

NORTHERN TERRITORY OF AUSTRALIA

WATER SUPPLY AND SEWERAGE SERVICES ACT

As in force at 25 November 2011

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 25 November 2011. Any amendments that commence after that date are not included.

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## WATER SUPPLY AND SEWERAGE SERVICES ACT

An Act to regulate the water supply and sewerage services industries and for other purposes

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Water Supply and Sewerage Services Act*.

#### 2 Commencement

This Act comes into operation on 1 January 2001.

#### 3 Objects

The objects of this Act are:

- (a) to promote the safe and efficient provision of water supply and sewerage services;
- (b) to establish and enforce standards of service in water supply and sewerage services;
- (c) to facilitate the provision of financially viable water supply and sewerage services; and
- (d) to protect the interests of customers.

#### 4 Definitions

In this Act, unless the contrary intention appears:

***access chamber*** means an inspection shaft, chamber or opening giving access to a sewer.

***authorised officer*** means a person appointed under section 35.

**customer contract** means a customer contract developed under section 47.

**drain** means the drain leading from a house or other premises on land to which a sewerage service is made available to the point of connection to the sewer that forms part of the sewerage services infrastructure of a licensee.

**licence** means a licence granted under Part 2.

**licence area** means the area in respect of which a licence is granted.

**licensee** means the person to whom a licence is granted.

**main** means a main pipe forming part of a licensee's water supply infrastructure or sewerage services infrastructure.

**metering code** means the code published under section 72.

**native title** has the same meaning as in section 223 of the *Native Title Act 1993* of the Commonwealth.

**owner** means:

- (a) in relation to land other than Crown land – the person entitled to an estate in fee simple in possession or, if the land is the subject of a lease for a period exceeding 5 years, the lessee; or
- (b) in relation to land to which the *Unit Titles Act* applies:
  - (i) if the land is common property – the body corporate referred to in section 27 or 28 of that Act;
  - (ii) if the land is a unit – the proprietor of the unit;
  - (iii) if the land is a lot (within the meaning of Part IVB of that Act) – the owner of the lot; or
  - (iv) if the land is a building lot – the owner of the building lot; or
- (ba) in relation to scheme land of a unit title scheme as defined in the *Unit Title Schemes Act*.
  - (i) if the land is common property – the body corporate of the scheme as defined in that Act; or
  - (ii) if the land is a unit – the unit owner of the unit as defined in that Act; or

- (c) in relation to land vested in:
  - (i) a person on behalf of the Crown; or
  - (ii) a statutory corporation representing the Crown,  
the person or statutory corporation; or
- (d) in relation to Crown land the subject of a lease – the lessee; or
- (e) in relation to Crown land other than that referred to in paragraph (c) or (d) – the Crown.

**price** includes a price range.

**pricing order** means an order made under section 60.

**public land** means land owned by the Territory or an instrumentality or agent of the Territory or by a council or other local government body and includes public land that is subject to native title.

**service pipe**, in relation to a water supply service, means a pipe leading from a main to a customer's supply point.

**services officer** means a services officer appointed under section 55.

**sewer** means a pipe, conduit or underground channel, not being a drain or a soil or waste pipe, that forms part of the sewerage services infrastructure of a licensee.

**sewerage services** means providing the capability to collect, convey and treat sewage, trade waste and other approved discharges from land through sewerage services infrastructure and includes retailing sewerage services.

**sewerage services infrastructure** means a sewer or any other infrastructure for collecting, conveying and treating sewage, trade waste, effluent or other approved discharges that forms part of the infrastructure owned or operated by a licensee.

**sewerage services licence area** means an area declared under section 9.

**trade waste** means liquid or liquid-borne waste generated from any industry, business, trade, manufacturing process or similar that is approved for discharge to sewer but does not include wastewater from a toilet, shower, hand basin or similar fixture.



***trade waste code*** means a code prepared under section 83.

***water supply infrastructure*** means any infrastructure for collecting abstracting, treating, storing, conveying or reticulating water that forms part of the infrastructure owned or operated by a licensee.

***water supply licence area*** means an area declared under section 8.

***water supply services*** means supplying water to customers (including operating water supply infrastructure and distribution infrastructure) and includes retailing water supply services.

## **5 Crown to be bound**

- (1) This Act binds the Crown.
- (2) Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.
- (3) Subsection (2) does not apply to an authority of the Territory granted a licence under this Act.
- (4) For the purposes of this section, a reference to the Crown extends:
  - (a) not only to the Crown in right of this Territory but also (so far as the legislative power of the Territory permits) to the Crown in any other capacity; and
  - (b) to an instrumentality of the Crown, and to an officer or employee of the Crown and any contractor or other person who carries out functions on behalf of the Crown.

## **Part 2 Licensing water supply and sewerage services**

### **Division 1 Functions of Utilities Commission**

#### **6 Functions of Utilities Commission**

The Utilities Commission has (in addition to the Utilities Commission's functions under the *Utilities Commission Act*):

- (a) the licensing and other functions and powers conferred by this Act;
- (b) the function of providing advice to the Minister on the operation of this Act; and

- (c) any other functions and powers conferred by the Regulations.

## **Division 2            Declaration as regulated industries**

### **7            Declaration as regulated industries**

- (1) The water supply services industry is declared to be a regulated industry for the purposes of the *Utilities Commission Act*.
- (2) The sewerage services industry is declared to be a regulated industry for the purposes of the *Utilities Commission Act*.

## **Division 3            Water supply and sewerage services licence areas**

### **8            Declaration as water supply licence area**

The Minister may, by notice in the *Gazette*, declare an area to be a water supply licence area.

### **9            Declaration as sewerage services licence area**

The Minister may, by notice in the *Gazette*, declare an area to be a sewerage services licence area.

### **10          Application to have area declared a water supply or sewerage services licence area**

- (1) A person may apply to the Minister for an area to be declared:
  - (a) a water supply licence area; or
  - (b) a sewerage services licence area.
- (2) The Minister must consider an application under subsection (1) within 2 months after it is made and may grant or refuse to grant the application.
- (3) If the Minister grants the application, the Minister must under section 8 or 9 declare the area or a part of the area as he or she thinks fit to be a water supply licence area or sewerage services licence area, as the case may be.

### **11          Variation of water supply licence area or sewerage services licence area**

The Minister may, by notice in the *Gazette*, vary a water supply licence area or sewerage services licence area.

**12            Application to have variation of water supply licence area or sewerage services licence area**

- (1) A person may apply to the Minister for:
  - (a) a water supply licence area; or
  - (b) a sewerage services licence area,to be varied.
- (2) The Minister must consider an application under subsection (1) within 2 months after it is made and may grant or refuse to grant the application.
- (3) If the Minister grants the application, the Minister must under section 11 vary as he or she thinks fit the water supply licence area or sewerage services licence area, as the case may be.

**Division 4            Licences in water supply and sewerage services**

**13            Restriction on number of licences**

- (1) The Utilities Commission may grant only one licence to carry on water supply services in a water supply licence area.
- (2) The Utilities Commission may grant only one licence to carry on sewerage services in a sewerage services licence area.

**14            Requirement for licence**

- (1) A person must not carry on water supply services or sewerage services unless the person holds a licence under this Part authorising the relevant services.

Maximum penalty:     2 500 penalty units.

- (2) Subsection (1) does not apply to a person, or to a person carrying on an operation, exempted under section 26.

**15            Application for licence**

- (1) An application for a licence is to:
  - (a) be made to the Utilities Commission in a form approved by the Utilities Commission; and
  - (b) contain the information specified in the form.

- (2) The applicant must pay to the Utilities Commission an application fee fixed by the Minister of an amount that the Minister considers appropriate to meet the reasonable costs of determining the application.
- (3) The Utilities Commission may, as it considers appropriate, accept a single application from an applicant in respect of different operations of the applicant or operations of the applicant relating to more than one water supply licence area or sewerage services licence area or may require separate applications.
- (4) An applicant must give the Utilities Commission further relevant information that is requested by the Utilities Commission.

## **16 Consideration of application**

- (1) The Utilities Commission must consider an application for a licence within 2 months after it is made and may grant or refuse to grant the licence.
- (2) The Utilities Commission must have regard to the general factors specified in section 6(2) of the *Utilities Commission Act* and, subject to this section, may only grant a licence if satisfied that:
  - (a) the applicant is a suitable person to hold the licence; and
  - (b) the applicant will be able to meet reasonably foreseeable obligations relating to providing water supply services or sewerage services.
- (3) In deciding whether an applicant is a suitable person to hold a licence, the Utilities Commission may consider:
  - (a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings;
  - (b) the financial, technical and human resources available to the applicant;
  - (c) the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and
  - (d) other matters prescribed by the Regulations.

- (4) If:
- (a) a person carries on or proposes to carry on operations for which a licence is required as agent of another person;
  - (b) the agent makes application for the licence on the agent's own behalf and on behalf of the principal; and
  - (c) the Utilities Commission is satisfied that the criteria for granting the licence are met in relation to the agent,

the Utilities Commission may dispense with the requirement that it be satisfied that the criteria are met in relation to the principal and grant the licence to the agent and the principal to be held by them jointly.

#### **17        Licences may be held jointly**

- (1) A licence may be held jointly by 2 or more persons.
- (2) If a licence is held jointly by 2 or more persons, those persons are jointly and severally liable to meet requirements imposed under this Act, the licence or the *Utilities Commission Act*.

#### **18        Term of licence**

A licence may be granted for an indefinite period or for a term as is specified in the licence.

#### **19        Licence fees and returns**

- (1) A person is not entitled to be granted a licence unless the person first pays to the Utilities Commission the annual licence fee, or the first instalment of the annual licence fee, as the case may require.
- (2) A licensee granted a licence for 2 years or more must:
  - (a) in each year lodge with the Utilities Commission before the date prescribed for that purpose an annual return containing the information required by the Utilities Commission by condition of the licence or by written notice; and
  - (b) in each year (other than a year in which the licence is due to expire) pay to the Utilities Commission before the date prescribed for that purpose the annual licence fee, or the first instalment of the annual licence fee, as the case may require.

- (3) The annual licence fee for a licence is the fee fixed from time to time by the Minister in respect of the licence as an amount that the Minister considers to be a reasonable contribution towards administrative costs.
- (4) An annual licence fee may, if the Utilities Commission determines, be paid in instalments at intervals fixed by the Utilities Commission.
- (5) If a licensee fails to lodge the annual return or pay the annual licence fee (or an instalment of the annual licence fee) in accordance with this section, the Utilities Commission may, by written notice, require the licensee to make good the default and, in addition, to pay to the Utilities Commission the amount prescribed as a penalty for default.
- (6) An annual licence fee (including any instalment of an annual licence fee or any penalty for default) payable under this section is recoverable as a debt due to the Territory.
- (7) In this section:

***administrative costs*** means:

- (a) the costs of administration of this Act; and
- (b) other costs prescribed by the Regulations.

