

Queensland



# **WATER AMENDMENT ACT 2001**

**Act No. 75 of 2001**



# Queensland



## WATER AMENDMENT ACT 2001

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Queensland



## **Water Amendment Act 2001**

**Act No. 75 of 2001**

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**An Act to amend the *Water Act 2000*, and for other purposes**

*[Assented to 13 November 2001]*

**The Parliament of Queensland enacts—****1 Short title**

This Act may be cited as the *Water Amendment Act 2001*.

**2 Commencement**

(1) Section 4(1) is taken to have commenced on 1 July 2000.

(2) Sections 4(2) and 106 are taken to have commenced on 13 September 2000.

(3) The remaining provisions of this Act commence on assent.

**3 Act amended**

This Act amends the *Water Act 2000*.

**4 Amendment of s 2 (Commencement)**

(1) Section 2(1)(a), ‘18 and 19’—

*omit, insert—*

‘19 and 20’.

(2) Section 2—

*insert—*

‘(2A) Section 1063 commences on 1 October 2000.’.

(3) Section 2—

*insert—*

‘(2B) The following provisions, as inserted by the *Water Amendment Act 2001*, commence on the assent of that Act—

- section 37
- section 40A
- section 42A
- section 49A

- section 78A
- section 107
- section 111A
- section 120A
- section 122A
- sections 128A to 130
- section 184A
- sections 189A to 190
- sections 195 to 197
- section 382
- section 583
- sections 598 to 598A
- section 959
- section 1004A
- section 1010A
- section 1013A
- chapter 9, part 4A.

(4) Section 2(2A) to (3)—  
*renumber* as section 2(3) to (5).

## **5 Amendment of s 24 (Beds and banks forming boundaries of land are State property)**

(1) Section 24(3)—  
*omit, insert—*

‘(3) However, a person (the “owner”) who may take water under section 20(3)—

- (a) may exercise a right of access for himself or herself, the owner’s family, executive officers, employees, agents and stock over the part of the bed or bank, of the watercourse or lake, that adjoins the owner’s land; and

- (b) may exercise a right of grazing for the person's stock over the part of the bed or bank, of the watercourse or lake, that adjoins the owner's land; and
- (c) may bring an action against a person who trespasses on the part of the bed or bank, of the watercourse or lake, that adjoins the owner's land as if the owner were the registered owner of the bed and bank.

‘(4) If part of the bed or bank is being used by the State for a purpose under this Act—

- (a) subsection (3)(a) and (b) applies only to the extent exercising the right does not interfere with the State's use of the bed or bank; and
- (b) subsection (3)(c) does not allow the owner to bring an action against a person acting on behalf of the State.’.

## **6 Amendment of s 36 (Obtaining water information)**

Section 36(1), from ‘a notice’—

*omit, insert—*

‘a notice requiring information—

- (a) the person is required to keep under a condition of the person's authority; or
- (b) about the person's water use.’.

## **7 Replacement of s 37 (Non-disclosure of commercially sensitive information)**

Section 37—

*omit, insert—*

### **‘37 Notice of works**

‘(1) This section applies to works for taking or interfering with water under section 20(6).<sup>1</sup>

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<sup>1</sup> Section 20 (Authorised taking of water without water entitlement)

‘(2) A regulation may require the owner of land on which the works are, or are to be, constructed to notify the chief executive of the works.

‘(3) The regulation—

- (a) may require the notice to be in the approved form; and
- (b) must state —
  - (i) the part of the State to which the regulation applies; and
  - (ii) the type of works required to be notified, including the purpose and size of the works; and
  - (iii) whether the notice relates to 1 or more of the following—
    - (A) existing works;
    - (B) works that have been under construction for more than a stated period of time;
    - (C) on their completion, works constructed in the future; and
  - (iv) the day by which the notice must be given to the chief executive.

‘(4) As soon as practicable after the regulation is made, the chief executive must conduct public meetings in the part of the State to which the regulation applies to explain the requirements of the regulation to land owners.’

## **8 Insertion of new s 40A**

After section 40—

*insert—*

### **‘40A Further public notice of proposal to prepare draft water resource plan**

‘(1) If, after considering all properly made submissions about the proposed draft water resource plan, the Minister is satisfied a further notice should be published under section 40, the Minister must—

- (a) publish the notice; and
- (b) update the information report prepared under section 39.

‘(2) For sections 41 and 42, a notice published under subsection (1) is taken to be a notice published under section 40.

**(3)** However—

- (a) a community reference panel already established for the proposed plan is the community reference panel for the notice published under subsection (1); and
- (b) a moratorium notice already published for the proposed plan is a moratorium notice for the notice published under subsection (1).’.

## **9 Amendment of s 42 (Moratorium notices)**

**(1)** Section 42(2)(d), ‘flow’—

*omit.*

**(2)** Section 42(4)(a) to (c)—

*omit, insert—*

- ‘(a) new works must not be physically started; and
- (b) completed works in existence must not be raised, enlarged or deepened; and
- (c) works that have been started—
  - (i) may be completed only to the extent stated in the notice; and
  - (ii) must be completed by the day stated in the notice; and
- (d) a person who is completing works that have been started must give the chief executive notice about the works by the day stated in the notice; and
- (e) construction of works must stop if notice has not been given under paragraph (d).’.

**(3)** Section 42(6), ‘subsection (4)’—

*omit, insert—*

‘a moratorium notice’.

**(4)** Section 42(7)—

*omit, insert—*

**(7)** The notice has effect—

- (a) from the later of the following—

- (i) the day stated in the notice;
- (ii) the day the notice is published; and
- (b) until—
  - (i) the Minister publishes a notice under section 52; or
  - (ii) a final draft of the draft water resource plan, for which the notice is published, is approved.’.

(5) Section 42(8), words before paragraph (b)—

*omit, insert—*

‘(8) For this section, and for section 42A, works are not started unless—

- (a) construction of the works has physically started, or if construction has not physically started, a contract has been entered into to start construction, and construction is started, within 60 days after the day the notice is published; and’.

## 10 Insertion of new s 42A

After section 42—

*insert—*

### ‘42A Application to vary effect of moratorium notice

‘(1) Subsection (2) applies to an owner of land a moratorium notice affects if—

- (a) the owner is completing works that had been started at the time the notice was published; and
- (b) the works will not be completed by the day stated in the notice (the “**completion day**”); and
- (c) the owner wishes to apply for an extension of the completion day.

‘(2) The owner—

- (a) must stop construction of the works by the completion day; and
- (b) may apply to the Minister for an extension of the completion day if—
  - (i) the works are substantially completed; or
  - (ii) the works will not be completed by the completion day because of a change in circumstances beyond the applicant’s

control including, for example, construction difficulties, extreme bad weather or the applicant's ill health.

‘(3) The application must—

- (a) be in the approved form; and
- (b) be accompanied by the prescribed fee; and
- (c) be made before the completion day; and
- (d) show that the works were started before the notice was published; and
- (e) show the extent to which the works are completed and the extent to which the applicant anticipates the works will be completed by the completion day; and
- (f) state the day by which the applicant anticipates the works will be completed; and
- (g) if the works are not completed because of circumstances mentioned in subsection (2)(b)(ii)—state the circumstances.

‘(4) The Minister must refer the application to a referral panel established under section 1004A.

‘(5) When the Minister receives the referral panel's recommendation, the Minister must—

- (a) decide the application, taking into account the panel's recommendation; and
- (b) give the applicant notice of the decision; and
- (c) publish the decision in the gazette.

‘(6) If the Minister grants the application, the moratorium notice, for the applicant, is varied in the following way—

- (a) the completion day, for the works, is the day stated in the Minister's notice;
- (b) the works may be completed to the extent stated in the notice.’.

## **11 Amendment of s 46 (Content of draft water resource plans)**

(1) Section 46(1)(e)—

*omit, insert—*



(e) state the outcomes, including, without limiting the requirement to state outcomes, the ecological outcomes, for the sustainable management of the water; and

(ea) state the strategies proposed to achieve the outcomes to the extent possible from the best scientific information available; and’.

(2) Section 46(1)(ea) to (g)—

*renumber* as section 46(1)(f) to (h).

(3) Section 46(2)(b), after ‘where’—

*insert*—

‘, and the way in which,’.

(4) Section 46(2)—

*insert*—

‘(i) the plan’s objectives and performance indicators for the objectives.’.

(5) Section 46(3)—

*omit, insert*—

‘(3) If a moratorium notice was published for the draft plan, the draft plan may provide for the continuation, completely or partly, of the effect of the moratorium notice until a resource operations plan is approved for the plan.

‘(4) If the draft plan provides a framework for establishing water allocations, the draft plan must state the following—

- (a) performance indicators for environmental flow objectives and water allocation security objectives;
- (b) environmental flow objectives;
- (c) water allocation security objectives;
- (d) priorities for the conversion to or granting of water allocations.’.

## 12 Insertion of new s 49A

After section 49—

*insert*—

**‘49A Minister may prepare further draft water resource plan**

‘(1) If, after considering all properly made submissions about the draft water resource plan, the Minister is satisfied a further draft water resource plan should be prepared, the Minister must prepare a further plan.

‘(2) Sections 47 to 49 also apply to the further draft water resource plan.’.

**13 Replacement of s 50 (Preparing and approving final draft water resource plan)**

Section 50—

*omit, insert—*

**‘50 Preparing and approving final water resource plan**

‘(1) In preparing the final water resource plan, the Minister must consider all properly made submissions about the draft plan.

‘(2) A final water resource plan does not have effect until it has been approved by the Governor in Council.

‘(3) A final water resource plan is—

- (a) subordinate legislation for the *Statutory Instruments Act 1992*; and
- (b) a water resource plan for the plan area.<sup>2</sup>.

**14 Amendment of s 54 (Matters the reports must include)**

Section 54(b), ‘meeting the plan’s objectives’—

*omit, insert—*

‘achieving the plan’s outcomes’.

