

Queensland



**WATER AND OTHER
LEGISLATION AMENDMENT
ACT 2003**

Act No. 25 of 2003

Queensland



WATER AND OTHER LEGISLATION AMENDMENT ACT 2003

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Queensland



**Water and Other Legislation Amendment
Act 2003**

Act No. 25 of 2003

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

[Assented to 16 May 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Water and Other Legislation Amendment Act 2003*.

PART 2—AMENDMENT OF INTEGRATED PLANNING ACT 1997

2 Act amended in pt 2

This part amends the *Integrated Planning Act 1997*.

3 Amendment of s 3.2.1 (Applying for development approval)

Section 3.2.1—

insert—

‘**(11)** Subsection (3)(a)(ii) does not apply to an application if—

- (a) the application is for building work or operational work on land designated for community infrastructure; and
- (b) the building work or operational work is for the supply of the community infrastructure.’.

4 Amendment of s 3.5.24 (Request to change development approval (other than a change of a condition))

Section 3.5.24—

insert—

‘(3A) If the development approval is for building work or operational work for the supply of community infrastructure on land designated for the community infrastructure—

- (a) subsection (1) applies only to a person who intends to supply, or is supplying, the infrastructure; and
- (b) subsection (3) does not apply.’.

5 Amendment of s 3.5.26 (Request to cancel development approval)

Section 3.5.26—

insert—

‘(3A) Subsection (1) applies to an owner of land designated for community infrastructure only if the owner is the entity who intends, or intended, to supply the infrastructure.’.

6 Amendment of s 3.5.33 (Request to change or cancel conditions)

Section 3.5.33—

insert—

‘(3A) If the development approval is for building work or operational work for the supply of community infrastructure on land designated for the community infrastructure—

- (a) subsection (1) applies only to a person who intends to supply, or is supplying, the infrastructure; and
- (b) subsection (3) does not apply.’.

PART 3—AMENDMENT OF LAND ACT 1994

7 Act amended in pt 3

This part amends the *Land Act 1994*.

8 Amendment of s 361 (Definitions)

Section 361—

insert—

‘**“full supply level”** see the *Water Act 2000*, schedule 4.’

9 Amendment of s 362 (Easements may be created only by registration)

Section 362(5)—

omit, insert—

‘**(5)** A public utility easement for water storage may be created only for water storage—

- (a) for a weir—on land upstream of the weir and within or outside the storage area at full supply level; or
- (b) for a dam—on land upstream of the barrier of the dam and outside the storage area at full supply level.

‘**(6)** The document creating the easement must show the part of the land over which water may be stored.’

PART 4—AMENDMENT OF LAND TITLE ACT 1994**10 Act amended in pt 4**

This part amends the *Land Title Act 1994*.

11 Amendment of s 81A (Definitions for div 4)

Section 81A—

insert—

‘**“full supply level”** see the *Water Act 2000*, schedule 4.’

12 Amendment of s 82 (Creation of easement by registration)

Section 82(3)—

omit, insert—

‘(3) A public utility easement for water storage may be created only for water storage—

- (a) for a weir—on land upstream of the weir and within or outside the storage area at full supply level; or
- (b) for a dam—on land upstream of the barrier of the dam and outside the storage area at full supply level.

‘(4) The instrument creating the easement must show the part of the land over which water may be stored.’.

**PART 5—AMENDMENT OF VALUATION OF LAND
ACT 1944****13 Act amended in pt 5**

This part amends the *Valuation of Land Act 1944*.

14 Amendment of s 2 (Definitions)

Section 2—

insert—

‘“**resource operations plan**” see the *Water Act 2000*, schedule 4.

“**water licence**” see the *Water Act 2000*, schedule 4.’.

15 Amendment of s 28 (Alteration of valuation in force or to come into force)

Section 28—

insert—

‘(4A) If the unimproved value of a parcel of land is altered by the loss, under a resource operations plan, of a water licence the value of which

formed part of the unimproved value of the land, an alteration may not be made under subsection (1)(e) until the 30 June that is at least 1 year after the resource operations plan has effect.’

16 Amendment of s 38 (Period for which annual valuation to have effect)

Section 38—

insert—

‘(2) However, subsection (3) applies if—

- (a) the unimproved value of land is altered by the loss, under a resource operations plan, of a water licence the value of which formed part of the unimproved value of the land; and
- (b) the loss happened during the period of 1 year before the date an annual valuation for the land would have had effect under subsection (1).

‘(3) The annual valuation does not have effect, to the extent the unimproved value of the land is altered by the loss, until 1 year after it would have had effect under subsection (1).’.

17 Amendment of s 82 (Use of combined form)

Section 82(2), definition “combined form”—

insert—

‘(f) the *Water Act 2000*.’.

PART 6—AMENDMENT OF WATER ACT 2000

18 Act amended in pt 6

This part amends the *Water Act 2000*.

19 Insertion of new ch 2, pt 2, div 1 hdg

Chapter 2, part 2, before section 19—

insert—

‘Division 1—Preliminary’.

20 Amendment of s 20 (Authorised taking of water without water entitlement)

(1) Section 20(3)(a) and (b)—

omit, insert—

‘(a) for stock purposes; or

(b) for domestic purposes.’.

(2) Section 20(4)(a) and (b)—

omit, insert—

‘(a) for stock purposes; or

(b) for domestic purposes.’.

(3) Section 20(6), from ‘unless’—

omit, insert—

‘unless—

(a) there is a moratorium notice or a water resource plan that limits or alters the water that may be taken or interfered with; or

(b) for subartesian water only—a regulation under section 1046 regulates the taking or interfering with the water.’.

21 Amendment of s 21 (Limiting taking of water under s 20(3))

Section 21(1), ‘section 20(3)(a) for watering a garden’—

omit, insert—

‘section 20(3)(b) for watering a garden or under section 20(3)(a)’.

22 Renumbering of ss 21 and 24

Sections 21 and 24—

renumber as sections 24 and 21.

23 Relocation of s 21 (Beds and banks forming boundaries of land are State property)

Section 21, as renumbered—

relocate to chapter 2, part 2, division 1 as inserted by this Act.

24 Insertion of new ch 2, pt 2, div 2 hdg

Before section 22—

insert—

‘Division 2—Restrictions for emergencies and water shortages’.

25 Relocation of s 24 (Limiting taking of water under s 20(3))

Section 24, as renumbered—

relocate to chapter 2, part 2, division 2 as inserted by this Act.

26 Replacement of s 25–34 (Section numbers not used)

Section 25–34—

omit, insert—

‘Division 3—Other restrictions on taking or interfering with water

‘31–34 Section numbers not used

‘See footnote to section 1.’.

27 Amendment of s 36 (Obtaining water information)

Section 36(1)—

insert—

‘(c) about the use of water managed under the person’s authority; or

- (d) about any use of water that was managed through water infrastructure to which a person's authority now applies.'

28 Amendment of s 37 (Notice of works)

Section 37(2), after 'of the works'—

insert—

'and the water use or, for works to be constructed, proposed water use, in relation to the works'.

29 Amendment of s 40 (Public notice of proposal to prepare draft water resource plan)

Section 40(1), 'plan area.'—

omit, insert—

'plan area.¹'.

30 Amendment of s 40A (Further public notice of proposal to prepare draft water resource plan)

(1) Section 40A(2), 'sections 41 and 42'—

omit, insert—

'section 41'.

(2) Section 40A(3)—

omit, insert—

'(3) However, a community reference panel already established for the proposed plan is the community reference panel for the notice published under subsection (1).'

31 Amendment of s 42 (Moratorium notices)

(1) Section 42(1)—

omit, insert—

1 See sections 26 to 30.

‘(1) The Minister may publish a notice under this section, for a part of the State, (a “**moratorium notice**”) if the Minister is satisfied action should be taken in the part—

- (a) to protect natural ecosystems; or
- (b) to protect existing water entitlements and other authorities under this Act to take or interfere with water.’.

