



Queensland

South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Bill 2011



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2011

A Bill

for

An Act to amend the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, the *Energy and Water Ombudsman Act 2006*, the *Plumbing and Drainage Act 2002*, the *Queensland Competition Authority Act 1997*, the *Queensland Competition Authority Regulation 2007*, the *Water Act 2000* and the *Water Supply (Safety and Reliability) Act 2008* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *South-East Queensland Water
(Distribution and Retail Restructuring) and Other Legislation
Amendment Act 2011*. 4
5
6

Clause 2 Commencement 7

(1) The following provisions commence at the end of 30 June
2012— 8
9

- sections 24 to 74 10
- parts 5 to 8. 11

(2) Section 77, to the extent it inserts section 123, commences on
a day to be fixed by proclamation. 12
13

(3) Section 78(3) commences on the later of the following— 14

- (a) the date of assent of this Act; 15
- (b) the date of assent of the *Waste Reduction and Recycling
Act 2011*. 16
17

Part 2	Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009	1 2 3 4
Clause 3	Act amended	5
	This part amends the <i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i> .	6 7
	<i>Note—</i>	8
	See also the amendments in the schedule.	9
Clause 4	Amendment of s 4 (Achievement of purposes)	10
	(1) Section 4(2)(b) to (e)—	11
	<i>renumber</i> as section 4(2)(c) to (f).	12
	(2) Section 4(2)—	13
	<i>insert—</i>	14
	‘(b) providing for the following to, subject to this Act, deliver the services to customers in their local government areas from 1 July 2012—	15 16 17
	(i) the Gold Coast City Council;	18
	(ii) the Logan City Council;	19
	(iii) the Redland City Council; and’.	20
Clause 5	Amendment of s 5 (Who are a distributor-retailer’s participating local governments)	21 22
	Section 5—	23
	<i>insert—</i>	24
	‘(2) In a provision about a board, a reference to a participating local government is a reference to a participating local	25 26

government under subsection (1) for the board's
distributor-retailer.’. 1
2

Clause 6 Insertion of new ch 1, pt 3, div 3 3

Chapter 1, part 3— 4

insert— 5

‘Division 3 Functions 6

‘7A References to functions 7

‘In this Act— 8

(a) a reference to a function includes a reference to a power
or jurisdiction; and 9
10

(b) a reference to performing a function includes a
reference to exercising a power or jurisdiction.’. 11
12

Clause 7 Amendment of s 8 (Establishment) 13

Section 8(c)— 14

insert— 15

‘Notes— 16

1 For the authority mentioned in paragraph (c), see chapter
3A (Replacement of Allconnex by councils), part 9
(Dissolution of Allconnex). 17
18
19

2 Under section 92AP, that authority will only have limited
functions from 1 July 2012.’. 20
21

Clause 8 Insertion of new s 18B 22

After section 18A— 23

insert— 24

‘18B	Joint government activity power for LGA 2009 and CBA 2010	1 2
	‘For LGA 2009, section 10 and CBA 2010, section 12, a reference to a local government is taken to include a reference to a distributor-retailer.’.	3 4 5
Clause 9	Amendment of s 20 (Requirement for agreement)	6
	Section 20(1)(a), ‘the persons who are to have’—	7
	<i>omit, insert—</i>	8
	‘that the participating local governments have’.	9
Clause 10	Amendment of s 22 (Particular matters agreement may provide for)	10 11
	Section 22(e), after ‘board’—	12
	<i>insert—</i>	13
	‘, including, for example, the term of office of its councillor-members or additional requirements to those under section 34 for their appointment or removal’.	14 15 16
Clause 11	Amendment of s 28 (General power to amend by agreement)	17 18
	(1) Section 28, heading, ‘General power’—	19
	<i>omit, insert—</i>	20
	‘ Power ’.	21
	(2) Section 28(2) and (3)—	22
	<i>renumber</i> as section 28(3) and (4).	23
	(3) Section 28—	24
	<i>insert—</i>	25
	‘(2) However, a participation agreement for a distributor-retailer can not be amended to allow anyone other than a participating	26 27

local government for the distributor-retailer to become a participant in it.’ 1
2

Clause 12 Replacement of ss 33–36 3

Sections 33 to 36— 4

omit, insert— 5

‘33 Membership in general 6

‘(1) A board is to consist of at least 5 members. 7

‘(2) The members must be appointed under this division by the distributor-retailer’s participants. 8
9

‘(3) Each of the distributor-retailer’s participating local governments may have 1 of its councillors as a member of the board (a *councillor-member*). 10
11
12

‘(4) However, a board can not have more than 3 councillor-members. 13
14

‘(5) At least 3 of a board’s members must be members (each an *independent member*) who are not councillor-members. 15
16

‘34 Councillor-members 17

‘(1) Unless the participation agreement provides otherwise, a board’s councillor-members can not be— 18
19

(a) appointed for a term of more than 4 years; or 20

(b) appointed or reappointed if, at any time, they have already served a term of 4 years or terms totalling 4 years. 21
22
23

Example— 24

A is a councillor-member appointed for a 4-year term. A ceases to be a councillor of the relevant council after 3 of those years. B, another councillor of the council, is appointed to replace A for the rest of that term. B is re-elected as a councillor of the council. The participation agreement does not provide for more than a 4-year term for councillor-members. Therefore, B can only be reappointed for 3 more years. 25
26
27
28
29
30
31

- ‘(2) A councillor-member’s appointment ends if— 1
- (a) the person stops being a councillor of the relevant council; or 2
3
 - (b) either— 4
 - (i) all participating local governments have, by resolution, so agreed; or 5
6
 - (ii) the ending happens under the participation agreement. 7
8
- ‘(3) A vacancy under subsection (2) may be filled— 9
- (a) only by— 10
 - (i) a councillor of the relevant council; or 11
 - (ii) if the distributor-retailer’s participation agreement provides for a councillor of a different relevant council to fill the vacancy—the other councillor; and 12
13
14
15
 - (b) in the way provided for under the participation agreement. 16
17
- ‘(4) A councillor-member’s appointment is suspended during any period of suspension of the person as a councillor of the relevant council. 18
19
20
- ‘35 Independent members 21**
- ‘(1) The matters to which regard must be had in considering whether to appoint a person as an independent member include the person’s previous experience and ability to— 22
23
24
- (a) contribute to the carrying out of the board’s role under section 32; and 25
26
 - (b) contribute to the strategic oversight of the distributor-retailer’s functions; and 27
28
 - (c) bring an independent judgment to bear on the board’s decision-making. 29
30
- ‘(2) An independent member— 31
-

(a)	holds office for the term stated in the person's appointment; and	1 2
(b)	is, if not disqualified, eligible for reappointment.	3
'(3)	A person's appointment as an independent member ends if the person becomes disqualified.	4 5
'(4)	In this section—	6
	<i>disqualified</i> means unable to be appointed because of section 36.	7 8
'36	Disqualifications for independent member	9
	'A person can not be appointed as an independent member if the person—	10 11
(a)	is a public service employee; or	12
(b)	is an employee of any local government in the SEQ region; or	13 14
(c)	is a member of the Queensland Water Commission; or	15
(d)	is an insolvent under administration; or	16
(e)	has a conviction, other than a spent conviction, for an indictable offence; or	17 18
(f)	is a member of a board of—	19
(i)	another distributor-retailer; or	20
(ii)	a new water entity under the 2007 restructuring Act.	21 22
'36A	Terms of membership	23
'(1)	A board member holds office on the terms of appointment provided for under a participation agreement of the distributor-retailer, and subject to this Act.	24 25 26
'(2)	A councillor-member can not receive, and the distributor-retailer can not confer, a benefit on a councillor-member—	27 28 29

- (a) by way of remuneration as the holder of that office; or 1
- (b) in connection with retirement from or other ending of
the office. 2
3
- ‘(3) However, the councillor-member may receive a benefit 4
conferred on the member under LGA 2009 or CBA 2010. 5
- ‘(4) For applying CBA 2010 under subsection (3), the relevant 6
provisions of those Acts apply as if a reference to a corporate 7
entity of the relevant council included a reference to a 8
distributor-retailer. 9
- Note—* 10
- For LGA 2009, see the *Local Government (Operations) Regulation* 11
2010, section 43. 12
- ‘(5) An independent member may receive from a 13
distributor-retailer, and a distributor-retailer may confer on an 14
independent member, a benefit for the following only if it 15
complies with the participation agreement— 16
- (a) remuneration as the holder of that office; 17
- (b) a matter for, or in connection with, retirement from or 18
other ending of the office. 19
- ‘(6) A purported benefit conferred or received that can not be 20
made under this section is of no effect. 21
- ‘(7) In this section— 22
- benefit* means a payment made or an interest in property or 23
other valuable consideration or benefit given or transferred. 24
- ‘36B Chairperson** 25
- ‘(1) A distributor-retailer must have an independent member as its 26
chairperson. 27
- ‘(2) The chairperson must be— 28
- (a) appointed in the way provided for under the 29
distributor-retailer’s participation agreement; or 30

- (b) if the participation agreement does not provide for how the appointment takes place—elected by the board.’. 1
2

Clause 13 Amendment of s 40 (Conduct of meetings) 3

Section 40(1)— 4

omit, insert— 5

- ‘(1) A quorum of a board must consist of at least 1 independent member.’. 6
7

Clause 14 Amendment of s 42 (Disclosure of interests) 8

Section 42— 9

insert— 10

- ‘(9) To remove any doubt, it is declared that the fact that a relevant council has an interest in an issue does not, of itself, mean that the councillor-member for the council has an interest in the issue.’. 11
12
13
14

Clause 15 Amendment of s 49 (Reserve power to give directions in public interest) 15
16

- (1) Section 49, heading— 17

omit, insert— 18

‘49 Group directions’. 19

- (2) Section 49(1), ‘(a *local government direction*)’— 20

omit, insert— 21

‘(a *group direction*)’.

- (3) Section 49(2)(b)(i), ‘and the SEQ region’— 23

omit. 24

- (4) Section 49(3)— 25

omit. 26

Clause 16	Insertion of new s 49A	1
	After section 49—	2
	<i>insert—</i>	3
‘49A	Individual directions	4
‘(1)	This section applies for any participating local government (the <i>council</i>) of a distributor-retailer.	5 6
‘(2)	The council may give the distributor-retailer a written direction (an <i>individual direction</i>) about the way the distributor-retailer is to perform its functions relating to the council’s local government area about any of the following—	7 8 9 10
	(a) charges mentioned in section 99BO(1)(g)(iii);	11
	(b) compliance, under section 99BX(5), with a particular matter relating to the council’s final price path;	12 13
	(c) the distributor-retailer’s annual capital works program under section 100B.	14 15
‘(3)	However, the council may give the direction only if—	16
	(a) it is satisfied the direction is necessary and in the public interest to the extent it relates to the local government area; and	17 18 19
	(b) it has given the board and other participating local governments of the distributor-retailer a notice—	20 21
	(i) stating the proposed direction; and	22
	(ii) asking the board for its written opinion about the direction within the required period; and	23 24
	(c) it has considered any written opinion of the board given to it within the required period; and	25 26
	(d) its compensation liability because of the effects of the direction has been agreed or decided under section 99BZD.	27 28 29
‘(4)	The opinion may include an amount claimed for, or particulars of, the compensation liability for the	30 31

distributor-retailer or all or any of its other participating local governments. 1
2

‘(5) In this section— 3

required period means the following period after the giving of the notice— 4
5

(a) generally—1 month; 6

(b) if the distributor-retailer’s participation agreement provides for another period for giving the opinion—the other period.’. 7
8
9

Clause 17 Amendment of s 50 (Publication of directions) 10

Section 50, ‘a local government direction’— 11

omit, insert— 12

‘a group direction, or the participating local government that gives an individual direction.’. 13
14

**Clause 18 Replacement of s 51 (Local government directions relevant to duty) 15
16**

Section 51— 17

omit, insert— 18

‘51 Compliance with directions 19

‘(1) This section applies if a distributor-retailer is given a group direction or an individual direction. 20
21

‘(2) The board must take reasonable steps to ensure the direction is complied with. 22
23

‘(3) Regard must be had to the direction in deciding, for this Act or any other relevant law, whether or not a board member has exercised an appropriate degree of care and diligence in discharging the member’s duties.’. 24
25
26
27

Clause 19	Insertion of new s 52A	1
	After section 52—	2
	<i>insert—</i>	3
‘52A	Relationship between councillor-member functions and councillor functions	4
	‘While a councillor-member is acting in the person’s capacity as a councillor-member, the member’s responsibilities as a councillor under LGA 2009 or CBA 2010 do not apply.’.	5
		6
		7
		8
Clause 20	Amendment of s 53 (Delegation)	9
	Section 53(5)(a), after ‘the period ending 30 June 2013’—	10
	<i>insert—</i>	11
	‘or any other period prescribed under a regulation’.	12
Clause 21	Amendment of s 53ARA (Definitions for div 1)	13
	Section 53ARA, definitions <i>bulk water component</i> , <i>small business customer</i> and <i>variable measures—</i>	14
	<i>omit.</i>	15
		16
Clause 22	Amendment of s 53BA (Ownership of water infrastructure that becomes part of land)	17
	Section 53BA—	18
	<i>insert—</i>	19
	‘(3) This section is subject to any retransfer of the water infrastructure under chapter 3A.’.	20
		21
		22
Clause 23	Insertion of new ch 3A	23
	After section 92—	24
	<i>insert—</i>	25

‘Chapter 3A	Replacement of Allconnex by councils	1 2
‘Part 1	Preliminary	3
‘92AA	Application of ch 3A	4
	‘This chapter applies, and anything done under it takes effect, despite any other provision of this Act or another law, a transfer document, a participation agreement or a contract or other instrument.	5 6 7 8
‘92AB	What is <i>Allconnex</i>	9
	‘ <i>Allconnex</i> is the Southern SEQ Distributor-Retailer Authority.	10 11
‘92AC	What is a <i>withdrawn council</i>	12
	‘A <i>withdrawn council</i> is—	13
	(a) the Gold Coast City Council; or	14
	(b) the Logan City Council; or	15
	(c) the Redland City Council.	16
	<i>Note</i> —	17
	The withdrawn councils are Allconnex’s participating local governments.	18 19
‘92AD	What is Allconnex’s <i>successor</i>	20
	‘(1) Allconnex’s <i>successor</i> is—	21
	(a) for a provision about a customer—the withdrawn council in whose local government area the customer received, or wanted to receive, services from Allconnex	22 23 24

- of a type mentioned in the Water Supply Act, schedule 3, definition *customer*; or
- (b) for a provision about an asset, liability or matter that, under a retransfer document or part 4, division 2, is transferred to a withdrawn council—that council; or
- (c) for an infrastructure agreement that provides for water infrastructure for a withdrawn council’s local government area—that council; or
- (d) for a provision about a matter not provided for under paragraphs (a) to (c)—the geographically-connected withdrawn council.
- Example for paragraph (d)—*
- Under this chapter, water infrastructure is transferred to a withdrawn council. That council is Allconnex’s successor for a provision about a trade waste approval by it authorising discharge into the infrastructure.
- ‘(2) If a matter is located in, or relates to, more than 1 withdrawn council’s local government area, each of them is a **successor** of Allconnex.
- ‘(3) If, under this chapter, the withdrawn councils are stated to be Allconnex’s **proportional joint successor** for a matter, all of them are its joint successor, rateably in accordance with their participation rights under Allconnex’s participation agreement immediately before the retransfer.
- ‘(4) In this section—
- liability** does not include a matter that is, or may be, the subject of a dispute referral under the EWO Act or a liability under an order under that Act.
- matter** includes—
- (a) an authority, application, document, proceeding and water infrastructure; and
- (b) a relevant action under section 77I(3), definition *relevant action*; and
- (c) an Allconnex infrastructure funding matter.

