



New South Wales

Water Industry Competition (General) Regulation 2022

under the

Water Industry Competition Act 2006

[*The following enacting formula will be included if this Regulation is made—*]
Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Industry Competition Act 2006*.

Minister for Lands and Water

Explanatory note

The object of this Regulation is to repeal and remake, with some changes, the *Water Industry Competition (General) Regulation 2021*, which would otherwise be repealed on 1 September 2023. The changes are consequential on the amendments made by the *Water Industry Competition Amendment Act 2021*.

This Regulation provides for the following—

- (a) the water industry infrastructure to which the *Water Industry Competition Act 2006*, Part 2 does and does not apply,
- (b) the conditions of scheme approvals, operator licences and retailer licences,
- (c) the deemed customer contract that applies to small retail customers under certain schemes,
- (d) investigations by the Independent Pricing and Regulatory Tribunal into pricing determinations for monopoly services,
- (e) last resort arrangements for the continued provision of essential water or sewerage services,
- (f) connecting development to water industry infrastructure,
- (g) audits of applications for approvals and licences and compliance audits,
- (h) other minor and miscellaneous matters.

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	5
2 Commencement	5
3 Definitions	5
4 Meaning of “stormwater”	5
5 National safety guidelines	6
Part 2 Water industry infrastructure	
Division 1 Preliminary	
6 Water industry infrastructure to which the Act, Part 2 applies	7
7 Water industry infrastructure excluded from the Act, Part 2	7
8 Policies about use of water resources	7
9 Exceptions from requirement for scheme approval—the Act, s 6(2)	7
10 Condition of scheme approvals—the Act, s 7H(1)(e)	8
Division 2 Licences	
11 Conditions of licences—the Act, s 8G(1)(b)	8
12 Licensee must notify IPART	8
13 Agreement between registered operator and registered retailer	8
14 Splitting of composite licences—the Act, s 8K(4)(b)	9
15 Annual fees and returns—default penalty	9
Part 3 Operation of water retail market—the Act, Part 5	
16 Deemed customer contracts for regulated schemes	10
17 Requirement to notify registered retailer of scheme connection	10
18 IPART may modify or exclude application of deemed customer contract	10
19 Notice of increase in contract charges	10
20 Internal review—the Act, s 47(2)(c)	10
Part 4 Investigations into pricing determinations for monopoly services—the Act, s 52(3) and (4)	
Division 1 General	
21 Application of IPART Act, Part 3	11
Division 2 Conduct of certain investigations	
22 Definitions	11
23 Application of Division	11
24 IPART to prepare issues papers	12
25 Submissions on issues papers	12
26 IPART to hold public hearings on issues papers	12
27 IPART to prepare draft reports	12
28 Submissions on draft reports	13
29 IPART to prepare final reports	13

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	Page
Part 5	Last resort arrangements—the Act, Part 5A
Division 1	Designation of last resort providers
30	Criteria for last resort providers 14
31	Revocation of designation as last resort provider—the Act, s 55(10) 14
Division 2	Contingency planning
32	Application of Division 14
33	Approval of contingency plans—the Act, s 55A(1) 14
34	Content of contingency plans—the Act, s 55A(2)(b) 14
35	Testing of contingency plans—the Act, s 55A(2)(a) 15
36	Role of essential service providers—the Act, s 55A(1) 15
37	Recovery of contingency planning costs—the Act, s 55A(2)(g) 16
Division 3	Alternative contingency planning arrangements
38	Application of Division 16
39	Approval of alternative contingency plans—the Act, s 55A(1) 16
40	Content of alternative contingency plans—the Act, s 55A(2)(b) 16
41	Assessment of alternative contingency plan—the Act, s 55A(2)(e) 17
42	Recovery of costs of technical experts—the Act, s 55A(2)(g) 17
Part 6	Connecting development to infrastructure—the Act, Sch 2, cl 3A
43	Definitions 18
44	Consent authority to notify registered operator of development applications 18
45	Applications for certificates of compliance 19
46	Requirements imposed on developer before certificate of compliance issued 19
47	Determination of costs for requirements notices 19
48	Issue of certificates of compliance 20
49	Conditions of certificates of compliance 20
50	Recovery of costs 21
Part 7	Application audits and compliance audits
51	Appointment and engagement of auditors 22
52	Functions of auditors 22
53	Fees for audits 22
54	IPART to consider application audit 22
55	Entry to premises 22
Part 8	Miscellaneous
56	Regulatory functions of IPART 24
57	Time limit for determination of applications 24
58	Water restrictions—the Act, Sch 2, cl 6 24
59	Extension of local water restrictions orders—the Act, Sch 2, cl 6 25
60	Registered operators and registered retailers may restrict water supply to customers—the Act, Sch 2, cl 6 25
61	Licence and approvals during transition period—the Act, Sch 4, Part 4 25
62	Last resort arrangements during transition period—the Act, Sch 4, cl 9(2) 26

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Water Industry Competition (General) Regulation 2022 [NSW]
Contents

		Page
	63 Repeal and savings	27
Schedule 1	Water industry infrastructure exempt from the Act, Part 2	28
Schedule 2	Conditions of licences	32
Schedule 3	Penalty notice offences	38
Schedule 4	Deemed customer contract	40

Water Industry Competition (General) Regulation 2022

under the

Water Industry Competition Act 2006

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Water Industry Competition (General) Regulation 2022*.

2 Commencement

This Regulation commences on the day on which the *Water Industry Competition Amendment Act 2021*, Schedule 1[4] commences.

3 Definitions

In this Regulation—

certificate of compliance, for Part 6—see section 43.

customer contract means the deemed customer contract, including modifications and exclusions made by IPART under section 18.

developer, for Part 6—see section 43.

development, for Part 6—see section 43.

development authorisation, for Part 6—see section 43.

investigated monopoly supplier, for Part 4, Division 2—see section 22.

IPART Act, for Part 4—see section 21.

issues paper, for Part 4, Division 2—see section 22.

public hearing, for Part 4, Division 2—see section 22.

public holiday means a day appointed under the *Public Holidays Act 2010* or another Act as a public holiday.

requirements notice, for Part 6—see section 43.

significant methodological change, for Part 4—see section 22.

Standard Instrument means the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

the Act means the *Water Industry Competition Act 2006*.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

4 Meaning of “stormwater”

- (1) For the Act, Dictionary, definition of *stormwater*, paragraph (a), stormwater includes rainwater that has run off an urban surface, including a roof, pavement, car park, road, garden or vegetated open space.
- (2) For the Act, Dictionary, definition of *stormwater*, paragraph (b), stormwater does not include rainwater collected solely from roofs.

5 National safety guidelines

For the Act, Dictionary, definition of *national safety guidelines*, the following documents as in force from time to time are prescribed—

- (a) the *Australian Drinking Water Guidelines*, published by the Australian Government, the National Health and Medical Research Council and the Natural Resource Management Ministerial Council,
- (b) the *Australian Guidelines for Water Recycling (Phases 1 and 2)*, published by the Environment Protection and Heritage Council, the Natural Resource Management Ministerial Council and the Australian Health Ministers' Conference.

Part 2 Water industry infrastructure

Division 1 Preliminary

6 Water industry infrastructure to which the Act, Part 2 applies

- (1) For the Act, section 5(1)(d), water industry infrastructure operated by or on behalf of a council is water industry infrastructure to which the Act, Part 2 applies if it is used or is to be used for the production or supply of recycled water for the following purposes—
 - (a) water features and systems, including ponds, fountains or cascades, if persons can physically interact with the water,
 - (b) washing or cleaning, including vehicles, paths, common areas or fences,
 - (c) toilets, bidets, laundries or washing machines,
 - (d) irrigation for the purposes of growing food,
 - (e) above ground irrigation of a golf course or public open space, including a park, sportsground or median strip, if the recycled water is sourced from sewage.
- (2) Water industry infrastructure specified in subsection (1) includes a reticulation network connected to the infrastructure and used to convey anything to or from the infrastructure.

7 Water industry infrastructure excluded from the Act, Part 2

For the Act, section 5(2)(b), the following water industry infrastructure is excluded from the application of the Act, Part 2—

- (a) water industry infrastructure referred to in section 6 if —
 - (i) the infrastructure was operated by or on behalf of the council immediately before the commencement of this section, and
 - (ii) the construction or operation of the infrastructure is not substantially modified or expanded on or after the commencement of this section.
- (b) water industry infrastructure specified in this Regulation, Schedule 1.

Note— The Act, section 5(2)(a) provides that the Act, Part 2 does not apply to water industry infrastructure within the area of operations of a public water utility and operated by or on behalf of the public water utility other than as a last resort provider.

8 Policies about use of water resources

For the Act, section 5A(a), the following policies published by the Department, as in force from time to time, are prescribed—

- (a) the NSW Water Strategy,
- (b) the Greater Sydney Water Strategy,
- (c) the Lower Hunter Water Security Plan.

9 Exceptions from requirement for scheme approval—the Act, s 6(2)

- (1) A council may construct the following water industry infrastructure without a scheme approval if development consent has been granted under the *Environmental Planning and Assessment Act 1979* or if environmental assessment has been carried out in relation to the development under that Act, Division 5.1—
 - (a) a water storage facility for recycled water,
 - (b) a water reticulation system for recycled water.
- (2) Despite subsection (1), a scheme approval is required before the water industry infrastructure is connected to a water source.

Note— See also the Act, section 6A, which provides that a person must not operate water industry infrastructure unless the infrastructure is substantially constructed as authorised by a scheme approval.

- (3) In this section—
water reticulation system has the same meaning as in the Standard Instrument.
water storage facility has the same meaning as in the Standard Instrument.

10 Condition of scheme approvals—the Act, s 7H(1)(e)

- (1) It is a condition of a scheme approval that a water meter must be installed for each household or business that is or will be serviced by the water industry infrastructure the subject of the scheme approval.
- (2) A water meter must comply with the requirements of the document entitled the *Plumbing Code of Australia*, published by the Australian Building Codes Board, as in force from time to time.

Division 2 Licences

11 Conditions of licences—the Act, s 8G(1)(b)

- (1) A licence is subject to the conditions set out in Schedule 2, Part 1.
- (2) An operator licence is also subject to the conditions set out in Schedule 2, Part 2.
- (3) A retailer licence is also subject to the conditions set out in Schedule 2, Part 3.

12 Licensee must notify IPART

- (1) For the Act, section 8H(1)(f), the licensee must give written notice to IPART within—
- (a) 24 hours after proposing to cease to operate the water industry infrastructure for which the licensee is the registered operator, and
 - (b) 1 hour after ceasing to operate the infrastructure.
- (2) For the Act, section 8I(1)(a), the licensee must give written notice to IPART within—
- (a) 24 hours after proposing to cease to provide retail services under the licence for a particular regulated scheme, and
 - (b) 1 hour after ceasing to provide the retail services.
- (3) Subsections (1)(a) and (2)(a) do not apply if the licensee ceases to operate water industry infrastructure or to provide retail services in an emergency.

13 Agreement between registered operator and registered retailer

An agreement between a registered operator and a registered retailer for the purposes of the Act, section 8H(1)(h)(ii) must specify—

- (a) the responsibilities of each licensee under a customer contract, including who is responsible for the following—
 - (i) installing, testing, repairing, maintaining, reading or replacing meters,
 - (ii) undertaking inspections, including inspections of backflow prevention devices or cross-connections in dual reticulation schemes,
- (b) the notification requirements for each licensee under a customer contract, including a requirement for a licensee to notify the other licensee when—
 - (i) a customer is connected to the regulated scheme, or
 - (ii) the water supply or sewerage service is interrupted, or

- (iii) a customer makes a complaint, or
- (iv) the licensee is notified that a customer has critical health needs, or
- (v) a customer seeks or is granted an approval from the licensee.

14 Splitting of composite licences—the Act, s 8K(4)(b)

- (1) The Minister may split a composite licence into its component licences on—
 - (a) the Minister’s own initiative, or
 - (b) the recommendation of IPART, or
 - (c) the application of the licensee.
- (2) An application by a licensee must be made to IPART and determined by the Minister.
- (3) If the Minister proposes to split a composite licence into its component licences under subsection (1)(a) or (b), the Minister must give the licensee at least 14 days to make submissions about the proposal.

15 Annual fees and returns—default penalty

For the Act, section 8N(4), the penalty for default is \$5,500.

Part 3 Operation of water retail market—the Act, Part 5

16 Deemed customer contracts for regulated schemes

For the Act, section 46AB(1), the terms and conditions of the deemed customer contract are set out in Schedule 4.

17 Requirement to notify registered retailer of scheme connection

For the Act, section 46AB(6)(a), the registered operator of infrastructure that connects a scheme to premises must give written notice to the registered retailer for the infrastructure as soon as reasonably practicable after the premises are connected to the scheme.

