

Who is exempt?

Water Industry Competition Act 2006

Narelle Berry

Senior Technical Analyst

March 2011

This presentation

- ▼ Previous exemption regime – what it was and why it needed to change?
- ▼ Current exemption regime – summary
- ▼ WIC Act Review
- ▼ Questions

People should seek their own legal advice as to whether a scheme is exempt from licensing requirements

Why was the exemption revised?

- ▼ Experience with the Act found that the clause was difficult to interpret and had perverse outcomes
- ▼ Revision is to improve clarity of exemptions



What has changed?

- ▼ Main change was the deletion of clause 19(d)
- ▼ Whole of the exemptions clause has been revised with specific exemptions now included in Schedule 3 of the Regulation

When is a licence not required?

- ▼ You are a public water utility (section 60 of the LGA still applies for local government water authorities)
- ▼ You are building, operating, maintaining water/wastewater infrastructure on behalf of a licensed network operator or public water utility
- ▼ Exemptions under the *Water Management Act 2000* and the *Water Act 1912* remain but have been redrafted
- ▼ Any work that is used solely for stormwater drainage purposes

Clauses 5 & 8 – New exemption



- ▼ Water industry infrastructure that is used to supply potable water or provide sewerage services, or both, to public water utilities or network licence holders, or both (from a water utility licensed in another state)
- ▼ Water industry infrastructure that is used to supply potable water or provide sewerage services, or both, and that is owned by (a water utility licensed in another state) and that services land that is managed by the Aboriginal corporations and/or council specified in the regulation

Clause 6 – New exemption

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

Clause 7 – New exemption

- ▼ Water industry infrastructure that services land that is managed by the Aboriginal corporations and/or council specified in the regulation that 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.

Clause 9 – New exemptions

- ▼ Water industry infrastructure:
 - (a) that is 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) that is used solely for the purpose of supplying water or a sewerage service to the dwelling house or dual occupancy.



Clause 10 – New exemption

- ▼ Water industry infrastructure that is owned by a customer of a public water utility or licensed retail supplier to whom water is supplied, or to whom sewerage services are provided, by that public water utility or licensed retail supplier, and that does not involve the further treatment of the water or sewage and 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.

Clause 12 – New exemption

▼ Water infrastructure:

- (a) that is owned by a customer of a public water utility or licensed retail supplier to whom a supply of water is supplied by that public water utility or licensed retail supplier, and
- (b) that is used by that 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.



Clause 13 – New exemption

- ▼ Water infrastructure:

- (a) that is used for the production, treatment, filtration, storage, conveyance or reticulation of water sourced only from roof water, and

- (b) that is not able to be connected to water infrastructure operated by a public water utility because it is not practicable or economical to connect the infrastructure

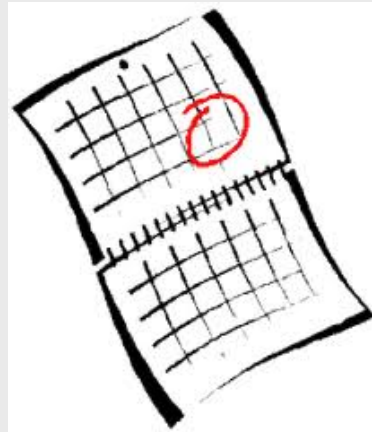
Clause 14 – New exemption

- ▼ Water infrastructure that is used for the production, treatment, filtration, storage, conveyance or reticulation of water sourced only from roof water if:
 - (a) the water is supplied for a non-potable use, and
 - (b) the water is supplied without charge (either in the form of a fee or a requirement for other consideration).



Are there any transitional arrangements for existing private infrastructure?

- ▼ You have 18 months to obtain a licence if the water industry infrastructure is already constructed OR if construction of the infrastructure commenced prior to 17 December 2010
- ▼ In the interim, section 68 of the *Local Government Act 1993* applies for the provision of sewerage services.



Next steps

- ▼ NSW Office of Water will commence a review of the *Water Industry Competition Act 2006* later this year
- ▼ 18 month transitional period has been included to allow the review of the Act to take place in the meantime
- ▼ We encourage all stakeholders to make a submission to the review, at the appropriate time, if they have any concerns or comments

Any questions?





Independent Pricing and Regulatory Tribunal

www.ipart.nsw.gov.au