

Water Legislation (Miscellaneous Provisions) Amendment Bill 2014

Explanatory Notes

Short title

The short title of the Bill is the *Water Legislation (Miscellaneous Provisions) Amendment Bill 2014*.

Policy objectives

The *Water Legislation (Miscellaneous Provisions) Amendment Bill 2014* (the Bill) has a number of drivers. The main purpose is to make critical amendments to improve the State's powers to respond to and manage water supply emergencies and flood events before the start of the next wet season. The Bill will also improve the governance framework for category 1 water authorities (Gladstone Area Water Board and Mount Isa Water Board) which are State owned statutory authorities that supply bulk water services; and implement changes to the Water Efficiency Labelling and Standards scheme in response to recommendations of the independent review of the scheme in 2010.

The objectives of the Bill are to:

- amend the *Water Act 2000* to:
 - streamline the process for declaring a water supply emergency
 - improve the governance framework for category 1 water authorities
 - omit redundant provisions referencing the Queensland Water Commission
 - include Noosa Shire Council in the definition of the 'SEQ region'.
- amend the *Water Supply (Safety and Reliability) Act 2008* to:
 - enable service provider water restrictions in emergency situations to commence on the day they are announced
 - enable declaration of a temporary full supply level for flood mitigation dams to have effect on notice being given to the dam owner
 - clarify procedures for authorisation of alternative operating procedures during flood events.
- amend the *Water Efficiency Labelling and Standards Act 2005* to bring it into alignment with the Commonwealth *Water Efficiency Labelling and Standards Act 2005* (Commonwealth Act).

Reasons for the policy objectives

Water supply emergency declarations and emergency water restrictions

The Minister can direct water service providers to impose water restrictions in emergency situations. However, current emergency declaration and emergency water restriction

processes are time consuming requiring Governor in Council approval and gazettal for giving effect to an emergency declaration. Even in an emergency, the service provider water restrictions do not apply until the day after notice of the restrictions is given to affected customers. This limits their effectiveness and practical use in response to short-term or immediate emergencies, like the Mount Crosby incident of January 2013 when high levels of turbidity in the Brisbane River shut down the water treatment plants. The Bill will remove the Governor in Council approval and gazettal notice requirements for an emergency declaration and provide for service provider emergency water restrictions to commence on the day they are announced.

Temporary full supply level declarations and authorised alternative operating procedures

To mitigate the impacts of a potential flood or drought, the Minister may, by gazette notice, declare a temporary full supply level for dams that operate under an approved flood mitigation manual. These powers, first enacted in 2011 following recommendations of the Queensland Floods Commission of Inquiry, have provided an effective mechanism to assist in managing the impacts of flood events in south east Queensland (SEQ). These powers were exercised multiple times during the 2012-13 wet season for both Wivenhoe and North Pine dams including on non-business days. This experience has demonstrated the limitations imposed by the gazettal process in responding to real and emerging flood events. The Bill will enable a future declaration to have effect on notice being given to the dam owner removing any potential delay in taking action at the dams to temporarily draw down the full supply level.

Approved flood mitigation manuals are in place for Wivenhoe and Somerset dams and North Pine Dam. The approved manuals set out procedures for operating the dams during flood events. The dam owner (Seqwater) may seek authorisation from the chief executive to adopt a different operational procedure from that approved under the manual if it is necessary to manage a situation at the dam. However, if the chief executive cannot be contacted within a reasonable time, the owner can adopt a different procedure (an authorised alternative procedure) to manage the situation but must provide written advice of the facts and circumstances and actions taken to the chief executive as soon as practicable after the event. There is possible uncertainty about when Seqwater would be authorised to adopt an alternative procedure where contact with the chief executive officer cannot be made or contact is made but communication is lost before a response is provided, possibly during a dam safety emergency. The Bill will ensure that, if Seqwater has attempted to contact the chief executive officer, and has not received a response within a reasonable period, it can adopt the appropriate operating procedure to manage the situation at the dam during a flood event.

Water Efficiency Labelling and Standards scheme

The Water Efficiency Labelling and Standards (WELS) scheme is a co-operative national scheme that was established in 2005 by the Commonwealth Act and complementary State and Territory legislation. The scheme is supported by an Intergovernmental Agreement between the Commonwealth and the States and Territories. The scheme aims to conserve water by providing information to consumers on the water efficiency of WELS products (taps and showers, toilets and urinals, washing machines and dishwashers) at the point of sale. The star ratings indicate how efficient the product is and how much water it uses.

