



Queensland

South East Queensland Water (Restructuring) and Other Legislation Amendment Regulation (No. 1) 2012

Subordinate Legislation 2012 No. 240

made under the

South East Queensland Water (Restructuring) Act 2007
State Development and Public Works Organisation Act 1971
Statutory Bodies Financial Arrangements Act 1982
Superannuation (State Public Sector) Act 1990

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South East Queensland Water (Restructuring) and Other Legislation Amendment
Regulation (No. 1) 2012

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1 Short title

This regulation may be cited as the *South East Queensland Water (Restructuring) and Other Legislation Amendment Regulation (No. 1) 2012*.

2 Commencement

This regulation commences on 1 January 2013.

3 Legislation amended

- (1) This regulation, other than the schedule, amends the *South East Queensland Water (Restructuring) Regulation 2011*.
- (2) The schedule amends the regulations it mentions.

4 Amendment of s 25 (Definitions for pt 6)

Section 25, definition *LinkWater*—
omit.

5 Insertion of new pt 7

After section 32—
insert—

‘Part 7 Transfer of business to the Authority

‘Division 1 Preliminary

‘33 Definitions for pt 7

‘In this part—

Authority means the Queensland Bulk Water Supply Authority continued in existence under section 6 of the Act.

Coordinator-General asset means an asset shown in the Coordinator-General schedule.

Coordinator-General instrument means an instrument shown in the Coordinator-General schedule.

Coordinator-General schedule means the schedule held by the Authority showing—

- (a) the assets of the Coordinator-General that are transferred under this part to the Authority; and
- (b) the instruments applying to the Coordinator-General that are applied under this part to the Authority.

LinkWater asset means an asset of LinkWater immediately before the part 7 transfer day and—

- (a) includes an asset shown in the LinkWater schedule, part 1; but
- (b) does not include an asset shown in the LinkWater schedule, part 2.

LinkWater instrument means an instrument applying to LinkWater immediately before the part 7 transfer day and—

- (a) includes an instrument shown in the LinkWater schedule, part 1; but
- (b) does not include an instrument shown in the LinkWater schedule, part 2.

LinkWater liability means a liability of LinkWater immediately before the part 7 transfer day and—

- (a) includes a liability shown in the LinkWater schedule, part 1; but
- (b) does not include a liability shown in the LinkWater schedule, part 2.

LinkWater schedule means the schedule held by the Authority showing—

- (a) in part 1—
 - (i) the assets and liabilities of LinkWater that are to be transferred under this part to the Authority; and

- (ii) the LinkWater instruments that are to be applied under this part to the Authority; and
- (b) in part 2—
 - (i) the assets and liabilities of LinkWater that are excluded from the operation of this part; and
 - (ii) the instruments applying to LinkWater that are excluded from the operation of this part.

part 7 transfer day means 1 January 2013.

SEQBwCo asset means an asset of SEQBwCo immediately before the part 7 transfer day, other than an asset shown in the SEQBwCo exclusion schedule.

SEQBwCo exclusion schedule means the schedule held by the Authority showing the assets and liabilities of, and the instruments applying to, SEQBwCo that are excluded from the operation of this part.

SEQBwCo instrument means an instrument applying to SEQBwCo immediately before the part 7 transfer day, other than an instrument shown in the SEQBwCo exclusion schedule.

SEQBwCo liability means a liability of SEQBwCo immediately before the part 7 transfer day, other than a liability shown in the SEQBwCo exclusion schedule.

State employee means a person—

- (a) who is, immediately before the part 7 transfer day, an employee of the department in which the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* is administered; and
- (b) whose name is shown in the schedule held by the Authority showing the names of the employees whose employment is to be transferred under this part from the State to the Authority.

WGM asset means an asset of the water grid manager immediately before the part 7 transfer day and—

- (a) includes an asset shown in the WGM schedule, part 1; but

- (b) does not include an asset shown in the WGM schedule, part 2.

WGM instrument means an instrument applying to the water grid manager immediately before the part 7 transfer day and—

- (a) includes an instrument shown in the WGM schedule, part 1; but
- (b) does not include an instrument shown in the WGM schedule, part 2.

WGM liability means a liability of the water grid manager immediately before the part 7 transfer day and—

- (a) includes a liability shown in the WGM schedule, part 1; but
- (b) does not include a liability shown in the WGM schedule, part 2.

