



Queensland

Water Amendment Act 2005

Act No. 56 of 2005



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Contents

		Page
1	Short title	6
2	Commencement	6
3	Act amended	6
4	Insertion of new ch 2, pt 2, div 2A	6
	Division 2A Other water supply emergencies	
	Subdivision 1 Preliminary	
	25A Meaning of water supply emergency	6
	Subdivision 2 Water supply emergency declaration and regulation	
	25B Declaration of water supply emergency	7
	25C Contents of water supply emergency declaration.	8
	25D Measures mentioned in a water supply emergency declaration	10
	25E Requirement to comply with water supply emergency declaration	11
	25F Regulation about water supply emergency	12
	25G Measures mentioned in a water supply emergency regulation	13
	25H Requirement to comply with water supply emergency regulation	14
	25I Approval of, or change to, response	15
	25J When water supply emergency ends	16
	Subdivision 3 Carrying out measures and achieving outcomes	
	25K Supply arrangements	17
	25L Relationship with State Development and Public Works Organisation Act 1971	18
	25M Appointment of person to carry out measures or achieve outcomes.	19

	25N	Effect of appointee carrying out measures or achieving outcomes	20
	Subdivision 4	Recovery of costs	
	25O	Recovery of costs incurred	21
	25P	Recovery of contributions by the State	22
	25Q	Queensland Competition Authority	22
	Subdivision 5	Compensation	
	25R	Applying for compensation	22
	25S	When compensation is not payable	23
	25T	Requirement for further information	23
	25U	Deciding application	24
	25V	Notice about decision	25
	25W	Protection of State and Minister from liability	25
	25X	Protection of service provider from liability	25
	Subdivision 6	Review of division and regulation	
	25Y	Review of div 2A	26
	25Z	Review of regulation	26
5		Insertion of new s 36A	26
	36A	Obtaining information from a service provider	26
6		Amendment of s 73 (Requirement for land and water management plans)	27
7		Insertion of new ch 3, pt 2, div 2A	28
	Division 2A	SEQ Water	
	387A	Application of div 2A	28
	387B	Requirement for supply contract	28
	387C	Chief executive may approve standard supply contract	29
	387D	Customer of a service provider	30
	387E	Cost of installing and maintaining meters	30
8		Amendment of s 388 (Restricting water supply)	30
9		Amendment of s 389 (Notice of water restriction must be given)	31
10		Insertion of new ch 3, pt 2, div 6	31
	Division 6	Further powers of service providers	
	396	Water charges	31
	397	Recovering water charges	32
	398	Restricting water supply in certain circumstances	32
11		Amendment of s 781 (General requirements for compliance notices)	32



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Act No. 56 of 2005

An Act to amend the *Water Act 2000*

[Assented to 18 November 2005]

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

This Act may be cited as the *Water Amendment Act 2005*.

2 Commencement

- (1) Section 15 is taken to have commenced on 1 July 2005.
- (2) Section 7 commences on a day to be fixed by proclamation.

3 Act amended

This Act amends the *Water Act 2000*.

4 Insertion of new ch 2, pt 2, div 2A

Chapter 2, part 2, after division 2—
insert—

‘Division 2A Other water supply emergencies**‘Subdivision 1 Preliminary****‘25A Meaning of *water supply emergency***

- ‘(1) A water supply emergency is a situation in which there is a demonstrably serious risk the State’s, or a part of the State’s, essential water supply needs will not be met.
- ‘(2) The following are examples of circumstances from which a situation mentioned in subsection (1) may arise—
 - (a) failure of a large part of water supply, treatment or distribution infrastructure or wastewater infrastructure;
 - (b) extended severe drought conditions;

- (c) contamination of a water storage used for essential water supply needs causing the water to be unfit for supply.

‘(3) In this section—

demonstrably, in relation to a serious risk, means the serious risk can be demonstrated by reliable data about water supply.

essential water supply needs means water supply for—

- (a) domestic purposes; or
- (b) essential services, including the generation or distribution of electricity; or
- (c) processing or refining minerals or petroleum in the Calliope or Gladstone local government areas.

‘Subdivision 2 **Water supply emergency declaration and regulation**

‘25B **Declaration of water supply emergency**

- ‘(1) The Minister may prepare a water supply emergency declaration if the Minister is satisfied—
 - (a) there is a water supply emergency; or
 - (b) a water supply emergency is developing.
- ‘(2) Before preparing a water supply emergency declaration, the Minister must have regard to other measures, instead of a water supply emergency declaration, that could be taken under this or another Act to deal with the water supply emergency.
- ‘(3) The water supply emergency declaration—
 - (a) has effect when it is approved by the Governor in Council and published in the gazette; and
 - (b) remains in force until the earlier of the following—
 - (i) the commencement of a regulation dealing with the matters mentioned in the declaration;
 - (ii) the end of 15 business days after the date it is published.