‘Part 2	General provisions for retransfer to withdrawn councils on 1 July 2012	1
		2
		3
‘Division 1	Preliminary	4
‘92AE Application of pt 2		5
	‘This part applies from the end of 30 June 2012.	6
‘Division 2	General service provider provisions	7
‘92AF Allconnex ceases to be service provider		8
	‘Allconnex ceases to be a service provider.	9
‘92AG Withdrawn councils become service providers		10
	‘(1) Each withdrawn council becomes a service provider for its local government area.	11
		12
	‘(2) The Water Supply Act, section 20 does not apply to a withdrawn council.	13
		14
	‘(3) A withdrawn council continues to be a service provider, subject to the Water Supply Act.	15
		16
	‘(4) A withdrawn council must, as soon as practicable, give the regulator the information mentioned in the Water Supply Act, section 12 about the council as a service provider.	17
		18
		19
‘92AH No notice to regulator required		20
	‘The Water Supply Act, sections 24 and 25 do not apply for Allconnex’s cessation as, or the withdrawn councils becoming, a service provider.	21
		22
		23

‘92AI Withdrawn council’s initial service area	1
‘(1) A withdrawn council’s service area is that part of its local government area (the <i>new area</i>) that was in Allconnex’s service area at the end of 30 June 2012.	2 3 4
‘(2) This section—	5
(a) does not prevent the Water Supply Act, chapter 2, part 5, division 2 from applying to the new area; but	6 7
(b) is subject to section 92DB.	8
‘92AJ Creation of commercial business units for withdrawn councils	9 10
‘(1) For LGA 2009, each withdrawn council is taken to have decided by resolution to do the following—	11 12
(a) commercialise a significant business for the services it provides as a water service provider (its <i>WSP business</i>);	13 14
(b) create a commercial business unit for its WSP business.	15
‘(2) Until a withdrawn council decides otherwise, the name of its WSP business is the name of its commercial business unit for the services under the repealed <i>Local Government Act 1993</i> immediately before 1 July 2010.	16 17 18 19
‘(3) If a withdrawn council’s WSP business proposes to develop significant water infrastructure, the council must consult with any other withdrawn council or distributor-retailer whose local government area or geographic area adjoins the council’s local government area.	20 21 22 23 24
‘(4) To remove any doubt, it is declared that this section does not limit or otherwise affect a withdrawn council’s capacity under LGA 2009 to create a corporate entity to acquire and conduct its WSP business.	25 26 27 28

‘92AK Migration of customers	1
‘A person who, at the end of 30 June 2012, is a customer of Allconnex as a service provider becomes a customer of its successor, as a service provider on 1 July 2012.	2 3 4
‘92AL Migration of appointments and delegations	5
‘(1) This section applies to a person who, at the end of 30 June 2012, holds an appointment or delegation from Allconnex about a matter.	6 7 8
‘(2) On 1 July 2012, the person is taken to hold the appointment or delegation from Allconnex’s successor for the matter.	9 10
‘(3) Subsection (2) does not affect the successor’s power to end or change the appointment or delegation.	11 12
‘Division 3 Transfer of Allconnex’s trade waste and seepage water functions under Water Supply Act	13 14 15
‘92AM Application of particular provisions of ch 2C	16
‘(1) The following provisions of chapter 2C, and any definitions relevant to them, apply for a withdrawn council, with the changes mentioned in subsection (2)—	17 18 19
• section 53CL(c)	20
• section 53CN	21
• section 53DA	22
• part 2, division 7	23
• part 3.	24
‘(2) The provisions apply—	25
(a) as if a reference in them to a discharge officer were a reference to a local government worker, under LGA	26 27

2009, of the withdrawn council authorised by it to perform functions mentioned in section 53CL; and	1 2
(b) as if a reference to a distributor-retailer included a reference to the withdrawn council; and	3 4
(c) with other necessary changes.	5
‘92AN Other functions not affected	6
‘To remove any doubt, it is declared that this division does not limit or otherwise affect the withdrawn council’s or the local government worker’s functions under LGA 2009.	7 8 9
‘Division 4 Allconnex’s status, functions and board	10 11
‘92AO Legal status unaffected until dissolution	12
‘To remove any doubt, it is declared that, until Allconnex is dissolved, nothing in this chapter—	13 14
(a) affects its establishment and legal status under sections 8 and 9; or	15 16
(b) makes the State liable for any of its liabilities.	17
‘92AP Residual functions	18
‘Allconnex can not perform functions other than those that are required, necessary or convenient—	19 20
(a) for this chapter or a law applying to it until its dissolution; or	21 22
(b) because it has been a service provider or it continues to be a distributor-retailer.	23 24

‘92AQ Board	1
‘(1) The old board provisions apply for Allconnex’s board.	2
‘(2) However, the associated employee restrictions do not apply.	3
‘(3) In this section—	4
<i>associated employee restrictions</i> means sections 33(4) and (5) and 35(3) under the old board provisions.	5 6
<i>old board provisions</i> means chapter 2, part 4, and the definition <i>associated employee</i> in the schedule, as in force before this section commences.	7 8 9
‘Part 3 Retransfer provisions	10
‘Division 1 Retransfer scheme	11
‘Subdivision 1 General provisions	12
‘92AR Requirement to make scheme	13
‘(1) Before 30 April 2012 Allconnex and all of the withdrawn councils (the <i>parties</i>) must enter into an agreement (the <i>retransfer scheme</i>) that—	14 15 16
(a) subject to this chapter—	17
(i) transfers at the end of 30 June 2012 all of Allconnex’s assets, employees (other than its chief executive officer), instruments and liabilities to the withdrawn councils; and	18 19 20 21
(ii) does everything else of an incidental, consequential or supplemental nature the parties consider necessary for the following—	22 23 24
(A) the transfers mentioned in subparagraph (i);	25

(B)	financial, staffing and other arrangements for Allconnex to perform its functions pending its dissolution;	1 2 3
(C)	Allconnex’s dissolution; and	4
(b)	complies with this division.	5
‘(2)	The matters mentioned in subsection (1) are the <i>retransfer</i> .	6
‘(3)	The retransfer must, as nearly as practicable, retransfer to each withdrawn council the assets, employees, instruments and liabilities that the council transferred to Allconnex under chapter 3.	7 8 9 10
‘(4)	However, subsection (3) does not apply if the parties unanimously otherwise agree.	11 12
‘92AS	Restriction on scheme taking effect	13
	‘The retransfer scheme has no effect until the Minister publishes a gazette notice about it under section 92BA(2).	14 15
‘Subdivision 2	Contents	16
‘92AT	Requirement to deal with proceedings and claims	17
‘(1)	A retransfer scheme must provide for all of the following—	18
(a)	the withdrawn council that is to be Allconnex’s replacement for—	19 20
(i)	a proceeding by or against Allconnex; or	21
(ii)	a cause of action for a proceeding that could have been started by Allconnex at the end of 30 June 2012 but has not been started;	22 23 24
(b)	how the withdrawn councils are to receive, process and decide claims for contingent and other liabilities that, other than for this chapter or Allconnex’s dissolution, could have been made against Allconnex;	25 26 27 28

- (c) all of the liabilities to be assumed by 1 or more of the
withdrawn councils. 1
2
- ‘(2) However, if, under a transition document, Allconnex became a
party to a proceeding instead of a withdrawn council, the
retransfer scheme must provide that the council is the
replacement for the proceeding. 3
4
5
6
- ‘(3) Also, if Allconnex is, or may be, a party to a proceeding in the
Planning and Environment Court or the Land Court about
land, the retransfer scheme must provide that the replacement
for the proceeding is the geographically-connected withdrawn
council. 7
8
9
10
11
- ‘(4) In this section— 12
- liability* does not include a matter that is, or may be, the
subject of a dispute referral under the EWO Act or a liability
under an order under that Act. 13
14
15
- proceeding* includes a proceeding that has ended. 16
- ‘92AU Accounting for assets and liabilities 17**
- ‘(1) The retransfer scheme must do the following— 18
- (a) include a process to account for the following— 19
- (i) Allconnex’s unrealised assets and liabilities; 20
- (ii) Allconnex’s liabilities to the withdrawn councils; 21
- (iii) the withdrawn councils’ liabilities to Allconnex; 22
- (b) transfer Allconnex’s assets in a way that includes the
process and the operation of this chapter, including, for
example, section 92BH; 23
24
25
- (c) provide for all of Allconnex’s unrealised assets to be
transferred to 1 or more of the withdrawn councils. 26
27
- Note— 28*
- See also part 4, division 2 (Default provisions). 29
- ‘(2) In this section— 30

- unrealised* includes— 1
- (a) for an asset—the right to the benefit of, or to a benefit under, any of the following— 2
 - (i) a matter mentioned in section 77H; 4
 - (ii) a relevant action under section 77I(3), definition *relevant action*; 5
6
 - (iii) an Allconnex infrastructure funding matter; 7
 - (iv) service charges under section 92BH; and 8
 - (b) for a liability—a liability that Allconnex may have that has not been, or the amount of which has not been, ascertained, or that is contingent. 9
10
11
- Example of a contingent liability—* 12
- a liability the existence or amount of which depends on the outcome of a proceeding 13
14

‘92AV Requirement to retransfer particular land to same withdrawn council 15
16

- ‘(1) This section applies if— 17
 - (a) a withdrawn council owned land or was the trustee of trust land to which an asset is attached; and 18
19
 - (b) under a transfer scheme or transfer notice— 20
 - (i) the land or asset was transferred to Allconnex; or 21
 - (ii) the withdrawn council was removed as trustee for the trust land and Allconnex was appointed as trustee; and 22
23
24
 - (c) after the transfer or change in the trusteeship, one of them owns the asset and another owns or is trustee of the land to which it is attached. 25
26
27
- ‘(2) The retransfer scheme must provide that the effect of the matters mentioned in subsection (1) is to be reversed and that the withdrawn council will become— 28
29
30

(a)	the owner of the asset; and	1
(b)	the owner or trustee of the land.	2
‘92AW	Required transferee for after-acquired land	3
‘(1)	The retransfer scheme must provide that all after-acquired land of Allconnex is to be transferred to the geographically-connected withdrawn council.	4 5 6
‘(2)	In this section—	7
	<i>after-acquired land</i> , of Allconnex, means any land of which Allconnex is the owner, other than land that was transferred to Allconnex under chapter 3.	8 9 10
‘92AX	Particular matters scheme may provide for	11
‘(1)	The retransfer scheme may provide for all or any of the following—	12 13
(a)	the following for trust land for which Allconnex is a trustee—	14 15
(i)	its removal as the trustee;	16
(ii)	the appointment of a withdrawn council as the trustee;	17 18
(b)	for a matter other than for which this chapter provides—	19
(i)	that a withdrawn council is Allconnex’s successor in law for the matter; and	20 21
(ii)	if there is more than 1 successor—how the successors share the matter as Allconnex’s successors;	22 23 24
(c)	the application or transfer of an instrument to a withdrawn council, including, for example, any of the following—	25 26 27
(i)	whether a withdrawn council holds, or is a party to, an instrument;	28 29

- | | |
|---|----------------------|
| (ii) whether an instrument, or a benefit or right provided by an instrument, is taken to have been given to, by or in favour of, a withdrawn council; | 1
2
3 |
| (iii) whether a reference to an entity in an instrument is to be a reference to a withdrawn council; | 4
5 |
| (iv) whether, under an instrument, an amount is or may become payable to or by a withdrawn council or other property is, or may be, transferred to a withdrawn council; | 6
7
8
9 |
| (v) whether a right or entitlement under an instrument is held by a withdrawn council; | 10
11 |
| (d) the transfer to a withdrawn council of an employee of Allconnex and the employee’s work entitlements and conditions of employment; | 12
13
14 |
| (e) varying or terminating an instrument to which Allconnex and a withdrawn council are the parties; | 15
16 |
| (f) terminating the participation agreement between Allconnex and the withdrawn councils; | 17
18 |
| (g) extinguishing the withdrawn councils’ participation rights in Allconnex; | 19
20 |
| (h) the consideration for, or the value of the following— | 21 |
| (i) an asset or liability transferred under the retransfer; | 22 |
| (ii) participation rights extinguished; | 23 |
| (i) subject to part 8, matters about Allconnex’s employees transferred under paragraph (d) and their rights; | 24
25 |
| (j) Allconnex’s or the withdrawn councils’ records, including, for example, about complying with the <i>Public Records Act 2002</i> for Allconnex’s records and access to them. | 26
27
28
29 |
| ‘(2) This section— | 30 |
| (a) does not limit section 92AR; but | 31 |
| (b) is subject to the other provisions of this chapter. | 32 |

‘(3) In this section—	1
<i>authority</i> includes accreditation, allocation, approval, certificate, entitlement, exemption, licence, manual, notice, permit and plan.	2 3 4
<i>instrument</i> includes an application or authority under an Act.	5
<i>trust land</i> includes land dedicated as a reserve, or granted in fee simple in trust, under the Land Act, chapter 3, part 1.	6 7
‘Subdivision 3 Certification statement	8
‘92AY Requirement to give statement to Minister	9
‘(1) This section applies to the parties to the retransfer when they enter into the retransfer scheme.	10 11
‘(2) The parties must give the Minister a statement (the <i>certification statement</i>) certifying all of the assets, liabilities and instruments that the withdrawn councils are to receive under the scheme.	12 13 14 15
‘(3) The statement must also comply with section 92AZ.	16
‘92AZ Content requirements	17
‘(1) The certification statement must state all of the following for the retransfer scheme—	18 19
(a) that the parties to the retransfer (the <i>retransfer parties</i>) have identified—	20 21
(i) all of Allconnex’s assets, liabilities and instruments; and	22 23
(ii) whether anything proposed to be done under the scheme would materially prejudice the interests of a third party;	24 25 26
(b) that all of the following apply for the scheme—	27

- (i) the scheme transfers all of Allconnex's assets, liabilities and instruments; 1
2
 - (ii) the scheme identifies any assets that are to be jointly used or accessed by the withdrawn councils; 3
4
5
 - (iii) agreements have been made between the withdrawn councils to ensure the joint use or access; 6
7
8
 - (iv) either— 9
 - (A) the scheme does not, to the knowledge of all the retransfer parties, materially prejudice the interests of any third party; or 10
11
12
 - (B) if the scheme materially prejudices the interests of any third party, the consent of all third parties so prejudiced has been obtained; 13
14
15
 - (v) the scheme does not transfer an employee inconsistently with the retransfer staff support framework; 16
17
18
 - (c) that the retransfer parties have consulted with the State Archivist about the way in which records are to be dealt with under the scheme; 19
20
21
 - (d) that the retransfer parties have given public notice to third parties about how they may obtain information (other than private or confidential information concerning others) about the scheme; 22
23
24
25
 - (e) that the retransfer parties have, since the giving of the public notice, made information mentioned in paragraph (d) available to third parties who have asked for it; 26
27
28
 - (f) that the statement is, after making all due enquiries, correct to the knowledge, information and belief of each individual signing it. 29
30
31
- ‘(2) For subsection (1)(b)(iv)(A), the fact of a transfer to a withdrawn council, is not, of itself, a material prejudice to a third party. 32
33
34

- ‘(3) The consultation with the State Archivist may be carried out 1
by the withdrawn councils jointly. 2
- ‘(4) The certification statement must not contain private or 3
confidential information concerning others. 4
- ‘(5) In this section— 5
public notice means a notice published in a newspaper 6
circulating in all of the SEQ region. 7

‘92BA Ministerial notice of retransfer 8

- ‘(1) This section applies only if the Minister is of the opinion that 9
the certification statement given complies with section 92AZ. 10
- ‘(2) As soon as practicable after receiving the statement, the 11
Minister must publish a gazette notice stating the following 12
information about the retransfer scheme and the statement— 13
- (a) that the scheme has been made; 14
- (b) that the statement has been given; 15
- (c) where copies of the statement can be obtained; 16
- (d) that the scheme has effect from the day the notice is 17
published, but that, under section 92AR, the retransfer 18
will not take place until the end of 30 June 2012; 19
- (e) where information about transfers under the scheme 20
may be obtained. 21
- ‘(3) However, the notice must not state where the information may 22
be obtained if the Minister considers that there is a need to 23
protect confidentiality or privacy relating to the information. 24
- ‘(4) The withdrawn councils must, as soon as practicable after the 25
gazettal, publish on each of their websites the information 26
stated in the gazette notice and keep it so published for at least 27
1 year. 28

‘Subdivision 4	Miscellaneous provision	1
‘92BB	Discharge of liabilities	2
‘(1)	When the retransfer scheme takes effect, all of the following that exist at that time are discharged—	3 4
(a)	all of Allconnex’s liabilities to a withdrawn council;	5
(b)	all liabilities from a withdrawn council to Allconnex other than Gold Coast City Council’s liability to Allconnex under section 92BY.	6 7 8
‘(2)	To remove any doubt, it is declared that subsection (1) does not limit or otherwise affect what may or must be provided for under the retransfer scheme.	9 10 11
	<i>Note—</i>	12
	See also division 3 (Miscellaneous provisions for retransfer documents).	13
‘Division 2	Ministerial functions for retransfer	14
‘92BC	Retransfer notice	15
‘(1)	This section applies if the Minister is of the opinion that—	16
(a)	a requirement under division 1 has not been complied with; or	17 18
(b)	something done under the retransfer scheme ought to have been done differently; or	19 20
(c)	something ought not to have been done under the retransfer scheme.	21 22
‘(2)	The Minister may, by gazette notice published on or before 30 June 2013 (a <i>retransfer notice</i>), do all or any of the following—	23 24 25
(a)	everything or anything to ensure the retransfer happens;	26
(b)	anything that may be done by any of the parties to the retransfer scheme under the retransfer scheme;	27 28

- (c) rectify or undo anything the Minister considers the retransfer scheme ought not to have done or ought to have done differently. 1
2
3
- ‘(3) A retransfer notice may include conditions applying to something done under the notice. 4
5
- ‘(4) If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a retransfer notice (for example, because of its size or nature), the Minister may provide for it by including a reference in the retransfer notice to another document— 6
7
8
9
10
- (a) signed by the Minister; and 11
- (b) kept available for inspection at a place stated in the retransfer notice by the persons to whom the matter relates. 12
13
14
- ‘(5) A retransfer notice has effect on the day it is published in the gazette or a later stated day. 15
16
- ‘92BD Retransfer direction 17**
- ‘(1) The Minister may, on or before 30 June 2013, give a direction (a *retransfer direction*) to any of the following (a *relevant entity*) to do anything the Minister considers necessary or desirable to achieve the retransfer— 18
19
20
21
- (a) Allconnex; 22
- (b) any of the withdrawn councils. 23
- ‘(2) Without limiting subsection (1), a retransfer direction may be about all or any of the following— 24
25
- (a) executing an instrument; 26
- (b) disclosing information; 27
- (c) for Allconnex, conferring particular employment conditions on its employees affected by the retransfer during a stated period, consistent with the retransfer staff support framework; 28
29
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(d)	anything the Minister considers necessary to remedy a contravention of the retransfer staff support framework.	1 2
‘(3)	A retransfer direction must be in writing and signed by the Minister.	3 4
‘(4)	If a relevant entity is given a retransfer direction—	5
(a)	the entity must comply with the direction; and	6
(b)	if the entity is Allconnex—its board must take the action necessary to ensure Allconnex complies with the direction.	7 8 9
	Maximum penalty for subsection (4)—1000 penalty units.	10
‘Division 3	Miscellaneous provisions for retransfer documents	11 12
‘92BE Discharge of liabilities		13
	‘The transfer of a liability under a retransfer document discharges the person from whom it is transferred from the liability to the extent provided for under the document.	14 15 16
‘92BF Effect of retransfer document		17
‘(1)	Subject to section 92EH, a retransfer document has effect despite any other law or a contract or other instrument.	18 19
	<i>Example—</i>	20
	A retransfer scheme or a retransfer notice may transfer a lease under the Land Act without the written approvals that would otherwise be required for a transfer under section 58 of that Act.	21 22 23
‘(2)	However, a retransfer scheme takes effect subject to any retransfer notice or retransfer direction.	24 25

‘Part 4	General provisions facilitating retransfer	1 2
‘Division 1	Preliminary	3
‘92BG Application of pt 4		4
	‘This part, other than divisions 4 and 5, applies from the end of 30 June 2012.	5 6
‘Division 2	Default provisions	7
‘Subdivision 1	General provisions	8
‘92BH Allconnex’s service charges		9
	‘(1) This section applies if no retransfer document provides for who is Allconnex’s successor in law for a service charge of Allconnex.	10 11 12
	‘(2) The withdrawn councils are Allconnex’s proportional joint successor for the charge.	13 14
	‘(3) However—	15
	(a) the charge is payable only to the geographically-connected withdrawn council; and	16 17
	(b) only the geographically-connected withdrawn council may bill for an uncollected service charge or collect that charge.	18 19 20
	‘(4) For subsection (3), a customer of the withdrawn council may be billed by the council in its name, as if—	21 22
	(a) the council were Allconnex; and	23
	(b) this chapter had not been enacted and, if Allconnex has been dissolved, Allconnex were still in existence.	24 25