18 IPART may modify or exclude application of deemed customer contract

- (1) For the Act, section 46AB(6), IPART may modify or exclude the application of the deemed customer contract for a registered operator or a registered retailer on the joint application of the registered operator and registered retailer.
- (2) A modification or exclusion may apply generally or in specified circumstances.
- (3) An application for a modification or exclusion must be—
 - (a) made in the form and way determined by IPART, and
 - (b) accompanied by the fee determined by IPART.
- (4) IPART may determine different fees for different kinds of applications.
- (5) The fees must be published on IPART’s website.

19 Notice of increase in contract charges

The maximum increase for the Act, section 46AC(6)(a) is the Consumer Price Index (All Groups Index) for Sydney, published by the Australian Bureau of Statistics, for the most recent quarter.

20 Internal review—the Act, s 47(2)(c)

- (1) A failure by a licensed operator or licensed retailer to determine an application for a review under the Act, section 47 within 20 business days after the application is made is taken to be a refusal to alter the decision to which the application relates.
- (2) In this section—

business day means a day that is not—

 - (a) a Saturday or Sunday, or
 - (b) a public holiday or bank holiday throughout the State.

Part 4 Investigations into pricing determinations for monopoly services—the Act, s 52(3) and (4)

Division 1 General

21 Application of IPART Act, Part 3

- (1) For the Act, section 52(3), the IPART Act, Part 3 applies to a matter referred to IPART under the Act, section 52, subject to the following modifications—
 - (a) a reference to a government agency in the IPART Act, Part 3 is taken to be a reference to a monopoly supplier,
 - (b) the IPART Act, sections 15(1)(c) and (h), 16 and 18 do not apply.
- (2) If there is an inconsistency between a provision of this Part and a provision of the IPART Act, Part 3, Division 7, the provision of this Part prevails to the extent of the inconsistency.
- (3) This Part applies to a matter referred to IPART under the Act, section 52 before or after the commencement of this Part.
- (4) In this Part—

IPART Act means the *Independent Pricing and Regulatory Tribunal Act 1992*.

Division 2 Conduct of certain investigations

22 Definitions

- (1) In this Division—

investigated monopoly supplier, in relation to an investigation by IPART under this Division, means the monopoly supplier providing the monopoly service that is the subject of the investigation.

issues paper means an issues paper prepared by IPART under section 24.

public hearing means a public hearing held under section 26 in relation to an issues paper.

significant methodological change, in relation to an investigation under this Division, means a change in the pricing methodology applied, or proposed to be applied, to the monopoly service that IPART considers is significantly different from the methodology previously applied to—
 - (a) the determination of the pricing for the monopoly service, or
 - (b) the determination of pricing for services of a kind to which the monopoly service belongs.
- (2) This Division does not limit the application of any other provision of the IPART Act, Part 3 in that Act's application to an investigation by IPART under this Division.

23 Application of Division

- (1) This Division applies to an investigation by IPART into a determination of the pricing methodology for a monopoly service if a declaration under the Act, section 51 was in force in relation to the monopoly service immediately before the commencement of this Part.
- (2) IPART is taken to have complied with the provisions of this Division if IPART has substantially complied with, or has taken all reasonable steps to comply with, the provisions.

24 IPART to prepare issues papers

- (1) IPART must, as soon as it considers appropriate after the commencement of an investigation under this Division, prepare an issues paper about the investigation.
- (2) The issues paper must set out the following matters—
 - (a) the pricing methodology and the general approach IPART proposes to adopt in conducting the investigation,
 - (b) significant methodological changes IPART proposes to consider,
 - (c) the date on which IPART proposes to hold public hearings on the issues paper.
- (3) The issues paper may include other matters IPART considers appropriate.
- (4) A copy of the issues paper must be—
 - (a) given to the investigated monopoly supplier, and
 - (b) made publicly available on the IPART website.
- (5) Without limiting the application of the IPART Act, section 22A(3), written submissions about the issues paper made by the investigated monopoly supplier are to be made publicly available on the IPART website.

Note— The IPART Act, section 22A(3) enables IPART to restrict the disclosure of information contained in documents it makes available.

25 Submissions on issues papers

- (1) IPART must invite the following to make submissions about an issues paper—
 - (a) the investigated monopoly supplier,
 - (b) any other person.
- (2) IPART must also invite submissions to be made about submissions made by the investigated monopoly supplier on the issues paper.
- (3) Submissions must be—
 - (a) written, or
 - (b) given orally at a public hearing on the issues paper.
- (4) IPART must specify the period in which submissions must be made.
- (5) Different periods may be specified for different submissions.
- (6) IPART may extend the period if IPART considers it appropriate.

26 IPART to hold public hearings on issues papers

- (1) IPART must hold a public hearing to hear submissions on an issues paper about an investigation.
- (2) IPART may hold a public hearing over one or more days.
- (3) IPART may hear oral submissions on the issues paper at the public hearing from the investigated monopoly supplier and other persons IPART considers appropriate.

27 IPART to prepare draft reports

- (1) IPART must prepare a draft report about an investigation as soon as IPART considers appropriate after the conclusion of the public hearing on the issues paper about the investigation.
- (2) Before preparing the draft report, IPART must consider all submissions made in relation to the issues paper, including submissions about the investigated monopoly supplier's submissions, that it considers material.

- (3) The draft report must include the following matters—
 - (a) the determination of pricing IPART proposes to make,
 - (b) the pricing methodology for the proposed determination,
 - (c) significant methodological changes and the reasons for the changes,
 - (d) the assumptions IPART has made for the proposed determination and the reasons for the assumptions,
 - (e) IPART’s response to submissions received on the issues paper that IPART considers material, including the reasons for accepting or not accepting, whether wholly or in part, material submissions made by the investigated monopoly supplier.
- (4) The draft report may include other matters IPART considers appropriate.
- (5) A copy of the draft report must be—
 - (a) given to the investigated monopoly supplier, and
 - (b) made publicly available on the IPART website.

28 Submissions on draft reports

- (1) IPART must invite the following to make submissions about a draft report prepared under section 27—
 - (a) the investigated monopoly supplier,
 - (b) any other person.
- (2) Submissions must be written.
- (3) IPART must specify the period in which submissions must be made.
- (4) Different periods may be specified for different submissions.
- (5) IPART may extend the period if IPART considers it appropriate.

29 IPART to prepare final reports

- (1) Before IPART issues the final report about an investigation, IPART must consider all submissions made about the draft report prepared under section 27 that it considers material.
- (2) The final report must include the following matters—
 - (a) the pricing methodology applied for the determination of pricing IPART has made,
 - (b) significant methodological changes and the reasons for the changes,
 - (c) the assumptions IPART has made for the determination and the reasons for the assumptions,
 - (d) IPART’s response to submissions received on the draft report that IPART considers material, including the reasons for accepting or not accepting, whether wholly or in part, material submissions made by the investigated monopoly supplier.
- (3) The final report may include other matters IPART considers appropriate.

Part 5 Last resort arrangements—the Act, Part 5A

Division 1 Designation of last resort providers

30 Criteria for last resort providers

For the Act, section 55(3)(b), a licensee must—

- (a) be capable of operating the essential service, and
- (b) be suitable having regard to the proximity of the licensee to the essential service, and
- (c) for a licensed operator—hold a licence that authorises the same class of water industry infrastructure as the essential infrastructure.

31 Revocation of designation as last resort provider—the Act, s 55(10)

- (1) The Minister may, on application by a licensee designated as a last resort provider under the Act, section 55(1), revoke the licensee’s designation.
- (2) An application for a revocation must be—
 - (a) made in the form and way determined by the Minister, and
 - (b) accompanied by the fee determined by the Minister.
- (3) Before determining an application, the Minister must consult with IPART, unless the urgency of the circumstances precludes consultation.

Division 2 Contingency planning

32 Application of Division

This Division does not apply if Division 3 applies.

33 Approval of contingency plans—the Act, s 55A(1)

- (1) A last resort provider must, within 4 months after becoming the last resort provider for an essential service, or within a longer period approved by IPART, submit a contingency plan to IPART for approval.
- (2) The contingency plan must deal with the continued provision of the essential service if there is a declared failure.
- (3) IPART may, by written notice to the last resort provider and essential service provider, approve a contingency plan with or without modification.
- (4) The last resort provider must, at intervals determined by IPART by written notice to the last resort provider, review and resubmit the contingency plan to IPART for approval.
- (5) The last resort provider may, at any time, modify and resubmit the contingency plan to IPART for approval.

34 Content of contingency plans—the Act, s 55A(2)(b)

- (1) A contingency plan must be prepared in conjunction with the essential service provider.
- (2) A contingency plan must identify the essential infrastructure and connected infrastructure that will be required to maintain essential services to customers if there is a declared failure.
- (3) A contingency plan must also include the following—

- (a) the information required by the last resort provider to continue the operation of the essential infrastructure,
 - (b) the actions required by the failed licensee, or an administrator acting on behalf of the failed licensee, to facilitate the transfer of customer information to ensure minimal interruption to the operation of the essential service,
 - (c) any arrangements under which staff of the essential service provider may assist the last resort provider,
 - (d) procedures for notifying the ombudsman appointed under an approved ombudsman scheme and IPART when the information, including customer information, has been transferred to the last resort provider,
 - (e) the requirements for providing written updates to IPART on the implementation of the contingency plan, including the content and timing of the updates,
 - (f) the information required to be provided to a customer with the customer's next bill, including the following—
 - (i) details of the declared failure,
 - (ii) a description of the role of the last resort provider,
 - (iii) the contact details of the last resort provider,
 - (iv) the contact details of the approved ombudsman scheme,
 - (v) the last resort contract charges, within the meaning of the Act, section 56C,
 - (vi) information about the last resort contract conditions, within the meaning of the Act, section 56C, and how customers may obtain a copy of the applicable contract.
- (4) For the Act, section 55A(3), the last resort provider is prescribed as a person who can make a written request under that subsection.
- (5) In this section—
connected infrastructure means infrastructure operated by a third party to which the water or sewerage services are connected that are covered by the contingency plan and will be required to maintain service to customers if there is a declared failure.
customer information includes the following—
 - (a) billing addresses and customer contact details,
 - (b) information about customers with critical health needs, payment difficulty or special payment arrangements.

35 Testing of contingency plans—the Act, s 55A(2)(a)

The last resort provider must conduct exercises to test the operation of the approved contingency plan if required by—

- (a) the contingency plan, or
- (b) IPART by written notice to the last resort provider.

36 Role of essential service providers—the Act, s 55A(1)

- (1) A provider of an essential service for which a last resort provider has been designated must facilitate the preparation and review of the contingency plan by the last resort provider under this Division, including by—
 - (a) providing information reasonably required in a timely way, and
 - (b) allowing the last resort provider a reasonable opportunity to inspect infrastructure and systems.

- (2) The essential service provider must notify the last resort provider of any change in systems or processes that—
 - (a) may require modification of the contingency plan, or
 - (b) the last resort provider reasonably needs to be aware of.
- (3) The essential service provider must facilitate the conduct by the last resort provider of required exercises to test the operation of the approved contingency plan.

37 Recovery of contingency planning costs—the Act, s 55A(2)(g)

- (1) The essential service provider and last resort provider must agree on the reasonable costs of compliance with this Division incurred by the last resort provider.
- (2) If the essential service provider and last resort provider cannot agree on an amount within 28 days after the last resort provider submits a written request to the essential service provider for payment, the last resort provider may apply to IPART for a determination of the costs.
- (3) The essential service provider must pay the last resort provider within—
 - (a) for an agreed amount—28 days after the amount is agreed or another period agreed between the essential service provider and last resort provider, or
 - (b) for an amount determined by IPART—28 days after the amount is determined.

Division 3 Alternative contingency planning arrangements

38 Application of Division

- (1) This Division applies if the provider of an essential service for which a last resort provider has been designated applies, by written notice to IPART within 10 business days of the designation, for the alternative contingency planning arrangements specified in this Division.
- (2) The written notice must be given in the form and way approved by IPART.

39 Approval of alternative contingency plans—the Act, s 55A(1)

- (1) The essential service provider must, within 4 months after the designation of the last resort provider or within a longer period approved by IPART, submit a contingency plan to IPART for approval.
- (2) The contingency plan must deal with the continued provision of the essential service provided by the essential infrastructure if there is a declared failure of the essential service provider.
- (3) IPART may, by written notice to the essential service provider and last resort provider, approve a contingency plan with or without modification.
- (4) The essential service provider must, at intervals determined by IPART by written notice to the essential service provider, review and resubmit the contingency plan to IPART for approval.
- (5) The essential service provider may, at any time, modify and resubmit a contingency plan to IPART for approval.

40 Content of alternative contingency plans—the Act, s 55A(2)(b)

- (1) A contingency plan must be prepared in conjunction with the last resort provider.
- (2) The contingency plan must identify the matter specified in section 34(2).
- (3) The contingency plan must also include the matters specified in section 34(3).

- (4) For the Act, section 55A(3), the essential service provider is prescribed as a person who can make a written request under that subsection.

