

Queensland



WATER RESOURCES AMENDMENT ACT 1995

Act No. 10 of 1995

Queensland



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MINOR AMENDMENTS

Queensland



Water Resources Amendment Act 1995

Act No. 10 of 1995

An Act to amend the *Water Resources Act 1989* and another Act

[Assented to 5 April 1995]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Water Resources Amendment Act 1995*.

Commencement

2. Amendments 8, 9, 47 to 49 and 72 of the Schedule commence on the day the *Land Act 1994*, section 527 commences.

Act amended

3. This Act (other than section 37) amends the *Water Resources Act 1989*.

Amendment of s 1.4 (Interpretation)

- 4.(1) Section 1.4(1), definitions “**catchment area**”, “**designated area**” and “**Land Administration Commission**”—

omit.

- (2) Section 1.4(1)—

insert—

‘ “**catchment area**” see section 4.2.¹

“**designated area**” see section 7.2.²’.

- (3) Section 1.4(1), definition “**controlled works**”, at the end—

insert—

‘, or works declared under a regulation not to be controlled works’.

¹ Section 4.2 (Control over catchment area)

² Section 7.2 (Constitution of designated area)

Amendment of s 3.20 (Power of Corporation to supply water by agreement)

5.(1) Section 3.20(1)—

omit, insert—

‘3.20(1) This section applies despite section 4.13.³

‘(1A) The Corporation may supply water to a local government or another person (the **“consumer”**), for any purpose, under an agreement with the consumer.

‘(1B) However, the terms of the agreement must—

(a) for a secondary supply agreement—

(i) comply with terms approved by the Governor in Council for secondary supply agreements; or

(ii) be approved under a regulation; or

(b) otherwise—be approved under a regulation.’.

(2) Section 3.20(1A)—

renumber as subsection (1C).

(3) Section 3.20(1C) (as renumbered), words before paragraph (a)—

omit, insert—

‘The agreement may, for example, include the following—’.

(4) Section 3.20—

insert—

‘(5) In this section—

“secondary supply agreement” means an agreement, between the Corporation and a consumer, for the supply of water to the consumer from works owned by—

(a) the Corporation; or

(b) someone else other than the consumer.’.

³ Section 4.13 (Requirements as to licence)

Amendment of s 3.28 (Matters to be set forth in order in council)

6.(1) Section 3.28, heading—

omit, insert—

‘Further matters about the operation of a council or committee’.

(2) Section 3.28(1), words before paragraph (a)—

omit, insert—

‘If the Minister establishes the advisory council or an advisory committee, the Minister must decide in writing—’.

(3) Section 3.28(1)(c), ‘in a case where the Governor in Council’—

omit, insert—

‘if the Minister’.

(4) Section 3.28(1)(e), ‘Governor in Council’—

omit, insert—

‘Minister’.

(5) Section 3.28(2)—

omit.

Replacement of s 4.2 (Declaration re catchment area)

7. Section 4.2—

omit, insert—

‘Control over catchment area

‘4.2(1) For the purpose of preserving water quality, a regulation may—

- (a) declare an area to be a catchment area; and
- (b) authorise the chief executive to control specified use of land in the catchment area, including, for example—
 - (i) the subdivision of land; and
 - (ii) the rezoning of land; and
 - (iii) the disposal of effluent; and

- (iv) another activity that may affect water quality; and
 - (c) prescribe how the chief executive may exercise the control.
- ‘(2) A regulation under this section may—
- (a) provide that the chief executive may delegate the chief executive’s powers under the regulation, in relation to land in a catchment area, to the local government in whose area the land is situated; and
 - (b) make provision about the exercise of a delegated power.’.

Amendment of s 4.13 (Requirements as to licence)

8.(1) Section 4.13(1)(a) to (i), at the end of each paragraph—

insert—

‘or’.

(2) Section 4.13(1)(j)—

omit, insert—

‘(j) keeps or uses, in a designated area, controlled works constructed before the constitution of the designated area;’.

(3) Section 4.13(3)—

omit, insert—

‘(3) An application for a licence for the following works in a designated area must be made within 90 days after the constitution of the designated area, or any longer period decided by the chief executive in a particular case—

- (a) controlled works, specified under a regulation under section 7.2 as acceptable proposed works, being constructed when the designated area is constituted;
- (b) controlled works constructed before the designated area is constituted.’.

(4) After section 4.13(3)—

insert—

‘(3A) If subsection (1)(i) or (j) takes effect in relation to particular

controlled works mentioned in subsection (3), a person who immediately before it took effect was constructing, keeping or using the controlled works may continue to do so—

- (a) for the time allowed by subsection (3) to make an application for a licence; and
- (b) pending a decision on the application and any appeal that may result from the decision.

‘**(3B)** Subsection (3A) stops applying to a person constructing, keeping or using controlled works mentioned in the subsection if the person does not apply for a licence for the works in the time allowed by subsection (3).’.

Amendment of s 4.17 (Application for licence)

9.(1) Section 4.17(1A)—

omit, insert—

‘**(1A)** An applicant for a licence for a referable dam must also pay the fee prescribed under a regulation for an assessment of the application.

‘**(1AA)** The chief executive may require an applicant to give to the chief executive further information, plans and other documents relevant to the application.’.

(2) Section 4.17(2)—

insert—

- ‘(d) a licence for works specified under a regulation under section 7.2 as acceptable existing works;’.

(3) After section 4.17(2)—

insert—

‘**(2AA)** The chief executive is not required to publish the notice if—

- (a) the licence application is for an artesian bore or subartesian bore; and
- (b) the chief executive receives, from each owner of land entitled to object to the granting of the application under subsection (3), a signed statement, in the form approved by the chief executive, that the owner does not object to the granting of the application.’.