- ‘(5) In this section— 1
billed includes imposed and levied. 2
service charge means an account, fee or charge (including any 3
fixed access charge)— 4
(a) relating to performing Allconnex’s functions as a 5
service provider for any of Allconnex’s customers; and 6
(b) that has, or could have, been billed by Allconnex. 7
uncollected service charge means a service charge— 8
(a) not billed before the end of 30 June 2012; and 9
(b) that, other than for this chapter or Allconnex’s 10
dissolution, could have been billed by Allconnex on or 11
after that day. 12
- ‘92BI Allconnex’s other assets and liabilities 13**
- ‘(1) This section provides for who is the successor in law for the 14
following if no retransfer document provides for that 15
succession— 16
(a) an asset of Allconnex, other than a service charge under 17
section 92BH; 18
(b) Allconnex’s liabilities. 19
- ‘(2) If, under a transition document, the asset or liability was 20
transferred from a withdrawn council to Allconnex, that 21
council is the successor. 22
- ‘(3) Otherwise, the withdrawn councils are Allconnex’s 23
proportional joint successor for the asset or liability. 24
- ‘(4) Despite subsections (2) and (3), the Minister may, by a 25
retransfer notice or retransfer direction, change the successor 26
under the subsections. 27

‘92BJ Allconnex’s replacement for proceedings	1
‘(1) This section applies if no retransfer document provides for who is to be Allconnex’s replacement for a proceeding, including a proceeding that has ended.	2 3 4
‘(2) If, under a transition document, Allconnex became a party to the proceeding instead of a withdrawn council, that council is the replacement.	5 6 7
‘(3) If the proceeding is in the Planning and Environment Court or the Land Court and the proceeding is about land, the replacement is the geographically-connected withdrawn council.	8 9 10 11
‘(4) Otherwise, the withdrawn councils are Allconnex’s proportional joint successor for the proceeding.	12 13
‘(5) The replacement may continue the proceeding instead of Allconnex.	14 15
‘92BK Proceedings not started	16
‘(1) This section provides for who is Allconnex’s replacement for a cause of action for which no proceeding has been started if no retransfer document provides for who is to be the replacement.	17 18 19 20
‘(2) If the proceeding could have been started in the Planning and Environment Court or the Land Court and the proceeding is about land, the replacement is the geographically-connected withdrawn council.	21 22 23 24
‘(3) Otherwise, the withdrawn councils are Allconnex’s proportional joint successor for the cause of action.	25 26
‘(4) The replacement may start the proceeding instead of Allconnex.	27 28

‘Subdivision 2	Provisions for infrastructure	1
	agreements and actions under Acts	2
	about planning	3
‘92BL Application of sdiv 2		4
‘(1) This subdivision applies if—		5
(a) Allconnex is a party to an infrastructure agreement; and		6
(b) either of the following apply—		7
(i) a retransfer document transfers water infrastructure		8
subject to the infrastructure agreement to a		9
withdrawn council;		10
(ii) the infrastructure agreement provides for water		11
infrastructure for a withdrawn council’s local		12
government area.		13
‘(2) This subdivision also applies for an Allconnex infrastructure		14
funding matter or if—		15
(a) Allconnex has, under section 77B or 77J, assumed, or is		16
taken to have the benefit of, a right or liability—		17
(i) to which the section applies; and		18
(ii) that relates to the infrastructure agreement; or		19
(b) it has been agreed under section 77E or 77K that		20
Allconnex has a share of—		21
(i) a matter mentioned in section 77E(1); or		22
(ii) a liability to which section 77K applies.		23
‘(3) A matter mentioned in subsection (2) is an <i>Allconnex</i>		24
<i>planning matter</i> .		25
‘(4) This subdivision applies subject to any retransfer document		26
relating to Allconnex.		27

‘92BM Novation if only 1 successor	1
‘(1) This section applies if there is only 1 successor.	2
‘(2) The successor—	3
(a) becomes a party to the agreement instead of Allconnex; and	4 5
(b) assumes all of Allconnex’s rights and liabilities—	6
(i) under the agreement; or	7
(ii) that relate to an Allconnex planning matter.	8
‘(3) The agreement may be enforced by the successor as if it were Allconnex.	9 10
‘(4) A right or liability assumed under subsection (2)—	11
(a) may be discharged only by the discharging of it to the successor; and	12 13
(b) may be enforced only by the successor.	14
‘92BN Negotiation required if more than 1 successor	15
‘(1) This section applies if there is more than 1 successor.	16
‘(2) The successors must negotiate in good faith to reach an agreement about the extent to which each of them are to share all of Allconnex’s following rights and liabilities—	17 18 19
(a) those under the agreement;	20
(b) those relating to all Allconnex planning matters;	21
(c) for any costs incurred because of enforcement mentioned in section 77C;	22 23
(d) for any costs, damage, liability or loss incurred because of section 77D(2).	24 25
‘(3) The agreement may provide for how the shares of the rights and liabilities may be discharged or enforced.	26 27

- ‘(4) If, after the negotiation, the councils are still in dispute about a matter mentioned in subsection (1), any of the councils may refer the dispute to the Minister. 1
2
3
- ‘(5) The Minister may resolve the dispute using any process the Minister considers appropriate that affords natural justice to the councils. 4
5
6
- Example of a process—* 7
an arbitration process applying sections 92CF to 92CK 8
- ‘(6) The Minister may delegate the Minister’s functions under subsection (5) to an appropriately qualified public service officer. 9
10
11
- ‘92BO Effect of negotiated agreement or Minister’s decision 12**
- ‘(1) This section applies for an agreement between successors or a decision under section 92BN about a right or liability required to be negotiated under that section. 13
14
15
- ‘(2) The agreement or decision binds— 16
- (a) the successors; and 17
- (b) anyone else— 18
- (i) against whom the right is exercisable; or 19
- (ii) to whom the liability is owed. 20
- ‘(3) However, subsection (2)(b) only applies to the other person from when the person is given notice of the agreement or decision. 21
22
23
- ‘92BP Discharge of Allconnex 24**
- ‘Allconnex ceases to be bound by the agreement and is discharged from any further liability under it or for an Allconnex planning matter. 25
26
27

‘92BQ Other necessary changes to be made for transition	1
‘(1) This section applies subject to the other provisions of this division.	2 3
‘(2) References in the agreement to Allconnex are taken to be changed to reflect any necessary changes for the retransfer.	4 5
‘92BR Provision for things done before retransfer	6
‘The transfer of water infrastructure under a retransfer document does not affect the validity of any of the following done before the transfer—	7 8 9
(a) a matter mentioned in section 77H;	10
(b) the enforcement of a right or the discharge of a liability mentioned in sections 77A to 77D.	11 12
‘Division 3 Information provisions	13
‘92BS Authorised exchange of information	14
‘(1) A party to the retransfer may exchange information with another party if the exchange is necessary or desirable for any withdrawn council’s service provider functions.	15 16 17
<i>Example—</i>	18
Allconnex may give its successor for one of its customers personal information about the customer, including, for example, that the customer is a pensioner and therefore eligible for rebates and subsidies.	19 20 21
‘(2) No consent of a customer or anyone else is required for the giving of the information or for a withdrawn council to whom it is given to collect, use or store the information.	22 23 24
‘92BT Disclosure and use of information for retransfer	25
‘(1) Subsections (2) and (3) apply for information in the possession or control of a party to the retransfer.	26 27

‘(2) The party may use the information for any of the following (a <i>relevant purpose</i>)—	1 2
(a) the retransfer;	3
(b) the performance of all or any withdrawn council’s service provider functions.	4 5
‘(3) The party may disclose the information to any of the following for a relevant purpose—	6 7
(a) a person involved in the retransfer;	8
(b) a withdrawn council or any of its councillors, employees or agents.	9 10
‘(4) Allconnex or the withdrawn councils must comply with a request by the Minister to disclose information mentioned in subsections (1) to (3) to someone else.	11 12 13
‘(5) To remove any doubt, it is declared that a person may disclose or use information to comply with a retransfer document.	14 15
‘(6) A person who, acting honestly, discloses or uses information under this section is not liable civilly, criminally or under an administrative process for the disclosure or use.	16 17 18
‘92BU Provision for continued access to Allconnex’s records	19
‘(1) This section applies to Allconnex’s infrastructure charges register and approved inspection program.	20 21
‘(2) Chapter 5, part 1 applies to Allconnex’s successor as if the register and program were its records of the same type under that part.	22 23 24
‘92BV Relationship with Information Privacy Act 2009 and Right to Information Act 2009	25 26
‘This division applies despite the <i>Information Privacy Act 2009</i> and the <i>Right to Information Act 2009</i> .	27 28

‘Division 4	Withdrawal costs	1
‘Subdivision 1	Preliminary	2
‘92BW	What are <i>withdrawal costs</i>	3
‘(1)	<i>Withdrawal costs</i> , for Allconnex or a withdrawn council, are costs it incurs, or will incur, because of any of the following—	4 5
(a)	it becoming, or ceasing to be, a service provider;	6
(b)	a withdrawn council’s commercialisation of a significant business or creation of a commercial business unit under section 92AJ;	7 8 9
(c)	the retransfer scheme;	10
(d)	the retransfer;	11
(e)	complying with any retransfer document;	12
(f)	Allconnex’s dissolution;	13
(g)	any matter consequential or incidental to a matter mentioned in paragraphs (a) to (f);	14 15
(h)	any other matter relating to the matters mentioned in paragraphs (a) to (g) prescribed under a regulation.	16 17
‘(2)	However, withdrawal costs do not include costs—	18
(a)	for anticipated or actual revenue or profits; or	19
(b)	for a failure to realise anticipated savings; or	20
(c)	that a withdrawn council (or any of its predecessors) would ordinarily incur as a service provider or local government had this Act never been enacted; or	21 22 23
(d)	of a type prescribed under a regulation.	24
‘(3)	In this section—	25
<i>costs</i>	includes—	26
(a)	loss or damage; and	27

- (b) costs that Allconnex or a withdrawn council incurs or will incur for services they provide for themselves. 1
2

‘Subdivision 2 Entitlements 3

**‘92BX Gold Coast City Council bears its own withdrawal costs 4
5**

‘Gold Coast City Council must bear its own withdrawal costs and any costs mentioned in section 92BW(2). 6
7

‘92BY Allconnex’s withdrawal costs 8

‘(1) Subject to sections 92CB and 92CC, the Gold Coast City Council must pay Allconnex’s withdrawal costs. 9
10

‘(2) For this chapter or any retransfer document, the entitlement under subsection (1) is an asset of Allconnex. 11
12

‘(3) The payment must be made to— 13

(a) until the retransfer scheme takes effect—Allconnex; or 14

(b) otherwise—Allconnex’s successor to the asset under any retransfer document or section 92BI. 15
16

‘92BZ Other withdrawn councils 17

‘Subject to sections 92CB and 92CC, the Gold Coast City Council must pay the other withdrawn councils’ withdrawal costs. 18
19
20

‘92CA Claiming withdrawal costs 21

‘An amount may be claimed for all or a part of a liability under this subdivision or for a period to which it relates. 22
23

<i>Example—</i>	1
Another withdrawn council may bill Gold Coast City Council monthly for consultancy fees for creating a billing system to comply with this Act as a service provider.	2 3 4
‘92CB Duty to mitigate	5
‘Allconnex or a withdrawn council must take all reasonable steps to mitigate the amount of the Gold Coast City Council’s liability to them under this subdivision.	6 7 8
‘92CC Limitation period	9
‘A liability of the Gold Coast City Council under this subdivision ends on 30 June 2013, unless—	10 11
(a) the council and the entity to whom it is owed have entered into a written contract under which any unpaid amount for the liability is agreed to be paid by the Gold Coast City Council to the entity as a debt; or	12 13 14 15
(b) either the council or the entity has given the other a notice of its intention to refer a dispute about the amount of a liability to an arbitrator under subdivision 3.	16 17 18
‘92CD Exclusions	19
‘(1) The <i>Commercial Arbitration Act 1990</i> does not apply to a dispute mentioned in subsection 92CC(b).	20 21
‘(2) Neither the fact of a liability under this subdivision nor its amount is justiciable by a court or tribunal.	22 23
‘(3) Subsection (2) does not apply to a proceeding to enforce a contract mentioned in section 92CC(a).	24 25

‘Subdivision 3	Arbitration	1
‘92CE	Application of sdiv 3	2
‘(1)	This subdivision applies if there is a dispute between the Gold Coast City Council and another withdrawn council (the <i>claimant</i>) about the amount of—	3 4 5
(a)	a liability of the Gold Coast City Council to the claimant or for Allconnex’s costs under subdivision 2; or	6 7
(b)	a part of the liability or a period to which it relates.	8
‘(2)	This subdivision continues to apply after Allconnex’s dissolution.	9 10
‘(3)	The Gold Coast City Council and the claimant are each a <i>party</i> to the dispute.	11 12
‘92CF	Referral to arbitrator	13
‘(1)	Either party to the dispute may, by notice, refer the dispute to an arbitrator—	14 15
(a)	agreed between the parties to the dispute; or	16
(b)	if the parties can not agree—appointed for them by The Institute of Arbitrators & Mediators Australia Limited ACN 008 520 045.	17 18 19
‘(2)	A person can not be appointed under subsection (1)(b) if—	20
(a)	the person has a direct or indirect interest in the dispute; and	21 22
(b)	the interest could conflict with the appropriate performance of an arbitrator’s functions concerning the dispute.	23 24 25
‘92CG	Conduct of arbitration	26
‘(1)	A regulation may provide for how the arbitration must be conducted.	27 28

‘(2) Subject to the regulation, the arbitrator—	1
(a) may conduct the arbitration in the way the arbitrator considers appropriate; and	2 3
(b) is not bound by the rules of evidence and may inform himself or herself in the way he or she considers appropriate.	4 5 6
‘(3) Evidence about the dispute may be given to the arbitrator in the way the arbitrator considers appropriate.	7 8
‘(4) The arbitrator and the parties to the arbitration must, in conducting the arbitration, make all reasonable endeavours to ensure the arbitration ends before 1 December 2013.	9 10 11
‘92CH Ordinary protection and immunity allowed	12
‘(1) The arbitrator has, in arbitrating the dispute, the same protection and immunity as a Supreme Court judge performing the functions of a judge.	13 14 15
‘(2) A party and any lawyer or other agent representing the party has the same protection and immunity the party would have if the arbitration were a proceeding being heard before the Supreme Court.	16 17 18 19
‘(3) A document produced at, or used for, the arbitration has the same protection during the arbitration it would have if produced before the Supreme Court.	20 21 22
‘92CI Orders	23
‘(1) The arbitrator must make an order fixing the amount of the liability.	24 25
‘(2) The arbitrator may—	26
(a) make any other incidental or consequential orders the arbitrator considers appropriate; or	27 28
(b) make an order, or decline to make an order, for costs of the arbitration.	29 30

‘92CJ Order final	1
‘(1) An order made by the arbitrator binds each party.	2
‘(2) A party can not apply for review of, or appeal against, the order.	3 4
‘92CK How order enforced	5
‘(1) A party may enforce an order made by the arbitrator by filing it in the Supreme Court.	6 7
‘(2) On the filing, the order is taken to be a judgment of that court.	8
‘Division 5 Other provisions	9
‘92CL Application of Judicial Review Act 1991 to particular decisions	10 11
‘(1) The <i>Judicial Review Act 1991</i> , parts 3, 4 and 5, other than section 41(1), do not apply to a decision made, or purportedly made, by the Minister to—	12 13 14
(a) give a retransfer notice or retransfer direction; or	15
(b) approve the retransfer staff support framework.	16
‘(2) In this section—	17
<i>decision</i> includes a decision or conduct leading up to or forming part of the process of making a decision.	18 19
‘92CM Effect on legal relationships	20
‘(1) Nothing done under this chapter, including a thing done under, or in compliance with, a retransfer document—	21 22
(a) makes a relevant entity liable for a civil wrong or a contravention of a law or for a breach of a contract or confidence; or	23 24 25
(b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or	26 27

- regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or 1
2
- (c) is taken to fulfil a condition that— 3
- (i) allows a person to terminate an instrument or obligation or modify the operation or effect of an instrument or obligation; or 4
5
6
- (ii) allows a person to enforce an obligation contained in an instrument or requires a person to perform an obligation contained in an instrument; or 7
8
9
- (iii) requires any money to be paid before its stated maturity; or 10
11
- (d) releases a surety or other obligee, wholly or partly, from an obligation. 12
13
- ‘(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this chapter, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally. 14
15
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18
- ‘(3) If, apart from this Act, giving notice to a person would be necessary to do something under this chapter, the notice is taken to have been given. 19
20
21
- ‘(4) In this section— 22
- relevant entity* means all or any of the following— 23
- (a) the State or an employee or agent of the State; 24
- (b) a withdrawn council or any of its councillors, employees or agents; 25
26
- (c) Allconnex, a member of its board or an employee or agent of Allconnex. 27
28

‘92CN References to Allconnex 29

‘In an Act or document, a reference to Allconnex about a matter may, if the context permits, be taken to be a reference to its successor for the matter. 30
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‘92CO Registering authority to register or record transfer	1
‘(1) A registering authority must, on application by a withdrawn council, register or record in the appropriate way a transfer, under this chapter, of a particular asset, liability or instrument to the council.	2 3 4 5
‘(2) The application must—	6
(a) for land—be a request to the registering authority in the appropriate form; or	7 8
(b) otherwise—be written and give all the information that under any relevant law would be required to register the transfer.	9 10 11
‘(3) Subject to subsection (2), if the transfer is of a motor vehicle, the parties to the transfer are exempt from complying with any procedure under the following that, apart from this section, they would have been required to comply with to register the transfer—	12 13 14 15 16
(a) the <i>Petroleum and Gas (Production and Safety) Act 2004</i> ;	17 18
(b) the <i>Transport Operations (Road Use Management) Act 1995</i> .	19 20
‘(4) In this section—	21
<i>parties</i> means Allconnex and the withdrawn council.	22
<i>procedure</i> includes the giving of a certificate or other document.	23 24
<i>registering authority</i> means the registrar or another entity required or authorised by law to register or record transactions affecting or relating to assets, liabilities or instruments.	25 26 27
‘92CP Non-liability for State taxes, charges or fees	28
‘(1) Allconnex and the withdrawn councils are not liable to pay any of the following relating to anything done under a retransfer document—	29 30 31
(a) a tax under the <i>Duties Act 2001</i> or another Act;	32