(2) Section 42(2), from ‘water, the subject of the proposed plan’—
omit, insert—

‘water to which the application relates—

- (a) increase the amount of water that may be taken;
- (b) change the location from which water may be taken;
- (c) increase the rate at which water may be taken;
- (d) change the flow conditions under which water may be taken;
- (e) increase or change the interference with the water;
- (f) change the purpose for which the water may be taken or interfered with.’.

(3) Section 42(4), ‘water, the subject of the proposed plan’—
omit, insert—

‘water in the part of the State to which the notice applies’.

(4) Section 42(4)(b), ‘enlarged or deepened’—
omit, insert—

‘enlarged, deepened or changed’.

(5) Section 42(5)—
omit, insert—

‘(5) Subsection (4) applies only to the extent the works would—

- (a) increase the amount of water being taken or that could be taken;
or
- (b) change the location from which water is being taken or could be taken; or
- (c) increase the rate at which water is being taken or could be taken;
or

(d) increase or change the interference with the water.’.

(6) Section 42(7)(b)—

omit, insert—

‘(b) until—

- (i) the Minister publishes a further notice ending the effect of the moratorium notice; or
- (ii) a water resource plan is approved for the water to which the moratorium notice applies.’.

(7) Section 42(8), ‘section 42A’—

omit, insert—

‘section 27’.

(8) Section 42(8)(e), after ‘works’—

insert—

‘or for other development associated with the works’.

32 Amendment of s 43 (Reviewing moratorium notices)

Section 43(1), after ‘published’—

insert—

‘and during each year the notice has effect’.

33 Amendment of s 44 (Amending moratorium notices)

(1) Section 44(3)—

omit.

(2) Section 44(4), ‘for the proposed plan area’ to ‘is approved’—

omit.

(3) Section 44(5)—

omit, insert—

‘(5) The moratorium notice, as amended by this section, applies to an application mentioned in section 26(2), even if the application was made before the amending notice was published.’.

34 Amendment of s 45 (Exceptions to ss 42 and 44)

(1) Section 45, heading, '42 and 44'—

omit, insert—

'26 and 29'.

(2) Section 45, '42 and 44'—

omit, insert—

'26 and 29'.

35 Amendment of ss 42–45

Sections 42 to 45—

renumber as sections 26 to 30 and *relocate* to chapter 2, part 2, division 3 as inserted by this Act.

36 Amendment of s 46 (Content of draft water resource plans)

Section 46(3)—

omit, insert—

'(3) The draft plan may provide for the amendment or the continuation, completely or partly, of the effect of a moratorium notice for water in the proposed plan area and to which the draft plan applies until a resource operations plan is approved for the plan.'

37 Amendment of s 57 (Minor amendment of water resource plan)

Section 57, heading, 'Minor amendment'—

omit, insert—

'Minor or stated amendments'.

38 Amendment of s 67 (Public notice of intention not to proceed with making of draft water use plan)

Section 67(1), 'final'—

omit.

39 Amendment of s 70 (Minor amendment of water use plan)

Section 70, heading, 'Minor amendment'—

omit, insert—

'Minor or stated amendments'.

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

(1) Section 73(1)—

insert—

'(aa) a person proposing to use, for irrigation, water taken under a water licence issued under section 212 if a resource operations plan states that use of the water requires an approved land and water management plan;'

(2) Section 73(1)(aa) and (b)—

renumber as section 73(1)(b) and (c).

(3) Section 73—

insert—

'(1A) Subsection (1)(a) includes a person who—

(a) has used, on land, water the person received under a seasonal water assignment; and

(b) within the time prescribed under a regulation, proposes to again use, on the same land, water the person has received under a seasonal water assignment.'

(4) Section 73(5), 'water allocation or interim water allocation'—

omit, insert—

'water allocation, interim water allocation or water licence'.

41 Amendment of s 78A (Minor amendment of land and water management plan)

Section 78A, heading, 'Minor amendment'—

omit, insert—

'Minor or stated amendments'.

42 Amendment of s 100 (Public notice about availability of draft resource operations plan)

Section 100(2)(c)—

omit, insert—

- ‘(c) a day by which submissions must be made and the person to whom, and the place where, the submissions must be made;
- (d) that a notice under section 101 may be given at any time before the resource operations plan commences.’.

43 Amendment of s 104 (Public notice of intention not to proceed with making of draft resource operations plan)

Section 104(1), ‘final’—

omit.

44 Amendment of s 106 (Minor amendment of resource operations plan)

Section 106, heading, ‘Minor amendment’—

omit, insert—

‘Minor or stated amendments’.

45 Insertion of new s 107A

After section 107—

insert—

‘107A Authority to interfere with water

‘A resource operations licence authorises the holder of the licence to interfere with the flow of water to the extent necessary to operate the water infrastructure to which the licence applies.’.

46 Amendment of s 110 (Conditions of resource operations licence)

Section 110—

insert—

‘(1A) If there is more than 1 resource operations licence holder in a water supply scheme, the operating arrangements of the resource operations plan for the scheme relate to all resource operations licence holders in the scheme.’.

47 Amendment of s 113 (Minor amendment of resource operations licence)

Section 113, heading, ‘Minor amendment’—

omit, insert—

‘Minor or stated amendments’.

48 Replacement of ch 2, pt 4, div 3, sdiv 4 hdg

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

omit, insert—

‘Subdivision 4—Transferring or amalgamating resource operations licences’.

49 Insertion of new s 118A

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

insert—

‘118A Amalgamating resource operations licences

‘(1) The holder of a resource operations licence may apply to the chief executive to amalgamate, into a single licence, the resource operations licence with another resource operations licence in the same water supply scheme.

‘(2) The application must be—

- (a) in the approved form; and
- (b) accompanied by the written consent of the holder of the other resource operations licence; and
- (c) supported by sufficient information to enable the chief executive to amalgamate the licences; and
- (d) accompanied by the fee prescribed under a regulation.

‘(3) The chief executive must grant the application.

‘(4) Within 30 business days after granting the application, the chief executive must—

- (a) give the applicant and the holder of the other resource operations licence notice of the amalgamation; and
- (b) cancel the existing licences and give a new licence to the applicant.

‘(5) The new licence takes effect from the day the notice is given.’.

50 Renumbering of ch 2, pt 4, div 4, sdiv 1 (Converting water entitlements and granting water allocations)

Chapter 2, part 4, division 4, subdivision 1—

renumber as subdivision 1A.

51 Insertion of new ch 2, pt 4, div 4, sdiv 1

Chapter 2, part 4, division 4, before subdivision 1A, as renumbered—

insert—

‘Subdivision 1—Preliminary

‘120B Meaning of “volumetric limit” for div 4

‘(1) The “volumetric limit” for a water allocation is stated on the allocation.

‘(2) Unless subsection (3) applies, the volumetric limit is the maximum volume of water, in megalitres, that may be taken under the allocation during the period of time, or in the circumstances, stated in the resource operations plan under which the allocation is managed.

‘(3) If the resource operations plan contains a water sharing rule about volumetric limits that applies to the water allocation, the volumetric limit is used to calculate, under the rule, the maximum volume that may be taken during a particular period of time or in particular circumstances.’.

52 Amendment of s 121 (Converting water entitlements)

(1) Section 121(1), ‘has effect’—

omit, insert—

‘commences’.

(2) Section 121(4), ‘section 101’—

omit, insert—

‘section 101(a)’.

(3) Section 121(6) and (7)—

renumber and *relocate* as section 150(3A) and (3B).

53 Amendment of s 125 (Amending water allocations)

Section 125(1)(b), ‘number’—

omit, insert—

‘name’.

54 Amendment of s 127 (Registration details for water allocations)

(1) Section 127(1)(b), ‘a volume of water’—

omit, insert—

‘a nominal volume’.

(2) Section 127(1)—

insert—

‘(da)any conditions required by the chief executive to be entered on the register;’.