The WELS scheme provides for a single point of registration for WELS products and for the Commonwealth to be the regulator. In response to the independent review of the scheme in

2010, the Joint Governments (the Commonwealth and all States and Territories) agreed to changes to the governance, compliance and administration of the scheme, including measures to improve the level of cost recovery from product registration fees, and the introduction of civil penalties. The Commonwealth Act was amended in 2012 and 2013 in line with the Joint Governments' response to the recommendations of the independent review of 2010.

Although the Commonwealth Act covers all current registrants, the *Water Efficiency Labelling and Standards Act 2005* (Queensland WELS Act) needs to 'mirror' these recent changes to cover any unincorporated businesses or sole traders who may be importing or manufacturing WELS products in Queensland.

Governance arrangements for category 1 water authorities

Category 1 water authorities (Gladstone Area Water Board and Mount Isa Water Board) are statutory bodies which operate on a commercial basis similar to government owned corporations. The governance framework under which the Boards operate has never been comprehensively reviewed and is in need of reform. The Bill will reduce red tape and regulatory burden, remove redundant provisions and better align planning and reporting requirements with commercial business practices.

SEQ region and Queensland Water Commission

The Bill makes a minor amendment to section 341 of the Water Act which defines the 'SEQ region' to include the local government area of Noosa Shire following its de-amalgamation from the Sunshine Coast Regional Council on 1 January 2014, and omits redundant provisions from the Water Act referencing the former Queensland Water Commission, as it has been abolished.

Achievement of policy objectives

Water supply emergency declarations and emergency water restrictions

The Bill streamlines the emergency declaration process and allows for emergency water restrictions to have immediate effect. Specifically, the Bill removes the Governor in Council approval and gazettal notice requirements for giving effect to a declaration. The declaration will instead have effect when made by the Minister, or a later day stated in the declaration.

The Minister must give a copy of the declaration to affected service providers and as soon as practicable after doing this, publish a copy of the declaration in the gazette. This maintains a public record of the decision. The Bill also extends the term of the emergency declaration from 15 to 20 business days, to allow more time to prepare an emergency water supply regulation, if necessary.

The Bill also provides that service providers must give notice about their emergency water restrictions in an appropriate way in the circumstances, such as by radio or television broadcast or another form of electronic media; and provides for immediate effect of service provider emergency water restrictions on the day they are announced.

Temporary full supply level declarations and authorised alternative operating procedures

The Bill provides for a future temporary full supply level declaration to take effect upon the dam owner receiving a declaration notice, or such later time as stated in the notice. The

requirement for gazettal of the declaration is retained for the purpose of maintaining a public record of the decision.

The Bill clarifies the procedures for gaining authorisation to adopt a different operating procedure during flood events when reasonable efforts are made to contact the chief executive but the chief executive does not respond, or contact is made but then lost before the chief executive can respond to the request. This will ensure that Seqwater is authorised to adopt the appropriate procedure for operating the dam during flood events and can act accordingly to ensure the safety of the dam and manage the impacts of flooding on downstream communities.

Water Efficiency Labelling and Standards scheme

In addressing the amendments to bring the Queensland WELS Act into alignment with the Commonwealth Act, the approach that has been taken to achieving consistency is the ‘applied provisions’ model of uniform legislation. Under this model of uniform legislation, the Commonwealth water efficiency laws are applied as laws of the State of Queensland. There are a number of advantages of adopting this approach. It significantly reduces red tape and regulation and should also negate the need for future amendments to the Queensland WELS Act, if the scheme arrangements are amended under the Commonwealth Act or regulations or other instruments under that Act. This approach also achieves a higher level of consistency across jurisdictions. However, under the amended Queensland WELS Act, the State may modify the effect of the Commonwealth water efficiency laws by regulation.

Governance arrangements for category 1 water authorities

The Bill reduces red tape and removes redundant provisions, improves transparency and better aligns requirements with commercial business practices. Specifically, the Bill:

- removes the separate process for resignation of the chairperson of the Gladstone Area Water Board and separate provisions specifying the term of appointment for its directors
- aligns the timeframes for when the Minister and the authorities must reach agreement on corporate plans and performance plans
- removes the requirement for authorities to give notice when buying or selling property of more than \$1 million
- requires authorities to disclose any payments received to fund community service obligations during the financial year in the annual report
- removes the reference to category 1 authorities to identify and disclose cross subsidies
- omits provisions for establishment of category 1 water authorities and obligations applicable to new authorities within the first year of establishment, and
- streamlines the dividend recommendation and payment process to align with provisions applicable to government owned corporations.