---

2 For expiry of plan, see *Statutory Instruments Act 1992*, section 54 (When subordinate legislation expires).

**15 Amendment of s 55 (When water resource plans may be amended or replaced)**

Section 55(2), 'environmental flow objectives or water allocation security'—

*omit.*

**16 Amendment of s 73 (Requirement for land and water management plans)**

(1) Section 73(1), 'Subsection (3)'—

*omit, insert—*

'Subsection (5)'.

(2) Section 73(2)(b), '189'—

*omit, insert—*

'187'.

(3) Section 73(2)(c)—

*omit, insert—*

'(c) if—

- (i) the person continues an enterprise, previously operated by another person, comprising either—
  - (A) land and the water allocation to irrigate the land; or
  - (B) land to which an interim water allocation attaches; and
- (ii) at the time the person started operating the enterprise—
  - (A) subsection (1) did not apply to the other person; and
  - (B) the other person was not required, whether under a contract with the State or otherwise, to have an approved land and water management plan for the use of the water on the land; or'.

(4) Section 73—

*insert—*

'(2A) However, subsection (1)(a) applies to a person, other than a person mentioned in subsection (2)(c), who acquires an interim water allocation from a person mentioned in subsection (2)(b) and continues to

apply to the person, and to any person who subsequently acquires the interim water allocation, even if—

- (a) the interim water allocation is converted under section 121; and
- (b) the person is granted a water allocation.

‘**(2B)** Subsection (1)(a) also applies to a person mentioned in subsection (2)(a) or (c) if the location from which the water may be taken under the allocation is changed.’.

**(5)** Subsections (2A) to (3)—

*renumber* as subsections (3) to (5).

## **17 Amendment of s 77 (Deciding application for approval of land and water management plan)**

Section 77—

*insert—*

‘**(6)** If the plan replaces a previously approved plan, the previously approved plan expires on the day the chief executive gives the information notice.’.

## **18 Insertion of new s 78A**

After section 78—

*insert—*

### **‘78A Minor amendment of land and water management plan**

Despite section 78(2), the chief executive may approve an amendment of a land and water management plan without sections 74 to 77 applying in either of the following circumstances—

- (a) if the amendment is only to correct a minor error in the plan or to make another change that is not a change of substance;
- (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.’.

**19 Amendment of s 97 (Notice of proposal to water infrastructure operators)**

(1) Section 97(1), ‘transfer rules’—

*omit, insert—*

‘change rules’.

(2) Section 97(2), from ‘in accordance with’—

*omit, insert—*

‘to comply with the requirements of—

- (a) the water resource plan or draft water resource plan; or
- (b) if notice of a draft amendment of the existing plan has been published under section 49—the existing plan as it would be if amended by the amendment mentioned in the notice; or
- (c) if notice of a new draft plan has been published under section 49—the new draft plan mentioned in the notice.’.

**20 Amendment of s 98 (Content of draft resource operations plan)**

(1) Section 98(4)(a), from ‘water licences’—

*omit, insert—*

‘water licences, interim water allocations and other authorities, to take water or to interfere with the flow of water, to water allocations;’.

(2) Section 98(4)(b) and (5), ‘transfer rules’—

*omit, insert—*

‘change rules’.

**21 Amendment of s 101 (Additional requirements for notices for draft resource operations plans that establish water allocations)**

Section 101(b)—

*omit, insert—*

- (b) existing interest holders may give the chief executive a notice in the approved form stating the interest holder intends to take action to have the holder’s interest recorded on the water allocations register.’.

**22 Replacement of s 107 (Converting interim resource operations licences)**

Section 107—

*omit, insert—*

**‘107 Effect of resource operations plan**

‘On and from the day a resource operations plan has effect—

- (a) the interim resource operations licences and other authorisations to operate infrastructure identified in the plan cease to have effect; and
- (b) the chief executive must grant resource operations licences in the approved form and in accordance with the plan for the water to which the plan applies.’.

**23 Amendment of s 110 (Conditions of resource operations licence)**

Section 110(2)(b), from ‘environmental’—

*omit, insert—*

‘the objectives of the water resource plan for the area to which the licence relates.’.

**24 Insertion of new s 111A**

After section 111—

*insert—*

**‘111A Amending a resource operations licence under a resource operations plan process**

(1) Subsection (2) applies if a resource operations plan states a process for amending a resource operations licence.

(2) The chief executive must follow the process and amend the licence in accordance with the process.

(3) Within 30 business days after the chief executive amends the licence, the chief executive must give the licence holder—

- (a) an amended licence in the approved form; and
- (b) an information notice.

(4) The amended licence takes effect from the day the chief executive gives the licence holder the information notice.’.

## **25 Insertion of new s 120A**

Chapter 2, part 4, division 3, subdivision 5—

*insert—*

### **‘120A Cancelling resource operations licence no longer required**

‘(1) The chief executive may cancel a resource operations licence if—

- (a) another resource operations licence has been granted to replace the licence to be cancelled; or
- (b) the chief executive and the resource operations licence holder have agreed the resource operations licence is no longer required.

‘(2) If the chief executive decides to cancel the resource operations licence, the chief executive must, within 30 business days after making the decision, give the resource operations licence holder an information notice about the cancellation.

‘(3) The cancellation takes effect from the day the chief executive gives the resource operations licence holder the notice.’.

## **26 Amendment of s 121 (Converting water entitlements)**

(1) Section 121(1)(a) and (b)—

*omit, insert—*

- ‘(a) all water licences, interim water allocations or other authorities to take water, to be converted under the plan or the amendment, expire and the chief executive must grant to the holders of the expired water licences, interim water allocations or other authorities, the water entitlements stated in the plan or amendment; and’.

(2) Section 121(1)(c)—

*renumber* as section 121(1)(b).

(3) Section 121(2)—

*omit, insert—*

‘(2) However, if the allocation is managed under a resource operations licence—

- (a) if the allocation holder does not have a supply contract with the resource operations licence holder—the parties must, within 60 business days after the allocation is granted, enter into a supply contract for the allocation; and
- (b) the registrar must not act under subsection (1)(b) until the registrar has received from the resource operations licence holder notice of the existence of the supply contract.’

(4) Section 121(4), ‘section 101(a) or (b)(i)’—

*omit, insert—*

‘section 101’.

(5) Section 121(6), ‘section 101(b)(i)’—

*omit, insert—*

‘section 101(b)’.

## **27 Amendment of s 122 (Granting water allocations)**

Section 122(4)—

*omit, insert—*

‘(4) However, if the allocation is managed under a resource operations licence—

- (a) the allocation holder must, within 60 business days after the allocation is granted, enter into a supply contract for the allocation with the resource operations licence holder; and
- (b) the registrar must not act under subsection (3) until the registrar has received from the resource operations licence holder notice of the existence of the supply contract.’

## **28 Insertion of new s 122A**

After section 122—

*insert—*



**‘122A Chief executive may approve standard supply contracts**

‘(1) The chief executive may approve standard supply contracts for the storage and delivery by resource operations licence holders of water under water allocations.

‘(2) Different supply contracts may be approved for different areas of the State.

‘(3) The chief executive must gazette the approval of each standard supply contract.

‘(4) If, within 60 business days after an allocation is granted, the allocation holder and the resource operations licence holder do not have a supply contract for the allocation, the standard supply contract for the area applies to the allocation.

‘(5) The parties to the supply contract must review the contract within 1 year after the day the contract takes effect.’.

**29 Amendment of s 125 (Amending water allocations)**

(1) Section 125(1)—

*omit, insert—*

‘(1) Subsection (2) applies if—

- (a) a resource operations plan or amendment of a resource operations plan states that a water allocation must be amended; or
- (b) the number of the resource operations licence, under which a water allocation is managed, is changed.

(2) Section 125(2), ‘the plan’—

*omit, insert—*

‘the plan or the change’.

**30 Insertion of new s 128A**

After section 128—

*insert—*

**‘128A Amalgamation or subdivision of water allocations**

‘(1) A water allocation holder may apply to the chief executive to—

- (a) amalgamate 2 or more water allocations into a single water allocation; or
- (b) subdivide a water allocation into 2 or more water allocations.

‘(2) The application must be—

- (a) in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

‘(3) The chief executive must approve the application, with or without conditions, if the chief executive is satisfied the amalgamation or subdivision is consistent with the resource operations plan.

‘(4) The chief executive must not approve the application if the amalgamation or subdivision would result in an increase in the holder’s entitlement under the allocation or allocations.

‘(5) The chief executive must, within 10 business days after deciding the application—

- (a) give the applicant an information notice; and
- (b) if the chief executive approves the application—give the applicant a certificate stating that the proposed change is approved.

‘(6) The certificate—

- (a) must be in the approved form; and
- (b) remains valid for—
  - (i) the number of days stated in the certificate; or
  - (ii) if the certificate does not state the number of days—40 business days.

‘(7) If the applicant gives the certificate to the registrar, the registrar must record on the water allocations register details of the amalgamation or subdivision.

‘(8) The amalgamation or subdivision has effect the day the registrar records the change in the register.’.

### **31 Replacement of ss 129 and 130**

Sections 129 and 130—

*omit, insert—*

**‘129 Changing water allocations under water allocation change rules**

‘(1) Subsection (2) applies to a change to a water allocation if the change is permitted under the water allocation change rules of a resource operations plan.

‘(2) The allocation holder may apply to the chief executive to change the allocation in accordance with the rules.

‘(3) The application—

- (a) must be in the approved form; and
- (b) may relate to 1 or more of the elements of the allocation mentioned in section 128; and
- (c) must be accompanied by the fee prescribed under a regulation.

‘(4) If the change to which the application relates is permitted under the resource operations plan, the chief executive must give the applicant a certificate stating that the proposed change is allowed under the plan.

‘(5) The certificate—

- (a) must be in the approved form; and
- (b) remains valid for—
  - (i) the number of days stated in the certificate; or
  - (ii) if the certificate does not state the number of days—40 business days.

‘(6) If the applicant gives the certificate to the registrar, the registrar must record on the water allocations register details of the change.

‘(7) However, if the allocation is managed under a resource operations licence, the registrar must not act under subsection (6) until the registrar has received from the resource operations licence holder notice in the approved form of the existence of a supply contract between the allocation holder and the resource operations licence holder.

