



Western Australia

Water Corporations Act 1995

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Defined terms

Western Australia

Water Corporations Act 1995

An Act to establish, and to provide for the establishment of, corporations with the function of providing water services, and with functions necessary for and related to that purpose, and for connected purposes.

[Long title amended: No. 25 of 2012 s. 111.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Water Corporations Act 1995*.

[Section 1 amended: No. 25 of 2012 s. 112.]

2. Commencement

This Act comes into operation on the day on which Part 2 of the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* comes into operation, that is, on the day fixed by proclamation made under section 2(2) of that Act.

3. Terms used

- (1) In this Act, unless the contrary intention appears —

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

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

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);

function, except in sections 27(1), (2) and (4) and 29, includes powers, duties and authorities;

GTE Act means the *Government Trading Enterprises Act 2023*;

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*.

[(2) deleted]

[Section 3 amended: No. 10 of 2001 s. 205; No. 74 of 2003 s. 127(2); No. 8 of 2009 s. 132(2) and (3); No. 39 of 2010 s. 87(2); No. 25 of 2012 s. 113; No. 13 of 2023 s. 258.]

3A. Relationship to GTE Act

The GTE Act is to be read with this Act as if they formed a single Act.

[Section 3A inserted: No. 13 of 2023 s. 259.]

Part 2 — Water corporations

[Heading amended: No. 25 of 2012 s. 190.]

Division 1 — Establishment of water corporations

[Heading amended: No. 25 of 2012 s. 190.]

4. Water corporations established

- (1) There is established a body called the Water Corporation.
- (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.

[Section 4 amended: No. 25 of 2012 s. 114.]

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.

[Section 5A inserted: No. 25 of 2012 s. 115.]

5. Corporations not agents of Crown

A corporation is not an agent of the Crown and does not have the status, immunities and privileges of the Crown.

[Section 5 amended: No. 25 of 2012 s. 190.]

6. Corporations and officers not part of public sector

- (1) A corporation is not, and is not to become, a public sector body under the *Public Sector Management Act 1994*.
- (2) Neither the chief executive officer nor any member of staff of a corporation is to be included in the Senior Executive Service provided for by the *Public Sector Management Act 1994*.

[Section 6 amended: No. 25 of 2012 s. 116 and 190.]

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;
 - (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 the GTE Act Part 7 Division 1 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.

[Section 7A inserted: No. 25 of 2012 s. 117; amended: No. 13 of 2023 s. 260.]

Division 2 — Regional water corporation board members

[Heading inserted: No. 13 of 2023 s. 261.]

7. Appointing board member: special provision for regional water corporations

- (1) In this section —

operating area, in relation to a regional water corporation, means an operating area of a licence held by the corporation under the *Water Services Act 2012*;

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

- (2) In appointing the members of a regional water corporation's board, the Minister must, to the extent practicable, ensure that, at the time of the appointment, the number of directors who are not ordinarily resident in an operating area of the corporation does not exceed the number of those who are.

[Section 7 inserted: No. 13 of 2023 s. 261.]

[8-12. Deleted: No. 13 of 2023 s. 261.]

Division 3 — Staff

[13-14. Deleted: No. 13 of 2023 s. 262.]

15. Staff

- (1) The power to engage and manage the staff of a corporation is vested in its board.
- (2) The power conferred by subsection (1) —
- (a) includes powers to determine remuneration and other terms and conditions of service and to remove, suspend and discipline staff; and
 - (b) does not preclude the delegation of any matter under section 35.

- (3) The remuneration of members of staff of a corporation and other terms and conditions of employment are not to be less favourable than is provided for in —
 - (a) an applicable award, order or agreement under the *Industrial Relations Act 1979*; or
 - (b) the *Minimum Conditions of Employment Act 1993*.
- (4) Nothing in this section affects the operation of Part VID of the *Industrial Relations Act 1979*.
[Section 15 amended: No. 20 of 2002 s. 27; Gazette 15 Aug 2003 p. 3692; No. 25 of 2012 s. 121 and 190.]

16. Minimum standards for staff management

- (1) The board of a corporation must, after consultation with the Public Sector Commissioner, prepare and issue an instrument setting out minimum standards of merit, equity and probity applicable to the management of the staff of the corporation.
- (2) In subsection (1) —
management includes recruitment, selection, appointment, transfer, secondment, performance management, redeployment, discipline and termination of employment.
- (3) In complying with subsection (1) the board is to have regard to the principles set out in section 8 of the *Public Sector Management Act 1994*.
- (4) An instrument issued under subsection (1) may be expressed to apply to the chief executive officer of the corporation as if the chief executive officer were a member of staff.
- (4A) If an instrument issued under subsection (1) applies to the chief executive officer of the corporation, subsection (3) does not affect the operation of the GTE Act section 37(5).

