



# Water Act 2000

Reprinted as in force at 8 November 2012

Reprint No. 9A

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Queensland

# Water Act 2000

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# Water Act 2000

[as amended by all amendments that commenced on or before 8 November 2012]

**An Act to provide for the sustainable management of water and other resources and the establishment and operation of water authorities, and for other purposes**

## Chapter 1 Preliminary

### Part 1 Introduction

#### 1 Short title

This Act may be cited as the *Water Act 2000*.

#### 2 Commencement

(1) The following provisions of schedule 2 are taken to have commenced on 1 July 2000—

- (a) amendments 19 and 20 of the *Integrated Planning Act 1997*;
- (b) amendment 2 of the *Local Government Act 1993*.

(2) The following provisions of this Act commence on assent—

- chapter 1
- chapter 2, parts 1, 2 (except section 20(3)) and part 3, divisions 1 and 2
- chapter 5, parts 1, 2 and part 3, division 3

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- chapter 6, parts 1, 2 and 3
  - chapter 7
  - chapter 8, sections 1006, 1007 and 1009 to 1014
  - chapter 9, part 1, sections 1037 to 1045, 1051, 1052, 1054 and 1108 and part 5
  - schedule 2, amendment of the *Integrated Planning Act 1997* amendments 1 and 14
  - schedule 3, amendments of the *Aboriginal Land Act 1991*, the *Forestry Act 1959*, the *State Development and Public Works Organisation Act 1971*, and the *Torres Strait Islander Land Act 1991*
  - schedule 3, amendment of the *Water Resources Act 1989*, amendments 1, 2, 3, 4, 5, 6 and 11.
- (3) Section 1063 commences on 1 October 2000.
- (4) The following provisions, as inserted by the *Water Amendment Act 2001*, commence on the assent of that Act—
- section 37
  - section 40A
  - section 42A
  - section 49A
  - section 78A
  - section 107
  - section 111A
  - section 120A
  - section 122A
  - sections 128A to 130
  - section 184A
  - sections 189A to 190
  - sections 195 to 197

- section 382
  - section 583
  - sections 598 to 598A
  - section 959
  - section 1004A
  - section 1010A
  - section 1013A
  - chapter 9, part 4A.
- (5) The remaining provisions of this Act commence on a day to be fixed by proclamation.

### **3 Definitions**

The dictionary in schedule 4 defines particular words used in this Act.

### **4 Act binds all persons**

- (1) This Act binds all persons, including the State, and, in so far as the legislative power of the State permits, the Commonwealth and the other States.
- (2) Subsection (1) does not apply to—
- (a) the operation of the *State Development and Public Works Organisation Act 1971*; or
  - (b) the powers of the coordinator-general under the *State Development and Public Works Organisation Act 1971*.

## Part 2 Watercourses

### 5 Meaning of *watercourse*

- (1) A *watercourse* is a river, creek or other stream, including a stream in the form of an anabranch or a tributary, in which water flows permanently or intermittently, regardless of the frequency of flow events—
  - (a) in a natural channel, whether artificially modified or not; or
  - (b) in an artificial channel that has changed the course of the stream.
- (2) A *watercourse* includes any of the following located in it—
  - (a) in-stream islands;
  - (b) benches;
  - (c) bars.
- (3) However, a *watercourse* does not include a drainage feature.
- (4) Further—
  - (a) unless there is a contrary intention, a reference to a watercourse in this Act, other than in this part or in the definitions in schedule 4 to the extent they support the operation of this part, is a reference to anywhere that is—
    - (i) upstream of the downstream limit of the watercourse; and
    - (ii) if there is an upstream limit of the watercourse—downstream of the upstream limit; and
    - (iii) between the outer bank on one side of the watercourse and the outer bank on the other side of the watercourse; and



- 
- (b) a reference in this Act to, or to a circumstance that involves, land adjoining a watercourse, is a reference to, or to a circumstance that involves, land effectively adjoining a watercourse.

*Note for paragraph (b)—*

Generally, the non-tidal boundary (watercourse) of land bounded by a watercourse, as provided for under the *Survey and Mapping Infrastructure Act 2003*, would not correspond precisely with the line of the outer bank of a watercourse under this Act.

- (5) In subsection (4)(b)—

***adjoining*** includes being bounded by, being adjacent to, or abutting.

## 5A Meaning of *outer bank*

- (1) The ***outer bank***, at any location on one side of a watercourse, is—
- (a) if there is a floodplain on that side of the watercourse—the edge of the floodplain that is on the same side of the floodplain as the watercourse; or
  - (b) if there is not a floodplain on that side of the watercourse—the place on the bank of the watercourse marked by—
    - (i) a scour mark; or
    - (ii) a depositional feature; or
    - (iii) if there are 2 or more scour marks, 2 or more depositional features or 1 or more scour marks and 1 or more depositional features—whichever scour mark or depositional feature is highest.
- (2) However, subsection (3) applies if, at a particular location in the watercourse—
- (a) there is a floodplain on one side of the watercourse; and
  - (b) the other side of the watercourse is confined by a valley margin.

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*Examples of valley margin—*

hill, cliff, terrace

- (3) Despite subsection (1)(b), the **outer bank** on the valley margin side of the watercourse is the line on the valley margin that is at the same level as the outer bank on the other side of the watercourse.
- (4) Despite subsections (1) to (3), if under this part the chief executive has declared an outer bank on a side of a watercourse for any length of the watercourse, the **outer bank** on that side of the watercourse for that length is the outer bank as declared by the chief executive.
- (5) To remove any doubt, it is declared that an outer bank of a watercourse—
  - (a) can not be, or be a part of, an in-stream island, bench or bar located in the watercourse; and
  - (b) can not be generally closer to the middle of the watercourse than any part of an in-stream island, bench or bar located in the watercourse.

## **5B Declaration of outer bank**

- (1) The chief executive may by gazette notice declare an outer bank of a watercourse for a length (the **relevant length**) of the watercourse.
- (2) The chief executive may make a declaration under subsection (1) only if—
  - (a) it is not reasonably practicable to otherwise identify the outer bank of the watercourse for the relevant length; or
  - (b) the chief executive is satisfied that the outer bank of the watercourse for the relevant length does not appropriately locate a watercourse for the purposes of the exercise of jurisdiction over watercourses under this Act.

- (3) If the chief executive acts under subsection (2)(a), the chief executive must, in making a declaration under subsection (1), take reasonable steps to declare the outer bank consistently with what would have been the location of the outer bank if it had not become impracticable to identify it.
- (4) However, a declaration can not have effect to locate an outer bank for any period before the declaration is made.

## Chapter 2 Allocation and sustainable management

### Part 1 Preliminary

#### 10 Purpose of ch 2

- (1) The purpose of this chapter is to advance sustainable management and efficient use of water and other resources by establishing a system for the planning, allocation and use of water.
- (2) For subsection (1), *sustainable management* is management that—
  - (a) allows for the allocation and use of water for the physical, economic and social wellbeing of the people of Queensland and Australia within limits that can be sustained indefinitely; and
  - (b) protects the biological diversity and health of natural ecosystems; and
  - (c) contributes to the following—
    - (i) improving planning confidence of water users now and in the future regarding the availability and security of water entitlements;

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- (ii) the economic development of Queensland in accordance with the principles of ecologically sustainable development;
  - (iii) maintaining or improving the quality of naturally occurring water and other resources that benefit the natural resources of the State;
  - (iv) protecting water, watercourses, lakes, springs, aquifers, natural ecosystems and other resources from degradation and, if practicable, reversing degradation that has occurred;
  - (v) recognising the interests of Aboriginal people and Torres Strait Islanders and their connection with the landscape in water planning;
  - (vi) providing for the fair, orderly and efficient allocation of water to meet community needs;
  - (vii) increasing community understanding of the need to use and manage water in a sustainable and cost efficient way;
  - (viii) encouraging the community to take an active part in planning the allocation and management of water;
  - (ix) integrating, as far as practicable, the administration of this Act and other legislation dealing with natural resources.
- (3) For subsection (1), *efficient use* of water—
- (a) incorporates demand management measures that achieve permanent and reliable reductions in the demand for water; and
  - (b) promotes water conservation and appropriate water quality objectives for intended use of water; and
  - (c) promotes water recycling, including, for example, water reuse within a particular enterprise to gain the maximum benefit from available supply; and

- (d) takes into consideration the volume and quality of water leaving a particular application or destination to ensure it is appropriate for the next application or destination, including, for example, release into the environment.

## 11 **Meaning of *principles of ecologically sustainable development***

The following principles are *principles of ecologically sustainable development*—

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (c) the present generation should ensure the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- (e) recognition of the need to develop a strong, growing and diversified economy that can enhance the capacity for environmental protection;
- (f) decisions and actions should provide for broad community involvement on issues affecting them.

## 12 **Advancing chapter's purpose**

If, under this chapter, a function or power is conferred on an entity, the entity must perform the function or exercise the power in a way that advances this chapter's purpose.

## **Part 2                      Water rights**

### **Division 1                      Preliminary**

#### **19                      Rights in all water vests in State**

All rights to the use, flow and control of all water in Queensland are vested in the State.

#### **20                      Authorised taking of, or interference with, water without water entitlement**

- (1) This section has effect despite section 19.
- (2) A person may take water in an emergency situation, for—
  - (a) a public purpose; or
  - (b) fighting a fire destroying, or threatening to destroy, a dwelling house.
- (3) An owner of land adjoining a watercourse, lake or spring may take water from the watercourse, lake or spring—
  - (a) for stock purposes; or
  - (b) for domestic purposes.
- (4) Despite subsection (6), an owner of land on which there is overland flow water or overland flow water that has been collected into a dam, may take the water—
  - (a) for stock purposes; or
  - (b) for domestic purposes.
- (5) A person may take water from a watercourse, lake or spring—
  - (a) for camping purposes; or
  - (b) for watering travelling stock.
- (6) A person may take overland flow water or take or interfere with subartesian water for any purpose unless—

- (a) there is a moratorium notice, a water resource plan or a wild river declaration that limits or alters the water that may be taken or interfered with; or
  - (b) for subartesian water only—a regulation under section 1046 regulates the taking of or interfering with the water.
- (6A) A person may interfere with overland flow water.
- (7) A regulation may declare land to be land to which subsection (3)(b) does not apply if the land is subdivided after the regulation is made.
- (8) A constructing authority may take water for the purpose of constructing or maintaining infrastructure that the constructing authority may lawfully construct or maintain, if—
- (a) the taking of water for that purpose is prescribed under a regulation; and
  - (b) the constructing authority complies with each condition imposed under subsection (9).
- (9) The taking of the water is subject to the conditions that—
- (a) are prescribed under a regulation; or
  - (b) the chief executive by notice given to the constructing authority imposes on the taking of water.
- (10) Without limiting the conditions that may be prescribed under subsection (9), the conditions may do all or any of the following—
- (a) limit the volume of water the constructing authority may take in a year for a particular project;
  - (b) limit the volume of water the constructing authority may take from a particular source at a particular location during a stated period;
  - (c) require the constructing authority to give the chief executive notice of the constructing authority’s intention to take water from a particular source;

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- (d) require the constructing authority to take the water only through a meter of a type approved by the chief executive;
- (e) require the constructing authority to give a written report to the chief executive about stated matters for the water taken;

*Examples of matters about which a report may be required—*

- the locations from which water was taken
  - the source from which the water was taken
  - the volume of water taken from a source
  - the day on which the water was taken
- (f) require the constructing authority to obtain written approval from the operator of a water supply scheme before taking water managed under an interim resource operations licence, resource operations licence or distribution operations licence.

(11) In this section—

*land* includes any land contiguous with the land adjoining the watercourse, lake or spring if all the land is owned by the same registered owner.

## **Division 2                      Restrictions for emergencies and water shortages**

### **22            Limiting or prohibiting taking, or interfering with, water during emergencies**

- (1) Subsection (2) applies if the Minister is satisfied urgent action should be taken because—
  - (a) there is a shortage of water; or
  - (b) there is a thing in harmful quantities in water.
- (2) The Minister must publish a notice—



- 
- (a) reducing, for a particular purpose or otherwise, either or both of the following—
    - (i) the volume of water a person may take;
    - (ii) the rate at which, and the times when, a person may take water; or
  - (b) reducing a person's entitlement to interfere with water; or
  - (c) prohibiting the taking of, or interfering with, water.
- (3) The reduction or prohibition has effect despite any authority a person has under another provision of this Act.
  - (4) The notice remains in force until whichever of the following first happens—
    - (a) the commencement of a regulation dealing with the matters mentioned in subsection (2);
    - (b) the end of 21 days after the day the notice is published.
  - (5) The notice is subordinate legislation.
  - (6) Only 1 notice may be published under subsection (2) for each shortage of water or occurrence of a thing in harmful quantities in water.
  - (7) A person must not take water in contravention of the notice.  
Maximum penalty for subsection (7)—1665 penalty units.

**23 Regulation may limit taking or interfering with water for 1 year**

- (1) This section applies if—
  - (a) there is a shortage of water; or
  - (b) there is a thing in harmful quantities in water.
- (2) A regulation may—
  - (a) reduce, for a particular purpose or otherwise, either or both of the following—

[s 24]

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- (i) the volume of water a person may take;
  - (ii) the rate at which, and the times when, a person may take water; or
- (b) reduce a person's entitlement to interfere with water; or
- (c) prohibit the taking of, or interfering with, water.
- (3) The reduction or prohibition has effect despite any authority a person has under another provision of this Act.
- (4) The regulation must state the period, not being more than 1 year, for which the regulation has effect.
- (5) A person must not take water in contravention of the regulation.

Maximum penalty for subsection (5)—1665 penalty units.

## **24 Limiting taking of water under s 20(3)**

- (1) If there is a shortage of water, the chief executive may limit or prohibit the taking of water under section 20(3)(b) for watering a garden or under section 20(3)(a), by publishing a notice.
- (2) If the notice is for limiting the taking of water, the notice may be for either or both of the following—
  - (a) the times when water may be taken;
  - (b) the volume of water, measured or estimated, that may be taken.
- (3) The notice remains in force for the period stated in the notice or, if no period is stated, until the chief executive publishes another notice withdrawing the first notice.
- (4) A person must not take water in contravention of the notice.

Maximum penalty for subsection (4)—500 penalty units.

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**25 Limiting water taken under water licence, permit, allocation or under s 20(8)**

- (1) If there is a shortage of water, the chief executive may, by publishing a notice, limit the water that may be—
  - (a) taken or interfered with under a water licence; or
  - (b) taken under a water permit; or
  - (c) taken under a water allocation not managed under a resource operations licence; or
  - (d) taken under section 20(8).
- (2) The notice may be for any 1 or more of the following—
  - (a) the times when water may be taken;
  - (b) the purpose for which water may be taken;
  - (c) the volume of water, measured or estimated, that may be taken for a stated purpose.
- (3) The notice remains in force for the period stated in the notice or, if no period is stated, until the chief executive publishes another notice withdrawing the first notice.
- (4) A person must not take water in contravention of the notice.  
Maximum penalty for subsection (4)—500 penalty units.

**Division 2A Other water supply emergencies**

**Subdivision 1 Preliminary**

**25A Meaning of *water supply emergency***

- (1) A water supply emergency is a situation in which there is a demonstrably serious risk the State's, or a part of the State's, essential water supply needs will not be met.
- (2) The following are examples of circumstances from which a situation mentioned in subsection (1) may arise—



- (a) has effect when it is approved by the Governor in Council and published in the gazette; and
- (b) remains in force until the earlier of the following—
  - (i) the commencement of a regulation dealing with the matters mentioned in the declaration;
  - (ii) the end of 15 business days after the date it is published.

## **25C Contents of water supply emergency declaration**

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

[s 25C]

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- restrictions are complied with; and
- (iv) the outcomes each service provider is directed to achieve and the day by which the outcomes are to be achieved; and
  - (v) that a service provider directed to achieve outcomes is directed to give the Minister for approval, within the time stated, a response (also a *water supply emergency response*) stating—
    - (A) the actions the service provider intends to take to achieve the outcomes; and
    - (B) if the actions include imposing the restrictions mentioned in section 25D—the way the service provider intends to ensure the restrictions are complied with.
- (2) The declaration must, to the greatest practicable extent, state, for the measures directed to be carried out or outcomes directed to be achieved—
- (a) whether the State or 1 or more service providers are to pay the cost and, if more than 1 entity is to pay the cost, the apportionment of the costs; and
  - (b) if the State is to contribute to the cost—the amount to be contributed and the way in which it is to be paid; and
  - (c) the extent to which, and the service providers from whom, the State may recover any contributions made; and
  - (d) the extent to which, and the service provider's customers or other service providers from whom, a service provider may recover the contributions made by the State and the costs approved by the Minister; and
  - (e) whether, and on what, a service provider may recover a rate of return and the service provider's customers or other service providers from whom it may be recovered.
- (3) A water supply emergency declaration may authorise persons to exercise powers, including powers of decision and direction

and delegated powers, to facilitate the implementation of the directions under the declaration.

- (4) If a water supply emergency declaration for a part of the State is inconsistent with a wild river declaration or the objectives of a water resource plan for the part, the water supply emergency declaration is ineffective to the extent of the inconsistency.
- (5) However—
  - (a) the water supply emergency declaration may, to the extent stated in the declaration, be inconsistent with—
    - (i) the resource operations plan that implements the water resource plan; or
    - (ii) a resource operations licence for the water to which the plan applies; or
    - (iii) an interim resource operations licence; and
  - (b) to the extent of the inconsistency, the water supply emergency declaration prevails.

### **25CA Amendment of water supply emergency declaration**

- (1) This section applies if, when the Minister prepares a water supply emergency declaration (the *original declaration*), it is not practicable to state, for each of the measures directed to be carried out and each of the outcomes directed to be achieved, all of the matters mentioned in section 25C(2)(a) to (e).
- (2) The Minister must, as soon as practicable after the original declaration is published in the gazette, and after consultation with the Treasurer, amend the original declaration to state the matters.

[s 25D]

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## **25D Measures mentioned in a water supply emergency declaration**

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

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



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**25E Requirement to comply with water supply emergency declaration**

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

Maximum penalty—

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

*Note—*

See also the Water Supply Act, section 43(4) to (6).

- (2) Subsection (1) applies even if complying with the direction would be inconsistent with the service provider's current supply and infrastructure contractual arrangements and the current arrangements are ineffective—
- (a) to the extent of the inconsistency; and
- (b) for the period stated in the declaration.
- (3) It is a defence to a prosecution for an offence against subsection (1) to prove—
- (a) the service provider made all reasonable efforts to comply with the direction; and
- (b) the service provider is unable to comply with the direction because the service provider is unable to acquire, to the extent necessary to comply with the direction—
- (i) the development and other approvals necessary for carrying out the measures or achieving the outcomes; or
- (ii) the land on which infrastructure is to be constructed; or
- (iii) finance to carry out the measures or achieve the outcomes.

[s 25F]

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## **25F Regulation about water supply emergency**

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

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- (v) that a service provider directed to achieve outcomes is directed to give the Minister for approval, within the time stated, a water supply emergency response stating—
    - (A) the actions the service provider intends to take to achieve the outcomes; and
    - (B) if the actions include imposing the restrictions mentioned in section 25D—the way the service provider intends to ensure the restrictions are complied with; and
  - (vi) for the SEQ region—any measures that are to be carried out by the commission; and
  - (vii) any works that are to be carried out by the coordinator-general.
- (2A) Before a water supply emergency regulation is made, the Minister must have regard to other measures, instead of a water supply emergency regulation, that could be taken under this or another Act to deal with the water supply emergency.
- (3) For the matters mentioned in subsection (2)(d), the regulation must, to the greatest practicable extent, state the matters mentioned in section 25C(2)(a) to (e).
  - (4) The regulation may, to the extent stated in the regulation, continue the effect of a water supply emergency declaration.
  - (5) A water supply emergency regulation may authorise persons to exercise powers, including powers of decision and direction and delegated powers, to facilitate the implementation of the directions under the regulation.
  - (6) The regulation, for the part of the State to which it applies, must not be inconsistent with a wild river declaration or the objectives of a water resource plan for the part.
  - (7) However—
    - (a) the regulation may, to the extent stated in the regulation, be inconsistent with—

[s 25FA]

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- (i) the resource operations plan that implements the water resource plan; or
  - (ii) a resource operations licence for the water to which the plan applies; or
  - (iii) an interim resource operations licence; and
- (b) to the extent of the inconsistency, the regulation prevails.

### **25FA Amendment of water supply emergency regulation**

- (1) This section applies if, when a water supply emergency regulation (the *original regulation*) is made, it is not practicable to state, for each of the measures directed to be carried out and each of the outcomes directed to be achieved, all of the matters mentioned in section 25C(2)(a) to (e).
- (2) The Minister must consult with the Treasurer about the matters.
- (3) As soon as practicable after the original regulation is made, it must be amended to state the matters.

### **25G Measures mentioned in a water supply emergency regulation**

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

- (a) the measures mentioned in section 25D(a) to (f);
- (b) to make changes to the service provider's infrastructure, for example to improve efficiency by—
  - (i) reducing water losses from leakage from the service provider's distribution system; or
  - (ii) bringing forward maintenance programs;

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- (c) to allow reasonable access, to connect to the service provider's infrastructure and to operate and maintain the connection, to—
    - (i) other service providers; or
    - (ii) entities responsible for generating electricity; or
    - (iii) the coordinator-general;
  - (d) to implement a demand management program that, for a stated part of the State or type of customer, may include, but is not limited to, subsidising the installation by customers of water-saving devices;
  - (e) to design, construct and operate new infrastructure;
  - (f) to recommission and operate infrastructure that is not operating at the time the regulation is made.

## **25H Requirement to comply with water supply emergency regulation**

- (1) A service provider to whom a direction is given under a water supply emergency regulation must comply with the direction.  
Maximum penalty—
  - (a) for a direction mentioned in section 25F(2)(d)(i)—1665 penalty units;
  - (b) for a direction mentioned in section 25F(2)(d)(iii) or (v)—1000 penalty units.
- (2) Subsection (1) applies even if complying with the direction would be inconsistent with the service provider's current supply and infrastructure contractual arrangements and the current arrangements are ineffective—
  - (a) to the extent of the inconsistency; and
  - (b) for the period stated in the regulation.
- (3) It is a defence to a prosecution for an offence against subsection (1) to prove—

[s 25I]

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

## **25I Approval of, or change to, response**

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

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

## **25J When water supply emergency ends**

- (1) The Governor in Council must make a regulation under this section if the Minister considers a water supply emergency has ended.
- (2) The regulation must state—
  - (a) that the water supply emergency to which it applies no longer exists; and
  - (b) the actions that may be taken, or continue to be taken, to deal with circumstances arising because of the water supply emergency, including any actions taken under a water supply emergency regulation that must be completed or discontinued.
- (3) However, for the regulation to state that an action taken under a water supply emergency regulation must be completed, the Minister must be satisfied it would be detrimental to the

[s 25K]

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interests of the State or another entity not to complete the action, taking into account the following—

- (a) the extent of work undertaken;
  - (b) the obligations arising under any contract or other agreement;
  - (c) any costs or other amounts the State or another entity is liable to pay;
  - (d) the amount of money spent;
  - (e) any other relevant circumstance.
- (4) The actions that may be taken or continue to be taken include giving any directions that could have been given under the water supply emergency regulation if the emergency continued to exist.
- (5) Subject to a regulation under this section, the ending of a water supply emergency has no effect on the exercise of powers under this division.

### **Subdivision 3      Carrying out measures and achieving outcomes**

#### **25K      Supply arrangements**

- (1) Subsection (3) applies if a water supply emergency declaration or a water supply emergency regulation, directs a service provider—
- (a) to make water, including non-Act water, available; or
  - (b) to operate infrastructure to allow water, including non-Act water, to be supplied.
- (2) However, if the direction is to make non-Act water available to, or to operate infrastructure to allow non-Act water to be supplied to, a customer or type of customer, this section applies only to the extent stated in the declaration or regulation.



- (3) The service provider must, at the time the provider makes the water available or operates the infrastructure, have a supply contract with each entity to whom the service provider is directed to make water available or allow water to be supplied.
- (4) The chief executive may approve a supply contract for the supply, storage and delivery of water under a water supply emergency declaration or regulation including the price to be paid for the supply, storage and delivery.
- (5) The chief executive must gazette approval of the supply contract.
- (6) If, at any time, the service provider and an entity do not have a supply contract in compliance with subsection (3), the supply contract approved by the chief executive applies, for the time, to the supply, storage and delivery of water under the declaration or regulation.

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

- (1) This section applies to facilitate—
  - (a) carrying out measures mentioned in a water supply emergency declaration or a water supply emergency regulation; and
  - (b) compliance with an approved water supply emergency response; and
  - (c) the carrying out of works, mentioned in a water supply emergency regulation, by the coordinator-general.
- (2) The *State Development and Public Works Organisation Act 1971* (the ***State Development Act***) has effect in the following way—
  - (a) section 103 applies as if—
    - (i) the water supply emergency declaration, water supply emergency regulation or approved water supply emergency response were a regulation made under section 100; and

[s 25L]

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- (ii) the service provider were a local body; and
  - (b) sections 105, 106 and 154 apply as if—
    - (i) an appointment of the coordinator-general under section 25M of this Act were an authorisation of the coordinator-general under section 104(6); and
    - (ii) the service provider were a local body; and
  - (c) sections 109 and 110 apply as if a statement in the water supply emergency regulation about works to be carried out by the coordinator-general were a regulation under section 109 directing works be undertaken; and
  - (d) section 125(1)(a) applies as if a statement in the water supply emergency regulation about works to be carried out by the coordinator-general were an authorisation to undertake works; and
  - (e) sections 125(1)(c) and 134 apply as if the service provider were a local body; and
  - (f) sections 134 and 136 apply as if the works mentioned in the water supply emergency regulation or approved water supply emergency response were authorised works; and
  - (g) section 137 applies as if the reference in section 137(b) to section 136 were a reference to section 136 as it has effect under paragraph (f); and
  - (h) section 139 applies to the extent it relates to the application of section 136.
- (3) Despite the State Development Act, section 111(2)(b), the coordinator-general may delegate to a service provider a power, function or duty conferred or imposed on the coordinator-general under this division.
- (4) If agreement is not reached under the State Development Act, section 134, a regulation may approve particulars of arrangements for the transfer, management, operation and control of the works.

(5) The regulation, to the extent it approves the particulars, is taken to be a regulation made under the State Development Act, section 134.

(6) In this section—

**authorised works** see the State Development Act, schedule.

**local body** see the State Development Act, schedule.

*Editor's note—*

*State Development and Public Works Organisation Act 1971, schedule has been renumbered as schedule 2—see the Revenue and Other Legislation Amendment Act (No. 2) 2008, section 115(2).*

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

(1) This section applies if a service provider does not comply with—

- (a) a direction under a water supply emergency declaration or a water supply emergency regulation; or
- (b) an approved water supply emergency response; or
- (c) a compliance notice given by the chief executive under section 780(1) in relation to the direction or response.

(2) The Governor in Council may appoint a person to comply with the direction or response as agent for the service provider.

(3) The appointment—

- (a) has effect when it is notified in the gazette; and
- (b) remains in force until—
  - (i) the day stated in the notification; or
  - (ii) if no day is stated in the notification—the day withdrawal of the appointment is notified.

(4) The appointment may deal with any matter necessary or convenient to help the person comply with the direction or

[s 25N]

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response.

- (5) A direction or response mentioned in subsection (1) does not include a direction or response about imposing service provider water restrictions.

## **25N Effect of appointee carrying out measures or achieving outcomes**

- (1) A person appointed under section 25M(2) (the *appointee*) may do all things necessary or convenient to comply with the direction or response.
- (2) A person in possession of premises on which the service provider's infrastructure is situated must give the appointee access to the premises to enable the appointee to comply with the direction or response.

Maximum penalty—500 penalty units.

- (3) A person in possession of premises must not take action or refuse to take action if the taking or refusal has the effect of preventing the appointee from, or hindering the appointee in, complying with the direction or response.

Maximum penalty—1665 penalty units.

- (4) Subsections (2) and (3) do not apply to an act done, or omission made, during or relating to industrial action under the *Industrial Relations Act 1999*.
- (5) The service provider is liable for the appointee's reasonable costs of complying with the direction or response as agent for the service provider.

## **Subdivision 4 Recovery of costs**

### **25O Recovery of costs incurred**

- (1) This section applies to a service provider who—

- (a) under a water supply emergency declaration or a water supply emergency regulation—
    - (i) is directed to pay the cost of carrying out measures, achieving outcomes or works carried out by the coordinator-general; or
    - (ii) may recover contributions by the State; or
  - (b) under a regulation made under section 25J(2)(b), incurs costs in completing or discontinuing actions taken under a water supply emergency regulation; or
  - (c) under section 25N(5), is liable to pay an appointee's costs; or
  - (d) under a regulation made under the State Development Act, section 134 or 154, is required to pay costs incurred by or for the coordinator-general.
- (2) The service provider may, to the extent stated in the declaration or regulation, recover from the service provider's customers or other service providers—
- (a) the contributions made by the State; and
  - (b) the costs mentioned in subsection (1) to the extent they are approved by the Minister; and
  - (c) the rate of return.
- (3) Subsection (2) applies despite—
- (a) any condition of the service provider's authority under this Act to take or interfere with water; or
  - (b) any provision to the contrary in a supply contract, or a contract for the supply of registered services, between the service provider and the service provider's customers or other service providers; or
  - (c) the pricing arrangements in a relevant notice mentioned in section 1137 or a regulation amending a relevant notice; or
  - (d) any direction given under section 999.

[s 25P]

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- (4) The service provider may recover, as a debt due to the service provider, any amount the service provider is entitled to recover under subsection (2).

### **25P Recovery of contributions by the State**

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

### **25Q Queensland Competition Authority**

The Queensland Competition Authority, in performing its functions under the *Queensland Competition Authority Act 1997*, must not act in a way that is inconsistent with a water supply emergency declaration, a water supply emergency regulation or section 25O.

## **Subdivision 5 Compensation**

### **25R Applying for compensation**

- (1) A person, including a service provider, who suffers loss or damage because of actions taken under this division may apply to the Minister for compensation for the loss or damage.
- (2) The application must be made in writing within 65 business days after the person suffers the loss or damage.
- (3) The application must state—
  - (a) details of the person's loss or damage; and
  - (b) the amount of compensation claimed and the grounds for the amount claimed.
- (4) The applicant must also provide any other relevant information reasonably required by the Minister to decide the application.

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- (5) Despite subsection (2), the Minister may accept a person's application for compensation made more than 65 business days after the person suffers the loss or damage if the Minister is satisfied it would be reasonable in all the circumstances to accept the application.
  - (6) The Minister's acceptance of an application for compensation does not give an applicant an entitlement to the compensation.

## **25S When compensation is not payable**

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

## **25T Requirement for further information**

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

[s 25U]

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

## **25U Deciding application**

- (1) The Minister must consider and decide an application made under section 25R within 65 business days after the later of the following—
  - (a) the day the Minister receives the application;
  - (b) the day the Minister receives all information required by the Minister for deciding the application.
- (2) In deciding an application, the Minister may have regard to—
  - (a) the extent and nature of the applicant's loss or damage; and
  - (b) the extent to which the applicant has mitigated, or attempted to mitigate, the loss or damage; and
  - (c) any other matter the Minister considers appropriate.
- (3) The Minister may decide—
  - (a) to pay all or part of the compensation claimed; or
  - (b) to refuse to pay the compensation.



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- (4) If the Minister has not decided an application within the period stated in subsection (1) for the application, the Minister is taken to have refused to pay compensation.

### **25V Notice about decision**

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

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

### **25W Protection of State and Minister from liability**

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

### **25X Protection of service provider from liability**

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

[s 25Y]

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## **Subdivision 6      Review of division and regulation**

### **25Y      Review of div 2A**

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

### **25Z      Review of regulation**

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

## **Division 2B              Restrictions on use of subartesian water**

### **25ZA      Application for approval to restrict use of subartesian water**

- (1) The commission may apply for written approval for the power to impose a restriction on the use of subartesian water by a customer of a water service provider in the SEQ region or a designated region if the water is taken, other than for stock purposes, under—
  - (a) section 20(6); or
  - (b) if the water is not taken under a water entitlement—
    - (i) a water resource plan; or
    - (ii) a wild river declaration; or
    - (iii) a regulation made under section 1046.
- (2) A water service provider may apply for written approval for the power to impose a restriction on the use of subartesian water by a customer of the water service provider in an area outside the SEQ region or a designated region if the water is

- taken, other than for stock purposes, under—
- (a) section 20(6); or
  - (b) if the water is not taken under a water entitlement—
    - (i) a water resource plan; or
    - (ii) a wild river declaration; or
    - (iii) a regulation made under section 1046.
- (3) The application must be—
- (a) made to the chief executive in writing; and
  - (b) supported by sufficient information to enable the chief executive to decide the application.
- (4) The chief executive may ask the applicant for additional information about the application.

### **25ZB Deciding application**

- (1) The chief executive must give the approval if the chief executive is satisfied that—
- (a) the subartesian water and the water service provider's water supply for a retail water service is being taken from the same source; and
  - (b) the taking of the subartesian water may threaten the security of the water service provider's water supply for the retail water service; and
  - (c) commission water restrictions or service provider water restrictions have been imposed, or are about to be imposed, in relation to the water supply.
- (2) If the chief executive is not satisfied about the matters mentioned in subsection (1)(a), (b) and (c), the chief executive must refuse to give the approval.
- (3) The approval may be given with or without conditions.

[s 25ZC]

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### **25ZC Notice about decision to give approval**

- (1) If the chief executive gives the approval, the chief executive must, within 30 business days after giving the approval, give the applicant a notice advising the applicant about the approval.
- (2) If the chief executive refuses to give the approval, the chief executive must, within 30 business days after refusing to give the approval, give the applicant a notice advising the applicant of the reasons why the approval was refused.

### **25ZD Restriction of subartesian water by commission**

- (1) This section applies if the chief executive gives the approval to the commission.
- (2) The commission may impose a restriction on the use of the subartesian water by a customer of a service provider in the SEQ region or a designated area.
- (3) The restriction may be no more onerous than a commission water restriction currently imposed on the customer.
- (4) For sections 360ZE to 360ZG, a restriction on the use of subartesian water under this section is taken to be a commission water restriction.
- (5) In this section, the power to restrict includes the power to prohibit.

### **25ZE Restriction of subartesian water by water service provider**

- (1) This section applies if the chief executive gives the approval to a water service provider.
- (2) The water service provider may impose a restriction on the use of the subartesian water by a customer of the water service provider in an area outside the SEQ region or a designated region.

- (3) The restriction may be no more onerous than a service provider water restriction currently imposed on the customer.
- (4) For the Water Supply Act, section 43, a restriction on the use of subartesian water under this section is taken to be a service provider water restriction.
- (5) In this section, the power to restrict includes the power to prohibit.

## **Division 3                      Other restrictions on taking or interfering with water**

### **26            Moratorium notices**

- (1) The Minister may publish a notice under this section, for a part of the State, (a *moratorium notice*) if the Minister is satisfied action should be taken in the part—
  - (a) to protect natural ecosystems; or
  - (b) to protect existing water entitlements and other authorities under this Act to take or interfere with water.
- (2) The notice may state that an application under this Act, or the repealed Act, will not be accepted, or will be accepted but not dealt with, while the moratorium notice has effect if granting the application would have 1 or more of the following effects on the water to which the application relates—
  - (a) increase the amount of water that may be taken;
  - (b) change the location from which water may be taken;
  - (c) increase the rate at which water may be taken;
  - (d) change the flow conditions under which water may be taken;
  - (e) increase or change the interference with the water;
  - (f) change the purpose for which the water may be taken or interfered with.

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- (3) Subsection (2) applies even if the application was made before the notice was published.
- (4) For water in the part of the State to which the notice applies, including overland flow water and subartesian water, the notice may also state that while the moratorium notice has effect—
  - (a) new works must not be physically started; and
  - (b) completed works in existence must not be raised, enlarged, deepened or changed; and
  - (c) works that have been started—
    - (i) may be completed only to the extent stated in the notice; and
    - (ii) must be completed by the day stated in the notice; and
  - (d) a person who is completing works that have been started must give the chief executive notice about the works by the day stated in the notice; and
  - (e) construction of works must stop if notice has not been given under paragraph (d).
- (5) Subsection (4) applies only to the extent the works would—
  - (a) increase the amount of water being taken or that could be taken; or
  - (b) change the location from which water is being taken or could be taken; or
  - (c) increase the rate at which water is being taken or could be taken; or
  - (d) increase or change the interference with the water.
- (5A) The Minister may publish a moratorium notice—
  - (a) whether or not a water resource plan has been approved for any water to which the notice applies; and

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- (b) if a water resource plan has been approved—whether or not a resource operations plan has been approved for the plan.
- (5B) If the Minister publishes a moratorium notice when a water resource plan or a resource operations plan has been approved for any water to which the notice applies, the notice prevails over the plan to the extent the plan is inconsistent with the notice.
- (6) A person must not start the construction of works, or continue to construct works, in contravention of a moratorium notice.  
Maximum penalty—1665 penalty units.
- (7) The notice has effect—
- (a) from the later of the following—
- (i) the day stated in the notice;
  - (ii) the day the notice is published; and
- (b) until—
- (i) a water resource plan is approved for any water to which the moratorium notice applies, but only if a water resource plan for the water to which the notice applies had not been approved before the notice was published; or
  - (ii) the Minister publishes a further notice ending the effect of the moratorium notice, including, for example, in the following circumstances—
    - (A) when a water resource plan for the water to which the moratorium notice applies had been approved before the moratorium notice was published;
    - (B) when a resource operations plan for the water to which the moratorium notice applies had been approved before, or has been approved after, the moratorium notice was published.

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- (8) For this section, and for section 27, works are not started unless—
- (a) construction of the works has physically started, or if construction has not physically started, a contract has been entered into to start construction, and construction is started, within 60 days after the day the notice is published; and
  - (b) an independently verifiable construction program exists for progressive construction towards completion of the works; and
  - (c) detailed design plans exist showing, among other things, the extent of the works; and
  - (d) if a permit for a levee bank construction under the *Local Government Act 2009* is required for the works—the permit has been issued; and
  - (e) if a development permit is required for the works or for other development associated with the works—the permit has been given.
- (9) In this section—
- moratorium notice*** includes a moratorium notice the effect of which has been amended or continued under a water resource plan.

## **27 Application to vary effect of moratorium notice**

- (1) Subsection (2) applies to an owner of land a moratorium notice affects if—
- (a) the owner is completing works that had been started at the time the notice was published; and
  - (b) the works will not be completed by the day stated in the notice (the ***completion day***); and
  - (c) the owner wishes to apply for an extension of the completion day.
- (2) The owner—



- (a) must stop construction of the works by the completion day; and
  - (b) may apply to the Minister for an extension of the completion day if—
    - (i) the works are substantially completed; or
    - (ii) the works will not be completed by the completion day because of a change in circumstances beyond the applicant's control including, for example, construction difficulties, extreme bad weather or the applicant's ill health.
- (3) The application must—
- (a) be in the approved form; and
  - (b) be accompanied by the prescribed fee; and
  - (c) be made before the completion day; and
  - (d) show that the works were started before the notice was published; and
  - (e) show the extent to which the works are completed and the extent to which the applicant anticipates the works will be completed by the completion day; and
  - (f) state the day by which the applicant anticipates the works will be completed; and
  - (g) if the works are not completed because of circumstances mentioned in subsection (2)(b)(ii)—state the circumstances.
- (4) The Minister must refer the application to a referral panel established under section 1004A.
- (5) When the Minister receives the referral panel's recommendation, the Minister must—
- (a) decide the application, taking into account the panel's recommendation; and
  - (b) give the applicant notice of the decision; and

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- (c) publish the decision in the gazette.
- (6) If the Minister grants the application, the moratorium notice, for the applicant, is varied in the following way—
  - (a) the completion day, for the works, is the day stated in the Minister's notice;
  - (b) the works may be completed to the extent stated in the notice.

## **28 Reviewing moratorium notices**

- (1) If the Minister is satisfied a moratorium notice should have effect for more than 1 year, the Minister must review the notice within 1 year after the day the notice was published and during each year the notice has effect.
- (2) If, on the review, the Minister is satisfied the notice should be amended, the Minister must amend the notice.

## **29 Amending moratorium notices**

- (1) The Minister may amend the moratorium notice by publishing a notice (the *amending notice*) amending the moratorium notice.
- (2) The amending notice may amend the moratorium notice to provide for any matter for which the moratorium notice could have made provision.
- (4) On and after the day the amending notice is published, the moratorium notice, as amended by the amending notice, is the moratorium notice.
- (5) The moratorium notice, as amended by this section, applies to an application mentioned in section 26(2), even if the application was made before the amending notice was published.

### 30 Exceptions to ss 26 and 29

Sections 26 and 29 do not apply to the following—

- (a) the issuing of water permits;
- (b) the taking of water under section 20(2), (3), (4) or (5);
- (c) any other matter exempted by the moratorium notice.

## Division 4 Effect of declaration of temporary full supply levels on relevant dams

### 31 Application of, and definitions for, div 4

- (1) This division applies in relation to a dam if—
  - (a) a resource operations licence has been granted in accordance with a resource operations plan, authorising the holder of the licence to interfere with the flow of water to the extent necessary to operate the dam; and
  - (b) a flood mitigation manual has been approved for the dam under the Water Supply Act, chapter 4, part 2, division 3; and
  - (c) a temporary full supply level is declared for the dam under the Water Supply Act, chapter 4, part 3.
- (2) A dam mentioned in subsection (1) is a *relevant dam*.
- (3) The holder of the resource operations licence mentioned in subsection (1)(a) is the *operator* of the dam.

### 32 Effect of temporary full supply level on resource operations plan

While the declaration of the temporary full supply level for the relevant dam is in force, a reference in the resource operations plan to the full supply level for the dam is taken to be a reference to the temporary full supply level.

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### **33 Obligations of operator**

- (1) This section applies to the operator of the relevant dam if—
  - (a) because of the temporary full supply level for the dam, the operator will be unable to comply with a requirement of the resource operations plan under which the dam operates; and
  - (b) the resource operations plan states a process for submitting a program (an *interim program*) to the chief executive for approval about how the requirements of the plan will be met when the operator is unable to comply with the plan because of an emergency or other incident.
- (2) The operator must give the chief executive a proposed interim program under the resource operations plan within 10 business days after the temporary full supply level is declared.
- (3) The proposed interim program must—
  - (a) relate to the period for which the declaration is in force; and
  - (b) comply with any other requirements under the resource operations plan for submitting an interim program.

### **34 No compensation payable**

No compensation is payable to any person because of the operation of this division.

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## **Part 3                      Water planning**

### **Division 1                Preliminary**

#### **35            Information recording and planning**

For advancing the purposes of this chapter—

- (a) the Minister must plan for the allocation and sustainable management of water to meet Queensland's future water requirements, including, for example, for the protection of natural ecosystems and security of supply to water users; and
- (b) the chief executive must provide information for planning purposes by—
  - (i) regularly measuring and keeping publicly available records of the volume and quality of water in Queensland; and
  - (ii) collecting information on the water requirements of, and impacts of water management on, natural ecosystems, including, for example, from the department responsible for administering the *Environmental Protection Act 1994*; and
  - (iii) collecting information about future water requirements; and
- (c) the chief executive must plan for the sustainable management of water use to minimise adverse impacts of water use on land and water.

#### **36            Obtaining water information**

- (1) For advancing the purposes of this chapter, the chief executive may give a person who is authorised, or has an entitlement, to take, or interfere with, water under this Act a notice requiring information—

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- (a) the person is required to keep under a condition of the person's authority; or
  - (b) about the person's water use; or
  - (c) about the use of water managed, taken or supplied under the person's authority; or
  - (d) about any use of water that was managed, taken or supplied through water infrastructure to which a person's authority now applies; or
  - (e) about the taking or supplying of water by the person under the person's authority.
- (2) The notice—
- (a) may be given at any time; and
  - (b) must state the reasonable time by which the information must be given to the chief executive.
- (3) The person must comply with the notice, unless the person has a reasonable excuse.
- Maximum penalty—200 penalty units.
- (4) However, this section does not require the person to give information if giving the information might tend to incriminate the person.

### **36A Obtaining information from a service provider**

- (1) For the purposes of part 2, division 2A, the chief executive may give a service provider a notice requiring information about 1 or more of the following—
- (a) current and projected future water consumption by the service provider's customers or a class of the customers;
  - (b) water restrictions the service provider has imposed or intends to impose;
  - (c) the events that would cause the service provider to impose the restrictions, for example, the available water supply falling to a stated level;

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- (d) the actions the service provider intends to take to ensure compliance with the restrictions;
  - (e) the demand management program the service provider proposes to implement;
  - (f) other measures the service provider proposes to take, for example, constructing new infrastructure or making changes to existing infrastructure.
- (2) The notice may be given at any time and must state the reasonable time by which the information must be given to the chief executive.
  - (3) The service provider must comply with the notice, unless the service provider has a reasonable excuse.

Maximum penalty—200 penalty units.

- (4) It is a reasonable excuse for a service provider who is an individual not to comply with the notice if complying with the notice might tend to incriminate the individual.

### **37 Notice of works and water use**

- (1) This section applies to works for taking or interfering with water if the taking or interfering with the water is not authorised under a water entitlement.
- (2) The chief executive may, by publishing a notice (the *chief executive's notice*), require the owner of land on which the works are, or are to be, constructed to give the chief executive notice (the *owner's notice*) of the works and the water use or, for works to be constructed, proposed water use, relating to the works.
- (3) The chief executive's notice—
  - (a) may require the owner's notice to be in the approved form; and
  - (b) must state—
    - (i) the part of the State to which the chief executive's notice applies; and

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- (ii) the type of works required to be notified by the owner, including the purpose and size of the works; and
  - (iii) whether the chief executive's notice relates to 1 or more of the following—
    - (A) existing works;
    - (B) works under construction;
    - (C) on their completion, works constructed in the future; and
  - (iv) the day by which the owner's notice must be given to the chief executive.
- (4) The chief executive's notice remains in force for the period stated in the notice or, if no period is stated, until the chief executive publishes another notice withdrawing the first notice.
- (5) A person to whom the chief executive's notice applies must comply with the notice.  
Maximum penalty—20 penalty units.
- (6) As soon as practicable after the chief executive's notice is published, the chief executive must conduct public meetings in the part of the State to which the notice applies to explain the requirements of the notice to landowners.



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## **Division 2                    Water resource plans**

### **Subdivision 1            Power to prepare water resource plans**

#### **38            Minister may prepare water resource plans**

- (1) Subject to subdivision 2, the Minister may prepare a water resource plan for any part of Queensland to advance the sustainable management of water.
- (2) Subject to subsection (6), only 1 water resource plan may have effect for the part at any time.
- (3) The plan may be prepared for, but is not limited to, the following purposes—
  - (a) to define the availability of water for any purpose;
  - (b) to provide a framework for sustainably managing water and the taking of water;
  - (c) to identify priorities and mechanisms for dealing with future water requirements;
  - (d) to provide a framework for establishing water allocations;
  - (e) to provide a framework for reversing, where practicable, degradation that has occurred in natural ecosystems, including, for example, stressed rivers.
- (4) The plan must also regulate the taking of overland flow water if the Minister is satisfied that—
  - (a) if there is an existing water resource plan—there is a risk that taking overland flow water in the area may significantly impact on the plan's outcomes; or
  - (b) there is a risk that taking overland flow water in the area may significantly affect—

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- (i) the availability of water for existing water entitlement holders; or
    - (ii) the water requirements of natural ecosystems; or
    - (iii) beneficial flooding; or
  - (c) changes in land use activities or intensification of land use in the area are significantly affecting the taking of overland flow water; or
  - (d) there is a risk that proposed changes in land use activities in the area are likely to significantly affect the taking of overland flow water.
- (5) The plan must also regulate the taking of subartesian water if the Minister is satisfied that—
  - (a) if there is an existing water resource plan—there is a risk that taking, or interfering with, subartesian water in the area may significantly impact on the plan's outcomes; or
  - (b) there is a risk that taking, or interfering with, subartesian water in the area may significantly affect—
    - (i) the availability of water for existing water entitlement holders; or
    - (ii) the water requirements of natural ecosystems; or
    - (iii) the quality of water.
- (6) Two plans may have effect for the same part of Queensland at the same time if—
  - (a) one of the plans applies to—
    - (i) artesian water; and
    - (ii) subartesian water connected to the artesian water; and
    - (iii) water in springs connected to the artesian water; and

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- (b) the other plan does not apply to water mentioned in paragraph (a).

## **Subdivision 2 Consultation requirements for particular plans before their preparation**

### **38A Application of sdiv 2**

- (1) This subdivision applies if a proposed draft water resource plan is intended to apply to a part of Queensland for which there is no water resource plan.
- (2) This subdivision also applies if the Minister considers that public consultation, as well as that under section 49, is required before preparing a proposed draft water resource plan because—
- (a) the proposed draft water resource plan is likely to significantly change arrangements for the allocation, and sustainable management, of water in the proposed plan area; or
  - (b) the terms of the proposed draft water resource plan are likely to be significantly different from the terms of water resource plans applying to other parts of Queensland; or
  - (c) the Minister needs further information about community views and expectations about water allocation and sustainable management issues in the proposed plan area.

### **39 Minister must first prepare a statement of proposals**

- (1) The Minister must prepare a statement of proposals for the proposed draft water resource plan—
- (a) including a map of the proposed plan area; and

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- (b) stating the following—
  - (i) the water in the proposed plan area to which the proposed draft water resource plan is intended to apply;
  - (ii) water allocation and sustainable management issues in the proposed plan area, and proposed strategies for dealing with the issues;
  - (iii) proposed arrangements for assessment using best scientific information available and relevant to the preparation of a draft water resource plan for the proposed plan area;
  - (iv) proposed arrangements for implementing the proposed draft water resource plan;
  - (v) proposed arrangements for consultation in the proposed plan area.

*Note—*

Under section 1009 the chief executive must keep the statement of proposals available for inspection and purchase.

- (2) The Minister must give the chief executive a copy of the statement of proposals.
- (3) As soon as practicable after receiving the statement of proposals, the chief executive must explain, by letter or public meetings, the implications of the statement of proposals to as many affected water entitlement holders as possible.

#### **40 Public notice of proposal to prepare draft water resource plan and availability of statement of proposals**

- (1) Before preparing the draft water resource plan, the Minister must, after preparing the statement of proposals required under section 39, publish a notice stating—
  - (a) the Minister's intention to prepare a draft water resource plan for the proposed plan area; and

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- (b) that the statement of proposals is available for inspection and purchase.
- (2) The notice must also state the following—
- (a) the purpose and reasons for which the draft plan is being prepared;
  - (b) the proposed plan area;
  - (c) the water in the proposed plan area to which the draft plan is intended to apply;
  - (d) where copies of the statement of proposals are available for inspection and purchase;
  - (e) that written submissions may be made by any entity about the statement of proposals;
  - (f) a day (the *closing day*) by which the submissions can be made, and the person to whom, and the place where, they must be made.
- (3) The closing day can not be earlier than 30 business days after the day the notice is published.
- (4) The Minister must give a copy of the notice to each local government whose local government area includes all or part of the proposed plan area.
- (5) A local government receiving a copy of the notice must make it available for inspection by the public.
- (6) The Minister may give a copy of the notice to any other entity the Minister considers appropriate.

**40A Further public notice of proposal to prepare draft water resource plan**

If, after considering all properly made submissions about the proposed draft water resource plan, the Minister is satisfied a further notice should be published under section 40, the Minister must—

- (a) publish the notice; and

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- (b) update the statement of proposals prepared under section 39.

### **Subdivision 3      Preparing and approving water resource plans**

#### **46      Content of draft water resource plans**

- (1) The draft water resource plan must—
  - (a) state the purpose of the draft plan; and
  - (b) contain a map of the proposed plan area; and
  - (c) state the water to which the draft plan is intended to apply; and
  - (d) state the water and natural ecosystem monitoring and reporting requirements to assist in assessing the effectiveness of the proposed management strategies in achieving the outcomes mentioned in paragraph (e); and
  - (e) state the outcomes, including, without limiting the requirement to state outcomes, the ecological outcomes, for the sustainable management of the water; and
  - (f) state the strategies proposed to achieve the outcomes to the extent possible from the best scientific information available; and
  - (g) state the strategies proposed for the establishment of water allocations for the proposed plan area; and
  - (h) state the periodic reporting requirements for the draft plan; and
  - (i) include a schedule of proposed arrangements for implementing the draft plan.
- (2) The draft plan may include, but is not limited to, the following—

- (a) a map or diagram, or series of maps or diagrams, showing water information for the area;
- (b) details of areas where, and the way in which, taking overland flow water, or taking or interfering with subartesian water, or both, is intended to be regulated;
- (c) the types of works for taking or interfering with subartesian water or water in a watercourse, lake or spring that are intended to be assessable or self-assessable development under the *Sustainable Planning Act 2009*;
- (d) the types of works for taking overland flow water that are intended to be assessable or self-assessable development under the *Sustainable Planning Act 2009*;
- (e) directions to the chief executive about the refusal to grant, or non-acceptance of, an application for a water licence under this Act;
- (f) information about water available for future consumptive purposes and the priorities for use or reservation of the water;
- (g) a process for granting, reserving or otherwise dealing with unallocated water to which the draft plan is intended to apply;
- (h) criteria for sharing overland flow water;
- (i) criteria for adjusting existing water entitlements to achieve the plan outcomes;
- (j) criteria for addressing degradation that has occurred in natural ecosystems;
- (k) for a draft plan that replaces an existing water resource plan—any rule for taking or sharing water, including, for example, water sharing rules for water entitlements;
- (l) the plan's objectives and performance indicators for the objectives.

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- (3) The draft plan may provide for the amendment or the continuation, completely or partly, of the effect of a moratorium notice for a type of water in the proposed plan area and to which the draft plan applies (the *moratorium water*) until a resource operations plan that applies to the moratorium water is approved for the plan.
- (4) If the draft plan provides a framework for establishing water allocations, the draft plan must state the following—
  - (a) performance indicators for environmental flow objectives and water allocation security objectives;
  - (b) environmental flow objectives;
  - (c) water allocation security objectives;
  - (d) priorities for the conversion to or granting of water allocations.
- (5) The draft plan, to the extent it applies to a wild river area, must not be inconsistent with the wild river declaration for the area.

#### **47 Matters the Minister must consider when preparing draft water resource plan**

The Minister must consider the following when preparing the draft water resource plan—

- (a) the State's water rights and the volume and quality of water;
- (b) national, State and regional objectives and priorities for promoting sustainable development;
- (ba) to the extent the draft plan applies to a wild river area—the wild river declaration for the area;
- (c) the duration, frequency, size and timing of water flows necessary to support natural ecosystems as assessed using the best scientific information available;



- (d) the underground water levels and underground water recharge processes necessary to support natural ecosystems;
- (e) taking of water authorised under section 20;
- (f) existing water entitlements;
- (g) the State's future water requirements, including cultural, economic, environmental and social requirements;
- (h) cultural, economic and social values;
- (i) technical assessments for the draft plan;
- (j) the effects the draft plan will have on water not covered by the draft plan;
- (k) the effects the taking, or interfering with, water not covered by the draft plan will have on water covered by the draft plan;
- (l) environmental values established under the *Environmental Protection (Water) Policy 1997*;

*Editor's note—*

*Environmental Protection (Water) Policy 1997—see the Environmental Protection (Water) Policy 2009, section 33.*

- (m) the sustainable resource management strategies and policies for the catchment or underground water basin, including, any relevant coastal zone;
- (n) all properly made submissions about the proposed draft plan;
- (o) the public interest.

#### **48 Overview report**

- (1) On or before a notice is published under section 49, the Minister must prepare an overview report about the proposed draft plan.

*Note—*

Under section 1009 the chief executive must keep the report available for inspection and purchase.

- (2) The report must summarise any assessments and findings about matters mentioned in section 47 that are available at the time the report is prepared.

#### **49 Public notice about availability of draft water resource plan and overview report**

- (1) The Minister must publish a notice when the draft water resource plan has been prepared.
- (2) The notice must state the following—
  - (a) where copies of the draft plan, and overview report prepared under section 48, may be inspected and, on payment of a fee, purchased;
  - (b) that written submissions may be made by any entity about the draft plan;
  - (c) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (3) The day stated under subsection (2)(c) must not be earlier than 30 business days after the day the notice is published.
- (4) The Minister must send a copy of the notice and the draft plan to each local government whose local government area includes all or part of the proposed plan area.
- (5) A local government receiving a copy of the draft plan must make the copy available for inspection by the public.
- (6) The Minister may send a copy of the notice to any other entity the Minister considers appropriate.

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- (7) Before publishing a notice under this section, the Minister must give the chief executive a copy of the draft water resource plan.

**49A Minister may prepare further draft water resource plan**

- (1) If, after considering all properly made submissions about the draft water resource plan, the Minister is satisfied a further draft water resource plan should be prepared, the Minister must prepare a further plan.
- (2) Sections 47 to 49 also apply to the further draft water resource plan.

**50 Preparing and approving final draft water resource plan**

- (1) In preparing the final draft water resource plan, the Minister must consider all properly made submissions about the draft plan under section 49.
- (2) A final draft water resource plan does not have effect until it has been approved by the Governor in Council.
- (3) A final water resource plan is—
- (a) subordinate legislation for the *Statutory Instruments Act 1992*; and
  - (b) a water resource plan for the plan area.

**50A Copy of final draft water resource plan to be given to chief executive**

The Minister must give a copy of a final draft water resource plan to the chief executive before it is approved by the Governor in Council under section 50(2).

**51 Minister must prepare report on consultation process**

- (1) On or before the day the approved water resource plan is gazetted, the Minister must prepare a report about the plan.

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*Note—*

Under section 1009 the chief executive must keep the report available for inspection and purchase.

- (2) The report must include a summary of issues raised during the consultation process and how the issues have been dealt with.

## **52 Public notice of intention not to proceed with making draft or final draft water resource plan**

- (1) This section applies if the Minister decides not to proceed with the preparation of a draft or final draft water resource plan.
- (2) The Minister must publish a notice advising of the decision and the reasons for the decision.
- (3) The Minister must send a copy of the notice to each local government or other entity to whom the Minister sent a notice—
  - (a) about the proposed preparation of the draft plan; and
  - (b) if a draft plan was prepared—about the draft plan.
- (4) A local government receiving a copy of the notice must make the copy available for inspection by the public.

## **Subdivision 4 Periodic reports and accountability matters**

### **53 Minister must report on all water resource plans**

- (1) The Minister must prepare a report on each water resource plan.
- (2) The report must be for the period, and within the time, stated in the plan.

*Note—*

Under section 1009 the chief executive must keep the report available for inspection and purchase.

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## **54 Matters the reports must include**

- (1) Each report must include, for the reporting period, the following matters—
  - (a) a summary of the findings of research and monitoring for the plan;
  - (b) an assessment of the effectiveness of the implementation of the plan in achieving the plan's outcomes;
  - (c) an assessment of whether the strategies for achieving the plan's outcomes, having regard to any new information available about water that is the subject of the plan, are continuing to promote the purpose of this chapter;
  - (d) a summary of total water entitlements covered by the plan;
  - (e) information about any noncompliance with the plan and its resource operations plan;
  - (f) particulars of any changes made to the plan.
- (2) Each report may also include, for the reporting period, an assessment of whether the plan's objectives, having regard to any new information available about water that is the subject of the plan, are continuing to promote the purpose of this chapter.

## **Subdivision 5 Amending or preparing new, water resource plans**

### **55 When water resource plans may be amended or replaced**

- (1) The Minister may—
  - (a) amend a water resource plan; or
  - (b) prepare a new water resource plan to replace an existing water resource plan.

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- (2) The Minister must act under subsection (1) if the Minister is satisfied about either of the following in relation to a water resource plan—
  - (a) the plan's outcomes are not being achieved;
  - (b) the plan's objectives, or the strategies for achieving the plan's outcomes, are no longer appropriate for its plan area.
- (2A) Also, the Minister must amend a water resource plan if—
  - (a) the water resource plan, to the extent it applies to a wild river area, is inconsistent with the wild river declaration for the area; and
  - (b) the inconsistency is in relation to a matter mentioned in the *Wild Rivers Act 2005*, section 14(1)(j) to (o).
- (3) The Minister must act under subsection (1)(b) before the existing water resource plan expires.

## **56 Preparing amending or new draft water resource plan**

- (1) For a proposed amending water resource plan, subdivisions 1 to 3 apply—
  - (a) as if—
    - (i) a reference in the subdivisions to the proposed draft plan were a reference to the proposed amending plan; or
    - (ii) a reference in the subdivisions to the draft plan were a reference to the amending plan; and
  - (b) with any other necessary changes.

*Note—*

Sections 39, 40 and 40A apply only in the circumstances set out in section 38A.

- (2) However, subdivision 2 does not apply to the proposed amending water resource plan if the amendment is of a type that the plan states may be made to the plan under this section.

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- (3) For a proposed new draft water resource plan, subdivisions 1 to 3 apply—
- (a) as if—
    - (i) a reference in the subdivisions to the proposed draft plan were a reference to the proposed new draft water resource plan; or
    - (ii) a reference in the subdivisions to the draft plan were a reference to the new draft water resource plan; and
  - (b) with any other necessary changes.
- (4) Without limiting subsection (1) or (3), the amending plan or new draft plan may—
- (a) change the existing boundaries of the plan area; or
  - (b) amalgamate the water resource plan with another water resource plan or part of another water resource plan; or
  - (c) change or extend the stated purpose of the water resource plan.

## **57 Minor or stated amendments of water resource plan**

Despite section 56, the Governor in Council may approve a plan to amend a water resource plan without subdivisions 1 to 3 applying if—

- (a) the amending plan is only to correct a minor error in the water resource plan, or make another change that is not a change of substance; or
- (b) the amendment is of a type allowed under the water resource plan for this paragraph, and the Minister reasonably believes the amendment will not adversely affect the rights of water entitlement holders or natural ecosystems; or
- (c) in relation to a wild river area—

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- (i) the water resource plan, to the extent it applies to the area, is inconsistent with the wild river declaration for the area; and
- (ii) the inconsistency is in relation to a matter mentioned in the *Wild Rivers Act 2005*, section 14(1)(j) to (o) or (2); and
- (iii) the amendment is to ensure consistency with the wild river declaration.

## **Subdivision 6      General**

### **58      No regulatory impact statement for water resource plans**

A regulatory impact statement under the *Statutory Instruments Act 1992* need not be prepared for the approval of a water resource plan or a plan amending a water resource plan.

## **Division 3            Managing water use**

### **Subdivision 1      Preliminary**

#### **59      Purpose of div 3**

The purpose of this division is to allow for the regulation of water use if there is a risk of land and water degradation.



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## **Subdivision 2      Preparing and approving water use plans**

### **60      Minister may prepare water use plans**

- (1) The Minister may prepare a water use plan for any part of Queensland if the Minister is satisfied there are risks that water use in a particular area of Queensland may cause negative effects on land and water resources, including, but not limited to, the following—
  - (a) rising underground water levels;
  - (b) increasing salinisation;
  - (c) deteriorating water quality;
  - (d) waterlogging of soils;
  - (e) destabilisation of bed and banks of watercourses;
  - (f) damage to riverine environment;
  - (g) increasing soil erosion.
- (2) Subject to subsection (3), only 1 water use plan may have effect for the part at any time.
- (3) Two plans may have effect for the same part of Queensland at the same time if—
  - (a) one of the plans applies to—
    - (i) artesian water; and
    - (ii) subartesian water connected to the artesian water; and
    - (iii) water in springs connected to the artesian water; and
  - (b) the other plan does not apply to water mentioned in paragraph (a).
- (4) However, before preparing a water use plan, the Minister must prepare a draft water use plan.

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## **61 Public notice of proposal to prepare draft water use plan**

- (1) The Minister must publish a notice of the Minister's intention to prepare a draft water use plan for the proposed plan area.
- (2) The notice must state the following—
  - (a) the purpose for which the draft plan is to be prepared, including, for example, the risk to natural ecosystems arising from the use of water on land;
  - (b) the proposed plan area;
  - (c) details of how it is intended that community and technical consultation for the preparation of the proposed draft plan will take place;
  - (d) that written submissions may be made by any entity about the proposed draft plan;
  - (e) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (3) The day stated under subsection (2)(e) must not be earlier than 30 business days after the day the notice is published.
- (4) The Minister must send a copy of the notice to each local government whose local government area includes all or part of the proposed plan area.
- (5) A local government receiving a copy of the notice must make the copy available for inspection by the public.
- (6) The Minister may send a copy of the notice to any other entity the Minister considers appropriate.

## **62 Content of draft water use plans**

- (1) The draft water use plan must—
  - (a) state the purpose of the draft plan; and
  - (b) contain a map of the proposed plan area; and

- (c) state the types of water use that are subject to the plan; and
  - (d) state standards for water use practices; and
  - (e) state objectives for water use efficiency, water reuse and water quality; and
  - (f) state the monitoring requirements and responsibilities.
- (2) The draft plan may include, but is not limited to, the following—
- (a) a description of land within the proposed plan area for which a land and water management plan must be approved for the use of water for irrigation;
  - (b) schedules for the progressive implementation of the draft plan's requirements.

**63 Matters the Minister must consider when preparing draft water use plan**

The Minister must consider the following matters when preparing the draft water use plan—

- (a) changes to water use practices that will reduce the risk to land and water resources arising from the use of water on land;
- (b) existing industry codes of practice for water use.

**64 Public notice about availability of draft water use plan**

- (1) The Minister must publish a notice when the draft water use plan has been prepared.
- (2) The notice must state the following—
  - (a) where copies of the draft plan may be inspected and, on payment of a fee, purchased;
  - (b) that written submissions may be made by any entity about the draft plan;

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- (c) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (3) The day stated under subsection (2)(c) must not be earlier than 30 business days after the day the notice is published.
- (4) The Minister must send a copy of the notice and the draft plan to each local government whose local government area includes all or part of the proposed plan area.
- (5) A local government receiving a copy of the draft plan must make the copy available for inspection by the public.
- (6) The Minister may send a copy of the notice to any other entity the Minister considers appropriate.

## **65 Preparing and approving final draft water use plan**

- (1) In preparing the final draft water use plan, the Minister must consider all properly made submissions about the draft plan.
- (2) The Governor in Council may approve the final draft water use plan.
- (3) A plan approved under subsection (2) is—
  - (a) subordinate legislation for the *Statutory Instruments Act 1992*; and
  - (b) the water use plan for the plan area.

## **66 Public notice of content of water use plan**

As soon as practicable after the final draft water use plan is approved, the chief executive must—

- (a) publicly notify the requirements of the plan for water users; and
- (b) conduct public meetings to explain the requirements.

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**67 Public notice of intention not to proceed with making of draft water use plan**

- (1) This section applies if the Minister decides not to proceed with the preparation of a draft water use plan.
- (2) The Minister must publish a notice advising of the decision and the reasons for the decision.
- (3) The Minister must send a copy of the notice to each local government or other entity to whom the Minister sent a notice—
  - (a) about the proposed preparation of the draft plan; and
  - (b) if a draft plan was prepared—about the draft plan.
- (4) A local government receiving a copy of the notice must make the copy available for inspection by the public.

**Subdivision 3 Amending or preparing new, water use plans**

**68 When water use plans may be amended or replaced**

- (1) The Minister may—
  - (a) amend a water use plan; or
  - (b) prepare a new water use plan to replace an existing water use plan.
- (2) The Minister must act under subsection (1) if the Minister is satisfied a water use plan is not addressing the risk to land and water arising from the use of water on land in the plan area.

**69 Preparing amending or new draft water use plan**

- (1) For preparing the amending plan, sections 61 to 67 apply—
  - (a) as if a reference in the sections to the draft plan were a reference to the amending plan; and

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- (b) with any other necessary changes.
- (2) For preparing the new draft water use plan, sections 61 to 67 also apply.

#### **70 Minor or stated amendments of water use plan**

Despite section 69, the Governor in Council may approve a plan to amend a water use plan without sections 61 to 67 applying—

- (a) if the amending plan is only to correct a minor error in the water use plan, or make another change that is not a change of substance; or
- (b) if the water use plan states that an amendment of a stated type may be made to the water use plan by amendment under this subsection—to make an amendment of the stated type.

#### **71 No regulatory impact statement for water use plans**

A regulatory impact statement under the *Statutory Instruments Act 1992* need not be prepared for the approval of a water use plan or a plan amending a water use plan.

### **Subdivision 4 Preparing and approving land and water management plans**

#### **72 Preparing guidelines for preparing land and water management plans**

- (1) The chief executive may issue guidelines for preparing land and water management plans.
- (2) Before issuing the guidelines the chief executive must—
  - (a) prepare draft guidelines; and

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- (b) publish a notice when the draft guidelines have been prepared.
  - (3) The notice must state the following—
    - (a) where copies of the draft guidelines may be inspected and, on payment of a fee, purchased;
    - (b) that written submissions may be made by any entity about the draft guidelines;
    - (c) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
  - (4) The day stated under subsection (3)(c) must not be earlier than 30 business days after the day the notice is published.
  - (5) The chief executive may send a copy of the notice to any entity the chief executive considers appropriate.
  - (6) The chief executive may amend any guidelines issued by following the procedures stated in subsections (2) to (5).

### **73 Requirement for land and water management plans**

- (1A) Subsection (1) does not apply to a person proposing to use, for irrigating land outside Queensland, water taken under a water entitlement or seasonal water assignment.
- (1) Subsection (5) applies to the following persons—
  - (a) a person proposing to use, for irrigation, water taken under a water allocation or an interim water allocation;
  - (b) a person who—
    - (i) has used, for irrigation, water the person received under a seasonal water assignment, other than in combination with water taken under any other authority under this Act; and
    - (ii) within the time prescribed under a regulation, proposes to again use, on the same land, water the person has received under a seasonal water

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assignment, other than in combination with water taken under any other authority under this Act;

- (c) a person proposing to use, for irrigation, water taken under a water licence issued under section 212 if a resource operations plan states that use of the water requires an approved land and water management plan;
  - (d) a person using for irrigation water on land identified in a water use plan as land on which irrigation must only be carried out under an approved land and water management plan.
- (2) Subsection (1)(a) does not apply to the person—
- (a) if the person was granted a water allocation under section 121; or
  - (b) if the person was granted, or taken to have been granted, an interim water allocation under section 187 or chapter 9, part 4; or
  - (c) if—
    - (i) the person continues an enterprise, previously operated by another person, comprising either—
      - (A) land and the water allocation to irrigate the land; or
      - (B) land to which an interim water allocation attaches; and
    - (ii) at the time the person started operating the enterprise—
      - (A) subsection (1) did not apply to the other person; and
      - (B) the other person was not required, whether under a contract with the State or otherwise, to have an approved land and water management plan for the use of the water on the land; or
  - (d) if—



- (i) the person uses water for irrigating land; and
  - (ii) there is a water use plan; and
  - (iii) the water use plan does not require a land and water management plan for the land.
- (2A) Despite subsection (2), subsection (5) applies to a person who—
  - (a) in a water year used, for irrigation, a combination of the following—
    - (i) water taken under a water allocation or an interim water allocation;
    - (ii) water the person received under a seasonal water assignment; and
  - (b) the combination exceeds the nominal volume for the allocation; and
  - (c) within the time prescribed under a regulation, proposes to again use, on the same land, the combination mentioned in paragraph (a) that will exceed the nominal volume.
- (3) However, subsection (1)(a) applies to a person, other than a person mentioned in subsection (2)(c), who acquires an interim water allocation from a person mentioned in subsection (2)(b) and continues to apply to the person, and to any person who subsequently acquires the interim water allocation, even if—
  - (a) the interim water allocation is converted under section 121; and
  - (b) the person is granted a water allocation.
- (4) Subsection (1)(a) also applies to a person mentioned in subsection (2)(a) or (c) if the location from which the water may be taken under the allocation is changed.
- (5) A person to whom subsection (1) applies must not use the water from the water allocation, interim water allocation,

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water licence or seasonal water assignment for irrigation unless the person has—

- (a) an approved land and water management plan for the use of the water on the land; or
- (b) a deferral under subdivision 6.

Maximum penalty—1665 penalty units.

- (6) In this section—

*seasonal water assignment* means only the seasonal water assignment of the benefit of water taken under an interim water allocation or a water allocation.

## **74 Applying for approval of land and water management plans**

- (1) Any person may apply for the approval of a land and water management plan for the use of water on land.
- (2) The plan must be prepared in accordance with the guidelines, if any, issued under section 72.
- (3) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.
- (4) Subsection (5) applies if a person holds a certificate from an organisation approved by the chief executive to provide an accredited farm management system program stating that the person's farm management system satisfies the requirements of the program.
- (5) The person may apply under this section for approval of the person's farm management system as a land and water management plan.
- (6) An application mentioned in subsection (5) must be supported by the certificate mentioned in subsection (4).

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- (7) Subsection (2) does not apply to—
- (a) an application mentioned in subsection (5); or
  - (b) a proposed land and water management plan, or part of a proposed plan, comprising an accredited ERMP.

**74A Documents that may make up land and water management plan**

- (1) A land and water management plan may—
- (a) consist of any number of documents; and
  - (b) incorporate the provisions of other documents into the plan.

*Example for paragraph (b)—*

A proposed land and water management plan might incorporate provisions of an accredited ERMP about mitigating the risk of land degradation caused by water use.

- (2) The documents mentioned in subsection (1) may be documents prepared for another purpose.
- (3) The plan need not be called a land and water management plan.

**75 Additional information may be required**

The chief executive may require—

- (a) the applicant to give additional information about the application; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.

**76 Criteria for deciding application for approval of land and water management plan**

- (1) In deciding whether to approve or refuse to approve the plan, the chief executive must consider the following—

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- (a) consistency with any guidelines for the preparation of land and water management plans issued by the chief executive;
  - (b) the application and additional information given in relation to the application;
  - (c) the risk to land and water arising from the use of water on the land;
  - (d) existing industry codes of practice for water use;
  - (e) policies developed in consultation with local communities for the use of water;
  - (f) the public interest.
- (2) Subsection (1)(a) does not apply to—
- (a) an application for approval of a farm management system as a land and water management plan; or
  - (b) a proposed land and water management plan, or part of a proposed plan, comprising an accredited ERMP.

## **77 Deciding application for approval of land and water management plan**

- (1) If the chief executive is satisfied the plan should be approved, the chief executive must—
  - (a) approve the plan for a stated period of not more than 10 years; or
  - (b) approve the plan, as amended by the chief executive, for a stated period of not more than 10 years.
- (2) If the chief executive is not satisfied the plan should be approved, the chief executive must refuse to approve the plan.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant an information notice.
- (4) If the chief executive approves the plan, with or without amendment, the chief executive must, within 30 business days after approving the plan, give the applicant a copy of the

approved plan.

- (5) The land and water management plan has effect from the day the chief executive gives the applicant the information notice.
- (6) If the plan replaces a previously approved plan, the previously approved plan expires on the day the chief executive gives the information notice.
- (7) Subsection (4) does not apply to approval of a farm management system as a land and water management plan.
- (8) A farm management system approved under this section is taken to be an approved land and water management plan for this Act.

## **Subdivision 5      Amending land and water management plans**

### **78      Amending land and water management plans—general**

- (1) Any person may apply to amend a land and water management plan.
- (2) The application must be dealt with under sections 74 to 77 as if it were an application for approval of a land and water management plan.
- (3) Subsection (1) is subject to section 78B.

### **78A      Minor or stated amendments of land and water management plan**

- (1) Despite section 78(2), the chief executive may approve an amendment of a land and water management plan without sections 74 to 77 applying in either of the following circumstances—
  - (a) if the amendment is only to correct a minor error in the plan or to make another change that is not a change of substance;

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- (b) if the plan states that an amendment of a stated type may be made to the plan by amendment under this subsection—to make an amendment of the stated type.
- (2) Subsection (1) is subject to section 78B.

### **78B Amending particular land and water management plans**

- (1) This section applies to a land and water management plan, or a part of a plan, comprising an accredited ERMP.
- (2) The plan or part comprising the accredited ERMP can not be amended under section 78 or 78A.
- (3) If the accredited ERMP is amended under the *Environmental Protection Act 1994*, the amendment is taken to be an amendment of the land and water management plan for this Act.
- (4) In this section—  
*accredited ERMP* includes a part of an accredited ERMP.

## **Subdivision 6 Deferring requirement for approved land and water management plans**

### **79 Applying to defer requirement for an approved land and water management plan**

- (1) A person required to have an approved land and water management plan may apply for a deferral of the requirement.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.

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**80 Additional information may be required**

The chief executive may require—

- (a) the applicant to give additional information about the application; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.

**81 Criteria for deciding application to defer requirement for an approved land and water management plan**

In deciding whether to approve or refuse the application, the chief executive must consider the following—

- (a) the hardship the applicant would suffer if the application were not granted;
- (b) the susceptibility of the land and water, the subject of the application, to degradation;
- (c) the application and additional information given in relation to the application;
- (d) the public interest.

**82 Deciding application to defer land and water management plan requirements**

- (1) If the chief executive is satisfied the application should be approved, the chief executive must approve the application and defer, or further defer, the requirement under section 73(5) for a stated period (the *deferral period*) of not more than 2 years.
- (2) More than 1 application may be made under subsection (1).
- (3) If the chief executive is not satisfied an application should be approved, the chief executive must refuse the application.
- (4) Within 10 business days after deciding the application, the chief executive must give the applicant an information notice.

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- (5) The deferral of the requirement under section 73(5) has effect from—
- (a) for a further deferral approved before the end of a previous deferral period—the day after the previous deferral period ends; or
  - (b) otherwise—the day the chief executive gives the applicant the information notice about the decision.

## **Part 4                      Implementing water resource plans**

### **Division 1                Preliminary**

#### **94        Purpose of pt 4**

The purpose of this part is to—

- (a) implement water resource plans through—
  - (i) the preparation of resource operations plans; and
  - (ii) the granting of resource operations licences; and
  - (iii) the conversion of certain existing water licences and interim water allocations to water allocations; and
  - (iv) the granting of water allocations; and
- (b) allow for the registration of, and dealings with, water allocations.



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## **Division 2                    Resource operations plans**

### **Subdivision 1            Preparing and approving resource operations plans**

#### **95            Chief executive may prepare resource operations plans**

- (1) The chief executive may prepare a resource operations plan to implement a water resource plan for any water in the plan area in all or part of the plan area.
- (2) Only 1 resource operations plan may have effect for each water resource plan at any time.
- (3) However, before preparing a resource operations plan, the chief executive must prepare a draft resource operations plan.

#### **96            When chief executive must prepare a draft resource operations plan**

- (1) This section provides for when the chief executive must prepare a draft resource operations plan (the *draft ROP*), to implement a proposed water resource plan, concurrently with the Minister's preparation of the draft water resource plan.
- (2) The draft ROP must be prepared if, when the resulting water resource plan is to commence, it needs to provide for any of the following—
  - (a) the conversion and granting of water allocations for the proposed plan area under section 121;
  - (b) the granting of water licences for the proposed plan area under section 212;
  - (c) the amendment of water licences for the proposed plan area under section 217;
  - (d) the granting of a resource operations licence or distribution operations licence under section 107;

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- (e) the granting of an interim resource operations licence under section 176;
  - (f) the amendment of a resource operations licence or distribution operations licence under section 111A;
  - (g) the amendment of an interim resource operations licence under section 184A;
  - (h) environmental management rules;
  - (i) water sharing rules;
  - (j) water allocation change rules;
  - (k) seasonal water assignment rules;
  - (l) the operating rules for any water infrastructure to which the resource operations plan is intended to apply.
- (3) In this section—
- operating rules*, for any water infrastructure to which the resource operations plan is intended to apply, means the details of how the water infrastructure will be operated.

## **97 Notice of proposal to water infrastructure operators**

- (1) The chief executive may give each holder of an interim resource operations licence, a resource operations licence or other authorisation to operate water infrastructure for the management of water to which the proposed plan is intended to apply a notice requesting the holder to provide proposed arrangements for the management of the water, including, for example, water allocation change rules and water and natural ecosystem monitoring practices.
- (2) The arrangements must demonstrate how the holder proposes to operate any infrastructure to which the proposed plan is intended to apply, to comply with the requirements of—
  - (a) if the Minister has published a notice under section 40(1) for the proposed draft plan—the statement of proposals prepared under section 39 for the proposed plan area; or

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- (b) otherwise—the existing water resource plan for the proposed plan area.
  - (3) The notice must state a day by which proposals must be made, and the person to whom, and the place where, the proposals must be made.
  - (4) The day stated under subsection (3) must not be earlier than 30 business days after the day the notice is given.

## **98 Content of draft resource operations plan**

- (1) The draft resource operations plan (the *draft plan*) must—
  - (a) state the water resource plan, or draft water resource plan, for which the draft plan is being prepared; and
  - (b) contain a map of the proposed plan area; and
  - (c) state the water to which the draft plan is intended to apply; and
  - (d) identify any water infrastructure to which the draft plan is intended to apply and how it will be operated; and
  - (e) if the water infrastructure identified includes a relevant dam—the full supply level for the dam; and
  - (f) state how the chief executive will sustainably manage water to which the draft plan is intended to apply; and
  - (g) state the water and natural ecosystem monitoring and reporting practices that will apply in the proposed plan area; and
  - (h) state how the draft plan addresses the water resource plan, or draft water resource plan, outcomes.
- (2) The draft plan may include, but is not limited to, the following—
  - (a) a map or diagram, or a series of maps or diagrams, showing water information for the proposed plan area;

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- (b) environmental management rules, seasonal water assignment rules and water sharing rules for the water to which the draft plan is intended to apply;
  - (c) directions to the chief executive about the refusal to grant, or non-acceptance of, an application for a water licence under this Act;
  - (d) a process for granting, reserving or otherwise dealing with unallocated water to which the draft plan is intended to apply;
  - (e) a process for meeting future water requirements in the plan area;
  - (f) details of any amendments or changes to be made to water entitlements;
  - (g) an implementation schedule setting out arrangements for progressive implementation of the requirements of the plan over a period of up to 5 years.
- (3) If the draft plan provides for the regulating of the taking of overland flow water, the draft plan must set a minimum share of overland flow water that each owner of land in the proposed plan area may take.
- (4) Also, if the draft plan provides for water allocations, the draft plan must state the following—
- (a) the rules for, and details of, any proposed conversions to water allocations of existing water licences, interim water allocations and other authorities to take water;
  - (b) the environmental management rules, water sharing rules, water allocation change rules and seasonal water assignment rules for water to which the draft plan is intended to apply.
- (5) The water allocation change rules may contain limits on the volume of water that may be transferred—
- (a) between different locations whether in or outside Queensland; or

- (b) for different purposes.
- (6) The draft plan, to the extent it applies to a wild river area, must not be inconsistent with the wild river declaration for the area.

**99 Matters the chief executive must consider when preparing draft resource operations plan**

The chief executive must consider each of the following for the proposed plan area when preparing the draft resource operations plan—

- (a) the—
  - (i) if the Minister has published a notice under section 40(1) for the proposed draft plan—statement of proposals prepared under section 39 for the proposed plan area; or
  - (ii) otherwise—existing water resource plan for the proposed plan area;
- (b) if the Minister has published a notice under section 40(1) for the proposed draft plan—all properly made submissions about the statement of proposals prepared under section 39 for the proposed plan area;
- (ba) any system operating plan applying to the proposed plan area, or a part of the proposed plan area;
- (c) any proposed operating arrangements mentioned in section 97;
- (ca) to the extent the draft plan applies to a wild river area—the wild river declaration for the area;
- (d) the public interest.

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### **99A Overview report**

- (1) On or before a notice is published under section 100, the chief executive must prepare an overview report about the proposed draft plan.

*Note—*

Under section 1009 the chief executive must keep the report available for inspection and purchase.

- (2) The report must summarise any assessments and findings about matters mentioned in section 99 that are available when the report is prepared.

### **100 Public notice about availability of draft resource operations plan and overview report**

- (1) The chief executive must publish a notice when the draft resource operations plan has been prepared.
- (2) Subsection (3) applies if, under section 49(7), the Minister gives the chief executive a copy of the draft water resource plan for the proposed plan area.
- (3) The Minister and chief executive must liaise to ensure a notice published under subsection (1) for the proposed plan area is published together with a notice under section 49 for the proposed plan area.
- (4) The notice must state the following—
  - (a) where copies of the draft plan, and overview report prepared under section 99A, are available for inspection and purchase;
  - (b) that written submissions may be made by any entity about the draft plan;
  - (c) a day by which submissions must be made and the person to whom, and the place where, the submissions must be made;
  - (d) that a notice under section 101 may be given at any time before the resource operations plan commences.

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- (5) The day stated under subsection (4)(c) must not be earlier than 30 business days after the day the notice is published.
  - (6) As soon as practicable after the notice is published, the chief executive must explain, by letter or public meetings, the implications of the notice to as many affected water entitlement holders as possible.
  - (7) The chief executive must send a copy of the notice and draft plan to—
    - (a) each local government whose local government area includes all or part of the proposed plan area; and
    - (b) each holder who made a proposal under section 97.
  - (8) A local government receiving a copy of the draft plan must make the copy available for inspection by the public.
  - (9) The chief executive may send a copy of the notice to any other entity the chief executive considers appropriate.

**101 Additional requirements for notices for draft resource operations plans that establish water allocations**

- (1) If the draft plan allows for water allocations to be granted, the notice published under section 100 must also state that—
  - (a) any existing water entitlement holders may give the chief executive a notice in the approved form stating the holders wish to be recorded on the water allocations register other than as tenants in common in equal shares; and  
*Editor's note—*  
See section 121(4) and (5).
  - (b) existing interest holders may give the chief executive a notice in the approved form stating the interest holder intends to take action to have the holder's interest recorded on the water allocations register; and
  - (c) if an interest holder who gives the chief executive a notice under paragraph (b) has the consent of the

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proposed water allocation holder to the encumbering of the proposed water allocation with the interest the interest holder has in the existing water entitlement or other authority to take water, the interest holder may give the chief executive notice of the consent in the approved form.

- (2) It is declared that—
  - (a) an existing mortgagee of land to which an existing water entitlement or other authority to take water attaches is an existing interest holder; and
  - (b) the existing mortgagee's interest under the mortgage in the land is an existing interest in the existing water entitlement or other authority to take water.
- (3) It is also declared that a person is not a proposed water allocation holder under subsection (1)(c) unless—
  - (a) the person is the registered owner of all of the land to which the existing water entitlement or other authority to take water relates; and
  - (b) the interest the interest holder has in the existing water entitlement or other authority to take water relates to all of the land.

## **102 Reviewing submissions about draft resource operations plan**

- (1) This section applies if a properly made submission about a draft resource operations plan requests a change be made to—
  - (a) a proposed water allocation; or
  - (b) an environmental management rule; or
  - (c) a water sharing rule; or
  - (d) an implementation schedule.
- (2) After the last day for the making of submissions about the draft resource operations plan, the chief executive must—



- (a) collate information about all properly made submissions made about matters mentioned in subsection (1); and
  - (b) if a referral panel has not been established under section 1004 to advise on the draft resource operations plan—establish a panel; and
  - (c) give the collated information to the panel.
- (3) The panel must review the draft plan and the submissions and make recommendations to the chief executive within 30 business days after receiving the collated information from the chief executive.
- (4) However, subsection (2) does not apply for a submission if the chief executive is satisfied that—
- (a) the submission made about a matter mentioned in subsection (1) is inconsistent with the water resource plan or, if the draft resource operations plan was prepared under section 96, the draft water resource plan; or
  - (b) the draft resource operations plan should be amended in accordance with the submission.

### **103 Preparing and approving final draft resource operations plan**

- (1) This section applies if—
- (a) the chief executive has published a notice under section 100(1) (the *plan notice*) about a draft resource operations plan to implement a water resource plan or draft water resource plan (the *notified draft*); and
  - (b) the period under the plan notice for making submissions has ended; and
  - (c) if section 102(2) applied for the notified draft—referral panel recommendations have been made for the notified draft.

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- (2) The chief executive may decide to prepare, or not to prepare, a final draft resource operations plan in relation to the notified draft (the *final draft*).
- (3) The chief executive may, in preparing the final draft, decide to defer making any provisions about a particular aspect provided for under the notified draft (a *deferred aspect*) and consider later whether or not to amend under section 105A to make provisions about the deferred aspect.

*Examples of what a deferred aspect may be about—*

- a particular part of the proposed plan area under the notified draft
  - a particular type of water entitlement
  - a type of water to which the notified draft applied
- (4) In making a decision under this section or preparing the final draft, the chief executive must consider the submissions and, if section 102(2) applied for the notified draft, the referral panel recommendations.
  - (5) The Governor in Council may approve the final draft if—
    - (a) the final draft is not inconsistent with the final water resource plan; and
    - (b) if the final draft has a deferred aspect, the chief executive has—
      - (i) published a notice that identifies the deferred aspect and states that the final draft has been prepared without provisions about that aspect; and
      - (ii) given a copy of the notice under subparagraph (i) to each local government and holder to whom the chief executive was, under section 100(7), required to send a copy of the plan notice.
  - (6) Notice of the approval must be gazetted.
  - (7) When approved, the final draft is the resource operations plan for the final water resource plan.
  - (8) Despite subsection (7) and any inconsistent provision in the resource operations plan, the resource operations plan can not

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commence earlier than the day the final water resource plan commences.

(9) In this section—

*referral panel recommendations* means recommendations under section 102(3) about the notified draft.

#### **104 Public notice of intention not to proceed with making of draft or final draft resource operations plan**

- (1) This section applies if the chief executive decides not to proceed with the preparation of a draft resource operations plan or final draft resource operations plan.
- (2) The chief executive must publish a notice advising of the decision and the reasons for the decision.
- (3) The chief executive must send a copy of the notice to each local government or other entity to whom the chief executive sent a notice—
  - (a) about the proposed preparation of the draft plan; and
  - (b) if the draft plan was prepared—about the draft plan having been prepared.

#### **104A Public notice of intention not to amend to provide for deferred aspect**

- (1) This section applies if—
  - (a) a resource operations plan has a deferred aspect; and
  - (b) the chief executive decides not to amend the resource operations plan to include provisions about the deferred aspect.
- (2) The chief executive must—
  - (a) publish a notice advising of the decision and the reasons for it; and

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- (b) give a copy of the notice to each local government and holder to whom the chief executive was required to give notice under section 103(5)(b) about the deferred aspect.

#### **104B Concurrent approval by Governor in Council**

- (1) This section applies if section 96 requires the chief executive to prepare a draft resource operations plan concurrently with the Minister's preparation of a draft water resource plan.
- (2) The Minister and chief executive must liaise with each other to ensure the concurrent approval by the Governor in Council of a final draft water resource plan under section 50(2), and a final draft resource operations plan under section 103(5), for a plan area.

#### **104C Chief executive must prepare report on consultation process**

- (1) On or before the day notice of the approval of the final draft resource operations plan is gazetted, the chief executive must prepare a report about the plan.

*Note—*

Under section 1009 the chief executive must keep the report available for inspection and purchase.

- (2) The report must include a summary of issues raised during the consultation process and how the issues have been dealt with.

#### **104D Public access to particular notices**

If, under section 103(5)(b)(ii), 104(3) or 104A(2)(b), a local government receives a copy of a notice it must make the copy available for inspection by the public.

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## **Subdivision 2      Amending resource operations plans**

### **105      General provision for amending resource operations plan**

- (1) The chief executive may amend a resource operations plan.
- (2) Subsection (3) applies if a resource operations plan will be inconsistent with a water resource plan for which it has effect because of a proposed amendment to the water resource plan of which the chief executive has become aware under section 39(2) or 49(7).
- (3) The chief executive must amend the resource operations plan if it is inconsistent with the water resource plan, as proposed to be amended, so that the 2 plans are consistent.
- (4) Sections 95 to 104 must be followed for preparing the amendment—
  - (a) as if a reference in the sections to preparing a draft plan were a reference to preparing the amendment; and
  - (b) with any other necessary changes.
- (5) Without limiting subsection (1) or (3), the amendment may—
  - (a) change the plan area; or
  - (b) amalgamate the resource operations plan with another resource operations plan or part of another resource operations plan; or
  - (c) change the water infrastructure operating arrangements and other requirements of the plan; or
  - (d) improve the relationship between the resource operations plan and any system operating plan applying to the plan area, or a part of the plan area.
- (6) However, if the amendment of a resource operations plan is not being made under subsection (3), section 99(b), (ba), (ca) and (d) does not apply to the preparation of the amendment if—

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- (a) the chief executive is satisfied that sufficient public notice of, and opportunity to make submissions on, the proposed amendment, will be available under section 100; or
- (b) the amendment is of a type that the resource operations plan states may be made to the plan under this subsection.

### **105A Amendment to provide for deferred aspect**

- (1) This section applies only if a resource operations plan has a deferred aspect and the plan has not previously been amended to include provisions about that aspect.
- (2) Despite section 105(4), the Governor in Council may approve an amendment of the resource operations plan without sections 95 to 104 applying if the amendment—
  - (a) is about the deferred aspect; and
  - (b) is not inconsistent with the water resource plan that the resource operations plan implements.

### **106 Minor or stated amendments of resource operations plan**

Despite section 105(4), the Governor in Council may approve an amendment of a resource operations plan without sections 95 to 104 applying if—

- (a) the amendment is only to correct a minor error in the plan, or make another change that is not a change of substance; or
- (b) the amendment is of a type allowed under the plan for this paragraph, and the chief executive reasonably believes the amendment will not adversely affect the rights of water entitlement holders or natural ecosystems; or
- (c) in relation to a wild river area—

- (i) the water resource plan has been amended under section 57(c); and
- (ii) the amendment of the resource operations plan is to ensure consistency with the water resource plan as amended.

### **106AA Amendment of resource operations plan between approval and commencement**

The chief executive may amend a resource operations plan after its approval under section 103(5) but before its commencement to take account of—

- (a) the current details of any proposed conversions of existing water licences, interim water allocations and other authorities, to take water or to interfere with the flow of water, to water allocations; or
- (b) the details of the current holders of the water licences, interim water allocations and other authorities mentioned in paragraph (a).

## **Subdivision 3 Continuation of resource operations plans**

### **106A Continuation of resource operations plan for new water resource plan**

- (1) This section applies if—
  - (a) a new water resource plan that replaces an existing water resource plan is approved under section 50(2); and
  - (b) the chief executive has not prepared a resource operations plan, to implement the new water resource plan, concurrently with the Minister's preparation of the draft water resource plan.
- (2) The resource operations plan that implements the existing water resource plan—

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- (a) continues to have effect for the plan area for the new water resource plan; and
  - (b) is the resource operations plan for the new water resource plan.
- (3) Unless, and to the extent, the new water resource plan expressly provides otherwise, the resource operations plan continues to have effect for the plan area for the new water resource plan despite any inconsistency between the resource operations plan and the new water resource plan.
- (4) This section does not limit or otherwise affect section 105(3).

## **Division 3                      Resource operations licences and distribution operations licences**

### **Subdivision 1                Granting resource operations licences and distribution operations licences**

#### **107      Effect of resource operations plan**

On and from the day a resource operations plan has effect—

- (a) the interim resource operations licences and other authorisations to operate infrastructure identified in the plan cease to have effect; and
- (b) the chief executive must grant resource operations licences and distribution operations licences in the approved form and in accordance with the plan for the water to which the plan applies.

#### **107A    Authority to interfere with water**

- (1) A resource operations licence authorises the holder of the licence to interfere with the flow of water to the extent necessary to operate the water infrastructure to which the



licence applies.

- (2) A distribution operations licence authorises the holder of the licence to take water or interfere with the flow of water to distribute water under water allocations.
- (3) A resource operations licence or a distribution operations licence may be held only by—
  - (a) the owner of the water infrastructure to which the licence applies; or
  - (b) if the owner of the water infrastructure to which the licence applies is a subsidiary company, the parent company of the subsidiary.

#### **108 Granting resource operations licences and distribution operations licences**

- (1) Subsection (2) applies if a resource operations plan states a process for the granting of—
  - (a) a resource operations licence to meet future water requirements; or
  - (b) a distribution operations licence to meet future water distribution requirements.
- (2) The chief executive must follow the process and grant the licence in accordance with the process.
- (3) Within 30 business days after the chief executive grants the licence, the chief executive must give the grantee the licence and an information notice about the granting of the licence.
- (4) The licence has effect on the day stated in the licence.

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## **Subdivision 1A Granting distribution operations licences other than under a resource operations plan**

### **108A Applying for a distribution operations licence other than under a resource operations plan**

- (1) A person may apply for a distribution operations licence not granted under a resource operations plan.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by details of—
    - (i) all water distributed, or intended to be distributed, by the applicant and taken, or to be taken, under water allocations; and
    - (ii) the names and addresses of the holders of existing water allocations mentioned in subparagraph (i) and details of any existing arrangements for the distribution of the water; and
    - (iii) the applicant's proposed arrangements for any distribution infrastructure; and
    - (iv) any other information that may enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.

### **108B Additional information may be required**

The chief executive may require—

- (a) the applicant to give additional information about the application; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.

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### **108C Deciding application for distribution operations licence**

- (1) In deciding whether to grant the application, the chief executive must consider the application and any additional information given in relation to the application.
- (2) The chief executive may also consider whether the applicant has been convicted of an offence against this Act, the repealed Act or an interstate law.
- (3) If the chief executive is satisfied the application should be granted, the chief executive may grant the application, with or without conditions.
- (4) If the chief executive is not satisfied the application should be granted, the chief executive must refuse to grant the application.
- (5) Within 30 business days after deciding the application, the chief executive must give the applicant an information notice about the decision on the application and, if the chief executive has decided to grant the licence, a distribution operations licence.
- (6) The licence takes effect from the day the applicant is given the information notice.
- (7) Subsections (1) and (2) do not limit the matters the chief executive may consider in deciding whether to grant the application.

## **Subdivision 2 Content and conditions of resource operations licences and distribution operations licences**

### **109 Content of resource operations licence or distribution operations licence**

A resource operations licence or distribution operations licence must state, but is not limited to, the following—

- (a) details of the licence holder;

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- (b) any resource operations plan to which the licence relates;
- (c) any water infrastructure to which the licence applies;
- (d) any conditions the holder must comply with.

### **110 Conditions of resource operations licence or distribution operations licence**

- (1) It is a condition of a resource operations licence or a distributions operations licence that the licence holder must comply with any operating arrangements and supply or distribution requirements of the resource operations plan that relate to the holder and with section 360ZA.
- (1A) If there is more than 1 resource operations licence holder in a water supply scheme, the operating arrangements of the resource operations plan for the scheme relate to all resource operations licence holders in the scheme.
- (2) In addition to subsection (1), a condition of a licence may—
  - (a) require the holder to do all or any of the following—
    - (i) install a meter to measure the taking of or interfering with water through the water infrastructure to which the licence applies;
    - (ii) carry out and report on a stated monitoring program;
    - (iii) give the chief executive information reasonably required by the chief executive about the holder's performance under the licence and information about resource management aspects of the holder's operations for the administration or enforcement of this Act;
    - (iv) pay the fees prescribed under a regulation; and
  - (b) prohibit the holder from changing, replacing or operating any water infrastructure if the change, replacement or operation of the water infrastructure is

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incompatible with the objectives of the water resource plan for the area to which the licence relates.

### **Subdivision 3      Amending resource operations licences and distribution operations licences**

#### **111      Amending a licence for consistency with a plan**

- (1) The chief executive must amend a resource operations licence or a distribution operations licence if, because of an amendment to the resource operations plan to which the licence relates, the licence or a distribution operations licence is inconsistent with the plan.
- (2) As soon as possible after the amendment is approved, the chief executive must—
  - (a) amend the licence to ensure it is consistent with the plan; and
  - (b) give the licence holder an information notice stating the aspects of the existing licence that are inconsistent with the amended plan; and
  - (c) give the holder an amended licence in the approved form.
- (3) The amended licence takes effect from the day the chief executive gives the holder the notice.

#### **111A      Amending a licence under a plan process**

- (1) Subsection (2) applies if a resource operations plan states a process for amending a resource operations licence or a distribution operations licence.
- (2) The chief executive must follow the process and amend the licence in accordance with the process.

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- (3) Within 30 business days after the chief executive amends the licence, the chief executive must give the licence holder—
  - (a) an amended licence in the approved form; and
  - (b) an information notice.
- (4) The amended licence takes effect from the day the chief executive gives the licence holder the information notice.

## **112 Other amendments chief executive may make to licence**

- (1) The chief executive may amend a condition of a resource operations licence or a distribution operations licence if the chief executive is satisfied—
  - (a) the licence was granted because of a materially false or misleading representation or declaration made, either orally or in writing, by the licence holder; or
  - (b) the licence holder has contravened this Act.
- (2) Before the chief executive acts under subsection (1), the chief executive must give the holder a show cause notice about the proposed amendment.
- (3) In deciding whether to amend the condition, the chief executive must consider any properly made submission about the proposed amendment.
- (4) If the chief executive is satisfied the proposed amendment should be made, the chief executive must give the holder—
  - (a) an amended licence in the approved form; and
  - (b) an information notice.
- (5) If the chief executive is not satisfied the amendment should be made, the chief executive must give the holder notice that the licence will not be amended.
- (6) The amended licence takes effect from the day the chief executive gives the holder the information notice.