Alternative ways of achieving policy objectives

Amendments to primary legislation are the only solutions to the issues outlined above.

An alternative approach to amending the Queensland WELS Act to bring it into alignment with the Commonwealth Act was considered. This approach was to amend the specific provisions of the Queensland WELS Act to be consistent with the provisions of the Commonwealth Act. The ‘mirror’ approach is the current structure of the Queensland WELS

Act. The amendments to the Queensland WELS Act have instead adopted the ‘applied provisions’ model of uniform legislation. A high level of consistency is desirable for the national WELS scheme which the ‘applied provisions’ approach achieves.

Estimated cost for government implementation

Implementation costs for the State Government have been assessed as minimal and can be met from within existing agency budgets.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to the fundamental legislative principles under section 4 of the *Legislative Standards Act 1992* (LSA).

Whether legislation has sufficient regard to the rights and liberties of individuals – LSA, section 4(2)(a) – application of offences to individuals without adequate notice.

A potential breach arises from the amendments to provide for immediate effect of service provider water restrictions imposed in urgent and emergency situations. Whether legislation adversely affects the rights and liberties of individuals depends if, for example, the legislation affects rights and liberties, or imposes obligations, retrospectively. There are significant penalties for non-compliance with water restrictions. It may be argued that restrictions could apply retrospectively before they have been advertised or affected persons notified. However, because of the immediate effect of water restrictions in an emergency situation, the service provider must notify affected customers of the restrictions in an appropriate way, such as by radio or television broadcast or by another form of electronic media. In this way, affected customers should be informed of the restrictions as soon as they apply. In these circumstances, it is considered the potential breach is justified in the public interest.

A Bill should only authorise the amendment of an Act by another Act – LSA, section 4(4)(c) – Henry VIII provision.

The Queensland WELS Act effectively applies to individuals in Queensland. In addressing the amendments to the Queensland WELS Act, the Bill applies the provisions of the Commonwealth Act as a law of the State of Queensland. New section 7, as amended by the Bill, includes a power to modify the application of the Commonwealth Act by regulation. Modification of an applied law is common and is done to maintain Queensland’s oversight of the law as applied in Queensland. A similar approach is taken in the corresponding Acts of New South Wales, Tasmanian and South Australia. The consistency of States’ WELS legislation has the benefit of consistency for users, courts and regulatory agencies. The other benefit is that judicial interpretation of one Act can be easily understood in relation to the other Acts.

Consultation

SEQ water service providers, Seqwater and Queensland Urban Utilities, and the Local Government Association of Queensland have been consulted in relation to the changes to water supply emergency declarations and emergency water restrictions.

Seqwater has been consulted in relation to the provisions of the Bill dealing with temporary full supply level declarations and procedures for authorisation of alternative operating procedures.

There has been consultation with the community on the changes to the WELS scheme. In this regard, public submissions were sought on a discussion paper on the independent review in 2010.

There was extensive consultation with industry on the WELS scheme changes through direct consultations and the submissions process. The Commonwealth released a consultation paper in January 2012, to gather industry feedback on operational aspects associated with implementing the scheme enhancements arising from the independent review.

The final review report (Chris Guest, 30 June 2010) and the Joint Governments' response are published on the WELS scheme review website. The Commonwealth Department of Environment (which is the regulator) and the Tasmanian Department of Primary Industries, Parks, Water and Environment were consulted in relation to the amendments to the Queensland WELS Act.

Gladstone Area Water Board and Mount Isa Water Board have been consulted in relation to the amendments to the governance framework for category 1 water authorities.

Consistency with legislation of other jurisdictions

The Queensland WELS Act is part of a national co-operative scheme comprising the Commonwealth Act and complementary State and Territory legislation. The amendments to the Queensland WELS Act to align it with the Commonwealth Act are consistent with the majority of other jurisdictions, including New South Wales, Tasmania and South Australia.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 provides that the short title of Bill, when enacted, may be cited as the *Water Legislation (Miscellaneous Provisions) Amendment Act 2014*.

Part 2 Amendment of Water Act 2000

Act amended

Clause 2 provides that this part amends the *Water Act 2000*.

