. Section 85 amended

In section 85:

- (a) delete “Schedule 3,” and insert:

Schedule 3 of this Act,

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

a corporation

s. 160

160. Section 88 amended

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

Each

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

- (2) A document is duly executed by a corporation if —
- (a) the common seal of the corporation is affixed to it in the presence of —
 - (i) 2 directors; or
 - (ii) a director and the chief executive officer; or
 - (iii) a director and an executive officer;
 - or
 - (b) it is signed on behalf of the corporation by a person or persons referred to in subsection (4).

- (3) In section 88(4):

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

A corporation

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

director, the chief executive officer,

161. Section 89 amended

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

a corporation

162. Section 91 amended

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

Water Services Act,

163. Sections 92, 93 and 94 inserted

After section 91 insert:

92. Minister may vest certain land in Water Corporation and make orders in respect of certain reserves

(1) In this section —

former water authority means —

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

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

order means an order made under subsection (2) or (3), as the case requires;

relevant official, in relation to an estate or interest in land, or a reserve, specified in an order, means —

- (a) the Registrar of Titles; or
- (b) the Registrar of Deeds and Transfers; or
- (c) any other person authorised by a written law to register or otherwise act on dealings affecting land,

according to which of them, if any, is responsible for registering or otherwise acting on dealings affecting the estate or interest or the reserve.

- (2) The Minister may, by order published in the *Gazette*, direct that an estate or interest in land specified in the order be vested in the Water Corporation if —
 - (a) the estate or interest was previously vested in a former water authority or the State; and
 - (b) the estate or interest is, or is to be, used by the Water Corporation for the purposes of this Act or the Water Services Act.
- (3) The Minister may, by order published in the *Gazette*, direct that the care, control and management of a reserve (as defined in the *Land Administration Act 1997* section 3(1)) specified in the order is to be placed with the Water Corporation under the *Land Administration Act 1997* section 46, if —
 - (a) the care, control and management of the reserve was previously placed with a former water authority under that section; and
 - (b) the reserve is, or is to be, used by the Water Corporation for the purposes of this Act or the Water Services Act.

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

93. Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as practicable after every fifth anniversary of the commencement of the *Water Services Legislation Amendment and Repeal Act 2012* section 163, and in the course of that review the Minister must consider and have regard to —
 - (a) the adequacy of the penalties imposed under this Act; and
 - (b) any other matter that appears to the Minister to be relevant to the operation and effectiveness of this Act.

s. 164

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

94. Transitional provisions

Schedule 5 sets out transitional provisions.

164. Schedule 1 clause 1 amended

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

(if any)

165. Schedule 1 clause 2 amended

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

to the board of a corporation

166. Schedule 1 clause 4 amended

Delete Schedule 1 clause 4(1) and insert:

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

167. Schedule 1 clause 5 amended

- (1) In Schedule 1 clause 5(1):
 - (a) after “director” (first occurrence) insert:

of a corporation
 - (b) after “director” (second occurrence) insert:

of the corporation

- (2) In Schedule 1 clause 5(2):
 - (a) delete “Except” and insert:

If the chief executive officer of a corporation is a director of the corporation then, except
 - (b) delete “director.” and insert:

director of the corporation.

168. Schedule 2 clause 2 amended

- (1) In Schedule 2 clause 2:
 - (a) delete “A director” and insert:
 - (1) A director of a corporation
 - (b) delete the Penalty.

- (2) At the end of Schedule 2 clause 2 insert:
 - (2) A person who contravenes subclause (1) —
 - (a) with intent to deceive or defraud —
 - (i) the corporation; or

s. 169

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

or

(b) for any other fraudulent purpose,

commits a crime.

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

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

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

Penalty: a fine of \$5 000.

169. Schedule 2 clause 4 amended

(1) In Schedule 2 clause 4:

(a) delete “A director or a former director” and insert:

(1) A director or a former director of a corporation

(b) delete the Penalty.

