

Queensland



**NATURAL RESOURCES
LEGISLATION
AMENDMENT ACT 1996**

Act No. 68 of 1996

Queensland



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TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	4
PART 2—AMENDMENT OF RIVER IMPROVEMENT TRUST ACT 1940		
2	Act amended	4
3	Amendment of s 3 (Constitution of the Burdekin River Improvement Area)	4
PART 3—AMENDMENT OF WATER RESOURCES ACT 1989		
4	Act amended	6
5	Amendment of long title	6
6	Amendment of s 2 (Interpretation)	7
7	Insertion of new ss 6A–6D	7
	6A Appointment of authorised officers	7
	6B Limitation of authorised officer’s powers	7
	6C Authorised officer’s identity card	7
	6D Production or display of authorised officer’s identity card	8
8	Insertion of new pt 3A	8
PART 3A—WATER MANAGEMENT PLANS		
<i>Division 1—Preliminary</i>		
25A	Definitions for pt 3A	9
<i>Division 2—Preparation and approval of water management plans</i>		
25B	Water management plans may be made	9
25C	Content of water management plans	9

25D	Public notice of proposal to prepare draft water management plan	10
25E	Principles and policies for draft water management plan	10
25F	Public notice inviting submissions on draft water management plan	11
25G	Submissions to be considered before water management plan made	12
25H	Draft plan must be readvertised if changed	12
25I	Approval of water management plan	12
25J	Notice of intention not to proceed further toward making water management plan	12
25K	Amendment of water management plan	13
25L	Public inspection and purchase of plans	14
25M	Regulatory impact statements	14
	<i>Division 3—Effect of notice of proposal to prepare plan</i>	
25N	Effect of notice under s 25D on applications, agreements, sales, etc.	14
25O	Exceptions to s 25N	16
	<i>Division 4—Compliance with plan</i>	
25P	Actions must not be inconsistent with water management plan . . .	18
9	Amendment of s 43 (Inquiry by chief executive and grant or refusal of application)	19
10	Insertion of new s 43A	19
	43A Chief executive’s decision to be published	19
11	Amendment of s 51 (Appeal to Land Court)	19
12	Amendment of s 129 (Constitution of area and board)	21

Queensland



**Natural Resources Legislation Amendment
Act 1996**

Act No. 68 of 1996

An Act to amend legislation about natural resources

[Assented to 9 December 1996]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Natural Resources Legislation Amendment Act 1996*.

PART 2—AMENDMENT OF RIVER IMPROVEMENT TRUST ACT 1940

Act amended

2. This part amends the *River Improvement Trust Act 1940*.

Amendment of s 3 (Constitution of the Burdekin River Improvement Area)

3.(1) Section 3(3) and (3A)—

omit, insert—

‘(3) A regulation may add to the Burdekin River Improvement Area (the “**principal area**”) or to another river improvement area (also the “**principal area**”)—

- (a) all or part of the area of 1 or more local governments (the “**added area**”); or
- (b) all or part of 1 or more other river improvement areas (also the “**added area**”).

‘(3A) In a regulation under subsection (3)—

- (a) the whole of the Burdekin River Improvement Area may be the

principal area but not the added area; and

- (b) a part of the Burdekin River Improvement Area may be the added area; and
- (c) if the added area is the added area under subsection (3)(a)—a river improvement area (other than the Burdekin River Improvement Area) may only be the principal area if each local government whose area, or part of whose area, is the whole or a part of the added area makes a written request that the regulation be made.

‘**(3B)** A regulation made under subsection (3) may—

- (a) for a river improvement area other than the Burdekin River Improvement Area—change the name of the river improvement area (the “**expanded area**”) consisting of the principal area and the added area; and
- (b) if the added area is only a part of a river improvement area—apportion the assets and liabilities of the trust for the river improvement area; and
- (c) if the added area is the whole of a river improvement area—transfer the assets and liabilities of the trust for the river improvement area to the trust for the expanded area; and
- (d) provide for any other matter necessary or convenient to give effect to the addition of the added area to the principal area.

‘**(3C)** Subsection (3D) applies if—

- (a) an expanded area is established under subsection (3)(b); and
- (b) the added area did not consist of the whole of a river improvement area; and
- (c) a local government had representatives on the trust for the river improvement area (the “**original area**”) of which the added area was a part; and
- (d) the part of the original area that is not the added area no longer contains any part of the area of the local government.

‘**(3D)** When the expanded area is established, the representatives mentioned in subsection (3C)(c) go out of office as members of the trust.