(3) Section 127(1)(da) to (f)

renumber as section 127(1)(e) to (g).

(4) Section 127(2)(a)—

omit, insert—

‘(a) the resource operations licence under which the allocation is managed;’.

(5) Section 127(3)—

insert—

- '(c) the volumetric limit;
- (d) the water allocation group to which the allocation belongs.'

55 Insertion of new s 127A

Chapter 2, part 4, division 4, subdivision 1A, as renumbered—
insert—

'127A Conditions of a water allocation

'The conditions of a water allocation include—

- (a) the volume of water authorised to be taken under the allocation;
and
- (b) any conditions entered on the register under section 127(1)(e);
and
- (c) other conditions prescribed under a regulation.'

56 Amendment of s 128 (Meaning of "change to a water allocation")

(1) Section 128(1)(a), 'the volume of water'—
omit, insert—

'the nominal volume'.

(2) Section 128(1)—
insert—

'(da) any condition mentioned in section 127(1)(e);'.

(3) Section 128(1)(da) to (g)—
renumber as section 128(1)(e) to (h).

(4) Section 128(1)—
insert—

- '(i) the volumetric limit;
- (j) the water allocation group to which the allocation belongs.'

(5) Section 128(2)—
omit, insert—

'(2) However—

- (a) for a water allocation not managed under a resource operations licence, the reconfiguration must not—
 - (i) change the nominal volume for the water allocation; or
 - (ii) allow the taking of more than the water allocation's share of the water available to be taken by holders of water allocations in all water allocation groups in a water resource plan area; and
- (b) for a water allocation managed under a resource operations licence, the reconfiguration must not—
 - (i) increase the water allocation's share of the water the resource operations licence holder has available to supply the water allocations managed under the licence; or
 - (ii) increase the water the resource operations licence holder has available to supply the water allocations managed under the licence.'

57 Amendment of s 128A (Amalgamation or subdivision of water allocations)

(1) Section 128A(6)(b)—

omit, insert—

'(b) remains valid—

- (i) until the date stated in the certificate; or
- (ii) if the certificate does not state a date—for 40 business days.'

(2) Section 128(7), 'applicant'—

omit, insert—

'water allocation holder'.

58 Amendment of s 129 (Changing water allocations under water allocation change rules)

(1) Section 129(5)(b)—

omit, insert—

'(b) remains valid—

- (i) until the date stated in the certificate; or
- (ii) if the certificate does not state a date—for 40 business days.’.

(2) Section 129(6), ‘applicant’—

omit, insert—

‘water allocation holder’.

59 Amendment of s 134 (Deciding application to change water allocation)

Section 134(5)(b)—

omit, insert—

‘(b) remains valid—

- (i) until the date stated in the certificate; or
- (ii) if the certificate does not state a date—for 40 business days.’.

60 Amendment of s 135 (Registering approved application to change water allocation)

Section 135(1), ‘applicant’—

omit, insert—

‘water allocation holder’.

61 Insertion of new ch 2, pt 4, div 5, sdiv 1 hdg

Chapter 2, part 4, division 5, before section 141—

insert—

‘Subdivision 1—Allocations not managed under a resource operations licence’.

62 Amendment of s 141 (Application of div 5)

(1) Section 141, heading, ‘div 5’—

omit, insert—

‘sdiv 1’.

(2) Section 141, ‘division’—

omit, insert—

‘subdivision’.

63 Amendment of s 146 (Application of s 243)

Section 146, ‘division’—

omit, insert—

‘subdivision’.

64 Insertion of new ch 2, pt 4, div 5, sdiv 2

Chapter 2, part 4, division 5, after section 146—

insert—

‘Subdivision 2—Allocations managed under a resource operations licence

‘146A Application of sdiv 2

‘This subdivision applies to a water allocation if—

- (a) a water resource plan or a resource operations plan approved for an area allows seasonal water assignments; and
- (b) the water to which the allocation applies is water managed under a resource operations licence.

‘146B Arrangements for seasonal water assignments

‘(1) The holder of a water allocation may enter into an arrangement for a seasonal water assignment in relation to the water allocation.

‘(2) The holder may enter the arrangement only with consent of the holder of the resource operations licence under which the allocation is managed.

‘(3) The holder of the resource operations licence may give consent only if the assignment is allowed under the seasonal water assignment rules

stated in the resource operations plan to which the resource operations licence relates.’.

65 Amendment of s 148 (Water allocations register)

Section 148(2)—

insert—

- ‘(c) how documents may be lodged; and
- (d) fees to be paid in relation to—
 - (i) the lodgment and registration of documents in the registry; and
 - (ii) the provision of other services by the registrar; and
- (e) how fees are to be paid and may be recovered, including the provision of credit facilities to persons approved by the registrar; and
- (f) additional information to be supplied with a document; and
- (g) transitional arrangements if a new document is approved; and
- (h) how documents may be signed; and
- (i) anything else about a document.’.

66 Amendment of s 150 (Interests and dealings that may be registered)

Section 150(3)—

omit, insert—

‘**(3)** If the chief executive is given 1 or more notices under section 101(b), the registrar must not record any other dealing for the water allocation until whichever of the following first happens—

- (a) 40 business days after details of the water allocation are recorded on the water allocations register under section 121(1)(b);
- (b) the interests mentioned in the notices are recorded on the register.’.

67 Amendment of s 151 (Application of *Land Title Act 1994* to water allocations register)

Section 151(1)(e), ‘sections 60(2)’—

omit, insert—

‘sections 60(2), 64 to the extent it permits the lease of part of a lot.’.

68 Amendment of s 152 (Application of other Acts to the water allocations register)

Section 152(2)—

omit, insert—

‘(2) The following sections of the *Valuation of Land Act 1944* apply as if a reference to land or a parcel of land includes a reference to a water allocation and a reference to the land registry includes a reference to the water allocations registry—

- section 77, definitions ‘microfiche data’ and ‘section 81 information’
- section 81
- section 82.’.

69 Replacement of s 154–166 (Section numbers not used)

Section 154–166—

omit, insert—

‘154 Displacement provision for Corporations legislation

‘This division is declared to be a Corporations legislation displacement provision for the Corporations Act, section 5G,² in relation to the Corporations Act, chapter 2K.³

‘155–166 Section numbers not used

‘See footnote to section 1.’.

2 Corporations Act, section 5G (Avoiding direct inconsistency arising between the Corporations legislation and State and Territory laws)

3 Corporations Act, chapter 2K (Charges)

70 Renumbering of ch 2, pt 5, div 2, sdiv 1 (Granting interim resource operations licences for existing operations)

Chapter 2, part 5, division 2, subdivision 1—
renumber as subdivision 1A.

71 Insertion of new ch 2, pt 5, div 2, sdiv 1

Chapter 2, part 5, division 2, before subdivision 1A, as renumbered—
insert—

‘Subdivision 1—Preliminary***‘167A Authority to interfere with water***

‘An interim resource operations licence authorises the holder of the licence to interfere with the flow of water to the extent necessary to operate the water infrastructure to which the licence applies.’.

72 Replacement of s 200–202 (Section numbers not used)

Section 200–202—
omit, insert—

‘Subdivision 5—Seasonal water assignments of interim water allocations***‘200 Arrangements for seasonal water assignments***

‘(1) The holder of an interim water allocation may enter into an arrangement for a seasonal water assignment in relation to the allocation.

‘(2) The holder may enter the arrangement only with consent of the holder of the interim resource operations licence under which the allocation is managed.

‘(3) The holder of the interim resource operations licence may give consent only if the assignment is in accordance with the holder’s licence.

‘201–202 Section numbers not used

See footnote to section 1.’.

73 Amendment of s 203 (Definition for pt 6)

Section 203, definition “owner”, paragraph (d), ‘the holder of’—

omit, insert—

‘an applicant for, or the holder of,’.

