

# Water Legislation Amendment Bill 2022

## Explanatory Notes

### Short title

The short title of the Bill is the Water Legislation Amendment Bill 2022.

### Policy objectives and the reasons for them

The primary objective of the Water Legislation Amendment Bill 2022 (the Bill) is to amend the *Water Act 2000* (Water Act) to establish a regulatory framework for implementing Queensland's strengthened policy for measuring the take of non-urban water.

The Bill also includes amendments to the Water Act, the *Water Supply (Safety and Reliability) Act 2008* (Water Supply Act), and the *South-East Queensland Water (Distribution and Retail Restructuring Act) 2009* (SEQ Water Act) to improve the operational efficiency of these Acts.

The Bill also amends the Water Act to make minor operational and technical amendments to the framework for managing underground water, which is administered by the Department of Environment and Science.

### Strengthened non-urban water measurement

In 2018, the Queensland Government made a number of public commitments in response to the Independent Audit of Queensland Non-Urban Water Measurement and Compliance (the independent audit) and the Murray-Darling Basin Compliance Compact (MDB Compact) to improve non-urban water management and compliance. This included making significant improvements to Queensland's measurement and metering framework, improving the ability to report on the volume of all water taken under Queensland's water entitlement framework, and ensuring that water take in the Queensland Murray-Darling Basin is accurately measured by 2025.

A key commitment in response to the independent audit was to review Queensland's existing non-urban water measurement policy, and where necessary, consider options for improving measurement and metering. The policy was reviewed in 2019 and following extensive stakeholder consultation of draft policy positions over three years, a strengthened Queensland non-urban water measurement policy was completed in May 2022.

The Bill delivers on the Government's commitment to improve Queensland's measurement and metering by proposing amendments to the Water Act to deliver the policy's following objectives:

- Increase the coverage and standard of metering for the direct measurement of non-urban water take
- Provide for farm scale measurement of overland flow water take

- Receive timely and accurate data on water take
- Ensure fit for purpose compliance and enforcement for measurement of water take.

The objectives of the Bill are to establish a regulatory framework to support implementation of the strengthened measurement policy that includes clear heads of power for water users authorised to take water under the Water Act to:

- Apply the strengthened measurement requirements to measure the volume of water they take under their water entitlement
- Report information about the water they take under their water entitlement
- Comply with the strengthened measurement requirements.

### **Application of measurement requirements**

Currently, the requirement to measure the take of water under an authorisation under the Water Act applies to certain entitlements that are prescribed through the Water Regulation 2016 as metered entitlements, with holders of these entitlements required to take water through a meter. To increase the coverage of metering in line with the intent of the strengthened measurement policy, the Bill provides that through a regulation surface water and underground water entitlements that are subject to a limit on the volume of water that can be taken (however specified) (known as volumetric entitlements) will be subject to strengthened water measurement requirements. This includes surface water entitlements to take overland flow water.

In most situations, take is simple to measure and a measurement device such as a meter can be used to measure the volume of water taken, for example, where water is pumped directly from a river or aquifer.

In other situations, measuring take is more complex and requires a combination of different measurement devices and/or methods to calculate the amount of water taken as part of a measurement system. For example, where overland flow water is captured through diversion works and the water is stored in on-farm storages – measuring the volume of water taken under the entitlement involves using storage level measurement devices to measure the volume of water in the storages and calculating any water that might be lost along the diversion channels or through storage evaporation. In this complex measurement situation, the storage level measurement devices and calculations become the measurement system used to measure the total volume of water taken.

The Water Act has existing regulation-making powers that state a range of requirements in relation to measuring simple take by meters, including when meters are required, minimum standards for meter design, installation and maintenance, and processes for identifying and fixing faults in meters. To ensure the policy's strengthened measurement requirements can be applied to both simple and complex take, the Bill amends the existing regulation-making powers for meters to enable a regulation to state the measurement requirements that apply to measurement devices (i.e. meters) and the measurement requirements that apply to measurement systems. Like existing meter requirements, these new measurement requirements state standards for installation, maintenance and operation, certification requirements and processes for identifying, notifying and fixing any faults in any of the measurement devices or systems.

Where a measurement system is used to measure take, the Bill also provides that the measurement system must be outlined in a measurement plan to explain how water take is measured and calculated. These amendments enabling the measurement of complex take provide the regulatory framework to ensure that the take of overland flow is more accurately measured.

### **Requirement to report water take information**

Information about water use is vital to understand water availability, to inform water planning and allocation decisions and to be able to assess compliance of water take against entitlement conditions. Water entitlement holders are currently required to submit one or two meter reads a year with meter reads provided under a self-read process, submitted via a paper form or an online portal. While this frequency of meter reading enables annual accounting of water take, it does not give visibility of potential compliance issues across the year or enable a water entitlement holder to effectively track their use and manage their own compliance with their entitlement conditions. This is particularly the case for time and event-based take where an annual meter read does not allow detection of non-compliance during an event as it may have occurred some months before the meter read was due.

To enable the department to receive more accurate and timely information about water take, the Bill amends the Water Act to introduce a new head of power to require a telemetry device on water meters. Telemetry devices enable meter read data to be transmitted in near real-time to support more effective and responsive compliance monitoring of water take against water entitlements, particularly where take is time and event based and occurs at any time when certain flow conditions are met. The requirement for telemetry devices will be applied using a risk-based approach, with entitlements in higher risk catchments the priority for installing telemetry. The Water Regulation 2016 will specify which entitlements will be required to install telemetry devices and for example, any standards for these devices. Where telemetry is not required, existing meter read requirements will continue to apply to ensure water take information is regularly reported to the department.

### **Compliance with measurement requirements**

To make it clear that an entitlement to take water under Queensland's water management framework comes with clear obligations to meet legislative requirements for lawful take, the Bill makes amendments to the Water Act to strengthen measurement compliance and enforcement to align with the strengthened of measurement requirements. The Bill will amend existing offence provisions to enable compliance action to be taken where an entitlement holder takes water other than in compliance with measurement requirements.

### **Other amendments**

#### **Contemporise publishing requirements**

The Bill contemporises publishing requirements across water legislation, including the SEQ Water Act, Water Act and Water Supply Act. This is in line with requirements introduced under the *Financial Accountability Act 2009* to prioritise publishing online.

#### **Administrative improvements to the Water Act**

The Bill makes administrative improvements to the Water Act to:

- a. Validate the postponement of expiry of delayed water resource plans.
- b. Ensure the chief executive can apply appropriate discretion when deciding particular water licence dealing applications.
- c. Provide clarity that a new water licence or seasonal water assignment notice issued following a water licence dealing application takes effect on the day stated in the licence or notice.
- d. Address an ambiguity relating to seasonal water assignment notices of water licences, confirming that the holder of a seasonal water assignment notice can apply for a seasonal water assignment.
- e. Correct errors and deliver improvements to the operation of underground water management under chapter 3 of the Act by making minor operational changes and technical amendments.
- f. Align arrangements for water authority board administration with other government boards of a similar nature, including extending board terms from 3 to 4 years and introducing Minister powers to temporarily suspend a director of a category 1 water authority in appropriate circumstances.
- g. Allow a dissolving water authority to transition to an alternative institutional structure that involves multiple closed water activity agreements.
- h. Provide clarity for water related offences by including examples of ‘a period’ that may be relevant when determining an offence for excess take of water and clarifying that the offence for unauthorised water bore drilling activities can relate to a test hole.

## **Amendments to the Water Supply Act**

The Bill amends the Water Supply Act to address identified inconsistencies and provide additional clarity to dam safety, drinking and recycled water provision so that regulator functions can be performed more effectively and efficiently.

## **Achievement of policy objectives**

### **Strengthened non-urban water measurement**

The Bill achieves the policy objective of delivering strengthened water measurement by establishing a clear framework for setting measurement requirements for particular water entitlements in Queensland. Currently the Water Act requires holders of a metered entitlement to take water through an approved meter and provides for a regulation to deliver the detailed arrangements for metering, including identifying entitlements that are metered entitlements, setting standards and requirements for approved meters as well as arrangements for installation and dealing with faults. The Bill builds on this existing framework by creating a new part 3A (Measurement requirements for taking water) within chapter 2 (Management and allocation of water) to deliver the high-level measurement requirements for taking water.

