

House of Representatives

Supplementary Order Paper

Tuesday, 15 August 2023

Water Services Entities Amendment Bill

Proposed amendments

Simon Court, in Committee, to move the following amendments:

Clause 6

In *clause 6*, *new section 11*, replace the cross-heading above *new section 11(4)* (page 10, line 9) with:

Changing entity's name, mergers, variations, and local government reorganisation

In *clause 6*, after *new section 11(4)(b)* (page 10, after line 12), insert:

(ba) **clause 7(1) of Schedule 2B** of this Act; or

Clause 8

In *clause 8(4)*, after *new section 16(3)(ca)* (page 10, after line 33), insert:

(cb) a date on which a variation (see **section 19B**) that affects the water services entities named in Parts 1 to 10 of Schedule 2, or their service areas, or both, takes effect; or

Clause 9

In the cross-heading above *clause 9*, replace “*Merger of*” (page 11, line 1) with “*Merger or variation of*”.

Replace *clause 9* (page 11, lines 2 to 6), with:

9 New subparts 1A and 1B of Part 2 inserted

After section 19 insert:

Subpart 1A—Merger of water services entities

19A Merger of water services entities

Water services entities may merge in accordance with **Schedule 2A**.

Subpart 1B—Variation of water services entities

19B Variation of water services entities by territorial authority owners

Water services entities may be varied in accordance with **Schedule 2B**.

New clause 27A and cross-heading

After *clause 27* (page 33, after line 34), insert:

Variation of water services entities

27A New Schedule 2B inserted

After **Schedule 2A**, insert the **Schedule 2B** set out in **Schedule 3** of this Act.

New Schedule 3

After *Schedule 2* (after page 64), insert:

Schedule 3

New Schedule 2A of Water Services Entities Act 2022

s 27A

Schedule 2B

Variation of water services entities

s 19B

Variation request

1 Territorial authority owner may request variation of water services entities

- (1) A territorial authority owner of a water services entity (**entity A**) may make a request to join a different water services entity (**entity B**).
- (2) A territorial authority owner must use the special consultative procedure when deciding to make a request under **subclause (1)**.

- (3) A request under this clause must be made in writing to entity B's regional representative group.
- (4) In this clause, **special consultative procedure** has the same meaning as in section 5(1) of the Local Government Act 2002.

2 What group must do after receiving request

Promptly after receiving a request, the regional representative group must—

- (a) notify the entity's board and territorial authority owners that the group has received a request under **clause 1**; and
- (b) engage with the boards and regional representative groups of every water services entity about the request; and
- (c) after considering any feedback received, make a decision about whether to accept the request.

3 Group's decision on request, and group's reasons, must be notified

- (1) The regional representative group must notify the group's decision on a request, together with the group's reasons for that decision, to—
 - (a) the entity's board and territorial authority owners; and
 - (b) the monitor; and
 - (c) the territorial authority owner that made the request.
- (2) If the regional representative group accepts the request, it must also notify publicly the group's decision on the request, together with the group's reasons for that decision, for at least 20 working days, on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible.

Preparation of variation implementation plan

4 Entity's board must prepare a variation implementation plan

If a regional representative group decides under **clause 3** to accept a request made under **clause 1** the entity's board must prepare a variation implementation plan.

5 Variation implementation plan

A variation implementation plan must include—

- (a) the anticipated date on which the transferring territorial authority owner will join entity B;
- (b) the proposed timing for the transfer to entity B of assets, liabilities, and other matters that are identified as relating

wholly to the provision of water services by the transferring territorial owner in entity A's allocation schedule:

- (c) the processes, policies, and timing for the reconciliation of the finances of entity A and B in light of the variation:
- (d) any other matters that the board considers relevant.

6 Boards of entities involved in variation must give effect to plan

The boards of the water services entities proposed to be part of the requested variation must give effect to the variation implementation plan (as adopted, and amended or replaced, by the board).

7 Order in Council to give effect to requested variation

- (1) A variation implementation plan—
 - (a) is given effect to by Order in Council made on the recommendation of the Minister; and
 - (b) has effect on and after the date specified for that purpose by that Order in Council.
- (2) The board of entity B may recommend to the Minister that the requested variation be given effect to by Order in Council.
- (3) After receiving a recommendation under **subclause (2)**, the Minister must recommend the making of an Order in Council under **subclause (1)** unless the Minister is satisfied, on reasonable grounds, that the process followed to result in the recommendation was not in accordance with this Act and the variation implementation plan.
- (4) An Order in Council made under **subclause (1)**—
 - (a) must specify the date on which its provisions come into effect; and
 - (b) must amend Schedule 2 to reflect the change in the service area of the 2 water services entities affected by the variation; and
 - (c) must specify how shares in the two water services entities affected by the variation are to be allocated to each territorial authority owner based on the population of its district or part district (*see also* section 16); and
 - (d) may suspend any statutory requirement that an affected water services entity would otherwise be subject to if the variation would make compliance with the statutory requirement unnecessary or inappropriate.
- (5) An Order in Council giving effect to a variation implementation plan is not invalid merely because it is inconsistent with the provisions of the plan if the inconsistency relates to—

- (a) corrections of clerical, grammatical, or typographical errors; or
 - (b) the inclusion of provisions that are necessary to give legal effect to the variation implementation plan; or
 - (c) the omission of explanatory material or other material that is not necessary to give legal effect to the variation implementation plan; or
 - (d) matters of a format or referential nature that do not alter the substance or effect of the variation implementation plan.
- (6) An order made under **subclause (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Explanatory note

This Supplementary Order Paper amends the Bill to allow a territorial authority to move to a new water services entity. This is to allow for changes to water infrastructure needs and to allow a territorial authority to exit a water service entity which is not serving its needs. It is clear from submissions that many councils were very unhappy about being lumped into the same water services entities as councils that had not managed their assets well.