Amendment of s 25B (Declaration of water supply emergency)

Section 25B provides that the Minister may prepare a water supply emergency declaration if satisfied—(a) there is a water supply emergency; or (b) a water supply emergency is developing. The emergency declaration has effect when approved by the Governor in Council and published in the gazette.

Clause 3 amends section 25B to remove the Governor in Council and gazettal notice requirements for giving effect to a declaration and provides instead that the Minister may make a water supply emergency declaration, after having regard to other measures that could be taken under the Water Act or another Act to deal with the water supply emergency.

Subsection (3) is replaced to provide that the emergency declaration has effect from the time the Minister makes the declaration, or a later day stated in the declaration, and extends the period of the emergency declaration from 15 to 20 business days to enable more time for preparation of an emergency regulation, if needed.

Under new subsections (4) and (5), the Minister must, as soon as practicable after making a declaration, give a copy of the declaration to each affected service provider and, publish a copy of the declaration in the gazette. This maintains a public record of the declaration.

Amendment of s 25CA (Amendment of water supply emergency declaration)

Clause 4 makes a consequential change to replace the word ‘prepares’ with ‘makes’ to reflect that the Minister makes an emergency declaration under section 25B, as amended by the Bill.

Amendment of s 25F (Regulation about water supply emergency)

Clause 5 amends section 25F to omit reference to the Queensland Water Commission, which has been abolished.

Division 2B Restrictions on use of subartesian water

The provisions of chapter 2, part 2, division 2B (Restrictions on use of subartesian water) were enacted at a time of severe drought and coincided with the Queensland Water Commission (the Commission) having a direct role in managing the impacts of drought across the SEQ region as a whole. The Commission was abolished in January 2013 as part of the Government's commitments to reduce the cost of bulk water supply and rationalise institutional arrangements for the SEQ water sector. The amendments to sections 25ZA to 25ZE simply omit redundant references to the Commission and make other necessary consequential changes.

Amendment of s 25ZA (Application for approval to restrict use of subartesian water)

Clause 6 omits subsection (1) to remove reference to the Commission, and omits reference to the SEQ region in subsection (2).

Amendment of s 25ZB (Deciding application)

Clause 7 omits reference to 'commission water restrictions' in subsection (1)(c).

Omission of s 25ZD (Restriction of subartesian water by commission)

Clause 8 omits section 25ZD.

Amendment of s 25ZE (Restriction of subartesian water by water service provider)

Clause 9 amends section 25ZE to remove the distinction between areas outside the SEQ region or other designated regions, and other areas.

Amendment of s 341 (What is the *SEQ region*)

Clause 10 amends section 341 to include the local government area of Noosa Shire Council in the SEQ region.

Amendment of s 580 (Notice of proposed significant action)

Clause 11 replaces subsection (1) to provide that the category 1 water authorities no longer have to notify the Minister when they buy or sell a property for more than \$1 million. However they must give notice of any proposed significant action which would adversely affect the authority's functions. Subsection (3) is omitted meaning that category 1 authorities must inform the Minister of proposed significant actions whether or not these actions are outlined in their performance plan.

Amendment of s 582 (Statement of operations)

Clause 12 amends section 582 to require category 1 water authorities to include in their annual report the details of any funding for community service obligations (CSO) paid to them during the year. Currently, category 1 authorities are not required to report any CSO funding in the annual report. This is an anomaly in the financial reporting framework as CSO

obligations and funding can be significant. To improve transparency, any monies paid to the authorities for CSOs will need to be included in the annual report.

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

Clause 13 replaces subsection (1) to omit the reference to category 1 water authorities. This is because category 1 authorities do not cross-subsidise the costs of providing services between classes of customers and therefore the section is not relevant to them.

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

Clause 14 amends section 604 to apply the provisions to all category 1 and category 2 water authorities, by removing references and separate provisions applicable to the Gladstone Area Water Board. The term of office for all water authority directors is therefore specified under this section, as amended.

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

Clause 15 omits section 605 as there is no longer a need for separate provisions specifying the term of office for directors of the Gladstone Area Water Board. The term of office for directors of the Board is now covered in section 604, as amended by the Bill.

Amendment of s 606 (Resignation)

Clause 16 replaces section 606 to remove the separate process for the resignation of the chairperson of the Gladstone Area Water Board. The current provisions were carried forward from the special purpose legislation under which the Board was originally established and are now redundant. Amended section 606 applies to both category 1 and category 2 water authorities and specifies the process for resignation of chairpersons and directors.