41 Assessment of alternative contingency plan—the Act, s 55A(2)(e)

- (1) IPART may appoint a person as a technical expert to test a contingency plan prepared by the essential service provider.
- (2) The technical expert may make recommendations about the contingency plan.
- (3) The essential service provider must co-operate with the technical expert, including by—
- (a) providing information reasonably required by the technical expert in a timely way, and
 - (b) allowing the technical expert a reasonable opportunity to inspect infrastructure and systems, and
 - (c) participating in exercises to test the operation of the contingency plan prepared by the essential service provider.

42 Recovery of costs of technical experts—the Act, s 55A(2)(g)

- (1) IPART must determine the reasonable costs incurred by a technical expert in exercising the expert's functions under section 41 in relation to a contingency plan prepared by an essential service provider.
- (2) The essential service provider must pay IPART the amount within—
- (a) 28 days after the amount is determined, or
 - (b) another period agreed between the essential service provider and IPART.

Part 6 Connecting development to infrastructure—the Act, Sch 2, cl 3A

43 Definitions

In this Part—

certificate of compliance means a certificate issued by a registered operator for water industry infrastructure in relation to development certifying—

- (a) the reasonable requirements of the registered operator in relation to the provision of water or sewerage services to the development have been complied with, or the registered operator did not impose a requirement, and
- (b) the registered operator will provide water or sewerage services to the development.

developer means a person who applies for a development authorisation.

development means an activity to which an application for development authorisation relates.

development authorisation means—

- (a) a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or
- (b) an approval under the *Environmental Planning and Assessment Act 1979*, Part 5, or
- (c) an approval under the *Local Government Act 1993*, Chapter 7, Part 1.

requirements notice—see section 46(1).

44 Consent authority to notify registered operator of development applications

- (1) A consent authority must give the registered operator for water industry infrastructure written notice of an application for a development authorisation received by the consent authority if the consent authority considers the development would significantly affect the operation of the infrastructure.
- (2) Without limitation, development significantly affects the operation of water industry infrastructure if it may—
 - (a) increase the demand for water supplied by the infrastructure, or
 - (b) increase the amount of sewage to be removed by the infrastructure, or
 - (c) damage or interfere with, or adversely affect the operation of, the infrastructure.
- (3) The consent authority is not required to give notice under subsection (1) if the consent authority—
 - (a) refuses the application for the development authorisation, or
 - (b) approves the application and imposes a condition on the development authorisation that the developer must obtain a certificate of compliance from the registered operator.
- (4) The consent authority must take into account submissions from the registered operator in relation to an application for a development authorisation that has been notified under subsection (1) in deciding whether to—
 - (a) approve the application for the development authorisation, or
 - (b) impose a condition on the development authorisation.
- (5) Subsection (4) does not apply if—

- (a) the consent authority imposes a condition on the development authorisation that the developer must obtain a certificate of compliance from the registered operator, or
 - (b) the consent authority does not receive any submissions from the registered operator within 21 days after the notice was given to the registered operator.
- (6) In this section—
consent authority means a person or body responsible for determining an application for a development authorisation.

45 Applications for certificates of compliance

- (1) A developer who proposes to connect development to water industry infrastructure operated, or to be operated, under the Act may apply to the registered operator for the infrastructure for a certificate of compliance.
- (2) An application may be made whether or not obtaining a certificate of compliance is a condition of the development authorisation.
- (3) The application must be accompanied by—
 - (a) a copy of the application for the development authorisation, or
 - (b) if the application for the development authorisation has been approved—a copy of the development authorisation.

46 Requirements imposed on developer before certificate of compliance issued

- (1) Before determining an application for a certificate of compliance, the registered operator may, by written notice (a **requirements notice**), require the developer to do one or more of the following—
 - (a) pay a specified amount to the registered operator to cover the whole or part of the relevant costs as assessed by the registered operator,
 - (b) enter into an agreement providing for one or more of the following—
 - (i) the payment of the amount to the registered operator or as directed by the registered operator,
 - (ii) the construction, or the construction and manner of construction, of works for the purposes of connecting the development to the water industry infrastructure,
 - (iii) the transfer of works to the registered operator,
 - (c) provide reasonable security, in a form approved by the registered operator, for performance of an agreement under paragraph (b),
 - (d) additional or ancillary matters necessary to give effect to a requirement under paragraphs (a)–(c).
- (2) The registered operator may withdraw a requirement contained in a notice under this section and the requirement is taken to have not been made.
- (3) In this section—
relevant costs means the costs determined by the registered operator under section 47.

47 Determination of costs for requirements notices

- (1) The registered operator must determine the costs of the following—
 - (a) the cost of water industry infrastructure that benefits or is available to the land, if the infrastructure is or will be constructed—

- (i) by or on behalf of the registered operator or a predecessor of the registered operator, or
 - (ii) at the request of the registered operator or a predecessor of the registered operator, or
 - (iii) under an agreement with the registered operator or a predecessor of the registered operator,
 - (b) the cost of expanding the registered operator's water industry infrastructure as a result of the development,
 - (c) the investment costs incurred by the registered operator or a predecessor of the registered operator and by developers in relation to the existing and proposed water industry infrastructure referred to in paragraphs (a) and (b).
- (2) The registered operator must determine the costs under subsection (1)(a) based on net present value, historical cost or other appropriate basis.
 - (3) The registered operator may also have regard to expected operating costs and revenues in determining the costs under subsection (1)(a) if the registered operator considers it appropriate.

48 Issue of certificates of compliance

- (1) A registered operator may issue a certificate of compliance to a developer without serving a requirements notice on the developer.
- (2) A registered operator must issue a certificate of compliance to the developer if satisfied a requirements notice given to the developer has been complied with.
- (3) A registered operator must, at the developer's request, issue a certificate of compliance to the developer if, within the relevant period—
 - (a) a certificate of compliance has not been issued to the developer, and
 - (b) a requirements notice has not been given to the developer.
- (4) A certificate of compliance may, instead of being issued in relation to all of the development, be issued progressively in relation to a stage of the development.
- (5) A certificate of compliance may be issued to replace a certificate of compliance previously granted.
- (6) In this section—

relevant period means—

 - (a) 60 days after the developer applies for a certificate of compliance, or
 - (b) a further period approved by IPART and notified to the developer within the 60 days.

49 Conditions of certificates of compliance

- (1) A certificate of compliance may be issued unconditionally or subject to reasonable conditions.
- (2) Without limitation, a certificate of compliance may be issued subject to a condition requiring an agreement entered into under a requirements notice to be complied with.
- (3) A developer does not comply with a requirement to obtain a certificate of compliance until the developer complies with the conditions imposed on the certificate.
- (4) An unconditional certificate of compliance may be issued to replace a certificate of compliance previously granted subject to conditions.

50 Recovery of costs

- (1) Money owing to a person under a requirements notice is recoverable by the person as a debt in a court of competent jurisdiction.
- (2) This section does not affect a power or remedy the person otherwise has.

Part 7 Application audits and compliance audits

51 Appointment and engagement of auditors

- (1) IPART may, by written notice, appoint a person, including a member of staff of IPART, as an auditor for—
 - (a) audits generally, or
 - (b) a specified audit or class of audits.
- (2) An audit must be undertaken by an auditor appointed by IPART under subsection (1).
- (3) IPART may by written notice—
 - (a) engage an auditor to undertake an audit, or
 - (b) direct the applicant or the licensee subject to the audit to engage a specified auditor or an auditor from a panel of auditors to undertake an audit.
- (4) The written notice may specify the following—
 - (a) the scope of the audit,
 - (b) the functions of the auditor,
 - (c) limitations on the functions of the auditor.

52 Functions of auditors

The functions of an auditor undertaking an audit are—

- (a) to review, assess or advise on the matters specified by IPART, and
- (b) to report to IPART about the review, assessment or advice under paragraph (a),
- (c) other functions conferred by or under the Act.

53 Fees for audits

- (1) IPART may charge the applicant or the licensee subject to the audit (the *audit target*) a reasonable fee for an audit undertaken by an auditor engaged by IPART under section 51(3)(a).
- (2) IPART may defer consideration of an application until the fee under subsection (1) is paid.
- (3) The fee under subsection (1) is recoverable by IPART as a debt in a court of competent jurisdiction.
- (4) The fee for an audit undertaken by an auditor engaged by the audit target under section 51(3)(b) is payable by the audit target.

54 IPART to consider application audit

If an application audit is undertaken in relation to an application, IPART must consider the audit in exercising IPART's functions under the Act or this Regulation in relation to the application to which the audit relates.

55 Entry to premises

- (1) An auditor may accompany an inspector who enters premises under the Act, Part 7A for the purpose of exercising the auditor's functions as an auditor.
- (2) This section does not prevent an auditor from—
 - (a) entering or remaining on premises, or doing anything else on premises, with the consent of the occupier of the premises, or

public consultation draft

Water Industry Competition (General) Regulation 2022 [NSW]
Part 7 Application audits and compliance audits

- (b) entering or remaining in a public place while the place is open to the public.
- (3) In this section—
auditor includes an individual employed or otherwise engaged by the auditor and notified in writing to IPART.

Part 8 Miscellaneous

56 Regulatory functions of IPART

For the Act, section 90(1)(e), IPART's functions under the Act, sections 55 and 57 are prescribed.

57 Time limit for determination of applications

- (1) For the Act, section 93B(2), the fixed period is—
 - (a) for an application for a scheme approval—90 days from the day on which the application is lodged with IPART, or
 - (b) otherwise—60 days from the day on which the application is lodged with IPART.
- (2) For the Act, section 93B(4), the following are not to be counted in the fixed period—
 - (a) a public holiday,
 - (b) the period declared by the Premier as the Christmas closedown period,
 - (c) a period provided to the applicant or other persons to make submissions about the application to IPART,
 - (d) a period during which an application audit is undertaken,
 - (e) a period during which IPART is exercising functions as a determining authority under the *Environmental Planning and Assessment Act 1979*, Division 5.1, Subdivision 2, in relation to the application, but not more than 30 days,
 - (f) a period during which IPART is exercising functions as a determining authority under the *Environmental Planning and Assessment Act 1979*, Division 5.1, Subdivision 3, in relation to the application.
- (3) This section applies to an application lodged with IPART on or after [insert date 12 months after commencement].

58 Water restrictions—the Act, Sch 2, cl 6

- (1) The Minister may, by notice published in the Gazette, regulate or restrict the use, supply or consumption of water supplied by a registered operator or registered retailer, including by regulating or restricting the following—
 - (a) the purposes for which water may be used,
 - (b) the times when water may be used,
 - (c) the quantities of water that may be used,
 - (d) the means or methods of the use of water.
- (2) The Minister may issue a notice only if the Minister considers it is necessary because—
 - (a) there is a drought or other emergency, or
 - (b) it is in the public interest and for the purpose of maintaining water supply.
- (3) A notice may apply to—
 - (a) the whole of the area of operations of a registered operator or registered retailer, or
 - (b) a specified part of the area of operations.
- (4) A notice takes effect on—
 - (a) the day the notice is published in the Gazette, or

- (b) a later day specified in the notice.
- (5) A person must not use or consume water in contravention of a notice under this section.
Maximum penalty (subsection (5))—
 - (a) for a corporation—50 penalty units, or
 - (b) for an individual—5 penalty units.

59 Extension of local water restrictions orders—the Act, Sch 2, cl 6

- (1) The Minister may, by notice published in the Gazette, declare that a local water restrictions order applies to the use or consumption of water supplied by a registered operator or registered retailer in a particular area in the same way as it applies to the use or consumption of water supplied by the public water utility in that area or another area.
- (2) A declaration must not be made if the registered operator or registered retailer derives its water from a different water source to the water source from which the public water utility derives its water.
- (3) Subsection (2) does not apply if the Minister is satisfied the circumstances giving rise to the local water restrictions order apply to both water sources.
- (4) A person must not use or consume water in contravention of a local water restrictions order as applied by this section.
Maximum penalty—
 - (a) for a corporation—50 penalty units, or
 - (b) for an individual—5 penalty units.
- (5) This section does not limit section 58.
- (6) In this section—
local water restrictions order means an order that restricts the use or supply of water by a public water utility made under the following Acts and as in force from time to time—
 - (a) the *Local Government Act 1993*,
 - (b) the *Water Management Act 2000*,
 - (c) the *Hunter Water Act 1991*,
 - (d) the *Sydney Water Act 1994*.

60 Registered operators and registered retailers may restrict water supply to customers—the Act, Sch 2, cl 6

If a notice under section 58 or 59 is in force and applies to the use or consumption of water by customers of a registered operator or registered retailer, the registered operator or registered retailer may restrict the supply of drinking water or recycled water to a customer if satisfied that the customer is or may be contravening section 58(5) or 59(4).