***licensee*** includes a licensee whose licence has been suspended.

## 20            **Variation of licence**

- (1) The Utilities Commission may, with the approval of the Minister, vary the terms or conditions of a licence as the Utilities Commission considers appropriate (but not so as to remove a condition that the Utilities Commission is required by this Act to impose on the licence).
- (2) A variation may only be made:
  - (a) on application by the licensee or with the licensee's agreement; or
  - (b) after giving the licensee reasonable notice of the proposed variation and allowing the licensee a reasonable opportunity to make representations about the proposed variation.
- (3) A variation may only be made if the Minister considers it necessary to further the objects of this Act.

- (4) A variation cannot override the procedure for amending a code that applies to the licence as a condition of the licence.

## **21        Transfer of licence**

- (1) A licence may only be transferred with the Utilities Commission's agreement.
- (2) The Utilities Commission may impose conditions on the transfer of a licence, or vary the terms and conditions of the licence on its transfer.
- (3) The Utilities Commission must not agree to the transfer of a licence if the transferee would not be entitled to be granted the licence.
- (4) An application for agreement to the transfer of a licence is to:
  - (a) be made by the transferor with the consent of the transferee to the Utilities Commission in a form approved by the Utilities Commission; and
  - (b) contain the information specified in the form.
- (5) The applicant must pay to the Utilities Commission an application fee fixed by the Minister of an amount that the Minister considers appropriate to meet the reasonable costs of determining the application.
- (6) The applicant must give the Utilities Commission further relevant information requested by the Utilities Commission.

## **22        Notice of licence decisions**

- (1) The Utilities Commission must give an applicant for a licence, or for agreement to the transfer of a licence, written notice of the Utilities Commission's decision on the application.
- (2) The Utilities Commission must give a licensee written notice of any decision by the Utilities Commission affecting the terms or conditions of the licence.

## **23        Surrender of licence**

- (1) A licensee may surrender his or her licence by written notice given to the Utilities Commission.
- (2) The notice must be given to the Utilities Commission at least 6 months before the surrender is to take effect or, if the licence requires a longer period of notice, as required by the licence.

- (3) The Utilities Commission may, by agreement with the licensee, shorten the required period of notice.

## **24            Suspension or cancellation of licence**

- (1) The Utilities Commission may, with the approval of the Minister, suspend or cancel a licence with effect from a specified date if satisfied that:
- (a) the licensee obtained the licence improperly;
  - (b) the licensee had contravened a material condition of the licence or any other requirement imposed by or under this Act or any other Act in connection with the operations authorised by the licence;
  - (c) the licensee has ceased to carry on operations authorised by the licence; or
  - (d) there has been any act or default or change of circumstances such that the licensee would no longer be entitled to be granted the licence.
- (2) The suspension or cancellation of a licence may relate to the whole or a part of the licence.
- (3) The suspension of a licence may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Utilities Commission.
- (4) Before the Utilities Commission acts under this section, the Utilities Commission must:
- (a) notify the licensee in writing of the proposed action specifying the reasons for the proposed action; and
  - (b) allow the licensee at least 14 days within which to make submissions to the Utilities Commission in relation to the proposed action.

## **25            Register of licences**

- (1) The Utilities Commission must keep a register of licences granted under this Act.
- (2) The register is to include:
- (a) the terms and conditions of each licence; and
  - (b) other information required by the Regulations.



- (3) A person may, without paying a fee, inspect the register.

### **25A        Licence not personal property**

For section 8(1)(k) of the *Personal Property Securities Act 2009* (Cth), a licence mentioned in section 13(2) is not personal property for that Act.

*Note for section 25A*

*A law of the Commonwealth, a State or a Territory may declare a right, licence or authority granted by or under that law not to be personal property for the Personal Property Securities Act 2009 (Cth).*

## **Division 5        Exemptions**

### **26        Power of exemption**

- (1) The Utilities Commission may, with the approval of the Minister, grant an exemption from this Act, or specified provisions of this Act, on terms and conditions the Utilities Commission considers appropriate.
- (2) If the Utilities Commission exempts a person from the requirement to hold a licence, the Utilities Commission may (without limiting subsection (1)) by conditions of the exemption require that the person is to be treated as a licensee for the purposes of specified provisions of this Act.
- (3) Except as otherwise provided in the exemption, an exemption under subsection (1) may, with the approval of the Minister, be varied or revoked by the Utilities Commission by notice in writing.

### **27        Obligation to comply with conditions of exemption**

- (1) A person in whose favour an exemption is given must comply with the terms and conditions of the exemption.

Maximum penalty:        2 500 penalty units.

- (2) If a person in whose favour an exemption is given profits from contravention of a term or condition of the exemption, the Utilities Commission may recover an amount equal to the profit from the person:
- (a) on application to a court on it finding the person guilty of an offence against this section; or
- (b) by action in a court of competent jurisdiction.

## **28 Register of exemptions**

- (1) The Utilities Commission must keep a register of exemptions granted under this Act.
- (2) A register kept under this section must include the terms and conditions of each exemption recorded in it.
- (3) A person may, without paying a fee, inspect a register kept under this section.

## **Division 6 Reviews and appeals**

### **29 Review of decisions by Utilities Commission**

- (1) An application may be made to the Utilities Commission:
  - (a) by an applicant for the grant or variation of the conditions of a licence or for agreement to transfer a licence – for a review of the decision of the Utilities Commission to refuse the application; or
  - (b) by a licensee for a review of the decision to suspend or cancel the licensee's licence or to vary the conditions of the licence.
- (2) An application for a review is to:
  - (a) be in writing;
  - (b) set out the decision to which the application relates;
  - (c) set out in detail the grounds on which the applicant seeks the review and the decision sought on the review;
  - (d) be accompanied by any information that the applicant considers should be taken into account by the Utilities Commission on the review; and
  - (e) be lodged with the Utilities Commission:
    - (i) in the case of a decision relating to a licence or application for a licence – within 14 days after written notice of the decision is given to the licensee or applicant; or
    - (ii) in the case of a decision to cancel or suspend a licence or to vary the conditions of a licence – within 14 days after the decision is given.

- (3) A review must be decided within 4 weeks of the application being lodged with the Utilities Commission.
- (4) If a review is not decided within that period, the Utilities Commission is to be taken to have confirmed the decision.
- (5) After considering the application, the Utilities Commission may confirm, amend or substitute the decision.
- (6) The Utilities Commission must give the applicant written notice of the Utilities Commission's decision, and the reasons for the decision, on the review.

### **30 Appeal**

- (1) An applicant for review who is dissatisfied with a decision of the Utilities Commission on the review may appeal against the decision to the Supreme Court.
- (2) An appeal may only be made on the grounds that:
  - (a) there has been bias; or
  - (b) the facts on which the decision is based have been misinterpreted in a material respect.
- (3) An appeal must be made within 14 days after written notice of the decision appealed against is received or, if the Utilities Commission failed to make a decision on the review within the allowed period, within 14 days after the end of that period.
- (4) The Utilities Commission or the Supreme Court may stay the operation of:
  - (a) the Utilities Commission's decision that is the subject of the appeal; or
  - (b) the original decision that was the subject of the review,  
as the case may require.
- (5) On an appeal, the Supreme Court may:
  - (a) confirm the decision under appeal; or
  - (b) return the matter to the original decision maker with directions the Court considers appropriate.

**31 Minister's power to intervene**

The Minister may intervene, personally or by counsel or other representative, in a review or appeal under this Division for the purpose of introducing evidence or making submissions on any question relevant to the public interest.

**Division 7 Utilities Commission's powers to take over operations**

**32 Power to take over operations**

(1) If:

- (a) in the Utilities Commission's opinion, a licensee has contravened a material condition of his or her licence or any other requirement of this Act, or a licensee's licence ceases, or is to cease, to be in force; and
- (b) it is necessary, in the Utilities Commission's opinion, to take over the licensee's operations (or some of them) to ensure that water supply and sewerage services are provided to customers,

the Minister may make a determination under this section.

- (2) Before the Minister makes a determination, the Utilities Commission must give the licensee a reasonable opportunity to make written representations giving reasons why the determination should not be made.
- (3) A determination under this section:
  - (a) authorises the Utilities Commission to take over the licensee's operations or a specified part of the licensee's operations; and
  - (b) may contain ancillary directions (and may, in particular, contain directions about how the costs of carrying on the operations, and revenue generated from the operations, are to be dealt with).
- (4) A direction under subsection (3)(b) operates to the exclusion of rights that are inconsistent with it.
- (5) Not later than 12 months after a determination is made under this section, the Minister, on the advice of the Utilities Commission, must review the decision and the ability of the licensee to resume operations under the licence.

### **33 Appointment of operator**

- (1) When a determination is made under this Part, the Utilities Commission must appoint a suitable person (who may, but need not, be a licensee) to take over and carry on the relevant operations on terms and conditions agreed with the Utilities Commission.
- (2) A person appointed to take over a licensee's operations is referred to in this section as the operator.
- (3) The licensee must facilitate the take over of the relevant operations by the operator.
- (4) The operator may have access to the water supply and sewerage services infrastructure and other property of the licensee for the purposes of carrying on the relevant operations.
- (5) The operator in carrying out the relevant operations must comply with this Act and the conditions of the licence as applying to the licensee as if the operator were the licensee.
- (6) A person must not obstruct the operator's access to property or the exercise by the operator of the operator's responsibilities under this Part.

Maximum penalty: 2 500 penalty units.

- (7) A person must comply with reasonable directions given by the operator in the exercise of the operator's responsibilities under this Part.

Maximum penalty: 2 500 penalty units.

## **Division 8 Utilities Commission's powers to assess compliance**

### **34 Power to assess compliance**

The Utilities Commission may review and investigate a licensee's compliance with this Act and the terms and conditions of the licence.

### **35 Appointment of authorised officers**

- (1) The Minister may appoint a person to be an authorised officer.
- (2) An authorised officer may be an employee within the meaning of the *Public Sector Employment and Management Act*.

- (3) An authorised officer may be assigned by the Minister to assist the Utilities Commission as the Minister considers appropriate.

### **36 Conditions of appointment**

- (1) An authorised officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.
- (2) An authorised officer holds office on the conditions stated in the instrument of appointment.
- (3) An authorised officer may resign by written notice given to the Minister.
- (4) An authorised officer may be removed from office by the Minister.

