



Queensland

South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012

Act No. 13 of 2012



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Queensland

South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012

Act No. 13 of 2012

An Act to amend the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 for particular purposes

[Assented to 19 July 2012]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012*.

2 Commencement

This Act is taken to have commenced at the end of 30 June 2012.

3 Act amended

This Act amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

4 Amendment of s 58 (Requirements for certification statement)

Section 58(1)(b)(v)—

insert—

Note—

Sections 79 and 83 were repealed by the *South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012*. Section 79 provided for the approval of a staff support framework.?

5 Amendment of s 65 (Transfer direction)

Section 65(2)—

insert—

Note—

Section 79 provided for the approval of a staff support framework. That provision was repealed by the *South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012*.?.

6 Amendment of ch 3, pt 4, hdg (Workforce provisions)

Chapter 3, part 4, heading, after ‘provisions’—

insert—

‘—preservation of rights of employees’.

7 Omission of ch 3, pt 4, div 1 and div 2 hdg

Chapter 3, part 4, division 1 and division 2 heading—

omit.

8 Amendment of s 81 (Application of div 2)

(1) Section 81, heading, ‘div 2’—

omit, insert—

‘pt 4’.

(2) Section 81, ‘division’—

omit, insert—

‘part’.

9 Omission of s 83 (Preservation of rights of transferred employees during transitional period)

Section 83—

omit.

10 Amendment of s 92AZ (Content requirements)

Section 92AZ(1)(b)(v)—

insert—

‘*Note—*

Section 92EC provided for the approval of the retransfer staff support framework. That provision was repealed by the *South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012*.’.

[s 11]

11 Amendment of s 92BD (Retransfer direction)

(1) Section 92BD(2), ‘all or any’—

omit, insert—

‘both or either’.

(2) Section 92BD(2)(c) and (d)—

omit.

12 Amendment of s 92BF (Effect of retransfer document)

Section 92BF(1), ‘Subject to section 92EH, a’—

omit, insert—

‘A’.

13 Amendment of s 92BW (What are *withdrawal costs*)

(1) Section 92BW(2)—

insert—

‘(ba) that a withdrawn council incurred from the beginning of 1 July 2012 in relation to the retransfer staff support framework; or’.

(2) Section 92BW(2)(ba) to (d)—

renumber as section 92BW(2)(c) to (e).

14 Amendment of s 92CL (Application of Judicial Review Act 1991 to particular decisions)

Section 92CL(1)(b)—

insert—

‘*Note—*

Section 92EC provided for the approval of the retransfer staff support framework. That provision was repealed by the *South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012*.’.

15 Amendment of ch 3A, pt 8, hdg (Workforce provisions)

Chapter 3A, part 8, heading, after ‘provisions’—

insert—

‘—preservation of rights of employees’.

16 Omission of ch 3A, pt 8, div 1, div 2 hdg and div 2, sdiv 1 hdg

Chapter 3A, part 8, division 1, division 2 heading and division 2, subdivision 1 heading—

omit.

17 Amendment of s 92EI (Application of div 2)

(1) Section 92EI, heading, ‘div 2’—

omit, insert—

‘pt 8’.

(2) Section 92EI, ‘division’—

omit, insert—

‘part’.

18 Omission of ch 3A, pt 8, div 2, sdiv 2 hdg (General provisions)

Chapter 3A, part 8, division 2, subdivision 2 heading—

omit.

19 Omission of ch 3A, pt 8, div 2, sdiv 3 (Preservation of employees’ rights during retransfer period)

Chapter 3A, part 8, division 2, subdivision 3—

omit.

20 Insertion of new ch 6, pt 7

Chapter 6—

insert—

**‘Part 7 Transitional provisions for
South-East Queensland Water
(Distribution and Retail
Restructuring) Amendment Act
2012**

‘124 Definitions for pt 7

‘In this part—

amending Act means the *South-East Queensland Water (Distribution and Retail Restructuring) Amendment Act 2012*.

commencement means commencement of the provision in which the term is used.

former, in relation to a provision, means as in force immediately before the repeal of the provision by the amending Act.

retransfer staff support framework means the retransfer staff support framework mentioned in former section 92EC.

staff support framework means a staff support framework approved by the industrial relations Minister under former section 79.

‘125 Cessation of staff support framework

‘(1) This section applies to a staff support framework applying immediately before the commencement to a distributor-retailer.