‘(3E) Subsection (3F) applies if—

- (a) an expanded area is established under subsection (3)(b); and
- (b) the added area consisted of the whole of a river improvement area.

‘(3F) When the expanded area is established, the trust for the added area ceases to exist and all of the members of the trust go out of office as members of the trust.’.

(2) Section 3(5) and (6)—

omit, insert—

‘(5) A regulation may—

- (a) abolish a river improvement area other than the Burdekin River Improvement Area; and
- (b) abolish the trust for the area being abolished; and
- (c) provide for the vesting of the assets and liabilities of the trust being abolished; and
- (d) provide for any other matter necessary or convenient to give effect to the abolition of the area and its trust.

‘(6) When the trust is abolished, the members of the trust go out of office as members of the trust.’.

PART 3—AMENDMENT OF WATER RESOURCES ACT 1989

Act amended

4. This part amends the *Water Resources Act 1989*.

Amendment of long title

5. Title, after ‘measurement’—

insert—

‘and management’.

Amendment of s 2 (Interpretation)

6. Section 2(1)—

insert—

‘ **“water management plan”** means a plan made by the Minister under part 3A, division 2.’.

Insertion of new ss 6A–6D

7. After section 6—

insert—

‘Appointment of authorised officers

‘6A.(1) The chief executive may appoint persons as authorised officers.

‘(2) The chief executive may appoint a person as an authorised officer only if—

- (a) in the chief executive’s opinion, the person has the necessary expertise or experience to be an authorised officer; or
- (b) the person has satisfactorily finished training approved by the chief executive.

‘Limitation of authorised officer’s powers

‘6B. The powers of an authorised officer may be limited—

- (a) under a regulation; or
- (b) under a condition of appointment; or
- (c) by written notice of the chief executive given to the authorised officer.

‘Authorised officer’s identity card

‘6C.(1) The chief executive must give each authorised officer an identity card.

‘(2) The identity card must—

- (a) contain a recent photograph of the authorised officer; and
- (b) be signed by the authorised officer; and
- (c) identify the person as an authorised officer under this Act.

‘(3) A person who ceases to be an authorised officer must return the person’s identity card to the chief executive as soon as practicable (but within 21 days) after the person ceases to be an authorised officer, unless the person has a reasonable excuse for not returning it.

Maximum penalty—10 penalty units.

‘(4) This section does not prevent the giving of a single identity card to a person under this Act and for other Acts or purposes.

‘Production or display of authorised officer’s identity card

‘6D.(1) An authorised officer may exercise a power under this Act in relation to someone else only if the authorised officer—

- (a) first produces his or her identity card for the person’s inspection;
or
- (b) has the identity card displayed so it is clearly visible to the person.

‘(2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person’s inspection at the first reasonable opportunity.’.

Insertion of new pt 3A

8. After section 25—

insert—

PART 3A—WATER MANAGEMENT PLANS

Division 1—Preliminary

Definitions for pt 3A

25A. In this part—

“plan area”, for a draft water management plan or a water management plan, means the part of Queensland to which the plan applies.

“proposed plan area” means the part of Queensland to which a draft water management plan, when prepared, is proposed to apply.

Division 2—Preparation and approval of water management plans

Water management plans may be made

25B.(1) The Minister may make water management plans for parts of Queensland.

(2) The Minister may make a water management plan only by making a draft water management plan, prepared under this division, as the water management plan.

(3) A water management plan is subordinate legislation.

Content of water management plans

25C.(1) A water management plan must—

- (a) describe the plan area for the plan; and
- (b) state whether the plan applies to underground water or water other than underground water, or both; and
- (c) include the principles and policies under which the right vested in the Crown under section 3 is to be exercised for the plan area.

(2) A water management plan may—

- (a) include a map or series of maps showing water resource

information; and

- (b) make provision for anything about which a regulation may be made under this Act.

‘Public notice of proposal to prepare draft water management plan

‘25D.(1) The Minister must give public notice when the Minister proposes to prepare a draft water management plan.

‘(2) The notice must—

- (a) be published in—
 - (i) a newspaper circulating generally throughout the proposed plan area; and
 - (ii) other newspapers the Minister considers appropriate; and
- (b) invite submissions (written or oral) from the public; and¹
- (c) state a day (not earlier than 30 business days from the publication of the notice) by which submissions may be made, and the person to whom, and the place where, the submissions may be made.