(2) At the end of Schedule 2 clause 4 insert:

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

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

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

170. Schedule 2 clause 5 amended

- (1) In Schedule 2 clause 5:
 - (a) delete “A director” and insert:
 - (1) A director of a corporation
 - (b) delete the Penalty.
- (2) At the end of Schedule 2 clause 5 insert:
 - (2) A person who contravenes subclause (1) commits a crime.
Penalty: a fine of \$20 000 or imprisonment for 5 years, or both.
Summary conviction penalty: a fine of \$12 000 or imprisonment for 3 years, or both.

171. Schedule 2 clause 7 amended

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

concerned

172. Schedule 2 clause 8 amended

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

concerned

173. Schedule 2 clause 12 amended

Delete Schedule 2 clause 12(1) and insert:

(1A) In subclause (1) —

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

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

Penalty: a fine of \$5 000.

174. Schedule 2 clause 14 amended

Delete Schedule 2 clause 14(2) and insert:

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

(a) with intent to deceive or defraud —

(i) the corporation; or

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

or

(b) for any other fraudulent purpose,

commits a crime.

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

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

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

Penalty: a fine of \$5 000.

175. Schedule 3 clause 2 amended

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

Each

176. Schedule 3 clause 6 amended

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

each

177. Schedule 3 clause 7 amended

Delete Schedule 3 clause 7(2) and insert:

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

178. Schedule 3 clause 10 amended

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

Each

s. 179

179. Schedule 3 clause 13 amended

(1) In Schedule 3 clause 13:

(a) delete “The” and insert:

(1) The

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

and, subject to subclause (2), each

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

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

180. Schedule 3 clause 15 amended

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

of a corporation

181. Schedule 3 clause 16 amended

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

of a corporation

182. Schedule 3 clause 20 amended

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

of a corporation

183. Schedule 3 clause 23 amended

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

each

184. Schedule 3 clause 28 amended

In Schedule 3 clause 28(1):

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

a corporation,

(b) delete “any” and insert:

either or both

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

corporation.

(d) delete paragraph (c).

s. 185

185. Schedule 3 clause 31 amended

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

- (1) A director of a corporation must take all reasonable steps to comply with, or to secure compliance with, Divisions 2 and 3.
- (2) A person who contravenes subclause (1) with intent to deceive or defraud the Minister or the Treasurer or creditors of the corporation commits a crime.
Penalty: a fine of \$20 000 or imprisonment for 5 years, or both.
Summary conviction penalty: a fine of \$12 000 or imprisonment for 3 years, or both.
- (3A) If subclause (2) does not apply, a person who contravenes subclause (1) commits an offence.
Penalty: a fine of \$5 000.

186. Schedule 3 clause 35 amended

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

Each

187. Schedule 4 clause 2 amended

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

constitution

188. Schedule 4 clause 4 amended

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

constitution

189. Schedule 5 inserted

After Schedule 4 insert:

Schedule 5 — Transitional provisions

[s. 94]

Division 1 — Transitional provisions relating to *Water Services Legislation Amendment and Repeal Act 2012*

Subdivision 1 — Preliminary

1. Terms used

In this Division —

amended Act means this Act as amended by the *Water Services Legislation Amendment and Repeal Act 2012* Part 7;

Bunbury Water Board means the Bunbury Water Board constituted under the repealed Act;

Busselton Water Board means the Busselton Water Board constituted under the repealed Act;

commencement day means the day on which the *Water Services Legislation Amendment and Repeal Act 2012* section 110 comes into operation;

corporation means —

- (a) the Bunbury Water Corporation; or
- (b) the Busselton Water Corporation;

former Board means —

- (a) the Bunbury Water Board; or
- (b) the Busselton Water Board;

relevant corporation, in relation to a former Board, means the corporation that is a continuation of the former Board under clause 3 or 4;

repealed Act means the *Water Boards Act 1904*.