Omission of ch 4, pt 5, div 2 (Commercialisation charter for category 1 water authorities)

Clause 17 omits sections 641-644 which detail the process for preparing a commercialisation charter for a new category 1 water authority. The commercialisation charter is essentially the plan about how the water authority will undergo structural reform on a commercial basis. A commercial charter expires one year after an authority becomes a category 1 water authority. It is expected that no new category 1 water authorities will be established and the provisions are considered to be redundant.

Amendment of s 647 (Draft corporate plan)

Clause 18 replaces subsections (1) and (2) to remove the requirements for preparation of a draft corporate plan by a newly established category 1 water authority. The timeframe for a corporate plan to be agreed between a category 1 water authority and the Minister is amended from the current 'not later than 1 month before the start of the financial year' to 'no later than the start of the financial year'. This amendment aligns with the timeframe for agreement on the performance plan.

Amendment of s 648 (Special procedures for draft corporate plan)

Clause 19 amends section 648 to omit reference to a corporate plan being prepared by a newly established category 1 water authority. The timeframe in which the Minister may direct a category 1 authority to take specified steps in relation to the draft corporate plan is amended from the current '1 month before the start of the financial year' to 'before the start of the financial year' consistent with section 647, as amended by the Bill.

Amendment of s 650 (Corporate plan pending agreement)

Clause 20 amends section 650 to remove reference to a newly established category 1 water authority.

Amendment of s 654 (Preparing draft performance plan)

Clause 21 replaces subsection (2) to remove reference to a newly established category 1 water authority.

Amendment of s 655 (Special procedures for draft performance plan)

Clause 22 amends section 655 to omit reference to a performance plan being prepared by a newly established category 1 water authority. The timeframe in which the Minister may direct a category 1 authority to take specified steps in relation to the draft performance plan is amended from the current '1 month before the start of the financial year' to 'before the start of the financial year' consistent with section 654.

Amendment of s 657 (Performance plan pending agreement)

Clause 23 amends section 657 to remove reference to a newly established category 1 water authority.

Amendment of s 660 (Payment of dividends)

Clause 24 omits subsections (1) to (5) and inserts new subsections (1) to (3) modelled on section 131 of the *Government Owned Corporations Act 1993*.

Currently, section 660 obliges a category 1 water authority to make two recommendations to the Minister about whether it will pay a dividend, the first within one month of the end of the financial year and the second, within four months of the end of the financial year. If approved and paid, the dividend is not reflected in the financial statements for the authority for the financial year to which the dividend relates. This distorts the financial statements for both the year to which the dividend relates as well as the year in which the dividend is paid.

To remove unnecessary red tape, the amended section requires one recommendation about the payment of dividends to be made to the Minister before the end of the financial year. This change will also resolve the accounting issues with any dividends paid by the authority reflected in the audited financial statements for the year to which the dividend relates.

Amendment of s 661 (Interim dividends)

Clause 25 inserts ‘category 1’ before the words ‘water authority’ to make clear the provision only applies to a category 1 water authority.

Omission of ss 662 and 663

Clause 26 omits sections 662 and 663 dealing with the payment of dividends for the financial year in which a category 1 water authority becomes a category 1 authority.

Amendment of sch 4 (Dictionary)

Clause 27 inserts a definition for ‘corporate plan’ and makes a minor amendment to the definition of a ‘performance plan’ as a consequence of other amendments of the Bill.

Part 3 Amendment of Water Efficiency Labelling and Standards Act 2005

Act amended

Clause 28 provides that this part amends the *Water Efficiency Labelling and Standards Act 2005*.

Amendment of long title

Clause 29 replaces the long title of the *Water Efficiency Labelling and Standards Act 2005* to reflect the application of the Commonwealth *Water Efficiency Labelling and Standards Act 2005* (Commonwealth Act) as a law of the State.

Amendment of s 1 (Short title)

Clause 30 amends the short title of the Act to insert ‘Queensland’ in the title.

Amendment of s 2 (Commencement)

Clause 31 omits the note.

Replacement of s 3 (Objects of Act)

Clause 32 replaces section 3 to reflect the application of the Commonwealth Act as a law of the State.

Amendment of s 4 (Act binds all persons)

Clause 33 omits the note in subsection (2).

Replacement of ss 5–6

Clause 34 replaces sections 5 and 6 with new section 5.