### **37 Authorised officer's identity card**

- (1) The Minister must give each authorised officer an identity card.
- (2) The identity card must:
- (a) contain a photograph of the authorised officer taken for the purpose; and
  - (b) be signed by the authorised officer.
- (3) A person must, within 2 days after ceasing to be an authorised officer, return the identity card to the Minister.

Maximum penalty: 20 penalty units.

### **38 Production of identity card**

An authorised officer must, before exercising a power in relation to another person, produce the officer's identity card for inspection by the other person.

### **39 Power of entry and investigative powers of authorised officers**

- (1) An authorised officer may, as reasonably required for the purposes of the enforcement of this Act, enter and remain in any place.
- (2) Before entering a place under subsection (1), an authorised officer must give notice to the owner or occupier of the place of the officer's intention to enter the place.

- (3) An authorised officer who enters a place under this Part may exercise any of the following powers:
- (a) investigate whether the provisions of this Act are being or have been complied with;
  - (b) examine and test water supply and sewerage services;
  - (c) search for, examine and copy or take an extract from a document or record of any kind that is reasonably required for the purposes of the enforcement of this Act;
  - (d) take photographs or make films or other records of activities in the place and water supply and sewerage services infrastructure, installations or equipment in the place.

#### **40 Power to require information**

- (1) An authorised officer may require a person to provide information in the person's possession relevant to the enforcement of this Act.
- (2) An authorised officer may require a person to produce documents in the person's possession that may be relevant to the enforcement of this Act for inspection by the authorised officer.
- (3) A person must not, without reasonable excuse, fail to comply with a requirement of an authorised officer under this section.

Maximum penalty: In the case of a natural person –  
100 penalty units.

In the case of a corporation – 500 penalty  
units.

- (4) A person is not required to give information or produce a document under this section if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

## **Part 3 Duties and powers of licensee**

### **Division 1 Authority and duties conferred by licence**

#### **41 Authority and duty to supply**

- (1) A licence authorises the licensee to provide water supply or sewerage services in accordance with the terms and conditions of the licence.

- (2) A licensee must provide water supply or sewerage services to customers who own land with an authorised connection to the water supply or sewerage services infrastructure of the licensee.

## **Division 2 Conditions of licences**

### **42 Licence conditions**

- (1) The Utilities Commission must, on granting a licence, make the licence subject to conditions approved by the Minister requiring the licensee to:
- (a) meet minimum standards of customer service as determined from time to time by the Minister;
  - (b) if the licensee is related to or associated with a business that operates in actual or potential competition with unrelated businesses – keep the business authorised by the licence separate from the related or associated business in the manner and to the extent specified in the conditions;
  - (c) develop and publish a customer contract setting out the rights and responsibilities of customers and the licensee regarding water supply and sewerage services;
  - (d) develop and maintain an asset management plan to ensure optimal long-term management and investment in the licensee's infrastructure for the benefit of customers;
  - (e) develop and publish codes that are required by this Act to confirm the rights and responsibilities of customers and the licensee regarding matters including land development, asset protection, new connections and trade waste approvals;
  - (f) monitor and report to the Utilities Commission on the licensee's levels of compliance with the licence and in particular the minimum standards of service;
  - (g) procure an audit, if required by the Utilities Commission, of the licensee's compliance with the terms and conditions of the licence;
  - (h) comply with protocols, standards and codes applying to the licensee under this Act;
  - (j) demonstrate the licensee's financial or other capacity to continue operations under the licence;
  - (k) notify the Utilities Commission about changes to officers and, if applicable, major shareholders of the licensee; and



- (m) comply with the requirements of any scheme approved and funded by the Minister for the performance of community service obligations by licensees.
- (2) The Utilities Commission must, on granting a licence, make the licence subject to further conditions that the Utilities Commission is required by the Regulations to impose on granting the licence.
- (3) The Utilities Commission may, on granting a licence, make the licence subject to further conditions that are considered appropriate by the Utilities Commission and that are approved by the Minister.
- (4) The Utilities Commission must provide to the Minister any information that the Minister requires in connection with the performance of community service obligations relating to providing water supply or sewerage services.

#### **43            Offence to contravene licence conditions**

- (1) A licensee must not contravene a condition of the licence.  
  
Maximum penalty:        2 500 penalty units.
- (2) If a licensee profits from contravention of a condition of the licence, the Utilities Commission may recover an amount equal to the profit from the licensee:
  - (a) on application to a court on it finding the licensee guilty of an offence against this section; or
  - (b) by action in a court of competent jurisdiction.

#### **44            Limitation on obligation to provide services**

- (1) Despite anything in this Act, a licensee does not have an obligation to connect or supply water supply or sewerage services to a customer's premises if the connection or supply is, or needs to be, interrupted:
  - (a) in an emergency;
  - (b) for work that needs to be performed without delay to prevent an emergency happening;
  - (c) by circumstances beyond the licensee's control;
  - (d) for work – if it is reasonable to do the work when it is required to be done and reasonable notice is given to the customer and supply is restored as soon as practicable;

- (e) after disconnecting a connection that created a hazard – if the connection remains a hazard;
  - (f) if this Act otherwise authorises refusal to connect or reconnect; or
  - (g) if the Regulations provide that the obligation to connect or reconnect does not apply.
- (2) Subject to subsection (3), a licensee may restrict or disconnect, or refuse to connect or reconnect, water supply or sewerage services to premises of a customer if the customer fails to pay an amount owing to the licensee or the customer breaches his or her obligations under this Act.
- (3) An action under subsection (2) must be in accordance with the procedures contained in the licensee's customer contract.
- (4) For the purposes of subsection (3), the licensee's customer contract must provide a customer with a right of appeal against the action of the licensee.

### **Division 3 Standards of service to customers**

#### **45 Minimum standards of service to customers**

- (1) The Minister may from time to time specify the minimum standards that a licensee must meet in providing water supply or sewerage services to customers.
- (2) Without limiting subsection (1), the minimum standards may include:
- (a) water quality standards;
  - (b) standards of supply (including water pressure and flow); and
  - (c) reliability of service.
- (3) The minimum standards are:
- (a) to be at least equivalent to the planned levels of service for those customers prevailing during the year before the commencement of this section;
  - (b) to take into account relevant national benchmarks developed from time to time; and
  - (c) to take account of the cost of service delivery in the licence area.

#### **46 Quality of drinking water**

- (1) The Chief Health Officer may, for the purposes of ensuring minimum standards of drinking water, give directions to a licensee regarding emergency precautions that the licensee must implement in an emergency.
- (2) A licensee must comply with a direction given to the licensee under subsection (1).

Maximum penalty: 2 500 penalty units.

- (3) A licensee must notify the Chief Health Officer as soon as possible after he or she becomes aware of an incident that may adversely affect the ability of the licensee to comply with minimum standards specified in respect of drinking water quality standards.

Maximum penalty: 2 500 penalty units.

#### **47 Customer contract**

- (1) A licensee must develop a customer contract within the time specified by the Utilities Commission.
- (2) The customer contract is to:
  - (a) set out the rights and responsibilities of customers regarding the provision of water supply and sewerage services; and
  - (b) include arrangements for dealing with complaints and resolving disputes.
- (3) The customer contract:
  - (a) is to be published in the *Gazette*;
  - (b) comes into force on the day specified in the notice (being a day not earlier than the day on which the notice is published in the *Gazette*); and
  - (c) is contractually binding on the licensee and each customer.
- (4) A licensee must prepare a summary of the customer contract in a form approved by the Utilities Commission.
- (5) The licensee must distribute a copy of the summary to each of the licensee's customers.

- (6) A licensee may enter into a special agreement with a person to provide water supply or sewerage services to the person on terms different to those provided for in the customer contract or relevant codes on receiving an application from the person.
- (7) If a dispute arises relating to an agreement entered into under subsection (6), the Utilities Commission must arbitrate the dispute.

#### **48 Asset management plans**

- (1) A licensee must, not later than 12 months after being granted a licence, develop an asset management plan.
- (2) The asset management plan is to ensure optimal arrangements for creating, repairing and replacing the licensee's water supply and sewerage services infrastructure.
- (3) A licensee must maintain and implement the asset management plan throughout the period of the licence.
- (4) A licensee must in each year of the licence submit an updated copy of the asset management plan to the Utilities Commission.

### **Division 4 Monitoring and information**

#### **49 Licensee to monitor compliance**

- (1) A licensee must monitor his or her compliance with the terms and conditions of his or her licence.
- (2) A licensee must monitor his or her performance against the minimum standards.
- (3) The methodology for monitoring compliance with the minimum water quality standards is the methodology approved by the Chief Health Officer.

#### **50 Compliance reports to be provided**

- (1) A licensee must report to the Utilities Commission on his or her compliance with the terms and conditions of his or her licence and the minimum standards.
- (2) A licensee must report to the Chief Health Officer the results of his or her compliance with the minimum water quality monitoring program.
- (3) The licensee must at least once each year provide to customers and other parties information relating to his or her compliance with the terms and conditions of his or her licence.

## **Division 5 Infrastructure development**

### **51 Service plans**

- (1) A licensee must make and maintain service plans for the licensee's licence area.

Maximum penalty: 500 penalty units.

- (2) A service plan is to show:
- (a) in respect of a licence granted in a water supply licence area – the location of water mains, and the position of water mains in relation to each lot of land, in the licence area; and
  - (b) in respect of a licence granted in a sewerage service licence area – the location of sewers, and the position of sewer mains in relation to each lot of land, in the licence area.
- (3) A service plan kept under this section is to be made available to any person who wishes to inspect it.
- (4) A person may on paying the prescribed fee make copies of, or take extracts from, a service plan kept under this section.
- (5) The prescribed fee is that specified in a pricing order.

### **52 Code for connections, upgrade of connections and increased loads on licensee's infrastructure**

- (1) A licensee must, not later than 12 months after being granted a licence, publish a code for connections, upgrade of connections and acceptance of increased loads.
- (2) The code for connections, upgrade of connections and acceptance of increased loads must be approved by the Minister.
- (3) The code is to specify:
- (a) the rights of a person seeking a connection, upgrade of connection or acceptance of increased load to the licensee's infrastructure; and
  - (b) the licensee's approved technical, procedural and charging requirements.

- (4) The code for connections, upgrade of connections and increased loads may include:
- (a) a description of the types of activity that require the assessment of the licensee under this Act before being undertaken;
  - (b) technical requirements (such as the specification for the design and construction of assets);
  - (c) procedural requirements (such as the process to be followed to obtain the consent and prior approval of the licensee to the works, the transfer of any new assets to the licensee and the duties to ensure future access and easements over those assets); and
  - (d) charging requirements to ensure that the impact of development activity does not impose additional costs on existing customers or the licensee.
- (5) A person undertaking any activity that may impact on the infrastructure or services of a licensee must comply with the licensee's code for connections, upgrade of connections and acceptance of increased loads.

