

## *Water Industry Competition Act 2006*

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This document answers frequently asked questions about changes to the *Water Industry Competition Act 2006*.

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### **What is the purpose of the *Water Industry Competition Act 2006* ?**

The *Water Industry Competition Act 2006* (WIC Act) was introduced during the Millennium Drought to encourage private-sector investment and innovation in the supply of water and sewerage services and to facilitate private sector delivery of recycled water infrastructure in NSW while protecting public health, consumers, and the environment.

Currently there are over 20 schemes licensed under the WIC Act that provide 10,000 customers with drinking water, recycled water or sewerage services. Such schemes include the Sydney Desalination Plant and the iconic Central Park development in Sydney. In 2022-23, private water utilities in NSW delivered 5,000 ML of recycled water and 90 GL of desalinated drinking water.

### **Who regulates the *Water industry Competition Act 2006*?**

The Independent Pricing and Regulatory Tribunal (IPART) is the administrator of the WIC Act, while the NSW Department of Climate Change, Energy the Environment and Water is responsible for policy development and changes related the WIC Act.

IPART assesses licence and approval applications, grant approvals and ensures that licensees are complying with the WIC Act, the Water Industry Competition (General) Regulation 2024 (WIC Regulation) and conditions of licences and approvals.

The Minister for Water is responsible for granting retail and operator licences, for declaring a failure of an essential service provider and designating a last resort provider to ensure continuity of essential services in the event of a financial failure of the licensee.

More information the administration of the WIC Act, application forms and guidance can be found on the [IPART website](#).

### **Why was the *Water Industry Competition Act 2006* changed?**

In 2012, the Government commenced the 5-year review of the WIC Act to ensure that the objectives of the Act were being realised. This review included targeted consultation with the private water industry, public water utilities, councils, consumer groups and other NSW Government agencies. In response to the feedback from stakeholders, the *Water Industry Competition Amendment Act 2021* (Amendment Act) was passed by Parliament and makes significant changes to the WIC Act. These

include streamlining the licencing framework, focussing on the regulation on high-risk schemes and providing greater customer protections.

The changes required a remake of the subordinate regulation. The WIC Regulation commenced with the WIC Act on 1 March 2024.

### **What are the licencing changes in the *Water Industry Competition Amendment Act 2021*?**

The Amendment Act introduces a new licensing framework, creating a more agile business environment for the industry, which separates the licensing of private operators and retailers from the approval of water or sewerage schemes.

This allows the licensee with a retail or network license to operate multiple schemes in NSW without having to prove their technical, financial, and organisational capacity each time they want to operate a new scheme.

### **What water services require a WIC Act licence?**

The WIC Act does not apply to services provided by Sydney Water, Hunter Water or local water utilities.

The WIC Act requires licences and approvals for schemes that:

- provide water, recycled water or sewerage services to 30 or more small retail customer premises
- produce greater than 500 kL of drinking water per day
- treat greater than 750kL of sewage, stormwater, or recycled water per day.

The WIC Regulation further specifies that licence and approvals are required for certain new council-operated (excluding local water utilities) schemes that produce or supply recycled water for the following purposes:

- washing or cleaning, including vehicles, paths, common areas or fences
- toilets, laundries or washing machines
- irrigation for the purposes of growing food.

Schedule 1 of the [WIC Regulation](#) specifies other water industry infrastructure and water services that are excluded from the requirement for a licence and an approval, including water infrastructure used for stormwater drainage, capture of rainwater and for urban water sensitive design.

### **Metropolitan councils were previously excluded from the WIC Act, why do they now need a WIC licence?**

This requirement addresses a regulatory gap as councils in Sydney Water's and Hunter Water's area of operations that operate water industry infrastructure were unregulated. The Department's policy

position supported by consultation is that new high-risk schemes should be regulated similarly to other public, private and local water utilities to protect public health. Existing schemes, operating or planned prior to 1 March 2024 are exempt from requiring a licence. To avoid the licensing requirement, councils can choose to operate schemes with lower risk uses such as for the production or supply of recycled water for irrigation of a golf course or public open space, including a park, sportsground or median strip, if the recycled water is sourced only from stormwater.

### **How are customers of private water utilities protected under the WIC Act?**

The new framework includes greater customer protections by requiring that the licensee has a deemed customer contract like the contracts that Sydney Water and Hunter Water have with their customers. The WIC Act amendments also strengthen last resort provider provisions to ensure the continuity of essential water services in the event of a licensee's financial failure, by introducing an operator of last resort and requiring the development of contingency plans.

IPART, the administrator of the WIC Act, will have expanded auditing, reporting and investigatory functions as well as increased investigative powers and penalties for offences.