Section 5 (Definitions)

New section 5 provides definitions as a consequence of adopting the Commonwealth Act as a law of the State. Definitions in subsection (1) include for example, ‘applied provisions’, ‘Commonwealth administrative laws’, ‘Commonwealth regulator’ and ‘Commonwealth water efficiency laws’.

Subsection (2) provides that if an expression is defined in the Commonwealth Act and is used in the Queensland WELS Act, the expression has the same meaning as it has in the Commonwealth Act, unless a contrary intention applies.

Subsection (3) provides that in the Queensland WELS Act, a reference to a Commonwealth Act includes a reference to:

- that Commonwealth Act, as amended and in force for the time being; and
- an Act enacted in substitution for that Act and, if it is amended, as amended and in force for the time being.

Replacement of pts 2–12

Clause 35 replaces Parts 2 to 12 with new Parts 2 to 7.

Part 2 The applied provisions

Section 6 – Application of Commonwealth water efficiency laws to this State

New section 6 applies the Commonwealth water efficiency laws as in force for the time being as a law of the State. The ‘Commonwealth water efficiency laws’ as defined under section 5, include the *Water Efficiency Labelling and Standards Act 2005* (Cwlth) and all regulations, guidelines, principles, standards and codes of practice in force under that Act.

Section 7 – Modification of Commonwealth water efficiency laws

New section 7 provides that a regulation made under the Queensland WELS Act may modify the Commonwealth water efficiency laws as they apply as a law of the State.

Subsection (2) provides that a regulation may provide that the Commonwealth water efficiency laws apply, under section 6(1), as if an amendment made to those laws had not taken effect.

Section 8 – Interpretation of Commonwealth water efficiency laws

New section 8 provides that the *Commonwealth Acts Interpretation Act 1901* applies as a law of the State in relation to interpretation of the applied provisions and as if the applied provisions were a Commonwealth Act or regulation or other instrument under the Commonwealth Act.

In addition, the section provides that the Queensland *Acts Interpretation Act 1954* does not apply to the applied provisions.

Part 3 Functions and powers under applied provisions

Section 9 – Functions and powers of Commonwealth regulator and other authorities and officers

New section 9 provides that the WELS regulator appointed under the Commonwealth Act and other authorities and officers have the same functions and powers under the applied provisions as they have under the Commonwealth water efficiency laws.

Section 10 – Delegations by the Commonwealth regulator

New section 10 provides that any delegation by the Commonwealth regulator under the Commonwealth Act is taken to also be a delegation for the purposes of the corresponding provision of the applied provisions.

Part 4 Offences

This Part ensures the Commonwealth can undertake enforcement actions consistently across the two jurisdictions, and that no State resources are required for enforcement actions.

Section 11 – Object of this Part

New section 11 states that the object of Part 4 is to further the Act's objective by providing that an offence against the applied provisions is to be treated as if it were an offence against a law of the Commonwealth.

Subsection (2) gives examples of the purposes for which an offence is to be so treated. Subsection (3) provides that for the purposes of this part, an offence includes contraventions for which a civil penalty may be imposed.

Section 12 – Application of Commonwealth criminal laws to offences against applied provisions

New section 12 provides that the relevant Commonwealth laws apply as laws of the State in relation to an offence against the applied provisions as if those provisions were a law of the Commonwealth and not a law of the State.

Subsection (2) provides that, for the purposes of a law of the State, an offence against the applied provisions is an offence against the laws of the Commonwealth, and is taken not to be an offence against a law of the State. Subsection (3) provides that this section is subject to a regulation made under the Queensland WELS Act.

Section 13 – Functions and powers conferred on Commonwealth officers and authorities relating to offences

New section 13 provides that a function or power applying because of section 12 to confer on a Commonwealth officer or authority, a function or power in relation to an offence against

the Commonwealth water efficiency laws, also confers on the officer or authority the same function or power in relation to an offence against the corresponding provision of the applied provisions.

Section 14 – No double jeopardy for offences against applied provisions

New section 14 provides that a person is not liable to be punished for an offence under the applied provisions if the person has been punished for the same offence under the Commonwealth water efficiency laws.

Part 5 Administrative laws

Section 15 – Application of Commonwealth administrative laws to applied provisions

New section 15 applies the Commonwealth administrative laws, as defined under section 5, as laws of the State to any matter arising in relation to the applied provisions as if those provisions were a law of the Commonwealth and not a law of the State.

