



Queensland

Fairer Water Prices for SEQ Amendment Act 2011

Act No. 21 of 2011



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Fairer Water Prices for SEQ Amendment Act 2011

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Queensland

Fairer Water Prices for SEQ Amendment Act 2011

Act No. 21 of 2011

An Act to amend the Queensland Competition Authority Act 1997, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010 and the Water Act 2000 for particular purposes

[Assented to 27 June 2011]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Fairer Water Prices for SEQ Amendment Act 2011*.

2 Commencement

The following provisions of this Act commence on 1 July 2011—

- (a) part 2;
- (b) section 8;
- (c) section 13;
- (d) section 15, to the extent it inserts new chapter 5, part 3;
- (e) section 17(1), other than to the extent it inserts new definition *capped prices period*, and (2) to (4);
- (f) part 4.

Part 2 Amendment of Queensland Competition Authority Act 1997

3 Act amended

This part amends the *Queensland Competition Authority Act 1997*.

4 Omission of pt 5A, div 2, sdiv 4A (Other declarations)

Part 5A, division 2, subdivision 4A—

omit.

5 Omission of pt 13 (Transitional provision for Queensland Competition Authority Amendment Act 2010)

Part 13—

omit.

6 Insertion of new pt 15

Before schedule 1—

insert—

‘Part 15 Declaratory provision for Fairer Water Prices for SEQ Amendment Act 2011

‘253 Revocation of declaration

- ‘(1) This section applies to the declaration, under repealed section 170QA, of particular activities to be a monopoly water supply activity.
- ‘(2) The declaration is revoked at the start of 1 July 2011 and has no force or effect.
- ‘(3) Subsection (2) applies despite the *Acts Interpretation Act 1954*, section 20.’.

7 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *Allconnex Water*, *candidate water supply activity*, *monopoly water supply activity*, *Queensland Urban Utilities*, *Unitywater* and *water supplier*—

omit.

insert—

**‘Division 1 Restriction on charges in capped
prices period**

‘Subdivision 1 Preliminary

‘53ARA Definitions for div 1

‘In this division—

2010-11 financial year means the financial year ending 30 June 2011.

2011-12 financial year means the financial year ending 30 June 2012.

2012-13 financial year means the financial year ending 30 June 2013.

base year see section 53ARF(b).

bulk water component means the charge for bulk water services included in a distributor-retailer’s charge.

capped charge see section 53ARB(1).

capped prices period means both the 2011-12 financial year and the 2012-13 financial year.

charged premises see section 53ARB(1).

relevant services see section 53ARB(3).

relevant year see section 53ARF(a).

small business customer, of a distributor-retailer for water services or wastewater services, means a customer (other than a residential customer) of the distributor-retailer for the services if—

- (a) the customer uses or, if connected to the distributor-retailer’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 advised the distributor-retailer in writing, and the distributor-retailer is satisfied, that the customer is likely to use no more than 100kL of drinking water a year.

variable measures, for the relevant 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.

‘53ARB Application of div 1

‘(1) This division applies to a charge (a *capped charge*) for water services or wastewater services provided by a distributor-retailer to premises (the *charged premises*)—

- (a) in the capped prices period; and
- (b) for a customer who—
 - (i) is a residential customer or a small business customer of the distributor-retailer for the services; or
 - (ii) is a customer of the distributor-retailer 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 distributor-retailer 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 distributor-retailer for the services, be a small business customer of the distributor-retailer.
- ‘(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 *relevant services*.
- ‘(4) This division applies despite any other provision of this Act or a participation agreement.

‘Subdivision 2 Caps

‘53ARC Cap for 2011-12 financial year

- ‘(1) The amount (the *cap*) of a capped charge for the relevant services for the 2011-12 financial year can not be more than the amount worked out by using the formula—

$$C = (2010-11 BC - 2010-11 RS) + 2011-12 I + 2011-12 BW$$

where—

C means the cap.

2010-11 BC (an abbreviation for 2010-11 base component) means the sum of the following for the relevant services for the 2010-11 financial year—

- (a) the fixed access charges mentioned in section 99AV(2) for the relevant services relating to the 2010-11 financial year;

- (b) the customer's charge rate for water consumption or wastewater disposal based on variable measures for the 2010-11 financial year as applied to the customer's water consumption or wastewater disposal in the 2011-12 financial year.

2010-11 RS means the amount of any rebate or subsidy for the relevant services for the 2010-11 financial year provided by the participating local government.

2011-12 I means the CPI increase for the 2011-12 financial year worked out under the formula in subsection (2).

2011-12 BW means the bulk water component of the charge for the relevant services for the 2011-12 financial year.