(4) Section 4.17(3A)(a) and (b)—*omit, insert—*

- ‘(a) if the application is about works constructed or to be constructed in or on a watercourse or spring—
 - (i) the land is situated so that—
 - (A) the nearest part of the land upstream of the applicant’s land or the land to which the application relates (the **“affected land”**) is within a radius of 8 km of the affected land; or
 - (B) the nearest part of the land downstream of the affected land is within a radius of 24 km of the affected land; and
 - (ii) if the land does not abut the watercourse or spring—the owner of the land holds a licence granted on an application under section 4.14; or
- (b) if the application is about works constructed or to be constructed on a lake—
 - (i) the nearest part of the land to the applicant’s land or the land to which the application relates (the **“affected land”**) is within a radius of 8 km of the affected land; and
 - (ii) if the land does not abut the lake—the owner of the land holds a licence granted on an application under section 4.14; or’.

(5) Section 4.17(3A)(c) and (d), ‘where the application relates to’—*omit, insert—*

‘if the application is about’.

Amendment of s 4.19 (Licences)**10.(1)** Section 4.19(1)(a)—*omit, insert—*

- ‘(a) is subject to the terms decided by the chief executive and endorsed on, or attached to, the licence, including, for example,

payment of any fee, charge or other amount the licensee is required to pay under this Act; and’.

(2) Section 4.19(1)(b)(vi), ‘or works declared by the chief executive under section 5.2 to be a referable dam’—

omit.

Replacement of s 4.22 (Transfer of licence)

11. Section 4.22—

omit, insert—

‘Transferring licences

‘4.22(1) On application, the chief executive may transfer a licence from an existing holder to someone else to take into account a change in ownership of land to which the licence relates.

‘(2) The application must be in a form approved by the chief executive.

‘(3) The application must be accompanied by the fee that may be prescribed under a regulation.

‘(4) The chief executive may amend the terms of a licence for the purpose of its transfer.’.

Amendment of s 4.24 (Effect of disposal of subdivided land)

12.(1) Section 4.24(1)—

omit, insert—

‘4.24(1) This section applies if—

- (a) a licence, authorising water to be taken, is in force for land; and
- (b) the land is subdivided, whether before or after the issue of the licence; and
- (c) a separate parcel of land comprising the subdivision is disposed of while the licence is in force.

‘(1A) On the disposal, the licence ceases to exist and section 4.25(3) and (5) apply as if the licence had been cancelled or revoked under that section.’.

(2) Section 4.24(2), ‘Notwithstanding subsection (1), where’—
omit, insert—
‘However, if’.

Amendment of s 4.25 (Amendment, variation, cancellation, revocation or suspension of licence)

13. Section 4.25(1)(c)—
insert—

‘(iii) has not complied with a requirement made by the chief executive, under this Act, about the works the subject of the licence;’.

Amendment of s 4.26 (Appeal to Land Court)

14.(1) After section 4.26(1)—
insert—

‘(1A) A person aggrieved by a sale proposal published under section 4A.10 may lodge an appeal with the Land Court about the sale proposal within 30 days after the day the sale proposal is last published.’.

(2) Section 4.26(2)(a), ‘(a), (b) or (c)’—
omit, insert—

‘(a) to (d)’.

(3) After section 4.26(2)(a)—
insert—

‘(aa) an application for a licence for works specified under a regulation under section 7.2 as acceptable proposed works;’.

Amendment of s 4.34 (Procedure before dealing with controlled quarry material on Crown holding)

15. Section 4.34(3B)—
omit, insert—

‘**(3B)** Subsections (3) and (3A) do not apply if the controlled quarry material is required—

- (a) for the construction or altering of roads, by or for—
 - (i) a local government; or
 - (ii) the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) by or for Queensland Railways for the construction or maintenance of a railway or other transportation system.’.

Amendment of s 4.52 (Appeals)

16. Section 4.52(5)—

omit, insert—

‘**(5)** An appeal is started by—

- (a) filing with the clerk of the court a written notice of the appeal within 30 days after being notified by the chief executive of the decision; and
- (b) giving a copy of the notice to the chief executive within 14 days after the filing.’.

Insertion of new Pt 4A

17. After Part 4—

insert—

‘PART 4A—SALE OF WATER ENTITLEMENTS

‘Purpose of this Part

‘**4A.1** The purpose of this Part is to allow recovery of costs incurred by the State in providing works by enabling the chief executive to sell, to owners of land, entitlements to be issued licences for nominal allocations of water provided by the works.

‘Definitions

‘4A.2 In this Part—

“entitlement” means an entitlement to be issued a licence under this Part to take and use a nominal allocation for land specified in a sale proposal.

“entitlement information”, for the sale of entitlements, means information specifying—

- (a) the quantity of water available for sale; and
- (b) the land whose owners will be entitled to purchase the entitlements; and
- (c) the way the entitlements will be sold, including how the purchaser and the price will be decided; and
- (d) the terms that may be included in a potential licence, including, for example—
 - (i) conditions about the subsequent sale of some or all of the entitlements of the licence holder; and
 - (ii) fees or charges that may be imposed in relation to the licence; and
 - (iii) terms mentioned in section 4.19(1);⁴ and
- (e) any other condition of the entitlement.

“notice of intention to sell” see section 4A.3(1).

“potential licence” means a licence that might be issued within the terms of a notice of intention to sell.

“sale proposal” means a sale proposal under section 4A.10.

‘Chief executive may publish notice

‘4A.3(1) The chief executive may publish a notice (a **“notice of intention to sell”**) stating that the chief executive proposes to sell entitlements to the owners of specified land.