WGM schedule means the schedule held by the Authority showing—

- (a) in part 1—
 - (i) the assets and liabilities of the water grid manager that are transferred under this part to the Authority; and
 - (ii) the instruments of the water grid manager that are applied under this part to the Authority; and
- (b) in part 2—
 - (i) the assets and liabilities of the water grid manager that are excluded from the operation of this part; and
 - (ii) the instruments of the water grid manager that are excluded from the operation of this part.

‘Division 2 Transfer of assets, liabilities and shares

‘34 Coordinator-General assets

- ‘(1) The Coordinator-General is divested of the Coordinator-General assets.
- ‘(2) The Coordinator-General assets become the assets of the Authority.

‘35 LinkWater assets and liabilities

- ‘(1) LinkWater is divested of the LinkWater assets and released from the LinkWater liabilities.
- ‘(2) The LinkWater assets become the assets of the Authority.
- ‘(3) The LinkWater liabilities are assumed by the Authority.

‘36 SEQBWCo assets and liabilities

- ‘(1) SEQBWCo is divested of the SEQBWCo assets and released from the SEQBWCo liabilities.
- ‘(2) The SEQBWCo assets become the assets of the Authority.
- ‘(3) The SEQBWCo liabilities are assumed by the Authority.

‘37 WGM assets and liabilities

- ‘(1) The water grid manager is divested of the WGM assets and released from the WGM liabilities.
- ‘(2) The WGM assets become the assets of the Authority.
- ‘(3) The WGM liabilities are assumed by the Authority.

‘38 Transfer of shares

‘The shares in SEQBWCo held immediately before the part 7 transfer day by the Under Treasurer on trust for the State are transferred to the Authority.

‘Division 3 Transition to the Authority

‘39 Successor in law

‘The Authority is the successor in law of—

- (a) the Coordinator-General in relation to—
 - (i) the Coordinator-General assets that are transferred under this part to the Authority; and
 - (ii) the Coordinator-General instruments that are applied under this part to the Authority in place of the Coordinator-General; and
- (b) LinkWater, other than in relation to an asset, liability or instrument shown in the LinkWater schedule, part 2; and
- (c) SEQBWCo, other than in relation to an asset, liability or instrument shown in the SEQBWCo exclusion schedule; and
- (d) the water grid manager, other than in relation to an asset, liability or instrument shown in the WGM schedule, part 2.

‘40 Application of instruments

- ‘(1) An instrument that applied to a transferor immediately before the part 7 transfer day applies to the Authority in place of the transferor.
- ‘(2) Without limiting subsection (1)—
 - (a) any right, title, interest or liability of the transferor arising under or relating to the instrument is taken to be transferred from the transferor to the Authority; and
 - (b) if the instrument, including a benefit or right provided by the instrument, is given to, by or in favour of the transferor, the instrument is taken to have been given to, by or in favour of the Authority; and
 - (c) the Authority is taken to be a party to the instrument in place of the transferor; and

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- (d) a reference in the instrument to the transferor is, to the extent possible and if the context permits, taken to be a reference to the Authority; and
 - (e) if an application was made for the instrument in the name of the transferor, the application is taken to have been made in the name of the Authority; and
 - (f) if the instrument is an instrument under which an amount is or may become payable to or by the transferor, the instrument is taken to be an instrument under which the amount is or may become payable to or by the Authority, in the way the amount was or might have been payable to or by the transferor; and
 - (g) if the instrument is an instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by the transferor, the instrument is taken to be an instrument under which the property is or may become liable to be transferred, conveyed or assigned to or by the Authority, in the way it was or might have been liable to be transferred, conveyed or assigned to or by the transferor.
- ‘(3) If an instrument to which this section applies includes a following indemnity, the indemnity continues in favour of each person in whose favour it was originally given—
- (a) an indemnity given by a transferor to a board member of the transferor in relation to the board member’s performance of the member’s duties or functions;
 - (b) an indemnity given by a transferor to an employee of the transferor in relation to the employee’s employment with the transferor.
- ‘(4) In this section—
- instrument* means each of the following—
- (a) a Coordinator-General instrument;
 - (b) a LinkWater instrument;
 - (c) a SEQBWCo instrument, other than SEQBWCo’s constitution;

(d) a WGM instrument.

transferor means—

- (a) for a Coordinator-General instrument—the Coordinator-General; or
- (b) for a LinkWater instrument—LinkWater; or
- (c) for a SEQBWCo instrument, other than SEQBWCo's constitution—SEQBWCo; or
- (d) for a WGM instrument—the water grid manager.