74 Amendment of s 206 (Applying for a water licence)

(1) Section 206(3)(a)—

omit, insert—

‘(a) for—

- (i) water from a watercourse, lake or spring—the watercourse, lake or spring does not adjoin any of the applicant’s land or the proposed point of taking the water is not on the applicant’s land; or
- (ii) water from an aquifer—the aquifer is not under the applicant’s land; but’.

(2) Section 206(4)(a) to (e)—

renumber as paragraphs (b) to (f).

(3) Section 206(4)—

insert—

‘(a) the State;’.

75 Amendment of s 211 (Deciding application for water licence)

(1) Section 211(1), from ‘approved,’ to ‘approve’—

omit, insert—

‘granted, or granted in part, the chief executive must grant all or part of’.

(2) Section 211(2), ‘approved’—

omit, insert—

‘granted’.

(3) Section 211(4), ‘approves’—

omit, insert—

‘grants all or part of’.

(4) Section 211(4), ‘approving’—

omit, insert—

‘granting’.

76 Insertion of new s 211A

After section 211—

insert—

‘211A Effect of disposal of part of land to which application for water licence relates

‘(1) Subsection (2) applies if—

- (a) an application for a water licence is made to the chief executive; and
- (b) the applicant disposes of part of the land to which the application relates; and
- (c) at the time the applicant disposes of the part, the chief executive has not decided the application under section 211.

‘(2) The application expires on the day the applicant disposes of the part.’.

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

78 Amendment of s 219 (Minor amendment of water licence)

Section 219, heading, 'Minor amendment'—

omit, insert—

'Minor or stated amendments'.

79 Amendment of s 220 (Renewing water licence)

(1) Section 220(3)(a)—

omit, insert—

'(a) if the application is approved with or without variation—the applicant is given a new licence; or'.

(2) Section 220(3)—

insert—

'(c) if the application is refused and the applicant has not appealed against the decision—30 business days after the applicant is given an information notice.'

(3) Section 220(7)(a), before 'give'—

insert—

'if the application is refused or approved with variation,'.

80 Amendment of s 224 (Amalgamating water licences)

(1) Section 224(1)—

omit, insert—

'(1) The following licensees may apply to amalgamate 2 or more water licences into a single licence—

(a) the licensee or licensees of 2 or more water licences relating to the same land or contiguous land;

(b) a licensee mentioned in section 213(e).'

(2) Section 224—

insert—

'(4) If the applicant is given a new licence, the original licences expire on the day the new licence is given.'

81 Amendment of s 225 (Subdividing water licence)

Section 225—

insert—

‘(5) The original licence expires on the day the new licences are given.’.

82 Replacement of s 229B (Effect of acquisition of part of land to which water licence to take water attaches)

Section 229B—

omit, insert—

‘Subdivision 6—Effects of acquisition of land on water licences

‘229B Application of sdiv 6

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

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

‘(3) If the acquisition does not include an acquisition of the licence, sections 229C to 229E apply.

‘229C Effect of acquisition of part of land adjoining a watercourse, lake or spring

‘(1) This section applies to a water licence to take water from a watercourse, lake or spring adjoining the land to which the licence attaches, if part of the land is taken under the *Acquisition of Land Act 1967*.

‘(2) If water taken under the licence can still be taken from the watercourse, lake or spring adjoining the remaining part of the land, 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 as if the acquisition were a disposal.

‘229D Effect of acquisition of part of land above an aquifer

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

‘(2) If the remaining part of the land is above the aquifer from which water may be taken under the licence, and the conditions of the licence allow water to be taken from the remaining part, 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 is not above the aquifer, or the conditions of the licence do not allow water to be taken from the remaining part, section 229 applies as if the acquisition were a disposal.

‘229E Effect of acquisition of part of other land

‘(1) This section applies to a water licence granted in response to an application mentioned in section 206(3), if part of the land to which the licence attaches is taken under the *Acquisition of Land Act 1967*.

‘(2) If water taken under the licence can still be delivered to the remaining part of the land, 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 water taken under the licence can not still be delivered to the remaining part of the land, section 229 applies as if the acquisition were a disposal.’.

83 Replacement of s 236 (Application of ss 243, 244 and 246 to water permit)

Section 236—

omit, insert—

‘236 Application of ss 25, 243 and 244 to water permit

‘Sections 25, 243 and 244 apply to a water permit granted under this division.’.

84 Amendment of s 240 (Deciding application for water permit)

(1) Section 240(1), from ‘granted’ to ‘approve’—

omit, insert—

‘granted, or granted in part, the chief executive must grant all or part of’.

(2) Section 240(4), after ‘grants’—

insert—

‘all or part of’.

85 Amendment of s 246 (Limiting water taken under water licence or permit)

(1) Section 246(1), ‘under a water licence or permit’—

omit, insert—

‘or interfered with under a water licence or taken under a water permit’.

(2) Section 246—

renumber as section 25 and *relocate* to chapter 2, part 2, division 2 as inserted by this Act.

86 Amendment of s 269 (Deciding application for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)

(1) Section 269(1), ‘approved,’—

omit, insert—

‘granted, or granted in part,’.

(2) Section 269(2), ‘approved’—

omit, insert—

‘granted’.

(3) Section 269(4), after ‘grants’—

insert—

‘all or part of’.

(4) Section 269(4), ‘approving’—

omit, insert—

‘granting’.

87 Amendment of s 282 (Criteria for deciding application for allocation of quarry material)

Section 282(1)(d), ‘for’—

omit, insert—

‘in relation to’.

88 Amendment of s 283 (Deciding application for allocation of quarry material)

(1) Section 283(1), ‘approved,’—

omit, insert—

‘granted, or granted in part,’.

(2) Section 283(2), ‘approved’—

omit, insert—

‘granted’.

(3) Section 283(3)(b), after ‘grants’—

insert—

‘all or part of’.

89 Amendment of s 301 (Deciding application for water bore driller’s licence)

(1) Section 301(1), ‘approved,’—

omit, insert—

‘granted, or granted in part,’.

(2) Section 301(2), ‘approved’—

omit, insert—

‘granted’.

(3) Section 301(3), after ‘grant’—

insert—

‘all or part of’.

(4) Section 301(4), after ‘notice’—

insert—

‘within 30 business days after deciding the application’.

90 Omission of s 303 (Refusing application for water bore driller’s licence)

Section 303—

omit.

91 Amendment of s 307 (Minor amendment of water bore driller’s licence)

Section 307, heading, ‘Minor amendment’—

omit, insert—

‘Minor or stated amendments’.

92 Amendment of s 308 (Renewing water bore driller’s licence)

Section 308(6)—

omit, insert—

‘(6) If the chief executive refuses the application, or approves the application under subsection (4)(b), the chief executive must, within 30 business days after deciding the application, give the applicant an information notice.’.

93 Insertion of new s 308A

After section 308—

insert—

‘308A Reinstating expired water bore driller’s licence

‘(1) If a licence holder fails to renew a water bore driller’s licence, the holder may, within 30 business days after the licence expires, apply to have the licence reinstated.

‘(2) The application must be—

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

‘(3) If an application for the reinstatement of a water bore driller’s licence is made, the expired licence is taken to have been in force from the day the application was made until the applicant has been notified of the chief executive’s decision on the application.

‘(4) For deciding the application, section 308(4) to (7) applies—

- (a) as if a reference in the section to the renewal of a licence were a reference to the reinstatement of a licence; and
- (b) with any other necessary changes.’

94 Amendment of s 331 (Deciding application for operations licence)

(1) Section 331(1), from ‘approved,’ to ‘approve’—

omit, insert—

‘granted, or granted in part, the chief executive must grant all or part of’.

(2) Section 331(2), ‘approved’—

omit, insert—

‘granted’.

(3) Section 331(4), after ‘grants’—

insert—

‘all or part of’.

(4) Section 331(4), ‘approving’—

omit, insert—

‘granting’.