61 Licence and approvals during transition period—the Act, Sch 4, Part 4

- (1) During the transition period, IPART may, at the same time as IPART exercises its functions under the Act, Schedule 4, clause 10 in relation to an existing licence, vary a condition of the existing licence in the same way as the Minister may have varied a condition of a licence under the former Part 2.
- (2) During the transition period, IPART may determine a pending licence application at the same time as IPART exercises its functions under the Act, Schedule 4, clause 10

in relation to an approval or licence that applies to the same water industry infrastructure.

- (3) IPART must determine a pending licence application referred to in subsection (2) as follows—
 - (a) if IPART grants a licence under the Act, Schedule 4, clause 10—as an application for the variation of a licence under the substituted Part 2, section 8M,
 - (b) if IPART grants an approval under the Act, Schedule 4, clause 10—as an application for a variation of an approval under the substituted Part 2, section 7K.
- (4) During the transition period, IPART may determine a pending licence application made by a holder of an existing licence at the same time as IPART exercises its functions under the Act, Schedule 4, clause 10 in relation to an approval or licence held by the holder of the existing licence.
- (5) IPART must determine the pending licence application referred to in subsection (4) as follows—
 - (a) if IPART grants a licence under the Act, Schedule 4, clause 10—as an application for the variation of a licence under the substituted Part 2, section 8M,
 - (b) if IPART grants an approval under the Act, Schedule 4, clause 10—in accordance with substituted Part 2, other than sections 7 and 12.

- (6) In this section—

existing licence means a licence in force immediately before the commencement of substituted Part 2.

transition period means the period commencing on the commencement of substituted Part 2 and ending 12 months after that commencement.

62 Last resort arrangements during transition period—the Act, Sch 4, cl 9(2)

- (1) The Act, Part 5A applies during the transition period to an interim scheme and an interim last resort provider in the same way that Part applies to essential infrastructure and a last resort provider under that Part, subject to the modifications set out in this section.
- (2) If there is a declared failure, the customer is taken to have entered into a contract with the interim last resort provider.
- (3) This Regulation, Part 5, Divisions 2 and 3 do not apply to an interim last resort provider.
- (4) A registered operator and registered retailer of an interim scheme must provide the interim last resort provider with the contact details for the relevant staff of the interim scheme—
 - (a) within 20 business days of the commencement of this section, and
 - (b) within 7 days of a change in the contact details of the relevant staff.
- (5) An interim scheme ceases to be an interim scheme and an interim last resort provider ceases to be an interim last resort provider for the interim scheme within 10 business days of—
 - (a) IPART determining that the interim scheme is not essential infrastructure, or
 - (b) if IPART determines the interim scheme is essential infrastructure—the Minister designating a last resort provider.

(6) In this section—

interim last resort provider means the following—

(a) Sydney Water for the following interim schemes—

- (i) Barangaroo South,
- (ii) Box Hill North,
- (iii) Central Park,
- (iv) Discovery Point,
- (v) Glossodia,
- (vi) Kurrajong,
- (vii) Pitt Town,
- (viii) Shepherds Bay,

(b) Hunter Water for the following interim schemes—

- (i) Catherine Hill Bay,
- (ii) Cooranbong Water,
- (iii) Huntlee Water,

(c) Yass Valley Council for the Gundaroo interim scheme.

interim scheme means the following schemes—

- (a) Barangaroo South,
- (b) Box Hill North,
- (c) Catherine Hill Bay,
- (d) Central Park,
- (e) Cooranbong Water,
- (f) Discovery Point,
- (g) Glossodia,
- (h) Gundaroo,
- (i) Huntlee Water,
- (j) Kurrajong,
- (k) Pitt Town,
- (l) Shepherds Bay.

transition period means the period commencing on the commencement of substituted Part 2 and ending 2 years after that commencement.

63 Repeal and savings

- (1) The *Water Industry Competition (General) Regulation 2021* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Water Industry Competition (General) Regulation 2021*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Water industry infrastructure exempt from the Act, Part 2

section 7(3)

1 Definitions

In this Schedule—

Aboriginal organisation means the following—

- (a) a Local Aboriginal Land Council constituted under the *Aboriginal Land Rights Act 1983*,
- (b) a registered native title body corporate within the meaning of the *Native Title Act 1993* of the Commonwealth,
- (c) an Aboriginal and Torres Strait Islander corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* of the Commonwealth.

Interstate entity means the following—

- (a) an entity in the Australian Capital Territory licensed under the *Utilities Act 2000* of the Australian Capital Territory to provide a utility service under that Act, section 11 or 13,
- (b) a service provider under the *Water Act 2000* of Queensland,
- (c) an Authority under the *Water Act 1989* of Victoria,
- (d) the South Australian Water Corporation under the *South Australian Water Corporation Act 1994* of South Australia.

2 NSW Government agencies

Water industry infrastructure constructed or operated for or on behalf of a NSW Government agency.

3 Water Act 1912

(1) Water infrastructure that is—

- (a) a work to which the *Water Act 1912*, Part 2 extends, and
- (b) used solely for the purposes of taking water under an entitlement to take and use water created by the issue of the following under the *Water Act 1912*—
 - (i) a licence under Part 2, Division 3,
 - (ii) a permit under Part 2, Division 3B,
 - (iii) an authority under Part 2, Division 4,
 - (iv) a group licence under Part 2, Division 4A,
 - (v) an entitlement under section 20AB.

(2) Water infrastructure that is—

- (a) a work constructed under the authority conferred by a licence under the *Water Act 1912*, Part 5, Division 3, and
- (b) used solely for the purposes of taking water under the authority conferred by a licence under that Division.

(3) In this section—

work to which the Water Act 1912, Part 2 extends has the same meaning as **Work to which this Part extends** in the *Water Act 1912*, section 5.

4 Water Management Act 2000

Water infrastructure that is—

- (a) a water supply work within the meaning of the *Water Management Act 2000*, and
- (b) used solely for the purposes of taking and transporting water under an entitlement created by the *Water Management Act 2000*, section 52, 53, 55, 56, 89, 90 or 91.

5 Interstate water industry infrastructure

- (1) Water industry infrastructure used to supply water or provide sewerage services, or both, to public water utilities or registered operators, or both, from an Interstate entity.
- (2) Water industry infrastructure used to supply water or provide sewerage services, or both, that services land managed by an Aboriginal organisation and is owned by an Interstate entity.

6 Water infrastructure in Australian Capital Territory

Water infrastructure operated by Icon Water Limited that is used to supply water to the Australian Capital Territory or Queanbeyan-Palerang Regional Council from the Googong Dam Area, as authorised under the *Canberra Water Supply (Googong Dam) Act 1974* of the Commonwealth.

7 Land managed by Aboriginal organisations

Water industry infrastructure that services land that is managed by an Aboriginal organisation that—

- (a) is not able to be connected to water industry infrastructure operated by a public water utility because it is not practicable or economical to connect the infrastructure, or
- (b) has been able to be connected to water industry infrastructure operated by a public water utility for less than a year, and that, before that ability arose, was not able to be connected to water industry infrastructure operated by a public water utility.

8 Dwelling houses and dual occupancies

- (1) Water industry infrastructure that is—
 - (a) located only on land on which one dwelling house or dual occupancy is located, whether or not the dwelling is used for a business purpose, and
 - (b) used solely for the purposes of supplying water or a sewerage service to the dwelling house or dual occupancy.
- (2) In this section—
dual occupancy has the same meaning as in the Standard Instrument.
dwelling house has the same meaning as in the Standard Instrument.

9 Water industry infrastructure owned by customers

- (1) Water industry infrastructure owned by a customer of a public water utility, a registered operator or registered retailer, to whom water is supplied, or to whom sewerage services are provided, by the public water utility, registered operator or registered retailer if the infrastructure—
 - (a) is used by the customer solely to reticulate or convey the water, or provide sewerage services, to another person who is one of the following—

- (i) a tenant or lessee of the customer,
 - (ii) if the customer is the owners corporation for a strata scheme under the *Strata Schemes Management Act 2015*—an owner of a lot in the strata scheme within the meaning of that Act,
 - (iii) if the customer is the operator of a retirement village under the *Retirement Villages Act 1999*—a resident of the retirement village within the meaning of that Act,
 - (iv) if the customer is the operator of a community under the *Residential (Land Lease) Communities Act 2013*—a home owner in the community within the meaning of that Act,
 - (v) an owner of a development lot, strata lot or neighbourhood lot within the meaning of the *Community Land Management Act 2021*,
 - (vi) if the customer is the park owner of a holiday park under the *Holiday Parks (Long-term Casual Occupation) Act 2002*—an occupant of the holiday park within the meaning of that Act, or
- (b) services land managed by an Aboriginal organisation.
- (2) This section applies only if—
- (a) for the supply of water—the infrastructure is not designed for the treatment or further treatment of the water, other than treatment for maintaining water quality, and
 - (b) for sewerage services—the infrastructure is not designed for the treatment of sewage for disposal or recycling, and
 - (c) the water or sewerage service is supplied at a cost that represents no more than the cost of providing the water or sewerage service and the cost of the operation and maintenance of the infrastructure.

10 Stormwater drainage

Water industry infrastructure used solely for the purpose of stormwater drainage, but does not include the capture of stormwater for reuse or the conveyance of stormwater to a treatment facility to be reused.

11 Water heating and cooling

Water infrastructure that is—

- (a) owned by a customer of a public water utility, registered operator or registered retailer to whom water is supplied by that public water utility, registered operator or registered retailer, and
- (b) used by the customer solely to heat or chill that water in order to provide heating and cooling services to its customers and the water is not further treated.

12 Roof water

Water infrastructure used for the production, treatment, filtration, storage, conveyance or reticulation of water sourced only from roof water if the water is supplied—

- (a) for a non-potable use, and
- (b) without charge, either in the form of a fee or a requirement for other consideration.

13 Local Government Act 1993 approvals

Water industry infrastructure if—

- (a) the infrastructure is constructed or operated under an approval under the *Local Government Act 1993*, Chapter 7, Part 1 in force on the commencement of this section, and
- (b) the approval remains in force, and
- (c) the construction or operation of the infrastructure is not substantially modified or expanded on or after the commencement of this section.

14 Recycled stormwater irrigation

Water industry infrastructure used for the production or supply of recycled water for the purposes of above ground irrigation of a golf course or public open space, including a park, sportsground or median strip, if the recycled water is sourced only from stormwater.

Schedule 2 Conditions of licences

section 11

Part 1 Conditions of licences

1 Water meters

- (1) The licensee must, while water is being supplied to premises for which a water meter has been installed, ensure—
 - (a) the water meter is properly maintained and periodically tested, and
 - (b) the water meter is read at intervals of no more than 4 months, and
 - (c) written notice of each meter reading is sent to the relevant registered retailer.
- (2) This section applies to both the licensed operator and licensed retailer unless there is a written agreement between both parties that one party will comply with a requirement under this section on behalf of both parties.

2 Provision of information to Minister and IPART

- (1) The licensee must provide the Minister or IPART with information the Minister or IPART may from time to time direct in relation to the licensee's activities under the licence.
- (2) The licensee must provide the information within the time specified in the direction.

3 Provision of information about water quality or public health or safety

- (1) The licensee must immediately notify the following persons of an incident in the conduct of the licensee's activities that threatens, or could threaten, water quality or public health or safety—
 - (a) IPART,
 - (b) the Minister administering the *Public Health Act 2010*,
 - (c) a person, other than the licensee, who is the registered operator or registered retailer of the water industry infrastructure to which the incident relates,
 - (d) other registered operators or public water utilities with infrastructure connected to the water industry infrastructure to which the incident relates.
- (2) The notice must be given in the form and way determined by IPART.

4 Disclosure of information

- (1) The licensee must permit the following matters concerning the licensee to be included on the register under the Act, section 89B—
 - (a) the matters required to be recorded on the register under the Act, section 89B,
 - (b) the matters that IPART considers appropriate to be included on the register.
- (2) The licensee must permit the disclosure between relevant government agencies of information the licensee has provided to a relevant agency.
- (3) The licensee must permit the disclosure to the general public of information about incidents reported under this Schedule, section 3.
- (4) In this section—

relevant government agency means a Minister or NSW Government agency—

 - (a) that is involved in the administration of the Act, or

- (b) to which information is provided under the Act, this Regulation or a licence condition.

5 Customer contract

If the licensee is taken to have entered into a deemed customer contract under the Act, section 46AB, the licensee must comply with the terms and conditions of the customer contract.

6 Customers with critical health needs

If the occupier of premises, or a representative of the occupier, notifies the licensee that there is a person living at the premises who needs a continuous supply of drinking water to operate a life support machine or for other critical health needs, the licensee must treat the person as a customer with critical health needs for the purposes of this Regulation, including the deemed customer contract.