Subsection (2) further provides that a matter arising in relation to the applied provisions is taken to be a matter arising in relation to the laws of the Commonwealth. Subsection (3) provides that this section is subject to a regulation made under the Queensland WELS Act.

Subsection (4) provides that any provision of a Commonwealth administrative law applying because of this section that purports to confer jurisdiction on a federal court is taken not to have that effect. This is consistent with the High Court decision in *Wakim's case (Re Wakim; Ex parte McNally)* (1999) 198 CLR 511 that a State law cannot confer jurisdiction on the Federal Court.

Section 16 – Functions and powers conferred on Commonwealth officers and authorities

New section 16 provides that a function or power conferred on a Commonwealth officer or authority by a Commonwealth administrative law applying because of section 15 is also conferred on the officer or authority in relation to a matter arising in relation to the applied provisions.

Part 6 Miscellaneous

Section 17 – Things done for multiple purposes

New section 17 provides that a Queensland license, certificate or other instrument does not rely on the Commonwealth water efficiency laws for its powers.

Section 18 – Reference in Commonwealth law to a provision of another law

New section 18 provides that relevant supporting legislation also applies as a law of the State.

Section 19 – Fees and other monies

New section 19 requires all monies payable under this Act and the applied provisions are to be paid to the Commonwealth.

Section 20 – Tabling amendments of the *Water Efficiency Labelling and Standards Act 2005* (Cwlth)

New section 20 provides that the Minister must table a copy of amendments made to the Commonwealth *Water Efficiency Labelling and Standards Act 2005* in the Legislative Assembly within 10 sitting days of the amendments to that Act commencing.

Section 21 – Regulation-making power

New section 21 provides for the Governor in Council to make regulations under the Act.

Part 7 Transitional provision for Water Legislation (Miscellaneous Provisions) Amendment Act 2014

Section 22 – Existing WELS inspectors

New section 22 provides for the appointment of a person under section 45 of the previous Act to continue on its terms and is taken to be an appointment under the applied provisions.

Omission of schedule (Dictionary)

Clause 36 omits the dictionary. Definitions are relocated to new section 5.

Part 4 Amendment of Water Supply (Safety and Reliability) Act 2008

Act amended

Clause 37 provides that this part amends the *Water Supply (Safety and Reliability) Act 2008*.

Amendment of s 43 (Notice of service provider water restriction must be given)

Clause 38 amends section 43 to provide that water restrictions imposed because there is an urgent need or in relation to a water supply emergency declaration, have effect from the time they are imposed by the service provider.

Notice of water restrictions in these circumstances, must be given in an appropriate way, having regard to the circumstances, such as radio or television broadcast or another form of electronic communication.

Amendment of s 370 (Definitions for pt 2)

Clause 39 amends the definition of ‘authorised alternative procedure’ consequential to other amendments made by the Bill.

Amendment of s 379 (Dam owner must seek authorisation for alternative procedure)

Clause 40 replaces subsection (1)(e) to include a requirement for the owner of a dam to state in the authorisation request information, the time by which the owner needs the chief executive to respond to the request.

Amendment of s 381 (Authorisation to observe alternative procedure if chief executive can not be contacted)

Clause 41 amends section 381 to clarify the circumstances in which a dam owner is authorised to adopt a different operating procedure during a flood event, where the owner makes reasonable effect to contact the chief executive officer but cannot contact the chief executive within enough time to enable the owner to respond to the flood event, or contact is made but then lost before the chief executive can respond to the request.

New subsection (5) provides that for subsection (1)(b) ‘contact’ with the chief executive is not established until the chief executive acknowledges receipt of the authorisation request information. An acknowledgement would be considered to be a positive statement or action, not for example, an automatically generated out-of-office email reply.

New subsection (6) provides that for new subsection (2) inserted by the Bill, contact with the chief executive is lost, if the owner reasonably believes that the chief executive officer is no longer able to respond to the owner.

Amendment of s 395 (Minister may declare temporary full supply level)

Clause 42 amends section 395 to provide that a temporary full supply level declaration made by the Minister has effect on notice being given to the dam owner. Currently the declaration does not have effect until it is published in the gazette. The clause also inserts new subsection (5) which provides that a copy of the declaration must be published in the gazette as soon as practicable after it is given to the dam owner.

Amendment of sch 3 (Dictionary)

Clause 43 amends the definition of ‘authorised alternative procedure’ consequential to other amendments made by the Bill.