

# Appointment and Role of Directors and the Board of Directors





# The Board

- A water authority must have a board of directors (s.597)
- The s.598 gazette notice must set out:
  - The number of directors
  - Whether the directors are to be elected or nominated
  - If the directors are to be nominated, who is to nominate them



# Election and Nomination Process

- Election and nomination procedures must be set out in a regulation
- Currently, the *Water Resources (Areas and Boards) Regulation 2000* sets out election procedures that must be followed and identifies who must nominate directors for particular water authorities



# Appointment

- Regardless of whether a director is elected or nominated, a person does not become a director until appointed to be a director
- The Governor in Council appoints all directors to water authorities (s.600)

# Appointment

- Directors, once appointed, are entitled to be paid fees and allowances approved by the Minister (s.624)
- The Minister may appoint the chief executive to administer a water authority until the authority's first board is appointed (s.602)

# Eligibility to Be a Director

- A person is **not** eligible if he or she (s.603):
  - Becomes mentally or physically incapable of satisfactorily performing the director's duties
  - Is an undischarged bankrupt or is taking advantage of the laws relating to bankrupt or insolvent debtors
  - Has been convicted of an indictable offence and the rehabilitation period for that offence has not expired or has been revived

# Eligibility to Be a Director

- A person is **not** eligible if he or she (s.603):
  - Is an employee of the authority
  - Is directly interested in an agreement with, or on behalf of, the authority
- An agreement between the person and the authority for the supply of water is excluded from this last category

# Term of Appointment

- Directors are appointed for a term of 3 years (s.604)
- Term starts on the day stated in the instrument of appointment (gazette notice)
- Term continues after the 3 year period ends until a successor is appointed
- Appointments can be made to fill casual vacancies

# Casual Vacancies

- Casual vacancies arise if a director (s.608):
  - Dies during his or her term of office
  - Resigns from office
  - Is removed from office
  - Is a nominee and councillor of a local government, and ceases to be a councillor for a reason other than defeat at an election of councillors, or failure to contest the election

# Chairperson of the Board

- Chairperson is chosen by the directors comprising the board (s.601)
- If a chairperson is not chosen within 1 month after the date of the first board meeting, the chief executive of NR&M can choose the chairperson
- Chairperson holds office until the next annual meeting of the board

# Resignation

- A director can resign by giving a signed notice of resignation to the chairperson of the board (s.606(1))
- A chairperson can resign from office as chairperson, or a director, by giving a signed notice of resignation to the other directors of the board (s.606(2))

# Removal From Office

- The Governor in Council can remove a director from office, if the director (s.607):
  - Is absent from 3 consecutive meetings of the board without the board's leave and without reasonable excuse
  - Becomes ineligible to be elected or nominated for appointment as a director
  - Declines to act as a director

# Removal From Office

- (Cont.) (s.607):
  - Is convicted of an offence against the *Water Act*
  - Is prohibited from being a director of a body corporate by the Corporations Act for a reason other than a person's age



# Removal of Board of Directors

- The Governor in Council can remove an entire board of directors from office, if the board does not comply with (s.609):
  - A public sector policy notified to it by the Minister under the *Water Act* (s.675)
  - A direction given to it by the Minister under the *Water Act* (s.676)

# Removal of Board of Directors

- (Cont.) (s.609):
  - Its obligations under the *Financial Administration and Audit Act 1997* for the preparation and submission of reports and plans (e.g. annual reports)

# Administration If No Directors

- If a water authority has no directors, the Minister may appoint either of the following people to administer the authority (s.602):
  - The chief executive
  - Another person the Minister considers has the necessary qualifications and experience

# Board Meetings

- The first meeting must be held at the time and place decided by the chief executive (s.620(2))
- The board can choose the time and place of later meetings (s.620(1))
- Boards must hold at least 1 meeting per year (s.620(2))

# Calling Meetings

- The board's chairperson may call a meeting at any time (s.620)
- If the chairperson is asked to call a meeting by at least  $\frac{1}{2}$  of the directors comprising the board, the chairperson must call the meeting

# Conduct of Meetings

- The chairperson must preside at all meetings at which the chairperson is present (s.621)
- If the chairperson is absent, a director chosen by the other directors must preside at the meeting
- Quorum =  $\frac{1}{2}$  the number of directors on the board plus 1 or, if the number is not a whole number, the next highest number

# Conduct of Meetings

- Minutes must be kept of board proceedings (s.623)
- A question is decided by a majority of the directors present and voting (s.621)
- Each director present has a vote on each question to be decided
- If the votes are equal, the chairperson has the casting vote

# Conduct of Meetings

- Directors may be permitted to participate in meetings by way of (s.622):
  - Telephone
  - Closed circuit television
  - Another means of communication
- Apart from the above, the board can decide how to conduct its meetings, subject to regulations that may be made about this