Part 2 Conditions of operator licences

7 Asset management plans and systems

- (1) The water industry infrastructure for which the licensee is the registered operator must be operated in accordance with an asset management plan or asset management system developed by the licensee.
- (2) An asset management plan must include policies and procedures relating to the operation of the water industry infrastructure, including—
 - (a) the safe and reliable operation and maintenance of the infrastructure,
 - (b) the redundancy built into the infrastructure and the arrangements for the renewal of the infrastructure,
 - (c) the continuity of water supply and alternative water supply arrangements,
 - (d) the maintenance, monitoring and reporting of standards of service.
- (3) An asset management system must comply with AS ISO 55001:2014, *Asset management—Management systems—Requirements*.
- (4) The licensee must—
 - (a) regularly review the asset management plan or asset management system to ensure it complies with this section, and
 - (b) amend the asset management plan or asset management system in accordance with a direction by the Minister or IPART.

8 Water quality management systems

- (1) The water industry infrastructure for which the licensee is the registered operator must be operated in accordance with a water quality management system developed by the licensee if the water industry infrastructure is for the production or supply of drinking water or recycled water.
- (2) The water quality management system for water industry infrastructure for drinking water must be consistent with the *Australian Drinking Water Guidelines*, published by the Australian Government, the National Health and Medical Research Council and the Natural Resource Management Ministerial Council, as in force from time to time.
- (3) The water quality management system for water industry infrastructure for recycled water must be consistent with the *Australian Guidelines for Water Recycling (Phases 1 and 2)*, published by the Environment Protection and Heritage Council, the Natural

Resource Management Ministerial Council and the Australian Health Ministers' Conference, as in force from time to time.

- (4) The licensee must—
 - (a) regularly review the water quality management system to ensure it complies with this section, and
 - (b) amend the water quality management system in accordance with a direction by the Minister or IPART.
- (5) A water quality management system may be combined with a sewage management system developed under section 9.

9 Sewage management plans and systems

- (1) The water industry infrastructure for which the licensee is the registered operator must be operated in accordance with a sewage management plan or sewage management system developed by the licensee if the water industry infrastructure will be used for the conveyance, treatment or disposal of sewage.
- (2) The sewage management plan or sewage management system must deal with the conveyance, treatment and disposal of sewage by the water industry infrastructure, including the following—
 - (a) how health and ecological assessments will be undertaken,
 - (b) how a concern arising from an assessment will be addressed,
 - (c) the arrangements for the disposal of waste from the infrastructure.
- (3) The licensee must—
 - (a) regularly review the sewage management plan or sewage management system to ensure it complies with this section, and
 - (b) amend the sewage management plan or sewage management system in accordance with a direction by the Minister or IPART.
- (4) This section does not apply if the water industry infrastructure is the subject of a licence under the *Protection of the Environment Operations Act 1997*.
- (5) A sewage management system may be combined with a water quality management system developed under section 8.

10 Water meters

- (1) A water meter must be connected to each premises to which the licensee supplies water.
- (2) The water meter must comply with the requirements of the document entitled the *Plumbing Code of Australia*, published by the Australian Building Codes Board, as in force from time to time.

11 Transfer of information to new licensee or public utility

The licensee must take all reasonable steps to provide customer information to the following persons within 10 days after the event occurs—

- (a) if the licensee is replaced by another licensee under the Act, section 89C—the other licensee,
- (b) if the Minister makes an order under the Act, section 57A in relation to the licensee—the public water utility that will provide the water or sewerage service on a permanent basis,
- (c) if the Minister makes an order under the Act, section 57B(1)(a) in relation to the licensee—the other licensee that will provide the essential service,

- (d) if the scheme for which the licensee is the registered operator is acquired by a public water utility—the public water utility.

Part 3 Conditions of retailer licences

12 Summary of customer contract to be provided to customers

- (1) The licensee must publish on the licensee's website a summary of the customer contract.
- (2) The licensee must provide a copy of the summary annually to small retail customers who have entered into a contract for the licensee's services.

13 NSW Government social programs

If the Minister notifies the licensee that a NSW Government social program applies to the licensee, the licensee must implement or facilitate the implementation of the social program.

14 Customer complaints procedure

- (1) The licensee must maintain and implement a procedure for receiving, responding to and resolving customer complaints (a *customer complaints procedure*).
- (2) The customer complaints procedure must be consistent with AS 10002:2022, *Guidelines for complaint management in organizations*.
- (3) The licensee must, on request by IPART or an auditor, provide IPART or the auditor with a report on the complaints the licensee has received, in the form and way determined by IPART or the auditor.
- (4) The licensee must publish on the licensee's website information about—
 - (a) how a customer may make a complaint, and
 - (b) how the licensee will receive, respond to and resolve a complaint, and
 - (c) a customer's right to complain to the Energy & Water Ombudsman NSW.
- (5) The licensee must provide a copy of the information annually to the licensee's customers.

15 Payment difficulty process

- (1) The licensee must maintain and implement a process for dealing with payment difficulty and debt recovery (a *payment difficulty process*).
- (2) The payment difficulty process must provide for the following—
 - (a) how the licensee will identify customers experiencing difficulty paying bills,
 - (b) how the licensee will ensure a customer is treated in a fair and reasonable way when experiencing difficulty paying bills,
 - (c) the types of payment plans available, including the tailoring of a payment plan to an individual customer experiencing difficulty paying bills,
 - (d) the circumstances in which the licensee may disconnect or restrict the supply of water to a customer's property consistent with the customer contract,
 - (e) the ways in which the licensee will assist customers to better manage current and future bills.
- (3) The payment difficulty process must be consistent with the customer contract.
- (4) The licensee must publish the payment difficulty process on the licensee's website.

16 Family violence policy

- (1) The licensee must develop and implement a family violence policy.
- (2) The family violence policy must provide for the following—
 - (a) the protection of private and confidential information,
 - (b) access to payment difficulty programs,
 - (c) processes that minimise the reliance on individuals to disclose family violence,
 - (d) processes for referrals to specialist family violence services.
- (3) The licensee must publish the family violence policy on the licensee's website.

17 Translation services and National Relay Service

- (1) A notice or bill the licensee is required to send to its customers, whether under the Act, this Regulation or a licence condition, must include, or be accompanied by, information about—
 - (a) the available community translation services, including telephone numbers, and
 - (b) the National Relay Service for hearing or speech-impaired customers.
- (2) The information must be given in English, Mandarin, Cantonese, Arabic, Vietnamese and Hindi.

18 Supply of water or sewerage services in accordance with scheme approval or operational approval

The licensee must supply water or sewerage services consistently with the conditions of a scheme approval or operational approval that apply to water industry infrastructure for which the licensee is the registered retailer.

19 Permitted end uses for recycled water

- (1) The licensee must ensure recycled water is only supplied to customers for a purpose authorised by the relevant operational approval (a *permitted end use*).
- (2) The licensee must, before the licensee supplies recycled water to a customer, specify the permitted end uses of recycled water in a written notice to the customer.
- (3) The notice must also include information about how to safely use recycled water.

20 Meetings obligations under water supply arrangements

- (1) The licensee must not enter into water supply arrangements under which it assumes obligations it is unable to meet, or advertise that the licensee is willing to enter into water supply arrangements, having regard to the following—
 - (a) the capacity of the relevant water source to supply water or the volume of water available to the licensee from the water source,
 - (b) the quality of the water derived from the water source,
 - (c) the water industry infrastructure from which the water will be supplied,
 - (d) the conditions on which the licensee has access to the water industry infrastructure.
- (2) The licensee must not enter into a water supply arrangement with a customer unless the premises to which the water will be supplied are connected to, or readily connectible to, a water main—

- (a) to which the licensee has access, whether under an access agreement, access determination or otherwise, or
- (b) that forms part of the relevant scheme.

21 Meeting obligations under sewerage service arrangements

- (1) The licensee must not enter into sewerage service arrangements under which it assumes obligations the licensee is unable to meet, or advertise that it is willing to enter into arrangements, having regard to the following—
 - (a) the water industry infrastructure from which the services are to be provided,
 - (b) limitations on the capacity of the water industry infrastructure to treat and dispose of sewage,
 - (c) the conditions on which the licensee has access to the water industry infrastructure.
- (2) The licensee must not enter into a sewerage service arrangement with a customer unless the premises to which the service will be provided are connected to, or readily connectible to, a sewer main to which the licensee has access, whether under an access agreement, access determination or otherwise.

22 Transfer of information to new licensee or public utility

- (1) The licensee must take all reasonable steps to provide customer information to the following persons within 10 days after the event occurs—
 - (a) if the licensee is replaced by another licensee under the Act, section 89C—the other licensee,
 - (b) if the Minister makes an order under the Act, section 57A in relation to the licensee—the public water utility that will provide the water or sewerage service on a permanent basis.
- (2) In this section—
customer information includes the following—
 - (a) the deposited plan, strata plan or community plan number of a customer's premises,
 - (b) the details of customers that require services for medical or other critical reasons,
 - (c) the details of customers subject to a deemed customer contract modified under section 17 and the details of the modifications,
 - (d) the details of the infrastructure on customer premises.

Schedule 3 Penalty notice offences

1 Application of Schedule

- (1) For the purposes of the Act, section 82—
- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified in Column 2 or 3.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
- (a) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Column 1	Column 2	Column 3
Provision	Penalty for corporation	Penalty for individual
Offences under the Act		
Section 6(1)	\$8,000	\$4,000
Section 6A(1)	\$8,000	\$4,000
Section 6B(1)	\$8,000	\$4,000
Section 7H(2)	\$8,000	\$4,000
Section 7I(2)	\$8,000	\$4,000
Section 8J	\$8,000	\$4,000
Section 9(7)	\$8,000	\$4,000
Section 10B(3)	\$8,000	\$4,000
Section 55A(3)	\$8,000	\$4,000
Section 56B(4)	\$1,500	\$750
Section 65(4)	—	\$500
Section 66A(1)	\$8,000	\$4,000
Section 67	\$1,500	\$750
Section 68	\$1,500	\$750
Section 69	\$1,500	\$750
Section 70	\$1,500	\$750
Section 71(1)	\$1,500	\$750
Section 72(1)	\$1,500	\$750
Section 73(1)	\$1,500	\$750
Section 73A	\$8,000	\$4,000
Section 73B	\$8,000	\$4,000
Section 84Q(3)	\$8,000	\$4,000
Offences under this Regulation		

public consultation draft

Water Industry Competition (General) Regulation 2022 [NSW]
Schedule 3 Penalty notice offences

Column 1	Column 2	Column 3
Provision	Penalty for corporation	Penalty for individual
Section 58(5)	\$440	\$220
Section 59(5)	\$440	\$220

Schedule 4 Deemed customer contract

section 16

Part 1 What is a customer contract and who is covered by it?

1 What is this contract?

This contract is the deemed customer contract referred to in the Act, section 46AB.

2 Who is covered by this contract?

- (1) This contract applies to you if you are a small retail customer who is the owner of premises to which water or sewerage services are provided by a regulated scheme.
- (2) The contract is between you and—
 - (a) the operator of the scheme that provides water or sewerage services to your property, and
 - (b) the retailer for the scheme.
- (3) You and the operator and retailer must comply with this contract.
- (4) The contract applies automatically and you or the operator and retailer do not have to sign anything agreeing to this contract.

Note— This contract does not apply to tenants. A tenant who has a problem with their water or sewerage service should speak to their landlord. A tenant can pay an overdue bill and deduct that amount from their rent. See the Act, section 46AF.

3 Can you ask for a change to this contract?

- (1) This contract may be modified or excluded if—
 - (a) you or your representative request a modification or exclusion from the operator or retailer in writing, and
 - (b) you and the operator or retailer agree to the modification or exclusion in writing.
- (2) You are not bound by a modification or exclusion to the contract that applied to a previous owner of your property.
- (3) This clause cannot be modified or excluded.
- (4) This clause does not apply to you if your property is used for residential purposes.

4 Can you disconnect a service?

- (1) If your property is permanently disconnected from the scheme with the approval of the operator under clause 43, there is no longer a contract between you and the operator and retailer for the services.
- (2) This does not affect your rights or obligations, or the rights or obligations of the operator and retailer, that accrue before the permanent disconnection.

Part 2 How do you read this contract?

5 Dictionary

- (1) The words used in this contract are defined in the Dictionary in Part 15 of this contract.
- (2) In this contract, a word in the singular includes the plural, and a word in the plural includes the singular.

- (3) Words used in this contract have the same meaning as in the Act and the Regulation.

6 What is scheme infrastructure?

- (1) The infrastructure for the scheme operated by the operator is referred to as the *scheme infrastructure*.
- (2) Scheme infrastructure does not include pipes, fittings or apparatus located—
- (a) downstream of a connection point for your property to a water main that is part of the scheme infrastructure, or
 - (b) upstream of a connection point for your property to a sewer main that is part of the scheme infrastructure.
- (3) The operator, and not the retailer, is responsible for the scheme infrastructure.
- (4) The operator is responsible for damage or loss caused by a failure of the scheme infrastructure.

Example— If a sewerage service provided to your property is blocked, the operator is responsible for clearing a blockage in the scheme infrastructure.