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**113 Minor, stated or agreed amendments of licence**

- (1) The chief executive may amend a resource operations licence or a distribution operations licence without complying with the provisions of this subdivision about amending a licence if the amendment is only—
  - (a) to correct a minor error in the licence, or make another change that is not a change of substance; or
  - (b) if the licence states that an amendment of a stated type may be made to the licence by amendment under this subsection—to make an amendment of the stated type; or
  - (c) if the licence holder agrees to the amendment.
- (2) If the chief executive amends a licence under subsection (1), the chief executive must, within 30 business days of amending the licence, give the holder an amended licence in the approved form.

**Subdivision 4 Transferring or amalgamating resource operations licences and distribution operations licences**

**114 Applying for transfer of licence**

- (1) The holder of a resource operations licence or a distribution operations licence may apply to the chief executive to transfer the licence or a part of the licence.
- (2) The application must be—
  - (a) made to the chief executive by the transferor in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.

### **115 Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

### **116 Deciding application to transfer licence**

The chief executive must decide the application within 30 business days after—

- (a) if the chief executive does not request further information from the applicant about the application—the day the chief executive received the application; or
- (b) if the chief executive requests further information from the applicant about the application—the day the chief executive receives the information.

### **117 Approving application to transfer licence**

- (1) If the chief executive decides to approve the application, the chief executive must, within 30 business days after making the decision—
  - (a) give the transferor and transferee an information notice about the approval; and
  - (b) cancel the existing licence and give a new licence to the transferee.
- (2) If the application was not to transfer all of a licence, the chief executive must, within 30 business days after making the



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decision, give the transferor an amended licence for the part not transferred.

- (3) The new licence takes effect from the day the notice is given.

### **118 Refusing application to transfer licence**

- (1) The chief executive may refuse the application if the chief executive is satisfied the transferee does not have the necessary expertise or experience to be a licence holder or is not a suitable person to hold the licence, including, for example—
- (a) if the transferee has been convicted of an offence against this Act or an interstate law or has held 1 of the following licences (each a *relevant licence*) that has been cancelled or suspended under this Act or an interstate law—
    - (i) a resource operations licence;
    - (ii) an interstate resource operations licence;
    - (iii) a distribution operations licence;
    - (iv) an interstate distribution operations licence; or
  - (b) if the transferee is a corporation—an executive officer of the corporation—
    - (i) has been convicted of an offence against this Act or an interstate law, or has held a relevant licence that has been cancelled or suspended under this Act or an interstate law; or
    - (ii) is or has been an executive officer of another corporation that has been convicted of an offence against this Act or an interstate law, or has held a relevant licence that has been cancelled or suspended under this Act or an interstate law.
- (2) The chief executive may also refuse the application on grounds not mentioned in subsection (1).

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- (3) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice within 30 business days after making the decision.
- (4) In this section—  
*this Act* includes the repealed Acts.

### **118A Amalgamating licences**

- (1) The holder of a resource operations licence may apply to the chief executive to amalgamate, into a single licence, the resource operations licence with another resource operations licence in the same water supply scheme.
- (1A) The holder of a distribution operations licence may apply to the chief executive to amalgamate, into a single licence, the distribution operations licence with another distribution operations licence in the same water supply scheme.
- (2) An application under subsection (1) or (1A) must be—
  - (a) in the approved form; and
  - (b) accompanied by the written consent of the holder of the other licence; and
  - (c) supported by sufficient information to enable the chief executive to amalgamate the licences; and
  - (d) accompanied by the fee prescribed under a regulation.
- (3) The chief executive must grant the application.
- (4) Within 30 business days after granting the application, the chief executive must—
  - (a) give the applicant and the holder of the other licence notice of the amalgamation; and
  - (b) cancel the existing licences and give a new licence to the applicant.
- (5) The new licence takes effect from the day the notice is given.

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## **Subdivision 5      C cancelling resource operations licences and distribution operations licences**

### **119      C cancelling licence**

- (1) The chief executive may cancel a resource operations licence or a distribution operations licence on the following grounds—
  - (a) the licence holder has not complied with a condition of the licence or a requirement of the holder under this Act;
  - (b) the holder has been convicted of an offence against this Act;
  - (c) the licence was granted because of a materially false or misleading representation or declaration made, either orally or in writing, by the holder.
- (2) Subsection (1)(a) does not apply if the holder has been convicted under section 813 for the noncompliance.

### **119A      Procedure for cancelling licence**

- (1) If the chief executive is satisfied the licence should be cancelled, the chief executive must give the licence holder a show cause notice about the proposed cancellation.
- (2) If, after considering any properly made submission about the proposed cancellation, the chief executive is still satisfied the licence should be cancelled, the chief executive may cancel the licence.

*Editor's note—*

For appointment of administrator following cancellation of licence, see section 955.

- (3) If the chief executive decides to cancel the licence, the chief executive must give the holder an information notice within 10 business days after the chief executive makes the decision.

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- (4) The decision takes effect on the later of—
  - (a) if the applicant does not appeal against the decision—the day the period for appeals ends; or
  - (b) if the applicant appeals against the decision but withdraws the appeal—the day the appeal is withdrawn; or
  - (c) if the applicant appeals against the decision and the appeal is dismissed—the day the appeal is decided.
- (5) However, if the licence is cancelled because of the conviction of a person for an offence—
  - (a) the cancellation does not take effect until the later of—
    - (i) the day the period for appeals against the conviction ends; or
    - (ii) if the appeal is made against the conviction—the appeal is finally decided; and
  - (b) the cancellation has no effect if the conviction is quashed on appeal.

### **119B Cancelling licence no longer required**

- (1) The chief executive may cancel a resource operations licence if—
  - (a) another resource operations licence has been granted to replace the licence to be cancelled; or
  - (b) the chief executive and the resource operations licence holder have agreed the resource operations licence is no longer required.
- (1A) The chief executive may cancel a distribution operations licence if—
  - (a) another distribution operations licence has been granted to replace the licence to be cancelled; or

- (b) the chief executive and the distribution operations licence holder have agreed the distribution operations licence is no longer required.
- (2) If the chief executive decides to cancel the resource operations licence under subsection (1) or the distribution operations licence under subsection (1A), the chief executive must, within 30 business days after making the decision, give the licence holder an information notice about the decision to cancel the licence.
- (3) The cancellation takes effect from the day the chief executive gives the licence holder the notice.

## **Subdivision 6      Audit reports**

### **119C    Preparing regular audit reports**

The chief executive may prepare an audit report—

- (a) about a resource operation licence holder's or a distribution operations licence holder's compliance with the licence; and
- (b) to verify the accuracy of monitoring and reporting information given to the chief executive by the holder.

### **119D    Access for conducting audit reports**

A resource operations licence holder and a distribution operations licence holder must give any person authorised by the chief executive to participate in conducting an audit under this subdivision, free and uninterrupted access to the holder's infrastructure and any records relating to the infrastructure for conducting the audit.

Maximum penalty—200 penalty units.

## **Division 4            Water allocations**

### **Subdivision 1        Preliminary**

#### **120B    Meaning of *volumetric limit* for div 4**

- (1) The *volumetric limit* for a water allocation is stated on the allocation.
- (2) Unless subsection (3) applies, the volumetric limit is the maximum volume of water, in megalitres, that may be taken under the allocation during the period of time, or in the circumstances, stated in the resource operations plan under which the allocation is managed.
- (3) If the resource operations plan contains a water sharing rule about volumetric limits that applies to the water allocation, the volumetric limit is used to calculate, under the rule, the maximum volume that may be taken during a particular period of time or in particular circumstances.

### **Subdivision 1A      Converting water entitlements and granting water allocations**

#### **121      Converting water entitlements**

- (1) On the day a resource operations plan or any amendment of a resource operations plan commences—
  - (a) all water licences, interim water allocations or other authorities to take water, to be converted under the plan or the amendment, expire and the chief executive must grant to the holders of the expired water licences, interim water allocations or other authorities, the water entitlements stated in the plan or amendment; and
  - (b) the registrar must record on the water allocations register details of each water allocation granted.

- (2) If an allocation is managed under a resource operations licence, the allocation holder and the resource operations licence holder must have a supply contract for the allocation.
- (3) Subsection (2) does not apply if—
  - (a) the resource operations licence holder and the allocation holder are the same person; or
  - (b) the allocation holder is a subsidiary company of the resource operations licence holder.
- (4) Subsection (5) applies if the chief executive has been given a notice under section 101(1)(a).
- (5) The allocation must be recorded in accordance with the notice.
- (8) Within 30 business days after the chief executive grants the allocation, the chief executive must give the allocation holder a notice about the granting of the allocation.
- (9) The allocation has effect the day the granting of the allocation is recorded.

## **122 Granting water allocations**

- (1) Subsection (2) applies if a resource operations plan states a process for the granting of a water allocation to meet future water requirements.
- (2) The chief executive must follow the process and grant the allocation in accordance with the process.
- (3) On the day the allocation is granted, the registrar must record on the water allocations register details of the allocation.
- (4) If the allocation is managed under a resource operations licence, the allocation holder and the resource operations licence holder must have a supply contract for the allocation.
- (5) Subsection (4) does not apply if the resource operations licence holder and the allocation holder are the same person or related entities.

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- (6) Within 30 business days after the chief executive grants the allocation, the chief executive must give the allocation holder a notice about the granting of the allocation.
- (7) The allocation has effect the day the registrar records the granting of the allocation in the register.

### **122A Chief executive may approve standard supply contracts**

- (1) The chief executive may approve standard supply contracts for the storage and delivery by resource operations licence holders of water under water allocations.
- (2) Different supply contracts may be approved for different areas of the State.
- (3) The chief executive must gazette the approval of each standard supply contract.
- (4) On the day an allocation is granted, the standard supply contract for the area applies to the allocation unless—
  - (a) the allocation holder and the resource operations licence holder have a supply contract for the allocation; or
  - (b) section 121(3) applies to the allocation.
- (5) The parties to the supply contract must review the contract within 1 year after the day the contract takes effect.

### **123 Relationship between plans and water allocation**

- (1) The taking of water under a water allocation from the plan area for a water resource plan is subject to that plan and the resource operations plan that implements the water resource plan.
- (2) If there is a conflict between either plan and the water allocation, the plan prevails.



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## **124 Security for supply and storage of water allocation**

If a water allocation is managed under a resource operations licence, the licence holder may require the allocation holder to give the licence holder reasonable security for supplying and storing the allocation.

## **125 Amending water allocations**

- (1) Subsection (2) applies if—
  - (a) a resource operations plan or amendment of a resource operations plan states that a water allocation must be amended; or
  - (aa) a resource operations plan states, for a water allocation, the water management area that includes the location from which the water may be taken; or
  - (b) the name of the resource operations licence, under which a water allocation is managed, is changed.
- (2) The chief executive must amend the water allocation in accordance with the plan or the change and give the allocation holder a notice about the amendment.
- (3) On the day the allocation is amended, the registrar must record on the water allocations register details of the amendment.
- (4) The amendment has effect the day the registrar records the amendment in the register.

## **126 Correcting water allocation when recording granting or amendment**

- (1) When the registrar records a matter under this division, the registrar may make any necessary corrections to the name of the existing water entitlement holder when recording the granting or amending of the water allocation.
- (2) For subsection (1), the chief executive may require—

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- (a) the applicant to give additional information about the correction; or
- (b) any information about the correction, or any additional information required under paragraph (a), to be verified by statutory declaration.

## **127 Registration details for water allocations**

- (1) The entry on the water allocations register for a water allocation must state the following—
  - (a) details of the person who holds, and how the person holds, the allocation;
  - (b) a nominal volume for the allocation;
  - (c) the location from which the water may be taken;
  - (d) the purpose, including, for example, agricultural, industrial or urban, for which the water may be taken;
  - (e) any conditions required by the chief executive to be entered on the register;
  - (f) the resource operations plan under which the water allocation is managed;
  - (g) other matters prescribed under a regulation.
- (2) If the water allocation is managed under a resource operations licence, the entry on the water allocations register for the allocation must also state the following—
  - (a) the resource operations licence under which the allocation is managed;
  - (b) the priority group to which the allocation belongs.
- (3) If the water allocation is not managed under a resource operations licence, the entry on the water allocations register for the allocation must also state the following—
  - (a) the volumetric limit;

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- (b) the water allocation group to which the allocation belongs;
  - (c) the water management area that includes the location from which the water may be taken.
- (4) If the water allocation is not managed under a resource operations licence, the entry on the water allocations register for the allocation may also state the following—
- (a) the maximum rate for taking water;
  - (b) the flow conditions under which the water may be taken.

### **127A Conditions of a water allocation**

The conditions of a water allocation include—

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

### **127B Water allocations to which a distribution operations licence applies**

- (1) This section applies if—
  - (a) a water allocation is granted under section 121; and
  - (b) at the time the allocation is granted, water may be distributed to the water allocation holder by the holder of a distribution operations licence.
- (2) The chief executive must give the registrar notice that the water allocation is an allocation to which a distribution operations licence applies.

### **127C Preservation of obligation in particular circumstances**

- (1) This section applies if—

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- (a) the location from which water may be taken under a water allocation mentioned in section 127B(1) is changed to a location to which the holder of the distribution operations licence (the *licence holder*) does not distribute water; or
  - (b) the allocation is subdivided or amalgamated with another allocation.
- (2) The obligation on the water allocation holder to pay a charge, in relation to the licence holder's distribution works, to the licence holder under the distribution arrangements between the parties continues to attach to the water allocation until the licence holder agrees that the obligation has been satisfied.
- (3) If the licence holder agrees, under subsection (2), that the obligation has been satisfied, the licence holder must give the chief executive notice in the approved form of the satisfaction.
- (4) If the chief executive receives notice under subsection (3), the chief executive must give the registrar notice that the allocation is no longer an allocation to which a distribution operations licence applies.

## **Subdivision 2 Dealings with water allocations**

### **128 Meaning of *change to a water allocation***

- (1) For this subdivision, a *change to a water allocation* is a reconfiguration of any 1 or more of the following elements of the holder's entitlement under the allocation—
- (a) the nominal volume for the allocation;
  - (b) the location from which the water may be taken under the allocation;
  - (d) the purpose for which the water may be taken under the allocation;
  - (e) any condition mentioned in section 127(1)(e);

- (f) the priority group to which the allocation belongs;
  - (g) maximum rate for taking water;
  - (h) the flow conditions under which the water may be taken;
  - (i) the volumetric limit;
  - (j) the water allocation group to which the allocation belongs.
- (2) However—
- (a) for a water allocation not managed under a resource operations licence, the reconfiguration must not—
    - (i) change the nominal volume for the water allocation; or
    - (ii) allow the taking of more than the water allocation's share of the water available to be taken by holders of water allocations in all water allocation groups in a water resource plan area; and
  - (b) for a water allocation managed under a resource operations licence, the reconfiguration must not—
    - (i) increase the water allocation's share of the water the resource operations licence holder has available to supply the water allocations managed under the licence; or
    - (ii) increase the water the resource operations licence holder has available to supply the water allocations managed under the licence.

### **128A Amalgamation or subdivision of water allocations**

- (1) A water allocation holder may apply to the chief executive to—
- (a) amalgamate 2 or more water allocations into a single water allocation; or
  - (b) subdivide a water allocation into 2 or more water allocations.

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- (2) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) The chief executive must approve the application, with or without conditions, if the chief executive is satisfied the amalgamation or subdivision is consistent with the resource operations plan.
- (4) The chief executive must not approve the application if the amalgamation or subdivision would result in an increase in the holder's entitlement under the allocation or allocations.
- (5) The chief executive must, within 10 business days after deciding the application—
  - (a) give the applicant an information notice; and
  - (b) if the chief executive approves the application—give the applicant a certificate stating that the proposed change is approved.
- (6) The certificate—
  - (a) must be in the approved form; and
  - (b) remains valid—
    - (i) until the date stated in the certificate; or
    - (ii) if the certificate does not state a date—for 40 business days.
- (7) If the water allocation holder lodges the certificate with the registrar, the registrar must record on the water allocations register details of the amalgamation or subdivision.
- (8) However, if the allocation is managed under a resource operations licence, the registrar must not act under subsection (7) until the registrar has received from the resource operations licence holder notice in the approved form of the existence of a supply contract between the allocation holder and the resource operations licence holder.

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- (9) Subsection (8) does not apply if—
    - (a) the resource operations licence holder and the allocation holder are the same person; or
    - (b) the allocation holder is a subsidiary company of the resource operations licence holder.
  - (10) Also, if an allocation being amalgamated or subdivided is subject to a registered mortgage, the registrar must not act under subsection (7) unless the mortgagee has consented to the amalgamation or subdivision.
  - (11) The amalgamation or subdivision has effect the day the registrar records the change in the register.

### **128B Transfers or leases of water allocations**

- (1) A water allocation holder who proposes to transfer or lease a water allocation not managed under a resource operations licence must give the chief executive notice of the proposed transfer or lease.
- (2) The notice must be—
  - (a) in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) The chief executive may require the water allocation holder to give the chief executive additional information about the proposed transfer or lease.
- (4) The chief executive must give the water allocation holder a certificate about the proposed transfer or lease, within 10 business days after—
  - (a) receiving the notice; or
  - (b) if the chief executive has required further information under subsection (3)—receiving the additional information.
- (5) The certificate—
  - (a) must be in the approved form; and

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

## **129 Changing water allocations permitted under water allocation change rules**

- (1) Subsection (2) applies to a change to a water allocation if the change is permitted under the water allocation change rules of a resource operations plan.
- (2) The allocation holder may apply to the chief executive to change the allocation in accordance with the rules.
- (3) The application—
  - (a) must be in the approved form; and
  - (b) may relate to 1 or more of the elements of the allocation mentioned in section 128; and
  - (c) must be accompanied by the fee prescribed under a regulation.
- (4) If the change to which the application relates is permitted under the resource operations plan, the chief executive must give the applicant a certificate stating that the proposed change is allowed under the plan.
- (5) The certificate—
  - (a) must be in the approved form; and
  - (b) remains valid—
    - (i) until the date stated in the certificate; or
    - (ii) if the certificate does not state a date—for 40 business days.
- (6) If the water allocation holder lodges the certificate with the registrar, the registrar must record on the water allocations register details of the change.



- (7) However, if the allocation is managed under a resource operations licence, the registrar must not act under subsection (6) until the registrar has received from the resource operations licence holder notice in the approved form of the existence of a supply contract between the allocation holder and the resource operations licence holder.
- (8) Subsection (7) does not apply if—
  - (a) the resource operations licence holder and the allocation holder are the same person; or
  - (b) the allocation holder is a subsidiary company of the resource operations licence holder.
- (9) The change has effect the day the registrar records the change in the register.

### **129A Changing water allocations assessed under water allocation change rules**

- (1) Subsection (2) applies to a change to a water allocation if the change is assessed under the water allocation change rules of a resource operations plan.
- (2) The allocation holder may apply to the chief executive to change the allocation in accordance with the rules.
- (3) The application—
  - (a) must be in the approved form; and
  - (b) may relate to 1 or more of the elements of the allocation mentioned in section 128; and
  - (c) must be supported by sufficient information to enable the chief executive to decide the application; and
  - (d) must be accompanied by the fee prescribed under a regulation.

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### **130 Other changes to water allocations**

- (1) Subsection (2) applies to a change to a water allocation if the change is not mentioned in a resource operations plan.
- (2) The allocation holder may apply to the chief executive to change the allocation.
- (3) The application—
  - (a) must be in the approved form; and
  - (b) may relate to 1 or more of the elements of the allocation mentioned in section 128; and
  - (c) must be supported by sufficient information to enable the chief executive to decide the application; and
  - (d) must be accompanied by the fee prescribed under a regulation.

### **131 Additional information may be required**

- (1) For an application made under section 129A or 130, the chief executive may require—
  - (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration; or
  - (c) any submitter to give additional information about the submission.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

### **132 Public notice of application to change water allocation**

- (1) Subsection (2) applies when the chief executive is satisfied an application under section 130 has been properly made and the

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applicant has given the chief executive any additional information requested about the application.

- (2) The chief executive must give the applicant a notice the applicant must publish within the time and in the newspaper or newspapers stated by the chief executive.
- (3) The notice must include at least the following—
  - (a) where copies of the application may be inspected and, on payment of a fee, purchased;
  - (b) that written submissions may be made by any entity about the application;
  - (c) a day (the *closing day*) by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (4) The closing day must not be earlier than 30 business days after the day the notice is published.
- (5) If the notice has been published as required under subsection (2), the applicant must, within 10 business days after the publication of the notice, give the chief executive a copy of the page in the newspaper or newspapers containing the notice.
- (6) If the applicant fails to comply with subsection (2) or (5), the application lapses.
- (7) If the notice has been published as required under subsection (2)—
  - (a) the chief executive may send a copy of the notice to any other entity the chief executive considers appropriate; and
  - (b) the chief executive may decide the application after the closing day.

### **133 Applicant to pay cost of researching and investigating application**

- (1) Subsection (2) applies—

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- (a) to each application made under section 129A or 130; and
  - (b) if the chief executive is satisfied that there will be considerable expense in researching and investigating the application.
- (2) The chief executive must estimate the likely cost of researching and investigating the application and give the applicant notice of the cost.
- (3) If the applicant wishes to proceed with the application, the applicant must pay the estimated cost to the chief executive.
- (4) If the actual cost of researching and investigating the application is less than the estimated cost, the chief executive must refund to the applicant the difference between the cost paid and the actual cost.

### **134 Deciding application to change water allocation**

- (1A) Subsection (2) applies if the chief executive is satisfied a change to a water allocation to which section 129A applies is in accordance with the water allocation change rules of a resource operations plan.
- (1) Also, subsection (2) applies if the chief executive is satisfied a change to a water allocation to which section 130 applies—
- (a) is compatible with the objectives of the water resource plan for the area to which the water allocation relates; and
  - (b) is in the public interest; and
  - (c) will not significantly affect water entitlement holders, resource operations licence holders or natural ecosystems in an adverse way.
- (2) The chief executive must approve the application, with or without conditions.
- (3) If the chief executive is not satisfied under subsection (1A) or (1), the chief executive must refuse the application.

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- (4) Within 10 business days after deciding the application, the chief executive must—
    - (a) give the applicant, the transferee and any person who gave a properly made submission an information notice; and
    - (b) if the chief executive approves the application without conditions—give the applicant a certificate stating that the change has been approved.
  - (4A) If the chief executive approves the application with a condition requiring the applicant to take some action, the chief executive must give the applicant a certificate stating that the change has been approved within 10 business days after the action is taken.
  - (5) A certificate under subsection (4)(b) or (4A)—
    - (a) must be in the approved form; and
    - (b) remains valid—
      - (i) until the date stated in the certificate; or
      - (ii) if the certificate does not state a date—for 40 business days.

### **135 Registering approved application to change water allocation**

- (1) If the water allocation holder lodges the certificate with the registrar, the registrar must record on the water allocations register the details of the change.
- (2) However, if the allocation is managed under a resource operations licence, the registrar must not act under subsection (1) until the registrar has received from the resource operations licence holder notice of the existence of a supply contract between the proposed allocation holder and the resource operations licence holder.
- (3) Subsection (2) does not apply if—

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- (a) the resource operations licence holder and the allocation holder are the same person; or
  - (b) the allocation holder is a subsidiary company of the resource operations licence holder.
- (4) The change has effect the day the registrar records the change in the register.

### **138 Water allocations may be forfeited**

- (1) Subsection (2) applies if a water allocation holder has been convicted of an offence against this Act.
- (2) The chief executive may give the holder a show cause notice as to why the allocation should not be forfeited.
- (3) If, after considering any properly made submission, the chief executive is still satisfied the allocation should be forfeited, the chief executive may forfeit the allocation.
- (4) If the chief executive decides to forfeit the allocation, the chief executive must give the holder an information notice within 10 business days after the chief executive makes the decision.
- (5) The forfeiture takes effect on the later of—
  - (a) if the holder does not appeal against the forfeiture—the day the period for appeals ends; or
  - (b) if the holder appeals against the forfeiture but withdraws the appeal—the day the appeal is withdrawn; or
  - (c) if the holder appeals against the forfeiture and the appeal is dismissed—the day the appeal is decided.
- (6) If the allocation is forfeited, the chief executive must sell the allocation by public auction, public ballot or public tender.
- (7) Any money received by the chief executive on the sale of the forfeited allocation must be applied as follows—
  - (a) firstly—in paying the costs of the sale and any other costs incurred in proceedings under this section;

- (b) secondly—in discharging any liability of the former allocation holder under this Act to the chief executive under this Act;
  - (ba) thirdly—in discharging the liability, if any, of the former allocation holder for any outstanding debt due to the distribution operations licence holder under distribution arrangements;
  - (c) fourthly—in discharging the liability, if any, of the former allocation holder for any outstanding debt due to the resource operations licence holder under a supply contract;
  - (d) fifthly—in discharging, in accordance with the priorities of their registered interests, any liabilities of the former allocation holder owing to a person who has a registered interest recorded over the forfeited allocation on the water allocations register;
  - (e) sixthly—in payment to the former allocation holder.
- (8) If the former allocation holder can not be found after making reasonable inquiries as to the holder's whereabouts, an amount payable to the holder must be dealt with as unclaimed money under the *Public Trustee Act 1978*.
  - (9) The purchaser of an allocation under this section takes the allocation free of all interests.
  - (10) Section 122A(4) and (5) applies to the purchaser of an allocation under this section as if the allocation were granted on the day the allocation was sold.

### **139 Dealing with water allocations granted or dealt with through fraud**

- (1) Subsection (2) applies if a water allocation was granted, or dealt with or recorded on the water allocations register, in consequence of a false or misleading representation or declaration, made either orally or in writing.

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- (2) The Supreme Court may make the order it considers just to deal with the allocation.

#### **140 Priority for applying proceeds of sale of water allocations under a power of sale**

- (1) In addition to any other person who may exercise a power of sale in relation to a water allocation, the following persons may exercise a power of sale in relation to a water allocation—
  - (a) the chief executive under section 138(6);
  - (b) if a supply contract gives a resource operations licence holder a power to sell the water allocation—the holder;
  - (c) if distribution arrangements give a distribution operations licence holder a power to sell the water allocation—the holder.
- (2) The holder of a resource operations licence may exercise a power of sale only in accordance with the supply contract.
- (2A) The holder of a distribution operations licence may exercise a power of sale only in accordance with the distribution arrangements.
- (3) Subsection (1) applies despite any registered interest in the allocation.
- (4) Before exercising the power of sale, a person proposing to exercise the power must give any person who has a registered interest in the allocation, not less than 10 business days notice of the proposed exercise of the power.
- (5) An amount received on the sale of the allocation must be applied in the way mentioned in section 138(7).
- (6) The purchaser of an allocation under this section takes the allocation free of all interests.



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## **Division 5                      Seasonal water assignments of water allocations**

### **Subdivision 1                Allocations not managed under a resource operations licence**

#### **141      Application of sdiv 1**

This subdivision applies to a water allocation—

- (a) if a water resource plan or a resource operations plan approved for an area allows seasonal water assignments; and
- (b) if the water to which the allocation applies is not water managed under a resource operations licence.

#### **142      Applying for a seasonal water assignment**

- (1) A water allocation holder or the holder of a seasonal water assignment notice may apply for a seasonal water assignment for the water year in which the application is made.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) include the following details of the proposed assignee—
    - (i) name and address;
    - (ii) if the proposed assignee holds a water allocation for the water management area in which the assignee proposes to take the benefit of the assignment—details of the water allocation; and
  - (c) supported by sufficient information, including the written consent of the proposed assignee, to enable the chief executive to decide the application; and
  - (d) accompanied by the fee prescribed under a regulation.

[s 143]

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### **143 Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

### **144 Deciding application for seasonal water assignment**

- (1) If the application is in accordance with the seasonal water assignment rules, the chief executive must approve the application, with or without conditions.
- (2) If the application is not in accordance with the rules, the chief executive must refuse the application.
- (3) As soon as practicable after deciding the application, the chief executive must give the applicant an information notice.
- (4) If the chief executive grants the application, with or without conditions, the chief executive must, as soon as practicable after approving the application, give the proposed assignee a seasonal water assignment notice for the water year in the approved form.
- (5) To the extent that the application is approved, the applicant is not authorised to take water under the water allocation.
- (5A) If the assignee holds a water allocation for the water management area in which the assignee proposes to take the benefit of the assignment, a notice given under subsection (4) has the effect of increasing the volume of water authorised to be taken under the allocation by the volume stated in the notice.

- (6) The assignment has effect from the day the information notice is given to the applicant.
- (7) Section 150(6) does not apply to an assignment mentioned in subsection (6).

#### **145 Conditions of seasonal water assignment**

The seasonal water assignment notice is subject to the conditions—

- (a) to which the water allocation is subject; and
- (b) prescribed under a regulation; and
- (c) the chief executive may impose for a particular notice.

#### **146 Application of s 243**

Section 243 applies to a seasonal water assignment notice as if a reference in the section to a water permit were a reference to a seasonal water assignment notice and a reference to the permittee were a reference to the holder of a seasonal water assignment notice.

### **Subdivision 2 Allocations managed under a resource operations licence**

#### **146A Application of sdiv 2**

This subdivision applies to a water allocation if—

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

[s 146B]

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### **146B Arrangements for seasonal water assignments**

- (1) The holder of a water allocation to which this subdivision applies may enter into an arrangement for a seasonal water assignment in relation to the water allocation.
- (2) The holder may enter the arrangement only if—
  - (a) the proposed assignment is allowed under the seasonal water assignment rules stated in the resource operations plan; and
  - (b) the holder of the resource operations licence consents to the arrangement; and
  - (c) if the water to which the allocation relates is distributed to the allocation holder by a distributions operations licence holder—the holder of the distributions operations licence consents to the arrangement.
- (3) Subsection (2)(b) and (c) do not apply to the extent the seasonal water assignment rules do not require the consent.

## **Division 6 Registering interests and dealings for water allocations**

### **147 Registrar**

- (1) There is to be a registrar of water allocations.
- (2) The registrar has a seal of office.
- (3) The registrar is to be employed under the *Public Service Act 2008*.
- (4) In acting under this Act or another Act, the registrar is subject to the chief executive.

### **148 Water allocations register**

- (1) For registering water allocations and interests and dealings with water allocations the registrar must keep a water

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allocations register.

- (2) A regulation may prescribe—
  - (a) the locations of offices of the registry where documents may be lodged for registration; and
  - (b) the particular documents that may, or may not, be lodged at a particular office of the registry for registration or recording on the register; and
  - (c) how documents may be lodged; and
  - (d) fees to be paid in relation to—
    - (i) the lodgement and registration of documents in the registry; and
    - (ii) the provision of other services by the registrar; and
  - (e) how fees are to be paid and may be recovered, including the provision of credit facilities to persons approved by the registrar; and
  - (f) additional information to be supplied with a document; and
  - (g) transitional arrangements if a new document is approved; and
  - (h) how documents may be signed; and
  - (i) anything else about a document.
- (3) A person has notice of an interest in a water allocation if the interest is included in the register.

## **149 Form of register**

- (1) The register may be kept in the form the registrar considers appropriate.
- (2) Without limiting subsection (1), the registrar may change the form in which a register or a part of a register is kept.

[s 150]

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## **150 Interests and dealings that may be registered**

- (1) Subject to subsection (2), an interest or dealing that may be registered for land under the *Land Title Act 1994*, may be registered for a water allocation on the water allocations register.
- (2) An interest or dealing, the provisions for which are excluded under section 151(1)(e), may not be registered under this Act.
- (3) If a water allocation is managed under a resource operations licence, the registrar must not record a transfer or lease of the allocation until the registrar has received from the resource operations licence holder notice in the approved form of the existence of a supply contract between the transferee or lessee of the allocation and the resource operations licence holder.
- (4) Subsection (3) does not apply if—
  - (a) the resource operations licence holder and the transferee or lessee of the allocation are the same person; or
  - (b) the transferee or lessee of the allocation is a subsidiary company of the resource operations licence holder.
- (5) The registrar must not record the transfer or lease of a water allocation not managed under a resource operations licence until the registrar receives a certificate under section 128B(4) about the transfer or lease.
- (6) An instrument that purports to give effect to a dealing of the type mentioned in subsection (1) does not transfer or create an interest at law until it is registered on the register.

## **150A Effect on priority of notices given under s 101(1)(b)**

- (1) If the chief executive is given a notice about a water allocation under section 101(1)(b), the notice causes to be continued, in the water allocation, an interest equivalent to the interest had by the interest holder in the former water entitlement or other authority to take water until whichever of the following first happens—

- (a) 60 business days expire after details of the water allocation are recorded on the water allocations register under section 121(1)(b);
  - (b) the interest mentioned in the notice is recorded on the register.
- (2) Subsection (1) applies despite the expiry under section 121(1)(a) of the former water entitlement or other authority to take water.
- (3) However if, before an event mentioned in subsection (1)(a) or (b) happens, the interest holder lodges a caveat claiming an interest in the water allocation, the equivalent interest continues until—
  - (a) the interest claimed in the caveat is recorded on the water allocations register; or
  - (b) the caveat earlier lapses or is otherwise cancelled, removed or withdrawn.
- (4) The registrar must not record any other dealing for the water allocation, other than a notice mentioned in section 150B(1), until subsections (1) and (3) cease to have effect in relation to the interest.
- (5) If more than 1 notice is given under section 101(1)(b), the interests must be recorded in accordance with the priority the interests have on the land registry, as at the day the allocation is recorded, for the land to which the former water entitlement was attached.
- (6) However—
  - (a) for an interest that is not an interest that was recorded under the land registry but is recorded in another register, the interest must be registered in priority according to the time the interest was recorded in the other register; or
  - (b) for an interest not recorded in another register, the interest must be registered in the priority in which the interest was lodged for registration.

[s 150B]

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### **150B Effect on priority of notices given under s 101(1)(c)**

- (1) If the chief executive is given a notice about a water allocation under section 101(1)(c), the registrar must record the notice, for the water allocation—
  - (a) within 60 business days after details of the water allocation are recorded on the water allocations register under section 121(1)(b); and
  - (b) with the priority the interest mentioned in the notice had on the land registry for the land to which the interest relates as at the day the allocation is recorded.
- (2) A notice recorded under subsection (1)—
  - (a) has the effect of encumbering the water allocation for which the notice is recorded with the interest mentioned in the notice; and
  - (b) for the application of section 151, is taken to be a mortgage for the water allocation for the *Land Title Act 1994*, part 6, division 3.
- (3) No fee under this Act or duty under the *Duties Act 2001* is payable for the recording of a notice under subsection (1).

### **151 Application of Land Title Act 1994 to water allocations register**

- (1) The *Land Title Act 1994*, other than the following provisions, applies to matters under this part—
  - (a) part 2, sections 16, 18(1)(a), 18(3), 18A;
  - (b) part 3, section 27 and divisions 2, 2A and 3;
  - (c) part 4;
  - (d) part 5, sections 55 and 58;
  - (e) part 6, sections 60(2), 64 to the extent it permits the lease of part of a lot, and 65(2) and divisions 4, 4A, 4B and 5;
  - (f) part 7, section 122(3) and sections 132 to 135;



- (g) part 8, sections 154 and 165;
  - (h) part 9, division 2, section 181 and subdivisions B and C;
  - (i) part 11, section 193;
  - (j) part 12.
- (3) An interest or dealing mentioned in section 150 may be registered in the way mentioned in the *Land Title Act 1994* and the registrar of water allocations may exercise a power and perform an obligation of the registrar of titles under the *Land Title Act 1994*—
- (a) as if a reference to the registrar of titles were a reference to the registrar appointed under this division; and
  - (b) as if a reference to the freehold land register were a reference to the water allocations register; and
  - (c) as if a reference to freehold land or land were a reference to a water allocation; and
  - (d) as if a reference to a lot were a reference to a water allocation; and
  - (e) as if a reference to an indefeasible title were a reference to a title; and
  - (f) with any other necessary changes.
- (4) An instrument executed under the authority of a power of attorney may be registered under this Act only if the power of attorney is registered under the *Land Title Act 1994*, section 133.
- (5) In this section—
- Land Title Act 1994*** does not include the *Land Title Regulation 1994*.

*Editor's note—*

*Land Title Regulation 1994—see the Acts Interpretation Act 1954, section 14H and the Land Title Regulation 2005.*

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## **152 Application of other Acts to the water allocations register**

- (1) If a provision of the *Property Law Act 1974* refers to the *Land Title Act 1994*, or land, the reference is, if the context permits, taken to be a reference to the *Land Title Act 1994*, as applied by this Act, or a water allocation.
- (2) The following sections of the *Land Valuation Act 2010* apply as if a reference to land or a parcel of land includes a reference to a water allocation—
  - (a) section 208(6), definition *microfiche data*;
  - (b) section 245.

## **153 Searching water allocations register**

A person may, on payment of the fee prescribed under a regulation—

- (a) search and obtain a copy of—
  - (i) a water allocation; or
  - (ii) an instrument registered in relation to an allocation; or
  - (iii) an instrument that has been lodged but is not registered (whether or not it has been cancelled); or
  - (iv) information kept on the register about the allocation; and
- (b) obtain a copy of the allocation, or a registered instrument, certified by the registrar to be an accurate copy.

## **154 Displacement provision for Corporations legislation**

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

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## **Part 5                      Interim allocation and    management arrangements**

### **Division 1                Preliminary**

#### **167    Purpose of pt 5**

The purpose of this part is to provide for the functions and powers of the chief executive for water managed through—

- (a) existing water infrastructure other than existing water infrastructure to which a resource operations plan applies; or
- (b) proposed water infrastructure.

### **Division 2                Interim resource operations    licences**

#### **Subdivision 1        Preliminary**

##### **167A   Authority to interfere with water**

- (1) An interim resource operations licence authorises the holder of the licence to interfere with the flow of water to the extent necessary to operate the water infrastructure to which the licence applies.
- (2) An interim resource operations licence may be held only by—
  - (a) the owner of the water infrastructure to which the licence applies; or
  - (b) if the owner of the water infrastructure to which the licence applies is a subsidiary company—the parent company of the subsidiary.

## **Subdivision 1A Granting interim resource operations licences for existing operations**

### **168 Who must apply for an interim resource operations licence**

- (1) A regulation may nominate the owner of water infrastructure in relation to the operation of the infrastructure or the management of water stated in the regulation.
- (2) A person nominated under the regulation must, within 60 business days after the regulation is made, apply for an interim resource operations licence to continue to operate the water infrastructure or manage the water.

Maximum penalty—1665 penalty units.

### **169 Applying for interim resource operations licence**

An application made under section 168 must be—

- (a) made to the chief executive in the approved form; and
- (b) supported by details of—
  - (i) all water stored or released by the applicant and all water taken by customers of the applicant under authorisations under this Act or the repealed Act, including the names and addresses of the customers and details of any existing contracts for the supply of the water; and
  - (ii) the applicant's proposed operating arrangements for any water infrastructure; and
  - (iii) the applicant's proposal about the total interim water allocation that should be granted for management under the proposed interim resource operations licence; and

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- (iv) the applicant's proposal about the apportionment of the total interim water allocations between the applicant and the persons mentioned in subparagraph (i); and
  - (v) the applicant's proposal about proposed supply arrangements for the entities mentioned in subparagraph (i); and
  - (vi) any other information that will enable the chief executive to decide the application; and
- (c) accompanied by the fee prescribed under a regulation.

#### **170 Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

#### **171 Notice of application for interim resource operations licence**

- (1) The chief executive must give each entity whose details are given to the chief executive under section 169(b)(i) a notice about the making of the application.
- (2) The notice must—
  - (a) be given—
    - (i) if the chief executive does not require further information about the application—within 30 business days after the application is made; or

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- (ii) if the chief executive requires further information about the application—within 30 business days after the additional information is received; and
  - (b) give details of the applicant’s proposals mentioned in section 169(b); and
  - (c) state where copies of the proposals may be inspected and, on payment of a fee, purchased; and
  - (d) state that written submissions may be made by any entity who is given a copy of the notice about the applicant’s proposals; and
  - (e) state a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (3) The day stated under subsection (2)(e) must not be earlier than 30 business days after the day the notice is given.
- (4) The chief executive may send a copy of the notice to any other entity the chief executive considers appropriate.

## **172 Conference may be called about application**

- (1) The chief executive may invite the applicant and all or any of the entities, whose details are given to the chief executive under section 169(b)(i), to a conference to help in deciding the application.
- (2) The chief executive must give notice to all entities invited to attend the conference of when and where the conference is to be held.
- (3) However, if the chief executive is satisfied it is impracticable to give notice to all entities invited to attend the conference, the chief executive may publish a notice about the conference.

## **173 Chief executive must make proposed decision**

- (1) After the last day for both the making of submissions on the applicant’s proposals and any conferences under section

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- 172(1) have been held, the chief executive must make a proposed decision about—
- (a) the proposed contents and conditions about an interim resource operations licence; and
  - (b) the proposed granting of interim water allocations managed under the interim resource operations licence.
- (2) In making the proposed decision, the chief executive must consider the following—
- (a) the application and additional information given about the application;
  - (b) the authorisations under the repealed Act of the entities, whose details are given to the chief executive under section 169(b)(i);
  - (c) all properly made submissions made about the applicant's proposals;
  - (d) the views expressed at a conference held in relation to the proposals;
  - (e) the public interest.

#### **174 Notice of proposed decision**

- (1) The chief executive must give the applicant and each entity, whose details are given to the chief executive under section 169(b)(i), a notice about the making of the proposed decision.
- (2) The notice must—
  - (a) give details of the chief executive's proposed decision about—
    - (i) the proposed contents and conditions about an interim resource operations licence; and
    - (ii) the proposed granting of interim water allocations managed under the interim resource operations licence; and

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- (b) state where copies of the proposed decision may be inspected and, on payment of a fee, purchased; and
  - (c) state that written submissions may be made by any entity who is given a copy of the notice about the applicant's proposals; and
  - (d) state a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (3) The day stated under subsection (2)(d) must not be earlier than 30 business days after the day the notice is given.
  - (4) The chief executive may send a copy of the notice to any other entity the chief executive considers appropriate.

## **175 Deciding application for interim resource operations licence**

- (1) In making the final decision on the application, the chief executive must consider all properly made submissions made about the proposed decision.
- (2) The chief executive must grant the application, with or without conditions.
- (3) Within 30 business days after deciding the application, the chief executive must give—
  - (a) the applicant and each entity, whose details are given to the chief executive under section 169(b)(i), an information notice; and
  - (b) the applicant an interim resource operations licence.
- (4) The licence takes effect from the day the applicant is given the information notice.



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## **Subdivision 2      Granting interim resource operations licences for proposed operations**

### **176      Granting interim resource operations licences**

- (1) Subsection (2) applies if a water resource plan or a resource operations plan states a process for the granting of an interim resource operations licence to meet future water requirements.
- (2) The chief executive must follow the process and grant the licence in accordance with the process.
- (3) Within 30 business days after the chief executive grants the licence, the chief executive must give the licence holder the licence and an information notice about the granting of the licence.
- (4) The licence has effect from the day the information notice is given to the applicant.

## **Subdivision 3      Content and conditions of interim resource operations licences**

### **177      Content of interim resource operations licences**

Without limiting what may be included in an interim resource operations licence, the licence must state the following—

- (a) details of the licence holder;
- (b) any water infrastructure to which the licence applies;
- (c) the operating arrangements for the water infrastructure;
- (d) details of water to be managed under the licence;
- (e) details of the water sharing rules;
- (f) requirements for monitoring and reporting on water managed and water infrastructure operations.

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## **178 Conditions of interim resource operations licence**

- (1) Without limiting section 175(2), a condition of an interim resource operations licence may—
  - (a) require the licence holder to do all or any of the following—
    - (i) install a meter to measure the taking of or interfering with water through the water infrastructure to which the licence applies;
    - (ii) give relevant information reasonably required by the chief executive for the administration or enforcement of this Act;
    - (iii) pay the fees prescribed under a regulation; and
  - (b) prohibit the holder from changing, replacing or operating water infrastructure if the change, replacement or operation would significantly affect any of the following—
    - (i) the availability of water for existing water entitlement holders;
    - (ii) the water requirements of natural ecosystems;
    - (iii) the water requirements of beneficial flooding;
    - (iv) water quality.
- (2) Also, it is a condition of an interim resource operations licence that the licence holder must comply with section 360ZA.

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## **Subdivision 4      Amending interim resource operations licences on application of licence holder**

### **179      Applying to amend an interim resource operations licence**

- (1) An interim resource operations licence holder may apply to amend an interim resource operations licence.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application; and
  - (c) accompanied by a fee prescribed under a regulation.

### **180      Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration; or
  - (c) any submitter to give additional information about the submission.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

### **181      Public notice of application to amend interim resource operations licence**

- (1) Subsection (2) applies when the chief executive is satisfied the application to amend the interim resource operations

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licence has been properly made and the applicant has given the chief executive any additional information requested about the application.

- (2) The chief executive must give the applicant a notice the applicant must publish within the time and in the newspaper or newspapers stated by the chief executive.
- (3) The notice must include at least the following—
  - (a) a summary of the proposed amendments to the licence;
  - (b) where copies of the application are available for inspection and purchase;
  - (c) that written submissions may be made by any entity about the application;
  - (d) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (4) The day stated under subsection (3)(d) must not be earlier than 30 business days after the day the notice is published.
- (5) Within 10 business days after the day the notice is published, the applicant must give the chief executive a copy of the page of the newspaper containing the published notice.
- (6) If the notice has been published within the time and in the newspaper or newspapers stated by the chief executive—
  - (a) the chief executive may send a copy of the notice to any other entity the chief executive considers appropriate; and
  - (b) the chief executive may decide the application after the day mentioned in subsection (3)(d).

## **182 Matters chief executive must consider when deciding applications**

For deciding the application, the chief executive must consider the following—

- (a) the application and additional information given about the application;
- (b) all properly made submissions about the application;
- (c) all additional information given about a submission;
- (d) existing water entitlements and authorisations to take or interfere with water;
- (e) any information about the effects on natural ecosystems;
- (f) any information about the effects on the physical integrity of watercourses, lakes, springs or aquifers;
- (g) policies developed in consultation with local communities for the sustainable management of local water;
- (h) whether the applicant has been convicted of an offence against this Act, the repealed Act or an interstate law;
- (i) the public interest.

### **183 Deciding application to amend an interim resource operations licence**

- (1) If the chief executive is satisfied the application should be approved, the chief executive must approve the application, with or without conditions.
- (2) If the chief executive is not satisfied the application should be approved, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant and any person who gave a properly made submission about the application an information notice.
- (4) If the chief executive approves the application, with or without conditions, the chief executive must, within 30 business days after approving the application, give the applicant an amended interim resource operations licence in the approved form.

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- (5) The amended licence takes effect from the day the applicant is given the information notice.

## **Subdivision 5      Amending interim resource operations licences by chief executive**

### **184      Amending interim resource operations licences on notice**

- (1) The chief executive may amend an interim resource operations licence if the chief executive is satisfied the licence should be amended.
- (2) Subsection (3) applies if the amendment does not—
- (a) increase the volume, rate or times when water may be taken under the licence; or
  - (b) increase the interference with the flow of the water; or
  - (c) change the location from which water may be taken, or interfered with, under the licence; or
  - (d) cause a significant adverse effect on—
    - (i) the availability of water for the requirements of natural ecosystems; or
    - (ii) the quality of water; or
    - (iii) availability of water for existing water entitlement holders; or
    - (iv) beneficial flooding.
- (3) Before the chief executive acts under subsection (1), the chief executive must give the licence holder a show cause notice about the proposed amendment.
- (3A) If the proposed amendment would have 1 or more of the effects mentioned in subsection (2), the chief executive—
- (a) must give the licence holder notice of the proposed amendment; and

- (b) must publish notice of the proposed amendment in the area to which the licence relates; and
  - (b) may give a copy of the notice to any other entity the chief executive considers appropriate.
- (3B) A notice under subsection (3A) must include at least the following—
  - (a) a summary of the proposed amendment to the licence;
  - (b) where copies of the proposed amendment are available;
  - (c) that written submissions may be made by any entity about the proposed amendment;
  - (d) the day by which submissions must be made and the person to whom, and the place where, the submissions must be made.
- (3C) The day stated under subsection (3B)(d) must not be earlier than 30 business days after the day the notice is published.
- (4) In deciding whether to amend the licence, the chief executive must consider any properly made submission about the proposed amendment.
- (5) If the chief executive is satisfied the proposed amendment should be made, the chief executive must give—
  - (a) the licence holder an amended licence in the approved form; and
  - (b) the licence holder and any person who made a properly made submission an information notice about the decision to amend the licence.
- (6) If the chief executive is not satisfied the amendment should be made, the chief executive must give the holder and any person who made a properly made submission notice that the licence will not be amended.
- (7) The amended licence takes effect from the day the information notice is given to the holder.

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### **184A Amending an interim resource operations licence to meet future water requirements**

- (1) Subsection (2) applies if a water resource plan or a resource operations plan states a process for amending an interim resource operations licence to meet future water requirements.
- (2) The chief executive must—
  - (a) follow the process and amend the licence in accordance with the process; and
  - (b) within 30 business days after the day the chief executive amends the licence, give the licence holder—
    - (i) an amended licence in the approved form; and
    - (ii) an information notice.
- (3) The amended licence takes effect from the day the chief executive gives the licence holder the information notice.

### **185 Minor amendment of interim resource operations licence**

- (1) The chief executive may amend the licence without complying with the provisions of this division about amending a licence if the amendment is only to correct a minor error in the licence, or make another change that is not a change of substance.
- (2) If the chief executive amends a licence under subsection (1), the chief executive must give the licence holder an amended licence in the approved form.

## **Subdivision 5A Other amendments to interim resource operations licences**

### **185A Amending interim resource operations licences**

- (1) The chief executive may amend the details of the water sharing rules in an interim resource operations licence, for a water year or part of a water year, if—



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- (a) either—
    - (i) the licence allows amendment; and
    - (ii) the licence holder requests an amendment in accordance with the licence; or
  - (b) the chief executive is satisfied the rules need to be amended because of seasonal conditions.
- (2) If the chief executive amends the rules—
- (a) the licence is taken to be amended, for the water year or part of the water year, to the extent of the amendment to the rules; and
  - (b) the chief executive must give the licence holder notice of the amendment of the licence; and
  - (c) the amendment of the licence takes effect from the day stated in the notice.
- (3) As soon as practicable after receiving the notice, the licence holder must give notice of the amendment to the holders of interim water allocations managed under the licence.
- (4) A notice given under subsection (2) or (3) must state—
- (a) details of the amendment; and
  - (b) the reasons for the amendment; and
  - (c) the water year or part of the water year to which the amendment applies; and
  - (d) the day the amendment takes effect.

## **Subdivision 6      Transferring and cancelling interim resource operations licences**

### **186      Transferring or cancelling interim resource operations licence**

An interim resource operations licence may be transferred or cancelled under part 4, division 3, as if it were an application

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for the transfer or cancellation of a resource operations licence.

*Editor's note—*

For appointment of administrator following cancellation of licence, see section 955.

## **Subdivision 7      Audit reports**

### **186A    Preparing regular audit reports**

The chief executive may prepare an audit report—

- (a) about an interim resource operation licence holder's compliance with the licence; and
- (b) to verify the accuracy of monitoring and reporting information given to the chief executive by the holder.

### **186B    Access for conducting audit reports**

An interim resource operations licence holder must give any person authorised by the chief executive to participate in conducting an audit under this subdivision free and uninterrupted access to the holder's infrastructure and any records relating to the infrastructure for conducting the audit.

Maximum penalty—200 penalty units.

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## **Division 3                    Interim water allocations**

### **Subdivision 1            Interim water allocations managed through existing water infrastructure**

#### **187      Granting interim water allocations**

- (1) When the chief executive grants an interim resource operations licence under division 2, subdivision 1A, the chief executive must grant interim water allocations in accordance with the chief executive's decision under section 175(2).
- (2) The interim water allocation replaces any authorisation mentioned in section 169(b)(i) the entity had immediately before the interim water allocation was granted.
- (3) The chief executive must, within 30 business days after the allocation is granted, give the grantee—
  - (a) an information notice; and
  - (b) an interim water allocation in the approved form.
- (4) An interim water allocation takes effect from the day the information notice is given to the grantee.

#### **188      Existing supply arrangements taken to be supply contracts**

- (1) The supply arrangements contained in an application granted under section 175 are taken to be the supply contract for the supply of water to the person mentioned in the arrangements.
- (2) Subsection (1) applies until the interim resource operations licence holder and interim water allocation holder enter into a different supply contract for supplying the holder with water.

## **Subdivision 2      Interim water allocations to be managed through new infrastructure**

### **189      Granting interim water allocations**

- (1) When the chief executive grants an interim resource operations licence under division 2, subdivision 2, or amends an interim resource operations licence under section 184A, the chief executive must grant an interim water allocation in accordance with the process stated in the water resource plan or resource operations plan.
- (2) The chief executive must, within 30 business days after the allocation is granted, give an interim water allocation holder an interim water allocation in the approved form and an information notice about the granting of the allocation.
- (3) An interim water allocation takes effect from the day the information notice is given to the grantee.

## **Subdivision 3      Contents and conditions of interim water allocations**

### **190      Contents of interim water allocation**

An interim water allocation—

- (a) must state the water to which the allocation relates; and
- (b) must state the location from which the water may be taken or at which it may be interfered with; and
- (c) may be amended, transferred, amalgamated, subdivided or surrendered; and
- (d) attaches to the land of the holder unless the holder is—
  - (i) the State; or
  - (ii) the water grid manager; or

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

## **191 Conditions of interim water allocation**

- (1) An interim water allocation is subject to the conditions—
  - (a) prescribed under a regulation; and
  - (b) the chief executive may impose for a particular interim water allocation.
- (2) Without limiting subsection (1), the conditions may require the holder to do all or any of the following—
  - (a) commence taking or interfering with water authorised under the allocation within a stated time;
  - (b) install a measuring device to measure the volume of water, the rate and the time at which it is taken or interfered with;
  - (c) take the water authorised to be taken under the allocation;
  - (d) provide and maintain access to alternative water supplies for other persons, authorised under this Act to take water, who would be affected by the granting of the allocation;
  - (e) carry out and report on a stated monitoring program;
  - (f) give relevant information reasonably required by the chief executive for the administration or enforcement of this Act.

## **Subdivision 4      Dealing with interim water allocations**

### **192      Dealing with an interim water allocation**

- (1) To the extent the procedure for dealing with an interim water allocation is not stated in this division, the allocation may be dealt with under part 6, division 2 as if the allocation were a water licence.
- (2) However—
  - (a) section 208 does not apply to a dealing that is in accordance with the conditions of the interim resource operations licence, or resource operations licence, under which the interim water allocation is managed; and
  - (b) section 220 does not apply to an interim water allocation as an interim water allocation does not require renewal.

### **193      Transferring particular interim water allocations**

- (1) Despite sections 192, 222 and 223, an interim resource operations licence holder or resource operations licence holder may apply to transfer all or part of an interim water allocation not attached to land to any of the following to whom the holder can supply water—
  - (a) any owner of land, if the water supplied is used on the land;
  - (c) a local government;
  - (d) a water authority;
  - (e) an entity prescribed under a regulation.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by evidence that enables the chief executive to transfer the allocation, including, for example the

written consent of the transferee; and

- (c) accompanied by the fee prescribed under a regulation.

#### **194 Deciding application to transfer particular interim water allocation**

- (1) The chief executive must approve an application under section 193, with or without conditions.
- (2) Within 30 business days after approving the application, the chief executive must—
  - (a) give the applicant and the transferee an information notice; and
  - (b) give the transferee an interim water allocation in the approved form.
- (3) If the application was not to transfer all of an interim water allocation, the chief executive must give the applicant an amended interim water allocation for the part not transferred.
- (4) An interim water allocation mentioned in section 193(1)(a) attaches to the land of the transferee.
- (5) An interim water allocation mentioned in subsection (2) or (3) has effect from the day the information notice is given to the applicant and the transferee.

#### **195 Transferring interim water allocations to other land**

- (1) This section applies only if a regulation provides for all or part of the authority to take water in relation to land to be transferred so that the authority attaches to other land, whether in or outside Queensland.
- (2) The allocation holder may apply to the chief executive to transfer all or part of the authority in accordance with the regulation.

## **196 Forfeiting an interim water allocation**

- (1) Subsection (2) applies if—
  - (a) an interim water allocation holder has been convicted of an offence against this Act; or
  - (b) the chief executive is satisfied the holder has breached a condition of the interim water allocation.
- (2) The chief executive may deal with the interim water allocation under section 138(2) to (9) as if—
  - (a) the interim water allocation were a water allocation; and
  - (b) if the interim water allocation is managed under an interim resource operations licence—a reference in the section to a resource operations licence were a reference to an interim resource operations licence.

## **197 Surrendering an interim water allocation**

- (1) The holder of an interim water allocation may surrender the allocation by giving the chief executive a notice of surrender.
- (2) The surrender takes effect on the day the notice is received by the chief executive.
- (2A) If the notice is about an interim water allocation managed under an interim resource operations licence or resource operations licence, the chief executive must, as soon as practicable after receiving the notice, give the holder of the interim resource operations licence or resource operations licence a copy of the notice.
- (3) The chief executive must deal with the surrendered interim water allocation under section 138(6) to (9) as if—
  - (a) the interim water allocation were a forfeited water allocation; and
  - (b) if the interim water allocation is managed under an interim resource operations licence—a reference in the section to a resource operations licence were a reference to an interim resource operations licence.



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**198 Effect of disposal of part of land to which interim water allocation attaches**

- (1) This section applies if—
  - (a) an interim water allocation is attached to land; and
  - (b) the registered owner of the land disposes of part of the land.
- (2) On the day the owner disposes of the part, the interim water allocation is taken to be held jointly by all owners of the land to which the interim water allocation attaches.
- (3) However, 1 or more of the owners of the land to which the interim water allocation attaches may, with the consent of the other owners, apply for 1 or more interim water allocations to replace the jointly held interim water allocation—
  - (a) within 60 business days after the disposal of the part; or
  - (b) if, in a particular case, the chief executive extends the period for making the application—within the extended period.
- (4) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (5) The chief executive must grant the application if—
  - (a) the application relates only to land to which the jointly held interim water allocation relates; and
  - (b) granting the application would not increase the volume of water that may be taken.
- (6) If an application is not made under subsection (3), the chief executive may give notice to the joint holders of the interim water allocation about replacing the allocation.
- (7) The notice must state—
  - (a) that a written submission may be made about the details of replacing the allocation; and

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- (b) a day by which the submission must be made, and the person to whom, and the place where, the submission must be made.
- (8) The day stated under subsection (7)(b) must not be earlier than 30 business days after the day the notice is given.
- (9) The chief executive must consider any submissions made before issuing 1 or more replacement interim water allocations.
- (10) Within 30 business days after issuing the replacement interim water allocations, the chief executive must give the holders of the jointly held interim water allocation an information notice.
- (11) A replacement interim water allocation has effect from—
  - (a) for an application granted under subsection (5)—the day the application is granted; and
  - (b) for a replacement interim water allocation issued under subsection (9)—the day the information notice is given.

### **198A Effect of acquisition of land to which interim water allocation attaches**

- (1) This section applies to an interim water allocation if part of the land to which the allocation attaches—
  - (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If the acquisition or disposal includes an acquisition of the allocation, section 222 applies for transferring the allocation to the entity that acquired the land as if the allocation were a water licence.
- (3) If the acquisition or disposal does not include an acquisition of the allocation, sections 199 to 199B apply.

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**199 Effect of acquisition of part of land adjoining a watercourse, lake or spring**

- (1) This section applies to an interim water allocation if part of the land, adjoining a watercourse, lake or spring, to which the allocation attaches—
  - (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If the remaining part of the land continues to adjoin the watercourse, lake or spring from which water may be taken under the interim water allocation—
  - (a) section 198 does not apply to the interim water allocation; and
  - (b) the interim water allocation may be amended under section 192 so it attaches to the remaining part of the land.
- (3) Subsection (4) applies if—
  - (a) the remaining part of the land no longer adjoins the watercourse, lake or spring; and
  - (b) the holder of the allocation does not, within 60 business days after the acquisition or disposal, satisfy the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.
- (4) The allocation is taken to be surrendered, and the chief executive must deal with the allocation under section 197(3).
- (5) However, subsection (2)(a) and (b) apply if, within 60 business days after the acquisition or disposal, the holder satisfies the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.

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### **199A Effect of acquisition of part of land above an aquifer**

- (1) This section applies to an interim water allocation to take water from an aquifer under the land to which the allocation attaches, if part of the land—
  - (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If the remaining part of the land is above the aquifer from which water may be taken under the allocation, and the conditions of the allocation allow water to be taken from the remaining part—
  - (a) section 198 does not apply to the allocation; and
  - (b) the allocation may be amended under section 219, as if the allocation were a water licence, so it attaches to the remaining part of the land.
- (3) Subsection (4) applies if—
  - (a) the remaining part of the land is not above the aquifer, or the conditions of the allocation do not allow water to be taken from the remaining part; and
  - (b) the holder of the allocation does not, within 60 business days after the acquisition or disposal, satisfy the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.
- (4) The allocation is taken to be surrendered and the chief executive must deal with the allocation under section 197(3).
- (5) However, subsection (2)(a) and (b) apply if, within 60 business days after the acquisition or disposal, the holder satisfies the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.

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**199B Effect of acquisition of part of other land**

- (1) This section applies to an interim water allocation granted in response to an application mentioned in section 206(3) as if the allocation were a water licence, if part of the land to which the allocation attaches—
  - (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If water taken under the allocation can still be delivered to the remaining part of the land—
  - (a) section 198 does not apply to the allocation; and
  - (b) the allocation may be amended under section 192 so it attaches to the remaining part of the land.
- (3) Subsection (4) applies if—
  - (a) water taken under the allocation can not still be delivered to the remaining part of the land; and
  - (b) the holder of the allocation does not, within 60 business days after the acquisition or disposal, satisfy the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.
- (4) The allocation is taken to be surrendered and the chief executive must deal with the allocation under section 197(3).
- (5) However, subsection (2)(a) and (b) apply if, within 60 business days after the acquisition or disposal, the holder satisfies the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.

## **Subdivision 5      Seasonal water assignments of interim water allocations**

### **200      Arrangements for seasonal water assignments**

- (1) The holder of an interim water allocation may enter into an arrangement for a seasonal water assignment in relation to the allocation.
- (2) The holder may enter the arrangement only with consent of the holder of the interim resource operations licence or resource operations licence under which the allocation is managed.
- (3) The holder of the interim resource operations licence or resource operations licence may give consent only if the assignment is in accordance with the holder's licence or resource operations licence.

## **Subdivision 6      Interim water allocations for Julius Dam water supply scheme**

### **201      Granting interim water allocations**

- (1) This section applies to an interim water allocation (the *relevant interim water allocation*) held by Mount Isa Water Board and managed under the interim resource operations licence for the Julius Dam water supply scheme.
- (2) A regulation may, before the resource operations plan for the water supply scheme commences, state a process for—
  - (a) the expiry of the relevant interim water allocation; and
  - (b) the granting of interim water allocations (the *new allocations*) to particular entities to replace the relevant interim water allocation.
- (3) The regulation must not be inconsistent with the objectives of the *Water Resource (Gulf) Plan 2007*.

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- (4) The chief executive must grant the new allocations to give effect to the regulation.

## Part 6 Water licences and permits

### Division 1 Preliminary

#### 203 Definitions for pt 6

In this part—

*owner*, of land, means any of the following—

- (a) the registered proprietor of the land;
- (b) the lessee, sublessee or licensee of the land under the *Land Act 1994*;
- (ba) the trustee of a reserve over the land or the holder of a permit to occupy the land under the *Land Act 1994*;
- (c) the lessee of the land under a registered lease under the *Land Title Act 1994*;
- (d) an applicant for, or the holder of, a mineral development licence or mining lease under the *Mineral Resources Act 1989*;
- (e) the holder of a geothermal tenure under the *Geothermal Energy Act 2010* relating to the land;
- (ea) the holder of a GHG tenure under the *Greenhouse Gas Storage Act 2009* relating to the land;
- (f) the plantation licensee of a plantation licence under the *Forestry Act 1959*.

*priority group*, for a petroleum tenure holder or a licensee, means the persons who have applied for, but have been refused, a water licence to take underground water if the

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reason for the refusal was the effect of the exercise of underground water rights under the *Petroleum and Gas (Production and Safety) Act 2004* or the carrying out of authorised activities under the *Petroleum Act 1923* by the holder or licensee.

## **204 Purpose of pt 6**

Under this part, the chief executive may grant—

- (a) water licences for taking water and interfering with the flow of water, for example, by a weir; or
- (b) water permits for taking water.

## **205 Decisions to be in accordance with plans and declaration**

- (1) If a water resource plan, a resource operations plan or a wild river declaration has been approved for an area, the chief executive must make decisions under this part in accordance with the plan or declaration.
- (2) If the chief executive makes a decision under this part, in accordance with a water resource plan, a resource operations plan or a wild river declaration, the chief executive is required to give, for the decision—
  - (a) to the extent a different decision, consistent with the plan, could have been made—an information notice; or
  - (b) otherwise—a notice stating the decision and the reasons for the decision.
- (3) In this section—  
*decision* includes a part of a decision.



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## Division 2            Water licences

### Subdivision 1        Granting water licences

#### 206    Applying for a water licence

- (1) An owner of a parcel of land, or the owners of contiguous parcels of land, may apply for a water licence for the parcel or parcels and any other land of the owner or owners contiguous to the parcel or parcels—
  - (a) for taking water and using the water on any of the land;  
or
  - (b) to interfere with the flow of water on, under or adjoining any of the land.
- (2) An application under subsection (1)(a) may be only for taking water from any of the following—
  - (a) a watercourse, lake or spring on or adjoining any of the land;
  - (b) an aquifer under any of the land;
  - (c) water flowing across any of the land.
- (3) Also, an application under subsection (1)(a) may be for taking water from a watercourse, lake, spring or aquifer if—
  - (a) for—
    - (i) water from a watercourse, lake or spring—the watercourse, lake or spring does not adjoin any of the applicant’s land or the proposed point of taking the water is not on the applicant’s land; or
    - (ii) water from an aquifer—the aquifer is not under the applicant’s land; but
  - (b) in relation to the land (the *intervening land*) between the proposed point of taking and the applicant’s land and for the purpose of taking the water and delivering it to

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the applicant's land—

- (i) to the extent the intervening land is freehold land—the applicant has written agreement, from all the owners of the intervening land, to give the applicant a registrable lease or easement over the intervening land; or
  - (ii) to the extent the intervening land is unallocated State land under the *Land Act 1994*—the applicant holds or has applied for a permit under section 177 of that Act to occupy the intervening land; or
  - (iii) to the extent the intervening land is a State-controlled road under the *Transport Infrastructure Act 1994*—the requirements of section 50 of that Act have been complied with in relation to any necessary ancillary works and encroachments under that section; or
  - (iv) to the extent the intervening land is a road under the control of a local government—the requirements of the *Local Government Act 2009* and of any local laws of the local government have been complied with in relation to any necessary works, including ancillary works and encroachments under that Act; or
  - (v) to the extent the intervening land is other land—the applicant holds or has applied for permission to occupy the intervening land, from the owner or the authority administering the land.
- (4) The following entities may also apply for a water licence for taking water or interfering with the flow of water—
- (a) the State;
  - (b) a local government;
  - (c) a water authority;
  - (d) a resource operations licence holder;
  - (e) an interim resource operations licence holder;

- (f) a petroleum tenure holder;
  - (g) CEWH;
  - (h) the water grid manager;
  - (i) an entity prescribed under a regulation.
- (5) However, a petroleum tenure holder may apply for a water licence only if—
- (a) the water—
    - (i) is associated water under the *Petroleum and Gas (Production and Safety) Act 2004* or is water necessarily produced as a result of the carrying out of authorised activities under the *Petroleum Act 1923*; and
    - (ii) is not being used, or proposed to be used, for an activity that, under that Act, is an authorised activity for the tenure; and
  - (b) the holder is, under that Act, carrying out—
    - (i) approved testing for petroleum production; or
    - (ii) petroleum production for commercial purposes; and
  - (c) the holder has complied with section 206A.
- (6) The application must be—
- (a) made to the chief executive in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.

### **206A Additional requirements for application by petroleum tenure holder**

- (1) This section applies if a petroleum tenure holder proposes to apply for a water licence.

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- (2) The chief executive must, if the holder asks, give the holder a notice stating who are the members of the priority group for the holder.
- (3) The holder must give each member of the priority group a notice in the approved form inviting each member to give the holder, within a stated period, a written expression of interest about access to the water the subject of the proposed licence.
- (4) The stated period must be at least 20 business days.
- (5) A water licence application by the holder must be accompanied by a copy of—
  - (a) the petroleum tenure; and
  - (b) each expression of interest given in response to the notice; and
  - (c) each environmental authority under the *Environmental Protection Act 1994* that relates to the petroleum tenure.

## **207 Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration; or
  - (c) if notice of the application is published—any submitter to give additional information about the submission.
- (2) The request may be made—
  - (a) whether or not notice of the application is published; and
  - (b) before or after notice of the application is published.
- (3) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

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## **208 Public notice of application for water licence**

- (1) Subsection (2) applies when the chief executive is satisfied the application has been properly made and the applicant has given the chief executive any additional information requested about the application.
- (2) The chief executive must give the applicant a notice the applicant must publish within the time and in the newspaper or newspapers stated by the chief executive.
- (3) Subsections (1) and (2) do not apply to an application mentioned in section 209.
- (4) The notice must include at least the following—
  - (a) the location of the proposed taking of, or interfering with, water;
  - (aa) details of the applicant's land to which the water licence, if granted, would attach;
  - (b) where copies of the application may be inspected and, on payment of a fee, purchased;
  - (c) that written submissions may be made by any entity about the application;
  - (d) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (5) The day stated under subsection (4)(d) must not be earlier than 30 business days after the day the notice is published.
- (6) Within 10 business days after the day the notice is published, the applicant must give the chief executive a copy of the page of the newspaper containing the published notice.
- (7) If the applicant fails, without reasonable excuse, to comply with subsection (6), the application lapses.
- (8) If the notice has been published as required under subsection (2)—

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- (a) the chief executive may send a copy of the notice to any other entity the chief executive considers appropriate; and
- (b) the chief executive may decide the application after the day mentioned in subsection (4)(d).

## **209 Applications that may be decided without public notice**

- (1) If the granting of the application would be inconsistent with a water resource plan, a resource operations plan or a wild river declaration, the chief executive must refuse the application without notice of the application being published.
- (2) Within 30 business days after refusing the application, the chief executive must give the applicant a notice under section 205(2) about the refusal.
- (3) Subsection (4) applies to an application made under section 206—
  - (a) by a petroleum tenure holder; or
  - (b) for taking underground water only for domestic purposes or watering stock of a number that would normally be depastured on the land to which the application relates.
- (4) The chief executive may decide the application without notice of the application being published.

## **210 Criteria for deciding application for water licence**

- (1) In deciding whether to grant or refuse the application or the conditions for the water licence, the chief executive must consider the following—
  - (a) the application and additional information given in relation to the application;
  - (b) if notice of the application has been published—all properly made submissions made about the application;

- (c) any water resource plan, resource operations plan and wild river declaration that may apply to the licence;
  - (d) existing water entitlements and authorities to take or interfere with water;
  - (e) any information about the effects of taking, or interfering with, water on natural ecosystems;
  - (f) any information about the effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs or aquifers;
  - (g) strategies and policies for the sustainable management of water in the area to which the application relates;
  - (h) the sustainable resource management strategies and policies for the catchment, including any relevant coastal zone and regional aquifer systems;
  - (i) the public interest.
- (2) The chief executive may also consider whether the applicant has been convicted of an offence against this Act, the repealed Act or an interstate law.

## **211 Deciding application for water licence**

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant all or part of the application for a stated period, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant and any person who gave a properly made submission about the application an information notice.
- (4) If the chief executive grants all or part of the application, with or without conditions, the chief executive must, within 30 business days after granting the application, give a water

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licence in the approved form to—

- (a) the applicant; or
  - (b) if after making the application the applicant has ceased to be an owner of land to which the application relates—the registered owner of the land.
- (5) The licence has effect from the day the information notice is given to the applicant.

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

- (1) Subsection (2) applies if—
  - (a) an application for a water licence is made to the chief executive; and
  - (b) the applicant disposes of part of the land to which the application relates; and
  - (c) at the time the applicant disposes of the part, the chief executive has not decided the application under section 211.
- (2) The application lapses on the day the applicant disposes of the part.

### **212 Granting a water licence under a plan or declaration process**

- (1) Subsection (2) applies if a water resource plan, a resource operations plan or a wild river declaration states a process for the allocation of water, or interference with the flow of water, under a water licence.
- (2) The chief executive must follow the process and may grant a water licence in accordance with the process without the need for an application to be made under section 206.
- (3) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence



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and a notice under section 205(2) about the granting of the licence.

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

## **212A Applying for transmission water licence**

- (1) Subject to subsection (3), each of the following entities may apply for a water licence (a *transmission water licence*) for taking water from a receiving water source—
- (a) the water grid manager;
  - (b) a relevant entity for a recycled water scheme;
  - (c) an entity nominated by a relevant entity for a recycled water scheme.
- (2) An application made under subsection (1) is a *licence application*.
- (3) If recycled water in a receiving water source is supplied from water supply works that supply a declared water service, the water grid manager is the only entity that may make a licence application in relation to the receiving water source.
- (4) This subdivision, other than sections 206(6), 207, 210 and 211 and this section, do not apply to a licence application.
- (5) For applying sections 206(6), 207, 210 and 211, a reference to an application is taken to be a reference to a licence application.
- (6) The chief executive may decide the licence application without notice of the licence application being published.
- (7) If the chief executive grants a licence application—
- (a) the transmission water licence does not attach to the licensee's land; and
  - (b) section 213(e) does not apply to the transmission water licence.
- (8) In this section—

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*receiving water source* means a lake, or watercourse, into which recycled water is supplied under an approved recycled water management plan to augment a supply of drinking water.

## **Subdivision 2      Contents and conditions of water licences**

### **213      Contents of water licence**

- (1) A water licence—
  - (a) must be granted for a stated period; and
  - (b) must state the water to which the licence relates; and
  - (c) must state the location from which the water may be taken or at which it may be interfered with; and
  - (d) may be amended, renewed, reinstated, transferred, amalgamated, subdivided, surrendered or cancelled; and
  - (e) attaches to the licensee's land unless the licensee is—
    - (i) the State; or
    - (ii) a local government; or
    - (iii) a water authority; or
    - (iv) a resource operations licence holder; or
    - (v) an interim resource operations licence holder; or
    - (vi) a petroleum tenure holder; or
    - (vii) the water grid manager; or
    - (viii) CEWH; or
    - (ix) an entity prescribed under a regulation.
- (2) Despite subsection (1)(e), a following water licence (other than a licence held by a licensee mentioned in subsection (1)(e)(i) to (ix)) attaches only to the parcel of land on which the water is taken—

- (a) a water licence to take artesian water for stock purposes;
- (b) a water licence to take subartesian water, from an aquifer that is hydraulically connected to an artesian aquifer, for stock or domestic purposes.

## **214 Conditions of water licence**

- (1) The water licence is subject to the conditions—
  - (a) prescribed under a regulation; and
  - (b) the chief executive may impose for a particular licence.
- (2) Without limiting subsection (1), the conditions may require the licensee to do all or any of the following—
  - (a) commence taking or interfering with water authorised under the licence within a stated time;
  - (b) install a measuring device to measure the volume of water taken, the rate at which it is taken and the time it is taken;
  - (c) take the water authorised to be taken under the licence;
  - (d) provide and maintain access to alternative water supplies for other persons, authorised under this Act to take water, who would be affected by the granting of the licence;
  - (e) carry out and report on a stated monitoring program;
  - (f) give relevant information reasonably required by the chief executive for the administration or enforcement of this Act;
  - (g) for a water licence granted to a petroleum tenure holder—
    - (i) supply water in a stated volume or at a stated rate to stated members of the priority group for the licensee; and
    - (ii) limit the licensee's charges for supply to the priority group members to an amount that is no

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more than the cost of the supply and the cost of treating the water to make it fit for the purpose for which it is supplied.

- (3) However, a stated volume or rate of supply to a priority group member must, as nearly as practicable, be the volume or rate that would have been allowed to the member had the member's water licence application been granted.
- (4) If section 206(3) applies to the licence, the licensee must, within 40 business days after receiving the licence, register the instrument of lease or easement under the *Land Title Act 1994*.
- (5) If the licensee fails, without reasonable cause, to register the instrument under subsection (4), the chief executive may cancel the licence.

*Editor's note—*

See section 227 (Cancelling water licence).

## **215 Where water under certain licences must be used**

- (1) Water taken under a licence that is attached to land must be used only on the land to which the licence attaches.  
Maximum penalty—1665 penalty units.
- (2) However, subsection (1) does not apply to—
  - (a) water taken under a licence attached to land the subject of a water facility agreement under the *Land Protection (Pest and Stock Route Management) Act 2002*; or
  - (b) artesian water taken under a water licence for stock purposes; or
  - (c) subartesian water, in an aquifer that is hydraulically connected to an artesian aquifer, taken under a water licence for stock or domestic purposes.

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## **Subdivision 3      Amending water licences**

### **216      Amending water licence on application of licensee**

- (1) The licensee may apply to amend a water licence.
- (2) The application to amend the licence must be dealt with under division 2, subdivisions 1 and 2, as if it were an application for a licence.

### **216A    Amending water licence without public notice**

- (1) Despite section 216(2), section 208 does not apply to an application to amend a water licence—
  - (a) by adding land to the land to which the licence attaches; or
  - (b) by removing land from the land to which the licence attaches, whether or not the application also seeks a reduction in the volume of water that may be taken under the licence.
- (2) However, the applicant must give notice of the application to any entity that has an interest in the land to which the licence attaches, the land to be added or the land to be removed.
- (3) The notice must include at least the following—
  - (a) a description of the proposed changes to the land to which the licence attaches;
  - (b) where copies of the application may be inspected and, on payment of a fee, purchased.
- (4) The application to amend the licence must be accompanied by written advice from the applicant that the applicant has complied with subsection (2) for the application.
- (5) Within 10 business days after the notice is given, the applicant must give the chief executive a copy of the notice.
- (6) If the applicant fails, without reasonable excuse, to comply with subsection (5), the application lapses.

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- (7) The chief executive may send a copy of the notice to any other entity the chief executive considers appropriate.

## **217 Amending water licence to implement water resource plan**

- (1) The chief executive must amend a water licence, if the water licence is inconsistent with a water resource plan or a resource operations plan.
- (2) The chief executive must, within the time stated in the plan or as soon as possible after the plan is approved—
  - (a) amend the licence; and
  - (b) give the licensee a notice under section 205(2) stating the aspects of the existing licence that are inconsistent with the plan; and
  - (c) give the licensee an amended licence in the approved form.
- (3) The amended licence takes effect from the day the chief executive gives the licensee the licence.

## **218 Other amendments chief executive may make to water licence**

- (1) The chief executive may amend a water licence if the chief executive is satisfied the licence should be amended.
- (2) However, the amendment must not—
  - (a) increase the volume of, rate of or times when water may be taken under the licence; or
  - (b) increase the area of land that may be irrigated under the licence; or
  - (c) increase the interference with the flow of the water; or
  - (d) change the location from which water may be taken, or interfered with, under the licence; or
  - (e) cause a significant adverse effect on—

- (i) the availability of water for the requirements of natural ecosystems; or
  - (ii) the quality of water; or
  - (iii) availability of water for existing water entitlement holders; or
  - (iv) beneficial flooding.
- (3) Before the chief executive acts under subsection (1), the chief executive must give the licensee a show cause notice about the proposed amendment.
  - (4) In deciding whether to amend the licence, the chief executive must consider any properly made submission about the proposed amendment.
  - (5) If the chief executive is satisfied the proposed amendment should be made, the chief executive must, within 30 business days after the decision, give the licensee an amended licence in the approved form and an information notice.
  - (6) If the chief executive is not satisfied the amendment should be made, the chief executive must give the licensee notice that the licence will not be amended.
  - (7) The amended licence takes effect from the day the licence is given to the licensee.

## **219 Minor or stated amendments of water licence**

- (1) The chief executive may amend the licence without complying with the provisions of this division about amending a licence if the amendment is only—
  - (a) to correct a minor error in the licence, or make another change that is not a change of substance; or
  - (b) if the licence states that an amendment of a stated type may be made to the licence by amendment under this section—to make an amendment of the stated type.

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- (2) If the chief executive amends a licence under subsection (1), the chief executive must give the licensee an amended licence in the approved form.

## **Subdivision 4      Other dealings with water licences**

### **220      Renewing water licence**

- (1) The licensee may apply to renew a water licence before the licence expires.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) If a licensee applies to renew a licence, the licence remains in force until—
  - (a) if the application is approved with or without variation—the applicant is given a new licence; or
  - (b) if the application is refused and the applicant has appealed against the decision—until the date on which notification of the final outcome of the appeal has been given to the applicant; or
  - (c) if the application is refused and the applicant has not appealed against the decision—30 business days after the applicant is given an information notice.
- (4) If the chief executive is satisfied the application should be approved, the chief executive must—
  - (a) approve the application; or
  - (b) approve the application, subject to variation of the licence by 1 or more of the following—
    - (i) the amendment or revocation of a term to which it is subject or the addition of another term;



- (ii) the reduction of the volume of water the licensee is authorised to take under the licence or the rates at which, and the times when, it may be taken;
  - (iii) the reduction of the authority to interfere with the water.
- (5) However, the variation to the licence under subsection (4)(b) must not—
  - (a) increase the volume of, rate of or times when water may be taken under the licence; or
  - (b) increase the area of land that may be irrigated under the licence; or
  - (c) increase the interference with the flow of the water; or
  - (d) change the location from which water may be taken, or interfered with, under the licence; or
  - (e) cause a significant adverse effect on—
    - (i) the availability of water for the requirements of natural ecosystems; or
    - (ii) the quality of water; or
    - (iii) availability of water for existing water entitlement holders; or
    - (iv) beneficial flooding.
- (6) If the chief executive is not satisfied the application should be approved, the chief executive must refuse the application.
- (7) Within 30 business days after deciding the application, the chief executive must—
  - (a) if the application is refused or approved with variation—give the applicant an information notice; and
  - (b) if the application is approved—give a new licence in the approved form to—
    - (i) the licensee; or

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- (ii) if after making the application the applicant has ceased to be the owner of land to which the licence attaches—the registered owner of the land.
- (8) If the applicant is given a new licence, the licence has effect from the day the applicant is given the licence.

## **221 Reinstating expired water licence**

- (1) If a licensee fails to renew a water licence, the licensee, or if the licensee has ceased to be an owner of the land to which the licence was attached, another owner of the land, may apply to have the licence reinstated within—
  - (a) 60 business days after the licence expires; or
  - (b) if the chief executive approves a longer period—the longer period.
- (1A) The chief executive may approve a longer period for subsection (1) only if the chief executive is satisfied the works for taking or interfering with water under the water licence were operational from the day the licence expired to the day the chief executive approves the longer period.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) If an application for the reinstatement of a water licence is made, the expired licence is taken to have been in force from the day the application was made until the applicant has been notified of the chief executive's decision on the application.
- (4) For deciding the application, section 220(4) to (8) applies—
  - (a) as if a reference in the section to the renewal of a licence were a reference to the reinstatement of a licence; and
  - (b) with any other necessary changes.

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## **222 Transferring water licence to another person**

- (1) The licensee of a water licence may apply to transfer the licence to—
  - (a) any owner of the land to which the licence attaches; or
  - (b) a person who will be an owner of the land to which the licence attaches at the time the transfer is approved; or
  - (c) if the licensee is an entity mentioned in section 206(4)—another entity mentioned in section 206(4).
- (1A) Also, if the licensee is not an entity mentioned in section 206(4), the licensee may apply to transfer the licence to CEWH.
- (2) However, if the licensee is a petroleum tenure holder, the licensee may apply to transfer the licence only in a way that reflects a change in the holding of the petroleum tenure.
- (2A) Subsection (2B) applies if the licensee is—
  - (a) an entity mentioned in section 206(4); and
  - (b) the owner of land to which the licence attached at the time the licensee became the owner of the land.
- (2B) The licensee may also apply to transfer the licence to a person who will be an owner of the land at the time the transfer is approved.
- (3) An application under this section must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by evidence that enables the chief executive to transfer the licence, including, for example the written consent of the transferee; and
  - (c) accompanied by the fee prescribed under a regulation.
- (3A) If the licensee is the entity mentioned in section 206(4)(a), the licensee may transfer the licence to a person—
  - (a) who, immediately before the transfer takes effect, is being supplied with water from the land to which the

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- licence will attach at the time the transfer takes effect;  
and
- (b) who will be the owner of the land at the time the transfer takes effect.
- (4) The chief executive must give the transferee a new licence on conditions that have the same effect as the conditions on the previous licence, other than for the change of name of the licensee—
- (a) for an application made under subsection (1)(a) or (c)—within 30 business days after receiving the application; or
- (b) for an application made under subsection (1)(b) or (2B)—within 30 business days after the transferee gives the chief executive notice that the transferee has become an owner of the land; or
- (c) for a transfer under subsection (3A)—as soon as practicable after the person becomes the owner of the land.
- (5) A new licence given under subsection (4) for a transfer mentioned in subsection (1A) does not attach to the land of the transferee.
- (6) A new licence given under subsection (4) for a transfer mentioned in subsection (2B) or (3A) attaches to the land of the transferee.
- (7) The new licence has effect on the day the transferee is given the licence.

## **223 Other transfer of water licence**

- (1) Subsection (3) applies if a regulation states—
- (a) that all or part of a water licence, to take water, attaching to land may be transferred so that the licence attaches to other land, whether in or outside Queensland; and

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- (b) the process for dealing with an application for the transfer.
- (2) Subsection (3) also applies in the following circumstances, whether or not a water licence, to take water, attaches to the land—
- (a) if a regulation states that all or part of the water licence to which a water resource plan applies may be—
- (i) transferred to a prescribed person; or
  - (ii) amended to change the location from which the water may be taken or the purpose for which the water may be taken; or
  - (iii) amalgamated with another licence held or to be held by the transferee;
- (b) if a resource operations plan states rules for changing the location from which the water may be taken under the licence;
- (c) if the regulation states the process for dealing with an application for the transfer, amendment or amalgamation.
- (3) The application may be made only in accordance with the regulation.
- (4) If the application is, or includes, an application to amend a water licence to take water, and there is other land between the proposed point of the taking and the land to which the amended licence would attach, section 206(3)(b) also applies to the application.
- (5) If the application includes an application to amalgamate water licences, the part of the application relating to the amalgamation may be made only by an applicant mentioned in section 224(1).
- (6) In this section—
- prescribed person*** means—
- (a) a person who is, or will be, an owner of land to which a

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water licence will attach when a transfer under this section is approved; or

- (b) an entity mentioned in section 206(4).

## **224 Amalgamating water licences**

- (1) The following licensees may apply to amalgamate 2 or more water licences into a single licence—
  - (a) the licensee or licensees of 2 or more water licences relating to the same land or contiguous land;
  - (b) a licensee mentioned in section 213(e).
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) The application must be dealt with under division 2, subdivisions 1 and 2, as if it were an application for a licence.
- (4) If the applicant is given a new licence, the original licences expire on the day the new licence is given.

## **225 Subdividing water licence**

- (1) The licensee of a water licence (the *original licence*) may apply to replace the original licence with 2 or more new licences.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) The application must be dealt with under sections 206 to 215 as if it were an application for a licence.
- (4) If the chief executive approves the application, the chief executive must ensure that each new licence attaches only to land to which the original licence related.

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

## **226 Surrendering water licence**

- (1) A licensee may surrender a water licence by giving the chief executive a notice of surrender.
- (2) The surrender—
- (a) takes effect on the date on which the surrender notice is received by the chief executive; and
  - (b) does not affect in any way a duty under this Act about works imposed on the licensee before the surrender.

## **227 Cancelling water licence**

- (1) The chief executive may cancel a water licence if the chief executive is satisfied the licence should be cancelled.
- (2) Without limiting subsection (1), the chief executive may cancel a water licence granted to a petroleum tenure holder if—
- (a) the petroleum tenure ends; or
  - (b) if the petroleum tenure is a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*—the licensee ceases to carry out, under that Act, any of the following and has not stored an appropriate amount of associated water under that Act—
    - (i) approved testing for petroleum production;
    - (ii) petroleum production for commercial purposes; or
  - (c) if the petroleum tenure is an authority to prospect under the *Petroleum Act 1923*—the licensee—
    - (i) ceases to carry out, under that Act, testing for petroleum production in accordance with the instrument for the authority to prospect; and

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- (ii) has not stored an appropriate amount of associated water under that Act; or
- (d) if the petroleum tenure is a petroleum lease under the *Petroleum Act 1923*—the licensee—
  - (i) ceases to carry out, under that Act, petroleum production for commercial purposes; and
  - (ii) has not stored an appropriate amount of associated water under that Act.
- (3) Section 218 applies to the cancellation—
  - (a) as if a reference in the section to an amendment of the licence were a reference to the cancellation of the licence; and
  - (b) with any other necessary changes.

## **Subdivision 5      Effects of land dealings on water licences**

### **228      Effect of licensee ceasing to be an owner of land**

- (1) Subsection (2) applies if—
  - (a) a water licence attaches to land; and
  - (b) the licensee ceases to be an owner of the land; and
  - (c) before ceasing to be an owner of the land the licensee applied, in accordance with section 222, to transfer the licence to another person.
- (2) On the day the licensee ceases to be an owner of the land—
  - (a) the licensee ceases to be the holder of the licence; and
  - (b) the other person becomes the new licensee.
- (3) However, subsection (4) applies if—
  - (a) a water licence attaches to land; and
  - (b) the licensee ceases to be an owner of the land; and



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- (c) before ceasing to be an owner of the land the licensee did not apply, in accordance with section 222, to transfer the licence to another person.
  - (4) On the day the licensee ceases to be an owner of the land—
    - (a) the licensee ceases to be the holder of the licence; and
    - (b) the registered owner of the land becomes the new licensee.
  - (5) Within 30 business days after becoming the new licensee, the new licensee must give the chief executive notice that the previous licensee has ceased to be the licensee.
  - (6) Within 30 business days after receiving the notice, the chief executive must give the new licensee a new licence on conditions that have the same effect as the conditions on the previous licence, other than for the change of name of the licensee.
  - (7) In this section—

*owner*, of land, includes an occupier of the land who was the holder of an entitlement to take water in relation to the land—

    - (a) in force under the repealed Act immediately before the commencement of this section; and
    - (b) that is, under section 1048(5), taken to be a water licence.

**229 Effect of disposal of part of land to which water licence to take water attaches**

- (1) Subsection (2) applies if—
  - (a) a water licence to take water is attached to land; and
  - (b) the registered owner of the land disposes of part of the land.
- (2) On the day the owner disposes of the part, the water licence is taken to be held jointly by all owners of the land to which the licence attaches.

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- (3) However, 1 or more of the owners of the land to which the jointly held water licence attaches may, with the written consent of the other owners, apply for 1 or more water licences to replace the jointly held water licence—
  - (a) within 90 business days after the owner disposes of the part; or
  - (b) if, in a particular case, the chief executive extends the period for making the application—within the extended period.
- (4) The application must—
  - (a) be made to the chief executive in the approved form; and
  - (b) be accompanied by the fee prescribed under a regulation; and
  - (c) relate only to the land to which the jointly held licence relates; and
  - (d) not seek to increase the volume of water that may be taken, the rate at which water may be taken or the period during which water may be taken; and
  - (e) not seek to increase the area of land that may be irrigated.
- (5) The application must be dealt with as if the application were an application under section 225 to subdivide the jointly held licence.
- (6) However, section 208 does not apply to the application unless the application seeks a change to the location from which the water may be taken.
- (7) If an application is not made under subsection (3), the chief executive may give notice to the joint holders of the water licence about the chief executive's proposal to amend, subdivide or cancel the licence.
- (8) The notice must state—
  - (a) that a written submission may be made about the proposal; and

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- (b) a day by which the submission must be made, and the person to whom, and the place where, the submission must be made.
  - (9) The day stated under subsection (8)(b) must not be earlier than 30 business days after the day the notice is given.
  - (10) The chief executive must consider any submissions made before amending, subdividing or cancelling the jointly held licence.
  - (11) Within 30 business days after amending, subdividing or cancelling the jointly held licence, the chief executive must give the holders of the licence an information notice about the decision to amend, subdivide or cancel the licence.
  - (12) A replacement water licence granted in response to an application under subsection (3) has effect from the day the application is granted.
  - (13) An amendment, subdivision or cancellation of the jointly held licence has effect from the day the information notice is given.

**229A Effect of disposal of part of land to which water licence to interfere with water attaches**

- (1) This section applies if—
  - (a) a water licence to interfere with the flow of water on, under or adjoining land is attached to land; and
  - (b) the registered owner of the land disposes of part of the land.
- (2) If the location at which water may be interfered with is on, under or adjoining either the part of the land disposed of or the part retained by the owner, the licence attaches to the part and may be amended under section 219 to show the change.
- (3) However, if the location at which water may be interfered with is on, under or adjoining both the part of the land disposed of and the part retained, the licence must be amended by the chief executive under section 219 so that it is

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held jointly by both the owner of the part retained and the owner of the part disposed of.

## **Subdivision 6      Effects of acquisition of land on water licences**

### **229B    Application of sdiv 6**

- (1) This subdivision applies to a water licence if part of the land to which the licence attaches—
  - (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If the acquisition or disposal includes an acquisition of the licence, section 222 applies for transferring the licence to the entity that acquired the land.
- (3) If the acquisition or disposal does not include an acquisition of the licence, sections 229C to 229E apply.

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

- (1) This section applies to a water licence to take water from a watercourse, lake or spring adjoining the land to which the licence attaches, if part of the land—
  - (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If water taken under the licence can still be taken from the watercourse, lake or spring adjoining the remaining part of the land—

- (a) section 229 does not apply for the acquisition or disposal of land under subsection (1)(a) or (b); and
  - (b) the licence may be amended under section 219 so it attaches to the remaining part of the land.
- (3) If the remaining part of the land no longer adjoins the watercourse, lake or spring, section 229 applies as if the acquisition or disposal were a disposal under that section.

### **229D Effect of acquisition of part of land above an aquifer**

- (1) This section applies to a water licence to take water from an aquifer under the land to which the licence attaches, if part of the land—
- (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If the remaining part of the land is above the aquifer from which water may be taken under the licence, and the conditions of the licence allow water to be taken from the remaining part—
- (a) section 229 does not apply for the acquisition or disposal of land under subsection (1); and
  - (b) the licence may be amended under section 219 so it attaches to the remaining part of the land.
- (3) If the remaining part of the land is not above the aquifer, or the conditions of the licence do not allow water to be taken from the remaining part, section 229 applies as if the acquisition or disposal were a disposal under that section.

### **229E Effect of acquisition of part of other land**

- (1) This section applies to a water licence granted in response to an application mentioned in section 206(3), if part of the land to which the licence attaches—

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- (a) is taken under the *Acquisition of Land Act 1967*; or
  - (b) is disposed of by the registered owner of the land to a constructing authority for a purpose for which land may be taken under that Act.
- (2) If water taken under the licence can still be delivered to the remaining part of the land—
- (a) section 229 does not apply for the acquisition or disposal of land under subsection (1); and
  - (b) the licence may be amended under section 219 so it attaches to the remaining part of the land.
- (3) If water taken under the licence can not still be delivered to the remaining part of the land, section 229 applies as if the acquisition or disposal were a disposal under that section.

## **Division 3                      Seasonal water assignment of water licences**

### **230      Application of div 3**

This division applies if—

- (a) a water resource plan or the resource operations plan that implements the water resource plan allows seasonal water assignments; or
- (b) for water licences to which no water resource plan or resource operations plan applies—a regulation allows seasonal water assignments and prescribes seasonal water assignment rules.

### **231      Applying for seasonal water assignment**

- (1) The licensee of a water licence or the holder of a seasonal water assignment notice may apply for a seasonal water assignment for the water year in which the application is made.

- (2) The application must—
- (a) be made to the chief executive in the approved form; and
  - (b) be supported by sufficient information to enable the chief executive to decide the application; and
  - (c) include the name and address of the proposed assignee; and
  - (d) if the proposed assignee holds a water licence for the water management area in which the assignee proposes to take the benefit of the assignment—include details of the water licence; and
  - (e) include the written consent of the proposed assignee; and
  - (f) be accompanied by the fee prescribed under a regulation.

### **232 Additional information may be required**

- (1) The chief executive may require—
- (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

### **233 Deciding application for seasonal water assignment**

- (1) If the application is in accordance with the seasonal water assignment rules, the chief executive must approve the application, with or without conditions.
- (2) If the application is not in accordance with the rules, the chief executive must refuse the application.

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- (3) As soon as practicable after deciding the application, the chief executive must give the applicant an information notice.
- (4) If the chief executive grants the application, with or without conditions, the chief executive must, as soon as practicable after approving the application, give the proposed assignee a seasonal water assignment notice for the water year in the approved form.
- (4A) If the assignee holds a water licence for the water management area in which the assignee proposes to take the benefit of the assignment, a notice given under subsection (4) has the effect of increasing the volume of water authorised to be taken under the licence by the volume stated in the notice.
- (5) The assignment has effect from the day the information notice is given to the applicant.

### **234 Effect of approval on water licence**

To the extent that the application is approved, the licensee is not authorised to take water under the water licence.

### **235 Conditions of seasonal water assignment**

The seasonal water assignment notice is subject to the conditions—

- (a) to which the water licence is subject; and
- (b) prescribed under a regulation; and
- (c) the chief executive may impose for a particular notice.

### **236 Application of ss 25, 243 and 244**

Sections 25, 243 and 244 apply to a seasonal water assignment notice as if a reference in the sections to a water permit were a reference to a seasonal water assignment notice.



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## **Division 4                      Water permits**

### **237      Applying for water permit**

- (1) A person may apply for a water permit for taking water for an activity.
- (2) At the time the application is made, the activity, including, for example, the construction of a road, mineral exploration or petroleum exploration, must have a reasonably foreseeable conclusion date.
- (3) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.

### **238      Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the application; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

### **239      Criteria for deciding application for water permit**

- (1) In deciding whether to grant or refuse the application or the conditions for the water permit, the chief executive must consider the following—

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- (a) the application and additional information given in relation to the application;
  - (b) any water resource plan or resource operations plan that may apply to the permit;
  - (c) existing water entitlements and authorisations to take or interfere with water;
  - (d) any information about the impacts on natural ecosystems;
  - (e) any information about the impacts on the physical integrity of watercourses, lakes, springs or aquifers;
  - (f) policies developed in consultation with local communities for the sustainable management of local water;
  - (g) the public interest.
- (2) The chief executive may also consider whether the applicant has been convicted of an offence against this Act, the repealed Act or an interstate law.

## **240 Deciding application for water permit**

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant all or part of the application for a stated period, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant an information notice.
- (4) If the chief executive grants all or part of the application, with or without conditions, the chief executive must, within 30 business days after granting the application, give the applicant a water permit in the approved form.
- (5) The permit has effect from the day the information notice is given to the applicant.

## **241 Contents of water permit**

A water permit—

- (a) relates to the location or locations stated on the permit; and
- (b) must be granted for a stated period; and
- (c) can not be transferred, amended, renewed or suspended; and
- (d) must be for a stated activity.

## **242 Conditions of water permit**

The water permit is subject to the conditions—

- (a) prescribed under a regulation; and
- (b) the chief executive may impose for a particular permit.

## **243 Surrendering water permit**

- (1) A permittee may surrender a water permit by giving the chief executive a notice of surrender.
- (2) The surrender—
  - (a) takes effect from the day the surrender notice is received by the chief executive; and
  - (b) does not affect in any way a duty under this Act about works imposed on the permittee before the surrender.

## **244 Cancelling water permit**

- (1) The chief executive may cancel a water permit if the chief executive is satisfied the permit should be cancelled.
- (2) Section 218 applies to the cancellation—
  - (a) as if a reference in the section to—

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- (i) an amendment were a reference to a cancellation; and
  - (ii) a licence were a reference to a permit; and
  - (iii) a licensee were a reference to a permittee; and
- (b) with any other necessary changes.