‘25C Contents of water supply emergency declaration

- ‘(1) A water supply emergency declaration must state—
- (a) the water supply emergency to which the declaration applies; and
 - (b) the part of the State to which the declaration applies; and
 - (c) the service providers to which the declaration applies; and
 - (d) for dealing with the water supply emergency—
 - (i) the measures each service provider is directed to carry out and the day by which the measures are to be carried out; and
 - (ii) if the measures a service provider is directed to carry out include making non-Act water available to, or operating infrastructure to allow non-Act water to be supplied to, a customer or type of customer—whether section 25K applies to the direction; and
 - (iii) if the measures a service provider is directed to carry out include imposing the restrictions mentioned in section 25D—that the service provider is directed to give the Minister for approval, within the time stated, a response (a ***water supply emergency response***) stating the way the service provider intends to ensure the restrictions are complied with; and
 - (iv) the outcomes each service provider is directed to achieve and the day by which the outcomes are to be achieved; and
 - (v) that a service provider directed to achieve outcomes is directed to give the Minister for approval, within the time stated, a response (also a ***water supply emergency response***) stating—
 - (A) the actions the service provider intends to take to achieve the outcomes; and
 - (B) if the actions include imposing the restrictions mentioned in section 25D—the

way the service provider intends to ensure the restrictions are complied with.

- ‘(2) The declaration must state, for the measures directed to be carried out or outcomes directed to be achieved—
- (a) whether the State or 1 or more service providers are to pay the cost and, if more than 1 entity is to pay the cost, the apportionment of the costs; and
 - (b) if the State is to contribute to the cost—the amount to be contributed and the way in which it is to be paid; and
 - (c) the extent to which, and the service providers from whom, the State may recover any contributions made; and
 - (d) the extent to which, and the service provider’s customers or other service providers from whom, a service provider may recover the contributions made by the State and the costs approved by the Minister; and
 - (e) whether, and on what, a service provider may recover a rate of return and the service provider’s customers or other service providers from whom it may be recovered.
- ‘(3) A water supply emergency declaration may authorise persons to exercise powers, including powers of decision and direction and delegated powers, to facilitate the implementation of the directions under the declaration.
- ‘(4) If a water supply emergency declaration for a part of the State is inconsistent with a wild river declaration or the objectives of a water resource plan for the part, the water supply emergency declaration is ineffective to the extent of the inconsistency.
- ‘(5) However—
- (a) the water supply emergency declaration may, to the extent stated in the declaration, be inconsistent with—
 - (i) the resource operations plan that implements the water resource plan; or
 - (ii) a resource operations licence for the water to which the plan applies; or
 - (iii) an interim resource operations licence; and

- (b) to the extent of the inconsistency, the water supply emergency declaration prevails.

‘25D Measures mentioned in a water supply emergency declaration

‘The measures a service provider may, in a water supply emergency declaration, be directed to carry out are the following—

- (a) to make available, water from the service provider’s authority under this Act to take or interfere with water or non-Act water, to—
 - (i) other service providers; or
 - (ii) entities responsible for generating electricity; or
 - (iii) the coordinator-general;
- (b) to operate infrastructure to allow water, including non-Act water, to be supplied to the entities mentioned in paragraph (a);
- (c) to make non-Act water available to a customer or type of customer;
- (d) to operate infrastructure to allow non-Act water to be supplied to a customer or type of customer;
- (e) to restrict, in the way stated in the declaration, the following—
 - (i) the volume of water taken by or supplied to a customer or type of customer;
 - (ii) the hours when water may be used on premises for stated purposes;
 - (iii) the way water may be used on premises;
- (f) to apply a restriction imposed under paragraph (e) to water, including non-Act water, taken from a rainwater tank connected to the service provider’s reticulated water supply.

‘25E Requirement to comply with water supply emergency declaration

‘(1) A service provider to whom a direction is given under a water supply emergency declaration must comply with the direction.

Maximum penalty—

- (a) for a direction mentioned in section 25C(1)(d)(i)—1665 penalty units;
- (b) for a direction mentioned in section 25C(1)(d)(iii) or (v)—1000 penalty units.

Note—

See also section 389(4) to (6).

‘(2) Subsection (1) applies even if complying with the direction would be inconsistent with the service provider’s current supply and infrastructure contractual arrangements and the current arrangements are ineffective—

- (a) to the extent of the inconsistency; and
- (b) for the period stated in the declaration.

‘(3) It is a defence to a prosecution for an offence against subsection (1) to prove—

- (a) the service provider made all reasonable efforts to comply with the direction; and
- (b) the service provider is unable to comply with the direction because the service provider is unable to acquire, to the extent necessary to comply with the direction—
 - (i) the development and other approvals necessary for carrying out the measures or achieving the outcomes; or
 - (ii) the land on which infrastructure is to be constructed; or
 - (iii) finance to carry out the measures or achieve the outcomes.