7 What is your plumbing?

- (1) *Your plumbing* means—
- (a) for a water service provided to your property—all pipes, fittings and apparatus located downstream of the connection point to a water main that is part of the scheme infrastructure, and
 - (b) for a sewerage service provided to your property—all pipes, fittings and apparatus located upstream of the connection point to a sewer main that is part of the scheme infrastructure.
- (2) You, and not the operator or retailer, are responsible for your plumbing and for the cost of work on your plumbing.
- (3) You are responsible for damage or loss caused by a failure of your plumbing.
- (4) If you share your plumbing with others, for example, if your property is in a strata scheme, the sharing of the responsibility for the plumbing is based on an agreement between you and the others and the relevant law.

Example— If a sewerage service provided to your property is blocked, you are responsible for clearing a blockage in your plumbing. If you caused or contributed to the blockage in the scheme infrastructure, the operator may recover all or part of the cost of clearing the blockage from you.

Part 3 What services are covered and what service quality can you expect?

8 What services are covered by this contract?

This contract covers—

- (a) drinking water services, recycled water services and sewerage services provided to your property by the operator, and
- (b) related services provided by the retailer.

9 What basic level of service will be provided?

Subject to this contract, and, in particular, the operator's powers under this contract to restrict or disconnect the services to your property, the operator must ensure that the services are provided to your property to meet your reasonable needs.

10 What quality of drinking water will be provided?

- (1) If the services provided to your property include the supply of drinking water, the operator must ensure that the drinking water complies with the Australian Drinking Water Guidelines.
- (2) If NSW Health specifies additional standards for drinking water, the operator must also comply with those standards.

11 What quality of recycled water quality will be provided?

- (1) If the services provided to your property include the supply of recycled water, the operator must ensure that the recycled water complies with the Australian Guidelines for Water Recycling.
- (2) If NSW Health specifies additional standards for recycled water, the operator must also comply with those standards.

12 What information will be provided about water pressure?

- (1) If the services provided to your property include the supply of water, the operator must make information about the water head of pressure for the scheme that may generally be expected easily available to customers on the operator's website.
- (2) The information must differentiate between water head of pressure for drinking water and recycled water if applicable.

13 What obligation does the operator have to minimise sewage overflows?

If the services provided to your property include a sewerage service, the operator must make every reasonable effort to minimise the incidence of treated or untreated sewage overflow on your property due to a failure of the scheme infrastructure.

14 What arrangements can you ask for if you are a customer with critical health needs?

- (1) If you or someone who lives at your property is a customer with critical health needs and the services provided to your property include the supply of drinking water, you or your representative must notify the retailer.
- (2) The retailer must keep a list of customers with critical health needs that are dependent on drinking water supply to the extent that an interruption to drinking water supply poses an immediate and major health or safety risk.
- (3) The retailer will use best endeavours to provide a continuous drinking water service to meet the reasonable health needs of customers with critical health needs.
- (4) You or your representative must notify the retailer if a customer with critical health needs—
 - (a) ceases to live at your property, or
 - (b) ceases to be a customer with critical health needs.
- (5) If you or someone who lives at your property is a customer with critical health needs—
 - (a) the operator will notify you of any planned interruption to the drinking water service, and
 - (b) the operator will alert you, whenever possible, that drinking water supply has been interrupted in an emergency.
- (6) You should be ready to make alternative arrangements or have contingencies in place for the supply of drinking water to operate a life support machine or for other critical health needs.

15 Are trade waste services covered by this contract?

- (1) You may only discharge trade waste into the sewerage service if you have obtained written permission from, and entered into an agreement with, the operator or retailer for the sewerage service.
- (2) The operator or retailer for the scheme may refuse to accept trade waste into the scheme if the operator or retailer reasonably believes the trade waste poses a risk to—
 - (a) the scheme’s operation, or
 - (b) the health and safety of workers, or
 - (c) the operator’s ability to service its broader customer base.
- (3) In this clause—

trade waste means a liquid, or material in a liquid, that is—

 - (a) produced at a property in the course of non-residential activity, or
 - (b) stored on or produced or transported by a vehicle, including a motor vehicle, plane, boat or train, or
 - (c) comprised of—
 - (i) waste from a portable toilet or septic tank, or
 - (ii) run-off from land that is contaminated within the meaning of the *Contaminated Land Management Act 1997*.

16 Are there any other service levels?

The operator gives no other warranty about the services provided to your property.

Part 4 What might affect services?

17 What if there is a sudden or unplanned service interruption?

- (1) The operator may restrict or disconnect a service provided to your property at any time if it is necessary to do so to carry out work that is unexpectedly and urgently needed or to prevent or minimise a risk to human health or safety or the environment.
- (2) The operator must use its best endeavours to contact you or the occupier of the property in person or by phone about the restriction or disconnection before the service is restricted or disconnected to carry out work that is unexpectedly and urgently needed or to prevent or minimise a risk to human health or safety or the environment.
- (3) The operator must use its best endeavours to make information about unplanned interruptions, including the likely duration, available on the 24-hour faults line.
- (4) The operator must restore the service as soon as possible.

18 What is the process for a planned service interruption?

- (1) The operator may need to arrange planned interruptions to services provided to your property to allow for—
 - (a) maintenance or replacement of scheme infrastructure, or
 - (b) other work on scheme infrastructure or your plumbing, including work relating to meters or to a connection of the scheme to property that is not your property.
- (2) An interruption may involve a restriction of services or a disconnection of services.
- (3) The operator must use its best endeavours to have no more than 3 planned interruptions that affect a particular service to your property in a 12 month period.

- (4) The operator must tell you about the time and duration of a interruption, at least—
 - (a) 2 days in advance, or
 - (b) if there is a customer with critical health needs living at your property and the interruption is to drinking water supply—4 days in advance.
- (5) The operator must use its best endeavours to ensure that for a planned interruption it is no longer than 5 hours from when the service to your property is turned off until the service to your property is turned back on.

19 What do you need to know about water restrictions?

- (1) You must comply with restrictions on the usage of water that apply to your property under the Act, the Regulation or other law.
- (2) The operator or retailer may restrict or disconnect water services if you fail to comply with the restrictions.

Part 5 What if there is a problem with a service?

20 What are the operator's obligations to fix a problem?

- (1) If the operator fails to meet a service level specified in Part 3, the operator must make every reasonable effort to minimise the inconvenience to you by—
 - (a) carrying out repairs or undertaking other work necessary to restore the service so that it meets the specified service levels as quickly as possible, and
 - (b) if there is a sewage overflow—
 - (i) ensuring the overflow is contained as soon as possible, and
 - (ii) cleaning up the affected area as quickly as possible and in way that minimises the risk to human health and safety and the environment, and
 - (iii) making good any damage to your property and anything on your property as a result of the failure of the scheme infrastructure, and
 - (c) providing as much information as practicable on the 24-hour faults line.

Example— If a property must be vacated for a period because of a sewage overflow caused by a failure in the scheme infrastructure, the operator may offer to pay the accommodation costs of the persons who usually live at the property.

If a drinking water supply is unavailable because of a failure of the scheme infrastructure, the operator may offer to make available emergency supplies of water.

- (2) The operator may, if appropriate, offer to take further steps to mitigate damage or loss caused by a failure of the scheme infrastructure.

21 Can you get a rebate if there has been a problem?

- (1) If the operator fails to meet certain service levels specified in Part 3 due to a failure of the scheme infrastructure, the operator must give you a rebate.
- (2) A rebate is payable only if you did not cause or contribute to the failure.
- (3) The rebate is \$35 for a failure that causes water supplied to your property not to be suitable for normal domestic purposes.
- (4) Without limitation, if a NSW government agency issues an alert that warns people to boil water before using it, the water is to be taken not to be suitable for normal domestic purposes.
- (5) The rebate is \$60 for a failure that causes sewage overflow on your property.
- (6) The maximum rebate for failures under subclause (5) is \$240 in a 12 month period.

- (7) The retailer must offset any rebate owed to you by the operator under this contract against the charges for the services.
- (8) The rebate must be offset in full against the next bill if practicable.
- (9) This clause does not apply if the failure to meet a service level is the result of a major event if—
 - (a) the major event affected a significant portion of the operator's scheme infrastructure, and
 - (b) the major event was caused by events outside the operator's control, and
 - (c) the operator could not have reasonably mitigated the risks of the major event.

Example— A natural disaster.

22 What else can you do if there is a problem?

- (1) You may have further rights as a consumer under the Australian Consumer Law for a failure of the operator to meet a service level.
- (2) You may be able to make an insurance claim against your house or contents insurer for damage or loss that you suffer.
- (3) You may be able to take legal action against the operator for breach of contract.
- (4) If you are not satisfied with a decision of the operator relating to an alleged failure of the operator to meet a service level, you may apply for review of the decision by the Energy and Water Ombudsman NSW.

Part 6 What do you pay?

23 What are the standard contract charges?

- (1) Charges payable under this contract are generally billed to you by the retailer.
- (2) All rebates due to you under this contract must be applied to your bill by the retailer.
- (3) If you have an inquiry about the charges or rebates, you must contact the retailer.
- (4) The retailer may refer you to the operator depending on your inquiry.

Note— If services are provided and charged to you by a public water utility, this contract does not cover those services or charges.

24 Where do you find information about standard contract charges?

- (1) You will find information about the standard contract charges on the retailer's website.

Note— See the Act, section 46AC.
- (2) The retailer must make the following information easily available to customers on its website—
 - (a) the standard billing cycle that applies to customers,
 - (b) the standard contract charges,
 - (c) rebates, refunds, discounts or similar payments available to customers or classes of customers for the services during the current financial year.
- (3) The retailer must provide you with a written copy of the standard contract charges and standard billing cycle on request.
- (4) The retailer must give you at least 3 months written notice, or a shorter period of notice approved by IPART, of an increase in a charge you have to pay.

Note— Notice is not needed in certain circumstances set out in the Act, section 46AC(6), including, for example, CPI increases.

25 When can standard contract charges be increased?

- (1) You will find information about changes to the standard contract charges of the operator and retailer on their websites.

Note— See the Act, section 46AC.

- (2) The information must include the date from which the new charges become payable.
- (3) A written notice of the changes must be sent with, or included in, your bill.
- (4) When a usage charge for a service provided to your property is varied on a date that falls within your billing cycle, the usage charge for the billing period must be calculated as follows—

charge for billing period = old price x (D/T) + new price x (N/T)

Where—

D means the number of days before the date from which the usage charge is varied.

T means the total number of days in the billing period.

N means the number of days on and from the date from which the usage charge is varied.

26 What additional charges are there?

- (1) The operator or retailer may charge you for the following, in addition to the standard contract charges—
 - (a) connecting your property to the scheme,
 - (b) disconnecting your property from the scheme,
 - (c) restoring a service to your property,
 - (d) work that the operator or retailer agrees to do for you, including work on your plumbing or relocating a meter at your request,
 - (e) testing a meter at your request if the meter is not found to be faulty,
 - (f) determining an application that you have made under this contract to the operator for an approval.
- (2) The operator and retailer must make information about their additional charges, including indicative amounts or maximum fees, easily available to customers on their websites.
- (3) Other charges may be payable as a result of non-payment of a standard contract charge or additional charge.
- (4) The charges under subclause (3) include a dishonoured or declined payment fee, late payment fee, interest and costs incurred in restricting or disconnecting water or sewerage services or taking legal proceedings.

27 Are Government rebates available?

- (1) You may be eligible for a Government pensioner rebate on your water or sewerage service charges.
- (2) You should contact Service NSW for more information.

28 When will you be billed and what information will be in your bill?

- (1) The retailer must issue you a bill on a quarterly or more frequent basis as stated on the retailer's website.

- (2) The bill will be sent to the billing address last nominated by you under this contract.
- (3) If you have not nominated a billing address, the bill will be sent to the property to which the services are provided or your residential or business address as last known to the retailer.
- (4) The retailer must ensure that your bill contains details of the following—
 - (a) the billing period to which it applies,
 - (b) the total amount due,
 - (c) the contract charges payable, with usage and service charges separately itemised,
 - (d) any additional charges payable, with each charge separately itemised,
 - (e) any other amounts payable for dishonoured or declined payments or relating to non-payment of an amount of a charge, with each charge separately itemised,
 - (f) your credit balance or amounts overdue from previous bills,
 - (g) the date payment is due,
 - (h) options for the method of payment,
 - (i) your account number,
 - (j) the address of the property for which the charges in the bill have been incurred,
 - (k) if available—a comparison of your water usage with your past water usage,
 - (l) the retailer’s website,
 - (m) contact numbers for bill inquiries and the 24-hour faults line.
- (5) The bill must also—
 - (a) warn you that if you do not pay the full amount by the due date, a late payment fee or interest may be payable, and
 - (b) advise you that, if you are experiencing payment difficulty, you may be able to enter into a payment arrangement with the retailer, and
 - (c) advise you of your right to seek a review of a decision of the retailer about the overdue amount or a payment arrangement by the Energy and Water Ombudsman NSW.