Maximum penalty: In the case of a natural person –  
200 penalty units.

In the case of a corporation – 1 000 penalty  
units.

### **53 Application for water supply**

- (1) An owner of land may apply to a licensee for a water supply in accordance with the licensee's code for connections, upgrade of connections and increased loads.
- (2) The charges to be paid by the owner of land for a new connection are those prescribed from time to time under a pricing order.

### **54 Application for sewerage service**

- (1) An owner of land may apply to a licensee for a sewerage service in accordance with the licensee's code for connections, upgrade of connections and increased loads.
- (2) The charges to be paid by the owner of land for a new connection are those prescribed from time to time under a pricing order.

## **Division 6 Services officers**

### **55 Appointment of services officers**

- (1) A licensee may, subject to conditions determined by the Minister, appoint a person to be a services officer for the licensee.
- (2) A services officer may only exercise powers under this Act subject to the conditions of his or her appointment and any directions given to the officer by the licensee.

### **56 Conditions of appointment**

- (1) A services officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.
- (2) A services officer may be removed from office by the licensee.

### **57 Services officer's identity card**

- (1) A licensee must give each services officer appointed by the licensee an identity card.
- (2) The identity card is to be in a form approved by the Minister and is to:
  - (a) contain a photograph of the services officer taken for the purpose;
  - (b) be signed by the services officer; and
  - (c) identify the services officer as a services officer for the licensee.
- (3) A person must, within 2 days after ceasing to be a services officer, return the identity card to the licensee.

Maximum penalty: 20 penalty units.

### **58 Production of identity card**

A services officer must, before exercising a power in relation to another person, produce the officer's identity card for inspection by the other person.

Maximum penalty: 20 penalty units.

## **Division 7 Power of licensee to charge**

### **59 Rights to charge**

- (1) A licence confers on the licensee a right to charge for water supply services, sewerage services and related services that are supplied to customers under the licence.
- (2) The charges referred to in subsection (1) are those from time to time prescribed under a pricing order.
- (3) A licensee may require the owner of land that is within the licence area that is not connected to a sewer (but to which a sewer is available for connection) to pay a sewerage charge.

## **Division 8 Pricing orders and financial contributions**

### **60 Pricing orders for water supply and sewerage services**

- (1) The Minister may issue an order:
  - (a) regulating prices for the sale of water supply and sewerage services to a licensee's customers or customers of a prescribed class;
  - (b) regulating prices for the sale of other goods and services to a licensee's customers by a licensee with an effective monopoly in the sale of those goods and services; and
  - (c) specifying the principles to be applied by a licensee when establishing any capital contribution to apply in respect to upgrading, augmenting or extending the licensee's infrastructure.
- (2) A pricing order may regulate prices in any manner the Minister considers appropriate including:
  - (a) fixing a price or the rate of increase or decrease in a price;
  - (b) fixing a maximum price or maximum rate of increase or minimum rate of decrease in a maximum price;
  - (c) fixing an average price for specified goods or services or an average rate of increase or decrease in an average price;
  - (d) specifying an amount determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;



- (e) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the sale of specified goods or services;
  - (f) specifying pricing policies or principles; and
  - (g) fixing a maximum revenue, or maximum rate of increase or minimum rate of decrease in maximum revenue, in relation to specified goods or services.
- (3) A pricing order may provide that a calculation is to be performed, or a matter is to be determined, by the Utilities Commission in a manner specified by the order.
- (4) A pricing order:
- (a) takes effect on a date specified in the order; and
  - (b) remains in force for not longer than 5 years or, in respect of the first pricing order issued, not longer than 3 years.
- (5) Notice of the making of a pricing order must be published:
- (a) in the *Gazette*; and
  - (b) in a newspaper circulating generally in the Territory.
- (6) The notice must include a brief description of the nature and effect of the pricing order and state how a copy of the order may be inspected or purchased.
- (7) The Minister must:
- (a) send a copy of a pricing order to each licensee to which the order applies; and
  - (b) ensure that copies of the order are available for inspection and purchase by members of the public.
- (8) A licensee must comply with a pricing order or part of a pricing order that applies to the licensee.
- (9) The Utilities Commission must:
- (a) perform any functions that a pricing order contemplates will be performed by the Utilities Commission for the purposes of the order; and

- (b) enforce a pricing order under section 23 of the *Utilities Commission Act* in the same way as if it were a determination of the Utilities Commission under that Act.
- (10) The Utilities Commission's powers under this Division and the *Utilities Commission Act* are restricted to the extent specified in a pricing order.

## **61 Water supply and sewerage services extension areas**

- (1) The Minister may, by notice in the *Gazette*, declare an area to be a water supply services extension area or sewerage services extension area.
- (2) If the Minister declares an area to be a water supply services extension area or sewerage services extension area, the owner of each parcel of land within the area is liable to pay to the licensee whose licence area includes the water supply services extension area or sewerage services extension area a financial contribution towards the cost of extending water supply services or sewerage services in the area.
- (3) The liability under subsection (2) exists despite that an owner does not elect to have water supply services or sewerage services supplied by the licensee for use on the land.
- (4) An owner and a licensee referred to in subsection (2) may enter into an agreement relating to the conditions on or subject to which water supply services or sewerage services will be supplied by the licensee for use on the land.
- (5) The balance from time to time outstanding of an amount referred to in subsection (2) is an overriding statutory charge, within the meaning of the *Land Title Act*, on the parcel of land.
- (6) The owner of a parcel of land who is liable as referred to in subsection (2) must not transfer the land to another person unless he or she has first paid to the licensee the amount of the liability outstanding at the date of the transfer and, for the purposes of calculating the liability, any amount payable in accordance with subsection (2) becomes due and payable in full immediately before the proposed transfer despite that, but for this subsection, it would not become due and payable until a later date.
- (7) The financial contribution referred to in subsection (2) is the amount determined in accordance with the charging principles specified in a pricing order.

- (8) In this section, *parcel of land* means the whole of the land the subject of a separate certificate as to title registered under the *Land Title Act*.

## **Division 9 Powers of licensees to carry out works**

### **62 Notice of operations and entry for new works**

- (1) A licensee may, not earlier than 14 days after a declaration under section 8 or 9 is made, serve a notice on:

- (a) the owner of land within the licence area; and
- (b) if the owner does not reside on the land – the occupier of the land,

stating that the licensee proposes to commence surveying or undertaking other operations specified in the notice in connection with planning, designing or constructing water supply or sewerage services infrastructure on the land.

- (2) A licensee may, not less than 14 days after a notice under subsection (1) is served, enter on the land (with or without employees, machinery, plant and materials) and perform any act necessary or convenient for or incidental to the purpose of surveying, planning, designing or constructing the water supply or sewerage services infrastructure.
- (3) The owner of land that is entered on under subsection (2), and any person occupying the land, must give all assistance reasonably required by the licensee in providing access for his or her employees, machinery, plant and materials in or in connection with their carrying out work under this section.
- (4) In carrying out work under this section, a licensee must ensure that:
- (a) as little damage as practicable is caused to the land; and
  - (b) on completing the work – the land is restored as nearly as is reasonably practicable to the condition that it was in before the work commenced.
- (5) If the owner or occupier of land entered on under subsection (2) suffers loss or damage because of the negligent exercise of the powers conferred by this section, he or she may claim compensation from the licensee for the loss or damage suffered as a result of the exercise of the power.

- (6) A person must not obstruct a licensee in the exercise of his or her powers conferred by this section.

Maximum penalty: In the case of a natural person –  
100 penalty units.

In the case of a corporation – 500 penalty  
units.

### **63 Power to carry out work on public land**

- (1) Subject to this section and the *Planning Act*, a licensee may:
- (a) install water supply or sewerage services infrastructure on public land;
  - (b) operate, maintain, repair, alter, add to, remove or replace water supply or sewerage services infrastructure on public land; or
  - (c) carry out other work on public land, including excavating the land, relating to the supply of water supply or sewerage services.
- (2) Subject to this section, a licensee must:
- (a) give the agency responsible for managing the public land not less than 7 days notice of the licensee's intention to carry out work on the land; and
  - (b) obtain the agency's agreement to the work that is to be carried out.
- (3) Subsection (2) does not apply in an emergency or if urgent works are required to protect the safety of the water supply or sewerage services, the public or infrastructure.
- (4) An agreement under this section may contain conditions that the agency considers appropriate in the public interest.
- (5) If a dispute arises between the licensee and the agency about whether work should be permitted to be carried out or about the conditions on which it should be permitted, either party to the dispute may refer the dispute to the Minister.
- (6) If a dispute is referred to the Minister, the Minister must:
- (a) allow the parties to the dispute the opportunity to make representations to the Minister on the questions at issue in the dispute; and

- (b) make a reasonable attempt to get the parties to agree to settling the dispute on agreed terms.
- (7) If the Minister cannot get the parties to agree, the Minister may:
- (a) order that the work is permitted to be carried out on the land and may determine the conditions on which the work is to be carried out; or
  - (b) order that the work is not permitted to be carried out.
- (8) A licensee must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.
- (9) This section does not derogate from the obligation to comply with the provisions of any other Act.

## **Division 10 Powers relating to infrastructure**

### **64 Easements**

- (1) A licensee may acquire an easement to construct a sewer or to lay water mains or pipes.
- (2) If a building, structure or other improvement on land has been constructed over a sewer or water main, or within an easement area, the licensee may by written notice direct the owner of the land to remove the building, structure or other thing within the period specified in the notice.
- (3) If a person on whom a notice under subsection (2) is served does not comply with the notice within the specified period, the licensee may authorise a person to enter the land (with employees, machinery, plant and materials) to carry out the work specified in the notice.
- (4) Costs incurred in carrying out the work necessary to comply with the notice under subsection (2) may be recovered from the owner of the land as a debt due and payable to the licensee.

### **65 Entry for purposes related to infrastructure**

- (1) A services officer may enter land to inspect, test, maintain, repair or replace any water or sewerage services infrastructure belonging to the licensee.

- (2) Subject to this section, if a services officer seeks to enter land under rights conferred on the licensee by a statutory or other easement relating to infrastructure situated on the land, the officer must give reasonable written notice to the occupier of the land stating the reason and the date and time of the proposed entry.

Maximum penalty: 20 penalty units.