‘(8) The change has effect the day the registrar records the change in the register.

**‘130 Other changes to water allocations**

‘(1) Subsection (2) applies to a change to a water allocation if the change is not mentioned in a resource operations plan.

‘(2) The allocation holder may apply to the chief executive to change the allocation.

‘(3) The application—

- (a) must be in the approved form; and
- (b) may relate to 1 or more of the elements of the allocation mentioned in section 128; and
- (c) must be supported by sufficient information to enable the chief executive to decide the application; and
- (d) must be accompanied by the fee prescribed under a regulation.’.

### **32 Amendment of s 131 (Additional information may be required)**

Section 131—

*insert—*

‘(2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.’.

### **33 Amendment of s 132 (Public notice of application to transfer water allocation)**

Section 132, heading, ‘transfer’—

*omit, insert—*

‘change’.

### **34 Amendment of s 134 (Deciding application to transfer or change water allocation)**

(1) Section 134, heading, ‘transfer or’—

*omit.*

(2) Section 134(1), ‘transfer’—

*omit, insert—*

‘change’.

(3) Section 134(1)(a)—

*omit, insert—*

‘(a) is compatible with the objectives of the water resource plan for the area to which the water allocation relates; and’.

**(4)** Section 134(4)(b)—

*omit, insert—*

‘(b) if the chief executive approves the application—give the applicant a certificate stating that the change has been approved.

**(5)** The certificate—

(a) must be in the approved form; and

(b) remains valid for—

(i) the number of days stated in the certificate; or

(ii) if the certificate does not state the number of days—40 business days.’.

### **35 Amendment of s 135 (Registering approved application to transfer or change water allocation)**

**(1)** Section 135, heading, ‘transfer or’—

*omit.*

**(2)** Section 135(1)—

*omit, insert—*

‘**(1)** If the applicant gives the certificate to the registrar, the registrar must record on the water allocations register the details of the change.’.

**(3)** Section 135(3), ‘transfer or’—

*omit.*

### **36 Omission of ss 136 and 137**

Sections 136 and 137—

*omit.*

### **37 Amendment of s 138 (Water allocations may be forfeited)**

Section 138—

*insert—*

‘(10) Section 122A(4) and (5)<sup>3</sup> applies to the purchaser of an allocation under this section as if the allocation were granted on the day the allocation was sold.’.

### **38 Amendment of s 143 (Additional information may be required)**

Section 143—

*insert—*

‘(2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.’.

### **39 Amendment of s 150 (Interests and dealings that may be registered)**

Section 150(3) and (4)—

*omit, insert—*

‘(3) If the chief executive is given a notice under section 101(b), the registrar may, for 40 business days after the day details of the water allocation are recorded on the register under section 121(1)(b), record a dealing for the water allocation only in accordance with the priorities stated in section 121(6) and (7).

‘(4) If a water allocation is managed under a resource operations licence, the registrar must not record a transfer of the allocation until the registrar has received from the resource operations licence holder notice in the approved form of the existence of a supply contract between the allocation holder and the resource operations licence holder.’.

### **40 Amendment of s 169 (Applying for interim resource operations licence)**

Section 169(b)(i), ‘supplied by the applicant to’—

*omit, insert—*

‘stored or released by the applicant and taken by’.

---

3 Section 122A (Chief executive may approve standard supply contracts)

**41 Amendment of s 180 (Additional information may be required)**

Section 180—

*insert—*

‘(2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.’.

**42 Insertion of new s 184A**

After section 184—

*insert—*

**‘184A Amending an interim resource operations licence to meet future water requirements**

‘(1) Subsection (2) applies if a water resource plan or a resource operations plan states a process for amending an interim resource operations licence to meet future water requirements.

‘(2) The chief executive must—

- (a) follow the process and amend the licence in accordance with the process; and
- (b) within 30 business days after the day the chief executive amends the licence, give the licence holder—
  - (i) an amended licence in the approved form; and
  - (ii) an information notice.

‘(3) The amended licence takes effect from the day the chief executive gives the licence holder the information notice.’.

**43 Amendment of s 187 (Granting interim water allocations)**

(1) Section 187(4)—

*omit.*

(2) Section 187(5)—

*renumber* as section 187(4).

**44 Amendment of s 189 (Granting interim water allocations)**

(1) Section 189(1), after ‘subdivision 2,’—

*insert—*

‘or amends an interim resource operations licence under section 184A,’.

(2) Section 189(3)—

*omit.*

(3) Section 189(4)—

*renumber* as section 189(3).

**45 Amendment of ch 2, pt 5, div 3, sdiv 3**

Chapter 2, part 5, division 3, subdivision 3, heading—

*omit, insert—*

‘*Subdivision 3—Contents and conditions of interim water allocations*’.

**46 Insertion of new ss 189A and 189B**

Subdivision 3—

*insert—*

**‘189A Contents of interim water allocation**

An interim water allocation—

- (a) must state the water to which the allocation relates; and
- (b) must state the location from which the water may be taken or at which it may be interfered with; and
- (c) may be amended, transferred, amalgamated, subdivided or surrendered; and
- (d) attaches to the land of the holder unless the holder is—
  - (i) the interim resource operations licence holder; or
  - (ii) a local government; or
  - (iii) a water authority; or
  - (iv) an entity prescribed under a regulation.



**‘189B Conditions of interim water allocation**

‘(1) An interim water allocation is subject to the conditions—

- (a) prescribed under a regulation; and
- (b) the chief executive may impose for a particular interim water allocation.

‘(2) Without limiting subsection (1), the conditions may require the holder to do all or any of the following—

- (a) commence taking or interfering with water authorised under the allocation within a stated time;
- (b) install a measuring device to measure the volume of water, the rate and the time at which it is taken or interfered with;
- (c) take the water authorised to be taken under the allocation;
- (d) provide and maintain access to alternative water supplies for other water entitlement holders who would be affected by the granting of the licence;
- (e) carry out and report on a stated monitoring program;
- (f) give relevant information reasonably required by the chief executive for the administration or enforcement of this Act.

*‘Subdivision 4—Dealing with interim water allocations’.*

**47 Replacement of s 190 (Amending renewing, transferring or cancelling interim water allocation)**

Section 190—

*omit, insert—*

**‘190 Dealing with an interim water allocation**

‘(1) To the extent the procedure for dealing with an interim water allocation is not stated in this division, the allocation may be dealt with under part 6, division 2 as if the allocation were a water licence.

‘(2) However—

- (a) section 208 does not apply to a dealing that is in accordance with the conditions of the interim resource operations licence under which the interim water allocation is managed; and

- (b) section 220 does not apply to an interim water allocation as an interim water allocation does not require renewal.’.

#### **48 Amendment of s 192 (Deciding application to transfer by interim resource operations licence holder)**

Section 192(4), ‘191(1)(a)’—

*omit, insert—*

‘193(1)(a)’.

#### **49 Insertion of new ss 195-197**

After section 194—

*insert—*

##### **‘195 Surrendering an interim water allocation**

‘(1) The holder of an interim water allocation may surrender the allocation by giving the chief executive a notice of surrender.

‘(2) The surrender takes effect on the day the notice is received by the chief executive.

‘(3) The chief executive must deal with the surrendered interim water allocation under section 138(6) to (9) as if—

- (a) the interim water allocation were a forfeited water allocation; and
- (b) a reference in the section to a resource operations licence were a reference to an interim resource operations licence.

##### **‘196 Effect of disposal of part of land to which interim water allocation attaches**

‘(1) Subsection (2) applies if—

- (a) an interim water allocation is attached to land; and
- (b) the registered owner of the land disposes of part of the land.

‘(2) The interim water allocation is surrendered to the State on the day the owner disposes of the part.

‘(3) However, within 60 business days after the owner disposes of the part, 1 or more of the owners of the land to which the surrendered interim

water allocation related may apply for 1 or more interim water allocations (“**replacement interim water allocations**”) to replace the surrendered interim water allocation.

‘(4) The application must be—

- (a) in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

‘(5) If an application is made to replace the interim water allocation, the surrendered interim water allocation is taken to have been in force until—

- (a) the applicant has been notified of the chief executive’s decision on the application; or
- (b) if the application is refused and the applicant has appealed against the decision—the day on which notification of the final outcome of the appeal has been given to the applicant.

‘(6) Subject to subsection (7), the application must be dealt with as if the application were an application under section 225 and the interim water allocation were a water licence.

‘(7) The chief executive must also give notice of the application to all the registered owners of the land to which the surrendered interim water allocation related.

‘(8) The notice must state—

- (a) that a written submission may be made about the application; and
- (b) a day by which the submission must be made, and the person to whom, and the place where, the submission must be made.

‘(9) The day stated under subsection (8)(b) must not be earlier than 30 business days after the day the notice is given.

‘(10) If an owner does not apply under subsection (3) within 60 business days, the chief executive must deal with the surrendered interim water allocation under section 197(3).

### ‘197 Effect of acquisition of part of land to which interim water allocation attaches

‘(1) This section applies if part of the land to which an interim water allocation is attached is taken under the *Acquisition of Land Act 1967*.

‘(2) If the remaining part of the land continues to adjoin the watercourse, lake or spring from which water may be taken under the interim water allocation, the interim water allocation—

- (a) is not surrendered under section 198; and
- (b) may be amended under section 190 so it attaches to the remaining part of the land.

‘(3) If the remaining part of the land no longer adjoins the watercourse, lake or spring, section 198 applies to the acquisition as if the acquisition were a disposal.’.

## **50 Renumbering of ss 189A-197**

Sections 189A to 197—

*renumber* as sections 190 to 199.

## **51 Insertion of new s 203**

Chapter 2, part 6, division 1—

*insert*—

### **‘203 Definition for pt 6**

‘In this part—

“**owner**”, of land, means any of the following—

- (a) the registered proprietor of the land;
- (b) the lessee or licensee of the land under the *Land Act 1994*;
- (c) the lessee of the land under a registered lease under the *Land Title Act 1994*;
- (d) the holder of a mineral development licence or mining lease under the *Mineral Resources Act 1989*.’.