## **Division 5                    General**

### **245    Replacing lost or destroyed water licence or permit**

- (1) If a water licence or permit has been lost or destroyed, the licensee or permittee may apply to the chief executive for a replacement licence or permit.
- (2) The application must be—
  - (a) in writing; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) If the applicant complies with subsection (2) the chief executive must give the applicant a replacement licence or permit.

## **Part 7                            Catchment areas**

### **258    Declaring catchment areas**

For preserving the quality of water, a regulation may declare an area to be a catchment area.

### **259    Regulating land use in catchment area**

- (1) The regulation may regulate—

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- (a) the use of land in the catchment area, or a part of the area, identified in the regulation; and
  - (b) the construction and use of buildings and structures on the land.
- (2) To the extent that a planning scheme under the *Sustainable Planning Act 2009* or a local law is inconsistent with the regulation, the planning scheme or local law is ineffective.
  - (3) To the extent that a development approval under the *Sustainable Planning Act 2009* is inconsistent with the regulation, the development approval is ineffective.
  - (4) The regulation does not affect a person's power under this or another Act to take action to protect the quality of water in the catchment area.

## **Part 8 Riverine protection**

### **Division 1 Granting permits for destroying vegetation, excavating or placing fill in a watercourse, lake or spring**

#### **266 Applying for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring**

- (1) A person may apply to the chief executive for a permit to do any or all of the following activities—
  - (a) destroy vegetation in a watercourse, lake or spring;
  - (b) excavate in a watercourse, lake or spring;
  - (c) place fill in a watercourse, lake or spring.
- (2) Subsection (2A) applies if the applicant is neither of the following in relation to land that wholly contains the

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watercourse, lake or spring or the part of the watercourse, lake or spring where the activity is to take place—

- (a) the registered owner of the land;
  - (b) the holder of a mineral development licence or a mining lease under the *Mineral Resources Act 1989* for the land.
- (2A) The application must include the written consent of the registered owners of land—
- (a) wholly containing the length of the watercourse in which the activity is to take place or the part of the lake or spring where the activity is to take place; or
  - (b) adjoining the watercourse, lake or spring where the activity is to take place.
- (3) The application must—
- (a) be made to the chief executive in the approved form; and
  - (b) state the proposed activity and the purpose of the activity; and
  - (c) be accompanied by the fee prescribed under a regulation.
- (4) The application is taken not to have been made if any part of the application—
- (a) relates to a wild river high preservation area, a wild river special floodplain management area or a nominated waterway in a wild river preservation area; and
  - (b) relates to an activity other than—
    - (i) an activity necessary to control non-native plants or declared pests in the area; or
    - (ii) an activity necessary for specified works in the area; or
    - (iii) an activity that is a necessary and unavoidable part of installing or maintaining works or infrastructure required to support other development for which a development permit is not required or, if a

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development permit is required, the permit is held or has been applied for.

## **267 Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the application, including, for example, a statement of environmental effects; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

## **268 Criteria for deciding application for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring**

In deciding whether to grant or refuse the application or what should be the conditions of the permit, the chief executive must consider all of the following—

- (a) the effects of the proposed activity on water quality;
- (b) the quantity of vegetation to be destroyed or material to be excavated or placed;
- (c) the type of vegetation to be destroyed or material to be excavated or placed;
- (d) the seasonal factors influencing the watercourse, lake or spring from time to time;
- (e) the position in the watercourse, lake or spring of the vegetation to be destroyed or the proposed excavation or placing of fill;
- (f) the reasons given by the applicant for wishing to carry out the activity;

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- (g) whether, and to what extent, the activity that the permit would allow may have an adverse effect on the physical integrity of the watercourse, lake or spring;
- (h) if the application relates to a wild river high preservation area, a wild river special floodplain management area or a nominated waterway in a wild river preservation area—the wild river declaration for the area, including any code, for the proposed activities, mentioned in the declaration;
- (i) the implications of granting the permit for the long-term sustainable use of the river systems of Australia, and especially the cumulative effect of granting the application and likely similar applications;
- (j) any other matters the chief executive considers to be relevant.

**269 Deciding application for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring**

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must issue a permit, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant an information notice.
- (4) If the chief executive grants all or part of the application, with or without conditions, the chief executive must, within 30 business days after granting the application, give the applicant a permit in the approved form.
- (5) The permit—
  - (a) has effect from the day the applicant is given the permit; and
  - (b) must state how long it is to stay in force.



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## **Division 2 Dealings with permits to destroy vegetation, excavate or place fill in a watercourse, lake or spring**

### **270 Amending conditions or cancelling permit**

- (1) The chief executive may amend the conditions of, or cancel, the permit, if—
  - (a) the conditions of the permit are not being complied with or have been contravened; or
  - (b) it becomes evident that any adverse effect of the permitted activity on the physical integrity of the watercourse, lake or spring is greater than was anticipated when the permit was issued.
- (2) Before amending or cancelling the permit, the chief executive must give the permittee a show cause notice inviting the permittee to show cause, within the reasonable time stated in the notice, why the permit should not be amended or cancelled.

### **271 Deciding whether to proceed with proposed cancellation or amendment**

- (1) In deciding whether to cancel or amend the permit, the chief executive must consider any properly made submission about the proposed cancellation or amendment.
- (2) If the chief executive is satisfied the permit should be amended or cancelled, the chief executive must give the permittee—
  - (a) an information notice; and
  - (b) if the permit is amended—an amended permit in the approved form.
- (3) If the chief executive is not satisfied the permit should be amended or cancelled, the chief executive must give the

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permittee notice that the permit will not be amended or cancelled.

- (4) If the permit is cancelled or amended, the amendment or cancellation takes effect from the day the permittee is given the information notice.

## **272 Immediate suspension of permit in exceptional circumstances**

- (1) In addition to giving the permittee a show cause notice about the amendment or cancellation of the permit, the chief executive may give the permittee an information notice that immediately suspends the permit.
- (2) The suspension has effect from the day the permittee is given the notice.
- (3) The notice may be given only if the chief executive is satisfied exceptional circumstances exist in relation to the permit to cause the chief executive reasonable concern for the physical integrity of the watercourse, lake or spring.
- (4) The permittee must not act under the permit during the period the permit is suspended, unless the permittee has a reasonable excuse.

Maximum penalty—1665 penalty units.

- (5) The notice has effect until—
  - (a) the permit is amended or cancelled; or
  - (b) the chief executive gives the permittee notice that the suspension has been withdrawn.
- (6) If the chief executive is satisfied the suspension should not continue, the chief executive must give the permittee notice that the suspension has been withdrawn.
- (7) If suspension of the permit is withdrawn, the withdrawal takes effect from the day the permittee is given notice of the withdrawal.

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- (8) After the suspension is withdrawn, the permit remains in effect only for the period during which it would have been in effect but for the suspension.

## **Division 3                      Notices**

### **273      Notice to owner of land to remove vegetation etc.**

- (1) This section applies if—
- (a) there is on any land vegetation, litter, refuse or other matter; and
  - (b) it appears to the chief executive that—
    - (i) the vegetation, litter, refuse or matter—
      - (A) has obstructed, or may obstruct, the flow of water in a watercourse, lake or spring; or
      - (B) has had, or may have, a significant adverse effect on the physical integrity of a watercourse, lake or spring; or
      - (C) has significantly affected, or may significantly affect, the quality of water in a watercourse, lake or spring; and
    - (ii) action should be taken in relation to the vegetation, litter, refuse or matter to protect or restore the flow of water in the watercourse, lake or spring, the physical integrity of the watercourse, lake or spring or the quality of water in the watercourse, lake or spring.
- (1A) This section also applies if—
- (a) there is, in a watercourse or lake, vegetation, litter, refuse or other matter; and
  - (b) the circumstances of the vegetation, litter, refuse or matter in the watercourse or lake correspond to the

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circumstances required under subsection (1)(b) in relation to vegetation, litter, refuse or matter; and

- (c) the watercourse or lake is on land or forms a boundary or part of a boundary of land.
- (2) The chief executive may give notice to the owner of the land requiring the owner to take the reasonable action stated in the notice within the reasonable time and in the way, if any, stated in the notice.
- (2A) However, in relation to a watercourse forming a boundary, or part of a boundary, of the owner's land, the notice must not require the owner to take action beyond the centre-line of the watercourse.
- (3) The owner must comply with the notice, unless the owner has a reasonable excuse.  
Maximum penalty—1665 penalty units.
- (4) For sections 783 and 851, the notice is taken to be a compliance notice.
- (5) In this section—  
*vegetation* includes non-native vegetation of any kind.

## Part 9 Quarry materials

### Division 1 Preliminary

#### 279 Ownership and management of certain quarry material

Despite the *Forestry Act 1959*—

- (a) quarry material that is in the part of a watercourse or lake that is the property of the State, is the property of the State; and

*Note—*

See the *Land Act 1994*, chapter 1, part 4, division 3 in relation to the ownership by the State of land adjoining a non-tidal boundary (watercourse).

- (b) all quarry material is under the control of the chief executive.

## **Division 2                      Granting and selling allocations of quarry material**

### **280      Applying for allocation of quarry material**

- (1) Any person may apply for an allocation of quarry material.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application; and
  - (c) accompanied by the fee prescribed under a regulation.
- (3) However, if any part of the application relates to a wild river area, the application is taken not to have been made unless the quarry material for the proposed allocation is to be used in the wild river area.

### **281      Additional information may be required**

- (1) For deciding the application, the chief executive may require all or any of the following—
  - (a) the applicant to give additional information about the application;
  - (b) the applicant to pay to the chief executive the reasonable amount decided by the chief executive by way of contribution towards the costs of research and investigations necessary for deciding the application;

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- (c) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant does not give the chief executive the further information, documents or amount by the reasonable date stated in the notice, the application lapses.

## **282 Criteria for deciding application for allocation of quarry material**

- (1) In deciding whether to grant or refuse the application or what should be the conditions of the allocation, the chief executive must consider the impact the removal of the quarry material will have on the long-term sustainable use of the watercourse or lake, including the following—
  - (a) the physical integrity of the watercourse or lake, including bed and bank stability;
  - (b) the condition of the watercourse or lake, including its ability to function naturally;
  - (c) the supply of sediments to estuaries and the sea from the watercourse or lake;
  - (d) the quarry material available in the watercourse or lake and any existing quarry material allocations in relation to the watercourse or lake.
- (1A) Also, if any part of the application relates to a wild river area, the chief executive must, in deciding whether to grant or refuse the application or what should be the conditions of the allocation, consider the wild river declaration for the area.
- (2) Subsections (1) and (1A) do not stop the chief executive from considering other matters relevant to the removal of the material.
- (3) If any part of the application relates to a wild river area, the chief executive must not grant the application unless satisfied there is no other suitable source of quarry material that is—
  - (a) outside a watercourse; and

- (b) within a reasonable distance from where the quarry material will be used.

### **283 Deciding application for allocation of quarry material**

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant the application, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant—
  - (a) notice of the decision; and
  - (b) if the chief executive grants all or part of the application, with or without conditions—an allocation notice in the approved form.
- (4) The allocation notice—
  - (a) has effect from the day stated in the notice; and
  - (b) remains in force, unless sooner cancelled, suspended or surrendered, for the period decided by the chief executive but not more than 5 years.

### **284 Selling allocation of State quarry material by auction or tender**

- (1) The chief executive may sell by auction or tender an allocation of State quarry material.
- (2) In selling the allocation, the chief executive must consider the impact the removal of the quarry material will have on the long-term sustainable use of the watercourse or lake, including the matters mentioned in section 282.
- (3) The chief executive must give the buyer an allocation notice.
- (4) Sections 285 to 287 apply to the allocation notice.

## **Division 3                      Content and conditions of allocation notices**

### **285      Content of allocation notices**

Without limiting what may be included in an allocation notice, the notice must state—

- (a) the quantity of quarry material for the allocation; and
- (b) the maximum rate for extracting the quarry material.

### **286      Conditions of allocation notices**

An allocation notice is subject to—

- (a) the condition that the allocation holder give to the chief executive, within 7 days after the end of each month, a written return in the approved form for all quarry material removed by the holder, in the month; and
- (b) any other condition stated in the allocation notice.

### **287      Financial assurance for allocation of quarry material**

- (1) Without limiting section 286(b), the allocation of quarry material may be subject to a condition that the allocation holder give the chief executive financial assurance in the form, and for the reasonable amount, decided by the chief executive.
- (2) The financial assurance must continue in force, until all the conditions of the allocation notice are complied with to the satisfaction of the chief executive.



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## **Division 4                      Dealings with allocations of quarry material**

### **288      Transferring allocation of quarry material**

- (1) The allocation notice holder may apply to transfer all or part of the allocation to another person.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) supported by sufficient information to enable the chief executive to decide the application, including, for example, the consent of the transferee to the transfer; and
  - (c) accompanied by the fee prescribed under a regulation.
- (3) Within 30 business days after receiving the application, the chief executive must—
  - (a) if the transfer is for all the allocation—approve the transfer; or
  - (b) if the transfer is for part of the allocation—
    - (i) approve the transfer, as applied for, with or without conditions; or
    - (ii) approve the transfer, as varied by the chief executive, with or without conditions; or
    - (iii) refuse the transfer.
- (4) In making a decision under subsection (3)(b), the chief executive must consider the impact the transfer will have for the matters mentioned in section 282.
- (5) Within 30 business days after deciding the application, the chief executive must—
  - (a) give the applicant and the transferee an information notice; and

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- (b) if the transfer is approved, with or without conditions—give the transferee a new allocation notice in accordance with the approval; and
  - (c) if the application was not to transfer all of an allocation—give the applicant an amended allocation notice for the part not transferred.
- (6) The transfer has effect from the day the information notice is given.

## **289 Renewing allocations of quarry material**

- (1) The allocation notice holder may apply to renew the allocation notice before it expires.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) Within 30 business days after receiving the application, the chief executive must—
  - (a) approve the renewal, as applied for, with or without conditions; or
  - (b) approve the renewal, as varied by the chief executive, with or without conditions; or
  - (c) refuse the renewal.
- (4) In deciding whether to renew the allocation, the chief executive must consider the impact the renewal will have for the matters mentioned in section 282.
- (5) Within 30 business days after deciding the application, the chief executive must give the applicant—
  - (a) an information notice; and
  - (b) if the renewal is approved, with or without conditions—a new allocation notice in accordance with the approval.

- (6) A renewed allocation notice remains in force, unless sooner cancelled, suspended or surrendered, for the period of not more than 5 years decided by the chief executive.

## **290 Amending, suspending or cancelling allocation notice**

- (1) The chief executive may amend, suspend or cancel an allocation notice if the chief executive is satisfied, or reasonably believes—
- (a) the allocation notice was granted in error or in consequence of a false or fraudulent document, statement or representation; or
  - (b) the allocation notice holder—
    - (i) is convicted of an offence against this Act; or
    - (ii) failed to comply with a condition of the allocation notice; or
  - (c) unforeseen degradation in the condition of the watercourse or lake requires the allocation notice to be amended, suspended or cancelled.
- (2) An amendment under subsection (1) must not increase the quantity of material that may be extracted, the rate of extraction or the period for which the allocation notice has effect.
- (3) Before amending, suspending or cancelling an allocation notice, the chief executive must give the holder a show cause notice inviting the holder to show cause, within the reasonable time stated in the notice, why the allocation notice should not be amended, suspended or cancelled.

## **291 Deciding whether to proceed with proposed amendment, suspension or cancellation of allocation notice**

- (1) In deciding whether to amend, suspend or cancel the allocation notice, the chief executive must consider any properly made submission about the proposed amendment,

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suspension or cancellation.

- (2) If the chief executive is satisfied the allocation notice should be amended, suspended or cancelled, the chief executive must amend, suspend or cancel the allocation notice.
- (3) If the chief executive is satisfied the allocation notice should not be amended, suspended or cancelled, the chief executive must give the holder a notice that the allocation notice will not be amended, suspended or cancelled.
- (4) Within 30 business days after amending, suspending or cancelling the allocation notice, the chief executive must give the holder an information notice about the amendment, suspension or cancellation.
- (5) The amendment, suspension or cancellation takes effect the day the holder is given the information notice.
- (6) If the allocation notice is amended, the chief executive must give the holder an amended allocation notice.
- (7) If the allocation notice is suspended, it is of no effect during the period of suspension and after the suspension remains in effect only for the period during which it would have been in effect but for the suspension.
- (8) The suspension may be for the reasonable period the chief executive decides.

### **291A Surrendering allocation notice**

- (1) The allocation notice holder may surrender the allocation notice by giving the chief executive notice of its surrender.
- (2) The surrender—
  - (a) takes effect on the day the notice is received by the chief executive; and
  - (b) does not affect in any way a requirement under this Act about the removal of quarry material imposed on the holder before the surrender.

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## **Division 5                    General**

### **292    Royalty or price for State quarry material**

- (1) For State quarry material removed under an allocation notice, royalty at the rate prescribed under a regulation or the price set for the sale is payable to the State in the way and at the times prescribed under the regulation or the sale.
- (2) Royalty or the price payable and not paid is a debt due to the State.
- (3) A person who fails to pay the royalty or the price payable commits an offence against this Act.

Maximum penalty—50 penalty units.

## **Part 10                    Water bore drillers**

### **Division 1                    Granting water bore driller's licences**

#### **299    Applying for water bore driller's licence**

- (1) An individual may apply for a water bore driller's licence.
- (2) The application must—
  - (a) be made to the chief executive in the approved form; and
  - (b) state the class of licence prescribed under a regulation for which the applicant is applying; and
  - (c) state any licence endorsements, prescribed under a regulation, the applicant is applying for; and

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- (d) be supported by evidence that the applicant has the qualifications or experience prescribed under a regulation for a water bore driller; and
- (e) be accompanied by the fee prescribed under a regulation.

### **300 Additional information may be required**

- (1) The chief executive may require—
  - (a) the applicant to give additional information about the applicant's experience or history in the water bore drilling industry, including, for example if the applicant has—
    - (i) been convicted of an offence against this Act, the repealed Acts or an interstate law; or
    - (ii) held a licence to drill water bores that has been cancelled or suspended under this Act, the repealed Acts or an interstate law; or
  - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

### **301 Deciding application for water bore driller's licence**

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant the application.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding to grant all or part of the application, the chief executive must give the applicant a water bore driller's licence in the approved form—

- (a) for a particular class of licence; and
  - (b) with particular endorsements; and
  - (c) with or without conditions.
- (4) If the application is refused or the licence given to the applicant is different, in any respect, from the licence applied for, the chief executive must give the applicant an information notice within 30 business days after deciding the application.

### **302 Conditions of water bore driller's licence**

- (1) The water bore driller's licence is subject to the conditions—
- (a) prescribed under a regulation, including the period for which the licence has effect; and
  - (b) the chief executive may impose for a particular licence.
- (2) Without limiting subsection (1), the conditions may limit the types of equipment and drilling methods the licence holder may use.

## **Division 2 Dealings with water bore driller's licences**

### **304 Applying to amend water bore driller's licence**

- (1) A licence holder may apply to amend a water bore driller's licence, including to upgrade the licence.
- (2) An application to amend the licence must be dealt with under sections 299 to 303 as if it were an application for a licence.

### **305 Giving show cause notice about proposed amendment of water bore driller's licence**

- (1) Subsection (2) applies if the chief executive is satisfied the licence holder is no longer competent to carry out water bore drilling activities authorised by the licence.

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- (2) The chief executive must give the holder a show cause notice as to why the licence should not be amended in the way stated in the notice.

### **306 Deciding proposed amendment of water bore driller's licence**

- (1) In deciding whether to proceed with the proposed amendment, the chief executive must consider any properly made submission about the proposed amendment.
- (2) If the chief executive is satisfied the proposed amendment should be made the chief executive must, within 30 business days after the decision, give the holder an amended licence in the approved form and an information notice.
- (3) If the holder agrees in writing to an amendment that is different from the amendment stated in the show cause notice, the chief executive must, within 30 business days after the agreement is received, give the holder an amended licence in the approved form.
- (4) If the chief executive is not satisfied the amendment should be made, the chief executive must give the holder notice that the licence will not be amended.
- (5) The amended licence takes effect from the day the holder is given the amended licence.

### **307 Minor or stated amendments of water bore driller's licence**

The chief executive may amend the licence without complying with the provisions of this division about amending a licence if the amendment is only—

- (a) to correct a minor error in the licence, or make another change that is not a change of substance; or
- (b) if the licence states that an amendment of a stated type may be made to the licence by amendment under this section—to make an amendment of the stated type.



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### **308 Renewing water bore driller's licence**

- (1) The licence holder may apply to renew a water bore driller's licence.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) made before the licence expires; and
  - (c) accompanied by the fee prescribed under a regulation.
- (3) If the holder applies to renew the licence, the licence remains in force until the applicant has been notified of the chief executive's decision on the application.
- (4) After considering the application and any need to change the class, endorsements or conditions shown on the licence, if the chief executive is satisfied the application should be approved, the chief executive must—
  - (a) approve the application; or
  - (b) approve the application, subject to variation of the class, endorsements or conditions shown on the licence.
- (5) If the chief executive is not satisfied the application should be approved, the chief executive must refuse the application.
- (6) If the chief executive refuses the application, or approves the application under subsection (4)(b), the chief executive must, within 30 business days after deciding the application, give the applicant an information notice.
- (7) The chief executive, on approving the application, must give the holder a new licence in the approved form.

### **308A Reinstating expired water bore driller's licence**

- (1) If a licence holder fails to renew a water bore driller's licence, the holder may, within 30 business days after the licence expires, apply to have the licence reinstated.
- (2) The application must be—

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- (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) If an application for the reinstatement of a water bore driller's licence is made, the expired licence is taken to have been in force from the day the application was made until the applicant has been notified of the chief executive's decision on the application.
- (4) For deciding the application, section 308(4) to (7) applies—
- (a) as if a reference in the section to the renewal of a licence were a reference to the reinstatement of a licence; and
  - (b) with any other necessary changes.

### **309 Suspending water bore driller's licence**

- (1) The chief executive may suspend a water bore driller's licence if the chief executive is satisfied the licence holder—
- (a) has been convicted of an offence against this Act, the repealed Acts or an interstate law; or
  - (b) has carried out water bore drilling activities not permitted for the class of licence; or
  - (c) has failed to comply with the conditions of the licence; or
  - (d) has failed to comply with section 313.
- (2) Before the chief executive acts under subsection (1), the chief executive must give the holder a show cause notice about the proposed suspension.
- (3) In deciding whether to suspend the licence, the chief executive must consider any properly made submission about the proposed suspension.
- (4) If the chief executive is satisfied the licence should be suspended, the chief executive must, within 30 business days after the decision, give the holder an information notice.

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- (5) If the chief executive is not satisfied the licence should be suspended, the chief executive must give the holder notice that the licence will not be suspended.
  - (6) The suspension takes effect from the day the information notice is given to the holder.
  - (7) If the licence is suspended, it is of no effect during the period of suspension.

### **310 Cancelling water bore driller's licence**

- (1) The chief executive may cancel a water bore driller's licence if the chief executive is satisfied—
  - (a) the licence was granted or renewed in error or in consequence of a false or misleading representation or declaration (made either orally or in writing); or
  - (b) the holder—
    - (i) has been convicted of an offence against this Act, the repealed Acts or an interstate law; or
    - (ii) has carried out water bore drilling activities not permitted under the licence; or
    - (iii) has failed to comply with the conditions of the licence.
- (2) Before the chief executive acts under subsection (1), the chief executive must give the holder a show cause notice about the proposed cancellation.
- (3) In deciding whether to cancel the licence, the chief executive must consider any properly made submission about the proposed cancellation.
- (4) If the chief executive is satisfied the licence should be cancelled, the chief executive must, within 30 business days after the decision, give the holder an information notice.
- (5) If the chief executive is not satisfied the licence should be cancelled, the chief executive must give the holder notice that the licence will not be cancelled.

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- (6) The cancellation takes effect from the day the information notice is given to the holder.

## **Division 3                      General**

### **311      Production of licence to authorised officer**

- (1) This section applies if an authorised officer finds an individual in circumstances that lead, or has information that leads, the authorised officer to reasonably suspect the individual is—
  - (a) drilling, deepening, enlarging or casing a water bore; or
  - (b) removing, replacing, altering or repairing the casing, lining or screening of a water bore; or
  - (c) decommissioning a water bore.
- (2) The authorised officer may require the individual to produce the individual's water bore driller's licence for the authorised officer's inspection.
- (3) If the individual holds a current water bore driller's licence, the individual must comply with the requirement, unless the individual has a reasonable excuse.

Maximum penalty—50 penalty units.
- (4) When making the requirement, the authorised officer must warn the individual it is an offence to fail to produce the licence, unless the individual has a reasonable excuse.
- (5) Subsection (3) does not apply to the individual who is carrying out an activity under the *Petroleum Act 1923* or the *Mineral Resources Act 1989* if the activity would not result in a water bore being left as a functional bore for the supply of water at the end of the activity.

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**312 Failure to return suspended, cancelled or expired licence**

- (1) Subsection (2) applies if an individual's water bore driller's licence has been suspended, cancelled or has expired.
- (2) The individual must, unless the individual has a reasonable excuse for not returning the licence, return the licence to the chief executive as soon as practicable (but within 15 business days) after—
  - (a) for the suspension of a licence—the day notice of the suspension was given to the individual; or
  - (b) for the cancellation of a licence—the day notice of the cancellation was given to the individual.

Maximum penalty for subsection (2)—50 penalty units.

- (3) If a licence has been returned to the chief executive under subsection (2) because of suspension of the licence, the chief executive must return the licence to the individual at the end of the period of suspension.

**313 Records of water bores drilled**

- (1) A water bore driller's licence holder must keep, in the approved form, information prescribed under a regulation about any activity the holder may carry out under this Act.
- (2) The holder must record the information as each water bore is being drilled.

Maximum penalty—50 penalty units.

- (3) The holder must give to the chief executive a copy of the information about each water bore within 30 business days after completing the drilling of the water bore.

Maximum penalty for subsection (3)—50 penalty units.

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### **314 Replacing lost or destroyed water bore driller's licence**

- (1) If a water bore driller's licence has been lost or destroyed, the licence holder may apply to the chief executive for a replacement licence.
- (2) The application must be—
  - (a) in writing; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) If the holder complies with subsection (2) the chief executive must give the holder a replacement licence.

## **Part 11 Operations licence**

### **Division 1 Preliminary**

#### **326 Purpose of pt 11**

- (1) Under this part, the chief executive may grant an operations licence for a single operation for the taking water by a person as an agent for 2 or more water entitlement holders.
- (2) An operations licence—
  - (a) must state the water entitlements to which the licence relates; and
  - (b) must state the volumes, rates and times when the water may be taken; and
  - (c) may be transferred, amended, suspended or cancelled.

#### **327 Application of pt 11**

This part applies to water entitlements not managed under a resource operations licence.

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## **Division 2                      Granting operations licences**

### **328      Applying for operations licence**

- (1) A person may apply for an operations licence.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the written consent of the relevant entitlement holders; and
  - (c) supported by sufficient information to enable the chief executive to decide the application; and
  - (d) accompanied by the fee prescribed under a regulation.

### **329      Additional information may be required**

The chief executive may require—

- (a) the applicant to give additional information about the application; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.

### **330      Criteria for deciding application for operations licence**

In deciding whether to grant or refuse the application or what should be the conditions of the operations licence, the chief executive—

- (a) must consider the application and additional information given in relation to the application; and
- (b) may consider whether the applicant has been convicted of an offence against this Act, the repealed Act or an interstate law.

### **331 Deciding application for operations licence**

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant all or part of the application, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must—
  - (a) give the applicant an information notice about the decision; and
  - (b) give the relevant entitlement holders notice of the decision.
- (4) If the chief executive grants all or part of the application, with or without conditions, the chief executive must, within 30 business days after granting the application—
  - (a) give the applicant an operations licence in the approved form; and
  - (b) give the relevant entitlement holders notice that the application was granted and that the holder must not take water under the entitlement.
- (5) The licence has effect from the day the information notice is given to the applicant.
- (6) From the day the licence has effect, a holder of an entitlement mentioned in the licence must not take water under the entitlement.

### **332 Conditions of operations licence**

- (1) The operations licence is subject to the conditions—
  - (a) prescribed under a regulation; and
  - (b) the chief executive may impose for a particular licence.
- (2) Without limiting subsection (1), the conditions may require the licensee to do all or any of the following—



- (a) install a measuring device to measure the volume of water taken, the rate at which it is taken and the time it is taken;
- (b) give relevant information reasonably required by the chief executive for the administration or enforcement of this Act.

### **Division 3 Dealings with operations licences**

#### **333 Amending operations licences on application of licensee**

- (1) The licensee may apply to amend an operations licence.
- (2) The application to amend the licence must be dealt with under sections 328 to 332 as if it were an application for a licence.

#### **334 Giving show cause notice about proposed amendment of operations licence**

- (1) The chief executive may amend an operations licence if the chief executive is satisfied the licence should be amended.
- (2) Before the chief executive acts under subsection (1), the chief executive must give the licensee a show cause notice about the proposed amendment.
- (3) In deciding whether to amend the licence, the chief executive must consider any properly made submission about the proposed amendment.
- (4) If the chief executive is satisfied the proposed amendment should be made, the chief executive must, within 30 business days after the decision, give the licensee an amended licence in the approved form and an information notice.
- (5) If the chief executive is not satisfied the amendment should be made, the chief executive must give the licensee notice that the licence will not be amended.

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- (6) The amended licence takes effect from the day the information notice is given to the licensee.

### **335 When chief executive must amend operations licence**

- (1) Subsection (2) applies if—
  - (a) a water entitlement holder gives the chief executive notice in the approved form that the holder no longer wishes the holder's water to be taken under the operations licence; or
  - (b) a water entitlement holder ceases to be a water entitlement holder.
- (2) The chief executive must—
  - (a) amend an operations licence; and
  - (b) give the licensee a copy of the notice received under subsection (1)(a) and an amended licence in the approved form; and
  - (c) advise the entitlement holder of the action taken.
- (3) The amended licence takes effect from the day stated in the amended licence.
- (4) Unless the licensee otherwise consents, the day stated in the amended licence must not be earlier than 5 business days after the day the chief executive gives the licensee an amended licence.
- (5) If subsection (2) applies because of subsection (1)(b), the amendment may, with the consent of the new entitlement holder and the licensee, include the new holder instead of the previous holder.

### **336 Minor amendment of operations licence**

- (1) The chief executive may amend the operations licence without complying with the provisions of this division about amending a licence if the amendment is only to correct a

minor error in the licence, or make another change that is not a change of substance; or

- (2) If the chief executive amends a licence under subsection (1), the chief executive must give the licensee an amended licence in the approved form.

### **337 Transferring operations licence**

- (1) The licensee may apply to transfer the operations licence.
- (2) The application must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) Within 30 business days after receiving the application, the chief executive must give the transferee a new licence on conditions that have the same effect as the licence being transferred, other than for the change of name of the licensee.

### **338 Surrendering operations licence**

- (1) A licensee may surrender an operations licence by giving the chief executive a notice of surrender.
- (2) The surrender—
  - (a) takes effect on the date on which the surrender notice is received by the chief executive; and
  - (b) does not affect in any way a duty under this Act about works imposed on the licensee before the surrender.

### **339 Cancelling operations licence**

- (1) The chief executive may cancel an operations licence if the chief executive is satisfied the licence should be cancelled.
- (2) Section 334 applies to the cancellation—

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- (a) as if a reference in the section to an amendment of the licence were a reference to the cancellation of the licence; and
- (b) with any other necessary changes.

## **Chapter 2A Water supply and demand management**

### **Part 1 Preliminary**

#### **340 Main purpose of ch 2A and its achievement**

- (1) The main purpose of this chapter is to ensure the delivery of sustainable and secure water supply and demand management for the SEQ region and designated regions.
- (2) The purpose is achieved primarily by—
  - (a) making and implementing regional water security programs for the regions; and
  - (b) establishing a commission to—
    - (i) advise the Minister on—
      - (A) matters relating to water supply and demand management; and
      - (B) the delivery of desired levels of service objectives for water supplied to the SEQ region and designated regions; and
    - (ii) facilitate and implement the programs; and
    - (iii) ensure compliance with the programs; and
    - (iv) impose restrictions on water supply; and

- (v) monitor and enforce compliance with the restrictions; and
- (c) establishing the market for the supply of declared water services and the sale of water supplied by the services, and making rules governing the operation of the market.

**341 What is the *SEQ region***

- (1) The *SEQ region* is—
  - (a) the local government areas of the following local governments—
    - Brisbane City Council
    - Gold Coast City Council
    - Ipswich City Council
    - Lockyer Valley Regional Council
    - Logan City Council
    - Moreton Bay Regional Council
    - Redland City Council
    - Scenic Rim Regional Council
    - Somerset Regional Council
    - Sunshine Coast Regional Council; and
  - (b) any local government area, or part of a local government area, adjacent to a local government area mentioned in paragraph (a) and designated by gazette notice.
- (2) The *SEQ region* also includes Queensland waters adjacent to any of the local government areas mentioned in subsection (1).

## **Part 2                      Queensland Water Commission**

### **Division 1                Establishment**

#### **342      Establishment of commission**

The Queensland Water Commission is established.

#### **343      Commission represents the State**

- (1) The commission represents the State.
- (2) Without limiting subsection (1), the commission has the status, privileges and immunities of the State.

#### **343A    Commission not generally subject to direction**

- (1) Despite section 343, the commission is not subject to direction by an entity of or representing the State.
- (2) Subsection (1) applies subject to any other contrary provision of this Act or a contrary provision of another Act.

#### **344      Application of other Acts**

- (1) The commission is—
  - (a) a unit of public administration; and
  - (b) a statutory body under the *Financial Accountability Act 2009*; and
  - (c) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B, sets out the way in which the commission's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

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## **Division 2                      Functions and powers**

### **345      Main functions of commission**

The commission's main functions are—

- (a) to do the following for the SEQ region and designated regions—
  - (i) advise the Minister on matters relating to water supply and demand management for water;
  - (ii) advise the Minister on the delivery of desired levels of service objectives for water supplied to the SEQ region and designated regions;
  - (iii) facilitate and implement regional water security programs;
  - (iv) ensure compliance with the programs and with commission water restrictions; and
- (b) the functions given to the commission under chapter 3.

### **346      Principles for performing functions**

- (1) This section states the principles under which the commission is to perform its functions for the SEQ region or a designated region.
- (2) The general principle is that water in the region is to be managed on a sustainable and integrated basis to provide secure and reliable supplies of water of acceptable quality for all uses.
- (3) The specific principles are—
  - (a) for water sharing—the principle that water is a scarce resource that is to be shared across the region; and
  - (b) for water sources—the principle that water quality should be managed from its source to its end users in a way that—

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- (i) ensures the health of catchments, aquifers and their ecosystems; and
  - (ii) delivers water of a quality desired by the end users at the lowest overall cost; and
- (c) for water supply operations—the principle that water supply arrangements should maximise efficient and cost-effective service delivery and the efficient use of water as defined under section 10(3), including, for example, appropriate connectivity between supply sources, and in accordance with desired levels of service objectives for the water; and
- (d) for cost sharing and pricing, the principles that—
  - (i) the cost of water sources should be shared among users who benefit from them; and
  - (ii) pricing should be consistent with commitments of the State under intergovernmental agreements to which it is a party; and
- (e) for planning—the principle that assessments of regional water supply should—
  - (i) consider environmental, social and economic factors; and
  - (ii) include the application of ‘least cost planning’ to ensure proper economic comparison of all supply-side and demand-side options; and
- (f) for commission water restrictions—the principle that they should—
  - (i) help the achievement of the region’s objectives for long-term demand management for water; and
  - (ii) enable the appropriate management of any significant threat to the region having a sustainable and secure water supply; and



- (g) for flood mitigation and dam safety—the principle that these issues should be considered in the preparation of assessments of regional water supply.
- (4) Subsection (3)(f) is in addition to, and does not limit, section 360ZD(1).

### **347 General powers**

The commission has the powers necessary or convenient to perform its functions or to help to achieve the purposes of this chapter and chapter 3, including, for example, the power to enter into contracts or appoint agents.

## **Division 3 Membership**

### **348 Membership of commission**

The commission consists of 1 commissioner.

### **348A Appointment of commissioner**

- (1) The commissioner is to be appointed by the Governor in Council.
- (2) The appointment may be full-time or part-time.

### **349 Eligibility for appointment**

A person is eligible for appointment as the commissioner only if the person—

- (a) has a high level of knowledge and understanding of all or any of the following—
  - (i) sustainable water supply and demand management for water;
  - (ii) natural resource management;

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- (iii) the water industry;
  - (iv) the interests of customers of water service providers;
  - (v) economics, finance or business; and
- (b) is not—
- (i) under the Corporations Act, a related entity of a body corporate that is a water service provider operating in the SEQ region or any designated region; or
  - (ii) an employee of a water service provider operating in the SEQ region or any designated region; or
  - (iii) a member of Parliament; or
  - (iv) a councillor of a local government; or
  - (v) an executive officer or employee of a corporation that is a holder of a CMA tenure.

### **350 Duration of appointment**

- (1) Subject to sections 352 and 353, the commissioner holds office for the term stated in the commissioner's instrument of appointment.
- (2) The term stated in the instrument of appointment must not be longer than 3 years.
- (3) However, a person appointed as the commissioner is eligible for reappointment.

### **351 Terms and conditions of appointment**

- (1) The commissioner is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) The commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

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### 352 Resignation

The commissioner may resign by signed notice given to the Minister.

### 353 Termination of appointment

- (1) The Governor in Council may end the commissioner's appointment if the commissioner—
  - (a) is convicted of an indictable offence, whether in Queensland or elsewhere; or
  - (b) is or becomes an insolvent under administration under the Corporations Act, section 9; or
  - (c) does not, without reasonable excuse, comply with section 354.
- (2) Also, if the commissioner is appointed as a full-time commissioner, the Governor in Council may end the commissioner's appointment if the commissioner—
  - (a) is absent from duty or from the State, without the Minister's leave and without reasonable excuse, for 14 consecutive days or 28 days in a year; or
  - (b) engages in paid employment outside the duties of office without the Minister's approval.
- (3) In this section—

**convicted**, of an indictable offence, means a conviction for an indictable offence other than a spent conviction, including a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

**spent conviction** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

### **354 Conflicts of interest**

- (1) This section applies if—
  - (a) the commissioner has a direct or indirect pecuniary interest in a matter the subject of a function of the commissioner; and
  - (b) the commissioner is performing or is proposing to perform the function; and
  - (c) the interest could conflict with the proper performance of the function.
- (2) The commissioner—
  - (a) must, as soon as practicable, disclose the interest to the Minister; and
  - (b) must not perform or continue to perform the function.
- (3) In this section—

*function* includes power.

### **355 Acting commissioner**

- (1) This section applies if—
  - (a) the commissioner has not been appointed; or
  - (b) the office of the commissioner is vacant; or
  - (c) the appointed commissioner (the *usual commissioner*) is absent or is unable to perform the functions or a particular function of the commissioner because of illness or another reason.

*Example of another reason—*  
performance of the function by the commissioner is prohibited under section 354(2)(b)
- (2) The Minister may, by signed notice, appoint a person to act in the office of the commissioner to perform—
  - (a) generally—all of its functions; or

- 
- (b) for an inability to perform a particular function—that function.
- (3) The appointment is under this Act and not the *Public Service Act 2008*.
- (4) For the circumstances mentioned in subsection (1)(a) or (b), the appointment ends when, if the Governor in Council appoints someone else as the commissioner, the term of that appointment starts.
- (5) Also, for the circumstances mentioned in subsection (1)(c) the appointment ends if the Minister gives the appointee notice that the usual commissioner has resumed the functions the subject of the appointment.
- (6) The *Acts Interpretation Act 1954*, section 24B(7D) to (15) applies to the appointee as if the appointee had been appointed under that section.
- (7) This section does not limit or otherwise affect the *Acts Interpretation Act 1954*, section 24B.
- (8) In this section—  
*function* includes power.

## **Division 4                      Records of decisions**

### **356      Records required**

The commissioner must keep a record of the commission's decisions.

## **Division 4A                      Chief executive officer**

### **357      Appointment**

- (1) There is to be a chief executive officer of the commission (the *commission CEO*).

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- (2) The commission CEO is to be appointed by the Governor in Council.
- (3) The commission CEO is appointed for the term stated in the instrument of appointment.
- (4) The stated term must not be more than 3 years.
- (5) However, the instrument of appointment may give the commission CEO an option, exercisable before the stated term ends, to continue to hold the new office for a further period of no more than 2 years.
- (6) The *Public Service Act 2008* does not apply to the appointment of the commission CEO.

### **358 Conditions of appointment**

- (1) The commission CEO is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) The commission CEO holds office on terms, not provided for by this Act, decided by the Governor in Council.

### **359 Functions**

Subject to direction by the commission, the commission CEO is to control the office and is responsible for its efficient and effective administration and operation.

### **360 Provisions for performance of functions**

In performing the commission CEO's functions and exercising the commission CEO's powers, the commission CEO—

- (a) must act independently, impartially and in the public interest; and
- (b) is not subject to direction by the Minister.

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### **360A Conflicts of interest**

- (1) This section applies if—
  - (a) the commission CEO has a direct or indirect pecuniary interest in a matter the subject of a function of the commission CEO; and
  - (b) the commission CEO is performing or is proposing to perform the function; and
  - (c) the interest could conflict with the proper performance of the function.
- (2) The commission CEO—
  - (a) must, as soon as practicable, disclose the interest to the commissioner; and
  - (b) must not perform or continue to perform the function.
- (3) In this section—

*function* includes power.

### **360AA Delegation by commission CEO**

The commission CEO may delegate the commission CEO's functions to an appropriately qualified commission officer.

### **360AB Resignation**

The commission CEO may resign by signed notice given to the Minister.

### **360AC Ending of appointment**

The Governor in Council may end the appointment of the commission CEO if the commission CEO—

- (a) is convicted of an indictable offence; or

[s 360AD]

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- (b) is guilty of misconduct that could warrant dismissal from the public service if the commission CEO were a public service officer; or
- (c) is guilty of neglect of duty or incompetence; or
- (d) becomes incapable of satisfactorily performing the commission CEO's functions.

### **360AD Acting commission CEO**

The commissioner may appoint a person to act as the commission CEO—

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the commission CEO is absent from duty or can not, for another reason, perform the functions of that office.

### **360AE Preservation of rights as public service officer**

- (1) This section applies if a public service officer is appointed as the commission CEO.
- (2) The person retains all rights that have accrued to the person because of employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as the commission CEO were a continuation of service as a public service officer.
- (3) If the person stops being the commission CEO and again becomes a public service officer, the person's service as commission CEO is to be regarded as service of a similar kind in the public service for deciding the person's rights as a public service officer.

### **360AF Superannuation if previously a public service officer**

If—



- (a) a person who is a public service officer is appointed as the commission CEO; and
- (b) immediately before the appointment the person was a member of the State Public Sector Superannuation Scheme under the *Superannuation (State Public Sector) Act 1990*;

the person continues to be eligible to be, and to be, a member of the scheme.

## **Division 5                      Staff and other assistance to commission**

### **360B Commission's staff**

- (1) The commission's staff are to be employed under the *Public Service Act 2008*.
- (2) The commission CEO may arrange with the chief executive of a department, or with another unit of public administration, for the services of officers or employees of the department or other unit to be made available to the commission.
- (3) In this section—  
*commission's staff* does not include the commission CEO.

### **360C Advisory bodies**

The commission may establish advisory bodies it considers appropriate to give the commission advice on the performance of its functions.

## **Division 6                      Standing and other references**

### **360D Standing references**

- (1) The Minister may, by gazette notice—

[s 360E]

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- (a) designate regions for which the commission is to perform its functions; and
  - (b) if the commission has already given regional water security options for the SEQ region or a designated region—require the commission to update or revise the options, having regard to the implementation of the relevant regional water security program.
- (2) The Minister may, in the gazette notice, also identify the period within which the commission must give regional water security options, or updated or revised options, for the region.
- (3) In deciding what are regions for subsection (1), the Minister must have regard to the geography, society and economy of proposed regions and water users and potential water users within them.
- (4) Before designating a region under subsection (1)(a), the Minister must consult with each local government whose area is wholly or partly in the region.
- (5) The Minister may carry out the consultation in any way the Minister considers appropriate.

### **360E Other references**

The Minister may give the commission written directions to advise the Minister on any matter relating to—

- (a) water supply and demand management in the SEQ region or a designated region; or
- (b) water supply and demand management generally; or
- (c) impacts on underground water caused by the exercise of underground water rights by petroleum tenure holders.

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## **Division 7                      Funding for commission's functions**

### **360F    Annual levy for water supply and demand management**

- (1) The commission and the performance of the commission's functions, other than its functions under chapter 3, are to be funded by an annual levy payable by each water service provider.
- (2) The levy is to be in the amount and paid at the time and in the way prescribed under a regulation.
- (3) If a water service provider does not pay the levy as required under a regulation made under subsection (2), the State may recover from the provider the amount of the levy as a debt.

### **360FA   Annual levy for underground water management—general**

- (1) The performance of the commission's functions under chapter 3 are to be funded by an annual levy payable by each petroleum tenure holder.
- (2) The levy must be worked out in the way prescribed under a regulation.
- (3) The way the levy is worked out must be transparent and likely to be readily understood by petroleum tenure holders.
- (4) The levy must be—
  - (a) based on the amount needed to recover the estimated costs to the commission of carrying out its functions under chapter 3 in a financial year; and
  - (b) apportioned, where practicable, between petroleum tenure holders or classes of holders according to the cost to the commission of carrying out functions specific to the holders or class of holders.
- (5) For subsection (4)(a), the commission's estimated costs must be—

[s 360FB]

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- (a) prepared by the commission in consultation with a relevant advisory body; and
  - (b) approved by the Minister.
- (6) The levy must be paid in the amount, at the time and in the way prescribed under a regulation.
- (7) If a petroleum tenure holder does not pay the levy as required under a regulation made under subsection (6), the State may recover from the holder the amount of the levy as a debt.

**360FB Annual levy for underground water management—special provision for 2010–11 financial year**

- (1) A regulation may be made under section 360FA to provide—
- (a) for the annual levy payable under that section for the entire 2010–11 financial year even if that financial year has ended; and
  - (b) that the annual levy payable under that section for the 2010–11 financial year is to be paid over 1 or more later financial years in addition to the annual levy payable for those financial years.

*Example for paragraph (b)—*

The regulation may provide that the annual levy payable for the 2010–11 financial year is to be paid in equal thirds over the 3 financial years after the 2010–11 financial year (in addition to the annual levy payable for those 3 financial years).

- (2) Section 360FA(5) does not apply in relation to the annual levy for the 2010–11 financial year.
- (3) The commission’s estimated costs of carrying out its functions under chapter 3 in the 2010–11 financial year must be prescribed under the regulation.
- (4) In this section—

**2010–11 financial year** means the financial year ending on 30 June 2011.

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**360FC Annual levy for underground water management—special provision for 2011–12 financial year**

- (1) A regulation may be made under section 360FA to provide for the annual levy payable under that section for the entire 2011–12 financial year even if that financial year has started.
- (2) Section 360FA(5) does not apply in relation to the annual levy for the 2011–12 financial year.
- (3) The commission’s estimated costs of carrying out its functions under chapter 3 in the 2011–12 financial year must be prescribed under the regulation.
- (4) The commission’s estimated costs of carrying out its functions under chapter 3 in the 2011–12 financial year may be amended only if—
  - (a) the estimated costs as amended are—
    - (i) prepared by the commission in consultation with a relevant advisory body; and
    - (ii) approved by the Minister; and
  - (b) the time for paying the annual levy, or the final part of the annual levy, for the financial year under section 360FA has not passed.
- (5) A regulation may provide for anything necessary or convenient in relation to the payment of the annual levy, or the final part of the annual levy, for the 2011–12 financial year because of an amendment under subsection (4).

*Example—*

The regulation may provide for an extension of time for payment of the annual levy or final part of the annual levy.

- (6) In this section—

***2011–12 financial year*** means the financial year ending on 30 June 2012.

## **Part 3                      Water security planning**

### **Division 1                      Preliminary**

#### **360G    Purpose of pt 3**

The purpose of this part is to provide for the commission's planning functions and its relationship with the Minister in assessing and recommending options to achieve water security in the SEQ region and designated regions.

### **Division 2                      Regional water security options**

#### **360H    Application of div 2**

- (1) This division applies to the commission for the SEQ region and designated regions.
- (2) This division also applies to the commission if the Minister has, under section 360D(1)(b), required it to update or revise its options for the SEQ region or a designated region.
- (3) In this division a reference to the options includes a reference to the updated or revised options.

#### **360I    Advice to Minister about options**

- (1) The commission must make and give the Minister advice about its regional water security options for the region.
- (2) If, under section 360D(1)(b), the Minister has required the options to be updated or revised, the commission must give the Minister advice about the proposed update or revision.
- (3) Advice under subsection (1) or (2) must be given within any period required under section 360D(2).

- (4) The commission may, without any requirement under section 360D(1)(b), give the Minister advice about updating or revising the options.

### **360J Content of options**

- (1) The options must address each of the following issues and may include alternatives for addressing the issues—
- (a) the desired levels of service objectives for the region or part of the region;
  - (b) water supply works or sewerage for achieving the desired levels of service objectives, whether or not the water supply works or sewerage are in the region;
  - (c) demand management for water in the region;
  - (d) the extent to which implementation of the levels would involve modifying existing water supply works or sewerage or building new water supply works or sewerage;
  - (e) assessing the likely costs and pricing implications of addressing the issues mentioned in paragraphs (c) and (d);
  - (f) the preferred ways of sharing the cost, taking into account the extent to which end users of water benefit from the demand management, and the modifications or building.
- (2) Subsection (1) does not limit what may be included in the options.

### **360K Consultation**

The commission may, before giving the Minister the options, engage in any consultation the commission considers appropriate.

## **Division 3                      Regional water security program**

### **360M Ministerial response to commission's advice**

- (1) Within 4 months after receiving, under division 2, advice by the commission for the SEQ region or a designated region, the Minister must make and publish—
  - (a) a report outlining the Minister's response to the commission's advice; and
  - (b) a regional water security program to achieve water security for the region.
- (2) The program must make provision about the matters mentioned in section 360J(1).

### **360N Effect of program for Sustainable Planning Act 2009**

- (1) This section applies if there is a regional water security program for the SEQ region or a designated region.
- (2) For the *Sustainable Planning Act 2009*, the program is taken to be an applicable code for development relating to water supply works or sewerage mentioned in the program.
- (3) For the *Sustainable Planning Act 2009*, section 233(6), the program is a code that can not be changed under a local planning instrument or local law.
- (4) Subsections (4A) and (4B) apply for the *Sustainable Planning Act 2009* if there is any inconsistency between the program and a plan, policy or code under an Act.
- (4A) If the plan is the SEQ regional plan under that Act, the plan prevails to the extent of the inconsistency.
- (4B) Otherwise, the program prevails to the extent of the inconsistency.
- (5) It is taken to be a condition (the *imposed condition*) of any development approval for water supply works or sewerage mentioned in the program that the carrying out of



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development under the approval must comply with the program.

- (6) If there is any inconsistency between the imposed condition and any other condition of the development approval, the imposed condition prevails to the extent of the inconsistency.

## **Part 4                      Facilitation of regional water security programs**

### **360O    Application of pt 4**

This part applies to water supply works or sewerage, or proposed water supply works or sewerage, the subject of the regional water security program for the SEQ region or a designated region.

### **360P    Status of works for State Development and Public Works Organisation Act 1971**

For the *State Development and Public Works Organisation Act 1971*, part 6, divisions 6 and 7, the works or sewerage are taken to be an infrastructure facility mentioned in section 125(1)(f) of that Act.

### **360Q    Designation of preferred entity for works or sewerage**

- (1) The coordinator-general under the *State Development and Public Works Organisation Act 1971* may, by gazette notice, designate an entity as the preferred entity to build or carry out the works or sewerage.
- (2) However, the designation may be made only if the entity has agreed to the designation.
- (3) From the making of the designation—

[s 360R]

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- (a) the preferred entity is taken to be a water service provider or sewerage service provider for the works; and
- (b) the works or sewerage are taken to be works under the *State Development and Public Works Organisation Act 1971*.

## **Part 5**                      **Implementation of and compliance with regional water security programs**

### **Division 1**                **Program implementation**

#### **360R**    **Commission's role**

Without limiting section 345, the commission must ensure the key actions and responsibilities of each of the following under each regional water security program and system operating plan are carried out or complied with—

- (a) the department;
- (b) other units of public administration;
- (c) water service providers.

#### **360S**    **Review and compliance reports**

The commission must whenever it considers it appropriate—

- (a) review the implementation of each regional water security program; and
- (b) give the Minister a report about the implementation of and the level of compliance with the system operating plan for the program; and
- (c) publish the report.

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**360T Information may be required from water service providers**

- (1) The commission may give a water service provider a notice asking for information the commission reasonably requires to enable the commission—
  - (a) to perform its functions under this chapter, including its function of collecting, collating, analysing and reporting on water information for the SEQ region or a designated region; and
  - (b) without limiting paragraph (a), to implement and monitor compliance with divisions 2 and 3 and part 6.
- (2) The notice must state the reasonable time in which the information must be given to the commission.
- (3) The water service provider must comply with the notice, unless the provider has a reasonable excuse.

Maximum penalty—200 penalty units.

- (4) However, if the water service provider is an individual, this section does not require the individual to give information if giving the information might tend to incriminate the individual.

**360TA Delegation to commission staff of information-seeking function**

- (1) The commission may delegate its function under section 360T(1) to an appropriately qualified public service officer or employee employed under section 360B.
- (2) In this section—

*function* includes power.

[s 360U]

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## **Division 2                    System operating plans**

### **Subdivision 1            Making system operating plans**

#### **360U    Application of sdiv 1**

This subdivision applies if there is a regional water security program for the SEQ region or a designated region.

#### **360V    Commission to make system operating plan for region**

The commission must make a system operating plan to facilitate the achievement of the desired levels of service objectives for the region.

#### **360W    Content of plan**

- (1) The system operating plan must state each of the following—
  - (a) the plan area for the plan;
  - (b) the entities to which the plan applies;
  - (c) the water supply works and sewerage for the plan area, whether or not the water supply works or sewerage are in the plan area;
  - (d) if the system operating plan is for the SEQ region—the maximum volume of water the water grid manager may enter into contracts to sell;
  - (e) if the system operating plan is for a designated region—the share of water available under the plan to each of the water service providers for the water supply works;
  - (f) the desired levels of service objectives for the region;
  - (g) other obligations imposed on the entities under the plan.

- (2) However, the plan must be consistent with any water resource plan applying to the plan area for the system operating plan.
- (3) Subsection (1) does not limit what may be included in the system operating plan.

### **360X Consultation for plan**

- (1) Before making the system operating plan the commission must make reasonable endeavours to consult with each entity to which it is proposed the plan will apply.
- (2) A failure to comply with subsection (1) does not invalidate or otherwise affect the plan.

### **360Y Publication and taking effect of plan**

- (1) As soon as practicable after making the system operating plan the commission must publish the plan and give a copy to each entity to which the plan applies.
- (2) The plan does not have effect until it is published.
- (3) Despite subsection (1), the commission may decide not to publish or allow inspection of any part of the plan that the commission is reasonably satisfied contains sensitive security information.

## **Subdivision 2      Amendment of system operating plans**

### **360Z Amendment of plan**

- (1) The commission must amend a system operating plan if—
  - (a) a water resource plan that applies to the plan area for the system operating plan (a *relevant WRP*) is made or amended, and there is an inconsistency between the system operating plan and the water resource plan as made or amended; or

[s 360ZA]

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- (b) water supply works for the plan area not the subject of the existing system operating plan are commissioned.
- (2) For subsection (1)(b), works are commissioned when, under the relevant contract to build the works, they reach a stage under which the building of the works is, in a practical sense, complete.
- (3) If subsection (1)(a) applies, the system operating plan must be amended so that it is consistent with the water resource plan.
- (4) If subsection (1)(b), the system operating plan must be amended so that the plan complies with section 360W in relation to the works.
- (5) The commission may also amend the plan in another way it considers appropriate that is consistent with any other relevant WRP.
- (6) Subdivision 1 applies, with necessary changes, for an amendment under this section as if a reference in the sections to the plan were a reference to the amendment.

### **Subdivision 3 Compliance with system operating plans**

#### **360ZA Particular entities must comply with system operating plan**

Each entity to which a system operating plan applies must ensure the plan is complied with to the extent it applies to the entity.

Maximum penalty—1665 penalty units.

#### **360ZB Publication requirements**

- (1) This section applies to an entity to which a system operating plan applies.

- (2) The commission may, by notice (the *commission's notice*), require the entity to publish a notice (the *entity's notice*) about the extent to which the entity has, during a stated period, complied with the plan in relation to—
  - (a) all matters under the plan; or
  - (b) if the commission's notice states a particular matter under the plan—that matter.
- (3) The commission's notice must state a reasonable period for the entity to publish the entity's notice.
- (4) The entity must comply with the requirement.  
Maximum penalty—1665 penalty units.
- (5) In this section—  
*publish* means publish in a newspaper circulating generally in the plan area.

### **360ZC Derivative use immunity for compliance with publication requirement**

- (1) It is not a defence to a proceeding for an offence against section 360ZB that complying with the requirement might tend to incriminate the entity.
- (2) However, if the entity is an individual, evidence of, or directly or indirectly derived from, complying with the requirement or information it contains that might tend to incriminate the individual is not admissible in evidence against the individual in a civil or criminal proceeding, other than for an offence for which the falsity or misleading nature of the information is relevant.

## **Subdivision 4      Spot audit reports**

### **360ZCAA Spot audit by commission**

- (1) This section applies if the commission is satisfied or reasonably believes a water service provider to whom a system operating plan applies has not complied with the plan to the extent it applies to the provider.
- (2) The commission may, after giving the water service provider a show cause notice, arrange for a spot audit report to be prepared about the provider's level of compliance with the plan.
- (3) The spot audit report must be prepared by a person who is appropriately qualified to carry out the audit.
- (4) The commission must give the water service provider a copy of the report within 30 business days after the commission has received it.
- (5) In this section—  
*water service provider* includes a person who operates water supply works to which a system operating plan applies.

### **360ZCAB Requirement to comply with plan and provision for cost of report**

- (1) This section applies if a spot audit report under section 360ZCAA states a water service provider the subject of the report has not complied with the plan to the extent it applies to the provider.
- (2) The commission must give the water service provider an information notice requiring the provider, within the reasonable period stated in the notice, to remedy the noncompliance.
- (3) The water service provider must comply with the requirement unless the provider has a reasonable excuse.

Maximum penalty for subsection (3)—500 penalty units.



- (4) The commission may recover from the service provider as a debt an amount equal to the cost of preparing the report.

### **360ZCAC Access for conducting audit reports**

- (1) For conducting an audit under this subdivision, a service provider must give the auditor, and any person employed or authorised by the auditor to participate in conducting the audit, free and uninterrupted access to the service provider's infrastructure and any records relating to the infrastructure.

Maximum penalty—200 penalty units.

- (2) However, the auditor and any person employed or authorised by the auditor to participate in the conduct of the audit must not enter the premises of a customer of the service provider unless the customer agrees to the entry.
- (3) In this section—

*auditor* means the person who, under this section, has prepared, or is to prepare, an audit report for the audit.

## **Division 3 Water efficiency management plans**

### **360ZCAD Definition for div 3**

In this division—

*relevant entity*, for a water efficiency management plan, means the entity who gives under section 360ZCB a customer, or type of customer, a notice requiring the preparation of the plan.

### **360ZCA Purpose and application of division**

- (1) The purpose of this division is to promote the efficient use of water by non-residential customers.
- (2) This division only applies for a non-residential customer—

[s 360ZCB]

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- (a) in the SEQ region or a designated region (the *region*);  
and
  - (b) who does not hold a water entitlement.
- (3) However, if this division would not apply to a non-residential customer because of subsection (2), but the customer takes water from a water service provider in the region under another arrangement, the division applies for the other arrangement.
- (4) Also, if a customer to whom this division applies is a customer of more than 1 water service provider in the region, the water service provider who provides the customer with the most water is the water service provider for the customer for this division.

### **360ZCB When water efficiency management plan may be required**

- (1) The commission may, by written direction, require a water service provider in a designated region to give a relevant customer, or type of relevant customer, a written notice—
- (a) to prepare a plan (a *water efficiency management plan*); and
  - (b) to give it to the water service provider within the reasonable time stated by the commission.
- (2) The water service provider must comply with the direction.  
Maximum penalty—500 penalty units.
- (3) A water service provider in a designated region may, without direction, give a relevant customer, or type of relevant customer, a written notice approved by the commission—
- (a) to prepare a plan (also a *water efficiency management plan*); and
  - (b) to give it to the water service provider within the reasonable time stated by the water service provider.

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- (4) The commission may give a relevant customer, or type of relevant customer, of a water service provider for the SEQ region a written notice—
- (a) to prepare a plan (also a *water efficiency management plan*); and
  - (b) to give it to the commission within the reasonable time stated by the commission.
- (5) The relevant customer must comply with a notice given—
- (a) by a water service provider under subsection (1); or
  - (b) under subsection (3) or (4).

Maximum penalty—500 penalty units.

- (6) A plan prepared as a water efficiency management plan under a requirement of a commission water restriction or a service provider water restriction is also a *water efficiency management plan* for this section.
- (7) This division applies to the preparation and approval of a plan mentioned in subsection (1), (3), (4) or (6).
- (8) In this section—

*relevant customer* means a customer whose water use is for a purpose, and of a quantity for the purpose, prescribed under a regulation for this definition.

### **360ZCC Guidelines and content requirements for water efficiency management plans**

- (1) The commission may make guidelines—
- (a) about the content of water efficiency management plans; and
  - (b) to provide guidance to persons about how to comply with a water efficiency management plan obligation under this part.
- (2) A water efficiency management plan must comply with any guidelines about the content of water efficiency management

[s 360ZCD]

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plans made by the commission under subsection (1)(a), and must state the following—

- (a) the name of the customer and the location where the plan applies;
- (b) an outline of the customer's current water use at the location and the source of the water used;
- (c) the water savings and efficiencies that will be achieved by implementing the plan;
- (d) the time frames for implementing the plan.

### **360ZCD Approving water efficiency management plan**

- (1) For deciding whether or not to approve a water efficiency management plan, the relevant entity may require the customer to give additional information about the plan within the reasonable time stated by the relevant entity.
- (2) The relevant entity must approve, with or without conditions, or refuse to approve the plan—
  - (a) if additional information is not required—within 60 business days after receiving the plan; or
  - (b) if additional information is required—within 60 business days of when the information is received or should have been given, whichever is earlier.
- (3) Within 10 business days after making a decision under subsection (2), the relevant entity must give the customer an information notice.
- (4) If the relevant entity does not approve the plan, the customer must—
  - (a) amend the plan to address the reasons for the decision; and
  - (b) within 20 business days of receiving a notice under subsection (3) or the extended period under subsection (5), give the relevant entity the revised plan.

Maximum penalty—200 penalty units.

- (5) The relevant entity may extend the period of 20 business days mentioned in subsection (4).
- (6) This division applies for a revised plan, with any necessary changes to give effect to the division.
- (7) Chapter 6 applies for the information notice—
  - (a) as if it were a notice given by the chief executive; and
  - (b) as if a reference in relation to the chief executive were a reference to the relevant entity; and
  - (c) with any necessary changes to give effect to paragraphs (a) and (b).
- (8) The relevant entity may recover from the customer, as a debt due to it by the customer, an application fee for the approval of the customer's water efficiency management plan that is not more than the cost to the relevant entity of approving the plan.

### **360ZCE Complying with water efficiency management plan**

A customer must comply with the customer's approved water efficiency management plan.

Maximum penalty—1665 penalty units.

### **360ZCF Reporting under water efficiency management plan**

- (1) A customer to whom an approved water efficiency management plan applies, must give the relevant entity a written report each year advising—
  - (a) the extent to which the plan has been implemented; and
  - (b) the water savings and efficiencies achieved by implementing the plan; and
  - (c) any change of circumstances in relation to the matters mentioned in section 360ZCH(1)(a).

[s 360ZCG]

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Maximum penalty—100 penalty units.

- (2) The report must be given within 20 business days after the anniversary day for the plan.
- (3) If the relevant entity for a water efficiency management plan is a water service provider, the commission may at any time ask the water service provider to give the commission—
  - (a) a copy of an approved water efficiency management plan; or
  - (b) information about a plan that has not yet been approved; or
  - (c) a report summarising progress by the water service provider's customers in achieving water savings and efficiencies.
- (4) The water service provider must comply with the request within 20 business days.

Maximum penalty for subsection (4)—100 penalty units.

### **360ZCG Amending or replacing water efficiency management plan by commission direction**

- (1) This section applies if the commission is satisfied that there is or there is likely to be—
  - (a) a severe water supply shortage; or
  - (b) an increase in the severity of a water supply shortage.
- (2) The commission may, by written direction, require a water service provider to give a customer, or type of customer, a written notice requiring the customer to—
  - (a) amend an approved water efficiency management plan and give it to the water service provider within the reasonable time stated by the commission; or
  - (b) prepare a new water efficiency management plan and give it to the water service provider within the reasonable time stated by the commission.

- (3) The water service provider must comply with the direction.  
Maximum penalty—500 penalty units.
- (4) The commission may give a customer, or type of customer, of a water service provider in the SEQ region a written notice requiring the customer to—
  - (a) amend an approved water efficiency management plan and give it to the commission within the reasonable time stated in the notice; or
  - (b) prepare a new water efficiency management plan and give it to the commission within the reasonable time stated in the notice.
- (5) The customer must comply with a notice given under subsection (2) or (4).  
Maximum penalty—500 penalty units.
- (6) This division, other than section 360ZCB, applies for preparing the amended or new plan, with any necessary changes to give effect to the division.

**360ZCH Amending or replacing water efficiency management plan by water service provider direction**

- (1) This section applies if a water service provider in a designated region is satisfied that—
  - (a) for a customer, or a type of customer, production output or water consumption has increased significantly; or
  - (b) the cost-effectiveness of implementing an approved water efficiency management plan is likely to have changed significantly; or
  - (c) there is or there is likely to be a severe water supply shortage.
- (2) The water service provider must give the customer a written notice requiring the customer to—

[s 360ZCI]

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- (a) amend the plan and give it to the water service provider within the reasonable time stated by the water service provider; or
  - (b) prepare a new water efficiency management plan and give it to the water service provider within the reasonable time stated by the water service provider.
- (3) The customer must comply with the notice.  
Maximum penalty—500 penalty units.
- (4) This division, other than section 360ZCB, applies for preparing the amended or new plan, with any necessary changes to give effect to the division.

### **360ZCI Amending or replacing water efficiency management plan by request**

- (1) A customer may request an amendment of an approved water efficiency management plan or that a new water efficiency management plan be prepared.
- (2) If the relevant entity for the plan approves the request, the customer must—
  - (a) amend the plan and give it to the relevant entity within the reasonable time stated by the relevant entity; or
  - (b) prepare a new water efficiency management plan and give it to the relevant entity within the reasonable time stated by the relevant entity.
- (3) This division, other than section 360ZCB, applies for preparing the amended or new plan, with any necessary changes to give effect to the division.

### **360ZCJ Notice to comply with water efficiency management plan**

- (1) This section applies if a relevant entity for an approved water efficiency management plan is satisfied or reasonably believes a customer to whom the plan applies has not complied with the plan.



- (2) The relevant entity may give the customer a notice, requiring the customer to comply with the plan within the reasonable time stated in the notice.

### **360ZCK Reviewing water efficiency management plans**

- (1) The relevant entity for an approved water efficiency management plan must ensure a customer to whom the plan applies reviews the plan when the relevant entity considers it appropriate.
- (2) The customer must give the relevant entity a copy of the review report within the reasonable time stated by the relevant entity.
- (3) A review must occur at least every 5 years.

### **360ZCKA Applying for cancellation of approved water efficiency management plan**

- (1) A customer may apply to the relevant entity for an approved water efficiency management plan to have the plan cancelled if—
  - (a) the customer stops being a relevant customer under section 360ZCB; and
  - (b) the customer satisfies any requirements for cancellation of the plan that are prescribed under a regulation.
- (2) The application must be—
  - (a) made in the approved form; and
  - (b) supported by sufficient information to enable the relevant entity to decide the application.
- (3) The relevant entity may require—
  - (a) the applicant to give additional information about the application; or

[s 360ZCKB]

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- (b) the information included in the application, or the additional information required under paragraph (a), to be verified by statutory declaration.
- (4) If the relevant entity is satisfied the customer has complied with subsections (1), (2) and (3), the commission must—
  - (a) cancel the customer's approved water efficiency management plan; and
  - (b) give the customer notice of the cancellation under paragraph (a).

### **360ZCKB Administration fee**

- (1) The relevant entity for an approved water efficiency management plan may require a customer to whom the plan applies to pay an annual administration fee for the plan.
- (2) The amount of the fee must be no more than the amount prescribed under a regulation for this section.
- (3) If the customer does not pay the fee as required by the relevant entity, the relevant entity may recover from the customer the amount of the fee as a debt.

### **360ZCKC Delegation by commission of functions for water efficiency management plans**

- (1) The commission may delegate any of its functions under this division to the following—
  - (a) a water service provider;
  - (b) another entity prescribed under a regulation, if the commission considers the entity has appropriately qualified staff who have the expertise and experience to perform the functions.
- (2) A function delegated under subsection (1) is subject to any conditions imposed on the delegate that are prescribed under a regulation.

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- (3) Subject to subsection (2), the *Acts Interpretation Act 1954*, section 27A, applies to a delegation under subsection (1).
- (4) In this section—  
*function* includes power.

## Part 5A                      The market

### Division 1                      Preliminary

#### 360ZCL What is the *market*

The *market* is the wholesale exchange for—

- (a) the supply of declared water services to the water grid manager; and
- (b) the sale by the water grid manager of water supplied by the declared water services.

#### 360ZCM Operation of market

The operation of the market is facilitated under this part by—

- (a) providing a process for the declaration of water services that are necessary for ensuring water security for the SEQ region; and
- (b) establishing a framework for entities to participate in the market, including operational and commercial restraints on the participants and the rules governing the operation of the market; and
- (c) providing for the transfer to the water grid manager of particular authorities to take water.

## **Division 2                    Declaration of water services**

### **Subdivision 1                Recommendation by commission for water service declaration**

#### **360ZCN Requests about water service declarations**

- (1) An entity may ask the commission to recommend that a water service, or part of a water service, supplied by or proposed to be supplied by water supply works, whether or not the water supply works are in or are proposed to be in the SEQ region, be declared by the Minister.
- (2) The entity must be—
  - (a) a water service provider supplying the water service; or
  - (b) an entity proposing to construct, or in the process of constructing, the water supply works.
- (3) A request must—
  - (a) be in the form approved by the commission; and
  - (b) state the following—
    - (i) the water service, or the part of a water service, proposed for declaration;
    - (ii) the water supply works for supplying the water service or part of the water service;
    - (iii) the reasons the water service, or part of the water service, should be declared.
- (4) At any time before the commission makes a recommendation about a request, the applicant may—
  - (a) withdraw the request; or
  - (b) with the written agreement of the commission—amend the request.

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- (5) The commission may require the applicant to give the commission additional information about the proposed declaration.

### **360ZCO Making recommendation**

- (1) After receiving a request, the commission must recommend to the Minister that—
- (a) the water service or part the subject of the request be declared; or
  - (b) part of the water service or part the subject of the request be declared; or
  - (c) no declaration be made.
- (2) The commission may, before making the recommendation, engage in any consultation the commission considers appropriate.
- (3) The commission must make the recommendation within a reasonable time after receiving the request.
- (4) The commission must give a copy of the request to the Minister with the recommendation.

### **360ZCP Recommendation without request**

The commission may, on its own initiative, recommend to the Minister that a water service, or part of a water service, supplied by or proposed to be supplied by water supply works, whether or not the water supply works are in or are proposed to be in the SEQ region, be declared by the Minister.

### **360ZCQ Factors affecting making of recommendation**

- (1) The commission must not recommend that a water service, or part of a water service, be declared by the Minister unless the commission is satisfied—

[s 360ZCR]

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- (a) the water service, or the part of the water service, is necessary to ensure regional water supply security for the SEQ region; or
  - (b) the water service, or the part of the water service, is necessary for efficiently supplying an existing declared water service; or
  - (c) the water supply works for supplying the water service, or the part of the water service, are necessary for the efficient and effective operation of water supply works for supplying an existing declared water service.
- (2) The commission may make a recommendation that a water service, or part of a water service, be declared by the Minister, whether or not the water supply works for supplying the water service or part of the water service are in the SEQ region.

## **Subdivision 2 Declaration by Minister**

### **360ZCR Making water service declaration**

- (1) On receiving a recommendation under section 360ZCO or 360ZCP, the Minister must do 1 of the following—
- (a) declare the water service or part the subject of the recommendation;
  - (b) declare part of the water service or part the subject of the recommendation;
  - (c) decide not to declare the water service or part.
- (2) Before making a declaration, the Minister may require the commission to give the Minister additional information about the proposed declaration.

### **360ZCS Factors affecting making of water service declaration**

- (1) The Minister must not declare a water service, or a part of a water service, unless the Minister is satisfied—

[s 360ZCT]

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- (a) the water service, or the part of the water service, is necessary to ensure regional water supply security for the SEQ region; or
  - (b) the water service, or the part of the water service, is necessary for efficiently supplying an existing declared water service; or
  - (c) the water supply works for supplying the water service, or the part of the water service, are necessary for the efficient and effective operation of water supply works for supplying an existing declared water service.
- (2) The Minister may declare a water service, or a part of a water service, whether or not the water supply works for supplying the water service or the part of the water service are in the SEQ region.

### **360ZCT Content of water service declaration**

A water service declaration must state—

- (a) the water service, or the part of the water service, being declared; and
- (b) the water supply works for supplying the water service or the part of the water service; and
- (c) the water service provider for the water service or part of the water service.

### **360ZCU When water service declaration takes effect**

A water service declaration has effect on the day it is published in the gazette or the later day stated in it.

## **Subdivision 3 Register**

### **360ZCV Register of water service declarations**

- (1) The commission must keep a register of water service declarations (the *declarations register*).
- (2) The declarations register must include the following, for each water service declaration—
  - (a) the water service, or the part of a water service, declared;
  - (b) the water supply works for supplying the service;
  - (c) the water service provider supplying the service;
  - (d) any other details the commission considers appropriate.
- (3) The commission may keep the declarations register in the form, including electronic form, the commission considers appropriate.

### **360ZCW Declarations register to be available for public inspection**

- (1) The commission must keep the declarations register, or a copy of the declarations register, available for inspection, free of charge, by members of the public at—
  - (a) the commission's head office; and

*Editor's note—*

The address for the commission's head office is levels 15 & 16, 53 Albert Street, Brisbane.

  - (b) other places the commission considers appropriate.
- (2) The commission may publish a copy of the declarations register on the commission's website on the internet.

*Editor's note—*

The commission's website on the internet is <[www.qwc.qld.gov.au](http://www.qwc.qld.gov.au)>.



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## Division 3                      South East Queensland Water Market Rules

### Subdivision 1            Making market rules

#### 360ZCX Market rules

- (1) The Minister may make rules about the operation of the market (the *market rules*).
- (2) The market rules are a statutory instrument under the *Statutory Instruments Act 1992*, but are not subordinate legislation.

#### 360ZCY Content of market rules

- (1) The market rules—
  - (a) must include the following—
    - (i) the principles for establishing the market;
    - (ii) a process for entities to register to participate in the market as registered grid participants in particular categories provided for under the rules;
    - (iii) the rights and obligations of registered grid participants under the rules;
    - (iv) provisions about any fees payable, including any charges for recovering costs in relation to the development and administration of the market, for registration by entities as registered grid participants and for their ongoing participation in the market;
    - (v) regulating activities related to the market;

*Example—*

metering

[s 360ZCY]

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- (vi) the principles for deciding the prices payable for water sold by the water grid manager;
  - (vii) the principles for deciding the prices for the provision of a declared water service by a grid service provider and who may decide the prices;
  - (viii) procedures for resolving disputes under or in relation to the market rules;
  - (ix) requirements for monitoring and reporting;
  - (x) provision for an entity (the *rules administrator*) to administer the rules;
  - (xi) the process for amending the rules; and
- (b) may—
- (i) empower the administrator to delegate the administrator's function of administering the rules; or
  - (ii) include the terms of contracts between the water grid manager and grid customers or grid service providers, other than terms provided for under the default grid contract or a negotiated grid contract; or
  - (iii) include any other matter the Minister considers appropriate to facilitate the operation of the market, including, for example, provisions about negotiated grid contracts.
- (2) If—
- (a) the market rules provide for a term (a *market rules term*) of a contract for—
    - (i) the supply, by grid service providers, of declared water services to the water grid manager; or
    - (ii) the supply, by the water grid manager, of water supplied by declared water services to grid customers; and

- (b) the market rules term is inconsistent with a term of the default grid contract or a negotiated grid contract;
- the market rules term prevails to the extent of the inconsistency.

### **360ZCZ When market rules take effect**

- (1) The Minister must notify the making of the market rules.
- (2) The notice made under subsection (1) is subordinate legislation.
- (3) The market rules take effect—
  - (a) on the day the Minister’s notice is notified in the gazette;  
or
  - (b) if a later day is stated in the Minister’s notice or the market rules—on that day.

### **360ZDA Tabling of market rules**

- (1) Within 14 days after the market rules or an amendment of the market rules takes effect, the Minister must table a copy of the market rules or the amendment in the Legislative Assembly.
- (2) The copy is tabled for information only.
- (3) A failure to table a copy does not affect the market rules’ ongoing effect.

### **360ZDB Public notification of market rules**

The Minister must publish the market rules, as in force from time to time, on the commission’s website on the internet.

*Editor’s note—*

The commission’s website on the internet is <[www.qwc.qld.gov.au](http://www.qwc.qld.gov.au)>.

[s 360ZDC]

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### **360ZDC Review of market rules**

The Minister must, as soon as practicable after the second anniversary of the market rules taking effect—

- (a) conduct a review into the operation and effectiveness of the rules; and
- (b) table a report about the outcome of the review in the Legislative Assembly.

## **Subdivision 2 Grid contract documents and registered grid participants**

### **360ZDD Grid contract document**

- (1) The Minister may, before 1 July 2013, make a document (a *grid contract document*), in the form of a contract, providing for—
  - (a) the supply, by a grid service provider named in the document, of a declared water service, stated in the document, to the water grid manager; or
  - (b) the supply, by the water grid manager, of water supplied by a declared water service, stated in the document, to a grid customer named in the document.
- (2) A grid contract document has effect as a contract between the grid service provider, or grid customer, named as a party in the document and the water grid manager.
- (3) To remove any doubt, it is declared that the grid service provider, or grid customer, named as a party in a grid contract document and the water grid manager are not required to execute the document as parties to the contract.
- (4) The terms of a grid contract document may be changed by the Minister.

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- (5) If the Minister changes the terms of a grid contract document, the document continues to have effect as a contract, but in accordance with the change.
  - (6) If a contract entered into between a grid service provider, or grid customer, and the water grid manager is inconsistent with a grid contract document applying to them, the terms of the grid contract document prevail.

### **360ZDE Effect of grid contract document**

- (1) A grid service provider must supply its declared water service only to the water grid manager and only in accordance with a grid contract document applying to the grid service provider.
- (2) A grid customer must be supplied with water from a declared water service only from the water grid manager and only in accordance with a grid contract document applying to the grid customer.

## **Subdivision 3 Registered grid participants**

### **360ZDF Registration process provided in market rules**

- (1) This section applies if an entity wants to participate in the market.

*Notes—*

- 1 Under section 1162, particular entities are grid customers for the market.
  - 2 Under schedule 4, definition *grid service provider*, particular entities in relation to declared water services are grid service providers for the market.
  - 3 Under schedule 4, definition *distribution service provider*, particular entities in relation to declared water services are distribution service providers for the market.
- (2) The entity must, in the way provided under the market rules, apply for registration as a registered grid participant in the

[s 360ZDG]

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category under the market rules that is applicable to the entity's proposed participation in the market.

### **360ZDG Relationship between water grid manager and registered grid participants**

- (1) The only entity that may supply a declared water service to the water grid manager is a grid service provider.
- (2) Unless the market rules otherwise provide in particular circumstances stated in the market rules, the only entity that may be supplied by the water grid manager with water supplied by a declared water service is a grid customer.

### **360ZDH Transfer of registration**

- (1) This section applies if the owner (the *transferor*) of water supply works for supplying a declared water service transfers the ownership of the works to another entity (a *transferee*).
- (2) The transferor must give the rules administrator notice of the transfer.
- (3) On the transfer—
  - (a) the transferor stops being a grid service provider in relation to the declared water service; and
  - (b) the transferee becomes the grid service provider in relation to the declared water service.

## **Subdivision 4 Liability of registered grid participants and water grid manager**

### **360ZDI Limited liability of grid participants**

- (1) A grid participant is not civilly liable to another grid participant (a *relevant entity*) for any consequential loss suffered by the relevant entity arising out of, or in relation to, an act or omission, including a negligent act or omission, of

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the grid participant in the performance of, or in a failure to perform, its functions under this Act or its obligations—

- (a) other than to the extent that the consequential loss was caused, or contributed to, by the wilful default of the grid participant; or
  - (b) if the grid participant recovers compensation from an entity in relation to the consequential loss suffered by the relevant entity—other than to the extent of the net compensation amount.
- (2) To remove any doubt, it is declared that—
- (a) nothing in this section is taken—
    - (i) to create a cause of action against a grid participant; or
    - (ii) to limit the liability of the grid participant to an entity for a claim for personal injury suffered by the entity; and
  - (b) to the extent that an act or omission of a grid participant is inconsistent with a contract, in force immediately before the commencement of this section, to which the grid participant and a relevant entity are parties, the grid participant's liability to the relevant entity is limited by subsection (1).
- (3) A grid participant may, in a contract, expressly vary or exclude the operation of subsection (1) in relation to the liability of the participant to another party to the contract.
- (4) Subsection (1) does not apply to a grid participant to the extent that a contract mentioned in subsection (3) expressly varies or excludes its operation in relation to the other party to the contract.
- (5) In this section—
- consequential loss* includes the following—
- (a) any loss of anticipated or actual revenue or profits;
  - (b) loss of use of equipment;

[s 360ZDI]

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- (c) business interruption or a failure to realise anticipated savings;
- (d) loss of data;
- (e) downtime costs or wasted overheads;
- (f) loss of goodwill or business opportunity;
- (g) punitive or exemplary damages;
- (h) any special or indirect loss or damage of any nature whatsoever.

**function** includes power.

**grid participant** means the following—

- (a) a registered grid participant;
- (b) the water grid manager.

**net compensation amount**, for compensation recovered by a grid participant, means the compensation less an amount that represents any loss suffered by the grid participant in relation to the consequential loss and any costs incurred in recovering the compensation.

**obligations**, of a grid participant, means the grid participant's obligations under the following—

- (a) the market rules or operating protocols;
- (b) any grid contract document in which the grid participant is named as a party;
- (c) any instruments made, or instruction given, under the market rules or operating protocols.

**operating protocols** means the operating protocols made under the market rules.

**perform** includes purport to perform.

**wilful default**, by a grid participant, includes—

- (a) any fraudulent conduct, including concealment; and
- (b) any criminal conduct; and



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- (c) any intentional or reckless breach of, or failure to remedy a breach of, the grid participant's obligations.

## **Subdivision 5      Offences relating to market rules**

### **360ZDJ Compliance with market rules**

- (1) A relevant entity must not contravene the market rules.  
Maximum penalty—1665 penalty units.
- (2) In this section—  
*relevant entity* means—
- (a) a registered grid participant; or
  - (b) the water grid manager.

## **Division 4              Transfer of particular authorities**

### **360ZDK Definitions for div 4**

In this division—

*chief executive* means the chief executive of the department in which chapter 2, part 6 is administered.

*limited authority* see section 360ZDL(4).

*receiving entity* see section 360ZDN(1)(h).

*relevant authority* see section 360ZDL(3).

*scheme* see section 360ZDM.

*transfer notice* see section 360ZDN(1).

*transferring entity* see section 360ZDM(2)(b).

[s 360ZDL]

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### **360ZDL Application of div 4**

- (1) This division applies to the following authorities to take or interfere with water in the SEQ region—
  - (a) an authority continued in force under section 1037 or 1037A, other than under section 1037A(4);
  - (b) a licence or permit taken to be in force under section 1048A if the water may be taken for town water supply or urban purposes;
  - (c) a water licence to take water if the purpose stated on the licence is ‘town water supply’ or ‘urban’;
  - (d) a water permit if the purpose stated on the permit is ‘town water supply’ or ‘urban’;
  - (e) an interim water allocation if the purpose stated on the allocation is ‘urban’ or ‘any’;
  - (f) an interim water allocation to take water in the Warrill Valley water supply scheme under authority number 103187.
- (2) This division also applies to an interim water allocation to take water in the Mary Valley water supply scheme under authority number 103163.
- (3) If an authority to which this division applies is an authority to take and interfere with water in the SEQ region, the authority is a *relevant authority*.
- (4) If an authority to which this division applies is an authority that allows only taking of water, the authority is a *limited authority*.

### **360ZDM The transfer scheme**

- (1) This division facilitates the operation of the market by providing for a scheme to transfer to the water grid manager particular authorities to take water (the *scheme*).
- (2) Under the scheme—

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- (a) a relevant authority may, under this division, be replaced by—
    - (i) 1 or more authorities to take water; and
    - (ii) an authority to interfere with water; and
  - (b) generally, an authority to take water mentioned in paragraph (a)(i), or a limited authority, is transferred from the holder of the relevant authority or limited authority (each a *transferring entity*) to the water grid manager; and
  - (c) the authority to interfere with water mentioned in paragraph (a)(ii) continues to be held by the holder of the relevant authority.

### **360ZDN Transfer notice**

- (1) For the purpose of the scheme, the Minister may, by gazette notice (a *transfer notice*), do any of the following—
  - (a) replace a relevant authority with 1 or more authorities to take water and an authority to interfere with water;
  - (b) transfer an authority to take water mentioned in paragraph (a) from a transferring entity to the water grid manager;
  - (c) transfer another authority to take water mentioned in paragraph (a) from a transferring entity to the bulk water supply authority;
  - (d) transfer a limited authority from a transferring entity to the water grid manager;
  - (e) replace a limited authority with 2 or more authorities to take water and—
    - (i) transfer 1 authority from a transferring entity to the water grid manager; and
    - (ii) transfer the remaining authorities from a transferring entity to the bulk water supply authority;

[s 360ZDN]

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- (f) impose requirements on any of the authorities replaced or transferred under this section, including requirements about—
  - (i) the volume of water that may be taken under the authority by the water grid manager; and
  - (ii) the volume of water that may be taken under the authority by the bulk water supply authority; and
  - (iii) the purpose for which the water taken under the authority by the bulk water supply authority may be used;
- (g) make provision for a transferring entity that is the holder of a relevant authority, replaced by 1 or more authorities to take water and an authority to interfere with water, to continue to hold the authority to interfere with water;
- (h) make provision about the application of instruments to a transferring entity or, under this division, an entity that will hold an authority to take water, or an authority to interfere with water, (a *receiving entity*) including—
  - (i) whether the transferring entity or receiving entity is a party to an instrument; and
  - (ii) whether an instrument is taken to have been made by the transferring entity or receiving entity, or given to, by or in favour of the transferring entity or receiving entity; and
  - (iii) whether a reference to another entity in an instrument is a reference to the transferring entity or receiving entity; and
  - (iv) whether, under an instrument, an amount is or may become payable to or by the transferring entity or receiving entity, or other property is, or may be, transferred to or by the transferring entity or receiving entity;
  - (v) make provision about an incidental, consequential or supplemental matter the Minister considers

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necessary or convenient for effectively carrying out the scheme.

- (2) Subsection (3) applies if a relevant authority or a limited authority is, under a transfer notice, replaced with 1 or more other authorities to take or interfere with water (each a *new authority*).
- (3) The Minister must be satisfied the conditions under which water may be taken or interfered with under the new authorities are at least as restrictive as the cumulative effect of the conditions on the relevant authority or limited authority.
- (4) Without limiting subsection (3), the conditions under which water may be taken or interfered with under the new authorities must not—
  - (a) increase the total amount of water that may be taken; or
  - (b) increase the rate at which water may be taken; or
  - (c) change the flow conditions under which water may be taken; or
  - (d) increase the interference with the flow of water.
- (5) A transfer notice has effect despite any other law or instrument.
- (6) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.
- (7) In this section—

*instrument* includes an agreement for an entity to supply water to another entity.

### **360ZDO Process after transfer notice**

- (1) This section applies if an authority is transferred from a transferring entity to a receiving entity under a transfer notice.
- (2) The chief executive may take the action that is necessary or convenient for the transfer of the authority under the transfer notice, including—

[s 360ZDP]

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- (a) updating a register or other record; and
  - (b) amending, cancelling or issuing another authority.
- (3) The chief executive may take action under subsection (2) although this Act does not provide for the taking of the action or provides for taking the action in a different way.

*Example—*

An authority is transferred from a transferring entity to a receiving entity under a transfer notice. Acting under subsection (3), the chief executive grants to the receiving entity a water licence to replace the authority, despite the provisions of chapter 2, part 6, division 2 applying to the granting of a water licence.

### **360ZDP Continuing authorities**

- (1) This section applies to an authority to take or interfere with water that a receiving entity holds, or a transferring entity continues to hold, under a transfer notice.
- (2) The authority continues under this Act until whichever of the following first happens—
  - (a) the chief executive grants a water licence to replace the authority;
  - (b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.
- (3) The chief executive may grant the receiving entity or transferring entity a water licence to replace the authority to take or interfere with water without the need for an application to be made under section 206.
- (4) Within 30 business days after the chief executive grants the water licence, the chief executive must give the receiving entity or transferring entity the licence and an information notice about the granting of the licence.
- (5) The water licence has effect from the day the licence is given to the receiving entity or transferring entity.



[s 360ZD]

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- (2) However, the restriction may be imposed only if—
  - (a) there is an urgent need for it because of a significant threat to sustainable and secure water supply; or
  - (b) the available water supply has fallen to a level at which unrestricted use of the water is not in the public interest; or
  - (c) the restriction is essential to ensure the aims of a relevant regional water security program or system operating plan are met; or
  - (d) the Minister has published a notice under section 22 or if a regulation has been made under section 23; or
  - (e) the restriction will help the achievement of long-term demand management objectives for water.
- (3) Also, the commission may apply the restriction to water, including non-Act water, taken from a rainwater tank connected to a service provider’s reticulated supply.
- (4) Also, the restriction may be made even if a service provider water restriction applies to a matter the subject of the restriction.
- (5) A restriction may provide an exemption from all or part of the restriction.
- (6) In this section, the power to restrict includes the power to prohibit.
- (7) In this section—

*customer*, of a service provider, means—

  - (a) if the service provider is a local government—a ratepayer of the local government who enjoys registered services supplied by the local government; and
  - (b) if the service provider is other than a local government—a person who enjoys registered services supplied by the service provider.



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### **360ZE Consultation and giving notice of commission water restriction**

- (1) The commission must give notice of a commission water restriction to anyone affected by it in the way the commission considers appropriate having regard to the circumstances in which the restriction is imposed.
- (2) If, because of section 360ZF(2), a service provider water restriction will not apply while the commission water restriction continues in force, the notice must state that while the commission water restriction continues in force the service provider water restriction does not apply to the matter.
- (2A) Before it gives the notice the commission must consult with anyone the commission considers will be affected by the commission water restriction.
- (2B) However, subsection (2A) does not apply if the commission considers that there is an urgent need for the commission water restriction.
- (2C) A failure to consult under subsection (2A) does not invalidate or otherwise affect the validity of the notice.
- (3) The commission water restriction has effect—
  - (a) on the day after the notice is given; or
  - (b) if a later day is stated in the notice as the day the restriction has effect—on the later day.
- (4) A person must not contravene a commission water restriction.  
Maximum penalty—
  - (a) if the contravention relates to non-residential premises—1665 penalty units; or
  - (b) otherwise—200 penalty units.
- (5) Evidence of compliance with a relevant part of a commission water restriction includes—
  - (a) an authorised officer is satisfied the premises meets the requirements for the restriction; or

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- (b) the person produces a certificate from a licensed plumber certifying that the premises meets the requirements for the restriction; or
- (c) the person produces a statutory declaration declaring the premises meets the requirements for the restriction.

### **360ZF Relationship with service provider water restrictions**

- (1) The making of a commission water restriction does not of itself invalidate a service provider water restriction that applies to a matter the subject of the commission water restriction.
- (2) However, if the commission water restriction states that while it continues in force it is to be the only restriction for the matter, while the commission water restriction continues in force, the service provider water restriction does not apply to the matter.

### **360ZG Delegation of particular functions for commission water restrictions**

- (1) The commission may delegate to an entity mentioned in subsection (2) (a *relevant entity*), the following functions—
  - (a) giving notices under section 360ZE about commission water restrictions;
  - (b) monitoring compliance with commission water restrictions.
- (2) For subsection (1), a relevant entity is—
  - (a) a water service provider; or
  - (b) another entity prescribed under a regulation if the commission considers the entity has appropriately qualified staff who have the expertise and experience to perform the functions.

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- (3) Also, the commission may delegate to a water service provider in a designated region its function of enforcing compliance with commission water restrictions.
  - (4) A function delegated under subsection (1) or (3) is subject to any conditions imposed on the delegate that are prescribed under a regulation.
  - (5) Subject to subsection (4), the *Acts Interpretation Act 1954*, section 27A, applies to a delegation under subsection (1) or (3).
  - (6) A water service provider or other entity to whom a function is delegated under subsection (1) must make all reasonable efforts to ensure the function is performed.

Maximum penalty—1665 penalty units.

- (7) In this section—  
*functions* includes powers.

## Part 7 Minister's reserve power

### 360ZH Public interest directions for commission's non-advisory functions

- (1) The Minister may give the commission a written direction about the performance of its functions if satisfied that, because of exceptional circumstances, it is necessary to do so in the public interest.
- (2) However—
  - (a) a direction under subsection (1) can not be given for any of the commission's advisory functions; and
  - (b) before giving the direction the Minister must consult with the commission.

[s 360ZI]

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- (3) The Minister may carry out the consultation in any way the Minister considers appropriate.
- (4) The direction may state a period within which, or a way in which, it must be complied with.
- (5) The stated period must be one that, in all the circumstances, is reasonable.
- (6) The direction may suspend or otherwise affect the operation of another instrument made or given under this Act.
- (7) The Minister must publish a copy of the direction in the gazette within 15 days after it is given.
- (8) In this section—

*advisory functions*, for the commission, means its functions under section 345(a), 360D(1)(b), 360E, 360I, 360ZCO, 360ZCP or 1141.

*functions* includes powers.

*instrument* does not include subordinate legislation.

### **360ZI Relationship with other instruments under Act**

- (1) This section applies if there is an inconsistency between a direction given under section 360ZH and another instrument made or given under this Act.
- (2) The direction prevails to the extent of the inconsistency.  
*Example of another instrument—*  
a regional water security program
- (3) If the direction suspends or otherwise affects the operation of the other instrument, the direction does not amend the other instrument.
- (4) In this section—  
*instrument* does not include subordinate legislation.

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## **Chapter 3      Underground water management**

### **Part 1            Preliminary**

#### **Division 1        Interpretation**

##### **361      Purpose of ch 3**

- (1) The purpose of this chapter is to provide for the management of impacts on underground water caused by the exercise of underground water rights by petroleum tenure holders.
- (2) This purpose is achieved primarily by—
  - (a) providing a regulatory framework to—
    - (i) require petroleum tenure holders to monitor and assess the impact of the exercise of underground water rights on water bores and to enter into make good agreements with the owners of the bores; and
    - (ii) require the preparation of underground water impact reports that establish underground water obligations, including obligations to monitor and manage impacts on aquifers and springs; and
    - (iii) manage the cumulative impacts of the exercise of 2 or more petroleum tenure holders' underground water rights on underground water; and
  - (b) giving the chief executive and the commission functions and powers for managing underground water.

##### **362      Definitions for ch 3**

In this chapter—

***authorised use or purpose***, of water, means the use or purpose for which the taking of the water is authorised under this Act.

***baseline assessment*** see section 394.

***bore owner***, of a water bore, means the owner of the land on which the bore is located.

***bore trigger threshold***, for an aquifer, means a decline in the water level in the aquifer that is—

- (a) if a regulation prescribes the bore trigger threshold for an area in which the aquifer is situated—the prescribed threshold for the area; or
- (b) otherwise—
  - (i) for a consolidated aquifer—5m; or
  - (ii) for an unconsolidated aquifer—2m.

***closing CMA tenure*** means a petroleum tenure the area of which is within a cumulative management area for which the holder—

- (a) has given, before the cumulative management area for the tenure was declared, a notice of closure for the tenure; or
- (b) gives, within 6 months after the cumulative management area for the tenure is declared, a notice of closure for the tenure.

***CMA tenure*** means a petroleum tenure the area of which is included in a cumulative management area.

***consolidated aquifer*** means an aquifer consisting predominantly of consolidated sediment.

***consultation day***, for a proposed underground water impact report or final report, means the day a notice is first published about the proposed report under section 382(1).

***impact considerations***, in relation to a petroleum tenure holder, means the following—

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- (a) the impacts, or likely impacts, of the exercise of the holder's underground water rights on a water bore or spring;
  - (b) the location and area of the holder's petroleum tenure;
  - (c) the holder's water monitoring authorities;
  - (d) existing water monitoring infrastructure or equipment put in place by the holder;
  - (e) existing make good agreements entered into by the holder;
  - (f) existing agreements entered into by the holder with other petroleum tenure holders about managing the impacts of the exercise of underground water rights.

***make good obligations***, of a petroleum tenure holder for a water bore, see section 409.

***production testing*** means—

- (a) for a petroleum tenure granted under the *Petroleum and Gas (Production and Safety) Act 2004*, testing for petroleum production in the area of the petroleum tenure under—
  - (i) section 73 of that Act; or
  - (ii) if section 73 does not apply—section 152 of that Act; or
- (b) for a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*—testing authorised under the petroleum tenure, for petroleum production in the area of the tenure.

***relevant underground water rights*** means—

- (a) in relation to an underground water impact report, the underground water rights of—
  - (i) if the report is for a cumulative management area—the holders of each CMA tenure within the

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- area to which the report relates, other than the holder of a closing CMA tenure; or
- (ii) if the report is for a petroleum tenure—the holder of the petroleum tenure; or
- (b) in relation to a final report for the end of a petroleum tenure—the underground water rights of the holder of the petroleum tenure.

**report obligation** means a requirement with which a responsible tenure holder must comply under an approved underground water impact report or final report.

*Note—*

See, for example, sections 376 (Content of underground water impact report), 377 (Content of final report), 378 (Content of water monitoring strategy), 379 (Content of spring impact management strategy) and 390 (Compliance with approved reports).

**responsible entity** see section 368.

**responsible tenure holder** see section 369.

**start day**, for a petroleum tenure, means—

- (a) the earlier of the following—
- (i) the day production testing starts in the area of the petroleum tenure;
- (ii) the day production of petroleum starts in the area of the petroleum tenure; or
- (b) if production testing or production of petroleum has already started in the area of the tenure on the day this definition commences—the day this definition commences.

**unconsolidated aquifer** means an aquifer other than a consolidated aquifer.

**underground water obligation**, of a petroleum tenure holder, means a make good obligation of the holder for a water bore, or a report obligation for which the holder is the responsible tenure holder.



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***water level***, of an aquifer, means—

- (a) for artesian water—the level to which the water would, if it were tapped by a water bore and the water were contained vertically above the surface of the land, rise naturally above the surface of the land; or
- (b) for subartesian water—if the aquifer were tapped by a water bore, the level of water in the water bore tapping the aquifer.

***water monitoring bore*** means a water bore used for monitoring impacts on underground water caused by the exercise of underground water rights of petroleum tenure holders.

### **363 Water bores to which ch 3 applies**

This chapter applies to a water bore if—

- (a) the taking of, or interference with, water from the bore is authorised under this Act; and
- (b) if the *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997* required a development approval under that Act in relation to the bore for operational work for the taking of, or interfering with, water under this Act— the approval has been granted.

### **364 References to petroleum tenure holder in ch 3**

- (1) This section applies if a petroleum tenure ends.
- (2) Subsection (3) applies if—
  - (a) the petroleum tenure was an authority to prospect under the *Petroleum Act 1923* and under part 6, division 1 of that Act the holder of the tenure became a lease holder; or
  - (b) the petroleum tenure was an authority to prospect under the *Petroleum and Gas (Production and Safety) Act 2004* and under chapter 2, part 2, division 2 of that Act

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the holder of the tenure became a petroleum lease holder.