2. Application of *Interpretation Act 1984*

- (1) If a provision of the amended Act deals with a matter dealt with by a provision of the repealed Act, then for the purposes of the provisions of the *Interpretation Act 1984* about the repeal of enactments and the substitution of other enactments for those so repealed —
 - (a) the provision of the repealed Act is to be taken to have been repealed and re-enacted by the amended Act; and
 - (b) a reference to the commencement of the repealing law is to be taken to be a reference to commencement day.
- (2) Despite subclause (1), the *Interpretation Act 1984* sections 36(d) (to the extent to which it applies to subsidiary legislation) and 38 do not apply to the repeal of the *Water Boards Act 1904* by the *Water Services Legislation Amendment and Repeal Act 2012* section 201.
- (3) This Division does not limit the operation of the *Interpretation Act 1984* except to the extent provided for by this clause.
- (4) The provisions of this Division and of the regulations made for the purposes of this Division prevail over the provisions of the *Interpretation Act 1984* to the extent of any inconsistency.

Subdivision 2 — Continuation of former Boards

3. Bunbury Water Board continues

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

4. Busselton Water Board continues

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

5. Members of former Boards

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

Governor, on the nomination of the Minister, under Schedule 1 clause 4 of the amended Act.

- (2) A person to whom subclause (1) applies holds office, subject to the amended Act, until the expiration of the term of office, and on the same terms and conditions, that applied to the person immediately before commencement day.

6. Operating licences of former Boards

- (1) An operating licence held by a former Board under the *Water Services Licensing Act 1995* immediately before commencement day (the *former licence*) becomes, on commencement day, a licence under the Water Services Act as if granted under section 11 of that Act.
- (2) The licence remains in force until the day on which the former licence would have expired.
- (3) The licence authorises the provision of water supply services in the area of the State to which the former licence applied immediately before commencement day.
- (4) For the purposes of the Water Services Act, the area of the State referred to in subclause (3) is the operating area of the licence for the provision of water supply services.
- (5) The licence is subject to the same terms and conditions as those to which the former licence was subject immediately before commencement day, to the extent that those terms and conditions are not inconsistent with the Water Services Act.
- (6) The licence has effect subject to the Water Services Act and so, for example, the licence may be cancelled or amended.

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

- (1) This clause applies to a supply of water to the Water Corporation under the *Busselton Water Board (Supply of Water to Dunsborough) Act 2009* (before the repeal of that Act) that is to continue on and after commencement day.

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

Subdivision 3 — Staff of former Boards

8. Term used: PSM Act

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

9. Transition of employment

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

scheme or fund and continuity of service are not affected, prejudiced or interrupted by the operation of subclause (1) or the former Board ceasing to be an organisation under the PSM Act.

- (3) For the purposes of this clause, a person's service with a former Board is to be taken to have been with the relevant corporation.
- (4) Except as provided by clause 11, the PSM Act Part 6 does not apply in relation to the transition of the employment of a person by this clause.

10. Election as to employment

- (1) A person who becomes a member of staff of a corporation because of clause 9(1)(b) may, by written notice given to the corporation, elect to return to the Public Sector.
- (2) A person cannot make an election if, immediately before commencement day, the person was —
 - (a) employed under a contract of employment that has a fixed term; or
 - (b) a casual employee or a seasonal employee.
- (3) A person cannot make an election after the end of the period of 2 years after commencement day.
- (4) A person may withdraw an election at any time by giving the corporation written notice to that effect.
- (5) A person who makes an election and then withdraws it cannot make another election.

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

- (1) If a person makes an election under clause 10(1), the PSM Act Part 6 applies in respect of the person until —
 - (a) the person is employed for an indefinite period in a public sector body in accordance with that Part; or

- (b) the person otherwise ceases to be a member of staff of the corporation; or
- (c) the person withdraws the election under clause 10(4),

whichever occurs first.

- (2) While the PSM Act Part 6 applies in respect of the person under subclause (1), it applies, with any necessary changes, as if —
 - (a) the person were an employee of an organisation whose office, post or position in the organisation has been abolished; and
 - (b) the office, post or position was at the same level of classification as the substantive office, post or position held by the person immediately before commencement day; and
 - (c) the board of the corporation were the employing authority of the person; and
 - (d) the person were registered under the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* Part 4.