‘(2) The chief executive may only publish a notice of intention to sell

⁴ Section 4.19 (Licences)

with the Governor in Council's approval.

‘(3) A notice of intention to sell must—

- (a) state that the chief executive proposes selling entitlements in relation to land; and
- (b) include the entitlement information about the proposal or state where a copy of the information may be inspected; and
- (c) invite persons to give objections to the chief executive within 60 days after publication.

‘Where notice must be published

‘4A.4 A notice of intention to sell must be published in a newspaper circulating in every place where there is situated land—

- (a) specified in the entitlement information; or
- (b) whose owners the chief executive reasonably considers are eligible to give objections to the chief executive about the notice of intention to sell.

‘Inquiry before publication of notice of intention to sell

‘4A.5(1) Before publishing a notice of intention to sell, the chief executive must cause to be made the type of inquiry that the chief executive would have to cause to be made under section 4.18⁵ if an application were made under section 4.17⁶ for the issue of any potential licence.

‘(2) In a notice of intention to sell, the chief executive may only make provision for the sale of an entitlement relating to land within an irrigation area if the chief executive reasonably considers there is enough water available for the entitlement after taking into account water that is to be supplied to the holders of licences under section 8.13.⁷

⁵ Section 4.18 (Inquiry by chief executive and grant or refusal of application)

⁶ Section 4.17 (Application for licence)

⁷ Section 8.13 (Licence for water allocation for land)

‘Persons who are eligible to give objections

‘4A.6 The following persons may give an objection to the chief executive about a notice of intention to sell—

- (a) a person who would be entitled to object under section 4.17(3) to an application for any potential licence if section 4A.12 did not prevent the objection;
- (b) a person who, by paying any charge, levy or another amount under this Act, contributes to the cost of the works that will provide the nominal allocations for a potential licence;
- (c) a person who is the owner of land that is not included in the land specified in the notice of intention to sell who objects to the fact that it has not been included.

‘Chief executive must inquire into objections

‘4A.7(1) For each objection received under section 4A.6(a) or (b), the chief executive must cause inquiry to be made into the relative advantages and disadvantages arising from the issue of the potential licences having regard to its effect on the interests of the objector.

‘(2) For an objection under section 4A.6(c), unless the chief executive considers that the inquiry made under section 4A.5 dealt with the issues raised in the objection, the chief executive must cause the inquiry mentioned in section 4A.5 to be extended sufficiently to deal with the issues raised in the objection.

‘Chief executive may amend notice of intention to sell

‘4A.8(1) The chief executive may amend a notice of intention to sell, by notice published—

- (a) in every newspaper in which the notice of intention to sell was published; and
- (b) in every other newspaper in which publication of the notice of intention to sell would have been published were the amendment made before the publication.

‘(2) The notice must—

- (a) state the terms of the amendment or state where a copy of the amendment may be inspected; and
- (b) invite persons to give objections about the amendment to the chief executive within 60 days after publication.

‘(3) An amendment may take the form of an interim notice of intention to sell that indicates how the notice of intention to sell has been amended.

‘(4) An amendment may be made in response to an objection under section 4A.9 or for another reason.

‘(5) An amendment may only be made with the Governor in Council’s approval.

‘(6) The chief executive may amend a notice of intention to sell without publishing it under subsection (1) if—

- (a) the substantial effect of the amendment is to reduce the total amount of land specified in the notice or the total amount of water available for potential licences; or
- (b) the chief executive reasonably considers that the amendment will not substantially adversely affect the rights of a person who would be entitled to object if the amendment were published.

‘Objections to amendment

‘**4A.9(1)** The following persons may give an objection to the chief executive about an amendment of a notice of intention to sell—

- (a) a person who was not entitled to object to the notice of intention to sell when it was published under section 4A.3 but who would have been entitled to object if the amendment had been made before then;
- (b) a person—
 - (i) who was entitled to object to the notice of intention to sell when it was published under section 4A.3; and
 - (ii) who has been adversely affected by the amendment.

‘(2) Section 4A.7,⁸ with all necessary changes, applies to an objection to an amendment.

‘Steps to be taken after inquiry

‘**4A.10(1)** After—

- (a) complying with the procedure under sections 4A.3 to 4A.9; and
- (b) deciding any further change to the entitlement information the chief executive reasonably considers appropriate arising out of the inquiry under 4A.9(2);

the chief executive may publish a notice (the “**sale proposal**”) advertising the proposed sale of the entitlements.

‘(2) To remove doubt, it is declared that section 4A.8 does not apply to a change under subsection (1)(b).

‘(3) The chief executive may only publish the sale proposal with the Governor in Council’s approval.

‘(4) The sale proposal must include the entitlement information.

‘(5) The sale proposal must be published in a newspaper circulating in every place where land specified in the entitlement information is situated.

‘Chief executive may sell entitlements after notice is published

‘**4A.11** The chief executive may only sell entitlements—

- (a) as stated in the sale proposal to which the entitlements relate; and
- (b) more than 30 days after the day the sale proposal was last published; and
- (c) as prescribed under a regulation.

‘Issue of licence on sale of entitlement

‘**4A.12(1)** On the sale of an entitlement, the chief executive may, without further procedure, issue a licence as required under the terms of the sale.

⁸ Section 4A.7 (Chief executive must inquire into objections)

‘(2) A licence cannot be issued under subsection (1) to a person not entitled to purchase the entitlement to be issued with the licence under the terms of the relevant sale proposal.