- '(2) For subsection (1), the formula for the CPI increase is—

$$\mathbf{2011-12 I = (2010-11 BC - 2010-11 RS) \times CPI}$$

- '(3) For subsection (2)—

- (a) **CPI** means 3.6%; and
(b) other variable symbols have the same meaning as under subsection (1).

- '(4) To remove any doubt, it is declared that the 2010-11 base component does not include the bulk water component of the charge for the relevant services for the 2010-11 financial year.

- '(5) This section applies subject to subdivision 3.

'53ARD Cap for 2012-13 financial year

- '(1) The amount (the **cap**) of a capped charge for the relevant services for the 2012-13 financial year can not be more than the amount worked out by using the formula—

$$\mathbf{C = (2011-12 BC - 2011-12 RS) + 2012-13 I + 2012-13 BW}$$

where—

C means the cap.

2011-12 BC (an abbreviation for 2011-12 base component) means the sum of the following for the relevant services for the 2011-12 financial year—

- (a) the fixed access charges mentioned in section 99AV(2) for the relevant services relating to the 2011-12 financial year;
- (b) the customer's charge rate for water consumption or wastewater disposal based on variable measures for the 2011-12 financial year as applied to the customer's water consumption or wastewater disposal in the 2012-13 financial year.

2011-12 RS means the amount of any rebate or subsidy for the relevant services for the 2011-12 financial year provided by the participating local government.

2012-13 I means the CPI increase for the 2012-13 financial year worked out under the formula in subsection (2).

2012-13 BW means the bulk water component of the charge for the relevant services for the 2012-13 financial year.

'(2) For subsection (1), the formula for the CPI increase is—

$$\mathbf{2012-13 I = (2011-12 BC - 2011-12 RS) \times CPI}$$

'(3) For subsection (2)—

- (a) **CPI** means the CPI figure from the Australian Bureau of Statistics' capital cities comparison for Brisbane relating to the annual period from one March quarter to the next March quarter published by that bureau immediately before the start of the 2012-13 financial year; and
- (b) other variable symbols have the same meaning as under subsection (1).

'(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 the relevant services for the 2011-12 financial year.

'(5) This section applies subject to subdivision 3.

‘53ARE Caps not affected by rebate or subsidy change

‘To remove any doubt, it is declared that a cap under this subdivision is not affected by a change in any local government rebate or subsidy for the 2011-12 financial year or the 2012-13 financial year.

‘Subdivision 3 Provisions for no or partial base year

‘53ARF Application of sdiv 3

‘This subdivision applies if—

- (a) this division started to apply to a capped charge for the customer on the start of or during the 2011-12 financial year or the 2012-13 financial year (the *relevant year*); or
- (b) the relevant services were not provided by the distributor-retailer to the charged premises during all the preceding financial year (the *base year*) or were provided for only part of the base year.

‘53ARG Notional base component required for working out cap

‘For subdivision 2, the distributor-retailer must work out the cap as if—

- (a) this division had applied to the capped charge for the customer during all of the base year; and
- (b) the relevant services had been provided to the customer for all of the base year.

‘53ARH Criteria if no base year

‘(1) This section applies if—

- (a) this division started to apply to a capped charge for the customer on the start of the relevant year; or

-
- (b) the relevant services were not provided by the distributor-retailer to the charged premises during any of the base year.
- ‘(2) In working out the cap under section 53ARG, the distributor-retailer must consider the charges imposed on similar customers for premises similar to the charged premises during the base year.

‘53ARI Criteria if partial base year

- ‘(1) This section applies if—
- (a) this division started to apply to a capped charge for the customer after the start of, but during, the base year; or
- (b) the relevant services were provided by the distributor-retailer to the charged premises for only part of the base year.
- ‘(2) In working out the cap under section 53ARG, the distributor-retailer must consider the charges it actually imposed on the customer for the charged premises during the base year.

‘Division 2 Overdue charges’.

10 Amendment of s 53AS (Application of pt 3)

- (1) Section 53AS, heading, ‘pt 3’—
omit, insert—
‘div 2’.
- (2) Section 53AS(1), ‘This part’—
omit, insert—
‘This division’.

11 Amendment of s 53AW (Quarterly CPI indexation for distributor-retailer's charge)

Section 53AW(4), definition *quarter*—
omit.

12 Amendment of s 63 (Period of transfer notices)

Section 63, '30 June 2011'—
omit, insert—
'30 June 2012'.

13 Amendment of s 99AV (Matters required to be stated in account)

- (1) Section 99AV(3)—
renumber as section 99AV(5).
- (2) Section 99AV—
insert—
- '(3) The entry called 'distribution and retail' must be included in the account under a separate heading called 'Local Government distributor-retailer price'.
- '(4) The bulk water component must be included in the account under a separate heading called 'State bulk water price'.