## **52 Amendment of s 207 (Additional information may be required)**

Section 207—

*insert*—

‘(3) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.’.

**53 Amendment of s 208 (Public notice of application for water licence)**

(1) Section 208—

*insert—*

‘(6A) If the applicant fails, without reasonable excuse, to comply with subsection (6), the application lapses.’.

(2) Section 208(6A) to (8)—

*renumber* as section 208(7) to (9).

**54 Amendment of s 212 (Granting a water licence under a plan process)**

Section 212(1), ‘to meet future water requirements’—

*omit.*

**55 Amendment of s 213 (Contents of water licence)**

Section 213(e)—

*omit, insert—*

‘(e) attaches to the licensee’s land unless the licensee is—

- (i) the interim resource operations licence holder; or
- (ii) the resource operations licence holder; or
- (iii) a local government; or
- (iv) a water authority; or
- (v) an entity prescribed under a regulation.’.

**56 Amendment of s 214 (Conditions of water licence)**

Section 214—

*insert—*

‘(3) If section 206(3) applies to the licence, the licensee must, within 40 business days after receiving the licence, register the instrument of lease or easement under the *Land Title Act 1994*.

‘(4) If the licensee fails, without reasonable cause, to register the instrument under subsection (3), the chief executive may cancel the licence.<sup>4</sup>’.

### **57 Amendment of s 222 (Transferring water licence to another owner of the land)**

(1) Section 222, heading, ‘owner of the land’—

*omit, insert—*

‘person’.

(2) Section 222(1)—

*insert—*

‘(c) if the licensee is an entity mentioned in section 206(4)—another entity mentioned in section 206(4).’.

(3) Section 222(3)(a), ‘subsection (1)(a)’—

*omit, insert—*

‘subsection (1)(a) or (c)’.

### **58 Amendment of s 228 (Effect of licensee ceasing to be an owner of land)**

Section 228—

*insert—*

‘(7) In this section—

“**owner**”, of land, includes an occupier of the land who was the holder of an entitlement to take water in relation to the land—

(a) in force under the repealed Act immediately before the commencement of this section; and

(b) that is, under section 1048(5), taken to be a water licence.’.

---

4 See section 227 (Cancelling water licence).

**59 Amendment of s 229 (Effect of disposal of part of land to which water licence attaches)**

(1) Section 229, heading, after ‘licence’—

*insert—*

**‘to take water’.**

(2) Section 229(1)(a), after ‘licence’—

*insert—*

‘to take water’.

**60 Insertion of new ss 229A and 229B**

Chapter 2, part 6, division 2, subdivision 5—

*insert—*

**‘229A Effect of disposal of part of land to which water licence to interfere with water attaches**

‘(1) This section applies if—

- (a) a water licence to interfere with the flow of water on, under or adjoining land is attached to land; and
- (b) the registered owner of the land disposes of part of the land.

‘(2) If the location at which water may be interfered with is on, under or adjoining either the part of the land disposed of or the part retained by the owner, the licence attaches to the part and may be amended under section 219 to show the change.

‘(3) However, if the location at which water may be interfered with is on, under or adjoining both the part of the land disposed of and the part retained, the licence must be amended by the chief executive under section 219 so that it is held jointly by both the owner of the part retained and the owner of the part disposed of.

**‘229B Effect of acquisition of part of land to which water licence to take water attaches**

‘(1) This section applies if part of the land to which a water licence to take water is attached is taken under the *Acquisition of Land Act 1967*.

‘(2) If the remaining part of the land continues to adjoin the watercourse, lake or spring from which water may be taken under the licence, the licence—

- (a) does not expire under section 229; and
- (b) may be amended under section 219 so it attaches to the remaining part of the land.

‘(3) If the remaining part of the land no longer adjoins the watercourse, lake or spring, section 229 applies to the acquisition as if the acquisition were a disposal.

‘(4) If the acquisition includes an acquisition of the licence, section 222 applies for transferring the licence to the entity that acquired the land.’.

#### **61 Amendment of s 232 (Additional information may be required)**

Section 232—

*insert—*

‘(2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.’.

#### **62 Amendment of s 238 (Additional information may be required)**

Section 238—

*insert—*

‘(2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.’.

#### **63 Amendment of s 301 (Deciding application for water bore driller’s licence)**

(1) Section 301(3), ‘deciding the application’—

*omit, insert—*

‘deciding to grant the application’.

(2) Section 301(5)—

*omit.*



**64 Amendment of s 302 (Conditions of water bore driller's licence)**

Section 302(1)(a), after 'regulation'—

*insert—*

‘, including the period for which the licence has effect’.

**65 Amendment of s 376 (Notice of intention to stop operating as a service provider)**

(1) Section 376(2), '20'—

*omit, insert—*

‘at least 60’.

(2) Section 376—

*insert—*

‘(3) The notice must—

- (a) be in the approved form; and
- (b) state the day by which the service provider intends to stop supplying the service.

‘(4) The regulator may require—

- (a) the service provider to give additional information about the notice; or
- (b) any information included in the notice, or any additional information required under paragraph (a), to be verified by statutory declaration.

‘(5) If the service provider fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the notice given under subsection (2) is of no effect.

‘(6) If the service provider continues supplying the service after the day stated in the notice—

- (a) the notice ceases to have effect as a notice for subsection (2); and
- (b) if the service provider is again likely to stop supplying the service—the service provider must give a further notice under subsection (2).’.

**66 Replacement of s 382 (Power to direct remedial work)**

Section 382—

*omit, insert—*

**‘382 Power to direct remedial work**

‘(1) Subsection (2) applies to the owner of—

- (a) defective or improper equipment connected to, or adversely affecting, a service provider’s infrastructure; or
- (b) land on which there is situated vegetation or any other thing adversely affecting the service provider’s infrastructure or ability to provide the services for which the service provider is registered.

‘(2) The service provider may give the owner a notice to do work, within the reasonable time stated in the notice, to—

- (a) rectify the equipment; or
- (b) remove the vegetation or other thing.

‘(3) If the owner does not do the work within the time stated in the notice—

- (a) an authorised person may, under section 384, enter the place where the work is required and do the work; and
- (b) the service provider may recover from the owner, as a debt due, the cost of the work.’.

**67 Amendment of s 386 (Compensation for damage)**

Section 386(4)—

*omit, insert—*

‘(4) For this section, loss or expense does not include loss or expense caused by the act of—

- (a) removing an unauthorised connection; or
- (b) rectifying defective or improper equipment; or
- (c) removing vegetation or any other thing.’.

**68 Amendment of s 408 (Preparing strategic asset management plan)**

(1) Section 408(3)(c), ‘service and performance’—

*omit, insert—*

‘service, including customer service, and performance’.

(2) Section 408(4)—

*insert—*

‘(ab)state the service provider’s proposed arrangements for financing the implementation of the plan; and’.

(3) Section 408(4)(ab) to (c)—

*renumber* as section 408(4)(b) to (d).

**69 Amendment of s 435 (Deciding application for exemption)**

Section 435(1), ‘benefit to the service provider’s customers’—

*omit, insert—*

‘benefits’.

**70 Amendment of s 471 (Suspending or cancelling trade waste approval)**

Section 471(7), ‘from the moment’ to ‘show cause notice’—

*omit, insert—*

‘without giving a show cause notice’.

**71 Amendment of s 481 (Meaning of “referable dam”)**

Section 481(1)—

*insert—*

‘(c) the chief executive has, under section 487, accepted the assessment.’.

**72 Amendment of s 482 (Meaning of “failure impact assessment”)**

Section 482(1)(b), ‘published in the gazette’—

*omit, insert—*

‘issued’.

**73 Amendment of s 483 (When a dam must be failure impact assessed)**

(1) Section 483(4)—

*omit, insert—*

‘(4) A person required under subsection (1) to have a dam failure impact assessed must ensure the assessment is completed, and accepted by the chief executive under section 487, before construction of the dam begins.

‘Maximum penalty—1 665 penalty units.

‘(4A) A person required under subsection (2) to have a dam failure impact assessed must ensure the assessment is completed and given to the chief executive within the reasonable time stated in the notice.

‘Maximum penalty—1 665 penalty units.

‘(4B) A failure impact assessment given to the chief executive must be accompanied by the prescribed fee.’

(2) Section 483(5), ‘(6)’—

*omit, insert—*

‘(8)’.

(3) Section 483(7), ‘(6)’—

*omit, insert—*

‘(8)’.

(4) Section 483(7)(b)—

*omit, insert—*

‘(b) a dam mentioned in subsection (2) if—

- (i) the last failure impact assessment for the dam, carried out under subsection (2) or (8), has not given the dam a category 1 or category 2 failure impact rating; and

- (ii) the dam does not meet the criteria stated in subsection (1)(a) or (b).’.

(5) Section 483(4A) to (7)—

*renumber* as subsections (5) to (9).

#### **74 Amendment of s 490 (Rejecting failure impact assessment)**

Section 490—

*insert*—

‘(3) If the assessment relates to an existing dam, the information notice must require the owner to—

- (a) have a new assessment completed and certified; and
- (b) give the certified assessment to the chief executive for a decision under section 487 within the reasonable time stated in the notice.

‘(4) The owner must comply with the notice, unless the owner has a reasonable excuse for not complying.

‘Maximum penalty—1 665 penalty units.’.

#### **75 Amendment of s 491 (Safety conditions for existing referable dams)**

Section 491(7), from ‘the chief executive must’—

*omit, insert*—

‘the chief executive must—

- (a) give the owner an information notice about the safety conditions; and
- (b) give the local government for the area a copy of the safety conditions.’.

#### **76 Amendment of s 492 (Changing safety conditions)**

(1) Section 492(2), from ‘the chief executive must’—

*omit, insert*—

‘the chief executive must—

- (a) give the owner of the dam an information notice about the changed safety conditions; and
- (b) give the local government for the area a copy of the changed safety conditions.’.

(2) Section 492(5), ‘section 491(7) or (8)’—

*omit, insert—*

‘section 491(8) or (9)’.