The measurement requirements set out in the new part 3A expand on the existing arrangements by broadening the types of measurement related equipment and devices that may be required to ensure that both simple and complex take can be measured. For example, while a meter will still be able to be used to measure simple take, the new part will also provide that a measurement system can be used where measuring take is more complex and it is necessary to

use a combination of meters and other methods to calculate the volume of water taken. In particular this will apply to entitlements to take overland flow water where entitlement holders will be required to use a measurement system. These entitlement holders will also be required to prepare a measurement plan which outlines the measurement system they use to measure and calculate the water they take under their entitlement to improve the way overland flow water take is measured and reported. The expansion of measurement equipment and devices provided for in the new part will also allow for devices such as telemetry to be installed in some areas to improve the receipt of information about water take.

The strengthened water measurement framework will continue to provide for the detailed arrangements for measurement and reporting to be prescribed by regulation. The Bill provides for a regulation to identify the water authorisations to which the measurement requirements apply, the measurement requirements that apply to measurement devices and measurement systems, arrangements for validating and certifying measurement devices and measurement plans (including the arrangements and functions of duly qualified persons to carry out this work), requirements for providing data and information, arrangements for dealing with faults including identifying, rectifying and reporting and the technical standards that apply to the strengthened measurement requirements, including for measurement devices and measurement plans, and for meter reading and telemetry to reporting water take information.

## **Other amendments**

### **Contemporise publishing requirements**

The Bill achieves the policy objective of contemporising publishing requirements by removing impediments and inconsistencies that prevent online publishing as a preferred method through amendments to the SEQ Water Act, Water Act and Water Supply Act. Amendments include replacing references to, and specifying the duration of, particular publication methods such as newspaper publication, with non-paper publication methods, such as on a website.

The Bill also makes amendment to the Water Act to remove redundant steps for public notification of a water licence application, allowing information about applications to simply be published by the chief executive on a Queensland Government website. The Bill also revises requirements for public inspection of documents to better provide for digital options.

### **Administrative improvements to the Water Act**

#### ***Validating postponement decisions***

The Bill achieves the policy objective of validating the postponement of expiry of particular water plans that were considered ‘delayed’ water resource plans. When the process for expiry and postponement of water plans was initially introduced into the Water Act in 2013, particular water resource plans were identified as ‘delayed’ water resource plans through transitional arrangements. The transitional arrangements were ambiguous with respect to whether the postponement provisions could be used to further postpone the expiry of these plans. Two ‘delayed’ water resource plans have since had their expiry postponed and the validation provision proposed by the Bill will put beyond doubt that these postponements are valid.

#### ***Water licence dealings***

The Bill achieves the policy objective of ensuring the chief executive can apply appropriate discretion in deciding water licence dealings by requiring applications to amend or remove water licence conditions, or to renew or reinstate a water licence, be assessed as an application for a new licence. This will ensure the chief executive has the discretion to properly consider the application and refuse, approve or approve with conditions. The change will also ensure that these types of applications are publicly notified where appropriate.

Under the current provisions of the Water Act, unless the application is of a nature that may impact on the water resource (i.e., change the volume, rate, physical location or interference with water) then it must be dealt with via the non-discretionary process. The non-discretionary process was introduced in 2016 to create administrative efficiencies for dealings that are straight forward in nature, such as a simple transfer of ownership. It provides that if the dealing is consistent with the relevant water planning instruments and the application requirements have been met, then it must be approved and recorded. It has since been identified that there are certain dealings that may be captured by the non-discretionary process that may not be straight forward in nature and could potentially impact other water right holders, cultural interests, or environmental water needs, or be counter to the public interest, for example changes to, or removal of, water licence conditions. The Bill addresses this oversight by reinstating the chief executive discretion and consideration of the public interest for these types of applications.

Clarity is also provided about when a decision takes effect by stating that a new water licence or seasonal water assignment notice issued following a water licence dealing application takes effect on the day stated in the licence or notice.

The Bill also addresses current ambiguity relating to seasonal water assignment notices of water licences, confirming that the holder of a seasonal water assignment notice can apply for a seasonal water assignment.

### ***Amendments to chapter 3, underground water management***

The Bill makes minor operational changes and technical amendments to underground water management under chapter 3 of the Water Act to correct errors and enhance operation of the framework.

### ***Water authorities***

The Bill achieves the policy objective of aligning arrangements for water authority board administration with other government boards of a similar nature by addressing the maximum term of appointment for a board director of a category 1 or category 2 water authority board. Extending the maximum term for board directors from 3 to 4 years is in line with more contemporary Queensland Government board arrangements, such as under the *Hospital and Health Boards Act 2011* and the *Brisbane Olympic and Paralympic Games Arrangements Act 2021*.

The Bill provides a mechanism for the Minister to temporarily suspend a director of a category 1 water authority for up to 60 days in appropriate circumstances. This aligns with temporary suspension arrangements for other government boards with similar scale governance responsibilities such as under the *Hospital and Health Boards Act 2011*. Queensland's two category 1 water authority boards – Gladstone Area Water Board and the Mount Isa Water

Board – are large organisations responsible for regional water supply and dam safety with significant capital assets and expenditure programs. The Bill ensures appropriate temporary arrangements are in place in the event of poor conduct, incapability, negligence, or incompetence of a board director. This complements existing arrangements that allow the Governor in Council to permanently remove a director under these circumstances.

The Bill achieves the policy objective of allowing a dissolving water authority to transition to an alternative institutional structure that involves multiple closed water activity agreements. The Bill provides for, and clarifies the circumstances in which there can be, more than one agreement.

### ***Clarity of offence provisions***

Provide clarity for water related offences by including examples of ‘a period’ that may be relevant when determining an offence for excess take of water and clarifying that the offence for unauthorised water bore drilling activities can relate to a test hole.

## **Amendments to the Water Supply Act**

The Bill amends the Water Supply Act to:

- require providers to annually confirm their registration details, currently only required if there has been a change in their registration details
- clarify that a review of Customer Service Standards (CSS) by water service providers must be provided to the water supply regulator within specified timeframes
- require publication of a final CSS within six months of any review of the CSS
- clarify that recycled water annual reports must be provided to the water supply regulator within specified timeframes
- clarify that existing offences related to the audit of drinking water quality management plans apply to the water service provider not the auditor
- allow the water supply regulator to issue a notice to require the water service provider to have the data in the performance report audited
- rename the Drinking Water Quality Management Plan Report to the Drinking Water Service Annual Report to avoid confusion
- omits unnecessary provisions relating to service areas and reorders for additional clarity
- clarify that annual updates of service area maps apply to all water service providers
- clarify existing requirements to review and audit a recycled water management plan.

## **Alternative ways of achieving policy objectives**

### **Strengthened non-urban water measurement**

The Bill seeks to strengthen requirements for measuring the take of water authorised under the Water Act. No other options were considered as the Water Act already includes a framework for enabling water measurement.

### **Other amendments**

#### **Contemporise publishing requirements**

There are no alternative ways of achieving the policy objectives to contemporise publishing requirements for the SEQ Water Act, The Water Act, and the Water Supply Act.

### **Administrative improvements to the Water Act**

#### ***Validating postponement decisions***

There are no alternative ways of achieving the policy objectives to validate the postponement of expiry of delayed water resource plans.

#### ***Water licence dealings***

There are no alternative ways of achieving the policy objectives to provide clarity to the chief executive discretionary powers in deciding water licence dealings that considers the public interest under the Water Act.

#### ***Amendments to chapter 3, underground water management***

There are no alternative ways of achieving the policy objectives to correct errors and deliver improvements to underground water management under the Water Act.

#### ***Water authorities***

There are no alternative ways of achieving the policy objectives to align water board administration with other government boards of a similar nature under the *Water Act 2000*.