- (3) If the proposed entry is refused or obstructed, a services officer may obtain a warrant under Part 6 to enter the land.
- (4) In an emergency, a services officer may exercise a power of entry referred to in this section:
- (a) at any time and without notice if it is not practicable to give the notice; and
  - (b) if necessary in the circumstances – by the use of reasonable force.
- (5) A services officer cannot enter a place under a warrant unless accompanied by a member of the Police Force.
- (6) A licensee must make good any damage caused by force in an emergency (other than if force is used under a warrant obtained in accordance with subsection (3)) as soon as practicable or pay reasonable compensation for the damage.

Maximum penalty: 500 penalty units.

## **66 Entry to inspect, etc., water and sewerage services installations**

- (1) A services officer may, at any reasonable time, enter and remain in a place to which water supply or sewerage services are, are to be, or have been, supplied by the licensee:
- (a) to inspect and test water supply or sewerage services installations within the place that are connected or may be connected to the water supply or sewerage services infrastructure of the licensee and that may, in the opinion of the officer, create a hazard to the licensee's infrastructure or to the continued health or security of supply of other customers; or
  - (b) to investigate suspected theft of water or effluent.

- (2) In an emergency or if urgent works are required to protect the safety of water supply or sewerage services, the public or infrastructure, a services officer may exercise a power of entry under this section at any time and, if necessary in the circumstances, by the use of reasonable force.
- (3) When a services officer enters a place under this section, the officer:
  - (a) may be accompanied by such assistants as the officer considers necessary or appropriate; and
  - (b) may take any vehicles or equipment the officer considers necessary or appropriate for the functions the officer is to carry out in the place.
- (4) If, in the opinion of a services officer, a water supply or sewerage services installation in a place creates a hazard to the licensee's infrastructure, the health of customers or to the security of supply to customers, the officer may do the following:
  - (a) disconnect the water supply or sewerage services to the place until the hazard is removed;
  - (b) direct the owner or occupier of the place to carry out work on the installation to remove the hazard.
- (5) In this section, ***water supply or sewerage services installations*** means assets that are connected to, or are capable of being connected to, the water supply or sewerage services infrastructure of the licensee.

#### **67 Entry to disconnect service**

If a services officer has proper authority to disconnect water supply or sewerage services to a place in accordance with this Act, the officer may, at any reasonable time, enter and remain in the place to disconnect the water supply or sewerage services to the place.

#### **68 Disconnection of service if entry refused**

- (1) If a services officer seeks to enter a place under this Division and entry is refused or obstructed, the licensee may, by written notice to the occupier of the place, ask for consent to enter the place.
- (2) The notice must state the reason and the date and time of the proposed entry.

- (3) If entry is again refused or obstructed, the licensee may:
  - (a) if it is possible to do so – disconnect the water supply or sewerage services to the place without entering the place; or
  - (b) if not – obtain a warrant under Part 6 to enter the place for the purpose of disconnecting the water supply or sewerage services and enter the place under the warrant and disconnect the water or sewerage services.
- (4) A services officer may not enter a place under a warrant unless accompanied by a member of the Police Force.
- (5) The licensee must restore the water supply or sewerage services if:
  - (a) the occupier:
    - (i) consents to the proposed entry; and
    - (ii) pays outstanding fees and accounts; and
  - (b) the connection is no longer a hazard to the licensee's infrastructure or to the continued health or security of supply of other customers.

## **69 Direction to repair house drain**

- (1) A licensee may, by written notice, direct the owner of land to repair a house drain on the land that the licensee believes is allowing stormwater or other substances to enter the drain.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (2) The notice is to specify the time within which the owner must comply with the notice.
- (3) The costs of repairing the house drain are to be paid by the owner.
- (4) If an owner of land who is given a notice under this section fails to comply with the notice, the licensee may authorise a person to enter (with or without employees, vehicles, plant, equipment or materials) on the land and carry out the repairs specified in the notice.



- (5) The costs of repairs carried out under subsection (4) may be recovered from the owner as a debt due and payable to the licensee.
- (6) In this section, *house drain* means a line of pipes on land (whether above or below ground level) that:
- (a) are not the property of the licensee; and
  - (b) are intended to convey sewage or trade waste to the licensee's sewer,
- and includes fittings and equipment generally external to any building on the land.

## 70 Trees and shrubs

- (1) If:
- (a) trees, crops or shrubs are located within 1.5 metres either side of the centreline of any water supply infrastructure or sewerage services infrastructure and it is necessary for a licensee to gain access to the water supply infrastructure or sewerage services infrastructure; or
  - (b) trees, crops or shrubs pose a danger to works that are required to be undertaken on any water supply infrastructure or sewerage services infrastructure,
- the licensee may, without notice, cause the trees, crops or shrubs to be removed.
- (2) A licensee who causes trees, crops or shrubs to be removed under subsection (1):
- (a) is not required to restore to its previous standard the area from which the trees, crops or shrubs were removed; and
  - (b) is not liable to pay compensation for removing the trees, crops or shrubs.
- (3) If damage to or blockage of any water supply infrastructure or sewerage services infrastructure has been caused by a tree, a licensee may, by written notice, to the owner of the land on which the tree is growing:
- (a) require the owner to remove:
    - (i) the tree and the roots; or

- (ii) the part of the roots,  
that are causing the damage or blockage; and
- (b) require the owner to repair the sewerage services infrastructure and restore the surface conditions of the land and adjoining land, if necessary.
- (4) The notice is to specify the time within which the owner must comply with the notice.
- (5) The costs of complying with the notice are to be paid by the owner.
- (6) If an owner elects to remove the roots of a tree only under subsection (3)(a)(ii), the owner must give an undertaking in writing that he or she is responsible for paying any costs incurred due to a recurrence of the damage or blockage caused by roots of the same tree.
- (7) If the person given the notice does not comply with it, the licensee may authorise a person to enter the land (with or without employees, vehicles, plant, equipment or materials) and remove the tree.
- (8) The cost of removing a tree under subsection (7) is a debt due and payable by the owner of the land to the licensee.

## **Division 11 Metering**

### **71 Meters**

- (1) A licensee may, for the purpose of measuring the amount of water supplied to a customer, install a meter on the land to which the water supply is made available or in any other location, as the licensee thinks fit.
- (2) A meter is and remains the property of the licensee.
- (3) A customer to whom a water supply is made available through a meter may be required to reimburse the licensee the cost or expense incurred in repairing or replacing it.
- (4) A meter that is installed on land under this section must comply with the *National Measurement Act 1960* of the Commonwealth.
- (5) A licensee may at any time remove or replace a meter that is installed on land under this section.

## **72 Metering code**

- (1) A licensee must develop and publish a code setting out the arrangements and conditions for installing, testing, verifying and replacing meters owned by the licensee.
- (2) A metering code must be approved by the Utilities Commission.
- (3) A metering code must be in accordance with guidelines published by the National Standards Commission.

## **73 Portable meter**

- (1) A licensee may issue to a person a portable meter that is not attached to the licensee's water supply infrastructure.
- (2) The conditions on which a portable meter will be issued and the conditions relating to its use are to be contained in the licensee's metering code.
- (3) The charge for using a portable meter is to be prescribed from time to time under a pricing order.

## **74 Access to meter**

- (1) A customer to whom a water supply is made available through a meter installed by a licensee on land must ensure that it remains accessible to the licensee in accordance with the licensee's metering code.
- (2) If a licensee is unable to read, inspect or repair a meter installed on land, or to gain access to or otherwise work on the meter, the licensee may, by written notice, require the customer to whom the water supply is made available through the meter:
  - (a) to remove the obstruction preventing access to the meter; or
  - (b) to specify a time during normal working hours when access to the meter will be given.
- (3) A person who under subsection (2) is required to remove an obstruction must remove the obstruction within 14 days of the notice being given.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

**75 Power to assess consumption**

- (1) A licensee may assess the quantity of water supplied to land or through a portable meter in circumstances set out in the metering code.
- (2) The licensee must give the customer to whom the water supply is made available through the meter or the user of the portable meter at least 14 days notice of the licensee's intention to make an assessment and must state the reason why the assessment is to be made.

**76 Disputed consumption**

- (1) A customer to whom a water supply is made available through a meter to land may apply in writing to the licensee for the meter through which the water is supplied to the land to be tested.
- (2) The procedures for testing a meter are to be set out in the licensee's customer contract.

**77 Entry to read meters, etc.**

A services officer may, at any reasonable time, enter and remain in a place to which water supply or sewerage services are, or are to be, supplied by the licensee:

- (a) to read, or check the accuracy of, a meter for recording consumption of water or disposal of waste water; or
- (b) to install, repair or replace meters or other equipment as required.

**78 Installation of meter**

Unless otherwise authorised by the licensee, a person, other than the licensee or a services officer must not test, install, repair, remove or replace a meter.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

## **Division 12 Powers and duties in emergencies**

### **79 Licensee may cut off water supply and sewerage services to avert danger**

A licensee may, without incurring any liability, cut off water supply or sewerage services to any region, area, land or place if it is, in the licensee's opinion, necessary to avert danger to person or property.

### **80 Water supply or sewerage services restrictions**

(1) The Minister may, by notice, restrict the consumption of water or use of sewerage services in respect of the whole or a specified part of the Territory in the manner and for the period that he or she specifies in the notice.

(2) A notice under subsection (1) is to specify:

- (a) the period during which;
- (b) the manner in which; and
- (c) the purposes in respect of which,

the consumption of water or the use of sewerage services is to be restricted or regulated.

(3) A person must comply with and not contravene a notice issued under this section.

Maximum penalty: In the case of a natural person –  
100 penalty units.

In the case of a corporation – 500 penalty  
units.

### **81 Emergency legislation not affected**

Nothing in this Act affects the exercise of any power, or the obligation of a licensee to comply with any direction, order or requirement, under the *Disasters Act* or the *Essential Goods and Services Act*.

## **Part 4 Trade waste and prohibited discharge**

### **Division 1 Trade waste**

#### **82 Approval required to discharge trade waste**

- (1) A person must not discharge trade waste into a licensee's sewerage services infrastructure except with the written approval of the licensee.

Maximum penalty: In the case of a natural person –  
200 penalty units.

In the case of a corporation – 1 000 penalty  
units.

- (2) A licensee may give a person an approval to discharge trade waste into the licensee's sewerage services infrastructure if satisfied that:
- (a) the discharge will not harm the licensee's sewerage services infrastructure, treatment processes, the environment or the health or safety of anyone working on the licensee's sewerage services infrastructure or treatment processes, or the public at large;
  - (b) accepting the discharge will not adversely affect opportunities for the reasonable re-use of bio-solids or treated effluent from treatment processes; and
  - (c) the sewerage services infrastructure and treatment processes have sufficient capacity to collect, convey and treat the trade waste.

