

Obligations of Water Authorities and Service Providers





Water Act Approvals

- Water authorities may need to obtain approvals under the *Water Act* before they begin to operate e.g. water entitlements, resource operations licence (s.571)
- Final responsibility for determining which approvals are required rests with the water authority
- Contact your regional NR&M office for assistance



Water Act Approvals

- For authorities in existence at 1 October 2000, transitional provisions may be relevant (ss.1088, 1089)
 - Authorised works under the *Water Resources Act 1989*
 - Authorisations to take or interfere with water under the *Water Resources Act* or another Act
- These “transitional” authorities may not be sufficient if the proposed works are changed

Other Approvals

- Water authorities may also need to obtain approvals under other legislation before they begin to operate or carry out works, e.g.
 - *Integrated Planning Act 1997*
 - *Cth Environmental Protection & Biodiversity Conservation Act 1999*
 - *Environmental Protection Act 1989*
- Water authorities are responsible for determining which approvals they require
- Take legal or planning advice if necessary

Financial Reporting

- Water authorities have financial reporting and management obligations under the *Financial Administration and Audit Act 1997*
 - Annual reports
 - Financial statements
- Compliance with time frames is essential



Financial Reporting

- Audits must be completed by Queensland Audit Office by 30 September
- Annual reports must be given to NR&M by 31 October
- Minister must table a report in Parliament each year by 30 November

Other Financial Obligations

- Water authorities must comply with the *Statutory Bodies Financial Arrangements Act 1982* (borrowing and investment powers)
- Other reporting requirements:
 - Legal expenditure (quarterly and annual)
 - Remuneration to board members
 - Whistleblowers' complaints
 - State borrowings

“Significant Actions”

- Water authorities are required to give the Minister notice of “proposed significant actions” (s.580)
- “Proposed significant action”:
 - Anything that may prevent, or have a significant adverse effect on, the authority performing its main function
 - Sell or buy property for more than \$100,000

“Significant Actions”

- A water authority must usually give the Minister notice of the proposed significant action before doing it
- The requirement for prior notice does **not** apply if the water authority gives details of the proposed significant action in its annual report, before taking the significant action



Power to Require Information

- The Minister has power to require a water authority to give information about the performance of its functions and operations under the *Water Act* (s.581)
- If responding to a notice requiring such information, be aware of the duty to not provide false or misleading information or documents (s.619)



Cross Subsidies Disclosure

- If a category 2 water authority charges on a volumetric basis for water and is prescribed in a regulation, it must include in its annual report a statement about cross subsidies (s.583)
- Currently, no category 2 water authorities are prescribed

Service Providers' Obligations

- Service providers must comply with obligations set out in the *Water Act* concerning the exercise of their powers
 - Notice requirements before powers are exercised in certain situations
 - Selection of authorised persons for appointment (s.391)
 - Giving notice of damage (s.385)



Service Providers' Obligations

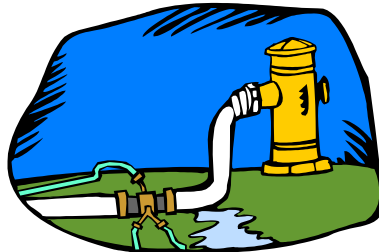
- Service providers must review their registration details each year (within 30 business days of 30 June)
- Service providers must give the regulator notice if there are any changes in their registration details since the last annual review (s.378)

Service Providers' Obligations

- Service providers must give the regulator notice if they:
 - Want to amend their registration details (e.g. add a new service or infrastructure) (s.373)
 - Intend to transfer ownership of their infrastructure (s.374)
 - Are likely to stop supplying a registered service and there is no other entity willing to take over the operation of that service's infrastructure (at least 60 business days notice is required) (s.376)

Service Providers' Obligations

- Chapter 3, Part 3
 - Strategic asset management plans (SAMPs)
 - Customer service standards (CSSs)
 - Annual reports
 - Water for fire fighting



Exemptions

- “Small service providers” can apply to the regulator for an exemption from the requirements relating to:
 - SAMPs
 - CSSs
 - Annual reports
- “Small service provider”: defined in Schedule 4

Small Service Provider

- For a retail water service or sewerage service – a provider with 1,000 or less connections to a registered service
- For an irrigation service – a provider with
 - 100 or less users; or
 - A volume throughput, in any of the last 5 financial years, of 10,000 ML or less

Small Service Provider

- For another type of water service – a provider
 - With not more than 100 customers; and
 - That mainly provides drainage services or water for domestic purposes or for watering stock
- See Schedule 4 of the *Water Act* for definitions of terms like retail water service, sewerage service, irrigation service, domestic purposes

Exemption Applications

- Must apply using the approved form (s.434)
- Exemption must be granted if the regulator is satisfied it is not reasonably practicable for the small service provider to comply with the Act's requirements **and** this is because the cost of complying would outweigh the benefits (s.435)
- Exemptions may be subject to conditions and may be cancelled or amended if circumstances change

SAMPs

- Each service provider must have an approved SAMP (s.408) (unless exempted)
- Used for ensuring continuity of supply of the service provider's registered services
- Approved SAMP must be complied with when supplying services to customers (s.414)

SAMP Requirements

- Listed in s.408(3) and (4)
 - Registered services
 - Infrastructure
 - Appropriate service standards, including customer service, and performance indicators
 - Methodology for developing standards

SAMP Requirements

- Requirements (cont.)
 - Operation, maintenance and renewal strategy
 - Proposed arrangements for financing implementation
 - Have regard to best practice industry standards
 - Be prepared in accordance with the regulator's guidelines

SAMP Requirements

- Must be certified by a registered professional engineer as being appropriate for the service provider's infrastructure and registered services (s.409)



SAMP Approval Process

- SAMPs are given to the regulator for approval (s.410)
- Time frames for submitting SAMPs are set out in s.410 and s.1061
- Can be rejected if:
 - Not certified by a registered professional engineer
 - Inadequate in a material particular

Customer Service Standards

- Supply important customer service information to customers
- Required if a service provider does **not** have a supply contract with all of its customers (and not exempted)
- “Supply contract”: contract for the storage and supply of water under a water entitlement

Customer Service Standards

- Requirements listed in s.425
 - Level of service
 - Process for service connections, billing, metering, accounting, customer consultation, complaints and dispute resolution
 - Other matters stated in the regulator's guidelines

Customer Service Standards

- Doesn't have to be certified by a registered professional engineer
- Copy must be given to the regulator and customers who do not have a supply contract (s.424)
- Time frames for preparing CSSs are set out in s.424 and s.1061
- Service provider must comply with its CSS when supplying services to customers (s.426)

Annual Reports

- Different to financial reports required under the *Financial Administration and Audit Act 1977*
- Reports on the SAMP and CSS rather than financial data
- Reports must be given to the regulator within 120 business days of the end of the financial year (s.430(5))
- Reports must be made available for inspection and purchase (s.430(7))

Annual Reports

- Requirements listed in s.430
 - Performance against SAMP and CSS
 - Actions to implement SAMP
 - Outcomes of reviews of SAMP and CSS and how the service provider has addressed matters raised
 - Summary of findings and recommendations in any SAMP audit reports

Water for Fire Fighting

- Only relevant for suppliers of “retail water services”
- Must not charge for water taken from a fire fighting system for fire fighting purposes (s.432)
- “Fire fighting systems” are systems used solely for fire fighting purposes
- “Fire fighting purposes” includes training for fire fighting and testing fire fighting equipment