### **77 Amendment of s 494 (Emergency powers)**

Section 494(3)(d), ‘section 214.’—

*omit, insert—*

‘, other than for the purposes of a review of, or an appeal against, the decision to give the notice.’<sup>5</sup>.

### **78 Omission of s 518 (Non-disclosure of commercially sensitive information)**

Section 518—

*omit.*

### **79 Amendment of s 548 (Establishing water authorities)**

Section 548(3)—

*omit, insert—*

‘(3) The regulation must name the authority and, if the authority is established for an authority area, identify the authority area.’.

### **80 Replacement of s 583 (Identification and disclosure of cross-subsidies)**

Section 583—

*omit, insert—*

---

5 See chapter 6.

**‘583 Identification and disclosure of cross-subsidies**

‘(1) This section applies to the following water authorities that charge on a volumetric basis for water the authorities manage—

- (a) category 1 water authorities;
- (b) other water authorities prescribed by regulation.

‘(2) Each water authority must include in its annual report a statement—

- (a) identifying and disclosing all cross-subsidies between classes of its customers in carrying out its water activities; and
- (b) disclosing—
  - (i) the classes of its customers for whom a water activity is carried out at an amount below the full cost of the activity; and
  - (ii) the amount.

‘(3) The cross-subsidies must be calculated in accordance with the guidelines, if any, issued by the chief executive for calculating cross-subsidies.’.

**81 Replacement of s 598 (Composition of board for water authorities)**

Section 598—

*omit, insert—*

**‘598 Composition of board for water authorities**

‘(1) As soon as practicable after a water authority is established under section 548, the chief executive must publish a notice in the gazette stating—

- (a) the number of directors comprising the authority’s board; and
- (b) whether the directors are to be elected by the authority’s ratepayers or nominated and, if they are to be nominated, by whom they are to be nominated.

‘(2) The directors must be elected or nominated in accordance with the procedures prescribed under a regulation.

‘(3) Subsection (1) has effect subject to sections 599 and 600.

**‘598A Changing the composition of a board**

‘(1) Subsection (2) applies for a proposed change in the composition of the board of a water authority.

‘(2) The chief executive must publish notice of the proposed change in the way stated in section 552(1).

‘(3) The notice must state the following—

- (a) the proposed change;
- (b) that written submissions on the proposed change may be made to the chief executive;
- (c) the day, at least 20 business days after the notice is published, by which submissions may be made;
- (d) where the submissions may be made.

‘(4) The chief executive must consider each properly made submission about the proposed change before publishing a notice in the gazette amending the notice published under section 598.

‘(5) Subsection (2) does not apply if the change—

- (a) merely corrects a minor error in the notice published under section 598; or
- (b) is not a change of substance.’.

**82 Amendment of s 602 (Administration of water authority)**

(1) Section 602—

*insert—*

‘(1A) Subsection (3) applies if—

- (a) the Governor in Council removes all the directors of a water authority’s board from office; or
- (b) for another reason, there are no directors comprising a water authority’s board.’.

(2) Section 602(2), words before ‘Minister may appoint’—

*omit, insert—*

‘The’.



(3) Section 602(1A) and (2)—  
*renumber* as section 602(2) and (3).

### 83 Amendment of s 816 (Unauthorised water bore activities)

Section 816(2)—

*insert*—

‘(c) carrying out a water bore drilling activity if the activity would not result in the water bore being more than 6 m deep.’.

### 84 Amendment of s 851 (Who is an interested person)

(1) Section 851(1), after ‘chief executive’—

*insert*—

‘, or an authorised officer appointed by the chief executive,’.

(2) Section 851(3), after ‘regulator’—

*insert*—

‘, or an authorised officer appointed by the regulator,’.

(3) Section 851—

*insert*—

‘(3A) In this part, a person who has been given an information notice by a local government is an **“interested person”**’.

(4) Section 851(5), ‘subsection (1) or (3) or the decision mentioned in subsection (4)’—

*omit, insert*—

‘subsection (1), (3) or (4) or the decision mentioned in subsection (5)’.

(5) Section 851(3A) to (5)—

*renumber* as section 851(4) to (6).

### 85 Amendment of s 862 (Who may apply for internal review)

(1) Section 862(1)—

*insert*—

‘(ba) section 851(4)—to the chief executive of the local government (also the “reviewer”); or’.

(2) Section 862(1)(c), ‘section 851(4)’—

*omit, insert—*

‘section 851(5)’.

(3) Section 862(1)(ba) and (c)’—

*renumber* as section 862(1)(c) and (d).

## **86 Amendment of s 864 (Review decision)**

(1) Section 864(1), words before ‘within 20 business days’—

*omit, insert—*

‘(1) Subsection (2) applies if the reviewer is satisfied the applicant has complied with—

(a) section 862; and

(b) either—

(i) section 863(1); or

(ii) if the reviewer has extended the time for applying for an internal review—section 863(1) within the time extended under section 863(2); and

(c) if any other person was given an information notice about the original decision—section 863(3) and (4).

‘(1A) The reviewer must,’.

(2) Section 864(3)(b)—

*omit, insert—*

‘(b) that the applicant may, within 30 business days after the day the applicant is given the notice—

(i) for a decision or action mentioned in section 851(3)—apply for arbitration on the review decision under part 4; and

(ii) for a decision or action about a water bore driller’s licence—appeal against the review decision to the Magistrates Court; and

- (iii) for a decision or action mentioned in section 851(1) or (5), other than a decision or action mentioned in subparagraph (ii) or (iv)—appeal against the review decision to the Land Court; and
- (iv) for a decision or action mentioned in section 489, 490, 491, 492 or 494—appeal against the review decision to the Planning and Environment Court; and
- (v) for a decision or action mentioned in section 851(4)—appeal against the review decision to the Magistrates Court; and’.

**(3)** Section 864(3)(e)—

*omit, insert—*

- ‘(e) that the applicant may apply to the court mentioned in paragraph (b)(ii), (iii), (iv) or (v) for a stay of the review decision.’.

**(4)** Section 864(4), ‘subsection (1) or (2)’—

*omit, insert—*

‘subsection (2) or (3)’.

**(5)** Section 864(1A) to (6)—

*renumber* as section 864(2) to (7).

## **87 Amendment of s 877 (Who may appeal)**

Section 877 (1)(b) and (c)—

*omit, insert—*

- ‘(b) if the review decision was about an original decision or action mentioned in section 851(1) or (5), other than a decision mentioned in paragraph (a) or (c)—the Land Court; and
- (c) if the review decision was about an original decision or action mentioned in section 489, 490, 491, 492 or 494—the Planning and Environment Court; and
- (d) if the review decision was about a decision or action mentioned in section 851(4)—the Magistrates Court.’.

**88 Amendment of s 921 (Evidentiary aids)**

Section 921—

*insert—*

‘(3) A certificate purporting to be signed by an authorised officer stating that during a stated period a stated quantity of water passed through a device used for recording the taking of, interfering with, or use of water is evidence of the matters stated.’.

**89 Amendment of s 955 (Governor in Council may appoint administrator to operate infrastructure)**

(1) Section 955(2), after ‘to operate the infrastructure’, first mention—

*insert—*

‘and use the service provider’s water entitlement to supply the registered service’.

(2) Section 955(2)(a), after ‘regulator’—

*insert—*

‘or any other person who has the necessary experience or qualifications to operate the infrastructure’.

(3) Section 955(4), after ‘operate the infrastructure’—

*insert—*

‘and supply the registered service’.

**90 Insertion of new s 959**

Chapter 8, part 1—

*insert—*

**‘959 Displacement provision for Corporations legislation**

‘This part is declared to be a Corporations legislation displacement provision for the Corporations Act, section 5G,<sup>6</sup> in relation to the Corporations Act, parts 5.2 to 5.7.’.

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<sup>6</sup> Corporations Act, section 5G (Avoiding direct inconsistency arising between the Corporations legislation and State and Territory laws)

**91 Amendment of s 966 (Additional criteria for assessing development applications)**

(1) Section 966(1)(c)—

*omit, insert—*

- ‘(c) operational work in a drainage and embankment area controlling the flow of water into or out of a watercourse, lake or spring; or
- (d) operational work—
  - (i) that is the construction of a referable dam; or
  - (ii) that will increase the storage capacity of a referable dam by more than 10%; or
- (e) development in a declared catchment area.’.

(2) Section 966(2)—

*omit, insert—*

‘(2) The chief executive must assess the development application against the purposes of this Act to the extent the purposes relate to the following—

- (a) for development mentioned in subsection (1)(a)—the taking of or interfering with water;
- (b) for development mentioned in subsection (1)(b)—other resources;
- (c) for development mentioned in subsection (1)(c)—the protection of watercourses and water in watercourses;
- (d) for development mentioned in subsection (1)(d)—referable dams;
- (e) for development mentioned in subsection (1)(e)—preserving water quality in the catchment area.’.

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7 Corporations Act, parts 5.2 (Receivers and other controllers, of property of corporations), 5.3A (Administration of company’s affairs with a view to executing a deed of company arrangement), 5.4 (Winding up in insolvency), 5.4A (Winding up by the Court on other grounds), 5.5 (Voluntary winding up), 5.6 (Winding up generally) and 5.7 (Winding up bodies other than companies)

**92 Amendment of s 967 (IPA approval for development is subject to approval under this Act)**

(1) Section 967(1)(a), 'entitled'—

*omit, insert—*

'required to hold a water entitlement'.

(2) Section 967(3) and (4)—

*omit, insert—*

'(3) The application for the development permit must be accompanied by the chief executive's written consent to the application being made.

'(4) The chief executive may refuse to consent if—

(a) the person does not hold an entitlement to take or interfere with water; or

(b) the person holds a water entitlement but the works for which the development permit is required are not consistent with the entitlement.

'(5) A development permit, to the extent it relates to operational work for taking or interfering with water from a watercourse or lake, is taken to include a right to use and occupy the part of the bed or bank of the watercourse or lake—

(a) that adjoins the owner's land; and

(b) on which the works are situated.'