- (5) The Public Sector Commissioner may at any time recommend to the board any amendment that he or she thinks should be made to an instrument issued under this section.
- (6) The board may —
- (a) amend an instrument issued under this section; or
 - (b) revoke it and substitute a new instrument,

but, except where subsection (5) applies, is to do so only after consultation with the Public Sector Commissioner.

[Section 16 amended: No. 39 of 2010 s. 87(3); No. 25 of 2012 s. 190; No. 13 of 2023 s. 263.]

17. Reports to Public Sector Commissioner

- (1) The Public Sector Commissioner may in writing require the board of a corporation —
- (a) to report to him or her on the observance of the minimum standards in force under section 16; and
 - (b) to make the reports at such times, but not more often than half-yearly,
- as the Commissioner may specify.
- (2) The board must comply with a requirement made under subsection (1).
- (3) The Public Sector Commissioner may at any time report to the Minister on the content or observance of the minimum standards in force under section 16.

[Section 17 amended: No. 39 of 2010 s. 87(3); No. 25 of 2012 s. 190.]

[18. Deleted: No. 13 of 2023 s. 264.]

19. Superannuation

- (1) A corporation may grant, or make provision for the grant of, retirement benefits to members of staff of the corporation and, for that purpose may —
 - (a) establish, manage and control; or
 - (b) enter into an arrangement with any body for the establishment, management and control by such body either alone or jointly with the corporation of, any fund or scheme for the purpose of providing for such retirement benefits.
- (2) A corporation may make contributions to any fund or scheme referred to in subsection (1).
- (3) In subsection (1) —

members of staff includes —

 - (a) dependants of members of staff; and
 - (b) former members of staff and their dependants.
- (4) Nothing in this section affects the operation of the *State Superannuation Act 2000* in relation to a corporation or any member of staff of a corporation.

[Section 19 amended: No. 43 of 2000 s. 70; No. 25 of 2012 s. 190.]

Division 4 — Staff codes of conduct

[Heading inserted: No. 13 of 2023 s. 265.]

[20-23. Deleted: No. 13 of 2023 s. 266.]

24. Codes of conduct for staff

- (1) The board of a corporation must, after consultation with the Public Sector Commissioner, prepare and issue a code or codes

26. Reports to Minister

- (1) The board of a corporation, when it delivers to the Minister its annual report under the GTE Act section 81, is also to deliver to the Minister a separate report on the observance by members of staff of any code of conduct in force under section 24.
- (2) The board is to give to the Public Sector Commissioner a copy of each report under subsection (1).

[Section 26 amended: No. 39 of 2010 s. 87(3); No. 25 of 2012 s. 190; No. 13 of 2023 s. 267.]

Part 3 — Functions and powers of corporations

[Heading amended: No. 25 of 2012 s. 190.]

Division 1 — Functions, powers and related provisions

27. Functions of corporation

- (1) The functions of a corporation are —
- (a) to acquire, store, treat, distribute, market and otherwise supply water for any purpose;
 - (b) to collect, store, treat, market and dispose of wastewater and surplus water;
 - (c) to undertake, maintain and operate any works, system, facilities, apparatus or equipment required for any purpose referred to in paragraph (a) or (b);
 - (d) to use its expertise and resources to provide consultative, advisory or other services for profit;
 - (e) to develop and turn to account any technology, software or other intellectual property that relates to a function referred to in paragraph (a), (b) or (c);
 - (f) to manufacture and market any product or by-product that relates to a function referred to in paragraph (a), (b), (c) or (e).
- (2) It is also a function of a corporation —
- (a) to use or exploit its fixed assets for profit so long as the proper performance of its functions under paragraphs (a), (b) and (c) of subsection (1) are not affected; or
 - (b) to do anything that the corporation determines to be conducive or incidental to the performance of a function referred to in subsection (1); or
 - (c) to do anything that it is authorised to do by any other written law.

- (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.
- (4) A corporation may perform any of its functions in the State or elsewhere.

[(5), (6) deleted]

- (7) In subsection (1) —

surplus water means storm water, surface water or underground water which accumulates or may accumulate to the detriment or disadvantage of any person;

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

[Section 27 amended: No. 67 of 2003 Sch. 2 cl. 86; No. 25 of 2012 s. 126 and 190.]