#### **83 Trade waste code**

- (1) A licensee must publish a code setting out the conditions on which the licensee will approve trade waste being discharged into the licensee's sewerage services infrastructure.
- (2) A trade waste code may include any of the following:
- (a) acceptance guidelines for the characteristics of trade waste that may be discharged;
  - (b) the form and content of standard trade waste approvals;
  - (c) the circumstances under which the terms of an approval may be amended;

- (d) the period for which approvals will remain in force;
  - (e) pre-treatment controls that will be required for specified trade waste discharges;
  - (f) arrangements that will be required to ensure effective monitoring of the conditions of an approval;
  - (g) the methodology that will be used for calculating charges for the acceptance of trade waste discharges, including both compliant and non-compliant discharges;
  - (h) dispute resolution procedures (including the right to seek arbitration through the Utilities Commission).
- (3) The charges referred to in subsection (2)(g) are those from time to time prescribed under a pricing order.
- (4) A trade waste code must be approved by the Utilities Commission.

#### **84 Licensee may impose conditions**

- (1) An approval given under this Part is subject to conditions determined by the licensee.
- (2) Conditions may relate to the paying of charges and the discharging of trade waste in accordance with the licensee's trade waste code.
- (3) A person to whom an approval under this Part is given must comply with the conditions of the approval.

Maximum penalty: In the case of a natural person –  
200 penalty units.

In the case of a corporation – 1 000 penalty  
units.

#### **85 Suspension or cancellation of approval**

A licensee may suspend or cancel an approval given under this Part for any of the following reasons:

- (a) the person to whom the approval is given has contravened a condition of the approval;
- (b) the person to whom the approval is given has contravened a provision of this Act;

- (c) to protect public health or safety, to prevent environmental harm or to prevent damage to the licensee's sewerage services infrastructure.

## **86 Maintenance and repair of sewer**

- (1) A licensee may, in order to construct, maintain or repair a sewer, in writing, direct the person to whom an approval under this Part is given not to discharge trade waste (or a type of trade waste) for the period specified in the notice.
- (2) If a sewer needs to be maintained or repaired:
  - (a) due to an emergency; or
  - (b) if an overflow of the sewer is likely to occur,the licensee may direct the person to whom an approval under this Part is given not to discharge trade waste into the licensee's sewerage services infrastructure until notified by the licensee.
- (3) The licensee must give a direction under this section to the person to whom the approval is given at the earliest opportunity.
- (4) A person who is given a direction under this section cannot claim compensation in respect of any loss or damage as a result of a requirement contained in the direction.
- (5) A person who is given a direction under this section must comply with and not contravene the direction.

Maximum penalty: In the case of a natural person –  
100 penalty units.

In the case of a corporation – 500 penalty  
units.

## **87 Recovery of costs**

A licensee may recover from a person to whom an approval under this Part is given costs incurred by the licensee in repairing or maintaining the licensee's sewerage services infrastructure if the costs are attributable to the person's failure to comply with the approval.



## Division 2 Prohibited discharge

### 88 Prohibited discharge

(1) Except with the written approval of the licensee, a person must not throw, deposit or discharge, or cause or permit to be thrown, deposited or discharged, into the licensee's sewer or an opening, pipe or receptacle connected to the sewer:

- (a) storm water;
- (b) water discharged from a swimming pool; or
- (c) any other object or substance that is not domestic sewage.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

(2) In subsection (1)(c), *domestic sewage* means liquid or liquid-borne waste discharged to a sewer from a toilet, shower, hand basin, sink, household washing tub or similar fixture.

## Part 5 Offences

### 89 Change of customer account details

(1) The owner of land provided with water supply or sewerage services must notify the licensee of any change in ownership or customer details as provided for in the licensee's customer contract.

(2) The owner of land provided with sewerage services to non-residential premises must notify the licensee of any change in the number of sanitary fixture units.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

**90 Tampering or wilful damage to property of licensee**

- (1) A person must not, without lawful excuse, remove, repair, exchange, alter, tamper or wilfully or negligently damage or destroy any assets that form part of the water supply or sewerage services infrastructure of a licensee.

Maximum penalty: In the case of a natural person –  
400 penalty units or imprisonment for  
2 years.

In the case of a corporation – 2 000 penalty  
units.

- (2) A person found guilty of an offence against subsection (1) is liable to pay to the licensee an amount by way of damages for any loss incurred by the licensee as a result of the person's actions and the cost of repairing or replacing the damaged property in addition to any penalty that may be imposed.

**91 Connections to licensee's infrastructure**

- (1) A person must not make a connection to or undertake work on a licensee's water supply or sewerage services infrastructure except with the written approval of the licensee.

Maximum penalty: In the case of a natural person – 20 penalty  
units.

In the case of a corporation – 100 penalty  
units.

- (2) A licensee is not liable for the cost of connection to the water supply or sewerage services infrastructure of the licensee.

**92 Cross-connections**

- (1) A person must not:

- (a) cause or permit an indirect cross-connection to a licensee's water supply infrastructure except in accordance with the National Plumbing and Drainage Code; or

- 
- (b) cause or permit a direct cross-connection to a licensee's water supply infrastructure except with the written approval of the licensee.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (2) The existence on land of a pipe or other means of connection used for cross-connecting a licensee's water supply infrastructure with another water supply is prima facie evidence that the connection has been made with the knowledge of the owner of the land.

- (3) In this section:

***cross-connection*** means a connection or arrangement (physical or otherwise) either directly or indirectly between a licensee's water supply infrastructure and a fixture, storage tank, receptacle, equipment or device through which it may be possible for non-potable, used, unclean, polluted or contaminated water, or any other substance, to enter any part of the licensee's water infrastructure under any conditions.

***National Plumbing and Drainage Code*** means Australian Standard AS 3500 (as in force from time to time) published on behalf of Standards Australia International Limited (A.C.N. 087 326 690) or the Standards Association of Australia as constituted before 1 July 1999.

### 93 Building over infrastructure

- (1) A person must not construct, or cause or permit to be constructed, a building or structure:

(a) over an easement granted for the use and benefit of a licensee; or

(b) if no easement exists – within 1.5 metres either side of the centreline of a sewer or water main of a licensee,

unless the licensee's written approval to construct the building or structure has been obtained.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (2) An approval under subsection (1) may specify the manner in which or the materials out of which the building or structure may be constructed.
- (3) A person to whom an approval is given under this section must comply with the specifications and other conditions to which the approval is subject.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (4) A licensee may agree with a person requesting an approval under this section that, on the person paying the cost, the licensee will carry out the work of diverting or relocating the sewer or water main instead of approving the application.
- (5) A licensee may approve a building or structure being constructed under this section on the condition that the building or structure is immediately removed:
- (a) by the owner at the request of the licensee; or
- (b) by the licensee at the expense of the owner,

when access is required to the water supply infrastructure or sewerage services infrastructure.

#### **94 Access chambers**

- (1) A licensee may cause an access chamber to be placed on land without having to pay compensation for the land or easement and the access chamber is to be taken to form part of the sewerage services infrastructure of the licensee.
- (2) The owner or occupier of land on which an access chamber has been placed must not, without obtaining the written approval of the licensee, alter or cause or permit to be altered the level of the ground surrounding the access chamber.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (3) A person must not:
- (a) erect, or cause or permit to be erected, a building or structure over an access chamber; or
  - (b) enclose, or cause or permit to be enclosed, an access chamber in a yard or pen used to retain birds or animals.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (4) If a person contravenes or fails to comply with subsection (2) or (3), the licensee or a person authorised by the licensee for the purpose may, on giving reasonable notice to the owner and occupier of the land or, if in the licensee's opinion the circumstances require, without giving notice, enter on the land and, as the case requires:
- (a) remove the soil or other material surrounding the access chamber or raise the height of the access chamber;
  - (b) remove the building or structure erected over the access chamber; or
  - (c) remove the fencing or other material enclosing the access chamber.
- (5) The cost of carrying out an action under subsection (4) may be recovered from the owner of the land as a debt due and payable to the licensee.

## **95 Unauthorised use of water or effluent**

- (1) A person must not, without the written approval of the licensee, use (whether on the person's land or elsewhere) a device or fitting intended to divert or abstract water or effluent from the licensee's water supply or sewerage services infrastructure in a manner that the water or effluent used by the person is not recorded on a meter owned by the licensee.

Maximum penalty: In the case of a natural person – 100 penalty units or imprisonment for 6 months.

In the case of a corporation – 500 penalty units.

- (2) In a prosecution for an offence against subsection (1), the existence of a pipe, hose, device or fitting leading from a point in the service pipe to a person's land to a point on the person's land is prima facie evidence that water was diverted by the person.
- (3) On finding a person guilty of an offence against this section, a court:
  - (a) may order the person to pay to the licensee an amount that the licensee considers reasonable by way of damages; and
  - (b) for that purpose – may require the licensee to submit a written estimate of the amount of water unlawfully diverted or abstracted by the offender.
- (4) This section does not apply to the use of water to fight a fire.

## **96 Tapping main or drawing off water**

- (1) A person must not, without the written approval of the licensee:
  - (a) tap a water main or connect a private service to a water main of the licensee; or
  - (b) draw off water from a reservoir, dam, aqueduct, tank, pipe, hydrant or other works the property of the licensee.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (2) Subsection (1)(b) does not apply to drawing off water to fight a fire.

## **97 Wasting water**

- (1) A person must not waste water.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (2) Subsection (1) applies despite that the use of the water is otherwise lawful.

- (3) If a services officer considers that water is being wasted, the services officer may serve a notice:
- (a) on the occupier of the land; or
  - (b) if the occupier or a person apparently in control of the land is not present – by leaving it in a conspicuous place on the land,
- specifying the type of waste and directing that it cease within the time specified in the notice.
- (4) A person served with a notice under subsection (3) must comply with and not contravene the notice.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

## **98 Notice of demolition of building connected to main, etc.**

The owner of land must, not later than 7 days before commencing to demolish a building or structure on the land that is connected to a sewer or water main of a licensee, give written notice of his or her intention to the licensee.

Maximum penalty: In the case of a natural person – 100 penalty units.

In the case of a corporation – 500 penalty units.

## **99 Pollution**

- (1) A person must not pollute with any substance a reservoir, dam, reservoir or dam catchment area, groundwater recharge area, bore, borefield, aqueduct, water storage tank or other infrastructure that is used or constructed to hold or supply water for human consumption.

Maximum penalty: In the case of a natural person – 200 penalty units.

In the case of a corporation – 1 000 penalty units.