**93 Amendment of s 968 (Chief executive may direct works to be modified or removed)**

(1) Section 968(1)(b)—

*omit, insert—*

'(b) that, if the works were to be constructed at the time the show cause notice is given under subsection (2), are either—

(i) works for which a development application would be required; or

(ii) works that would be self-assessable development under the *Integrated Planning Act 1997*.'

(2) Section 968(2)(a), 'a water entitlement holder'—

*omit, insert—*

‘the holder of a water entitlement’.

**94 Amendment of s 970 (Allocation of quarry material is subject to IPA approval)**

Section 970(3)—

*omit.*

**95 Replacement of s 971 (Development applications for referable dams)**

Section 971—

*omit, insert—*

**‘971 Development applications for referable dams**

‘(1) Subsection (2) applies if a person makes a development application for operational work—

- (a) that is the construction of a referable dam; or
- (b) that will increase the storage capacity of a referable dam by more than 10%.

‘(2) The development application must be supported by—

- (a) evidence that the chief executive has accepted a failure impact assessment of the dam; and
- (b) if a water entitlement is required to operate the dam—the chief executive’s written consent to the application being made.’.

**96 Insertion of new s 1004A**

After section 1004—

*insert—*

**‘1004A Referral panels established by the Minister**

‘(1) If the Minister receives an application under section 42A, the Minister must—

- (a) establish a referral panel, consisting of at least 3 individuals, to consider the application; and

(b) refer the application to the panel.

‘(2) The panel must consider—

(a) whether the works to which the application relates—

(i) are substantially completed; or

(ii) would have been completed by the completion day but for a change in circumstances beyond the applicant’s control; and

(b) whether the works can be completed, to the extent they would be functional, within a reasonable time.

‘(3) The panel must make a recommendation, about the application, to the Minister within 20 business days after the day the panel receives the application.’.

## **97 Amendment of s 1006 (Declarations about watercourses)**

Section 1006—

*insert—*

‘(2) A regulation may declare water in an aquifer under a watercourse, or under land adjacent to a watercourse, to be water in the watercourse.

‘(3) Water declared under a regulation to be in a watercourse is not subartesian water.’.

## **98 Amendment of s 1007 (Records to be kept by registrar of titles)**

(1) Section 1007, heading, ‘**by registrar of titles**’—

*omit, insert—*

**‘in registries’.**

(2) Section 1007—

*insert—*

‘(5) If a land and water management plan is required under section 73 to use water taken under a water allocation, the chief executive must give notice of the requirement to the registrar of water allocations.

‘(6) The registrar must record the notice in a way that a search of the register relating to the water allocation will show that a land and water management plan is required for the use of the water.’.



**99 Insertion of new s 1010A**

After section 1010—

*insert—*

**‘1010A Non-disclosure of commercially sensitive information**

‘(1) This section applies if—

- (a) information about a person (a “**client**”) is received by the Minister, the chief executive or the regulator (the “**entity**”) under section 36, 97 or 517;<sup>8</sup> and
- (b) the client who provides the information advises the entity that the information is commercially sensitive; and
- (c) the entity believes disclosure of the information—
  - (i) would be likely to damage the client’s commercial activities; and
  - (ii) would not be in the public interest.

‘(2) The entity must take all reasonable steps to ensure the information is not, without the client’s consent, disclosed to another person other than an employee of the department who receives the information in the course of the employee’s duties.

‘(3) The employee must not disclose to any person information the employee obtains under subsection (2).

‘(4) In this section—

“**commercially sensitive**” means reasonably expected to adversely affect the client’s commercial activities.’.

**100 Insertion of new s 1013A**

After section 1013—

*insert—*

---

8 Section 36 (Obtaining water information), 97 (Notice of proposal to water infrastructure operators) or 517 (Information may be required from service providers)

### **‘1013A Fees and charges payable to the chief executive**

‘(1) This section applies to a fee or charge payable to the chief executive under a regulation made under this Act.

‘(2) Any amount of the fee or charge remaining unpaid after the day stated in the regulation for payment of the fee or charge—

- (a) bears interest at the rate stated in the regulation; and
- (b) is a debt due and payable to the State.

‘(3) The Minister may waive, completely or partly, payment of a fee or charge and any interest payable on the fee or charge if the Minister is satisfied the person by whom the fee or charge is payable is suffering hardship because of the effects of—

- (a) drought, flood, fire or other natural disaster; or
- (b) economic recession.’.

### **101 Amendment of s 1014 (Regulation-making power)**

(1) Section 1014(2)(c), ‘minimum’—

*omit.*

(2) Section 1014(2)—

*insert—*

‘(ca) state, in relation to meters, the following—

- (i) when a meter must be installed to measure the volume of water taken, the rate at which it is taken and the time it is taken;
  - (ii) who may install the meter;
  - (iii) who must pay, and the arrangements for payment, for the installation, maintenance and reading of the meter;
  - (iv) the minimum standards for the design, construction, installation and maintenance of meters; and
- (cb) state the minimum standards for the construction and decommissioning of works relating to aquifers; and
- (ea) declare, for the *Integrated Planning Act 1997*—
- (i) an area to be a drainage and embankment area; and

- (ii) the works within the area that are to be assessable or self-assessable development; and
  - (fa) approve a code for carrying out self-assessable development that is operational work mentioned in the *Integrated Planning Act 1997*, schedule 8, part 2, item 9A; and’.
- (3) Section 1014(2)(ca) to (g)—  
*renumber* as section 1014(d) to (k).

### **102 Amendment of s 1041 (Completed water allocation and management plans)**

- (1) Section 1041(1), ‘in December 1999’—  
*omit, insert—*  
‘by the department’
- (2) Section 1041(2), from ‘to make’—  
*omit, insert—*  
‘without the need to advertise the amendment under chapter 2, part 3, if the amendment is—
- (a) to make the plan consistent with current drafting practice; or
  - (b) an amendment of section 19 of the plan about the authorisations for taking water in the plan area that will be converted to water allocations.’.

### **103 Amendment of s 1046 (Declared subartesian areas)**

- Section 1046—  
*insert—*
- ‘(4) Subsection (5) applies if a person has existing works for the taking of, or interfering with, subartesian water in a subartesian area.
- ‘(5) The chief executive may grant a water licence to the person without an application being made under section 206.’.

## **104 Replacement of s 1048 (Existing applications, licences and permits)**

Section 1048—

*omit, insert—*

### **‘1048 Existing applications**

‘(1) Subsection (2) applies to an application for or about a licence or permit, made under the repealed Act but not decided before the commencement of this section.

‘(2) On the commencement—

- (a) an application under section 42 of the repealed Act for a licence to take or use water, is taken to be an application under section 206 for a licence to take or interfere with the flow of water; and
- (b) publication of a notice under section 42(6) of the repealed Act is taken to be publication of a notice under section 208; and
- (c) an objection under section 42(9) of the repealed Act is taken to be a properly made submission under section 211(3); and
- (d) an application under section 44(2) of the repealed Act to amend, modify, vary, revoke or add a term to which a licence is subject—
  - (i) to the extent the application relates to the taking of water—is taken to be an application under section 219 to make a minor amendment to a licence; and
  - (ii) to the extent the application relates to works for the taking of water and conditions that relate to the works—
    - (A) if the chief executive would be the assessment manager for the construction of the works—is taken to be an application in relation to a development permit to which chapter 8, part 2 applies; and
    - (B) if the chief executive is not the assessment manager—lapses; and
- (e) an application under section 45 of the repealed Act to amend a licence—
  - (i) to the extent the application relates to the taking of water—is taken to be an application under section 216 to amend a licence; and

- (ii) to the extent the application relates to works for the taking of water and conditions that relate to the works—
  - (A) if the chief executive would be the assessment manager for the construction of the works—is taken to be an application in relation to a development permit to which chapter 8, part 2 applies; and
  - (B) if the chief executive is not the assessment manager—lapses; and
- (f) a show cause notice given under section 50 of the repealed Act is taken to be—
  - (i) if the notice is about taking or interfering with the flow of water—a show cause notice under section 218(3); and
  - (ii) if the notice is about modifying or removing works—a show cause notice under section 968(2); and
- (g) an application under section 46 of the repealed Act to renew a licence is taken to be an application under section 220; and
- (h) an application under section 46 of the repealed Act to renew an expired licence, made within 4 months after the day the licence expired, is taken to be an application under section 221 to reinstate a licence, made within 30 business days after the licence expired; and
  - (i) for section 221, a licence that expires within 4 months before the day section 221 commences is taken to have expired on the day after section 221 commences; and
- (j) an application under section 47 of the repealed Act to transfer a licence is taken to be an application under section 222; and
- (k) an application under section 71 of the repealed Act to destroy vegetation, excavate or place fill in a watercourse, lake or spring is taken to be an application under section 266; and
- (l) an application under section 58 of the repealed Act to take, get, remove or otherwise interfere with quarry material, lapses; and
- (m) an application under section 42 of the repealed Act for a driller's licence is taken to be an application under section 299; and
- (n) an application under section 42 of the repealed Act to construct works—

- (i) if the chief executive would be the assessment manager for construction of the works—is taken to be an application for a development permit to which chapter 8, part 2 applies; and
- (ii) if the chief executive is not the assessment manager—lapses; and
- (o) an application under section 57 of the repealed Act, to construct or use works to take water, lapses; and
- (p) an application not mentioned in paragraphs (a) to (o) may be taken to be an application for or about a licence or permit under an equivalent provision of this Act.

‘(3) If part of an application mentioned in subsection (1) is about a referable dam, the part lapses.

‘(4) This section does not apply to an application for a licence made under the repealed Act but not decided before the commencement, relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

‘(5) In subsection (3)—

“**referable dam**” has the meaning given by the *Water Resources Act 1989*, section 2, but does not include a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

#### ‘1048A Existing licences, permits and approvals

‘(1) Subsection (2) applies to—

- (a) each licence or permit granted under the repealed Act and in force immediately before the commencement of this section; and
- (b) the part of each licence or permit granted under the repealed Act and that is not an interim water allocation under section 1114 and in force immediately before the commencement.