#### ***Clarity of offence provisions***

There are no alternative ways of achieving the policy objectives to provide clarity driller responsibilities in water bore drilling offences are clear and what is meant by ‘in a period’ for unauthorised take offences under the Water Act.

### **Amendments to the Water Supply Act**

There are no alternative ways of achieving the policy objectives to streamline and provide clarity to the dam safety, drinking and recycled water requirements under the Water Supply Act.

## **Estimated cost for government implementation**

### **Strengthened non-urban water measurement**

Water management, including the responsibility for metering and measuring non-urban water take, is an existing cost for the Government. The Queensland non-urban water measurement policy implementation plan approved by Queensland Government sets out how the strengthened measurement policy will be implemented, including priorities and timeframes for new water metering and measurement.

Existing resources will be prioritised to deliver the strengthened measurement policy in accordance with the timeframes outlined in the implementation plan. Funding from the Australian Government under the Hydrometric Networks and Remote Sensing Program (\$10.2 million over three years from 2020) and the Murray-Darling Basin Communities Investment Package (\$12.5 million over three years from 2021) will also support implementation. Ongoing



work to develop systems capability to support improved business functions, operations and data management are expected to realise significant business efficiencies in coming years.

### **Other amendments**

Costs to implement the operational and clarifying amendments to the Water Act, Water Supply Act and the SEQ Water Act will be met within existing resources. Any other costs associated with the amendments to these Acts included in the Bill will be minimal and met from existing budget allocations.

## **Consistency with fundamental legislative principles**

The Bill has been drafted with regard to fundamental legislative principles (FLPs) as defined in section 4 of the Legislative Standards Act 1992 (LSA).

Some amendments infringe on FLPs. These infringements and the reasons for these are addressed below:

### **Whether the Bill has sufficient regard to the institution of Parliament and whether the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly – LSA, section 4(4)(b)**

#### *Regulation-making power*

Clause 39 inserts a new Part 3A (Measurement requirements for taking water) and provides that a regulation may prescribe measurement requirements for particular authorisations to take water. This raises the FLP that legislation should have sufficient regard to the institution of Parliament as the clause delegates legislative power to regulations that may be made by the Governor in Council, as opposed to by Parliament.

This breach is considered justified because the provisions contained in the Water Act establish a broad framework for the sustainable management of water resources across the State. However, because water resource risks vary from catchment to catchment and the large variation in the way water authorisations may be specified, it is more appropriate to use instruments which are better able to provide for these catchment specific management requirements. Under the Water Act, this includes water plans and the Water Regulation.

This regulation-making power is consistent with the existing framework under the Water Act where section 1014 provides regulation-making powers to establish a regulatory framework for metering water entitlements. This amendment seeks to expand this existing regulation-making power to incorporate the measurement requirement provisions necessary to implement the strengthened measurement policy which moves beyond just metering and includes measurement plans for measuring overland flow take and the use of telemetry for reporting water take data and information.

While it is impractical to identify all matters that are required to accommodate any measurement activity that may be required to support risk-based measurement and management of Queensland water resources, the Bill does provide guidance for this regulation-making power and limits the delegation of this legislative power for particular authorisations to take water.

Regulations made under clause 39 will be subject to the tabling and disallowance provisions of the *Statutory Instruments Act 1992* and therefore subject to Parliament scrutiny. Given this, they are justified on the basis the regulation-making power strikes an acceptable balance between the need for the legislation to have operational flexibility and the need to give sufficient regard to the institution of Parliament. The ability to prescribe both the authorisations to be subject to measurement requirements and the details of particular measurement requirements will ensure the effective administration of the Act and significantly support the achievement of its main objective of sustainable resource management.

*Power to make standards*

Clause 39 inserts new section 217I (Standards for measurement requirements) which provides for the chief executive to make standards about matters relating to measurement requirements. The standards must be published on a Queensland Government website and take effect from the day the standards are published or if a later day is stated in the standards, that day.

The potential FLP issue is that this new section creates a power for the chief executive to make standards that are not subject to the scrutiny of Parliament. Standards for measurement requirements can be extensive, technical documents, which may be subject to frequent change in line with national standards or industry feedback. While new section 217I lists a range of matters that the standards may cover, for reasons stated above, it is impractical to include full details of any such standard in legislation to the degree required to ensure full visibility and enforceability. It would also be overly burdensome on Parliament's time to consider changes to standards each time they need to be amended. It is therefore more practical and efficient for the chief executive to exercise administrative power to make and amend standards.

The contents of the standards remain controlled by new section 217D which is specific about what a holder of an authorisation subject to the application of the measurement requirements is required to do. Any breach of FLPs is therefore considered justified and appropriately constrained.

**Whether the Bill has sufficient regard to rights and liberties of individuals and does not adversely affect rights and liberties, or impose obligations, retrospectively – LSA, section 4(2)(a).**

*Prescription of particular authorisations as requiring measurement*

Clause 39 inserts a new Part 3A setting out the regulation making power for measurement requirements for taking water for particular authorisations under the Act. The prescribing of measurement requirements on existing authorisations will not in any way adversely affect the right to take water afforded to the holder of the authorisation. Therefore clause 39 is not inconsistent with subsection 4(3).

*Retrospective dealing with particular water licence dealing applications*

Clause 33 inserts a new section 1305, which provides arrangements for a water licence dealing application which seeks to add, remove or amend a condition imposed on the licence made on or after introduction of the Bill but before commencement. The section provides that new section 130 applies for deciding the application.

This provision is considered justifiable on the grounds that dealing with the application in accordance with the unamended section 130 without proper consideration by the chief

executive may negatively impact water resource management outcomes, including other water users and the public interest.

**Whether the Bill has sufficient regard to rights and liberties of individuals – LSA, section 4(3)(a).**

*Penalties for offences*

Clause 45 makes a consequential amendment to s 808 (Unauthorised taking, supply or interfering with water) to ensure the scope of the existing offence for unauthorised taking of water in section 808 of the Water Act is aligned with the regulatory regime for measurement. It inserts a requirement that a holder of an authorisation to take water to which measurement requirements apply commits an offence if the holder takes water under the authorisation and at the time of the taking, the holder is contravening the measurement requirements.

This raises a potential FLP issue that penalty levels must have sufficient regard to the rights and liberties of the persons potentially subject to the penalties. Consequences and penalties imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by legislation. Where there is contravention of the measurement requirements when taking water, the existing maximum penalty for unauthorised take of water of 1,665 penalty units applies, which is appropriate, reasonable and proportionate and relevant to the action to which the penalty is applied. As contravening the measurement requirements when taking water is akin to not complying with the current metering requirements, it is appropriate that the same offence and penalty should apply.

The offence provision is necessary to encourage and enforce compliance with the measurement requirements to contribute to achieving sustainable resource management. Given this, the amendment is justified on the basis that they strike an acceptable balance between the need to protect water resources, and the rights and liberties of an individual.

**Whether the Bill has sufficient regard to reversal of onus of proof – LSA, section 4(3)(d).**

*Evidentiary aids*

Clause 48 makes a consequential amendment to section 921 (Evidentiary aids) to align the provision with the insertion of the new chapter 2, part 3A (Measurement requirements for taking water).

Generally, this principle provides that legal and evidentiary onus of proof lies with the prosecution. The clause infringes on the FLP reversal of onus of proof in criminal proceedings, by allowing for a certificate to be made by the chief executive purporting to the timing, rate or volume of water taken through a measurement device or measurement system to be taken as evidence of the stated matter.

The infringement is considered justified due to the inherently impractical and costly alternative evidentiary means. Evidence relating to the information on which the chief executive has relied upon to act on the matter is held in various department systems. Certification under section 921 recognises the impracticality of requiring the person administering the law having to attend court to prove purely administrative issues, for example the date collected by the chief executive under the measurement requires for taking water.

Often these issues will not be in dispute due to the information originating from information provided to the chief executive in accordance with measurement requirement obligations placed on the relevant person. Allowing the introduction of evidence in this way serves to expedite proceedings.