12. Arrangements for return to the Public Sector

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

- (4) The corporation must comply with any requirements in the Treasurer's instructions issued under the *Financial Management Act 2006* section 78 relating to the making of payments by an employing authority for liabilities relating to employees whose employing authority changes as if —
 - (a) the corporation were an employing authority to which those instructions applied; and
 - (b) the person were an employee to whom those instructions applied.
- (5) If a corporation incurs costs as a result of the operation of this clause or clause 10 or 11, the Treasurer may pay an amount to the corporation to reimburse the corporation for any or all of those costs.

13. Contracts for services

- (1) A person engaged by a former Board under a contract for services that is in force immediately before commencement day becomes, on commencement day, a person engaged by the relevant corporation as if engaged under section 29(2)(f) of the amended Act.
- (2) Except as otherwise agreed by the person engaged under the contract, the operation of subclause (1) does not affect the terms and conditions of the contract.

Subdivision 4 — Provisions as to accountability and financial provisions

14. Strategic development plans

The first strategic development plan for a corporation under Part 4 Division 1 is to be in respect of a period starting on the day prescribed for the corporation for the purposes of this clause.

15. Statements of corporate intent

The first statement of corporate intent for a corporation under Part 4 Division 2 is to be in respect of the financial year prescribed for the corporation for the purposes of this clause.

16. Financial reporting

- (1) The first financial year in respect of which the reporting requirements in Part 4 Division 3 apply to a corporation is to be the financial year prescribed for the corporation for the purposes of this clause.
- (2) The *Financial Management Act 2006* Part 5 Division 2 continues to apply to a corporation in respect of the financial years ending before the financial year prescribed for the corporation under subclause (1) as if the *Water Services Legislation Amendment and Repeal Act 2012* section 212 had not been enacted.

17. Water Funds

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

18. Payments to the State under Part 5 Division 2

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

Subdivision 5 — Miscellaneous

19. References to former Boards

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

20. References to repealed Act

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

21. Transitional regulations

- (1) The regulations may —
 - (a) deal with all matters of a savings or transitional nature arising as a result of the enactment of the *Water Services Legislation Amendment and Repeal Act 2012 Part 7* and of section 201; and
 - (b) clarify or vary the provisions of this Division; and
 - (c) amend or repeal subsidiary legislation consequentially on enactment of the *Water Services Legislation Amendment and Repeal Act 2012 Part 7* and of section 201.
- (2) Regulations made for the purposes of this clause may —
 - (a) be expressed to have effect despite another written law; and
 - (b) provide that a specified provision of a written law does not apply, or applies with specified modifications, to or in relation to a matter.

- (3) The power in this clause to amend subsidiary legislation made under another Act does not prevent that legislation from being amended under that Act.
- (4) If regulations made for the purposes of this clause provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than commencement day, the regulations have effect according to their terms.
- (5) If regulations contain a provision referred to in subclause (4), the provision does not operate so as to —
 - (a) affect, in a manner prejudicial to any person (other than the State, an authority of the State or a local government), the rights of that person existing before the day of publication of those regulations; or
 - (b) impose liabilities on any person (other than the State, an authority of the State or a local government) in respect of anything done or omitted to be done before the day of publication of those regulations.
- (6) Regulations made for the purposes of this clause in relation to a matter referred to in subclause (2) must be made within such period as is reasonably and practicably necessary to deal with the transitional matters that arise as a result of the enactment of the *Water Services Legislation Amendment and Repeal Act 2012 Part 7* and of section 201.