(b)	a charge or fee under the Land Act, Land Title Act, <i>Transport Operations (Road Use Management) Act</i> 1995, Water Act or another Act.	1 2 3
‘(2)	In this section— <i>tax</i> includes duty, impost and levy.	4 5
‘92CQ	Tax equivalents	6
	‘Section 100(3) ceases to apply to Allconnex for any function performed by it after the end of 30 June 2012, but continues to apply for all functions it performs before that time.	7 8 9
‘92CR	Existing trade waste compliance notices	10
‘(1)	A discharge compliance notice given by Allconnex is taken to have been given by its successor for the matter the subject of the notice when it was given by Allconnex.	11 12 13
‘(2)	Section 53DL applies as if the successor were a distributor-retailer.	14 15
‘Part 5	Provisions for other laws and instruments	16 17
‘Division 1	Preliminary	18
‘92CS	Application of pt 5	19
	‘This part applies from the end of 30 June 2012.	20

‘Division 2	Water Act	1
‘92CT	Provision for market rules	2
‘(1)	A withdrawn council becomes a registered grid participant in the grid customer and distribution service provider categories under the market rules under the Water Act.	3 4 5
‘(2)	All instruments under the market rules applying to distributor-retailers are taken to apply to a withdrawn council for its local government area.	6 7 8
‘(3)	Allconnex ceases to be a grid customer under the market rules.	9 10
‘92CU	New grid contract documents for withdrawn councils	11
‘(1)	This section applies if Allconnex is a party to a grid contract document under the Water Act (the <i>old contract</i>).	12 13
‘(2)	On 1 July 2012, each withdrawn council is taken to have become a party to a grid contract document under the Water Act (a <i>new contract</i>) instead of Allconnex.	14 15 16
‘(3)	The provisions of each new contract are those of the old contract other than for changes necessary to reflect—	17 18
	(a) the withdrawn council being a party; and	19
	(b) the contract applying only for the withdrawn council’s local government area.	20 21
‘(4)	To remove any doubt, it is declared that this section does not alter or affect the power, under the Water Act, section 360ZDD, of the Minister administering that Act to amend the new contract.	22 23 24 25
‘92CUA	Water efficiency management plans	26
‘(1)	A notice under the WEMP provisions from Allconnex to a relevant customer is taken to have been given by Allconnex’s successor when Allconnex gave the notice.	27 28 29

‘(2) A WEMP given to Allconnex and not approved by it is taken to have been given to its successor on 1 July 2012.	1 2
‘(3) An approved WEMP for Allconnex’s geographic area is taken to be have been approved by its successor when it was approved.	3 4 5
‘(4) An application under the WEMP provisions to Allconnex that has not been decided is taken to have been made to Allconnex’s successor on 1 July 2012.	6 7 8
‘(5) A liability or obligation under the WEMP provisions from a relevant customer to Allconnex is taken to be a liability or obligation to its successor when the liability or obligation first became owing to Allconnex.	9 10 11 12
‘(6) In this section—	13
WEMP means a water efficiency management plan under the WEMP provisions.	14 15
WEMP provisions means the Water Act, chapter 2A, part 5, division 3.	16 17
‘92CUB Migration of other actions	18
‘(1) This section applies for an action taken by Allconnex under the Water Act about its geographic area functions to which section 92CUA does not apply.	19 20 21
‘(2) The action is taken to have been taken by Allconnex’s successor when it was taken by Allconnex.	22 23
‘(3) However, subsection (2)—	24
(a) is subject to the other provisions of this chapter and all retransfer documents; and	25 26
(b) does not affect the successor’s power under the <i>Acts Interpretation Act 1954</i> , section 24AA to amend or repeal a decision.	27 28 29
‘(4) In this section—	30
action includes the making or giving of a decision, notice or other document.	31 32

‘Division 3	Water Supply Act	1
‘Subdivision 1	Existing trade waste and seepage approvals	2 3
‘92CV Existing trade waste and seepage water approvals		4
‘(1)	All trade waste approvals and seepage water approvals (each an <i>existing approval</i>) given by Allconnex are taken to have been given by its successor for the water infrastructure the subject of the approval.	5 6 7 8
‘(2)	Subsection (3) applies if—	9
(a)	Allconnex is required under the Water Supply Act, section 185 to give an approval holder a notice amending the holder’s approval; and	10 11 12
(b)	it has not given that notice.	13
‘(3)	Allconnex’s successor for the approval must give the notice as soon as practicable after it becomes aware of the requirement.	14 15
‘92CW Power to amend existing trade waste approvals for particular purposes		16 17
‘(1)	This section applies for a trade waste approval or seepage water approval (each an <i>existing approval</i>) that, under section 92CV(1), is taken to have been given by a withdrawn council.	18 19 20
‘(2)	Subject to subsections (3) and (4), the withdrawn council may amend the existing approval to ensure the consistency of all existing approvals of the same type given for its local government area.	21 22 23 24
‘(3)	An amendment under subsection (2) can not be made after 1 July 2013.	25 26
‘(4)	Section 53AH applies to the amendment—	27
(a)	as if the withdrawn council were a distributor-retailer; and	28 29

- (b) as if the amendment were a consistency amendment; 1
and 2
 - (c) with other necessary changes. 3
- ‘(5) The withdrawn council may, by notice, also amend an existing 4
approval to make any change necessary to reflect that the 5
approval is being given by it instead of Allconnex. 6
- ‘Subdivision 2 Other matters 7**
- ‘92CX Migration of applications 8**
- ‘(1) An application made to Allconnex concerning its geographic 9
area functions that has not been decided is taken to have been 10
made to its successor for the application on 1 July 2012. 11
- ‘(2) In this section— 12
application includes— 13
- (a) a request under the Water Supply Act, section 167 to 14
connect to Allconnex’s infrastructure; and 15
 - (b) an application for a trade waste approval or seepage 16
water approval. 17
- ‘92CY Migration of Allconnex’s actions 18**
- ‘(1) This section applies for an action taken by Allconnex under 19
the Water Supply Act about its geographic area functions. 20
- ‘(2) The action is taken to have been taken by Allconnex’s 21
successor when it was taken by Allconnex. 22
- ‘(3) However, subsection (2)— 23
- (a) is subject to the other provisions of this chapter and all 24
retransfer documents; and 25
 - (b) does not affect the successor’s power under the *Acts* 26
Interpretation Act 1954, section 24AA to amend or 27
repeal a decision. 28

- ‘(4) Subsection (2) ceases to apply for a document on— 1
- (a) 1 July 2013; or 2
- (b) if, before 1 July 2013, a later day is prescribed under a regulation—the later day. 3
4
- ‘(5) In this section— 5
- action* includes the making or giving of a decision, notice or other document. 6
7
- ‘92CZ Compliance and other notices 8**
- ‘(1) This section applies for any of the following notices under the Water Supply Act given to Allconnex that have not been complied with— 9
10
11
- (a) a compliance notice; 12
- (b) an information notice; 13
- (c) a regulator notice. 14
- ‘(2) The notice is taken to have been given to Allconnex’s successor for the matter the subject of the notice on 1 July 2012. 15
16
17
- ‘92DA Plans under the Water Supply Act—generally 18**
- ‘(1) The following provisions of the Water Supply Act do not apply to a withdrawn council— 19
20
- (a) sections 106 to 109, other than to the extent the sections provide for any matter about the withdrawn council’s drinking water quality management plan; 21
22
23
- (b) chapter 2, part 4, division 6. 24
- ‘(2) The following provisions of the Water Supply Act do not apply to a withdrawn council that has a water netserv plan— 25
26
- (a) chapter 2, part 4, divisions 1 and 2; 27

(b)	chapter 2, part 4, division 4, other than to the extent the division provides for any matter about the withdrawn council’s drinking water quality management plan.	1 2 3
‘92DB	Provision about service areas—after water netserv plan is in effect	4 5
‘(1)	This section applies to a withdrawn council from the day the withdrawn council has a water netserv plan.	6 7
‘(2)	The Water Supply Act, chapter 2, part 5, division 2 does not apply to the withdrawn council.	8 9
‘(3)	For applying the Water Supply Act, chapter 2, part 5, divisions 3 to 5, a reference in the divisions to a service area is, for a withdrawn council, a reference to its connection area.	10 11 12
‘92DC	Strategic asset management plan	13
‘(1)	This section applies for the Water Supply Act, chapter 2, part 4, division 1 in relation to a withdrawn council, until the council has a water netserv plan.	14 15 16
‘(2)	The existing strategic asset management plan for Allconnex’s registered services becomes a withdrawn council’s approved strategic asset management plan for its local government area.	17 18 19
‘(3)	The Water Supply Act, sections 73 and 74 do not apply to a withdrawn council.	20 21
‘92DD	Recycled water management plan	22
‘(1)	This section applies for the Water Supply Act, chapter 3, part 2.	23 24
‘(2)	Allconnex’s recycled water management plan for Allconnex’s recycled water schemes becomes a withdrawn council’s approved recycled water management plan for the council’s recycled water schemes.	25 26 27 28

‘92DE System leakage management plans	1
‘(1) This section applies for the Water Supply Act, chapter 2, part 4, division 2 in relation to a withdrawn council until the council has a water netserv plan.	2 3 4
‘(2) Allconnex’s approved system leakage management plan becomes the withdrawn council’s existing system leakage management plan to the extent that plan applied for its local government area.	5 6 7 8
‘(3) The Water Supply Act, sections 82 and 87 do not apply to the withdrawn council.	9 10
‘92DF Drinking water quality management plan	11
‘(1) This section applies for the Water Supply Act, chapter 2, part 4, division 3, subdivision 1 in relation to a withdrawn council until it has an approved drinking water quality management plan under that Act.	12 13 14 15
‘(2) The existing drinking water quality management plan for Allconnex’s drinking water service becomes the withdrawn council’s approved drinking water quality management plan.	16 17 18
‘Division 4 Water EPP	19
‘92DG Trade waste plans and managing wastewater services	20
‘(1) From the day a withdrawn council has a water netserv plan, the water EPP, section 20 (<i>section 20</i>) and section 22 (<i>section 22</i>) do not apply to the council as a sewerage service provider.	21 22 23
‘(2) Until that day—	24
(a) Allconnex’s trade waste management plan becomes a withdrawn council’s trade waste management plan; and	25 26
(b) each withdrawn council must, in managing its wastewater service, have regard to the provisions about the matters that, under section 20, are included in the plan.	27 28 29 30

‘(3) Section 20 and section 22 cease to apply to Allconnex.	1
‘(4) For the water EPP, section 16(2)(b), all withdrawn councils are taken to be a large local government.	2 3
‘(5) In this section—	4
<i>trade waste management plan</i> means an environmental plan about trade waste management under section 22.	5 6
‘Division 5	7
Amending particular documents to reflect transition	8
‘92DH Amendment power	9
‘(1) The parties to a multi-area document may, until 1 July 2013, amend the document in a way that reflects the retransfer.	10 11
‘(2) The power under subsection (1)—	12
(a) is subject to the other provisions of this part; and	13
(b) is exercisable in the same way, and subject to the same conditions, as the power to make the document.	14 15
‘(3) In this section—	16
<i>multi-area document</i> means a document made under an Act relating to the former water services or wastewater services of Allconnex, including, for example, any of the following—	17 18 19
(a) a drinking water quality management plan;	20
(b) a recycled water management plan under the Water Supply Act;	21 22
(c) a strategic asset management plan under the Water Supply Act;	23 24
(d) an approved protocol under the market rules under the Water Act.	25 26

‘Division 6	Planning Act	1
‘92DI	Cessation of Allconnex’s functions	2
‘(1)	The following things under the Planning Act cease—	3
	(a) Allconnex’s concurrence agency functions;	4
	(b) Allconnex’s functions under chapter 9, part 7A;	5
	(c) all of Allconnex’s other functions as a distributor-retailer;	6 7
	(d) a withdrawn council’s obligations relating to Allconnex.	8
‘(2)	Subsection (3) applies if—	9
	(a) Allconnex has functions—	10
	(i) as a concurrence agency for a development application; or	11 12
	(ii) for a request for compliance assessment; and	13
	(b) those functions were required to be, or could have been, performed but had not been performed.	14 15
‘(3)	The functions merge into Allconnex’s successor’s function as the assessment manager for the application or as the compliance assessor for the request.	16 17 18
‘(4)	The Planning Act, chapter 8, part 1 ceases to apply to Allconnex as a distributor-retailer.	19 20
‘92DJ	Continued effect of non-application of planning schemes under s 78A	21 22
	‘To remove any doubt, it is declared that nothing in this chapter prevents the continued effect of section 78A for development in the SEQ region.	23 24 25

‘Division 7	Acquisition of Land Act	1
‘92DK Existing acquisitions		2
‘(1)	This section applies to land acquired by Allconnex as a constructing authority under the Acquisition of Land Act.	3 4
‘(2)	If the land is transferred to a withdrawn council under this chapter, for section 41 of that Act the council is the constructing authority that acquired that land on the day it was acquired.	5 6 7 8
‘92DL Acquisitions interrupted by retransfer scheme or notice		9 10
‘(1)	This section applies if Allconnex has—	11
(a)	served a notice of intention to resume to take land as a constructing authority under the Acquisition of Land Act; or	12 13 14
(b)	entered into an agreement to take land under that Act.	15
‘(2)	A withdrawn council may by notice given to each affected person decide to continue the taking.	16 17
‘(3)	The notice must state—	18
(a)	that the withdrawn council has become the constructing authority for the taking; and	19 20
(b)	its address for service of documents.	21
‘(4)	On the giving of the notice, for the Acquisition of Land Act—	22
(a)	the withdrawn council becomes the constructing authority for the taking; and	23 24
(b)	Allconnex’s rights and obligations concerning the taking end.	25 26
‘(5)	However, the purpose of the taking does not change.	27
‘(6)	In this section—	28
	<i>affected person</i> , for the taking, means—	29

(a) each person—	1
(i) on whom Allconnex served a notice of intention to resume to take the land under the Acquisition of Land Act; or	2 3 4
(ii) with whom Allconnex has entered into an agreement to take the land; and	5 6
(b) anyone else the withdrawn council considers is financially affected by the taking.	7 8
‘92DM Provisions for withdrawn council becoming constructing authority	9 10
‘(1) This section applies if under section 92DL, a withdrawn council becomes the constructing authority for the taking of land instead of Allconnex.	11 12 13
‘(2) Allconnex must give the withdrawn council the documents relating to the taking.	14 15
‘(3) Despite the Acquisition of Land Act, section 12(1), the land taken under a gazette resumption notice under that Act vests in the withdrawn council.	16 17 18
‘(4) The withdrawn council—	19
(a) has for the taking the same functions and obligations under the Acquisition of Land Act as Allconnex; and	20 21
(b) does not represent the State for section 12 of that Act.	22
‘(5) The rights under the Acquisition of Land Act of a person served with a notice of intention to resume or who entered into an agreement to take the land do not change.	23 24 25
‘(6) A reference to Allconnex in a document relating to the taking is, if the context permits, taken to be a reference to the withdrawn council.	26 27 28
‘(7) Without limiting subsection (6), if Allconnex is taking the land under an agreement to take—	29 30
(a) a reference in the agreement to Allconnex is taken to be a reference to the withdrawn council; and	31 32

(b)	the agreement gives rise to the same rights and liabilities that would have arisen if Allconnex were still a party to the agreement.	1 2 3
‘Division 8	Land Act	4
‘92DN Provision for particular freehold land and Land Act leases		5 6
‘(1)	This section applies if, under section 75 or 76, a deed of grant or a lease has been issued to Allconnex for particular land.	7 8
‘(2)	A retransfer document can not transfer the land or lease to a withdrawn council other than the geographically-connected withdrawn council.	9 10 11
‘Division 9	Plumbing and Drainage Act 2002	12
‘92DO Cessation of functions and other matters		13
‘(1)	The following things under the <i>Plumbing and Drainage Act 2002</i> cease—	14 15
(a)	Allconnex’s SEQ water functions and other functions as a distributor-retailer;	16 17
(b)	a withdrawn council’s and anyone else’s obligations relating to Allconnex.	18 19
‘(2)	In this section—	20
	<i>SEQ water functions</i> means functions as a service provider relating to approving connections to, disconnections from or changes to connections to, water infrastructure.	21 22 23

‘Division 10	LGA 2009	1
‘92DP	LGA 2009 applies for particular debts to Allconnex	2
‘(1)	This section applies if Allconnex is owed an amount for a charge-related debt.	3 4
‘(2)	From 1 July 2012, LGA 2009 applies for the debt—	5
(a)	as if the debt were overdue rates and charges under that Act owing to Allconnex’s successor; and	6 7
(b)	as if the overdue rates and charges had become owing when the debt became owing to Allconnex; and	8 9
(c)	as if action taken by the successor to recover the overdue rates and charges includes all action taken by Allconnex to recover the debt from anyone liable to pay it.	10 11 12 13
‘(3)	In this section—	14
	<i>1 July 2010 charge handover arrangement</i> means an arrangement mentioned in expired sections 26 and 27 of the <i>South-East Queensland Water (Distribution and Retail Restructuring) Regulation 2010</i> .	15 16 17 18
	<i>charge-related debt</i> means all or any of the following—	19
(a)	an overdue charge;	20
(b)	either—	21
(i)	CPI indexation on the overdue charge as if the quarter ending 30 June 2012 had ended; or	22 23
(ii)	any interest charged on the overdue charge;	24
(c)	a charge imposed under a 1 July 2010 charge handover arrangement;	25 26
(d)	costs mentioned in section 53AV(1)(b) ordered to be paid to Allconnex by any owner of premises to which an amount owing to Allconnex for an matter mentioned in paragraphs (a) to (c) relates.	27 28 29 30

‘Part 6	Provisions for separately retransferred land and attached assets	1 2 3
‘92DQ Application of pt 6		4
	‘This part applies if, under a retransfer document—	5
	(a) a withdrawn council becomes the owner of an asset attached to or on particular land; and	6 7
	(b) the withdrawn council does not own or have a right to occupy the land.	8 9
‘92DR References to land with asset attached		10
	‘A reference in this part to land to which an asset is attached is a reference to the parcel of land for which there is an instrument of title that includes the particular area covered by the asset.	11 12 13 14
‘92DS Entry to the land by local government workers		15
	‘For LGA 2009, section 144 the asset is a local government facility of the withdrawn council installed by the council.	16 17
‘92DT Land owner’s obligations for asset		18
	‘The owner of the land can not, without the withdrawn council’s written consent—	19 20
	(a) interfere with the asset; or	21
	(b) take any step to change the use of the land to which the asset is attached; or	22 23
	(c) carry out material works or make material improvements to the land; or	24 25

(d)	grant rights to anyone else relating to the land that are inconsistent with the asset owner's rights under LGA 2009, section 144.	1 2 3
	Maximum penalty—50 penalty units.	4
'Part 7	Restrictions on particular charges for 2012–13 financial year	5 6 7
'Division 1	Preliminary	8
'92DU Definitions for pt 7		9
	'In this part—	10
	<i>2011–12 Allconnex services</i> means relevant services under chapter 2A, part 3, division 1 charged by Allconnex for the 2011–12 financial year.	11 12 13
	<i>2012–13 withdrawn council services</i> see section 92DV(3).	14
	<i>capped charge</i> see section 92DV(1).	15
	<i>charged premises</i> see section 92DV(1).	16
'92DV Application of pt 7		17
(1)	This part applies to the charge (the <i>capped charge</i>) for water services or wastewater services provided by a withdrawn council to premises (the <i>charged premises</i>)—	18 19 20
(a)	in the 2012–13 financial year; and	21
(b)	for a customer who—	22
(i)	is a residential customer or a small business customer of the withdrawn council for the services;	23 24
	or	25

- (ii) is a customer of the withdrawn council for the services who passes on the charge to a person occupying the charged premises or a part of the premises for residential purposes; or
- Examples of a customer for subparagraph (ii)—*
- the owner of a retirement village
 - a body corporate for a community titles scheme under the *Body Corporate and Community Management Act 1997*
- (iii) is a customer of the withdrawn council for the services who passes on the charge to a person who—
- (A) occupies the charged premises or a part of the premises to conduct a business; and
- (B) would, if the person were a customer of the withdrawn council for the services, be a small business customer of the withdrawn council.
- ‘(2) However, this division does not apply to—
- (a) a charge for the discharge of trade waste or the supply of recycled water; or
- (b) an overdue charge relating to a charge mentioned in paragraph (a).
- ‘(3) The water services or wastewater services to which a capped charge relates are the **2012–13 withdrawn council services**.
- ‘(4) This division applies despite any other provision of this Act.