‘(3) The following sections do not apply to the issue of the licence under subsection (1)—

- section 4.17 (Application for licence)
- section 4.18 (Inquiry by chief executive and grant or refusal of application)
- section 4.26 (Appeal to Land Court).’.

Amendment of s 5.3 (Requirements by chief executive as to referable dam)

18.(1) Section 5.3(a), ‘constructed or to be constructed’—

omit.

(2) Section 5.3—

insert—

‘(2) The chief executive may also require the owner of a referable dam to give to the chief executive information, plans and other documents about the dam.

‘(3) The owner of a referable dam must pay the fee prescribed under a regulation for—

- (a) a periodical inspection of the dam by the chief executive; or
- (b) an assessment of documents about the dam given to the chief executive; or
- (c) another activity performed by the chief executive under this section in relation to the dam.

‘(4) The owner of a referable dam must comply with a requirement under this section unless the owner has a reasonable excuse for not complying with it.

Maximum penalty for subsection (4)—200 penalty units’.

Amendment of s 7.2 (Constitution of designated area)

19.(1) Section 7.2, ‘the Governor in Council, by order in council’—

omit, insert—

‘a regulation’.

(2) Section 7.2—

insert—

‘**(2)** A regulation may be made under subsection (1) only to give effect to a proposal recommended under section 7.3.

‘**(3)** The regulation must specify the details of the proposal to which it gives effect.’.

Replacement of s 7.3 (Procedure prior to constitution of designated area)

20. Section 7.3—

omit, insert—

‘Procedure before making regulation about designated area

7.3(1) This section specifies the procedure for making a recommendation about a proposal before a regulation may be made, under section 7.2, to give effect to the proposal.

‘**(2)** The chief executive must publish a notice about the proposal in the Gazette and in a newspaper circulating in the part of Queensland the subject of the proposal (the “**relevant land**”).

‘**(3)** The notice—

- (a) must describe the proposal; and
- (b) must describe the relevant land; and
- (c) must include a map or plan of the relevant land, or specify where a map or plan may be inspected; and
- (d) for a proposal to constitute a designated area—must specify the purposes for which the area is proposed to be constituted; and
- (e) for a proposal to constitute a designated area or alter the

boundaries of a designated area—may specify acceptable existing works or acceptable proposed works for the area or any land included in the area by the alteration; and

- (f) must state that objections may be given to the chief executive about the proposal; and
- (g) must specify—
 - (i) the persons eligible to object to the proposal; and
 - (ii) the date and time by which the objections must be given; and
 - (iii) the address for giving the objections.

‘(4) The date specified as the date by which the objections must be given must not be less than 60 days after the first publication of the notice in the Gazette.

‘(5) The following persons are eligible to object to a proposal—

- (a) a person who—
 - (i) owns, occupies or claims a right or interest in the relevant land or other land specified in the notice for the purpose; and
 - (ii) considers the person’s rights or interests will or may be affected by the proposal;
- (b) an entity that—
 - (i) represents a community, whether or not the community lives in the designated area or proposed designated area; and
 - (ii) considers the rights or interests of the persons in the community will or may be affected by the proposal.

‘(6) The chief executive may—

- (a) carry out any investigation the chief executive considers necessary into an objection given to the chief executive; and
- (b) make a written recommendation to the Minister about the regulation the Governor in Council may consider making under section 7.2.

‘(7) The recommendation may contain a proposal (a “**modified proposal**”) that is different to the proposal notified under subsection (2) (the “**original proposal**”).

‘(8) However, before making a recommendation to the Minister that contains a modified proposal, the chief executive must publish another notification (the “**later notification**”), in the Gazette and in a newspaper circulating in the relevant locality, specifying—

- (a) the differences between the original proposal and the modified proposal; and
- (b) the date and time, not earlier than 14 days after publication of the later notification, by which objections to the modified proposal, about the matters that are different, may be given to the chief executive.

‘(9) The chief executive may carry out any investigation the chief executive considers necessary into an objection about the modified proposal given to the chief executive.

‘(10) In this section—

“**acceptable existing works**” means works that—

- (a) would be controlled works if they were in a designated area; and
- (b) would not have an unacceptable hydraulic impact if the place where the works are situated were flooded.

“**acceptable proposed works**” means proposed works that—

- (a) are proposed to be constructed by a day specified in the proposal; and
- (b) would be controlled works, when constructed, if the proposed worksite were in a designated area; and
- (c) would not have an unacceptable hydraulic impact if the proposed worksite were flooded after the works were constructed.

“**proposed worksite**”, for acceptable proposed works, means the site where it is proposed the works will be constructed.

“**unacceptable hydraulic impact**” of works means the impact the works have on floodwater if persons other than the owner of the works are disadvantaged, to an extent the chief executive considers unacceptable, because of—

- (a) damage to their property; or

- (b) reduction of beneficial flooding; or
- (c) another reason.’.

Replacement of s 8.3 (Approval of proposal by Governor in Council)

21. Section 8.3—

omit, insert—

‘Minister to provide report to Governor in Council

‘8.3 The Minister may submit to the Governor in Council—

- (a) the report; and
- (b) recommendations about the undertaking.’.

Replacement of s 8.4 (Establishment of irrigation undertaking)

22. Section 8.4—

omit, insert—

‘Establishing the irrigation undertaking

‘8.4 On receiving the report and recommendations, the Governor in Council must consider the report and recommendations and take the following action as the Governor in Council considers appropriate—

- (a) make a regulation establishing the undertaking on terms—
 - (i) that are set out in the recommendations; or
 - (ii) that vary from the terms set out in recommendations;
- (b) decline to make a regulation.’.

Omission of s 8.11 (Determination of holding)

23. Section 8.11—

omit.