Note—

The reference to a distributor-retailer in this section includes Allconnex, for which sections 126 and 127 make particular provision.

‘(2) From the commencement—

-
- (a) the staff support framework ceases to apply for the distributor-retailer's employees and its participating local governments; and
 - (b) any requirement in a document for the distributor-retailer to act in accordance with the staff support framework, or any provision of it, no longer applies.
- ‘(3) However, subsection (2) does not invalidate or otherwise affect—
- (a) anything done under the staff support framework before the commencement; or
 - (b) any requirement in a document that does not rely on the staff support framework, or any provision of it, merely because it is a similar obligation.
- ‘(4) Also, anything started under the staff support framework before the commencement may be finished from the commencement as if former section 79 had not been repealed.
- ‘(5) For the purposes of subsection (4), former section 80 continues to apply to anything to be finished under subsection (4) as if former section 80 had not been repealed.
- ‘(6) From the commencement, former section 83 continues to apply to the transfer of an employee of a local government to a distributor-retailer under a transition document as if former section 79 and former section 83 had not been repealed.

‘126 Retransfer staff support framework taken never to have had effect

- ‘(1) From the commencement, the retransfer staff support framework has no effect and is taken never to have had effect.
- ‘(2) However, subsection (1) does not invalidate or otherwise affect anything done under the retransfer staff support framework before the commencement.
- ‘(3) Also, if an affected employee received a payment from Allconnex or a withdrawn council in the retransfer period, whether or not the payment was made or purportedly made

under the retransfer staff support framework, subsection (1) does not, of itself, create a right by Allconnex or the withdrawn council to recover the payment.

‘(4) Subsection (5) applies if Allconnex or a withdrawn council—

(a) before the commencement—

(i) makes a representation in relation to an affected employee in compliance or purported compliance with the retransfer staff support framework; or

(ii) in connection with the retransfer staff support framework, enters into an agreement or has an understanding with an affected employee or undertakes to take action in relation to an affected employee; and

(b) from the commencement, fails to act on the representation, agreement, understanding or undertaking because the retransfer staff support framework has no effect.

‘(5) Allconnex’s or the withdrawn council’s making of the representation, entering into the agreement or having the understanding with the affected employee under subsection (4)(a), or failure to act under subsection (4)(b), does not, of itself, create a legally enforceable right of anyone.

‘(6) In this section—

action includes inaction.

affected employee means an employee of Allconnex or a withdrawn council.

payment includes a benefit.

representation includes a promise, whether express or implied.

retansfer period means the period starting at the beginning of 16 December 2011 and ending on the date of assent of the amending Act.

‘127 Effect of former s 92EE on staff support framework

‘To remove any doubt, it is declared that the staff support framework—

- (a) did not under former section 92EE cease to apply for Allconnex’s employees and the withdrawn councils; and
- (b) continued to apply for Allconnex’s employees and the withdrawn councils, to the greatest practicable extent, until its cessation under section 125.

‘128 Application of particular provisions of Local Government (Operations) Regulation 2010 to withdrawn councils’ employees

‘For the application of the *Local Government (Operations) Regulation 2010*, chapter 5, part 3, division 4 to a withdrawn council’s employees who are transferred from Allconnex under a retransfer document, and despite section 99(7) of that regulation, a water entity is taken not to include a withdrawn council.

‘129 Transitional regulation-making power

‘(1) A transitional regulation may provide for anything—

- (a) necessary to provide for, allow or facilitate any or all of the following—
 - (i) the ending under the amending Act of the staff support framework;
 - (ii) any matter related to the retransfer for which the amending Act applies;
 - (iii) anything necessary or desirable for a distributor-retailer including Allconnex, its participating local governments or a withdrawn council because of a matter mentioned in subparagraph (i) or (ii); and
- (b) for which this Act does not make provision or sufficient provision.

[s 21]

- ‘(2) A transitional regulation may have retrospective operation to a day that is not earlier than the day on which this section commences.
- ‘(3) A transitional regulation must declare it is a transitional regulation.
- ‘(4) This section and any transitional regulation expire 1 year after the day on which this section commences.’.

21 Amendment of schedule (Dictionary)

Schedule, definitions *designated industrial instrument*, *existing conditions*, *retransfer period*, *retransfer staff support framework* and *staff support framework*—
omit.

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