- (2) A person must not:
- (a) bathe, swim, water-ski, use a boat or take part in any type of water sport; or
  - (b) permit an animal under his or her control to swim or wade, in a reservoir, dam, aqueduct, water storage tank forming part of a water supply infrastructure that is used or constructed to hold or supply water for human consumption.
- Maximum penalty:        In the case of a natural person – 20 penalty units.
- In the case of a corporation – 100 penalty units.
- (3) Subsection (2) does not apply if the activity is authorised by a licensee by means of a marked signpost or other notice.

#### **100        Unlawful abstraction or diversion of water or effluent**

- (1) A person must not, without proper authority:
- (a) abstract or divert water or effluent from a water supply infrastructure or sewerage services infrastructure; or
  - (b) interfere with a meter or other device for measuring the use of water or effluent supplied by a licensee.
- Maximum penalty:        In the case of a natural person – 100 penalty units or imprisonment for 6 months.
- In the case of a corporation – 500 penalty units.
- (2) In proceedings for an offence against subsection (1), if it is proved that a device has been installed or any other act done, without proper authority, the apparent purpose of which is to abstract or divert water or effluent to any particular land or place or to affect the proper measurement of water or effluent supplied to any particular land or place, it will be presumed, in the absence of proof to the contrary, that the occupier of the land or place installed the device or did the other act with that purpose.



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- (3) If a licensee suffers loss or damage as a result of a person contravening this section, the licensee may recover compensation for the loss or damage from the person:
- (a) on application to a court on it finding the person guilty of an offence against this section; or
  - (b) by action in a court of competent jurisdiction.

**101 Notice of work that may affect water supply or sewerage services infrastructure**

- (1) A person who proposes to do work near a licensee's water supply infrastructure or sewerage services infrastructure must give the licensee at least 7 days notice of the proposed work if:
- (a) the work may affect the support for any part of the water supply infrastructure or sewerage services infrastructure; or
  - (b) the work may interfere with the water supply infrastructure or sewerage services infrastructure in some other way.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

- (2) It is a defence to a charge of an offence against subsection (1) if, in the circumstances of an emergency, it is not practicable to give the notice required by the subsection and the notice is given as soon as practicable.
- (3) A person who does work near a licensee's water supply infrastructure or sewerage services infrastructure must comply with:
- (a) the requirements of the Regulations that are applicable to the work; and
  - (b) the reasonable requirements made by the licensee for protecting the infrastructure or the safety of persons carrying out the work.

Maximum penalty: In the case of a natural person – 100 penalty units.

In the case of a corporation – 500 penalty units.

**102 Impersonation of officers**

A person must not impersonate an authorised officer, a services officer or anyone else with powers under this Act.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

**103 Obstruction**

- (1) A person must not, without reasonable excuse, obstruct an authorised officer, a services officer or anyone else engaged in administering this Act or exercising powers under this Act.

Maximum penalty: In the case of a natural person – 100 penalty units or imprisonment for 6 months.

In the case of a corporation – 500 penalty units.

- (2) A person must not use abusive or intimidatory language to, or engage in offensive or intimidatory behaviour towards, an authorised officer, a services officer or anyone else engaged in administering this Act or exercising powers under this Act.

Maximum penalty: In the case of a natural person – 20 penalty units.

In the case of a corporation – 100 penalty units.

**104 False or misleading information**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this Act.

Maximum penalty: 50 penalty units.

If the person made the statement knowing that it was false or misleading:

in the case of a natural person – 200 penalty units or imprisonment for 12 months; and

in the case of a corporation – 1 000 penalty units.

## **Part 6            Miscellaneous**

### **Division 1        Protection of property in infrastructure**

#### **105            Water supply and sewerage services infrastructure does not merge with land**

- (1) An agreement between a licensee and the owner of land relating to the construction or installation of water supply infrastructure or sewerage services infrastructure on the land is to be taken to include agreement that ownership of the infrastructure is not affected by its affixation or annexation to the land.
- (2) Water supply infrastructure and sewerage services infrastructure referred to in subsection (1) may be dealt with and disposed of as personal property.
- (3) Subsection (1) is subject to any agreement in writing to the contrary.

#### **106            Prevention of dismantling of water supply and sewerage services infrastructure in execution of judgment**

- (1) Water supply infrastructure and sewerage services infrastructure owned or operated by a licensee cannot be dismantled in execution of a judgment.
- (2) This section does not prevent the sale of water supply infrastructure or sewerage services infrastructure as a going concern in execution of a judgment.

### **Division 2        Warrants to enter places**

#### **107            Application and issue of warrant**

- (1) An authorised officer or a services officer may apply to a magistrate for a warrant to enter a place specified in the application.
- (2) A magistrate may issue a warrant if satisfied that there are reasonable grounds for issuing the warrant.
- (3) A warrant authorises the authorised officer or services officer with any assistance and by any force reasonably necessary:
  - (a) to enter the place specified in the warrant; and
  - (b) to do anything authorised by this Act,at any time, or within any period, specified in the warrant.

- (4) A services officer must be accompanied by a member of the Police Force when entering a place under a warrant.
- (5) A warrant is to specify the date on which, and the time at which, the warrant ceases to have effect.

**108        Urgent situations**

- (1) An authorised officer or a services officer may apply to a magistrate for a warrant by telephone, facsimile or other prescribed means if the officer considers the urgency of the situation requires it.
- (2) The magistrate may complete and sign the warrant in the same terms as for a warrant applied for in person if satisfied that there are reasonable grounds for issuing the warrant urgently.
- (3) The magistrate must:
  - (a) tell the officer:
    - (i) the terms of the warrant;
    - (ii) the date on which, and the time at which, the warrant was signed; and
    - (iii) the date on which, and the time at which, the warrant ceases to have effect; and
  - (b) record on the warrant the reasons for granting the warrant.
- (4) The officer must:
  - (a) complete a form of warrant in the same terms as the warrant signed by the magistrate;
  - (b) write on the form:
    - (i) the name of the magistrate; and
    - (ii) the date on which, and the time at which, the warrant was signed; and
  - (c) send the magistrate the completed form of warrant not later than the day after the warrant is executed or ceases to have effect.
- (5) On receiving the form of warrant, the magistrate must attach it to the warrant the magistrate signed.

- (6) A form of warrant completed by an authorised officer or services officer under subsection (4) has the same force as a warrant signed by the magistrate under subsection (2).

### **Division 3            General**

#### **109            Delegation by Minister**

- (1) Subject to this section, the Minister may delegate to a person or body of persons any of his or her powers and functions under this Act.
- (2) The Minister cannot delegate:
- (a) his or her powers or functions under section 60; or
  - (b) this power of delegation.
- (3) A delegation under this section:
- (a) is to be in writing; and
  - (b) may be to a person from time to time holding, acting in or performing the duties of an office, designation or position.
- (4) A power or function delegated under this section, when exercised or performed by the delegate, is to be taken to have been exercised or performed by the Minister.
- (5) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

#### **110            Statutory declarations**

If a person is required by or under this Act to provide information to the Utilities Commission, the Utilities Commission may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Utilities Commission.

#### **111            General defence**

- (1) It is a defence to a charge of an offence against this Act if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

- (2) It is a defence to a charge of an offence against this Act if the defendant proves that the act or omission constituting the offence was reasonably necessary in the circumstances in order to avert, eliminate or minimise danger to person or property.

## **112        Offences by corporations**

If a corporation is guilty of an offence against this Act, each director of the corporation is, subject to the general defences under this Part, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

## **113        Continuing offence**

- (1) A person found guilty of an offence against a provision of this Act in respect of a continuing act or omission:
- (a) in addition to the penalty otherwise applicable to the offence – is liable to a penalty for each day during which the act or omission continued of not more than one-fifth of the penalty prescribed for that offence; and
  - (b) if the act or omission continues after the finding of guilt – is guilty of a further offence against the provision and liable (in addition to the penalty otherwise applicable to the further offence) to a penalty for each day during which the act or omission continued after the finding of guilt of not more than one-fifth of the penalty prescribed for the offence.
- (2) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

## **114        Licensees not liable in certain circumstances**

- (1) A licensee, or an officer or employee of the licensee, is not liable for damages or any penalty arising out of a partial or total failure to supply water and sewerage services to a customer unless the failure is due to an act or omission done or made by the licensee or the officer or employee in bad faith or through negligence.
- (2) A licensee may enter into an agreement with a person varying or excluding the operation of this section and this section, to the extent of the agreement, does not apply.

## **115        Immunity from liability**

- (1) No liability attaches to a person engaged in the administration or enforcement of this Act for an act or omission in the exercise or discharge, or purported exercise or discharge, of a power or function under this Act unless the act or omission is done or made in bad faith.
- (2) Subsection (1) does not affect any liability that the Territory, the Utilities Commission or an employer of a person referred to in subsection (1) would, but for that subsection, have for an act or omission.

## **116        Evidence**

- (1) If, in any legal proceedings, a person is alleged to have held a specified appointment under this Act at a specified time, the allegation is taken to have been proved in the absence of proof to the contrary.
- (2) In any legal proceedings, an apparently genuine document purporting to be a certificate of the Utilities Commission certifying:
  - (a) that a person was or was not the holder of a licence at a specified date or as to the particulars or conditions of a licence; or
  - (b) as to the giving and contents of an order, direction, delegation, exemption, approval or authorisation by the Utilities Commission,

constitutes proof of the matters certified in the absence of proof to the contrary.

- (3) In any legal proceedings, an apparently genuine document purporting to be a certificate of an authorised officer certifying as to the giving and contents of a direction by the officer under this Act, constitutes proof of the matters certified in the absence of proof to the contrary.
- (4) If, in any legal proceedings, a person is alleged to have acted without proper authority or a specified approval required under this Act, the absence of authority or approval will be presumed in the absence of proof that the authority or approval in fact existed or had been given.

## **117 Service**

- (1) A notice or other document required or authorised to be given to or served on a person under this Act may be given or served:
  - (a) by delivering it personally to the person or an agent of the person;
  - (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or
  - (c) by posting it to the person or agent of the person at the person's or agent's last known place of residence or business.
- (2) Without limiting subsection (1), a notice or other document required or authorised to be given to or served on a person may, if the person is a corporation, be given to or served on the person in accordance with section 109X of the Corporations Act 2001.
- (3) If a notice or other document is required or authorised to be given to or served on the holder of a licence under this Act and the licence is held by 2 or more persons, it is sufficient for the purposes of this Act if the notice or other document is given to or served on any one of those persons.
- (4) If:
  - (a) a notice or document required or authorised to be given to or served on a person under this Act has not been able to be given to or served on the person in a manner prescribed in this section; and
  - (b) the person is the owner or occupier of land,the notice or document may be served on the person by affixing a copy of the notice or document in a conspicuous place on the land.