- (3) A reference in this chapter—
  - (a) to the petroleum tenure is a reference to the authority to prospect and the lease or petroleum lease; and
  - (b) to the petroleum tenure holder includes a reference to the lessee or petroleum lease holder.
- (4) Otherwise, a reference in this chapter to a petroleum tenure holder includes a reference to the holder of the petroleum tenure immediately before it ended.

## **Division 2                      Cumulative management areas**

### **365      Declaring cumulative management areas**

- (1) This section applies if the chief executive considers an area containing 2 or more petroleum tenures may be affected by the exercise of underground water rights by the tenure holders.
- (2) The chief executive may, by gazette notice, declare the area to be a cumulative management area.
- (3) The gazette notice must describe the area for which the declaration is made.
- (4) The chief executive must, within 20 business days—
  - (a) give notice of the declaration to the commission and each CMA tenure holder in the cumulative management area, other than the holder of a closing CMA tenure; and
  - (b) publish a map showing the cumulative management area on the department's website.
- (5) A failure to comply with subsection (4) does not invalidate or otherwise affect the declaration of the cumulative management area.

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## Division 3                      General obligations of petroleum tenure holders

### 366      **Obligation to use best endeavours to obtain approvals**

- (1) A petroleum tenure holder must use its best endeavours to obtain any approval necessary to comply with its obligations under this chapter.
- (2) In this section—  
*approval* includes a licence, permit, authorisation, consent, permission or other authority required under this Act or another Act.

### 367      **Obligation to use best endeavours to obtain information**

A responsible entity or other petroleum tenure holder must use its best endeavours to obtain all information about water bores necessary to comply with its obligations under this chapter.

*Examples of using best endeavours—*

- searching a database of information relevant to underground water management kept by the department
- asking a landowner to disclose the location and details of water bores

## Part 2                              Reporting

### Division 1                      Preliminary

#### 368      **Who is a *responsible entity***

*A responsible entity* is—

[s 369]

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- (a) for a cumulative management area, other than an area that is within a closing CMA tenure—the commission; or
- (b) for a closing CMA tenure or a petroleum tenure other than a CMA tenure—the holder of the petroleum tenure.

### **369 Who is a *responsible tenure holder***

- (1) A *responsible tenure holder*, for a make good obligation for a water bore or a report obligation, for a petroleum tenure to which an approved underground water impact or final report relates, is—
  - (a) if the report is an underground water impact report for a cumulative management area—the petroleum tenure holder identified in an underground water impact report as the responsible tenure holder for the obligation; or
  - (b) if the report is an underground water impact report or final report for a petroleum tenure, including a closing CMA tenure—the holder of the petroleum tenure.
- (2) Also, a petroleum tenure holder directed under section 418 to undertake a bore assessment of a water bore is a *responsible tenure holder* for the make good obligations for the bore.

## **Division 2                      Underground water impact reports**

### **370 Obligation to give underground water impact report**

- (1) Subject to section 371, a responsible entity must, within the period or by the day mentioned in subsection (2) or (3), give the chief executive an underground water impact report that complies with subsection (2)(a) and (d) for—
  - (a) if the responsible entity is the commission—each cumulative management area; or
  - (b) if the responsible entity is a petroleum tenure holder—the petroleum tenure.

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Maximum penalty—1665 penalty units.

- (2) An underground water impact report must—
- (a) comply with the requirements under division 4; and
  - (b) be given within the initial report period or, if the chief executive agrees to a longer period, that period; and
  - (c) be given within 10 business days after each third anniversary of the day the first underground water impact report for the cumulative management area or petroleum tenure took effect or, if the chief executive agrees to a later day, the later day; and
  - (d) be accompanied by a submissions summary under section 383.
- (3) However, the chief executive may, by notice given to the responsible entity, require the entity to give the report—
- (a) for a report to which subsection (2)(b) applies—within a reasonable period that ends earlier than the initial report period; or
  - (b) for a report to which subsection (2)(c) applies—before the day mentioned in subsection (2)(c), if the earlier day allows the entity a reasonable period to give the report.
- (4) In this section—
- initial report period*** means 14 months after—
- (a) if the responsible entity is the commission—the day the cumulative management area is declared; or
  - (b) if the responsible entity is a petroleum tenure holder—
    - (i) the start day for the tenure; or
    - (ii) if this section applies because of section 371(3)—the day the renewal of the petroleum tenure is granted.

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**371 When obligation to give underground water impact report does not apply**

- (1) This section applies if—
  - (a) a petroleum tenure holder is required under section 370(1) to give the chief executive an underground water impact report; and
  - (b) before the report is given under that section, the petroleum tenure holder gives the chief executive a notice of closure for the tenure.
- (2) Section 370 does not apply to the holder.
- (3) However, section 370 does apply if, after the notice of closure is given, an application for renewal of the petroleum tenure, made under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, is granted.

**Division 3 Notices of closure and final reports**

**372 Obligation to give notice of closure—general**

- (1) A petroleum tenure holder must, on the day any of the following happens, give the chief executive a notice of closure—
  - (a) the day that is 1 year before the term of the petroleum tenure ends, other than if the petroleum tenure is divided under the *Petroleum and Gas (Production and Safety) Act 2004*, chapter 2;
  - (b) the day the holder makes a surrender application for the petroleum tenure.

Maximum penalty—500 penalty units.

- (2) The notice of closure must state—
  - (a) the details of the holder and petroleum tenure; and
  - (b) whether the petroleum tenure is ending or being surrendered; and

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- (c) if the petroleum tenure is ending—the day the petroleum tenure will end.
- (3) If the petroleum tenure is a CMA tenure, including a closing CMA tenure, the holder must give the commission a copy of the notice of closure.
- (4) In this section—
- surrender application*, for a petroleum tenure, means a surrender application for the tenure made under—
- (a) the *Petroleum and Gas (Production and Safety) Act 2004*, chapter 5, part 11; or
- (b) the *Petroleum Act 1923*, section 21 or 52.

### **373 Obligation to give notice of closure—relevant events**

- (1) This section applies to a petroleum tenure holder if—
- (a) the obligation to give a final report does not apply to the holder because the holder makes a renewal application for the tenure before the time for making the application expires; and
- (b) after the holder gives the chief executive a written declaration stating that the holder intends to apply for a renewal of the tenure, any of the following happens (each a *relevant event*)—
- (i) the holder withdraws the renewal application;
- (ii) the renewal application for the tenure is rejected;
- (iii) the renewal application is granted, and the holder later makes a surrender application for the tenure.
- (2) The holder must, on the day the relevant event happens, give the chief executive a notice of closure complying with section 372(2).

Maximum penalty—500 penalty units.

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### **374 Obligation to give final report**

- (1) This section applies if a notice of closure for a petroleum tenure is given by the holder of the petroleum tenure under section 372 or 373.
- (2) The chief executive must, as soon as practicable after the notice of closure is received, give a notice requiring a final report to be given for the tenure within the reasonable period stated in the notice to—
  - (a) for a CMA tenure other than a closing CMA tenure—the commission as responsible entity for the cumulative management area; or
  - (b) for a closing CMA tenure or other petroleum tenure—the holder of the petroleum tenure.
- (3) The chief executive must give a copy of a notice given to the commission for a cumulative management area under subsection (2)(a) to each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- (4) Subject to section 375, the responsible entity must, within the period stated in the notice given under subsection (2), give the chief executive a final report for the petroleum tenure that complies with division 4.

Maximum penalty—1665 penalty units.
- (5) A final report must be accompanied by a submissions summary under section 383.

### **375 When obligation to give final report does not apply**

- (1) Subsection (2) applies if—
  - (a) a holder's petroleum tenure is ending other than by a surrender application; and
  - (b) the chief executive gives a notice to the holder under section 374(2); and
  - (c) before the last day by which the holder may apply for a renewal of the petroleum tenure under the *Petroleum Act*



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*1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the holder gives the chief executive a written declaration stating that the holder intends to apply for the renewal.

- (2) Section 374(4) does not apply to the holder if the holder makes a renewal application for the tenure before the time for making the application expires, unless the holder later gives a notice of closure under section 373.
- (3) Subsection (4) applies if a petroleum tenure holder has made a surrender application for the tenure and, after a notice of closure is given, the holder withdraws the surrender application.
- (4) Section 374(4) does not apply to the holder.

## **Division 4                    Requirements for underground water impact reports and final reports**

### **Subdivision 1            Content**

#### **376    Content of underground water impact report**

An underground water impact report must include each of the following—

- (a) for the area to which the report relates—
  - (i) the quantity of water produced or taken from the area because of the exercise of any previous relevant underground water rights; and
  - (ii) an estimate of the quantity of water to be produced or taken because of the exercise of the relevant underground water rights for a 3-year period starting on the consultation day for the report;

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- (b) for each aquifer affected, or likely to be affected, by the exercise of the relevant underground water rights—
  - (i) a description of the aquifer; and
  - (ii) an analysis of the movement of underground water to and from the aquifer, including how the aquifer interacts with other aquifers; and
  - (iii) an analysis of the trends in water level change for the aquifer because of the exercise of the rights mentioned in paragraph (a)(i); and
  - (iv) a map showing the area of the aquifer where the water level is predicted to decline, because of the taking of the quantities of water mentioned in paragraph (a), by more than the bore trigger threshold within 3 years after the consultation day for the report; and
  - (v) a map showing the area of the aquifer where the water level is predicted to decline, because of the exercise of relevant underground water rights, by more than the bore trigger threshold at any time;

*Note—*

If the underground water impact report or final report is approved, the mapped areas mentioned in subparagraphs (iv) and (v) establish immediately affected and long-term affected areas under section 387.

- (c) a description of the methods and techniques used to obtain the information and predictions under paragraph (b);
- (d) a summary of information about all water bores in the area shown on a map mentioned in paragraph (b)(iv), including the number of bores, and the location and authorised use or purpose of each bore;
- (e) a program for—
  - (i) conducting an annual review of the accuracy of each map prepared under paragraph (b)(iv) and (v); and

- (ii) giving the chief executive a summary of the outcome of each review, including a statement of whether there has been a material change in the information or predictions used to prepare the maps;
- (f) a water monitoring strategy;
- (g) a spring impact management strategy;
- (h) if the responsible entity is the commission—
  - (i) a proposed responsible tenure holder for each report obligation mentioned in the report; and
  - (ii) for each immediately affected area—the proposed responsible tenure holder or holders who must comply with any make good obligations for water bores within the immediately affected area;
- (i) other information or matters prescribed under a regulation.

### **377 Content of final report**

- (1) A final report must include each of the matters mentioned in section 376, other than the following—
  - (a) an estimate of the quantity of water mentioned in section 376(a)(ii);
  - (b) a map mentioned in section 376(b)(iv);
  - (c) any of the information mentioned in section 376(d);
  - (d) a program mentioned in section 376(e);
  - (e) if the responsible entity is the commission—the proposed responsible tenure holders mentioned in section 376(h).
- (2) Also, a final report must include—
  - (a) a summary of information about all water bores in the area shown on a map mentioned in section 376(b)(v),

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- including the number of bores, and the location and authorised use or purpose of each bore; and
- (b) a summary about how the make good obligations of the responsible tenure holder for each water bore to which the final report relates have been complied with by the holder over the term of the tenure; and
  - (c) a summary of the make good obligations of the responsible tenure holder for each water bore that have not yet been complied with by the holder; and
  - (d) a plan about how the obligations mentioned in paragraph (c) will be complied with.

### **378 Content of water monitoring strategy**

- (1) A responsible entity's water monitoring strategy must include the following for each immediately affected area and long-term affected area identified in its underground water impact report or final report—
  - (a) a strategy for monitoring—
    - (i) the quantity of water produced or taken from the area because of the exercise of relevant underground water rights; and
    - (ii) changes in the water level of, and the quality of water in, aquifers in the area because of the exercise of the rights;
  - (b) the rationale for the strategy;
  - (c) a timetable for implementing the strategy;
  - (d) a program for reporting to the commission about the implementation of the strategy.
- (2) The strategy for monitoring mentioned in subsection (1)(a) must include—
  - (a) the parameters to be measured; and
  - (b) the locations for taking the measurements; and

- (c) the frequency of the measurements.
- (3) If the strategy is prepared for an underground water impact report, the strategy must also include a program for the responsible tenure holder or holders under the report to undertake a baseline assessment for each water bore that is—
  - (a) outside the area of a petroleum tenure; but
  - (b) within the area shown on the map prepared under section 376(b)(v).
- (4) If the strategy is prepared for a final report, the strategy must also include a statement about any matters under a previous strategy that have not yet been complied with.

### **379 Content of spring impact management strategy**

- (1) A responsible entity's spring impact management strategy must include each of the following for each potentially affected spring in the area to which the entity's underground water impact report or final report relates—
  - (a) the details of the spring, including its location;
  - (b) an assessment of the connectivity between the spring and the aquifer over which the spring is located;
  - (c) the predicted risk to, and likely impact on, the ecosystem and cultural and spiritual values of the spring because of a decline in water level of the aquifer over which the spring is located;
  - (d) the options available to prevent or mitigate any impact mentioned in paragraph (c);
  - (e) a strategy, including the actions to be taken, for preventing or mitigating the predicted impacts on the spring or, if a strategy for preventing or mitigating the predicted impacts on the spring is not included, the reason for not including the strategy;
  - (f) a timetable for implementing the strategy;

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- (g) a program for reporting to the commission about the implementation of the strategy.
- (2) If the strategy is prepared for a final report, the strategy must also include a statement about any matters under a previous strategy that have not yet been complied with.

- (3) In this section—

*cultural and spiritual values*, of a spring, means its aesthetic, historical, scientific, social or other significance to the present generation or past or future generations.

*potentially affected spring* means a spring overlying an aquifer affected by underground water rights, if—

- (a) the water level in the aquifer is predicted, in an underground water impact report or final report, to decline by more than the spring trigger threshold at the location of the spring at any time; and
- (b) the cause of the predicted decline is, or is likely to be, the exercise of the underground water rights.

*spring trigger threshold*, for an aquifer, means a decline in the water level of the aquifer that is—

- (a) if a regulation prescribes the threshold for a particular area—the prescribed threshold for the area; or
- (b) otherwise—0.2m.

### **380 Identifying responsible tenure holders for cumulative management areas**

- (1) In identifying proposed responsible tenure holders under section 376(h), the commission may have regard to the impact considerations relating to each holder of a CMA tenure in the cumulative management area the subject of the report.
- (2) The commission can not identify the holder of a closing CMA tenure as a proposed responsible tenure holder unless, after the notice of closure for the tenure is given, the tenure does not end.

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- (3) The commission may identify responsible tenure holders using maps showing the areas in which the holders' underground water obligations arise.

## **Subdivision 2 Consultation by responsible entity**

### **381 Requirement for consultation**

Before giving the chief executive an underground water impact report or final report under this part, the responsible entity must consult on the report as required under this subdivision.

### **382 Public notice and copies of report**

- (1) The responsible entity must—
- (a) publish a notice about the proposed underground water impact report or final report—
    - (i) in a newspaper circulating generally throughout the area to which the report relates; and
    - (ii) if the entity has a website—on the entity's website; and
  - (b) give a copy of the notice to each owner of a water bore within the area to which the report relates.
- (2) The responsible entity for a cumulative management area must also give a copy of the notice to each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- (3) The notice must state each of the following—
- (a) a description of the area to which the report relates;
  - (b) that copies of the report may be obtained from the responsible entity;
  - (c) how the copies may be obtained;

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- (d) that—
  - (i) written submissions on the report may be given; and
  - (ii) the submissions must be given to the responsible entity; and
  - (ii) a copy of the submissions must be given to the chief executive;
- (e) the day that is at least 20 business days after the notice is published by which the submissions may be made;
- (f) where the submissions may be given.
- (4) The responsible entity must—
  - (a) comply with subsections (1) and (2) at least 2 months before an underground water impact report is given to the chief executive under section 370; and
  - (b) give a copy of the report to each person who requests a copy.

### **383 Submissions summary**

- (1) The responsible entity must, before giving the chief executive an underground water impact report or final report under this part—
  - (a) consider each properly made submission about the report; and
  - (b) prepare a summary of the submissions (a *submissions summary*).
- (2) The submissions summary must summarise—
  - (a) the properly made submissions about the report; and
  - (b) how the responsible entity addressed the submissions; and
  - (c) any changes the responsible entity has made to the report because of the submissions.



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## **Division 5                      Approval of report by chief executive**

### **384      Modifying report before approval**

- (1) This section applies if, before approving an underground water impact report or final report, the chief executive considers the report is inadequate in a material particular.

*Example of a report that is inadequate in a material particular—*

In the circumstances, it was appropriate for the water monitoring strategy detailed in the report to include the construction of a water monitoring bore. The construction of the bore is not provided for in the report.

- (2) The chief executive may give the responsible entity for the report a notice stating—
- (a) why the chief executive considers the report is inadequate in a material particular; and
  - (b) how the report must be modified; and
  - (c) that the responsible entity must either—
    - (i) modify the report in the way stated in the notice and give the amended report to the chief executive within a stated reasonable period; or
    - (ii) make a submission within a stated reasonable period, which must be at least 20 business days after the notice is given, about why the report should not be modified.
- (3) If the responsible entity makes a submission within the stated period and, after considering the submission, the chief executive still considers the report should be modified the chief executive may give the responsible entity a notice stating—
- (a) how the report must be modified; and
  - (b) a reasonable period within which the modified report must be given to the chief executive.

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- (4) If the responsible entity is given a notice under subsection (2) or (3), the entity must comply with it.  
Maximum penalty—500 penalty units.
- (5) The chief executive may give the responsible entity more than 1 notice under this section.

### **385 Decision on report**

- (1) If a responsible entity gives the chief executive an underground water impact report or final report under this part, the chief executive must, within 60 business days after receiving the report, decide—
  - (a) to approve the report, with or without conditions; or
  - (b) to require the responsible entity to modify the report under section 384.
- (2) A condition imposed under subsection (1)(a) is taken to be part of the report.
- (3) If the responsible entity is a petroleum tenure holder, the chief executive may seek advice from the commission before making a decision under subsection (1).
- (4) The chief executive must, within 10 business days after approving the report, give notice of the decision to—
  - (a) the responsible entity for the report; and
  - (b) if the report relates to a cumulative management area—each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- (5) The notice must state—
  - (a) any conditions of the approval; and
  - (b) the day the approved report takes effect.
- (6) An underground water impact report or final report takes effect on the day stated in the notice.

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**386 Publishing approval and making report available**

- (1) The responsible entity for an underground water impact report or final report approved by the chief executive must, within 10 business days after receiving notice of the approval—
  - (a) publish a notice about the approval—
    - (i) in a newspaper circulating generally throughout the area to which the report relates; and
    - (ii) if the entity has a website—on the entity’s website; and
  - (b) give a copy of the notice to each bore owner of a water bore within the area to which the report relates.
- (2) The notice must state—
  - (a) that copies of the approved report may be obtained from the entity; and
  - (b) how the copies may be obtained.
- (3) The responsible entity must give a copy of the report to any person who requests a copy.
- (4) The chief executive must publish each approved underground water impact report and approved final report on the department’s website.

**Division 6 Provisions about approved reports**

**387 Approved underground water impact report or final report establishes immediately affected and long-term affected areas**

On the day an underground water impact report or final report takes effect—

- (a) the area shown on a map mentioned in section 376(b)(iv) is an *immediately affected area*; and

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- (b) the area shown on a map mentioned in section 376(b)(v) is a *long-term affected area*.

### **388 Effect of approved underground water impact report**

- (1) On the day an approved underground water impact report takes effect, the following cease to apply—
  - (a) if the report relates to a cumulative management area other than an area that is within a closing CMA tenure—any existing underground water impact report relating to the cumulative management area or a petroleum tenure within the area;
  - (b) if the report relates to a closing CMA tenure or a petroleum tenure other than a CMA tenure—any existing underground water impact report relating to the petroleum tenure.
- (2) Subsection (1) does not prevent proceedings being started or continued for an offence under section 390 for a failure to comply with an underground water impact report that has ceased applying under subsection (1), if the failure to comply happened when the report was in effect.

### **389 Effect of approved final report**

- (1) Subsections (2) and (3) apply if—
  - (a) an approved final report takes effect for a CMA tenure, other than a closing CMA tenure; and
  - (b) an approved underground water impact report applies to the CMA tenure's cumulative management area.
- (2) If the final report conflicts with a matter provided for in the approved underground water impact report prepared for the cumulative management area—
  - (a) the final report prevails to the extent of the conflict; and
  - (b) the underground water impact report is taken to have been amended to agree with the final report; and

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- (c) the holder of any remaining CMA tenures in the cumulative management area must continue to comply with the approved underground water impact report as amended by the final report under paragraph (b).
  - (3) If the CMA tenure the subject of the final report is the last CMA tenure in a cumulative management area to end, the underground water impact report for the cumulative management area stops applying when the final report takes effect.
  - (4) An underground water impact report for a closing CMA tenure or a petroleum tenure other than a CMA tenure stops applying when a final report for the tenure takes effect.

### **390 Compliance with approved reports**

- (1) Each of the following petroleum tenure holders must comply with an approved underground water impact report, unless the holder has a reasonable excuse—
  - (a) for a report about a cumulative management area—each responsible tenure holder for a report obligation;
  - (b) for a report about a petroleum tenure—the holder of the petroleum tenure.

Maximum penalty—1665 penalty units.

- (2) The holder of the petroleum tenure to which a final report relates must comply with the final report, unless the holder has a reasonable excuse.

Maximum penalty—1665 penalty units.

## **Division 7 Amending approved reports**

### **391 Minor or agreed amendments of approved report**

- (1) The chief executive may amend an approved underground water impact report or final report if—

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- (a) the amendment is only to—
    - (i) correct a minor error; or
    - (ii) update a petroleum tenure holder's details; or
    - (iii) make another change that is not a change of substance; or
  - (b) for a report relating to a cumulative management area—the commission and any CMA tenure holder other than a closing CMA tenure holder affected by the amendment agree to the amendment; or
  - (c) for a report for a closing CMA tenure or other petroleum tenure—the holder of the tenure agrees to the amendment.
- (2) If the chief executive amends a report under subsection (1), the chief executive must publish the amended report on the department's website.
- (3) The chief executive must give notice of the amendment to—
- (a) the responsible entity for the report; and
  - (b) if the report relates to a cumulative management area—each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- (4) Any amendment takes effect on the day stated in the notice.
- (5) The chief executive may include in the notice a requirement that the responsible entity—
- (a) publish a notice of the amendment in the way the chief executive considers appropriate; and
  - (b) give a notice of the amendment to any bore owners the chief executive considers may be affected by the amendment.

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**392 Direction to propose amendment and consult on proposal**

- (1) This section applies if the chief executive reasonably believes—
  - (a) there has been a material change in the information or a prediction contained in an approved underground water impact report or final report; or
  - (b) the information or a prediction contained in an approved underground impact report or final report is incorrect in a material particular.
- (2) The chief executive may give to the responsible entity for the report a notice directing the entity to—
  - (a) propose an amendment of the report to address the material change or correct the material particular; and
  - (b) consult on the proposed amendment in the way required under subsection (4); and
  - (c) give the proposed amendment to the chief executive for approval under subsection (5).
- (3) The responsible entity must comply with the notice.  
Maximum penalty—500 penalty units.
- (4) In consulting on the proposed amendment, division 4, subdivision 2 applies to the proposed amendment as if a reference in that subdivision to an underground water impact report or final report were a reference to the proposed amendment.
- (5) In deciding whether to approve the proposed amendment, division 5 applies to the chief executive's decision as if a reference in that division to an underground water impact report or final report were a reference to the proposed amendment.
- (6) The approved underground water impact report or final report, as amended, takes effect on the day the amendment takes effect under section 385(6).

### **393 Other amendments**

- (1) This section applies if—
  - (a) the chief executive reasonably considers an approved underground water impact report or final report requires amendment because a matter in the report is—
    - (i) no longer appropriate because there has been a material change in circumstances; or
    - (ii) inappropriate for another reason; and
  - (b) the amendment will not adversely affect a bore owner; and
  - (c) section 391 or 392 does not apply for the amendment.
- (2) The chief executive may give the responsible entity for the approved report, and if the responsible entity is the commission, any responsible tenure holder who may be affected by the proposed amendment, a notice stating—
  - (a) why the chief executive considers the approved report requires amendment; and
  - (b) how the chief executive proposes to amend the approved report; and
  - (c) that the recipient of the notice may make a submission within a stated time, which must be at least 20 business days, about why the approved report should not be amended.
- (3) After considering all properly made submissions about the proposed amendment, the chief executive must decide whether to make the amendment.
- (4) The chief executive must give notice of the decision to any entity given notice of the proposed amendment under subsection (2).
- (5) Any amendment takes effect from the day stated in the notice.



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- (6) The responsible entity for the amended report must, within 10 business days after receiving notice of the amendment, publish a notice about the amendment—
    - (a) in a newspaper circulating generally throughout the area to which the report relates; and
    - (b) if the entity has a website—on the entity’s website.
  - (7) The notice must state—
    - (a) that copies of the amended report may be obtained from the entity; and
    - (b) how the copies may be obtained.
  - (8) The responsible entity must give a copy of the amended report to any person who requests a copy.
  - (9) The chief executive must publish the amended report on the department’s website.

## **Part 3                      Baseline assessments**

### **Division 1                Preliminary**

#### **394     What is a *baseline assessment***

A *baseline assessment* is an assessment of a water bore undertaken by a petroleum tenure holder to obtain information about the bore, including the following—

- (a) the level and quality of water in the bore;
- (b) how the bore is constructed;
- (c) the type of infrastructure used to pump water from the bore.

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*Note—*

Undertaking a baseline assessment includes analysing data obtained during the assessment to establish the matters in paragraphs (a) to (c).

### **395 Chief executive may make guidelines**

- (1) The chief executive may make guidelines about the minimum requirements for undertaking a baseline assessment.
- (2) Before making the guidelines, the chief executive may consult with the entities the chief executive considers appropriate.
- (3) The chief executive must publish the guidelines on the department's website.

### **396 Method of undertaking baseline assessment**

- (1) In undertaking a baseline assessment of a water bore, a responsible tenure holder must comply with—
  - (a) guidelines made by the chief executive under section 395; or
  - (b) if there are no guidelines—best practice industry standards for carrying out work similar in nature to undertaking a baseline assessment.
- (2) However, subsection (1) does not apply to a baseline assessment that was undertaken before the commencement of this section if the holder obtained information about the water bore that substantially meets the requirements of section 394 and any guidelines made by the chief executive under section 395.

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## Division 2                      Preparing and approving baseline assessment plans

### 397      **Obligation to prepare baseline assessment plan**

- (1) A petroleum tenure holder must give the chief executive a baseline assessment plan for the area of the holder's tenure before—
- (a) the start day for the petroleum tenure; or
  - (b) if production testing or production of petroleum has already started in the area on the commencement of this section—30 business days after the commencement; or
  - (c) if a longer period is agreed by the chief executive—the longer period.

Maximum penalty—500 penalty units.

- (2) A baseline assessment plan for the area of a petroleum tenure must—
- (a) state whether a baseline assessment has been undertaken for any bores in the area before the day the plan is given to the chief executive, and if so, identify the bores; and
  - (b) identify each area of the holder's petroleum tenure in which water bores other than the bores mentioned in paragraph (a) are or may be located (each a *priority area*); and
  - (c) state a timetable for undertaking baseline assessments in each priority area of water bores for which an assessment has not already been completed, including the day by which all baseline assessments in each priority area will be undertaken, that complies with section 398 (a *baseline assessment timetable*); and
  - (d) state the rationale for the baseline assessment timetable.

### **398 Requirements for baseline assessment timetable**

- (1) A baseline assessment timetable for a holder's petroleum tenure must provide for baseline assessments to be undertaken for a water bore located in a priority area for the tenure by the earliest of the following—
  - (a) before production testing starts, if—
    - (i) the bore in the priority area is located within 2km of the production testing; and
    - (ii) during the production testing, water will be taken from the aquifer supplying the water bore;
  - (b) before production of petroleum starts in the priority area;
  - (c) the day after a period of 30 days, whether continuous or not, of undertaking production testing in the priority area.
- (2) However, subsection (1)(a) does not apply if the tenure holder obtains the written agreement of the owner of the water bore to a baseline assessment being undertaken on a later day.
- (3) Subsection (4) applies if, on the commencement of this section—
  - (a) production testing in the priority area has been undertaken for a period of more than 30 days, whether continuous or not; or
  - (b) production of petroleum in the priority area has started.
- (4) The baseline assessment timetable must propose a day by which a baseline assessment will be undertaken for each water bore in a priority area.
- (5) A baseline assessment timetable must state the rationale for each proposed date by which baseline assessments will be undertaken.

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**399 Approval of baseline assessment plan**

- (1) If a baseline assessment plan is given to the chief executive under section 397, the chief executive must—
  - (a) approve the plan, with or without conditions; or
  - (b) ask the holder to amend the plan and submit the amended plan within a stated reasonable period.
- (2) The chief executive must give notice of the decision to the petroleum tenure holder within 10 business days after making the decision.
- (3) If the chief executive approves the plan, the plan takes effect on the day stated in the notice.

**400 Compliance with approved baseline assessment plan**

A petroleum tenure holder must undertake a baseline assessment of a water bore by the day stated for carrying out the assessment of the bore in the holder's approved baseline assessment plan, unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

**Division 3 Amending approved baseline assessment plans**

**401 Application to amend**

- (1) A petroleum tenure holder may apply in writing to the chief executive for an amendment of the holder's approved baseline assessment plan.
- (2) A petroleum tenure holder must apply to the chief executive for an amendment of the plan if the holder becomes aware of a material change to the holder's program for production testing or production of petroleum that may cause the holder's baseline assessment timetable not to comply with section 398.
- (3) The application must state the reasons for the application.

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- (4) The chief executive may—
  - (a) approve the amendment, with or without conditions; or
  - (b) ask the holder to amend the application and submit the amended application within a reasonable period.
- (5) The chief executive must give notice of the decision to the petroleum tenure holder within 10 business days after making the decision.
- (6) If the chief executive approves the application, the amendment takes effect on the day stated in the notice.

## **Division 4                      Miscellaneous**

### **402      Direction by chief executive to undertake baseline assessment**

- (1) This section applies to a water bore if the chief executive reasonably considers the bore is likely, in the future, to be affected by the exercise of a petroleum tenure holder's underground water rights.
- (2) The chief executive may, by notice given to the holder, direct the holder to undertake a baseline assessment of the water bore that complies with this section and section 396.
- (3) The notice must state the following—
  - (a) where the bore is situated;
  - (b) why the chief executive considers the bore is likely to be affected by the exercise of the holder's rights;
  - (c) a reasonable period within which the assessment must be undertaken;
  - (d) that a copy of the notice given under section 405 must be given to the chief executive at the same time the notice is given under that section.

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- (4) In deciding the holder to whom a direction is to be given under subsection (2), the chief executive must have regard to the impact considerations relating to the holder.
  - (5) The holder must comply with a direction given under subsection (2), unless the holder has a reasonable excuse.

Maximum penalty for subsection (5)—500 penalty units.

#### **403 Notice of intention to undertake baseline assessment**

A petroleum tenure holder must, at least 10 business days before undertaking a baseline assessment of a water bore, give the bore owner of the bore a notice stating—

- (a) when the baseline assessment will be undertaken; and
- (b) who will undertake the baseline assessment.

#### **404 Bore owner must give information**

- (1) To comply with its obligations under this part, a petroleum tenure holder may ask an owner of land for information about the following—
  - (a) the location of any water bores on the owner's land;
  - (b) any other information the holder reasonably requires to undertake a baseline assessment of any bores mentioned in paragraph (a).
- (2) If there are water bores located on the owner's land, the owner of the land must comply with any reasonable request by a holder made under subsection (1), if the person has the information.

#### **405 Notice of outcome of baseline assessment**

A petroleum tenure holder must give notice in the approved form of the outcome of a baseline assessment of a water bore to the commission and the bore owner within—





- 
- (a) the agreement is taken to be a make good agreement for the bore for the purposes of part 5; and
  - (b) the petroleum tenure holder is taken to have complied with the holder's obligation to undertake a bore assessment for the bore under section 417.

## Part 5                      **Make good obligations for water bores**

### Division 1                **Preliminary**

#### **408      Definition for pt 5**

In this part—

*immediately affected area bore* means a water bore located in an immediately affected area of an aquifer.

#### **409      *Make good obligations for water bores***

- (1) The *make good obligations* of a petroleum tenure holder for an immediately affected area bore are—
  - (a) undertaking a bore assessment of the bore as required under division 2; and
  - (b) entering into a make good agreement with the bore owner of the bore as required under division 3; and
  - (c) complying with the make good agreement; and
  - (d) if asked to vary the make good agreement under section 424—negotiating a variation of the make good agreement.
- (2) The *make good obligations* of a petroleum tenure holder for a water bore other than an immediately affected area bore are—

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- (a) if the holder is required under section 418 to undertake a bore assessment of the bore—undertaking the bore assessment; and
- (b) entering into a make good agreement with the bore owner of the bore as required under division 3; and
- (c) complying with the make good agreement; and
- (d) if asked to vary the make good agreement under section 424—negotiating a variation of the make good agreement.

#### **410 Who must comply with make good obligations**

The responsible tenure holder for a water bore must comply with the make good obligations for the bore.

### **Division 2 Bore assessments**

#### **Subdivision 1 Preliminary**

##### **411 What is a *bore assessment***

A *bore assessment* is an assessment of a water bore undertaken by a petroleum tenure holder to establish—

- (a) whether the bore has an impaired capacity; or
- (b) whether the bore is likely to start having an impaired capacity.

*Note—*

Undertaking a bore assessment includes analysing data obtained during the assessment to establish the matters in paragraphs (a) and (b).

##### **412 When does a water bore have an *impaired capacity***

- (1) An existing water bore has an *impaired capacity* if—

- 
- (a) there is a decline in the water level of the aquifer at the location of the bore because of the exercise of underground water rights; and
  - (b) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.
- (2) A new water bore has an *impaired capacity* if—
- (a) there is a decline in the water level of the aquifer at the location of the bore because of the exercise of underground water rights; and
  - (b) the decline is more than the decline predicted at the location of the bore in the relevant report; and
  - (c) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.
- (3) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.

- (4) In this section—

*existing water bore* means any water bore in existence before the first underground water impact report relating to the area where the bore is located takes effect.

*new water bore* means a water bore other than an existing water bore.

*relevant report*, for a new water bore, means the approved underground water impact report—

- (a) in effect when the bore is constructed; and
- (b) relating to the area where the bore is located.

### 413 Chief executive may make guidelines

- (1) The chief executive may make guidelines about the minimum requirements for undertaking a bore assessment.

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- (2) Before making the guidelines, the chief executive may consult with the entities the chief executive considers appropriate.
- (3) The chief executive must publish the guidelines on the department's website.

#### **414 Method of undertaking bore assessment**

- (1) In undertaking a bore assessment of a water bore, a responsible tenure holder must comply with—
  - (a) guidelines made by the chief executive under section 413; or
  - (b) if there are no guidelines—best practice industry standards for carrying out work similar in nature to undertaking a bore assessment.
- (2) However, subsection (1) does not apply to a bore assessment undertaken before the commencement of this section if the holder obtained information about the water bore that is sufficient to establish a matter mentioned in section 411.

### **Subdivision 2 Obligations relating to bore assessments**

#### **415 Notice of intention to undertake bore assessment**

A responsible tenure holder must, at least 10 business days before undertaking a bore assessment of a water bore, give the bore owner of the bore a notice stating—

- (a) when the bore assessment will be undertaken; and
- (b) who will undertake the bore assessment.

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#### **416 Bore owner must give information**

- (1) To comply with its obligations under this division, a petroleum tenure holder may ask an owner of land for information about the following—
  - (a) the location of any water bores on the owner's land;
  - (b) any other information the holder reasonably requires to undertake a bore assessment of any bores mentioned in paragraph (a).
- (2) If there are water bores located on the owner's land, the owner of the land must comply with any reasonable request by a holder made under subsection (1), if the person has the information.

### **Subdivision 3 Obligations to undertake bore assessments**

#### **417 Obligation to undertake bore assessment of immediately affected area bore in particular circumstances**

- (1) This section applies if—
  - (a) an underground water impact report or an amendment of a report takes effect; and
  - (b) the report identifies, or the amendment changes the area or location of, an immediately affected area of an aquifer.
- (2) For each immediately affected area bore that is not already the subject of a make good agreement, the responsible tenure holder for the bore must, unless the holder has a reasonable excuse, undertake a bore assessment of the bore that complies with this division before—
  - (a) the day that is 60 business days after the report or amendment takes effect; or
  - (b) if the chief executive agrees to a later day—that day.

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Maximum penalty—500 penalty units.

- (3) However, subsection (2) does not apply if a bore assessment of the bore has already been undertaken.

#### **418 Direction by chief executive to undertake bore assessment**

- (1) This section applies if the chief executive reasonably believes a water bore can no longer supply a reasonable quantity or quality of water for its authorised use or purpose.
- (2) The chief executive may give a petroleum tenure holder a notice stating that the holder must either—
- (a) undertake a bore assessment that complies with this section and section 414 within a stated reasonable time; or
  - (b) make a submission within a stated reasonable period of at least 20 business days about why the holder should not be required to undertake the bore assessment.
- (3) If the holder undertakes a bore assessment under subsection (2)(a), the holder must give the chief executive a copy of the notice given under section 419.
- (4) In deciding the petroleum tenure holder to whom a notice is to be given under subsection (2), the chief executive must have regard to the impact considerations relating to the holder.
- (5) If the holder makes a submission within the stated period and, after considering the submission, the chief executive still considers the holder should undertake the bore assessment, the chief executive may give the holder a notice stating—
- (a) that the holder must undertake the bore assessment; and
  - (b) a reasonable period within which the bore assessment must be undertaken; and
  - (c) that a copy of the notice given under section 419 must be given to the chief executive.

- 
- (6) The holder must comply with a notice given under subsection (2) or (5), unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

- (7) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.

- (8) In this section—

*bore assessment* includes an assessment of a water bore to establish—

- (a) whether it can supply a reasonable quantity or quality of water for its authorised use or purpose; and
- (b) the reason for any reduced capacity of the water bore to supply the reasonable quantity or quality of water.

#### **419 Notice of outcome of bore assessment**

A petroleum tenure holder must give notice in the approved form of the outcome of a bore assessment to the commission and the bore owner for the bore within—

- (a) if the bore assessment was undertaken before the commencement of this section—30 business days after the commencement; or
- (b) otherwise—30 business days after undertaking the bore assessment.

Maximum penalty—500 penalty units.

## **Division 3                    Make good agreements**

### **Subdivision 1            Preliminary**

#### **420    What is a *make good agreement* for a water bore**

A *make good agreement* for a water bore is an agreement—

- (a) entered into by the following parties—
  - (i) the responsible tenure holder for the make good obligations for the bore;
  - (ii) the bore owner; and
- (b) that provides for each of the following matters—
  - (i) the outcome of the bore assessment for the bore;
  - (ii) whether the bore has or is likely to have an impaired capacity;
  - (iii) if the bore has or is likely to have an impaired capacity—the make good measures for the bore to be taken by the responsible tenure holder.

#### **421    What is a *make good measure* for a water bore**

A *make good measure* for a water bore is any of the following measures—

- (a) ensuring the bore owner has access to a reasonable quantity and quality of water for the bore's authorised use or purpose;

*Examples—*

- bore enhancement by deepening the bore or improving its pumping capacity
- constructing a new bore
- providing a supply of an equivalent amount of water of a suitable quality by piping it from an alternative source



- (b) carrying out a plan to monitor the bore, including, for example, by undertaking periodic bore assessments;
- (c) giving the bore owner monetary or non-monetary compensation for the bore's impaired capacity.

#### **422 Persons bound by make good agreement**

A make good agreement for a water bore binds the parties to it and each of their successors and assigns, including successors and assigns of the relevant petroleum tenure.

*Note—*

See also section 364 (References to petroleum tenure holder in ch 3).

### **Subdivision 2 Requirements to enter into make good agreements**

#### **423 Requirement to enter into make good agreement and reimburse bore owner**

- (1) This section applies in relation to a water bore for which a responsible tenure holder has undertaken a bore assessment under division 2.
- (2) The holder must use the holder's best endeavours to enter into a make good agreement for the bore with the bore owner by—
  - (a) the day that is 40 business days after the bore assessment is undertaken; or
  - (b) if the chief executive agrees to a later day—that day.
- (3) The holder must reimburse the bore owner for any accounting, legal or valuation costs the claimant necessarily and reasonably incurs in negotiating or preparing a make good agreement, other than the costs of a person facilitating an ADR requested by the bore owner.

### **Subdivision 3      Obligation to negotiate variation of make good agreements**

#### **424      Negotiating variation of make good agreement**

- (1) This section applies if, after entering into a make good agreement for a water bore, either party to the agreement considers a matter stated in the agreement is not appropriate because—
- (a) of a material change in circumstances; or
  - (b) 1 or more of the make good measures agreed to is not effective; or
  - (c) another effective and more efficient make good measure is available.

*Examples—*

- 1 The impacts on a water bore because of the exercise of underground water rights are substantially greater than predicted in an underground water impact report.
  - 2 A change in the authorised activities conducted in the area of a tenure is causing a substantial change in the impact of the exercise of underground water rights on aquifer water levels.
- (2) A party to the agreement may give a notice to the other party—
- (a) stating why the party considers a matter stated in the agreement is not appropriate; and
  - (b) asking the other party to vary the agreement.
- (3) A party to whom a notice is given under subsection (2) must use the party's best endeavours to negotiate a variation of the make good agreement for the water bore that addresses the matters stated in the notice.
- (4) Subsection (3) does not prevent the parties to the make good agreement from otherwise agreeing to vary the agreement.

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## **Division 4                    Disputes about make good obligations**

### **Subdivision 1            Preliminary**

#### **425    Application of div 4**

This division applies if—

- (a) a petroleum tenure holder and the owner of a water bore can not agree on the terms of a make good agreement for the bore within the period provided for under section 423, including whether or not the bore has an impaired capacity; or
- (b) the parties to a make good agreement for a water bore can not agree about—
  - (i) whether a matter stated in the agreement is inappropriate for a reason stated in section 424(1); or
  - (ii) if the parties agree a matter stated in the agreement is inappropriate—the terms of any variation of the agreement; or
- (c) a party to a make good agreement for a water bore reasonably believes the other party has not complied with the agreement.

#### **426    Parties may seek conference or independent ADR**

- (1) This section applies if a dispute about a matter mentioned in section 425 arises.
- (2) Either party may, by a notice (an *election notice*)—
  - (a) given to the other party and the chief executive—ask the chief executive to direct an authorised officer to call a conference to negotiate a resolution of the dispute; or

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- (b) given to the other party—call for the other party to agree to an alternative dispute resolution process (an **ADR**) to negotiate a resolution of the dispute.
- (3) The notice must state—
  - (a) details of the matters the subject of the dispute; and
  - (b) the contact details of the party giving the notice.
- (4) Also, if the notice calls for an ADR, it must—
  - (a) identify the ADR; and
  - (b) state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.
- (5) An ADR may be a process of any kind, including, for example, conciliation or mediation.
- (6) However, the person who facilitates the ADR must be independent of both parties.

#### **427 Duration of conference or ADR**

- (1) This section applies if an election notice is given.
- (2) If a conference is requested, the authorised officer directed under section 428 to conduct the conference must take all reasonable steps to ensure it is finished within 30 business days after the election notice is given (the ***usual period***).
- (3) If an ADR is called for, the parties must use their reasonable endeavours to finish it within 30 business days after the election notice is given (also the ***usual period***).
- (4) Either party may, within the usual period, ask the other party to agree to a longer period to finish the conference or ADR.
- (5) If the parties agree to the longer period, that period applies instead of the usual period.
- (6) If an ADR is called for, sections 430 and 433 apply to the ADR as if a reference in the sections to a conference were a reference to an ADR.

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## **Subdivision 2      Calling conference and attendance**

### **428      Calling conference**

- (1) If an election notice is given requesting a conference, the chief executive must direct an authorised officer to conduct the conference.
- (2) The authorised officer must, by notice, ask the parties to attend a conference to negotiate a resolution of the dispute.
- (3) The notice must state what the subject of the conference is and when and where it will be held.

### **429      Who may attend conference**

- (1) The authorised officer directed to conduct the conference under section 428 and the parties to the dispute may attend it.
- (2) A party may be represented by an agent only if the authorised officer agrees.
- (3) Also, with the authorised officer's approval, someone else may be present to help a party attending the conference.
- (4) However, a party can not be represented by a lawyer unless the other party agrees and the authorised officer is satisfied there is no disadvantage to a party.

### **430      What happens if a party does not attend**

- (1) This section applies if a party given notice of the conference does not attend.
- (2) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.
- (3) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.

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- (4) If the Land Court makes an order under subsection (2), it must decide the amount of the costs.

### **Subdivision 3      Conduct of conference**

#### **431      Authorised officer's role**

- (1) In conducting a conference, the authorised officer must endeavour to help those attending to negotiate an early and inexpensive settlement of the dispute.
- (2) The authorised officer must decide how the conference is conducted.

#### **432      Statements made at conference**

Nothing said by a person at the conference is admissible, without the person's consent, in a proceeding.

#### **433      Negotiated agreement**

- (1) If, at the conference, the parties negotiate an agreement about the matters the subject of the conference, the agreement must be written and signed by or for the parties.
- (2) The agreement may be a make good agreement or a variation of an existing make good agreement between the parties.

### **Subdivision 4      Land Court decision on dispute**

#### **434      Deciding dispute through Land Court after unsuccessful conference or ADR**

- (1) This section applies if an election notice is given and—
  - (a) if a party asked the chief executive to direct an authorised officer to conduct a conference—the authorised officer does not finish the conference within

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- the period required under section 427 (the *required period*); or
- (b) if a party called for an ADR—the parties do not finish the ADR within the period required under section 427 (also the *required period*).
- (2) This section also applies if—
- (a) only 1 of the parties attended the conference or ADR; or
  - (b) both parties attended the conference or ADR and, at the end of the required period, there is no resolution of the dispute.
- (3) An eligible party may apply to the Land Court to decide the matter the subject of the election notice.
- (4) In this section—
- eligible party* means—
- (a) if subsection (1) applies—any party to the dispute; or
  - (b) if subsection (2) applies—a party who attended the conference or ADR.

#### **435 Provisions for making decision**

- (1) Without limiting the Land Court's jurisdiction, it may decide—
- (a) if the dispute is about the terms of a make good agreement for a water bore—the terms of the agreement; or
  - (b) if the dispute is about varying the terms of a make good agreement for a water bore under section 424—
    - (i) whether a matter stated in the agreement is inappropriate for a reason stated in section 424; or
    - (ii) the terms of any variation of the agreement; or
  - (c) if the dispute is about whether a party to a make good agreement for a water bore has complied with the

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agreement—whether anything must be done by a party to comply with the agreement.

- (2) However, the Land Court may decide to vary a make good agreement for a water bore only to the extent the court considers the variation is appropriate to—
  - (a) address a material change in circumstances; or
  - (b) address a make good measure for the bore that is not effective; or
  - (c) provide for another effective and more efficient make good measure for the bore.
- (3) Subject to subsection (2), the Land Court may make any order it considers appropriate about the make good agreement for the water bore or to meet or enforce its decision.
- (4) If the Land Court decides terms of a make good agreement for a water bore, the decision is taken to be a make good agreement for the bore.
- (5) If the Land Court decides to vary a make good agreement for a water bore, the agreement as varied by the decision is, for this Act, taken to be the make good agreement for the bore.

#### **436 Provisions for deciding any compensation**

- (1) This section applies if the Land Court decides to include in a make good agreement, or a variation of a make good agreement, for a water bore a term requiring the petroleum tenure holder to compensate the bore owner.
- (2) The compensation may only be for—
  - (a) diminution of any of the following because of the impacts on the bore of the exercise of underground water rights by petroleum tenure holders—
    - (i) the value of the bore owner’s land on which the water bore is located;
    - (ii) the authorised use or purpose the bore owner has or would have made, of water from the water bore; or



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- (b) any cost to the bore owner, or loss the bore owner suffers, caused by the impaired capacity of the water bore.

*Example for paragraph (b)—*

the cost of transporting water to the bore owner's land from an alternative water source

- (3) In deciding the amount of the compensation, the Land Court may consider any make good measures for the water bore, whether successful or otherwise, taken or attempted by the petroleum tenure holder.

#### **437 Land Court's decision binds successors and assigns**

A decision by the Land Court under section 435 binds the parties to the dispute and each of their successors and assigns, including successors and assigns of the relevant petroleum tenure.

*Note—*

Under section 422, the parties to a make good agreement for a water bore and each of their successors and assigns is bound by the make good agreement.

## **Part 6 End of tenure provisions**

#### **438 Application of make good obligations to particular bores**

- (1) This section applies if—
- (a) a final report for a petroleum tenure is approved under section 385; and
  - (b) the report identifies a long-term affected area and 1 or more water bores in the long-term affected area.
- (2) Part 5 applies for each water bore mentioned in subsection (1)(b) as if—

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- (a) the long-term affected area was an immediately affected area; and
- (b) the bore was an immediately affected area bore; and
- (c) the final report was an underground water impact report.

*Note—*

If a petroleum tenure ends, a reference in this chapter to a petroleum tenure holder includes a reference to the holder of the petroleum tenure immediately before it ended. See section 364.

### **439 Continuation of underground water obligations**

A petroleum tenure holder's obligation to give a final report under section 374, and the holder's underground water obligations, continue to apply despite the ending of the tenure.

*Note—*

For access to the relevant land after the tenure ends to allow a petroleum tenure holder to comply with the holder's underground water obligations, see section 441.

### **440 Petroleum tenure holder may start complying with make good obligations before final report approved**

If a petroleum tenure ends, nothing in this chapter is taken to prevent the holder of the tenure undertaking a bore assessment of a water bore, or entering into a make good agreement for a water bore, before a final report for the tenure is approved.

### **441 Right of entry after petroleum tenure ends to comply with particular obligations**

- (1) This section applies if a petroleum tenure ends and the former holder of the petroleum tenure (the *former tenure holder*)—
  - (a) is the responsible tenure holder for an underground water obligation; or
  - (b) has not complied with an obligation to give a final report under part 2; or

- (c) has been given a direction by the chief executive under part 8.
- (2) The former tenure holder may enter land under the relevant entry provisions to comply with an obligation or direction mentioned in subsection (1).
- (3) The relevant entry provisions apply to the former tenure holder as if—
  - (a) the tenure were still in force; and
  - (b) the former tenure holder were the holder of the tenure; and
  - (c) any water monitoring authorities held by the former tenure holder were still in force; and
  - (d) carrying out an activity to comply with an underground water obligation or a direction given by the chief executive under part 8 were an authorised activity for the tenure.
- (4) In this section—

***relevant entry provisions*** means—

  - (a) for a 1923 Act petroleum tenure under the *Petroleum Act 1923*—parts 6H, 6I, 6J and 6K of that Act; and
  - (b) for a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*—chapter 5, parts 2, 3, 4 and 5 of that Act.



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**445 Public access to database**

- (1) The commission may make information in the database available to the public.
- (2) However, the publicly available part of the database must not include—
  - (a) information obtained as a result of undertaking—
    - (i) a baseline assessment; or
    - (ii) a bore assessment; or
  - (b) any other information the commission reasonably believes is commercially sensitive.
- (3) A person may—
  - (a) free of charge, inspect the details contained in the publicly available part of the database at the commission's head office during normal business hours; and
  - (b) on payment of a fee decided by the chief executive, obtain a copy of the details from the commission.
- (4) The fee decided by the chief executive must not be more than the reasonable cost of producing the copy.

**446 Petroleum tenure holder access to information**

- (1) The commission must make any information in the database available to a petroleum tenure holder if the commission is reasonably satisfied the information would assist the holder in complying with the holder's obligations under this chapter.
- (2) However, the commission must not give information to a petroleum tenure holder under subsection (1) if the commission reasonably believes the information is commercially sensitive.

## **Division 2                      Power for complying with obligations**

### **447      Obtaining information about underground water from petroleum tenure holders**

- (1) The commission may give a petroleum tenure holder a notice requesting the following information about the exercise of underground water rights under the holder's petroleum tenure—
  - (a) information the commission requires for complying with its obligations as a responsible entity under part 2;
  - (b) other information the commission requires to analyse and monitor impacts on underground water generally.
- (2) The notice must state how, and a reasonable period of at least 20 business days by which, the information must be given.
- (3) The petroleum tenure holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty—1665 penalty units.

- (4) If the petroleum tenure holder is an individual, it is a reasonable excuse not to comply with the notice if complying with the notice might tend to incriminate the holder.

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## **Part 8                      Directions by chief executive**

### **Division 1                      Direction to undertake water monitoring activities**

#### **448      Application of div 1**

- (1) This division applies to a petroleum tenure holder if there is no approved underground water impact report applying to the area of the holder's petroleum tenure.
- (2) Also, this division applies to a petroleum tenure holder if—
  - (a) an approved underground water impact report or final report applies to the holder; and
  - (b) the chief executive has given the responsible entity for the report—
    - (i) a notice directing the entity to propose an amendment of the report under section 392; or
    - (ii) a notice of a proposed amendment under section 393; and
  - (c) the chief executive either—
    - (i) has not yet decided whether to approve or to make the amendment; or
    - (ii) has decided to approve the amendment or to amend the report, but the amendment has not yet taken effect.

#### **449      Chief executive may direct petroleum tenure holder to carry out water monitoring activities**

- (1) The chief executive may give notice to the petroleum tenure holder to carry out a water monitoring activity for a stated area.

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- (2) In deciding to give the notice, the chief executive must have regard to the impact considerations relating to the holder.
- (3) The notice must state the following—
  - (a) a reasonable timetable for carrying out the water monitoring activity;
  - (b) a program for reporting to the commission and the chief executive about the implementation of the activity;
  - (c) the parameters to be measured in carrying out the activity;
  - (d) the locations for taking the measurements;
  - (e) the frequency of the measurements.
- (4) The holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

- (5) In this section—

*water monitoring activity*, for a petroleum tenure, means gathering information about, or monitoring, the effects of the exercise of underground water rights by the holder of the tenure.

## Division 2                      Emergency directions

### 450      Application of div 2

This division applies if—

- (a) the chief executive reasonably believes urgent action is necessary—
  - (i) to restore water supply to a water bore with an impaired capacity; or
  - (ii) to prevent or minimise the likelihood of a water bore having an impaired capacity; and



- (b) the chief executive is satisfied or reasonably believes failure to take the action may result in 1 or more of the following—
- (i) significant economic loss or damage to any person;
  - (ii) a significant risk to the health of stock;
  - (iii) a loss of supply of water for domestic purposes or essential services, including, for example, the generation of electricity or the distribution of town water.

#### **451 Power to give direction**

- (1) The chief executive may, for the purpose of taking the action for a matter mentioned in section 450 and by notice given to a petroleum tenure holder, direct the holder to take stated reasonable steps within a stated reasonable period.
- (2) The notice must state that it is an offence for the holder not to comply with the direction unless the holder has a reasonable excuse.
- (3) In deciding to give a direction to a petroleum tenure holder under subsection (1), the chief executive must consider the impact considerations relating to the holder.

#### **452 Offence to fail to comply with direction**

A petroleum tenure holder given a direction under section 451 must comply with the direction unless the holder has a reasonable excuse.

Maximum penalty—1665 penalty units.

#### **453 Chief executive may take action and recover costs**

- (1) This section applies if a petroleum tenure holder fails to comply with a direction given under section 451.
- (2) The chief executive may take the action.

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- (3) If the chief executive takes the action, the chief executive may give the holder a notice (a *cost recovery notice*) requiring the holder to pay the stated costs and expenses reasonably incurred by the chief executive in taking the reasonable steps.
- (4) However, subsection (3) does not apply if the chief executive is satisfied the holder had a reasonable excuse for not complying with the direction.
- (5) The cost recovery notice must state the following—
  - (a) the name of the holder;
  - (b) the location of the water bore to which the action related;
  - (c) a description of the action taken;
  - (d) the amount of the costs and expenses incurred;
  - (e) a description of the costs and expenses incurred;
  - (f) that if the holder does not pay the amount to the chief executive within 30 days after the day the notice is given, the chief executive may recover the amount and any interest payable on the amount from the holder as a debt;
  - (g) the contact details of the chief executive.
- (6) If the holder does not pay the amount stated in the cost recovery notice to the chief executive within 30 days after the day the notice is given, the chief executive may recover the amount, and any interest payable on the amount, from the holder as a debt.
- (7) A debt due under subsection (6) bears interest at the rate stated in a regulation.

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## **Division 3                      Other directions**

### **454      Directions to petroleum tenure holders and bore owners to give information**

- (1) The chief executive may give a petroleum tenure holder a notice requiring information about—
  - (a) compliance by the holder with its make good obligations for a water bore; or
  - (b) the quantity and quality of water produced or taken because of the exercise of the holder’s underground water rights; or
  - (c) a matter stated in an underground water impact report or final report given by the holder to the chief executive under part 2.
- (2) Also, the chief executive may give a bore owner a notice requiring information about—
  - (a) a matter for which the owner is required to keep information under this Act in relation to the water bore; or
  - (b) the condition and capacity of the water bore.
- (3) A notice given under this section—
  - (a) may be given at any time; and
  - (b) must state the reasonable period within which the information must be given to the chief executive.
- (4) The person to whom the notice is given must comply with the notice, unless the person has a reasonable excuse.  
Maximum penalty—200 penalty units.
- (5) If the person is an individual it is a reasonable excuse not to comply with the notice if giving the information might tend to incriminate the individual.

## Chapter 4 Water authorities

### Part 1 Preliminary

#### 542 Purposes of ch 4

- (1) The main purpose of this chapter is to establish a framework for the establishment and operation of water authorities that provides for the following—
  - (a) efficiency in carrying out water activities by the application of commercial principles;
  - (b) appropriate governance arrangements and accountability requirements;
  - (c) community involvement in making and implementing arrangements for using, conserving and sustainably managing water.
- (2) Another purpose of this chapter is to establish the employing offices for water authorities.

### Part 2 Establishing water authorities

#### Division 1 General

#### 548 Establishing water authorities

- (1) A regulation may establish a water authority to carry out water activities—
  - (a) generally in the State; or
  - (b) for a particular area (the *authority area*) identified in the regulation.

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- (2) The authority area may comprise 2 or more non-contiguous areas.
  - (3) The regulation must name the authority and, if the authority is established for an authority area, identify the authority area.

#### **549 Categories of water authorities**

A water authority may be a category 1 water authority or a category 2 water authority.

#### **550 Water authority is a body corporate etc.**

- (1) A water authority—
  - (a) is a body corporate; and
  - (b) has a seal; and
  - (c) may sue and be sued in its corporate name.
- (2) A water authority has all the powers of an individual and may, for example—
  - (a) enter into contracts; and
  - (b) acquire, hold, deal with and dispose of property.
- (3) Subsection (2) does not limit a water authority's powers under this or another Act.
- (4) A water authority does not represent the State.

#### **551 Application of particular Acts to a water authority**

- (1) A water authority is a statutory body under the *Financial Accountability Act 2009* and *Statutory Bodies Financial Arrangements Act 1982*.
- (2) However, provisions of the *Financial Accountability Act 2009* relating to planning, special payments, evaluations of assets and losses, other than losses resulting from an offence or misconduct, do not apply to a category 1 water authority.

## **Division 2                      Procedure**

### **552      Public notice of proposal to establish a water authority**

- (1) Before a regulation establishes a water authority, the chief executive must publish notice of the proposed establishment in—
  - (a) the gazette; and
  - (b) a newspaper circulating—
    - (i) throughout the State; or
    - (ii) if the proposed water authority is to have an authority area—generally, in the authority area.
- (2) Subsection (1) does not apply if the regulation merely remakes subordinate legislation under which the authority has been established.
- (3) A notice under subsection (1) must state the following information about the proposed water authority—
  - (a) its name;
  - (b) its category;
  - (c) that it is to carry out water activities;
  - (d) the works it intends to acquire or build;
  - (e) the land it intends to acquire;
  - (f) its financing arrangements, including its borrowings and projected water activities costs;
  - (g) how many directors it is to have;
  - (h) if it is to have an authority area—
    - (i) whether the directors are to be elected by the authority's ratepayers or nominated; and
    - (ii) if they are to be nominated, by whom they are to be nominated;

- (i) if it is not to have an authority area—that the directors are to be nominated, and by whom they are to be nominated;
  - (j) the establishment costs the State may recover under section 717.
- (4) If the proposed water authority is to have an authority area, the notice must identify the area.
- (5) The notice must also state the following—
- (a) that written submissions on the proposed establishment may be made to the chief executive;
  - (b) the date, at least 20 business days after the notice is published, by which the submissions may be made;
  - (c) where the submissions may be made.

### **553 Considering submissions on establishment proposal**

The chief executive must consider each properly made submission about an establishment proposal before the water authority to which it relates is established.

### **554 Changing, and republishing, establishment proposal**

- (1) The chief executive may change an establishment proposal whether because of a properly made submission about the proposal or for another reason the chief executive considers appropriate.
- (2) If the chief executive changes an establishment proposal, the chief executive must publish notice of the changed proposal under section 552.
- (3) However, the date by which submissions on the changed proposal may be made must be at least 10 business days after the notice is published.

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- (4) Subsection (2) does not apply if the change—
  - (a) corrects a minor error in the proposal; or
  - (b) is not a change of substance.

### **555 Considering submissions on changed establishment proposal**

The chief executive must consider each properly made submission about a changed establishment proposal before the water authority to which it relates is established.

### **556 Amending establishment regulation**

- (1) This section applies despite the *Acts Interpretation Act 1954*, section 24AA(b).
- (2) Before an establishment regulation is amended, the chief executive must publish notice of the proposed amendment in the way stated in section 552(1).
- (3) The notice must state the following—
  - (a) the proposed amendment;
  - (b) that written submissions on the proposed amendment may be made to the chief executive;
  - (c) the date, at least 20 business days after the notice is published, by which the submissions may be made;
  - (d) where the submissions may be made.
- (4) Subsection (2) does not apply if the amendment—
  - (a) merely corrects a minor error in the regulation; or
  - (b) is not a change of substance.



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**557 Considering submissions on amending establishment regulation**

The chief executive must consider each properly made submission about amending an establishment regulation before the regulation is amended.

## **Part 3 Functions and powers of water authorities**

### **Division 1 Functions**

#### **569 Main function of water authority**

- (1) A water authority's main function is to carry out the water activities decided by the authority.
- (2) If the authority has an authority area, its main function is to carry out the water activities for the authority area.
- (3) However, a water authority with an authority area may carry out water activities outside its authority area if carrying out the activity—
  - (a) does not—
    - (i) limit the authority's ability to perform its main function; or
    - (ii) financially prejudice the authority or its ratepayers or customers; and
  - (b) for a category 1 authority—is in accordance with the authority's performance plan.

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### **570 Other functions of water authority**

- (1) A water authority may carry out 1 or more of the following functions decided by it—
  - (a) riverine area protection;
  - (b) soil erosion control;
  - (c) land degradation treatment and prevention;
  - (d) the management of recreational areas on land owned by the authority or under its control.
- (2) If a water authority has an authority area, it may carry out a function mentioned in subsection (1) either inside or outside its authority area.

### **571 Establishment as a water authority is not a right to water entitlement or resource operations licence**

To remove any doubt, it is declared that the establishment of a water authority to carry out water activities does not, of itself, entitle the authority to a water entitlement or a resource operations licence.

## **Division 2 Powers**

### **Subdivision 1 Rates and charges**

#### **572 Power to make and levy rates and charges**

- (1) A category 1 water authority, for carrying out its functions under this Act, may make and levy charges on its customers.
- (2) A category 2 water authority, for carrying out its functions under this Act, may make and levy on its customers or ratepayers—
  - (a) charges; and

- (b) if the authority has an authority area—rates.
- (3) Without limiting subsection (1) or (2)(a), the authority may make and levy a charge for providing connections to its works.
- (4) A charge may be made and levied on a volumetric basis for water activities carried out.
- (5) A rate may be made and levied, if the authority has an authority area, on a property basis for land in the authority area.
- (6) Subsections (4) and (5) do not limit the ways in which a charge or rate may be made or levied.

### **573 Exemption from rates**

Despite section 572(2)(b), a water authority can not make and levy rates for water activities for the following land—

- (a) unoccupied State land;
- (b) unallocated State land reserved for a public purpose;
- (c) land occupied by the State, other than land leased by the State from a person;
- (d) land prescribed under a regulation for this section.

### **574 Interest on overdue rates and charges**

- (1) An overdue rate or charge made or levied by a water authority under section 572 bears interest at the annual rate, decided by the authority, of not more than—
  - (a) 15%; or
  - (b) if another percentage is prescribed under a regulation—the other percentage.
- (2) The interest must be calculated as simple interest.
- (3) In this section—

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*overdue charge* means the amount of the charge that is not paid when it becomes payable.

*overdue rate* means the amount of the rate that is not paid when it becomes payable.

### **575 Discount for payment of rates and charges**

- (1) A water authority may allow a discount for payment of a rate or charge made or levied by it.
- (2) Unless a regulation prescribes otherwise, the discount must not be more than 15% of the rate or charge.

### **576 Recovering rates and charges**

A water authority may recover an overdue rate or charge made or levied by it, and any interest payable on the overdue rate or charge, as a debt due to the authority by the person on whom the rate or charge is made or levied.

## **Subdivision 2 Taking land**

### **577 Power to take land**

- (1) A water authority may take any land.
- (2) For land to which the *Acquisition of Land Act 1967* applies, the authority is a constructing authority for that Act.
- (3) The *Land Act 1994*, chapter 5, part 3, applies, with any necessary changes, to land to which it applies.
- (4) However, if the land is further land, a category 1 water authority must also obtain the Minister's written approval before taking the land.
- (5) In this section—

*further land*, for a water authority, means land the authority intends to acquire.

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## 578 Purposes for which land may be taken

A water authority may take land for carrying out works, and any other purpose, within the authority's main functions.

## Subdivision 3 General

### 579 Delegation

- (1) A water authority may, in writing, delegate its powers to a director or an appropriately qualified employee of the authority.
- (2) A person must not, in relation to a matter, exercise a power that has been delegated to the person under subsection (1) if the person has a direct or indirect financial or personal interest in the matter.

Maximum penalty for subsection (2)—100 penalty units.

## Division 3 Reporting requirements

### 580 Notice of proposed significant action

- (1) This section applies if a water authority proposes to—
  - (a) do anything that may prevent, or have a significant adverse effect on, the authority performing its main function; or
  - (b) sell or buy property for more than—
    - (i) for a category 1 water authority—\$1000000; or
    - (ii) for a category 2 water authority—\$100000.
- (2) Before doing anything (the *proposed significant action*) mentioned in subsection (1), and as soon as practicable after proposing to do it, the water authority must give the Minister notice of the proposed significant action.

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- (3) A category 1 water authority is not required to comply with subsection (2) if, before taking the proposed significant action, the authority gives details of the proposed significant action in its performance plan.

### **581 Minister may require information**

- (1) The Minister, by notice given to a water authority, may require the authority to give the Minister information about the performance of its functions and operations under this Act.
- (2) The notice must state the day by which the information must be given.
- (3) The water authority must give the information to the Minister by the stated day.

### **582 Statement of operations**

- (1) A category 1 water authority must include in its annual report a statement of its operations under this Act during the preceding financial year.
- (2) The statement must contain the following—
  - (a) sufficient information to enable an informed assessment to be made of the operations, including a comparison of the authority's performance with its performance plan;
  - (b) particulars of any amendments made to the authority's performance plan in the financial year;
  - (c) particulars of any directions, including directions about community service obligations to be carried out by the authority, or notices, given to the authority for the financial year;
  - (d) particulars of the impact that any changes to the authority's performance plan may have had on its financial position, including its operating surplus and deficit and prospects.

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**583 Identification and disclosure of cross-subsidies**

- (1) This section applies to the following water authorities that charge on a volumetric basis for water the authorities manage—
  - (a) category 1 water authorities;
  - (b) other water authorities prescribed by regulation.
- (2) Each water authority must include in its annual report a statement—
  - (a) identifying and disclosing all cross-subsidies between classes of its ratepayers or customers in carrying out its water activities; and
  - (b) disclosing—
    - (i) the classes of its ratepayers or customers for whom a water activity is carried out at an amount below the full cost of the activity; and
    - (ii) the amount.
- (3) The cross-subsidies must be calculated in accordance with the guidelines, if any, issued by the chief executive for calculating cross-subsidies.

**Division 4 Work performance arrangements**

**584 Water authority may enter into work performance arrangements**

- (1) A water authority may enter into, and give effect to, a work performance arrangement with—
  - (a) the employing office for the water authority; or
  - (b) the appropriate authority of another government entity.
- (2) A work performance arrangement may make provision for all matters necessary or convenient to be provided under the arrangement.

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- (3) For example, a work performance arrangement may provide for—
  - (a) the appointment of a person to an office, and the holding of the office by the person, for the arrangement; and
  - (b) the authorising of a person to exercise powers for the arrangement; and
  - (c) whether payment is to be made for work done under the arrangement and, if so, what payment is to be made and who is to make the payment.
- (4) A person performing work for a water authority under a work performance arrangement entered into under subsection (1)—
  - (a) is not employed by the water authority; and
  - (b) remains an employee of the employing office for the water authority, or an employee of the other government entity whose appropriate authority is a party to the arrangement.
- (5) To remove any doubt, it is declared that a water authority does not have power to employ a person performing work for the water authority under a work performance arrangement entered into under subsection (1).

## **Division 5                      Water authority officers' duties and responsibilities**

### **585      Duties and liabilities of water authority officers**

- (1) An officer of a water authority must act honestly in exercising powers, and discharging functions, as an officer of the authority.

Maximum penalty—

- (a) if the contravention is committed for a fraudulent purpose—500 penalty units or imprisonment for 5 years; or



(b) in any other case—100 penalty units.

- (2) In exercising powers and discharging functions, an officer of a water authority must exercise the degree of care and diligence that a reasonable person in a like position in a water authority would exercise in the authority's circumstances.

Maximum penalty—100 penalty units.

- (3) An officer of a water authority, or a person who has been an officer of a water authority, must not make improper use of information acquired because of his or her position as an officer of a water authority—

- (a) to gain, directly or indirectly, an advantage for himself or herself or for another person; or
- (b) to cause detriment to the authority.

Maximum penalty—500 penalty units or imprisonment for 5 years.

- (4) An officer of a water authority must not make improper use of his or her position as an officer of the authority—

- (a) to gain, directly or indirectly, an advantage for himself or herself or another person; or
- (b) to cause detriment to the authority.

Maximum penalty—500 penalty units or imprisonment for 5 years.

- (5) If a person contravenes this section in relation to a water authority, the authority may recover from the person as a debt due to the authority—

- (a) if the person or another person made a profit because of the contravention—an amount equal to the profit; and
- (b) if the authority suffered loss or damage because of the contravention—an amount equal to the loss or damage.

- (6) An amount may be recovered from the person under subsection (5) whether or not the person has been convicted of an offence in relation to the contravention.

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- (7) Subsection (6) is in addition to, and does not limit, the *Criminal Proceeds Confiscation Act 2002*.
- (8) This section—
- (a) is in addition to, and does not limit, any rule of law relating to the duty or liability of a person because of the person's office in relation to a corporation; and
  - (b) does not prevent civil proceedings being instituted for a breach of the duty or the liability.
- (9) In this section—
- officer*, of a water authority, includes—
- (a) an employee of the water authority; and
  - (b) an employee of the employing office for the water authority or of another government entity who performs work for the authority under a work performance arrangement between the water authority and the employing office or other government entity.

## **Part 4                      Board of directors**

### **Division 1                Appointment etc. of board of directors**

#### **597      Board of directors**

A water authority must have a board of directors (a *board*).

#### **598      Composition of board for water authorities**

- (1) As soon as practicable after a water authority is established under section 548 or formed under section 690, the chief executive must publish a notice in the gazette stating—

- (a) the number of directors comprising the authority's board; and
  - (b) whether the directors are to be elected by the authority's ratepayers or nominated and, if they are to be nominated, by whom they are to be nominated.
- (1A) Subsection (1) does not apply if the regulation under section 548 merely remakes subordinate legislation under which the authority has been established.
- (2) The directors must be elected or nominated in accordance with the procedures prescribed under a regulation.
  - (3) Subsection (1) has effect subject to sections 599 and 600.

#### **598A Changing the composition of a board**

- (1) Subsection (2) applies for a proposed change in the composition of the board of a water authority.
- (2) The chief executive must publish notice of the proposed change in the way stated in section 552(1).
- (3) The notice must state the following—
  - (a) the proposed change;
  - (b) that written submissions on the proposed change may be made to the chief executive;
  - (c) the day, at least 20 business days after the notice is published, by which submissions may be made;
  - (d) where the submissions may be made.
- (4) The chief executive must consider each properly made submission about the proposed change before publishing a notice in the gazette amending the notice published under section 598.
- (5) Subsection (2) does not apply if the change—

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- (a) merely corrects a minor error in the notice published under section 598; or
- (b) is not a change of substance.

### **599 Composition of board for Gladstone Area Water Board**

The board for the Gladstone Area Water Board comprises—

- (a) 4 persons nominated by the Gladstone Regional Council; and
- (b) 3 persons nominated by the chief executive, 1 of whom must be the board's chairperson.

### **600 Appointment**

The directors for a water authority must be appointed by the Governor in Council.

### **601 Chairperson**

- (1) This section does not apply to the Gladstone Area Water Board.
- (2) The chairperson of a water authority's board is the director chosen as chairperson by the directors comprising the board.
- (3) If a chairperson is not chosen for the board under subsection (2) within 1 month after the date appointed for the board's first meeting, the chairperson is the director chosen by the chief executive.
- (4) The chairperson holds office until the annual meeting of the board next following the director's selection as chairperson.

### **602 Administration of water authority**

- (1) The Minister may appoint the chief executive to administer a water authority until the authority's first board is appointed.
- (2) Subsection (3) applies if—

- (a) the Governor in Council removes all the directors of a water authority's board from office; or
  - (b) for another reason, there are no directors comprising a water authority's board.
- (3) The Minister may appoint either of the following persons to administer the water authority until a board is appointed for the authority—
- (a) the chief executive;
  - (b) another person the Minister considers has the necessary qualifications and experience to administer the authority.

### **603 Eligibility for appointment as director**

- (1) A person is not eligible to be elected, or nominated for appointment, as a director if the person—
- (a) becomes mentally or physically incapable of satisfactorily performing the director's duties; or
  - (b) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
  - (c) has been convicted of an indictable offence, whether in Queensland or elsewhere, and the rehabilitation period for the offence has not expired or has been revived under the *Criminal Law (Rehabilitation of Offenders) Act 1986*; or
  - (d) is an employee of the authority; or
  - (e) is directly interested in an agreement with, or on behalf of, the authority.
- (2) Subsection (1)(e) does not apply to a person to the extent the person is directly interested in an agreement with the water authority for the supply of water.

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### **603A Investigations about eligibility for appointment**

- (1) The chief executive may make investigations about a person to decide whether the person is eligible to be elected or nominated for appointment as a director.
- (2) Without limiting subsection (1), the chief executive may ask the commissioner of the police service for a written report about the criminal history of the person.
- (3) The commissioner must give the report to the chief executive.
- (4) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

### **603B Criminal history is confidential document**

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

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

- (2) However, the officer, employee or agent does not contravene subsection (1) if—
  - (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under or in relation to this Act; or
  - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive must destroy the report as soon as practicable after considering the person's eligibility.

### **604 Term of office for directors of water authorities other than Gladstone Area Water Board**

- (1) This section does not apply to a director of the Gladstone Area Water Board.

- (2) Subject to subsections (3) and (4), a director is appointed for the term of up to 3 years as stated in the director's instrument of appointment.
- (3) The director continues holding office after the director's term of office ends until the director's successor is appointed.
- (4) If a person is appointed to fill a casual vacancy in the office of a director, the person is appointed only for the remainder of the director's term of office.

#### **605 Term of office for directors of Gladstone Area Water Board**

- (1) The appointment of a director of the Gladstone Area Water Board starts—
  - (a) on the day notice of the appointment is published in the gazette; or
  - (b) on a later day stated in the notice.
- (2) Subject to subsections (2A), (3) and (4), the director's term of office ends on the day fixed by the gazette notice.
- (2A) The director continues holding office after the director's term ends until the director's successor is appointed.
- (3) If the director is the nominee of a local government, the day the director's term ends must be not later than 6 months after the day prescribed under the *Local Government Act 2009* for holding the quadrennial election next following the director's appointment.
- (4) If a person is appointed to fill a casual vacancy in the office of a director, the person is appointed only for the remainder of the director's term of office.

#### **606 Resignation**

- (1) Subject to subsections (2) and (4), a director for a water authority may resign by signed notice of resignation given to the chairperson of the authority's board.

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- (2) Subject to subsection (3), the chairperson may resign from office as chairperson, or as a director, by signed notice of resignation given to the other directors on the board.
- (3) The chairperson of the board for the Gladstone Area Water Board may resign from office as chairperson by signed notice of resignation given to the other directors on the board.
- (4) If a person resigns from office as chairperson of a board under subsection (3), the person must also resign from office as a director of the board by signed notice of resignation given to the other directors on the board.

#### **607 Termination of appointment as director**

The Governor in Council may remove a director on a water authority's board from office if the director—

- (a) is absent from 3 consecutive meetings of the board without the board's leave and without reasonable excuse; or
- (b) becomes ineligible to be elected or nominated for appointment as a director; or
- (c) declines to act as a director; or
- (d) is convicted of an offence against this Act; or
- (e) is prohibited from being a director of a body corporate by the Corporations Act for a reason other than a person's age.

#### **608 Casual vacancy**

- (1) The office of a director becomes vacant if—
  - (a) the director dies during the director's term of office; or
  - (b) the director resigns from office; or
  - (c) the Governor in Council removes the director from office.



- (2) The office of a director also becomes vacant if the director—
- (a) is a nominee and councillor of a local government; and
  - (b) ceases to be a councillor of the local government other than by—
    - (i) defeat at an election of councillors of the local government; or
    - (ii) failure to contest the election.

### **609 Removal of board**

The Governor in Council may remove all the directors of a water authority's board from office if the board—

- (a) does not comply with a public sector policy notified to it by the Minister under this Act; or
- (b) does not comply with a direction given to it by the Minister under this Act; or
- (c) does not comply with a joint direction given to it by the Minister and Treasurer under this Act; or
- (d) does not comply with its obligations under this Act for the preparation and submission of—
  - (i) performance plans; or
  - (ii) any reports under the performance plans; or
  - (iii) a corporate plan; or
- (e) does not comply with its obligations under the *Financial Accountability Act 2009* for the preparation and submission of reports and plans.

## **Division 2                      Directors' duties**

### **610      Disclosure of interests**

- (1) This section applies to a director on a water authority's board if—
  - (a) the director has a direct or indirect financial or personal interest in a matter being considered, or about to be considered, by the board; and
  - (b) the interest could conflict with the proper performance of the director's duties about the consideration of the matter.
- (2) As soon as practicable after the relevant facts come to the director's knowledge, the director must disclose the nature of the interest to a meeting of the board.  
Maximum penalty—100 penalty units.
- (3) The disclosure must be recorded in the board's minutes.
- (4) Unless the board otherwise decides, the director must not—
  - (a) be present when the board considers the matter; or
  - (b) take part in a decision of the board on the matter.Maximum penalty—100 penalty units.
- (5) The director must not be present when the board is considering its decision under subsection (4).  
Maximum penalty—100 penalty units.
- (6) Another director who also has a direct or indirect financial or personal interest in the matter must not—
  - (a) be present when the board is considering its decision under subsection (4); or
  - (b) take part in making the decision.Maximum penalty—100 penalty units.
- (7) In this section—

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*financial or personal interest*, of a person in a matter, does not include—

- (a) the person's interest in the matter as a customer or ratepayer of the water authority; or
- (b) for a person nominated by an entity for appointment as a director, an interest in an agreement with the authority for the supply of water to the entity.

### **611 Declaration about duty to act in authority's interest**

To remove any doubt, it is declared that a director of a water authority, in exercising powers, and discharging functions, as a director of the authority, must act in the best interests of the authority.

### **612 Prohibition on loans to directors**

- (1) A water authority must not, directly or indirectly—
  - (a) make a loan to a director, a director's spouse, or a relative of a director or a director's spouse; or
  - (b) give a guarantee or provide security for a loan made to a director, a director's spouse, or a relative of a director or a director's spouse.
- (2) Subsection (1) does not apply to the entering into by the authority of an instrument with a person mentioned in the subsection if the instrument is entered into on the same terms as similar instruments are entered into by the authority with members of the public.
- (3) A director of a water authority must not be knowingly concerned in a contravention of subsection (1) by the authority, whether or not in relation to the director.

Maximum penalty—100 penalty units.

- (4) In this section—
- relative*, of a person, means the person's—
- (a) parent or remoter lineal ancestor; or
  - (b) son, daughter or remoter issue; or
  - (c) brother or sister.

### **613 Water authority not to indemnify officers**

- (1) A water authority must not—
- (a) indemnify a person who is or has been an officer of the authority against a liability incurred by the person as an officer of the authority; or
  - (b) exempt a person who is or has been an officer of the authority from a liability incurred as an officer of the authority.
- (2) An instrument is void to the extent it is inconsistent with subsection (1).
- (3) Subsection (1) does not prevent a water authority from indemnifying a person against a civil liability, other than a liability to the authority, unless the liability arises out of conduct involving lack of good faith.
- (4) Subsection (1) does not prevent a water authority from indemnifying a person against a liability for costs and expenses incurred by the person—
- (a) in defending a proceeding, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
  - (b) in connection with an application in relation to a proceeding in which relief is granted to the person by a court.
- (5) A water authority may give an indemnity mentioned in subsection (3) or (4) only if the Minister has approved the giving of the indemnity.

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**614 Water authority not to pay premiums for particular liabilities of officers**

- (1) A water authority must not pay, or agree to pay, a premium for a contract insuring a person who is or has been an officer of the authority against a liability—
  - (a) incurred by the person as an officer of the authority; and
  - (b) arising out of a breach of conduct involving—
    - (i) a wilful breach of duty in relation to the authority; or
    - (ii) a contravention of section 585(3) or (4).
- (2) Subsection (1) does not apply to a liability for costs and expenses incurred by a person in defending proceedings, whether civil or criminal, and whatever the outcome of the proceedings.
- (3) An instrument is void to the extent it is inconsistent with subsection (1).
- (4) In this section—

*pay* includes pay indirectly through 1 or more interposed entities.

**615 Director's duty to prevent insolvent trading**

- (1) This section applies if—
  - (a) immediately before a water authority incurs a debt—
    - (i) there are reasonable grounds to suspect the authority will not be able to pay all its debts as and when they become payable; or
    - (ii) there are reasonable grounds to suspect that, if the authority incurs the debt, it will not be able to pay all its debts as and when they become payable; and
  - (b) the authority is, or later becomes, unable to pay all its debts as and when they become payable.

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- (2) A person who is a director of the authority, or takes part in the authority's management, at the time the debt is incurred commits an offence.

Maximum penalty—100 penalty units or imprisonment for 1 year.

- (3) In a proceeding against a person for an offence against this section, it is a defence if it is proved—
- (a) that the debt was incurred without the person's express or implied authority or consent; or
  - (b) that, at the time the debt was incurred, the person did not have reasonable cause to suspect that—
    - (i) the authority would not be able to pay all its debts as and when they became payable; or
    - (ii) if the authority incurred the debt, it would not be able to pay all its debts as and when they became payable; or
  - (c) the person took all reasonable steps to prevent the authority from incurring the debt; or
  - (d) for a director—the person did not take part at the time in the authority's management because of illness or for some other good cause.

## **616 Court may order compensation**

- (1) This section applies if a person is convicted of an offence against section 615 in relation to the incurring of a debt by a water authority.
- (2) The Supreme Court or the District Court may declare that the person is to be personally responsible, without any limitation of liability, for the payment to the authority of the amount required to satisfy the part of the authority's debts that the court considers appropriate.
- (3) This section does not affect any rights of a person to indemnity, subrogation or contribution.

- (4) This section—
  - (a) is in addition to, and does not limit, any rule of law about the duty or liability of a person because of the person's office in relation to a water authority; and
  - (b) does not prevent proceedings being started for a breach of the duty or the liability.

### **617 Examination of persons concerned with water authorities**

- (1) This section applies if it appears to the Attorney-General that—
  - (a) a person who has been concerned, or taken part, in a water authority's management, administration or affairs has been, or may have been, guilty of fraud, negligence, default, breach of trust or breach of duty or other misconduct in relation to the authority; or
  - (b) a person may be capable of giving information in relation to a water authority's management, administration or affairs.
- (2) The Attorney-General may apply to the Supreme Court or the District Court for an order under this section in relation to the person.
- (3) The court may order that the person attend before the court at a time and place fixed by the court to be examined on oath on any matters relating to the water authority's management, administration or affairs.
- (4) The examination of the person must be held in public except so far as the court considers that, because of special circumstances, it is desirable to hold the examination in private.
- (5) The court may give directions about—
  - (a) the matters to be inquired into at the examination; and

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(b) the procedures to be followed at the examination including, if the examination is to be held in private, the persons who may be present.

(6) The person must not fail, without reasonable excuse—

(a) to attend as required by the order; or

(b) to continue to attend as required by the court until the completion of the examination.

Maximum penalty—200 penalty units or imprisonment for 2 years.

(7) The person must not fail to take an oath or make an affirmation at the examination.

Maximum penalty—200 penalty units or imprisonment for 2 years.

(8) The person must not fail to answer a question that the person is directed by the court to answer.

Maximum penalty—200 penalty units or imprisonment for 2 years.

(9) The person may be directed by the court (whether in the order or by subsequent direction) to produce any document in the person's possession, or under the person's control, relevant to the matters on which the person is to be, or is being, examined.

(10) The person must not, without reasonable excuse, contravene a direction under subsection (9).

Maximum penalty—200 penalty units or imprisonment for 2 years.

(11) If the court directs the person to produce a document and the person has a lien on the document, the production of the document does not prejudice the lien.

(12) The person must not knowingly make a statement at the examination that is false or misleading in a material particular.



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Maximum penalty—500 penalty units or imprisonment for 5 years.

- (13) The person is not excused from answering a question put to the person at the examination on the ground that the answer might tend to incriminate the person or make the person liable to a penalty.
- (14) Subsection (15) applies if—
  - (a) before answering a question put to the person at the examination, the person claims that the answer might tend to incriminate the person or make the person liable to a penalty; and
  - (b) the answer might in fact tend to incriminate the person or make the person liable to a penalty.
- (15) The answer is not admissible in evidence against the person in a criminal proceeding or a proceeding for the imposition of a penalty, other than a proceeding for an offence against this section or another proceeding in relation to the falsity of the answer.
- (16) The court may order the questions put to the person and the answers given by the person at the examination to be recorded in writing and may require the person to sign the record.
- (17) Subject to subsection (15), any written record of the examination signed by the person, or any transcript of the examination that is authenticated by the signature of the examiner, may be used in evidence in any legal proceeding against the person.
- (18) The person may, at his or her own expense, employ a lawyer, and the lawyer may put to the person questions that the court considers just for the purpose of enabling the person to explain or qualify any answers given by the person.
- (19) The court may adjourn the examination from time to time.
- (20) If the court is satisfied that the order for the examination of the person was obtained without reasonable cause, the court

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may order all, or any part, of the costs incurred by the person be paid by the State.

## **618 Power to grant relief**

- (1) This section applies to a person who is—
  - (a) an officer or employee of a water authority; or
  - (b) an employee of the employing office for a water authority or of another government entity who performs work for the authority under a work performance arrangement between the water authority and the employing office or other government entity.
- (2) Subsection (3) applies if, in a proceeding against the person for negligence, default, breach of trust or breach of duty as an officer or employee of the water authority or as an employee of the employing office for the water authority or of the other government entity, it appears to the court that—
  - (a) the person is or may be liable for the negligence, default or breach; but
  - (b) the person has acted honestly and, having regard to all the circumstances of the case, including circumstances connected with the person's appointment, the person ought fairly to be excused for the negligence, default or breach.
- (3) The court may relieve the person, wholly or partly, from liability on terms the court considers appropriate.
- (4) If the person believes that a claim will or might be made against the person for negligence, default, breach of trust or breach of duty as an officer or employee of the water authority or as an employee of the employing office for the water authority or of the other government entity, the person may apply to the Supreme Court or the District Court for relief.
- (5) The court has the same power to relieve the person as it would have if a proceeding had been brought against the person in the court for the negligence, default or breach.

- (6) Subsection (7) applies if—
  - (a) a proceeding mentioned in subsection (2) is being tried by a judge with a jury; and
  - (b) the judge, after hearing the evidence, is satisfied that the defendant ought under that subsection be relieved, wholly or partly, from the liability sought to be enforced against the person.
- (7) The judge may withdraw the case, wholly or partly, from the jury and direct that judgment be entered for the defendant on the terms, as to costs or otherwise, that the judge considers appropriate.

## **619 False or misleading information or documents**

- (1) In this section—  
*officer*, of a water authority, includes—
  - (a) an employee of the water authority; and
  - (b) an employee of the employing office for the water authority or of another government entity who performs work for the authority under a work performance arrangement between the water authority and the employing office or other government entity.
- (2) An officer of a water authority must not—
  - (a) make a statement concerning the affairs of the authority to another officer or the Minister that the first officer knows is false or misleading in a material particular; or
  - (b) omit from a statement concerning the authority's affairs made to another officer or the Minister anything without which the statement is, to the first officer's knowledge, misleading in a material particular.
- (3) It is enough for a complaint for an offence against subsection (2)(a) or (b) to state the statement made was 'false or misleading' to the person's knowledge, without specifying which.

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- (4) An officer of a water authority must not give to another officer or the Minister a document containing information that the first officer knows is false, misleading or incomplete in a material particular without—
- (a) indicating to the recipient that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
  - (b) giving the correct information to the recipient if the first officer has, or can reasonably obtain, the correct information.

Maximum penalty—

- (a) if the contravention is committed with intent to deceive or defraud the water authority, its creditors or creditors of another person or for another fraudulent purpose—500 penalty units or imprisonment for 5 years; or
- (b) otherwise—100 penalty units.

## **Division 3                      Board proceedings**

### **620      Time and place of meetings**

- (1) Meetings of the board are to be held at the times and places it decides.
- (2) However, the board must hold—
  - (a) its first meeting at the time and place decided by the chief executive; and
  - (b) at least 1 meeting a year.
- (3) The board chairperson—
  - (a) may call a board meeting at any time; and
  - (b) must call a meeting if asked by at least one-half of the directors comprising the board or, if the number is not a

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whole number, the next highest whole number of directors.

## **621 Conduct of proceedings**

- (1) The board's chairperson must preside at all meetings at which the chairperson is present.
- (2) If the chairperson is absent, the director chosen by the directors present must preside.
- (3) At a board meeting—
  - (a) a quorum is the number of directors equalling one-half the number of directors on the board plus 1 or, if the number is not a whole number, the next highest whole number; and
  - (b) a question is decided by a majority of the votes of the directors present and voting; and
  - (c) each director present has a vote on each question to be decided and, if the votes are equal, the chairperson has a casting vote.
- (4) Unless otherwise prescribed under a regulation, the board may conduct its proceedings, including its meetings, as it considers appropriate.

## **622 Participation in meetings by telephone etc.**

- (1) The board may permit directors to participate in a particular meeting, or all meetings, by—
  - (a) telephone; or
  - (b) closed circuit television; or
  - (c) another means of communication.
- (2) A director who participates in a meeting of the board under a permission under subsection (1) is taken to be present at the meeting.

## **623 Minutes**

The board must keep minutes of its proceedings.

## **Division 4 Directors' fees and allowances**

### **624 Fees and allowances**

A director is entitled to be paid the fees and allowances approved by the Minister.

## **Part 4A Employing offices for water authorities**

### **Division 1 Establishment and functions of employing offices for water authorities**

#### **625 Establishment of employing office for water authority**

- (1) A regulation may establish the employing office for a water authority.
- (2) The regulation must name the employing office for the water authority.
- (3) The employing office for a water authority consists of—
  - (a) the executive officer of the employing office; and
  - (b) the employees of the employing office.
- (4) The employing office for a water authority is a separate entity from the water authority.

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**626 Employing office for water authority represents the State**

- (1) The employing office for a water authority represents the State.
- (2) Without limiting subsection (1), the employing office has the status, privileges and immunities of the State.

**627 Functions of employing office for water authority**

- (1) The main functions of the employing office for a water authority are—
  - (a) entering into, for the State, a work performance arrangement with the water authority under which employees of the employing office perform work for the authority; and
  - (b) employing, for the State, staff to perform work for the water authority under the work performance arrangement; and
  - (c) doing anything incidental to the discharge of the functions mentioned in paragraphs (a) and (b).
- (2) Also, the employing office for a water authority has any other function conferred on the employing office under this or another Act.
- (3) This section does not limit the power of the employing office for a water authority to enter into and give effect to a work performance arrangement under section 631 with a government entity other than the water authority.

**Division 2 Executive officer**

**628 Appointment of executive officer**

- (1) There is to be an executive officer of the employing office for a water authority.

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- (2) The executive officer is to be appointed by the Governor in Council.
- (3) The executive officer is appointed under this Act and not under the *Public Service Act 2008*.

**629 Executive officer acting for employing office of water authority**

- (1) The employing office for a water authority acts through the executive officer of the employing office.
- (2) Anything done by the executive officer in the name of, or for, the employing office is taken to have been done by the employing office.

**Division 3 Staff of employing offices for water authorities**

**630 Employing office for water authority may employ staff**

- (1) The employing office for a water authority may, for the State, employ staff.
- (2) A person employed under subsection (1) is an *employee of the employing office*.
- (3) The employing office for a water authority may decide the terms of employment of the employees of the employing office.
- (4) Subsection (3) applies subject to any relevant industrial instrument.
- (5) Employees of the employing office for a water authority are employed under this Act and not the *Public Service Act 2008*.



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**631 Employing office for water authority may enter into work performance arrangements**

- (1) The employing office for a water authority may, for the State, enter into and give effect to a work performance arrangement with—
  - (a) the water authority; or
  - (b) the appropriate authority of another government entity.
- (2) A work performance arrangement may make provision for all matters necessary or convenient to be provided under the arrangement.
- (3) For example, a work performance arrangement may provide for—
  - (a) the appointment of a person to an office, and the holding of the office by the person, for the arrangement; and
  - (b) the authorising of a person to exercise powers for the arrangement; and
  - (c) whether payment is to be made for work done under the arrangement and, if so, what payment is to be made and who is to make the payment.
- (4) A person performing work for a water authority or other government entity under a work performance arrangement entered into under subsection (1)—
  - (a) is not employed by the water authority or other government entity; and
  - (b) remains an employee of the employing office for the water authority.
- (5) To remove any doubt, it is declared that a water authority or another government entity does not have power to employ a person performing work for the authority or other government entity under a work performance arrangement entered into under subsection (1).

## **Division 4                      Other provisions**

### **632      Employing office for water authority is statutory body**

- (1) The employing office for a water authority is a statutory body under—
  - (a) the *Financial Accountability Act 2009*; and
  - (b) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) For applying the *Financial Accountability Act 2009* to the employing office as a statutory body—
  - (a) the executive officer of the employing office is taken to be the chairperson of the employing office; and
  - (b) the *Financial Accountability Act 2009* is taken to require the executive officer to consider the annual financial statements and the auditor-general's report as soon as practicable after they are received by the employing office; and
  - (c) the *Financial Accountability Act 2009* is taken to require the executive officer to consider any observations, suggestions or comments given to the executive officer under the *Auditor-General Act 2009* as soon as practicable after the executive officer receives them.

### **633      Dissolution of employing office**

A regulation may—

- (a) dissolve the employing office for a water authority; and
- (b) provide for any of the following on the dissolution of the employing office—
  - (i) the transfer of staff employed by the employing office;
  - (ii) the transfer of any assets held by the employing office;

- (iii) the transfer of any rights or liabilities of the employing office;
- (iv) starting a proceeding that could have been started by or against the employing office before the dissolution;
- (v) continuing and finishing a proceeding by or against the employing office started before the dissolution.

#### **634 Executive officers go out of office on dissolution**

- (1) On the dissolution of the employing office for a water authority under section 633, the executive officer of the employing office goes out of office.
- (2) No compensation is payable to the executive officer because of subsection (1).

## **Part 5 Category 1 water authority matters**

### **Division 1 Commercialising category 1 water authorities**

#### **Subdivision 1 Preliminary**

#### **637 Meaning of *commercialisation***

*Commercialisation* of a category 1 water authority involves the authority undergoing a structural reform process so that it operates, as far as practicable, on a commercial basis and in a competitive environment.

### **638 Key commercialisation principles**

- (1) The key commercialisation principles are the following—
  - (a) principle 1—clarity of objectives;
  - (b) principle 2—management autonomy and authority;
  - (c) principle 3—accountability for performance;
  - (d) principle 4—competitive neutrality.
- (2) The elements of principle 1 are as follows—
  - (a) the water authority will have clear, non-conflicting objectives;
  - (b) specific financial and non-financial performance targets will be set for the commercial activities of the water authority and stated in its performance plan;
  - (c) any community service obligations of the water authority will be—
    - (i) clearly identified in its performance plan; and
    - (ii) separately costed;
  - (d) the water authority will be appropriately funded for its community service obligations and any funding will be made apparent;
  - (e) the water authority will be set performance targets for its community service obligations.
- (3) The elements of principle 2 are as follows—
  - (a) the water authority will be required to use its best endeavours to ensure it meets its performance targets;
  - (b) subject to this Act, the water authority will be given autonomy in its day-to-day operations;
  - (c) government directions for the water authority to achieve non-commercial objectives will be exercised in an open way;
  - (d) in its day-to-day operations, the water authority will be at arms-length to the State.

- (4) The elements of principle 3 are as follows—
- (a) the water authority's board will be accountable to the Minister for the authority's performance;
  - (b) the authority's performance plan will form the basis for accountability;
  - (c) the authority's performance will be monitored by the chief executive against the performance targets specified in its performance plan;
  - (d) government monitoring of the authority is intended to compensate for the absence of the wide range of monitoring to which corporations whose shares are listed on a stock exchange are subject.
- (5) The elements of principle 4 are as follows—
- (a) the efficiency of overall resource use is promoted by ensuring markets are not unnecessarily distorted;
  - (b) wherever possible and appropriate, advantages and disadvantages accruing to the water authority because it is a statutory authority should be removed.
- (6) Without limiting subsection (5)(b), advantages accruing to the water authority may be removed by requiring the authority—
- (a) to pay to the State amounts equivalent to—
    - (i) government taxes that are not otherwise payable by the authority to the Commonwealth, State or local government; and
    - (ii) any cost of funds advantage the authority obtains over commercial rates of interest because of State guarantees given for providing the goods or services; and
  - (b) to comply with Commonwealth, State and local government requirements that apply only if the activity carried on by the authority were carried on by a private sector business, including, for example, requirements

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about protecting the environment and planning and approval processes.

## **Subdivision 2      Category 1 water authorities subject to commercialisation**

### **639      Category 1 water authorities subject to commercialisation**

Category 1 water authorities are subject to commercialisation.

### **640      Key objectives of category 1 water authority**

- (1) Under commercialisation, the key objectives of a category 1 water authority are to be—
  - (a) commercially successful in carrying on its activities; and
  - (b) efficient and effective in providing goods and delivering its services, including things done as community service obligations.
- (2) The commercial success, efficiency and effectiveness of a category 1 water authority are to be measured against its financial and non-financial performance targets stated in its performance plan.

## **Division 2              Commercialisation charter for category 1 water authorities**

### **641      Preparing commercialisation charter**

The Minister may prepare a commercialisation charter for a category 1 water authority.

## **642 Content of commercialisation charter**

A water authority's commercialisation charter must include 1 or more of the following matters decided by the Minister—

- (a) an outline of how the key commercialisation principles and their elements are to be applied to the authority;
- (b) a timetable for applying the principles and elements;
- (c) a timetable for the authority's adoption of the following—
  - (i) appropriate systems of accounting;
  - (ii) commercial management and performance systems;
- (d) a timetable and method for valuing the authority's assets and deciding its capital structure;
- (e) a statement of activities to be undertaken by the authority before commercialisation;
- (f) a statement of the authority's community service obligations and its financial costs for the obligations.

## **643 Compliance with commercialisation charter**

A category 1 water authority for which the Minister has prepared a commercialisation charter must implement the charter.

## **644 Expiry of commercialisation charter**

A commercialisation charter prepared for a water authority under section 641 expires 1 year after the authority becomes a category 1 water authority.

## **Division 3                      Corporate plan for category 1 water authorities**

### **645      Category 1 water authority must have corporate plan**

A category 1 water authority must have a corporate plan.