‘41 Transfer of employees

- ‘(1) A person who was, immediately before the part 7 transfer day, an employee of any of the following entities becomes an employee of the Authority—
 - (a) LinkWater;
 - (b) SEQBWCo;
 - (c) the water grid manager.
- ‘(2) If a person was, immediately before the part 7 transfer day, a State employee—
 - (a) the person becomes an employee of the Authority; and
 - (b) the liability of the State for any annual leave, long service leave or sick leave accrued but not taken by the person before the part 7 transfer day is transferred to the Authority.
- ‘(3) The *State Government Departments Certified Agreement 2009* and the *LinkWater Certified Agreement 2009* do not apply to—
 - (a) the Authority; or
 - (b) an employee of the Authority, including an employee transferred to the Authority under a regulation.
- ‘(4) The *Seqwater Enterprise Bargaining Certified Agreement 2009-2012* (the *certified agreement*) applies to—
 - (a) the Authority; and

- (b) each employee of the Authority whose position falls within the classification structure under part 5 of the certified agreement, including an employee transferred to the Authority under a regulation.

‘42 Records

‘A record of any of the following entities immediately before the part 7 transfer day becomes a record of the Authority—

- (a) LinkWater;
- (b) SEQBWCo;
- (c) the water grid manager.

‘43 Legal proceedings

‘(1) This section applies if, immediately before the part 7 transfer day, any of the following entities is a party to a legal proceeding that is not finished—

- (a) LinkWater;
- (b) SEQBWCo;
- (c) the water grid manager.

‘(2) The Authority is responsible for the conduct of the legal proceeding in place of the entity.

‘Division 4 Accounting treatment

‘44 Accounting treatment

‘(1) For accounting purposes, the parties to a relevant transfer must treat—

- (a) the transfer of the transferor’s assets to, and the assumption of the transferor’s liabilities by, the Authority as a distribution to, or contribution by, owners, as applicable; and

- (b) the value of the transferor's assets transferred to, and the transferor's liabilities assumed by, the Authority as being equivalent to the carrying value of the assets and liabilities recorded in the accounts of the transferor, as applicable, immediately before the part 7 transfer day; and
- (c) the value of any indebtedness under the QTC debt facilities transferred from the transferor to the Authority as being equivalent to the book value of the indebtedness under the QTC debt facilities recorded in the transferor's accounts immediately before the part 7 transfer day.

(2) In this section—

parties, to a relevant transfer, means—

- (a) for the Coordinator-General transfer—the Coordinator-General and the Authority; or
- (b) for the LinkWater transfer—LinkWater and the Authority; or
- (c) for the SEQBWCo transfer—the Authority and SEQBWCo; or
- (d) for the SEQBWCo share transfer—the Authority and the Under Treasurer as trustee for the State; or
- (e) for the WGM transfer—the Authority and the water grid manager.

QTC debt facilities means the debt facilities held by a transferor with the Queensland Treasury Corporation.

relevant transfer means each of the following—

- (a) the transfer under this part of the Coordinator-General assets to the Authority (the *Coordinator-General transfer*);
- (b) the transfer under this part of the LinkWater assets to, and the assumption of the LinkWater liabilities by, the Authority (the *LinkWater transfer*);

- (c) the transfer under this part of the SEQBWCo assets to, and the assumption of the SEQBWCo liabilities by, the Authority (the *SEQBWCo transfer*);
- (d) the transfer under this part of the shares in SEQBWCo held by the Under Treasurer on trust for the State to the Authority (the *SEQBWCo share transfer*);
- (e) the transfer under this part of the WGM assets to, and the assumption of the WGM liabilities by, the Authority (the *WGM transfer*).

transferor means—

- (a) for the Coordinator-General transfer—the Coordinator-General; or
- (b) for the LinkWater transfer—LinkWater; or
- (c) for the SEQBWCo transfer—SEQBWCo; or
- (d) for the SEQBWCo share transfer—the Under Treasurer as trustee for the State; or
- (e) for the WGM transfer—the water grid manager.

‘Division 5 Dissolution

‘45 Dissolution of LinkWater and the water grid manager

- ‘(1) This section takes effect immediately after the Authority becomes the successor in law of LinkWater and the water grid manager.
- ‘(2) LinkWater and the water grid manager are dissolved and the members of the boards of LinkWater and the water grid manager cease to hold office.
- ‘(3) The Authority must prepare the financial statements and reports for LinkWater and the water grid manager.’.