‘(3) The notice may state whether it is intended that the draft plan apply only to underground water or water other than underground water, or both.

‘(4) The Minister must send a copy of the notice to each local government whose local government area includes the whole or part of the proposed plan area.

‘(5) The Minister may send a copy of the notice to any person or group the Minister considers appropriate.

‘Principles and policies for draft water management plan

‘25E. In preparing the principles and policies to be included in a draft water management plan, the Minister must have regard to the following for the plan area—

¹ Under section 19, the Minister may also establish an advisory council or committee.

- (a) the total water rights vested in the Crown;²
- (b) existing entitlements to water under the Act, including, for example, entitlements of riparian owners, licensees and permittees and entitlements under agreements;
- (c) the provision of water for ecosystems;
- (d) the extent of beneficial flooding currently enjoyed by landowners;
- (e) future water needs;
- (f) water flows;
- (g) underground water levels.

‘Public notice inviting submissions on draft water management plan

‘25F.(1) The Minister must give public notice when a draft water management plan has been prepared.

‘(2) The notice must—

- (a) be published in—
 - (i) a newspaper circulating generally throughout the plan area for the draft plan; and
 - (ii) other newspapers the Minister considers appropriate; and
- (b) state where copies of the draft plan may be inspected and, on payment of a fee, purchased; and
- (c) invite submissions (written or oral) from the public; and
- (d) state a day (not earlier than 30 business days from the publication of the notice) by which submissions may be made, and the person to whom, and the place where, the submissions may be made.

‘(3) The Minister must send a copy of the notice and draft plan to each local government whose local government area includes the whole or part of the plan area.

² Section 3 is about rights vested in the Crown. Section 4 is about restrictions on those rights.

‘(4) A local government receiving a copy of the draft plan must make the copy available for inspection by the public.

‘(5) The Minister may send a copy of the notice to any person or group the Minister considers appropriate.

‘Submissions to be considered before water management plan made

‘25G. Before making the draft plan as a water management plan, the Minister must consider all submissions made, by the day mentioned in section 25F(2)(d), about the draft plan.

‘Draft plan must be readvertised if changed

‘25H.(1) The Minister must not make a draft water management plan as a water management plan if the draft plan is different from the draft plan public notice of which was given under section 25F.

‘(2) If a draft plan, proposed to be made as a water management plan, is different from the draft plan public notice of which was given under section 25F, section 25F applies again to the draft plan proposed to be made as a water management plan.

‘Approval of water management plan

‘25I. A water management plan does not have effect until it is approved by the Governor in Council.

‘Notice of intention not to proceed further toward making water management plan

‘25J.(1) This section applies if the Minister has given public notice that—

- (a) the Minister proposed to prepare a draft water management plan but has not prepared a draft water management plan; or
- (b) a draft water management plan has been prepared.

‘(2) If the Minister decides not to proceed further under this division towards the making of a water management plan, the Minister must give

public notice of the decision.

‘(3) The notice must be published in—

- (a) a newspaper circulating generally throughout—
 - (i) if subsection (1)(a) applies—the proposed plan area; or
 - (ii) if subsection (1)(b) applies—the plan area; and
- (b) other newspapers the Minister considers appropriate.

‘(4) The Minister must send a copy of the notice to each local government, person or group to whom the Minister sent a notice—

- (a) about the proposed preparation of the plan; and
- (b) if the draft plan was prepared—when the draft plan was prepared.

‘Amendment of water management plan

‘**25K.(1)** A water management plan (the “**first plan**”) may be amended by another plan (the “**amending plan**”) only if the procedures applying to the preparation of a draft water management plan, and the making and approval of a water management plan, under this part are followed for the amending plan.

‘(2) Without limiting subsection (1), the amending plan may—

- (a) change the boundaries of the plan area for the first plan; or
- (b) amalgamate the first plan with another plan; or
- (c) change the principles or policies of the first plan.

‘(3) Despite subsection (1), a regulation may amend a water management plan (and the procedures mentioned in subsection (1) do not apply) if the amendment is only—

- (a) to correct a minor error in the plan, or make another change that is not a change of substance; or
- (b) if the plan states that an amendment of a stated type may be made to the plan by amendment under this subsection—to make an amendment of the stated type.

‘Public inspection and purchase of plans

‘**25L.(1)** The chief executive must keep each draft water management plan prepared, and each water management plan made, under this part, available for inspection by the public during office hours on business days at the head office, and at the appropriate regional office, of the department.