### **646      Guidelines for corporate plans**

- (1) The Minister may issue guidelines about the form and content of corporate plans.
- (2) Each category 1 water authority must comply with the guidelines.
- (3) Guidelines under this section are subordinate legislation.

### **647      Draft corporate plan**

- (1) A category 1 water authority must prepare, and submit to the Minister for the Minister's agreement, a draft corporate plan—
  - (a) within 1 month of becoming a category 1 water authority; and
  - (b) not later than 2 months before the start of each subsequent financial year (a *subsequent financial year*).
- (2) The authority and Minister must endeavour to reach agreement on the draft plan as soon as possible and, in the case of a draft corporate plan for a subsequent financial year, in any event not later than 1 month before the start of the financial year.

### **648      Special procedures for draft corporate plan**

- (1) The Minister may return the draft corporate plan to the water authority and request it to—



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- (a) consider, or further consider, any matter and deal with the matter in the draft plan; and
  - (b) revise the draft plan in the light of its consideration or further consideration.
- (2) The board must comply with the request as a matter of urgency.
  - (3) If a draft corporate plan has not been agreed to by the Minister within 2 months after the authority becomes a category 1 water authority, the Minister may, by notice, direct the authority—
    - (a) to take specified steps in relation to the draft plan; or
    - (b) to make specified modifications to the draft plan.
  - (4) If, in the case of a subsequent financial year, a draft corporate plan has not been agreed to by the Minister by 1 month before the start of the financial year, the Minister may, by notice, direct the authority—
    - (a) to take specified steps in relation to the draft plan; or
    - (b) to make specified modifications to the draft plan.
  - (5) The authority must immediately comply with a direction under subsection (3) or (4).
  - (6) The Minister must cause a copy of a direction to be published in the gazette within 15 business days after it is given.

#### **649 Corporate plan on agreement**

When a water authority's draft corporate plan is agreed to by the Minister, it becomes the authority's corporate plan for the relevant financial year.

#### **650 Corporate plan pending agreement**

- (1) Subsection (2) applies if a water authority's draft corporate plan has not been agreed to by the Minister within 1 month after the authority becomes a category 1 water authority.

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- (2) The draft corporate plan submitted, or last submitted, by the authority to the Minister before the time mentioned in subsection (1) (with any modifications made by the authority, whether before or after that time, at the direction of the Minister) is taken to be the authority's corporate plan until a draft corporate plan becomes the authority's corporate plan under section 649.
- (3) Subsection (4) applies if, in the case of a subsequent financial year, the Minister has not agreed to a draft corporate plan before the start of the financial year.
- (4) The draft corporate plan submitted, or last submitted, by the authority to the Minister before the start of the financial year (with any modifications made by the authority, whether before or after that time, at the direction of the Minister) is taken to be the authority's corporate plan until a draft corporate plan becomes the authority's corporate plan under section 649.

## **651 Modifying corporate plan**

- (1) A water authority's corporate plan may be modified by the authority with the Minister's agreement.
- (2) The Minister, by notice, may direct the authority to modify the corporate plan.
- (3) The Minister must cause a copy of the direction to be published in the gazette within 15 business days after it is given.

## **Division 4 Performance plan for category 1 water authorities**

### **652 Category 1 water authority must have performance plan**

- (1) A category 1 water authority must have a performance plan for each financial year.

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- (2) The performance plan must be consistent with the authority's corporate plan.

### **653 Content of performance plan**

- (1) A category 1 water authority's performance plan must include the following for the relevant financial year—
- (a) the authority's financial and non-financial performance targets for its functions;
  - (b) particulars of the authority's relevant employment and industrial relations plan;
  - (c) an outline of the authority's objectives;
  - (d) an outline of the nature and scope of the activities proposed to be undertaken by the authority during the financial year;
  - (e) an outline of the authority's main undertakings during the financial year;
  - (f) the authority's proposed infrastructure investments;
  - (g) the authority's capital structure and dividend policies;
  - (h) the authority's forecast taxation obligations;
  - (i) an outline of the borrowings made, and proposed to be made, by the authority;
  - (j) an outline of the policies adopted by the authority to minimise and manage any risk of investments and borrowings that may adversely affect its financial stability;
  - (k) an outline of the authority's asset management plans, including its policies and procedures relating to the acquisition and disposal of major assets;
  - (l) the authority's accounting policies that apply to the preparation of its accounts;
  - (m) style and frequency of reporting requirements;

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- (n) the performance indicators for the authority's performance targets.
- (2) The performance plan must also contain the following particulars about the water authority's community service obligations—
  - (a) the nature and extent of the obligations to be performed by the authority for the financial year to which the plan relates;
  - (b) the costs for the obligations;
  - (c) the ways in which, and the extent to which, the authority must be compensated by the State for performing the obligations;
  - (d) performance targets for the obligations.

#### **654 Preparing draft performance plan**

- (1) A category 1 water authority must prepare, and give to the Minister for approval, a draft performance plan.
- (2) The draft must be given to the Minister—
  - (a) within 1 month after the water authority becomes a category 1 water authority; and
  - (b) not later than 2 months before the start of each subsequent financial year.
- (3) The authority and the Minister must try to reach agreement on the draft performance plan—
  - (a) as soon as possible; and
  - (b) for a draft plan for a subsequent financial year—not later than the start of the financial year.

#### **655 Special procedures for draft performance plan**

- (1) The Minister may return the draft performance plan to the water authority and request it to—

- (a) consider, or further consider, any matter and deal with the matter in the draft plan; and
  - (b) revise the draft plan in the light of its consideration or further consideration.
- (2) The authority must immediately comply with the request.
- (3) If a draft performance plan has not been agreed to by the Minister within 2 months after the authority becomes a category 1 water authority, the Minister may, by notice, direct the authority—
- (a) to take specified steps in relation to the draft plan; or
  - (b) to make specified modifications to the draft plan.
- (4) If, in the case of a subsequent financial year, a draft performance plan has not been agreed to by the Minister by 1 month before the start of the financial year, the Minister may, by notice, direct the authority—
- (a) to take specified steps in relation to the draft plan; or
  - (b) to make specified modifications to the draft plan.
- (5) The authority must immediately comply with a direction under subsection (3) or (4).
- (6) The Minister must cause a copy of a direction to be published in the gazette within 15 business days after it is given.

### **656 Performance plan on agreement**

When a water authority's draft performance plan is agreed to by the Minister, it becomes the authority's performance plan for the relevant financial year.

### **657 Performance plan pending agreement**

- (1) Subsection (2) applies if a water authority's draft performance plan has not been agreed to by the Minister within 1 month after the authority becomes a category 1 water authority.

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- (2) The draft performance plan submitted, or last submitted, by the authority to the Minister before the time mentioned in subsection (1) (with any modifications made by the authority, whether before or after that time, at the direction of the Minister) is taken to be the authority's performance plan until a draft performance plan becomes the authority's performance plan under section 656.
- (3) Subsection (4) applies if, in the case of a subsequent financial year, the Minister has not agreed to a draft performance plan before the start of the financial year.
- (4) The draft performance plan submitted, or last submitted, by the authority to the Minister before the start of the financial year (with any modifications made by the authority, whether before or after that time, at the direction of the Minister) is taken to be the authority's performance plan until a draft performance plan becomes the authority's performance plan under section 656.

## **658 Modifying performance plan**

- (1) A water authority's performance plan may be modified by the authority with the Minister's agreement.
- (2) The Minister, by notice, may direct the authority to modify the performance plan.
- (3) The Minister must cause a copy of the direction to be published in the gazette within 15 business days after it is given.

## **Division 5 Tax equivalents manual for category 1 water authorities**

### **659 Treasurer may issue tax equivalents manual**

- (1) The Treasurer may issue a manual (the *tax equivalents manual*) about deciding the amounts (*tax equivalents*) that

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must be taken into account by a category 1 water authority in applying full cost pricing to its operations as the value of benefits derived by the authority if there is no liability to pay a government tax that would be payable by the authority if it were not a statutory authority.

- (2) Without limiting subsection (1), the tax equivalents manual may provide for the following—
  - (a) rulings by the tax assessor appointed under subsection (3) on issues about tax equivalents, including the application of rulings under a Commonwealth Act about Commonwealth tax;
  - (b) lodging returns and giving information;
  - (c) assessing returns;
  - (d) the tax assessor's functions and powers;
  - (e) objections and appeals against assessments and rulings.
- (3) The Treasurer may appoint a person to be the tax assessor under the tax equivalents manual.
- (4) A category 1 water authority must, as required under the tax equivalents manual, pay tax equivalents to the Minister for payment to the consolidated fund.
- (5) The Treasurer must table a copy of the tax equivalents manual, and each amendment of the manual, in the Legislative Assembly within 14 sitting days after the manual is issued or the amendment is made.

## **Division 6                      Dividends payable by category 1 water authorities**

### **660      Payment of dividends**

- (1) A category 1 water authority must advise the Minister of the recommendation that, in the light of the information then

- available to the authority, it is likely to make under subsection (3).
- (2) The authority must comply with subsection (1) within—
    - (a) 1 month after the end of each financial year; or
    - (b) for a particular financial year, if the Minister has extended the period to a period not longer than 3 months after the end of the financial year—the extended period.
  - (3) Within 4 months after the end of each financial year, the authority must recommend to the Minister that the authority pay a specified dividend to the State, or not pay a dividend, for the financial year.
  - (4) The authority must consult with the Minister before making the recommendation.
  - (5) Within 1 month after receiving the recommendation, the Minister must either—
    - (a) approve the recommendation; or
    - (b) direct the payment to the State of the specified dividend or a different specified dividend, as the case requires.
  - (6) The dividend for a financial year must not exceed the authority's profits, after—
    - (a) provision has been made for income tax or its equivalent; and
    - (b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.
  - (7) The dividend must be paid within 6 months after the end of the financial year or any further period the Minister allows.
  - (8) The Minister must cause a copy of a direction given under subsection (5)(b) to be published in the gazette within 15 business days after the direction is given.



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**661 Interim dividends**

- (1) The Minister, at any time after 1 January in a financial year, may require a water authority to make a recommendation about the payment of interim amounts to the State, including when the amounts are to be paid, on account of the dividend that may become payable under section 660 for the financial year.
- (2) Within 1 month after receiving notice of the requirement, the authority must make a recommendation to the Minister.
- (3) The Minister must, within 1 month after receiving the recommendation, either—
  - (a) approve the recommendation; or
  - (b) direct the payment, at specified times, of specified amounts, or different specified amounts, on account of the dividend that may become payable for the financial year.
- (4) A direction under subsection (3)(b) must not direct the payment of an amount that exceeds the authority's estimated profit for the first 6 months of the financial year, after—
  - (a) provision has been made for income tax or its equivalent; and
  - (b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.
- (5) The Minister must cause a copy of a direction under subsection (3)(b) to be published in the gazette within 15 business days after the direction is given.

**662 Dividend payment for financial year in which water authority becomes a category 1 water authority**

For applying section 660 to a water authority for the financial year in which it became a category 1 water authority, a dividend payable by the authority is payable for, at the discretion of the Minister—

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- (a) the whole financial year; or
- (b) the part of the financial year for which it was a category 1 water authority.

**663 Interim dividend for financial year in which water authority becomes a category 1 water authority**

- (1) For applying section 661 to a water authority for the financial year in which it becomes a category 1 water authority—
  - (a) the period (the *applicable period*) in relation to which an interim dividend is payable is, at the discretion of the Minister—
    - (i) the first 6 months of the financial year; or
    - (ii) the part of the 6 months for which it was a category 1 water authority; and
  - (b) the Minister must, when acting under section 661(1) to require the authority to make a recommendation, also notify the authority of the applicable period.
- (2) However, when the Minister exercises the Minister's discretion under section 662(a), the Minister is not bound by an applicable period previously decided and notified under subsection (1).

## **Part 6 Reserve powers of Minister and Treasurer**

**675 Minister's power to notify water authority of public sector policies**

- (1) The Minister may give a water authority notice of a public sector policy that is to apply to the authority if the Minister is satisfied it is necessary to give the notice in the public interest.

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- (2) The water authority must comply with the policy.
  - (3) Before giving the notice, the Minister must—
    - (a) consult with the water authority; and
    - (b) ask the authority to advise whether, in its opinion, complying with the policy would not be in its financial interest.
  - (4) The Minister must gazette a copy of the notice within 15 business days after it is given.

**676 Minister's power to give directions in public interest**

- (1) The Minister may give a water authority a written direction if the Minister is satisfied it is necessary to give the direction in the public interest because of exceptional circumstances.
- (2) The water authority must comply with the direction.
- (3) Before giving the direction, the Minister must—
  - (a) consult with the water authority; and
  - (b) ask the authority to advise whether, in its opinion, complying with the direction would not be in its financial interest.
- (4) The Minister must gazette a copy of the direction within 15 business days after it is given.

**678 Notice of suspected insolvency because of notice or direction**

- (1) This section applies if—
  - (a) a water authority is given a notice about a public sector policy (a *public sector policy notice*) or direction under this part; and
  - (b) the authority suspects that it will or may become insolvent; and

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- (c) in the authority's opinion, the cause or a substantial cause of the suspected insolvency would be compliance with the public sector policy notice or direction.
- (2) The authority must immediately give the Minister notice of the suspicion and its reasons for the opinion.
- (3) The notice must state that it is given under this section.
- (4) The giving of the notice operates to suspend the public sector policy notice or direction until—
  - (a) the Minister gives the authority written advice that the Minister is not satisfied that—
    - (i) the authority's suspicion mentioned in subsection (1)(b) is well-founded; or
    - (ii) the authority's opinion mentioned in subsection (1)(c) is justified; or
  - (b) the public sector policy notice or direction is revoked.
- (5) If the authority was given a public sector policy notice or a direction, and the Minister is satisfied that the authority's suspicion is well-founded, the Minister must immediately—
  - (a) if the Minister is also satisfied that the authority's opinion is justified—revoke the public sector policy notice or direction; and
  - (b) in any case—give the authority the written directions the Minister considers necessary or desirable, including any directions necessary or desirable to ensure—
    - (i) the authority does not incur further debts; or
    - (ii) the authority will be able to pay all its debts as and when they become due.
- (6) Without limiting subsection (5), a direction under this section may require the authority to stop or limit particular activities.
- (7) The authority must comply with a direction under this section.
- (8) The Minister must publish a copy of the direction in the gazette within 15 business days after it is given.

- (9) This section is in addition to, and does not limit, another provision of this Act or another law.

## **Part 7**

# **Amalgamating, dissolving and transferring functions of water authorities and authority areas**

### **Division 1**

## **Amalgamating or dissolving water authorities and authority areas**

#### **690 Amalgamating water authorities and authority areas**

- (1) A regulation may amalgamate 2 or more water authorities (*former authorities*) to form a new water authority.
- (2) The regulation must—
  - (a) name the new water authority; and
  - (b) if the new water authority is to have an authority area—identify the area; and
  - (c) dissolve the former authorities; and
  - (d) if the former authorities had authority areas—dissolve the areas.
- (3) A regulation may amalgamate 2 or more former water areas—
  - (a) taken, under section 1083(2), to be authority areas; and
  - (b) for which the chief executive continues to perform the functions of a water authority.
- (4) The regulation must—
  - (a) identify the new area; and
  - (b) dissolve the former areas.

## **691 Dissolution of water authority and authority area**

- (1) A regulation may—
  - (a) dissolve a water authority if the Minister is satisfied the water authority no longer serves the function for which it was established; or
  - (b) dissolve a water authority for converting the authority to an alternative institutional structure; or
  - (c) dissolve a water authority after transferring all its functions to a local government under section 700 or 700A; or
  - (d) dissolve a water authority and appoint the chief executive to perform the authority's functions.
- (2) If a water authority mentioned in subsection (1)(a) to (c) has an authority area, the regulation may also dissolve the authority area.
- (3) If the Minister is satisfied that either of the following no longer serves the function for which it was established, a regulation may dissolve—
  - (a) a former water area—
    - (i) taken, under section 1083(2), to be an authority area; and
    - (ii) for which the chief executive continues to perform the functions of a water authority; or
  - (b) an authority area whose water authority was dissolved under subsection (1)(d).
- (4) The chief executive's appointment to perform the functions of a water authority, for an authority area dissolved under subsection (3), ceases on the dissolution of the area.

## **692 Public notice of proposed amalgamation or dissolution**

- (1) Before a regulation amalgamates water authorities or authority areas or dissolves a water authority or an authority

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area, the chief executive must publish notice of the proposed amalgamation or dissolution in—

- (a) the gazette; and
  - (b) for a proposed amalgamation of water authorities or dissolution of a water authority—a newspaper circulating—
    - (i) if any of the authorities proposed to be amalgamated have an authority area—generally, in each authority area; or
    - (ii) if the authority proposed to be dissolved has an authority area—generally, in the authority area; or
    - (iii) otherwise—throughout the State; and
  - (c) for a proposed amalgamation of authority areas or dissolution of an authority area—a newspaper circulating generally in the authority area or areas.
- (2) However, subsection (1) does not apply to a proposed amalgamation or dissolution mentioned in the subsection if the chief executive is satisfied—
- (a) the ratepayers in each authority area to which the proposed amalgamation or dissolution relates have been informed about the proposal by the water authority for the area; and
  - (b) the proposed amalgamation or dissolution is because of action taken by the State in response to the Webbe-Weller review; and
  - (c) the publication of the notice is not appropriate, having regard to the public interest.
- (3) For a proposed amalgamation or dissolution of a former water area or authority area mentioned in section 691(3)—
- (a) subsection (1)(c) does not apply; but
  - (b) the chief executive must give the notice to all landholders in the former water area or authority area

who are being supplied with water at the time of the proposed amalgamation or dissolution.

### **693 Content of notice of proposed amalgamation or dissolution**

- (1) For a proposed amalgamation of water authorities, a notice under section 692 must—
  - (a) state the names of the water authorities proposed to be amalgamated; and
  - (b) state the following information about the new water authority proposed to be formed by the amalgamation—
    - (i) its name;
    - (ii) its category;
    - (iii) that it is to carry out water activities;
    - (iv) the infrastructure it is to own, build or acquire;
    - (v) the land it is to own or acquire;
    - (vi) its financing arrangements, including borrowings and projected water activities costs;
    - (vii) how many directors it is to have;
    - (viii) if it is to have an authority area—
      - (A) whether the directors are to be elected by the authority's ratepayers or nominated; and
      - (B) if they are to be nominated, by whom they are to be nominated;
    - (ix) if it is not to have an authority area—that the directors are to be nominated, and by whom they are to be nominated; and
  - (c) if the authority has an authority area—identify the area.
- (1A) For a proposed amalgamation of authority areas, the notice must identify the areas.



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- (2) For a proposed dissolution of a water authority, the notice must—
- (a) state the authority's name; and
  - (b) if the authority has an authority area—identify the area; and
  - (c) state—
    - (i) for a proposed dissolution under section 691(1)(a)—that the Minister is satisfied the water authority no longer serves the function for which it was established; or
    - (ii) for a proposed dissolution under section 691(1)(b)—state the type of alternative institutional structure; or
    - (iii) for a proposed dissolution under section 691(1)(c)—that all the water authority's functions have been transferred to a stated local government; or
    - (iv) for a proposed dissolution under section 691(1)(d)—that the chief executive is to be appointed to perform the authority's functions.
- (2A) A notice under subsection (2) may include any other information the chief executive considers necessary.
- (2B) For a proposed dissolution of an authority area under section 691(3), the notice must—
- (a) identify the area; and
  - (b) state the proposed arrangements for any water infrastructure in the area.
- (3) The notice must also state the following—
- (a) that written submissions on the proposed dissolution or amalgamation may be made to the chief executive;

- (b) the date, at least 20 business days after the notice is published or given, by which the submissions may be made;
- (c) where the submissions may be made.

#### **694 Considering submissions on proposed amalgamation or dissolution**

The chief executive must consider each properly made submission about a proposed water authority or authority area amalgamation or dissolution before the amalgamation or dissolution happens.

#### **695 Water authority may request its dissolution**

- (1) A water authority may request its dissolution to enable it to convert to an alternative institutional structure if—
  - (a) its board, by special resolution, resolves to make the request; and
  - (b) for an authority with an authority area—at least a majority of the ratepayers in the area, by special ballot, agree to the authority making the request.
- (2) The request must be given, in writing, to the chief executive and must state the particulars of the proposed conversion.
- (2A) Before conducting the special ballot, the water authority must give all ratepayers details of the possible consequences for the ratepayers of the proposed conversion.
- (3) The special ballot must be conducted in the way prescribed under a regulation.
- (3A) The chief executive may require the authority to provide further particulars of the proposed conversion.
- (4) In this section—

*special resolution* means a resolution that is passed by a two-thirds majority at a meeting of the board.

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**696 Procedure before authority is dissolved to convert to alternative institutional structures**

Before a regulation is made dissolving a water authority to allow it to convert to an alternative institutional structure—

- (a) each new entity that is an alternative institutional structure must be established; and
- (b) the Minister, after consultation with the Treasurer, must be satisfied the State has obtained or will obtain—
  - (i) a satisfactory indemnity for civil liabilities incurred by the State under section 705; and
  - (ii) appropriate payment from the new entity for the authority's assets; and
- (c) if 2 or more alternative institutional structures are or are to be established, the water authority must give the Minister a notice (an *allocation notice*) stating the proposed allocation of employees, assets, liabilities and property of any kind between the alternative institutional structures.

**697 Recovering amalgamation or dissolution costs**

The State may recover from—

- (a) 2 or more water authorities the costs incurred by the State in publishing notice of the authorities' proposed amalgamation under section 692; or
- (b) a water authority the costs incurred by the State in publishing notice of the authority's proposed dissolution under section 692.

## **Division 2                      Transferring water authority's functions to local government**

### **698      Water authority and local government must agree to proposed transfer**

- (1) A water authority and a relevant local government may agree to the proposed transfer to the local government of all or part of the authority's functions.
- (2) The water authority and local government must consider the following matters and agree on how to implement the proposed transfer—
  - (a) the value of the authority's assets and liabilities relating to the functions proposed to be transferred;
  - (b) the value of the authority's existing works and their suitability for facilitating the functions proposed to be transferred;
  - (c) the effect the proposed transfer may have on the authority's ratepayers and customers affected by the transfer;
  - (d) the consideration for acquiring the authority's assets to be paid by the relevant local government to the authority or, if required by the Minister and the Treasurer under section 700(4), the State;
  - (e) the authority's liabilities proposed to be transferred to the local government;
  - (f) the practicability of the proposed transfer to the local government of the authority's liabilities and the ways and means by which the liabilities may be transferred;
  - (g) the effect the management of existing works or the provision of additional works by the local government may have on rates and charges made and levied by the authority on its ratepayers and customers affected by the transfer in the area;

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- (h) the necessary transfers of property to the local government.
  - (3) Subsection (2) does not apply for a proposed transfer to which section 700A applies.
  - (4) In this section—
    - relevant local government* means the local government decided by the chief executive, having regard to—
      - (a) for a water authority with an authority area—the local government whose area most closely corresponds with the authority area; or
      - (b) for a water authority without an authority area—
        - (i) the local government whose area contains the majority of the authority's works; or
        - (ii) any local government to which the authority supplies water.

### **699 Joint report to Minister**

- (1) This section does not apply for a proposed transfer to which section 700A applies.
- (2) After agreeing on how to implement the proposed transfer, the water authority and local government must give the Minister and Treasurer a joint report on the agreement and proposed transfer.
- (3) The report must—
  - (a) state the authority's functions proposed to be transferred; and
  - (b) contain details of the matters considered by the water authority and local government under section 698(2); and
  - (c) be accompanied by a copy of the agreement signed by the water authority and local government.

## **700 Transferring functions**

- (1) This section applies if the Minister and the Treasurer are satisfied it is in the public interest to transfer the water authority's functions mentioned in section 699(3)(a) to the local government after considering the following—
  - (a) the report;
  - (b) the financial and other implications for the State;
  - (c) the authority's financial viability.
- (2) However, this section does not apply for a proposed transfer to which section 700A applies.
- (3) A regulation may approve the agreement mentioned in section 699(2).
- (4) Before the regulation is made, the Minister and the Treasurer may require the local government to pay to the State, rather than the authority, consideration for transferring any assets of the authority.
- (5) Subsection (4) does not apply to the Gladstone Area Water Board.
- (6) The regulation must include, as an attachment, a copy of the agreement entered into between the water authority and the local government.
- (7) The agreement takes effect when the regulation commences.

## **700A Alternative process for proposed transfer**

- (1) This section applies if—
  - (a) the Minister is satisfied—
    - (i) a local government and a water authority have agreed in writing—
      - (A) to a proposed transfer by the water authority to the local government of all or part of the authority's functions; and

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- (B) on how to implement the proposed transfer; and
  - (ii) the water authority has taken reasonable steps to inform—
    - (A) its customers and ratepayers of the proposed transfer; and
    - (B) its customers and ratepayers of the date of the proposed transfer; and
    - (C) its ratepayers of the amount of any proposed charges by the local government for the supply of water to be imposed for the first year after the proposed transfer, or how to work out the proposed charges; and
    - (D) its ratepayers of the terms of a model agreement between the local government and the persons to whom the local government is to supply water about the supply of water to the persons; and
    - (E) its ratepayers of whether the local government proposes to require persons to whom the local government is to supply water to enter into agreements between the local government and the persons about the supply of water; and
  - (b) the local government and water authority have—
    - (i) notified the Minister of their agreement about the proposed transfer and on how it is to be implemented; and
    - (ii) asked, in writing, for the Minister's approval of the proposed transfer; and
  - (c) the proposed transfer is because of action taken by the State in response to the Webbe-Weller review.
- (2) The Minister may require the local government or water authority to do either or both of the following—

- (a) provide the Minister with further particulars relating to the proposed transfer within a reasonable period of at least 28 days after the requirement is made;
  - (b) address an issue relevant to the proposed transfer in the agreement mentioned in subsection (1)(a)(i).
- (3) The Minister may approve the proposed transfer.
- (4) If the Minister approves the proposed transfer, a regulation may approve the agreement entered into between the water authority and the local government.
- (5) The regulation must include, as an attachment, a copy of the agreement.
- (6) The agreement takes effect when the regulation commences.

### **Division 3                      Effect of amalgamating, dissolving,    converting to alternative    institutional structure and    transferring functions**

#### **701      Definitions for div 3**

In this division—

*changeover day*, for a former water authority, means the day the authority is amalgamated with another water authority or dissolved under division 1.

*former water authority* means a water authority that is—

- (a) amalgamated with another water authority; or
- (b) converted to 1 or more alternative institutional structures; or
- (c) dissolved under section 691(1)(a), (c) or (d).



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*new entity* means—

- (a) for a former water authority that is amalgamated with another water authority—the water authority constituted as a result of the amalgamation; or
- (b) for a former water authority that is converted to 1 or more alternative institutional structures—each entity that is an alternative institutional structure; or
- (c) for a former water authority that is dissolved under section 691(1)(a) or (d)—the State; or
- (d) for a former water authority that is dissolved under section 691(1)(c)—the local government to which the former water authority transferred its functions.

### **701A Notification for conversion to 2 or more alternative institutional structures**

If a former water authority is converted to 2 or more alternative institutional structures, the Minister must, on the changeover day for the former water authority, publish in the gazette the allocation notice for the former water authority.

### **702 Vesting of assets, rights and liabilities**

- (1) The assets, rights and liabilities of a former water authority vest in the new entity on the changeover day.
- (2) However, if a former water authority is converted to 2 or more alternative institutional structures, the assets, rights and liabilities of the authority vest, on its changeover day, in each new entity for the authority in accordance with the authority's allocation notice.

### **703 Continuing legal proceedings**

- (1) On the changeover day for a former water authority, a legal proceeding by or against the authority that has not been

finished before the changeover day may be continued and finished by or against the new entity.

- (2) However, if a former water authority is converted to 2 or more alternative institutional structures, a legal proceeding by or against the authority that has not been finished before its changeover day may, from the changeover day, be continued and finished by or against whichever of the new entities for the authority that is the most appropriate in the circumstances.

*Example—*

If there is a legal proceeding against a former water authority in relation to supply of water to a customer of the authority that has not been finished before the changeover day for the authority, the legal proceeding may be continued and finished by the alternative institutional structure that takes over the function of supplying water to the authority's customers.

## **704 Existing employees**

- (1) On the changeover day for a former water authority that is amalgamated with another water authority—
- (a) a person who was employed by the former water authority becomes an employee of the new entity; and
  - (b) a person who was employed by the employing office for the former water authority becomes an employee of the employing office for the new entity.
- (2) On the changeover day for a former water authority that is converted to an alternative institutional structure—
- (a) a person who was employed by the former water authority becomes an employee of the new entity; and
  - (b) a person who was employed by the employing office for the former water authority becomes an employee of—
    - (i) if there is an employing office for the new entity—that employing office; or
    - (ii) otherwise—the new entity.

- (2A) However, if the former water authority is converted to 2 or more alternative institutional structures, on the changeover day for the authority—
- (a) a person who was employed by the former water authority becomes an employee of a new entity for the authority in accordance with the authority's allocation notice; and
  - (b) a person who was employed by the employing office for the former water authority becomes an employee of—
    - (i) if there is an employing office for a new entity for the authority for which the person becomes an employee under the allocation notice—that employing office; or
    - (ii) otherwise—a new entity for the authority in accordance with the authority's allocation notice.
- (3) A person mentioned in subsection (1) or (2)—
- (a) must be employed on terms and conditions of employment that are at least as favourable as the person's existing terms and conditions of employment; and
  - (b) remains entitled to all existing and accruing rights of employment.
- (4) A person who was employed by a former water authority that is dissolved after transferring all its functions to a local government under section 700A and who, on the changeover day, becomes an employee of a local government—
- (a) must be employed on terms and conditions of employment that are at least as favourable as the person's existing terms and conditions of employment; and
  - (b) remains entitled to all existing and accruing rights of employment.

### **705 State undertakes non-transferable civil liability**

- (1) This section applies only to an act done or omission made by a changing authority in relation to its functions and powers under this Act before the authority is changed.
- (2) If the act or omission gives rise to a civil liability that, at law, can not be transferred to the new entity, the State stands in the place of the authority for the act or omission.

- (3) In this section—

*changed*, for an authority, means—

- (a) amalgamated with another water authority; or
- (b) converted to 1 or more alternative institutional structures.

*changing authority* means a water authority that is to be—

- (a) amalgamated with another water authority; or
- (b) converted to 1 or more alternative institutional structures.

### **706 Non-liability for State taxes**

- (1) This section applies to a former water authority that is a category 2 water authority, and a new entity for the former water authority, if—
  - (a) the former water authority is amalgamated with another authority or dissolved under division 1; and
  - (b) the Minister is satisfied the amalgamation or dissolution happened because of action taken by the State in response to the Webbe-Weller review.
- (2) The former water authority and the new entity are not liable to pay a State tax for anything done in relation to the amalgamation or dissolution.

- (3) In this section—

*State tax* means—

- (a) duty under the *Duties Act 2001*; or
- (b) a fee or charge under the *Land Act 1994*, *Land Title Act 1994* or this Act.

### **707 Water authority to help local government for transfer**

- (1) This section applies if a water authority transfers all or part of its functions to a local government under division 2.
- (2) The water authority must give the local government all reasonable help to facilitate the transfer.

*Examples for subsection (2)—*

- providing a list of ratepayers and customers
- providing information about the state of the accounts of ratepayers and customers
- providing details of how rates and charges were calculated
- providing documents about the water authority's infrastructure

## **Part 8 Miscellaneous**

### **717 Recovering water authority's establishment costs**

- (1) The State may recover from a water authority the costs incurred by the State for the following—
  - (a) designing the works stated in the authority's establishment proposal as works the authority proposes to build;
  - (b) conducting site investigations for the works;
  - (c) publishing notice of the authority's proposed establishment under section 552.

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- (2) However, the State may recover the costs mentioned in subsection (1)(a) and (b) only if the establishment proposal for the authority states—
- (a) the amount of the costs; and
  - (b) that the State may recover the costs from the authority.

## **Chapter 5      Investigations, enforcement and offences**

### **Part 1              Investigation matters**

#### **Division 1          Authorised officers**

##### **739      Appointment and qualifications of authorised officers**

- (1) The chief executive or the commission (each an *appointor*) may appoint a person as an authorised officer.
- (2) The appointor may appoint a person as an authorised officer only if, in the appointor's opinion, the person has the necessary expertise or experience to be an authorised officer.

##### **740      Functions and powers of authorised officers**

- (1) An authorised officer has the following functions—
  - (a) collecting information for this Act;
  - (b) conducting investigations and inspections to monitor and enforce compliance with—
    - (i) this Act; or

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- (ii) the *Sustainable Planning Act 2009* so far as that Act relates to—
    - (A) a development condition; or
    - (B) operations of any kind and all things constructed or installed for taking, or interfering with, water under this Act; or
    - (C) all aspects of development for removing quarry material from a watercourse or lake if an allocation notice is required under this Act;
  - (c) any other function conferred under this Act.
  - (2) For performing an authorised officer's functions under this Act, an authorised officer has the powers given under this or another Act.
  - (3) An authorised officer is subject to the directions of the appointor in exercising the powers.
  - (4) The powers of an authorised officer may be limited—
    - (a) under a regulation; or
    - (b) under a condition of appointment; or
    - (c) by notice of the appointor given to the authorised officer.

#### **741 Conditions of appointment of authorised officers**

- (1) An authorised officer holds office on the conditions stated in the officer's instrument of appointment.
- (2) An authorised officer—
  - (a) if the appointment provides for a term of appointment—ceases to hold office at the end of the term; and
  - (b) may resign by signed notice of resignation given to the appointor.

[s 742]

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### **742 Authorised officer's identity card**

- (1) The appointor must give each authorised officer an identity card.
- (2) The identity card must—
  - (a) contain a recent photograph of the authorised officer; and
  - (b) be signed by the authorised officer; and
  - (c) identify the person as an authorised officer under this Act; and
  - (d) state an expiry date.
- (3) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.

### **743 Failure to return identity card**

A person who ceases to be an authorised officer must return the person's identity card to the appointor as soon as practicable (but within 15 business days) after ceasing to be an authorised officer, unless the person has a reasonable excuse for not returning it.

Maximum penalty—50 penalty units.

### **744 Producing or displaying identity card**

- (1) An authorised officer may exercise a power under this Act in relation to someone else only if the authorised officer—
  - (a) first produces his or her identity card for the person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.



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## **Division 2                      Powers of entry of authorised officers**

### **745      Definition for div 2**

In this division—

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

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

### **746      Power to enter land to monitor compliance**

- (1) An authorised officer may, at any reasonable time, enter land of an owner of land authorised, or taken to be authorised, under this Act to take, interfere with or use water to do any 1 or more of the following—
  - (a) read any device used for recording the taking of, interfering with, or use of the water;
  - (b) check the accuracy of, or repair or replace, the device;
  - (c) calculate or measure the water taken, interfered with or used;
  - (d) ensure the conditions of the authorisation or the provisions of a plan under this Act for the taking of, interfering with or use of the water are being complied with;
  - (e) find out if a petroleum tenure holder is complying with an obligation applying to the holder under chapter 3;
  - (f) test or assess equipment or water monitoring bores used for complying with an obligation applying to a petroleum tenure holder under chapter 3.
- (2) An authorised officer may, at any reasonable time, enter land of an owner of land authorised, or taken to be authorised,

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under this Act to take, interfere with or destroy other resources to do any 1 or more of the following—

- (a) calculate or measure the resource taken, interfered with or destroyed;
  - (b) ensure the conditions of the authorisation are being complied with.
- (3) An authorised officer may, at any reasonable time, enter land where an activity mentioned in section 311(1) is being carried out to ensure the carrying out of the activity complies with this Act.
- (4) An authorised officer may, at any reasonable time, enter land to find out if the *Sustainable Planning Act 2009* is being complied with in relation to a development condition.

#### **747 Power to enter land in relation to information collection**

- (1) An authorised officer may, at any reasonable time, enter land—
- (a) if there is monitoring equipment on the land—
    - (i) to read the equipment; or
    - (ii) to recalibrate, repair or replace the equipment; or
  - (b) if paragraph (a) does not apply—to calculate or measure on the land rainfall, water flow, water levels or for assessing the effects of water use on land and water; or
  - (c) to take samples of soil or water from the land; or
  - (d) to construct monitoring equipment on the land; or
  - (e) to retrieve or decommission monitoring equipment previously constructed on the land.
- (2) An authorised officer may, at any reasonable time, enter land—
- (a) to calculate or measure other resources on the land; or
  - (b) to take samples of the resources from the land; or

- (c) to measure the health of watercourses, lakes, springs and aquifers.
- (3) An authorised officer may, at any reasonable time, enter land of an owner of land authorised under section 20 to take or interfere with water, to do 1 or more of the following—
  - (a) calculate or measure the amount of, and rate at which, water is being taken or interfered with;
  - (b) ascertain the purpose for which the water is being taken or interfered with;
  - (c) ascertain the location from which water is being taken.
- (4) An authorised officer may, at any reasonable time, enter land to collect information required to assess the condition of, or the impact of the exercise of underground water rights on, an aquifer, spring or water bore.
- (5) For exercising a power mentioned in this section, an authorised officer may enter and cross any land to access land mentioned this section.

#### **748 Power to enter land to search for unauthorised activities**

- (1) Subsection (2) applies if an authorised officer reasonably believes 1 or more of the following activities is happening—
  - (a) unauthorised drilling;
  - (b) unauthorised taking of, interfering with or use of water;
  - (c) unauthorised taking of other resources;
  - (d) unauthorised interference with the physical integrity of a watercourse, lake or spring.
- (2) The authorised officer may enter land to find out, or confirm whether, an unauthorised activity mentioned in subsection (1) is happening or has happened.
- (3) The authorised officer may exercise powers under subsection (2), at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.

[s 748A]

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### **748A Power of entry for monitoring commission water restrictions and water efficiency management plans**

- (1) This section applies to an authorised officer appointed by the commission, if the authorised officer—
  - (a) reasonably suspects a commission water restriction is being, or has been, contravened at any place; or
  - (b) reasonably considers it is necessary to enter non-residential premises to conduct an audit or inspection to monitor compliance with a commission water restriction or water efficiency management plan.
- (2) Subject to subsections (3) and (5), the authorised officer may enter the place or premises for the purpose of monitoring compliance with the commission water restriction or water efficiency management plan at any reasonable time of the day or night.
- (3) Before entering, the authorised officer must do, or make a reasonable attempt to do, the following things—
  - (a) identify himself or herself to an occupier, by complying with section 744;
  - (b) tell the occupier the purpose of the entry.
- (4) Subsection (3) does not require the authorised officer to take a step the authorised officer reasonably believes may frustrate or otherwise hinder the purposes of the entry.
- (5) For subsection (1)(a), a place does not include a building or other structure, or the part of a building or other structure, used for residential purposes.

### **749 Power to enter places for other purposes**

- (1) An authorised officer may enter a place for a purpose other than a purpose mentioned in section 746, 747, 748 or 748A, if—
  - (a) its occupier consents to the entry; or

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- (b) it is a public place and the entry is made when it is open to the public; or
  - (c) the entry is authorised by a warrant; or
  - (d) it is a place of business to which this Act relates and the entry is made when the place is open for business or otherwise open for entry.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—
- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- (3) For subsection (1)(d)—
- place of business* does not include a part of the place where a person resides.

## **Division 3                      Procedure for entry**

### **750      Entry with consent**

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 749(1)(a).
- (2) Before asking for the consent, the authorised officer must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.

[s 751]

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- (4) The acknowledgement must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the authorised officer consent to enter the place and exercise powers under this chapter; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (6) A court must find the occupier of a place did not consent to an authorised officer entering the place under this chapter if—
  - (a) a matter arises in a proceeding before the court whether the occupier of the place consented to the entry under section 749(1)(a); and
  - (b) an acknowledgement mentioned in subsection (4) is not produced in evidence for the entry; and
  - (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

## **751 Applying for warrant**

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

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The magistrate may require additional information supporting the application to be given by statutory declaration.

## 752 Issue of warrant

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of—
    - (i) an offence against this Act; or
    - (ii) a *Sustainable Planning Act 2009* offence; and
  - (b) the evidence is at the place, or, within the next 7 days, may be at the place.
- (2) The warrant must state—
  - (a) that any authorised officer or a stated authorised officer may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for the entry; and
    - (ii) exercise the authorised officer's powers under this chapter; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the extent of re-entry permitted; and
  - (f) the date, within 14 days after the warrant's issue, the warrant ends.
- (3) A provision of this part applying to entry authorised under a warrant is taken also to apply to any re-entry authorised under the warrant.

## 753 Special warrants

- (1) An authorised officer may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The authorised officer may apply for the special warrant before the application is sworn.
- (4) After issuing the special warrant, the magistrate must promptly fax a copy (a *facsimile warrant*) to the authorised officer if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the authorised officer—
  - (a) the magistrate must tell the authorised officer—
    - (i) what the terms of the special warrant are; and
    - (ii) the date and time the special warrant is issued; and
  - (b) the authorised officer must complete a form of warrant (a *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the special warrant; and
    - (iii) the terms of the special warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers stated in the special warrant issued.



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- (7) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
    - (a) the sworn application; and
    - (b) if the authorised officer completed a warrant form—the completed warrant form.
  - (8) On receiving the documents, the magistrate must attach them to the special warrant.
  - (9) A court must find the exercise of the power by an authorised officer was not authorised by a special warrant if—
    - (a) a matter arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant mentioned in subsection (1); and
    - (b) the special warrant is not produced in evidence; and
    - (c) it is not proved by the person relying on the lawfulness of the entry that the authorised officer obtained the special warrant.

#### **754 Warrants—procedure before entry**

- (1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this division.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
  - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing the authorised officer's identity card or a copy of another document evidencing the authorised officer's appointment;
  - (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 753(6), a copy of the facsimile warrant or warrant form;
  - (c) tell the person the authorised officer is permitted by the warrant to enter the place;

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- (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

## **Division 4                      Powers of authorised officers after entering a place**

### **755      General powers after entering places**

- (1) This section applies to an authorised officer who enters a place under division 2.
- (2) However, if an authorised officer enters a place to get the occupier's consent to enter the place, this section applies to the authorised officer only if the consent is given or the entry is otherwise authorised.
- (3) For monitoring or enforcing compliance with this Act, the authorised officer may exercise 1 or more of the following powers—
  - (a) search any part of the place;
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
  - (c) take a thing, or a sample of or from a thing, at the place for analysis or testing;
  - (d) copy a document at the place;
  - (e) regulate or prevent the taking of water or other resources under this Act so as to comply with the quantity authorised to be taken under this Act;
  - (f) take all steps and do all acts and things necessary for advancing the purposes of this Act;

- (g) take into or onto the place any person, equipment and materials the authorised officer reasonably requires for the exercise of a power under this division;
  - (h) require the occupier of the place, or a person at the place, to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (g);
  - (i) require the occupier of a place, or a person at the place, to give the authorised officer information to help the authorised officer ascertain whether the Act is being complied with.
- (4) When making a requirement mentioned in subsection (3)(h) or (i), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

#### **756 Failure to help authorised officer**

- (1) A person required to give reasonable help under section 755(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) If the requirement is to be complied with by an individual giving information, or producing a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

#### **757 Failure to give information**

- (1) A person of whom a requirement is made under section 755(3)(i) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

[s 757A]

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- (2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

## **Division 4A            Power to seize evidence**

### **757A   Seizing evidence**

- (1) This section applies if, under this part, an authorised officer enters a place after obtaining the consent of an occupier or under a warrant.
- (2) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place if—
  - (a) the authorised officer reasonably believes the thing is evidence of—
    - (i) an offence against this Act; or
    - (ii) a *Sustainable Planning Act 2009* offence; and
  - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (3) If the authorised officer enters the place with a warrant, the authorised officer may seize the evidence for which the warrant was issued.
- (4) The authorised officer may seize anything else at the place if the authorised officer reasonably believes—
  - (a) the thing is evidence of—
    - (i) an offence against this Act; or
    - (ii) a *Sustainable Planning Act 2009* offence; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) hidden, lost or destroyed; or
    - (ii) used to continue, or repeat, the offence.

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- (5) Also, the authorised officer may seize a thing at the place if the authorised officer reasonably believes it has just been used in committing—
- (a) an offence against this Act; or
  - (b) a *Sustainable Planning Act 2009* offence.

### **757B Securing seized things**

Having seized a thing, an authorised officer may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted
  - 2 sealing the entrance to a place where the thing is situated and marking it to show access to it is restricted
- (c) if the thing is equipment—make it inoperable.

*Example of making equipment inoperable—*

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

### **757C Tampering with seized things**

- (1) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an authorised officer's approval.

Maximum penalty—100 penalty units.

- (2) If an authorised officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an authorised officer's approval.

Maximum penalty—100 penalty units.

[s 757D]

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### **757D Powers to support seizure**

- (1) To enable a thing to be seized, an authorised officer may require the person in control of it—
  - (a) to take it to a stated reasonable place by a stated reasonable time; and
  - (b) if necessary, to remain in control of it at the stated place for a stated reasonable period.
- (2) The requirement—
  - (a) must be made by notice in the approved form; or
  - (b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by a notice in the approved form as soon as practicable.
- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.
- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

### **757E Receipts for seized things**

- (1) As soon as practicable after an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.

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- (4) This section does not apply to a thing if it is impracticable, or would be unreasonable, to give the receipt, having regard to the thing's nature, condition and value.

### **757F Forfeiture by authorised officer**

- (1) A thing that has been seized under this division is forfeited to the State if the authorised officer who seized the thing—
- (a) can not find its owner, after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts.
- (2) In applying subsection (1)—
- (a) subsection (1)(a) does not require the authorised officer to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subsection (1)(b) does not require the authorised officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

*Example for paragraph (b)—*

The owner of the thing has migrated to another country.

- (3) Regard must be had to a thing's nature, condition and value in deciding—
- (a) whether it is reasonable to make inquiries or efforts; and
  - (b) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable.

### **757G Forfeiture on conviction**

- (1) On conviction of a person for either of the following, the court may order the forfeiture to the State of anything owned by the person and seized under this division—
- (a) an offence against this Act;

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- (b) a *Sustainable Planning Act 2009* offence.
- (2) The court may make any order to enforce the forfeiture it considers appropriate.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **757H Dealing with forfeited things**

- (1) On forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

### **757I Return of seized things**

- (1) If a seized thing is not forfeited, the authorised officer must return it to its owner—
  - (a) at the end of 6 months; or
  - (b) if a proceeding for either of the following involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding—
    - (i) an offence against this Act;
    - (ii) a *Sustainable Planning Act 2009* offence.
- (2) Despite subsection (1), unless the thing is forfeited, the authorised officer must immediately return a thing seized to its owner if the authorised officer stops being satisfied—
  - (a) its continued retention as evidence is necessary; or
  - (b) its continued retention is necessary to prevent the thing being used to continue, or repeat, the offence.



### **757J Access to seized things**

- (1) Until a seized thing is forfeited or returned, an authorised officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable, or would be unreasonable, to allow the inspection or copying.

## **Division 5 Power to obtain information**

### **758 Power to require name and address**

- (1) This section applies if an authorised officer—
  - (a) finds a person committing an offence against this Act; or
  - (b) finds a person in circumstances that lead the authorised officer reasonably to suspect the person has just committed an offence against this Act; or
  - (c) has information that leads the authorised officer reasonably to suspect a person has just committed an offence against this Act.
- (2) The authorised officer may require the person to state the person's name and residential address.
- (3) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (4) The authorised officer may require the person to give evidence of the correctness of the stated name or residential address if the authorised officer reasonably suspects the stated name or address to be false.

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### **759 Failure to give name or address**

- (1) A person of whom a requirement under section 758 is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
- (a) the person was required to state the person's name and residential address by an authorised officer who suspected the person had committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

### **760 Power to require production of documents**

- (1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer, a document relating to the taking of, or interfering with, water.
- (2) The authorised officer may keep the document to copy it.
- (3) If the authorised officer copies a document mentioned in subsection (1)(b), or an entry in the document, the authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (4) The authorised officer must return the document to the person as soon as practicable after copying it.
- (5) However, if a requirement (a *document certification requirement*) is made of a person under subsection (3), the authorised officer may keep the document until the person complies with the requirement.
- (6) A requirement under subsection (1) is called a *document production requirement*.

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**761 Failure to certify copy of document**

A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

**762 Failure to produce document**

- (1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) It is not a reasonable excuse for a person to fail to comply with a document production requirement because complying with the requirement might tend to incriminate the person.
- (3) However, if the person is an individual, evidence of, or evidence directly or indirectly derived from, the document that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the document.
- (4) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

**763 Power to require information**

- (1) This section applies if an authorised officer reasonably believes—
- (a) an offence against this Act has been committed; and
  - (b) a person may be able to give information about the offence.
- (2) The authorised officer may, by notice given to the person, require the person to give information about the offence to the

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authorised officer at a stated reasonable place and at a stated reasonable time.

- (3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (4) It is not a reasonable excuse for a person to fail to give the information because giving the information might tend to incriminate the person.
- (5) However, if the person is an individual, evidence of, or evidence directly or indirectly derived from, the information that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.
- (6) If a person is convicted of an offence against subsection (3), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

## **Division 6                      Compensation for damage caused when exercising power**

### **764      Giving notice of damage**

- (1) This section applies if—
  - (a) an authorised officer damages property when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction or authority of an authorised officer damages property.
- (2) The authorised officer must immediately give notice of particulars of the damage to the person who appears to the authorised officer to be the owner of the property.
- (3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the

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authorised officer's, or other person's, control, the authorised officer may state the belief in the notice.

- (4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the authorised officer reasonably believes is trivial.
- (6) In this section—

*owner*, of property, includes the person in possession or control of it.

## **765 Compensation for damage**

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under division 2 or 4.
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the division.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

## **Division 7                      Obtaining criminal history reports**

### **766      Purpose of div 7**

The purpose of this division is to help an authorised officer to decide whether the authorised officer's unaccompanied entry of a place under this part would create an unacceptable level of risk to the authorised officer's safety.

### **767      Chief executive's power to obtain criminal history report**

- (1) The chief executive may ask the commissioner of the police service for a written report about the criminal history of a person if the authorised officer reasonably suspects the person may be present at the place when the authorised officer enters the place under this part.
- (2) The commissioner must give the report to the chief executive.
- (3) However, the report is required to contain only criminal history that is in the commissioner's possession or to which the commissioner has access.
- (4) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving the use of a weapon or violence against a person.
- (5) The chief executive may give the authorised officer information in the report about the offences identified under subsection (4).

### **768      Criminal history is confidential document**

- (1) A person must not, directly or indirectly, disclose to anyone else a report about a person's criminal history, or information contained in the report, given under section 767.

Maximum penalty—100 penalty units.

- (2) However, the person does not contravene subsection (1) if—

- (a) the disclosure is for the purpose of the other person performing a function under or in relation to this Act; or
  - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive or an authorised officer to whom the report or written information in the report is provided must destroy the report or information as soon as practicable after the authorised officer considers the risk mentioned in section 766.

## **Part 2                      Enforcement matters**

### **Division 1                      Show cause and compliance notices**

#### **779      General requirements for show cause notices**

- (1) A show cause notice must state the following—
- (a) the proposed action;
  - (b) the grounds for the proposed action;
  - (c) the facts and circumstances forming the basis for the grounds;
  - (d) that a submission may be made about the show cause notice;
  - (e) how the submission may be made;
  - (f) where the submission may be made or sent;
  - (g) a day and time within which the submission must be made.
- (2) The day stated in the notice must be, or must end, at least 15 business days after the notice is given.

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## **780 Who may give a compliance notice**

- (1) This section applies if the chief executive or an authorised officer reasonably believes—
  - (a) a person—
    - (i) is contravening a provision of this Act; or
    - (ii) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated; and
  - (b) a matter relating to the contravention is reasonably capable of being rectified; and
  - (c) it is appropriate to give the person an opportunity to rectify the matter.
- (2) The chief executive or authorised officer may give the person a notice (a *compliance notice*) requiring the person to refrain from doing an act or to rectify the matter.

## **781 General requirements for compliance notices**

- (1) The compliance notice must state—
  - (a) that the chief executive or authorised officer believes the person to whom the notice is to be given—
    - (i) is contravening a provision of this Act; or
    - (ii) has contravened a provision of this Act in circumstances that make it likely that the contravention will continue or be repeated; and
  - (b) the provision the chief executive or authorised officer believes is being, or has been, contravened; and
  - (c) briefly, how it is believed the provision is being, or has been contravened; and
  - (d) the matter relating to the contravention that the chief executive or authorised officer believes is reasonably capable of being rectified; and



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- (e) the reasonable steps the person must take to rectify the matter; and
  - (f) that the person must take the steps within a stated reasonable period; and
  - (g) if the notice is in relation to a direction or response mentioned in section 25M(1)—that if the notice is not complied with, the Governor in Council may, under section 25M(2), appoint a person to comply with the direction or response; and
  - (h) that the person may apply for an internal review of the decision to give the notice within 30 business days after the day the notice is given; and
  - (i) how the person may apply for the internal review.
- (2) If a compliance notice requires the person to do an act involving the carrying out of work, it also must give details of the work involved.
- (3) If a compliance notice requires the person to refrain from doing an act, it also must state either—
- (a) a period for which the requirement applies; or
  - (b) that the requirement applies until further notice.

## **782 Compliance with compliance notice**

The person must comply with the compliance notice, unless the person has a reasonable excuse.

Maximum penalty—the number of penalty units that applies for the offence to which the notice relates.

## **783 Chief executive may take action and recover costs**

- (1) If the person contravenes the compliance notice by not doing something, the chief executive may do the thing.

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- (3A) If the chief executive incurs expense in doing a thing under subsection (1), the chief executive must give the person a notice stating the amount of the expense incurred.
- (4) Any reasonable expenses incurred by the chief executive in doing anything under subsection (1), may be recovered by the chief executive as a debt due to it by the person.
- (5) A debt due under subsection (4) bears interest at the rate stated in the regulation.

## Division 2                      Enforcement orders

### 784      Proceeding for orders

- (1) A person may bring a proceeding in the District Court for 1 or more of the following orders—
  - (a) an order to remedy or restrain the commission of an offence against this Act (an *enforcement order*);
  - (b) an order that a person who has committed an offence against this Act pay damages to compensate the applicant for injury suffered by the applicant or loss or damage to the applicant's property because of the commission of the offence;
  - (c) if the person has brought a proceeding under paragraph (a) and the court has not decided the proceeding—for an order under section 934 (an *interim enforcement order*);
  - (d) to cancel or change an enforcement order or interim enforcement order.
- (2) The person may bring a proceeding under subsection (1)(a) whether or not any right of the person has been, or may be, infringed by, or because of, the commission of the offence.
- (3) If a person other than the chief executive brings a proceeding under this section, the person must, within 5 business days of

commencing to bring the proceeding, give the chief executive notice of the proceeding.

**785 Proceeding brought in a representative capacity**

- (1) A proceeding under section 784(1) may be brought by the person on their own behalf or in a representative capacity.
- (2) However, if the proceeding is brought in a representative capacity, 1 of the following consents must be obtained—
  - (a) if the proceeding is brought on behalf of a body of persons or a corporation—the members of the governing body;
  - (b) if the proceeding is brought on behalf of an individual—the individual.

**786 Making interim enforcement order**

- (1) The court may make an interim enforcement order pending a decision of the proceeding if the court is satisfied it would be appropriate to make the order.
- (2) The court may make the order subject to conditions, including a condition requiring the applicant for the order to give an undertaking to pay costs resulting from damage suffered by the respondent.

**787 Proceeding for enforcement order without notice**

- (1) A person may bring a proceeding for an enforcement order without notice to the other party.
- (2) Without limiting the discretion of the court in the exercise of its equitable jurisdiction, the court may, with or without conditions—
  - (a) grant the order for a limited period stated in the order; or
  - (b) grant the order until the trial of the proceeding; or

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- (c) grant an order for a limited time prohibiting a person from leaving Australia; or
- (d) make another order.

*Example of an injunction under subsection (2)(c)—*

This order may be used if the departure of the person would render a proceeding useless, for example, because the person's departure would make it impossible to have an enforcement hearing in relation to a judgment against the person and so ascertain the location of the person's assets. Conditions imposed may, for example, relate to payment of an amount, or surrendering a passport, to the court.

## **788 Making enforcement order**

- (1) The court may make an enforcement order if the court is satisfied the offence—
  - (a) has been committed; or
  - (b) will be committed unless restrained.
- (2) If the court is satisfied the offence has been committed, the court may make either or both of the following orders—
  - (a) an enforcement order whether or not there has been a prosecution for the offence;
  - (b) an order for exemplary damages.
- (3) In considering whether to make an order for exemplary damages, the court may consider—
  - (a) any impact on water available to other water entitlement holders and natural ecosystems, resulting, or likely to result, because of the commission of the offence; and
  - (b) any effect on a watercourse, lake, spring, aquifer or water quality; and
  - (c) any financial saving or other benefit the person who committed the offence received or is likely to receive because of the commission of the offence.
- (4) If an order is made for exemplary damages, the amount of the damages must be paid to the consolidated fund.

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**789 Effect of orders**

- (1) An enforcement order or an interim enforcement order may direct the respondent—
  - (a) to stop an activity that constitutes, or will constitute, an offence against this Act; or
  - (b) not to start an activity that will constitute an offence against this Act; or
  - (c) to do anything required to stop committing an offence against this Act; or
  - (d) to return anything to a condition as close as practicable to the condition it was in immediately before an offence against this Act was committed; or
  - (e) to do anything to comply with this Act.
- (2) Without limiting the court's powers, the court may make an order requiring the demolition, removal or modification of works for taking or interfering with water or other resources.
- (3) An enforcement order or an interim enforcement order—
  - (a) may be in terms the court considers appropriate to secure compliance with this Act; and
  - (b) must state the time by which the order is to be complied with.

**790 Court's powers about orders**

- (1) The court's power to make an enforcement order or interim enforcement order to stop, or not to start, an activity may be exercised whether or not—
  - (a) it appears to the court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or
  - (b) the person has previously engaged in an activity of the kind; or

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- (c) there is danger of substantial damage to natural ecosystems if the person engages, or continues to engage, in the activity.
- (2) The court's power to make an enforcement order or interim enforcement order to do anything may be exercised whether or not—
- (a) it appears to the court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or
  - (b) the person has previously failed to do a thing of the kind; or
  - (c) there is danger of substantial damage to natural ecosystems if the person fails, or continues to fail, to do the thing.
- (3) The court may cancel or change an enforcement order or interim enforcement order.
- (4) The court's powers under this section are in addition to its other powers.

### **791 Contributing to cost of bringing proceeding**

If the proceeding is brought in a representative capacity, the person on whose behalf the proceeding is brought may contribute to, or pay, the legal costs and expenses incurred by the person bringing the proceeding.

## **Division 3 Costs for proceedings under division 2**

### **792 Parties to pay own costs for proceedings**

- (1) Each party to a proceeding in a court under division 2 must bear the party's own costs for the proceeding.

- (2) However, the court may order costs for the proceeding, including allowances to witnesses attending for giving evidence at the proceeding, as it considers appropriate in the following circumstances—
- (a) the court considers the proceeding was started merely to delay or obstruct;
  - (b) the court considers the proceeding, or part of the proceeding, to have been frivolous or vexatious;
  - (c) a party has not been given reasonable notice of intention to apply for an adjournment of the proceeding;
  - (d) a party has incurred costs because the party is required to apply for an adjournment because of the conduct of another party;
  - (e) a party has incurred costs because another party has defaulted in the court's procedural requirements;
  - (f) without limiting paragraph (d), a party has incurred costs because another party has introduced, or sought to introduce, new material;
  - (g) a party to the proceeding does not properly discharge its responsibilities in the proceedings.
- (3) If the court makes an order under subsection (2), the court may also order the party ordered to pay costs under subsection (2) to pay to the other party an amount as compensation for loss or damage suffered by the other party because of the proceeding if the court considers—
- (a) the proceeding was started merely to delay or obstruct;  
or
  - (b) the proceeding, or part of the proceeding, to have been frivolous or vexatious.

## **Part 3                      Offences**

### **Division 1                      Offences for chapter 2**

#### **808      Unauthorised taking, supplying or interfering with water**

(1) A person must not take or supply water to which this Act applies unless authorised to take or supply the water—

(a) under this Act; or

*Editor's note—*

See also the *Petroleum and Gas (Production and Safety) Act 2004*, sections 188 and 196 (Authorisation for Water Act).

(b) under a law of another State or Territory if the authorisation is declared under a regulation to be of a similar nature and to have a similar effect to a stated authorisation under this Act.

Maximum penalty—1665 penalty units.

(2) A person must not interfere with water to which this Act applies, other than overland flow water, unless authorised to interfere with the water—

(a) under this Act; or

(b) under a law of another State or Territory if the authorisation is declared under a regulation to be of a similar nature and to have a similar effect to a stated authorisation under this Act.

Maximum penalty—1665 penalty units.

(3) The holder of a metered entitlement must not take water under the entitlement other than through works that have an approved meter attached.

Maximum penalty—1665 penalty units.



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**809 Using water contrary to water use plan**

A person must not use water in a water use plan area contrary to the plan.

Maximum penalty—1665 penalty units.

**810 Using water contrary to approved land and water management plan**

If there is an approved land and water management plan for the use of water on land, a person must not use water on the land contrary to the plan.

Maximum penalty—1665 penalty units.

**811 Tampering with devices**

(1) A person must not tamper with a device used under this Act—

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

Maximum penalty—1665 penalty units.

(2) A person must not tamper with a device installed by the chief executive to monitor water.

Maximum penalty—1665 penalty units.

(3) In this section—

*tamper*, with a device, includes—

- (a) remove the device from the place where—
  - (i) it is used for a purpose mentioned in subsection (1); or
  - (ii) it was installed by the chief executive to monitor water; and

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- (b) tamper with works associated with the device in a way that may hinder the capacity of the device to—
  - (i) measure, read, record or transmit information; or
  - (ii) restrict the water supply to the premises.

## **812 Contravening conditions of water entitlement, seasonal water assignment notice or water permit**

The holder of a water allocation, interim water allocation, water licence, seasonal water assignment notice or water permit must not contravene a condition of the allocation, licence, notice or permit.

Maximum penalty—1665 penalty units.

### **812A Liability for particular contraventions**

- (1) This section applies if there is evidence that—
  - (a) a condition of a water allocation, interim water allocation, water licence, seasonal water assignment notice or water permit (each an *authorisation*) has been contravened; or
  - (b) water has been taken or supplied in contravention of section 808(1) and—
    - (i) the water was taken or supplied using works owned by, or in the possession or control of, the holder of an authorisation; or
    - (ii) the water was taken from a place on land owned by the holder of an authorisation; or
    - (iii) the water has been taken onto or used on land owned by the holder of an authorisation.
- (2) In a proceeding for a contravention mentioned in subsection (1)(a), the holder of the authorisation is taken to have contravened the condition in the absence of evidence to the contrary.

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- (3) In a proceeding for a contravention mentioned in subsection (1)(b), the holder of the authorisation is taken to have taken or supplied the water without authority to take or supply the water in the absence of evidence to the contrary.
  - (4) If, in a proceeding for a contravention mentioned in subsection (1), an issue arises about whether the holder had physical control over or responsibility for the works associated with the contravention at the time the contravention happened, it is a defence for the holder to prove—
    - (a) the holder did not have physical control over or responsibility for the works associated with the contravention at the time the contravention happened; and
    - (b) the holder has notified the chief executive of the name and address of the person who had physical control over or responsibility for the works at the time the contravention happened (the *water user*); and
    - (c) the holder has given the water user a copy of all documents and information available to the holder relating to the taking of water under the holder's authorisation.
  - (5) The holder must give the chief executive notice about the matters mentioned in subsection (4) in a statutory declaration.
  - (6) The defence under subsection (4) is not available unless notice under subsection (4) is given to the chief executive within 20 business days after the first of the following is given to the holder—
    - (a) a written notice from the chief executive alleging the contravention;
    - (b) an infringement notice under the *State Penalties Enforcement Act 1999*.
  - (7) Nothing in this section prevents a person from giving the chief executive notice, in a statutory declaration, that the person was the water user at the time the contravention happened.

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- (8) A notice purporting to have been given for a body corporate by a director, manager or secretary of the body corporate is taken to have been given by the body corporate.
- (9) To the extent of any inconsistency between this section and the Criminal Code, section 23 or 24, this section prevails.

### **812B Notice accompanying complaint or summons**

- (1) A notice, complaint or summons served on the holder of an authorisation for a contravention mentioned in section 812A(1) must be accompanied by written information about the provisions of section 812A.
- (2) A statement in a deposition made for the *Justices Act 1886*, section 56(3)(b) that the notice was served as required by subsection (1) is evidence of the fact.
- (3) The *Justices Act 1886*, section 56(5) applies to the deposition.

### **813 Contravening licence condition**

- (1) A holder of a resource operations licence, a distribution operations licence, an interim resource operations licence or an operations licence must not contravene a condition of the licence.

Maximum penalty—1665 penalty units.

- (2) Subsection (1) does not apply to a contravention for which a licence has been cancelled.

### **814 Destroying vegetation, excavating or placing fill without permit**

- (1) A person must not do any of the following activities unless the person has a permit under section 269 to carry out the activity—
  - (a) destroy vegetation in a watercourse, lake or spring;
  - (b) excavate in a watercourse, lake or spring;

(c) place fill in a watercourse, lake or spring.

Maximum penalty—1665 penalty units.

(2) Subsection (1) does not apply to—

(a) the destruction of vegetation, excavation or placing of fill—

(i) that is permitted or required, or happens as a necessary and unavoidable part of some other activity that is permitted or required under—

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

(B) a development permit for prescribed assessable development; or

(ii) that is permitted or required under the *River Improvement Trust Act 1940*; or

(iii) that happens as a necessary and unavoidable part of extracting quarry material or forest products under the *Forestry Act 1959*; or

(iv) that happens as a necessary and unavoidable part of the construction of works that are self-assessable development under the *Sustainable Planning Act 2009* and involve the taking or interfering with water in a watercourse, lake or spring; or

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

(A) the life or health of a person;

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

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- (vi) in a watercourse, lake or spring prescribed under a regulation; or
  - (vii) in a watercourse, lake or spring in an area prescribed under a regulation; or
  - (viii) for the excavation or placing of fill—happening within the quantity limits prescribed under a regulation; or
  - (ix) that is permitted under a regulation; or
- (b) the destruction of vegetation—
- (i) that is required under a requisition under the *Fire and Rescue Authority Act 1990*, section 69, for reducing the risk of fire; or
- Editor's note—*
- Fire and Rescue Authority Act 1990—see the Acts Interpretation Act 1954, section 14I and the Emergency Services Legislation Amendment Act 2001, section 13.*
- (ii) that is permitted or required to be carried out under the *Electrical Safety Act 2002* or the *Electricity Act 1994* to prevent the obstruction of, or interference with, an electric line or creation of an electrical hazard; or
  - (iii) that happens as a necessary part of works carried out under this Act, other than under a licence, permit or notice; or
  - (iv) that is regrowth, and does not consist of mulga or other fodder trees—following the destruction under a permit given under section 269 less than 2 years previously; or
  - (v) that has been lawfully planted for woodlot, fodder, agriculture, forestry, garden or horticultural purposes; or
  - (vi) that is necessary to prevent personal injury or property damage or to provide for emergency access.

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

Maximum penalty—1665 penalty units.

- (3) On the conviction of a person for an offence against subsection (1) or (2A), the court may order the person to pay to the State the cost of any remedial work or rehabilitation necessary or desirable because of the commission of the offence.
- (4) Subsection (3) does not limit the court's power under the *Penalties and Sentences Act 1992* or another law.
- (5) In this section—

***prescribed assessable development*** means—

- (a) operational work that is assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1) if—
- (i) the operations allow—
    - (A) the taking or interfering with water from a watercourse, lake or spring, or from a dam constructed on a watercourse or lake; or
    - (B) the interfering with overland flow water in a drainage and embankment area; or
  - (ii) the operational work—
    - (A) is the construction of a referable dam; or
    - (B) will increase the storage capacity of a referable dam by more than 10%; or
- (b) other development that is assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1) and involves the removal of quarry material from a watercourse or lake for which an allocation notice is required under chapter 2, part 9.

### **815 Removing quarry material**

- (1) A person must not remove quarry material without an allocation notice.  
Maximum penalty—1665 penalty units.
- (2) A person must not contravene the conditions of an allocation notice, unless the person has a reasonable excuse.  
Maximum penalty—1665 penalty units.
- (3) On a conviction for an offence under subsection (1), the court in addition to imposing a penalty may order the offender pay to the chief executive royalty at the rate prescribed under a regulation for the State quarry material removed in contravention of subsection (1).
- (4) Subsection (1) does not apply to a person who collects quarry material while fossicking under a licence under the *Fossicking Act 1994* if the person does not collect more than 1m<sup>3</sup> of quarry material in a year.

### **816 Unauthorised water bore activities**

- (1) An individual must not carry out any of the following activities unless the individual is licensed under chapter 2, part 10 to carry out the activity—
  - (a) drill, deepen, enlarge or case a water bore;
  - (b) remove, replace, alter or repair the casing, lining or screen of a water bore;
  - (c) decommission a water bore.Maximum penalty—500 penalty units.
- (2) Subsection (1) does not apply to an individual—
  - (a) who is under the constant physical supervision of an individual who is licensed under chapter 2, part 10; or
  - (b) carrying out an activity under the *Petroleum Act 1923* or the *Mineral Resources Act 1989* if the activity would not



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result in a water bore being left as a functional bore for the supply of water at the end of the activity; or

- (c) carrying out a water bore drilling activity if the activity would not result in the water bore being more than 6m deep.

### **817 Contravening requirements for mining and petroleum drilling**

- (1) Subsection (2) applies to an individual mentioned in section 816(2)(b) who is decommissioning a water bore.
- (2) The individual, in carrying out the decommissioning, must comply with the requirements prescribed under a regulation, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

### **818 Contravening condition of water bore driller's licence**

A holder of a water bore driller's licence must not—

- (a) contravene a condition of the licence; or
- (b) carry out a water bore drilling activity—
  - (i) of a class for which the holder is not licensed; or
  - (ii) with equipment for which the holder does not have endorsement.

Maximum penalty—500 penalty units.

### **819 False or misleading advertising**

A person must not, in relation to water bore drilling activities—

- (a) advertise in a way that is false or misleading in a material particular; or

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- (b) advertise or hold himself or herself out as willing to undertake water bore drilling activities of a kind for which the person is not licensed.

Maximum penalty—500 penalty units.

### **820 Taking water without operations licence**

A person must not, as a single operation, take water as an agent for 2 or more water entitlement holders under water allocations not managed under a resource operations licence unless the person holds an operations licence.

Maximum penalty—1000 penalty units.

## **Division 3 General offences**

### **825 False or misleading statements**

- (1) A person must not state anything to the chief executive or an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, ‘false or misleading’.

### **826 False or misleading documents**

- (1) A person must not give the chief executive or an authorised officer a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—

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- (a) tells the chief executive or authorised officer, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, 'false or misleading'.

### **827 Obstructing and impersonating authorised officers**

- (1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—
- (a) it is an offence to obstruct the authorised officer, unless the person has a reasonable excuse; and
  - (b) the authorised officer considers the person's conduct an obstruction.

- (3) A person must not pretend to be an authorised officer.

Maximum penalty—200 penalty units.

- (4) In this section—

*obstruct* includes assault, hinder and threaten, and attempt to obstruct.

### **828 Executive officers must ensure corporation complies with Act**

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits

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an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
  - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
  - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

## Chapter 6      Reviews and appeals

### Part 1            Interpretation

#### 851      **Who is an *interested person***

- (1) A person who has been given an information notice or a compliance notice by the chief executive, or an authorised officer appointed by the chief executive, is an *interested person*.
- (2) However, if the decision for which the notice was given is in relation to a water resource plan, a resource operations plan or a wild river declaration, the interested person may appeal only to the extent a different decision, consistent with the plan or declaration, could have been made.

- (3) A ratepayer or customer of a category 2 water authority who is dissatisfied with the authority's decision about a rate or charge made and levied on the customer or ratepayer is an *interested person*.
- (4) The decision or action for which a notice was given under subsection (1) or the decision mentioned in subsection (3) is an *original decision*.

## Part 2 Internal review of decisions

### 861 Appeal or external review process starts with internal review

Every appeal against or application for external review of an original decision must be, in the first instance, by way of an application for internal review.

### 862 Who may apply for internal review

- (1) An interested person, may apply for a review (an *internal review*) of an original decision mentioned in—
  - (a) section 851(1)—to the chief executive (the *reviewer*); or
  - (b) section 851(3)—to the chief executive officer of the category 2 water authority (also the *reviewer*).
- (2) The application must be—
  - (a) in the approved form; and
  - (b) supported by enough information to enable the reviewer to decide the application.

### 863 Applying for an internal review

- (1) The application must be made within 30 business days after—

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- (a) if the person is given an information notice about the decision or a compliance notice—the day the person is given the information notice or a compliance notice; or
  - (b) if paragraph (a) does not apply and notice of the decision is published—the day notice of the decision is published.
- (2) The reviewer may extend the time for applying for an internal review.
- (3) On or before making the application, the applicant must send the following documents to any other person who was given an information notice about the original decision—
  - (a) notice of the application (the *submitter notice*);
  - (b) a copy of the application and supporting documents.
- (4) The submitter notice must inform the recipient that written submissions on the application may be made to the reviewer within 5 business days after the application is made to the reviewer.
- (5) The application does not stay the original decision.
- (6) The application must not be dealt with by—
  - (a) the person who made the original decision; or
  - (b) a person in a less senior office than the person who made the original decision.
- (7) Subsection (6)—
  - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
  - (b) does not apply to an original decision made by the chief executive; and
  - (c) does not apply to an original decision made by a reviewer who is a category 2 water authority.

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## 864 Review decision

- (1) Subsection (2) applies if the reviewer is satisfied the applicant has complied with—
  - (a) section 862; and
  - (b) either—
    - (i) section 863(1); or
    - (ii) if the reviewer has extended the time for applying for an internal review—section 863(1) within the time extended under section 863(2); and
  - (c) if any other person was given an information notice about the original decision—section 863(3) and (4).
- (2) The reviewer must, within 20 business days after receiving the application—
  - (a) review the original decision; and
  - (b) consider any properly made submissions by a recipient of the submitter notice; and
  - (c) make a decision (the *review decision*) to—
    - (i) confirm the original decision; or
    - (ii) amend the original decision; or
    - (iii) substitute another decision for the original decision.
- (2A) The reviewer may, by notice to the applicant, before the period mentioned in subsection (2) has expired, extend the period by not more than 30 business days.
- (2B) Only 1 notice may be given under subsection (2A) for each review.
- (3) Within 10 business days after making the review decision, the reviewer must give the applicant and any person who was given notice of the original decision notice (the *review notice*) of the review decision.
- (4) The review notice must also state—

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- (a) the reasons for the review decision; and
  - (b) that the applicant may, within 30 business days after the day the applicant is given the notice—
    - (i) for a decision or action mentioned in section 851(1), other than the giving of a compliance notice—appeal against the review decision to the Land Court; and
    - (ii) for a decision or action mentioned in section 851(3)—appeal against the review decision to the Land Court; and
  - (c) that the applicant may apply to the court that under paragraph (b) would hear the appeal against the review decision for a stay of the review decision.
- (4AA) For the following decisions, the review notice must comply with the QCAT Act, section 157(2)—
- (a) a decision or action about a water bore driller’s licence;
  - (b) a decision or action mentioned in section 851(1) for which a compliance notice was given.
- (4A) A copy of the relevant appeal provisions of this Act or the provisions of the QCAT Act about an external review must also be given with each review notice or copy of a review notice.
- (5) If the reviewer does not comply with subsection (2) or (3), the reviewer is taken to have made a decision confirming the original decision.
  - (6) If the review decision confirms the original decision, for the purpose of external review by QCAT or an appeal to a court, the original decision is taken to be the review decision.
  - (7) If the review decision amends the original decision, for the purpose of external review by QCAT or an appeal to a court, the original decision as amended is taken to be the review decision.



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**865 Stay of operation of original decision**

- (1) If an application is made for an internal review of an original decision, the applicant may immediately apply for a stay of the original decision to—
  - (a) if, under section 877(1)(a) or (c), the applicant would be able to apply to QCAT for an external review—QCAT; and
  - (b) if, under section 877(1)(b) or (d), the applicant would be able to appeal to the Land Court—the Land Court.
- (1A) An application to QCAT under subsection (1)(a) must be made as provided under the QCAT Act.
- (2) QCAT or the Land Court may stay the original decision to secure the effectiveness of the review and a later application for external review to QCAT or appeal to the court.
- (3) The stay—
  - (a) may be given on conditions QCAT or the court considers appropriate; and
  - (b) operates for the period fixed by QCAT or the court; and
  - (c) may be revoked or amended by QCAT or the court.
- (4) The period of the stay must not extend past the time when the reviewer makes a review decision about the original decision and any later period QCAT or the court allows the applicant to enable the applicant to apply for an external review or appeal against the review decision.
- (5) The application affects the original decision, or carrying out of the decision, only if the decision is stayed.

## **Part 3 Appeals and external reviews**

### **877 Who may appeal or apply for external review**

- (1) If an interested person has applied for an internal review of an original decision, any interested person for the original decision may appeal against or apply for a review of the review decision to—
  - (a) if the review decision was about an original decision or action about a water bore driller's licence—QCAT; and
  - (b) if the review decision was about an original decision or action mentioned in section 851(1), other than the giving of a compliance notice—the Land Court; and
  - (c) if the review decision was about a decision or action mentioned in section 851(1) for which a compliance notice was given—QCAT; and
  - (d) if the review decision was about an original decision or action mentioned in section 851(3)—the Land Court.
- (2) An application to QCAT made under subsection (1)(a) or (c) must be made as provided under the QCAT Act.

### **878 Starting an appeal to the Land Court**

- (1) An appeal is started by—
  - (a) filing a notice of appeal with the court; and
  - (b) complying with rules of court applicable to the appeal.
- (2) The notice of appeal must be filed within 30 business days after the day the appellant receives notice of the decision or the decision is taken to have been made.
- (3) The court may extend the period for filing the notice of appeal.
- (4) A copy of the notice of appeal must be served on the chief executive within 10 business days after the notice of appeal is filed with the court.

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### **879 Staying operation of review decision**

- (1) The appellant may apply to the court to which the appellant could have applied for a stay of an original decision for a stay of the operation of the review decision to secure the effectiveness of the appeal.
- (2) The court may grant a stay of the operation of the review decision to secure the effectiveness of the appeal.
- (3) The stay—
  - (a) may be given on conditions the court considers appropriate; and
  - (b) operates for the period fixed by the court; and
  - (c) may be revoked or amended by the court.
- (4) The period of the stay must not extend past the time when the court decides the appeal.
- (5) The appeal affects the review decision, or carrying out of the decision, only if the decision is stayed.

### **880 Hearing procedures**

- (1) The procedure for an appeal must be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.
- (2) An appeal is by way of rehearing, unaffected by the reviewer's decision.

### **881 Assessors**

If the judge or member hearing an appeal is satisfied the appeal involves a question of special knowledge and skill, the judge or member may appoint 1 or more assessors to help the judge or member in deciding the appeal.

## **882 Powers of court on appeal**

- (1) In deciding an appeal, the court may—
  - (a) confirm the review decision; or
  - (b) set aside the review decision; or
  - (c) amend the review decision in the way the court considers appropriate; or
  - (d) send the matter back to the reviewer and give the directions the court considers appropriate; or
  - (e) set aside the review decision and substitute it with a decision the court considers appropriate.
- (2) If the court amends the review decision or substitutes another decision for the review decision, the amended or substituted decision is, for this Act (other than this part) taken to be the reviewer's decision.
- (3) Each party to the appeal must bear the party's own costs for the appeal.
- (4) However, the court may order costs for the appeal, including allowances to witnesses attending for giving evidence at the appeal, as it considers appropriate in the following circumstances—
  - (a) the court considers the appeal was started merely to delay or obstruct;
  - (b) the court considers the appeal, or part of the appeal, to have been frivolous or vexatious;
  - (c) party has not been given reasonable notice of intention to apply for an adjournment of the appeal;
  - (d) a party has incurred costs because the party is required to apply for an adjournment because of the conduct of another party;
  - (e) a party has incurred costs because another party has defaulted in the court's procedural requirements;

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- (f) without limiting paragraph (d), a party has incurred costs because another party has introduced, or sought to introduce, new material;
  - (g) a party to the appeal does not properly discharge its responsibilities in the appeal.
- (5) If the court makes an order under subsection (4), the court may also order the party ordered to pay costs under subsection (4) to pay to the other party an amount as compensation for loss or damage suffered by the other party because of the appeal if the court considers—
- (a) the appeal was started merely to delay or obstruct; or
  - (b) the appeal, or part of the appeal, to have been frivolous or vexatious.

## **Chapter 7      Legal proceedings**

### **Part 1              Evidence**

#### **918      Application of pt 1**

This part applies to a proceeding under this Act.

#### **919      Appearance**

A party to a proceeding may appear personally or by lawyer or agent.

#### **920      Appointments and authority**

It is not necessary to prove—

- (a) the chief executive's appointment; or

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- (b) an authorised officer's appointment; or
- (c) the authority of the chief executive or an authorised officer to do anything under this Act.

## **921 Evidentiary aids**

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
  - (a) a stated document is 1 of the following things made, given, granted or kept under this Act—
    - (i) an appointment;
    - (ii) an authority or licence;
    - (iii) a decision;
    - (iv) a notice, direction or requirement;
  - (b) a stated document is a copy of a thing mentioned in paragraph (a);
  - (c) on a stated day, or during a stated period, a stated person was or was not an authority holder;
  - (d) on a stated day, or during a stated period, an authority—
    - (i) was or was not in force; or
    - (ii) was or was not subject to a stated condition; or
    - (iii) was or was not cancelled;
  - (e) on a stated day, or during a stated period, a person's appointment as an authorised officer was, or was not, in force;
  - (f) on a stated day, a stated person was given a stated notice under this Act;
  - (g) on a stated day, a stated requirement was made of a stated person.

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- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the day it came to the complainant's knowledge.
  - (3) A certificate purporting to be signed by an authorised officer stating that during a stated period a stated quantity of water passed through a device used for recording the taking of, interfering with, or use of water is evidence of the matters stated.

## Part 2 Proceedings

### 931 Proceedings for offences

- (1) Subject to subsection (2), a proceeding for an offence by way of a summary proceeding under the *Justices Act 1886* must start within—
  - (a) 1 year after the commission of the offence; or
  - (b) 1 year after the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence.
- (2) A proceeding for a prescribed offence may, at the election of the prosecution, be taken—
  - (a) by way of summary proceedings under the *Justices Act 1886*; or
  - (b) on indictment.
- (2A) A prescribed offence is—
  - (a) for a prescribed offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or
  - (b) otherwise—a misdemeanour.

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- (3) A proceeding must be before a magistrate if it is a proceeding—
  - (a) with a view to the summary conviction of a person on a charge of a prescribed offence; or
  - (b) for an examination of witnesses in relation to a charge for a prescribed offence.
- (4) However, if a proceeding for a prescribed offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.
- (5) If—
  - (a) a person charged with a prescribed offence, in relation to which a proceeding is taken by way of a summary proceeding, requests, at the start of the proceeding, that the charge be prosecuted on indictment; or
  - (b) the magistrate hearing and deciding a charge of a prescribed offence is of the opinion that the charge ought to be prosecuted on indictment;the magistrate—
  - (c) must not hear and decide the charge as a summary offence; but
  - (d) must proceed by way of an examination of witnesses in relation to an indictable offence.
- (6) If a magistrate acts under subsection (5)—
  - (a) any plea of the person charged, made at the start of the proceeding, must be disregarded; and
  - (b) any evidence brought in the proceeding before the magistrate decided to act under subsection (5) is taken to be evidence in the proceeding with a view to the committal of the person for trial or sentence; and
  - (c) before committing the person for trial or sentence the magistrate must make a statement to the person in



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accordance with the *Justices Act 1886*, section 104(2)(b).

- (7) The maximum penalty that may be imposed on a summary conviction of a prescribed offence is 500 penalty units or imprisonment for 1 year.
- (8) If a person other than the chief executive brings a proceeding under this section, the person must, within 5 business days of starting the proceeding, give the chief executive notice of the proceeding.

### **932 Who may bring proceedings for offences**

- (1) Proceedings for an offence against—
  - (a) section 956—may be brought only by the Attorney-General; or
  - (b) section 360ZE(4)—may be brought only by—
    - (i) the commission; or
    - (ii) a service provider or other entity to whom the commission has delegated the function of bringing the proceeding; or
  - (c) chapter 2A, part 5, division 3—may be brought only by—
    - (i) the commission; or
    - (ii) if the offence is not an offence for which a service provider may be convicted—a service provider; or
    - (iii) another entity to whom the commission has delegated the function of bringing the proceeding; or
  - (d) chapter 2A, parts 1 to 4, part 5 (other than division 3) or part 6 (other than section 360ZE(4))—may be brought only by the commission.
- (2) This section applies despite section 931(1).

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### **933 Proceeding brought in a representative capacity**

- (1) A proceeding under section 932(1) may be brought by the person on their own behalf or in a representative capacity.
- (2) However, if the proceeding is brought in a representative capacity, 1 of the following consents must be obtained—
  - (a) if the proceeding is brought on behalf of a body of persons or a corporation—the members of the governing body;
  - (b) if the proceeding is brought on behalf of an individual—the individual.

### **934 Magistrates Court may make orders**

- (1) After hearing the complaint, the Magistrates Court may make an order on the defendant it considers appropriate.
- (2) The order may be made in addition to, or in substitution for, any penalty the court may otherwise impose.
- (3) The order may require the defendant to—
  - (a) demolish, remove or modify a work that takes or interferes with water or other resources; or
  - (b) pay an amount by way of damages to the complainant for injuries suffered by the complainant as the result of the defendant committing an offence against this Act.
- (4) The order must state the time, or period, within which the order must be complied with.
- (5) A person who knowingly contravenes the order commits an offence against this Act.  
Maximum penalty—1000 penalty units.
- (6) If the order states that contravention of the order is a public nuisance, the chief executive or the regulator may undertake any work necessary to remove the nuisance.
- (7) If the chief executive or the regulator carries out works under subsection (6), the chief executive or the regulator may

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recover the reasonable cost of the works as a debt due to the chief executive or the regulator from the person to whom the order was given.

### **935 Costs involved in bringing proceeding**

If the proceeding is brought in a representative capacity, the person on whose behalf the proceeding is brought may contribute to, or pay, the legal costs and expenses incurred by the person bringing the proceeding.

### **936 Responsibility for acts or omissions of representatives**

- (1) This section applies in a proceeding for an offence against this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
  - (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.
- (4) In this section—

*representative* means—

  - (a) for a water authority—
    - (i) an executive officer, employee or agent of the water authority; or
    - (ii) an employee of the employing office for the water authority or of another government entity who

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performs work for the authority under a work performance arrangement between the water authority and the employing office or other government entity; or

- (b) for a corporation, other than a water authority—an executive officer, employee or agent of the corporation; or
- (c) for an individual—an employee or agent of the individual.

*state of mind* of a person includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

## Chapter 8      Miscellaneous

### Part 1              Appointment of administrator

#### 955      **Governor in Council may appoint administrator to operate infrastructure**

- (1) This section applies if the chief executive cancels a resource operations licence, an interim resource operations licence or a distribution operations licence.
- (2) The Governor in Council may, by gazette notice, authorise the following person (the *administrator*) to operate the infrastructure to which the licence relates and use the licence holder's water entitlement to operate the infrastructure—
  - (a) the chief executive;

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- (b) any other person who has the necessary experience or qualifications to operate the infrastructure.
  - (3) The appointment has effect from the day the notice is published until—
    - (a) the day stated in the notice; or
    - (b) if no day is stated in the notice—the day a further notice withdrawing the appointment is published in the gazette.
  - (4) The appointment may deal with any matter necessary or convenient to help the administrator operate the infrastructure.

#### **956 Effect of administrator operating infrastructure**

- (1) If the administrator is authorised under section 955 to operate infrastructure, the infrastructure may be operated by the administrator or another person (the *operator*) appointed by the administrator.
- (2) The administrator and operator may do all things necessary or convenient to ensure the effective operation of the infrastructure.
- (3) A person in possession of premises on which the infrastructure operates must give the administrator and operator access to the premises to enable operation of the infrastructure.

Maximum penalty—500 penalty units.

- (4) A person in possession of premises must not take action, or refuse to take action, if the taking or refusal, has the effect of preventing or hindering the administrator or operator from operating the infrastructure.

Maximum penalty—1665 penalty units.

- (5) Subsections (3) and (4) do not apply to an act done, or omission made, during or relating to industrial action as defined under the *Industrial Relations Act 1999*.

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- (6) The former holder of the resource operations licence or interim resource operations licence is liable for the administrator's reasonable costs of—
  - (a) operating the infrastructure; and
  - (b) repairing, replacing or improving the infrastructure.
- (7) The administrator must pay to the former holder any income received by the administrator from operating the infrastructure less all costs mentioned in subsection (6).

### **959 Displacement provision for Corporations legislation**

This part is declared to be a Corporations legislation displacement provision for the Corporations Act, section 5G, in relation to the Corporations Act, parts 5.2 to 5.7.

## **Part 2 Relationship with Sustainable Planning Act 2009**

### **966 Additional criteria for assessing development applications**

- (1) Subsection (2) applies if the chief executive is the assessment manager or a referral agency for a development application under the *Sustainable Planning Act 2009* for—
  - (a) operational work for the taking of or interfering with water; or
  - (b) the removal of quarry material; or
  - (c) operational work in a drainage and embankment area prescribed under section 1014(2)(h) or a wild river floodplain management area or wild river special floodplain management area; or
  - (d) development in a declared catchment area.

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- (2) The chief executive must assess the development application against the purposes of this Act to the extent the purposes relate to the following—
    - (a) for development mentioned in subsection (1)(a)—the taking of or interfering with water;
    - (b) for development mentioned in subsection (1)(b)—other resources;
    - (c) for development mentioned in subsection (1)(c)—the protection of watercourses and water in watercourses;
    - (d) for development mentioned in subsection (1)(d)—preserving water quality in the catchment area.
  - (3) Subsection (4) applies if the bulk water supply authority is the referral agency for a development application under the *Sustainable Planning Act 2009* for development in a declared catchment area.
  - (4) The bulk water supply authority must assess the development application against the purposes of this Act to the extent the purposes relate to preserving water quality in the catchment area.
  - (5) Subsections (2) and (4) do not limit section 282 or chapter 6, part 5, division 2 of the *Sustainable Planning Act 2009*.

**966A Applications in relation to operational work in wild river areas**

- (1) This section applies to a development application, other than an application to which section 966B applies—
  - (a) for operational work in a wild river area that is assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1) and is or allows taking or interfering with water; and
  - (b) that does not involve prohibited development; and
  - (c) despite the *Sustainable Planning Act 2009*, chapter 6, part 3, division 4 and sections 313, 314 and 326.

[s 966B]

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- (2) For the application, the assessment manager's and any concurrence agency's decision must comply with the applicable code mentioned in the wild river declaration for the area.

**966B Applications in relation to interfering with overland flow water in wild river floodplain management area or wild river special floodplain management area**

- (1) This section applies to a development application—
  - (a) for operational work that is assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1) and is or allows interfering with overland flow water; and
  - (b) that does not involve prohibited development; and
  - (c) to the extent the application relates to operational work in a wild river floodplain management area or wild river special floodplain management area—
    - (i) for specified works in the area; or
    - (ii) stated in the wild river declaration for the area to be assessable development; and
  - (d) despite the *Sustainable Planning Act 2009*, chapter 6, part 3, division 4 and sections 313, 314 and 326.
- (2) For the application, the assessment manager's and any concurrence agency's decision must comply with the applicable code mentioned in the wild river declaration for the area.

**966C Applications in relation to removal of quarry material in wild river areas**

- (1) This section applies to a development application for development in a wild river area that is assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1) that is or involves the removal of quarry



material for which an allocation notice is required under chapter 2, part 9.

- (2) For the application, the assessment manager's and any concurrence agency's decision must comply with the applicable code mentioned in the wild river declaration for the area.

**967 Approval for development under Sustainable Planning Act 2009 is subject to approval under this Act**

- (1) Subsections (2) and (3) apply if—
  - (a) a person is authorised or required to be authorised under this Act to take or interfere with water; and
  - (b) a development permit under the *Sustainable Planning Act 2009* is required for works associated with the taking or interfering.
- (2) The person must not take or interfere with the water until the person has obtained the development permit.  
Maximum penalty—1665 penalty units.
- (3) The application for the development permit must be accompanied by the chief executive's written consent to the application being made.
- (4) The chief executive may refuse to consent if—
  - (a) the person is not authorised under this Act to take or interfere with water; or
  - (b) the person is authorised but the works for which the development permit is required are not consistent with the authorisation; or
  - (c) the works for which the permit is required would not be in accordance with a moratorium notice, water resource plan or wild river declaration for the part of the State for which the permit is required.
- (5) A development permit, to the extent it relates to operational work for taking or interfering with water, or the removal of

[s 968]

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- quarry material, from a watercourse or lake, is taken to include a right to use and occupy the part of the watercourse or lake—
- (a) that forms all or part of the boundary of the land to which the development permit attaches; and
  - (b) on which the works are situated.
- (6) An owner of land carrying out operational work that allows taking water from a watercourse, lake or spring under section 20(3) and is self-assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1), is taken to have a right to use and occupy the part of the watercourse or lake—
- (a) that forms all or part of the boundary of the owner's land; and
  - (b) on which the works are situated.
- (7) Operational work that allows taking or interfering with water in a watercourse, lake or spring, other than under section 20(2), (3) or (5), and is self-assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1), is taken to include a right to use and occupy the part of the watercourse or lake on which the operations are situated.

**968 Chief executive may direct works to be modified or removed**

- (1) This section applies to works—
- (a) that are used, or could be used, for taking or interfering with water; and
  - (b) that, if the works were to be constructed at the time the show cause notice is given under subsection (2), are either—
    - (i) works for which a development application would be required; or

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- (ii) works that would be self-assessable development under the *Sustainable Planning Act 2009*.
- (2) Despite the *Sustainable Planning Act 2009*, the chief executive may give any of the following persons a show cause notice as to why the person should not be required to modify or remove the works—
- (a) the holder of a water entitlement under which the works are used for taking or interfering with water;
  - (b) a person who has held a water entitlement under which the works were used for taking or interfering with water;
  - (c) the owner of the land on which the works are situated.
- (3) If, after considering any properly made submissions, the chief executive is still satisfied the works should be modified or removed, the chief executive may give the person a notice requiring the person to modify or remove the works and the notice is taken to be a compliance notice for this Act.
- (4) If a development permit has been given under the *Sustainable Planning Act 2009* for the construction of the works, the permit is changed to the extent of the requirement mentioned in subsection (3).
- (5) If an appeal against the compliance notice is dismissed or the person does not appeal against the notice, the person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—1665 penalty units.

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

- (1) Despite the *Sustainable Planning Act 2009*, the chief executive may give the holder of an allocation notice a show cause notice as to why the holder should not be required to change the way quarry material is removed.
- (2) If, after considering any properly made submissions, the chief executive is still satisfied the change should be made, the chief

[s 969]

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executive may give the holder a compliance notice requiring the holder to make the change.

- (3) A development permit given under the *Sustainable Planning Act 2009* for the removal of the quarry material is changed to the extent of the requirement under subsection (2).
- (4) If an appeal against the compliance notice is dismissed or the holder does not appeal against the notice, the holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty for subsection (4)—1665 penalty units.

#### **969 Development applications for the removal of quarry material**

A development application for the removal of quarry material must be supported by—

- (a) evidence of an allocation notice granted under section 283 in relation to the land the subject of the application; and
- (b) if the land, the subject of the application, is land leased under the *Land Act 1994*—
  - (i) the written consent of the lessee of the land to arrangements about the route the applicant may use across the lessee's land for the removal of the quarry material; or
  - (ii) if the lessee and the applicant can not agree on arrangements—the arrangements decided by a Magistrates Court.

#### **970 Allocation of quarry material is subject to approval under Sustainable Planning Act 2009**

- (1) An allocation notice authorises the allocation holder, during the period for which the allocation notice is in force, to access quarry material.

- (2) However, the holder must not remove any quarry material under the allocation notice until the holder has obtained a development permit for the removal.

## **972 When an applicant may appeal to the Land Court**

- (1) Subsection (2) applies if—
- (a) an applicant makes a development application for prescribed assessable development; and
  - (b) the assessable development is related to an activity authorised under the *Mineral Resources Act 1989*; and
  - (c) the applicant has applied under the *Mineral Resources Act 1989* for authorisation to carry out the activity.
- (2) Despite the *Sustainable Planning Act 2009*, chapter 7, if the applicant appeals against a decision about the development application, the appeal may be to the Land Court.
- (3) In this section—

***prescribed assessable development*** means operational work that is assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1) if—

- (a) the operations allow the taking or interfering with water; or
- (b) the operational work—
  - (i) is the construction of a referable dam; or
  - (ii) will increase the storage capacity of a referable dam by more than 10%.

## **Part 2A**                      **Installing, maintaining and reading meters**

### **973 Appointment and qualifications of metering contractors**

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

### **974 Metering contractor's identity card**

- (1) The chief executive must give each metering contractor an identity card.
- (2) The identity card must—
  - (a) contain a recent photo of the metering contractor; and
  - (b) be signed by the metering contractor; and
  - (c) identify the person as a metering contractor under this Act; and
  - (d) state an expiry date.

### **975 Failure to return identity card**

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

Maximum penalty—50 penalty units.

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**976 Producing or displaying identity card**

- (1) A metering contractor may exercise a power under this Act in relation to someone else only if the metering contractor—
  - (a) first produces his or her identity card for the person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the metering contractor must produce the identity card for the person's inspection at the first reasonable opportunity.

**977 Power to enter places for stated purposes**

- (1) A metering contractor may enter land—
  - (a) to inspect a site and any works on the site in preparation for installing a meter on the site; or
  - (b) to carry out preparation work on the site; or
  - (c) to install a meter and any works necessarily associated with the meter on a site; or
  - (d) to calibrate and test the meter; or
  - (e) to maintain, repair and replace meters; or
  - (f) to read meters; or
  - (g) to clear vegetation or any other thing adversely affecting access to a meter.
- (2) However, the metering contractor may enter the land at any reasonable time only if—
  - (a) the occupier consents to the entry; or
  - (b) the metering contractor has given the occupier at least 10 business days notice of the entry and the purpose of the entry.

[s 978]

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- (3) After entering the place, the metering contractor may carry out the activity that is the purpose of the entry.
- (4) For carrying out the activity, the metering contractor may require the occupier, or a person on the land, to give the metering contractor information to help the contractor carry out the activity.
- (5) If there is no person on the land at the time of the entry under subsection (2)(b), the metering contractor must—
  - (a) leave a notice at the place; and
  - (b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

- (6) In this section—

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

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

## **978 Obstructing metering contractors**

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

Maximum penalty—200 penalty units.

## **979 Giving notice of damage**

- (1) If the metering contractor, in the exercise or purported exercise of a power under this Act, damages anything, the metering contractor must immediately give notice of the particulars of the damage.
- (2) The notice must be given to the person who appears to the metering contractor to be the owner of, or in control of, the thing damaged.



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- (3) If, for any reason, it is not practicable to comply with subsection (2), the metering contractor must—
    - (a) leave the notice at the place where the damage happened; and
    - (b) ensure the notice is left in a reasonably secure way and in a conspicuous position.
  - (4) This section does not apply to damage the metering contractor believes, on reasonable grounds, is trivial.

## **980 Compensation for damage**

- (1) A person may claim compensation from the metering contractor if the person incurs loss or expense because of the exercise or purported exercise of a power under this Act by the metering contractor.
- (2) Payment of compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction.
- (3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) For this section, loss or expense does not include loss or expense caused by the act of removing vegetation or any other thing.

## **Part 3 Compensation**

### **Division 1 Preliminary**

#### **984 Definitions for pt 3**

In this part—

**change**, for a water allocation, means a change to a water resource plan relating to the allocation.

**designated plan** means any of the following or any replacement of the following—

- (a) *Water Resource (Border Rivers) Plan 2003*;
- (b) *Water Resource (Condamine and Balonne) Plan 2004*;
- (c) *Water Resource (Moonie) Plan 2003*;
- (d) *Water Resource (Warrego, Paroo, Bulloo and Nebine) Plan 2003*.

**environmental update purpose** means the purpose of providing additional water to the environment because of new scientific knowledge demonstrating the amount previously allocated to the environment is inadequate.

**interim water resource plan** see the *Water Act 2007* (Cwlth), section 242.

**owner**, of a water allocation, means a registered owner of the allocation at the time a change to a water resource plan is made.