(5) Section 331(4)(b), ‘of the approval’—

omit, insert—

‘that the application was granted’.

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

Section 376—

insert—

‘(7) If the service provider stops supplying the service, the service provider must give the regulator notice within 5 business days after stopping supply.

‘(8) The notice must—

- (a) be in the approved form; and
- (b) state the day on which the provider stopped supplying the service.’.

96 Insertion of new s 376A

After section 376—

insert—

‘376A Cancellation of registration

‘If the regulator receives a notice under section 376(7), the regulator must—

- (a) cancel the service provider’s registration as a service provider for the infrastructure and services shown in the notice; and
- (b) give the service provider notice of the cancellation under paragraph (a).’.

97 Replacement of s 422 (Purpose of div 2)

Section 422—

omit, insert—

‘422 Purpose of div 2

‘The purpose of this division is to ensure customers who do not have a contract with the service provider, for the supply of registered services, are protected by standards relating to the supply.’.

98 Amendment of s 423 (Application of div 2)

(1) Section 423(1), from ‘supply contract’—

omit, insert—

‘contract with all of its customers for the supply of registered services.’.

(2) Section 423(2), ‘*Parliamentary Commissioner Act 1974*’—

omit, insert—

‘*Ombudsman Act 2001*’.

99 Amendment of s 426 (Complying with customer service standard)

Section 426, after ‘customers’—

insert—

‘who do not have a contract mentioned in section 423’.

100 Amendment of s 427 (Customer complaints)

Section 427(1)(a), after ‘customer’, first mention—

insert—

‘who does not have a contract mentioned in section 423’.

101 Amendment of s 428 (Revising customer service standard)

Section 428(b), after ‘provider’—

insert—

‘, who does not have a contract mentioned in section 423.’.

102 Amendment of s 429 (Reviewing customer service standard)

Section 429(2), after ‘customer of the service provider’—

insert—

‘, who does not have a contract mentioned in section 423.’

103 Amendment of s 432 (No charge for water for fire fighting purposes)

Section 432(1), after ‘system’—

insert—

‘or a service provider’s hydrant’.

104 Amendment of s 433 (Water from fire fighting system to be used only for fire fighting purposes)

(1) Section 433, heading, ‘from fire fighting system’—

omit.

(2) Section 433(1), after ‘system’—

insert—

‘or a service provider’s hydrant’.

105 Amendment of s 434 (Small service providers may apply for exemptions from divs 1–3)

Section 434(1), ‘3’—

omit, insert—

‘all or part of division 3’.

106 Amendment of s 435 (Deciding application for exemption)

Section 435(1)(c)—

omit, insert—

‘(c) all or part of division 3.’.

107 Amendment of s 436 (Notice of decision on application for exemption)

Section 436(1), ‘exempts’ to ‘3’—

omit, insert—

‘grants an exemption’.

108 Amendment of s 491 (Safety conditions for existing referable dams)

Section 491—

insert—

‘(4A) In deciding the safety conditions for the dam, the chief executive must have regard to the guidelines, if any, issued by the chief executive for applying safety conditions to a referable dam.’.

109 Amendment of s 492 (Changing conditions)

Section 492—

insert—

‘(1B) In changing the conditions, the chief executive must have regard to the guidelines, if any, issued by the chief executive for applying safety conditions to a referable dam.’.

110 Amendment of s 583 (Identification and disclosure of cross-subsidies)

Section 583(2)(a) and (2)(b)(i), ‘its customers’—

omit, insert—

‘its ratepayers or customers’.

111 Amendment of s 598 (Composition of board for water authorities)

(1) Section 598(1), after ‘548’—

insert—

‘or 690’.

(2) Section 598—

insert—

‘(1A) Subsection (1) does not apply if the regulation under section 548 merely remakes subordinate legislation under which the authority has been established.’.

112 Insertion of new ss 603A and 603B

After section 603—

insert—

‘603A Investigations about eligibility for appointment

‘(1) The chief executive may make investigations about a person to decide whether the person is eligible to be elected or nominated for appointment as a director.

‘(2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about the criminal history of the person.

‘(3) The commissioner must give the report to the chief executive.

‘(4) However, the report is required to contain only criminal history in the commissioner’s possession or to which the commissioner has access.

‘603B Criminal history is confidential document

‘(1) An officer, employee or agent of the department must not, directly or indirectly, disclose to anyone else a report, or information contained in a report, given under section 603A.

Maximum penalty for subsection (1)—100 penalty units.

‘(2) However, the officer, employee or agent does not contravene subsection (1) if—

- (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under or in relation to this Act; or
- (b) the disclosure is otherwise required or permitted by law.

‘(3) The chief executive must destroy the report as soon as practicable after considering the person’s eligibility.’.

113 Amendment of s 604 (Term of office for directors of water authorities other than Gladstone Area Water Board)

Section 604(2), ‘3 years starting on the day’—

omit, insert—

‘up to 3 years as’.

114 Amendment of s 605 (Term of office for directors of Gladstone Area Water Board)

Section 605(2)—

omit, insert—

‘(2) Subject to subsections (2A), (3) and (4), the director’s term of office ends on the day fixed by the gazette notice.

‘(2A) The director continues holding office after the director’s term ends until the director’s successor is appointed.’.

115 Amendment of s 690 (Amalgamating water authorities and authority areas)

(1) Section 690(2)(b) and (c)—

omit.

(2) Section 690(2)(d) and (e)—

renumber as section 690(2)(b) and (c).

116 Replacement of s 697 (Recovering water authority’s dissolution costs)

Section 697—

omit, insert—

‘697 Recovering amalgamation or dissolution costs

‘The State may recover from—

- (a) 2 or more water authorities the costs incurred by the State in publishing notice of the authorities’ proposed amalgamation under section 692; or

- (b) a water authority the costs incurred by the State in publishing notice of the authority's proposed dissolution under section 692.'.

117 Amendment of s 747 (Power to enter land to collect information)

Section 747—

insert—

'(2A) An authorised officer may, at any reasonable time, enter land of an owner of land authorised under section 20 to take or interfere with water, to do 1 or more of the following—

- (a) calculate or measure the amount of, and rate at which, water is being taken or interfered with;
- (b) ascertain the purpose for which the water is being taken or interfered with;
- (c) ascertain the location from which water is being taken.'.

118 Amendment of s 750 (Entry with consent)

Section 750(4)(c) and (6), 'division'—

omit, insert—

'chapter'.

119 Amendment of s 752 (Issue of warrant)

Section 752(2)(a)(ii), 'division'—

omit, insert—

'chapter'.

120 Amendment of s 758 (Power to require name and address)

Section 758(1)(b), 'just'—

omit, insert—

'recently'.

121 Amendment of s 811 (Tampering with devices)

(1) Section 811(1), from ‘Act’—

omit, insert—

‘Act—

- (a) to measure the volume of water taken, by a person, or the rate and time of taking; or
- (b) to record and transmit information about the taking of water.’.

(2) Section 811—

insert—

‘(3) In this section—

“**tamper**”, with a device, includes tamper with works associated with the device in a way that may hinder the capacity of the device to measure, read, record or transmit information.’.

122 Insertion of new ss 812A and 812B

After section 812—

insert—

‘812A Liability for unauthorised taking of water

‘(1) This section applies if there is evidence that a condition of a water allocation, interim water allocation, water licence or water permit (an “**authorisation**”) has been contravened by the taking of water the holder was not authorised to take.

‘(2) In any proceeding for the contravention, the holder of the authorisation is taken to have contravened the condition in the absence of evidence to the contrary.

‘(3) If, in the proceeding, an issue arises about whether the holder had physical control over or responsibility for the works associated with the contravention at the time the contravention happened, it is a defence for the holder to prove—

- (a) the holder did not have physical control over or responsibility for the works associated with the contravention at the time the contravention happened; and

- (b) the holder has notified the chief executive of the name and address of the person who had physical control over or responsibility for the works at the time the contravention happened (the “**water user**”); and
- (c) the holder has given the water user a copy of all documents and information available to the holder relating to the taking of water under the holder’s authorisation.