‘25F Regulation about water supply emergency

- ‘(1) This section applies if—
- (a) there is a water supply emergency; or
 - (b) a water supply emergency is developing.
- ‘(2) A regulation (a *water supply emergency regulation*) may state—
- (a) the water supply emergency to which the regulation applies; and
 - (b) the part of the State to which the regulation applies; and
 - (c) the service providers to which the regulation applies; and
 - (d) for dealing with the water supply emergency—
 - (i) the measures each service provider is directed to carry out and the day by which the measures are to be carried out; and
 - (ii) if the measures a service provider is directed to carry out include making non-Act water available to, or operating infrastructure to allow non-Act water to be supplied to, a customer or type of customer—whether section 25K applies to the direction; and
 - (iii) if the measures a service provider is directed to carry out include imposing the restrictions mentioned in section 25D—that the service provider is directed to give the Minister for approval, within the time stated, a water supply emergency response stating the way the service provider intends to ensure the restrictions are complied with; and
 - (iv) the outcomes each service provider is directed to achieve and the day by which the outcomes are to be achieved; and
 - (v) that a service provider directed to achieve outcomes is directed to give the Minister for approval, within the time stated, a water supply emergency response stating—

- (A) the actions the service provider intends to take to achieve the outcomes; and
 - (B) if the actions include imposing the restrictions mentioned in section 25D—the way the service provider intends to ensure the restrictions are complied with; and
- (vi) any works that are to be carried out by the coordinator-general.
- ‘(3) For the matters mentioned in subsection (2)(d), the regulation must state the matters mentioned in section 25C(2).
- ‘(4) The regulation may, to the extent stated in the regulation, continue the effect of a water supply emergency declaration.
- ‘(5) A water supply emergency regulation may authorise persons to exercise powers, including powers of decision and direction and delegated powers, to facilitate the implementation of the directions under the regulation.
- ‘(6) The regulation, for the part of the State to which it applies, must not be inconsistent with a wild river declaration or the objectives of a water resource plan for the part.
- ‘(7) However—
- (a) the regulation may, to the extent stated in the regulation, be inconsistent with—
 - (i) the resource operations plan that implements the water resource plan; or
 - (ii) a resource operations licence for the water to which the plan applies; or
 - (iii) an interim resource operations licence; and
 - (b) to the extent of the inconsistency, the regulation prevails.

‘25G Measures mentioned in a water supply emergency regulation

‘The measures a service provider may, under a water supply emergency regulation, be directed to carry out are the following—

-
- (a) the measures mentioned in section 25D(a) to (f);
 - (b) to make changes to the service provider's infrastructure, for example to improve efficiency by—
 - (i) reducing water losses from leakage from the service provider's distribution system; or
 - (ii) bringing forward maintenance programs;
 - (c) to allow reasonable access, to connect to the service provider's infrastructure and to operate and maintain the connection, to—
 - (i) other service providers; or
 - (ii) entities responsible for generating electricity; or
 - (iii) the coordinator-general;
 - (d) to implement a demand management program that, for a stated part of the State or type of customer, may include, but is not limited to, subsidising the installation by customers of water-saving devices;
 - (e) to design, construct and operate new infrastructure;
 - (f) to recommission and operate infrastructure that is not operating at the time the regulation is made.

'25H Requirement to comply with water supply emergency regulation

- '(1) A service provider to whom a direction is given under a water supply emergency regulation must comply with the direction.

Maximum penalty—

- (a) for a direction mentioned in section 25F(2)(d)(i)—1665 penalty units;
 - (b) for a direction mentioned in section 25F(2)(d)(iii) or (v)—1000 penalty units.
- '(2) Subsection (1) applies even if complying with the direction would be inconsistent with the service provider's current supply and infrastructure contractual arrangements and the current arrangements are ineffective—
- (a) to the extent of the inconsistency; and

- (b) for the period stated in the regulation.
- ‘(3) It is a defence to a prosecution for an offence against subsection (1) to prove—
 - (a) the service provider made all reasonable efforts to comply with the direction; and
 - (b) the service provider is unable to comply with the direction because the service provider is unable to acquire, to the extent necessary to comply with the direction—
 - (i) the development and other approvals necessary for carrying out the measures or achieving the outcomes; or
 - (ii) the land on which infrastructure is to be constructed; or
 - (iii) finance to carry out the measures or achieve the outcomes.

‘25I Approval of, or change to, response

- ‘(1) If the Minister is satisfied a water supply emergency response is adequate for carrying out the measures or to achieve the outcomes stated in a water supply emergency declaration or a water supply emergency regulation, the Minister must—
 - (a) approve the response; and
 - (b) give the service provider notice of the approval.
- ‘(2) If the Minister is not satisfied, the Minister must—
 - (a) change the response to make it adequate; and
 - (b) approve the changed response; and
 - (c) give the service provider notice of the approval.
- ‘(3) The service provider must comply with the approved water supply emergency response.
Maximum penalty—1665 penalty units.
- ‘(4) Subsection (3) applies even if complying with the approved response would be inconsistent with the service provider’s

current supply and infrastructure contractual arrangements and the current arrangements are ineffective—

- (a) to the extent of the inconsistency; and
- (b) for the period stated in the approved response.