[28A, 28. Deleted: No. 13 of 2023 s. 268.]

29. Powers of corporation

- (1) A corporation may do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting subsection (1) or the other powers conferred on a corporation by this Act or any other Act, a corporation may for the purpose of performing any function —
 - (a) acquire, hold, manage, improve, develop and dispose of any real or personal property; and
 - (b) enter into any contract or arrangement including a contract or arrangement with any person for the performance by that person on behalf of the corporation of any of the functions described in section 27(1)(a), (b) and (c); and

- (c) apply for the grant of any licence or other authority required by the corporation; and
 - (d) acquire, establish and operate —
 - (i) any undertaking necessary or convenient for the performance of any of the functions described in section 27(1)(a), (b) and (c); and
 - (ii) any associated undertaking;and
 - (e) produce and deal in —
 - (i) any by-product resulting from; or
 - (ii) any equipment, facilities or system associated with,the performance of any function of the corporation; and
 - (f) appoint agents or engage persons under contracts for services to provide professional, technical or other assistance to the corporation; and
 - (g) participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement; and
 - (h) carry out any investigation, survey, exploration or boring; and
 - (i) collaborate in, carry out, or procure the carrying out of, research and publish information that results from the research; and
 - (j) for the purposes of section 27(1)(e), apply for, hold, exploit and dispose of any patent, patent rights, copyright or similar rights; and
 - (k) promote and market the corporation and its activities.
- (2A) Subsections (1) and (2) have effect subject to the GTE Act.

- (3) A corporation may —
- (a) make gifts for charitable purposes or for other purposes of benefit to the community or a section of the community;
 - (b) make any *ex gratia* payment that the board considers to be in the corporation's interest;
 - (c) accept any gift, devise or bequest if it is absolute, or subject to conditions that are within the functions of the corporation.
- (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.

- (5) In subsection (2) —

business arrangement means a company, a partnership, a trust, a joint venture, or an arrangement for sharing profits;

participate includes form, promote, establish, enter, manage, dissolve, wind up, and do anything incidental to participating in a business arrangement.

[Section 29 amended: No. 10 of 1998 s. 73(2); No. 25 of 2012 s. 128 and 190; No. 13 of 2023 s. 269.]

[30-34. Deleted: No. 13 of 2023 s. 270.]

35. Delegation by corporation

- (1) A corporation may, by instrument in writing, delegate the performance of any of its functions, except this power of delegation.
- (2) A delegation under subsection (1) may be made to —
- (a) a director or directors; or
 - (ba) the chief executive officer; or
 - (b) a member or members of staff; or

- (c) a committee established under the GTE Act section 26;
or
 - (d) any other person.
- (3) A delegate cannot subdelegate the performance of any function unless he or she is expressly authorised by the instrument of delegation to do so.
- (4) A function performed by a delegate of a corporation is to be taken to be performed by the corporation.
- (5) A delegate performing a function under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section is to be read as limiting the ability of a corporation to act through its officers and agents in the normal course of business.
- (7) This section does not apply to the execution of documents.

Note for this subsection:

Authority to execute documents on behalf of a corporation can be given under the GTE Act section 156.

[Section 35 amended: No. 25 of 2012 s. 132 and 190; No. 13 of 2023 s. 271.]

Division 2 — Arrangements authorised or approved by Governor

36. Governor may make certain regulations

- (1) Regulations under section 91 may authorise or approve —
- (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

- (c) any other matter or thing necessary or convenient to facilitate or give effect to the authorisation or approval.
- (2) For the purposes of subsection (1) —
 - (a) **arrangement** includes any contract, arrangement or understanding, or any market practice or market or customer restriction, division, allocation or segregation of any nature, or a course of conduct or dealing; and
 - (b) a reference to any act or thing done or proposed to be done includes a reference to an omission or proposed omission to do that act or thing.

[Section 36 amended: No. 25 of 2012 s. 133.]

[Division 3 (s. 37-40) deleted: No. 13 of 2023 s. 272.]

[Parts 4 and 5 (s. 41-86) deleted: No. 13 of 2023 s. 273.]

Part 6 — Miscellaneous

87. Laying documents before Parliament not sitting

If a provision of this Act requires the Minister to cause a document to be laid before a House of Parliament and the House is not sitting, the GTE Act section 159 applies as if the reference in that section to a provision of the GTE Act were a reference to the provision of this Act.