‘Division 2 Cap for 2012–13 financial year 27

‘92DW Cap 28

- ‘(1) The amount (the *cap*) of the capped charge for 2012-13 withdrawn council services can not be more than the amount worked out by using the formula—

- C = (2011-12 BC – 2011-12 RS) + 2012-13 I + 2012-13 BW** 1
- where— 2
- C** means the cap. 3
- 2011-12 BC** (an abbreviation for 2011-12 base component) 4
means the sum of the following— 5
- (a) the fixed access charges for 2011-12 Allconnex 6
services; 7
- (b) the customer’s charge rate for water consumption or 8
wastewater disposal based on variable measures for 9
2011-12 Allconnex services, as applied to the 10
customer’s water consumption or wastewater disposal in 11
the 2012-13 financial year. 12
- 2011-12 RS** means the amount of any rebate or subsidy for 13
2011-12 Allconnex services provided by the withdrawn 14
council. 15
- 2012-13 I** means the CPI increase for the 2012-13 financial 16
year worked out under the formula in subsection (2). 17
- 2012-13 BW** means the bulk water component of the charge 18
for 2012-13 withdrawn council services. 19
- ‘(2) For subsection (1), the formula for the CPI increase is— 20
- 2012-13 I = (2011-12 BC – 2011-12 RS) × CPI** 21
- ‘(3) For subsection (2)— 22
- (a) **CPI** means the CPI figure from the Capital Cities 23
Comparison in the publication ‘Consumer Price Index, 24
Australia’, Cat no. 6401.0, for Brisbane relating to the 25
annual period from one March quarter to the next March 26
quarter published by the Australian Bureau of Statistics 27
immediately before the start of the 2012-13 financial 28
year; and 29
- (b) other variable symbols have the same meaning as under 30
subsection (1). 31

‘(4) To remove any doubt, it is declared that the 2011–12 base component does not include the bulk water component of the charge for 2011–12 Allconnex services.	1 2 3
‘(5) This section applies subject to division 3.	4
‘92DX Cap not affected by rebate or subsidy change	5
‘To remove any doubt, it is declared that the cap under this division is not affected by a change in the withdrawn council’s rebate or subsidy for the 2012–13 financial year.	6 7 8
‘Division 3 Provisions for no or partial base year	9 10
‘92DY Application of div 3	11
‘This division applies if—	12
(a) the 2012–13 withdrawn council services are not being provided by the withdrawn council at the start of the 2012–13 financial year, but are provided by it during that year; or	13 14 15 16
(b) the relevant services were not provided by Allconnex to the charged premises during all of the 2011–12 financial year or were provided for only part of that year.	17 18 19
‘92DZ Notional base component required for working out cap	20
‘For division 2, the withdrawn council must work out the cap as if—	21 22
(a) the distributor-retailer capping provisions had applied to the 2011–12 financial year for the customer during all of that year; and	23 24 25
(b) the 2011–12 Allconnex services were provided to the customer for all of the 2011–12 financial year.	26 27

‘92EA Criteria if no base year	1
‘(1) This section applies if—	2
(a) this division started to apply to the capped charge for the customer at the start of the 2012–13 financial year; or	3 4
(b) the 2011–12 Allconnex services were not provided to the charged premises during any of the 2011–12 financial year.	5 6 7
‘(2) In working out the cap under section 92DZ, the withdrawn council must consider charges for 2011–12 Allconnex services to similar customers for premises similar to the charged premises.	8 9 10 11
‘92EB Criteria if partial base year	12
‘(1) This section applies if—	13
(a) the distributor-retailer capping provisions started to apply to a capped charge under those provisions for the customer after the start of, but during, the 2011–12 financial year; or	14 15 16 17
(b) 2011–12 Allconnex services were provided to the charged premises for only part of the 2011–12 financial year.	18 19 20
‘(2) In working out the cap under section 92DZ, the withdrawn council must consider charges for 2011–12 Allconnex services actually imposed.	21 22 23

‘Part 8	Workforce provisions	1
‘Division 1	Support framework for retransfer	2
‘92EC Ministerial approval of framework		3
‘(1)	The Minister administering this Act may, by notice, approve a framework (the <i>retransfer staff support framework</i>)—	4 5
(a)	directed at ensuring—	6
(i)	the proper transition of Allconnex’s employees transferred under a retransfer document; and	7 8
(ii)	the appropriate and fair treatment of employees of the withdrawn councils affected by the transition; and	9 10 11
(b)	to replace the staff support framework to the extent it applies to Allconnex and the withdrawn councils.	12 13
‘(2)	However, before making the retransfer staff support framework, the Minister must seek and consider the views of the Minister administering the IR Act about it.	14 15 16
‘(3)	The notice is subordinate legislation.	17
‘92ED When framework commences		18
‘(1)	The retransfer staff support framework must state a day (the <i>day of effect</i>) it is to take effect.	19 20
‘(2)	The day of effect may be any day before or after this section commences.	21 22
‘(3)	On gazettal of the notice approving the framework, it is taken to have effect, and to have always had effect, from the day of effect.	23 24 25
‘(4)	Subsection (3) applies despite the <i>Statutory Instruments Act 1992</i> , section 34.	26 27
‘(5)	In this section—	28

gazettal means notification under the *Statutory Instruments Act 1992*, section 47. 1
2

‘92EE Effect on staff support framework 3

- ‘(1) This section applies when the retransfer staff support 4
framework commences (the *start day*). 5
- ‘(2) The staff support framework ceases to apply for Allconnex’s 6
employees and the withdrawn councils. 7
- ‘(3) However, subsection (2) does not invalidate or otherwise 8
affect anything done under the staff support framework before 9
the start day. 10
- ‘(4) To remove any doubt, it is declared that nothing in this part 11
affects the staff support framework continuing to apply for an 12
employee of another distributor-retailer. 13

‘92EF Publication of framework 14

- ‘(1) As soon as practicable after the retransfer staff support 15
framework is approved, the Minister must— 16
- (a) give a copy of it to— 17
- (i) Allconnex; and 18
- (ii) each withdrawn council; and 19
- (iii) any industrial organisation representing the 20
employees of Allconnex or the withdrawn 21
councils; and 22
- (b) ensure a copy is published on the commission’s website. 23
- ‘(2) A failure to comply with subsection (1) does not invalidate or 24
otherwise affect the retransfer staff support framework. 25

‘92EG Obligation to comply with framework 26

- ‘(1) Allconnex, each withdrawn council and each organisation 27
mentioned in section 92EF(1)(a)(iii) must comply with the 28

retransfer staff support framework to the extent the framework applies to it.	1 2
‘(2) A contravention of subsection (1) does not, of itself, create a legally enforceable right of anyone else.	3 4
<i>Note—</i>	5
See however section 92BD(2)(d).	6
‘92EH Framework prevails over retransfer scheme or notice	7
‘If a provision of the retransfer staff support framework is inconsistent with a provision of a retransfer scheme or retransfer notice, the provision of the framework prevails to the extent of the inconsistency.	8 9 10 11
‘Division 2 Preservation of employee rights	12
‘Subdivision 1 Preliminary	13
‘92EI Application of div 2	14
‘This division applies to the transfer of an employee of Allconnex to a withdrawn council under a retransfer document.	15 16 17
‘Subdivision 2 General provisions	18
‘92EJ Transfer has effect despite other laws and instruments	19
‘The transfer has effect despite any other law, contract or other instrument.	20 21
‘92EK Continuity of employment	22
‘(1) The transfer does not—	23

- (a) interrupt continuity of service; or 1
 - (b) constitute a termination of employment by Allconnex or
a retrenchment or redundancy; or 2
3
 - (c) entitle the employee to a payment or other benefit 4
because the employee is no longer employed by 5
Allconnex; or 6
 - (d) of itself, require Allconnex to make any payment for the 7
employee's accrued rights to recreation, sick, long 8
service or other leave that did not otherwise have to be 9
paid. 10
- ‘(2) To remove any doubt, it is declared that— 11
- (a) subsection (1)(a) does not mean the employee may 12
claim the benefit of a right or entitlement more than 13
once for the same period of service; and 14
 - (b) subsection (1)(d) applies irrespective of any 15
arrangement between Allconnex and the employee. 16
- ‘Subdivision 3 Preservation of employees’ rights 17
during retransfer period 18**
- ‘92EL What is the *retansfer period* and *existing conditions* 19**
- ‘The *retansfer period* is the period from the employee’s 20
transfer to the withdrawn council until whichever of the 21
following happens first— 22
- (a) the employee becomes covered by a new certified 23
agreement under the IR Act replacing some or all of the 24
employee’s conditions applying immediately before the 25
transfer (the *existing conditions*); 26
 - (b) if the existing conditions are not under a designated 27
industrial instrument— 28

- (i) a new contract of employment is agreed between the withdrawn council and the employee; and 1
2
- (ii) the contract replaces the existing conditions. 3

‘92EM What is a *designated industrial instrument* 4

‘In this subdivision, a *designated industrial instrument* is any of the following— 5
6

- (a) an industrial instrument under the IR Act, including, for example, a substitute State instrument under the IR Act, chapter 20, part 7; 7
8
9
- (b) a continuing schedule 6 instrument under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth); 10
11
12
- (c) a fair work instrument under the *Fair Work Act 2009* (Cwlth); 13
14
- (d) an agreement-based transitional instrument under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth); 15
16
17
- (e) the following award-based transitional instruments under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth)— 18
19
20
 - (i) a notional agreement preserving State awards derived from a State award; 21
22
 - (ii) an award; 23
- (f) the Queensland Local Government Officers’ Award 1998. 24
25

‘92EN Preservation of rights 26

- ‘(1) During the retransfer period, the employee’s conditions— 27
- (a) are the existing conditions; and 28
 - (b) are not decided by reference to any other law or instrument about minimum employment conditions. 29
30

‘(2) Subsection (1) applies subject to the retransfer staff support
 framework and section 92EO. 1
 2

‘92EO Provisions for existing conditions 3

‘(1) The employee may enforce existing conditions under any of
 the following as if they were under an industrial instrument
 under the IR Act— 4
 5
 6

(a) a designated industrial instrument; 7

(b) a notional agreement preserving State awards derived
 only from a State law; 8
 9

(c) a transitional minimum wage instrument or transitional
 national minimum wage order under the *Fair Work*
(Transitional Provisions and Consequential
Amendments) Act 2009 (Cwlth); 10
 11
 12
 13

(d) a national minimum wage order under the *Fair Work Act*
2009 (Cwlth); 14
 15

(e) the NES; 16

(f) the Queensland minimum wage under the IR Act. 17

‘(2) If the employee has existing conditions under a designated
 industrial instrument— 18
 19

(a) the employee is taken to be employed by the withdrawn
 council under an industrial instrument for the IR Act,
 chapter 3; and 20
 21
 22

(b) the existing conditions are taken to include any dispute
 resolution clause that, under any retransfer scheme or a
 retransfer notice, applies to the withdrawn council and
 the employee during the retransfer period. 23
 24
 25
 26

‘(3) The dispute resolution clause applies instead of any other
 provision about dispute resolution that would otherwise apply
 under the existing conditions. 27
 28
 29

‘(4) In this section— 30

NES means the National Employment Standards under the
Fair Work Act 2009 (Cwlth). 31
 32

- (c) Allconnex’s chief executive officer goes out of office as
 its chief executive. 1
 2

‘92ES Other provisions for dissolution 3

- ‘(1) No amount, whether by way of compensation, reimbursement
 or otherwise, is payable by— 4
 5
- (a) the State for or in connection with the enactment or
 operation of this part; or 6
 7
- (b) the Minister for fixing Allconnex’s dissolution day. 8
- ‘(2) To remove any doubt, it is declared that this part does not limit
 or otherwise affect a following right that had accrued or was
 accruing immediately before Allconnex’s dissolution day— 9
 10
 11
- (a) a right of a former member of Allconnex to a benefit or
 entitlement under a contract concerning that
 membership; 12
 13
 14
- (b) a right of the former chief executive officer of Allconnex
 to a benefit or entitlement under a contract concerning
 that employment. 15
 16
 17
- ‘(3) On Allconnex’s dissolution day, the benefit or entitlement
 ceases to accrue and becomes payable as if— 18
 19
- (a) the contract had, according to its terms, been terminated
 on that day; and 20
 21
- (b) the termination had been other than by Allconnex. 22
- ‘(4) Subject to any retransfer document, the withdrawn councils
 are Allconnex’s proportional joint successor for the liability
 for the benefit or entitlement.’. 23
 24
 25

- Clause 24 Amendment of s 93 (Minister’s power to make code) 26**
- Section 93(1), ‘distributor-retailers’— 27
- omit, insert—* 28
- ‘SEQ service providers’. 29

Clause 25	Amendment of s 94 (Particular matters code may provide for)	1
		2
(1)	Section 94(1), ‘distributor-retailers’—	3
	<i>omit, insert—</i>	4
	‘SEQ service providers’.	5
(2)	Section 94(1), note—	6
	<i>omit, insert—</i>	7
	‘Note—	8
	Disputes arising between particular customers and an SEQ service provider about a function or obligation of the provider under the code may, under the EWO Act, section 18A, be referred to the energy and water ombudsman.’.	9
		10
		11
		12
Clause 26	Amendment of s 99AAA (Distributor-retailer to give report to commission)	13
		14
(1)	Section 99AAA, heading, ‘Distributor-retailer’—	15
	<i>omit, insert—</i>	16
	‘ SEQ service provider ’.	17
(2)	Section 99AAA, ‘A distributor-retailer’—	18
	<i>omit, insert—</i>	19
	‘An SEQ service provider’.	20
(3)	Section 99AAA, ‘distributor-retailer’—	21
	<i>omit, insert—</i>	22
	‘SEQ service provider’.	23
Clause 27	Amendment of s 99AB (Obligation to comply with part)	24
(1)	Section 99AB(1), ‘A distributor-retailer’—	25
	<i>omit, insert—</i>	26
	‘An SEQ service provider’.	27

(2)	Section 99AB(2), ‘Energy and Water Ombudsman Act 2006’—	1
	<i>omit, insert</i> —	2
	‘EWO Act’.	3
		4

Clause 28	Amendment of s 99AC (Application of complaints standard)	5
	Section 99AC(1), ‘a distributor-retailer’—	6
	<i>omit, insert</i> —	7
	‘an SEQ service provider’.	8
		9

Clause 29	Amendment of s 99AD (Customer service charter)	10
(1)	Section 99AD(1), ‘distributor-retailer’—	11
	<i>omit, insert</i> —	12
	‘SEQ service provider’.	13
(2)	Section 99AD(1)(b), ‘distributor-retailer’s’—	14
	<i>omit, insert</i> —	15
	‘SEQ service provider’s’.	16

Clause 30	Replacement of s 99AE (Updating of and access to customer service charter)	17
	Section 99AE—	18
	<i>omit, insert</i> —	19
	‘99AE Updating charter	20
	‘An SEQ service provider must update its customer service charter as soon as practicable to take account of the provisions of the customer water and wastewater code or this part.	21
		22
		23
		24

	‘99AEA Access to charter	1
	‘(1) An SEQ service provider must give a copy of its customer service charter, free of charge, to anyone who asks and has not already been given a copy.	2 3 4
	‘(2) When a withdrawn council first makes its customer service charter, it must, with or in its first account to each customer after the charter is made, tell the customer—	5 6 7
	(a) that the charter has been made; and	8
	(b) of the customer’s right under subsection (1) to obtain a copy.’.	9 10
Clause 31	Amendment of s 99AFA (Distributor-retailer may accept meter reading by customer)	11 12
	(1) Section 99AFA, heading, ‘Distributor-retailer’—	13
	<i>omit, insert—</i>	14
	‘ SEQ service provider ’.	15
	(2) Section 99AFA, ‘a distributor-retailer’—	16
	<i>omit, insert—</i>	17
	‘an SEQ service provider’.	18
Clause 32	Amendment of s 99AG (Meters must be read annually)	19
	(1) Section 99AG, ‘Each distributor-retailer’—	20
	<i>omit, insert—</i>	21
	‘Each SEQ service provider’.	22
	(2) Section 99AG, note, ‘a distributor-retailer’—	23
	<i>omit, insert—</i>	24
	‘an SEQ service provider’.	25
Clause 33	Replacement of s 99AH (Methods and basis of charging)	26
	Section 99AH—	27

omit, insert—

‘99AH Methods and basis of charging

‘(1) An SEQ service provider may use methods of charging for water supplied or sold by it to its customers the provider considers appropriate, including, for example—

- (a) giving an account based on meter readings; or
- (b) if the water supplied or sold is not measured by a water meter—
 - (i) the estimated average water usage of the customers within a group of customers who have similar water usage; or
 - (ii) another method that is appropriate to decide a customer’s likely water usage.