‘(5) It is a defence to a prosecution for an offence against subsection (3) to prove—

- (a) the service provider made all reasonable efforts to comply with the approved response; and
- (b) the service provider is unable to comply with the approved response because the service provider is unable to acquire, to the extent necessary to comply with the response—
 - (i) the development and other approvals necessary for carrying out the measures or achieving the outcomes; or
 - (ii) the land on which the infrastructure is to be constructed; or
 - (iii) finance to carry out the measures or achieve the outcomes.

‘25J When water supply emergency ends

‘(1) The Governor in Council must make a regulation under this section if the Minister considers a water supply emergency has ended.

‘(2) The regulation must state—

- (a) that the water supply emergency to which it applies no longer exists; and
- (b) the actions that may be taken, or continue to be taken, to deal with circumstances arising because of the water supply emergency including, if necessary, completing or discontinuing actions taken under a water supply emergency regulation.

‘(3) The actions that may be taken or continue to be taken include giving any directions that could have been given under the

water supply emergency regulation if the emergency continued to exist.

- ‘(4) Subject to a regulation under this section, the ending of a water supply emergency has no effect on the exercise of powers under this division.

‘Subdivision 3 Carrying out measures and achieving outcomes

‘25K Supply arrangements

- ‘(1) Subsection (3) applies if a water supply emergency declaration or a water supply emergency regulation, directs a service provider—
- (a) to make water, including non-Act water, available; or
 - (b) to operate infrastructure to allow water, including non-Act water, to be supplied.
- ‘(2) However, if the direction is to make non-Act water available to, or to operate infrastructure to allow non-Act water to be supplied to, a customer or type of customer, this section applies only to the extent stated in the declaration or regulation.
- ‘(3) The service provider must, at the time the provider makes the water available or operates the infrastructure, have a supply contract with each entity to whom the service provider is directed to make water available or allow water to be supplied.
- ‘(4) The chief executive may approve a supply contract for the supply, storage and delivery of water under a water supply emergency declaration or regulation including the price to be paid for the supply, storage and delivery.
- ‘(5) The chief executive must gazette approval of the supply contract.
- ‘(6) If, at any time, the service provider and an entity do not have a supply contract in compliance with subsection (3), the supply contract approved by the chief executive applies, for the time, to the supply, storage and delivery of water under the declaration or regulation.

‘25L Relationship with State Development and Public Works Organisation Act 1971

- ‘(1) This section applies to facilitate—
- (a) carrying out measures mentioned in a water supply emergency declaration or a water supply emergency regulation; and
 - (b) compliance with an approved water supply emergency response; and
 - (c) the carrying out of works, mentioned in a water supply emergency regulation, by the coordinator-general.
- ‘(2) The *State Development and Public Works Organisation Act 1971* (the *State Development Act*) has effect in the following way—
- (a) section 103 applies as if—
 - (i) the water supply emergency declaration, water supply emergency regulation or approved water supply emergency response were a regulation made under section 100; and
 - (ii) the service provider were a local body; and
 - (b) sections 105, 106 and 154 apply as if—
 - (i) an appointment of the coordinator-general under section 25M of this Act were an authorisation of the coordinator-general under section 104(6); and
 - (ii) the service provider were a local body; and
 - (c) sections 109 and 110 apply as if a statement in the water supply emergency regulation about works to be carried out by the coordinator-general were a regulation approving a recommendation to the Governor in Council; and
 - (d) section 125(1)(a) applies as if a statement in the water supply emergency regulation about works to be carried out by the coordinator-general were an authorisation to undertake works; and
 - (e) sections 125(1)(c) and 134 apply as if the service provider were a local body; and

- (f) sections 134 and 136 apply as if the works mentioned in the water supply emergency regulation or approved water supply emergency response were authorised works; and
 - (g) section 137 applies as if the reference in section 137(b) to section 136 were a reference to section 136 as it has effect under paragraph (f); and
 - (h) section 139 applies to the extent it relates to the application of section 136.
- ‘(3) Despite the State Development Act, section 111(2)(b), the coordinator-general may delegate to a service provider a power, function or duty conferred or imposed on the coordinator-general under this division.
- ‘(4) If agreement is not reached under the State Development Act, section 134, a regulation may approve particulars of arrangements for the transfer, management, operation and control of the works.
- ‘(5) The regulation, to the extent it approves the particulars, is taken to be a regulation made under the State Development Act, section 134.
- ‘(6) In this section—
- authorised works* see the State Development Act, schedule.
- local body* see the State Development Act, schedule.

‘25M Appointment of person to carry out measures or achieve outcomes

- ‘(1) This section applies if a service provider does not comply with—
- (a) a direction under a water supply emergency declaration or a water supply emergency regulation; or
 - (b) an approved water supply emergency response; or
 - (c) a compliance notice given by the chief executive under section 780(1) in relation to the direction or response.