**prescribed area plan** see section 986A(1)(a)(iii) and (iv).

**relevant reduction** means a reduction in the maximum long-term annual average quantities of water that can be taken on a sustainable basis from the water resources, or particular parts of the water resources, for the plan area of a plan mentioned in section 986A(1)(a).

**replacement**, for a provision about a water resource plan (the **original**), means a plan of the same type as the original that is the first or a later replacement, with or without changes, of the original.

**water access entitlement** means—

- (a) a water allocation; or
- (b) another authority prescribed under a regulation to take water.

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**985 Application of pt 3**

- (1) Compensation is not payable under this Act except as provided in this part.
- (2) Subsection (1) does not affect compensation that may be paid under section 765.

**Division 2 Particular water allocation owners**

**986 Particular reductions in allocation's value**

- (1) An owner of a water allocation is entitled to be paid reasonable compensation by the State if—
  - (a) a change reduces the value of the allocation; and
  - (b) the change is made within 10 years after the water resource plan is approved.
- (2) This section does not apply to the owner of a water allocation for a change that reduces the value of the allocation if section 986A(1)(a) applies, unless no compensation is payable under section 986G(3) for the change.

**Division 3 Particular water access entitlement owners**

**Subdivision 1 Preliminary**

**986A Application of div 3**

- (1) This division applies if—
  - (a) a water access entitlement is regulated under an interim water resource plan or any of the following water resource plans—
    - (i) a designated plan;

[s 986A]

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- (ii) a replacement of a designated plan;
  - (iii) if a regulation prescribes that this subsection applies to a particular area, or a particular part of an area—one whose plan area includes the area or part (a *prescribed area plan*); or
  - (iv) a replacement of a water resource plan mentioned in subparagraph (iii) (also a *prescribed area plan*); and
- (b) a relevant reduction results in a change to the water access entitlement or the water that may be taken under the entitlement; and
  - (c) the change reduces the entitlement's value.
- (2) However, this division does not apply if—
- (a) the change increases the total amount of water available under the water resource plan resulting in additional water access entitlements being granted; or
  - (b) the change is required to give effect to a court decision; or
  - (c) the plan is a water resource plan and the change is to restore water to the environment because of a natural decrease in water availability within the plan area for the plan, including, for example, because of a decrease resulting from climate change, drought or bush fires; or
  - (d) the relevant reduction is less than 3% and for the environmental update purpose.

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## **Subdivision 2 Compensation for particular changes for the environmental update purpose**

### **986B Compensation entitlement**

- (1) This subdivision applies only if the change is for the environmental update purpose.
- (2) The owner of the water access entitlement is entitled to be paid reasonable compensation by the State for the relevant reduction, as provided for under this subdivision.
- (3) However, the compensation entitlement under subsection (2) is subject to any relevant exclusion, limitation or restriction under this subdivision or subdivision 4.

### **986C Designated plans and replacements**

- (1) This section applies if the water access entitlement is regulated under a designated plan or a replacement of a designated plan.
- (2) No compensation is payable for a relevant reduction of 3% or less.
- (3) Compensation is payable for a relevant reduction of more than 3% over the 10-year period starting on the end of the period for which the first water resource plan relating to the area for which the water access entitlement applies was in force.
- (4) However, only one-third of the compensation payable for a relevant reduction of more than 3%, but not more than 6%, over the 10-year period is payable.
- (5) Also, only one-half of the compensation payable for a relevant reduction of more than 6% over the 10-year period is payable.

[s 986D]

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### **986D Prescribed area plans**

- (1) This section applies if the water access entitlement is regulated under a prescribed area plan.
- (2) No compensation is payable for a relevant reduction of 3% or less.
- (3) Compensation is payable for a relevant reduction of more than 3% over the 10-year period starting on the making of the regulation under section 986A(1)(a)(iii) relating to the area for which the water access entitlement applies.
- (4) However, only one-third of the compensation payable for a relevant reduction of more than 3%, but not more than 6%, over the 10-year period is payable.
- (5) Also, only one-half of the compensation payable for a relevant reduction of more than 6% over the 10-year period is payable.

### **986E Interim water resource plans**

- (1) This section applies if the water access entitlement is regulated under an interim water resource plan.
- (2) No compensation is payable for a relevant reduction of 3% or less.
- (3) Compensation is payable for a relevant reduction of more than 3% over the 10-year period starting on the making of a water management plan under section 986J relating to the area for which the water access entitlement applies.
- (4) However, only one-third of the compensation payable for a relevant reduction of more than 3%, but not more than 6%, over the 10-year period is payable.
- (5) Also, only one-half of the compensation payable for a relevant reduction of more than 6% over the 10-year period is payable.

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### **Subdivision 3 Compensation for particular policy changes**

#### **986F Compensation entitlement**

- (1) This subdivision applies if—
  - (a) the change is because of an amendment or replacement of a water resource plan; and
  - (b) the Minister has stated in the water resource plan that the change is because of a change in State government policy.
- (2) Subject to subdivision 4, the owner of the water access entitlement is entitled to be paid reasonable compensation by the State for the relevant reduction.
- (3) For subsection (2), a change in State government policy does not include a change that reflects a change in Commonwealth government policy.

### **Subdivision 4 Restrictions on compensation entitlement**

#### **986G Restrictions**

- (1) If the water access entitlement is regulated under a prescribed area plan, the compensation entitlement applies only while a designated intergovernmental agreement is in force for the area.
- (2) If the water access entitlement is regulated under any of the following, the compensation entitlement applies only while a designated intergovernmental agreement is in force—
  - (a) a designated plan;
  - (b) a replacement of a designated plan;
  - (c) an interim water resource plan.

[s 986H]

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(3) Also, the compensation entitlement is not payable for the change if the Commonwealth has not provided funding for the relevant reduction to meet its obligations under all designated intergovernmental agreements for prescribed plan areas and for all plans mentioned in subsection (2).

(4) In this section—

*designated intergovernmental agreement* means an agreement between the State and the Commonwealth as follows—

- (a) for a prescribed plan area, one that—
  - (i) is about supplementing the payment of prescribed area compensation; and
  - (ii) is separate from one between them about supplementing non-prescribed area compensation;
- (b) for a plan mentioned in subsection (2), one that—
  - (i) is about supplementing and funding the payment of non-prescribed area compensation; and
  - (ii) is separate from one between them about supplementing prescribed area compensation.

*non-prescribed area compensation* means compensation worked out under section 986C or 986E.

*prescribed area compensation* means compensation worked out under section 986D.

## Division 4                      Miscellaneous provisions

### 986H Regulation-making power

A regulation may prescribe—

- (a) the basis on which a change mentioned in section 986A(1)(b) is to be worked out; and



- (b) the basis on which compensation for the decreased value of water access entitlements is to be worked out; and
- (c) the way compensation under this part is to be paid.

### **986I Water resource plan to identify particular changes**

- (1) This section applies if—
  - (a) a change mentioned in section 986A(1)(b) is made; and
  - (b) the change is—
    - (i) to address a risk mentioned in the national water initiative agreement, clause 49; or
    - (ii) for the environmental update purpose.
- (2) The water resource plan must identify the change.
- (3) In this section—

*national water initiative agreement* means the Intergovernmental Agreement on a National Water Initiative between the Commonwealth and the governments of New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Northern Territory made on 25 June 2004.

*Editor's note—*

At the commencement of this section, the national water initiative agreement may be viewed on the National Water Commission's website at <[www.nwc.gov.au](http://www.nwc.gov.au)>.

### **986J Making water management plans by declaration**

- (1) The Minister may make a water management plan by declaring, by gazette notice—
  - (a) that a particular instrument forms a water management plan for this section; or
  - (b) that particular instruments are combined to form a water management plan for this section.

[s 987]

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- (2) The making of the water management plan does not affect the existence or operation of the instrument or instruments.
- (3) Any rights, liabilities, obligations or information under the water management plan are the same as under the instrument or instruments.
- (4) The water management plan operates as an alternative to the instrument or instruments and does not duplicate any rights, liabilities, obligations or information under the instrument or instruments.
- (5) In this section—

*instrument* means an instrument under the Act for the management of water resources within the meaning of the *Water Act 2007* (Cwlth), section 242(1)(a).

### **987 Limiting compensation for reduced value of entitlement to water**

- (1) Despite section 986, compensation is not payable if the change has the same effect as another statutory instrument, in respect of which compensation is not payable.
- (2) Also, compensation is not payable—
  - (a) for a matter under this part if compensation has already been paid for the matter to a previous owner of the authority to take water; or
  - (b) for anything done in contravention of this Act.
- (3) If a matter for which compensation is payable under this part is also a matter for which compensation is payable under another Act, the claim for the compensation must be made under the other Act.

### **988 Time limits for claiming compensation**

A claim for compensation under this part must be given to the chief executive within 6 months after the day the approval of

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the plan or the amendment of the plan reducing the value of the water allocation.

### **989 Time limits for deciding and advising on claims**

- (1) The chief executive must decide each claim for compensation within 60 business days after the day the claim is made.
- (2) The chief executive must, within 10 business days after the day the claim is decided—
  - (a) give the claimant an information notice; and
  - (b) if the decision is to pay compensation—advise in the notice the amount of the compensation to be paid.

### **990 Deciding claims for compensation**

In deciding a claim for compensation under this part, the chief executive must—

- (a) grant the claim; or
- (b) grant part of the claim and refuse the rest of the claim;  
or
- (c) refuse the claim.

### **991 Calculating reasonable compensation involving changes**

- (1) For compensation payable because of a change, reasonable compensation is the difference between the market values, appropriately adjusted having regard to the following matters, to the extent they are relevant—
  - (a) any benefit accruing to the claimant from the change, including, but not limited to, the likelihood of improved water services;
  - (b) if the claimant has an authority to take water in addition to the water allocation for which the claim is made, any benefit accruing to the authority because of—

[s 992]

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- (i) the change or any other change made before the claim for compensation was made; or
  - (ii) the construction of, or improvement to, infrastructure on the watercourse, other than infrastructure funded by the claimant, before the claim for compensation was made;
  - (c) the effect of any other changes to the water resource plan made since the change.
- (2) In this section—
- difference between the market values* is the difference between the market value of the water allocation immediately before the change came into effect and the market value of the allocation immediately after the change came into effect.

## **992 When compensation is payable**

If compensation is payable under this part, the compensation must be paid within 30 business days after—

- (a) the last day an appeal could be made against the chief executive's decision about the payment of compensation; or
- (b) if an appeal is made—within 30 business days after the day the appeal is decided.

## **Part 3A Authority held by Mount Isa Mines Limited**

### **992A Authority held by Mount Isa Mines Limited under special agreement Act**

- (1) This section applies to Mount Isa Mines Limited ACN 009 661 447 (the *entity*) to the extent a special agreement Act

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authorises the entity to take or interfere with water in relation to Rifle Creek Dam and Lake Moondarra.

- (2) The authority continues under the special agreement Act until the chief executive grants the entity the water allocation under the resource operations plan to replace part of the Lake Moondarra authority.
- (3) Subsection (2) applies despite section 1037A(3) and (4) and anything to the contrary in the special agreement Act that applies to the entity.
- (4) To remove any doubt, it is declared that nothing in this section affects the water licence, held by the entity, to take water from Rifle Creek.
- (5) In this section—

*Lake Moondarra authority* means the authority for taking water from Lake Moondarra—

- (a) granted under the Order in Council published in the gazette on 14 August 1976 at page 1987; and
- (b) continued under section 1089.

*resource operations plan* means the resource operations plan that implements the *Water Resource (Gulf) Plan 2007*.

*special agreement Act* see the *Environmental Protection Act 1994*, section 614(2).

## Part 3B SEQ Water

### 992B Application of pt 3

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

[s 992C]

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### **992C Requirement for supply contract**

The holder of each of the following authorities, to take water made available by SEQ Water under its authority, must have a supply contract with SEQ Water for the holder's water entitlement—

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

### **992D Chief executive may approve standard supply contract**

- (1) The chief executive may approve a standard supply contract for the storage and supply, by SEQ Water, of water under the authorities mentioned in section 992C.
- (2) The chief executive must gazette the approval.
- (3) On the commencement of this section, the standard supply contract applies to an authority unless the holder of the authority and SEQ Water have a supply contract.
- (4) The parties to a standard supply contract must review the contract within 1 year after the contract takes effect.

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**992E Customer of a service provider**

The holder of authority to take water, mentioned in section 992C, is a customer of a service provider for the Water Supply Act.

**992F Cost of installing and maintaining meters**

SEQ Water may recover, from each holder of an authority mentioned in section 992C to whom the standard supply contract applies, the reasonable cost to SEQ Water of—

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

## **Part 3C Authorities under particular special agreement Acts**

**992G Definitions for pt 3C**

In this part—

*environmental impact statement* means an environmental impact statement prepared or finalised under—

- (a) the *Environmental Protection Act 1994*; or
- (b) the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); or
- (c) the *State Development and Public Works Organisation Act 1971*.

*relevant company*, for a special agreement Act, means the entity that is authorised to obtain water under the agreement under the special agreement Act.

*special agreement Act* means each of the following Acts—

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- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*;
- (b) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

***specified conditions***, for a special agreement Act, means—

- (a) for the *Alcan Queensland Pty. Limited Agreement Act 1965*—the conditions stated in section 29A(2) of the agreement under that Act; or
- (b) for the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*—the conditions stated in section 32A(2) of the agreement under that Act.

***threshold limit*** see the *Wild Rivers Act 2005*, schedule.

***Wenlock Basin wild river area*** means the wild river area under the Wenlock Basin Wild River Declaration.

***Wenlock Basin Wild River Declaration*** means the wild river declaration called ‘Wenlock Basin Wild River Declaration 2010’ and approved by the Governor in Council on 3 June 2010.

## **992H Application of pt 3C**

- (1) This part applies to each relevant company for a special agreement Act to the extent the entity is authorised under the special agreement Act to take or interfere with water, other than artesian water or subartesian water connected to artesian water, in the Wenlock Basin wild river area.
- (2) This part does not affect a relevant company’s right or authority under a special agreement Act to take or interfere with—
  - (a) water that is not in the Wenlock Basin wild river area; or
  - (b) artesian water or subartesian water connected to artesian water in the Wenlock Basin wild river area.



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**992I Continuation of authority and grant of water licence to replace authority**

- (1) The authority to take or interfere with the water continues under the special agreement Act until a water licence is granted under this section to replace the authority.
- (2) However, the relevant company may take or interfere with the water after the commencement of this section only under a water licence granted under this section to replace all or a part of the authority.
- (3) The relevant company may give the chief executive a notice stating the company proposes to—
  - (a) take or interfere with the water in relation to all or a part of the authority; and
  - (b) obtain a water licence under this section to replace all or the part of the authority.
- (4) Subsections (1) and (2) apply despite section 1037A(3) and (4) and anything to the contrary in the special agreement Act.
- (5) If a relevant company gives the chief executive a notice under subsection (3), the chief executive must, within 30 business days after receiving the notice, grant the company a water licence to replace all or the part of the authority to which the notice relates.
- (6) The water licence may be granted—
  - (a) with or without conditions; and
  - (b) without the need for an application under section 206.
- (7) A condition of the water licence must not be inconsistent with—
  - (a) the specified conditions for the special agreement Act; or
  - (b) information about the threshold limit mentioned in the Wenlock Basin Wild River Declaration, section 11, to the extent the information is not inconsistent with the specified conditions mentioned in paragraph (a); or

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- (c) an environmental impact statement, or any report or study prepared in support of the environmental impact statement, that deals with the taking or interfering with water in the Wenlock Basin wild river area, to the extent the environmental impact statement, report or study is not inconsistent with—
  - (i) the specified conditions mentioned in paragraph (a); or
  - (ii) the information mentioned in paragraph (b).
- (8) If the chief executive grants a water licence under this section, the chief executive must, within 30 business days, give the relevant company—
  - (a) the water licence in the approved form; and
  - (b) an information notice about the grant.
- (9) A water licence granted under this section is taken to be a water licence for this Act.

### **992J Amendment of water licence that replaces authority**

- (1) The chief executive may, under section 217 or 218, amend a water licence granted under section 992I.
- (2) However, the conditions of the amended water licence must not be inconsistent with—
  - (a) the specified conditions for the special agreement Act to which it relates; or
  - (b) information about the threshold limit mentioned in the Wenlock Basin Wild River Declaration, section 11, to the extent the information is not inconsistent with the specified conditions mentioned in paragraph (a); or
  - (c) an environmental impact statement, or any report or study prepared in support of the environmental impact statement, that deals with the taking or interfering with water in the Wenlock Basin wild river area, to the extent



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- (2) Subsection (1) does not limit the ways in which a drainage rate may be made or levied under the regulation.

#### **994 Exemption from drainage rates**

Despite section 993, the regulation can not make and levy drainage rates for the following land—

- (a) unoccupied State land;
- (b) unallocated State land reserved for a public purpose;
- (c) land occupied by the State, other than land leased by the State from a person;
- (d) land prescribed under the regulation for this section.

#### **995 Interest on overdue drainage rates**

- (1) An overdue drainage rate under section 993 bears interest at the annual rate, decided by the chief executive, of not more than—
- (a) 15%; or
  - (b) if another percentage is prescribed under a regulation—the other percentage.
- (2) The interest must be calculated as simple interest.
- (3) In this section—

*overdue drainage rate* means the amount of the rate that is not paid when it becomes payable.

#### **996 Discount for payment of drainage rates**

- (1) The chief executive may allow a discount for payment of a drainage rate.
- (2) Unless a regulation prescribes otherwise, the discount must not be more than 15% of the drainage rate.

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**997 Recovering drainage rates**

The corporatised entity may recover an overdue drainage rate, and any interest payable on the overdue drainage rate, as a debt due to the corporatised entity by the person on whom the rate is made or levied.

**999 Minister's and Treasurer's power to give joint directions to corporatised entity**

- (1) The Minister and Treasurer may give the corporatised entity a written joint direction if the Minister and Treasurer are satisfied it is necessary to give the direction—
  - (a) to give effect to this Act; or
  - (b) to facilitate water industry reform in the State; or
  - (c) to ensure a financially viable water industry in the State.
- (2) The corporatised entity must comply with the direction.
- (3) The Minister must gazette a copy of the direction within 21 days after it is given.

## **Part 4A Private water supply agreements for former water areas**

**1000 Entering private water supply agreements**

- (1) This section applies for a former water area if—
  - (a) all the registered owners of land (the *relevant land*) being supplied with water from the area enter into a written agreement about supplying water to the relevant land; and
  - (b) the area is, under section 1083(2), an authority area; and

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- (c) the chief executive is performing the functions of a water authority for the area.
- (2) The agreement (a *private water supply agreement*) must state—
  - (a) the water, land and works to which the agreement applies; and
  - (b) the arrangements for supplying the water to each registered owner's land; and
  - (c) the arrangements for the maintenance or replacement of the works and the sharing of the cost of the maintenance or replacement; and
  - (d) the arrangements for accessing the works; and
  - (e) provisions for the cancellation of the agreement with the consent of all parties.

### **1001 Registration of private water supply agreement**

- (1) As soon as practicable after entering the private water supply agreement—
  - (a) the parties must give the chief executive a copy of the agreement; and
  - (b) the chief executive must give the registrar of titles notice of the agreement.
- (2) The registrar must record the notice in a way that a search of the register kept by the registrar under any Act relating to the relevant land will show the existence of the agreement.
- (3) If the agreement is cancelled, as soon as practicable after the cancellation—
  - (a) the parties must give the chief executive notice of the cancellation; and
  - (b) the chief executive must give the registrar of titles notice of the cancellation; and

- (c) the registrar must remove the particulars of the agreement from the registrar's records.
- (4) While the agreement has effect, the obligations on each party attach to the party's land and bind the party and the party's successors in title to the land.

### **1002 When agreement has effect**

Despite any other provision of this part, the private water supply agreement does not have effect until the former water area is dissolved under this Act.

### **1003 Amending a private water supply agreement**

- (1) A private water supply agreement (the *original agreement*) may be amended only once and only if the works to which the original agreement applies are capped and piped or are to be capped and piped.
- (2) If additional land is required because of the capping and piping, the amending agreement may include—
  - (a) the addition of land to the original agreement; and
  - (b) if the registered owner of the land is not already a party to the original agreement—the addition of the registered owner as a party.
- (3) As soon as practicable after making the amending agreement, the parties must give the chief executive a copy of the amending agreement.
- (4) If the amending agreement varies the land to which the original agreement applies, the chief executive must give the registrar of titles notice of the amending agreement.
- (5) The registrar must record the notice in a way that a search of the register kept by the registrar under any Act relating to the land the subject of the original agreement, as amended, will show the existence of the original agreement and the amending agreement.

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(6) In this section—

*cap and pipe*, in relation to works, means—

- (a) repairing or replacing a bore forming the whole or part of the works so that the flow of water can be controlled by a valve on the headworks of the bore; and
- (b) replacing a bore drain distribution system with a pipeline distribution system.

### **1003A Chief executive may approve standard agreement**

- (1) The chief executive may approve a document (a *standard agreement*) to operate as a private water supply agreement in the absence of the agreement of the registered owners of particular land.
- (2) The chief executive must gazette the approval of the standard agreement.
- (3) On and from the day the former water area to which the standard agreement applies is dissolved, the standard agreement applies as a private water supply agreement for the area until the registered owners enter into a private water supply agreement to replace the standard agreement.

## **Part 4B                      Special provision for Condamine and Balonne Resource Operations Plan**

### **1003B Condamine and Balonne Resource Operations Plan amended**

- (1) On the commencement of this section, the CB ROP is amended by including the deferred aspect in the CB ROP.
- (2) Subsection (1) applies despite any other provision of this Act.



- (3) The CB ROP as amended under subsection (1) is the resource operations plan for the *Water Resource (Condamine and Balonne) Plan 2004*.
- (4) This section does not affect the power of—
- (a) the chief executive to further amend the CB ROP; or
  - (b) the Governor in Council to approve a further amendment of the CB ROP; or
  - (c) the chief executive to prepare, or the Governor in Council to approve, a resource operations plan to replace the CB ROP as amended from time to time, including under subsection (1); or
  - (d) the Governor in Council to repeal the CB ROP as amended from time to time, including under subsection (1).
- (5) In this section—

**CB ROP** means the Condamine and Balonne Resource Operations Plan approved by the Governor in Council on 11 December 2008.

**deferred aspect** means the provisions for the CB ROP included in the document called ‘Condamine and Balonne resource operations plan amendment incorporating the Lower Balonne area’ approved by the chief executive on 5 March 2010.

*Editor’s note—*

On the commencement of this section, the document is available for inspection at the department’s office at 41 George Street, Brisbane and on the department’s website.

## Part 4C                      Special provision for Gulf Resource Operations Plan

### 1003C Gulf Resource Operations Plan amended

- (1) On the commencement of this section, the Gulf ROP is amended by the Gulf ROP amendment.
- (2) Subsection (1) applies despite any other provision of this Act.
- (3) The Gulf ROP as amended under subsection (1) is the resource operations plan for the *Water Resource (Gulf) Plan 2007*.
- (4) This section does not affect the power of—
  - (a) the chief executive to further amend the Gulf ROP; or
  - (b) the Governor in Council to approve a further amendment of the Gulf ROP; or
  - (c) the chief executive to prepare, or the Governor in Council to approve, a resource operations plan to replace the Gulf ROP as amended from time to time, including under subsection (1); or
  - (d) the Governor in Council to repeal the Gulf ROP as amended from time to time, including under subsection (1).
- (5) In this section—

***Gulf ROP*** means the Gulf Resource Operations Plan approved by the Governor in Council on 24 June 2010.

***Gulf ROP amendment*** means the provisions for the Gulf ROP included in the document called ‘Gulf resource operations plan amendment’ signed by the chief executive on 6 June 2011.

*Editor’s note—*

On the commencement of this section, the Gulf ROP amendment is available for inspection at the department’s office at 41 George Street, Brisbane and on the department’s website.



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- (ii) would have been completed by the completion day but for a change in circumstances beyond the applicant's control; and
  - (b) whether the works can be completed, to the extent they would be functional, within a reasonable time.
- (3) The panel must make a recommendation, about the application, to the Minister within 20 business days after the day the panel receives the application.

### **1005 Advisory councils**

- (1) The Minister may establish as many advisory councils as the Minister considers appropriate for the administration of this Act, including, for example, for policy recommendations.
- (2) An advisory council has the functions the Minister decides.
- (3) A member of an advisory council may be paid the fees and allowances decided by the Governor in Council.
- (4) The chief executive may make available to an advisory council the technical, clerical, secretarial or other help the chief executive considers necessary for the performance of its functions and the conduct generally of its affairs.

### **1006 Declarations about watercourses**

- (1) A regulation may declare, by reference to a natural or artificial feature or the boundary of a parcel of land, the downstream or upstream limit, or both, of a watercourse.
  - (2) A regulation or a water resource plan may declare water in an aquifer under a watercourse, or under land adjacent to a watercourse, to be water in the watercourse.
- (2A) If subsection (2) applies, a regulation or a water resource plan may also state the way in which water, taken for stock or domestic purposes, is regulated.
- (3) Water declared to be in a watercourse is not subartesian water.

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- (4) If a regulation under subsection (1) purports to declare a limit of a feature that is not a watercourse, the regulation is ineffective in relation to that feature, but is otherwise as effective, as a regulation, as it would have been if reference to the feature had not been included in the regulation.

*Example for subsection (4)—*

A regulation under subsection (1) would be ineffective to the extent it purports to declare a limit of a drainage feature.

### **1007 Records to be kept in registries**

- (1) If land is declared under section 20(7), the chief executive must give notice of the declaration to the registrar of titles.
- (2) The registrar of titles must record the declaration in a way that a search of the register kept by the registrar under any Act relating to the land will show—
- (a) that the land has been declared under section 20(7); and
  - (b) the particulars stated in the declaration.
- (3) If the chief executive grants a water licence or an interim water allocation, the chief executive must give the registrar of titles notice of the grant and the land to which the licence or allocation attaches.
- (4) The registrar must record the notice in a way that a search of the register kept by the registrar under any Act relating to the land will show that the licence or allocation attaches to the land.
- (5) If a land and water management plan is required under section 73 to use water taken under a water allocation, the chief executive must give notice of the requirement to the registrar of water allocations.
- (6) The registrar must record the notice in a way that a search of the register relating to the water allocation will show that a land and water management plan is required for the use of the water.

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- (7) If the registrar receives a notice under section 127B(2), the registrar must record the notice in a way that a search of the register relating to the water allocation will show that the allocation is an allocation to which section 127C applies.
- (8) If the registrar receives a notice under section 127C(4), the registrar must record the notice in a way that a search of the register relating to the water allocation will show that the allocation is no longer an allocation to which section 127C applies.

### **1009 Public inspection and purchase of documents**

- (1) The chief executive must keep a copy of the following documents available for inspection by the public during office hours on business days at the head office, or at the appropriate regional office, of the department—
  - (a) each statement of proposals prepared under section 39;
  - (b) each overview report prepared under section 48 or 99A;
  - (c) until a water resource plan is approved for a plan area—the draft water resource plan publicly notified for the area under section 49;
  - (d) each approved water resource plan;
  - (e) each report prepared by the Minister under section 51;
  - (f) each periodic report for a water resource plan prepared under section 53;
  - (fa) each notice of existing works that allow taking overland flow water required to be given to the chief executive under a water resource plan;
  - (g) each approved water use plan;
  - (h) guidelines for preparing land and water management plans;
  - (i) until a resource operations plan is approved for a plan area—the draft resource operations plan publicly notified for the area under section 100;

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- (j) each approved resource operations plan;
  - (ja) each report prepared by the chief executive under section 104C;
  - (k) each resource operations licence;
  - (ka) each distributions operations licence;
  - (l) each interim resource operations licence;
  - (m) each interim water allocation;
  - (n) each water licence;
  - (o) each water permit, including seasonal water assignments;
  - (p) each permit issued under section 269;
  - (q) each allocation notice given to an applicant under section 283;
  - (qa) each water bore driller's licence;
  - (r) each operations licence;
  - (s) each private water supply agreement.
- (2) The chief executive may also keep a copy of a document mentioned in subsection (1) available for inspection by the public at other places the chief executive considers appropriate.
  - (3) On payment of a fee, a person may buy a copy of a document available for inspection under this section.
  - (4) The fee for the copy of the document must not be more than the reasonable cost of publishing the copy.

## **1010 Protecting officials from liability**

- (1) In this section—
  - official* means—
  - (a) the Minister; or

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- (b) the chief executive; or
  - (c) an authorised officer; or
  - (d) a person acting under the direction of an authorised officer; or
  - (e) a member of an advisory council; or
  - (f) a person acting under the direction of the Minister or the chief executive.
- (2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

### **1010A Non-disclosure of commercially sensitive information**

- (1) This section applies if—
- (a) information about a person (a *client*) is received by the Minister, the chief executive or the regulator (the *entity*) under section 25T, 36, 36A or 97; and
- Editor's note—*
- section 25T (Requirement for further information), 36 (Obtaining water information), 36A (Obtaining information from a service provider) or 97 (Notice of proposal to water infrastructure operators)
- (b) the client who provides the information advises the entity that the information is commercially sensitive; and
  - (c) the entity believes disclosure of the information—
    - (i) would be likely to damage the client's commercial activities; and
    - (ii) would not be in the public interest.
- (2) The entity must take all reasonable steps to ensure the information is not, without the client's consent, disclosed to another person other than an employee of the department who



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receives the information in the course of the employee's duties.

(3) The employee must not disclose to any person information the employee obtains under subsection (2).

(4) In this section—

*commercially sensitive* means reasonably expected to adversely affect the client's commercial activities.

### **1011 Delegation by Minister**

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.

### **1012 Delegation by chief executive**

The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service officer or employee.

### **1013 Approved forms**

(1) The chief executive may approve forms for use under this Act.

(2) Also, the commission may approve forms for use under section 429S.

### **1013A Fees and charges payable to the chief executive**

(1) This section applies to a fee or charge payable to the chief executive under a regulation made under this Act.

(2) If an amount of a fee or charge remains unpaid after the day stated in the regulation for payment of the fee or charge—

(a) the amount is a debt due and payable to the State; and

(b) the late fee prescribed in the regulation applies to the amount.

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- (3) The Minister may waive, completely or partly, payment of a fee or charge if the Minister is satisfied the person by whom the fee or charge is payable is suffering hardship because of the effects of—
  - (a) drought, flood, fire or other natural disaster; or
  - (b) economic recession.

### **1013B Non-payment of fees or charges**

- (1) Subsection (2) applies if all or part of a fee or charge payable to the chief executive remains unpaid for 20 business days after the day stated in the regulation for payment of the fee or charge.
- (2) The chief executive may give the person who is liable to pay the fee or charge a written notice—
  - (a) stating the period to which the fee or charge relates; and
  - (b) stating the amount, including any late fee, owing at the date of the notice; and
  - (c) requiring the person—
    - (i) to pay the amount owing; or
    - (ii) to make arrangements, satisfactory to the chief executive, for payment of the amount owing; and
  - (d) prohibiting the taking of water under the authority under this Act to take water to which the fee or charge relates until payment or arrangements are made under paragraph (c).
- (3) However—
  - (a) an authority mentioned in subsection (2)(d) does not include an authority under section 20; and
  - (b) subsection (2)(d) does not apply if the holder of the authority is a service provider; and

- (c) a prohibition under subsection (2)(d) must not apply to taking the minimum volume of water, that may be stated in the notice, necessary for stock or domestic purposes.
- (4) A person must not take water in contravention of the notice.  
Maximum penalty for subsection (4)—1665 penalty units.

### **1013D Minister's and Treasurer's power to give joint directions to new water entities**

- (1) The Minister and Treasurer may give a new water entity a written joint direction if the Minister and Treasurer are satisfied it is necessary to give the direction—
  - (a) to give effect to this Act; or
  - (b) to facilitate water industry reform in the State; or
  - (c) to ensure a financially viable water industry in the State.
- (2) The new water entity must comply with the direction.
- (3) The Minister must gazette a copy of the direction within 21 days after it is given.
- (4) In this section—  
*new water entities* see the *South East Queensland Water (Restructuring) Act 2007*, section 6(1).

### **1013E Advice to Petroleum Act Minister about commission of particular offences**

- (1) This section applies if a person is convicted of an offence against chapter 3.
- (2) The chief executive may, by notice given to the Petroleum Act Minister, advise the Petroleum Act Minister of the commission of the offence by the person.
- (3) In this section—

[s 1014]

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***Petroleum Act Minister*** means the Minister administering the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004*.

## **1014 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) fix fees and charges payable under this Act including, for example, for the taking and supplying of water under this Act and for drainage and resource management services; and
  - (b) create offences against the regulation and fix a maximum penalty of a fine of 20 penalty units for an offence against the regulation; and
  - (ca) prescribe organisations approved by the chief executive to provide accredited farm management system programs; and
  - (cb) prescribe accredited farm management system programs; and
  - (d) state, in relation to meters, the following—
    - (i) when a meter must be installed to measure the volume of water taken, the rate at which it is taken and the time it is taken;
    - (ii) who may install the meter;
    - (iii) who must pay, and the arrangements for payment, for the installation, maintenance and reading of the meter;
    - (iv) the minimum standards for the design, construction, installation and maintenance of meters; and
  - (e) state the minimum standards for the construction and decommissioning of works relating to aquifers; and

- (ga) state a process for—
  - (i) converting authorities to take or interfere with water, identified as existing water supply responsibilities in an interim resource operations licence, to interim water allocations; and
  - (ii) granting interim water allocations in relation to authorities to which the Three Moon Creek Irrigation Project Agreement for the Monto/Mulgildie Salinity Area, endorsed in 1997 by the Minister administering the repealed Act, applies; and
- (gb) state a process for granting or otherwise dealing with unallocated water in the plan area for a water resource plan or resource operations plan or a wild river area; and
- (gc) state a process for dealing with an application under section 129, 129A or 130 for a change to a water allocation; and
- (h) declare, for the *Sustainable Planning Act 2009*—
  - (i) an area to be a drainage and embankment area; and
  - (ii) the works within the area that are to be assessable or self-assessable development; and
- (i) state a code against which development applications under the *Sustainable Planning Act 2009* may be assessed by the chief executive as an assessment manager or concurrence agency under that Act; and
- (j) state a code for carrying out self-assessable development prescribed under the *Sustainable Planning Act 2009*, section 232(1) that is operational work that allows taking or interfering with water; and
- (k) state the information to be contained in, the returns and the times for giving returns to the chief executive by a person about State quarry material or other material removed by the person from a watercourse or lake; and

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- (l) make provision about any matter necessary or convenient to give effect to the following—
  - (i) a requirement about water efficiency management plans under chapter 2A, part 5, division 3;
  - (ii) a commission water restriction under chapter 2A, part 6.

### **1014A Special regulation-making power to support outer bank identification**

- (1) Regulations made under this Act may include a regulation supporting the identification of watercourses and the outer banks of watercourses.
- (2) Without limiting subsection (1), a regulation may, by words and diagrams—
  - (a) indicate how chapter 1, part 2, including the definitions in schedule 4 supporting chapter 1, part 2, must be applied in varying environments and in watercourses, or sections of watercourses, of varying profiles; or
  - (b) give examples of the occurrence of depositional features and scour marks and of how they may locate outer banks; or
  - (c) give examples of the occurrence of floodplains and of how the edge of a floodplain may be identified; or
  - (d) explain how a bench, bar or in-stream island in a watercourse may typically be recognised; or
  - (e) explain how the bed or a bank of a watercourse may typically be recognised; or
  - (f) explain how an anabranch may be recognised.
- (3) A regulation under this section is not invalid only because it supplements the provisions of this Act by providing greater certainty than would otherwise be the case under this Act in relation to the identification of watercourses and the outer

banks of watercourses in particular circumstances or types of circumstances.

## Part 6 Murray-Darling Basin

### 1015 Particular documents to be tabled in the Legislative Assembly

- (1) The Minister must table in the Legislative Assembly—
  - (a) a copy of each annual report of the Murray-Darling Basin Authority received by the Minister under the *Water Act 2007* (Cwlth); and
  - (b) a copy of each amendment of the Agreement that takes effect under the terms of the Agreement;

within 15 sitting days after the report is received or the amendment takes effect.

- (2) In this section—

**Agreement** means the Murray-Darling Basin Agreement set out in the *Water Act 2007* (Cwlth), schedule 1.





- (a) a local government who lodged an application under the *Local Government Act 1936* (repealed), section 32;
  - (b) Toowoomba City Council in relation to the Cooby Creek Dam.
- (2) A local government mentioned in subsection (1)(a), or Toowoomba Regional Council in relation to the Cooby Creek Dam, is taken to hold an authority under this Act to take or interfere with water and the authority continues under this Act until whichever of the following first happens—
- (a) the chief executive grants a water licence to replace the authority;
  - (b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.
- (3) Subsection (4) applies to an entity to which a special agreement Act applies—
- (a) to the extent the special agreement Act authorises the taking of, or interfering with, water; and
  - (b) if, immediately before the commencement of this section, the entity was taking or interfering with water to which this Act applies.
- (4) An entity mentioned in subsection (3)—
- (a) continues to hold the authority to take or interfere with water under the special agreement Act; and
  - (b) is taken to also hold an authority under this Act to take or interfere with water.
- (5) An authority under this Act to take or interfere with water, held by the SEQ Water and in force on 12 April 2003, continues under this Act until whichever of the following first happens—
- (a) the chief executive grants a water licence to replace the authority;

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- (b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.
- (6) The chief executive may grant a water licence under subsection (2)(a) or (5)(a) without the need for an application to be made under section 206.
- (7) In this section—  
*special agreement Act* see *Environmental Protection Act 1994*, section 614(2).

### **1038 Approved water management plans**

- (1) A water management plan approved under the repealed Act and in force immediately before the commencement of this section is taken to be a water resource plan under this Act.
- (2) A reference in a plan mentioned in subsection (1) to section 25K of the repealed Act is taken to be a reference to section 57 of this Act.

### **1039 Proposed water management plans**

- (1) Subsection (2) applies if before the commencement of this section public notice of the proposed preparation of a water management plan under the repealed Act has been given under the repealed Act.
- (2) The notice is taken to be—
  - (a) a notice published under section 40 of this Act for the proposed preparation of a draft water resource plan for the proposed plan area; and
  - (b) a moratorium notice for the proposed plan containing—
    - (i) the matters mentioned in sections 25N and 25O of the repealed Act; and
    - (ii) any matters contained in the notice published.

- (3) However, sections 39 and 41 do not apply for the preparation of the draft water resource plan mentioned in subsection (2)(a).

#### **1040 Draft water management plans**

- (1) Subsections (2) and (3) apply if, before the commencement of this section, public notice is given under the repealed Act that a draft water management plan has been prepared by the Minister.
- (2) The draft plan is taken to be a draft water resource plan that does not provide for a framework for establishing water allocations.
- (3) The public notice is taken to be a moratorium notice for the draft plan stating the matters mentioned in sections 25N and 25O of the repealed Act.
- (4) For preparing the final draft water resource plan to which the notice relates, sections 39 to 49 are taken to have been complied with if the final draft water resource plan complies with section 46.

#### **1041 Completed water allocation and management plans**

- (1) The water allocation and management plan published by the department under the title *Water Allocation and Management Plan (Fitzroy Basin) 1999*—
- (a) is taken to be a water resource plan under this Act that provides a framework for establishing water allocations; and
- (b) may be reprinted under the *Reprints Act 1992*.
- (2) The *Water Allocation and Management Plan (Fitzroy Basin) 1999* may be amended without the need to advertise the amendment under chapter 2, part 3, if the amendment is—
- (a) to make the plan consistent with current drafting practice; or

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- (b) an amendment of section 19 of the plan about the authorisations for taking water in the plan area that will be converted to water allocations; or
- (c) an amendment of section 20(1) about the way in which the volume, for a water allocation established through the conversion of an existing authorisation, is decided; or
- (d) an amendment of section 20(2) to state that water allocations converted from the following existing authorisations belong to the priority group stated—
  - (i) an authorisation identified by an interim resource operations licence as high priority—the high priority group;
  - (ii) an authorisation, held by Rockhampton Regional Council for town water supply purposes, in the Fitzroy Barrage water supply scheme—the high priority group;
  - (iii) an authorisation supplied from the Theodore or Gibber Gunyah area channels in the Dawson Valley water supply scheme—the medium A priority group;
  - (iv) to the extent allowed under the rules for conversion contained in the resource operations plan, the part of an authorisation, in the Dawson Valley water supply scheme, that is for stock or domestic purposes—the high priority group;
  - (v) an authorisation identified in the resource operations plan as belonging to a priority group mentioned in schedule 8—the priority group mentioned;
  - (vi) all other authorisations—the medium priority group; or
- (e) an amendment of section 20(4) to state that the maximum rate at which water may be taken under a water allocation converted from an existing

authorisation is the rate decided by the chief executive having regard to—

- (i) the terms and conditions under which water may be taken under the existing authorisation including—
    - (A) the rate stated on the authorisation; and
    - (B) the pump size for the authorisation; and
    - (C) the area that may be irrigated under the authorisation; and
  - (ii) the works associated with the authorisation; or
- (f) an amendment of section 30(c) to allow an amendment of schedule 6 if the amendment achieves an equivalent or improved environmental outcome and does not adversely affect—
- (i) water allocations in the plan area; or
  - (ii) other outcomes for the plan; or
- (g) an amendment of section 30(d) to allow the inclusion of additional water allocation security objectives for new water allocation priority groups added under section 30(d); or
- (h) an amendment of section 30(d) to allow an amendment of a water allocation security objective if the amendment does not adversely affect existing water allocations, environmental flow objectives or the outcomes of the plan; or
- (i) an amendment of section 30(e) to allow re-arrangement of the water allocation security objectives into applicable water allocation groups and to include additional water allocation groups and water allocation security objectives for the groups; or
- (j) an amendment of schedule 6 to exclude the application of the first post-winter flow objective to node 15; or

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- (k) an amendment of schedule 8 to state that the water allocation security objective for allocations in the Dawson Valley water supply scheme, in the medium priority group, be between 78% and 88%; or
- (l) an amendment of schedule 10 to provide for the criteria in the schedule that may be applied, and the way in which the criteria may be applied, for amending existing authorisations to comply with the plan; or
- (m) an amendment to make the plan consistent with this Act.

#### **1042 Proposed water allocation and management plans and flow management plans**

- (1) Subsection (2) applies to the following—
  - (a) the proposed water allocation and management plan for the Barron Basin, incorporating a portion of the Mitchell Basin;
  - (b) the proposed flow management plan for the Border Rivers;
  - (c) the proposed water allocation and management plan for the Logan Basin;
  - (d) the proposed water allocation and management plan for the Pioneer Valley.
- (2) A notice under section 40, to provide a framework for establishing water allocations, is taken to have been published for each proposed plan.
- (3) However, sections 39 and 41 do not apply for the preparation of the draft water resource plan for a plan mentioned in subsection (1).
- (4) In the final draft water resource plan for the Border Rivers, the provisions about restricting the granting of or amending any entitlement issued under this Act or the repealed Act to take or interfere with water or water sharing under the plan may give priority to—

- (a) water users—
  - (i) located in the plan area; and
  - (ii) who had constructed, or started construction of, works for the taking of or interfering with overland flow water before 25 November 1999; and
- (b) water users who—
  - (i) hold entitlements issued under this Act or the repealed Act to take or interfere with water to which the plan applies; and
  - (ii) had constructed, or started construction of, works for the taking of or interfering with water under the entitlement before 25 November 1999.

### **1043 Draft water allocation and management plans**

- (1) Subsection (2) applies to the following draft water allocation and management plans publicly released under the repealed Act—
  - (a) ‘Draft Water Allocation and Management Plan (Burnett Basin) June 2000’;
  - (b) ‘Draft Water Allocation and Management Plan (Condamine-Balonne Basin) June 2000’.
- (2) Each draft plan is taken to be a draft water resource plan that provides a framework for establishing water allocations.
- (3) For preparing the final draft water resource plan for each draft plan, sections 39 to 49 are taken to have been complied with if the final draft water resource plan complies with section 46.
- (4) In the final draft water resource plan mentioned in subsection (1)(b), the provisions about restricting the granting of or amending any entitlement issued under this Act or the repealed Act to take or interfere with water or water sharing under the plan may give priority to—
  - (a) water users—

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- (i) located in the overland flow restrictions areas; and
  - (ii) who had constructed, or started construction of, works for the taking of or interfering with overland flow water before 14 June 2000; and
- (b) water users—
- (i) located in the plan area but outside the areas mentioned in subsection (4)(a)(i); and
  - (ii) who had constructed, or started construction of, works for the taking of or interfering with overland flow water before 14 August 2000; and
- (c) water users who—
- (i) hold entitlements issued under this Act or the repealed Act to take or interfere with water to which the plan applies; and
  - (ii) had constructed, or started construction of, works for the taking of or interfering with water under the entitlement before 14 August 2000.

(5) In this section—

***overland flow restrictions areas*** means the areas shown in schedule 2 of the draft plan as areas subject to overland flow restrictions being more particularly—

- (a) the area shown in Department of Natural Resources registered plan number SW3185A3 and titled ‘Upper Condamine Floodplain Management and Briglow-Jimbour Floodplain Study Areas’; and
- (b) the areas shown as approximate extent of floodplain in drawings 1 to 13 in the report called the ‘Lower Balonne River System Floodplain Management Plan Phase 1 Study Volume 2’; and
- (c) the area shown in the schedule as a 2km wide strip along the trunk stream.



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#### **1044 Draft water management plan (Boyne River)**

- (1) The draft water management plan publicly released in May 2000 under the title 'Draft Water Management (Boyne River Basin) Plan 2000' is taken to be a draft water resource plan that provides a framework for establishing water allocations.
- (2) The public notice of the proposed preparation of the draft plan given under the repealed Act is taken to be a moratorium notice for the draft plan containing—
  - (a) the matters mentioned in section 25N of the repealed Act; and
  - (b) any matters contained in the notice published.
- (3) For preparing the final draft water resource plan to which the notice relates, sections 39 to 49 are taken to have been complied with if the final draft water resource plan complies with section 46.

#### **1045 Proposed water management plan (Atherton subartesian area)**

The proposed water management plan being prepared for the Atherton subartesian area immediately before the commencement of this section is taken to be a part of, and amalgamated with, the water allocation and management plan mentioned in section 1042(1)(a).

#### **1045A Burnett Basin final draft resource operations plan**

- (1) The final draft resource operations plan prepared under section 103 to implement the *Water Resource (Burnett Basin) Plan 2000* may include a reservation of about 4250ML medium priority unallocated water for the proposed Barlil Weir.
- (2) Subsection (1) applies even though the reservation was not included in the draft resource operations plan made available under section 100.

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## **1046 Declared subartesian areas**

- (1) A regulation may declare an area to be a subartesian area.
- (2) A regulation made under subsection (1) may, for a subartesian area—
  - (a) regulate the taking of, or interfering with, subartesian water; and
  - (b) state the types of works for taking or interfering with subartesian water that are assessable or self-assessable development under the *Sustainable Planning Act 2009*.
- (3) Subsection (2) has effect for the area, or a part of the area, until a water resource plan is approved for subartesian water in the area, or part of the area.
- (4) Subsections (4A) to (7) apply if, immediately before a regulation declares an area to be a subartesian area—
  - (a) a person is an owner of land in the area on which works for taking or interfering with subartesian water under section 20(6) are situated; and
  - (b) the works are capable of being used to take or interfere with subartesian water.
- (4A) On a regulation declaring the area to be a subartesian area, the person may continue to use the works to take or interfere with water until the chief executive grants a water licence to the person.
- (5) The chief executive may grant a water licence to the person without an application being made under section 206.

*Note—*

If, after a regulation declares an area to be a subartesian area, a person is using works in the area for taking or interfering with subartesian water under a water licence that expires or is surrendered or cancelled, the chief executive may not grant a water licence to the person, or reinstate or replace the expired licence, under this subsection.

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

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

### **1047 Existing land and water management plans**

- (1) If, immediately before the commencement of this section, an application made under the repealed Act for the approval of, or deferral of the requirement for, a land and water management plan had not been decided, the application must be decided as if the repealed Act had not been repealed.
- (2) Subsection (3) applies to—
- (a) each land and water management plan or deferral approved under or for the repealed Act and in force immediately before the commencement; and
  - (b) each plan or deferral approved under subsection (1).
- (3) On the commencement—
- (a) a plan mentioned in subsection (2) is taken to be a land and water management plan approved under section 77; and
  - (b) a deferral mentioned in subsection (2) is taken to be a deferral approved under section 82.
- (4) A plan mentioned in subsection (3)(a) and taken to be a plan under this Act is taken to be approved under this Act for 10 years from the day the plan was approved under the repealed Act.
- (5) A deferral mentioned in subsection (3)(b) and taken to be a deferral under this Act is a deferral for the period the deferral would have been in force if the repealed Act had not been repealed.
- (6) The ‘Guidelines for Land and Water Management Plans Mareeba-Dimbulah Irrigation Area July 1999’ are taken to be guidelines issued under section 72.

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## **1048 Existing applications**

- (1) Subsection (2) applies to an application for or about a licence or permit, made under the repealed Act but not decided before the commencement of this section.
- (2) On the commencement—
  - (a) an application under section 42 of the repealed Act for a licence to take or use water, is taken to be an application under section 206 for a licence to take or interfere with the flow of water; and
  - (b) publication of a notice under section 42(6) of the repealed Act is taken to be publication of a notice under section 208; and
  - (c) an objection under section 42(9) of the repealed Act is taken to be a properly made submission under section 211(3); and
  - (d) an application under section 44(2) of the repealed Act to amend, modify, vary, revoke or add a term to which a licence is subject—
    - (i) to the extent the application relates to the taking of water—is taken to be an application under section 219 to make a minor amendment to a licence; and
    - (ii) to the extent the application relates to works for the taking of water and conditions that relate to the works—
      - (A) if the chief executive would be the assessment manager for the construction of the works—is taken to be an application in relation to a development permit to which chapter 8, part 2 applies; and
      - (B) if the chief executive is not the assessment manager—lapses; and
  - (e) an application under section 45 of the repealed Act to amend a licence—

- (i) to the extent the application relates to the taking of water—is taken to be an application under section 216 to amend a licence; and
- (ii) to the extent the application relates to works for the taking of water and conditions that relate to the works—
  - (A) if the chief executive would be the assessment manager for the construction of the works—is taken to be an application in relation to a development permit to which chapter 8, part 2 applies; and
  - (B) if the chief executive is not the assessment manager—lapses; and
- (f) a show cause notice given under section 50 of the repealed Act is taken to be—
  - (i) if the notice is about taking or interfering with the flow of water—a show cause notice under section 218(3); and
  - (ii) if the notice is about modifying or removing works—a show cause notice under section 968(2); and
- (g) an application under section 46 of the repealed Act to renew a licence is taken to be an application under section 220; and
- (h) an application under section 46 of the repealed Act to renew an expired licence, made within 4 months after the day the licence expired, is taken to be an application under section 221 to reinstate a licence, made within 30 business days after the licence expired; and
- (i) for section 221, a licence that expires within 4 months before the day section 221 commences is taken to have expired on the day after section 221 commences; and

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- (j) an application under section 47 of the repealed Act to transfer a licence is taken to be an application under section 222; and
  - (k) an application under section 71 of the repealed Act to destroy vegetation, excavate or place fill in a watercourse, lake or spring is taken to be an application under section 266; and
  - (l) an application under section 58 of the repealed Act to take, get, remove or otherwise interfere with quarry material, lapses; and
  - (m) an application under section 42 of the repealed Act for a driller's licence is taken to be an application under section 299; and
  - (n) an application under section 42 of the repealed Act to construct works—
    - (i) if the chief executive would be the assessment manager for construction of the works—is taken to be an application for a development permit to which chapter 8, part 2 applies; and
    - (ii) if the chief executive is not the assessment manager—lapses; and
  - (o) an application under section 57 of the repealed Act, to construct or use works to take water, lapses; and
  - (p) an application not mentioned in paragraphs (a) to (o) may be taken to be an application for or about a licence or permit under an equivalent provision of this Act.
- (3) If part of an application mentioned in subsection (1) is about a referable dam, the part lapses.
- (4) This section does not apply to an application for a licence made under the repealed Act but not decided before the commencement, relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste.
- (5) In subsection (3)—

*referable dam* has the meaning given by the *Water Resources Act 1989*, section 2, but does not include a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

### **1048A Existing licences, permits and approvals**

- (1) Subsection (2) applies to—
  - (a) each licence or permit granted under the repealed Act and in force immediately before the commencement of this section; and
  - (b) the part of each licence or permit granted under the repealed Act and that is not an interim water allocation under section 1114 and in force immediately before the commencement.
- (2) On the commencement—
  - (a) if a licence mentioned in subsection (1)(a) was a licence for works under part 4 of the repealed Act—the licence is taken to be a water licence given under chapter 2, part 6, and its conditions that related to the works, are taken to be a development permit; and
  - (b) if a part of a licence mentioned in subsection (1)(b) was a licence for works under part 4 of the repealed Act—the part is taken to be a development permit; and
  - (c) if a permit mentioned in subsection (1) was a permit granted under section 56(1)(a) of the repealed Act—the permit is taken to be a water licence given under chapter 2, part 6, and its conditions that related to the works, are taken to be a development permit; and
  - (d) if a permit mentioned in subsection (1) was a permit granted under section 56(1)(b) of the repealed Act—the permit is taken to be a water permit given under chapter 2, part 6; and
  - (e) if a permit mentioned in subsection (1) was a permit granted under section 57 of the repealed Act to an owner

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- of land abutting a watercourse lake or spring, the permit ceases to exist; and
- (f) if a permit mentioned in subsection (1) was a permit granted under section 57 of the repealed Act to an owner of land abutting a weir, barrage or dam—
    - (i) the permit is taken to be—
      - (A) to the extent it relates to water managed under an interim resource operations licence—an interim water allocation; and
      - (B) to the extent it relates to the taking of other water—a water licence given under chapter 2, part 6; and
    - (ii) the permit's conditions that related to works are taken to be a development permit; and
  - (g) if a permit mentioned in subsection (1) was a permit granted under section 58 of the repealed Act—the permit is taken to be an allocation notice given under chapter 2, part 9, and its conditions that related to removal of quarry material, are taken to be a development permit; and
  - (h) if a permit mentioned in subsection (1) was a permit granted under section 71 of the repealed Act—the permit is taken to be a permit given under chapter 2, part 8; and
  - (i) if a licence mentioned in subsection (1) was a driller's licence—the licence is taken to be a water bore driller's licence given under chapter 2, part 10.
- (3) A licence or permit mentioned in subsection (2) and taken to be a licence, permit or allocation notice under this Act is a licence, permit or allocation notice—
- (a) for a permit mentioned in subsection (2)(f)(i)(B)—for 2 years from commencement; and



- (b) otherwise—for the period the licence or permit would have been in force if the repealed Act had not been repealed.
- (4) A person granted an interim water allocation under subsection (2)(f) must, within 60 business days after the day the allocation is granted, enter into a supply contract for the allocation with the interim resource operations licence holder.
- (5) If a person fails to comply with subsection (4), section 122A applies as if the interim water allocation were a water allocation.
- (6) The chief executive may amend an interim resource operations licence without complying with the provisions of chapter 2, part 5, division 2 about amending the licence if the amendment is merely to allow for an interim water allocation mentioned in subsection (2)(f).
- (7) Within 30 business days after the day the chief executive amends the licence, the chief executive must give the licence holder—
  - (a) an amended licence in the approved form; and
  - (b) an information notice.
- (8) The amended licence takes effect from the day the chief executive gives the licence holder the information notice.
- (9) Subsection (10) applies to an agreement—
  - (a) approved by regulation under section 101 of the repealed Act; and
  - (b) in force immediately before the commencement.
- (10) The agreement is taken to be a water licence given under chapter 2, part 6, and its conditions that relate to works are taken to be a development permit.
- (11) This section does not apply to a licence under the repealed Act in force immediately before the commencement, relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

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- (12) For 1 year after the commencement, sections 311 and 816 do not apply to a person carrying out drilling activities for a subartesian bore in an area that was not a declared subartesian area under the repealed Act immediately before the commencement.
- (13) Despite the *Sustainable Planning Act 2009*, section 341, a development permit mentioned in subsection (2) lapses—
- (a) if part of the existing licence or permit, or conditions of the existing licence or permit, required works to be installed by a stated date and the works have not been installed by the date—on the stated date; and
  - (b) otherwise, if the works to which the existing licence or permit relates have not been installed by the end of the period the existing licence or permit would have been in force if the repealed Act had not been repealed—at the end of the period.
- (14) In subsection (13)—
- existing licence or permit* means a licence or permit in force immediately before the commencement of this section.

### **1048B Existing trade waste approvals**

- (1) Subsection (2) applies to a trade waste approval—
- (a) given under the *Standard Sewerage Law*, section 24; and
  - (b) in force immediately before the commencement of this section.
- (2) On the commencement, the approval is taken to be a trade waste approval granted under section 469.

### **1049 Existing applications about water in irrigation or project areas**

- (1) Subsection (2) applies if—

- (a) before the commencement of section 1111, an application is made under the repealed Act for—
    - (i) a licence or permit for the taking of water or an increase in the volume, rate or times when water, that will be managed by the corporatised entity under an interim resource operations licence, may be taken; or
    - (ii) an approval of an agreement under section 231 of that Act for the use of water that will be managed by the corporatised entity under an interim resource operations licence; and
  - (b) the application has not been decided before the commencement.
- (2) The chief executive must—
- (a) for an application mentioned in subsection (1)(a)(i)—refuse the application without publishing notice of the application under section 42(6) of the repealed Act; and
  - (b) for an application mentioned in subsection (1)(a)(ii)—refuse the application.
- (3) However, subsection (2)(a) does not, and never did, apply to an application for a licence or permit to continue to take water if—
- (a) before the commencement, the applicant was involved in the activity of taking water other than under a licence or permit; and
  - (b) the application does not involve an increase in the volume of water to be taken.

**1050 Existing applications for approval under s 231 of the repealed Act (not in irrigation or project areas)**

- (1) Subsection (2) applies if—

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- (a) before the commencement of this section an application is made for an approval of an agreement under section 231 of the repealed Act; and
  - (b) the application relates to water that will not be managed by the corporatised entity under an interim resource operations licence; and
  - (c) the application has not been decided before the commencement.
- (2) The application must be decided as if the repealed Act had not been repealed.
  - (3) If the decision under subsection (2) approves the agreement, the applicant must be given a permit.
  - (4) The permit is taken to be a permit granted under chapter 2, part 6.

**1051 Applications before commencement of ch 2, pt 6 to add land to a licence under the repealed Act**

- (1) Subsection (2) applies—
  - (a) from the commencement of chapter 2, part 3 until the commencement of chapter 2, part 6; and
  - (b) if a person has a licence under the repealed Act; and
  - (c) the licence refers to land owned by the person.
- (2) An application to amend the licence to include a reference to other land must not be approved unless the other land is owned by the person and is contiguous to the land already referred to in the licence.

**1052 Applications before commencement of ch 2, pt 6 about water to which a plan under chapter 2, part 3 applies**

- (1) Subsection (2) applies—
  - (a) from the commencement of chapter 2, part 3 until the commencement of chapter 2, part 6; and

- (b) to an application made under the repealed Act about water to which a plan approved under chapter 2, part 3 applies.
- (2) The chief executive must consider the plan when deciding the application.

**1053 Applications before commencement of ch 2, pt 6 for approval under s 231 of the repealed Act**

- (1) Subsection (2) applies from the commencement of this section until the commencement of chapter 2, part 6.
- (2) The holder of an interim water allocation must not, in relation to the interim water allocation, apply for an approval under section 231 of the repealed Act.

**1055 Certain dealings with water licences until 19 April 2007**

- (1) This section applies—
  - (a) until 19 April 2007; and
  - (b) despite chapter 2, part 6; and
  - (c) only to a water licence or water licences under this Act that were originally issued under the repealed Act.
- (2) The chief executive may amalgamate, subdivide or amend a water licence or water licences with the consent of the licensee or all licensees.
- (3) An action under subsection (2) must not increase the volume of water that may be taken by a licensee.
- (4) Despite section 206, subsection (2) applies for amalgamating licences if—
  - (a) the licences are held by the same licensee; and
  - (b) the land relating to the licences is not contiguous; and
  - (c) the conditions of the licences allow the total volume of water to be taken under the licences to be taken from, and used on, either parcel of land.

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**1056 Application of repealed Act to interim water allocations until ch 2, pt 6 commences**

- (1) Subsection (2) applies until chapter 2, part 6 commences.
- (2) For amending, suspending or transferring, an interim water allocation, the allocation must be dealt with as if—
  - (a) for an allocation for water that is managed in an area that was an irrigation area under the repealed Act—the allocation were a water licence granted under part 9 of the repealed Act; and
  - (b) for all other allocations—the allocation were a water licence granted under part 4 of the repealed Act.
- (3) Subsection (2) does not apply to a transfer under section 191 or 193.

**1057 Reinstating particular expired licences**

- (1) This section applies to a licence under the repealed Act—
  - (a) in force immediately before 13 November 2001; and
  - (b) not in force immediately before the commencement of this section.
- (2) The chief executive may reinstate the licence by granting a water licence under this Act without an application being made under section 221.
- (3) A water licence granted under this section is taken to have been in force from the day it expired.

**1058 Reinstating particular expired licences in former water areas**

- (1) This section applies to a licence in a former water area if—
  - (a) the former water area was continued in existence under section 1083(2); and
  - (b) under the licence the registered owner of land was supplied with water; and

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- (c) the licence has expired; and
  - (d) the registered owner has continued to be supplied with water as if the licence had not expired.
- (2) The chief executive may reinstate the licence by granting a water licence under this Act without an application being made under section 221—
- (a) if the former water area's former water board was continued in existence as a water authority under section 1083(3)—to the water authority; or
  - (b) otherwise—to the chief executive.
- (3) A water licence granted under subsection (2) is taken to have been in force from the day the licence it replaced expired.

## **Part 2**                      **Transitional provisions for service providers, service areas, failure impact assessing of dams and flood mitigation**

### **Division 1**                **Service providers and service areas**

#### **1060**    **Registration of existing local governments, water authorities or other persons as service providers**

- (1) Sections 370 and 821 do not apply to a local government, water authority or other person mentioned in section 370 and operating a similar business to that of a service provider at the commencement of this section until 1 January 2001.
- (2) If a local government, water authority or other person mentioned in section 370 applies under section 371 before 1 January 2001 for registration as a service provider, the local government, water authority or other person is taken to be a

service provider for section 821.

### **1061 Service provider obligations for existing local governments, water authorities or other persons**

Chapter 3, part 3, divisions 1 to 3, does not apply to a local government, water authority or other person mentioned in section 370 and operating a similar business to that of a service provider at the commencement of this section until—

- (a) for a large service provider—2 years after the commencement; or
- (b) for a medium service provider—3 years after the commencement; or
- (c) for a small service provider—4 years after the commencement.

### **1062 Water for fire fighting purposes**

Chapter 3, part 3, division 4 applies to a local government, water authority or other person mentioned in section 370 as if the local government, water authority or other person were a service provider on the commencement of this section.

### **1063 Water or sewerage areas**

- (1) Subsection (2) applies if a resolution of a local government under the *Sewerage and Water Supply Act 1949*, declaring an area to be a water area or sewerage area, is effective immediately before the commencement of this section.
- (2) The water area or sewerage area is a service area under this Act for the service for which the resolution was made.
- (3) If, after 1 October 2000 but before the commencement of section 449, a resolution of a local government under the *Sewerage and Water Supply Act 1949* declares an area to be a water area or sewerage area, the water area or sewerage area is a service area under this Act—



- (a) from the date the resolution was made; and
- (b) for the service for which the resolution was made.

#### **1064 Local governments to be service providers for service areas**

Until there is a service provider for a service area, chapter 3, part 4, divisions 3 and 4, applies as if the local government were the service provider for the area.

### **Division 2 Failure impact assessing for dams**

#### **Subdivision 1 Hazardous dams**

##### **1065 Application of sdiv 1**

- (1) This subdivision applies to a dam that immediately before the commencement of this section contained hazardous waste.
- (2) To remove any doubt it is declared that on and from the commencement, the *Environmental Protection Act 1994* applies to the dam.
- (3) If a licence was granted under section 43 of the repealed Act for the dam, on and from the commencement—
  - (a) to the extent the licence relates to interfering with water in a watercourse, the licence is taken to be a water licence under chapter 2, part 6; and
  - (b) to the extent the licence relates to works, the licence is taken to be a development permit; and
  - (c) the conditions about the safety of the dam that applied to the licence are taken to be conditions of the environmental authority issued under the *Environmental Protection Act 1994* or a development approval, if any, for the dam.

### **1065AA Additional ground for amending safety condition of environmental authority**

- (1) This section applies for a condition that, under section 1065(3)(c), is taken to be a condition of an environmental authority.
- (2) If the administering authority under the *Environmental Protection Act 1994* forms the opinion that the condition is not, or has ceased to be, appropriate for that Act, the opinion is a ground for amending the condition under section 290A or 292 of that Act.
- (3) Subsection (2) applies as well as any other ground provided for under the sections and any additional ground for amendment provided for under section 605 of that Act.

### **1065A Transitional provision for dams containing hazardous waste**

- (2) Subsection (3) applies to an application—
  - (a) relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste; and
  - (b) made under the repealed Act but not decided before the commencement of section 1065.
- (3) On the commencement of section 1065—
  - (a) any part of the application that is for or about a licence or permit to take or interfere with the flow of water is taken to be an application to which section 1048(2) applied; and
  - (b) the rest of the application is taken to be an application for an appropriate environmental authority under the *Environmental Protection Act 1994* to carry out environmentally relevant activities in relation to the dam, or proposed dam.
- (4) The *Environmental Protection Act 1994* applies to the application mentioned in subsection (3)(b)—

- (a) with necessary changes; and
  - (b) as if the application date for the application is the day section 1065 commences.
- (5) Subsection (1) expires immediately after section 1065 commences.

## **Subdivision 2      Other dams**

### **1065AB Application of sdiv 2**

This subdivision applies to a dam, other than a dam to which subdivision 1 applies.

### **1066 Application of ch 3, pt 6, div 1 to other dams**

Chapter 3, part 6, division 1, other than sections 483(1) and 486, also applies to each failure impact assessment required under this subdivision.

### **1067 Failure impact assessing existing unlicensed dams**

- (1) Subsection (2) applies to the owner of a dam in existence at the commencement of this section and for which a licence was not granted under section 43 of the repealed Act.
- (2) The owner must have the dam failure impact assessed within 1 year after the commencement, if the dam is—
  - (a) more than 8m in height and has a storage capacity of more than 500ML; or
  - (b) more than 8m in height and has a storage capacity of more than 250ML and a catchment area that is more than 3 times its maximum surface area at full supply level.

Maximum penalty—1665 penalty units.

- (3) A failure impact assessment completed under subsection (2) is taken to be a failure impact assessment completed under section 483(2).
- (4) Subsection (2) does not apply to the owner of a dam prescribed under a regulation.
- (5) A dam mentioned in the regulation—
  - (a) is a referable dam; and
  - (b) has the failure impact rating shown for the dam in the regulation.
- (6) The failure impact rating shown for the dam in the regulation is taken to be a failure impact assessment completed under section 483(2).
- (7) For section 483(8), the day the dam was prescribed is taken to be the day the last failure impact assessment was accepted by the chief executive.
- (8) If a failure impact assessment is completed and accepted by the chief executive for a dam for which a failure impact rating has been prescribed, the rating given under the assessment replaces the rating prescribed for the dam.

### **1068 Failure impact assessing prescribed licensed dams**

- (1) Subsection (2) applies to a dam if—
  - (a) a licence was granted under section 43 of the repealed Act for the dam; and
  - (b) the dam is a dam prescribed under a regulation for this section.
- (2) On the commencement of this section—
  - (a) the dam is a referable dam; and
  - (b) the dam has the failure impact rating shown for the dam in the regulation; and
  - (c) the licence, including its conditions that related to the safety of the dam, is taken to be a development permit.

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- (3) The failure impact rating shown for the dam in the regulation is taken to be a failure impact assessment completed under section 483(2).
  - (4) For section 483(8), the day the dam was prescribed is taken to be the day the last failure impact assessment was accepted by the chief executive.
  - (5) If a failure impact assessment is completed and accepted by the chief executive for a dam for which a failure impact rating has been prescribed, the rating given under the assessment replaces the rating prescribed for the dam.

### **1069 Failure impact assessing licensed dams not prescribed**

- (1) Subsection (2) applies to a dam if—
  - (a) a licence was granted under section 43 of the repealed Act for the dam; and
  - (b) the dam is not a dam prescribed under a regulation for section 1068; and
  - (c) the dam is—
    - (i) more than 8m in height and has a storage capacity of more than 500ML; or
    - (ii) more than 8m in height and has a storage capacity of more than 250ML and a catchment area that is more than 3 times its maximum surface area at full supply level.
- (2) On the commencement of this section—
  - (a) the dam is a referable dam; and
  - (b) the licence, including its conditions that related to the safety of the dam, is taken to be a development permit.
- (3) The owner of each dam mentioned in subsection (2) must ensure a failure impact assessment for the dam is completed in accordance with chapter 3, part 6 and given to the chief executive within 5 years after the commencement.

Maximum penalty—1665 penalty units.

- (4) A failure impact assessment completed under subsection (3) is taken to be a failure impact assessment completed under section 483(2).
- (5) Subsection (3) does not apply if the chief executive gives the owner of the dam a notice under section 483(2) before the dam is failure impact assessed under subsection (3).
- (6) If the dam is assessed as not having a category 1 or category 2 failure impact rating under subsection (3) or for an assessment mentioned in subsection (5)—
  - (a) the dam is no longer a referable dam; and
  - (b) the development permit is no longer subject to the conditions about the safety of the dam.

### **1070 Failure impact assessing small licensed dams**

- (1) Subsection (2) applies to a dam if a licence was granted under section 43 of the repealed Act for the dam and the dam is not—
  - (a) more than 8m in height and does not have a storage capacity of more than 500ML; or
  - (b) more than 8m in height and does not have a storage capacity of more than 250ML and a catchment area that is not more than 3 times its maximum surface area at full supply level.
- (2) On the commencement of this section, the conditions about the safety of the dam, that applied to the licence, no longer apply.

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## **Division 3                      Flood mitigation**

### **1071 Existing flood mitigation manuals**

A flood mitigation manual is taken to be flood mitigation manual approved by the chief executive under chapter 3, part 6, for the period expiring 5 years after the commencement of this section, if the manual was, immediately before the commencement in force as a manual—

- (a) approved under section 215F of the repealed Act; or
- (b) taken to be a flood mitigation manual under section 215Y of the repealed Act.

## **Part 3                                      Transitional provisions for water authorities**

### **1083 Continuing former water areas and former water boards—general**

- (1) This section does not apply to the Gladstone Area Water Board and its operational area established under the repealed GAWB Act.
- (2) A former water area in existence immediately before the commencement of this section continues in existence, subject to this Act, and is taken to be an authority area established under this Act with the same name as the former water area.
- (3) A former water board in existence immediately before the commencement continues in existence, subject to this Act, and is taken to be a water authority established under this Act—
  - (a) with the same name as the former water board; and
  - (b) carry out water activities.

[s 1083A]

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- (4) The former water board is taken to be—
  - (a) for the Mount Isa Water Board—a category 1 water authority; or
  - (b) for another former water board to which this section applies—a category 2 water authority.
- (5) If the former water board was constituted under the repealed Act for a former water area in existence immediately before the commencement, the former water area is taken to be the water authority's authority area.

### **1083A Former water areas without water boards**

- (1) This section applies to a former water area—
  - (a) mentioned in section 1083(2); and
  - (b) for which no water board was in existence immediately before the commencement of section 1083.
- (2) The chief executive's appointment under the repealed Act to perform the functions and exercise the powers of a water board for the former water area continues as an appointment under this Act to perform the functions and exercise the powers of a water authority for the area.
- (3) A regulation must identify each former water area continued in existence and taken to be an authority area under section 1083(2).

### **1084 Continuing Gladstone Area Water Board**

- (1) The Gladstone Area Water Board established under the repealed GAWB Act continues in existence, subject to this Act, and is taken to be a water authority established under this Act—
  - (a) with the same name; and
  - (b) to carry out water activities generally in the State.



- (2) The Gladstone Area Water Board is taken to be a category 1 water authority.

### **1085 Members of boards of former water boards, other than Gladstone Area Water Board**

- (1) This section applies to a person who, immediately before the commencement of this section, was a member of a board of a former water board that is taken to be a water authority under section 1083(3).
- (2) On the commencement, the person is taken to have been appointed under this Act as a director of the authority for the remainder of the person's term of appointment under the repealed Act.
- (3) This section applies despite section 604.

### **1086 Members of board of Gladstone Area Water Board**

- (1) This section applies to a person who, immediately before the commencement of this section, was a member of the board of the Gladstone Area Water Board established under the repealed GAWB Act.
- (2) On the commencement, the person is taken to have been appointed under this Act as a director of the Gladstone Area Water Board established under section 1084(1) for the remainder of the person's term of appointment under the repealed GAWB Act.
- (3) This section applies despite section 605.

### **1087 Existing employees of former water boards**

- (1) This section applies to a person who, immediately before the commencement of this section, was an employee of a former water board that continues in existence as a water authority under section 1083(3) or 1084.

[s 1087]

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- (2) On the commencement, the person becomes an employee of the water authority.
- (3) The person—
  - (a) must be employed on the person's existing or equivalent terms and conditions of employment; and
  - (b) remains entitled to all existing and accruing rights of employment.
- (4) Subsections (5) to (8) apply if, immediately before the commencement, the person was a contributor to a superannuation fund, superannuation scheme or provident fund (the *former superannuation scheme*) as an employee of the former water board.
- (5) The person continues to be a contributor to the former superannuation scheme as if the person's service with the authority were continuous service with the former water board.
- (6) If the authority establishes, maintains or takes part in a superannuation scheme (the *authority's scheme*) to provide superannuation benefits for its employees, the person, under arrangements prescribed under a regulation, may, but is not required to—
  - (a) stop being a contributor to the former superannuation scheme; and
  - (b) become a member of the authority's scheme.
- (7) If the Gladstone Area Water Board, as established under the repealed GAWB Act, was required, in relation to the person, to contribute to the former superannuation scheme under the repealed GAWB Act, section 114—
  - (a) the requirement continues under this Act as a requirement of the Gladstone Area Water Board established as a water authority under this Act; and
  - (b) an amount payable by the authority to the superannuation scheme is a debt due by the authority to the trustees or managers of the scheme.

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## **1088 Authorised works in former water areas**

- (1) Subsection (2) applies to works a former water board or the chief executive was authorised to construct under the repealed Act in a former water area.
- (2) On the commencement of this section—
  - (a) if immediately after the commencement there is a water authority for the area—the water authority is taken to hold a development permit for the works; or
  - (b) if immediately after the commencement there is no water authority for the area—the chief executive is taken to hold a development permit for the works.

## **1089 Existing authorities to take, or interfere with, water**

- (1) This section applies if a former water board, customer of a former water board or the chief executive was authorised under the repealed Acts or another Act to take or interfere with water.
- (2) If the authority was given under 1 of the repealed Acts, it continues under that Act as if that Act had not been repealed until whichever of the following first happens—
  - (a) the chief executive grants a water licence to replace the authority;
  - (b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.
- (3) If the authority was given under another Act, it continues under that Act until whichever of the following first happens—
  - (a) the chief executive grants a water licence to replace the authority;
  - (b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.

[s 1089A]

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- (3A) An authority continued under subsection (2) or (3) is taken to also be an authority under this Act to take or interfere with water.
- (4) The chief executive may grant a water licence under subsection (2)(a) or (3)(a) without the need for an application to be made under section 206.
- (5) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and an information notice about the granting of the licence.
- (6) The licence has effect from the day the licence is given to the licensee.

### **1089A Conversion of existing authorities to take water**

- (1) This section applies if a former water board was authorised to deliver water to the holder of an authorisation in accordance with the instrument mentioned, for the board's area, in the *Water Resources (Areas and Boards) Regulation 2000* (repealed), schedule 5.
- (2) Each authorisation that relates to a board mentioned in subsection (9), definition *former water board*, paragraph (a), (b) or (d) is taken to be an interim water allocation, with the volume mentioned for the authorisation as a property allocation or an annual water entitlement in the instrument.
- (3) An interim water allocation mentioned in subsection (2) attaches to the land described, for the authorisation to which it relates, in the instrument.
- (4) The interim water allocation is taken to be held by—
  - (a) the person identified, for the authorisation, in the instrument; or
  - (b) if the person identified, for the authorisation, in the instrument has ceased to be the owner or occupier of all or part of the land to which the interim water allocation attaches—the registered owner or owners of the land; or

- (c) if no person is identified for the authorisation, in the instrument—the registered owner or owners of the land to which the interim water allocation attaches.
- (5) Each authorisation that relates to a board mentioned in subsection (9), definition *former water board*, paragraph (c), is taken to be an interim water allocation with the volume mentioned, for the authorisation, as a nominal volume in attachment 3(a) of the Pioneer Draft Resource Operations Plan made available under section 100 on 2 August 2004.
- (6) An interim water allocation mentioned in subsection (5) attaches to all or part of the land described in the instrument mentioned for the former water board's area in the *Water Resources (Areas and Boards) Regulation 2000* (repealed) with the farm ID identified for the authorisation in the instrument and in attachment 3(a).
- (7) The interim water allocation is taken to be held by—
  - (a) if the person identified, for the authorisation, in attachment 3(a) has not ceased to be the owner or occupier of all or part of the land to which the interim water allocation attaches—the person identified, for the authorisation, in attachment 3(a); or
  - (b) if the person identified, for the authorisation, in attachment 3(a) has ceased to be the owner or occupier of all or part of the land to which the interim water allocation attaches—the registered owner or owners of the land.
- (8) The provisions of the instruments mentioned in subsection (1) that deal with the delivery of water by a former water board continue to have effect.
- (9) In this section—

**authorisation** means an authorisation to take water continued under section 1089(2).

**former water board** means each of the following former water boards continued in existence under section 1083(3)—

[s 1090]

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- (a) Avondale Water Supply Board;
- (b) Kelsey Creek Water Board;
- (c) Pioneer Valley Water Board;
- (d) Six Mile Creek Water Supply Board.

### **1090 Existing contracts to supply water under GAWB Act**

- (1) This section applies to a contract—
  - (a) entered into, under the repealed GAWB Act, between the Gladstone Area Water Board established under that Act and an entity for the supply of water by the board to the entity; and
  - (b) in force immediately before the commencement of this section.
- (2) On the commencement, the contract is taken to have been made under this Act between the Gladstone Area Water Board established under this Act and the entity for the remainder of the contract's term.
- (3) Despite the repeal of the repealed GAWB Act, sections 53, 54, 117 and 118 of that Act continue to apply to the parties' rights and obligations under the contract for the remainder of the contract's term.

### **1091 References to former water areas and former water boards**

In an Act or document, if the context permits—

- (a) a reference to a former water area may be taken to be a reference to the authority area with the same name established under section 1083(2); and
- (b) a reference to a former water board may be taken to be a reference to the water authority with the same name established under section 1083(3).

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## 1092 Existing regulations and notices

- (1) The *Water Resources (Areas and Boards) Regulation 2000* in force under the repealed Act immediately before the commencement of this section—
  - (a) is taken to be a regulation made under this Act; and
  - (b) must be read with the changes necessary to make it consistent with this Act and adapt its operation to this Act.
- (2) A requirement in the regulation for a particular person to be appointed, but not nominated, to a former water board by the Governor in Council must be read as if the requirement were for the person to be nominated by the chief executive.
- (3) Subsection (4) applies to notices published—
  - (a) under section 131 of the repealed Act; and
  - (b) for a matter mentioned in section 129(8) of the repealed Act; and
  - (c) after 1 January 1998; and
  - (d) before the commencement of this section.
- (4) The notice is taken to be a notice published for the matter under section 552 or 556 of this Act.

## **Part 4                      Transitional provisions about State Water Projects and its customers**

### **Division 1                State Water Projects before corporatisation**

#### **1107    Application of s 4 for State Water Projects**

- (1) Chapter 3, part 6, division 1, does not apply to the State until the commercialised business unit previously within the department and known as State Water Projects is corporatised under the *Government Owned Corporations Act 1993*.
- (2) Subsection (1) has effect despite section 4.

#### **1108    Delegated powers taken to have been validly exercised**

- (1) Subsection (2) applies if—
  - (a) on 30 June 2000 a person had a delegation to exercise a power under the *Water Resources Act 1989*; and
  - (b) the person purported to exercise the power after 30 June 2000 but before 18 August 2000.
- (2) The person is taken to have validly exercised the power.

### **Division 2                State Water Projects after corporatisation**

#### **Subdivision 1        Preliminary**

#### **1109    Definitions for div 2**

In this division—



**authority** means—

- (a) a licence under part 4 or 9 of the repealed Act; or
- (b) an order in council under which water is supplied; or
- (c) an agreement for the supply of water made under section 15 of the repealed Act; or
- (d) another agreement for the supply of water under the repealed Act.

**customer** means a person supplied water by the corporatised entity under an authority.

## 1110 Application of div 2

This division applies—

- (a) if the commercialised business unit previously within the department and known as State Water Projects (the **corporatised entity**) was corporatised under the *Government Owned Corporations Act 1993* before the commencement of this division—on the commencement; or
- (b) if the commercialised business unit within the department known as State Water Projects (the **corporatised entity**) is corporatised under the *Government Owned Corporations Act 1993* on or after the commencement—the day the corporatised entity is corporatised.

[s 1111]

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## **Subdivision 2      Granting interim resource operations licences and interim water allocations**

### **1111    Granting interim resource operations licence to corporatised entity**

- (1) Within 30 business days after this division commences, the chief executive must grant and give to the corporatised entity an interim resource operations licence for Julius Dam and for each irrigation or project area under the *Water Resources (Rates and Charges) Regulation 1992* the corporatised entity operated both immediately before and immediately after the entity was corporatised.
- (2) Each licence must state, for the licence—
  - (a) all the elements mentioned in section 177; and
  - (b) the interim water allocations to be granted to the corporatised entity under section 1112 for water losses, unallocated water and water for the supply of customers who are not to be granted or taken to hold an interim water allocation under section 1113 or 1114; and
  - (c) details of existing customers of the corporatised entity who are to be granted interim water allocations other than those customers who hold interim water allocations taken to be granted under section 1114; and
  - (d) details of existing customers of the corporatised entity who are not to be granted or taken to hold interim water allocations; and
  - (e) details of other existing water supply responsibilities.
- (3) Within 30 business days after the granting of the interim resource operations licence, the chief executive must give the customers mentioned in subsection (2)(c) and (d) information notice about the granting of the licence.
- (4) Sections 178 to 186 apply to each licence as if the licence were a licence granted under chapter 2, part 5.

- (5) Each licence takes effect from the day the holder of the licence is given the licence.
- (6) Although a customer mentioned in subsection (2)(d) does not get an interim water allocation, the customer is entitled to the continued supply of water under the authority.

### **1112 Granting water entitlements to corporatised entity**

- (1) On the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the chief executive—
  - (a) must grant to the corporatised entity an interim water allocation in accordance with each interim resource operations licence the corporatised entity is given under section 1111(1); and
  - (b) if the corporatised entity was involved before the interim resource operations licences were granted in the activity of taking water, other than water to which paragraph (a) applies—may grant to the entity a licence to continue each activity.
- (2) The licence granted under subsection (1)(b) is taken to be a licence granted under part 4 of the repealed Act.
- (3) On the day the grant is made under subsection (1), the chief executive must give the allocation and the licence to the entity.
- (4) The allocation and licence take effect from the day the entity is given the allocation and licence.

### **1113 Granting interim water allocations to customers under interim resource operations licences**

- (1) On the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the chief executive must grant each customer of the corporatised entity, mentioned in section 1111(2)(c), an interim water allocation in accordance with the interim resource operations licence for the allocation.

[s 1113]

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- (2) Before the chief executive grants an interim water allocation under subsection (1), the chief executive must consider, for the granting of the interim water allocation, the following matters in relation to the customers existing authority—
  - (a) whether the authority stated that the customer was granted nominal allocation of the water;
  - (b) whether the authority was in existence when the relevant irrigation area or project was established;
  - (c) whether the supply of water under the authority had an end date;
  - (d) whether the customer has, over the term of the authority, paid the full commercial value for the supply of water under the authority;
  - (e) whether the customer has paid the full commercial value for all or part of the supply of the water under the authority and it is reasonable that a proportion of the authority should be granted to the customer as an interim water allocation.
- (3) On the day the grant is made under subsection (1), the chief executive must give the allocation to the grantee.
- (4) Each interim water allocation attaches to the land of the grantee unless the grantee is—
  - (a) a local government; or
  - (b) a water authority; or
  - (c) an entity prescribed under a regulation.
- (5) Each interim water allocation takes effect from the day the grantee is given the allocation.
- (6) Subsection (7) applies if—
  - (a) a person, immediately before the commencement of this division, was supplied water under an authority; and

- (b) the person owed an amount of money to the State under a financial arrangement under the authority for nominal allocation of the water; and
  - (c) the person is granted an interim water allocation under this section for the water.
- (7) On the commencement—
- (a) the amount owed by the person, immediately before the commencement, is a debt due by the person to the corporatised entity; and
  - (b) repayment of the amount to the corporatised entity is a condition of the interim water allocation.

#### **1114 Authorities under part 4 or 9 of the repealed Act**

- (1) Subsection (2) applies if—
- (a) an authority under part 4 or part 9 of the repealed Act was in force immediately before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111; and
  - (b) the authority was to take water in an irrigation area or project under the repealed Act; and
  - (c) the authority provided for the nominal allocation of water under the repealed Act; and
  - (d) the water is managed by the corporatised entity using the entity's water infrastructure.
- (2) On and from the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the authority, to the extent it relates to the volume of water nominally allocated under the authority, is an interim water allocation.
- (3) Each interim water allocation attaches to the land to which the authority attached unless the holder of the authority is—
- (a) a local government; or

[s 1115]

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- (b) a water authority; or
  - (c) an entity prescribed under a regulation.
- (4) Subsection (5) applies if a customer granted an interim water allocation under subsection (2) owed an amount of money to the State under a financial arrangement under the authority.
- (5) On the commencement—
- (a) the amount owed by the customer, immediately before the commencement, is a debt due by the customer to the corporatised entity; and
  - (b) repayment of the amount to the corporatised entity is a condition of the interim water allocation.

### **1115 Review of grant of interim water allocation**

- (1) Subsection (2) limits the right of a customer given an information notice under section 1111(3).
- (2) The customer may apply for a review of the decision mentioned in the notice only so far as the decision is about the customer not being granted an interim water allocation for all or part of the authority previously held by the customer.
- (3) If the customer has, before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, been supplied with water under the authority, the customer may apply for the review only on 1 or more of the following grounds—
- (a) the authority stated that the customer was granted nominal allocation of the water;
  - (b) the authority was in existence when the relevant irrigation area or project was established;
  - (c) the supply of water did not have an end date and the customer has, over the term of the authority, paid the full commercial value for the supply of water under the authority;

- (d) the customer has paid the full commercial value for all or part of the supply of the water under the authority and it is reasonable that a proportion of the authority should be granted to the customer as an interim water allocation.
- (4) The corporatised entity is taken to be—
  - (a) for sections 863(3) and 864(2)—a person who was given notice of the original decision; and
  - (b) for an appeal against the review decision—an interested person for the original decision.
- (5) If, on a review or appeal, it is decided that the customer be granted an interim water allocation, the interim water allocation granted to the corporatised entity must be reduced by the interim water allocation granted to the customer under the decision.
- (6) For subsection (5), the chief executive must do all things necessary to give effect to the decision.

### **Subdivision 3      Supply contracts**

#### **1116    Minister must approve standard supply contracts**

- (1) On the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the Minister must approve standard supply contracts for the storage and delivery by the corporatised entity of water under interim water allocations, other than an interim water allocation to which an agreement mentioned in section 1117 relates.
- (2) The supply contracts may be different for different areas of the State or different services provided by the entity.
- (3) The Minister must gazette the approval of each standard supply contract.

[s 1117]

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- (4) Subsection (5) applies if a contract approved under subsection (1) applies to water to which section 1114(2) applies.
- (5) To the extent that the terms of supplying the water under an interim water allocation are inconsistent with the terms of supplying water under the standard supply contract approved by the Minister, the terms of the standard supply contract approved by the Minister prevail.
- (6) Subsection (5) applies until the corporatised entity and the customer enter into a different supply contract for supplying the water.
- (7) Within 1 year after the day the Minister approves a standard supply contract for an area or service, the corporatised entity and a customer council constituted under the statement of corporate intent for the corporatised entity must review the contract.
- (8) A reference in subsection (1) to an agreement mentioned in section 1117 is taken to include and to have always included a reference to an order in council mentioned in section 1117.

### **1117 Supply under written agreements or orders in council**

- (1) Subsection (2) applies—
  - (a) to written agreements for the supply of water that is managed under an interim resource operations licence; and
  - (b) if the agreement was effective, immediately before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111.
- (2) The provisions of the agreement, other than the provisions that deal with the allocation of water, continue to have effect after the interim resource operations licences are granted.
- (3) Also, if the agreement is an agreement that was made under section 15 of the repealed Act, the conditions in section 15 that deal with the storage and delivery of water by the



corporatised entity continue to have effect, for the agreement, after the interim resource operations licences are granted.

- (4) Subsection (5) applies if an order in council or other order for the supply of water that is managed under an interim resource operations licence was in force, immediately before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111.
- (5) The provisions of the order in council or other order, other than the provisions that deal with the allocation of water, continue to have effect after the interim resource operations licences are granted.
- (6) This section does not apply to an interim water allocation mentioned in section 1114(2).

### **1117A When conditions of supply contract do not apply**

- (1) This section applies if—
  - (a) immediately before an interim water allocation was granted, its holder was authorised to take water under an agreement or order in council mentioned in section 1117; and
  - (b) the interim water allocation was granted to replace the authorisation; and
  - (c) the water is being taken under the interim water allocation from a weir owned by the holder.
- (2) A regulation may prescribe an interim water allocation holder and an interim water allocation, or the part of an interim water allocation, to which any condition about payment for the storage and supply of water, in the supply contract under which the interim water allocation is managed, does not apply.
- (3) The regulation applies only while the weir is maintained.
- (4) In this section—

[s 1118]

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*interim water allocation* includes a water allocation to which the interim water allocation has been converted under section 121.

### **1118 Application of Water Resources (Rates and Charges) Regulation 1992**

- (1) Subsection (2) applies if—
  - (a) immediately before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, a person owes an amount of money to the State for a rate or charge made under the *Water Resources (Rates and Charges) Regulation 1992*; and
  - (b) the person, after the day mentioned in paragraph (a), becomes a customer of the corporatised entity or the person owed the amount for a drainage rate.
- (2) The amount owing by the person to the State is a debt due by the person to the corporatised entity.
- (3) On and from the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the rates and charges that applied under the regulation are the charges of the corporatised entity until the corporatised entity sets new charges.

### **1121 Application of powers until interim resource operations licences are granted**

- (1) From the commencement of this division until the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the corporatised entity must exercise the powers of an interim resource operations licence holder under this Act to supply customers with water.
- (2) Subsection (1) applies even though the corporatised entity does not hold an interim resource operations licence.

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## **Subdivision 4      Amending interim resource operations licences**

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

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

*Note—*

SunWater is a government owned corporation.

- (2) If the chief executive amends the licence under subsection (1), the chief executive must give the interim resource operations licence holder an amended licence in the approved form and an information notice.
- (3) The amended licence takes effect from the day the information notice is given to the holder.
- (4) This section applies despite section 184.

## **Part 5                      General**

### **Division 1                  Miscellaneous**

#### **1129      References in Acts and documents**

A reference in an Act or document to—

- (a) the *Gladstone Area Water Board Act 1984* may, if the context permits, be taken to be a reference to chapter 4 of this Act; and

[s 1133]

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- (b) the *Water Resources Act 1989*, the *Water Act 1926* or the *Rights in Water and Water Conservation and Utilization Act 1910* may, if the context permits, be taken to be a reference to this Act; and
- (c) a water entitlement of a particular type under the repealed Act may, if the context permits, be taken to be a reference to a similar entitlement under this Act; and
- (d) a water entitlement holder under the repealed Act may, if the context permits, be taken to be a reference to the holder of a similar entitlement under this Act; and
- (e) the repealed Act, or the *Land Act 1897*, the *Land Act 1902* or the *Land Act 1910*, may, if the context permits, be taken to be a reference to this Act; and
- (f) a section of the repealed Act, or the *Land Act 1897*, the *Land Act 1902* or the *Land Act 1910*, may, if the context permits, be taken to be a reference to the corresponding section in this Act.

### **1133 References to water in a watercourse or lake**

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

### **1134 Burnett Basin draft resource operations plan**

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

### **1135 Existing authorities for s 1113**

- (1) Each customer to whom the chief executive granted an interim water allocation under section 1113 is taken to have had an

authority within the meaning of section 1109 at the time the allocation was granted.

- (2) Subsection (3) applies if the Land Court held that it does not have jurisdiction to consider an appeal in relation to the granting of an interim water allocation under section 1113 because the person granted the allocation did not have an authority within the meaning of section 1109 at the time the allocation was granted.
- (3) The person may appeal under chapter 6, part 3 against the review decision the subject of the appeal mentioned in subsection (2).
- (4) Despite section 878(2), the notice of appeal must be filed within 30 business days after the commencement of this section.

### **1135A Validation of particular decisions**

The following decisions, made or purported to have been made between 1 October 2000 and 20 October 2003, are taken to be, and to always have been, valid—

- (a) a decision to extend time, made under section 863(2);
- (b) a decision made under section 864(2).

## **Division 2                      Transitional provision for Water and Other Legislation Amendment Act 2003**

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

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

[s 1136A]

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- (2) The following sections apply to the decision or action as if amendments to the sections, effected by the *Water and Other Legislation Amendment Act 2003*, had not commenced—
- section 864(4)(b)
  - section 865(1)
  - section 877(1).

### **Division 3                      Transitional provision for Petroleum and Other Legislation Amendment Act 2004**

#### **1136A Transitional provision for the Petroleum and Other Legislation Amendment Act 2004**

- (1) This section applies for the definition of *priority group* for a petroleum tenure holder or a licensee, inserted under the *Petroleum and Other Legislation Amendment Act 2004*.
- (2) It is taken that, before the day that Act was introduced into Parliament, no water licence to take underground water had been refused because of the reason mentioned in the definition.

### **Division 4                      Transitional provision for Water and Other Legislation Amendment Act 2005**

#### **1136B Notices given under s 101(1)(b) and (1)(c)**

- (1) This section applies to a notice given under section 101(1)(b) for—
- (a) the *Pioneer Valley Resource Operations Plan 2005*; or
  - (b) the *Barron Resource Operations Plan 2005*; or

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- (c) a draft resource operations plan that did not become effective under section 103 before the commencement of the *Water and Other Legislation Amendment Act 2005*, section 16.
  - (2) The notice is taken to be a notice given under section 101(1)(b) as in force after the commencement.
  - (3) Despite subsection (2), an existing interest holder may, within 60 business days after details of the water allocation to which the notice relates are recorded on the water allocations register, give a notice under section 101(1)(c) as in force after the commencement and, on the giving of the notice—
    - (a) subsection (2) ceases to apply; and
    - (b) section 150B(1) as in force after the commencement applies.

### **1136C Effect of disposal of part of land to which interim water allocation attaches**

- (1) This section applies if, before the commencement of this section—
  - (a) an interim water allocation attached to land; and
  - (b) the registered owner of the land disposed of part of the land; and
  - (c) no application was made under section 198(3) as in force before the commencement.
- (2) The interim water allocation is taken—
  - (a) not to have been surrendered; and
  - (b) to be held jointly by all owners of the land to which the interim water allocation related before the disposal.
- (3) However, within 60 business days after the commencement of this section, 1 or more of the owners of the land to which the interim water allocation relates may, with the consent of the other owners, apply for 1 or more interim water allocations to replace the jointly held interim water allocation.

[s 1136D]

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- (4) Section 198(4) to (11) as in force after the commencement applies to the application to replace the interim water allocation.

### **1136D Effect of acquisition of part of land to which interim water allocation attaches**

- (1) This section applies if, before the commencement of this section—
- (a) an interim water allocation attached to land; and
  - (b) part of the land was taken under the *Acquisition of Land Act 1967*; and
  - (c) the remaining part of the land no longer adjoined the watercourse, lake or spring from which water could be taken under the allocation; and
  - (d) no application was made under section 198(3) as in force immediately before the commencement.
- (2) The interim water allocation is taken to have been surrendered and the chief executive must deal with the allocation under section 197(3).
- (3) However subsection (2) does not apply if, within 60 business days after the commencement, the holder of the allocation satisfies the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.

### **1136E Condition about measuring device not effective**

- (1) This section applies to a water licence in force immediately before the commencement of this section if—
- (a) the water licence is subject to a condition requiring the licensee to install a measuring device to measure the volume of water taken, the rate at which it is taken and the time it is taken; and
  - (b) on the commencement, the measuring device has not been installed.



- (2) From the commencement, the water licence is no longer subject to the condition.

### **1136F Submitting system leakage management plans for approval**

- (1) This section applies to a water service provider registered as a service provider immediately before the commencement of this section.
- (2) Despite section 414D, the water service provider must give a copy of the service provider's system leakage management plan to the regulator for approval—
  - (a) for a small service provider—within 3 years after the commencement of this section; or
  - (b) for a medium or large service provider—within 2 years after the commencement of this section.

Maximum penalty—200 penalty units.

- (3) However, the water service provider is taken not to have contravened subsection (2) if the water service provider—
  - (a) provides an urban water service outside the SEQ region; and
  - (b) gives a copy of the water service provider's system leakage management plan to the regulator for approval before 1 July 2013.

### **1136G Submitting drought management plan for registration**

- (1) This section applies to a water service provider registered as a service provider immediately before the commencement of this section.
- (2) Despite section 429E, the water service provider must give a copy of the service provider's drought management plan to the regulator for registration—

[s 1136H]

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- (a) for a large service provider—within 1 year after the commencement of this section; or
  - (b) otherwise—within 2 years after the commencement of this section.
- (3) If the water service provider fails to comply with subsection (2), the name of the provider must be included in a list tabled in the Legislative Assembly under section 429K.

### **1136H Interest payable under section 1013A**

- (1) This section applies to interest on a fee or charge under this Act remaining unpaid immediately before the commencement of this section.
- (2) On the commencement, the interest becomes the late fee for the purposes of section 1013A(2) as in force on the commencement.

## **Division 5                      Transitional provisions for Water Amendment Act 2005**

### **1137 Declaration for section 999**

- (1) It is declared that—
  - (a) a relevant notice has effect, and is taken from gazettal to have always had effect, as provided by its terms, as a law binding on all persons; and
  - (b) the pricing arrangements for the supply of water set out in a relevant notice are, and are taken from gazettal to have always been, the pricing arrangements applicable to the corporatised entity; and
  - (c) for water supplied by the corporatised entity—
    - (i) the corporatised entity is required, and is taken from gazettal to have always been required, to

charge the prices determined under the relevant notice; and

- (ii) amounts charged by the corporatised entity under a relevant notice, before the commencement of this section, were, and are taken to have always been, lawfully charged; and
- (iii) amounts charged by the corporatised entity under a relevant notice, after the commencement of this section, are lawfully charged.

- (2) A relevant notice may be amended or repealed by regulation.
- (3) In this section—

*gazettal* means the gazettal of the relevant notice.

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

*relevant notice* means—

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

### **1138 Validity of amending moratorium notice not affected**

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

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- (b) the notice was made under section 29 of this Act (previously numbered section 44).

### **1139 Waiver of water meter charges**

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

## **Division 6                      Transitional provisions for Water Amendment Act 2006**

### **1140 Definitions for div 6**

In this division—

*amending Act* means the *Water Amendment Act 2006*.

*commencement* means the date of assent of the amending Act.

### **1142 Provision for particular existing licences**

The amendments to sections 110 and 178 made under the amending Act apply for a licence mentioned in the sections whether the licence was granted before or after the commencement.

### **1143 Existing development approvals**

The condition under section 360N(5) does not apply to a development approval granted before the commencement.

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**Division 7**                      **Transitional provisions for Wild  
Rivers and Other Legislation  
Amendment Act 2006**

**1144 Plans taken to be water efficiency management plans**

- (1) Subsection (2) applies if—
  - (a) a customer has a plan for achieving water efficiency in the customer's business operations; and
  - (b) the plan was approved by the customer's water service provider before the commencement of this section.
- (2) The plan is taken to be an approved water efficiency management plan from the commencement.
- (3) Subsection (4) applies if—
  - (a) after the commencement of this section a region is designated under section 360D; and
  - (b) chapter 2A, part 5, division 3 then applies to a non-residential customer in the region; and
  - (c) there is, the day the designation is made, an approved water efficiency management plan for the customer.
- (4) The approved water efficiency management plan is taken to be an approved water efficiency management plan under chapter 2A, part 5 division 3 from the day of the designation.