‘**(2)** The chief executive may also keep a plan mentioned in subsection (1) available for inspection by the public at other places the chief executive considers appropriate.

‘**(3)** On payment of a fee, a person may buy a copy of a plan.

‘**(4)** The fee for a copy of the plan must not be more than the reasonable cost of publishing the copy.

‘Regulatory impact statements

‘**25M.** A regulatory impact statement under the *Statutory Instruments Act 1992* need not be prepared for a water management plan made under this part.

‘Division 3—Effect of notice of proposal to prepare plan**‘Effect of notice under s 25D on applications, agreements, sales, etc.**

‘**25N.(1)** If the Minister gives public notice that the Minister proposes to prepare a draft water management plan—

- (a) the corporation must not negotiate about, or enter into, an agreement for the supply of water under section 15³ for the area; and
- (b) the chief executive must not deal with an application made under section 39, 42 or 45⁴ about works in the area; and
- (c) the chief executive must not deal with an application made under

³ Section 15 (Power of corporation to supply water by agreement)

⁴ Section 39 (Rights of non-riparian owner to licence), 42 (Application for licence) or 45 (Amended licence)

section 56⁵ about a watercourse, lake, spring or underground water in the area; and

- (d) the chief executive must not take action under part 5⁶ about the sale of an entitlement to be issued a licence for a nominal allocation of water provided by works in the area; and
- (e) the chief executive must not grant or amend, under part 9, division 3,⁷ a nominal allocation for specified land in the area; and
- (f) no action may be taken under part 10, division 1,⁸ for constituting, in relation to works in the area, a water supply area.

‘(2) Subsection (1) applies on and from the day the notice is published (the “**publication day**”) until—

- (a) a water management plan for the area is notified under the *Statutory Instruments Act 1992*; or
- (b) the Minister publishes a notice under section 25J.⁹

‘(3) To remove any doubt, it is declared that subsection (1) applies—

- (a) for negotiations about an agreement—even if the negotiations started before the publication day; and
- (b) for an application—even if the application was made before the publication day.

‘(4) In subsections (1) and (2)—

“**area**” means—

⁵ Section 56 (Power to issue permit to government department, other person or body to take water)

⁶ Part 5 (Sale of water entitlements)

⁷ Part 9 (Irrigation undertakings and areas), division 3 (Water allocations in irrigation areas)

⁸ Part 10 (Water supply areas and drainage areas), division 1 (Constitution of area)

⁹ Section 25J (Notice of intention not to proceed further toward making water management plan)

- (a) until a notice under section 25F¹⁰ has been published—the proposed plan area; and
- (b) once a notice under section 25F has been published—the plan area for the most recent draft water management plan.

‘Exceptions to s 25N

‘250.(1) Section 25N does not apply to the following—

- (a) an application for a licence to construct works or a bore to take water—
 - (i) only for domestic purposes or for watering stock; or
 - (ii) for the watering of crops for feeding stock, if the application—
 - (A) relates to a crop area of no greater than 10 ha; and
 - (B) was made before a notice published under section 25D¹¹ was first published in a newspaper; or
 - (iii) if the application does not seek an increase in the benefit to which the licensee is entitled under an existing licence;
- (b) an application for a driller’s licence;
- (c) an application to construct a levee bank;
- (d) an application for a licence in relation to underground water, if the notice published under section 25D states that it is not intended that the plan apply to underground water;
- (e) an application for a licence in relation to water other than underground water, if the notice published under section 25D states that it is not intended that the plan apply to water other than underground water;
- (f) if a supply of water is required by a local government in an emergency situation—

¹⁰ Section 25F (Public notice inviting submissions on draft water management plan)

¹¹ Section 25D (Public notice of proposal to prepare draft water management plan)

- (i) negotiations for, or the granting of, a permit under section 56; or
- (ii) negotiations for, or the making of, an agreement under section 15;
- (g) a water matter, if—
 - (i) the matter is in relation to authorised works; and
 - (ii) the matter relates to an amount of water it was proposed would be available after the construction of the works; and
 - (iii) the whole of the amount of water has not been allocated, sold, granted or otherwise disposed of.

‘(2) In subsection (1)(a)(i)—

“**stock**” means stock—

- (a) of a number not more than the number depastured ordinarily on the land to which the application relates, having regard to seasonal fluctuations in the carrying capacity of the land; and
- (b) not held in close concentration for a purpose other than grazing.