Replacement of s 8.12 (Grant of water allocation to holding)

24. Section 8.12—

omit, insert—

‘Grant of water allocation

‘8.12(1) The chief executive may grant a nominal allocation for specified land within an irrigation area on a basis decided by the chief executive.

‘(2) The chief executive may amend or revoke a nominal allocation granted for specified land within an irrigation area.

‘(3) The chief executive may also, for specified land granted a nominal allocation, decide an announced allocation.

‘(4) The chief executive may amend or revoke an announced allocation.’.

Amendment of s 8.13 (Licence in respect of water allocation for holding

25.(1) Section 8.13, heading—

omit, insert—

‘Licence for water allocation for land’.

(2) Section 8.13(1) and (2)—

omit, insert—

‘8.13(1) If the chief executive grants a nominal allocation for specified land under section 8.12, the chief executive must grant and issue a licence to the owner of the land without application.

‘(2) The licence must specify the particulars the chief executive decides, including particulars of—

- (a) the land for which the licence is issued; and
- (b) the nominal allocation granted for the land.’.

(3) Section 8.13(3)(a)—

omit, insert—

- ‘(a) section 4.19(1)(a), (b)(vii) and (viii), (d) to (g), (2) and (3);’.

Replacement of s 8.15 (Power of chief executive with respect to nominal allocation upon subdivision of holding)

26. Section 8.15—

omit, insert—

‘Chief executive’s power if nominal allocation land is subdivided

‘8.15(1) This section applies if—

- (a) a nominal allocation has been decided for land that is subdivided before the nominal allocation is granted; or
- (b) land for which a nominal allocation has been granted is subdivided after the grant.

‘(2) The chief executive may—

- (a) with or without the construction of any further works of supply, decide a nominal allocation for each part of the land subdivided; and
- (b) make and levy charges towards the costs of the supply of water to each part of the land subdivided.’.

Amendment of s 9.1 (Constitution of area)

27.(1) Section 9.1, heading—

omit, insert—

‘Constitution of area and board’.

(2) Section 9.1(1), ‘order in council’—

omit, insert—

‘regulation’.

(3) Section 9.1—

insert—

‘(1A) A board constituted under this section—

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and

- (c) may sue and be sued in its corporate name; and
- (d) is an exempt public authority under the Corporations Law.

(1B) A board has all the powers of an individual and may, for example—

- (a) enter into contracts; and
- (b) acquire, hold, deal with and dispose of property.

(1C) Without limiting subsection (1B), a board has the powers given to it under this Act.

(1D) The chairperson of a board must have custody of the board's common seal.

(1E) The chairperson, or another person authorised by a board, may affix the common seal.

(1F) Judicial notice must be taken of the imprint of the common seal appearing on a document and the document must be presumed to have been properly sealed until the contrary is established.'

(4) Section 9.1(2), words before paragraph (a)—

omit, insert—

'For a purpose specified in subsection (1), a regulation may—'.

(5) Section 9.1(2)(a) to (e), at the end of each paragraph—

insert—

'or'.

(6) Section 9.1(2)(f), 'an order in council made under subsection (1)'—

omit, insert—

'a regulation made under this section'.

(7) Section 9.1—

insert—

(3) To remove any doubt it is declared that—

- (a) 2 or more non-contiguous parcels of land may be constituted as a single area; and

- (b) a proposal effected by a regulation under this section may involve acquiring or constructing works in or out of the area.

‘(4) A regulation may be made under this section only to give effect to a proposal recommended under section 9.3.

‘(5) The regulation must specify the details of the proposal to which the regulation gives effect.’.

Amendment of s 9.3 (Procedure prior to submission of proposals for making of order in council under s 9.1)

28.(1) Section 9.3, heading—

omit, insert—

‘Procedure before making regulation’.

(2) Section 9.3(1)—

omit, insert—

‘**9.3(1)** This section specifies the procedure for making a recommendation about a proposal before a regulation may be made, under section 9.1, to give effect to the proposal.

‘**(1A)** The chief executive must publish a notice, in the Gazette and in a newspaper circulating in the relevant locality, about the proposal.’.

(3) Section 9.3(2), words before paragraph (a)—

omit, insert—

‘The notice must—’.

(4) Section 9.3(3) to (6)—

omit, insert—

‘**(3)** The chief executive may—

- (a) carry out any investigation the chief executive considers necessary into an objection given to the chief executive; and
- (b) make a written recommendation to the Minister about the regulation the Governor in Council may consider making under section 9.1.

‘(4) The recommendation may contain a proposal (the “**modified proposal**”) that is different to the proposal notified under subsection (1A) (the “**original proposal**”).

‘(5) However, before making a recommendation to the Minister that contains a modified proposal, the chief executive must publish another notification (the “**later notification**”) specifying—

- (a) the differences between the original proposal and the modified proposal; and
- (b) the date and time, not earlier than 14 days after publication of the later notification, by which objections to the modified proposal, about the matters that are different, may be given to the chief executive.

‘(6) The chief executive may carry out any investigation the chief executive considers necessary into an objection about the modified proposal given to the chief executive.’.

Replacement of s 9.4 (Constitution)

29. Section 9.4—

omit, insert—

‘Membership of boards

‘**9.4** A board may consist of—

- (a) a local government appointed under section 9.4B; or
- (b) persons appointed under section 9.4B; or
- (c) persons elected under section 9.4C; or
- (d) persons appointed under section 9.4B and persons elected under section 9.4C.

‘Term of office

‘**9.4A(1)** A regulation may provide for the term of office of members of a board, in any case of not more than 3 years.

‘(2) The Governor in Council may specify the term of office of a

member appointed under section 9.4B.