‘(2) However, an SEQ service provider must not give an estimated account to a customer for 2 or more consecutive periods.

Example—

It may be a reasonable excuse for an offence under section 99AB for a contravention of subsection (2) that reasonable access was not available to the meter at the customer’s premises.’.

Clause 34 Amendment of s 99AI (Special meter readings)

(1) Section 99AI(1), ‘a distributor-retailer’—

omit, insert—

‘an SEQ service provider’.

(2) Section 99AI(2) and (4), ‘distributor-retailer’—

omit, insert—

‘SEQ service provider’.

Clause 35 Replacement of s 99AJ (Meter accuracy test at customer’s request)

Section 99AJ—

omit, insert—

‘99AJ Meter accuracy test at customer’s request

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- ‘(1) A customer of an SEQ service provider may ask the provider to test the accuracy of the provider’s meter installed on the customer’s premises—
 - (a) by a test carried out for the SEQ service provider (a *provider test*); or
 - (b) by referring the meter for testing to an independent person (the *independent tester*) accredited by the National Association of Testing Authorities (an *independent test*).
 - ‘(2) The SEQ service provider or independent tester may require the customer to pay the following before carrying out the test—
 - (a) for a provider test—a charge owing by the customer to the SEQ service provider for water services or wastewater services;
 - (b) the fee for testing each meter to be tested.
 - ‘(3) The fee must be the reasonable, but no more than the actual, cost of each test.
 - ‘(4) Subject to any payment required under subsection (2), the SEQ service provider or independent tester must cause the test to be carried out.
 - ‘(5) The SEQ service provider or independent tester must tell the customer when and where the test is to be carried out.
 - ‘(6) The customer, or customer’s nominee, may be present during the test.’.

Clause 36 Amendment of s 99AM (Notice of test results)

Section 99AM(1), ‘a distributor-retailer test’—

omit, insert—

‘a provider test’.

Clause 37	Amendment of s 99AN (Refund and adjustment if inaccuracy)	1
		2
	(1) Section 99AN(1), ‘a distributor-retailer test’—	3
	<i>omit, insert—</i>	4
	‘a provider test’.	5
	(2) Section 99AN(1), ‘it must’—	6
	<i>omit, insert—</i>	7
	‘the relevant SEQ service provider must’.	8
Clause 38	Amendment of s 99AO (Using testing instruments)	9
	(1) Section 99AO(1), ‘A distributor-retailer’—	10
	<i>omit, insert—</i>	11
	‘An SEQ service provider’.	12
	(2) Section 99AO(2), ‘distributor-retailer’—	13
	<i>omit, insert—</i>	14
	‘SEQ service provider’.	15
Clause 39	Replacement of s 99AT (Restricting water supply for not paying charges or giving security)	16
		17
	Section 99AT—	18
	<i>omit, insert—</i>	19
	‘99AT Restricting water supply	20
	‘(1) This section applies if all of the following apply—	21
	(a) premises are connected to an SEQ service provider’s water service;	22
		23
	(b) a residential customer or non-residential customer of the provider fails to do any of the following (the <i>contravention</i>)—	24
		25
		26
	(i) pay a charge for the service;	27

- (ii) comply with a service provider water restriction or commission water restriction under the Water Act; 1
2
 - (iii) if the provider is a distributor-retailer—give security requested under subdivision 1 for the service; 3
4
5
- (c) the provider has given the customer at least 1 month’s notice to fix the contravention; 6
7
- (d) the customer continues not to fix the contravention. 8
- ‘(2) The provider may reduce the water supply to the premises to the minimum level necessary for the customer’s health and sanitation purposes. 9
10
11
- ‘(3) However, the provider must not completely shut off the water supply to the premises. 12
13
- ‘(4) In this section— 14
fix, the contravention, means— 15
 - (a) for a failure to pay a charge—pay the charge; or 16
 - (b) for a noncompliance with a restriction—not continue to contravene it; or 17
18
 - (c) for security requested—give it.’. 19

Clause 40 Amendment of s 99ATA (Publication etc. of charges) 20

- (1) Section 99ATA, ‘A distributor-retailer’— 21
omit, insert— 22
‘An SEQ service provider’. 23
- (2) Section 99ATA(3), ‘a distributor-retailer’— 24
omit, insert— 25
‘an SEQ service provider’. 26
- (3) Section 99ATA, ‘the distributor-retailer’— 27
omit, insert— 28
‘the SEQ service provider’. 29

- (4) Section 99ATA, ‘distributor-retailer’s’— 1
omit, insert— 2
‘SEQ service provider’s’. 3

Clause 41 Amendment of s 99ATB (Exemption from charges) 4

- (1) Section 99ATB(1), ‘a distributor-retailer’— 5
omit, insert— 6
‘an SEQ service provider’. 7
(2) Section 99ATB(2), ‘distributor-retailer’— 8
omit, insert— 9
‘SEQ service provider’. 10

Clause 42 Amendment of s 99AU (Application of div 4) 11

- Section 99AU, ‘a distributor-retailer’— 12
omit, insert— 13
‘an SEQ service provider’. 14

Clause 43 Amendment of s 99AV (Matters required to be stated in account) 15
16

- (1) Section 99AV(1)(i), ‘distributor-retailer’— 17
omit, insert— 18
‘SEQ service provider’. 19
(2) Section 99AV(1)(k), ‘under section 53AT’— 20
omit. 21
(3) Section 99AV(3), from ‘heading called’— 22
omit, insert— 23
‘heading called— 24

- (a) for a distributor-retailer—‘Local Government distributor-retailer price’; or 1
2
- (b) for another SEQ service provider—‘Local Government distribution and retail price’.’. 3
4

Clause 44	Replacement of s 99AW (Requirements for accounts included in rates notice)	5 6
	Section 99AW—	7
	<i>omit, insert—</i>	8
	‘99AW Requirements for accounts for rates notices	9
	‘(1) This section applies if the account is—	10
	(a) from a withdrawn council; or	11
	(b) from a distributor-retailer and the account is included in a rates notice.	12 13
	‘(2) The account must—	14
	(a) be on a separate page to the rates notice; and	15
	(b) either—	16
	(i) if the account is from a distributor-retailer—be clearly identified as an account to the customer from the distributor-retailer; or	17 18 19
	(ii) if the account is from a withdrawn council—be clearly identified as an account to the customer from the council for water services and wastewater services.	20 21 22 23
	‘(3) In this section—	24
	<i>rates notice</i> means an account or other notice for the payment of rates under LGA 2009 or CBA 2010.’.	25 26

Clause 45	Amendment of s 99AX (New owner’s obligation to notify distributor-retailer)	27 28
	(1) Section 99AX, heading, ‘distributor-retailer’—	29

	<i>omit, insert—</i>	1
	‘SEQ service provider’.	2
(2)	Section 99AX, ‘a distributor-retailer’—	3
	<i>omit, insert—</i>	4
	‘an SEQ service provider’.	5
(3)	Section 99AX, ‘the distributor-retailer’—	6
	<i>omit, insert—</i>	7
	‘the SEQ service provider’.	8
Clause 46	Amendment of s 99AY (What is the SEQ design and construction code)	9
	Section 99AY(a), ‘distributor-retailers’—	10
	<i>omit, insert—</i>	11
	‘SEQ service providers’.	12
Clause 47	Amendment of s 99AZ (Requirement to have code)	13
	Section 99AZ, ‘distributor-retailers’—	14
	<i>omit, insert—</i>	15
	‘SEQ service providers’.	16
Clause 48	Amendment of s 99BB (Public notice about availability of draft code)	17
(1)	Section 99BB(1), ‘distributor-retailers’—	18
	<i>omit, insert—</i>	19
	‘SEQ service providers’.	20
(2)	Section 99BB(1)(b)—	21
	<i>omit, insert—</i>	22
	‘(b) keep a copy of the draft available for inspection and purchase; and’.	23
		24
		25
		26

	(3) Section 99BB(2)(a), ‘, on payment of a fee,’—	1
	<i>omit.</i>	2
	(4) Section 99BB(4)—	3
	<i>omit, insert—</i>	4
	‘(4) Each SEQ service provider must, from the publication of the notice to the final submission day, keep a copy of the draft available for inspection and purchase.’.	5 6 7
Clause 49	Amendment of s 99BC (Preparing final code)	8
	Section 99BC, ‘distributor-retailers’—	9
	<i>omit, insert—</i>	10
	‘SEQ service providers’.	11
Clause 50	Amendment of s 99BD (Adopting code)	12
	Section 99BD, from ‘by’—	13
	<i>omit, insert—</i>	14
	‘for each SEQ service provider by the following—	15
	(a) for a distributor-retailer—its board;	16
	(b) for a withdrawn council—a resolution.’.	17
Clause 51	Amendment of s 99BE (When code has effect)	18
	Section 99BE(1), ‘distributor-retailers’—	19
	<i>omit, insert—</i>	20
	‘SEQ service providers’.	21
Clause 52	Amendment of s 99BF (Amendment of code)	22
	Section 99BF(1), ‘distributor-retailers’—	23

omit, insert— 1
 ‘SEQ service providers’. 2

Clause 53	Amendment of s 99BG (Power of Minister to direct distributor-retailer to take action about code)	3
		4
	(1) Section 99BG, heading, ‘distributor-retailer’—	5
	<i>omit, insert—</i>	6
	‘SEQ service provider’.	7
	(2) Section 99BG, ‘a distributor-retailer’—	8
	<i>omit, insert—</i>	9
	‘an SEQ service provider’.	10
	(3) Section 99BG(3)(b), ‘the distributor-retailer’—	11
	<i>omit, insert—</i>	12
	‘the SEQ service provider’.	13

Clause 54	Amendment of s 99BH (Power of Minister if distributor-retailer does not comply with direction)	14
		15
	(1) Section 99BH, heading, ‘distributor-retailer’—	16
	<i>omit, insert—</i>	17
	‘SEQ service provider’.	18
	(2) Section 99BH(1), ‘a distributor-retailer’—	19
	<i>omit, insert—</i>	20
	‘an SEQ service provider’.	21
	(3) Section 99BH, ‘the distributor-retailer’—	22
	<i>omit, insert—</i>	23
	‘the SEQ service provider’.	24

Clause 55	Omission of ch 4A, pt 4 (Miscellaneous)	1
	Chapter 4A, part 4—	2
	<i>omit.</i>	3
Clause 56	Amendment of s 99BJ (Requirement for distributor-retailer to have plan)	4
	(1) Section 99BJ, heading, ‘distributor-retailer’—	5
	<i>omit, insert—</i>	6
	‘SEQ service provider’.	7
	(2) Section 99BJ, ‘A distributor-retailer’—	8
	<i>omit, insert—</i>	9
	‘An SEQ service provider’.	10
Clause 57	Amendment of s 99BK (Plan to be consistent with SEQ regional plan and planning assumptions)	11
	(1) Section 99BK, ‘A distributor-retailer’—	12
	<i>omit, insert—</i>	13
	‘An SEQ service provider’.	14
	(2) Section 99BK(b)—	15
	<i>omit, insert—</i>	16
	‘(b) the planning assumptions for the following (the <i>relevant planning assumptions</i>) for the following area for the SEQ service provider (its <i>relevant area</i>)—	17
	(i) for a distributor-retailer—its geographic area;	18
	(ii) for a withdrawn council—its local government area;	19
	(iii) for a corporate entity (service provider)—its establishing council’s local government area.’.	20
		21
		22
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Clause 58	Amendment of s 99BL(Requirement for distributor-retailer to review plan)	1
		2
(1)	Section 99BL, heading, ‘distributor-retailer’—	3
	<i>omit, insert—</i>	4
	‘SEQ service provider’.	5
(2)	Section 99BL(1)(a)(ii)—	6
	<i>omit, insert—</i>	7
	‘(ii) the relevant planning assumptions; and’.	8
(3)	Section 99BL, ‘a distributor-retailer’—	9
	<i>omit, insert—</i>	10
	‘an SEQ service provider’.	11
(4)	Section 99BL(2), ‘a distributor-retailer’s’—	12
	<i>omit, insert—</i>	13
	‘an SEQ service provider’s’.	14
(5)	Section 99BL, ‘the distributor-retailer’—	15
	<i>omit, insert—</i>	16
	‘the SEQ service provider’.	17
(6)	Section 99BL(3), ‘A distributor-retailer’—	18
	<i>omit, insert—</i>	19
	‘An SEQ service provider’.	20
Clause 59	Amendment of s 99BM (Purposes of plan)	21
(1)	Section 99BM, ‘a distributor-retailer’s’—	22
	<i>omit, insert—</i>	23
	‘an SEQ service provider’s’.	24
(2)	Section 99BM, ‘the distributor-retailer’s’—	25
	<i>omit, insert—</i>	26
	‘the SEQ service provider’s’.	27

- | | | |
|-----|---|---|
| (3) | Section 99BM, ‘geographic area’— | 1 |
| | <i>omit, insert</i> — | 2 |
| | ‘relevant area’. | 3 |
| (4) | Section 99BM(c), ‘distributor-retailers’— | 4 |
| | <i>omit, insert</i> — | 5 |
| | ‘SEQ service providers’. | 6 |

- | | | |
|------------------|--|----------|
| Clause 60 | Amendment of s 99BO (Content of part A of plan) | 7 |
| (1) | Section 99BO(1), other than subsection (1)(a), ‘the distributor-retailer’s’— | 8
9 |
| | <i>omit, insert</i> — | 10 |
| | ‘the SEQ service provider’s’. | 11 |
| (2) | Section 99BO(1), ‘a distributor-retailer’s’— | 12 |
| | <i>omit, insert</i> — | 13 |
| | ‘an SEQ service provider’s’. | 14 |
| (3) | Section 99BO(1)(a)— | 15 |
| | <i>omit, insert</i> — | 16 |
| | ‘(a) state the relevant planning assumptions on which the plan is based; and’. | 17
18 |
| (4) | Section 99BO(1), ‘distributor-retailer’— | 19 |
| | <i>omit, insert</i> — | 20 |
| | ‘SEQ service provider’. | 21 |
| (5) | Section 99BO(1)(h)(i)— | 22 |
| | <i>omit, insert</i> — | 23 |
| | ‘(i) the SEQ service provider’s relevant area; and’. | 24 |
| (6) | Section 99BO(2)— | 25 |
| | <i>omit, insert</i> — | 26 |

- ‘(2) The areas, mentioned in subsection (1)(c), into which infrastructure networks are to be extended must be consistent with the priority infrastructure areas of—
- (a) for a distributor-retailer—its participating local governments; or
 - (b) for a withdrawn council—its local government area; or
 - (c) for a corporate entity (service provider)—its establishing council.’.

Clause 61	Amendment of s 99BP (Content of part B of plan)	9
(1)	Section 99BP(1), ‘a distributor-retailer’s’— <i>omit, insert—</i> ‘an SEQ service provider’s’.	10 11 12
(2)	Section 99BP(1), ‘the distributor-retailer’s’— <i>omit, insert—</i> ‘the SEQ service provider’s’.	13 14 15
(3)	Section 99BP(1), ‘distributor-retailer’— <i>omit, insert—</i> ‘SEQ service provider’.	16 17 18
(4)	Section 99BP(1)(a)(ii)— <i>omit, insert—</i> ‘(ii) to provide new infrastructure to meet expected future development and growth in its relevant area, considering demand for the services based on low, medium and high population growth scenarios; and’.	19 20 21 22 23 24 25
(5)	Section 99BP(1)(d), ‘geographic area’— <i>omit, insert—</i> ‘relevant area’.	26 27 28

Clause 62	Amendment of s 99BQ (Matters distributor-retailer must have regard to in making plan)	1 2
(1)	Section 99BQ, heading, ‘distributor-retailer’— <i>omit, insert—</i> ‘SEQ service provider’.	3 4 5
(2)	Section 99BQ(1), other than subsection (1)(c), ‘the distributor-retailer’— <i>omit, insert—</i> ‘the SEQ service provider’.	6 7 8 9
(3)	Section 99BQ(1), ‘a distributor-retailer’— <i>omit, insert—</i> ‘an SEQ service provider’.	10 11 12
(4)	Section 99BQ(1)(c)— <i>omit, insert—</i> ‘(c) the total water cycle management plan— (i) for a distributor-retailer—of each of its participating local governments; or (ii) for a withdrawn council—of the council; or (iii) for a corporate entity (service provider)—of its establishing council;’.	13 14 15 16 17 18 19 20
(5)	Section 99BQ(1)(b), ‘distributor-retailer’s’— <i>omit, insert—</i> ‘SEQ service provider’s’.	21 22 23
(6)	Section 99BQ(2)— <i>omit, insert—</i>	24 25
‘(2)	In making its water netserv plan, a withdrawn council or corporate entity (service provider) must also have regard to efficient infrastructure investment and planning taking into account broader planning outcomes for the SEQ region.	26 27 28 29

‘(3) In this section— 1
total water cycle management plan, of a local government, 2
 means its total water cycle management plan under the water 3
 EPP’. 4

**Clause 63 Amendment of s 99BR (Process for making or amending 5
 plan) 6**
 Section 99BR, ‘a distributor-retailer’— 7
omit, insert— 8
 ‘an SEQ service provider’. 9

**Clause 64 Amendment of s 99BS (Content of regulation for making 10
 or amending plan) 11**
 (1) Section 99BS(1), other than subsection (1)(d), 12
 ‘distributor-retailer’— 13
omit, insert— 14
 ‘SEQ service provider’. 15
 (2) Section 99BS(1)(d)— 16
omit, insert— 17
 ‘(d) the proposed plan to be endorsed as follows— 18
 (i) for a distributor-retailer—by each participating 19
 local government for the distributor-retailer as 20
 being consistent with the planning assumptions for 21
 its local government area; 22
 (ii) for a withdrawn council—by the council as being 23
 consistent with the planning assumptions for its 24
 local government area; 25
 (iii) for a corporate entity (service provider)—by the 26
 entity’s establishing council as being consistent 27
 with the planning assumptions for its local 28
 government area;’. 29
 (3) Section 99BS(2)(b), ‘distributor-retailer’s’— 30

omit, insert— 1
'SEQ service provider's'. 2

Clause 65 Replacement of ss 99BT and 99BU 3

Sections 99BT and 99BU— 4

omit, insert— 5

**'99BT Keeping particular documents available for inspection
and purchase** 6
7

- '(1) An SEQ service provider must keep available for inspection 8
and purchase a copy of each of the following— 9
- (a) part A of the SEQ service provider's water netserv plan; 10
 - (b) a map showing the limits of the SEQ service provider's 11
connection areas; 12
 - (c) the SEQ design and construction code; 13
 - (d) if the SEQ service provider is a distributor-retailer, the 14
following— 15
 - (i) each annual capital works program prepared by the 16
distributor-retailer under section 100B; 17
 - (ii) an infrastructure charges register that complies 18
with section 99BU; 19
 - (iii) each infrastructure agreement to which the 20
distributor-retailer is a party; 21
 - (iv) each approved inspection program. 22