[Section 87 inserted: No. 13 of 2023 s. 274.]

[88-89. Deleted: No. 13 of 2023 s. 274.]

90. Delegation by Treasurer

- (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, delegate to an officer of the Treasury the performance of any function vested in the Treasurer by this Act.
- (2) A function performed by a delegate is to be taken to be performed by the Treasurer.
- (3) A delegate performing a function under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

91. Regulations

- (1) The Governor may make any regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) If there is any conflict or inconsistency between a provision made by regulations under this Act and a provision made by regulations or by-laws under the *Water Agencies (Powers) Act 1984*, a relevant Act within the meaning of that Act or the *Water Services Act*, the latter provision prevails.

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- (3) Regulations under this Act may be expressed to prevail over regulations made under the GTE Act.
- (4) Regulations in reliance on subsection (3) must not be made except on the recommendation of —
 - (a) the Minister; and
 - (b) the Minister to whom the administration of the GTE Act is committed.
- (5) If and to the extent that regulations under this Act are so expressed, in the event of a conflict or inconsistency between a provision of those regulations and a provision of regulations made under the GTE Act, the former provision prevails.

[Section 91 amended: No. 67 of 2003 Sch. 2 cl. 87; No. 25 of 2012 s. 162; No. 13 of 2023 s. 275.]

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.

[Section 92 inserted: No. 25 of 2012 s. 163.]

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.
- (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.

[Section 93 inserted: No. 25 of 2012 s. 163.]

94. Transitional provisions

Schedule 5 sets out transitional provisions.

[Section 94 inserted: No. 25 of 2012 s. 163.]

[Schedules 1-4 deleted: No. 13 of 2023 s. 276.]

Schedule 5 — Transitional provisions

[s. 94]

[Heading inserted: No. 25 of 2012 s. 189.]

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

[Heading inserted: No. 25 of 2012 s. 189.]

Subdivision 1 — Preliminary

[Heading inserted: No. 25 of 2012 s. 189.]

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*.

[Clause 1 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 2 inserted: No. 25 of 2012 s. 189.]

Subdivision 2 — Continuation of former Boards

[Heading inserted: No. 25 of 2012 s. 189.]

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.

[Clause 3 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 4 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 5 inserted: No. 25 of 2012 s. 189.]

6. Operating licences of former Boards

- (1) An operating licence held by a former Board under the *Water Services Licensing Act 1995*¹ 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.

Water Corporations Act 1995

Schedule 5 Transitional provisions

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

cl. 7

- (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.

[Clause 6 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 7 inserted: No. 25 of 2012 s. 189.]

Subdivision 3 — Staff of former Boards

[Heading inserted: No. 25 of 2012 s. 189.]

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.

[Clause 8 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 9 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 10 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 11 inserted: No. 25 of 2012 s. 189.]

12. Arrangements for return to 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.

[Clause 12 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 13 inserted: No. 25 of 2012 s. 189.]

Subdivision 4 — Provisions as to accountability and financial provisions

[Heading inserted: No. 25 of 2012 s. 189.]

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.

[Clause 14 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 15 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 16 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 17 inserted: No. 25 of 2012 s. 189.]

18. Payments to State under Part 5 Div. 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.

[Clause 18 inserted: No. 25 of 2012 s. 189.]

Subdivision 5 — Miscellaneous

[Heading inserted: No. 25 of 2012 s. 189.]

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.

[Clause 19 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 20 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 21 inserted: No. 25 of 2012 s. 189.]

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.

[Clause 22 inserted: No. 25 of 2012 s. 189.]

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Notes

This is a compilation of the *Water Corporations Act 1995* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Water Corporation Act 1995</i> ²	70 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2 and <i>Gazette</i> 29 Dec 1995 p. 6291)
<i>State Enterprises (Commonwealth Tax Equivalents) Act 1996</i> s. 10(4)	55 of 1996	11 Nov 1996	1 Jul 1996 (see s. 2 and 3(3))
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 73	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 110	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 70	43 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2(1) and <i>Gazette</i> 16 Feb 2001 p. 903)
Reprint of the <i>Water Corporation Act 1995</i> as at 4 May 2001 (includes amendments listed above)			
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 54	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and Cwlth. <i>Gazette</i> 13 Jul 2001 No. S285)
<i>Water Corporation (Act Amendment) Regulations 2002</i> published in <i>Gazette</i> 24 May 2002 p. 2605-17			1 Jul 2002 (see r. 2)
<i>Labour Relations Reform Act 2002</i> s. 27	20 of 2002	8 Jul 2002	15 Sep 2002 (see s. 2(1) and <i>Gazette</i> 6 Sep 2002 p. 4487)
<i>Corporations (Consequential Amendments) Act (No. 3) 2003</i> Pt. 16 ³	21 of 2003	23 Apr 2003	11 Mar 2002 (see s. 2 and Cwlth. <i>Gazette</i> 24 Oct 2001 No. GN42)