- ‘(2) The Governor in Council may appoint a person to comply with the direction or response as agent for the service provider.
- ‘(3) The appointment—
 - (a) has effect when it is notified in the gazette; and
 - (b) remains in force until—
 - (i) the day stated in the notification; or
 - (ii) if no day is stated in the notification—the day withdrawal of the appointment is notified.
- ‘(4) The appointment may deal with any matter necessary or convenient to help the person comply with the direction or response.
- ‘(5) A direction or response mentioned in subsection (1) does not include a direction or response about imposing water restrictions.

‘25N Effect of appointee carrying out measures or achieving outcomes

- ‘(1) A person appointed under section 25M(2) (the *appointee*) may do all things necessary or convenient to comply with the direction or response.
- ‘(2) A person in possession of premises on which the service provider’s infrastructure is situated must give the appointee access to the premises to enable the appointee to comply with the direction or response.
Maximum penalty—500 penalty units.
- ‘(3) A person in possession of premises must not take action or refuse to take action if the taking or refusal has the effect of preventing the appointee from, or hindering the appointee in, complying with the direction or response.
Maximum penalty—1665 penalty units.
- ‘(4) Subsections (2) and (3) do not apply to an act done, or omission made, during or relating to industrial action under the *Industrial Relations Act 1999*.

- ‘(5) The service provider is liable for the appointee’s reasonable costs of complying with the direction or response as agent for the service provider.

‘Subdivision 4 Recovery of costs

‘250 Recovery of costs incurred

- ‘(1) This section applies to a service provider who—
- (a) under a water supply emergency declaration or a water supply emergency regulation—
 - (i) is directed to pay the cost of carrying out measures, achieving outcomes or works carried out by the coordinator-general; or
 - (ii) may recover contributions by the State; or
 - (b) under section 25N(5), is liable to pay an appointee’s costs; or
 - (c) under a regulation made under the State Development Act, section 134 or 154, is required to pay costs incurred by or for the coordinator-general.
- ‘(2) The service provider may, to the extent stated in the declaration or regulation, recover from the service provider’s customers or other service providers—
- (a) the contributions made by the State; and
 - (b) the costs mentioned in subsection (1) to the extent they are approved by the Minister; and
 - (c) the rate of return.
- ‘(3) Subsection (2) applies despite—
- (a) any condition of the service provider’s authority under this Act to take or interfere with water; or
 - (b) any provision to the contrary in a supply contract, or a contract for the supply of registered services, between the service provider and the service provider’s customers or other service providers; or

- (c) the pricing arrangements in a relevant notice mentioned in section 1137 or a regulation amending a relevant notice; or
 - (d) any direction given under section 999.
- ‘(4) The service provider may recover, as a debt due to the service provider, any amount the service provider is entitled to recover under subsection (2).

‘25P Recovery of contributions by the State

‘The State may recover, as a debt due to the State by a service provider, any contributions the State is entitled, under a water supply emergency declaration or a water supply emergency regulation, to recover from the service provider.

‘25Q Queensland Competition Authority

‘The Queensland Competition Authority, in performing its functions under the *Queensland Competition Authority Act 1997*, must not act in a way that is inconsistent with a water supply emergency declaration, a water supply emergency regulation or section 250.

‘Subdivision 5 Compensation

‘25R Applying for compensation

- ‘(1) A person, including a service provider, who suffers loss or damage because of actions taken under this division may apply to the Minister for compensation for the loss or damage.
- ‘(2) The application must be made in writing within 65 business days after the person suffers the loss or damage.
- ‘(3) The application must state—
 - (a) details of the person’s loss or damage; and
 - (b) the amount of compensation claimed and the grounds for the amount claimed.

- ‘(4) The applicant must also provide any other relevant information reasonably required by the Minister to decide the application.
- ‘(5) Despite subsection (2), the Minister may accept a person’s application for compensation made more than 65 business days after the person suffers the loss or damage if the Minister is satisfied it would be reasonable in all the circumstances to accept the application.
- ‘(6) The Minister’s acceptance of an application for compensation does not give an applicant an entitlement to the compensation.

‘25S When compensation is not payable

- ‘(1) Compensation is not payable to a person for—
 - (a) loss or damage suffered because of a water restriction imposed under—
 - (i) a direction under a water supply emergency declaration or water supply emergency regulation; or
 - (ii) an approved water supply emergency response; or
 - (b) costs or contributions mentioned in section 25O(1); or
 - (c) loss or damage to the extent that an amount for the loss or damage is recovered or recoverable by the person under a policy of insurance; or
 - (d) costs that were recovered from the person by a service provider under section 25O(2).
- ‘(2) Also, compensation is not payable to the person for loss or damage if the loss or damage would have happened irrespective of actions taken under this division.

‘25T Requirement for further information

- ‘(1) The Minister may give the applicant a notice stating—
 - (a) the information required by the Minister for deciding the application; and
 - (b) the time by which the information must be given to the Minister; and

- (c) that, if the information is not given to the Minister by the stated time, the application will lapse.
- ‘(2) The stated time must be reasonable and, in any case, at least 15 business days after the notice is given.
- ‘(3) The Minister may give the applicant a further notice extending or further extending the time if the Minister is satisfied it would be reasonable in all the circumstances to give the extension.
- ‘(4) A notice may be given under subsection (3) even if the time to which it relates has lapsed.
- ‘(5) If the applicant does not comply with the requirement within the stated time, or any extension of the time, the application lapses.

