



Statement of Reasons

on

**Amendments to the Tasmanian Water and
Sewerage Industry Customer Service Code**

June 2025

Printed June 2025
Office of the Tasmanian Economic Regulator
Level 3, 21 Murray Street, Hobart TAS 7000
GPO Box 770, Hobart TAS 7001
Telephone: (03) 6145 5899
office@economicregulator.tas.gov.au
www.economicregulator.tas.gov.au

Copyright
© Office of the Tasmanian Economic Regulator

TABLE OF CONTENTS

1	INTRODUCTION	2
2	CONSULTATION	2
	2.1 PROCESS	2
3	DISCUSSION AND DECISIONS.....	3
	3.1 SUBMISSION FROM TASWATER	3
	Discussion.....	4
	Decision	5
	3.2 SUBMISSION FROM MR DAVENPORT	5
	Discussion.....	6
	Decision	7
4	FINALISATION OF AMENDMENTS.....	7

1 INTRODUCTION

Under the *Water and Sewerage Industry Act 2008* (the Act), the Regulator is required to develop and issue a Customer Service Code (the Code) to apply to the Tasmanian water and sewerage sector.

The Code forms part of the broader customer service standards framework under the Act, which is intended to protect customers from the risk of misuse of monopoly power which arises from a lack of effective competition in the provision of water and sewerage services.

The purpose of the Code is to specify minimum standards and conditions of service and supply with which water and sewerage corporations must comply in providing certain regulated services to customers.

The Code must be consistent with the Act, and any regulations under the Act, as well as legislation in relation to public health, environmental management and water management.

2 CONSULTATION

2.1 Process

On 27 March 2025, the Regulator released a Consultation Paper with proposed amendments to the current Code, Version 8, to:

- require a regulated entity to have a family violence policy that governs the way it interacts with customers that are experiencing family violence and establish minimum standards for that policy;
- amend the existing hardship provisions to:
 - give a regulated entity and customers guidance on circumstances where a customer may be experiencing financial hardship;
 - provide for a regulated entity to identify that a customer may be experiencing financial hardship (in addition to the existing option for the customer, an accredited independent financial institution, or a not-for-profit institution that provides assistance to persons experiencing financial difficulty to identify such a customer); and
 - require a regulated entity to ensure that its financial hardship policy is easily accessible on its website and in an easily printable form and requiring that the regulated entity send a copy to any customer that requests it;

- allow a regulated entity to not clean up and disinfect an area affected by a sewage spill if the affected customer waives that requirement;
- separate the requirements for dealing with enquiries from those that relate to complaints and dispute resolution;
- provide for additional means of electronic communication when contacting customers regarding enquiries and complaints and regarding legal action, disconnection and restriction of services; and
- reduce the rate of interest that a regulated entity pays on refunds of overcharged amounts and that customers pay on underpayments by 2.0 per cent.

The Regulator also proposed to make numbering and formatting corrections as well as a number of minor typographical corrections.

Upon its review and finalisation of the revised Code, Version 9, the Regulator has also decided to introduce a minor amendment to clause 17.4 to require a regulated entity to provide information on its family violence policy in its customer charter. This is consistent with the existing requirement that a regulated entity include information on its hardship policy in its customer charter.

The Regulator issued a draft version of the revised Code, Version 9, and sought public comment. The consultation period closed on 24 April 2025.

The Regulator received submissions from:

- the Tasmanian Water and Sewerage Corporation Pty Ltd (TasWater); and
- Mr Jack Davenport.

The following section of this paper discusses these submissions and sets out the Regulator's decisions.

3 DISCUSSION AND DECISIONS

3.1 Submission from TasWater

TasWater noted its support for each of the proposed amendments to the current Code, Version 8. TasWater did, however, also propose that the Regulator introduce amendments to clause 5.7.4, which relates to the refund to customers of amounts overcharged by a regulated entity.

Currently, if a regulated entity (TasWater) overcharges a customer because of an error on the entity's part or inaccurate metering, it must inform the customer within 10 business days of becoming aware of the overcharge and refund the amount, together with any interest payable. There is no limit on the time period to which a refund can relate.

In its submission, TasWater proposed to limit the amount refunded when a customer is overcharged so that the refund is only calculated back to the most recent of:

1. a change in ownership of the property;
2. a change in the use of the property (i.e. when the classification of the land used by the Recorder of Titles changes); or
3. six years prior to the discovery of the overcharge.

TasWater stated the following in support of each of these limits:

1. Change of ownership - *“TasWater is not practically able to refund previous owners of properties, as up to date contact information for previous customers does not exist.”*
2. Change in use - *“When a change of use of a property occurs, this can result in a new charge applied that will be accepted by the customer.”*
3. Six year limit - *“consistent with other legal limits, such as the contract law statute of limitations.”*

Discussion

The Regulator accepts that a change in ownership may make it more difficult for TasWater to contact the relevant (former) customer. However, the Regulator does not accept that this is an obstacle that TasWater, in most instances, cannot reasonably overcome. In many cases, the former customer in respect of a property to which an overcharge relates may currently be a customer in respect of another property and in other cases, the former customer may have become aware of the potential overcharge themselves and approached TasWater seeking a review and refund. Given that the cause of overcharges contemplated by clause 5.7.4 are attributable to TasWater, it is not reasonable to limit a customer’s refund rights by applying an arbitrary cut-off.