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 59	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 103	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Labour Relations Reform (Consequential Amendments) Regulations 2003</i> r. 21 published in <i>Gazette</i> 15 Aug 2003 p. 3685-92			15 Sep 2003 (see r. 2)
<i>Economic Regulation Authority Act 2003</i> Sch. 2 Div. 17	67 of 2003	5 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5723)
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 127 ⁴	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Reprint 2: The Water Corporation Act 1995 as at 2 Jul 2004 (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 15 Div. 3	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 5(1), 14 and Sch. 1 cl. 177	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Water Resources Legislation Amendment Act 2007</i> Pt. 7 ⁵	38 of 2007	21 Dec 2007	1 Feb 2008 (see s. 2(2) and <i>Gazette</i> 31 Jan 2008 p. 251)
Reprint 3: The Water Corporation Act 1995 as at 4 Jul 2008 (includes amendments listed above)			
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 132	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010</i> s. 4	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Public Sector Reform Act 2010</i> s. 87	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)

Short title	Number and year	Assent	Commencement
<i>Water Services Legislation Amendment and Repeal Act 2012 Pt. 7</i>	25 of 2012	3 Sep 2012	18 Nov 2013 (see s. 2(b) and <i>Gazette</i> 14 Nov 2013 p. 5028)
Reprint 4: The Water Corporations Act 1995 as at 7 Feb 2014 (includes amendments listed above)			
<i>Associations Incorporation Act 2015 s. 231</i>	30 of 2015	2 Nov 2015	1 Jul 2016 (see s. 2(b) and <i>Gazette</i> 24 Jun 2016 p. 2291-2)
<i>Executive Officer Remuneration (Government Entities) Legislation Amendment Act 2016 Pt. 3 Div. 6</i>	46 of 2016	7 Dec 2016	8 Dec 2016 (see s. 2(b))
<i>Government Trading Enterprises Act 2023 Pt. 12 Div. 9</i>	13 of 2023	22 Jun 2023	1 Jul 2023 (see s. 2(b) and SL 2023/89 cl. 2)

Other notes

- ¹ Now known as the *Plumbers Licensing Act 1995*.
- ² Now known as the *Water Corporations Act 1995*; short title changed (see note under s. 1).
- ³ The *Corporations (Consequential Amendments) Act (No. 3) 2003* s. 4 is a validation provision.
- ⁴ The amendment in the *Statutes (Repeals and Minor Amendments) Act 2003* s. 127(5) is not included because the Schedule it sought to amend had been replaced in *Gazette* 24 May 2002 p. 2605-17 before the amendment purported to come into operation.
- ⁵ The *Water Resources Legislation Amendment Act 2007* Pt. 11 deals with certain transitional issues some of which may be relevant for this Act.

Defined terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
amended Act	Sch. 5 cl. 1
arrangement	36(2)
bank.....	Sch. 5 cl. 17(1)
Bunbury Water Board	Sch. 5 cl. 1
Bunbury Water Corporation	3(1)
business arrangement	29(5)
Busselton Water Board	Sch. 5 cl. 1
Busselton Water Corporation.....	3(1)
commencement day	Sch. 5 cl. 1
corporation	3(1), Sch. 5 cl. 1
former Board.....	Sch. 5 cl. 1
former licence	Sch. 5 cl. 6(1)
former water authority	92(1)
function	3(1)
GTE Act.....	3(1)
management.....	16(2)
members of staff	19(3), 24(4)
new provision.....	Sch. 5 cl. 20(2)
old provision	Sch. 5 cl. 20(2)
operating area.....	7(1)
order.....	92(1)
participate	29(5)
PSM Act.....	Sch. 5 cl. 8(1)
regional water corporation	7(1)
relevant corporation	Sch. 5 cl. 1
relevant official	92(1)
repealed Act	Sch. 5 cl. 1
specified	7A(3)
surplus water	27(7)
wastewater	27(7)
Water Corporation	3(1)
water service	3(1)
Water Services Act	3(1)

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