‘25U Deciding application

- ‘(1) The Minister must consider and decide an application made under section 25R within 65 business days after the later of the following—
 - (a) the day the Minister receives the application;
 - (b) the day the Minister receives all information required by the Minister for deciding the application.
- ‘(2) In deciding an application, the Minister may have regard to—
 - (a) the extent and nature of the applicant’s loss or damage; and
 - (b) the extent to which the applicant has mitigated, or attempted to mitigate, the loss or damage; and
 - (c) any other matter the Minister considers appropriate.
- ‘(3) The Minister may decide—
 - (a) to pay all or part of the compensation claimed; or
 - (b) to refuse to pay the compensation.
- ‘(4) If the Minister has not decided an application within the period stated in subsection (1) for the application, the Minister is taken to have refused to pay compensation.

‘25V Notice about decision

‘As soon as practicable after deciding the application, the Minister must give the applicant a notice stating—

- (a) the decision and the reasons for the decision; and
- (b) if the Minister decides to pay compensation—details of the amount to be paid and how the amount was calculated.

‘25W Protection of State and Minister from liability

‘Civil liability does not attach to the State or a Minister because of a failure to make a water supply emergency declaration under section 25B or a water supply emergency regulation under section 25F.

‘25X Protection of service provider from liability

- ‘(1) Subsection (2) applies to actions taken by a service provider that are inconsistent with the service provider’s current supply and infrastructure contractual arrangements.
- ‘(2) The service provider is not liable for loss or damage caused by taking the actions in compliance with—
 - (a) a direction under a water supply emergency declaration or water supply emergency regulation; or
 - (b) an approved water supply emergency response.
- ‘(3) Subsection (2)—
 - (a) applies only to the extent the service provider acted reasonably and without negligence; and
 - (b) does not affect the service provider’s liability for negligence.

‘Subdivision 6 Review of division and regulation

‘25Y Review of div 2A

‘The Minister must review the operation of this division within 2 years after its commencement.

‘25Z Review of regulation

‘Within 12 months after the commencement of a water supply emergency regulation, the Minister must review the effectiveness of the operation of the regulation in dealing with the water supply emergency.’.

5 Insertion of new s 36A

After section 36—

insert—

‘36A Obtaining information from a service provider

- ‘(1) For the purposes of part 2, division 2A, the chief executive may give a service provider a notice requiring information about 1 or more of the following—
- (a) current and projected future water consumption by the service provider’s customers or a class of the customers;
 - (b) water restrictions the service provider has imposed or intends to impose;
 - (c) the events that would cause the service provider to impose the restrictions, for example, the available water supply falling to a stated level;
 - (d) the actions the service provider intends to take to ensure compliance with the restrictions;
 - (e) the demand management program the service provider proposes to implement;
 - (f) other measures the service provider proposes to take, for example, constructing new infrastructure or making changes to existing infrastructure.

- ‘(2) The notice may be given at any time and must state the reasonable time by which the information must be given to the chief executive.
- ‘(3) The service provider must comply with the notice, unless the service provider has a reasonable excuse.
- Maximum penalty—200 penalty units.
- ‘(4) It is a reasonable excuse for a service provider who is an individual not to comply with the notice if complying with the notice might tend to incriminate the individual.’.

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

- (1) Section 73(1)(b) and (c)—
renumber as section 73(1)(c) and (d).
- (2) Section 73(1)—
insert—
- ‘(b) a person who—
- (i) has used, for irrigation, water the person received under a seasonal water assignment, other than in combination with water taken under any other authority under this Act; and
 - (ii) 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, other than in combination with water taken under any other authority under this Act;’.
- (3) Section 73(1A)—
omit.
- (4) Section 73—
insert—
- ‘(2A) Despite subsection (2), subsection (5) applies to a person who—
- (a) in a water year used, for irrigation, a combination of the following—

-
- (i) water taken under a water allocation or an interim water allocation;
 - (ii) water the person received under a seasonal water assignment; and
 - (b) the combination exceeds the nominal volume for the allocation; and
 - (c) within the time prescribed under a regulation, proposes to again use, on the same land, the combination mentioned in paragraph (a) that will exceed the nominal volume.’.
- (5) Section 73(5), ‘interim water allocation or water licence’—
omit, insert—
‘interim water allocation, water licence or seasonal water assignment’.
- (6) Section 73—
insert—
- ‘(6) In this section—
seasonal water assignment means only the seasonal water assignment of the benefit of water taken under an interim water allocation or a water allocation.’.

7 Insertion of new ch 3, pt 2, div 2A

After section 387—

insert—

‘Division 2A SEQ Water

‘387A Application of div 2A

‘This division applies to the authority held by SEQ Water, to take or interfere with water, continued under section 1037A.