‘(4) The holder must give the chief executive notice about the matters mentioned in subsection (3) in a statutory declaration.

‘(5) The defence under subsection (3) is not available unless notice under subsection (3) is given to the chief executive within 20 business days after the first of the following is given to the holder—

- (a) a written notice from the chief executive alleging the contravention;
- (b) an infringement notice under the *State Penalties Enforcement Act 1999*.

‘(6) Nothing in this section prevents a person from giving the chief executive notice, in a statutory declaration, that the person was the water user at the time the contravention happened.

‘(7) A notice purporting to have been given for a body corporate by a director, manager or secretary of the body corporate is taken to have been given by the body corporate.

‘(8) To the extent of any inconsistency between this section and the Criminal Code, section 23 or 24,⁴ this section prevails.

‘812B Notice accompanying complaint or summons

‘(1) A notice, complaint or summons served on the holder of an authorisation for a contravention mentioned in section 812A(1) must be accompanied by written information about the provisions of section 812A.

‘(2) A statement in a deposition made for the *Justices Act 1886*, section 56(3)(b) that the notice was served as required by subsection (1) is evidence of the fact.

‘(3) The *Justices Act 1886*, section 56(5) applies to the deposition.’.

4 Criminal Code, section 23 (Intention—motive) or 24 (Mistake of fact)

123 Amendment of s 814 (Destroying vegetation, excavating or placing fill without permit)

(1) Section 814(2)(a)(i), from ‘required, under’—

omit, insert—

‘required under—

(A) a licence, permit or other authority under another section of this Act; or

(B) a development permit for assessable development mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, item 3A(a) or (d) or 3B; or’.

(2) Section 814(2)(a)(iv) to (vii)—

renumber as section 814(2)(a)(v) to (viii).

(3) Section 814(2)(a)—

insert—

‘(iv) that is required or happens as a necessary and unavoidable part of some other activity that is required because of an emergency endangering either of the following, and for which notice is given to the chief executive as soon as practicable after starting to carry out the activity—

(A) the life or health of a person;

(B) the water quality or physical integrity of a watercourse, lake or spring; or’.

(4) Section 814—

insert—

‘(2A) A person must not contravene a condition of a permit under section 269 unless the person has a reasonable excuse.

Maximum penalty—1 665 penalty units.’.

124 Amendment of s 864 (Review decision)

(1) Section 864(4), words before paragraph (a)—

omit, insert—

‘(4) The review notice must also state—’.

(2) Section 864(4)(b)(iii), ‘section 851(1) or (5)’—

omit, insert—

‘section 851(1) other than the giving of a compliance notice or a decision or action mentioned in section 851(5)’.

(3) Section 864(4)(b)(v), after ‘mentioned in’—

insert—

‘section 851(1) for which a compliance notice was given or a decision or action mentioned in’.

125 Amendment of s 865 (Stay of operation of original decision)

(1) Section 865(1)(a) to (d)—

omit, insert—

(a) if, under section 864(4)(b)(i), the applicant would be able to apply for arbitration—a court of competent jurisdiction; and

(b) if, under section 864(4)(b)(ii) or (v), the applicant would be able to appeal to the Magistrates Court—the Magistrates Court; and

(c) if, under section 864(4)(b)(iii), the applicant would be able to appeal to the Land Court—the Land Court; and

(d) if, under section 864(4)(b)(iv), the applicant would be able to appeal to the Planning and Environment Court—the Planning and Environment Court.’.

(2) Section 865(2), from ‘review and’—

omit, insert—

‘review and any later arbitration or appeal to the court.’.

126 Amendment of s 877 (Who may appeal)

(1) Section 877(1)(b), ‘section 851(1) or (5)’—

omit, insert—

‘section 851(1), other than the giving of a compliance notice, or an original decision or action mentioned in section 851(5)’.

(2) Section 877(1)(d), after ‘mentioned in’—

insert—

‘section 851(1) for which a compliance notice was given or a decision or action mentioned in’.

127 Amendment of s 931 (Proceedings for offences)

Section 931—

insert—

‘(2A) A prescribed offence is—

- (a) for a prescribed offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or
- (b) otherwise—a misdemeanour.’.

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

Section 955(3)—

omit, insert—

‘(3) The appointment has effect from the day the notice is published until—

- (a) the day stated in the notice; or
- (b) if no day is stated in the notice—the day a further notice withdrawing the appointment is published in the gazette.’.

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

(1) Section 967(4)—

insert—

‘(c) the works for which the permit is required would not be in accordance with a moratorium notice or water resource plan for the part of the State for which the permit is required.’.

(2) Section 967(5), ‘water’—

omit, insert—

‘water, or the removal of quarry material,’.

(3) Section 967(5)(a)—

omit, insert—

‘(a) that adjoins the land to which the development permit attaches; and’.

(4) Section 967—

insert—

‘(6) An owner of land carrying out operational work, mentioned in the *Integrated Planning Act 1997*, schedule 8, part 2, item 9A(a), is taken to have 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.’.

130 Insertion of new section 968A

After section 968—

insert—

‘968A Chief executive may give directions about removal of quarry material

‘(1) Despite the *Integrated Planning Act 1997*, the chief executive may give the holder of an allocation notice a show cause notice as to why the holder should not be required to change the way quarry material is removed.

‘(2) If, after considering any properly made submissions, the chief executive is still satisfied the change should be made, the chief executive may give the holder a compliance notice requiring the holder to make the change.

‘(3) A development permit given under the *Integrated Planning Act 1997* for the removal of the quarry material is changed to the extent of the requirement under subsection (2).

‘(4) If an appeal against the compliance notice is dismissed or the holder does not appeal against the notice, the holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty for subsection (4)—1 665 penalty units.’.

131 Replacement of s 973–983 (Section numbers not used)

Section 973–983—

omit, insert—

**‘PART 2A—INSTALLING, MAINTAINING AND
READING METERS****‘973 Appointment and qualifications of metering contractors**

‘(1) The chief executive may appoint a person as a metering contractor.

‘(2) The chief executive may appoint a person as a metering contractor only if, in the chief executive’s opinion, the person has the necessary expertise or experience to be a metering contractor.

‘974 Metering contractor’s identity card

‘(1) The chief executive must give each metering contractor an identity card.

‘(2) The identity card must—

- (a) contain a recent photo of the metering contractor; and
- (b) be signed by the metering contractor; and
- (c) identify the person as a metering contractor under this Act; and
- (d) state an expiry date.

‘975 Failure to return identity card

‘A person who ceases to be a metering contractor must return the person’s identity card to the chief executive within 15 business days after ceasing to be a metering contractor, unless the person has a reasonable excuse for not returning it.

Maximum penalty—50 penalty units.

‘976 Producing or displaying identity card

‘(1) A metering contractor may exercise a power under this Act in relation to someone else only if the metering contractor—

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

‘(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the metering contractor must produce the identity card for the person's inspection at the first reasonable opportunity.

‘977 Power to enter places for stated purposes

‘(1) A metering contractor may enter land—

- (a) to inspect a site and any works on the site in preparation for installing a meter on the site; or
- (b) to carry out preparation work on the site; or
- (c) to install a meter and any works necessarily associated with the meter on a site; or
- (d) to calibrate and test the meter; or
- (e) to maintain, repair and replace meters; or
- (f) to read meters.

‘(2) However, the metering contractor may enter the land at any reasonable time only if—

- (a) the occupier consents to the entry; or
- (b) the metering contractor has given the occupier at least 10 business days notice of the entry and the purpose of the entry.

‘(3) After entering the place, the metering contractor may carry out the activity that is the purpose of the entry.

‘(4) For carrying out the activity, the metering contractor may require the occupier, or a person on the land, to give the metering contractor information to help the contractor carry out the activity.