22. Relationship of provisions of this Division to transitional regulations

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

s. 190

190. Other provisions amended

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

Table

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

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

s. 190

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

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

Water Services Legislation Amendment and Repeal Act 2012

Part 7 Water Corporation Act 1995 amended

s. 190

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

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

Corporations not agents of Crown

Part 8 — *Water Services Licensing Act 1995* amended

191. Act amended

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

192. Long title amended

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

193. Section 1 amended

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

Plumbers

194. Section 3 amended

(1) In section 3 delete the definitions of:

Authority

controlled area

inspector

irrigation

licence

licensee

operating licence

Registrar of Deeds

watercourse

water services

water services works

s. 195

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

59I.

195. Parts 2, 3 and 4 deleted

Delete Parts 2, 3 and 4.

196. Section 62 amended

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

every 5th anniversary of the commencement of the
Water Services Legislation Amendment and Repeal Act 2012 section 191.

197. Schedules 1 and 2 deleted

Delete Schedules 1 and 2.

Part 9 — Repeals

198. Drainage legislation repealed

These written laws are repealed:

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

199. Irrigation legislation repealed

These written laws are repealed:

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

200. Sewerage legislation repealed

These written laws are repealed:

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

201. Water boards legislation repealed

These written laws are repealed:

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

s. 202

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

202. Other legislation repealed

These written laws are repealed:

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

Part 10 — Other Acts amended

203. *Aboriginal Heritage Act 1972* amended

- (1) This section amends the *Aboriginal Heritage Act 1972*.
- (2) In section 18(1a):
 - (a) in paragraph (b) delete “land.” and insert:

land; or
 - (b) after paragraph (b) insert:

 - (c) the person is the holder of a licence under the *Water Services Act 2012* as a result of which the person has rights or powers in respect of the land.

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

- (1) This section amends the *Anglican Church of Australia (Diocesan Trustees) Act 1888*.
- (2) In section 5A(6) delete “or the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*,” and insert:

is not subject to statutory water service charges under the *Water Services Act 2012* unless the land is connected to water service works as defined in section 3(1) of that Act,

s. 205

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

- (1) This section amends the *Building Services (Complaint Resolution and Administration) Act 2011*.
- (2) In section 3 in the definitions of *building service Act* paragraph (f), *plumbing work* and *vocational regulatory body* paragraph (b) delete “*Water Services*” and insert:

Plumbers

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

Plumbers

206. *Bulk Handling Act 1967* amended

- (1) This section amends the *Bulk Handling Act 1967*.
- (2) Delete section 52A.

207. *Conservation and Land Management Act 1984* amended

- (1) This section amends the *Conservation and Land Management Act 1984*.
- (2) In section 3 in the definition of *public water catchment area*:
 - (a) in paragraph (b)(ii) delete “*1909; or*” and insert:

1909;

- (b) delete paragraph (b)(iii).

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

(b) a licence under the *Water Services Act 2012*.

208. Constitution Acts Amendment Act 1899 amended

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete the item relating to the board of directors of the Water Corporation and insert:

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

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

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

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

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

Plumbers

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

209. Economic Regulation Authority Act 2003 amended

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

s. 209

- (2) In section 20(5) in the definition of *relevant entity*:
- (a) delete paragraphs (a) and (b) and insert:
- (a) a body established by or under the *Water Corporations Act 1995* section 4, namely —
- (i) the Water Corporation; or
 - (ii) the Bunbury Water Corporation; or
 - (iii) the Busselton Water Corporation; or
 - (iv) a body established by the Governor;
- or
- (b) in paragraph (c)(iii) delete “Corporation; and” and insert:
- Corporation; or
- (3) In section 20 after subsection (1)(a) and in subsection (5) in the definition of *relevant entity* after each of paragraph (c)(i) and (ii) insert:
- or
- (4) In section 25(e) delete “section 4 of the *Water Services Licensing Act 1995*; and” and insert:
- the *Water Services Act 2012* section 207; and

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

- (1) This section amends the *Energy Operators (Powers) Act 1979*.
- (2) Delete section 42(2)(a) and insert:
 - (a) the powers, authorities and functions of a licensee as defined in the *Water Services Act 2012* section 3(1), the Minister administering the *Water Agencies (Powers) Act 1984* and any statutory authority within the meaning of that Act; and