‘387B Requirement for supply contract

‘The holder of each of the following authorities, to take water made available by SEQ Water under its authority, must have a

supply contract with SEQ Water for the holder's water entitlement—

- (a) a licence issued under part 4 of the repealed Act to take water for irrigation purposes from the section of the Brisbane River between Wivenhoe Dam and Mt Crosby Weir and taken, under section 1048A, to be a water entitlement under this Act;
- (b) an authority under the repealed Act, to take water, that—
 - (i) was in force on the commencement of section 15B of the repealed Water Resources Regulation 1999; and
 - (ii) relates to the impoundments of Wivenhoe, Somerset or North Pine Dams or the section of the Brisbane River between Wivenhoe Dam and Mt Crosby Weir; and
 - (iii) is taken, under section 1048A, to be a water entitlement under this Act;
- (c) a water entitlement granted under this Act to take water from the impoundments of Wivenhoe, Somerset or North Pine Dams or the section of the Brisbane River between Wivenhoe Dam and Mt Crosby Weir.

‘387C Chief executive may approve standard supply contract

- ‘(1) The chief executive may approve a standard supply contract for the storage and delivery, by SEQ Water, of water under the authorities mentioned in section 387B.
- ‘(2) The chief executive must gazette the approval.
- ‘(3) On the commencement of this section, the standard supply contract applies to an authority unless the holder of the authority and SEQ Water have a supply contract.
- ‘(4) The parties to a standard supply contract must review the contract within 1 year after the contract takes effect.

‘387D Customer of a service provider

‘The holder of an authority to take water, mentioned in section 387B, is a customer of a service provider for this Act.

‘387E Cost of installing and maintaining meters

‘SEQ Water may recover, from each holder of an authority mentioned in section 387B to whom the standard supply contract applies, the reasonable cost to SEQ Water of—

- (a) a water meter to measure the volume of water taken under the authority; and
- (b) installing, reading and maintaining the water meter.’.

8 Amendment of s 388 (Restricting water supply)

- (1) Section 388(1)(a), after ‘water’—

insert—

‘taken by or’.

- (2) Section 388(2)—

insert—

‘(e) the water service provider is directed, under a water supply emergency declaration, a water supply emergency regulation or an approved water supply emergency response, to impose the restriction.’.

- (3) Section 388(3)—

renumber as section 388(4).

- (4) Section 388—

insert—

- ‘(3) A water service provider may apply a restriction imposed under subsection (1) to water, including non-Act water, taken from a rainwater tank connected to the service provider’s reticulated supply.’.

9 Amendment of s 389 (Notice of water restriction must be given)

Section 389—

insert—

- ‘(4) Subsections (5) and (6) apply if a water service provider, directed under a water supply emergency declaration, a water supply emergency regulation or an approved water supply emergency response to impose water restrictions, does not comply with the direction.
- ‘(5) The Minister may give notice of the water restrictions, required under the declaration, regulation or response to be imposed, to anyone affected by the restrictions in the way the Minister considers appropriate.
- ‘(6) Notice given by the Minister under subsection (5)—
 - (a) imposes the water restrictions stated in the notice; and
 - (b) is taken to be notice given by the service provider under subsection (1).’.

10 Insertion of new ch 3, pt 2, div 6

Chapter 3, part 2—

insert—

‘Division 6 Further powers of service providers

‘396 Water charges

- ‘(1) A service provider required under this Act to pay a water charge to the chief executive may pass on the charge to the provider’s customer.
- ‘(2) If the customer is also a service provider, the customer may pass on the charge to its customer.
- ‘(3) Subsections (1) and (2) apply despite—
 - (a) any condition of the service provider’s authority under this Act to take or interfere with water; or

- (b) any provision to the contrary in a supply contract, or a contract for the supply of registered services, between the service provider and the customer; or
- (c) the pricing arrangements in a relevant notice mentioned in section 1137 or a regulation amending a relevant notice; or
- (d) any direction given under section 999.

‘397 Recovering water charges

‘A service provider may recover an overdue water charge passed on to a customer as a debt due to the service provider by the customer.

‘398 Restricting water supply in certain circumstances

- ‘(1) Subsection (2) applies if—
 - (a) a customer, other than a customer who is also a service provider, does not pay a water charge passed on under section 396; and
 - (b) the service provider has given the customer a notice to pay the charge; and
 - (c) the customer continues to refuse to pay the charge.
- ‘(2) The service provider may reduce the water supply to the customer to the minimum level necessary for the customer’s stock or domestic purposes.’.

11 Amendment of s 781 (General requirements for compliance notices)

- (1) Section 781(1)(g) to (i)—
renumber as section 781(1)(h) to (j).
- (2) Section 781(1)—
insert—
 - ‘(g) if the notice is in relation to a direction or response mentioned in section 25M(1)—that if the notice is not complied with, the Governor in Council may, under

section 25M(2), appoint a person to comply with the direction or response; and’.