*Persons taken to have committed particular offence*

Clause 47 makes minor consequential amendments to section 829 (Persons taken to have committed particular offence) to align the provision with the insertion of the new chapter 2, part 3A (Measurement requirements for taking water).

A potential FLP was identified in relation to the original insertion of section 829. The Bill does not change the application of section 829.

The FLP relates to the assumption that all persons who take water through a common measurement device or system are equally responsible and liable. Take of water through a common meter by multiple water entitlement holders is a common occurrence and, in these situations, it is not possible for the department to establish responsibility, making the existing offences unenforceable. An alternative solution is to require each water entitlement holder to install a separate meter, creating significant additional regulatory burden state-wide. Instead, necessary safeguards such as providing for a reasonable excuse exemption have been included in the provision.

**Whether the Bill has sufficient regards to the power to enter premises – LSA, section 4(3)(e).**

*Power to enter land to monitor compliance*

Clause 44 makes a consequential amendment to section 746 (Power to enter land to monitor compliance) to align the provision with the insertion of the new chapter 2, part 3A (Measurement requirements for taking water).

This provision is considered justifiable on the following grounds:

- the power to enter is limited to places that are not dwelling houses;
- the power is largely limited to the particular purposes referred to above, which are all purposes necessary for sustainable management and efficient use of water;
- the State's water resource is located on or under a landowners land, or in an adjacent watercourse to which the State gives the riparian landowner trespass rights. The only way to monitor water, monitor compliance with authorised activity or investigate unauthorised activity is to enter land. Failure to act immediately could result in damage to the environment or damage to the water supply of others including deprivation of domestic water supplies.
- if the entering is for a different purpose, the occupier must consent, the place must be a public place, entry must be by warrant, or the place must be open as a place of business; and
- the powers of entry must be exercised at a reasonable time (other than where acting on a warrant, with consent or where there is a reason to believe that unauthorised taking, interference or use is occurring).

## **Consultation**

### **Community and stakeholder consultation**

DRDMW's Water Engagement Forum (WEF) is the peak body advisory group to the department that comprises of representatives from industry groups, peak bodies and community groups with an interest in the department's water portfolio.

The WEF was informed on 15 June 2022 regarding the departments intent to progress legislative changes to support the implementation of the measurement policy. Further summary detail about the amendments to the water legislation contained in this Bill were discussed on 4 August 2022.

DRDMW also consulted with the Australian Government Office of the Inspector General of Water Compliance (26 May 2022) and the Board of the Murray-Darling Basin Authority (31 May 2022). AgForce were consulted on 15 August 2022.

Key feedback from industry and stakeholders during this consultation was broad support for strengthening non-urban water measurement to provide better accountability for water use. Other than some concerns from Irrigation Australian Limited in relation to proposals to improve the accountability of certified meter installers, no significant concerns were raised by WEF members. AgForce supported the proposed approach for providing high level heads of power in the Water Act with detailed measurement requirements provided in subordinate legislation to ensure flexibility to respond to changes.

Sunwater and Seqwater did not raise any issues on proposed changes relating to Emergency Action Plans. Mount Isa Water Board indicated support for, and Gladstone Area Water Board no comment about the proposed amendment for a temporary mechanism for suspension of a Category 1 water authority board director.

## **Consistency with legislation of other jurisdictions**

### **Strengthened non-urban water measurement**

Action to improve and strengthen the measurement of water take is occurring across all jurisdictions in the Murray-Darling Basin in response to recent reviews of water management and compliance in the Basin. This includes reviews of metering standards to ensure alignment with national frameworks for non-urban water metering and updating legislative frameworks to reflect these changes.

Improving water measurement and using telemetry are key commitments under the MDB Compact to which the Queensland Government and all Murray-Darling Basin jurisdictions have signed up. Delivering strengthened measurement under its policy will see the Queensland Government meet its national commitments to improve water measurement, compliance, and transparency in water management in the MDB. All other Murray-Darling jurisdictions are currently fulfilling their commitments. DRDMW has discussed the measurement policy with other jurisdictions, including extensive collaboration with New South Wales on overland flow water measurement which is a key issue for both states to address. The Queensland Government also participates on national committees delivering on MDB compact outcomes and regularly reports on its progress in delivering its commitments.

The introduction of new legislation to implement strengthened measurement will bring Queensland into line with other MDB jurisdictions.

### **Other amendments**

Amendments to the Water Act, Water Supply Act and SEQ Water Act are operational amendments to provisions in each Act. These amendments are unique to Queensland legislation.

### **Reasons for non-inclusion of information**

No information relevant to the Bill has been deliberately withheld from the Bill.

# Notes on provisions

## Part 1 Preliminary

### Short title

*Clause 1* provides that when enacted, the Bill will be cited as the Water Legislation Amendment Act 2022.

### Commencement

*Clause 2* provides that on assent the provisions commence except for part 3, division 3 and schedule 1 part 2 which will commence on proclamation.

## Part 2 Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

### Act amended

*Clause 3* provides that this part of the Bill amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* (SEQ Water Act).

**Amendment of s 50 (Publications of directions), s 53CQ (Content of public notice and access requirements), s 95 (Public notice about availability of draft code), s 99 (Review) and s 99BB (Public notice about availability of draft code)**

*Clause 4 – 8* amends section(s) 50, 53CQ, 95, 99, and 99BB of the SEQ Water Act to support the removal of impediments or inconsistencies that prevent online publishing as a preferred method, contemporising and specifying the duration of publishing requirements throughout water related legislation.

### Insertion of new ch 6, pt 14 (Transitional provisions)

*Clause 9* provides for the continued effect of notices published under section(s) 95 and 99BB of the SEQ Water Act.

### Amendment of schedule (Dictionary)

*Clause 10* inserts a new definition for Queensland Government website.

## **Part 3 Amendment of Water Act 2000**

### **Division 1 – Preliminary**

#### **Act amended**

*Clause 11* provides that this part of the Bill amends the *Water Act 2000* (Water Act).

### **Division 2 – Amendments commencing on assent**

#### **Amendment of s 112 (Public notice of application for water licence)**

*Clause 12* amends section 112 of the Water Act to remove redundant steps for public notification of a water licence application, allowing information about applications to simply be published by the chief executive on a Queensland Government website. The option for the chief executive to require the applicant to publish a copy of the notice is retained. In most cases publication only on a Queensland Government website would be acceptable however, there may be circumstances where another publication channel is warranted, such as in an online newspaper.

#### **Amendment of s 113 (Criteria for deciding application for water licence)**

*Clause 13* amends section 113 of the Water Act to provide clarity that the chief executive must consider the public interest when deciding all applications for water licences. This will also apply to an application for a dealing with a water licence that must be assessed as if it were a new water licence.

#### **Amendment of s 120 (What are dealings with water licences)**

*Clause 14* amends section 120 of the Water Act to clarify a seasonal water assignment of a seasonal water assignment notice is a dealing with a water licence.

#### **Amendment of s 121 (Who may apply for dealing with water licence)**

*Clause 15* amends section 121 of the Water Act to clarify a holder of a seasonal water assignment notice can apply to seasonally assign the unused portion of water.

#### **Amendment of s 127 (Application for a seasonal water assignment)**

*Clause 16* amends section 127 of the Water Act to make it clear a seasonal water assignment of a seasonal water assignment notice is a dealing with a water licence. The provision also clarifies that the assignor and the assignee may be the same person.

#### **Replacement of s 130 (When dealing must be assessed as if it were a new water licence)**

*Clause 17* replaces section 130 of the Water Act requiring that particular applications for a dealing with a water licence be assessed as if the application were an application for a new licence. An application for a dealing that is a renewal or reinstatement, or that is seeking amendment to add, remove or change a condition of a water licence must be assessed in this



way. This reinstates discretion for the chief executive to refuse, approve, or approve with conditions, an application for particular dealings. This is necessary to ensure any third-party impacts and public interest matters can be properly considered.

