



Service provider powers

This fact sheet explains the powers of service providers under the *Water Supply (Safety and Reliability) Act 2008* (the Act).

This fact sheet does not deal with:

- service providers and local government powers under the service area and trade waste provisions of the Act
- local government's powers, under the *Local Government Act 1993* (the LG Act).

What powers do service providers have?

The Act gives a service provider power to:

- disconnect unauthorised connections
- require a person to rectify defective or improper equipment that is connected to, or adversely affecting, its infrastructure
- require a person to carry out remedial work if there is something on land adversely affecting its infrastructure or ability to provide registered services, e.g. vegetation
- install, or approve the installation of, a meter on infrastructure supplying water to property
- recover the costs of repairing damage to its infrastructure and losses suffered
- appoint 'authorised persons' to assist it in the provision of its registered services.

A retail water service provider may fix a meter to any private fire fighting system. A 'retail water service' is a reticulated water service (i.e. not an irrigation, bulk water or recycled water service) supplied in a 'service area'. A service area is an area declared, by a local government, under s. 161, or existing under s. 608 of the Act.

The service provider powers outlined above are in addition to powers under the LG Act.

Restrictions on service provider's exercise of powers

The following general restrictions apply to service providers, when they exercise powers under the Act:

- powers can only be exercised for a provider's registered services
- the Act does not protect service providers and their authorised persons, if they act negligently.

The Act also imposes specific obligations on service providers exercising powers under the Act. These obligations are discussed below.

The power to disconnect an unauthorised connection

It is an offence under s. 191 if a person connects to a service provider's infrastructure without written consent. Disconnection can occur as follows:

Ordinary disconnection

If a person makes an unauthorised connection, the service provider may issue a notice to the person under s. 33(2), requiring the person to state why disconnection should not occur. The notice must give the recipient at least 48 hours to respond.

If the service provider is not satisfied with the response, the provider may take action, through an authorised person, to enter the property and proceed with disconnection.

Damage caused by unauthorised connection

If the unauthorised connection is causing damage to a service provider's infrastructure, s. 33(5) allows the provider to disconnect it, without prior notice.

The authorised person must still give a notice of the purpose of entry, to either the property owner or the person in control of it, when entering to make the disconnection (s. 33(6)). If no one is at the property at the time of entry, the notice must be left at the property in a reasonably secure way and in a conspicuous position.

Rectifying defective or improper equipment

Under s. 34, a service provider has power to require a person to rectify defective or improper equipment connected to, or adversely affecting its infrastructure within the stated time. If the notice to rectify is not complied with, the service provider may enter the property under s. 364 and rectify the equipment.

Requiring other remedial work

A service provider has power under s. 34 to require a person to carry out other remedial work if there is something on the person's land, e.g. vegetation, adversely affecting the provider's infrastructure or its ability to provide registered services.



If the remedial notice is not complied with within the stated time, the service provider may carry out the work.

The power to install meters

Under s. 35(1), a service provider may install, or approve the installation of, a meter on infrastructure supplying water to premises. The meter is the property of the service provider even if it is installed inside the boundary of the premises.

Service providers providing retail water services have power under s. 144(2) to fix a meter or a seal to any private fire fighting system. However, the provider must not charge for water taken from such a system for fire fighting purposes.

The power to appoint authorised persons

Section 45 permits a service provider to appoint authorised persons who have power to enter property to:

- disconnect an unauthorised connection to the provider's infrastructure
- rectify defective or improper equipment
- carry out remedial work if there is something on land, e.g. vegetation, adversely affecting the provider's infrastructure or the ability to provide its registered services
- inspect, operate, change, maintain, remove, repair or replace infrastructure.

All administrative matters relating to authorised persons are the responsibility of the service provider who appointed them, not the regulator under the Act. The regulator is the director-general of the Department of Natural Resources and Water (NRW).

The power to recover costs and losses

Service providers have power to recover costs and losses under ss. 33, 34, 40 and 145.

A service provider can recover the cost of the disconnection, the cost of repairing the damage and losses suffered and the value of any service used by the person through the connection if:

- an unauthorised connection or defective or improper equipment is disconnected
- or
- other remedial work is carried out by an authorised person.

Service providers may also recover losses suffered because a person:

- discharges unauthorised material into the provider's infrastructure
- interferes with the provider's infrastructure

- pollutes the water in the provider's infrastructure.

If a person is convicted of the offence of taking water from a fire fighting system without permission and not for fire fighting purposes, s. 145 allows a service provider to recover the amount of the loss or the reasonable cost of repairing any damage caused and the water taken, from the person convicted.

Damage caused by a service provider exercising powers

If a person incurs loss or expense because of the exercise of these powers by a service provider, or an authorised person, a claim may be made for compensation from the service provider.

However, compensation may not be claimed if the loss or expense was caused by the act of removing an unauthorised connection under s. 33, or the rectification of defective or improper equipment, or carrying out other remedial work, under s. 34 of the Act.

A court may order the payment of compensation only if it is satisfied that it is just to make the order in the circumstances of the particular case.

Further information

Further information can be found in the following fact sheets:

- W97: Service providers—Power to restrict water supply
- W98: Service providers—Appointment and powers of authorised persons.

For more information about service provider issues, email the Office of the Water Supply Regulator: <wir.enquiries@nrw.qld.gov.au>.

General information regarding Queensland's water industry regulator can be found on the NRW website <www.nrw.qld.gov.au>.

The Act and related regulations can be obtained from the Queensland Office of Parliamentary Counsel website <www.legislation.qld.gov.au>.

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