**1145 Validation of commission water restrictions**

- (1) This section applies if the commission has, under section 360ZE, purported to exercise a power—
  - (a) mentioned in section 360ZD; and
  - (b) before the commencement of this section.
- (2) The exercise of the power is taken to be as valid as if the power were exercised after the commencement.

[s 1146]

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(3) In this section—

*section 360ZD* means section 360ZD as it was after the commencement.

#### **1146 Validation of service provider water restrictions**

(1) This section applies if a service provider has, under section 389, purported to exercise a power—

- (a) mentioned in section 388; and
- (b) before the commencement of this section.

(2) The exercise of the power is taken to be as valid as if the power were exercised after the commencement.

(3) In this section—

*section 388* means section 388 as it was after the commencement.

## **Division 8                      Transitional provisions for Statutory Bodies Legislation Amendment Act 2007**

#### **1147 Rights and entitlements of particular employees**

(1) This section applies to a person who—

- (a) becomes an employee of the employing office for a water authority; and
- (b) was an employee of the water authority—
  - (i) immediately before the commencement of this section; and
  - (ii) immediately before becoming an employee of the employing office.

(2) On becoming an employee of the employing office for the water authority, the person is taken to be employed under

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section 630 on the conditions on which the person would have been employed by the water authority, immediately before the person became an employee of the employing office, if the water authority had never become an employer under the *Workplace Relations Act 1996* (Cwlth).

- (3) Also—
- (a) the person keeps all rights and entitlements, including entitlements to receive long service, recreation and sick leave and any similar entitlements, that—
    - (i) have accrued or were accruing to the person as an employee of the water authority; and
    - (ii) would have accrued to the person if the water authority had never become an employer under the *Workplace Relations Act 1996* (Cwlth); and
  - (b) if the person is a member of a superannuation scheme—
    - (i) the person keeps all entitlements accrued or accruing to the person as a member of the scheme; and
    - (ii) the person's membership of the scheme is not affected.
- (4) Without limiting subsection (3), for working out the person's rights and entitlements, including entitlements to receive long service, recreation and sick leave and any similar entitlements, employment of the person by the employing office for the water authority is a continuation of employment of the person by the water authority.
- (5) Subsection (2) does not limit section 630(3) and (4).

### **1148 Application of industrial instruments**

The employing office for a water authority is taken to be bound by the industrial instruments that bound the water authority immediately before it became an employer under the *Workplace Relations Act 1996* (Cwlth).

[s 1149]

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**1149 Amending Act does not affect particular powers of water authority**

Nothing in the *Statutory Bodies Legislation Amendment Act 2007*, part 11, affects the powers of a water authority under section 550.

**1150 Continued application of repealed provisions**

- (1) Chapter 4, part 3, division 4, as in force immediately before the commencement of this section (the *repealed division*), continues to apply in relation to persons employed by the water authority under the repealed division immediately before the commencement while that employment continues.
- (2) This section does not limit section 1149.

**Division 9 Transitional provisions for Water and Other Legislation Amendment Act 2007**

**1151 Applications for change to water allocation**

- (1) This section applies to an application for a change to a water allocation made under section 129 or 130 but not decided before the commencement of this section.
- (2) Section 1014(2)(gc) and any regulation made under that paragraph applies to the application.

**1153 Application of provision about guidelines for rate notice or account for water supply**

- (1) Section 429R does not apply to an existing provider until—
  - (a) for an existing provider in the SEQ region or a designated region—1 July 2009; or



- (b) for an existing provider in an area outside the SEQ region or a designated region—4 years after the commencement of this section.
- (2) Section 429R does not apply to a person, first registered as a water service provider after the commencement of this section, until 1 year after the provider's registration.
- (3) Section 429R does not apply to a related local government until 4 years after the commencement of this section.
- (4) In this section—  
*existing provider* means a person registered as a water service provider immediately before the commencement of this section.

#### **1154 Application of provision about water advices**

- (1) Section 429S does not apply to an existing provider until—
  - (a) for an existing provider in the local government area of the Brisbane City Council or the Gold Coast City Council—1 January 2008; or
  - (b) for an existing provider in the SEQ region or a designated region, other than an area mentioned in paragraph (a)—1 July 2009; or
  - (c) for an existing provider in an area outside the SEQ region or a designated region—4 years after the commencement of this section.
- (2) Section 429S does not apply to a person, first registered as a water service provider after the commencement of this section, until 1 year after the provider's registration.
- (3) In this section—  
*existing provider* means a person registered as a water service provider immediately before the commencement of this section.

[s 1155]

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### **1155 Plan taken to be water efficiency management plans**

- (1) This section applies to a plan, however called, submitted or approved as a water efficiency management plan under a requirement of a commission water restriction or a service provider water restriction from 7 December 2006 to the commencement of this section.
- (2) Chapter 2A, part 5, division 3 and chapter 3, part 2, division 7 apply to the plan as if the plan was submitted after the commencement of this section.

## **Division 10                      Transitional provisions for Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007**

### **1156 Definitions for div 10**

In this division—

*adjusted local government area* means an adjusted local government area under the reform implementation provisions.

*changeover day*, for a new or adjusted local government area, means the changeover day for the area under the reform implementation provisions.

*existing local government* means an existing local government under the reform implementation provisions.

*new local government area* means a new local government area under the reform implementation provisions.

*reform implementation provisions* means the *Local Government Act 1993*, chapter 3, part 1B.

### **1157 Particular new and adjusted local governments taken to be service providers**

- (1) This section applies in relation to an existing local

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government's infrastructure for supplying a water or sewerage service if—

- (a) the existing local government is the service provider for the service; and
  - (b) after the changeover day for a new or adjusted local government area, the infrastructure for supplying the service is on land that forms part of the new or adjusted local government area.
- (2) On and from the changeover day for the new or adjusted local government area, the local government for the new or adjusted local government area—
- (a) is taken to be the service provider for the service; and
  - (b) has, to the greatest practicable extent, the same functions, powers and obligations of the existing local government in relation to its operation as a service provider for the service.

### **1158 New and adjusted local governments must give regulator service provider documents**

- (1) The local government for a new or adjusted local government area must prepare service provider documents for its area.
- (2) Each service provider document must be prepared in the way required under this Act for the document.
- (3) The local government for a new or adjusted local government area must give the regulator a copy of each of its service provider documents—
  - (a) for a service provider document other than a system leakage management plan—within 1 year after the changeover day for the new or adjusted local government area; or
  - (b) for a system leakage management plan—within 2 years after the changeover day for the new or adjusted local government area; or

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- (c) if the regulator agrees that the local government may give a service provider document on a later day—on the later day.
- (4) However, the local government is taken not to have contravened subsection (3)(b) if the local government—
  - (a) provides an urban water service outside the SEQ region; and
  - (b) gives the regulator a copy of the local government’s system leakage management plan before 1 July 2013.
- (5) In this section—

***service provider document*** means each of the following—

  - (a) customer service standard;
  - (b) drought management plan;
  - (c) strategic asset management plan;
  - (d) system leakage management plan.

### **1159 Amending the register of service providers**

- (1) This section applies if there is a change relating to information kept by the regulator under section 516 in the register of service providers because of the changes to local government areas that happen on the changeover day for a new or adjusted local government area under the reform implementation provisions.
- (2) The regulator must, as soon as practicable after the changeover day for the new or adjusted local government area, amend the register of service providers to reflect the change.
- (3) The local government for the new or adjusted local government area must give the regulator any information the regulator requires for the purposes of amending the register under subsection (2).

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## **1160 Declaration of service areas**

- (1) This section applies if—
  - (a) an existing local government has, under section 449, declared—
    - (i) all or part of its local government area to be a service area; and
    - (ii) the service provider for the service area; and
  - (b) from the changeover day for a new or adjusted local government area, the service area forms part of the new or adjusted local government area.
- (2) On and from the changeover day for the new or adjusted local government area—
  - (a) the service area is taken to be a service area declared by the local government for the new or adjusted local government area; and
  - (b) the service provider for the service area is—
    - (i) if the existing local government declared itself to be the service provider for the area—the local government for the new or adjusted local government area; or
    - (ii) otherwise—the entity the existing local government declared to be the service provider for the service area.

## **Division 11 Transitional provisions for Water Supply (Safety and Reliability) Act 2008**

### **1161 Declared water services**

- (1) The Minister may, by gazette notice, declare that a water service, or part of a water service, is a declared water service for chapter 2A, part 5A, division 2.

[s 1162]

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- (2) A declaration made under subsection (1) has effect on the day it is published in the gazette or the later day stated in it.
- (3) A water service, or part of a water service, declared under subsection (1) to be a declared water service is a declared water service for chapter 2A, part 5A, division 2 even though requirements for the declaration of a water service under chapter 2A, part 5A, division 2 have not been complied with.

### **1162 Grid customers**

Each of the following is, from the commencement of this section, a grid customer—

- (a) CS Energy Limited (ACN 078 848 745);
- (b) Tarong Energy Limited (ACN 078 848 736).

### **1163 Changing source of water supplied under particular contract**

- (1) This section applies if—
  - (a) immediately before the commencement of this section—
    - (i) there is a contract in force between a water service provider and a customer for the supply of water; and
    - (ii) the contract states that water supplied to the customer must be from a particular source; and
  - (b) on the commencement, the water service provider becomes a grid customer.
- (2) Subject to subsection (3), the water service provider may, from the commencement of this section, supply to the customer water from another source while the contract continues in force.
- (3) The water from the other source must be fit for the purpose for which water under the contract is supplied.

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- (4) The customer may not end the contract only because the water is supplied from another source.
  - (5) The supply to the customer by the water service provider, under subsection (2), of water from another source—
    - (a) does not constitute a breach of the contract by the water service provider; and
    - (b) does not give rise to a claim for damages against the water service provider.

#### **1164 Existing water supply agreements end**

- (1) This section applies if—
  - (a) immediately before the commencement of this section, a water supply agreement is in force in relation to the supply of water or water services; and
  - (b) from the commencement, the water or water services are to be supplied by a declared water service.
- (2) The water supply agreement ends at the end of 30 June 2008.
- (3) In this section—

***potential grid participant*** means—

- (a) an entity supplying a water service, or part of a water service, declared under section 1161; or
- (b) an entity that becomes, under section 1162, a grid customer.

***water supply agreement*** means a contract or other agreement between—

- (a) 2 or more potential grid participants; or
- (b) a potential grid participant and SEQ Water; or
- (c) a potential grid participant and SunWater.

### **1165 References to particular entities in relevant water resource plans**

- (1) This section applies if—
  - (a) an entity (a *water entity*) has an authority that allows taking or interfering with water; and
  - (b) under the *South East Queensland Water (Restructuring) Act 2007*, section 76, the authority is transferred to the bulk water supply authority; and
  - (c) under a transfer notice, the authority is replaced with 2 or more authorities to take or interfere with water that are transferred to other entities.
- (2) If a provision of a relevant water resource plan refers to the water entity, in relation to having an authority to take or interfere with water, the provision must be read with the changes necessary to give practical effect to the transfer notice.
- (3) In this section—

*relevant water resource plan* means each of the following—

  - (a) *Water Resource (Gold Coast) Plan 2006*;
  - (b) *Water Resource (Logan Basin) Plan 2007*;
  - (c) *Water Resource (Mary Basin) Plan 2006*;
  - (d) *Water Resource (Moreton) Plan 2007*.

*transfer notice* means a transfer notice under section 360ZDN(1).

### **1166 Codes for assessment under the Sustainable Planning Act 2009**

- (1) This section applies if, before the commencement of this section, a code was approved under a regulation for section 1014(2)(i) or (j).
- (2) From the commencement of this section, the code is taken to be a code stated for section 1014(2)(i) or (j).



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### **1167 Amendment of water resource plans**

The amendment of each of the following water resource plans by the *Water Supply (Safety and Reliability) Act 2008* does not affect the power of the Governor in Council to further amend the plan or to repeal it—

- (a) *Water Resource (Fitzroy Basin) Plan 1999*;
- (b) *Water Resource (Gold Coast) Plan 2006*;
- (c) *Water Resource (Logan Basin) Plan 2007*;
- (d) *Water Resource (Mary Basin) Plan 2006*;
- (e) *Water Resource (Moreton) Plan 2007*.

## **Division 12 Transitional provisions for Water (Commonwealth Powers) Act 2008**

### **1168 Existing draft resource operation plans**

Chapter 2, part 4, division 2, as amended under the *Water (Commonwealth Powers) Act 2008*, applies for a draft resource operations plan prepared under that division before this section commences.

### **1169 Enactment of amendment of water resource plans does not affect nature of plan**

It is declared that the amendment of a water resource plan (the *plan*) under the *Water (Commonwealth Powers) Act 2008* does not affect the power of—

- (a) the Minister to prepare, or the Governor in Council to approve, a further amendment of the plan; or
- (b) the Minister to prepare, and the Governor in Council to approve, another water resource plan to replace the plan; or
- (c) the Governor in Council to repeal the plan.

## **Division 13                      Transitional provision for Sustainable Planning Act 2009**

### **1170    Continuing application of ch 8, pt 2**

- (1) This section applies to a development application made but not decided under the repealed *Integrated Planning Act 1997* before the commencement.
- (2) Chapter 8, part 2 of this Act as in force before the commencement continues to apply to the development application as if the *Sustainable Planning Act 2009* had not commenced.
- (3) In this section—  
*commencement* means the day this section commences.

## **Division 14                      Transitional provisions for Natural Resources and Other Legislation Amendment Act 2010**

### **1171    Continuing application of s 21**

- (1) The repealed section 21 continues to apply for all matters arising before the commencement of this section as if the *Water Act 2000* had not been amended by the *Natural Resources and Other Legislation Amendment Act 2010*.
- (2) In this section—  
*repealed section 21* means section 21 as in force before the commencement of this section.

### **1172    Transition for jurisdictional change for existing licence or permit**

- (1) This section applies if—

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- (a) immediately before the commencement of this section, a person was authorised under a licence or permit under this Act to conduct an activity of any type within a watercourse; and
  - (b) before the commencement of this section, the person lawfully conducted, on land adjoining the land to which the licence or permit applied, an activity of the same nature; and
  - (c) on the commencement of this section, the adjoining land became land included in a watercourse; and
  - (d) the licence or permit is still in force after the commencement of this section.
- (2) The licence or permit, while still in force, is taken to be extended to authorise the conduct of the activity on the adjoining land—
- (a) for the period of 6 months immediately following the commencement of this section; or
  - (b) if within the 6 months period the person makes an application under subsection (3) and the application has not been approved or refused at the end of the 6 months period—until the chief executive approves or refuses the application.
- (3) The person may apply to the chief executive for the extension of the application of the licence or permit to the adjoining land.
- (4) An application under subsection (3) must be made within 6 months after the commencement of this section.
- (5) In deciding the application, the chief executive must have regard to the same matters required to be taken into consideration for the grant of the licence or permit.
- (6) If the chief executive approves the application, the licence or permit, while still in force, is taken, subject to any reasonable conditions stated in the approval, to be extended to authorise

[s 1173]

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the conduct of the activity on the adjoining land, starting when the extension provided for in subsection (2) ends.

- (7) If, having regard to the matters mentioned in subsection (5), the chief executive can not approve an application under subsection (3), the chief executive may nevertheless give an authority that applies as for an approval under subsection (6), but only for the period stated in the authority.
- (8) The chief executive may give an applicant an authority under subsection (7) only if the applicant satisfies the chief executive that the applicant will suffer particular hardship because of the refusal of the application under subsection (3).
- (9) The period stated in the authority under subsection (7) must not be longer than the period reasonably needed for the applicant to move the conduct of the activity from the adjoining land, but in any event must not end later than 5 years after the commencement of this section.
- (10) Within 10 days after making a decision about an application or authority under this section, the chief executive must give the applicant an information notice about the decision.

## **Division 15                      Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

### **Subdivision 1                  Provisions for water efficiency management plans**

#### **1173    Definitions for sdiv 1**

In this subdivision—

*commencement* means the day this section commences.

*previous*, for a stated provision that includes a number, means the provision of this Act that included that number as in force immediately before the commencement.

#### **1174 Application of s 360ZCB**

Until a regulation prescribes water use and quantities for section 360ZCB(8)—

- (a) section 360ZCB(8) does not apply; and
- (b) a reference in section 360ZCB to a relevant customer, or type of relevant customer, of a water service provider is taken to be a reference to any customer, or type of customer, of the provider.

#### **1175 Particular notices to prepare water efficiency management plans**

- (1) This section applies if—
  - (a) immediately before the commencement, a water service provider in the SEQ region has, under previous section 360ZCB(1) or (3), given a customer, or type of customer, a written notice requiring the customer to prepare a water efficiency management plan; and
  - (b) on the commencement, the customer has not complied with the notice.
- (2) From the commencement, the notice is taken to be a notice given by the commission under section 360ZCB(4).

#### **1176 Approved water efficiency management plans for water service providers in SEQ region**

- (1) This section applies if, immediately before the commencement, a customer to whom an approved water efficiency management plan applies was a customer of a water service provider in the SEQ region.

[s 1177]

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- (2) From the commencement, the relevant entity for the plan is the commission.

## Subdivision 2 Other provisions

### 1177 First commission CEO

- (1) This section applies on the date of assent to the person who, immediately before that date, held office as the commission's executive director (the *old office*).
- (2) The old office ends.
- (3) The person is taken to have been appointed as the commission CEO (the *new office*).
- (4) The person—
  - (a) holds the new office for a term of 3 years from when the person was most recently appointed to the old office; and
  - (b) has an option, exercisable before the 3 years ends, to continue to hold the new office for a further 2 years.
- (5) The person's conditions of employment for the new office are the conditions of employment of the old office immediately before the date of assent.
- (6) Subsection (5) applies subject to subsection (4) and to any necessary changes from the old office to the new office.
- (7) Subject to subsections (4) to (6), chapter 2A, part 2, division 4A applies for the person's holding of the new office.
- (8) In this section—

*conditions of employment* includes allowances for variations to remuneration.

*date of assent* means the date of assent of the *South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010*.

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**Division 16**                      **Transitional provisions for Water  
and Other Legislation Amendment  
Act 2010**

**1179**    **Definition for div 16**

In this division—

*commencement* means the day this section commences.

**1180**    **Application of obligation to give reports for particular  
petroleum tenure holders**

- (1) Subsection (2) applies to a petroleum tenure holder if—
  - (a) the term of the holder's petroleum tenure ends less than 1 year after the commencement; or
  - (b) the holder gives a notice of closure within 14 months after the commencement.
- (2) If subsection (1)(a) applies, the holder must give the chief executive a notice of closure under section 372 within 20 business days after the commencement.
- (3) A holder mentioned in subsection (1) is not required to give an underground water impact report under section 370.

**1181**    **Existing agreements between petroleum tenure holders  
and bore owners**

- (1) This section applies if, on the commencement, an agreement is in force between a petroleum tenure holder and a bore owner about a water bore affected by the exercise of the holder's underground water rights.
- (2) From the commencement—
  - (a) the holder is taken to have complied with the holder's obligation to undertake a bore assessment for the bore under chapter 3, part 5, division 2; and

[s 1182]

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- (b) the agreement is taken to be a make good agreement entered into between the holder and bore owner for the water bore for the purposes of chapter 3, part 5.

## **Division 17                      Transitional provisions for Water and Other Legislation Amendment Act 2011**

### **1182    Definitions for div 17**

In this division—

*amending Act* means the *Water and Other Legislation Amendment Act 2011*.

*commencement* means the commencement of the provision in which the term is used.

*old*, for a provision of this Act, means the provision as in force immediately before the commencement.

### **1183    Existing information report**

An information report, for a proposed draft water resource plan, prepared by the Minister under old section 39 is taken to be a statement of proposals under section 39 for the proposed draft water resource plan.

### **1184    Existing public notice of proposal to prepare draft water resource plan**

A notice published under old section 40 for a proposed draft water resource plan is taken to be a notice under section 40(1) for the proposed draft water resource plan.



**1185 Existing written submission about proposed draft water resource plan and establishment of a community reference panel**

A written submission, about a proposed draft water resource plan and the establishment of a community reference panel, made before or after the commencement for a notice under old section 40 is taken to be a written submission under section 40(2)(e) about the statement of proposals for the proposed draft water resource plan.

**1186 Existing community reference panels**

- (1) This section applies if—
  - (a) immediately before the commencement, a community reference panel was established under repealed section 41 for a proposed draft water resource plan; and
  - (b) the Minister has not prepared the draft water resource plan.
- (2) The panel continues in existence until the Minister has prepared the draft water resource plan, unless the Minister sooner publishes a notice under section 52 about the Minister's decision not to proceed with the preparation of a draft or final draft water resource plan for the proposed draft water resource plan.
- (3) In preparing the draft water resource plan, the Minister must consider the advice from the panel.

**1187 Existing overview report**

An overview report about a draft water resource plan prepared under old section 48 is taken to be an overview report prepared under section 48.

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**1188 Existing notice about availability of draft water resource plan**

A notice published under old section 49 about the availability of a draft water resource plan is taken to be a notice published under section 49 about the availability of—

- (a) the draft plan; and
- (b) an overview report prepared under section 48.

**1189 Existing written submission about draft water resource plan**

A written submission, about a draft water resource plan, made before or after the commencement for a notice under old section 49 is taken to be a written submission under section 49(2)(b) about the draft water resource plan.

**1190 Stated amendments of water resource plan**

- (1) Subsection (2) applies if a water resource plan states that an amendment of a stated type may be made to the plan by amendment under section 57 and the statement was in the plan immediately before the commencement.
- (2) Old section 57(b) continues to apply to the amendment as if the amending Act had not been enacted.

**1191 Existing written submission about a proposed draft resource operations plan**

A written submission, about a proposed draft resource operations plan, made before or after the commencement for a notice under old section 96 must be considered by the chief executive in developing the proposed draft resource operations plan.

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**1192 Existing notice to provide proposed arrangement for management of water**

- (1) This section applies if, before the commencement, the chief executive gave a notice under old section 97.
- (2) The notice is taken to be a notice under section 97.

**1193 Existing proposed arrangement for management of water**

- (1) This section applies if, before the commencement, the holder of an interim resource operations licence, a resource operations licence or other authorisation to operate water infrastructure for the management of water to which a proposed water resource operations plan is intended to apply provided proposed arrangements for the management of the water under old section 97.
- (2) The proposed arrangements are taken to be proposed arrangements, provided under section 97, for the management of the water.

**1194 Existing notice about availability of draft resource operations plan**

- (1) A notice published under old section 100 about the availability of a draft resource operations plan is taken to be a notice published under section 100 about the availability of the draft resource operations plan.
- (2) If a notice is published under old section 100 about the availability of a draft resource operations plan, an overview report under section 99A about the draft resource operations plan is not required.

**1195 Existing written submissions about draft resource operations plan**

A written submission, about a draft resource operations plan, made before or after the commencement for a notice under old

[s 1196]

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section 100 is taken to be a written submission under section 100(4)(b) about the draft resource operations plan.

### **1196 Stated amendments of resource operations plan**

- (1) Subsection (2) applies if a resource operations plan states that an amendment of a stated type may be made to the plan by amendment under section 106 and the statement was in the plan immediately before the commencement.
- (2) Old section 106(b) continues to apply to the amendment as if the amending Act had not been enacted.

### **1197 Existing draft water resource plans, draft amending water resource plans and draft new water resource plans to replace existing water resource plans**

- (1) A draft water resource plan in existence under this Act immediately before the commencement continues to be a draft water resource plan for this Act.
- (2) A draft amending water resource plan in existence under this Act immediately before the commencement continues to be a draft amending water resource plan for this Act.
- (3) A draft new water resource plan, to replace an existing water resource plan, in existence under this Act immediately before the commencement continues to be a draft new water resource plan, to replace the existing water resource plan, for this Act.

### **1198 Existing draft resource operations plans and draft amending resource operations plans**

- (1) A draft resource operations plan in existence under this Act immediately before the commencement continues to be a draft resource operations plan for this Act.
- (2) A draft amending resource operations plan in existence under this Act immediately before the commencement continues to be a draft amending water resource plan for this Act.

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### **1199 Existing final water resource plans**

A final water resource plan in existence under this Act immediately before the commencement, other than a final water resource plan mentioned in old section 50(3), is taken to be a final draft water resource plan for this Act.

### **1200 Continuation of provisions relating to replacement of expired licence under old s 229(3)**

- (1) Subsection (2) applies if, before the commencement—
  - (a) a water licence expired under old section 229(2); and
  - (b) no application has been made under old section 229(3) for 1 or more licences to replace the expired licence.
- (2) Old section 229(3) to (9) continue to apply in relation to the expired licence as if the amending Act had not been enacted.
- (3) Subsection (4) applies if—
  - (a) before the commencement, 1 or more owners of land applied under old section 229(3) for 1 or more licences to replace an expired licence; and
  - (b) the application has not been decided before the commencement.
- (4) Old section 229(5) to (9) continue to apply in relation to the application as if the amending Act had not been enacted.

### **1201 Application of s 289(6)**

Section 289(6) applies only to an allocation notice that is renewed after the commencement.

### **1202 Existing process to prepare new draft water resource plan to replace Water Resource (Burnett Basin) Plan 2000**

- (1) Despite section 96, the chief executive need not prepare a resource operations plan, to implement the proposed new

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water resource plan, concurrently with the Minister's preparation of the draft water resource plan.

- (2) If the chief executive does not prepare a resource operations plan, to implement the proposed new water resource plan, before the new water resource plan commences, the chief executive must prepare a resource operations plan, to implement the new water resource plan, as soon as practical after the new water resource plan commences.
- (3) Section 100(3) does not apply to—
  - (a) the draft new water resource plan (if any); or
  - (b) the proposed draft amending resource operations plan (if any) to implement the proposed new water resource plan.
- (4) Section 104B does not apply to—
  - (a) the final draft water resource plan (if any); or
  - (b) the final draft amending resource operations plan (if any) to implement the proposed new water resource plan.
- (5) In this section—

*proposed new water resource plan* means the proposed new water resource plan under the notice of intention to prepare a draft new water resource plan to replace the *Water Resource (Burnett Basin) Plan 2000* published by the Minister under old section 40 on 18 January 2010.

*Editor's note—*

The notice may be viewed at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

### **1203 Existing process to amend Water Resource (Condamine and Balonne) Plan 2004**

- (1) Despite section 96, the chief executive need not prepare a resource operations plan, to implement the proposed amending water resource plan, concurrently with the Minister's preparation of the draft water resource plan.

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- (2) If the chief executive does not prepare a resource operations plan, to implement the proposed amending water resource plan, before the water resource plan commences—
- (a) the chief executive must prepare a resource operations plan, to implement the amending water resource plan, as soon as practical after the amending water resource plan commences; and
  - (b) after the amending water resource plan commences and until the resource operations plan implementing it commences, the *Condamine and Balonne Resource Operations Plan 2008 (existing ROP)* is taken to be the resource operations plan for the amending water resource plan.
- (3) However, to the extent of any inconsistency between the amending water resource plan and the existing ROP, the existing ROP prevails, unless the amending water resource plan expressly provides otherwise.
- (4) Section 100(3) does not apply to—
- (a) the draft amending water resource plan (if any); or
  - (b) the proposed draft amending resource operations plan (if any) to implement the proposed amending water resource plan.
- (5) Section 104B does not apply to—
- (a) the final draft amending water resource plan (if any); or
  - (b) the final draft amending resource operations plan (if any) to implement the proposed amending water resource plan.
- (6) In this section—
- proposed amending water resource plan*** means the proposed amending water resource plan under the notice of intention to prepare a draft water resource plan to amend the *Water Resource (Condamine and Balonne) Plan 2004* published by the Minister under old section 40 on 14 August 2009.

[s 1204]

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*Editor's note—*

The notice may be viewed at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

**1204 Existing process to prepare new draft water resource plan to replace Water Resource (Cooper Creek) Plan 2004**

- (1) To remove any doubt, it is declared that the chief executive need not prepare a resource operations plan, to implement the proposed new water resource plan, concurrently with the Minister's preparation of the draft water resource plan.
- (2) If the chief executive does not prepare a resource operations plan, to implement the proposed new water resource plan, concurrently with the Minister's preparation of the draft water resource plan, the chief executive must prepare a resource operations plan, to implement the new water resource plan, as soon as practical after the new water resource plan commences.
- (3) Section 100(3) does not apply to—
  - (a) the draft new water resource plan (if any); or
  - (b) the draft resource operations plan (if any) to implement the proposed new water resource plan.
- (4) Section 104B does not apply to—
  - (a) the final draft water resource plan (if any); or
  - (b) the final draft resource operations plan (if any) to implement the proposed new water resource plan.
- (5) In this section—

***draft new water resource plan*** means the Cooper Creek Draft Water Resource Plan under the notice about the availability of that draft plan published by the Minister under old section 49 on 18 October 2010.

*Editor's note—*

The notice may be viewed at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.



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**1205 Existing process to prepare new draft water resource plan to replace Water Resource (Fitzroy Basin) Plan 1999**

- (1) To remove any doubt, it is declared that the chief executive need not prepare a resource operations plan, to implement the proposed new water resource plan, concurrently with the Minister's preparation of the draft water resource plan.
- (2) If the chief executive does not prepare a resource operations plan, to implement the proposed new water resource plan, concurrently with the Minister's preparation of the draft water resource plan, the chief executive must prepare a resource operations plan, to implement the new water resource plan, as soon as practical after the new water resource plan commences.
- (3) Section 100(3) does not apply to—
  - (a) the draft new water resource plan (if any); or
  - (b) the proposed draft amending resource operations plan (if any) to implement the proposed new water resource plan.
- (4) Section 104B does not apply to—
  - (a) the final draft water resource plan (if any); or
  - (b) the final draft amending resource operations plan (if any) to implement the proposed new water resource plan.
- (5) In this section—

***proposed new water resource plan*** means the draft Water Resource (Fitzroy Basin) Plan 2010 under the notice about the availability of that draft plan published by the Minister under old section 49 on 13 January 2011.

*Editor's note—*

The notice may be viewed at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

**1206 Existing process to prepare draft water resource plan for wet tropics catchment**

- (1) The following apply—
- (a) despite section 96, the Minister may prepare a draft water resource plan under section 38 for the proposed water resource plan; and
  - (b) the draft water resource plan may be made publicly available under section 49; and
  - (c) the final draft water resource plan may be approved by the Governor in Council under section 50(2);

even if the chief executive has not prepared a resource operations plan, to implement the proposed water resource plan, concurrently with the Minister's preparation of the draft water resource plan.

- (2) A draft resource operations plan implementing the water resource plan may be prepared under section 95, or made publicly available under section 100, at any time before or after that approval.
- (3) Section 100(3) does not apply to—
- (a) the draft water resource plan (if any); or
  - (b) the draft resource operations plan (if any) to implement the proposed water resource plan.
- (4) Section 104B does not apply to—
- (a) the final draft water resource plan (if any); or
  - (b) the final draft resource operations plan (if any) to implement the proposed water resource plan.
- (5) In this section—

***proposed water resource plan*** means the proposed Wet Tropics Water Resource Plan under the notice of intention to prepare a draft Wet Tropics Water Resource Plan published by the Minister under old section 40 on 26 February 2010.

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*Editor's note—*

The notice may be viewed at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

## **1207 Particular notices are taken to be chief executive's or owners' notices**

- (1) This section applies if—
  - (a) before the commencement, an owner of land gave a notice, purportedly under the *Water Regulation 2002*, section 3CA in relation to the Lockyer Valley area works as defined under that section; or
  - (b) before the commencement of the *Water Resource (Pioneer Valley) Plan 2002*, section 30A, an owner of land gave a notice, purportedly under the *Water Regulation 2002*, section 3CA in relation to the Bundaberg, Cooloola and Pioneer Valley area works as defined under that section.
- (2) The requirement under the *Water Regulation 2002*, section 3CA(2) as in force immediately before the commencement, to notify the chief executive of works and water use or proposed water use is taken to be a chief executive's notice for the works mentioned in subsection (1).
- (3) A notice mentioned in subsection (1) (a *relevant notice*) is taken to be the owner's notice for the works.
- (4) If a chief executive's notice under section 37, other than a chief executive's notice mentioned in subsection (2), relates to an owner of land and to works to which a relevant notice relates, the owner is not required to give the chief executive an owner's notice under section 37 for the works.

*Note—*

See section 37(2).

[s 1208]

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## **1208 Amendment of subordinate legislation under amending Act**

The amendment of subordinate legislation under the amending Act does not affect a power to further amend the subordinate legislation, to repeal it or to approve the further amendment or repeal.

## **Division 18 Transitional provision for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012**

### **1209 Continuation of existing temporary full supply level**

- (1) This section applies to a temporary full supply level (an *existing temporary full supply level*) declared for a dam under pre-amended section 34A and in force immediately before the commencement.
- (2) The existing temporary full supply level continues in force until it ceases to have effect or the declaration is revoked.
- (3) Pre-amended sections 34A(3), 34B, 34C and 34E apply in relation to the dam and the existing temporary full supply level as if the sections had not been amended by the amending Act.
- (4) Subject to subsection (5), the Water Supply Act, chapter 4, part 3, division 4 applies to the existing temporary full supply level as if a reference in the division to a temporary full supply level were a reference to the existing temporary full supply level.
- (5) The Water Supply Act, section 396, applies in relation to the dam only if the existing temporary full supply level has been declared for the dam for no longer than 1 month.
- (6) In this section—

***amending Act*** means the *Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012*.

***commencement*** means the commencement of this section.

***pre-amended***, in relation to a provision, means the provision as in force immediately before the commencement.

## Schedule 4 Dictionary

### section 3

**accredited ERMP** means an accredited ERMP under the *Environmental Protection Act 1994*.

**administrator** means a person appointed under section 955(2) to operate a service provider's infrastructure.

**ADR** see section 426(2)(b).

**allocation notice** see section 696(c).

**alternative institutional structure** includes a cooperative, corporation and trust.

**amending Act**, for chapter 9, part 5, division 17, see section 1182.

**anniversary day**, for an approved water efficiency management plan, means each anniversary of the day the plan was approved.

**annual report** means a water authority's annual report under the *Financial Accountability Act 2009*.

**applicable code** see the *Sustainable Planning Act 2009*, schedule 3.

**appointor**, of an authorised officer, see section 739(1).

**appropriately qualified**, for a person to whom a power may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

**approved baseline assessment plan**, for the area of a petroleum tenure, means a baseline assessment plan for the area that is approved under section 399.

**approved final report** means a final report that is approved under section 385.

**approved form** means a form approved under section 1013.

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***approved meter*** means a meter prescribed under a regulation as an approved meter.

***approved recycled water management plan*** see the Water Supply Act, schedule 3.

***approved underground water impact report*** means an underground water impact report that is approved under section 385.

***approved water efficiency management plan*** means a water efficiency management plan approved under chapter 2A, part 5, division 3.

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

***artesian bore*** includes a shaft, well, gallery, spear or excavation, and any works constructed in connection with the shaft, well, gallery, spear or excavation, that taps an aquifer and the water flows, or has flowed, naturally to the surface.

***artesian water*** means water that occurs naturally in, or is introduced artificially into, an aquifer, which if tapped by a bore, would flow naturally to the surface.

***assessment manager*** see the *Sustainable Planning Act 2009*, section 246(1).

***authorised officer*** means a person appointed as an authorised officer under section 739.

***authorised use or purpose***, of water, for chapter 3, see section 362.

***authority area***, for a water authority, see section 548(1).

***available for inspection and purchase*** see section 1009.

***bar***, in a watercourse, means a temporary accumulation of sediment—

- (a) that is within the bed of the watercourse; and
- (b) to which the following characteristics can generally be expected to apply—

- (i) it is formed during the recession of flows in the watercourse when sediment is deposited in the bed of the watercourse;
- (ii) it is a dynamic feature, being changed by flow events in the watercourse;
- (iii) because of its dynamic nature as mentioned in subparagraph (ii), its covering vegetation is immature, and not woody;
- (iv) it is made up of coarse materials, in particular, sand and gravel.

**baseline assessment**, for chapter 3, see section 362.

**baseline assessment plan**, for the area of a petroleum tenure, means a baseline assessment plan that complies with section 397(2).

**bed and banks**, of a lake, means the land that is normally covered by the water of the lake, whether permanently or intermittently, regardless of frequency, but does not include adjoining land from time to time covered in flood events.

**bench**, in a watercourse, means a storage of sediment—

- (a) that is within the channel of the watercourse; and
- (b) to which the following characteristics can generally be expected to apply—
  - (i) it is higher than the bed of the watercourse and bars in the watercourse, but lower than the level of either outer bank of the watercourse;
  - (ii) it is formed through sediment deposition during flow events in the watercourse that are at or near the level of either outer bank;
  - (iii) it is a reasonably flat sediment deposit, reasonably straight or gently curved as viewed from above, and at least partly consolidated by riparian vegetation;
  - (iv) it may be distinguished from a floodplain because the deposits making up a floodplain are finer and more layered.



**board** see section 597.

**bore assessment**, of a water bore, see section 411.

**bore owner**, of a water bore, for chapter 3, see section 362.

**bore trigger threshold**, for an aquifer, for chapter 3, see section 362.

**bulk water service** means the supply of large quantities of water other than as an irrigation service.

**bulk water supply authority** means the Queensland Bulk Water Supply Authority established under the *South East Queensland Water (Restructuring) Act 2007*, section 6.

**capital structure**, for a water authority, means the authority's level of debt compared to its level of equity.

**category 1 water authority** means—

- (a) the Gladstone Area Water Board; or
- (b) the Mount Isa Water Board.

**category 2 water authority** means a water authority other than a category 1 water authority.

**CEWH** means the Commonwealth Environmental Water Holder established under the *Water Act 2007* (Cwlth).

**chief executive**, for chapter 2A, part 5A, division 4, see section 360ZDK.

**chief executive's notice** see section 37(2).

**closing CMA tenure**, for chapter 3, see section 362.

**CMA tenure**, for chapter 3, see section 362.

**commencement**—

- (a) for chapter 9, part 5, division 16, see section 1179; or
- (b) for chapter 9, part 5, division 17 see section 1182.

**commercialisation** see section 637.

**commercially sensitive**, for sections 445 and 446, means reasonably expected to affect adversely a person's commercial activities.

**commission** means the Queensland Water Commission.

**commission CEO** see section 357.

**commissioner** means the commissioner appointed under section 348A.

**commission water restriction** see section 360ZD(1).

**community service obligations**, of a category 1 water authority, means the obligations to do anything the authority is satisfied—

- (a) are not in the authority's commercial interests to perform; and
- (b) arise because of—
  - (i) a direction by the Minister or a joint direction by the Minister and Treasurer; or
  - (ii) notice by the Minister of a public sector policy that is to apply to the authority; and
- (c) do not arise because of the application of the following key commercialisation principles and their elements—
  - (i) principle 3—accountability for performance;
  - (ii) principle 4—competitive neutrality.

**compliance notice** means a notice given under section 780.

**concurrency agency**, for a development application, has the meaning given by the *Sustainable Planning Act 2009*.

**connection** means a property service that supplies either water supply services or sewerage services, or both, to a premises.

**consolidated aquifer**, for chapter 3, see section 362.

**constructing authority** see the *Acquisition of Land Act 1967*, section 2.

**consultation day**, for a proposed underground water impact report or final report, for chapter 3, see section 362.

**convicted** includes a finding of guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is

recorded.

***corporatised entity*** see section 1110.

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

***cumulative management area***, for chapter 3, means an area declared to be a cumulative management area under section 365.

***customer***—

1 Generally, *customer*—

(a) of a service provider that is a local government, means—

(i) a ratepayer of the local government who enjoys registered services supplied by the local government; or

(ii) a person who occupies non-residential premises that enjoy registered services supplied by the local government; or

(b) of a service provider other than a local government, means—

(i) a person who purchases registered services supplied by the service provider; or

(ii) a person who occupies non-residential premises that enjoy registered services supplied by the service provider.

2 In chapter 4 and section 851, *customer* means a person, other than a ratepayer, for whom a water authority carries out water activities.

***dam***—

1 *Dam* means—

(a) works that include a barrier, whether permanent or temporary, that does or could or would impound

water; and

- (b) the storage area created by the works.
- 2 The term includes an embankment or other structure that controls the flow of water and is incidental to works mentioned in item (1)(a).
- 3 The term does not include the following—
- (a) a rainwater tank;
  - (b) a water tank constructed of steel or concrete or a combination of steel and concrete;
  - (c) a water tank constructed of fibreglass, plastic or similar material.

***declarations register*** see section 360ZCV(1).

***declared catchment area*** means a catchment area declared for section 258.

***declared pest*** means a declared pest under the *Land Protection (Pest and Stock Route Management) Act 2002*.

***declared water service*** means a water service, or part of a water service, declared under chapter 2A, part 5A, division 2.

***deferred aspect***, for a resource operations plan, means a deferred aspect under section 103(3) of the final draft of the plan prepared under that section.

***demand management***, for water, includes—

- (a) reducing demand for water; and
- (b) increasing the efficiency of water supply works; and
- (c) increasing the efficiency of the use of water by end users; and
- (d) substituting a process that does not use a water resource for one that does use a water resource;
- (e) substituting one water resource for another.

***depositional feature***, in relation to a watercourse, means a deposit of clay, sand or silt that is carried during flows of water in the watercourse.

*Examples—*

- mud deposited in cracks in rocks
- sand deposits behind rocks

***designated region*** means a region designated under section 360D.

***desired levels of service objectives***, for water, includes the maximum duration, frequency, and severity of water restrictions that may be expected by end users of the water.

***destruction***, of vegetation, means the removing, clearing, killing, cutting down, felling, ringbarking, digging up, pushing over, pulling over or poisoning of the vegetation.

***development*** has the meaning given by the *Sustainable Planning Act 2009*, section 7.

***development application*** means an application for a development approval.

***development approval*** means a development approval as defined under the *Sustainable Planning Act 2009*.

***development condition***, of a development approval, means a condition of the approval imposed by, or imposed because of a requirement of, the chief executive as assessment manager or concurrence agency for the application for the approval.

***development permit*** means a development permit as defined under the *Sustainable Planning Act 2009*.

***director***, for a water authority, means a person appointed as a director of the authority's board under section 600.

***dispute notice*** means a notice given under section 891(2).

***distribution operations licence*** means a distribution operations licence granted under chapter 2, part 4, division 3.

***distribution service provider*** means an entity that distributes water supplied by a declared water service to an end user of the water.

***distribution system*** means the infrastructure for—

- (a) the transmission of water; or

- (b) the reticulation of water; or
- (c) water treatment or recycling.

**dividend**, for chapter 4, includes an amount in the nature of a dividend.

**document certification requirement** see section 760(5).

**document production requirement** see section 760(6).

**domestic purposes** includes irrigating a garden, not exceeding .25ha, being a garden cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

**downstream limit**, of a watercourse, means—

- (a) if a regulation under section 1006(1) has declared a downstream limit of the watercourse—the downstream limit declared; or
- (b) otherwise—the point to which the high spring tide ordinarily flows and reflows in the watercourse, whether due to a natural cause or to an artificial barrier.

**drainage feature** means a natural landscape feature, including a gully, drain, drainage depression or other erosion feature that—

- (a) is formed by the concentration of, or operates to confine or concentrate, overland flow water during and immediately after rainfall events; and
- (b) flows for only a short duration after a rainfall event, regardless of the frequency of flow events; and
- (c) commonly, does not have enough continuing flow to create a riverine environment.

*Example for paragraph (c)—*

There is commonly an absence of water favouring riparian vegetation.

**ecological outcome** means a consequence for an ecosystem in its component parts specified for aquifers, drainage basins, catchments, subcatchments and watercourses.

**ecosystem** means a dynamic combination of plant, animal and micro-organism species and communities and their non-living

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environment and the ecological processes between them interacting as a functional unit.

***election notice*** see section 426(2).

***employee of the employing office*** see section 630(2).

***employing office***, for a water authority, means the employing office for the water authority established under this Act.

***environmental flow objective***, for a water resource plan, means a flow objective for the protection of the health of natural ecosystems for the achievement of ecological outcomes.

***environmental impact statement***, for chapter 8, part 3C, see section 992G.

***environmental management rules***, for a resource operations plan, means the environmental management rules included in the plan.

***establishment proposal***, for a water authority, means the proposal, notice of which was given under section 552(1), to establish the authority.

***establishment regulation*** means a regulation made under section 598 establishing a water authority.

***executive officer***—

- (a) of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer; or
- (b) of the employing office for a water authority, means the executive officer of the employing office for the water authority appointed under section 628.

***external review***, for a decision, means a review of the decision by QCAT under the QCAT Act.

***fill***, for chapter 2, part 8, means any kind of material in solid form (whether or not naturally occurring) capable of being deposited at a place.

***final report*** means a final report given under section 374.

***floodplain*** means an area of reasonably flat land adjacent to a watercourse that—

- (a) is covered from time to time by floodwater overflowing from the watercourse; and
- (b) does not, other than in an upper valley reach, confine floodwater to generally follow the path of the watercourse; and
- (c) has finer sediment deposits than the sediment deposits of any bench, bar or in-stream island in the watercourse.

***floodwater***, in relation to a watercourse or lake, means water that has overflowed the outer banks of the watercourse, or the bed and banks of the lake, because of a flood event affecting the watercourse or lake, and is on land near the watercourse or lake.

***flow conditions***, for a water entitlement or a moratorium notice, means—

- (a) the rate of flow of water in a watercourse, lake or spring or overland; or
- (b) the level of water in a watercourse, lake, spring, aquifer, dam or weir.

***former water area*** means a drainage area or water supply area established under the repealed Act.

***former water board*** means a drainage board, water board or water supply board established under the—

- (a) the repealed GAWB Act; or
- (b) part 10 of the repealed Act.

***full cost pricing***, for a category 1 water authority, is charging for goods or services taking into account the full cost of providing the goods or services, including amounts equivalent to—

- (a) government taxes that are not otherwise payable to the Commonwealth, State or local government; and
- (b) debt guarantee fees for State guarantees.

***full supply level*** means—



- 
- (a) for a dam generally—the level of the dam’s water surface when water storage is at maximum operating level without being affected by flood; or
  - (b) for a relevant dam under chapter 2, part 2, division 4—the full supply level stated in the resource operations plan under which the dam operates.

**government entity** see the *Public Service Act 2008*, section 24.

**graded jump up** means an inclined section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels.

**grid contract document** see section 360ZDD(1).

**grid customer**—

- (a) means a registered grid participant in the category of grid customer; and
- (b) includes an entity mentioned in section 1162.

**grid service provider**—

- 1 A *grid service provider* is a water service provider supplying a declared water service.
- 2 An entity proposing to construct, or in the process of constructing, water supply works for supplying a declared water service is a *grid service provider* in relation to the service when the water supply works are commissioned.
- 3 For item 2, works are commissioned when, under the relevant contract to build the works, they reach a stage under which the building of the works is, in a practical sense, complete.

**hazardous waste** means—

- (a) a substance, whether liquid, solid or gaseous, derived by, or resulting from, the processing of minerals that tends to destroy life or impair or endanger health; or
- (b) ash resulting from the process of power generation.

**holder**, of a water allocation, means—

- (a) the person whose details are stated on the water allocations register as the person who holds the water allocation; or
- (b) if a lease of the water allocation is registered on the register—the lessee of the lease.

***immediately affected area*** see section 387.

***immediately affected area bore***, for chapter 3, part 5, see section 408.

***impact considerations***, for chapter 3, see section 362.

***impaired capacity***, of a water bore, see section 412.

***indirect financial or personal interest***, for a director, includes a financial or personal interest of the director's spouse, relative or person with whom the director lives in a domestic relationship.

***industrial instrument*** see the *Industrial Relations Act 1999*, schedule 5.

***information notice***, about a decision under this Act, means a notice—

- (a) stating the following—
  - (i) the decision;
  - (ii) the reasons for the decision;
  - (iii) the name and address of any other person who was given the notice;
  - (iv) that any person given the notice may apply for an internal review of the decision within 30 business days after the day the notice is given; and
- (b) including a copy of the relevant internal review provisions of this Act.

***in-stream island***, in a watercourse, is a storage of sediment—

- (a) that is within the channel of the watercourse; and
- (b) to which the following characteristics can generally be expected to apply—

- 
- (i) it is formed by processes within the watercourse;
  - (ii) its crest is not higher than either outer bank of the watercourse;
  - (iii) it is a dynamic feature, being changed by flow events in the watercourse;
  - (iv) it is made up of coarse materials, in particular sand and gravel.

***interested person*** see section 851.

***interim enforcement order*** see section 784(1).

***interim resource operations licence*** means a licence granted under section 175.

***interim water allocation*** means—

- (a) an authority to take water managed under an interim resource operations licence or a resource operations licence that represents a volumetric share of water; and
- (b) any conditions attaching to the authority.

***intermittent***, in relation to the flow of water in a watercourse or the collection of water in a lake, includes variable, having regard to seasonal variations, and to year by year variability of seasons.

***internal review*** see section 862(1).

***interstate distribution operations licence*** means a licence that is granted under an interstate law and authorises the licence holder to operate infrastructure to distribute water.

***interstate law*** means a law of another State, including a repealed law, regulating the taking or using of water or the drilling of a water bore.

***interstate resource operations licence*** means a licence that is granted under an interstate law and authorises the licence holder to manage the taking or using of water by other licensees.

***irrigation service*** means the supply of water or drainage services for irrigation of crops or pastures for commercial gain.

***jump up*** means a vertical section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels.

***key commercialisation principles*** see section 638.

***lake*** includes—

- (a) a lagoon, swamp or other natural collection of water, whether permanent or intermittent; and
- (b) the bed and banks and any other element confining or containing the water.

***large service provider*** means—

- (a) a service provider primarily providing bulk water services; or
- (b) for a retail water service or sewerage service—a service provider with more than 25000 connections to a registered service; or
- (c) for an irrigation service—a service provider with—
  - (i) more than 500 users; and
  - (ii) a volume throughput, in any of the last 5 financial years, of more than 10000ML.

***limited authority***, for chapter 2A, part 5A, division 4, see section 360ZDL(4).

***long-term affected area*** see section 387.

***make good agreement***, for a water bore, see section 420.

***make good measure***, for a water bore, see section 421.

***make good obligations***, of a petroleum tenure holder for a water bore, for chapter 3, see section 362.

***market*** see section 360ZCL.

***market rules*** see section 360ZCX(1).

***medium service provider*** means—

- (a) for a retail water service or sewerage service—a service provider with more than 1000 but not more than 25000 connections to a registered service; or

- 
- (b) for an irrigation service—a service provider with—
    - (i) more than 100 but not more than 500 users; and
    - (ii) a volume throughput, in any of the last 5 financial years, of more than 10000ML.

**megalitre** means 1 million litres.

**meter** includes equipment, related to the meter, for measuring and recording—

- (a) the taking of, or interfering with, water; or
- (b) the quality of water.

**metered entitlement** means an authority under this Act to take or interfere with water, prescribed under a regulation to be a metered entitlement.

**metering contractor** means a person appointed as a metering contractor under section 973.

**ML** means megalitre.

**monitoring equipment**—

- (a) means equipment for reading rainfall, water flow or water levels or for assessing the effects of taking of, or interfering with, water or water use on land and water; and
- (b) includes a meter.

**moratorium notice** see section 26.

**nominal volume** means—

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

***nominated waterway*** see the *Wild Rivers Act 2005*, schedule.

***non-Act water*** means water, including recycled and desalinated water, from any source, other than water included in the definition of water, item 1, in this schedule.

***non-residential customer*** means a customer who uses water on non-residential premises.

***non-residential premises*** means premises that are not used for residential purposes, including, for example, tourist accommodation, nursing homes, hostels, hospitals, caravan parks, convents, nurseries, market gardens, turf farms, farms, conference centres and the common property of a community title scheme under the *Body Corporate and Community Management Act 1997* or under the *Building Units and Group Titles Act 1980*.

***notice*** means written notice.

***notice of closure*** means a notice of closure given under section 372 or 373.

***occupier***, of land, means the person in actual occupation of the land or, if there is no person in actual occupation, the person entitled to possession of the land.

***officer***, of a water authority, means—

- (a) a director of the authority; or
- (b) the authority's chief executive officer; or
- (c) another person who is concerned, or takes part, in the authority's management.

***old***, for chapter 9, part 5, division 17, in relation to a provision of this Act, see section 1182.

***operational work*** see the *Sustainable Planning Act 2009*, section 10(1).

***operator***, of a dam for chapter 2, part 2, division 4, see section 31(3).

***original decision*** see section 851(4).

***other resources*** means quarry material and riverine vegetation.

***outer bank*** see section 5A.

***overdue charge*** see section 574(3).

***overdue rate*** see section 574(3).

***overland flow water***—

- 1 *Overland flow water* means water, including floodwater, that is urban stormwater or is other water flowing over land, otherwise than in a watercourse or lake—
  - (a) after having fallen as rain or in any other way; or
  - (b) after rising to the surface naturally from underground.
- 2 *Overland flow water* does not include—
  - (a) water that has naturally infiltrated the soil in normal farming operations, including infiltration that has occurred in farming activity such as clearing, replanting and broadacre ploughing; or
  - (b) tailwater from irrigation if the tailwater recycling meets best practice requirements; or
  - (c) water collected from roofs for rainwater tanks.

***owner***—

- (a) of land, means any of the following, and includes the occupier of the land—
  - (i) the registered proprietor of the land;
  - (ii) the lessee, sublessee or licensee under the *Land Act 1994* of the land;
  - (iii) the holder of a mineral development licence or mining lease over the land under the *Mineral Resources Act 1989*;
  - (iv) the plantation licensee of a plantation licence under the *Forestry Act 1959*;
  - (v) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise;

- (v) the holder of a geothermal tenure under the *Geothermal Energy Act 2010* relating to the land;
  - (vi) the person who is entitled to receive the rents and profits of the land;
  - (vi) the holder of a GHG tenure under the *Greenhouse Gas Storage Act 2009* relating to the land;
  - (vii) the holder of a 1923 Act petroleum tenure under the *Petroleum Act 1923* relating to the land;
  - (viii) the holder of a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004* relating to the land; or
- (b) for chapter 2, part 6, see section 203.

**owner's notice** see section 37(2).

**performance indicator**, for a water resource plan, means a measure that can be calculated and is stated in the plan to assess the impact of an allocation and management decision or proposal on water entitlements and natural ecosystems.

**performance plan**, for a water authority, means the authority's performance plan agreed to by the Minister under section 656, or taken to be agreed to by the Minister under section 657(2) or (4).

**petroleum tenure**—

- (a) generally, means—
  - (i) a 1923 Act petroleum tenure under the *Petroleum Act 1923*; or
  - (ii) a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*; and
- (b) for chapter 3, part 2, divisions 3 and 4—includes a part of a petroleum tenure.

**petroleum tenure holder**—

- 1 Generally, a *petroleum tenure holder* means a person who holds a petroleum tenure.
- 2 For chapter 2, part 6, a *petroleum tenure holder* does not



include an owner mentioned in section 206(1).

**placing of fill** in a watercourse, lake or spring includes doing something that, in conjunction with other acts (regardless of who does those acts) or happenings (regardless of who, if anyone, causes those happenings) is likely to result in the depositing of fill in the watercourse, lake or spring.

**plan area**, for any plan under this Act, means the part of Queensland to which the plan applies.

**premises** means—

- (a) a lot as defined under the *Sustainable Planning Act 2009*, section 10(1); or
- (b) for a lot under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980*—the common property for the lot.

**premises group** means the land comprised in 2 or more premises all the owners of which have mutual rights and obligations under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980* for their respective ownerships, and includes the common property forming part of—

- (a) if the premises are lots included in a community titles scheme under the *Body Corporate and Community Management Act 1997*—the scheme land under that Act for the scheme; or
- (b) if the premises are lots under the *Building Units and Group Titles Act 1980*—the parcel of which the premises form part.

**prescribed offence** means an offence against this Act for which the maximum penalty of imprisonment is 2 or more years.

**priority group** for—

- (a) chapter 2, part 6, see section 203; or
- (b) water allocations managed under a resource operations licence, means the allocations that have the same water allocation security objective.

***private water supply agreement*** see section 1000.

***process***—

- (a) for sections 46(2)(g), 98(2)(d) and (e), 108, 122, 176, 189 and 212—includes selling or dealing with water entitlements, interim resource operations licences or resource operations licences by public auction, public ballot or public tender; and
- (b) for sections 46(2)(g), 98(2)(d) and (e) and 212—includes a direction to the chief executive to grant a water licence to a particular person.

***production testing***, for chapter 3, see section 362.

***prohibited development*** see the *Sustainable Planning Act 2009*, schedule 3.

***properly made submission*** means a submission that—

- (a) is made by a person invited to make the submission; and
- (b) is in writing and is signed by each person who made the submission; and
- (c) is received on or before the last day for the making of the submission; and
- (d) states the name and address of each person who made the submission; and
- (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (f) is received by the person stated in the notice inviting the submission.

***property service*** means—

- (a) for a water service—the pipes and fittings installed for connecting premises to a service provider's infrastructure; or
- (b) for a sewerage service—a junction, bend, pipe, jump up or graded jump up required to connect a sanitary drain or property sewer to a service provider's infrastructure.

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**property sewer** means a sewer for a premises or a premises group.

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

**proposed plan area**—

- (a) for a draft water resource plan—means the part of Queensland to which a water resource plan, if approved, will apply; or
- (b) for a draft resource operations plan—means the part of the plan area for a water resource plan to which a resource operations plan, if approved, will apply.

**publish**—

- 1 *Publish*, for a notice under section 24 or 25 means to publish the notice—
  - (a) in a newspaper circulating generally throughout the area for which the notice is published; or
  - (b) by announcement over a radio station broadcasting generally throughout the area for which the notice is published; or
  - (c) by notice to an affected licensee or permittee.
- 2 *Publish*, for a notice under section 22 or chapter 2, part 2, 3 or 4, means to publish the notice—
  - (a) in a newspaper circulating generally throughout the area for which the notice is published; and
  - (b) on the department's website on the internet.
- 2A *Publish*, for a document made by an entity mentioned in chapter 2A means—
  - (a) publish a gazette notice about where the document may be inspected, free of charge; and
  - (b) publish the document on the entity's website on the internet, or, for the Minister, on the department's website on the internet.

- 3 *Publish*, for a notice under another provision of this Act, means to publish the notice—
- (a) if the provision states the way the notice must be published—in the way stated in the provision; or
  - (b) if the provision does not state the way the notice must be published—in a newspaper circulating generally throughout the area for which the notice is published.

***quarry material***—

- 1 *Quarry material* means material, other than a mineral within the meaning of any Act relating to mining, in a watercourse or lake.
- 2 *Quarry material* includes stone, gravel, sand, rock, clay, earth and soil unless it is removed from the watercourse or lake as waste material.

***ratepayer***, for a water authority, means a person on whom the authority may levy a rate under section 572.

***reasonably believes*** means believes on grounds that are reasonable in the circumstances.

***receiving entity***, for chapter 2A, part 5A, division 4, see section 360ZDN(1)(h).

***referable dam*** see the Water Supply Act, section 341.

***referral agency***, for a development application, has the meaning given by the *Sustainable Planning Act 2009*.

***regional water security options*** means regional water security options made under section 360I.

***regional water security program*** means a regional water security program made under section 360M.

***registered grid participant***—

- (a) means an entity registered, or taken to be registered, as a grid participant for the purpose of the market rules; and
- (b) includes the following—
  - (i) a distribution service provider;

(ii) a grid service provider.

**registered owner**, of land, means—

- (a) the registered owner of the land under the *Land Title Act 1994*; or
- (b) the lessee or licensee of the land under the *Land Act 1994*.

**registered proprietor**, of land, see the *Land Title Act 1994*, schedule 2.

**registered service**, for a service provider, means a water or sewerage service for which the service provider is registered.

**registrar** means the registrar appointed under section 147.

**regular audit** means an audit conducted under section 417.

**regulator** means the regulator under the Water Supply Act.

**relevant authority**, for chapter 2A, part 5A, division 4, see section 360ZDL(3).

**relevant company**, for chapter 8, part 3C, see section 992G.

**relevant dam** see section 31(2).

**relevant underground water rights**, for chapter 3, see section 362.

**repealed Act** means the *Water Resources Act 1989*.

**repealed Acts** means the—

- (a) repealed GAWB Act; or
- (b) repealed Act.

**repealed GAWB Act** means the *Gladstone Area Water Board Act 1984*.

**report obligation**, for chapter 3, see section 362.

**residential complex** see the *Environmental Protection Act 1994*, schedule 4.

**residential premises** means premises used for a residential purpose.

**resource operations licence** means a resource operations licence granted under chapter 2, part 4, division 3.

**resource operations plan** means a plan approved under section 103(5).

**responsible entity**, for chapter 3, see section 362.

**responsible tenure holder**, for chapter 3, see section 362.

**retail water service**—

- 1 *Retail water service* means a reticulated water service in a service area for a water service.
- 2 The term does not include—
  - (a) an irrigation service or a bulk water service in any area; or
  - (b) the supply of recycled water in any area.

**review decision** see section 864(2).

**reviewer** see section 862(1).

**review notice** see section 864(3).

**rules administrator** see section 360ZCY(1)(a)(x).

**sanitary drain** means a drain (not including a pipe that is a part of common effluent drainage) that is immediately connected to, and used to carry discharges from, a soil or waste pipe for an individual premises.

**scheme**, for chapter 2A, part 5A, division 4, see section 360ZDM.

**scour mark**, in relation to a watercourse, means—

- (a) a mark made on a bank of the watercourse by the sweeping action of suspended sediments in water during flows in the watercourse; or
- (b) a mark that can be identified by weathering stains, or the absence of lichens, on erosion-resistant surfaces of a bank of the watercourse.

*Example of an erosion-resistant surface—*

rock

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**seasonal water assignment**, for an interim water allocation, a water allocation, a seasonal water assignment notice or a water licence, means the assignment by the holder of the allocation, notice or licence of the benefit under the allocation, notice or licence to another person, for a water year, of all or part of the water that may be taken under the allocation, notice or licence.

**seasonal water assignment notice** means—

- (a) for a water allocation—a seasonal water assignment notice granted under chapter 2, part 4, division 5; or
- (b) for a water licence—a seasonal water assignment notice granted under chapter 2, part 6, division 3.

**seasonal water assignment rules** means the rules stated in a regulation or resource operations plan that allow seasonal water assignments or approval of applications for proposed seasonal water assignments.

**SEQ region** see section 341.

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

**service provider** means—

- (a) a water service provider; or
- (b) a sewerage service provider under the Water Supply Act.

**service provider water restriction** see section 388(2).

**sewerage** means a sewer, access chamber, vent, engine, pump, structure, machinery, outfall or other work used to receive, store, transport or treat sewage.

**sewerage service** means—

- (a) sewage treatment; or
- (b) the collection and transmission of sewage through infrastructure; or
- (c) the disposal of sewage or effluent.

***show cause notice*** means a notice that complies with section 779.

***special agreement Act***, for chapter 8, part 3C, see section 992G.

***specified conditions***, for chapter 8, part 3C, see section 992G.

***specified works*** see the *Wild Rivers Act 2005*, section 48.

***spot audit report*** means a spot audit report under section 360ZCAA.

***spring*** means the land to which water rises naturally from below the ground and the land over which the water then flows.

***spring impact management strategy*** means a spring impact management strategy that complies with section 379.

***start day***, for a petroleum tenure, for chapter 3, see section 362.

***State quarry material*** means—

- (a) quarry material that is the property of the State under section 279; and
- (b) if quarry material not mentioned in paragraph (a) is reserved under the *Land Act 1994*, section 22, and is in a watercourse or lake—the quarry material.

***stock purposes***, in relation to taking water, means—

- (a) watering stock of a number that would normally be depastured on the land on which the water is, or is to be, used; or
- (b) watering travelling stock on a stock route.

***stock route*** see the *Land Protection (Pest and Stock Route Management) Act 2002*, schedule 3.

***stormwater drainage*** means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.

***subartesian area*** includes a wild river subartesian management area as provided for in section 1046.



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***subartesian bore*** includes a shaft, well, gallery, spear or excavation, and any works constructed in connection with the shaft, well, gallery, spear or excavation, that taps an aquifer and the water does not flow and never has flowed naturally to the surface.

***subartesian water*** means water that occurs naturally in, or is introduced artificially into, an aquifer, which if tapped by a bore, would not flow naturally to the surface.

***submissions summary*** see section 383(1)(b).

***submitter*** means a person who made a properly made submission under this Act.

***submitter notice*** see section 863(3).

***subsidiary company***, of an entity, means that under the Corporations Act, section 9 the company is a subsidiary of the entity.

***supply contract*** means a contract for the storage and supply of water under a water entitlement, a water supply emergency declaration or a water supply emergency regulation.

***sustainable management*** see section 10(2).

***Sustainable Planning Act 2009 offence*** means an offence against the *Sustainable Planning Act 2009*, section 574, 578(1), 579, 580(1), 581, 582 or 594(1) to the extent the section relates to the taking of, or interfering with, water.

***system operating plan*** means a system operating plan under chapter 2A, part 5, division 2.

***taking***, for water, includes diverting water.

***temporary full supply level***, for a dam, means the temporary full supply level declared for the dam under the Water Supply Act, chapter 4, part 3.

***threshold limit***, for chapter 8, part 3C, see section 992G.

***transfer***, of a resource operations licence, an interim resource operations licence or a water allocation, means the passing of the legal or beneficial interest in the licence or allocation.

**transfer notice**, for chapter 2A, part 5A, division 4, see section 360ZDN(1).

**transferring entity**, for chapter 2A, part 5A, division 4, see section 360ZDM(2)(b).

**travelling stock** see the *Land Protection (Pest and Stock Route Management) Act 2002*, schedule 3.

**unallocated State land** see the *Land Act 1994*, schedule 6.

**unconsolidated aquifer**, for chapter 3, see section 362.

**underground water** means artesian water and subartesian water.

**underground water impact report**, for chapter 3, means an underground water impact report that complies with section 376.

**underground water obligation**, of a petroleum tenure holder, for chapter 3, see section 362.

**underground water rights** means—

- (a) for a 1923 Act petroleum tenure under the *Petroleum Act 1923*—the taking of water necessarily taken as part of production testing or petroleum production under 1 or more 1923 Act petroleum tenures; or
- (b) for a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*—see section 185(2)(a) of that Act.

**unit of public administration** see the *Crime and Misconduct Act 2001*, section 20.

**upstream limit**, of a watercourse, means, if a regulation under section 1006(1) has declared an upstream limit of the watercourse, the upstream limit declared.

**urban area** means an area identified as an area intended specifically for urban purposes, including future urban purposes (but not rural residential or future rural residential purposes) on a map in a planning scheme under the *Sustainable Planning Act 2009* that—

- (a) identifies the areas using cadastral boundaries; and

- 
- (b) is used exclusively or primarily to assess development applications under that Act.

*Example—*

a zoning map

***urban stormwater*** means water flowing over land, or in drainage pipes, in an urban area.

***urban water service*** means a drinking water service under the Water Supply Act or a retail water service.

***vegetation—***

- (a) means native plants including trees, shrubs, bushes, seedlings, saplings and reshoots; and
- (b) for a wild river area, includes dead vegetation.

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

***water—***

1 Generally, *water* means all or any of the following—

- (a) water in a watercourse, lake or spring;
- (b) underground water;
- (c) overland flow water;
- (d) water that has been collected in a dam.

2 In chapter 2A and section 1163, *water* also includes recycled and desalinated water, from any source.

***water activity***, for a water authority, includes an activity for the following—

- (a) water conservation;
- (b) water supply;
- (c) irrigation;
- (d) drainage, including stormwater drainage;
- (e) flood prevention;
- (f) floodwater control;

- (g) underground water supply improvement or replenishment;
- (h) sewerage;
- (i) anything else dealing with water management.

**water allocation** means an authority granted under section 121 or 122 to take water.

**water allocation change rules**—

- 1 *Water allocation change rules*, for a resource operations plan, means the water allocation change rules included in the plan.
- 2 *Water allocation change rules*, for a resource operations plan, includes rules in the plan for changes to water allocations.

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

**water allocation security objective** means an objective that may be expressed as a performance indicator and is stated in a water resource plan for the protection of the probability of being able to obtain water in accordance with a water allocation.

**water allocations register** means the register kept under section 148.

**water authority** means a water authority established under this Act.

**water bore** means an artesian bore or a subartesian bore.

**watercourse** see section 5.

**water efficiency management plan** means a plan prepared under chapter 2A, part 5, division 3.

**water entitlement** means a water allocation, interim water allocation or water licence.

**water grid manager** means the SEQ Water Grid Manager established under the *South East Queensland Water (Restructuring) Act 2007*, section 6.

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

***water infrastructure*** means works operated by the State or the holder of an interim resource operations licence, resource operations licence or other authorisation that is relevant to the management of water entitlements.

***water level***, of an aquifer, for chapter 3, see section 362.

***water licence*** means a licence granted under chapter 2, part 6, division 2.

***water management area*** means—

- (a) an area of the State declared under a regulation to be a water management area; or
- (b) an area identified in a water resource plan or a resource operations plan as a water management area.

***water monitoring authority*** means a water monitoring authority granted under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

***water monitoring bore***, for chapter 3, see section 362.

***water monitoring strategy*** means a water monitoring strategy that complies with section 378.

***water permit*** means a permit granted under chapter 2, part 6, division 4.

***water resource plan*** means a plan approved under section 50(2).

***water security*** includes the reliability of water supply.

***water service*** means—

- (a) water harvesting or collection, including, for example, water storages, groundwater extraction or replenishment and river water extraction; or
- (b) the transmission of water; or
- (c) the reticulation of water; or
- (d) drainage, other than stormwater drainage; or

- (e) water treatment or recycling.

***water service declaration*** means a declaration of a water service, or part of a water service, made by the Minister under chapter 2A, part 5A, division 2.

***water service provider***—

- 1 A *water service provider* is a person registered under the Water Supply Act, chapter 2, part 3 as a service provider for a water service.
- 2 In chapter 2A the term also includes a person who operates, or controls the operation of, water supply works to which a system operating plan applies.

***water sharing rules*** means—

- (a) for a water entitlement, or other authorisation to take water under this Act, managed under a resource operations plan—the water sharing rules included in the plan; or
- (b) for a water licence, or other authorisation to take water under this Act, not managed under a resource operations plan—the water sharing rules prescribed under a regulation; or
- (c) for an interim water allocation or other authorisation to take water under this Act managed under an interim resource operations licence—the water sharing rules included in the interim resource operations licence under which the interim water allocation or other authorisation is managed.

***Water Supply Act*** means the *Water Supply (Safety and Reliability) Act 2008*.

***water supply emergency*** see section 25A.

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

***water supply emergency regulation*** see section 25F.

***water supply emergency response*** see section 25C.

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

***water supply works*** means water infrastructure or other works for the supply of water or the storage, distribution or treatment of water.

***water year***, for a resource operations plan, interim resource operations licence or water licence, means—

- (a) the accounting period prescribed under a regulation for the plan or licence; or
- (b) until a period is prescribed under paragraph (a)—the accounting period stated in the plan or licence for taking water under the plan or licence.

***Webbe-Weller review*** means the document dated March 2009 and called ‘Brokering balance: A public interest map for Queensland Government bodies—An independent review of Queensland Government boards, committees and statutory authorities—Part B report’.

*Editor’s note—*

A copy of the report is available for inspection at [www.premiers.qld.gov.au/government/assets/part-b-report-brokering-balance.pdf](http://www.premiers.qld.gov.au/government/assets/part-b-report-brokering-balance.pdf).

***weir*** means a barrier constructed across a watercourse below the outer banks of the watercourse that hinders or obstructs the flow of water in the watercourse.

***Wenlock Basin wild river area***, for chapter 8, part 3C, see section 992G.

***Wenlock Basin Wild River Declaration***, for chapter 8, part 3C, see section 992G.

***wild river area*** see the *Wild Rivers Act 2005*, schedule.

***wild river declaration*** see the *Wild Rivers Act 2005*, schedule.

***wild river floodplain management area*** means a floodplain management area under the *Wild Rivers Act 2005*.

***wild river high preservation area*** means a high preservation area under the *Wild Rivers Act 2005*.

***wild river preservation area*** means a preservation area under the *Wild Rivers Act 2005*.

***wild river special floodplain management area*** means a special floodplain management area under the *Wild Rivers Act 2005*.

***wild river subartesian management area*** means a subartesian management area under the *Wild Rivers Act 2005*.

***work performance arrangement*** means an arrangement under which an employee of a government entity performs work for another government entity.

***works*** means—

- (a) operations of any kind and all things constructed, erected or installed for the purposes of this Act; and
- (b) any land used for the operations.



## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 8 November 2012. Future amendments of the Water Act 2000 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

| Key    | Explanation                    | Key     | Explanation                             |
|--------|--------------------------------|---------|---|
| AIA    | = Acts Interpretation Act 1954 | (prev)  | = previously                            |
| amd    | = amended                      | proc    | = proclamation                          |
| amdt   | = amendment                    | prov    | = provision                             |
| ch     | = chapter                      | pt      | = part                                  |
| def    | = definition                   | pubd    | = published                             |
| div    | = division                     | R[X]    | = Reprint No. [X]                       |
| exp    | = expires/expired              | RA      | = Reprints Act 1992                     |
| gaz    | = gazette                      | reloc   | = relocated                             |
| hdg    | = heading                      | renum   | = renumbered                            |
| ins    | = inserted                     | rep     | = repealed                              |
| lap    | = lapsed                       | (retro) | = retrospectively                       |
| notfd  | = notified                     | rv      | = revised edition                       |
| num    | = numbered                     | s       | = section                               |
| o in c | = order in council             | sch     | = schedule                              |
| om     | = omitted                      | sdiv    | = subdivision                           |
| orig   | = original                     | SIA     | = Statutory Instruments Act 1992        |
| p      | = page                         | SIR     | = Statutory Instruments Regulation 2002 |
| para   | = paragraph                    | SL      | = subordinate legislation               |
| prec   | = preceding                    | sub     | = substituted                           |
| pres   | = present                      | unnum   | = unnumbered                            |
| prev   | = previous                     |         |   |

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments to    | Effective        | Reprint date    |
|-------------|------------------|------------------|-----------------|
| 1           | none             | 1 October 2000   | 4 May 2001      |
| 1A          | 2001 Act No. 45  | 15 July 2001     | 20 July 2001    |
| 1B rv       | 2001 Act No. 100 | 13 November 2001 | 11 January 2002 |
| 2 2rv       | 2001 Act No. 100 | 1 March 2002     | 1 March 2002    |
| 2A 2rv      | 2001 Act No. 100 | 19 April 2002    | 1 May 2002      |

  

| Reprint No. | Amendments included | Effective         | Notes |
|-------------|---------------------|-------------------|-------|
| 2B rv       | 2002 Act No. 45     | 13 September 2002 |       |
| 2C rv       | —                   | 14 September 2002 |       |
| 2D rv       | 2002 Act No. 42     | 1 October 2002    |       |
| 2E rv       | 2002 Act No. 77     | 13 December 2002  |       |
| 2F rv       | 2002 Act No. 68     | 1 January 2003    |       |
| 2G rv       | 2002 Act No. 74     | 1 April 2003      |       |

| Reprint No. | Amendments included                      | Effective         | Notes                                      |
|-------------|--|-------------------|--|
| 2H rv       | —  | 13 April 2003     | provs exp 12 April 2003                    |
| 2I rv       | 2003 Act No. 19                          | 9 May 2003        |  |
| 2J rv       | 2003 Act No. 25                          | 16 May 2003       | R2J rv withdrawn, see R3 rv                |
| 3 rv        | —  | 16 May 2003       | Revision notice issued for R3              |
| 3A rv       | 2002 Act No. 12                          | 1 July 2003       |  |
| 3B rv       | —  | 2 October 2003    | provs exp 1 October 2003                   |
| 3C rv       | 2004 Act No. 4                           | 6 May 2004        |  |
| 3D rv       | 2003 Act No. 64                          | 4 October 2004    |  |
| 3E rv       | 2004 Act No. 25 (amd<br>2004 Act No. 26) | 31 December 2004  |  |
| 3F rv       | 2005 Act No. 3                           | 3 March 2005      |  |
| 3G rv       | 2004 Act No. 12                          | 25 March 2005     |  |
| 3H rv       | 2005 Act No. 19                          | 19 May 2005       |  |
| 3I 2rv      | 2005 Act No. 19                          | 1 July 2005       |  |
|             | 2005 Act No. 56                          |                   |  |
| 3J rv       | 2005 Act No. 19                          | 1 October 2005    |  |
| 3K rv       | 2005 Act No. 19                          | 14 October 2005   |  |
| 3L          | 2005 Act No. 19                          | 18 November 2005  |  |
|             | 2005 Act No. 56                          |                   |  |
| 3M          | 2005 Act No. 19                          | 25 November 2005  |  |
| 4           | 2005 Act No. 42                          | 2 December 2005   |  |
| 4A          | 2005 Act No. 68                          | 6 February 2006   |  |
| 4B          | 2005 Act No. 39                          | 1 March 2006      |  |
| 4C          | 2006 Act No. 23                          | 17 May 2006       |  |
| 4D          | 2006 Act No. 54                          | 7 December 2006   |  |
|             | 2006 Act No. 59                          |                   |  |
| 4E          | 2007 Act No. 8                           | 28 February 2007  |  |
| 4F          | 2007 Act No. 20                          | 23 April 2007     |  |
| 5           | 2005 Act No. 19                          | 20 May 2007       |  |
| 5A          | 2007 Act No. 39                          | 21 September 2007 |  |
| 5B          | 2007 Act No. 57                          | 16 November 2007  |  |
|             | 2007 Act No. 58                          |                   |  |
| 5C          | —  | 18 November 2007  | prov exp at the end of 17<br>November 2007 |
| 5D          | 2005 Act No. 56 (amd<br>2007 Act No. 57) | 19 November 2007  |  |
| 5E          | 2007 Act No. 57                          | 1 January 2008    |  |
| 5F          | 2007 Act No. 59                          | 15 March 2008     |  |
| 5G          | 2008 Act No. 34                          | 21 May 2008       |  |
| 6           | 2008 Act No. 34                          | 1 July 2008       |  |
| 6A          | 2008 Act No. 34                          | 1 August 2008     |  |
| 6B          | 2007 Act No. 10                          | 1 October 2008    |  |
| 6C          | 2008 Act No. 58                          | 13 November 2008  |  |
| 6D          | 2008 Act No. 58                          | 15 December 2008  |  |
| 6E          | 2008 Act No. 52                          | 1 January 2009    |  |
| 6F          | 2009 Act No. 18                          | 19 June 2009      |  |

## Endnotes

| Reprint No. | Amendments included                | Effective              | Notes                    |
|-------------|------------------------------------|------------------------|--------------------------|
| 6G          | 2009 Act No. 9<br>2009 Act No. 13  | 1 July 2009            |                          |
| 6H          | 2009 Act No. 25                    | 2 November 2009        |                          |
| 6I          | 2009 Act No. 46                    | 3 November 2009        |                          |
| 6J          | 2009 Act No. 24                    | 1 December 2009        |                          |
| 6K rv       | 2009 Act No. 36                    | 18 December 2009       | R6K rv withdrawn, see R7 |
| 7           | —                                  | 18 December 2009       |                          |
| 7A          | 2010 Act No. 7                     | 12 March 2010          |                          |
| 7B          | 2010 Act No. 12                    | 26 March 2010          |                          |
| 7C          | 2010 Act No. 12                    | 7 May 2010             |                          |
| 7D          | 2010 Act No. 20                    | 23 May 2010            |                          |
| 7E          | 2009 Act No. 17<br>2010 Act No. 20 | 1 July 2010            |                          |
| 7F          | 2010 Act No. 39                    | 20 September 2010      |                          |
| 7G          | 2010 Act No. 53                    | 1 December 2010        |                          |
| 7H          | 2010 Act No. 52                    | 10 December 2010       | R7H withdrawn, see R8    |
| 8           | —                                  | 10 December 2010       |                          |
| 8A          | 2011 Act No. 8                     | 8 April 2011           |                          |
| 8B          | 2010 Act No. 20                    | 24 May 2011            |                          |
| 8C          | 2011 Act No. 21                    | 27 June 2011           |                          |
| 8D          | 2011 Act No. 31<br>2011 Act No. 33 | 28 October 2011        |                          |
| 8E          | 2011 Act No. 40                    | 24 November 2011       |                          |
| 8F          | 2010 Act No. 31                    | 2 March 2012           |                          |
| 9           | 2012 Act No. 1                     | end of 30 June<br>2012 |                          |
| 9A          | 2012 Act No. 29                    | 8 November 2012        |                          |

## 5 List of legislation

### Water Act 2000 No. 34

date of assent 13 September 2000

ch 1, ch 2 pts 1–2 (except s 20(3)) pt 3 divs 1–2, ch 5 pts 1–2, 3 div 3, ch 6 pts 1–3, ch 7, ch 8 ss 1006–1007, 1009–1014, ch 9 pt 1 ss 1037–1045, 1051–1052, 1054, 1108, pt 5 (except s 1132 (as ins 2001 No. 75 s 114)), sch 2 amds 1 and 14 of the Integrated Planning Act 1997, sch 3 amds of the Aboriginal Land Act 1991, Forestry Act 1959, State Development and Public Works Organisation Act 1971, Torres Strait Islander Land Act 1991, amds 1–6 and 11 of the Water Resources Act 1989 commenced on date of assent (see s 2(2))

ch 2 pt 3 div 3, pts 4–5, 7, ch 3 pts 1–3, 6 div 2, pt 7, ch 4, ch 5 pt 3 ss 808–813, div 2, ch 6 pt 4, ch 8 pts 1, 3–4, ss 1004–1005, 1008, ch 9 ss 1046–1047, 1049, 1053, 1056, 1060–1062, 1071, pt 3, pt 4 (other than s 1108), s 1137(a), ch 10 s 1144, sch 2 to the extent sch 2 amds the Local Government Act 1993 amdt 1, ch 10 s 1145, sch 3 to the extent sch 3 amds the Freedom of Information Act 1992, the Queensland Competition Authority Act 1997, the Townsville/Thuringowa Water

Supply Board Act 1987 and the Water Resources Act 1989 amdts 7–8, schs 1 and 4 commenced 1 October 2000 (2000 SL No. 257)

sch 2 amdts 19–20 (prev amdts 18–19) of the Integrated Planning Act 1997, amdt 2 of the Local Government Act 1993 commenced 1 July 2000 (see s 2(1) as amd 2001 No. 75 s 4(1))

sch 2 amdts 1–3 of the Vegetation Management Act 1999 never proclaimed into force and om 2001 No. 75 s 115(13)

s 1063 commenced 1 October 2000 (see s 2(3))

ss 37, 40A, 42A, 49A, 78A, 107, 111A, 120A, 122A, 128A, 129–130, 184A, 189A–189B, 190, 195–197, 382, 583, 598–598A, 959, 1004A, 1010A, 1013A, ch 9 pt 4A commenced 13 November 2001 (see s 2(4) as ins 2001 No. 75 s 4(3))

s 1132 commenced 12 April 2002 (2002 SL No. 64)

ss 970, 1065 commenced 14 September 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 158 s 2))

remaining provisions commenced 19 April 2002 (2002 SL No. 69)

amending legislation—

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1**

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 10)

**Water Amendment Act 2001 No. 75 ss 1–116, sch 2**

date of assent 13 November 2001

s 4(1) commenced 1 July 2000 (see s 2(1))

ss 4(2), 106 commenced 13 September 2000 (see s 2(2))

remaining provisions commenced on date of assent

**Integrated Planning and Other Legislation Amendment Act 2001 No. 100 ss 1, 2(2)–(3), pt 7**

date of assent 19 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 19 April 2002 (2002 SL No. 71)

**Land Protection (Pest and Stock Route Management) Act 2002 No. 12 ss 1–2, 329 sch 2**

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 116)

**Electrical Safety Act 2002 No. 42 ss 1–2, 242 sch 1**

date of assent 12 September 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2002 (2002 SL No. 259)

**Environmental Protection and Other Legislation Amendment Act 2002 No. 45 ss 1–2(1), pt 3**

date of assent 24 September 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 13 September 2002 (see s 2(1))

**Criminal Proceeds Confiscation Act 2002 No. 68 ss 1–2(1), 339 sch 4**

date of assent 29 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2003 (see s 2(1))

**Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch**

date of assent 13 December 2002

ss 1–2 commenced on date of assent

s 90 commenced 31 March 2003 (2003 SL No. 51)

remaining provisions commenced 1 April 2003 (2003 SL No. 51)

**Plumbing and Drainage Act 2002 No. 77 ss 1–2, pt 15**

date of assent 13 December 2002

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch**

date of assent 9 May 2003

commenced on date of assent

**Water and Other Legislation Amendment Act 2003 No. 25 pts 1, 6**

date of assent 16 May 2003

commenced on date of assent

**Integrated Planning and Other Legislation Amendment Act 2003 No. 64 ss 1, 2(4), pt 12**

date of assent 16 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 4 October 2004 (2004 SL No. 199)

**Natural Resources and Other Legislation Amendment Act 2004 No. 4 ss 1, 57 sch**

date of assent 6 May 2004

commenced on date of assent

**Geothermal Exploration Act 2004 No. 12 ss 1–2 ch 8 pt 9**

date of assent 31 May 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 25 March 2005 (2005 SL No. 43)

**Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), 1044–1053  
(prev ss 984–993) (this Act is amended, see amending legislation below)**

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

amending legislation—

**Petroleum and Other Legislation Amendment Act 2004 No. 26 ss 1–2(1),  
264–265, 69(2) sch (amends 2004 No. 25 above)**

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 13 October 2004 (see s 2(1))

**Petroleum and Other Legislation Amendment Act 2005 No. 3 s 1, pt 5**

date of assent 3 March 2005

commenced on date of assent

**Water and Other Legislation Amendment Act 2005 No. 19 pts 1–2**

date of assent 19 May 2005

ss 16, 52, 61, 172 (to the extent it ins s 1136B) commenced 1 July 2005 (2005 SL No. 148)

ss 99–109, 135, 172 (to the extent it ins ss 1136F and 1136G) commenced 1 October 2005 (see s 2(1))

ss 13–15, 51, 56–59, 85, 87–91, 94, 140–141 commenced 14 October 2005 (2005 SL No. 255)

ss 48–49 commenced 18 November 2005 (2005 SL No. 272)

ss 78, 146 commenced 25 November 2005 (2005 SL No. 272)

ss 157(1), 159–160, 172 (to the extent it ins s 1136H) commenced 20 May 2007 (automatic commencement under AIA s 15DA(2) (2006 SL No. 86 s 2))

remaining provisions commenced on date of assent

**Plumbing and Drainage and Other Legislation Amendment Act 2005 No. 39 pts 1, 5**

date of assent 1 September 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2006 (see s 2)

**Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1**

date of assent 14 October 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 2 December 2005 (2005 SL No. 287)

**Water Amendment Act 2005 No. 56 (this Act is amended, see amending legislation below)**

date of assent 18 November 2005

ss 1–2 commenced on date of assent

s 15 commenced 1 July 2005 (see s 2(1))

s 7 commenced 19 November 2007 (automatic commencement under AIA s 15DA(2) (2006 SL No. 281 s 2))

remaining provisions commenced on date of assent

amending legislation—

**Water and Other Legislation Amendment Act 2007 No. 57 s 1, pt 12 (amends 2005 No. 56 above)**

date of assent 16 November 2007  
commenced on date of assent

**Natural Resources and Other Legislation Amendment Act 2005 No. 68 pt 1, s 150 sch**

date of assent 8 December 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 6 February 2006 (2006 SL No. 6)

**Water Amendment Act 2006 No. 23**

date of assent 17 May 2006  
commenced on date of assent

**State Development and Other Legislation Amendment Act 2006 No. 54 pts 1, 7**

date of assent 7 December 2006  
commenced on date of assent

**Wild Rivers and Other Legislation Amendment Act 2006 No. 59 pts 1, 11, s 85 sch**

date of assent 7 December 2006  
commenced on date of assent

**Wild Rivers and Other Legislation Amendment Act 2007 No. 8 pts 1, 5**

date of assent 28 February 2007  
commenced on date of assent

**Government Owned Corporations Amendment Act 2007 No. 10 ss 1–2, 62 sch**

date of assent 20 March 2007  
ss 1–2 commenced on date of assent  
remaining provisions commence 1 October 2008 (2008 SL No. 316)

**Statutory Bodies Legislation Amendment Act 2007 No. 20 pts 1, 11**

date of assent 23 April 2007  
commenced on date of assent

**Land Court and Other Legislation Amendment Act 2007 No. 39 ss 1–2, 41 sch**

date of assent 29 August 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 21 September 2007 (2007 SL No. 236)

**Water and Other Legislation Amendment Act 2007 No. 57 pts 1, 11 (this Act is amended, see amending legislation below)**

date of assent 16 November 2007  
ss 1–2 commenced on date of assent  
ss 92, 103 (to the extent it ins s 1152) never proclaimed into force and om 2008 No. 34 ss 749–750  
s 93 (to the extent it ins ch 3 pt 3 div 2C sdiv 2) commenced 1 January 2008 (2007 SL No. 345)  
remaining provisions commenced on date of assent  
amending legislation—



**Water Supply (Safety and Reliability) Act 2008 No. 34 ss 1, 2(2), ch 10 pt 5  
(amends 2007 No. 57 above)**

date of assent 21 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2008 (2008 SL No. 202)

**South East Queensland Water (Restructuring) Act 2007 No. 58 ss 1, 117 sch 2**

date of assent 16 November 2007

commenced on date of assent

**Local Government and Other Legislation (Indigenous Regional Councils)  
Amendment Act 2007 No. 59 pts 1, 15**

date of assent 22 November 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 15 March 2008 (2007 SL No. 336)

**Water Supply (Safety and Reliability) Act 2008 No. 34 ss 1, 2(2), ch 10 pt 4, s 666 sch  
2**

date of assent 21 May 2008

ss 1–2 commenced on date of assent

ss 666, 674–676, 680–682, 684–692, 695–696, 715(1), (3)–(4), 716–721,  
735(1)–(3), 736, 738 (to the extent it ins pt 3A), 739, 743–744, 745 (to the extent  
it ins div 11 hdg and ss 1166–1167), 747(3) commenced on date of assent (see s  
2(2))

s 715(2) commenced on date of assent (see s 2(2)) (amdt could not be given effect)

ss 677–679 commenced 1 August 2008 (see s 2(1))

remaining provisions commenced 1 July 2008 (2008 SL No. 202)

**Environmental Protection and Other Legislation Amendment Act (No. 2) 2008 No.  
52 ss 1–2, 98 sch 2**

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2009 (2008 SL No. 388)

**Water (Commonwealth Powers) Act 2008 No. 58 pts 1, 3**

date of assent 13 November 2008

ss 1–2 commenced on date of assent

s 17 commenced 15 December 2008 (2008 SL No. 452)

remaining provisions commenced on date of assent

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Right to Information Act 2009 No. 13 ss 1–2, 213 sch 5**

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 132)

**Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1**

date of assent 12 June 2009

ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2010 (2010 SL No. 122)

**Water and Another Act Amendment Act 2009 No. 18 ss 1–2, 3(1), 3A, 4–7, sch**

date of assent 12 June 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 19 June 2009 (see s 2(b))

**Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 6 pt 11**

date of assent 26 June 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 2009 (2009 SL No. 252)

**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 2 November 2009 (2009 SL No. 241)

**Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 18 December 2009 (2009 SL No. 281)

**South-East Queensland Water (Distribution and Retail Restructuring) and Natural Resources Provisions Act 2009 No. 46 s 1, ch 7 pt 7**

date of assent 3 November 2009  
commenced on date of assent

**Valuation of Land and Other Legislation Amendment Act 2010 No. 7 pts 1, 4**

date of assent 12 March 2010  
commenced on date of assent

**Natural Resources and Other Legislation Amendment Act 2010 No. 12 ss 1, 2(1), pt 21, s 251 sch**

date of assent 26 March 2010  
ss 1–2, 237, 243, 251 sch commenced on date of assent  
remaining provisions commenced 7 May 2010 (2010 SL No. 78)

**South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010 No. 20 ss 1, 2(1)(b), (2)(b)–(d), pt 11**

date of assent 23 May 2010  
ss 1–2 commenced on date of assent  
s 78 commenced 1 July 2010 (see s 2(1)(b))  
ss 101, 102, 117 (to the extent it ins s 1178), 118 (to the extent it ins the defs “default grid contract”, “mandatory term”, “negotiated grid contract” and “non-market contract”) never proclaimed into force and om 2011 No. 21 ss 19–22  
s 118 (to the extent it ins the def “rules administrator”) commenced 24 May 2011 (automatic commencement under AIA s 15DA(2))  
remaining provisions commenced on date of assent

amending legislation—

**Fairer Water Prices for SEQ Amendment Act 2011 No. 21 ss 1, 2(f), pt 4  
(amends 2010 No. 20 above)**

date of assent 27 June 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2011 (see s 2(f))

**Geothermal Energy Act 2010 No. 31 ss 1–2(1), ch 10 pt 3 div 11**

date of assent 1 September 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 2 March 2012 (automatic commencement under  
AIA s 15DA(2) (2011 SL No. 156 s 2))

**Land Valuation Act 2010 No. 39 ss 1, 325 sch 1 pt 2**

date of assent 20 September 2010

commenced on date of assent

**Natural Resources and Other Legislation Amendment Act (No. 2) 2010 No. 52 pts 1,  
13**

date of assent 1 December 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 10 December 2010 (2010 SL No. 351)

**Water and Other Legislation Amendment Act 2010 No. 53 s 1, pt 14**

date of assent 1 December 2010

commenced on date of assent

**Revenue and Other Legislation Amendment Act 2011 No. 8 s 1, pt 14**

date of assent 8 April 2011

commenced on date of assent

**Fairer Water Prices for SEQ Amendment Act 2011 No. 21 s 1 pt 5**

date of assent 27 June 2011

commenced on date of assent

**Waste Reduction and Recycling Act 2011 No. 31 s 1, ch 16 pt 9**

date of assent 28 October 2011

commenced on date of assent

**Disaster Readiness Amendment Act 2011 No. 33 pts 1, 7**

date of assent 28 October 2011

commenced on date of assent

**Water and Other Legislation Amendment Act 2011 No. 40 pts 1, 4**

date of assent 24 November 2011

commenced on date of assent

**South-East Queensland Water (Distribution and Retail Restructuring) and Other  
Legislation Amendment Act 2012 No. 1 ss 1–2(1), pt 7**

date of assent 17 February 2012

ss 1–2 commenced on date of assent

remaining provisions commenced at the end of 30 June 2012 (see s 2(1))

**Water Legislation (Dam Safety and Water Supply Enhancement) and Other  
Legislation Amendment Act 2012 No. 29 s 1, pt 3**

date of assent 8 November 2012

commenced on date of assent

## **6 List of annotations**

**Long title** amd 2008 No. 34 s 667

### **CHAPTER 1—PRELIMINARY**

#### **PART 1—INTRODUCTION**

**pt hdg** ins 2010 No. 12 s 238

#### **Commencement**

**s 2** amd 2001 No. 75 s 4 (retro)

### **PART 2—WATERCOURSES**

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#### **PART 2—WATER RIGHTS**

##### **Division 1—Preliminary**

**div hdg** ins 2003 No. 25 s 19

##### **Authorised taking of, or interference with, water without water entitlement**

**prov hdg** amd 2011 No. 40 s 9(1)

**s 20** amd 2003 No. 25 s 20; 2005 No. 19 s 4; 2005 No. 42 s 52 sch 1; 2011 No. 8 s 111; 2011 No. 40 s 9(2)

##### **Beds and banks forming boundaries of land are State property**

**s 21** (prev s 24) amd 2001 No. 75 s 5  
renum 2003 No. 25 s 22  
reloc 2003 No. 25 s 23  
om 2010 No. 12 s 240

##### **Division 2—Restrictions for emergencies and water shortages**

**div hdg** ins 2003 No. 25 s 24

##### **Limiting taking of water under s 20(3)**

**s 24** (prev s 21) amd 2003 No. 25 s 21  
renum 2003 No. 25 s 22  
reloc 2003 No. 25 s 25

##### **Limiting water taken under water licence, permit, allocation or under s 20(8)**

**prov hdg** sub 2005 No. 19 s 5(1)  
amd 2011 No. 8 s 112(1)

**s 25** prev s 25 om 2003 No. 25 s 26  
pres s 25 (prev s 246) amd 2003 No. 24 s 85(1)  
renum and reloc 2003 No. 25 s 85(2)  
amd 2005 No. 19 s 5(2)–(3); 2011 No. 8 s 112(2)–(3)

**Division 2A—Other water supply emergencies****div hdg** ins 2005 No. 56 s 4**Subdivision 1—Preliminary****sdiv hdg** ins 2005 No. 56 s 4**Meaning of “water supply emergency”****s 25A** ins 2005 No. 56 s 4  
amd 2007 No. 59 s 144**Subdivision 2—Water supply emergency declaration and regulation****sdiv hdg** ins 2005 No. 56 s 4**Declaration of water supply emergency****s 25B** ins 2005 No. 56 s 4**Contents of water supply emergency declaration****s 25C** ins 2005 No. 56 s 4  
amd 2008 No. 34 s 668**Amendment of water supply emergency declaration****s 25CA** ins 2008 No. 34 s 669**Measures mentioned in a water supply emergency declaration****s 25D** ins 2005 No. 56 s 4**Requirement to comply with water supply emergency declaration****s 25E** ins 2005 No. 56 s 4  
amd 2008 No. 34 s 666 sch 2**Regulation about water supply emergency****s 25F** ins 2005 No. 56 s 4  
amd 2008 No. 34 s 670; 2010 No. 20 s 78**Amendment of water supply emergency regulation****s 25FA** ins 2008 No. 34 s 671**Measures mentioned in a water supply emergency regulation****s 25G** ins 2005 No. 56 s 4**Requirement to comply with water supply emergency regulation****s 25H** ins 2005 No. 56 s 4**Approval of, or change to, response****s 25I** ins 2005 No. 56 s 4**When water supply emergency ends****s 25J** ins 2005 No. 56 s 4  
amd 2008 No. 34 s 672**Subdivision 3—Carrying out measures and achieving outcomes****sdiv hdg** ins 2005 No. 56 s 4**Supply arrangements****s 25K** ins 2005 No. 56 s 4

**Relationship with State Development and Public Works Organisation Act 1971**

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amd 2006 No. 54 s 27

**Appointment of person to carry out measures or achieve outcomes**

s 25M ins 2005 No. 56 s 4  
amd 2006 No. 23 s 3

**Effect of appointee carrying out measures or achieving outcomes**

s 25N ins 2005 No. 56 s 4

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sdiv hdg ins 2005 No. 56 s 4

**Recovery of costs incurred**

s 25O ins 2005 No. 56 s 4  
amd 2008 No. 34 s 673

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s 25P ins 2005 No. 56 s 4

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s 25Q ins 2005 No. 56 s 4

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sdiv hdg ins 2005 No. 56 s 4

**Applying for compensation**

s 25R ins 2005 No. 56 s 4

**When compensation is not payable**

s 25S ins 2005 No. 56 s 4  
amd 2006 No. 23 s 4

**Requirement for further information**

s 25T ins 2005 No. 56 s 4

**Deciding application**

s 25U ins 2005 No. 56 s 4

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s 25V ins 2005 No. 56 s 4

**Protection of State and Minister from liability**

s 25W ins 2005 No. 56 s 4

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s 25X ins 2005 No. 56 s 4

**Subdivision 6—Review of division and regulation**

sdiv hdg ins 2005 No. 56 s 4

**Review of div 2A**

s 25Y ins 2005 No. 56 s 4

**Review of regulation**

s 25Z ins 2005 No. 56 s 4

**Division 2B—Restrictions on use of subartesian water**

div hdg ins 2007 No. 57 s 63

**Application for approval to restrict use of subartesian water**

s 25ZA ins 2007 No. 57 s 63  
amd 2008 No. 34 s 674

**Deciding application**

s 25ZB ins 2007 No. 57 s 63

**Notice about decision to give approval**

s 25ZC ins 2007 No. 57 s 63

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s 25ZD ins 2007 No. 57 s 63

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s 25ZE ins 2007 No. 57 s 63  
amd 2008 No. 34 s 666 sch 2

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

div hdg ins 2003 No. 25 s 26

**Moratorium notices**

s 26 prev s 26 om 2003 No. 25 s 26  
pres s 26 (prev s 42) amd 2001 No. 75 s 9; 2003 No. 25 s 31  
renum and reloc 2003 No. 25 s 35  
amd 2005 No. 19 s 6; 2008 No. 58 s 10; 2009 No. 17 s 331 sch 1

