

Water and Another Act Amendment Bill 2009

Explanatory Notes

Title

Water and Another Act Amendment Bill 2009

Objective of the legislation

The Water and Another Act Amendment Bill (the Bill) amends the *Water Act 2000* (Water Act) to modify the composition of the Queensland Water Commission (the Commission).

Reasons for the objective and how it will be achieved

The Bill forms part of the Government's implementation of its response to the *Brokering Balance: A Public Interest Map for Queensland Government Boards, Committees and Statutory Authorities Report* (the Report). The structural changes to the Commission are consistent with the Government's public sector reform program which aims to deliver reduced bureaucracy and improve efficiency and maintain integrity and security of necessary regulatory functions.

The Commission was established under the Water Act in June 2006 as an independent statutory body responsible for ensuring sustainable water supplies in the South East Queensland (SEQ) region and other designated regions. The functions carried out by the Commission remain critical for ensuring the continued implementation of regional water supply security within SEQ region.

The continued operation of the Commission, as an independent statutory body, is important to deliver the ongoing program of reform of the SEQ water sector. Having regard to the Report's guidance on appropriate organisational form of an independent body, it is considered in the case of the Commission its functions and powers may be undertaken without the need for its current board structure.

The structure of the Commission will be modified to replace the current membership, of at least three Commissioners, with a single Commissioner. The Commissioner must still be appointed by Governor in Council. The changes to the membership of the Commission will not take effect until after the current Commissioner's terms expire on 18 June 2009.

The Commissioner will continue to report to the Minister administering the Water Act and advisory bodies may be established for guidance on technical matters. The Commission's core functions of regional planning and policy; demand management and substitution; and water reform can continue to be undertaken by the Commission reporting to a single Commissioner.

The Commission will otherwise remain a separate statutory body, with independent reporting requirements under the Water Act. The amendments made by this Bill will not affect the ability of the Commission to employ the staff under the *Public Service Act 1996* (now the *Public Service Act 2008*) that it considers appropriate to perform its functions.

Alternatives to the Bill

There are no other viable alternatives that would achieve the policy objectives other than this Bill.

Estimated cost for Government for implementation

This Bill will not impose any additional financial burden on the Government and will result in cost savings.

Consistency with fundamental legislative principles

This Bill is consistent with the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992*.

Consultation

Matters associated with the structure of the Commission were the subject of general consultation during the preparation of the Report and no significant issues were raised.

Notes on Provisions

1 Short title

Clause 1 states that this Act is the *Water and Another Act Amendment Act 2009*.

2 Commencement

Clause 2 provides that this Bill will commence on 19 June 2009 or, if the date of assent is later than 19 June 2009, the date of assent.

3 Acts amended

Clause 3 states that this Bill amends the Water Act and the *Public Service Act 2008* (Public Service Act).

4 Replacement of s 348 (Appointment)

Clause 4 replaces existing section 348 of the Water Act, which provides for the appointment of the Commissioners, with new sections 348 and 348A.

New section 348 Membership of commission

The Commission currently comprises of a chairperson and at least two other Commissioners appointed by the Governor in Council. New section 348 modifies the governance arrangements of the Commission so that it will consist of a single Commissioner.

New section 348A Appointment of commissioner

New section 348A retains the requirement for the appointment of the Commissioner to be made by the Governor in Council on either a full-time or part-time basis.

5 Replacement of ss 354 to 360A

Clause 5 omits section 354 (Disclosure of interests) and Division 4, Part 2, Chapter 2A (Meetings and other business of the Commission). As clause 4 of the Bill provides that the Commission will consist of one Commissioner, these provisions will no longer be required.

Clause 5 also inserts a number of new provisions to give effect to the new governance arrangements of the Commission.

New section 354 Conflicts of interest

New section 354 is simply an amended version of existing section 354 and provides for the disclosure of particular interests of the Commissioner. It requires the Commissioner to disclose, to the Minister, any direct or indirect pecuniary interests which may conflict with the proper performance of their function. If the Commissioner makes such a disclosure, the Commissioner must not perform or continue to perform the function.

New section 355 Acting commissioner

New section 355 enables the Minister to appoint an acting Commissioner in certain circumstances, for example, where the appointed Commissioner is absent or the office of the Commissioner is vacant. It also enables the Minister to appoint an acting Commissioner in the event that the Commissioner has disclosed a conflict of interest and is unable to perform a particular function.

New Division 4 Records of decisions

New Division 4, Part 2, Chapter 2A ensures the records of decisions of the Commission are kept.

New section 356 Records required

New section 356 provides that the Commissioner must keep a record of the Commission's decisions.

6 Amendment of s 360B (Commission's staff)

Clause 6 makes minor amendments to section 360B of the Water Act to reflect the new governance arrangements of the Commission provided for in clause 4 of this Bill.

7 Amendment of sch 4 (Dictionary)

Clause 7 omits the existing definitions of *chairperson* and *commissioner* in schedule 4 (Dictionary) of the Water Act and inserts a new definition of *commissioner* consistent with clause 4 of this Bill.

Schedule Consequential amendments

The schedule makes consequential and minor amendments to the Water Act and Public Service Act to reflect the new governance arrangements of the Commission.

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