The clause establishes how sections 112 to 115 apply to the application for the dealing. It also provides circumstances where the chief executive is not required to publish a public submissions notice under section 112. This is in acknowledgement that there may be situations where an application for such a dealing would and could not have any third-party impact, for example where the holder seeks to remove a condition requiring something be done by a particular time having satisfied the requirement. The amendment provides that public notification of the application is not required if the chief executive is satisfied that publishing a notice would not be in the public interest. Additionally, the chief executive must be satisfied the granting of the application would not adversely affect a person's authorisation to take or interfere with water, the interests of Aboriginal people and Torres Strait Islanders and their connection with water resources, or a natural ecosystem.

### **Amendment of s 131 (Recording other dealings)**

*Clause 18* amends section 131 of the Water Act to make it clear that the effective date of a seasonal water assignment notice or water licence is the day stated in the notice or licence. The provision also clarifies that the assignor forfeits their authorisation to take water that is the subject of the assignment for the period of the assignment.

### **Amendment of s 604 (Term)**

*Clause 19* amends section 604 of the Water Act, extending the maximum appointment term for water authority board members from three years to four years. This reduces the administrative burden associated with board appointments and provides additional board stability. This extended maximum term is consistent with the appointment term of other contemporary government boards.

### **Replacement of s 606 (Removal of director)**

*Clause 20* replaces section 606 of the Water Act, introducing an interim measure for the Minister to temporarily suspend a director of a category 1 water authority for 60 days, on the same basis that the Governor in Council may decide to remove the director from office.

### **Amendment of s 695 (Water authority may request its dissolution)**

*Clause 21* amends section 695 of the Water Act to allow a water authority to dissolve into more than one closed water activity agreements when converting to an alternative institutional arrangement.

### **Amendment of s 695A (Closed water activity agreement)**

*Clause 22* amends section 695A of the Water Act to support the allowance of a water authority to enter into more than one closed water activity agreement with relevant registered owners. This aligns with the existing policy intent by allowing landholders of the dissolving board to set up arrangements that work best for them and their infrastructure.

### **Amendment of s 696 (Procedure before authority is dissolved to convert to alternative institutional structures)**

*Clause 23* amends section 696 of the Water Act to support the allowance of a water authority to transition one or more alternative institutional structures.

### **Amendment of s 808A (Taking water in excess of volume or rate allowed under water entitlement)**

*Clause 24* amends section 808A of the Water Act by inserting examples of a period for a water entitlement. The offence provision includes the element ‘in a period’. This term is intended to apply to a range of periods that may be relevant to water entitlements such as a water year, a multi-year account or an instantaneous volumetric limit period or water sharing rules (thresholds).

The amendment is in no way intended to limit the nature of the term ‘in a period’ or the period in which the offence may have alleged to have taken place. The ‘period’ may be stated in other ways for the water entitlement, for example the ‘period’ of time may be stated as a condition on the water entitlement.

### **Amendment of s 816 (Unauthorised water bore drilling activities)**

*Clause 25* amends section 816(2) of the Water Act to ensure the definition of an exempt activity captures test holes. The clause also omits the definition of water bore drilling activity in favour of its inclusion in schedule 4 (Dictionary).

### **Amendment of s 817 (Contravening requirements for mining and petroleum drilling)**

*Clause 26* amends section 817 of the Water Act, clarifying the correct reference to mining and petroleum drilling activities.

### **Amendment of s 1009 (Public inspection and purchase of documents)**

*Clause 27* amends section 1009 of the Water Act, making it clear the preferred approach to public inspection of documents is publishing the documents on a Queensland Government website.

### **Replacement of s 1009A (Publishing under this Act)**

*Clause 28* replaces section 1009A of the Water Act, making clear the requirements for publication of documents.

The term document is taken to have the same meaning as in the *Acts Interpretation Act 1954*, including, but not limited to; electronically displayed material, messages, website text, images, maps or diagrams, that may be accessed via a device or application.

### **Amendment of ch 9, hdg (Transitional provisions and repeals)**

*Clause 29* amends the heading of chapter 9 of the Water Act to acknowledge that the chapter contains validation provisions as well as transitional provisions.

### **Amendment of s 1250D (Applying for an associated water licence)**

*Clause 30* amends section 1250D of the Water Act to refer to new section 1306. Section 1306 is a transitional provision that provides updated references to section 112.

### **Amendment of s 1250L (When dealing must be assessed as if it were for a new associated water licence)**

*Clause 31* amends section 1250L of the Water Act to refer to new section 1307. Section 1307 is a transitional provision that aligns the section with the amendment section 130. New section 1307 modifies the application of section 1250L. From commencement of the Act, section 1250L is also taken to apply to a proposed dealing for an associated water licence that is an amendment to add, remove or change a condition of the licence or the renewal or reinstatement of the licence. This means that an application for a dealing with an associated water licence that seeks to do these things must also be assessed as if it were an application for a new associated licence. This supplements the existing arrangements for when a dealing must be assessed as if it were a new associated water licence under section 1250L.

### **Amendment of s 1293 (Number of directors comprising boards of water authorities)**

*Clause 32* provides for the continued effect of the notice published under former section 598(1) and 598A(2).

### **Insertion of new ch 9, pt 14 (Transitional and validation provisions)**

*Clause 33* inserts a new part 14 into chapter 9 of the Water Act to provide transitional and validation provisions for the Act.

## **Part 14 Transitional and validation provisions for Water Legislation Amendment Act 2022**

### **Division 1 Transitional provisions**

#### **1302 Definitions for division**

*Clause 33* inserts a new section 1302 that provides definitions for the division.

#### **1303 Continued application of former s 112 to particular applications for water licences and dealings with water licences**

*Clause 33* inserts a new section 1303 that for any applications made but not decided before commencement of the Act, the former section 112 continues to apply to the application.

#### **1304 Application of new s 113 to particular applications for water licences and dealings with water licences**

*Clause 33* inserts a new section 1304 that for any applications made but not decided under former section 113 before commencement of the Act, the new section 113 applies for deciding the application.

### **1305 Application of new s 130 to particular applications for dealings with water licences**

*Clause 33* inserts a new section 1305 that for any applications made under former section 130 made but not decided before commencement of the Act, the new section 130 applies for deciding the application.

### **1306 Modified application of s 1250D**

*Clause 33* inserts a new section 1306 that for any applications made but not decided before commencement of the Act, the new section 1250D applies for deciding the application.

### **1307 Modified application of s 1250L**

*Clause 33* inserts a new section 1307 that modifies the application of section 1250L. From commencement of the Act, section 1250L is also taken to apply to a proposed dealing for an associated water licence that is an amendment to add, remove or change a condition of the licence or the renewal or reinstatement of the licence. This means that an application for a dealing with an associated water licence that seeks to do these things must also be assessed as if it were an application for a new associated water licence. This supplements the existing arrangements for when a dealing must be assessed as if it were a new associated water licence under section 1250L.

### **1308 Application of s 1250L to particular applications for dealings with associated water licences**

*Clause 33* inserts a new section 1308 that for any applications made under former section 1250L made but not decided before commencement of the Act, the new section 1250L applies for deciding the application.

### **1309 Modified application of s 1293**

*Clause 33* inserts a new section 1309 that provides for the continuation of the gazette notice published under section 598(1) and 598A(2).

## **Division 2 Validation provisions**

### **1310 Validation of postponement of expiry of particular water resource plans**

*Clause 33* inserts a new section 1310 that clarifies a decision made under the former section 52B to postpone the expiry of a delayed water resource plan is, and is taken to always have been, valid.

### **Amendment to sch 4 (Dictionary)**

*Clause 34* makes necessary amendments to the dictionary.

The clause relocates and amends the definition of ‘water bore drilling activity’ from section 816. The amendment to the definition of ‘water bore drilling activity’ expands the provision to include test hole.

A test hole should be considered any hole made to obtain information relative to the construction of a water bore. For example, the suitability of a geological structure or formation at a chosen site for the construction of a water bore. This may include, but not be limited to, information about the water production capacity, water quality or hydraulic properties.

In situations where a test hole is not developed into a water bore, it is important that the bore drilling activities are still undertaken in accordance with the appropriate standards and conditions and by an appropriately licenced water bore driller. This is important to protect underground water resources, and public health and safety because, for example, incorrect decommissioning may lead to contamination.