211. *Environmental Protection Act 1986* amended

- (1) This section amends the *Environmental Protection Act 1986*.
- (2) In section 57(5) in the definition of *designated area*:
 - (a) in paragraph (b) delete “or Public Water Supply Area”;
 - (b) in paragraph (c) delete “water-course, lake, lagoon, swamp or marsh” and insert:

watercourse or wetland
 - (c) in paragraph (d) delete “section 26,” and insert:

section 26B,

212. *Financial Management Act 2006* amended

- (1) This section amends the *Financial Management Act 2006*.
- (2) In Schedule 1 delete “Bunbury Water Board”.
- (3) In Schedule 1 delete “Busselton Water Board”.

s. 213

213. *Fire Brigades Act 1942* amended

- (1) This section amends the *Fire Brigades Act 1942*.
- (2) Delete sections 54 and 55.
- (3) At the beginning of section 61 insert:
 - (1) In this section —
water services licensee means a licensee as defined in the *Water Services Act 2012* section 3(1).
- (4) In section 61:
 - (a) delete “The Authority,” and insert:
 - (2) The Authority,
 - (b) delete “water supply authority” and insert:

water services licensee

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

- (1) This section amends the *Fluoridation of Public Water Supplies Act 1966*.
- (2) In section 5(2)(b) delete “*Water Corporation Act 1995*” and insert:

Water Corporations Act 1995 section 4(1)

215. *Hale School Act 1876* amended

- (1) This section amends the *Hale School Act 1876*.
- (2) In section 12 delete “and the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*” and insert:

and, if the land is not connected to water service works as defined in the *Water Services Act 2012* section 3(1), from statutory water service charges under that Act

216. *Health Act 1911* amended

- (1) This section amends the *Health Act 1911*.
- (2) In section 63A delete “Water Corporation established by the *Water Corporation Act 1995*” and insert:

a licensee as defined in the *Water Services Act 2012* section 3(1)

217. *Home Building Contracts Act 1991* amended

- (1) This section amends the *Home Building Contracts Act 1991*.
- (2) In section 9(1):
 - (a) in paragraph (c) delete “Water Act,” and insert:

Water Services Act 2012 section 82,

s. 218

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

by a licensee under the *Water Services Act 2012* section 82

- (3) Delete section 9(6).

218. *Housing Act 1980* amended

- (1) This section amends the *Housing Act 1980*.
(2) In section 38(1) after “government” insert:

or with the *Water Services Act 2012*

- (3) In section 38(2) delete the definition of *local government*.
(4) In section 38(2) in the definition of *additions* delete “fittings;” and insert:

fittings.

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

- (1) This section amends the *Kambalda Water and Wastewater Facilities (Transfer to Water Corporation) Act 2004*.
(2) In section 3 in the definition of *Water Corporation* delete “section 4 of the *Water Corporation Act 1995*;” and insert:

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

220. *Land Administration Act 1997* amended

- (1) This section amends the *Land Administration Act 1997*.
- (2) In section 159(eb) delete “*Water Services Licensing Act 1995*;” and insert:

Water Services Act 2012;

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

under the *Water Services Act 2012* section 11
or to any officer or employee

221. *Parliamentary Commissioner Act 1971* amended

- (1) This section amends the *Parliamentary Commissioner Act 1971*.
- (2) In section 34(1) after “energy ombudsman scheme” insert:

or a water ombudsman scheme

- (3) In section 34(4) delete “energy ombudsman”.
- (4) In section 34(5) delete “under the” and insert:

under an

s. 222

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

water ombudsman scheme means a scheme approved under the *Water Services Act 2012* Part 4.