‘(3) In subsection (1)(g)—

“**authorised works**” means works the corporation may construct under section 8 or 114.¹²

“**water matter**” means—

- (a) a negotiation about, or entering into, an agreement for the supply of water under section 15; or
- (b) an application made under section 39, 42, 45 or 56; or
- (c) an action taken under part 5; or
- (d) the grant or amendment of a nominal allocation under part 9, division 3; or
- (e) an action taken under part 10, division 1.

¹² Section 8 (General powers etc. of corporation and chief executive) or 114 (Power to construct works and do necessary acts and things in connection with irrigation undertaking)

‘Division 4—Compliance with plan**‘Actions must not be inconsistent with water management plan**

‘25P.(1) An action taken, or decision made, under this Act in relation to the plan area for a water management plan must not be inconsistent with the plan.

‘(2) For subsection (1), an action is taken, or a decision is made, in relation to the plan area if the action is taken or the decision is made for—

- (a) negotiating about, or entering into, an agreement for the supply of water under section 15¹³ for the plan area; or
- (b) dealing with an application made under section 39, 42 or 45¹⁴ about works in the plan area; or
- (c) dealing with an application made under section 56¹⁵ about a watercourse, lake, spring or underground water in the plan area; or
- (d) the sale under part 5¹⁶ of an entitlement to be issued a licence for a nominal allocation of water provided by works in the plan area; or
- (e) the grant or amendment, under part 9, division 3,¹⁷ of a nominal allocation for specified land in the plan area; or
- (f) constituting, under part 10, division 1,¹⁸ in relation to works in the plan area, a water supply area.’

¹³ Section 15 (Power of corporation to supply water by agreement)

¹⁴ Section 39 (Rights of non-riparian owner to licence), 42 (Application for licence) or 45 (Amended licence)

¹⁵ Section 56 (Power to issue permit to government department, other person or body to take water)

¹⁶ Part 5 (Sale of water entitlements)

¹⁷ Part 9 (Irrigation undertakings and areas), division 3 (Water allocations in irrigation areas)

¹⁸ Part 10 (Water supply areas and drainage areas), division 1 (Constitution of area)

Amendment of s 43 (Inquiry by chief executive and grant or refusal of application)

9. Section 43(1), ‘and an objection thereto’—
omit.

Insertion of new s 43A

10. After section 43—
insert—

‘Chief executive’s decision to be published

‘43A.(1) This section applies to a decision of the chief executive if the decision is a decision mentioned in section 51(1)¹⁹ and is made under section 43.

‘(2) Notice of each decision must be published in a newspaper circulating generally throughout the locality to which the application, about which the decision was made, relates.

‘(3) The notice must state if the application was granted absolutely, granted subject to modifications or variations or refused.’.

Amendment of s 51 (Appeal to Land Court)

11.(1) Section 51(1), ‘A person aggrieved by’—
omit, insert—

‘A dissatisfied person may appeal to the Land Court against’.

(2) Section 51(1), ‘may appeal therefrom to the Land Court’—
omit.

(3) Section 51(2)—
omit, insert—

‘(2) A person who had a right to object, and objected, under section 84²⁰

¹⁹ Section 51 (Appeal to Land Court)

²⁰ Section 84 (Persons who are eligible to give objections)

about a notice of intention to sell or under section 87²¹ about an amendment of the notice may, within 30 days after the subsequent sale proposal is last published under section 88,²² appeal to the Land Court about the proposal.’.

(4) Section 51—

insert—

‘(13) In subsection (1)—

“**dissatisfied person**” means—

- (a) for a decision about an application for a licence or for the renewal of a licence—the applicant; or
- (b) for a decision about the amendment, variation, cancellation, revocation or suspension of a licence—the person who was the licensee when the decision was made; or
- (c) for a decision about an application for the transfer of a licence—the transferor and the transferee; or
- (d) for a decision about an application under section 39²³—the owner of intervening land mentioned in section 39(4); or
- (e) a person who, on or before the date specified in a notice under section 42(8),²⁴ had a right to object, and objected, to an application; or
- (f) a person who is the purchaser of land from another person who, on or before the date specified in a notice under section 42(8), had a right to object to an application, but only if the purchase was settled after the date specified in the notice.’.

²¹ Section 87 (Objections to amendment)

²² Section 88 (Steps to be taken after inquiry)

²³ Section 39 (Rights of non-riparian owner to licence)

²⁴ Section 42 (Application for licence)

Amendment of s 129 (Constitution of area and board)**12.** Section 129(11)—*omit.*