12 Amendment of s 1007 (Records to be kept in registries)

Section 1007(8), ‘127B(4)’—

omit, insert—

‘127C(4)’.

13 Amendment of s 1013B (Non-payment of fees or charges)

(1) Section 1013B(2)(d), ‘water entitlement’—

omit, insert—

‘authority under this Act to take water’.

(2) Section 1013B(3)—

omit, insert—

‘(3) However—

(a) an authority mentioned in subsection (2)(d) does not include an authority under section 20; and

(b) subsection (2)(d) does not apply if the holder of the authority is a service provider; and

(c) 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.’.

14 Amendment of s 1037A (Other continuing authorities)

(1) Section 1037A(1)(c)—

omit.

(2) Section 1037A(3), (4) and (5)—

renumber as section 1037A(4), (5) and (7).

(3) Section 1037A—

insert—

- ‘(3) Subsection (4) applies to an entity to which a special agreement Act applies—
 - (a) to the extent the special agreement Act authorises the taking of, or interfering with, water; and
 - (b) if, immediately before the commencement of this section, the entity was taking or interfering with water to which this Act applies.’.
- (4) Section 1037A(4), as renumbered, ‘(1)(c)’—

omit, insert—

‘(3)’.
- (5) Section 1037A(5), as renumbered, ‘South East Queensland Water Corporation Limited ABN 14088729766’—

omit, insert—

‘SEQ Water’.
- (6) Section 1037A—

insert—
- ‘(6) The chief executive may grant a water licence under subsection (2)(a) or (5)(a) without the need for an application to be made under section 206.’.

15 Amendment of s 1136B (Notices given under section 101(1)(b) and (1)(c))

Section 1136B(1)—

omit, insert—

- ‘(1) This section applies to a notice given under section 101(1)(b) for—
 - (a) the *Pioneer Valley Resource Operations Plan 2005*; or
 - (b) the *Barron Resource Operations Plan 2005*; or
 - (c) a draft resource operations plan that did not become effective under section 103 before the commencement of the *Water and Other Legislation Amendment Act 2005*, section 16.’.

16 Replacement of ch 9, pt 6 (Repeals)

Chapter 9, part 6—

omit, insert—

‘Division 5 Transitional provisions for Water Amendment Act 2005**‘1137 Declaration for section 999**

‘(1) It is declared that—

- (a) a relevant notice has effect, and is taken from gazettal to have always had effect, as provided by its terms, as a law binding on all persons; and
- (b) the pricing arrangements for the supply of water set out in a relevant notice are, and are taken from gazettal to have always been, the pricing arrangements applicable to the corporatised entity; and
- (c) for water supplied by the corporatised entity—
 - (i) the corporatised entity is required, and is taken from gazettal to have always been required, to charge the prices determined under the relevant notice; and
 - (ii) amounts charged by the corporatised entity under a relevant notice, before the commencement of this section, were, and are taken to have always been, lawfully charged; and
 - (iii) amounts charged by the corporatised entity under a relevant notice, after the commencement of this section, are lawfully charged.

‘(2) A relevant notice may be amended or repealed by regulation.

‘(3) In this section—

gazettal means the gazettal of the relevant notice.

pricing arrangements include the provision for the adjustment of the arrangements provided for in the relevant notice.

relevant notice means—

- (a) Rural Water Pricing Direction Notice (No. 01) 2000, gazetted on 6 October 2000 at pages 429 to 432; or
- (b) Rural Water Pricing Direction Notice (No. 01) 2002, gazetted on 28 June 2002 at page 803; or
- (c) Rural Water Pricing Direction Notice (No. 02) 2002, gazetted on 27 September 2002 at page 268; or
- (d) Amendment of Rural Water Pricing Direction Notices (No. 01) 2005, gazetted on 1 July 2005 at page 678.

‘1138 Validity of amending moratorium notice not affected

- ‘(1) This section applies to the amending moratorium notice for the Moreton area published by the Minister on 21 May 2005.
- ‘(2) It is declared that—
 - (a) a reference in the notice to the notice having been made under section 44 of this Act does not affect the validity of the notice; and
 - (b) the notice was made under section 29 of this Act (previously numbered section 44).

‘1139 Waiver of water meter charges

‘The Minister may waive, completely or partly, payment of a water meter charge if the waiver is part of the implementation of new water charges.’.

17 Amendment of sch 4 (Dictionary)

- (1) Schedule 4—

insert—

‘approved water supply emergency response means a water supply emergency response approved by the Minister under section 25I.

non-Act water means water that is not included in the definition of *water* in this schedule.

SEQ Water means South East Queensland Water Corporation Limited ABN 14 088 729 766.

water supply emergency see section 25A.

water supply emergency declaration means a declaration made under section 25B.

water supply emergency regulation see section 25F.

water supply emergency response see section 25C.’.

- (2) Schedule 4, definition *supply contract*, after ‘entitlement’—

insert—

‘, a water supply emergency declaration or a water supply emergency regulation’.