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

- (a) after “ombudsman scheme” insert:

or a water ombudsman scheme

- (b) delete “scheme.” and insert:

scheme;

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

Energy and water ombudsman schemes

222. *Planning and Development Act 2005* amended

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

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

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

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

Water Services Act 2012 section 3(1),

223. *Presbyterian Church Act 1908* amended

- (1) This section amends the *Presbyterian Church Act 1908*.
- (2) In section 21(6) delete “1995 or the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909*” and insert:

1995, is not subject to statutory water service charges under the *Water Services Act 2012* unless the land is connected to water service works as defined in section 3(1) of that Act,

224. *Public Sector Management Act 1994* amended

- (1) This section amends the *Public Sector Management Act 1994*.
- (2) Delete Schedule 1 item 19 and insert:

- 19 A body established by or under the *Water Corporations Act 1995* section 4, namely —
 - (i) the Water Corporation; and
 - (ii) the Bunbury Water Corporation; and
 - (iii) the Busselton Water Corporation; and
 - (iv) a body established by the Governor.

225. *Public Works Act 1902* amended

- (1) This section amends the *Public Works Act 1902*.
- (2) In section 5A(e) delete “*Water Corporation Act 1995*” and insert:

Water Services Act 2012

s. 226

- (3) In section 5B(1):
- (a) in paragraph (c)(iii) delete “Corporation; and” and insert:
- Corporation; or
- (b) in paragraph (d) delete “Water Corporation established by the *Water Corporation Act 1995* or an officer of that corporation;” and insert:
- holder of a licence granted under the *Water Services Act 2012* section 11 or to any officer or employee of the holder of the licence;

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

- (1) This section amends the *Rates and Charges (Rebates and Deferments) Act 1992*.
- (2) In section 3(1) delete the definition of ***Water Board***.
- (3) In section 3(1) in the definition of ***prescribed charge*** delete paragraph (b)(i) and (ii) and insert:
- (i) the *Water Services Act 2012*; or
- (4) In section 3(1):
- (a) in the definition of ***the pension means test*** after paragraph (a)(i) insert:
- and
- (b) in the definition of ***dependant*** after each of paragraphs (a) and (ab), the definition of ***eligibility*** after

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

or

(5) In section 16(4):

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

prescribed licensee

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

licensee

(6) After section 16(4) insert:

(5) In subsection (4) —

prescribed licensee means a licensee under the *Water Services Act 2012* (other than a body established by or under the *Water Corporations Act 1995* section 4 or a local government) who is prescribed for the purposes of subsection (4).

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

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

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

(c) the *Water Services Act 2012*, except a charge for the volume of water consumed.

s. 228

228. Sentencing Act 1995 amended

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

229. Soil and Land Conservation Act 1945 amended

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

Water Services Act 2012

230. State Records Act 2000 amended

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

and

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

- (1) This section amends the *Statutory Corporations (Liability of Directors) Act 1996*.
- (2) In Schedule 1 delete the item relating to the Bunbury Water Board.
- (3) In Schedule 1 delete the item relating to the Busselton Water Board.

232. *Strata Titles Act 1985* amended

- (1) This section amends the *Strata Titles Act 1985*.
- (2) Delete section 60(4).
- (3) In section 66 after “an authority” insert:

(including a licensee as defined in the *Water Services Act 2012* section 3(1))

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

67. *Water service charges under the Water Services Act 2012*

For the purposes of this Division —

- (a) a statutory water service charge (as defined in the *Water Services Act 2012* section 71(1)) 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

s. 233

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

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

- (1) This section amends the *Swan and Canning Rivers Management Act 2006*.
- (2) In Schedule 5 item 1:
 - (a) delete subitem (m);
 - (b) in subitem (cc) delete “*Water and Rivers Commission Act 1995*,” and insert:

Water Agencies (Powers) Act 1984;
 - (c) in subitem (dd) delete “*Water Corporation Act 1995*,” and insert:

Water Corporations Act 1995;
 - (d) after subitem (dd) insert:

(eea) the *Water Services Act 2012*;
- (3) In Schedule 5 item 16 delete “*Water Services Licensing Act 1995*.” and insert:

Water Services Act 2012 section 3(1).