‘(2) On the commencement—

- (a) if a licence mentioned in subsection (1)(a) was a licence for works under part 4 of the repealed Act—the licence is taken to be a water licence given under chapter 2, part 6, and its conditions that related to the works, are taken to be a development permit; and

- (b) if a part of a licence mentioned in subsection (1)(b) was a licence for works under part 4 of the repealed Act—the part is taken to be a development permit; and
- (c) if a permit mentioned in subsection (1) was a permit granted under section 56(1)(a) of the repealed Act—the permit is taken to be a water licence given under chapter 2, part 6, and its conditions that related to the works, are taken to be a development permit; and
- (d) if a permit mentioned in subsection (1) was a permit granted under section 56(1)(b) of the repealed Act—the permit is taken to be a water permit given under chapter 2, part 6; and
- (e) if a permit mentioned in subsection (1) was a permit granted under section 57 of the repealed Act to an owner of land abutting a watercourse lake or spring, the permit ceases to exist; and
- (f) if a permit mentioned in subsection (1) was a permit granted under section 57 of the repealed Act to an owner of land abutting a weir, barrage or dam—
  - (i) the permit is taken to be—
    - (A) to the extent it relates to water managed under an interim resource operations licence—an interim water allocation; and
    - (B) to the extent it relates to the taking of other water—a water licence given under chapter 2, part 6; and
  - (ii) the permit's conditions that related to works are taken to be a development permit; and
- (g) if a permit mentioned in subsection (1) was a permit granted under section 58 of the repealed Act—the permit is taken to be an allocation notice given under chapter 2, part 9, and its conditions that related to removal of quarry material, are taken to be a development permit; and
- (h) if a permit mentioned in subsection (1) was a permit granted under section 71 of the repealed Act—the permit is taken to be a permit given under chapter 2, part 8; and
- (i) if a licence mentioned in subsection (1) was a driller's licence—the licence is taken to be a water bore driller's licence given under chapter 2, part 10.

‘(3) A licence or permit mentioned in subsection (2) and taken to be a licence, permit or allocation notice under this Act is a licence, permit or allocation notice—

- (a) for a permit mentioned in subsection (2)(f)(i)(B)—for 2 years from commencement; and
- (b) otherwise, for the period the licence or permit would have been in force if the repealed Act had not been repealed.

‘(4) A person granted an interim water allocation under subsection (2)(f) must, within 60 business days after the day the allocation is granted, enter into a supply contract for the allocation with the interim resource operations licence holder.

‘(5) If a person fails to comply with subsection (4), section 122A applies as if the interim water allocation were a water allocation.

‘(6) The chief executive may amend an interim resource operations licence without complying with the provisions of chapter 2, part 5, division 2 about amending the licence if the amendment is merely to allow for an interim water allocation mentioned in subsection (2)(f).

‘(7) Within 30 business days after the day the chief executive amends the licence, the chief executive must give the licence holder—

- (a) an amended licence in the approved form; and
- (b) an information notice.

‘(8) The amended licence takes effect from the day the chief executive gives the licence holder the information notice.

‘(9) Subsection (10) applies to an agreement—

- (a) approved by regulation under section 101 of the repealed Act; and
- (b) in force immediately before the commencement.

‘(10) The agreement is taken to be a water licence given under chapter 2, part 6, and its conditions that relate to works are taken to be a development permit.

‘(11) This section does not apply to a licence under the repealed Act in force immediately before the commencement, relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

‘(12) For 1 year after the commencement, sections 311 and 816 do not apply to a person carrying out drilling activities for a subartesian bore in an



area that was not a declared subartesian area under the repealed Act immediately before the commencement.

#### **‘1048B Existing trade waste approvals**

‘(1) Subsection (2) applies to a trade waste approval—

- (a) given under the *Standard Sewerage Law*, section 24; and
- (b) in force immediately before the commencement of this section.

‘(2) On the commencement, the approval is taken to be a trade waste approval granted under section 469.’.

#### **105 Amendment of s 1049 (Existing applications about water in irrigation or project areas)**

Section 1049—

*insert—*

‘(3) However, subsection (2)(a) does not, and never did, apply to an application for a licence or permit to continue to take water if—

- (a) before the commencement, the applicant was involved in the activity of taking water other than under a licence or permit; and
- (b) the application does not involve an increase in the volume of water to be taken.’.

#### **106 Amendment of s 1063 (Existing water or sewerage areas)**

(1) Section 1063, heading, ‘**Existing water**’—

*omit, insert—*

‘**Water**’.

(2) Section 1063—

*insert—*

‘(3) If, after 1 October 2000 but before the commencement of section 449, a resolution of a local government under the *Sewerage and Water Supply Act 1949* declares an area to be a water area or sewerage area, the water area or sewerage area is a service area under this Act—

- (a) from the date the resolution was made; and
- (b) for the service for which the resolution was made.’.

### **107 Amendment of s 1065 (Application of div 2)**

Section 1065(3)—

*omit, insert—*

‘(3) If a licence was granted under section 43 of the repealed Act for the dam, on and from the commencement—

- (a) to the extent the licence relates to interfering with water in a watercourse, the licence is taken to be a water licence under chapter 2, part 6; and
- (b) to the extent the licence relates to works, the licence is taken to be a development permit; and
- (c) the conditions about the safety of the dam that applied to the licence are taken to be conditions of the environmental authority issued under the *Environmental Protection Act 1994* or a development approval, if any, for the dam.’.

### **108 Insertion of new s 1065A**

Chapter 9, part 2, division 2, subdivision 1—

*insert—*

#### **‘1065A Transitional provision for dams containing hazardous waste**

‘(1) Despite the repeal of the repealed Act, until the commencement of section 1065(2) and (3)—

- (a) the repealed Act continues to apply to a dam containing hazardous waste; and
- (b) this Act does not apply to the dam; and
- (c) the dam is not assessable development under the *Integrated Planning Act 1997*, schedule 8, part 1, item 3B.

‘(2) Subsection (3) applies to an application—

- (a) relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste; and

(b) made under the repealed Act but not decided before the commencement of section 1065(2) and (3).

‘(3) On the commencement of section 1065(2) and (3), section 1048(2) applies to the application.

‘(4) Subsection (1) expires immediately after section 1065(2) and (3) commences.’.

### **109 Amendment of s 1067 (Failure impact assessing existing unlicensed dams)**

Section 1067(3) and (4)—

*omit, insert—*

‘(3) A failure impact assessment completed under subsection (2) is taken to be a failure impact assessment completed under section 483(2).

‘(4) Subsection (2) does not apply to the owner of a dam prescribed under a regulation.

‘(5) A dam mentioned in the regulation—

(a) is a referable dam; and

(b) has the failure impact rating shown for the dam in the regulation.

‘(6) The failure impact rating shown for the dam in the regulation is taken to be a failure impact assessment completed under section 483(2).

‘(7) For section 483(8), the day the dam was prescribed is taken to be the day the last failure impact assessment was accepted by the chief executive.

‘(8) If a failure impact assessment is completed and accepted by the chief executive for a dam for which a failure impact rating has been prescribed, the rating given under the assessment replaces the rating prescribed for the dam.’.

### **110 Amendment of s 1068 (Failure impact assessing prescribed licensed dams)**

Section 1068—

*insert—*

‘(3) The failure impact rating shown for the dam in the regulation is taken to be a failure impact assessment completed under section 483(2).

‘(4) For section 483(8), the day the dam was prescribed is taken to be the day the last failure impact assessment was accepted by the chief executive.

‘(5) If a failure impact assessment is completed and accepted by the chief executive for a dam for which a failure impact rating has been prescribed, the rating given under the assessment replaces the rating prescribed for the dam.’.

### **111 Amendment of s 1069 (Failure impact assessing licensed dams not prescribed)**

(1) Section 1069—

*insert—*

‘(3A) A failure impact assessment completed under subsection (3) is taken to be a failure impact assessment completed under section 483(2).’.

(2) Section 1069(5), ‘subsection (4)’—

*omit, insert—*

‘subsection (5)’.

(3) Section 1069(3A) to (5)—

*renumber* as section 1069(4) to (6).

### **112 Amendment of s 1089 (Existing authorities to take, or interfere with, water)**

Section 1089(1), ‘former water board or the chief executive’—

*omit, insert—*

‘former water board, customer of a former water board or the chief executive’.

### **113 Insertion of new ch 9, pt 4A**

After section 1121—

*insert—*

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## **‘PART 4A—TRANSITIONAL PROVISIONS FOR WATER AMENDMENT ACT 2001**

### **‘1121A Varying effect of moratorium notice**

‘(1) To avoid any doubt, it is declared that a decision by the Minister to grant an application, made in response to the notice published in the Courier Mail on 29 October 2001 at page 19, is a valid decision for section 42A.

‘(2) This part expires 6 months after it commences.’.

### **114 Insertion of new s 1132**

After section 1131—

*insert—*

### **‘1132 Transitional regulation-making power**

‘(1) A regulation (a “**transitional regulation**”) may make provision about a matter for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of the repealed Act to the operation of this Act; and
- (b) this Act does not make provision or sufficient provision.

‘(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement of this section.

‘(3) A transitional regulation must declare it is a transitional regulation.

‘(4) This section and any transitional regulation expire 1 year after the commencement of this section.’.

### **115 Amendment of sch 2 (Amendments about planning matters)**

(1) Schedule 2, amendment 2 for the *Integrated Planning Act 1997*, paragraph (g)—

*omit, insert—*

- ‘(g)operations of any kind and all things constructed or installed that allow taking, or interfering with, water (other than using a water truck to pump water) under the *Water Act 2000*;’.

(2) Schedule 2, amendment 3 for the *Integrated Planning Act 1997*, from ‘the application’—

*omit, insert—*

‘the application to be supported by—

- (a) evidence of an allocation of the resource; or
- (b) the written consent of the chief executive, of the department in which the other Act is administered, to the application being made.<sup>9</sup>.