TasWater has not provided any information in support of the proposed change in use limitation, except the implied justification that the customer has accepted TasWater charges at the point at which the property classification has been amended by the Recorder of Titles (for example, from the Rural to Residential classification or, at a more detailed level, from a flat to unit code). However, it is not reasonable to limit rights to refunds that have arisen as a result of an error by TasWater or inaccurate metering simply because a customer may have accepted TasWater charges at the time of the change of use.

TasWater’s third proposed limitation is that refunds be limited to a period of six years, consistent with other statutory limitations that apply to businesses.

While there is an argument that TasWater should be required to refund overcharges that arise from its own errors, regardless of how long ago the

overcharge occurred, there are practical limitations on the keeping of records that affect how long TasWater can be expected to hold the information necessary to establish that the overcharge has occurred and the extent of the overcharge.

These limitations are recognised for other purposes. For example, the Australian Taxation Office requires businesses to keep most business records for five years, and generally limits tax reassessments to four years after a notice of assessment has been issued, and the Tasmanian *Taxation Administration Act 1997* limits refunds of overpaid taxation to five years. The *Government Business Enterprises Act 1995* requires a Government Business Enterprise to keep transaction records for accounting purposes for at least seven years.

Given that TasWater is not required to keep business records in perpetuity, and the reassessment and refund limits applied for taxation purposes, it is reasonable to also apply, in the Code, a limit to the time period to which a refund of an overpayment may relate. As TasWater notes in its submission that the general limitation on actions under contract law is six years, as provided in section 4 of the *Limitation Act 1974* (Tas), this may be an appropriate period over which to limit refunds in respect of overcharges.

The Regulator's view is that the first two limitations as proposed by TasWater are arbitrary and disadvantageous to customers. TasWater has not provided a detailed or convincing argument in support of these proposed limitations.

The Regulator does, however, consider it unreasonable that TasWater be required to keep, in perpetuity, records necessary to establish overcharges.

Decision

The Regulator has decided not to amend the current Code, Version 8, to implement the change of ownership and change of use refund limitations proposed by TasWater.

The Regulator does, however, support TasWater's proposal to implement a six-year limitation on refunds. To facilitate this amendment, the Regulator has introduced, into the Code, a new clause 5.7.5 as follows:

- 5.7.5 The amount to be refunded by the *regulated entity* under clause 5.7.4 is limited to the amount overcharged in the six years prior to the *regulated entity* first becoming aware that the *customer* has been overcharged.

3.2 Submission from Mr Davenport

Mr Davenport indicated general support for the Regulator's proposal to require a regulated entity to have a family violence policy. However, Mr Davenport expressed a concern that the proposed requirement that TasWater have a policy that governs its interactions with customers that are experiencing family

violence does not reference child and youth safety or the working with vulnerable people system. Mr Davenport suggested child and youth safety is a critical issue for consideration in the policy's drafting given the well-documented links between family violence and risks to children.

Mr Davenport referred to the *Child and Youth Safe Organisations Act 2023*, the *Children, Young Persons and Their Families Act 1997*, and the Working With Vulnerable People Scheme, while acknowledging that they do not apply to TasWater.

The Regulator has paraphrased Mr Davenport's submission.

Discussion

As noted in its Consultation Paper, the Regulator amended the *Tasmanian Gas Retail Code* in 2023 to introduce provisions requiring gas retailers to have a policy that governs how they interact with customers that are experiencing family violence. Likewise, electricity retailers are required under the National Energy Retail Rules to have a family violence policy. The intention of the Regulator's proposal to amend the current Code, Version 8, is to bring regulated water and sewerage entities into line with electricity and gas retailers operating in Tasmania.

The family violence policy requirements for retailers operating in the gas and electricity industries do not currently extend to child and youth safety.

The Child and Youth Safe Organisations Act establishes a framework to keep children safe while in the care of an organisation. It does not apply to regulated water and sewerage entities (and gas and electricity retailers) as they do not provide services specifically to children or provide facilities specifically for use by children who are under the supervision of such entities.

Likewise, the requirements of the Children, Young Persons and Their Families Act relates to the care and protection of children in a manner that maximises the child's best interests, recognises that a child's family is the preferred environment for care and upbringing and recognises that the responsibility for the protection of a child rests primarily with the child's parents and family.

While the Children, Young Persons and Their Families Act requires certain classes of persons to report concerns about abuse, neglect or certain other behaviours, TasWater employees are not, by virtue of their status as TasWater employees, members of any such class of person.

The Children, Young Persons and Their Families Act does not relate to the activities of regulated water entities, which interact with adult customers, do not have children in their care, and would rarely have any interaction with children.

While the Regulator recognises the concerns held by Mr Davenport, it would be an overreach for the Regulator to require a regulated entity to comply with

legislation that does not apply to it, and in respect of activities that the entity or its staff are unlikely to engage in (direct interaction with, or supervision of, children).

As detailed in the Regulator's Consultation Paper, the requirements in respect of a family violence policy establishes the minimum standards for that policy. Nothing prevents TasWater, should it deem it appropriate, from extending its family violence policy to also reference child and youth safety.

Decision

No action required.

4 FINALISATION OF AMENDMENTS

As previously stated, the Regulator has accepted, in part, TasWater's proposal to impose a limitation on the period with regard to which a refund for overcharges may apply.

The proposed code has been amended to insert a new clause 5.7.5 to limit refunds to a period of six years.

Clause 17.4 has also been amended to require a regulated entity to provide information on its family violence policy in its customer charter.

The revised Code, Version 9, will be issued with a 1 July 2025 commencement.