This will align the offence provision with the design of the overall water bore drilling regulatory regime and ensure relevant offence provisions apply regardless of whether the activity resulted in a water bearing aquifer being tapped.

*Clause 34* amends the definition of *publish* and *Queensland Government business and industry portal* to align with the amendments made to section 1009A; including the addition of Queensland Government website, which is taken to mean any website with a URL that contains ‘qld.gov.au’, other than a local government website.

## **Division 3 – Amendments commencing by proclamation**

### **Amendment of s 99 (Constructing authorities and water service providers)**

*Clause 35* amends section 99 in relation to the conditions under which a constructing authority may take water to replace the term meter with measurement device. This change is to align with the new water measurement framework terminology that uses the broad term measurement devices to refer to devices such as meters.

### **Amendment of s 118 (Conditions of water licence)**

*Clause 36* amends section 118 to align terminology in this provision with the new measurement framework terminology. Amended section s118 provides that a condition of a water licence may require the holder to calculate or measure the water taken under the licence and record and report this information.

### **Amendment of s 179 (Content of a resource operations licence or distribution operations licence)**

*Clause 37* amends section 179 to insert a new subsection that will enable strengthened measurement requirements in relation to the standard of measuring under a resource operations licence or distribution operations licence. This amendment will ensure that strengthened measurement standards apply to the take of both unsupplemented and supplemented water.

## **Amendment of s 210 (Conditions of operations licence)**

Clause 38 amends section 210 to replace subsection 210(2)(a) with a new subsection to align this provision with the new measurement framework. The provision allows for conditions to require the holder of an operations licence to apply strengthened measurement requirements in relation to calculating or measuring the water taken under the licence and recording and reporting this information.

## **Insertion of new ch 2, pt 3A**

*Clause 39* inserts new part 3A into Chapter 2 of the Water Act.

## **New – Part 3A Measurement requirements for taking water**

New part 3A includes provisions about the measurement requirements that apply for taking water under the Water Act.

## **New – Division 1 Preliminary**

### **New section 217A Purpose of part**

New section 217A provides that a regulation may prescribe measurement requirements that apply to taking water under an authorisation to which this part applies. The section provides that the measurement requirements can be in relation to calculating or measuring the water taken under the authorisation and recording or transmitting or reporting information about the water taken under the authorisation. The term transmitting is included to clarify that information about water taken can also be reported by telemetry. The section also provides that information about other matters in relation to calculating or measuring the water taken under the authorisation can be reported, and that a regulation may also prescribe other matters deemed necessary to support the measurement requirements.

### **New section 217B Definitions for part**

New section 217B provides definitions for terms that apply to the operation of new part 3A.

The term duly qualified person refers to someone prescribed by regulation to be appropriately qualified to undertake certain work in relation to the measurement requirements.

The term faulty applies in relation to both a measurement device and a measurement system and refers to a measurement device or system being faulty or not working properly. Further clarity about what the term faulty means is provided in a regulation.

The term relevant authorisation is used to define the authorisations that are subject to the measurement requirements outlined in new part 3A. These relevant authorisations are further clarified in new section 217C.

### **New section 217C Application of measurement requirements**

New section 217C clarifies which authorisations the measurement requirements apply to. The measurement requirements may apply to certain individual authorisations, for example a specific water licence or to a class of authorisations such as a group of water allocations in a particular water management area. The section provides that a regulation will specify the relevant authorisations and that these authorisations will be those that are subject to a limit in terms of the amount volume of water that can be taken under the authorisation (however specified). Other relevant authorisations may also be specified in terms of being required to calculate or measure the water taken.

## **New - Division 2 Measurement requirements**

### **New section 217D Regulation may prescribe measurement requirements**

New section 217D provides that a regulation may prescribe the measurement requirements in relation to measurement devices and measurement systems that must be applied to an authorisation under new part 3A. A drafting note is included to direct the reader to section 808(3) which provides that it is an offence for a holder of a relevant authorisation to take water without complying with measurement requirements.

### **New section 217E Using measurement devices**

New section 217E clarifies the measurement requirements that apply to a holder of a relevant authorisation in relation to using a measurement device. A measurement device, for example, a water meter, must be attached to the works through which the water is being taken under the authorisation. Depending on the specific setup of the works and how information about the water taken will be reported, this requirement may mean that both a meter and a telemetry device will need to be attached to the works.

The holder of the relevant authorisation will be required to maintain all attached devices in accordance with their relevant standard and ensure that each measurement device is certified by a duly qualified person as complying with the relevant standard. The holder must also ensure that each measurement device is working properly and if the measurement device becomes faulty, water must be taken in accordance with alternate requirements to ensure a record of water taken can still be provided while the device is not working properly. The holder is also required to provide information about the water taken under the authorisation. The details of how and when this information is to be provided will be specified by regulation or in the relevant standard.

### **New section 217F Using measurement plans**

New section 217F clarifies the measurement requirements that apply to a holder of a relevant authorisation in relation to using a measurement plan. Measurement plans are used where measuring water take is complex and requires a combination of measurement devices and other methods as part of a measurement system to calculate the water taken, for example where overland flow water is taken under a relevant authorisation.

The section provides that the holder of a relevant authorisation in this situation is required to outline their measurement system in a measurement plan, and have their plan certified as complying with the relevant standard by a duly qualified person. The holder must ensure that water is taken in way that it can be measured or calculated in accordance with the measurement

plan. If the measurement system outlined in the measurement plan becomes faulty at any time, the holder must ensure they can measure or calculate the water taken using an alternate arrangement. This ensures that the holder can still record and provide information about water taken even while the measurement system is faulty. The holder is also required to provide information about the water taken under the authorisation. The details of how and when this information is to be provided will be specified by regulation or in the relevant standard.

## **New - Division 3 Other requirements**

### **New section 217G Faulty measurement devices or measurement systems**

New section 217G provides that a regulation may prescribe requirements in relation to dealing with faulty measurement devices or measurement systems to ensure that faulty measuring equipment is readily dealt with. This will include specifying that a holder of a relevant authorisation must ensure any fault in the device or systems is identified and rectified, and that the department is notified that either the device or system is faulty and not working properly. A drafting note is included to direct the reader to section 1014(2)(b) which enables a regulation to create offences in relation to complying with these faulty device and system requirements.

### **New section 217H Record keeping requirements**

New section 217H provides that a regulation may prescribe requirements in relation to ensuring that records of information about water taken under a relevant authorisation are kept and provided to the department. A drafting note is included to direct the reader to section 1014(2)(b) which enables a regulation to create offences in relation to complying with these record keeping requirements.

## **New - Division 4 Other matters**

### **New section 217I Standards for measurement requirements**

New section 217I provides that the chief executive may prepare standards in relation to the technical aspects of measurement requirements under this part. To ensure there is appropriate visibility of the scope of standards that may be made, the section outlines the requirements that may be included in a standard. These include the design, construction, installation and maintenance of measurement devices; the preparation of measurement plans; operation of measurement systems; processes for certifying measurement devices and measurement plans, including the validation of measurement devices; the information about water taken under a relevant authorisation that must be given to the department; and any other matter about measurement devices or measurement plans that is necessary to ensure that the measurement requirements operate effectively.

To ensure ready access to these standards, the section provides that each version of the standards made under this provision must be published on a Queensland Government website with copies available for inspection. The section also states that standards will take effect from the date stated in the standard, which must not be before the standard is published and publicly available.

### **New section 217J Other matters prescribed by regulation**



New section 217J provides that a number of other matters may also be prescribed by regulation in relation to ensuring the effective operation of the measurement requirements under this part. These matters are listed in the section to provide appropriate visibility. They include the appointment of duly qualified persons as well as the suspension and cancellation of these persons – the latter to ensure that issues of performance and accountability of duly qualified persons can be addressed. It will also be possible for persons other than those appointed to be considered duly qualified persons, for example, appropriately qualified departmental officers may also perform the duties of a duly qualified person. The functions of a duly qualified person and the way these functions are performed may also be prescribed by regulation to ensure clarity about their role and accountability in performing their duties.