(3) Schedule 2, amendments 6 to 11 for the *Integrated Planning Act 1997*—

*omit.*

(4) Schedule 2, amendment 15 for the *Integrated Planning Act 1997*, item 3B, words before paragraph (a)—

*omit, insert—*

“**3B.**Carrying out operational work that is operations of any kind and all things constructed or installed that allow taking, or interfering with, water (other than using a water truck to pump water) under the *Water Act 2000* if the operations allow, under the *Water Act 2000*—’.

(5) Schedule 2, amendment 15 for the *Integrated Planning Act 1997*, item 3B(a), after ‘section 20(2), (3) or (5)’—

*insert—*

‘or from a dam constructed on a watercourse’.

(6) Schedule 2, amendment 15 for the *Integrated Planning Act 1997*, item 3B(c), ‘water mentioned’—

*omit, insert—*

‘water, if the operations are mentioned as assessable development’.

(7) Schedule 2, amendment 15 for the *Integrated Planning Act 1997*, item 3B—

*insert—*

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9 For example, see the *Water Act 2000*, chapter 2, part 9 or chapter 8, part 2.

‘(d) controlling the flow of water into or out of a watercourse, lake or spring in an area declared under the *Water Act 2000* to be a drainage and embankment area if the operations are declared under the *Water Act 2000* to be assessable development.’.

(8) Schedule 2, amendment 15 for the *Integrated Planning Act 1997*, item 3C—

*omit, insert—*

**‘3C.** Carrying out operational work—

- (a) that is the construction of a referable dam under the *Water Act 2000*; or
- (b) that will increase the storage capacity of a referable dam by more than 10%.’.

(9) Schedule 2, amendment 17 for the *Integrated Planning Act 1997*, item 9A, words before paragraph (a)—

*omit, insert—*

**‘9A.** Carrying out operational work that is operations of any kind and all things constructed or installed for taking water if the operations allow—’.

(10) Schedule 2, amendment 17 for the *Integrated Planning Act 1997*, item 9A(b), ‘water mentioned’—

*omit, insert—*

‘water, if the operations are mentioned as self-assessable development’.

(11) Schedule 2, amendment 17 for the *Integrated Planning Act 1997*, item 9A—

*insert—*

‘(c) controlling the flow of water into or out of a watercourse, lake or spring in an area declared under the *Water Act 2000* to be a drainage and embankment area if the operations are declared under the *Water Act 2000* to be self-assessable development.’.

(12) Schedule 2, amendment 18 for the *Integrated Planning Act 1997*—

*omit, insert—*

**‘18. Schedule 8, part 3, item 13(a), from ‘use’—**

*omit, insert—*

‘use, other than—

- (i) the clearing of native vegetation on freehold land; or
- (ii) operations of any kind and all things constructed or installed for taking, or interfering with, water (other than using a water truck to pump water) if the operations are for taking, or interfering with, water under the *Water Act 2000*; and'.’.

(13) Schedule 2, heading and amendments for the *Vegetation Management Act 1999*—

*omit.*

### 116 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions “**bulk water service provider**”, “**performance indicator**”, “**publish**” and “**water sharing rules**”—

*omit.*

(2) Schedule 4—

*insert—*

‘ “**bulk water service**” means the supply of large quantities of water other than as an irrigation service.

“**megalitre**” means 1 million litres.

“**ML**” means megalitre.

“**owner**”, for chapter 2, part 6, see section 203.

“**performance indicator**”, for a water resource plan, means a measure that can be calculated and is stated in the plan to assess the impact of an allocation and management decision or proposal on water entitlements and natural ecosystems.

‘ “**publish**”—

1. “Publish”, for a notice under section 21 or 246 means to publish the notice—
  - (a) in a newspaper circulating generally throughout the area for which the notice is published; or
  - (b) by notice to an affected licensee or permittee.
2. “Publish”, for a notice under section 22 or chapter 2, part 3 or 4, means to publish the notice—



- (a) in a newspaper circulating generally throughout the area for which the notice is published; and
  - (b) on the department's web site on the internet.
3. "Publish", for a notice under another provision of this Act, means to publish the notice—
- (a) if the provision states the way the notice must be published—in the way stated in the provision; or
  - (b) if the provision does not state the way the notice must be published—in a newspaper circulating generally throughout the area for which the notice is published.

**"water sharing rules"** means—

- (a) for a water entitlement managed under a resource operations plan—the water sharing rules included in the plan; and
- (b) for a water licence not managed under a resource operations plan—the water sharing rules prescribed under a regulation, for the licence.'

(3) Schedule 4, definition "**dam**", item 3—

*omit, insert—*

'3. The term does not include the following—

- (a) a rainwater tank;
- (b) a water tank constructed of steel or concrete or a combination of steel and concrete;
- (c) a water tank constructed of fibreglass, plastic or similar material.'

(4) Schedule 4, definition "**flow conditions**", paragraph (a), after 'flow of water'—

*insert—*

'in'.

(5) Schedule 4, definition "**information notice**", 'of the Minister' to 'regulator'—

*omit, insert—*

'under this Act'.

(6) Schedule 4, definition “**information notice**”, paragraph (c), from ‘decision’—

*omit, insert—*

‘decision, or apply for arbitration, within 30 business days after the day the notice is given and how the person may appeal or apply.’.

(7) Schedule 4, definition “**lake**”, paragraph (b)—

*omit, insert—*

‘(b) the bed and banks and any other element confining or containing the water.’.

(8) Schedule 4, definition “**original decision**”, ‘section 851(5)’—

*omit, insert—*

‘section 851(6)’.

(9) Schedule 4, definition “**overland flow water**”, item 2(a)—

*omit, insert—*

‘(a) water that has naturally infiltrated the soil in normal farming operations, including infiltration that has occurred in farming activity such as clearing, replanting and broadacre ploughing; or’.

(10) Schedule 4, definition “**retail water service**”, item 2—

*omit, insert—*

‘2. The term does not include—

- (a) an irrigation service or a bulk water service in any area; or
- (b) the supply of recycled water in any area.’.

(11) Schedule 4, definition “**small service provider**”—

*insert—*

‘(c) for a water service other than a water service mentioned in paragraph (a) or (b), a service provider—

- (i) with not more than 100 customers; and
- (ii) that mainly provides drainage services or water for domestic purposes or for watering stock; or’.

(12) Schedule 4, definition “**water allocation transfer rules**”, ‘transfer’—

*omit, insert—*

‘change’.

(13) Schedule 4, definition “**watercourse**”, item 1, paragraphs (c) and (d)—

*omit, insert—*

- (c) unless a regulation under paragraph (d), (e) or (f) declares otherwise—at every place upstream of the point (“**point A**”) to which the spring tide normally flows and reflows, whether due to a natural cause or to an artificial barrier; or
- (d) if a regulation has declared an upstream limit for the watercourse—the part of the river, creek or stream between the upstream limit and point A; or
- (e) if a regulation has declared a downstream limit for the watercourse—the part of the river, creek or stream upstream of the limit; or
- (f) if a regulation has declared an upstream and a downstream limit for the watercourse—the part of the river, creek or stream between the upstream and the downstream limits.’.

(14) Schedule 4, definition “**water service**”, item 2, ‘part 3’—

*omit, insert—*

‘part 2’.

## 117 Consequential amendments

Schedule 1 amends the Acts it mentions.

**SCHEDULE 1****CONSEQUENTIAL AMENDMENTS**

section 117

**WATER RESOURCES ACT 1989****1 Section 47(1), ‘ownership’—***omit, insert—*

‘the registered proprietor or the lessee or licensee under the *Land Act 1994*’.

**2 Section 249A, after ‘the department’—***insert—*

‘or another department’.

**SCHEDULE 2****MINOR AMENDMENTS**

section 3

**1 Section 52(1), ‘final’—***omit.***2 Section 65(3)(a)—***omit, insert—*

‘(a) subordinate legislation for the *Statutory Instruments Act 1992*;  
and’.

**3 Section 100(2)(c), ‘section 100’—***omit, insert—*

‘section 101’.

**4 Section 109(d), from ‘, including’—***omit.***5 Section 126(1), ‘the granting of’—***omit, insert—*

‘the granting or amending of’.

**6 Section 128(1)(c)—***omit.*

## SCHEDULE 2 (continued)

**7 Section 191(1), ‘190’—***omit, insert—*

‘192’.

**8 Section 191(1)(b)—***omit.***9 Section 195-203—***omit, insert—***‘200-202 Section numbers not used**

‘See footnote to section 1.’.

**10 Section 206(1), ‘owners of 2 contiguous parcels’—***omit, insert—*

‘owners of contiguous parcels’.

**11 Section 288(5)(b), ‘renewal’—***omit, insert—*

‘transfer’.

**12 Section 288(5)(c), ‘notice’, first mention—***omit.***13 Section 417(3)(b), ‘days’—***omit, insert—*

‘business days’.

## SCHEDULE 2 (continued)

**14 Section 419(5), ‘(6) and (8)’—***omit, insert—*

‘(6) to (8)’.

**15 Section 430(4)(b)(ii), ‘plan’—***omit, insert—*

‘standard’.

**16 Section 484(1), ‘assessment’—***omit, insert—*

‘assessment, accepted by the chief executive under section 487,’.

**17 Section 489(3)(b), ‘section 487(1)’—***omit, insert—*

‘section 487’.

**18 Section 550(1)(b), ‘common’—***omit.***19 Section 754(1), ‘special’—***omit.***20 Section 891(1), from ‘, other than’—***omit.*

## SCHEDULE 2 (continued)

**21 Section 959-965—**

*omit, insert—*

**‘960-965 Section numbers not used**

‘See footnote to section 1.’.

**22 Section 969(a), ‘section 282’—**

*omit, insert—*

‘section 283’.

**23 Section 1004, heading, after ‘panels’—**

*insert—*

‘established by the chief executive’.

**24 Section 1056(2), ‘cancelling, renewing,’—**

*omit.*

**25 Section 1064, heading, ‘existing services areas’—**

*omit, insert—*

‘service areas’.

**26 Section 1119—**

*omit.*

**27 Section 1130—**

*omit.*



## SCHEDULE 2 (continued)

**28 Section 1132-1136—***omit, insert—***‘1133-1136 Section numbers not used**

‘See footnote to section 1.’.