29 What is your responsibility to pay your bill?

- (1) You must pay the retailer the total amount due as shown on your bill by the date specified unless you have entered into a payment arrangement with the retailer under clause 35.
- (2) The bill must be paid in one of the ways identified by the retailer in the bill.
- (3) However, the retailer may refuse to accept personal cheques or card payments for a bill if you have made 2 or more consecutive dishonoured payments.
- (4) The retailer may refuse future payments by personal cheque or card if you have a history of dishonoured payments.

30 What if you are undercharged?

- (1) If the retailer undercharges you, that is, your bill is less than the amount you are actually required to pay, the retailer may adjust your next bill to charge the undercharged amount as a separate item.
- (2) The retailer may send you a separate bill for the undercharged amount to be paid by an earlier date if the undercharging is due to a breach of contract by you.

31 What if you are overcharged?

- (1) If the retailer overcharges you, that is, your bill is more than the amount you are actually required to pay, the retailer must apply a credit to your next bill after the retailer becomes aware of the overcharging.
- (2) If you dispute the bill and the retailer agrees that an amount has been overcharged, you do not need to pay the amount overcharged but you must pay any undisputed amount by the due date.

32 What happens if your payment is dishonoured or declined?

- (1) The retailer may charge you a fee if payment of your bill is dishonoured or declined.
- (2) The fee must not exceed the maximum fee for a dishonoured or declined payment of a bill that is published and easily available to customers on the retailer's website at the time the payment is dishonoured or declined.

33 Can you be charged for an unauthorised connection?

- (1) If a service has been provided to your property without the approval of the operator as required by clause 43 or in a way that is contrary to an approval of the operator given under that clause, the retailer may require you to pay the charges that would have been payable for the service under this contract if the required approvals had been obtained or complied with.
- (2) If necessary, the retailer may determine when the service started being provided to your property and the basis on which the service was provided.

34 What can you do if you disagree with your bill?

- (1) If you dispute the amount of a bill, you should contact the retailer.
- (2) If you cannot resolve the dispute with the retailer, you should contact the Energy and Water Ombudsman NSW.
- (3) You will not be charged a late payment fee or interest on a disputed amount, and no further action may be taken for non-payment of a disputed amount, while the dispute is with the Energy and Water Ombudsman NSW.

Part 7 What can you do if you can't pay your bill?

35 What can you do if you are experiencing payment difficulty?

- (1) If you are experiencing payment difficulty, you should contact the retailer who must make all reasonable effort to assist you.
- (2) If you are experiencing payment difficulty, you may be able to negotiate a payment arrangement with the retailer—
 - (a) to defer payment for a short period of time, or
 - (b) to pay by instalments according to an agreed instalment plan that takes into account—
 - (i) your reasonable needs, and
 - (ii) your capacity to pay, and
 - (iii) the amount of arrears you have to pay, or
 - (c) to pay smaller amounts in advance on a regular basis rather than paying the full amount on each due date.
- (3) The payment arrangement must be designed—

- (a) to ensure your arrears are cleared over a period of time and your debt does not continue to grow, and
 - (b) to deal with your financial difficulty in a fair and reasonable way.
- (4) If you enter into a payment arrangement, the retailer must give you written information setting out the details of the arrangement.
- (5) While you comply with the arrangement, you will not be charged a late payment fee or interest on an amount subject to the arrangement, and no further action may be taken for non-payment of an amount subject to the arrangement.

36 Are late fees or interest payable?

- (1) You will owe an *overdue amount* if—
- (a) you do not pay your bill by the due date and have not entered into a payment arrangement with the retailer, or
 - (b) you do not make a payment in accordance with a payment arrangement with the retailer by the due date.
- (2) If you owe an overdue amount, the retailer may charge you—
- (a) an additional fee for the late payment, or
 - (b) interest on the overdue amount.
- (3) The additional fee under subclause (2)(a) must not exceed the maximum fee published on the retailer's website on the due date.
- (4) The interest under subclause (2)(b) is payable at the following rate—
- (a) for each day that an amount is overdue during 1 January to 30 June in any year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period started, and
 - (b) for each day that an amount is overdue during 1 July to 31 December in any year—the rate that is 6% above the cash rate last published by the Reserve Bank of Australia before that period started.

37 Will you get a reminder notice?

- (1) The retailer must send you a reminder notice before taking further action for non-payment of an overdue amount.
- (2) A reminder notice must—
- (a) specify the total amount due, including any late payment fee or interest, separately itemised, and
 - (b) state that payment is immediately due.
- (3) A reminder notice must advise you—
- (a) if you are experiencing payment difficulty, you may be able to enter into a payment arrangement with the retailer, and
 - (b) you have a right to seek a review of the retailer's decision about the overdue amount or payment arrangement by the Energy and Water Ombudsman NSW.
- (4) A reminder notice must be sent to you in the same way as a bill is sent to you.
- (5) If a reminder notice is sent to you, any late payment fee or interest added to your bill becomes part of the overdue amount for further notices or action.

38 Will you get a warning notice?

- (1) If you do not pay the overdue amount on a reminder notice, the retailer must send you a warning notice before taking further action for non-payment of the overdue amount.
- (2) A warning notice must warn you that—
 - (a) if the overdue amount is not paid in full within 10 business days after the date of the warning notice—the operator or retailer may, without further notice—
 - (i) take legal action to recover the overdue amount, or
 - (ii) restrict or disconnect the water or sewerage services provided to your property, and
 - (b) you may incur additional costs if action is taken under paragraph (a).
- (3) A warning notice must advise you—
 - (a) if you are experiencing payment difficulty, you may be able to enter into a payment arrangement with the retailer, and
 - (b) you have a right to seek a review of the retailer's decision about the overdue amount or a payment arrangement by the Energy and Water Ombudsman NSW.
- (4) A warning notice must be sent to you in the same way as a bill is sent to you.

Part 8 When can your service be restricted or disconnected?

39 Can a service be restricted or disconnected if you don't pay your bill?

- (1) The operator or retailer may restrict or disconnect a service provided to your property if you have not paid the overdue amount in full within 10 business days after the date of a warning notice sent to you by the retailer.
- (2) For non-payment of an overdue amount, the operator or retailer may not—
 - (a) disconnect your water supply or reduce the flow of drinking water below that necessary for basic sustenance and hygiene, or
 - (b) disconnect your water supply or reduce the flow of drinking water to your property, if the retailer has been notified that there is a customer with critical health needs living at your property, or
 - (c) disconnect a sewerage service or reduce the flow of sewage from your property below that necessary for basic hygiene.
- (3) Before the service is restricted or disconnected, the operator or retailer must use their best endeavours to make further contact with you, in person, by post or by phone, about the non-payment.
- (4) Before restricting or disconnecting a service, the operator or retailer must give reasonable notice to the occupier of your property of when the restriction or disconnection will take place.
- (5) The restriction or disconnection may only be carried out before 3pm on a day that is not a Friday, Saturday, Sunday or public holiday in New South Wales.
- (6) If your property is disconnected from the scheme, the operator or retailer may recover equipment of the operator or retailer installed on your property.

Note— A tenant can pay an overdue bill and deduct that amount from their rent. See the Act, section 46AF.

40 Can a service be restricted or disconnected if you do something wrong?

- (1) The operator or retailer may restrict or disconnect a service provided to your property if—
 - (a) you have not complied with your obligations under clause 42, 43 or 47, or
 - (b) you provide false or misleading information to the operator or retailer and your property would not have been connected to the scheme for the service if you had not provided the false or misleading information, or
 - (c) you intentionally cause damage to the scheme infrastructure.

Note— See also clause 39, which allows the operator or retailer to restrict or disconnect a service if you have not paid an overdue amount in certain circumstances.
- (2) If the operator or retailer restricts or disconnects a service under subclause (1)(a), the operator or retailer must—
 - (a) not reduce the flow of drinking water below that necessary for basic sustenance and hygiene, and
 - (b) not disconnect your water supply or reduce the flow of drinking water to your property, if you have told the retailer that a customer with critical health needs lives at your property, and
 - (c) not reduce the flow of sewage from your property below that necessary for basic hygiene, and
 - (d) only disconnect the service if the matter is sufficiently serious to warrant disconnection.
- (3) Before the operator or retailer restricts or disconnects a service under subclause (1), the operator or retailer must give you a written notice that—
 - (a) sets out the reasons for the restriction or disconnection, and
 - (b) invites you to make submissions within a specified period of at least 7 days as to why the service should not be restricted or disconnected, and
 - (c) if the restriction or disconnection is under subclause (1)(a)—specifies the following—
 - (i) the action you must take or not take to avoid the restriction or disconnection,
 - (ii) the period of at least 30 days after the date of the written notice within which you must take or not take the action.
- (4) A restriction or disconnection under this clause may only be carried out before 3pm on a day that is not a Friday, Saturday, Sunday or public holiday in New South Wales.
- (5) If your property is disconnected from the scheme, the operator or retailer may recover equipment of the operator or retailer installed on your property.

41 How do you get a service restored?

- (1) Immediately following restriction or disconnection of your water or sewerage service by the operator under clause 39 or 40(1)(a), the retailer must give you information about what you must do to have your service restored.
- (2) You may have to pay a fee for restoration of the service.
- (3) The fee may vary depending on the urgency with which you need the service to be restored.
- (4) When you have met the conditions for service to be restored, the operator must—
 - (a) restore the service as soon as reasonably practicable, and

- (b) use its best endeavours to restore the service on the day on which the conditions for restoration are met, unless you agree otherwise.

Part 9 What are your obligations for damage, maintenance and repair?

42 What are your obligations?

- (1) If the services provided to your property include the supply of recycled water, you must comply with the requirements specified in the written notice given to you under clause 53(3) for the safe use of the recycled water.
- (2) If the services provided to your property include a sewerage service, you must not discharge the substances specified in the written notice given to you under clause 53(4) from your property into the scheme infrastructure.
- (3) If the services provided to your property include a pressure sewer system, you must comply with the requirements specified in the written notice given to you under clause 53(5) for the operation and maintenance of the pressure sewer system.
- (4) The operator and retailer are not responsible for damage or loss caused by a failure of you or anyone else to comply with your obligations under this clause.
- (5) If the failure causes damage or loss to the operator or retailer or anyone else, you are liable for the damage or loss.
- (6) If your obligations under this clause are not complied with, the operator may restrict or disconnect the service to which the obligations apply in accordance with clause 40.

43 When do you have to get something approved?

- (1) You must obtain the prior approval of the operator—
 - (a) for any work on the scheme infrastructure, and
 - (b) for any work on your plumbing that may affect the operation of the scheme infrastructure, and
 - (c) for any new connection, or any change to a connection, between your plumbing and the scheme infrastructure, and
 - (d) to disconnect your plumbing from the scheme infrastructure, and
 - (e) for extracting anything from the sewer main that is part of the scheme infrastructure.
- (2) An application for an approval may be made to the operator or retailer.
- (3) You should make the application as early as possible to allow the operator time to make a decision.
- (4) The operator—
 - (a) may impose a charge for the application, and
 - (b) must consider the application as soon as reasonably practicable, and use all reasonable endeavours to do so within 10 business days, and
 - (c) must give you written notice of the operator's decision, and
 - (d) if approval is given—may impose conditions on the approval, and
 - (e) must not, in determining an application or imposing any conditions, constrain the installation or use of plumbing fixtures, appliances or equipment designed for facilitating the efficient use of water.
- (5) You must ensure compliance with any conditions of an approval.

- (6) If you undertake an activity without a required approval or you fail to comply with the conditions of an approval, the operator may restrict or disconnect the relevant service in accordance with clause 40.

44 When do you have to report damage and incidents?

You must report to the retailer, as soon as reasonably practicable, if you become aware that—

- (a) you or a person undertaking work for you or on your property may have caused damage to—
- (i) the scheme infrastructure, or
 - (ii) a meter used in connection with the provision of services to your property, or
- (b) an incident that has occurred on your property may—
- (i) adversely affect the scheme infrastructure, or
 - (ii) cause a risk to human health or safety or the environment to arise from the operation of the scheme infrastructure.

Part 10 Who reads your water meter and what if it isn't working properly?

45 Is your water service metered?

- (1) If the services provided to your property include the supply of water and the standard contract charges include a usage charge, the operator or retailer must supply a meter to measure the quantity of water supplied to your property.
- (2) You will be charged for the quantity of water supplied to your property as measured by the meter, except as otherwise provided in this contract.
- (3) The meter for water usage will be read for each billing cycle.
- (4) If you are supplied both drinking water and recycled water, separate meters must be used to measure the quantity of drinking water and the quantity of recycled water supplied to your property.
- (5) A meter is not needed if the services provided to your property include a sewerage service unless you are charged a usage charge.
- (6) If there is a meter, you will be charged for the quantity of sewage discharged from your property as measured by the meter, except as otherwise provided in this contract.
- (7) The meter for sewerage usage will be read for each billing cycle.