The section also provides that a regulation may prescribe the functions the chief executive must comply with to ensure the effective operation of the measurement requirements under this part. This includes ensuring that holders of relevant authorisations are notified that they have certain obligations in relation to measurement requirements that apply to their authorisation to take water. This will ensure that holders of relevant authorisations are given adequate notice of their obligations and can take action to meet their measurement responsibilities. The section also makes it clear that the chief executive has a responsibility to monitor compliance against these measurement requirements to ensure that action can be taken as soon as instances of non-compliance are identified.

### **Amendment of s 384 (Modifying report before approval)**

*Clause 40* amends section 384 of the Water Act to clarify that a submission must be made to the chief executive. Under section 384, the chief executive may require the responsible entity to modify a report if the chief executive considers the report is inadequate in a material particular. In response to the notice issued by the chief executive, the responsible entity must either modify the report or make a submission about why the report should not be modified. The submission must be made within a stated reasonable time, but the section does not specify that the submission is made to the chief executive. While its implied, this amendment makes it clear that the submission must be made ‘to the chief executive’.

### **Insertion of new s 385A**

*Clause 41* inserts a new section 385A (Statutory condition of approved underground water impact report (UWIR)) into the Water Act to include a statutory timeframe for when the annual review required under section 376(1)(e)(ii) must be submitted to the chief executive. Section 376(1)(e)(ii) states that an UWIR must include a program for conducting an annual review. Each annual review must be given to the chief executive, however, there is no statutory timeframe by which this must be submitted. Typically, the chief executive sets this timeframe by making it a condition of the approved UWIR. If, however, this condition is not imposed in the approved UWIR, the timeframe by which the responsible entity must submit the annual report is unclear. This new section includes a statutory timeframe, which only applies where the timeframe is not set as a condition of the UWIR.

A statutory timeframe provides greater certainty for both the chief executive and the responsible tenure holder as to when the annual review must be submitted to the chief executive. This date can be varied as agreed to in writing by the chief executive, but 20 business days after the UWIR takes effect is consistent with the conditions imposed on UWIRs.

**Amendment of s 392 (Direction to propose amendment and consult on proposal)**

*Clause 42* amends section 392(2) of the Water Act to include a requirement that the responsible entity must comply with the notice ‘within the stated reasonable period’. This amendment is so the chief executive can set the timeframe for compliance within the notices issued. Setting a timeframe removes ambiguity for both the chief executive and responsible entity about when the responsible entity must comply with the notice.

**Amendment of s 393 (Other amendments)**

*Clause 43* amends section 393(6) of the Water Act to clarify that the notice published must comply with 393(7) as well as with the chief executive’s requirements. Section 393(6) requires the responsible entity for an amended report to publish a notice about the amendment in the way required by the chief executive. While section 393(7) outlines what the notice must state, because section 393(6) only requires the responsible entity to publish a notice in the way required by the chief executive, it is not explicit that the responsible entity must also comply with section 393(7) when publishing the notice. This amendment makes it explicit that the responsible entity must comply with both section 393(7) and the chief executive’s requirements to remove any possible ambiguity about the information that must be published in the notice.

**Amendment of s 746 (Power to enter land to monitor compliance)**

*Clause 44* amends section 746(1)(a) and (b) which provides for an authorised person to enter the land of a water entitlement holder authorised to interfere or use water for the purpose of monitoring compliance against their entitlement. The new subsections clarify that an authorised officer may inspect, read or obtain information in relation to monitoring compliance from a measurement device or a device or other equipment that may form part of a measurement system. The authorised officer may also check the operation of or repair or replace any measurement device or device that forms part of a measurement system. This amendment ensures that this provision aligns with the measurement requirements in new part 3A that require entitlement holders to have either a measurement device or a measurement system to measure the water they take under their entitlement.

**Amendment of s 808 (Unauthorised taking, supplying or interfering with water)**

*Clause 45* amends section 808 which provides offence provisions in relation to taking water under the Water Act. Subsection (3) is amended to align this offence with the measurement requirements in new part 3A so that it is an offence to take water under a relevant authorisation without complying with these measurement requirements.

**Amendment of s 811 (Tampering with devices)**

*Clause 46* amends section 811 that deals with offences in relation to tampering with devices to align the measurement related terminology in these provisions with the terminology used in new part 3A. In particular, the amended terms will ensure that offences in relation to tampering will include tampering with anything that may be used for the purpose of calculating or measuring the water taken or recording or reporting information about the water taken. This ensures that any future technological developments in terms of measurement devices can be catered for without the need to amend the Water Act.

**Amendment of s 829 (Persons taken to have committed particular offences)**

*Clause 47* amends section 829 which deals with offences in situations where more than one person holds a particular water authorisation, or more than one person takes water through the same works for that authorisation. Subsection 829(1)(b) is amended to bring this provision into line with the terminology used for measurement requirements under new part 3A and clarifies that this offence now applies where more than one person takes water through works to which a measurement device is attached or to which a measurement system relates.

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

*Clause 48* amends section 921 in relation to what may be considered evidence as part of legal proceedings under the Water Act. The amendments ensure this provision includes evidence that may be provided by a device, equipment or other thing in accordance with the measurement requirements introduced as part of new part 3A. Subsection 921(1) provides the matters that may be stated in a certificate purporting to be signed by the chief executive that may be considered as evidence. A new part (h) is inserted into this subsection to provide that these stated matters may include information about water taken under a stated authorisation which was provided by a device, equipment or other thing in accordance with the measurement requirements, or was calculated or measured in accordance with a measurement plan.

Similarly, subsection 921(3) is amended to provide that a certificate purporting to be signed by the chief executive is considered evidence if it states that during a stated period, a device or equipment or other thing or a measurement system stated information about water taken under an authorisation to which the measurement requirements apply. These amendments will ensure that appropriate evidence can be provided as part of ensuring compliance against the measurement requirements provided for in the strengthened measurement policy.

**Amendment of ch 8, pt 2A, hdg (Installing, maintaining and reading meters)**

*Clause 49* amends the heading of this part of chapter 8 to replace the term meters with the term measurement devices that is used under new part 3A. This will ensure that this part relates to the measurement requirements in relation to measurement devices which includes devices other than just meters.

**Amendment of s 973 (Appointment and qualifications of metering contractors)**

*Clause 50* amends the heading of section 973 to replace the term metering with the term measurement to align the terminology of this section with the terminology used under new part 3A. This will ensure that this section can provide for the appointment and qualification of contractors that deal with a broader range of measurement devices than just meters.

**Amendment of s 977 (Power to enter places for stated purposes)**

*Clause 51* amends section 977 which provides powers for a metering contractor to enter land to conduct their work. The section is amended to replace all references to meter, meters and metering with the appropriate measurement device terminology used in new part 3A in relation to measurement requirements.

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

*Clause 52* amends section 1014 which provides regulation making powers for the Water Act. Subsection 1014(2)(a) is amended to include a new example of what a regulation may fix fees and charges for. The subsection now provides that fees or charges may be fixed for measurement devices or services that are provided in relation to measurement requirements.

*Clause 52* also omits subsection 1014(2)(c) which provided the matters a regulation could state in relation to meters. This subsection is no longer required now that new part 3A has been inserted into chapter 2 of the Water Act to consolidate all regulation making powers in relation to measurement requirements, including those in relation to meters (now referred to as measurement devices in part 3A). Section 1014 is also renumbered to cater for the omission of subsection (c).

### **Insertion of new ss 1309A and 1309B**

*Clause 53* inserts new sections 1310 and 1311 into chapter 9, part 14, division 1 of the Water Act.

#### **New section 1309A Application of s 385A**

New section 1309A of the Water Act clarifies that the new section 385A applies to an approved underground water impact report that has been approved before or after commencement.

#### **New section 1309B Existing measuring contractors**

New section 1309B provides that a person appointed as a metering contractor under the Water Act before commencement of this amending Act, continues as if they were appointed as a measurement contractor under the amended Water Act.