‘(5) If there is no person on the land at the time of the entry under subsection (2)(b), the metering contractor must—

- (a) leave a notice at the place; and

- (b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

‘(6) In this section—

“**land**” means a parcel of land other than the part on which there is erected a building or structure that is—

- (a) a dwelling place; or
- (b) being used, at the relevant time, as a dwelling place.

‘978 Obstructing metering contractors

‘A person must not obstruct a metering contractor exercising a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

‘979 Giving notice of damage

‘(1) If the metering contractor, in the exercise or purported exercise of a power under this Act, damages anything, the metering contractor must immediately give notice of the particulars of the damage.

‘(2) The notice must be given to the person who appears to the metering contractor to be the owner of, or in control of, the thing damaged.

‘(3) If, for any reason, it is not practicable to comply with subsection (2), the metering contractor must—

- (a) leave the notice at the place where the damage happened; and
- (b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

‘(4) This section does not apply to damage the metering contractor believes, on reasonable grounds, is trivial.

‘980 Compensation for damage

‘(1) A person may claim compensation from the metering contractor if the person incurs loss or expense because of the exercise or purported exercise of a power under this Act by the metering contractor.

‘(2) Payment of compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction.

‘(3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

‘(4) For this section, loss or expense does not include loss or expense caused by the act of removing vegetation or any other thing.

‘981–983 Section numbers not used

‘See footnote to section 1.’.

132 Replacement of s 999–1003 (Section numbers not used)

Section 999–1003—

omit, insert—

‘1000–1003 Section numbers not used

See footnote to section 1.’.

133 Amendment of s 1004 (Referral panels established by the chief executive)

Section 1004(1)—

omit, insert—

‘(1) The chief executive may establish a referral panel to advise on matters about—

- (a) a draft resource operations plan; or
- (b) a proposed amendment under section 105 to a resource operations plan; or
- (c) an amendment under section 106(b) to a resource operations plan.’.

134 Amendment of s 1004A (Referral panels established by the Minister)

Section 1004A(1), ‘42A’—

omit, insert—

‘27’.

135 Insertion of new s 1013B

After section 1013A—

insert—

‘1013B Non-payment of fees or charges

‘(1) Subsection (2) applies if all or part of a fee or charge payable to the chief executive remains unpaid for 20 business days after the day stated in the regulation for payment of the fee or charge.

‘(2) The chief executive may give the person who is liable to pay the fee or charge a written notice—

- (a) stating the period to which the fee or charge relates; and
- (b) stating the amount, including interest, owing at the date of the notice; and
- (c) requiring the person—
 - (i) to pay the amount owing; or
 - (ii) to make arrangements, satisfactory to the chief executive, for payment of the amount owing; and
- (d) prohibiting the taking of water under the water entitlement to which the fee or charge relates until payment or arrangements are made under paragraph (c).

‘(3) However, a prohibition under subsection (2)(d) must not apply to taking the minimum volume of water, that may be stated in the notice, necessary for stock or domestic purposes.

‘(4) A person must not take water in contravention of the notice.

Maximum penalty for subsection (4)—1 665 penalty units.’.

136 Replacement of s 1037 (Local government authorities)

Section 1037—

omit, insert—

‘1037 Local government authorities

‘(1) If, immediately before 13 September 2000, there was in force an authority for a local government to take or interfere with water, the authority continues under this Act until whichever of the following first happens—

- (a) the chief executive, with the consent of the authority holder, grants a water licence to replace the authority;
- (b) the authority is replaced with a water entitlement under a water resource plan or a resource operations plan.

‘(2) The chief executive may grant a water licence under subsection (1)(a) to take or interfere with water—

- (a) on the same conditions as water may be taken or interfered with under the authority; and
- (b) without the need for an application to be made under section 206.

‘(3) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and an information notice about the granting of the licence.

‘(4) The licence has effect from the day the licence is given to the licensee.’.

137 Amendment of s 1041 (Completed water allocation and management plans)

(1) Section 1041(2), words before ‘may be amended’—

omit, insert—

‘(2) The *Water Allocation and Management Plan (Fitzroy Basin) 1999*’.

(2) Section 1041(2)—

insert—

- ‘(c) an amendment of section 20(1) about the way in which the volume, for a water allocation established through the conversion of an existing authorisation, is decided; or
- (d) an amendment of section 20(2) to state that water allocations converted from the following existing authorisations belong to the priority group stated—
 - (i) an authorisation identified by an interim resource operations licence as high priority—the high priority group;
 - (ii) an authorisation, held by Rockhampton City Council for town water supply purposes, in the Fitzroy Barrage water supply scheme—the high priority group;

- (iii) an authorisation supplied from the Theodore or Gibber Gunyah area channels in the Dawson Valley water supply scheme—the medium A priority group;
 - (iv) to the extent allowed under the rules for conversion contained in the resource operations plan, the part of an authorisation, in the Dawson Valley water supply scheme, that is for stock or domestic purposes—the high priority group;
 - (v) an authorisation identified in the resource operations plan as belonging to a priority group mentioned in schedule 8—the priority group mentioned;
 - (vi) all other authorisations—the medium priority group; or
- (e) an amendment of section 20(4) to state that the maximum rate at which water may be taken under a water allocation converted from an existing authorisation is the rate decided by the chief executive having regard to—
- (i) the terms and conditions under which water may be taken under the existing authorisation including—
 - (A) the rate stated on the authorisation; and
 - (B) the pump size for the authorisation; and
 - (C) the area that may be irrigated under the authorisation; and
 - (ii) the works associated with the authorisation; or
- (f) an amendment of section 30(c) to allow an amendment of schedule 6 if the amendment achieves an equivalent or improved environmental outcome and does not adversely affect—
- (i) water allocations in the plan area; or
 - (ii) other outcomes for the plan; or
- (g) an amendment of section 30(d) to allow the inclusion of additional water allocation security objectives for new water allocation priority groups added under section 30(d); or
- (h) an amendment of section 30(d) to allow an amendment of a water allocation security objective if the amendment does not adversely affect existing water allocations, environmental flow objectives or the outcomes of the plan; or

- (i) an amendment of section 30(e) to allow re-arrangement of the water allocation security objectives into applicable water allocation groups and to include additional water allocation groups and water allocation security objectives for the groups; or
- (j) an amendment of schedule 6 to exclude the application of the first post-winter flow objective to node 15; or
- (k) an amendment of schedule 8 to state that the water allocation security objective for allocations in the Dawson Valley water supply scheme, in the medium priority group, be between 78% and 88%; or
- (l) an amendment of schedule 10 to provide for the criteria in the schedule that may be applied, and the way in which the criteria may be applied, for amending existing authorisations to comply with the plan; or
- (m) an amendment to make the plan consistent with this Act.’

138 Insertion of new s 1045A

After section 1045—

insert—

‘1045A Burnett Basin final draft resource operations plan

‘(1) The final draft resource operations plan prepared under section 103 to implement the *Water Resource (Burnett Basin) Plan 2000* may include a reservation of about 4 250 ML medium priority unallocated water for the proposed Barlil Weir.

‘(2) Subsection (1) applies even though the reservation was not included in the draft resource operations plan made available under section 100.’.

139 Amendment of s 1046 (Declared subartesian areas)

Section 1046—

insert—

‘(6) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and an information notice about the granting of the licence.

‘(7) The licence has effect from the day the licence is given to the licensee.’.

140 Amendment of s 1048A (Existing licences, permits and approvals)

Section 1048A—

insert—

‘(13) Despite the *Integrated Planning Act 1997*, section 3.5.21,⁵ a development permit mentioned in subsection (2) lapses—

- (a) if part of the existing licence or permit, or conditions of the existing licence or permit, required works to be installed by a stated date and the works have not been installed by the date—on the stated date; and
- (b) otherwise, if the works to which the existing licence or permit relates have not been installed by the end of the period the existing licence or permit would have been in force if the repealed Act had not been repealed—at the end of the period.