46 Can someone enter your property to read a meter?

- (1) The Act, section 65 authorises an employee or agent of an operator or retailer appointed as a meter reader to enter your property for the purpose of reading a meter.
- (2) The occupier of your property is entitled to ask the meter reader to produce the meter reader's identity certificate for inspection.
- (3) A meter reader may only enter your property for the purpose of reading a meter during normal business hours.
- (4) A meter reader is not entitled to enter a part of a building used for residential purposes except with the consent of the occupier.

47 What are your obligations to do with meters?

- (1) You must allow the operator or retailer, or a person authorised by the operator or retailer, to enter your property to install, test, maintain or replace meters for measuring the usage.
- (2) You may ask the person to produce the meter reader's identity certificate for inspection.
- (3) A meter reader may only enter premises for the purpose of reading a meter during normal business hours.
- (4) A meter reader is not entitled to enter a part of a building that is being used for residential purposes except with the consent of the occupier.
- (5) You must not—
 - (a) remove, damage or interfere with a meter, or
 - (b) allow a meter to be removed, damaged or interfered with by another person.
- (6) You must ensure—
 - (a) a meter is reasonably and safely accessible, and
 - (b) the meter and visible pipe connected to the meter must be clear of concrete, trees, bushes and other plants or obstructions.
- (7) You may engage, and pay for, a licensed plumber to relocate your meter.
- (8) The plumber must only relocate the meter in accordance with the connection requirements published on the operator's website.
- (9) If there is a failure to comply with an obligation relating to a meter under this clause, the operator may restrict or disconnect the relevant service in accordance with clause 40.

48 What happens if you do not provide safe access for meter reading?

- (1) If a meter cannot be read because you do not provide reasonable and safe access to the meter, you may be charged the reasonable cost of the failed attempt to read the meter and you may be billed on an estimate of your usage.
- (2) If a meter cannot be read because you do not provide reasonable and safe access to the meter on 2 or more consecutive occasions, the operator or retailer may—
 - (a) after making a reasonable attempt to consult with you, relocate the meter at your cost, or
 - (b) seek access to the meter at a time suitable to you and charge you for the reasonable cost of metre reading at that time, or
 - (c) ask you to read the meters on their behalf, or
 - (d) make other arrangements with you.

49 When can estimated usage be used instead of meter reading?

- (1) An estimated usage for a billing cycle may be used if usage charges are payable for a service provided to your property and—
 - (a) the operator or retailer has attempted to read the meter but has not been able to do so as necessary for a billing cycle, or
 - (b) a meter for the service has been tested and found to be inaccurate, or
 - (c) a meter for the service has been removed or interfered with so that an accurate meter reading is not available, or
 - (d) a service has been unlawfully obtained without measurement by a meter.

- (2) If subclause (1) applies, the usage of the service for the billing cycle may be estimated on a basis that is representative of the usage pattern for the service.
- (3) If, in the retailer's opinion, there is no satisfactory basis on which to make an estimate under subclause (2), the retailer may determine a method for calculating the usage charge after consulting you.

50 Can you ask for your meter to be tested?

- (1) If you think that a meter is not accurately recording water or sewage passing through it, you may ask the retailer to test it.
Note— Who conducts the test will depend on arrangements between the operator and retailer.
- (2) The retailer may require you to pay the costs of the meter test before the test.
- (3) Costs paid under subclause (2) must be refunded if the meter is shown to be inaccurate.
- (4) The retailer must send you the meter test results at your request.
- (5) If the test shows that the meter is over recording, the retailer must—
 - (a) replace or repair the meter, and
 - (b) refund any costs paid by you for the test, and
 - (c) recalculate your bill on a basis that is representative of your usage pattern.
- (6) If, in the retailer's opinion, there is no satisfactory basis on which to make a calculation under subclause (5)(c), the retailer may determine a method for calculating the charge after consulting you.

Part 11 When can the operator or retailer enter your property?

51 When can the operator or retailer enter your property to carry out work?

- (1) The Act, Part 6, Division 2 authorises an authorised agent of the operator to enter your property—
 - (a) to carry out an inspection or maintenance work on its scheme infrastructure, or
 - (b) to carry out necessary repair work on its scheme infrastructure, or
 - (c) to carry out emergency work on its scheme infrastructure.
- (2) The owner or occupier of your property must provide safe access for an authorised agent exercising functions under this clause.
- (3) The authorised agent's must show the certificate of authority for inspection to the owner or occupier of your property if asked.
- (4) Except in an emergency, a power of entry may be exercised only during daylight hours.
- (5) An authorised agent must not enter a part of a building used for residential purposes except—
 - (a) with the consent of the occupier or, if there is no occupier, the owner, or
 - (b) under the authority conferred by a warrant of entry obtained under the Act, Part 6, Division 2.
- (6) An authorised agent is to do as little damage as practicable and is, subject to the Act, Part 6, Division 2, to compensate all persons who suffer damage by the exercise of the functions.

- (7) Compensation may be made by reinstatement, repair, construction of works or payment.
- (8) You, or an occupier of your property, affected by the exercise or proposed exercise of a function under the Act, Part 6, Division 2 may apply to the Energy and Water Ombudsman NSW for review of a decision to exercise the function.

52 When can the operator or retailer require you to remove trees or take other action?

- (1) The Act, section 60 allows the operator to require you to remove a tree, shrub or other plant, including its roots, if the operator has reasonable cause to believe that it is destroying, damaging or interfering with the scheme infrastructure.
- (2) The Act, section 60 deals with whether or not the cost will be reimbursed and with other related matters.

Part 12 What information must the operator or retailer give you?

53 What information must the retailer give you at the start?

- (1) The retailer must give you a written notice—
 - (a) before services are first provided to your property, and
 - (b) with your first bill for your property.
- (2) The written notice must contain the following information—
 - (a) the scheme and a link to the IPART register on IPART’s website,
Note— The Act, section 89A requires IPART to keep a register.
 - (b) the services provided to your property,
 - (c) the property to which the services are to be provided,
 - (d) the details of the operator and retailer,
 - (e) for each operator and retailer—
 - (i) a phone number on which the operator or retailer may be contacted between 8.30am and 5.30pm Monday to Friday, excluding public holidays in New South Wales, and
 - (ii) a postal address, and
 - (iii) a website you can use to contact the operator or retailer,
 - (f) the 24-hours fault line,
 - (g) where to find information about pensioner rebates,
 - (h) the requirement that you must tell the retailer if you are a customer with critical health needs or if a customer with critical health needs lives at your property.
- (3) If the services provided to your property include the supply of recycled water, the written notice must also specify the requirements you must comply with for the safe use of the recycled water.
- (4) If the services provided to your property include a sewerage service, the written notice must also specify the substances you must not discharge from your property into the scheme infrastructure.
- (5) If the services provided to your property include a pressure sewer system, the written notice must also specify the requirements you must comply with for the operation and maintenance of the pressure sewer system.

54 When and how will the retailer give you updated information?

- (1) If there is a change to the information given to you in a written notice under clause 53, the retailer must give you another written notice, so that the information is always up to date.
- (2) The obligations specified in clause 53(3)–(5) cannot be changed unless you are given written notice of the change and the date the change comes into effect.
- (3) A change cannot come into effect until at least 30 days after the date on which you are given the written notice.

55 How must the operator or retailer notify you under the contract?

- (1) You are taken to have received a written notice sent to you by the operator or retailer under this contract—
 - (a) when it is given to you personally, or
 - (b) when it is left with a person apparently over 16 years of age at the last residential or business address you gave to the operator or retailer, or
 - (c) if it is posted to you at the last billing, residential or business address that you gave to the operator or retailer— at the time at which the notice would be delivered in the ordinary course of post, or
 - (d) if it is sent to you by email to the last email address that you gave to the operator or retailer—when the email was sent, or
 - (e) if you have not given a billing, residential or business address to the operator or retailer—when it is left in a prominent place on the property.
- (2) Depending on the arrangements between the operator and retailer, the retailer may give you a notice on behalf of the operator or the operator may give you a notice on behalf of the retailer.

Part 13 What information must you give the operator or retailer?

56 What contact information must you give the retailer?

- (1) You must, at the request of the retailer, give the retailer your name, residential or business address, and billing address, which may be an email address.
- (2) You must tell the retailer as soon as possible if the information changes.

57 What information about your plumbing must you give the retailer?

- (1) You must, at the request of the retailer, give the retailer information about your plumbing, and how it is used or intended to be used, if the information is reasonably needed for the provision of the services.
- (2) If there is a material change to your plumbing or how it is used or intended to be used, you must tell the retailer.

Example— If you change the use of your property and the quantity of water needed for the new use is substantially different, or the quantity or type of sewage discharged from your property for the new use is substantially different, you must tell the retailer of the change of use.

58 If you have tenants, what information must you give the retailer?

You must, at the request of the retailer, provide the retailer with information about whether or not your property is leased.

59 What obligation do you have to provide accurate information?

You must not make a statement that is false or misleading, including by omission, in information provided to the operator or retailer under this contract.

60 How can the operator or retailer use your information?

- (1) The operator and retailer may exchange information about your creditworthiness, credit standing, credit history or credit capacity with the following—
 - (a) credit reporting agencies,
 - (b) credit providers,
 - (c) suppliers,
 - (d) the agents, contractors and franchisees of the operator or retailer,
 - (e) if your property is in a strata scheme, community scheme or company title scheme—the owners corporation, operator or agent of the scheme.
- (2) If your property is in a strata scheme, community scheme or company title scheme, the operator and retailer may obtain your contact details, including your address if you do not live at the property, from the owners corporation, operator or agent of the scheme.
- (3) The operator and retailer must comply with their obligations under relevant legislation dealing with privacy and access to information.

61 How must you notify the operator or retailer under the contract?

- (1) The operator is taken to have received a written notice sent by you to the operator under this contract—
 - (a) when it is delivered to an office of the operator or retailer, or
 - (b) if it is posted to an office of the operator or retailer—at the time at which the notice would be delivered in the ordinary course of post, or
 - (c) if it is sent to the operator or retailer by email to the last email address given to you by the operator or retailer—when the email was sent.
- (2) The retailer is taken to have received a written notice sent by you to the retailer under this contract—
 - (a) when it is delivered to an office of the retailer, or
 - (b) if it is posted to an office of the retailer—at the time at which the notice would be delivered in the ordinary course of post, or
 - (c) if it is sent to the retailer by email to the last email address given to you by the retailer—when the email was sent.

Part 14 What else do you need to know?

62 What if the operator or retailer changes?

- (1) If there is a change in the operator or retailer (the *former operator or retailer*)—
 - (a) the contract between you and the former operator or retailer ceases to exist, and
 - (b) a contract exists between you and the new operator or retailer.
- (2) This does not affect your rights or obligations, or the rights or obligations of the former operator or retailer, that accrue before the change.

- (3) Any modifications or exclusions that you agreed with the former operator or retailer do not apply to the contract with the new operator or retailer unless you and the new operator or retailer agree to them.
- (4) The operator and retailer must not charge you fees for changing to a new operator or retailer.
- (5) If the new operator or retailer is a public water utility, this contract does not apply and the public water utility's customer contract applies instead.

63 What if the operator or retailer can no longer provide the services?

- (1) If services provided to your property are provided by essential infrastructure and the operator or retailer is declared under the Act to have failed, a last resort provider will step in to provide the services.
- (2) There will no longer be a contract between you and the failed operator or retailer for the services but there will be a contract between you and the last resort provider for the services.
- (3) The Act will govern the terms of the contract between you and the last resort provider for the services.
- (4) This does not affect your rights or obligations, or the rights or obligations of the failed licensee, that accrue before the failure.
- (5) Information, including personal information, may be provided to the last resort provider to enable the services to continue to be provided.
- (6) The charges for the services may also change as allowed for by the Act.

64 How do you ask the operator or retailer to review a decision?

You may apply to the operator or retailer for a review of—

- (a) a matter arising under this contract, or
- (b) the exercise or proposed exercise of powers under the Act, Part 6, Division 2 by or on behalf of the operator, or
- (c) other matters prescribed by the Regulation.

Part 15 Dictionary

clause 5

customer with critical health needs means a customer who needs a continuous drinking water service to operate a life support machine or for other critical health needs.

operator means a registered operator.

overdue amount—see clause 36.

property includes premises and land.

retailer means a registered retailer.

scheme means the water industry infrastructure operated by the operator.

scheme infrastructure—see clause 6.

services means the water or sewerage services provided by the scheme to your property by the operator.

standard contract charges means the charges you must pay for water or sewerage services provided to your property under this contract.

the Act means the *Water Industry Competition Act 2006*.

the Regulation means the *Water Industry Competition (General) Regulation 2022*.

public consultation draft

Water Industry Competition (General) Regulation 2022 [NSW]
Schedule 4 Deemed customer contract

your plumbing—see clause 7.

24-hour faults line means 24-hour phone number for reporting faults to the operator, finding out information about faults in the scheme and seeking emergency assistance from the operator.