‘(3) The term of office specified in a member’s appointment may be different to the terms of the other members of the board.

Example—

A person appointed to fill a vacancy in a board may be appointed for a shorter term of office than the other board members, so that the terms of all board members end at the same time.

‘Appointment of board members

‘9.4B(1) In this section—

“**elected persons**”, for a board, are persons elected under section 9.4C as members of the board.

“**suitable persons**”, for a board, are persons who the Governor in Council considers are able to effectively perform the functions of members of the board.

‘(2) The Governor in Council may appoint as the member or members of a board—

- (a) a local government; or
- (b) suitable persons, whether or not other persons on the board are or will be elected persons.

‘Election of board members

‘9.4C(1) A regulation may provide that all, or some, of the members of a board are to be elected.

‘(2) A regulation may provide for the election and may, for example, provide for the creation of electoral divisions within an area for the election of members in the area.

‘(3) The members of the board must be elected under the regulation.

‘Persons qualified to be elected

‘9.4D(1) A person is qualified to be elected to a board of an area only if the person—

- (a) is an owner, part owner or occupier of land in the area; or
- (b) lives in the area.

‘(2) For this section, if the person qualified to be elected is a body corporate, an individual nominated by the body corporate is the person qualified to be elected.

‘Amalgamation of boards

‘9.4E(1) In this section—

“**new board**” means a board that is constituted or has its jurisdiction extended under subsection (2).

“**old board**” means a board dissolved under subsection (3).

‘(2) If the Governor in Council amalgamates 2 or more areas into a single area, the Governor in Council may—

- (a) constitute a new board for the amalgamated area; or
- (b) extend the jurisdiction of a board in 1 of the areas to be amalgamated to cover the amalgamated area.

‘(3) Any board constituted for each of the areas being amalgamated (other than a board that has its jurisdiction extended) is dissolved.

‘(4) On the dissolution of an old board—

- (a) all its property and liabilities become the property and liabilities of the new board; and
- (b) the new board is substituted for the old board in all contracts to which the old board is a party; and
- (c) the new board is substituted as a party for the old board in all pending and existing proceedings to which the old board is a party.’.

Amendment of s 9.12 (General powers, authorities, functions and duties)

30.(1) Section 9.12(3)(a), ‘or land within its area and therein, thereon or thereunder’—

omit, insert—

‘, land within its area or other relevant land and’.

(2) Section 9.12(3)(b), ‘or land within its area’—

omit, insert—

‘, land within its area or other relevant land’.

(3) Section 9.12(3)(d), ‘upon land within its area’—

omit, insert—

‘land within its area or other relevant land’.

(4) Section 9.12—

insert—

‘(7) In this section—

“other relevant land”, for a board, means land or a road outside its area—

(a) on which it is authorised to construct works; or

(b) that it is necessary for the board to enter—

(i) to construct the works it is authorised to construct; or

(ii) in connection with the construction.’.

Amendment of s 9.19 (Supply of water to local government or corporation)

31. Section 9.19(1), ‘Governor in Council first had and obtained’—

omit, insert—

‘Minister’.

Amendment of s 9.22 (Interference with works of local government)

32.(1) Section 9.22(3A), ‘Governor in Council’—

omit, insert—

‘Minister’.

(2) Section 9.22(3A), ‘Governor in Council’s determination’—

omit, insert—

‘arbitrator’s decision’.

Amendment of s 9.61 (Prohibition on voting by member having pecuniary interest)

33. Section 9.61(2), from ‘The Governor’ to ‘exempt’—

omit, insert—

‘If the Minister is satisfied that the business of a board cannot otherwise be effectively carried on, the Minister may by written notice exempt’.

Amendment of s 10.13 (Water charges)

34.(1) Section 10.13(2)(a) and (3)(b)(iii)(C), ‘Minister’—

omit, insert—

‘chief executive’.

(2) Section 10.13(2)(b)—

omit, insert—

‘(b) may be made and levied by giving written notice to the nominal allocation’s licensee;’.

(3) Section 10.13(2)(e)—

omit, insert—

‘(e) is subject to interest at the rate prescribed under a regulation.’.

(4) Section 10.13(3)(b)(iii) and (6)(c), ‘determined in accordance with’—

omit, insert—

‘prescribed under’.

Insertion of new s 10.17A

35. After section 10.17—

insert—

‘Person may sell right to nominal allocation

‘10.17A(1) In this section—

‘Part 4A entitlement’ means an entitlement within the meaning of Part 4A to be issued with a licence for a nominal allocation.

‘(2) A person who—

- (a) purchases a Part 4A entitlement but who has not been issued with a licence under the entitlement; or
- (b) has been issued with a licence after purchasing a Part 4A entitlement;

may sell all or some of the person’s rights to a nominal allocation under the licence to another person who was eligible under the relevant sale proposal to purchase the Part 4A entitlement.

‘(3) A regulation may provide for the sale by a person of the person’s right to a nominal allocation under a licence issued under Part 4 or 8.

‘(4) The regulation may also provide for the conditions that are to apply to the sale.

‘(5) A sale under this section is subject to the issue of, or amendment of, a licence or licences by the chief executive to give effect to the sale and to conditions that the chief executive may impose on a licence issued or amended.’.

Amendment of s 10.22 (Appeal to Minister)

36. Section 10.22(1)(c) and (d)—

omit, insert—

‘(c) a decision under section 8.12(1) or (2);’.

Amendment of Land Act 1994

37.(1) This section amends the *Land Act 1994*.

(2) Schedule 5, amendment 2 of the *Water Resources Act 1989*, ‘the publication of an order in council’—

omit, insert—

‘a regulation is made’.