## **118 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.



- (2) The Regulations may deal with the following matters:
- (a) the supply of water or sewerage services;
  - (b) the construction, installation and positioning of water supply infrastructure and sewerage services infrastructure;
  - (c) technical, operational and safety requirements and standards and monitoring and enforcing compliance with the prescribed requirements and standards;
  - (d) the exemption (conditionally or unconditionally) of persons or operations from the application of this Act or specified provisions of this Act;
  - (e) fees to be paid in respect of any matter under this Act and the recovery, refund, waiver or reduction of those fees;
  - (f) provide for the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act or regulations made under this Act and for the service of a notice relating to payment of the amount on a person alleged to have committed the offence and the particulars to be included in that notice; and
  - (g) penalties not exceeding 100 penalty units for offences against the Regulations.
- (3) If the Regulations grant an exemption from the requirement to hold a licence under Part 2, the Regulations may require a person exempted from the requirement to be treated as a licensee for the purposes of specified provisions of this Act.
- (4) The Regulations may provide that any act or thing, or kind of act or thing, of or relating to a licensee or a related corporation of a licensee is authorised for a particular period for the purposes of Part IV of the *Competition and Consumer Act 2010* (Cth).
- (5) The Regulations may:
- (a) be of general application or limited in application according to the persons, areas, times or circumstances to which they are expressed to apply;
  - (b) provide that a matter or thing in respect of which regulations may be made is to be determined, regulated or prohibited according to the discretion of the Minister or the Utilities Commission; and

- (c) refer to or incorporate, wholly or partially and with or without modification, any standard or other document prepared or published by a body referred to in the Regulations, as is in force from time to time or as in force at a particular time.

**119 Repeal**

The Acts listed in the Schedule are repealed.

**120 Transitional**

- (1) In this section:

*Authority* means the Power and Water Authority established by section 4 of the *Power and Water Authority Act*.

*Repealed Act* means the Acts repealed by section 119.

- (2) Subject to this section, if, immediately before the commencement of this Act, a person was providing a water supply service or sewerage service to the owner of land in the Territory, the person may continue to provide the service after the commencement as if this Act had not commenced.
- (3) Subsection (2) ceases to apply:
- (a) if the person is granted a licence or an exemption under this Act; or
- (b) 12 months after the commencement of this Act,
- whichever occurs first.
- (4) On the commencement of this Act, the Authority is to be taken to have been granted a licence in respect of each area that under section 10 of the Repealed Act had been declared to be a water district or sewerage district.
- (5) Subsection (4) ceases to apply to an area referred to in that subsection:
- (a) if the Authority is granted a licence under this Act in respect of the area; or
- (b) 12 months after the commencement of this Act,
- whichever occurs first.

- (6) Despite anything in this Act, the Utilities Commission may in respect of a licence taken to have been granted under subsection (4), exempt the Authority, in part or in whole and subject to the conditions that it thinks fit, from a requirement imposed on a licensee by this Act.
- (7) In this Act, a reference:
- (a) to a licence includes a licence taken to have been granted to the Authority under subsection (4);
  - (b) to a licensee includes the Authority in respect of a licence taken to have been granted under subsection (4); and
  - (c) to a licence area includes a water district or sewerage district in respect of which a licence is taken to have been granted under subsection (4).
- (8) If, immediately before the commencement of this Act, a person was an authorized person appointed under the Repealed Act, the person, on the commencement of this Act:
- (a) is to be taken to have been appointed as a services officer by the Authority under section 55; and
  - (b) while the appointment remains in force – may exercise his or her powers under this Act in respect of a licence taken to have been granted under subsection (4) or that is granted to the Authority under this Act.
- (9) If, immediately before the commencement of this Act, an amount was required to be paid under section 12A or 13B of the Repealed Act, the amount outstanding remains payable to the Authority in accordance with the section and, for that purpose, sections 12A and 13B are to be taken not to have been repealed.
- (10) In respect of a licence taken to have been granted under subsection (4), the charges that the Authority may require a customer to pay for water supply or sewerage services under the licence are, despite section 59(2), those applying immediately before the commencement of this Act to the customer under the Repealed Act.
- (11) If, immediately before the commencement of this Act, a parcel of land was the subject of an overriding statutory charge in respect of a charge payable under section 13A of the Repealed Act, the amount outstanding remains payable to the Authority in accordance with that section and, for that purpose, section 13A is to be taken not to have been repealed.

- (12) If, immediately before the commencement of this Act:
- (a) a water supply service was being provided to a person under an agreement entered into under section 19 of the Repealed Act; or
  - (b) a sewerage service was made available to a person under an agreement entered into under section 19A of the Repealed Act,
- the terms and conditions of the agreement continue to apply to the water supply service and the sewerage service unless otherwise agreed between the Authority and the person.
- (13) Despite section 82, a person may discharge trade waste into a licensee's sewerage services infrastructure if, immediately before the commencement of this Act, the person was permitted to do so under a trade waste agreement entered into under section 47 of the Repealed Act.
- (14) Subsection (13) applies until the trade waste agreement entered into under section 47 of the Repealed Act is terminated.
- (15) For the purposes of subsections (13) and (14), Part IV of the Repealed Act is to be taken not to have been repealed.
- (16) Despite section 119, Part III and section 54 of the Repealed Act and the *Water Supply and Sewerage Regulations* (so far as they relate to Part III) continue in force as if this Act had not commenced until the *Building Act* is amended to regulate plumbing and drainage work.
- (17) On the commencement of this Act:
- (a) an approval given under section 59 of the Repealed Act is to be taken to be an approval given under section 93; and
  - (b) a condition of an approval imposed under section 59(4) of the Repealed Act is to be taken to be a condition imposed under section 93(5).

**Schedule Repealed Acts**

section 119

<i>Water Supply and Sewerage Act 1983</i>	Act No. 12, 1983
<i>Water Supply and Sewerage Amendment Act 1986</i>	Act No. 69, 1986
<i>Water Supply and Sewerage Amendment Act (No. 2) 1986</i>	Act No. 71, 1986
<i>Water Supply and Sewerage Amendment Act 1987</i>	Act No. 22, 1987
<i>Water Supply and Sewerage Amendment Act 1991</i>	Act No. 58, 1991
<i>Water Supply and Sewerage Amendment Act 1989</i>	Act No. 72, 1989
<i>Water Supply and Sewerage Amendment Act 1993</i>	Act No. 34, 1993
<i>Water Supply and Sewerage Amendment Act 1994</i>	Act No. 83, 1994
<i>Water Supply and Sewerage Amendment Act 1998</i>	Act No. 26, 1998

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**ENDNOTES**
**1 KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<i>Gaz</i> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

**2 LIST OF LEGISLATION*****Water Supply and Sewerage Services Act 2000 (Act No. 75, 2000)***

Assent date	15 December 2000
Commenced	1 January 2001 (s 2)

***Unit Titles (Consequential Amendments – Building Development) Act 2001 (Act No. 15, 2001)***

Assent date	28 June 2001
Commenced	1 March 2002 (s 2, s 2 <i>Unit Titles Amendment Act 2001</i> (Act No. 14, 2001) and <i>Gaz</i> G8, 27 February 2002, p 6)

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 <i>Corporations Act 2001</i> (Cth Act No. 50, 2001) and Cth <i>Gaz</i> S285, 13 July 2001)

***Water Supply and Sewerage Services Amendment Act 2001 (Act No. 32, 2001)***

Assent date	19 July 2001
Commenced	19 July 2001

***Statute Law Revision Act (No. 2) 2001 (Act No. 62, 2001)***

Assent date	11 December 2001
Commenced	11 December 2001

***Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)***

Assent date	7 November 2002
Commenced	7 November 2002

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***Unit Title Schemes Act 2009 (Act No. 14, 2009)***

Assent date 26 May 2009  
 Commenced pt 2.3, div 3, sdv 4 and s 135 (to ext ins s 54C):  
 1 January 2010; s 111: 1 July 2010; rem: 1 July 2009 (s 2,  
*Gaz S30, 26 June 2009, p 1, s 2 Land Title and Related  
 Legislation Amendment Act 2008 (Act No. 3, 2008) and Gaz  
 S30, 26 June 2009, p 1)*

***Personal Property Securities (National Uniform Legislation) Implementation Act 2010  
 (Act No. 30, 2010)***

Assent date 9 September 2010  
 Commenced ss 58 to 60: nc; rem: 25 November 2011 (*Gaz S68,  
 25 November 2011*)

***Penalties Amendment (Justice and Treasury Legislation) Act 2010 (Act No. 38, 2010)***

Assent date 18 November 2010  
 Commenced 1 February 2011 (*Gaz S6, 1 February 2011*)

***Consumer Affairs and Fair Trading Amendment (National Uniform Legislation) Act 2010  
 (Act No. 41, 2010)***

Assent date December 2010  
 Commenced 1 January 2011 (*Gaz G, December 2010, p*)

***Public and Environmental Health Act 2011 (Act No. 7, 2011)***

Assent date 16 March 2011  
 Commenced 1 July 2011 (*Gaz S28, 3 June 2011*)

**3 LIST OF AMENDMENTS**

s 4 amd No. 15, 2001, s 12; No. 14, 2009, s 178; No. 7, 2011, s 140  
 s 14 amd No. 38, 2010, s 4  
 s 25A ins No. 30, 2010, s 56  
 s 27 amd No. 38, 2010, s 4  
 s 33 amd No. 38, 2010, s 4  
 s 37 amd No. 38, 2010, s 4  
 s 40 amd No. 38, 2010, s 4  
 s 43 amd No. 38, 2010, s 4  
 s 46 amd No. 38, 2010, s 4  
 ss 51 – 52 amd No. 38, 2010, s 4  
 ss 57 – 58 amd No. 38, 2010, s 4  
 s 62 amd No. 38, 2010, s 4  
 s 65 amd No. 38, 2010, s 4  
 s 69 amd No. 38, 2010, s 4  
 s 74 amd No. 38, 2010, s 4  
 s 78 amd No. 38, 2010, s 4  
 s 80 amd No. 38, 2010, s 4  
 s 82 amd No. 59, 2002, s 5; No. 38, 2010, s 4  
 s 84 amd No. 38, 2010, s 4  
 s 86 amd No. 38, 2010, s 4  
 ss 88 – 104 amd No. 38, 2010, s 4  
 s 115 amd No. 32, 2001, s 2  
 s 117 amd No. 17, 2001, s 21  
 s 118 amd No. 41, 2010, s 30  
 s 120 amd No. 62, 2001, s 15