14 Renumbering of ch 5, pt 2 (Other matters)

Chapter 5, part 2—
renumber as chapter 5, part 4.

15 Insertion of new ch 5, pts 2 and 3

Chapter 5—
insert—

‘Part 2 Participating local government price mitigation documents

‘99BW Price mitigation plans

- ‘(1) Each participating local government for a distributor-retailer must, by the resolution day—
 - (a) adopt by resolution a written plan (a *price mitigation plan*) about how the local government proposes to mitigate the impact on customers for relevant charges after the capped prices period ends; and
 - (b) give the Minister a copy of the plan.
- ‘(2) A price mitigation plan must include information about the following—
 - (a) an initial price path for the introduction of increases in the charges that will moderate the impact of the increases on customers;
 - (b) the policies the participating local government intends to adopt to help particular customers, including, for example, aged pensioners;
 - (c) how the participating local government intends to keep the community informed about the increases;
 - (d) the extent to which a distributor-retailer’s profits that are paid to the participating local government are to be used to provide subsidies or rebates to users of water services or wastewater services.
- ‘(3) Subsection (2) does not limit the matters that may be included in the price mitigation plan.
- ‘(4) The participating local government must, as soon as practicable after the publication day—
 - (a) publish a copy of its price mitigation plan on its website; and
 - (b) publish a notice about the plan in a newspaper circulating in its local government area; and

- (c) ensure a copy of the plan is available for inspection at its public offices.
- ‘(5) The notice must state the local government has adopted the price mitigation plan and where copies of it may be obtained.
- ‘(6) The participating local government must take all reasonable steps to ensure it implements its price mitigation plan.
- ‘(7) In this section—
 - publication day* means—
 - (a) 1 September 2011; or
 - (b) if the Minister notifies a later day by gazette notice—the later day.
 - relevant charges* means charges for water services or wastewater services provided by the distributor-retailer in the local government’s area.
 - resolution day* means—
 - (a) 1 July 2011; or
 - (b) if the Minister notifies a later day by gazette notice—the later day.

‘99BX Final price paths

- ‘(1) Each participating local government for a distributor-retailer must do the following by 1 March 2013—
 - (a) adopt by resolution a written final price path for relevant charges under section 99BW relating to the period from 1 July 2013 to 30 June 2019;
 - (b) give the Minister a copy of the final price path;
 - (c) publish a notice about the final price path in a newspaper circulating in its local government area;
 - (d) publish a copy of the final price path on its website;
 - (e) ensure a copy of the final price path is available for inspection at its public offices.

-
- ‘(2) The final price path must state graduated price increases for the charges during the period.
 - ‘(3) The graduated price increases must moderate the effect of the increases on customers.
 - ‘(4) The notice must state the local government has adopted the final price path and where copies of it may be obtained.
 - ‘(5) The distributor-retailer must take all reasonable steps to ensure it implements the final price path.

‘Part 3 Portability of long service leave

‘99BY Definition for pt 3

‘In this part—

accrued right to long service leave, for a person, means the person’s entitlement to take long service leave after having completed a minimum period of employment with an employer.

‘99BZ Application of pt 3

‘This part applies if—

- (a) a person is employed (the *new employment*) by a distributor-retailer (the *new employer*); and
- (b) the person was previously employed (the *former employment*) by another distributor-retailer (the *former employer*); and
- (c) the period between ending the former employment and beginning the new employment is not longer than 1 year; and
- (d) the person did not receive a payment from the former employer of an amount as a cash equivalent for accrued long service leave.

‘99BZA Continuation of accrued rights to long service leave

- ‘(1) The person’s accrued right to long service leave in relation to the former employment is continued in relation to the new employment as an accrued right to long service leave as an employee of the new employer.
- ‘(2) From the start of the new employment, the new employer has the same obligations in relation to the person’s accrued right to long service leave as the former employer had in relation to the person at the end of the former employment.

Example—

If a person was entitled to take 11 weeks long service leave at the time the former employment ended, the person continues to be entitled to take 11 weeks long service leave after the start of the new employment. The entitlement would not be subject to completing any further period of employment with the new employer.

- ‘(3) However, after the start of the new employment, the person continues to accrue rights to long service leave only under the same conditions as an employee of the new employer who is not a person to whom this part applies.

‘99BZB Recognition of previous periods of employment

- ‘(1) This section applies when deciding the person’s accrued right to long service leave in relation to the new employer.
- ‘(2) The person’s period of employment with the former employer, in addition to the person’s period of employment with the new employer, is taken to be the person’s period of employment with the new employer.

Example—

A person is taken to have completed a period of employment of 10 years with a new employer if the person completed a period of employment of 6 years with a former employer and a period of employment of 4 years with the new employer.