Note— 23

For access to an SEQ service provider's customer service charter, see 24
section 99AEA. 25

- '(2) The documents mentioned in subsection (1)(a) and (c) must 26
also be kept available on the SEQ service provider's website. 27

'99BU Requirements for infrastructure charges register	1
'(1) For section 99BT(1)(d)(ii), the infrastructure charges register must include all charges for infrastructure levied by the distributor-retailer.	2 3 4
'(2) For each of the charges, the register must include all of the following—	5 6
(a) the real property description of land to which the charge applies;	7 8
(b) the schedule under which the charge was levied;	9
(c) the amount of the charge levied;	10
(d) the amount of the charge unpaid;	11
(e) any relevant number of units of demand charged for;	12
(f) if the charge was levied as a result of a development approval or compliance permit under the Planning Act—the approval or permit reference number and the day the approval or permit will lapse;	13 14 15 16
(g) if infrastructure was to be provided instead of paying the charge—details of any infrastructure still to be provided.	17 18
'(3) Also, the register must include—	19
(a) the charge rate, stated in the charges schedule, for each charge levied; and	20 21
(b) if the charge has been adjusted for inflation—details of how it was adjusted and the adjusted charge rate.'	22 23
Clause 66 Amendment of s 99BV (Distributor-retailer may charge for copies of documents)	24 25
(1) Section 99BV, heading, 'Distributor-retailer'— <i>omit, insert—</i> ' SEQ service provider '.	26 27 28
(2) Section 99BV(1), 'The distributor-retailer'— <i>omit, insert—</i>	29 30

‘An SEQ service provider’. 1

(3) Section 99BV(2), ‘distributor-retailer’— 2

omit, insert— 3

‘SEQ service provider’. 4

Clause 67 Amendment of ch 5, pt 2 hdg (Participating local government price mitigation documents) 5
6

Chapter 5, part 2, heading, ‘Participating local’— 7

omit, insert— 8

‘Local’. 9

Clause 68 Amendment of s 99BW (Price mitigation plans) 10

(1) Section 99BW(1), after ‘for a distributor-retailer’— 11

insert— 12

‘and each withdrawn council’. 13

(2) Section 99BW(2), (4) and (6), ‘participating’— 14

omit. 15

(3) Section 99BW(7), definition *relevant charges*, from ‘provided by’— 16
17

omit, insert— 18

‘provided— 19

(a) for a participating local government for a 20
distributor-retailer—by the distributor-retailer in the 21
local government’s area; or 22

(b) either— 23

(i) for a withdrawn council—by the council in its 24
local government area; or 25

(ii) for a corporate entity (service provider)—by the 26
entity in its establishing council’s local 27
government area.’. 28

Clause 69	Amendment of s 99BX (Final price paths)	1
	(1) Section 99BX(1), after ‘distributor-retailer’—	2
	<i>insert—</i>	3
	‘and each withdrawn council’.	4
	(2) Section 99BX(1)(a), ‘30 June 2019’—	5
	<i>omit, insert—</i>	6
	‘30 June 2018’.	7
	(3) Section 99BX(5)—	8
	<i>omit, insert—</i>	9
	‘(5) The following must take all reasonable steps to ensure they	10
	implement the final price path—	11
	(a) for a participating local government—the	12
	distributor-retailer;	13
	<i>Note—</i>	14
	See also section 49A(2)(a) (Individual directions).	15
	(b) either—	16
	(i) generally—a withdrawn council; or	17
	(ii) if a withdrawn council is the establishing council	18
	for a corporate entity (service provider)—that	19
	entity.’.	20
Clause 70	Insertion of new s 99BZD	21
	Chapter 5, part 4—	22
	<i>insert—</i>	23
	‘99BZD Compensation by local governments for particular	24
	matters	25
	‘(1) This section applies if a participating local government (the	26
	<i>council</i>) of a distributor-retailer adopts, does or makes any of	27
	the following (the <i>triggering event</i>)—	28
	(a) an individual direction;	29

(b) a change, during the capped prices period, to a subsidy or rebate for users of water services or wastewater services; 1
2
3

(c) a final price path; 4

(d) an action or decision of a type prescribed under a regulation. 5
6

‘(2) The council has a liability to compensate (the *compensation liability*) the distributor-retailer and its other participating local governments (each a *claimant*) for any direct and reasonably anticipated financial detriment they will or may suffer because of the triggering event’s effects. 7
8
9
10
11

‘(3) However, the compensation liability does not apply for a type of detriment prescribed under a regulation. 12
13

‘(4) The council and each claimant must make reasonable endeavours to negotiate in good faith to reach an agreement about the amount, if any, of the compensation liability. 14
15
16

‘(5) However, the agreement can not do, or have the effect of— 17

(a) changing participation rights without approval under section 29; or 18
19

(b) anything else prescribed under a regulation. 20

‘(6) A regulation may provide for all or any of the following about the compensation liability— 21
22

(a) the period within which it can be claimed; 23

(b) how it may be claimed; 24

(c) how any amount for the liability may or must be paid; 25

(d) dispute resolution if it is not provided for under the distributor-retailer’s participation agreement.’. 26
27

Clause 71 Amendment of s 100C (Commission may make guidelines) 28
29

Section 100C, ‘distributor-retailers’— 30

omit, insert— 1
 ‘SEQ service providers’. 2

Clause 72 Amendment of s 100D (Application of Water Supply Act internal and external review provisions for decisions under Act) 3
 4
 5

Section 100D(4), definition *relevant chief executive*,
 paragraph (b), ‘distributor-retailer’— 6
 7
omit, insert— 8
 ‘SEQ service provider’. 9

Clause 73 Amendment of s 100DA (Requirement for distributor-retailer to give information) 10
 11

- (1) Section 100DA, heading and subsections (2) and (3),
 ‘distributor-retailer’— 12
 13
omit, insert— 14
 ‘SEQ service provider’. 15
 (2) Section 100DA(1), ‘a distributor-retailer require the
 distributor-retailer’— 16
 17
omit, insert— 18
 ‘an SEQ service provider require the provider’. 19
 (3) Section 100DA(3), penalty, after ‘penalty’— 20
insert— 21
 ‘for subsection (3)’. 22

Clause 74 Amendment of s 100F (Application of Water Supply Act enforcement provisions for particular offences) 23
 24

Section 100F(3)(a)— 25
omit, insert— 26

- ‘(a) for an offence against section 53DL—the SEQ service provider for whom the relevant discharge compliance notice was issued; or’.

Clause 75 Amendment of s 102 (Regulation-making power)

Section 102(2)—

insert—

- ‘(g) make provision for a withdrawn council as a service provider or for a corporate entity (service provider).’.

Clause 76 Insertion of new s 107A

Chapter 6, part 2—

insert—

‘107A Declaratory provision for s 83

‘(1) The Queensland Local Government Officers’ Award 1998 is declared to be, and to have always been, a prescribed industrial instrument.

‘(2) Subsection (1) applies even though the award does not of its own terms purport to apply to a distributor-retailer.

‘(3) It is declared that section 83 does not prevent, and never has prevented, the award or a section 83 instrument from—

(a) applying to a transferred employee; and

(b) continuing to apply to a transferred employee after the transitional period under section 83 ends.

‘(4) In this section—

prescribed industrial instrument see section 83(5).

section 83 instrument means an industrial instrument mentioned in section 83(3)(a), including, for example, a prescribed industrial instrument.

transferred employee means an employee to whom section 83 applies.’.

Clause 77	Insertion of new ch 6, pt 6	1
	Chapter 6—	2
	<i>insert—</i>	3
‘Part 6	Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2011	4 5 6 7 8 9
‘119	What is a <i>transitional matter</i>	10
	‘A <i>transitional matter</i> is any of the following—	11
	(a) the retransfer;	12
	(b) the cessation of Allconnex’s functions under this Act or its dissolution;	13 14
	(c) the service provider functions of a withdrawn council or a corporate entity (service provider);	15 16
	(d) anything necessary or desirable for a distributor-retailer other than Allconnex because of a matter mentioned in paragraphs (a) to (c).	17 18 19
‘120	Price mitigation plans of withdrawn councils	20
	‘The price mitigation plan of a participating local government of Allconnex becomes that local government’s price mitigation plan as a withdrawn council.	21 22 23
‘121	Customer water and wastewater code amendments for transitional matters	24 25
	‘Section 97(2) does not apply for any amendment of the customer water and wastewater code the Minister considers is for a transitional matter.	26 27 28

‘122	Deferral of application of s 99AV	1
	‘Section 99AV(1)(c), (d), (e), (i), (l) and (m) do not apply for a withdrawn council until—	2 3
	(a) 2 years after the day on which this section commences; or	4 5
	(b) if within the 2 years an earlier day is prescribed under a regulation—the earlier day.	6 7
‘123	Transitional regulation-making power	8
	‘(1) A transitional regulation may provide for anything—	9
	(a) necessary to provide for, allow or facilitate a transitional matter; and	10 11
	(b) for which this Act does not provide for or sufficiently provide for.	12 13
	‘(2) A transitional regulation may have retrospective operation to a day that is not earlier than the day on which this section commences.	14 15 16
	‘(3) A transitional regulation must declare it is a transitional regulation.	17 18
	‘(4) This section and any transitional regulation expire 1 year after the day on which this section commences.’.	19 20
Clause 78	Amendment of schedule (Dictionary)	21
	(1) Schedule, definitions <i>associated employee, available for inspection and purchase, bulk water component, capped charge, charged premises, distributor-retailer test, local government direction, participation agreement, planning assumptions, small business customer</i> and <i>variable measures</i> —	22 23 24 25 26 27
	<i>omit.</i>	28
	(2) Schedule—	29
	<i>insert</i> —	30

<i>‘2011–12 Allconnex services</i> see section 92DU.	1
<i>2012–13 withdrawn council services</i> see section 92DV(3).	2
<i>Allconnex</i> see section 92AB.	3
<i>Allconnex infrastructure funding matter</i> means an agreement, charge or condition imposed, levied or made by or for, or for the benefit of, Allconnex or its water infrastructure under the Planning Act, chapter 9, part 7A, division 5.	4 5 6 7
<i>Allconnex planning matter</i> see section 92BL(3).	8
<i>Allconnex’s dissolution day</i> see section 92EQ(2).	9
<i>available for inspection</i> , for a document of or held by an entity, means that the document, or a certified copy of it, is held in the entity’s public office in a way that anyone may inspect it free of charge whenever the office is open for business.	10 11 12 13 14
<i>available for inspection and purchase</i> , for a document of or held by an entity, means that—	15 16
(a) the document, or a certified copy of it, is available for inspection; and	17 18
(b) a person may obtain—	19
(i) if the entity may lawfully copy the document—a copy of the document, or part of the document, from the entity; or	20 21 22
(ii) if the entity can not lawfully copy the document—information at the entity’s public office about how to obtain a copy of it.	23 24 25
<i>bulk water component</i> means the charge for bulk water services included in an SEQ service provider’s charge.	26 27
<i>capped charge</i> —	28
(a) for the distributor-retailer capping provisions—see section 53ARB(1); or	29 30
(b) for chapter 3A, part 7—see section 92DV(1).	31
<i>CBA 2010</i> means the <i>City of Brisbane Act 2010</i> .	32

<i>certification statement</i> see section 92AY(2).	1
<i>change</i> , for a subsidy or rebate, includes—	2
(a) a failure to renew it; or	3
(b) a renewal of it without an adjustment equal to or greater than an adjustment for the CPI figure from the Capital Cities Comparison in the publication ‘Consumer Price Index, Australia’, Cat no. 6401.0, for Brisbane relating to the annual period from one March quarter to the next March quarter published by the Australian Bureau of Statistics.	4 5 6 7 8 9 10
<i>charged premises</i> —	11
(a) for the distributor-retailer capping provisions—see section 53ARB(1); or	12 13
(b) for chapter 3A, part 7—see section 92DV(1).	14
<i>conditions</i> , for a provision about an employee, means terms and conditions of the employee’s employment.	15 16
<i>corporate entity (service provider)</i> means a corporate entity created under LGA 2009 by a withdrawn council to acquire and conduct its WSP business mentioned in section 92AJ.	17 18 19
<i>councillor</i> means a councillor of a local government under LGA 2009 or CBA 2010.	20 21
<i>councillor-member</i> see section 33(3).	22
<i>designated industrial instrument</i> , for chapter 3A, part 8, division 2, subdivision 3, see section 92EM.	23 24
<i>distributor-retailer capping provisions</i> means chapter 2A, part 3, division 1.	25 26
<i>drinking water quality management plan</i> see the Water Supply Act, schedule 3.	27 28
<i>establishing council</i> , for a provision about a corporate entity (service provider), means the withdrawn council that decided to create the entity.	29 30 31
<i>EWO Act</i> means the <i>Energy and Water Ombudsman Act 2006</i> .	32

<i>existing conditions</i> see section 92EL.	1
<i>final price path</i> means a final price path under section 99BX.	2
<i>fixed access charge</i> means a fixed access charge mentioned in section 99AV(2).	3 4
<i>geographically-connected</i> , for a provision about a withdrawn council and land, the performance of a function or another matter, means the withdrawn council in whose local government area the land is in, the function was performed or to which the matter relates.	5 6 7 8 9
<i>group direction</i> see section 49(1).	10
<i>independent member</i> see section 33(5).	11
<i>individual direction</i> see section 49A(2).	12
<i>IR Act</i> means the <i>Industrial Relations Act 1999</i> .	13
<i>LGA 2009</i> means the <i>Local Government Act 2009</i> .	14
<i>participation agreement</i> —	15
(a) generally, means a participation agreement made under section 20 or 23; or	16 17
(b) for a provision about a distributor-retailer or a distributor-retailer’s board, means the participation agreement between the distributor-retailer and its participating local governments.	18 19 20 21
<i>parties</i> , to the retransfer, see section 92AR(1).	22
<i>party</i> , for chapter 3A, part 4, division 4, subdivision 3, see section 92CE(3).	23 24
<i>planning assumptions</i> , for a relevant area of an SEQ service provider, means—	25 26
(a) for a distributor-retailer—	27
(i) the assumptions about the type, scale, location and timing of future development and future growth (each a <i>planning descriptor</i>) for any part of the area stated in the distributor-retailer’s participating local governments’ priority infrastructure plans; or	28 29 30 31 32

- (ii) if the distributor-retailer, a participating local government and the Planning Minister agree that assumptions about a planning descriptor stated in a proposed priority infrastructure plan for the area are appropriate for preparing or reviewing a water netserv plan—the agreed assumptions; or
 - (b) for a withdrawn council—
 - (i) the assumptions about the planning descriptors for any part of the area stated in the council’s priority infrastructure plans; or
 - (ii) if the council and the Planning Minister agree that assumptions about a planning descriptor stated in a proposed priority infrastructure plan for the area are appropriate for preparing or reviewing a water netserv plan—the agreed assumptions; or
 - (c) for a corporate entity (service provider)—
 - (i) the assumptions about the planning descriptors for any part of the area stated in the entity’s establishing council’s priority infrastructure plans; or
 - (ii) if the entity’s establishing council and the Planning Minister agree that assumptions about a planning descriptor stated in a proposed priority infrastructure plan for the council are appropriate for preparing or reviewing a water netserv plan—the agreed assumptions.
- priority infrastructure plan*** means a priority infrastructure plan under the Planning Act.
- proceeding*** includes an arbitration or internal review application under the Water Supply Act.
- proportional joint successor***, for Allconnex, see section 92AD(3).
- provider test*** see section 99AJ(1)(a).