(3) Schedule 5, amendment 2 of the *Water Resources Act 1989*, ‘the order’—

omit, insert—

‘the regulation’.

SCHEDULE

MINOR AMENDMENTS

section 3 of the Act

1. Section 1.4(1), definition “holding”—

omit.

2. Section 1.4(1), definition “lake”—

omit, insert—

‘**“lake”** includes—

- (a) a lagoon, swamp, marsh or other natural collection of water, whether permanent or intermittent; and
- (b) in a provision about the exercise of the right to the use, flow and control of water or the control of quarry material—
 - (i) the bed and banks; and
 - (ii) the elements that confine or contain the water.’.

3. Section 1.4(1), definition “subdivision”, ‘Local Government Act 1936’—

omit, insert—

‘*Local Government (Planning and Environment) Act 1990*’.

4. Section 2.2(a), ‘Queensland Railways, the Brisbane City Council or a local government or by’—

omit.

SCHEDULE (continued)

5. Part 3, Division 1, before section 3.8—

insert—

‘Delegation by Minister

‘**3.1** The Minister may delegate to an officer or employee of the public service the Minister’s powers under this Act.’

6. Section 3.10—

omit.

7. Section 3.11(3)(f), ‘Clean Waters Act 1971’—

omit, insert—

‘*Environmental Protection Act 1994*’.

8. Section 3.17(1)(b), ‘Land Act 1962 or the Irrigation Areas (Land Settlement) Act 1962’—

omit, insert—

‘*Land Act 1994*’.

9. Section 3.17(5), ‘, subject to and in accordance with the *Land Act 1962* or, as the case may be, the *Irrigation Areas (Land Settlement) Act 1962*’—

omit, insert—

‘*the Land Act 1994*’.

10. Section 3.26(1), ‘The Governor in Council, by order in council,’—

omit, insert—

‘The Minister’.

SCHEDULE (continued)

11. Section 3.26(2)(b) and (3)(a)(ii), ‘in the order in council’—

omit, insert—

‘by the Minister when’.

12. Section 3.27, ‘Governor in Council’—

omit, insert—

‘Minister’.

13. Section 4.1, ‘order in council’—

omit, insert—

‘regulation’.

14. Section 4.1, ‘that order’—

omit, insert—

‘the regulation’.

15. Section 4.6—

omit, insert—

‘Operation of Act about subartesian bores

‘**4.6** The provisions of this Act about subartesian bores only apply to localities declared under a regulation.’.

16. Section 4.7(1), ‘Except where the Governor in Council by order in council’—

omit, insert—

‘Unless a regulation’.

SCHEDULE (continued)

17. Section 4.7(1), ‘declared by order in council’—*omit, insert—*

‘declared by regulation’.

18. Section 4.7(2), ‘an order in council’—*omit, insert—*

‘a regulation’.

19. Section 4.13(1)(h), ‘an order in council’—*omit, insert—*

‘a regulation’.

20. Section 4.39(1)(a), ‘in the Gazette and’—*omit.***21. Section 4.39(1), ‘order in council’—***omit, insert—*

‘regulation’.

22. Section 6.6—*omit, insert—***‘Approval of agreement**

‘**6.6(1)** An agreement under this Part has effect only if it is approved by regulation.

‘**(2)** A regulation approving an agreement must—

(a) include a copy of the agreement; or

SCHEDULE (continued)

- (b) provide for the agreement to be made available for inspection at a specified place by anyone, free of charge, during office hours.’.

23. Section 6.7, heading, ‘approval of Governor in Council’—

omit, insert—

‘agreement’.

24. Section 6.7(1)—

omit.

25. Section 6.7(2), ‘subsection’—

omit, insert—

‘section’.

26. Section 6.8(1), ‘the publication in the Gazette of an order in council’—

omit, insert—

‘a regulation is made’.

27. Section 6.8(1), ‘that order’—

omit, insert—

‘the regulation’.

28. Section 6.8(2) and (3)(b)(ii), ‘order in council’—

omit, insert—

‘regulation’.

SCHEDULE (continued)

29. Section 8.1, ‘by the Governor in Council by order in council’—*omit, insert—*

‘under a regulation’.

30. Section 8.6, ‘The Governor in Council, by order in council,’—*omit, insert—*

‘A regulation’.

31. Section 8.8(1), ‘approval of the Governor in Council first had and obtained (in respect whereof the Governor in Council is hereby empowered)’—*omit, insert—*

‘prior approval of the Governor in Council’.

32. Section 8.8(1), ‘Regulation of Sugar Cane Prices Act 1962’—*omit, insert—*‘*Sugar Industry Act 1991*’.**33. Section 8.10(1), ‘that comprises a holding’—***omit, insert—*

‘for which a nominal allocation has been granted’.

34. Section 8.10(5A), ‘a holding to’—*omit, insert—*

‘land for’.

SCHEDULE (continued)

35. Section 8.10(5A), ‘the holding’—

omit, insert—

‘the land’.

36. Section 8.10(7), ‘Local Government Act 1936’—

omit, insert—

‘Local Government (Planning and Environment) Act 1990’.

37. Section 8.14(1)—

omit, insert—

‘**8.14(1)** Subject to section 10.16, the owner of land for which a nominal allocation has been granted may surrender the nominal allocation, or a part of the nominal allocation, by giving written notice to the chief executive.’.

38. Section 9.5, ‘The Governor in Council, by order in council’—

omit, insert—

‘A regulation’.

39. Section 9.11(1) and (2), ‘by order in council’—

omit.

40. Section 9.12(2), ‘order in council’—

omit, insert—

‘regulation’.

