

Applying for a water retail licence

July 2012

The Essential Services Commission of South Australia (the Commission) is the independent economic regulator for a range of essential services in South Australia including electricity, gas, water, sewerage, rail and maritime services.

We are a statutory authority, established under the *Essential Services Commission Act 2002* (ESC Act) with a primary objective to:

protect the long term interests of South Australian consumers of essential services with respect to the price, quality and reliability of essential services.

The *Water Industry Act 2012* (the Act) establishes the regulatory framework for the water and sewerage industry covering economic regulation, technical regulation, water planning and customer complaint handling.

We are responsible for the economic regulation of water and sewerage services in South Australia. Our role includes industry licensing, consumer protection, performance monitoring, compliance and retail pricing matters.

DO I NEED A WATER RETAIL LICENCE?

From 1 January 2013, any person or entity providing “water retail services” to South Australian customers will be required to be licensed by us. The Act defines a “water retail service” as:

- sale and supply of water to a person for use where the water is to be conveyed by a reticulated system; or
- the sale and supply of sewerage services (the collection, storage, treatment or conveyance of sewage through a reticulated system) for the removal of sewage, even if the service is not actually used.

A retail service includes, but is not limited to, the following activities:

- Drinking water services;
- Sewerage services;
- Recycled water/Stormwater services;
- Other non-drinking water services; and
- Other miscellaneous water and sewerage services.

If you currently provide any of these services, you are likely to need to apply to us for the issue of a licence pursuant to Part 4 of the Act.

HOW DO I APPLY FOR A LICENCE?

The Act requires us to be satisfied of certain matters concerning your business and the way you currently provide retail services to your customers before we can issue you with a licence.

An Advisory Bulletin has been prepared to provide guidance on the requirements of the licence application process. Applicants are strongly encouraged to read the Advisory Bulletin before submitting an application. The Advisory Bulletin is available on our website: <http://www.escosa.sa.gov.au/library/120712-WaterLicensingBulletin-ABX1.pdf>.

Our licence application form is available to download on our website: <http://www.escosa.sa.gov.au/library/120712-WaterApplicationForm-PDFformat.pdf>.

WHAT RIGHTS AND OBLIGATIONS WILL I HAVE UNDER A WATER RETAIL LICENCE?

The Act sets out various mandatory licence conditions that a licensee must comply with. These conditions include requirements to:

- comply with applicable industry codes made by the Commission;
- at the request of customer, to provide services at the licensee’s standard contract price contractual terms and conditions;
- comply with code provisions in force from time to time relating to the provision of pricing information to customers;
- include in each account for services provided to customers, any information prescribed by regulations;
- maintain specified accounting records and to prepare accounts according to specified principles;
- implement and follow specified processes to resolve disputes between the licensee and its customers;
- participate in an Ombudsman scheme approved by the Commission (if required by the Commission);
- monitor and report as required by the Commission on indicators of service performance determined by the Commission;
- provide information to the Commission regarding the licensee’s financial or other capacity to provide services or to continue operations or activities under the licence (if requested by the Commission);
- maintain specified kinds and levels of insurance;
- have all or part of its services, operations or activities audited and to report the results of the audit to the Commission;

- notify the Commission about changes to officers and, if applicable, major shareholders of the licensee;
- provide information to the Commission from time to time;
- comply with the requirements of any scheme approved and funded by the Minister for the provision by the State of customer concessions or the performance of community service obligations; and
- comply with the requirements of any scheme approved and funded by the Minister for the purposes of providing specified exemptions from the requirement to pay for the provisions of specified services.

In imposing licence conditions, we will have regard to the scale and nature of the operations of the applicant and will consult with applicants in respect of this during the application process.

In addition, a licensee will be granted certain rights, including, the right to:

- appoint water industry officers that, upon certain notice conditions being satisfied, can enter and remain on land to carry out works or assess the suitability of the land for the construction of water or sewerage infrastructure;
- enter and remain on land where infrastructure owned by the entity is located in order to inspect, maintain, test, alter or repair the infrastructure for the protection of the infrastructure or for public safety;
- upon complying with relevant requirements, restrict or lessen the amount of water supplied through its infrastructure for a time or such times as the entity sees fit; and
- apply for a review of a decision of the Commission or the Technical Regulator (and, in the event the licensee is dissatisfied with the decision of the review, the right to appeal to the District Court).

APPLICATION AND LICENCE FEES

A licence application must be accompanied by the appropriate application fee. The application fee will be set by the Treasurer. We cannot start assessing a licence application until the application fee has been received.

Annual licence fees are payable by each licensee which will fall due on the anniversary date of the licence being issued. Licence fees will be fixed by the Treasurer.

Further advice on these fees will be provided once they have been set by the Treasurer.

EXEMPTIONS

In exceptional circumstances, we can, with the approval of the Minister, issue an exemption from the requirement to be licensed or from certain licence conditions.

We will only grant exemptions in exceptional circumstances where the regulatory burden of being licensed would outweigh any benefits the wider South Australian community receives. It must be evident to us that licensing is simply not appropriate.

The onus is on an applicant to demonstrate to us why it should not be licensed (or why it should be exempt from various licence conditions).

IF I ALREADY HAVE A LICENCE FROM ANOTHER GOVERNMENT DEPARTMENT, DO I NEED A LICENCE FROM THE COMMISSION?

While you may already hold a licence issued by the Environmental Protection Agency, the Department for Health, the Department for Environment, Water and Natural Resources or another Government agency, you may still require a licence from the Commission if you are, or intend to, provide retail services to customers.

The licence issued by the Commission imposes conditions that are quite different to conditions imposed under a licence issued by other organisations.

If you remain uncertain about whether you are required to obtain a licence from the Commission in respect of your business operations, you are encouraged to contact us on the contact details provided below.

REPORTING ON COMPLIANCE WITH LICENCE OBLIGATIONS

The majority of licensees will be required to report to us on compliance with various obligations from time to time during the term of a licence. Further information on our Compliance Monitoring and Reporting Framework is available on our website: <http://www.escosa.sa.gov.au/library/120713-ComplianceMonitoring-Reporting-FactSheet.pdf>.

FURTHER INFORMATION

Any queries relating to water industry licensing and exemptions should be directed to:

Contact Person: Kate Morrison, Manager Legal & Licensing
Contact Email: licensing@escosa.sa.gov.au

If you would like to keep up to date with our water industry activities and the release of papers for consultation, subscribe at <http://www.escosa.sa.gov.au/subscribe.aspx>.



THE ESSENTIAL SERVICES COMMISSION OF SOUTH AUSTRALIA
Level 1, 151 Pirie Street Adelaide SA 5000
GPO Box 2605 Adelaide SA 5001
T 08 8463 4444
E escosa@escosa.sa.gov.au | W www.escosa.sa.gov.au