<i>relevant area</i> , for an SEQ service provider, see section 99BK(b).	1 2
<i>relevant council</i> , for a proposed, existing or former councillor-member, is the participating local government of which the member is proposed to be, is or was a councillor.	3 4 5
<i>relevant planning assumptions</i> see section 99BK(b).	6
<i>replacement</i> , for a provision about a proceeding to which Allconnex is a party or that could have been started by Allconnex, means a withdrawn council that is to be Allconnex's successor in law to or against the cause of action for the proceeding and is to become a party to the proceeding instead of Allconnex.	7 8 9 10 11 12
<i>retransfer</i> , from Allconnex to the withdrawn councils, see section 92AR(2).	13 14
<i>retransfer direction</i> see section 92BD(1).	15
<i>retransfer document</i> means the retransfer scheme, a retransfer notice or a retransfer direction.	16 17
<i>retransfer notice</i> see section 92BC(2).	18
<i>retransfer period</i> see section 92EL.	19
<i>retransfer scheme</i> see section 92AR(1).	20
<i>retransfer staff support framework</i> see section 92EC(1).	21
<i>SEQ service provider</i> means—	22
(a) a distributor-retailer; and	23
(b) either—	24
(i) generally—a withdrawn council; or	25
(ii) if a withdrawn council is the establishing council for a corporate entity (service provider)—that entity.	26 27 28
<i>service provider functions</i> , for a provision about a withdrawn council, means its functions under the Water Supply Act as a service provider and its functions under this Act as a withdrawn council.	29 30 31 32

- small business customer*, of an SEQ service provider for water services or wastewater services, means a customer (other than a residential customer) of the provider for the services if—
- (a) the customer uses or, if connected to the SEQ service provider’s water service or wastewater service, would be likely to use no more than 100kL of drinking water a year; or
 - (b) the customer is of a type of customer that ordinarily uses no more than 100kL of drinking water a year; or
 - (c) the customer has given the SEQ service provider notice, and the provider is satisfied, that the customer is likely to use no more than 100kL of drinking water a year.
- successor* see section 92AD.
- transitional matter*, for chapter 6, part 6, see section 119.
- variable measures*, for relevant services or Allconnex services, includes a measure based on—
- (a) the amount of water supplied or wastewater discharged from the charged premises; or
 - (b) the number of pedestals or urinals on the charged premises.
- water EPP* means the *Environmental Protection (Water) Policy 2009*.
- withdrawal costs* see section 92BW.
- withdrawn council* see section 92AC.’.
- (3) Schedule, definition *discharge offence*, paragraph (c), ‘a distributor-retailer’s’—
omit, insert—
‘an SEQ service provider’s’.
 - (4) Schedule, definition *participating local governments*, ‘section 5’—

omit, insert— 1
'section 5(1)'. 2

Part 3 **Amendment of Energy and Water Ombudsman Act 2006** 3
4

Clause 79 Act amended 5
This part amends the *Energy and Water Ombudsman Act 2006*. 6
7
Note— 8
See also the amendments in the schedule. 9

Clause 80 Replacement of s 7A (What is a water entity) 10
Section 7A— 11
omit, insert— 12
'7A What is a water entity and a withdrawn council 13
'A *water entity* is— 14
(a) a distributor-retailer; or 15
(b) the Gold Coast City Council, Logan City Council or 16
Redland City Council (each a *withdrawn council*).'. 17

Clause 81 Insertion of new s 25A 18
Part 3— 19
insert— 20
'25A Use and disclosure of personal information 21
'(1) For any IPP under the *Information Privacy Act 2009*, the 22
making of a dispute referral is, of itself, taken to be agreement 23

[s 82]

- by each party to their personal information relevant to the dispute— 1
2
- (a) being used by the energy and water ombudsman or either party for a preliminary inquiry or investigation concerning the dispute; or 3
4
5
- (b) being disclosed by the ombudsman to a party or from a party to the ombudsman for a purpose mentioned in paragraph (a); or 6
7
8
- (c) if a party is required to disclose the information under section 24(2) or 29, being disclosed to the ombudsman. 9
10
- ‘(2) In this section— 11
party means a party to the dispute referral.’. 12

- Clause 82 Replacement of s 64A (Scheme participation—water entities)** 13
14
- Section 64A— 15
omit, insert— 16
- ‘64A Scheme participants—water entities** 17
- ‘A water entity is, or becomes, a scheme participant on or from— 18
19
- (a) for a distributor-retailer—1 January 2011; or 20
- (b) for a withdrawn council—1 July 2012.’. 21
- Clause 83 Amendment of s 67A (Amount of participation fee—water entity)** 22
23
- Section 67A(2)— 24
omit. 25
- Clause 84 Insertion of new pt 12** 26
- After section 102— 27
insert— 28

‘Part 12	Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2011	1 2 3 4 5 6
‘103	Definitions for pt 12	7
	‘In this part—	8
	<i>Allconnex</i> means the distributor-retailer called the Southern SEQ Distributor-Retailer Authority.	9 10
	<i>successor</i> , for a provision about a customer or a dispute referral concerning a customer, means the withdrawn council in whose local government area the customer received, or wanted to receive, services from Allconnex of a type mentioned in the Water Supply Act, schedule 3, definition <i>customer</i> .	11 12 13 14 15 16
‘104	Migration of small customers (water) of Allconnex	17
	‘Each person who, at the end of 30 June 2012, is a small customer (water) of Allconnex becomes a small customer (water) of Allconnex’s successor on 1 July 2012.	18 19 20
‘105	Existing dispute referrals	21
	‘(1) This section applies to a dispute referral about Allconnex made before 1 July 2012.	22 23
	‘(2) The referral is taken to be, and to have always been, a dispute referral about Allconnex’s successor, and may be continued by or against the successor.	24 25 26
	‘(3) Subsection (2) applies as if, at all relevant times, the successor had performed the water entity function the subject of the referral.	27 28 29

[s 84]

‘(4) The successor is taken to be, and to have always been, the relevant entity for the referral.	1 2
‘(5) If the referral was made by Allconnex, the successor is taken to be the referrer.	3 4
‘106 Disputes not referred before 1 July 2012	5
‘(1) This section applies for a dispute about the performance of Allconnex’s water entity functions about which a dispute referral could have been, but has not been, made before 1 July 2012.	6 7 8 9
‘(2) Either party to the dispute may, on or from 1 July 2012, make a dispute referral for the dispute as if Allconnex’s successor has performed the functions.	10 11 12
‘(3) Subsection (2) is subject to section 19A.	13
‘(4) If the referrer is a small customer (water) and the dispute referral names Allconnex as the relevant entity, Allconnex’s successor is taken to have been named instead.	14 15 16
‘107 Existing investigations	17
‘(1) An investigation or preliminary inquiry (a <i>procedure</i>) started under this Act before 1 July 2012 about Allconnex is taken to be a procedure of the same type about Allconnex’s successor.	18 19 20
‘(2) The procedure is taken to be, and to have always been, about Allconnex’s successor, and may be continued about the successor.	21 22 23
‘(3) Subsection (2) applies as if, at all relevant times, the successor had performed the water entity function the subject of the procedure.	24 25 26
‘(4) The successor is taken to be, and to have always been, the relevant entity for the procedure.	27 28

‘108 Existing information requirements	1
‘(1) This section applies to an information requirement made of Allconnex that has not been complied with before the end of 30 June 2012.	2 3 4
‘(2) On 1 July 2012, the information requirement is taken to have been made of Allconnex’s successor about the same matter.	5 6
‘(3) In this section— <i>information requirement</i> means a requirement under section 29.	7 8 9
‘109 Existing orders, decisions, declarations and directions	10 11
‘(1) This section applies to an order, decision, declaration or direction (the <i>action</i>) under this Act about Allconnex.	12 13
‘(2) The action is taken to have been made about Allconnex’s successor on 1 July 2012.	14 15
‘(3) Subsection (2) does not prevent part 5, division 2 applying to the order.	16 17
‘(4) In this section— <i>about</i> includes to and against. <i>order</i> includes a judgment under section 42.	18 19 20
‘110 Amended budget for 2011–12 financial year	21
‘(1) The energy and water ombudsman may prepare an amended budget for the 2011–2012 financial year to take into account the withdrawn councils becoming scheme participants on 1 July 2012.	22 23 24 25
‘(2) An advisory council recommendation under section 74(6) is not required for approval of the amended budget.	26 27
‘(3) In this section—	28

[s 84]

	<i>2011–2012 financial year</i> means the financial year beginning on 1 July 2011 and ending on 30 June 2012.	1 2
‘111	Withdrawn councils’ user-pays fees for 2012–13 financial year	3 4
‘(1)	For section 68(1) and (4), a withdrawn council is taken to become a scheme participant when this section commences.	5 6
‘(2)	For section 69—	7
	(a) the amended budget under section 110 must be taken into account; and	8 9
	(b) the forecasted costs of the withdrawn council as a scheme participant for the 2012–13 financial year are its share of Allconnex’s likely relevant performance costs under subsection (3).	10 11 12 13
‘(3)	The share is the withdrawn council’s share of participation rights under its participation agreement with Allconnex under the <i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i> immediately before the retransfer under that Act.	14 15 16 17 18
‘(4)	In this section—	19
	<i>2012–13 financial year</i> means the financial year beginning on 1 July 2012 and ending on 30 June 2013.	20 21
‘112	References in Acts and other documents	22
‘(1)	This section applies for references in an Act or other document from 1 July 2012.	23 24
‘(2)	A reference to a water entity or scheme participant is taken to include a reference to a withdrawn council.	25 26
‘(3)	A specific reference to Allconnex is taken to be a reference to Allconnex’s successor.’.	27 28

Clause 85	Amendment of schedule (Dictionary)	1
	Schedule—	2
	<i>insert</i> —	3
	<i>Allconnex</i> , for part 12, see section 103.	4
	<i>distributor-retailer</i> means a distributor-retailer under the <i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i> , section 8.	5 6 7
	<i>successor</i> , for part 12, see section 103.	8
	<i>withdrawn council</i> see section 7A(b).’.	9
Part 4	Amendment of Plumbing and Drainage Act 2002	10 11
Clause 86	Act amended	12
	This part amends the <i>Plumbing and Drainage Act 2002</i> .	13
Clause 87	Amendment of s 84 (Regulated work or on-site sewerage work by a public sector entity)	14 15
	Section 84(4) and (5)—	16
	<i>omit, insert</i> —	17
	‘(4) However, subsections (5) and (6) apply for the issuing by a public sector entity of a compliance permit or compliance certificate for a plan for SEQ water work.	18 19 20
	‘(5) The entity can not issue the permit or certificate without the relevant service provider’s written consent.	21 22
	‘(6) If the entity issues the permit or certificate, it must give a copy to—	23 24
	(a) the local government; and	25

[s 88]

(b) if the relevant service provider for the work is a distributor-retailer—the distributor-retailer. 1
2

Note— 3

For references to a relevant service provider until 1 July 2012, see section 188.’. 4
5

Clause 88 Amendment of s 85 (Process for assessing plans) 6

(1) Section 85(2)(d), before examples— 7

omit, insert— 8

‘(d) if the request is about a plan for SEQ water work—accompanied by a document or information to show the work has been approved by or for the relevant service provider.’. 9
10
11
12

(2) Section 85(7A), from ‘(7A)’ to ‘distributor-retailer; or’— 13

omit, insert— 14

‘(7A) A local government can not give a compliance permit for SEQ water work unless it is the relevant service provider for the work or 1 of the following applies— 15
16
17

(a) the work has been approved by the distributor-retailer who is the relevant service provider for the work;’. 18
19

(3) Section 85(7A)(b), ‘regulated work under the plan’— 20

omit, insert— 21

‘work’. 22

Clause 89 Amendment of s 86 (General process for assessing regulated work and on-site sewerage work) 23
24

(1) Section 86(2)(d), from ‘connecting to’ to ‘water infrastructure’— 25
26

omit, insert— 27

‘SEQ water work’. 28

(2) Section 86(2)(d)(i), before examples— 29

omit, insert— 1

‘(i) a document or information to show the work has
 been approved by or for the relevant service
 provider;’ 2
 3
 4

(3) Section 86(9A), from ‘(9A)’ to ‘distributor-retailer; or’— 5

omit, insert— 6

‘(9A) A local government can not give a compliance certificate for
 SEQ water work unless it is the relevant service provider for
 the work or 1 of the following applies— 7
 8
 9

(a) the work has been approved by the distributor-retailer
 who is the relevant service provider for the work;’ 10
 11

(4) Section 86(9A)(b), ‘regulated’— 12

omit. 13

Clause 90 Amendment of s 87 (Minor work) 14

(1) Section 87(7), ‘distributor-retailer’s’— 15

omit, insert— 16

‘relevant service provider’s’. 17

(2) Section 87(8)— 18

omit, insert— 19

‘(8) If the local government is not the relevant service provider for
 the work, when the relevant entity or person gives the local
 government the notice the entity or person must also give the
 relevant service provider a copy of the notice.’. 20
 21
 22
 23

(3) Section 87(9), definition *relevant distributor-retailer*— 24

omit. 25

Clause 91 Insertion of new pt 10, div 8 26

Part 10— 27

insert— 28

[s 92]

‘Division 8	Transitional provision for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2011	1 2 3 4 5
‘188	References to relevant service provider until 1 July 2012	6 7
‘(1)	Until 1 July 2012—	8
(a)	paragraph (a) of the definition <i>relevant service provider</i> in the schedule does not apply; and	9 10
(b)	SPOLA amended section 87 continues to apply instead of post-1 July 2012 section 87.	11 12
‘(2)	In this section—	13
	<i>post-1 July 2012 section 87</i> means section 87 as amended under SEQ.	14 15
	<i>SEQ</i> means the <i>South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2011</i> .	16 17 18
	<i>SPOLA</i> means the <i>Sustainable Planning and Other Legislation Amendment Act 2011</i> .	19 20
	<i>SPOLA amended section 87</i> means section 87 as in force immediately before its amendment under SEQ, and if the amendments of section 87 under SPOLA commence before 1 July 2012, section 87 as amended under SPOLA.’.	21 22 23 24
Clause 92	Amendment of schedule (Dictionary)	25
	Schedule—	26
	<i>insert</i> —	27
	‘ <i>relevant service provider</i> , for SEQ water work, means—	28
(a)	if the work has been carried out, or is to be carried out, in the local government area, under the SEQ Water Act, of any of the following councils, that council—	29 30 31

-
- (i) the Gold Coast City Council; 1
- (ii) the Logan City Council; 2
- (iii) the Redland City Council; or 3
- (b) otherwise—the distributor-retailer in whose geographic 4
area under the SEQ Water Act the work has been carried 5
out, or is to be carried out. 6
- Note—* 7
- Paragraph (a) does not apply until 1 July 2012. See section 188. 8
- SEQ water work*** means work that— 9
- (a) is regulated work carried out, or to be carried out, in the 10
SEQ region; and 11
- (b) involves connecting to, disconnecting from or changing 12
a connection to a relevant service provider’s water 13
infrastructure.’. 14

Part 5 **Amendment of Queensland** 15
Competition Authority Act 1997 16

- Clause 93** **Act amended** 17
- This part amends the *Queensland Competition Authority Act* 18
1997. 19
- Clause 94** **Insertion of new pt 16** 20
- After section 253— 21
- insert—* 22

[s 95]

‘Part 16	Transitional provision for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2011	1 2 3 4 5 6
‘254	Effect of regulation amendment	7
	‘The amendment of the <i>Queensland Competition Authority Regulation 2007</i> under the <i>South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2011</i> does not affect the Governor in Council’s power to further amend the regulation or to repeal it.’.	8 9 10 11 12 13
Part 6	Amendment of Queensland Competition Authority Regulation 2007	14 15 16
Clause 95	Regulation amended	17
	This part amends the <i>Queensland Competition Authority Regulation 2007</i> .	18 19
Clause 96	Amendment of s 2 (Definitions)	20
	Section 2, definition <i>Allconnex Water</i> — <i>omit</i> .	21 22

[s 100]

Part 8	Amendment of Water Supply (Safety and Reliability) Act 2008	1 2
Clause 100	Act amended	3
	This part amends the <i>Water Supply (Safety and Reliability) Act 2008</i> .	4 5
Clause 101	Amendment of s 114 (Application of div 5)	6
	Section 114(3), after ‘distributor-retailer’—	7
	<i>insert—</i>	8
	‘or a withdrawn SEQ council’.	9
Clause 102	Amendment of s 138 (Guidelines for rate notice or account for supply of water to residential premises)	10 11
	Section 138—	12
	<i>insert—</i>	13
	‘(4) Subsection (5) applies for a service provider that is a withdrawn SEQ council.	14 15
	‘(5) If there is any conflict between the guidelines and any requirement under the 2009 restructuring Act for a rate notice or account, the guidelines and subsection (1) do not apply to the extent of the conflict.’.	16 17 18 19
Clause 103	Amendment of s 169 (Restricting domestic water supply in particular circumstances)	20 21
	Section 169(1)—	22
	<i>insert—</i>	23
	‘(e) the service provider is not a withdrawn SEQ council.	24

Note— 1
For withdrawn SEQ councils see the 2009 restructuring Act, section 2
99AT (Restricting water supply).’ 3

- Clause 104 Amendment of sch 3 (Dictionary)** 4
- (1) Schedule 3— 5
insert— 6
‘2009 restructuring Act means the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*. 7
8
withdrawn SEQ council means the Gold Coast City Council, Logan City Council or Redland City Council.’. 9
10
- (2) Schedule 3, definition *customer*, paragraph 1(a), after ‘a local government’— 11
12
insert— 13
‘(other than a withdrawn SEQ council)’ 14
- (3) Schedule 3, definition *customer*, after ‘distributor-retailer’— 15
insert— 16
‘or withdrawn SEQ council’. 17
- (4) Schedule 3, definition *distributor-retailer*, from ‘*South-East*’ 18
to ‘*2009*’— 19
omit, insert— 20
‘2009 restructuring Act’. 21

Part 9 Minor and consequential amendments 22
23

- Clause 105 Acts amended** 24
The schedule amends the Acts it mentions. 25

Schedule	Acts amended	1
	section 105	2
South-East Queensland Water (Distribution and Retail Restructuring) Act 2009		3
		4
1 Section 13—		5
	<i>omit, insert—</i>	6
‘13 Functions		7
	‘A distributor-retailer may perform its functions inside or outside Queensland.’.	8
		9
2 Section 53(11), definition <i>functions</i>—		10
	<i>omit.</i>	11
3 Section 53ARC(1), definition <i>2010–11 BC</i>, paragraph (a), and section 53ARD(1), definition <i>2011–12 BC</i>, paragraph (a), ‘fixed access charges mentioned in section 99AV(2)’—		12
		13
		14
		15
	<i>omit, insert—</i>	16
	‘fixed access charges’.	17
4 Section 53ARD(3)(a)—		18
	<i>omit, insert—</i>	19
	‘(a) <i>CPI</i> means the CPI figure from the Capital Cities Comparison in the publication ‘Consumer Price Index, Australia’, Cat no. 6401.0, for Brisbane relating to the annual period from one March quarter to the next March quarter published by the Australian Bureau of Statistics immediately before the start of the 2012–13 financial year; and’.	20
		21
		22
		23
		24
		25
		26

5	Section 54(1)(a)(ii), ‘the <i>Local Government Act 1993</i> or the <i>Local Government Act 2009</i>’—	1
	<i>omit, insert—</i>	2
	‘LGA 2009 or CBA 2010’.	3
		4
6	Sections 77E(5), 77K(6) and 100(2)(d), ‘and powers’—	5
	<i>omit.</i>	6
7	Section 99ATB(1)(a), ‘the <i>Local Government Act 2009</i>’—	7
	<i>omit, insert—</i>	8
	‘LGA 2009’.	9
8	Section 99AX(4), ‘the <i>Local Government Act</i>’—	10
	<i>omit, insert—</i>	11
	‘LGA 2009 or CBA 2010’.	12
9	Section 99AX(5), definition <i>Local Government Act</i>—	13
	<i>omit.</i>	14
10	Section 100A, ‘<i>Water Policy</i>’—	15
	<i>omit, insert—</i>	16
	‘water EPP’.	17
11	Section 100A(6), definition ‘<i>Water Policy</i>’—	18
	<i>omit.</i>	19

Energy and Water Ombudsman Act 2006	1
1 Sections 97, 98(1) and schedule, definition <i>2010/2011 financial year</i>, ‘2010/2011’—	2 3
<i>omit, insert—</i>	4
‘2010–2011’.	5