SCHEDULE (continued)

41. Section 9.23(4), ‘by order in council’—*omit, insert—*

‘under a regulation’.

42. Section 9.40(1)(aa), ‘authorities’—*omit, insert—*

‘governments’.

43. Section 9.42(1), from ‘in a case’ to ‘empowered’—*omit, insert—*

‘if it is authorised to do so under a regulation,’.

44. Section 9.42(2)(b), ‘Regulation of Sugar Cane Prices Act 1962’—*omit, insert—*‘*Sugar Industry Act 1991*’.**45. Section 9.42(6), ‘determined by the Governor in Council by the order in council’—***omit, insert—*

‘specified in the regulation’.

46. Section 9.50(1)(e)—*omit, insert—*

‘(e) land declared to be exempted under a regulation.’.

SCHEDULE (continued)

47. Section 9.53, heading, ‘holding’—

omit, insert—

‘lease’.

48. Section 9.53(1), ‘that holding’—

omit, insert—

‘the lease’.

49. Section 9.53(2), ‘or holder’—

omit.

50. Section 9.57(1), ‘Governor in Council’—

omit, insert—

‘Minister’.

51. Section 9.58(2), ‘Governor in Council’—

omit, insert—

‘Minister’.

52. Section 9.62, ‘for the time being declared by the order in council constituting the board’—

omit.

53. Section 9.75(3C), from ‘approve the agreement’—

omit, insert—

‘by regulation approve the agreement and incorporate a copy of the agreement in the regulation.’.

SCHEDULE (continued)

54. Section 9.76, heading, ‘Governor in Council may appoint’—

omit, insert—

‘Appointment of’.

55. Section 9.76, ‘the Governor in Council by order in council’—

omit, insert—

‘a regulation’.

56. Section 9.76, ‘the order in council’—

omit, insert—

‘the regulation’.

57. Section 9.79(1)(a), ‘order in council’—

omit, insert—

‘regulation’.

58. Section 9.82(2)—

omit, insert—

‘(2) A board must not fix a fee for a purpose that is more than a maximum amount that may be prescribed under a regulation for the purpose.’.

59. Section 10.1—

omit.

SCHEDULE (continued)

60. Section 10.14(2)(c), ‘Minister’—

omit, insert—

‘chief executive’.

61. Section 10.14(2)(d), ‘1 month’—

omit, insert—

‘30 days’.

62. Section 10.16(1), ‘a holding or other’—

omit.

63. Section 10.16(1), ‘holding or other’—

omit.

64. Section 10.16(2)—

omit, insert—

‘(2) Despite subsection (1), the chief executive may make and levy a charge on the owner of land, other than land for which a nominal allocation has been granted, only if the Governor in Council has declared the headworks that supply water to, or otherwise benefit, the land to be subject to this section.’.

65. Section 10.17(1), ‘a holding or other’—

omit.

66. Section 10.17(1), ‘another holding or another piece or parcel of’—

omit, insert—

‘other’.

SCHEDULE (continued)

67. Section 10.17(2), ‘a holding or other’—

omit.

68. Section 10.17(2)(b) and (5)(a), ‘holding or’—

omit.

69. Section 10.17(6), ‘of the holdings or other land in question’—

omit.

70. Section 10.17(8), ‘holding or other’—

omit.

71. Section 10.18(4B), after ‘conferred’—

insert—

‘on’.

72. Section 10.21(1)(e)—

omit, insert—

‘(e) the chief executive of the department administering the *Land Act 1994* or a person authorised by that chief executive.’.

73. Section 10.21(5)—

omit, insert—

‘(5) After considering the recommendations, the Minister may approve the proposed diversion or reclamation.’.

SCHEDULE (continued)

74. Section 10.21(6), words before paragraph (a)—

omit, insert—

‘If the Minister approves the proposed diversion or reclamation, the Minister may authorise—’.

75. Section 10.21(6), ‘subsequent order in council’—

omit, insert—

‘subsequent authorisation’.

76. Section 10.21(6), ‘Governor in council considers’—

omit, insert—

‘Minister considers’.

77. Section 10.21(7), ‘by an order in council’—

omit.

78. Section 10.22(4), ‘the constitution of the holding in question and’—

omit.

79. Section 10.30(1), ‘section 121 of the *Real Property Act 1861*’—

omit, insert—

‘section 35 of the *Land Title Act 1994*’.

80. Section 10.36—

omit.

SCHEDULE (continued)

81. After section 10.37—

insert—

‘Transitional provision about the Lower Balonne Advisory Committee

‘**10.38(1)** The *Water Resources (Lower Balonne Advisory Committee) Regulation 1992* (the “**repealed regulation**”) is repealed.

‘**(2)** The Lower Balonne Advisory Committee is taken to have been established by the Minister under section 3.26.⁹

‘**(3)** Anything stated in the repealed regulation is taken to have been decided by the Minister under section 3.28¹⁰ and, for that purpose, section 5 of the repealed regulation is taken to provide that each member is to be appointed by the Minister.

‘Transitional provision on repeal of s 10.1

‘**10.39(1)** Despite the repeal of section 10.1 by the *Water Resources Amendment Act 1995*, the section continues to apply to an instrument made under this Act, before the repeal, as if the section had not been repealed.

‘**(2)** Subsection (1) applies to an instrument for so long as the instrument remains in force, even if it is amended.

‘Numbering and renumbering of Act

‘**10.40** In the next reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

82. Schedule 2, item 14, ‘holdings’—

omit, insert—

‘land for which a nominal allocation has been granted’.

⁹ Section 3.26 (Establishment and functions)

¹⁰ Section 3.28 (Further matters about the operation of a council or committee)