6 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *Coordinator-General asset*, *Coordinator-General instrument*, *Coordinator-General schedule* and *LinkWater*—

omit.

- (2) Schedule—

insert—

‘Authority, for part 7, see section 33.

Coordinator-General asset means—

(a) for part 4, see section 9A; and

(b) for part 7, see section 33.

Coordinator-General instrument means—

(a) for part 4, see section 9A; and

(b) for part 7, see section 33.

Coordinator-General schedule means—

(a) for part 4, see section 9A; and

(b) for part 7, see section 33.

LinkWater means the Queensland Bulk Water Transport Authority established under section 6 of the Act as in force before the replacement of that provision by the *South East Queensland Water (Restructuring) and Other Legislation Amendment Act 2012*.

LinkWater asset, for part 7, see section 33.

LinkWater instrument, for part 7, see section 33.

LinkWater liability, for part 7, see section 33.

LinkWater schedule, for part 7, see section 33.

part 7 transfer day, for part 7, see section 33.

SEQBWC see section 4(d).

SEQBWC asset, for part 7, see section 33.

SEQBWC exclusion schedule, for part 7, see section 33.

***SEQBWC* instrument**, for part 7, see section 33.

***SEQBWC* liability**, for part 7, see section 33.

Seqwater, for parts 3 and 4 and this schedule, means the Queensland Bulk Water Supply Authority.

State employee, for part 7, see section 33.

WaterSecure means the Queensland Manufactured Water Authority established under section 6 of the Act as in force before the replacement of that provision by the *South East Queensland Water (Restructuring) and Other Legislation Amendment Act 2012*.

***WGM* asset**, for part 7, see section 33.

***WGM* instrument**, for part 7, see section 33.

***WGM* liability**, for part 7, see section 33.

***WGM* schedule**, for part 7, see section 33.’.

Schedule Consequential amendments

section 3(2)

State Development and Public Works Organisation Regulation 2010

1 Section 8(3), ‘LinkWater’—

omit, insert—

‘The Queensland Bulk Water Supply Authority’.

2 Section 8(5)—

omit, insert—

‘(5) In this section—

Queensland Bulk Water Supply Authority means the Queensland Bulk Water Supply Authority (ABN 75 450 239 876) continued in existence under the *South East Queensland Water (Restructuring) Act 2007*, section 6.’

3 Section 26, definitions *LinkWater* and *Seqwater*—

omit.

4 Section 26—

insert—

‘*Queensland Bulk Water Supply Authority* means the Queensland Bulk Water Supply Authority (ABN 75 450 239 876) continued in existence under the *South East Queensland Water (Restructuring) Act 2007*, section 6.’

5 Section 27, heading, from ‘*Seqwater*’ to ‘works’—

omit, insert—

‘Queensland Bulk Water Supply Authority directed to undertake particular Wyaralong water treatment plant project works’.

6 Section 27(2), ‘Seqwater’—

omit, insert—

‘The Queensland Bulk Water Supply Authority’.

7 Section 28, heading, from ‘LinkWater’ to ‘works’—

omit, insert—

‘Queensland Bulk Water Supply Authority directed to undertake particular Cedar Grove and Karawatha inter-connector project works’.

8 Section 28(2), ‘LinkWater’—

omit, insert—

‘The Queensland Bulk Water Supply Authority’.

Statutory Bodies Financial Arrangements Regulation 2007

1 Schedule 2, entry for *South East Queensland Water (Restructuring) Act 2007*, ‘a new water entity’—

omit, insert—

‘Queensland Bulk Water Supply Authority’.

2 Schedule 5, entry for *South East Queensland Water (Restructuring) Act 2007*, ‘a new water entity’—

omit, insert—

‘Queensland Bulk Water Supply Authority’.

3 Schedule 8, entry for *South East Queensland Water (Restructuring) Act 2007*, ‘a new water entity’—

omit, insert—

‘Queensland Bulk Water Supply Authority’.

Superannuation (State Public Sector) Regulation 2006

**1 Schedule, ‘Queensland Bulk Water Transport Authority’
and ‘SEQ Water Grid Manager’—**

omit.

ENDNOTES

- 1 Made by the Governor in Council on 13 December 2012.
- 2 Notified in the gazette on 14 December 2012.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is Queensland Treasury and Trade.

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