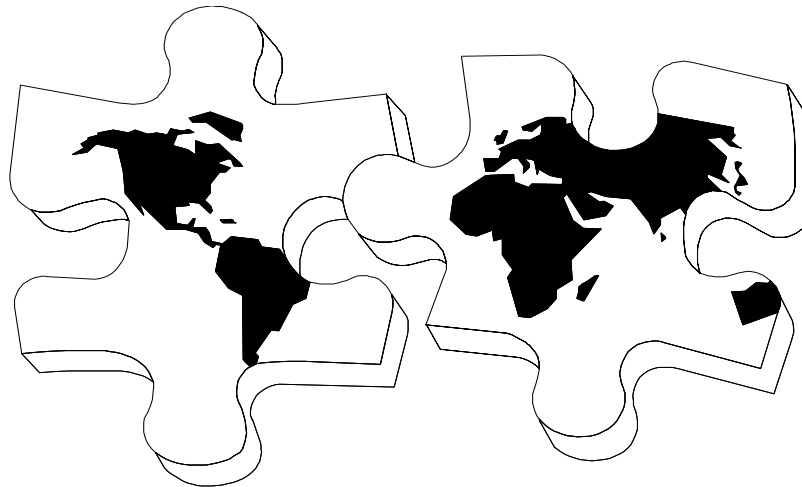


# Changes to Water Authorities

- Amalgamating water authorities
- Dissolving water authorities
- Transferring functions of water authorities



# Amalgamation process

- Chief executive must publish notice of the proposed amalgamation before it happens (s.692)
- Chief executive must consider all properly made submissions about the proposed amalgamation before it happens (s.694)
- A regulation is then used to amalgamate the water authorities (2 or more) and form a new authority(s.690)

# Proposed Amalgamation Notice

- Certain information must be included in the proposed amalgamation notice (s.693)
  - Names of the water authorities to be amalgamated
  - Information about the proposed new water authority
  - Information about how, when and where submissions may be made on the proposed amalgamation



# Effect of Amalgamation

- The assets, rights and liabilities of the former water authorities vest in the new water authority on the day of amalgamation (s.702)
- Legal proceedings by or against the former water authorities may be continued and finished by or against the new water authority (s.703)



# Effect of Amalgamation

- People employed by the former water authorities become employees of the new water authority (s.704)
- The State becomes liable for civil liabilities that cannot be transferred to the new water authority (s.705)



# Dissolution Process

- Chief executive must publish notice of the proposed dissolution before it happens (s.692)
- Chief executive must consider all properly made submissions about the proposed dissolution before it happens (s.694)
- A regulation is then used to dissolve the water authority and, in certain cases, its authority area (s.691)



# Is Dissolution Appropriate?

- Dissolution can only occur in prescribed circumstances (s.691)
- The State can recover the costs of publishing the proposed dissolution notice (s.697)

# Can Dissolution Occur (s.691)?

- The Minister is satisfied the water authority no longer serves the function for which it was established
- The water authority is to be converted to an alternative institutional structure (e.g. cooperative, corporation, trust)
- All of the water authority's functions have been transferred to a local government
- The chief executive is being appointed to perform the authority's functions

# Can Dissolution Occur?

- Special processes apply if the dissolution is sought
  - To allow conversion to an alternative institutional structure (ss.695, 696)
  - When transferring a water authority's functions to a local government (ss.698-700)
- These processes need to be completed before the dissolution happens

# Proposed Dissolution Notice

- Certain information must be included in the proposed dissolution notice (s.693)
  - The water authority's name and area (if applicable)
  - Information about the grounds for dissolution
  - Information about how, when and where submissions may be made on the proposed dissolution

# Effect of Dissolution

- The assets, rights and liabilities of the former water authority vest in the State/new alternative institutional structure on the day of dissolution (s.702)
- Legal proceedings by or against the former water authority may be continued and finished by or against the State/new alternative institutional structure (s.703)

# Effect of Dissolution

- If conversion to an alternative institutional structure:
  - People employed by the former water authority become employees of the new alternative institutional structure (s.704)
  - The State becomes liable for civil liabilities that cannot be transferred to the new alternative institutional structure (s.705)

# Alternative Institutional Structure

- Special processes apply if dissolution is sought to allow conversion to an alternative institutional structure (ss.695 and 696)
- These processes must be completed before dissolution occurs
- Before the authority is dissolved, the water authority must send a written request for conversion to the chief executive, which states the particulars of the proposed conversion (s.695)

# Alternative Institutional Structure

- Before the board makes this request (s.695):
  - The board of directors must resolve to make the request by a special resolution (passed by a two-thirds majority at a meeting of the board) and
  - If the authority has an area, a majority of its ratepayers must agree to the request being made, in a special ballot

# Alternative Institutional Structure

- Before the authority is dissolved, the new entity (the alternative institutional structure) must be established (s.695)
- The Minister (after consultation with the Treasurer) must also be satisfied the State has or will obtain (s.695)
  - a satisfactory indemnity for civil liabilities that may transfer to the State and
  - appropriate payment from the new entity for the authority's assets



# Transferring Functions

- Special processes apply if dissolution is sought to permit a transfer of functions from a water authority to a local government (ss. 698 – 700)
- These processes must be completed before dissolution occurs
- The Act envisages an agreement will be entered into between the local government and the water authority about the proposed transfer (s.698)

# Transferring Functions

- The Act then requires a report to be prepared and submitted to the Minister and Treasurer, on the proposed transfer (s.699)
- The proposed transfer is then assessed by the Minister and Treasurer (s.700)
- The proposed transfer may be rejected on public interest grounds (s.700)

# Transfer Agreement

- Before entering into a transfer agreement, the water authority and the local government must consider:
  - the matters outlined in s.698(2) and
  - agree on how to implement the proposed transfer



# Issues for Agreement (s.698(2))

- Value of the authority's assets and liabilities relating to the functions proposed to be transferred
- Value of the authority's existing works and their suitability for facilitating the functions proposed to be transferred
- Effect of the proposed transfer on the authority's ratepayers and customers

# Issues for Agreement (s.698(2))

- Payment to be made by the local government for the authority's assets (to the authority or the State)
- Water authority's liabilities proposed to be transferred to the local government
- Practicability of transferring those liabilities to the local government and how the liabilities may be transferred

# Issues for Agreement (s.698(2))

- Effect of local government managing existing works, or providing new works, on rates and charges made and levied by the authority
- Necessary transfers of property to the local government

# Payment for Assets

- The chief executive decides which local government will have to pay for the authority's assets (s.698(3))
- In deciding this the chief executive must have regard to linkages between the local government and the water authority, for example with respect to areas, works and the supply of water

# Transfer Report

- After finalising the transfer agreement, the water authority and local government must give a joint report on the agreement and proposed transfer, to the Minister and Treasurer (s.699)



## Issues for Report (s.699(2))

- State the authority's functions proposed to be transferred
- Contain details of the s.698(2) matters that were considered
- Be accompanied by a copy of the signed transfer agreement

# Assessment of Transfer

- Minister and Treasurer consider (s.700):
  - The transfer report
  - Financial and other implications for the State
  - The water authority's financial viability
  - Whether the local government should pay the State, rather than the water authority, an amount for transferring the authority's assets

# Approval of Transfer

- If the Minister and Treasurer are satisfied it is in the public interest to transfer the water authority's functions, a regulation is used to approve the transfer agreement (s.700)
- The transfer agreement must be published with the regulation and it takes effect when the regulation commences (s.700)

# Question Time