‘(14) In subsection (13)—

“existing licence or permit” means a licence or permit in force immediately before the commencement of this section.’.

141 Amendment of s 1055 (Certain dealings with water licences for 2 years after the commencement of ch 2 pt 6)

(1) Section 1055, heading, ‘for 2 years after the commencement of ch 2 pt 6’—

omit, insert—

‘until 19 April 2007’.

(2) Section 1055(1)(a)—

omit, insert—

‘(a) until 19 April 2007; and’.

5 *Integrated Planning Act 1997*, section 3.5.21 (When approval lapses)

142 Insertion of new s 1083A

After section 1083—

insert—

‘1083A Former water areas without water boards

‘(1) This section applies to a former water area—

- (a) mentioned in section 1083(2); and
- (b) for which no water board was in existence immediately before the commencement of section 1083.

‘(2) The chief executive’s appointment under the repealed Act to perform the functions and exercise the powers of a water board for the former water area continues as an appointment under this Act to perform the functions and exercise the powers of a water authority for the area.

‘(3) A regulation must identify each former water area continued in existence and taken to be an authority area under section 1083(2).’.

143 Amendment of s 1089 (Existing authorities to take, or interfere with, water)

(1) Section 1089(2), from ‘until’—

omit, insert—

‘until whichever of the following first happens—

- (a) the chief executive, with the consent of the authorisation holder, grants a water licence to replace the authorisation;
- (b) the authorisation is replaced with a water entitlement under a water resource plan or a resource operations plan.’.

(2) Section 1089(3), from ‘until’—

omit, insert—

‘until whichever of the following first happens—

- (a) the chief executive, with the consent of the authorisation holder, grants a water licence to replace the authorisation;
- (b) the authorisation is replaced with a water entitlement under a water resource plan or a resource operations plan.’.

(3) Section 1089—

insert—

‘(4) The chief executive may grant a water licence under subsection (2)(a) or (3)(a) to take or interfere with water—

- (a) on the same conditions as water may be taken or interfered with under the authorisation; and
- (b) without the need for an application to be made under section 206.

‘(5) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and an information notice about the granting of the licence.

‘(6) The licence has effect from the day the licence is given to the licensee.’.

144 Amendment of s 1120 (Minister’s and Treasurer’s power to give joint directions to corporatised entity)

(1) Section 1120(4)—

omit.

(2) Section 1120—

renumber and relocate as section 999.

145 Insertion of new ch 9, pt 4, div 2, sdiv 4

Chapter 9, part 4, division 2—

insert—

‘Subdivision 4—Amending interim resource operations licences

‘1122 Amending interim resource operations licence for Barker Barambah water supply scheme

‘(1) The chief executive may amend the interim resource operations licence for Barker Barambah water supply scheme, held by SunWater, to include the matters stated in section 177(b) to (f) for the proposed Barlil Weir.

‘(2) If the chief executive amends the licence under subsection (1), the chief executive must give the interim resource operations licence holder an amended licence in the approved form and an information notice.

‘(3) The amended licence takes effect from the day the information notice is given to the holder.

‘(4) This section applies despite section 184.’.

146 Replacement of s 1133–1136 (Section numbers not used)

Section 1133–1136—

omit, insert—

‘1133 References to water in a watercourse or lake

‘A reference in this Act to water in a watercourse or lake is taken to have always included a reference to water collected in a dam across the watercourse or lake.

‘1134 Burnett Basin draft resource operations plan

‘To remove any doubt, the amendments stated in sections 8.1 and 8.2 of the Burnett Basin draft resource operations plan, for which the chief executive published a notice under section 100 on 2 December 2002, are amendments to which section 106(b) applies.

‘1135 Existing authorities for s 1113

‘(1) Each customer to whom the chief executive granted an interim water allocation under section 1113 is taken to have had an authority within the meaning of section 1109 at the time the allocation was granted.

‘(2) Subsection (3) applies if the Land Court held that it does not have jurisdiction to consider an appeal in relation to the granting of an interim water allocation under section 1113 because the person granted the allocation did not have an authority within the meaning of section 1109 at the time the allocation was granted.

‘(3) The person may appeal under chapter 6, part 3 against the review decision the subject of the appeal mentioned in subsection (2).

‘(4) Despite section 878(2), the notice of appeal must be filed within 30 business days after the commencement of this section.

‘1136 Transitional provision for the *Water and Other Legislation Amendment Act 2003*

‘(1) Subsection (2) applies to a decision or action mentioned in section 851(1) that is the giving of a compliance notice, if the notice was given before the commencement of this section.

‘(2) The following sections apply to the decision or action as if amendments to the sections, effected by the *Water and Other Legislation Amendment Act 2003*, had not commenced—

- section 864(4)(b)
- section 865(1)
- section 877(1).’

147 Amendment of sch 4 (Dictionary)

(1) Schedule 4—

insert—

‘**“criminal history”**, of a person, has the meaning given by the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3, but does not include convictions for which the rehabilitation period has expired, and has not been revived, under that Act.

“metering contractor” means a person appointed as a metering contractor under section 973.

“nominal volume” means—

- (a) for a water allocation managed under a resource operations licence—the number used to calculate the allocation’s share of the water available to be taken by holders of water allocations in the same priority group; and
- (b) for a water allocation not managed under a resource operations licence—the number used to calculate the allocation’s share of the water available to be taken by holders of water allocations in all water allocation groups in a water resource plan area.

“proposed Barlil Weir” means the new weir at Barlil mentioned in the *Water Infrastructure Development (Burnett Basin) Act 2001*, section 4(c).

“**stock purposes**”, in relation to taking water, means watering stock of a number that would normally be depastured on the land on which the water is, or is to be, used.

“**volumetric limit**” see section 120B.

“**water allocation group**” means a group of water allocations mentioned in a water resource plan or a resource operations plan.

“**water in a watercourse or lake**” includes water collected in a dam across the watercourse or lake.

“**water supply scheme**” means a water supply scheme described in a water resource plan or a resource operations plan.’.

(2) Schedule 4, definition “annual report”, item 1, ‘a water authority, means its’—

omit, insert—

‘chapter 4, means a water authority’s’.

(3) Schedule 4, definition “authority area”, ‘413(1)’—

omit, insert—

‘548(1)’.

(4) Schedule 4, definition “customer”, item 3—

omit, insert—

‘3. “Customer”, for chapter 4 and section 851, means a person, other than a ratepayer, for whom a water authority carries out water activities.’.

(5) Schedule 4, definition “interim water allocation”, paragraph (a), after ‘licence’—

insert—

‘or a resource operations licence’.

(6) Schedule 4, definition “moratorium notice”, ‘42’—

omit, insert—

‘26’.

(7) Schedule 4, definition “publish”, item 1, ‘21 or 246’—

omit, insert—

‘24 or 25’.

(8) Schedule 4, definition “publish”, item 1(b)—

omit, insert—

‘(b) by announcement over a radio station broadcasting generally throughout the area for which the notice is published; or

(c) by notice to an affected licensee or permittee.’.

(9) Schedule 4, definition “publish”, item 2, ‘part 3’—

omit, insert—

‘part 2, 3’.

(10) Schedule 4, definition “seasonal water assignment”, ‘a water allocation’—

omit, insert—

‘an interim water allocation, a water allocation’.

(11) Schedule 4, definition “seasonal water assignment rules”, after ‘allow’—

insert—

‘seasonal water assignments or’.

(12) Schedule 4, definition “small service provider”, paragraph (c)(i), ‘100’—

omit, insert—

‘500’.

(13) Schedule 4, definition “water”, paragraph (a), ‘lake’—

omit, insert—

‘lake⁶’.

(14) Schedule 4, definition “watercourse”, item 1(c), ‘spring tide normally flows’—

omit, insert—

‘high spring tide ordinarily flows’.

6 See definition “water in a watercourse or lake”.



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