**‘99BZC Payment by former employer to new employer
towards long service leave entitlements accrued with
former employer**

- ‘(1) The former employer must pay the new employer an amount for the number of days of long service leave that the person—
- (a) is entitled to take because of the person’s period of employment with the former employer; or
 - (b) would have been entitled to take, because of the person’s period of employment with the former employer, if there was no minimum period of employment to be completed before the entitlement is accrued.
- ‘(2) The amount is the amount the former employer would have been required to pay the person if the person had taken the long service leave.
- ‘(3) The amount must be paid within a reasonable period after being requested by the new employer.
- ‘(4) A former employer of the person must provide the person’s new employer with the following information about the person—
- (a) the length of accrued long service leave;
 - (b) any special leave taken without salary;
 - (c) any long service leave taken by the person or any amount paid to the person instead of long service leave;
 - (d) any undertaking given in relation to long service leave.’.

16 Insertion of new ch 6, pt 4

Chapter 6—

insert—

‘Part 4 Transitional provisions for Fairer Water Prices for SEQ Amendment Act 2011

‘116 Application of s 99ATA for charges applying in capped prices period

- ‘(1) Section 99ATA(2) applies to a distributor-retailer in relation to charges for its water services and wastewater services for the 2011-12 financial year as if the reference in that subsection to ‘30 June of the financial year preceding the financial year to which the charges relate’ were a reference to ‘31 July of the 2011-12 financial year’.
- ‘(2) Section 99ATA(3) and (4) does not apply to a distributor-retailer in relation to charges for its water services and wastewater services for the 2012-13 financial year.

‘117 Application of s 99AV to accounts for charges

‘Section 99AV(3) and (4), as inserted under the *Fairer Water Prices for SEQ Amendment Act 2011*, does not apply to an account from a distributor-retailer to a customer for water services or wastewater services until 1 July 2012.’.

17 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *former employer* and *new employer*—
omit.

- (2) Schedule—
insert—

‘*2010-11 financial year* see section 53ARA.

2011-12 financial year see section 53ARA.

2012-13 financial year see section 53ARA.

accrued right to long service leave, for chapter 5, part 3, see section 99BY.

base year see section 53ARF(b).

bulk water component, for chapter 2A, part 3, division 1, see section 53ARA.

capped charge see section 53ARB(1).

capped prices period see section 53ARA.

charged premises see section 53ARB(1).

drinking water see the Water Supply Act, schedule 3.

former employer—

(a) for chapter 3, part 4, division 2, see section 81; or

(b) for chapter 5, part 3, see section 99BZ(b).

former employment see section 99BZ(b).

new employer—

(a) for chapter 3, part 4, division 2, see section 81; or

(b) for chapter 5, part 3, see section 99BZ(a).

new employment see section 99BZ(a).

quarter means a whole period of 3 months ending at the end of 31 March, 30 June, 30 September or 31 December.

recycled water see the Water Supply Act, schedule 3.

relevant services, for chapter 2A, part 3, division 1, see section 53ARB(3).

relevant year see section 53ARF(a).

small business customer see section 53ARA.

variable measures see section 53ARA.’.

- (3) Schedule, definition *distributor-retailer’s charge*, after ‘part 3,’—

insert—

‘division 2,’.

- (4) Schedule, definition *overdue charge*, after ‘part 3,’—

insert—
'division 2,'.

Part 4 **Amendment of South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

18 **Act amended**

This part amends the *South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010*.

19 **Omission of s 101 (Replacement of ch 2A, pt 5A, div 3, sdiv 2 (Grid contract documents and registered grid participants))**

Section 101—

omit.

Editor's note—

Legislation ultimately amended—

- *Water Act 2000*

20 **Omission of s 102 (Amendment of s 360ZDI (Limited liability of grid participant))**

Section 102—

omit.

Editor's note—

Legislation ultimately amended—

- *Water Act 2000*

21 Amendment of s 117 (Insertion of new ch 9, pt 5, div 15)

Section 117, to the extent it inserts new section 1178—

omit.

Editor's note—

Legislation ultimately amended—

- *Water Act 2000*

22 Amendment of s 118 (Amendment of sch 4 (Dictionary))

Section 118(2), to the extent it inserts the definitions *default grid contract*, *mandatory term*, *negotiated grid contract* and *non-market contract*—

omit.

Editor's note—

Legislation ultimately amended—

- *Water Act 2000*

Part 5 Amendment of Water Act 2000

23 Act amended

This part amends the *Water Act 2000*.

24 Amendment of s 360ZDD (Grid contract document)

Section 360ZDD(1), '1 July 2011'—

[s 25]

omit, insert—

‘1 July 2013’.

25 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘*grid contract document* see section 360ZDD(1).’.

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