### **Amendment of sch 4 (Dictionary)**

*Clause 54* amends definitions in the dictionary to replace metering related terminology that no longer applies with new measurement related terminology used under new part 3A in relation to measurement requirements. This includes definitions of a measurement device and a measurement system.

A measurement device is defined as a meter or another device that is used in connection with calculating or measuring water taken under the Water Act. A measurement device can include equipment related to the meter or other device that is used for calculating or measuring or recording or transmitting or reporting in some other way, information about the water taken. An example is provided as part of the definition to clarify that a measurement device can include a telemetry device used to transmit information about water taken.

A measurement system is defined as a system that comprises two or more components that may include a measurement device and the information, measures or methodologies necessary for identifying and calculating or measuring the total volume of water taken. For example, a holder of an authorisation to take overland flow water may need to use a meter to measure water flowing along a diversion channel, a storage height measurement device to measure the volume of water stored in their on-farm storage and a calculation tool that enables them to

calculate a total volume of water taken. The meter, storage height measurement device and calculation tool becomes their measurement system.

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

### **Act amended**

*Clause 55* provides that this part of the Act amends the *Water Supply (Safety and Reliability) Act 2008* (Water Supply Act).

### **Amendment s 14 (Reports and other publications by regulator)**

*Clause 56* amends section 14 of the Water Supply Act to support the removal of impediments or inconsistencies that prevent online publishing as a preferred method, contemporising publishing requirements throughout water related legislation.

### **Amendment s 23A (Reviewing and changing service provider registration details)**

*Clause 57* amends section 23A of the Water Supply Act to make it clear that service providers must give the regulator notice of a review conducted of their registration details including whether or not the details have changed, to ensure information is kept up to date within reasonable timeframes.

### **Amendment s 99 (Notice of decision)**

*Clause 58* amends section 99 to make it clear the notice of decision made under new section 108 and 108A applies.

### **Insertion of new s 105 (Definitions for division)**

*Clause 59* inserts new section 105 of the Water Supply Act to provide additional guidance in the form of providing clarifying definition on who is an auditor and how the report is assessed in relation to an audit of a service provider's drinking water quality management plan and its performance reports.

### **Replacement of s 108 and 108A (Ensuring audits of drinking water quality management and particular performance reports)**

*Clause 60* replaces sections 108 and 108A of the Water Supply Act to make it clear that the service provider must engage an auditor to audit its drinking water quality management plan and its performance report at intervals as stated in a notice given by the regulator under section 99.

### **Amendment of s 109 (Declarations about reports under this division)**

*Clause 61* amends section 109 of the Water Supply Act to make it clear that that auditor prepares the audit report for a service provider's drinking water quality management plan and

performance report. This amendment also clarifies the circumstances of when a service provider has complied with section 108AA.

### **Amendment of s 110 (Spot audits of plans)**

*Clause 62* amends section 110 of the Water Supply Act to clarify who gives the regulator a drinking water management plan audit report under section 108(2)(b) and that the spot audit must be prepared by an auditor.

### **Amendment of s 120 (Reviewing customer service standard)**

*Clause 63* amends section 120 of the Water Supply Act to make it clear that a service provider must amend their customer service standard within reasonable timeframes either because of becoming a registered service provider or as a result of conducting a review.

### **Amendment of s 142 (Drinking water quality management plan reports)**

*Clause 64* amends section 142 of the Water Supply Act to rename the drinking water quality management plan report to provide clarity around the separation of the reporting requirements for service providers. Section 142 is also amended to ensure that if the service provider reviews its customer service standard that information about the outcome of the review and what actions have been taken is included in the respective report.

### **Amendment of s 142A (Performance reports)**

*Clause 65* amends section 142A of the Water Supply Act to make it clear that the service provider must engage an auditor to audit its drinking water quality management plan and its performance report under section 108A.

### **Amendment of s 162 (Notice of declaration of service area)**

*Clause 66* amends section 162 of the Water Supply Act to make it clear that the service providers declaration of service area is published to the service providers' website and to reduce the burden on service providers through not requiring a copy of the notice to be sent to the regulator.

### **Amendment of s 163 (Map of service area)**

*Clause 67* amends section 163 of the Water Supply Act to make it clear that the service provider must update the service area map at least annually and to provide a copy of the map to the local government if the service provider is not the local government.

### **Replacement of s 258 (Reviewing recycled water management plans)**

*Clause 68* replaces section 258 of the Water Supply Act to simplify the requirements for reviewing recycled water management plans for single and multiple entity recycled water schemes.

### **Amendment of s 259 (Changing plan after review)**

*Clause 69* amends section 259 of the Water Supply Act to make it clear that making changes to a recycled water management plan must be consistent with the operation, water quality criteria, or best practice industry standards for a recycled water scheme.

### **Replacement of s 260 (Internal audits of recycled water management plans and 261 (Regular audits of recycled water management plans)**

*Clause 70* replaces sections 260 and 261 of the Water Supply Act to simplify the requirements for single and multiple entity recycled water schemes for engaging an auditor to conduct and prepare an internal audit report and a regular audit report, and for the audit reports to be given to the regulator. This amendment also provides definitions for ‘independent suitably qualified person’, ‘regular audit report’, and ‘required interval.’

### **Amendment of s 352P (Review by dam owner)**

*Clause 71* amends section 352P of the Water Supply Act to make it clear that a review of an emergency action plan by a dam owner must occur each year before the review day, the required date by which a review may be completed has been defined and expanded to allow for a date to be prescribed by a notice.

### **Insertion of s 578C (Publishing under this Act)**

*Clause 72* inserts new section 578C of the Water Supply Act to support the removal of impediments or inconsistencies that prevent online publishing as a preferred method, contemporising publishing requirements throughout water related legislation.

### **Insertion of new ch 10, pt 13 Transitional provisions for Water Legislation Amendment Act 2022**

*Clause 73* inserts new section 678, 679, 680 and 681 of the Water Supply Act to which are transitional arrangements to make clear the continuation of the previous referred to sections of the Water Supply Act remain in effect. This includes drinking water quality management plan audit report, performance audit report, drinking water quality management plan report (new name- drinking water service annual report), internal audit report, spot audit report and regular audit report.

### **Amendment of schedule 3 (Dictionary)**

*Clause 74* amends schedule 3 definitions to align with the amendments in the above-mentioned legislation.

## **Part 5 Other amendments**

### **Legislation amended**

*Clause 75* amends the legislation as described in Schedule 1. Most of the amendments involve replacing metering related terminology with measurement related terminology to align with the terms used in new part 3A.

## **Schedule 1 Other amendments**

### **Part 1 Amendments commencing on assent**

#### **Water Act 2000**

Part 1 consequentially amends various sections to align with the policy objective of contemporising publishing requirements to promote online publishing as a preferred method.

Part 1 also makes consequential amendments to enhance operation of the underground water management framework and corrects cross referencing errors.

#### **Water Plan (Border Rivers and Moonie) 2019**

Part 1 makes a consequential amendment to ensure the existing intent of the water plan is retained despite the amendments to section 130 of the Water Act. The existing water plan reference to section 130 becomes reference to section 130(1)(a) so that there is no change to when an application for a dealing must be assessed as if it were a new water licence

#### **Water Plan (Condamine and Balonne) 2019**

Part 1 makes a consequential amendment to ensure the existing intent of the water plan is retained despite the amendments to section 130 of the Water Act. The existing water plan reference to section 130 becomes reference to section 130(1)(a) so that there is no change to when an application for a dealing must be assessed as if it were a new water licence.

#### **Water Supply (Safety and Reliability) Act 2008**

Part 1 makes consequential amendments to align with the policy objective of contemporising publishing requirements to promote online publishing as a preferred method.

#### **State Penalties Enforcement Regulation 2014**

Part 1 makes consequential amendments to align with the new 260 provision for recycled water management plans.

### **Part 2 Amendments commencing by proclamation**

#### **Water Act 2000**

Part 2 makes consequential amendments to align with the new measurement related terminology used in new part 3A.