**Application to vary effect of moratorium notice**

s 27 prev s 27 om 2003 No. 25 s 26  
pres s 27 (prev s 42A) ins 2001 No. 75 s 10  
renum and reloc 2003 No. 25 s 35

**Reviewing moratorium notices**

s 28 prev s 28 om 2003 No. 25 s 26  
pres s 28 (prev s 43) amd 2003 No. 25 s 32  
renum and reloc 2003 No. 25 s 35

**Amending moratorium notices**

s 29 prev s 29 om 2003 No. 25 s 26  
pres s 29 (prev s 44) amd 2003 No. 25 s 33  
renum and reloc 2003 No. 25 s 35

**Exceptions to ss 26 and 29**

prov hdg amd 2003 No. 25 s 34(1)  
s 30 prev s 30 om 2003 No. 25 s 26  
pres s 30 (prev s 45) amd 2003 No. 25 s 34(2)  
renum and reloc 2003 No. 25 s 35

**Division 4—Effect of declaration of temporary full supply levels on relevant dams**

**div hdg** ins 2011 No. 33 s 30  
amd 2012 No. 29 s 10

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**s 31** ins 2011 No. 33 s 30  
amd 2012 No. 29 s 11

**Effect of temporary full supply level on resource operations plan**

**s 32** prev s 32 ins 2011 No. 33 s 30  
om 2012 No. 29 s 12  
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amd 2012 No. 29 s 13  
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**Obligations of operator**

**prov hdg** amd 2012 No. 29 s 14(1)  
**s 33** prev s 33 ins 2011 No. 33 s 30  
om 2012 No. 29 s 12  
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amd 2012 No. 29 s 14(2)–(3)  
renum 2012 No. 29 s 16

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**s 34** prev s 34 ins 2011 No. 33 s 30  
om 2012 No. 29 s 12  
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renum 2012 No. 29 s 16

**Minister may declare temporary full supply level**

**s 34A** ins 2011 No. 33 s 30  
om 2012 No. 29 s 12

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**s 34D** ins 2011 No. 33 s 30  
om 2012 No. 29 s 15

**Obtaining water information**

**s 36** amd 2001 No. 75 s 6; 2003 No. 25 s 27; 2005 No. 19 s 7

**Obtaining information from a service provider**

**s 36A** ins 2005 No. 56 s 5

**Notice of works and water use**

**prov hdg** sub 2005 No. 19 s 8  
**s 37** sub 2001 No. 75 s 7  
amd 2003 No. 25 s 28  
sub 2011 No. 40 s 10

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**sdiv hdg** sub 2011 No. 40 s 11



**Minister may prepare water resource plans**

s 38            amd 2005 No. 19 s 9; 2011 No. 40 s 12

**Subdivision 2—Consultation requirements for particular plans before their preparation**

sdiv hdg    ins 2011 No. 40 s 13

**Application of sdiv 2**

s 38A        ins 2011 No. 40 s 13

**Minister must first prepare a statement of proposals**

s 39        sub 2011 No. 40 s 13

**Public notice of proposal to prepare draft water resource plan and availability of statement of proposals**

s 40        amd 2003 No. 25 s 29  
             sub 2011 No. 40 s 13

**Further public notice of proposal to prepare draft water resource plan**

s 40A       ins 2001 No. 75 s 8  
             amd 2003 No. 25 s 30; 2011 No. 40 s 14

**Community reference panels**

s 41        om 2011 No. 40 s 15

**Subdivision 3—Preparing and approving water resource plans**

sdiv hdg    ins 2011 No. 40 s 15

**Content of draft water resource plans**

s 46        amd 2001 No. 75 s 11; 2003 No. 25 s 36; 2005 No. 19 s 10; 2005 No. 42 s 52  
             sch 1; 2007 No. 57 s 64; 2008 No. 34 s 675; 2008 No. 58 s 11; 2009 No. 36  
             s 872 sch 2; 2011 No. 40 s 16

**Matters the Minister must consider when preparing draft water resource plan**

s 47        amd 2005 No. 42 s 52 sch 1; 2011 No. 40 s 17

**Overview report**

s 48        amd 2011 No. 40 s 18

**Public notice about availability of draft water resource plan and overview report**

prov hdg    amd 2011 No. 40 s 19(1)  
s 49        amd 2011 No. 40 s 19(2)–(3)

**Minister may prepare further draft water resource plan**

s 49A       ins 2001 No. 75 s 12

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prov hdg    amd 2011 No. 40 s 20(1)  
s 50        sub 2001 No. 75 s 13  
             amd 2011 No. 40 s 20(2)–(3)

**Copy of final draft water resource plan to be given to chief executive**

s 50A       ins 2011 No. 40 s 21

**Minister must prepare report on consultation process**

s 51            amd 2011 No. 40 s 22

**Public notice of intention not to proceed with making draft or final draft water resource plan**

prov hdg    amd 2011 No. 40 s 23(1)

s 52            amd 2001 No. 75 s 3 sch 2; 2011 No. 40 s 23(2)

**Subdivision 4—Periodic reports and accountability matters**

sdiv 4        (prev sdiv 2) renum 2011 No. 40 s 24

**Minister must report on all water resource plans**

s 53            amd 2011 No. 40 s 25

**Matters the reports must include**

s 54            amd 2001 No. 75 s 14; 2011 No. 40 s 26

**Subdivision 5—Amending or preparing new, water resource plans**

sdiv 5        (prev sdiv 3) renum 2011 No. 40 s 24

**When water resource plans may be amended or replaced**

s 55            amd 2001 No. 75 s 15; 2005 No. 19 s 11; 2005 No. 42 s 52 sch 1; 2006 No. 59 s 85 sch; 2011 No. 40 s 27

**Preparing amending or new draft water resource plan**

s 56            amd 2005 No. 19 s 12; 2011 No. 40 s 28

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prov hdg    amd 2003 No. 25 s 37

s 57            amd 2005 No. 42 s 52 sch 1; 2006 No. 59 s 85 sch; 2011 No. 40 s 29

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sdiv 6        (prev sdiv 4) renum 2011 No. 40 s 24

**Preparing and approving final draft water use plan**

s 65            amd 2001 No. 75 s 3 sch 2

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s 67            amd 2003 No. 25 s 38

**Minor or stated amendments of water use plan**

s 70 prov hdg amd 2003 No. 25 s 39

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s 73            amd 2001 No. 75 s 16; 2003 No. 25 s 40; 2005 No. 56 s 6; 2007 No. 57 s 65

**Applying for approval of land and water management plans**

s 74            amd 2005 No. 19 s 13; 2010 No. 7 s 58

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s 74A        ins 2010 No. 7 s 59

**Criteria for deciding application for approval of land and water management plan**

s 76            amd 2005 No. 19 s 14; 2010 No. 7 s 60

**Deciding application for approval of land and water management plan**

s 77 amd 2001 No. 75 s 17; 2005 No. 19 s 15

**Amending land and water management plans—general**

prov hdg amd 2010 No. 7 s 61(1)

s 78 amd 2010 No. 7 s 61(2)

**Minor or stated amendments of land and water management plan**

prov hdg amd 2003 No. 25 s 41

s 78A ins 2001 No. 75 s 18

amd 2010 No. 7 s 62

**Amending particular land and water management plans**

s 78B ins 2010 No. 7 s 63

**Deciding application to defer land and water management plan requirements**

s 82 amd 2010 No. 7 s 64

**When chief executive must prepare a draft resource operations plan**

s 96 sub 2011 No. 40 s 30

**Notice of proposal to water infrastructure operators**

s 97 amd 2001 No. 75 s 19; 2011 No. 40 s 31

**Content of draft resource operations plan**

s 98 amd 2001 No. 75 s 20; 2004 No. 4 s 57 sch; 2005 No. 42 s 52 sch 1; 2011 No. 33 s 31; 2011 No. 40 s 32

**Matters the chief executive must consider when preparing draft resource operations plan**

s 99 amd 2005 No. 42 s 52 sch 1; 2006 No. 23 s 5; 2011 No. 40 s 33

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s 99A ins 2011 No. 40 s 34

**Public notice about availability of draft resource operations plan and overview report**

prov hdg amd 2011 No. 40 s 35(1)

s 100 amd 2001 No. 75 s 3 sch 2; 2003 No. 25 s 42; 2011 No. 40 s 35(2)–(5)

**Additional requirements for notices for draft resource operations plans that establish water allocations**

s 101 amd 2001 No. 75 s 21; 2005 No. 19 s 16

**Reviewing submissions about draft resource operations plan**

s 102 amd 2011 No. 40 s 36

**Preparing and approving final draft resource operations plan**

s 103 sub 2008 No. 58 s 12

amd 2011 No. 40 s 37

**Public notice of intention not to proceed with making of draft or final draft resource operations plan**

prov hdg amd 2008 No. 58 s 13(1)

s 104 amd 2003 No. 25 s 43; 2008 No. 58 s 13(2)–(3)

**Public notice of intention not to amend to provide for deferred aspect**

s 104A ins 2008 No. 58 s 14

**Concurrent approval by Governor in Council**

s 104B ins 2011 No. 40 s 39

**Chief executive must prepare report on consultation process**

s 104C ins 2011 No. 40 s 39

**Public access to particular notices**

s 104D (prev s 104B) ins 2008 No. 58 s 14  
renum 2011 No. 40 s 38

**General provision for amending resource operations plan**

prov hdg amd 2008 No. 58 s 15

s 105 amd 2005 No. 19 s 17; 2006 No. 23 s 6; 2010 No. 20 s 79; 2011 No. 40 s 40

**Amendment to provide for deferred aspect**

s 105A ins 2008 No. 58 s 16  
amd 2010 No. 20 s 80

**Minor or stated amendments of resource operations plan**

prov hdg amd 2003 No. 25 s 44

s 106 amd 2005 No. 42 s 52 sch 1; 2010 No. 20 s 81; 2011 No. 40 s 41

**Amendment of resource operations plan between approval and commencement**

s 106AA ins 2011 No. 40 s 42

**Subdivision 3—Continuation of resource operations plans**

sdiv 3 ins 2010 No. 20 s 82

**Continuation of resource operations plan for new water resource plan**

s 106A ins 2010 No. 20 s 82  
amd 2011 No. 40 s 43

**Division 3—Resource operations licences and distribution operations licences**

div hdg sub 2005 No. 19 s 18

**Subdivision 1—Granting resource operations licences and distribution operations licences**

sdiv hdg sub 2005 No. 19 s 19

**Effect of resource operations plan**

s 107 sub 2001 No. 75 s 22  
amd 2005 No. 19 s 20

**Authority to interfere with water**

s 107A ins 2003 No. 25 s 45  
amd 2005 No. 19 s 21

**Granting resource operations licences and distribution operations licences**

prov hdg amd 2005 No. 19 s 22(1)

s 108 amd 2005 No. 19 s 22(2)

**Subdivision 1A—Granting distribution operations licences other than under a resource operations plan****sdiv 1A** (ss 108A–108C) ins 2005 No. 19 s 23**Subdivision 2—Content and conditions of resource operations licences and distribution operations licences****sdiv hdg** amd 2005 No. 19 s 24**Content of resource operations licence or distribution operations licence****prov hdg** amd 2005 No. 19 s 25(1)**s 109** amd 2001 No. 75 s 3 sch 2; 2005 No. 19 s 25(2)–(3)**Conditions of resource operations licence or distribution operations licence****prov hdg** amd 2005 No. 19 s 26(1)**s 110** amd 2001 No. 75 s 23; 2003 No. 25 s 46; 2005 No. 19 s 26(2)–(5); 2006 No. 23 s 7**Subdivision 3—Amending resource operations licences and distribution operations licences****sdiv hdg** amd 2005 No. 19 s 27**Amending a licence for consistency with a plan****prov hdg** amd 2005 No. 19 s 28(1)**s 111** amd 2005 No. 19 s 28(2)–(3)**Amending a licence under a plan process****prov hdg** amd 2005 No. 19 s 29(1)**s 111A** ins 2001 No. 75 s 24  
amd 2005 No. 19 s 29(2)**Other amendments chief executive may make to licence****prov hdg** amd 2005 No. 19 s 30(1)**s 112** amd 2005 No. 19 s 30(2)**Minor, stated or agreed amendments of licence****prov hdg** amd 2003 No. 25 s 47; 2005 No. 19 s 31(1); 2008 No. 34 s 676**s 113** amd 2005 No. 19 s 31(2)–(3)**Subdivision 4—Transferring or amalgamating resource operations licences and distribution operations licences****sdiv hdg** sub 2003 No. 25 s 48

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**Applying for transfer of licence****prov hdg** amd 2005 No. 19 s 33(1)**s 114** amd 2005 No. 19 s 33(2)**Additional information may be required****s 115** amd 2005 No. 19 s 34**Deciding application to transfer licence****prov hdg** amd 2005 No. 19 s 35**s 116** amd 2008 No. 34 s 666 sch 2

**Approving application to transfer licence**

**prov hdg** amd 2005 No. 19 s 35(1)

**s 117** amd 2005 No. 19 s 35(2)

**Refusing application to transfer licence**

**prov hdg** amd 2005 No. 19 s 37(1)

**s 118** amd 2005 No. 19 s 37(2)–(4)

**Amalgamating licences**

**prov hdg** amd 2005 No. 19 s 38(1)

**s 118A** ins 2003 No. 25 s 49

amd 2005 No. 19 s 38(2)–(4)

**Subdivision 5—Cancelling resource operations licences and distribution operations licences**

**sdiv hdg** amd 2005 No. 19 s 39

**Cancelling licence**

**prov hdg** amd 2005 No. 19 s 40(1)

**s 119** amd 2005 No. 19 s 40(2)

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**prov hdg** amd 2005 No. 19 s 41(1)

**s 119A** (prev s 120) amd 2005 No. 19 s 41(2)

renum 2005 No. 19 s 41(3)

**Cancelling licence no longer required**

**prov hdg** amd 2005 No. 19 s 42(1)

**s 119B** (prev s 120A) ins 2001 No. 75 s 25

amd 2005 No. 19 s 42(2)–(4)

renum 2005 No. 19 s 42(5)

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**sdiv 6 (ss 119C–119D)** ins 2005 No. 19 s 43

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**sdiv hdg** ins 2003 No. 25 s 51

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**s 120B** ins 2003 No. 25 s 51

**Subdivision 1A—Converting water entitlements and granting water allocations**

**sdiv hdg** (prev sdiv 1 hdg) renum 2003 No. 25 s 50

**Converting water entitlements**

**s 121** amd 2001 No. 75 s 26; 2003 No. 25 s 52; 2005 No. 19 s 44; 2011 No. 40 s 44

**Granting water allocations**

**s 122** amd 2001 No. 75 s 27; 2005 No. 19 s 45

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**s 122A** ins 2001 No. 75 s 28

amd 2005 No. 19 s 46

**Relationship between plans and water allocation**

s 123 sub 2005 No. 19 s 47

**Amending water allocations**

s 125 amd 2001 No. 75 s 29; 2003 No. 25 s 53; 2005 No. 19 s 48

**Correcting water allocation when recording granting or amendment**

s 126 amd 2001 No. 75 s 3 sch 2

**Registration details for water allocations**

s 127 amd 2003 No. 25 s 54; 2005 No. 19 s 49; 2011 No. 40 s 45

**Conditions of a water allocation**

s 127A ins 2003 No. 25 s 55

**Water allocations to which a distribution operations licence applies**

s 127B ins 2005 No. 19 s 50

**Preservation of obligation in particular circumstances**

s 127C ins 2005 No. 19 s 50

**Meaning of “change to a water allocation”**

s 128 amd 2001 No. 75 s 3 sch 2; 2003 No. 25 s 56

**Amalgamation or subdivision of water allocations**

s 128A ins 2001 No. 75 s 30  
amd 2003 No. 25 s 57; 2005 No. 19 s 51; 2008 No. 34 s 677; 2011 No. 40 s 46

**Transfers or leases of water allocations**

prov hdg amd 2008 No. 34 s 678(1)

s 128B ins 2005 No. 19 s 52  
amd 2008 No. 34 s 678(2)–(3)

**Changing water allocations permitted under water allocation change rules**

prov hdg amd 2007 No. 57 s 66

s 129 sub 2001 No. 75 s 31  
amd 2003 No. 25 s 58; 2011 No. 40 s 47

**Changing water allocations assessed under water allocation change rules**

s 129A ins 2007 No. 57 s 67

**Other changes to water allocations**

s 130 sub 2001 No. 75 s 31

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s 131 amd 2001 No. 75 s 32; 2007 No. 57 s 68

**Public notice of application to change water allocation**

prov hdg amd 2001 No. 75 s 33

s 132 sub 2011 No. 40 s 48

**Applicant to pay cost of researching and investigating application**

s 133 amd 2007 No. 57 s 69

**Deciding application to change water allocation**

**prov hdg** amd 2001 No. 75 s 34(1)

**s 134** amd 2001 No. 75 s 34(2)–(4); 2003 No. 25 s 59; 2005 No. 19 s 53; 2007 No. 57 s 70

**Registering approved application to change water allocation**

**prov hdg** amd 2001 No. 75 s 35(1)

**s 135** amd 2001 No. 75 s 35(2)–(3); 2003 No. 25 s 60; 2011 No. 40 s 49

**Leasing a water allocation**

**s 136** om 2001 No. 75 s 36

**Transferring a lease of a water allocation**

**s 137** om 2001 No. 75 s 36

**Water allocations may be forfeited**

**s 138** amd 2001 No. 75 s 37; 2005 No. 19 s 54

**Priority for applying proceeds of sale of water allocations under a power of sale**

**s 140** amd 2005 No. 19 s 55

**Division 5—Seasonal water assignments of water allocations**

**Subdivision 1—Allocations not managed under a resource operations licence**

**sdiv hdg** ins 2003 No. 25 s 61

**Application of sdiv 1**

**prov hdg** amd 2003 No. 25 s 62(1)

**s 141** amd 2003 No. 25 s 62(2)

**Applying for a seasonal water assignment**

**s 142** sub 2005 No. 19 s 56

**Additional information may be required**

**s 143** amd 2001 No. 75 s 38

**Deciding application for seasonal water assignment**

**s 144** amd 2005 No. 19 s 57; 2011 No. 40 s 50

**Conditions of seasonal water assignment**

**s 145** amd 2005 No. 19 s 58

**Application of s 243**

**s 146** amd 2003 No. 25 s 63

sub 2005 No. 19 s 59

**Subdivision 2—Allocations managed under a resource operations licence**

**sdiv hdg** ins 2003 No. 25 s 64

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**s 146A** ins 2003 No. 25 s 64

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**s 146B** ins 2003 No. 25 s 64

sub 2005 No. 19 s 60



**Registrar**

s 147 amd 2009 No. 25 s 83 sch

**Water allocations register**

s 148 amd 2003 No. 25 s 65

**Interests and dealings that may be registered**

s 150 amd 2001 No. 75 s 39; 2003 No. 25 s 66  
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**Effect on priority of notices given under s 101(1)(b)**

s 150A ins 2005 No. 19 s 61

**Effect on priority of notices given under s 101(1)(c)**

s 150B ins 2005 No. 19 s 61

**Application of Land Title Act 1994 to water allocations register**

s 151 amd 2001 No. 71 s 551 sch 1; 2003 No. 25 s 67

**Application of other Acts to the water allocations register**

s 152 amd 2003 No. 25 s 68; 2010 No. 39 s 325 sch 1 pt 2

**Searching water allocations register**

s 153 amd 2011 No. 40 s 52

**Displacement provision for Corporations legislation**

s 154 sub 2003 No. 25 s 69

**PART 5—INTERIM ALLOCATION AND MANAGEMENT ARRANGEMENTS**

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div hdg ins 2003 No. 25 s 71

**Purpose of pt 5**

s 167 amd 2011 No. 40 s 53

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div hdg ins 2003 No. 25 s 71

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sdiv hdg ins 2003 No. 25 s 71

**Authority to interfere with water**

s 167A ins 2003 No. 25 s 71  
amd 2005 No. 19 s 62

**Subdivision 1A—Granting interim resource operations licences for existing operations**

sdiv hdg (prev sdiv 1 hdg) renum 2003 No. 25 s 70

**Who must apply for an interim resource operations licence**

s 168 amd 2005 No. 19 s 63

**Applying for interim resource operations licence**

s 169      amd 2001 No. 75 s 40; 2005 No. 19 s 64

**Additional information may be required**

s 170      amd 2005 No. 19 s 65

**Conditions of interim resource operations licence**

s 178      amd 2005 No. 19 s 66; 2006 No. 23 s 8

**Additional information may be required**

s 180      amd 2001 No. 75 s 41

**Amending interim resource operations licences on notice**

s 184      amd 2005 No. 19 s 67; 2008 No. 34 s 680

**Amending an interim resource operations licence to meet future water requirements**

s 184A    ins 2001 No. 75 s 42

**Subdivision 5A—Other amendments to interim resource operations licences**

sdiv hdg   ins 2005 No. 19 s 68

**Amending interim resource operations licences**

s 185A    ins 2005 No. 19 s 68  
          amd 2008 No. 34 s 681

**Subdivision 7—Audit reports**

sdiv 7 (ss 186A–186B) ins 2005 No. 19 s 69

**Granting interim water allocations**

s 187      amd 2001 No. 75 s 43; 2005 No. 19 s 70

**Granting interim water allocations**

s 189      amd 2001 No. 75 s 44; 2008 No. 34 s 682

**Subdivision 3—Contents and conditions of interim water allocations**

sdiv hdg   sub 2001 No. 75 s 45

**Contents of interim water allocation**

s 190      (prev s 189A) ins 2001 No. 75 s 46  
          renum 2001 No. 75 s 50  
          amd 2008 No. 34 s 683

**Conditions of interim water allocation**

s 191      (prev s 189B) ins 2001 No. 75 s 46  
          renum 2001 No. 75 s 50  
          amd 2005 No. 19 s 71

**Subdivision 4—Dealing with interim water allocations**

sdiv hdg   ins 2001 No. 75 s 46

**Dealing with an interim water allocation**

s 192      (prev s 190) sub 2001 No. 75 s 47  
          renum 2001 No. 75 s 50  
          amd 2008 No. 34 s 684

**Transferring particular interim water allocations**

**prov hdg** sub 2008 No. 34 s 685(1)  
**s 193** (prev s 191) amd 2001 No. 75 s 3 sch 2  
renum 2001 No. 75 s 50  
amd 2003 No. 19 s 3 sch; 2008 No. 34 s 685(2)

**Deciding application to transfer particular interim water allocation**

**prov hdg** amd 2008 No. 34 s 686  
**s 194** (prev s 192) amd 2001 No. 75 s 48  
renum 2001 No. 75 s 50  
amd 2005 No. 19 s 72

**Transferring interim water allocations to other land**

**s 195** (prev s 193) renum 2001 No. 75 s 50

**Forfeiting an interim water allocation**

**s 196** (prev s 194) renum 2001 No. 75 s 50  
amd 2008 No. 34 s 687

**Surrendering an interim water allocation**

**s 197** (prev s 195) ins 2001 No. 75 s 49  
renum 2001 No. 75 s 50  
amd 2005 No. 19 s 73; 2008 No. 34 s 688

**Effect of disposal of part of land to which interim water allocation attaches**

**s 198** (prev s 196) ins 2001 No. 75 s 49  
renum 2001 No. 75 s 50  
sub 2005 No. 19 s 74  
amd 2011 No. 40 s 54

**Effect of acquisition of land to which interim water allocation attaches**

**s 198A** ins 2005 No. 19 s 74  
amd 2011 No. 40 s 55

**Effect of acquisition of part of land adjoining a watercourse, lake or spring**

**prov hdg** amd 2005 No. 19 s 75(1)  
**s 199** (prev s 197) ins 2001 No. 75 s 49  
renum 2001 No. 75 s 50  
amd 2005 No. 19 s 75(2)–(3); 2011 No. 40 s 56

**Effect of acquisition of part of land above an aquifer**

**s 199A** ins 2005 No. 19 s 76  
amd 2011 No. 40 s 57

**Effect of acquisition of part of other land**

**s 199B** ins 2005 No. 19 s 76  
amd 2011 No. 40 s 58

**Subdivision 5—Seasonal water assignments of interim water allocations**

**sdiv hdg** ins 2003 No. 25 s 72

**Arrangements for seasonal water assignments**

**s 200** sub 2003 No. 25 s 72

amd 2008 No. 34 s 689

**Subdivision 6—Interim water allocations for Julius Dam water supply scheme**

**sdiv 6 (s 201)** ins 2008 No. 34 s 690

**Definitions for pt 6**

**prov hdg** amd 2004 No. 25 s 1045(1)

**s 203** ins 2001 No. 75 s 51

def “**owner**” amd 2003 No. 25 s 73; 2004 No. 12 s 164; 2005 No. 19 s 77;  
2010 No. 12 s 251 sch; 2011 No. 40 s 59; 2010 No. 31 s 581

def “**petroleum tenure holder**” ins 2004 No. 25 s 1045(2) (amd 2004 No. 26  
s 264)

om 2010 No. 53 s 182

def “**priority group**” ins 2004 No. 25 s 1045(2)

amd 2005 No. 3 s 102

**Decisions to be in accordance with plans and declaration**

**s 205** amd 2005 No. 19 s 78

sub 2005 No. 42 s 52 sch 1

**Applying for a water licence**

**s 206** amd 2001 No. 75 s 3 sch 2; 2003 No. 25 s 74; 2004 No. 25 s 1046; 2005 No. 3  
s 103; 2005 No. 19 s 79; 2009 No. 17 s 331 sch 1; 2011 No. 40 s 60

**Additional requirements for application by petroleum tenure holder**

**s 206A** ins 2004 No. 25 s 1047

**Additional information may be required**

**s 207** amd 2001 No. 75 s 52

**Public notice of application for water licence**

**s 208** amd 2001 No. 75 s 53; 2005 No. 19 s 80; 2011 No. 40 s 61

**Applications that may be decided without public notice**

**s 209** amd 2004 No. 25 s 1048; 2006 No. 59 s 68; 2008 No. 34 s 691

**Criteria for deciding application for water licence**

**s 210** amd 2005 No. 19 s 81; 2006 No. 59 s 69

**Deciding application for water licence**

**s 211** amd 2003 No. 25 s 75

**Effect of disposal of part of land to which application for water licence relates**

**s 211A** ins 2003 No. 25 s 76

amd 2005 No. 19 s 82

**Granting a water licence under a plan or declaration process**

**prov hdg** amd 2005 No. 42 s 52 sch 1

**s 212** amd 2001 No. 75 s 54; 2005 No. 42 s 52 sch 1; 2008 No. 34 s 692; 2011 No.  
40 s 62

**Applying for transmission water licence**

**s 212A** ins 2008 No. 34 s 693

**Contents of water licence**

**s 213** amd 2001 No. 75 s 55; 2003 No. 25 s 77; 2004 No. 25 s 1049; 2008 No. 34 s 694; 2011 No. 40 s 63

**Conditions of water licence**

**s 214** amd 2001 No. 75 s 56; 2004 No. 25 s 1050 (amd 2004 No. 26 s 69(2) sch); 2005 No. 19 s 83

**Where water under certain licences must be used**

**s 215** amd 2002 No. 12 s 329 sch 2; 2005 No. 19 s 84; 2011 No. 40 s 64

**Amending water licence without public notice**

**s 216A** ins 2005 No. 19 s 85  
amd 2011 No. 40 s 65

**Amending water licence to implement water resource plan**

**s 217** amd 2008 No. 34 s 695

**Minor or stated amendments of water licence**

**s 219 prov hdg** amd 2003 No. 25 s 78

**Renewing water licence**

**s 220** amd 2003 No. 25 s 79

**Reinstating expired water licence**

**s 221** amd 2008 No. 34 s 696

**Transferring water licence to another person**

**prov hdg** amd 2001 No. 75 s 57(1)  
**s 222** amd 2001 No. 75 s 57(2)–(3); 2004 No. 25 s 1051; 2005 No. 19 s 86; 2011 No. 40 s 66

**Other transfer of water licence**

**s 223** sub 2006 No. 59 s 75

**Amalgamating water licences**

**s 224** amd 2003 No. 25 s 80

**Subdividing water licence**

**s 225** amd 2003 No. 25 s 81

**Cancelling water licence**

**s 227** amd 2004 No. 25 s 1052; 2005 No. 3 s 104

**Effect of licensee ceasing to be an owner of land**

**s 228** amd 2001 No. 75 s 58

**Effect of disposal of part of land to which water licence to take water attaches**

**prov hdg** amd 2001 No. 75 s 59(1)  
**s 229** amd 2001 No. 75 s 59(2); 2005 No. 19 s 87; 2011 No. 40 s 67

**Effect of disposal of part of land to which water licence to interfere with water attaches**

**s 229A** ins 2001 No. 75 s 60

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

**sdiv hdg** ins 2003 No. 25 s 82

**Application of sdiv 6**

**s 229B** ins 2001 No. 75 s 60  
sub 2003 No. 25 s 82  
amd 2011 No. 40 s 68

**Effect of acquisition of part of land adjoining a watercourse, lake or spring**

**s 229C** ins 2003 No. 25 s 82  
amd 2011 No. 40 s 69

**Effect of acquisition of part of land above an aquifer**

**s 229D** ins 2003 No. 25 s 82  
amd 2011 No. 40 s 70

**Effect of acquisition of part of other land**

**s 229E** ins 2003 No. 25 s 82  
amd 2011 No. 40 s 71

**Application of div 3**

**s 230** amd 2003 No. 19 s 3 sch

**Applying for seasonal water assignment**

**s 231** amd 2005 No. 19 s 88

**Additional information may be required**

**s 232** amd 2001 No. 75 s 61

**Deciding application for seasonal water assignment**

**s 233** amd 2005 No. 19 s 89

**Conditions of seasonal water assignment**

**s 235** amd 2005 No. 19 s 90

**Application of ss 25, 243 and 244**

**prov hdg** amd 2005 No. 19 s 91(1)

**s 236** sub 2003 No. 25 s 83  
amd 2005 No. 19 s 91(2)

**Additional information may be required**

**s 238** amd 2001 No. 75 s 62

**Deciding application for water permit**

**s 240** amd 2003 No. 25 s 84

**Regulating land use in catchment area**

**s 259** amd 2009 No. 36 s 872 sch 2

**Applying for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring**

**s 266** amd 2005 No. 19 s 92; 2005 No. 42 s 52 sch 1; 2006 No. 59 s 70; 2010 No. 53 s 183

**Additional information may be required**

s 267      amd 2005 No. 19 s 93

**Criteria for deciding application for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring**

s 268      amd 2006 No. 59 s 71; 2010 No. 53 s 184

**Deciding application for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring**

s 269      amd 2003 No. 25 s 86

**Notice to owner of land to remove vegetation etc.**

s 273      amd 2005 No. 19 s 94

**Ownership and management of certain quarry material**

s 279      amd 2010 No. 12 s 241

**Applying for allocation of quarry material**

s 280      amd 2005 No. 42 s 52 sch 1; 2006 No. 59 s 72; 2010 No. 53 s 185

**Criteria for deciding application for allocation of quarry material**

s 282      amd 2003 No. 25 s 87; 2006 No. 59 s 73; 2010 No. 53 s 186

**Deciding application for allocation of quarry material**

s 283      amd 2003 No. 25 s 88; 2011 No. 40 s 72

**Transferring allocation of quarry material**

s 288      amd 2001 No. 75 s 3 sch 2

**Renewing allocations of quarry material**

s 289      amd 2011 No. 40 s 73

**Surrendering allocation notice**

s 291A     ins 2011 No. 40 s 74

**Additional information may be required**

s 300      amd 2005 No. 19 s 95

**Deciding application for water bore driller's licence**

s 301      amd 2001 No. 75 s 63; 2003 No. 25 s 89

**Conditions of water bore driller's licence**

s 302      amd 2001 No. 75 s 64

**Refusing application for water bore driller's licence**

s 303      om 2003 No. 25 s 90

**Minor or stated amendments of water bore driller's licence**

s 307 prov hdg amd 2003 No. 25 s 91

**Renewing water bore driller's licence**

s 308      amd 2003 No. 25 s 92

**Reinstating expired water bore driller's licence**

s 308A     ins 2003 No. 25 s 93

**Deciding application for operations licence**

s 331      amd 2003 No. 25 s 94

**CHAPTER 2A—WATER SUPPLY AND DEMAND MANAGEMENT**

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**Main purpose of ch 2A and its achievement**

s 340      ins 2006 No. 23 s 9  
            amd 2007 No. 57 s 71; 2008 No. 34 s 697

**What is the “SEQ region”**

s 341      ins 2006 No. 23 s 9  
            amd 2007 No. 59 s 145

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pt hdg      ins 2006 No. 23 s 9

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div hdg      ins 2006 No. 23 s 9

**Establishment of commission**

s 342      ins 2006 No. 23 s 9

**Commission represents the State**

s 343      ins 2006 No. 23 s 9

**Commission not generally subject to direction**

s 343A      ins 2009 No. 18 s 3A

**Application of other Acts**

s 344      ins 2006 No. 23 s 9  
            amd 2009 No. 9 s 136 sch 1

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div hdg      ins 2006 No. 23 s 9

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s 345      ins 2006 No. 23 s 9  
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            amd 2011 No. 33 s 32; 2012 No. 29 s 17

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s 346      ins 2006 No. 23 s 9

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s 347      ins 2006 No. 23 s 9  
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div hdg      ins 2006 No. 23 s 9  
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**s 348** ins 2006 No. 23 s 9  
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**Appointment of commissioner**

**s 348A** ins 2009 No. 18 s 4

**Eligibility for appointment**

**s 349** ins 2006 No. 23 s 9  
amd 2009 No. 18 s 3 sch; 2009 No. 46 s 130; 2010 No. 53 s 189

**Duration of appointment**

**s 350** ins 2006 No. 23 s 9  
amd 2009 No. 18 s 3 sch

**Terms and conditions of appointment**

**s 351** ins 2006 No. 23 s 9  
amd 2009 No. 18 s 3 sch

**Resignation**

**s 352** ins 2006 No. 23 s 9  
amd 2009 No. 18 s 3 sch

**Termination of appointment**

**s 353** ins 2006 No. 23 s 9  
amd 2009 No. 18 s 3 sch

**Conflicts of interest**

**s 354** ins 2006 No. 23 s 9  
sub 2009 No. 18 s 5

**Acting commissioner**

**s 355** ins 2006 No. 23 s 9  
sub 2009 No. 18 s 5

**Division 4—Records of decisions**

**div hdg** ins 2006 No. 23 s 9  
sub 2009 No. 18 s 5

**Records required**

**s 356** ins 2006 No. 23 s 9  
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**Division 4A—Chief executive officer**

**div hdg** ins 2010 No. 20 s 83

**Appointment**

**s 357** prev s 357 ins 2006 No. 23 s 9  
om 2009 No. 18 s 5  
pres s 357 ins 2010 No. 20 s 83

**Conditions of appointment**

**s 358** prev s 358 ins 2006 No. 23 s 9  
om 2009 No. 18 s 5

pres s 358 ins 2010 No. 20 s 83

**Functions**

**s 359** prev s 359 ins 2006 No. 23 s 9  
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**s 360** prev s 360 ins 2006 No. 23 s 9  
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**s 360A** prev s 360A ins 2006 No. 23 s 9  
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**Delegation by commission CEO**

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sub 2010 No. 20 s 84

**Advisory bodies**

**s 360C** ins 2006 No. 23 s 9

**Division 6—Standing and other references**

**div hdg** ins 2006 No. 23 s 9

**Standing references**

**s 360D** ins 2006 No. 23 s 9  
amd 2011 No. 40 s 75

**Other references**

**s 360E** ins 2006 No. 23 s 9

amd 2010 No. 53 s 190

**Division 7—Funding for commission’s functions**

**div hdg** ins 2006 No. 23 s 9

**Annual levy for water supply and demand management**

**prov hdg** sub 2010 No. 53 s 191(1)

**s 360F** ins 2006 No. 23 s 9

amd 2010 No. 53 s 191(2)

**Annual levy for underground water management—general**

**prov hdg** amd 2011 No. 40 s 76(1)

**s 360FA** ins 2010 No. 53 s 192

amd 2011 No. 40 s 76(2)

**Annual levy for underground water management—special provision for 2010–11 financial year**

**s 360FB** ins 2011 No. 40 s 77

**Annual levy for underground water management—special provision for 2011–12 financial year**

**s 360FC** ins 2011 No. 40 s 77

**PART 3—WATER SECURITY PLANNING**

**pt hdg** ins 2006 No. 23 s 9

**Division 1—Preliminary**

**div hdg** ins 2006 No. 23 s 9

**Purpose of pt 3**

**s 360G** ins 2006 No. 23 s 9

**Division 2—Regional water security options**

**div hdg** ins 2006 No. 23 s 9

**Application of div 2**

**s 360H** ins 2006 No. 23 s 9

**Advice to Minister about options**

**s 360I** ins 2006 No. 23 s 9

sub 2010 No. 20 s 85

**Content of options**

**s 360J** ins 2006 No. 23 s 9

amd 2007 No. 57 s 72; 2008 No. 34 s 698

**Consultation**

**s 360K** ins 2006 No. 23 s 9

**Division 3—Regional water security program**

**div hdg** ins 2006 No. 23 s 9

**Ministerial response to commission’s advice**

**s 360M** ins 2006 No. 23 s 9

**Effect of program for Sustainable Planning Act 2009**

**prov hdg** amd 2009 No. 36 s 872 sch 2

**s 360N** ins 2006 No. 23 s 9

amd 2007 No. 57 s 73; 2008 No. 34 ss 699, 666 sch 2; 2009 No. 36 s 872 sch 2

**PART 4—FACILITATION OF REGIONAL WATER SECURITY PROGRAMS**

**Application of pt 4**

**s 360O** ins 2006 No. 23 s 9

amd 2008 No. 34 s 700

**Status of works for State Development and Public Works Organisation Act 1971**

**s 360P** ins 2006 No. 23 s 9

amd 2008 No. 34 s 701

**Designation of preferred entity for works or sewerage**

**prov hdg** amd 2008 No. 34 s 702(1)

**s 360Q** ins 2006 No. 23 s 9

amd 2008 No. 34 s 702(2)–(4)

**PART 5—IMPLEMENTATION OF AND COMPLIANCE WITH REGIONAL WATER SECURITY PROGRAMS**

**pt hdg** ins 2006 No. 23 s 9

**Division 1—Program implementation**

**div hdg** ins 2006 No. 23 s 9

**Commission's role**

**s 360R** ins 2006 No. 23 s 9

**Review and compliance reports**

**s 360S** ins 2006 No. 23 s 9

**Information may be required from water service providers**

**s 360T** ins 2006 No. 23 s 9

amd 2008 No. 34 s 703; 2010 No. 20 s 86

**Delegation to commission staff of information-seeking function**

**s 360TA** ins 2009 No. 46 s 131

**Division 2—System operating plans**

**div hdg** ins 2006 No. 23 s 9

**Subdivision 1—Making system operating plans**

**sdiv hdg** ins 2006 No. 23 s 9

**Application of sdiv 1**

**s 360U** ins 2006 No. 23 s 9

**Commission to make system operating plan for region**

**s 360V** ins 2006 No. 23 s 9

amd 2008 No. 34 s 704

**Content of plan**

**s 360W** ins 2006 No. 23 s 9

amd 2006 No. 59 s 76; 2007 No. 57 s 74; 2008 No. 34 s 705

**Consultation for plan**

s 360X ins 2006 No. 23 s 9  
amd 2008 No. 34 s 706

**Publication and taking effect of plan**

s 360Y ins 2006 No. 23 s 9  
amd 2007 No. 57 s 75; 2008 No. 34 s 707

**Subdivision 2—Amendment of system operating plans**

sdiv hdg ins 2006 No. 23 s 9

**Amendment of plan**

s 360Z ins 2006 No. 23 s 9  
amd 2007 No. 57 s 76; 2008 No. 34 s 708; 2010 No. 20 s 87

**Subdivision 3—Compliance with system operating plans**

sdiv hdg ins 2006 No. 23 s 9

**Particular entities must comply with system operating plan**

prov hdg amd 2008 No. 34 s 709(1)  
s 360ZA ins 2006 No. 23 s 9  
amd 2007 No. 57 s 77; 2008 No. 34 s 709(2)–(3)

**Publication requirements**

s 360ZB ins 2006 No. 23 s 9  
amd 2007 No. 57 s 78; 2008 No. 34 s 710

**Derivative use immunity for compliance with publication requirement**

s 360ZC ins 2006 No. 23 s 9  
amd 2007 No. 57 s 79; 2008 No. 34 s 711, 666 sch 2

**Subdivision 4—Spot audit reports**

sdiv 4 (ss 360ZCAA–360ZCAC) ins 2008 No. 34 s 712

**Division 3—Water efficiency management plans**

div hdg ins 2006 No. 59 s 77

**Definition for div 3**

s 360ZCAD ins 2010 No. 20 s 88

**Purpose and application of division**

s 360ZCA ins 2006 No. 59 s 77  
amd 2010 No. 20 s 89

**When water efficiency management plan may be required**

s 360ZCB ins 2006 No. 59 s 77  
amd 2007 No. 57 s 79; 2010 No. 20 s 90; 2010 No. 53 s 193

**Guidelines and content requirements for water efficiency management plans**

s 360ZCC ins 2006 No. 59 s 77  
amd 2008 No. 34 s 666 sch 2  
sub 2010 No. 20 s 91

**Approving water efficiency management plan**

s 360ZCD ins 2006 No. 59 s 77

amd 2007 No. 57 s 80; 2010 No. 20 s 92

**Complying with water efficiency management plan**

s 360ZCE ins 2006 No. 59 s 77

**Reporting under water efficiency management plan**

s 360ZCF ins 2006 No. 59 s 77

amd 2010 No. 20 s 93

**Amending or replacing water efficiency management plan by commission direction**

s 360ZCG ins 2006 No. 59 s 77

amd 2010 No. 20 s 94

**Amending or replacing water efficiency management plan by water service provider direction**

s 360ZCH ins 2006 No. 59 s 77

amd 2010 No. 20 s 95

**Amending or replacing water efficiency management plan by request**

s 360ZCI ins 2006 No. 59 s 77

amd 2010 No. 20 s 96

**Notice to comply with water efficiency management plan**

s 360ZCJ ins 2006 No. 59 s 77

amd 2010 No. 20 s 97

**Reviewing water efficiency management plans**

s 360ZCK ins 2006 No. 59 s 77

amd 2010 No. 20 s 98

**Applying for cancellation of approved water efficiency management plan**

s 360ZCKA ins 2010 No. 20 s 99

**Administration fee**

s 360ZCKB ins 2010 No. 20 s 99

**Delegation by commission of functions for water efficiency management plans**

s 360ZCKC ins 2010 No. 20 s 99

**PART 5A—THE MARKET**

pt hdg ins 2008 No. 34 s 713

**Division 1—Preliminary**

div 1 (ss 360ZCL–360ZCM) ins 2008 No. 34 s 713

**Division 2—Declaration of water services**

div hdg ins 2008 No. 34 s 713

**Subdivision 1—Recommendation by commission for water service declaration**

sdiv 1 (ss 360ZCN–360ZCQ) ins 2008 No. 34 s 713

**Subdivision 2—Declaration by Minister**

sdiv2 (ss 360ZCR–360ZCU) ins 2008 No. 34 s 713

**Subdivision 3—Register**

**sdiv 3** (ss **360ZCV–360ZCW**) ins 2008 No. 34 s 713

**Division 3—South East Queensland Water Market Rules**

**div hdg** ins 2008 No. 34 s 713

**Subdivision 1—Making market rules**

**sdiv hdg** ins 2008 No. 34 s 713

**Market rules**

**s 360ZCX** ins 2008 No. 34 s 713

**Content of market rules**

**s 360ZCY** ins 2008 No. 34 s 713

amd 2009 No. 46 s 132; 2010 No. 20 s 100; 2012 No. 1 s 99

**When market rules take effect**

**s 360ZCZ** ins 2008 No. 34 s 713

**Tabling of market rules**

**s 360ZDA** ins 2008 No. 34 s 713

**Public notification of market rules**

**s 360ZDB** ins 2008 No. 34 s 713

**Review of market rules**

**s 360ZDC** ins 2008 No. 34 s 713

**Subdivision 2—Grid contract documents and registered grid participants**

**sdiv hdg** ins 2008 No. 34 s 713

**Grid contract document**

**s 360ZDD** ins 2008 No. 34 s 713

amd 2011 No. 21 s 24

**Effect of grid contract document**

**s 360ZDE** ins 2008 No. 34 s 713

**Subdivision 3—Registered grid participants**

**sdiv 3** (ss **360ZDF–360ZDH**) ins 2008 No. 34 s 713

**Subdivision 4—Liability of registered grid participants and water grid manager**

**sdiv 4** (s **360ZDI**) ins 2008 No. 34 s 713

**Subdivision 5—Offences relating to market rules**

**sdiv 5** (s **360ZDJ**) ins 2008 No. 34 s 713

**Division 4—Transfer of particular authorities**

**div 4** (ss **360ZDK–360ZDQ**) ins 2008 No. 34 s 713

**PART 6—RESTRICTION OF WATER SUPPLY BY COMMISSION**

**pt hdg** ins 2006 No. 23 s 9

**Restricting water supply**

**s 360ZD** ins 2006 No. 23 s 9

amd 2006 No. 59 s 78; 2007 No. 8 s 22A; 2007 No. 57 s 81

**Consultation and giving notice of commission water restriction**

**prov hdg** sub 2010 No. 20 s 103(1)

**s 360ZE** ins 2006 No. 23 s 9

amd 2006 No. 59 s 79; 2007 No. 8 s 22B; 2010 No. 20 s 103(2)–(3); 2010 No. 53 s 194

**Relationship with service provider water restrictions**

**s 360ZF** ins 2006 No. 23 s 9

**Delegation of particular functions for commission water restrictions**

**s 360ZG** ins 2006 No. 23 s 9

amd 2010 No. 20 s 104

**PART 7—MINISTER’S RESERVE POWER**

**pt 7** (ss 360ZH–360ZI) ins 2009 No. 18 s 6A

**CHAPTER 3—UNDERGROUND WATER MANAGEMENT**

**ch hdg** prev ch 3 hdg om 2008 No. 34 s 714

pres ch 3 hdg ins 2010 No. 53 s 195

**PART 1—PRELIMINARY**

**pt hdg** prev pt 1 hdg om 2008 No. 34 s 714

pres pt 1 hdg ins 2010 No. 53 s 195

**Division 1—Interpretation**

**div hdg** ins 2010 No. 53 s 195

**Purpose of ch 3**

**s 361** prev s 361 om 2008 No. 34 s 714

pres s 361 ins 2010 No. 53 s 195

**Definitions for ch 3**

**s 362** prev s 362 om 2008 No. 34 s 714

pres s 362 ins 2010 No. 53 s 195

**Water bores to which ch 3 applies**

**s 363** ins 2010 No. 53 s 195

**References to petroleum tenure holder in ch 3**

**s 364** ins 2010 No. 53 s 195

**Division 2—Cumulative management areas**

**div 2** (s 365) ins 2010 No. 53 s 195

**Division 3—General obligations of petroleum tenure holders**

**div 3** (ss 366–367) ins 2010 No. 53 s 195

**PART 2—REPORTING**

**pt hdg** prev pt 2 hdg om 2008 No. 34 s 714

pres pt 2 hdg ins 2010 No. 53 s 195

**Division 1—Preliminary**

**div hdg** prev div 1 hdg om 2008 No. 34 s 714

pres div 1 hdg ins 2010 No. 53 s 195



**Who is a “responsible entity”**

s 368 ins 2010 No. 53 s 195

**Who is a “responsible tenure holder”**

s 369 ins 2010 No. 53 s 195

**Division 2—Underground water impact reports**

div hdg prev div 2 hdg om 2008 No. 34 s 714  
pres div 2 hdg ins 2010 No. 53 s 195

**Obligation to give underground water impact report**

s 370 prev s 370 amd 2005 No. 19 s 96  
om 2008 No. 34 s 714  
pres s 370 ins 2010 No. 53 s 195

**When obligation to give underground water impact report does not apply**

s 371 prev s 371 om 2008 No. 34 s 714  
pres s 371 ins 2010 No. 53 s 195

**Division 2A—SEQ Water**

div hdg ins 2005 No. 56 s 7  
om 2008 No. 34 s 714

**Division 3—Notices of closure and final reports**

div hdg prev div 3 hdg om 2008 No. 34 s 714  
pres div 3 hdg ins 2010 No. 53 s 195

**Obligation to give notice of closure—general**

s 372 prev s 372 om 2008 No. 34 s 714  
pres s 372 ins 2010 No. 53 s 195

**Obligation to give notice of closure—relevant events**

s 373 prev s 373 om 2008 No. 34 s 714  
pres s 373 ins 2010 No. 53 s 195

**Obligation to give final report**

s 374 prev s 374 om 2008 No. 34 s 714  
pres s 374 ins 2010 No. 53 s 195

**When obligation to give final report does not apply**

s 375 prev s 375 om 2008 No. 34 s 714  
pres s 375 ins 2010 No. 53 s 195

**Division 4—Requirements for underground water impact reports and final reports**

div hdg prev div 4 hdg om 2008 No. 34 s 714  
pres div 4 hdg ins 2010 No. 53 s 195

**Subdivision 1—Content**

sdiv hdg ins 2010 No. 53 s 195

**Content of underground water impact report**

s 376 prev s 376 amd 2001 No. 75 s 65; 2003 No. 25 s 95  
om 2008 No. 34 s 714  
pres s 376 ins 2010 No. 53 s 195

**Cancellation of registration**

s 376A ins 2003 No. 25 s 96  
om 2008 No. 34 s 714

**Applying for cancellation of registration as service provider**

s 376B ins 2005 No. 19 s 97  
om 2008 No. 34 s 714

**Content of final report**

s 377 prev s 377 om 2008 No. 34 s 714  
pres s 377 ins 2010 No. 53 s 195

**Content of water monitoring strategy**

s 378 prev s 378 om 2008 No. 34 s 714  
pres s 378 ins 2010 No. 53 s 195

**Content of spring impact management strategy**

s 379 prev s 379 om 2008 No. 34 s 714  
pres s 379 ins 2010 No. 53 s 195

**Identifying responsible tenure holders for cumulative management areas**

s 380 prev s 380 om 2008 No. 34 s 714  
pres s 380 ins 2010 No. 53 s 195

**Subdivision 2—Consultation by responsible entity**

sdiv hdg ins 2010 No. 53 s 195

**Requirement for consultation**

s 381 prev s 381 om 2008 No. 34 s 714  
pres s 381 ins 2010 No. 53 s 195

**Public notice and copies of report**

s 382 prev s 382 sub 2001 No. 75 s 66  
om 2008 No. 34 s 714  
pres s 382 ins 2010 No. 53 s 195

**Submissions summary**

s 383 prev s 383 om 2008 No. 34 s 714  
pres s 383 ins 2010 No. 53 s 195

**Division 5—Approval of report by chief executive**

div hdg prev div 5 hdg om 2008 No. 34 s 714  
pres div 5 hdg ins 2010 No. 53 s 195

**Modifying report before approval**

s 384 prev s 384 amd 2007 No. 57 s 82  
om 2008 No. 34 s 714  
pres s 384 ins 2010 No. 53 s 195

**Power to enter place to read, check, maintain or replace meter**

s 384A ins 2007 No. 57 s 83  
om 2008 No. 34 s 714

**Decision on report**

s 385 prev s 385 om 2008 No. 34 s 714  
pres s 385 ins 2010 No. 53 s 195

**Publishing approval and making report available**

s 386 prev s 386 amd 2001 No. 75 s 67  
om 2008 No. 34 s 714  
pres s 386 ins 2010 No. 53 s 195

**Division 6—Provisions about approved reports**

div hdg prev div 6 hdg ins 2005 No. 56 s 10  
amd 2007 No. 57 s 86  
om 2008 No. 34 s 714  
pres div 6 hdg ins 2010 No. 53 s 195

**Approved underground water impact report or final report establishes immediately affected and long-term affected areas**

s 387 prev s 387 om 2008 No. 34 s 714  
pres s 387 ins 2010 No. 53 s 195

**Application of div 2A**

s 387A ins 2005 No. 56 s 7  
om 2008 No. 34 s 714

**Requirement for supply contract**

s 387B ins 2005 No. 56 s 7 (amd 2007 No. 57 s 106)  
om 2008 No. 34 s 714

**Chief executive may approve standard supply contract**

s 387C ins 2005 No. 56 s 7  
om 2008 No. 34 s 714

**Customer of a service provider**

s 387D ins 2005 No. 56 s 7  
om 2008 No. 34 s 714

**Cost of installing and maintaining meters**

s 387E ins 2005 No. 56 s 7  
om 2008 No. 34 s 714

**Effect of approved underground water impact report**

s 388 prev s 388 amd 2005 No. 56 s 8; 2006 No. 23 s 10; 2006 No. 59 s 80; 2007  
No. 57 s 84  
om 2008 No. 34 s 714  
pres s 388 ins 2010 No. 53 s 195

**Regulator may direct restriction**

s 388A ins 2007 No. 57 s 85  
om 2008 No. 34 s 714

**Effect of approved final report**

**s 389** prev s 389 amd 2005 No. 56 s 9; 2006 No. 23 s 11; 2006 No. 59 s 81  
om 2008 No. 34 s 714  
pres s 389 ins 2010 No. 53 s 195

**Compliance with approved reports**

**s 390** prev s 390 om 2008 No. 34 s 714  
pres s 390 ins 2010 No. 53 s 195

**Division 7—Amending approved reports**

**div hdg** prev div 7 hdg ins 2006 No. 59 s 82  
om 2008 No. 34 s 714  
pres div 7 hdg ins 2010 No. 53 s 195

**Minor or agreed amendments of approved report**

**s 391** prev s 391 om 2008 No. 34 s 714  
pres s 391 ins 2010 No. 53 s 195

**Direction to propose amendment and consult on proposal**

**s 392** prev s 392 om 2008 No. 34 s 714  
pres s 392 ins 2010 No. 53 s 195

**Other amendments**

**s 393** prev s 393 om 2008 No. 34 s 714  
pres s 393 ins 2010 No. 53 s 195

**PART 3—BASELINE ASSESSMENTS**

**pt hdg** prev pt 3 hdg om 2008 No. 34 s 714  
pres pt 3 hdg ins 2010 No. 53 s 195

**Division 1—Preliminary**

**div hdg** prev div 1 hdg om 2008 No. 34 s 714  
pres div 1 hdg ins 2010 No. 53 s 195

**What is a “baseline assessment”**

**s 394** prev s 394 om 2008 No. 34 s 714  
pres s 394 ins 2010 No. 53 s 195

**Chief executive may make guidelines**

**s 395** prev s 395 om 2008 No. 34 s 714  
pres s 395 ins 2010 No. 53 s 195

**Method of undertaking baseline assessment**

**s 396** prev s 396 ins 2005 No. 56 s 10  
om 2008 No. 34 s 714  
pres s 396 ins 2010 No. 53 s 195

**Subdivision 1—Preparing, certifying and approving strategic asset management plans**

**sdiv hdg** om 2005 No. 19 s 98

**Subdivision 2—Audit reports and reviews**

**sdiv hdg** om 2005 No. 19 s 98

**Division 1A—System leakage management plans**

**div hdg** ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Subdivision 1—Preliminary**

**sdiv hdg** ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Subdivision 2—Preparing and submitting plan**

**sdiv hdg** ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Subdivision 3—Exemption from preparing plan**

**sdiv hdg** ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Subdivision 4—Approving or refusing to approve plan**

**sdiv hdg** ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Subdivision 5—Miscellaneous**

**sdiv hdg** ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Division 1B—Audit reports and reviews**

**div hdg** ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Subdivision 1—Service provider plans**

**sdiv hdg** ins 2006 No. 23 s 14  
om 2008 No. 34 s 714

**Subdivision 2—System operating plans**

**sdiv hdg** ins 2006 No. 23 s 17  
om 2008 No. 34 s 714

**Subdivision 3—Miscellaneous provision**

**sdiv hdg** ins 2006 No. 23 s 17  
om 2008 No. 34 s 714

**Division 2—Preparing and approving baseline assessment plans**

**div hdg** prev div 2 hdg om 2008 No. 34 s 714  
pres div 2 hdg ins 2010 No. 53 s 195

**Obligation to prepare baseline assessment plan**

**s 397** prev s 397 ins 2005 No. 56 s 10  
om 2008 No. 34 s 714  
pres s 397 ins 2010 No. 53 s 195

**Requirements for baseline assessment timetable**

**s 398** prev s 398 ins 2005 No. 56 s 10  
om 2008 No. 34 s 714  
pres s 398 ins 2010 No. 53 s 195

**No charge for non-Act water in rainwater tank**

**s 398A** ins 2007 No. 57 s 87  
om 2008 No. 34 s 714

**Approval of baseline assessment plan**

**s 399** prev s 399 ins 2006 No. 59 s 82  
om 2008 No. 34 s 714  
pres s 399 ins 2010 No. 53 s 195

**Compliance with approved baseline assessment plan**

**s 400** prev s 400 ins 2006 No. 59 s 82  
amd 2007 No. 57 s 88  
om 2008 No. 34 s 714  
pres s 400 ins 2010 No. 53 s 195

**Division 2A—Drought management plans**

**div hdg** ins 2005 No. 19 s 106  
om 2008 No. 34 s 714

**Division 2C—Other service provider obligations**

**div hdg** ins 2007 No. 57 s 93  
om 2008 No. 34 s 714

**Subdivision 1—Residential premises**

**sdiv hdg** ins 2007 No. 57 s 93  
om 2008 No. 34 s 714

**Subdivision 2—Premises with more than 1 sole-occupancy unit**

**sdiv hdg** ins 2007 No. 57 s 93  
om 2008 No. 34 s 714

**Division 3—Amending approved baseline assessment plans**

**div hdg** prev div 3 hdg om 2008 No. 34 s 714  
pres div 3 hdg ins 2010 No. 53 s 195

**Application to amend**

**s 401** prev s 401 ins 2006 No. 59 s 82  
om 2008 No. 34 s 714  
pres s 401 ins 2010 No. 53 s 195

**Division 4—Miscellaneous**

**div hdg** prev div 4 hdg om 2008 No. 34 s 714  
pres div 4 hdg ins 2010 No. 53 s 195

**Direction by chief executive to undertake baseline assessment**

**s 402** prev s 402 ins 2006 No. 59 s 82  
amd 2007 No. 57 s 89  
om 2008 No. 34 s 714  
pres s 402 ins 2010 No. 53 s 195

**Notice of intention to undertake baseline assessment**

**s 403** prev s 403 ins 2006 No. 59 s 82  
om 2008 No. 34 s 714  
pres s 403 ins 2010 No. 53 s 195

**Bore owner must give information**

**s 404** prev s 404 ins 2006 No. 59 s 82  
amd 2007 No. 57 s 90  
om 2008 No. 34 s 714  
pres s 404 ins 2010 No. 53 s 195

**Notice of outcome of baseline assessment**

**s 405** prev s 405 ins 2006 No. 59 s 82  
om 2008 No. 34 s 714  
pres s 405 ins 2010 No. 53 s 195

**Division 5—Exemptions for small service providers**

**div hdg** om 2008 No. 34 s 714

**PART 4—GENERAL AGREEMENTS ABOUT WATER BORES**

**pt hdg** prev pt 4 hdg om 2008 No. 34 s 714  
pres pt 4 hdg ins 2010 No. 53 s 195

**Obligation to negotiate general agreement**

**s 406** prev s 406 ins 2006 No. 59 s 82  
om 2008 No. 34 s 714  
pres s 406 ins 2010 No. 53 s 195

**Effect of an agreement under this part**

**s 407** prev s 407 ins 2006 No. 59 s 82  
om 2008 No. 34 s 714  
pres s 407 ins 2010 No. 53 s 195

**Notice to comply with water efficiency management plan**

**s 407A** ins 2006 No. 59 s 82  
om 2008 No. 34 s 714

**Reviewing water efficiency management plans**

**s 407B** ins 2006 No. 59 s 82  
om 2008 No. 34 s 714

**Division 1—Preliminary**

**div hdg** om 2008 No. 34 s 714

**Division 2—Service areas**

**div hdg** om 2008 No. 34 s 714

**Division 3—Access to services in service areas**

**div hdg** om 2008 No. 34 s 714

**Division 4—Connecting to registered services**

**div hdg** om 2008 No. 34 s 714

**Division 5—Restricting domestic water supply**

**div hdg** om 2008 No. 34 s 714

**PART 5—MAKE GOOD OBLIGATIONS FOR WATER BORES**

**pt hdg** prev pt 5 hdg om 2008 No. 34 s 714

pres pt 5 hdg ins 2010 No. 53 s 195

**Division 1—Preliminary**

**div hdg** ins 2010 No. 53 s 195

**Definition for pt 5**

**s 408** prev s 408 amd 2001 No. 75 s 68; 2006 No. 23 s 12

om 2008 No. 34 s 714

pres s 408 ins 2010 No. 53 s 195

**“Make good obligations” for water bores**

**s 409** prev s 409 om 2008 No. 34 s 714

pres s 409 ins 2010 No. 53 s 195

**Who must comply with make good obligations**

**s 410** prev s 410 om 2008 No. 34 s 714

pres s 410 ins 2010 No. 53 s 195

**Division 2—Bore assessments**

**div hdg** ins 2010 No. 53 s 195

**Subdivision 1—Preliminary**

**sdiv hdg** ins 2010 No. 53 s 195

**What is a “bore assessment”**

**s 411** prev s 411 om 2008 No. 34 s 714

pres s 411 ins 2010 No. 53 s 195

**When does a water bore have an “impaired capacity”**

**s 412** prev s 412 amd 2005 No. 19 s 99

om 2008 No. 34 s 714

pres s 412 ins 2010 No. 53 s 195

**Chief executive may make guidelines**

**s 413** prev s 413 om 2008 No. 34 s 714

pres s 413 ins 2010 No. 53 s 195

**Method of undertaking bore assessment**

**s 414** prev s 414 amd 2005 No. 19 s 100; 2006 No. 23 s 13

om 2008 No. 34 s 714

pres s 414 ins 2010 No. 53 s 195

**Application of div 1A**

**s 414A** ins 2005 No. 19 s 101

om 2008 No. 34 s 714

**Preparing system leakage management plans**

**s 414B** ins 2005 No. 19 s 101

om 2008 No. 34 s 714



**Certifying system leakage management plan**

s 414C ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Submitting system leakage management plan for approval**

s 414D ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Application for exemption**

s 414E ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Deciding the application**

s 414F ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Conditions of exemption**

s 414G ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Cancelling or amending an exemption**

s 414H ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Approving system leakage management plan**

s 414I ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Refusing to approve system leakage management plan**

s 414J ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Regulator may seek further information**

s 414K ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Changing system leakage management plan**

s 414L ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Complying with approved system leakage management plan**

s 414M ins 2005 No. 19 s 101  
om 2008 No. 34 s 714

**Application of sdiv 1**

s 414N ins 2005 No. 19 s 101  
sub 2006 No. 23 s 14  
om 2008 No. 34 s 714

**Subdivision 2—Obligations relating to bore assessments**

sdiv hdg ins 2010 No. 53 s 195

**Notice of intention to undertake bore assessment**

**prov hdg** sub 2005 No. 19 s 102(1)  
**s 415** prev s 415 amd 2005 No. 19 s 102(2)–(3)  
om 2008 No. 34 s 714  
pres s 415 ins 2010 No. 53 s 195

**Bore owner must give information**

**prov hdg** sub 2005 No. 19 s 103(1)  
**s 416** prev s 416 amd 2005 No. 19 s 103(2)–(3)  
om 2008 No. 34 s 714  
pres s 416 ins 2010 No. 53 s 195

**Subdivision 3—Obligations to undertake bore assessments**

**sdiv hdg** ins 2010 No. 53 s 195

**Obligation to undertake bore assessment of immediately affected area bore in particular circumstances**

**s 417** prev s 417 amd 2001 No. 75 s 3 sch 2; 2005 No. 19 s 104; 2006 No. 23 s 15  
om 2008 No. 34 s 714  
pres s 417 ins 2010 No. 53 s 195

**Direction by chief executive to undertake bore assessment**

**s 418** prev s 418 om 2008 No. 34 s 714  
pres s 418 ins 2010 No. 53 s 195

**Notice of outcome of bore assessment**

**prov hdg** amd 2005 No. 19 s 105(1)  
**s 419** prev s 419 amd 2001 No. 75 s 3 sch 2; 2005 No. 19 s 105(2)–(3); 2006 No. 23  
s 16  
om 2008 No. 34 s 714  
pres s 419 ins 2010 No. 53 s 195

**Division 3—Make good agreements**

**div hdg** ins 2010 No. 53 s 195

**Subdivision 1—Preliminary**

**sdiv hdg** ins 2010 No. 53 s 195

**What is a “make good agreement” for a water bore**

**s 420** prev s 420 om 2008 No. 34 s 714  
pres s 420 ins 2010 No. 53 s 195

**Spot audit by commission**

**s 420A** ins 2006 No. 23 s 17  
amd 2007 No. 57 s 91  
om 2008 No. 34 s 714

**Requirement to comply with plan and provision for cost of report**

**s 420B** ins 2006 No. 23 s 17  
om 2008 No. 34 s 714

**What is a “make good measure” for a water bore**

**s 421** prev s 421 om 2008 No. 34 s 714  
pres s 421 ins 2010 No. 53 s 195

**Persons bound by make good agreement**

**s 422** prev s 422 amd 2003 No. 19 s 3 sch 2  
sub 2003 No. 25 s 97  
om 2008 No. 34 s 714  
pres s 422 ins 2010 No. 53 s 195

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**sdiv hdg** ins 2010 No. 53 s 195

**Requirement to enter into make good agreement and reimburse bore owner**

**s 423** prev s 423 amd 2003 No. 19 s 3 sch 2; 2003 No. 25 s 98 (amdt could not be given effect)  
om 2008 No. 34 s 714  
pres s 423 ins 2010 No. 53 s 195

**Subdivision 3—Obligation to negotiate variation of make good agreements**

**sdiv hdg** ins 2010 No. 53 s 195

**Negotiating variation of make good agreement**

**s 424** prev s 424 om 2008 No. 34 s 714  
pres s 424 ins 2010 No. 53 s 195

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**div hdg** ins 2010 No. 53 s 195

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**sdiv hdg** ins 2010 No. 53 s 195

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**s 425** prev s 425 om 2008 No. 34 s 714  
pres s 425 ins 2010 No. 53 s 195

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**s 426** prev s 426 amd 2003 No. 25 s 99  
om 2008 No. 34 s 714  
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**s 427** prev s 427 amd 2003 No. 25 s 100  
om 2008 No. 34 s 714  
pres s 427 ins 2010 No. 53 s 195

**Subdivision 2—Calling conference and attendance**

**sdiv hdg** ins 2010 No. 53 s 195

**Calling conference**

**s 428** prev s 428 amd 2003 No. 25 s 101  
om 2008 No. 34 s 714  
pres s 428 ins 2010 No. 53 s 195

**Who may attend conference**

s 429      prev s 429 amd 2003 No. 25 s 102  
            om 2008 No. 34 s 714  
            pres s 429 ins 2010 No. 53 s 195

**Purpose of div 2A**

s 429A     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

**Application of div 2A**

s 429B     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

**Preparing drought management plans**

s 429C     ins 2005 No. 19 s 106  
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**Certifying drought management plan**

s 429D     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

**Submitting drought management plan for registration**

s 429E     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

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s 429F     ins 2005 No. 19 s 106  
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s 429G     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

**Registering a drought management plan**

s 429H     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

**Changing a drought management plan**

s 429I     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

**Complying with drought management plan**

s 429J     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

**Tabling in Legislative Assembly**

s 429K     ins 2005 No. 19 s 106  
            om 2008 No. 34 s 714

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s 429Q     ins 2007 No. 57 s 93  
            om 2008 No. 34 s 714

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**s 429R** ins 2007 No. 57 s 93  
om 2008 No. 34 s 714

**Service provider to give occupier water advice**

**s 429S** ins 2007 No. 57 s 93  
om 2008 No. 34 s 714

**Service provider to give information about water usage**

**s 429T** ins 2007 No. 57 s 93  
om 2008 No. 34 s 714

**What happens if a party does not attend**

**s 430** prev s 430 amd 2001 No. 75 s 3 sch 2; 2005 No. 19 s 107; 2006 No. 23 s 18;  
2007 No. 57 s 94  
om 2008 No. 34 s 714  
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**Subdivision 3—Conduct of conference**

**sdiv hdg** ins 2010 No. 53 s 195

**Authorised officer's role**

**s 431** prev s 431 om 2008 No. 34 s 714  
pres s 431 ins 2010 No. 53 s 195

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**s 432** prev s 432 amd 2002 No. 77 s 242; 2003 No. 25 s 103  
om 2008 No. 34 s 714  
pres s 432 ins 2010 No. 53 s 195

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**prov hdg** amd 2003 No. 25 s 104(1)  
**s 433** prev s 433 amd 2003 No. 25 s 104(2)  
om 2008 No. 34 s 714  
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**sdiv hdg** ins 2010 No. 53 s 195

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**prov hdg** amd 2005 No. 19 s 108(1)  
**s 434** prev s 434 amd 2003 No. 25 s 105; 2005 No. 19 s 108(2)  
om 2008 No. 34 s 714  
pres s 434 ins 2010 No. 53 s 195

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**s 435** prev s 435 amd 2001 No. 75 s 69; 2003 No. 25 s 106; 2005 No. 19 s 109  
om 2008 No. 34 s 714  
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**s 436** prev s 436 amd 2003 No. 25 s 107  
om 2008 No. 34 s 714  
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**s 437** prev s 437 om 2008 No. 34 s 714  
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**pt hdg** prev pt 6 hdg om 2008 No. 34 s 714  
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**s 438** ins 2010 No. 53 s 195

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**s 440** ins 2010 No. 53 s 195

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**pt hdg** prev pt 7 hdg om 2008 No. 34 s 714  
pres pt 7 hdg ins 2010 No. 53 s 195

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**div 1 (ss 442–446)** ins 2010 No. 53 s 195

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s 470 om 2008 No. 34 s 714

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s 471 amd 2001 No. 75 s 70  
om 2008 No. 34 s 714

**Definition for div 1**

s 480 om 2008 No. 34 s 714

**Meaning of “referable dam”**

s 481 amd 2001 No. 75 s 71  
om 2008 No. 34 s 714

**Meaning of “failure impact assessment”**

s 482 amd 2001 No. 75 s 72  
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om 2008 No. 34 s 714

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s 484 amd 2001 No. 75 s 3 sch 2  
om 2008 No. 34 s 714

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s 486 om 2008 No. 34 s 714

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s 487 amd 2005 No. 19 s 110  
om 2008 No. 34 s 714

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s 488 om 2008 No. 34 s 714

**Reviewing failure impact assessment**

s 489 amd 2001 No. 75 s 3 sch 2  
om 2008 No. 34 s 714

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s 490 amd 2001 No. 75 s 74  
om 2008 No. 34 s 714

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s 491 amd 2001 No. 75 s 75; 2003 No. 25 s 108; 2005 No. 19 s 111  
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**Changing conditions**

**prov hdg** amd 2001 No. 100 s 98(1)  
**s 492** amd 2001 No. 75 s 76; 2001 No. 100 s 98(2); 2003 No. 25 s 109; 2005 No. 19 s 112  
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**s 499** om 2008 No. 34 s 714

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## **CHAPTER 4—WATER AUTHORITIES**

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**prov hdg** amd 2007 No. 20 s 107(1)  
**s 542** amd 2007 No. 20 s 107(2)–(3)

### **Establishing water authorities**

**s 548** amd 2001 No. 75 s 79

### **Water authority is a body corporate etc.**

**s 550** amd 2001 No. 75 s 3 sch 2

### **Application of particular Acts to a water authority**

**s 551** amd 2001 No. 45 s 29 sch 3; 2009 No. 9 s 136 sch 1

### **Main function of water authority**

**s 569** amd 2005 No. 19 s 116

### **Notice of proposed significant action**

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### **Identification and disclosure of cross-subsidies**

**s 583** sub 2001 No. 75 s 80  
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### **Division 4—Work performance arrangements**

**div hdg** sub 2007 No. 20 s 108

### **Water authority may enter into work performance arrangements**

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**s 585** amd 2002 No. 68 s 339 sch 4; 2007 No. 20 s 109

### **Composition of board for water authorities**

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amd 2003 No. 19 s 3 sch 2; 2003 No. 25 s 111(1) (amdt could not be given effect), (2)

### **Changing the composition of a board**

**s 598A** ins 2001 No. 75 s 81

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**s 599** amd 2007 No. 59 s 146

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**s 602** amd 2001 No. 75 s 82

### **Investigations about eligibility for appointment**

**s 603A** ins 2003 No. 25 s 112

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**s 603B** ins 2003 No. 25 s 112

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s 604      amd 2003 No. 25 s 113

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s 605      amd 2003 No. 25 s 114; 2009 No. 17 s 331 sch 1

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s 607      amd 2001 No. 45 s 29 sch 3

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s 609      amd 2009 No. 9 s 136 sch 1

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s 619      amd 2007 No. 20 s 111

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pt hdg     ins 2007 No. 20 s 112

**Division 1—Establishment and functions of employing offices for water authorities**

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s 628      ins 2007 No. 20 s 112  
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s 629      ins 2007 No. 20 s 112

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div hdg     ins 2007 No. 20 s 112

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s 630      ins 2007 No. 20 s 112  
            amd 2009 No. 25 s 83 sch

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s 631      ins 2007 No. 20 s 112

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s 632      ins 2007 No. 20 s 112  
            amd 2009 No. 9 s 136 sch 1

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**Notice of suspected insolvency because of notice or direction**

s 678 amd 2006 No. 59 s 85 sch

**PART 7—AMALGAMATING, DISSOLVING AND TRANSFERRING FUNCTIONS OF WATER AUTHORITIES AND AUTHORITY AREAS**

pt hdg amd 2005 No. 19 s 118

**Division 1—Amalgamating or dissolving water authorities and authority areas**

div hdg amd 2005 No. 19 s 119

**Amalgamating water authorities and authority areas**

s 690 amd 2003 No. 19 s 3 sch; 2003 No. 25 s 115 (amdt could not be given effect); 2005 No. 19 s 120

**Dissolution of water authority and authority area**

s 691 amd 2003 No. 19 s 3 sch; 2005 No. 19 s 121; 2011 No. 40 s 79

**Public notice of proposed amalgamation or dissolution**

s 692 amd 2005 No. 19 s 122; 2010 No. 20 s 105

**Content of notice of proposed amalgamation or dissolution**

s 693 amd 2005 No. 19 s 123

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s 694 amd 2005 No. 19 s 124

**Water authority may request its dissolution**

s 695 amd 2005 No. 19 s 125; 2011 No. 40 s 80

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prov hdg amd 2008 No. 34 s 715(1)

s 696 amd 2008 No. 34 s 715(2) (amdt could not be given effect), (3)–(4)

**Recovering amalgamation or dissolution costs**

s 697 sub 2003 No. 25 s 116

**Water authority and local government must agree to proposed transfer**

s 698 amd 2011 No. 40 s 81

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s 699 amd 2011 No. 40 s 82

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s 700 amd 2011 No. 40 s 83

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- s 701** def “**former water authority**” amd 2008 No. 34 s 716(1)  
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- s 701A** ins 2008 No. 34 s 717

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- s 702** amd 2008 No. 34 s 718

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- s 703** amd 2008 No. 34 s 719

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- s 704** sub 2007 No. 20 s 113  
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- s 705** amd 2008 No. 34 s 721

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- s 706** ins 2010 No. 20 s 106

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- s 707** ins 2011 No. 40 s 87

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- s 739** amd 2008 No. 34 s 666 sch 2; 2010 No. 20 s 107

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- s 740** amd 2005 No. 19 s 126; 2008 No. 34 s 666 sch 2; 2009 No. 36 s 872 sch 2;  
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- s 741** amd 2008 No. 34 s 666 sch 2; 2010 No. 20 s 109

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- s 746** amd 2009 No. 36 s 872 sch 2; 2010 No. 53 s 197

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- prov hdg** amd 2005 No. 19 s 127(1)  
**s 747** amd 2003 No. 25 s 117; 2005 No. 19 s 127(2)–(3); 2008 No. 34 s 666 sch 2;  
2010 No. 53 s 198

**Power of entry for monitoring commission water restrictions and water efficiency management plans**

- s 748A** ins 2010 No. 20 s 112  
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s 749      amd 2010 No. 20 s 113

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s 750      amd 2003 No. 25 s 118

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s 757B     ins 2005 No. 19 s 130

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s 757C     ins 2005 No. 19 s 130

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s 757H     ins 2005 No. 19 s 130

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s 757I     ins 2005 No. 19 s 130  
            amd 2009 No. 36 s 872 sch 2

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s 757J     ins 2005 No. 19 s 130

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s 758      amd 2003 No. 25 s 120; 2008 No. 34 s 722

**Power to require production of documents**

s 760      amd 2005 No. 19 s 131

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s 762      amd 2005 No. 19 s 132

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s 763      amd 2005 No. 19 s 133

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s 778      amd 2005 No. 19 s 135  
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**Who may give a compliance notice**

s 780      amd 2008 No. 34 s 666 sch 2

**General requirements for compliance notices**

s 781      amd 2005 No. 56 s 11; 2008 No. 34 s 666 sch 2; 2009 No. 24 s 959

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prov hdg    amd 2008 No. 34 s 666 sch 2

s 783      amd 2005 No. 19 s 136; 2008 No. 34 s 666 sch 2

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s 784      amd 2002 No. 77 s 244; 2008 No. 34 s 666 sch 2

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s 789      amd 2008 No. 34 s 666 sch 2

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s 790      amd 2008 No. 34 s 666 sch 2

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s 810      amd 2005 No. 19 s 138

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s 811      amd 2003 No. 25 s 121; 2005 No. 19 s 139; 2007 No. 57 s 96

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s 812      sub 2005 No. 19 s 140

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s 812A      ins 2003 No. 25 s 122

            amd 2005 No. 19 s 141; 2011 No. 40 s 88(2)–(7)

**Notice accompanying complaint or summons**

s 812B      ins 2003 No. 25 s 122

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prov hdg    sub 2005 No. 19 s 142(1)

s 813      amd 2005 No. 19 s 142(2)

**Destroying vegetation, excavating or placing fill without permit**

**s 814** amd 2002 No. 42 s 242 sch 1; 2003 No. 19 s 3 sch; 2003 No. 25 s 123; 2005 No. 19 s 143; 2005 No. 42 s 52 sch 1; 2009 No. 36 s 872 sch 2; 2010 No. 53 s 200; 2011 No. 40 s 89

**Unauthorised water bore activities**

**s 816** amd 2001 No. 75 s 83

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**prov hdg** amd 2002 No. 77 s 245(1)

**s 822** amd 2002 No. 77 s 245(2)

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**Interfering with service provider’s infrastructure**

**s 823** amd 2002 No. 77 s 246

om 2008 No. 34 s 723

**Discharging certain materials**

**s 824** amd 2002 No. 77 s 247; 2005 No. 39 s 48

om 2008 No. 34 s 723

**Polluting water**

**s 824A** ins 2002 No. 77 s 248

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**Taking water without approval**

**s 824B** ins 2002 No. 77 s 248

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**s 825** amd 2005 No. 19 s 144

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**s 826** amd 2005 No. 19 s 145

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**ch hdg** amd 2008 No. 34 s 724

**Who is an “interested person”**

**s 851** amd 2001 No. 75 s 84; 2003 No. 19 s 3 sch; 2005 No. 19 s 146; 2005 No. 42 s

52 sch 1; 2008 No. 34 s 725

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**prov hdg** amd 2009 No. 24 s 960(1)

**s 861** amd 2009 No. 24 s 960(2)

**Who may apply for internal review**

**s 862** amd 2001 No. 75 s 85; 2008 No. 34 s 726



**Review decision**

**s 864** amd 2001 No. 75 s 86; 2003 No. 25 s 124; 2005 No. 19 s 147; 2008 No. 34 s 727; 2009 No. 24 s 961

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**s 865** amd 2003 No. 25 s 125; 2008 No. 34 s 728; 2009 No. 24 s 962

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**pt hdg** amd 2009 No. 24 s 963

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**prov hdg** amd 2009 No. 24 s 964(1)

**s 877** amd 2001 No. 75 s 87; 2003 No. 25 s 126; 2008 No. 34 s 729; 2009 No. 24 s 964(2)–(5)

**Starting an appeal to the Land Court**

**prov hdg** amd 2009 No. 24 s 965

**s 878** amd 2005 No. 19 s 148

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**s 879** amd 2009 No. 24 s 966

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**pt hdg** om 2008 No. 34 s 730

**Who may apply for arbitration**

**s 891** amd 2001 No. 75 s 3 sch 2

om 2008 No. 34 s 730

**Acknowledging dispute notice**

**s 892** om 2008 No. 34 s 730

**Withdrawing dispute notice**

**s 893** om 2008 No. 34 s 730

**Parties to arbitration**

**s 894** om 2008 No. 34 s 730

**Determination by authority**

**s 895** om 2008 No. 34 s 730

**Conduct of arbitration**

**s 896** om 2008 No. 34 s 730

**Appointments and authority**

**s 920** amd 2008 No. 34 s 731

**Evidentiary aids**

**s 921** amd 2001 No. 75 s 88; 2003 No. 25 s 127; 2008 No. 34 s 666 sch 2

**Proceedings for offences**

**s 931** amd 2003 No. 25 s 127

**Who may bring proceedings for offences**

**prov hdg** sub 2008 No. 34 s 732(1)

**s 932** amd 2002 No. 77 s 249; 2006 No. 23 s 20; 2007 No. 57 s 97; 2008 No. 34 s 732(2)–(5); 2010 No. 20 s 114

**Magistrates Court may make orders**

**s 934** amd 2008 No. 34 s 666 sch 2

**Responsibility for acts or omissions of representatives**

**s 936** amd 2007 No. 20 s 114

**CHAPTER 8—MISCELLANEOUS**

**Governor in Council may appoint administrator to operate infrastructure**

**s 955** amd 2001 No. 75 s 89; 2003 No. 19 s 3 sch; 2003 No. 25 s 128; 2005 No. 19 s 149; 2008 No. 34 s 733

**Effect of administrator operating infrastructure**

**s 956** amd 2008 No. 34 s 666 sch 2

**Effect of appointment of administrator**

**s 957** om 2008 No. 34 s 734

**Withdrawing appointment of administrator**

**s 958** om 2008 No. 34 s 734

**Displacement provision for Corporations legislation**

**s 959** ins 2001 No. 75 s 90

**PART 2—RELATIONSHIP WITH SUSTAINABLE PLANNING ACT 2009**

**pt hdg** amd 2009 No. 36 s 872 sch 2

**Additional criteria for assessing development applications**

**s 966** amd 2001 No. 75 s 91; 2005 No. 42 s 52 sch 1; 2008 No. 34 s 735; 2009 No. 36 s 872 sch 2; 2010 No. 53 s 201

**Applications in relation to operational work in wild river areas**

**s 966A** ins 2005 No. 42 s 52 sch 1  
amd 2006 No. 59 s 85 sch; 2007 No. 8 s 23  
sub 2009 No. 36 s 872 sch 2

**Applications in relation to interfering with overland flow water in wild river floodplain management area or wild river special floodplain management area**

**prov hdg** amd 2010 No. 53 s 202(1)  
**s 966B** ins 2005 No. 42 s 52 sch 1  
amd 2006 No. 59 s 85 sch  
sub 2009 No. 36 s 872 sch 2  
amd 2010 No. 53 s 202(2)

**Applications in relation to removal of quarry material in wild river areas**

**s 966C** ins 2005 No. 42 s 52 sch 1  
amd 2006 No. 59 s 74; 2009 No. 36 s 872 sch 2

**Approval for development under Sustainable Planning Act 2009 is subject to approval under this Act**

**prov hdg** amd 2009 No. 36 s 872 sch 2

**s 967** amd 2001 No. 75 s 92; 2003 No. 25 s 129; 2003 No. 64 s 151; 2005 No. 19 s 150; 2005 No. 42 s 52 sch 1; 2008 No. 34 s 736; 2009 No. 36 s 872 sch 2; 2010 No. 12 s 242

**Chief executive may direct works to be modified or removed**

**s 968** amd 2001 No. 75 s 93; 2005 No. 19 s 151; 2009 No. 36 s 872 sch 2

**Chief executive may give directions about removal of quarry material**

**s 968A** ins 2003 No. 25 s 130  
amd 2009 No. 36 s 872 sch 2

**Development applications for the removal of quarry material**

**s 969** amd 2001 No. 75 s 3 sch 2; 2005 No. 19 s 152

**Allocation of quarry material is subject to approval under Sustainable Planning Act 2009**

**prov hdg** amd 2009 No. 36 s 872 sch 2

**s 970** amd 2001 No. 75 s 94

**Development applications for referable dams**

**s 971** sub 2001 No. 75 s 95

om 2008 No. 34 s 737

**When an applicant may appeal to the Land Court**

**prov hdg** amd 2007 No. 39 s 41 sch

**s 972** amd 2005 No. 19 s 153; 2007 No. 39 s 41 sch; 2009 No. 36 s 872 sch 2

**PART 2A—INSTALLING, MAINTAINING AND READING METERS**

**pt hdg** ins 2003 No. 25 s 131

**Appointment and qualifications of metering contractors**

**s 973** sub 2003 No. 25 s 131

**Metering contractor's identity card**

**s 974** sub 2003 No. 25 s 131

**Failure to return identity card**

**s 975** sub 2003 No. 25 s 131

**Producing or displaying identity card**

**s 976** sub 2003 No. 25 s 131

**Power to enter places for stated purposes**

**s 977** sub 2003 No. 25 s 131; 2005 No. 19 s 154

**Obstructing metering contractors**

**s 978** sub 2003 No. 25 s 131

**Giving notice of damage**

**s 979** sub 2003 No. 25 s 131

**Compensation for damage**

s 980 sub 2003 No. 25 s 131

**PART 3—COMPENSATION**

**Division 1—Preliminary**

div hdg ins 2011 No. 31 s 389

**Definitions for pt 3**

s 984 def “**designated plan**” ins 2011 No. 31 s 390  
def “**environmental update purpose**” ins 2011 No. 31 s 390  
def “**interim water resource plan**” ins 2011 No. 31 s 390  
def “**prescribed area plan**” ins 2011 No. 31 s 390  
def “**relevant reduction**” ins 2011 No. 31 s 390  
def “**replacement**” ins 2011 No. 31 s 390  
def “**water access entitlement**” ins 2011 No. 31 s 390

**Division 2—Particular water allocation owners**

div hdg ins 2011 No. 31 s 391

**Particular reductions in allocation’s value**

prov hdg sub 2011 No. 31 s 392(1)  
s 986 amd 2011 No. 31 s 392(2)

**Division 3—Particular water access entitlement owners**

div hdg ins 2011 No. 31 s 393

**Subdivision 1—Preliminary**

sdiv 1 (s 986A) ins 2011 No. 31 s 393

**Subdivision 2—Compensation for particular changes for the environmental update purpose**

sdiv 2 (ss 986B–986E) ins 2011 No. 31 s 393

**Subdivision 3—Compensation for particular policy changes**

sdiv 3 (s 986F) ins 2011 No. 31 s 393

**Subdivision 4—Restrictions on compensation entitlement**

sdiv 4 (s 986G) ins 2011 No. 31 s 393

**Division 4—Miscellaneous provisions**

div 4 (ss 986H–986J) ins 2011 No. 31 s 393

**PART 3A—AUTHORITY HELD BY MOUNT ISA MINES LIMITED**

pt 3A (s 992A) ins 2008 No. 34 s 738

**PART 3B—SEQ WATER**

pt 3B (s 992B–992F) ins 2008 No. 34 s 738

**PART 3C—AUTHORITIES UNDER PARTICULAR SPECIAL AGREEMENT ACTS**

pt 3C (ss 992G–992J) ins 2010 No. 52 s 54

**PART 4—PROVISIONS ABOUT THE CORPORATISED ENTITY**

**Exemption from application of Freedom of Information Act 1992**

s 998 om 2009 No. 13 s 213 sch 5

**Minister's and Treasurer's power to give joint directions to corporatised entity**

- s 999** prev s 999 om 2003 No. 25 s 132  
pres s 999 (prev s 1120) amd 2003 No. 25 s 144(1)  
renum and reloc 2003 No. 25 s 144(2)

**PART 4A—PRIVATE WATER SUPPLY AGREEMENTS FOR FORMER WATER AREAS**

- pt 4A (ss 1000–1003A)** ins 2005 No. 19 s 155

**PART 4B—SPECIAL PROVISION FOR CONDAMINE AND BALONNE RESOURCE OPERATIONS PLAN**

- pt 4B (s 1003B)** ins 2010 No. 12 s 243

**PART 4C—SPECIAL PROVISION FOR GULF RESOURCE OPERATIONS PLAN**

- pt 4C (s 1003C)** ins 2011 No. 40 s 90

**Referral panels established by the chief executive**

- prov hdg** amd 2001 No. 75 s 3 sch 2  
**s 1004** amd 2003 No. 25 s 133; 2007 No. 57 s 98

**Referral panels established by the Minister**

- s 1004A** ins 2001 No. 75 s 96  
amd 2003 No. 25 s 134

**Advisory councils**

- s 1005** amd 2008 No. 34 s 666 sch 2

**Declarations about watercourses**

- s 1006** amd 2001 No. 75 s 97; 2005 No. 19 s 156; 2008 No. 34 s 739; 2010 No. 12 s 244

**Records to be kept in registries**

- prov hdg** amd 2001 No. 75 s 98(1)  
**s 1007** amd 2001 No. 75 s 98(2); 2005 No. 19 s 157; 2005 No. 56 s 12; 2008 No. 34 s 740

**Exemption of conversions of water allocations from stamp duty**

- s 1008** om 2001 No. 71 s 551 sch 1

**Public inspection and purchase of documents**

- s 1009** amd 2005 No. 19 s 158; 2008 No. 34 s 741; 2011 No. 40 s 91

**Protecting officials from liability**

- s 1010** amd 2008 No. 34 s 666 sch 2

**Non-disclosure of commercially sensitive information**

- s 1010A** ins 2001 No. 75 s 99  
amd 2007 No. 57 s 99; 2008 No. 34 s 742

**Approved forms**

- s 1013** amd 2007 No. 57 s 100; 2008 No. 34 s 666 sch 2

**Fees and charges payable to the chief executive**

- s 1013A** ins 2001 No. 75 s 100  
amd 2005 No. 19 s 159

**Non-payment of fees or charges**

s 1013B ins 2003 No. 25 s 135  
amd 2005 No. 56 s 13; 2005 No. 19 s 160

**Floodplain management areas**

s 1013C ins 2005 No. 42 s 52 sch 1  
om 2009 No. 36 s 872 sch 2

**Minister's and Treasurer's power to give joint directions to new water entities**

s 1013D ins 2007 No. 58 s 117 sch 2

**Advice to Petroleum Act Minister about commission of particular offences**

s 1013E ins 2010 No. 53 s 203

**Regulation-making power**

s 1014 amd 2001 No. 75 s 101; 2005 No. 19 s 161; 2005 No. 42 s 52 sch 1; 2007 No.  
57 s 101; 2008 No. 34 ss 743, 666 sch 2; 2009 No. 36 s 872 sch 2; 2010 No.  
12 s 245; 2010 No. 20 s 115

**Special regulation-making power to support outer bank identification**

s 1014A ins 2010 No. 12 s 246

**PART 6—MURRAY-DARLING BASIN**

pt hdg ins 2008 No. 58 s 17

**Particular documents to be tabled in the Legislative Assembly**

s 1015 prev s 1015 ins 2007 No. 57 s 102  
exp at the end of 17 November 2007 (see s 1015(2))  
AIA s 20A applies (see s 1015(3))  
pres s 1015 ins 2008 No. 58 s 17

**CHAPTER 9—TRANSITIONAL PROVISIONS AND REPEALS**

**PART 1—TRANSITIONAL PROVISIONS FOR ALLOCATION AND SUSTAINABLE MANAGEMENT**

**Local government authorities**

s 1037 sub 2003 No. 25 s 136  
amd 2005 No. 19 s 162

**Other continuing authorities**

s 1037A ins 2005 No. 19 s 163  
amd 2005 No. 56 s 14; 2007 No. 59 s 147

**Completed water allocation and management plans**

s 1041 amd 2001 No. 75 s 102; 2003 No. 25 s 137; 2007 No. 59 s 148

**Burnett Basin final draft resource operations plan**

s 1045A ins 2003 No. 25 s 138

**Declared subartesian areas**

s 1046 amd 2001 No. 75 s 103; 2003 No. 25 s 139; 2005 No. 42 s 52 sch 1; 2006 No.  
59 s 85 sch; 2008 No. 34 s 744; 2009 No. 36 s 872 sch 2

**Existing applications**

s 1048 sub 2001 No. 75 s 104

**Existing licences, permits and approvals**

**s 1048A** ins 2001 No. 75 s 104  
amd 2003 No. 25 s 140; 2009 No. 36 s 872 sch 2

**Existing trade waste approvals**

**s 1048B** ins 2001 No. 75 s 104

**Existing applications about water in irrigation or project areas**

**s 1049** amd 2001 No. 75 s 105

**Preserving existing downstream limits**

**s 1054** exp 13 September 2002 (see s 1054(3))

**Certain dealings with water licences until 19 April 2007**

**prov hdg** amd 2003 No. 25 s 141(1)

**s 1055** amd 2003 No. 25 s 141(2)

**Application of repealed Act to interim water allocations until ch 2, pt 6 commences**

**s 1056** amd 2001 No. 75 s 3 sch 2

**Reinstating particular expired licences**

**s 1057** ins 2005 No. 19 s 164

**Reinstating particular expired licences in former water areas**

**s 1058** ins 2005 No. 19 s 164

**Water or sewerage areas**

**prov hdg** amd 2001 No. 75 s 106(1) (retro)

**s 1063** amd 2001 No. 75 s 106(2) (retro)

**Local governments to be service providers for service areas**

**s 1064 prov hdg** amd 2001 No. 75 s 3 sch 2

**Application of sdiv 1**

**prov hdg** amd 2002 No. 45 s 31(1) (retro)

**s 1065** amd 2001 No. 75 s 107; 2002 No. 45 s 31(2)–(3) (retro)

**Additional ground for amending safety condition of environmental authority**

**s 1065AA** ins 2002 No. 45 s 32 (retro)

amd 2008 No. 52 s 98 sch 2

**Transitional provision for dams containing hazardous waste**

**s 1065A** ins 2001 No. 75 s 108

amd 2002 No. 45 s 33

(1) exp 14 September 2002 (see s 1065A(5))

**Application of sdiv 2**

**s 1065AB** ins 2002 No. 45 s 34 (retro)

**Failure impact assessing existing unlicensed dams**

**s 1067** amd 2001 No. 75 s 109

**Failure impact assessing prescribed licensed dams**

**s 1068** amd 2001 No. 75 s 110

**Failure impact assessing licensed dams not prescribed**

s 1069 amd 2001 No. 75 s 111

**Former water areas without water boards**

s 1083A ins 2003 No. 25 s 142

**Existing authorities to take, or interfere with, water**

s 1089 amd 2001 No. 75 s 112; 2003 No. 25 s 143; 2005 No. 19 s 165

**Conversion of existing authorities to take water**

s 1089A ins 2005 No. 19 s 166

**Existing by-laws**

s 1093 exp 1 October 2002 (see s 1093(2))

**Minister must approve standard supply contracts**

s 1116 amd 2005 No. 19 s 167

**When conditions of supply contract do not apply**

s 1117A ins 2005 No. 19 s 168

**Application of repealed Act to interim water allocations until ch 2, pt 6 commences**

s 1119 om 2001 No. 75 s 3 sch 2

**PART 4A—TRANSITIONAL PROVISIONS FOR WATER AMENDMENT ACT 2001**

pt 4A (s 1121A) ins 2001 No. 75 s 113

exp 13 May 2002 (see s 1121A(2))

**Subdivision 4—Amending interim resource operations licences**

sdiv hdg ins 2003 No. 25 s 145

**Amending interim resource operations licence for Barker Barambah water supply scheme**

s 1122 ins 2003 No. 25 s 145

amd 2005 No. 68 s 150 sch; 2007 No. 10 s 62 sch

**PART 5—GENERAL**

**Division 1—Miscellaneous**

div hdg ins 2005 No. 19 s 169

**Transitional regulation-making power**

s 1130 exp 19 September 2001 (see s 1130(4))

om 2001 No. 75 s 3 sch 2 (amdt could not be given effect)

**Regulations continue to have effect**

s 1131 exp 1 July 2002 (see s 1131(4))

**Transitional regulation-making power**

s 1132 ins 2001 No. 75 s 114

exp 12 April 2003 (see s 1132(4))

**References to water in a watercourse or lake**

s 1133 sub 2003 No. 25 s 146



**Burnett Basin draft resource operations plan**

s 1134 sub 2003 No. 25 s 146

**Existing authorities for s 1113**

s 1135 sub 2003 No. 25 s 146

**Validation of particular decisions**

s 1135A ins 2005 No. 19 s 170

**Division 2—Transitional provision for Water and Other Legislation Amendment Act 2003**

div hdg ins 2005 No. 19 s 170

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

s 1136 sub 2003 No. 25 s 146

**Division 3—Transitional provision for Petroleum and Other Legislation Amendment Act 2004**

div hdg ins 2005 No. 19 s 171

**Transitional provision for the Petroleum and Other Legislation Amendment Act 2004**

s 1136A ins 2004 No. 25 s 1052A (amd 2004 No. 26 s 265)

**Division 4—Transitional provision for Water and Other Legislation Amendment Act 2005**

div hdg ins 2005 No. 19 s 172

**Notices given under s 101(1)(b) and (1)(c)**

s 1136B ins 2005 No. 19 s 172  
amd 2005 No. 56 s 15 (retro)

**Effect of disposal of part of land to which interim water allocation attaches**

s 1136C ins 2005 No. 19 s 172

**Effect of acquisition of part of land to which interim water allocation attaches**

s 1136D ins 2005 No. 19 s 172

**Condition about measuring device not effective**

s 1136E ins 2005 No. 19 s 172

**Submitting system leakage management plans for approval**

s 1136F ins 2005 No. 19 s 172  
amd 2011 No. 8 s 113

**Submitting drought management plan for registration**

s 1136G ins 2005 No. 19 s 172

**Interest payable under section 1013A**

s 1136H ins 2005 No. 19 s 172

**Division 5—Transitional provisions for Water Amendment Act 2005**

div hdg ins 2005 No. 56 s 16

**Declaration for section 999**

s 1137 sub 2005 No. 56 s 16

**Validity of amending moratorium notice not affected**

s 1138 ins 2005 No. 56 s 16

**Waiver of water meter charges**

s 1139 ins 2005 No. 56 s 16

**Division 6—Transitional provisions for Water Amendment Act 2006**

div hdg ins 2006 No. 23 s 21

**Definitions for div 6**

s 1140 ins 2006 No. 23 s 21

**Existing regional water supply strategies**

s 1141 ins 2006 No. 23 s 21  
om 2010 No. 20 s 116

**Provision for particular existing licences**

s 1142 ins 2006 No. 23 s 21

**Existing development approvals**

s 1143 ins 2006 No. 23 s 21

**Division 7—Transitional provisions for Wild Rivers and Other Legislation Amendment Act 2006**

div hdg ins 2006 No. 59 s 83  
amd 2008 No. 34 s 666 sch 2

**Plans taken to be water efficiency management plans**

s 1144 prev s 1144 om R1 (see RA s 40)  
pres s 1144 ins 2006 No. 59 s 83

**Validation of commission water restrictions**

s 1145 prev s 1145 om R1 (see RA s 40)  
pres s 1145 ins 2006 No. 59 s 83  
amd 2008 No. 34 s 666 sch 2

**Validation of service provider water restrictions**

s 1146 ins 2006 No. 59 s 83  
amd 2008 No. 34 s 666 sch 2

**Division 8—Transitional provisions for Statutory Bodies Legislation Amendment Act 2007**

div 8 (ss 1147–1150) ins 2007 No. 20 s 115

**Division 9—Transitional provisions for Water and Other Legislation Amendment Act 2007**

div 9 (ss 1151–1155) ins 2007 No. 57 s 103

**Division 10—Transitional provisions for Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007**

div hdg ins 2007 No. 59 s 149

**Definitions for div 10**

s 1156 ins 2007 No. 59 s 149

**Particular new and adjusted local governments taken to be service providers**

s 1157 ins 2007 No. 59 s 149

**New and adjusted local governments must give regulator service provider documents**

s 1158 ins 2007 No. 59 s 149  
amd 2011 No. 8 s 114

**Amending the register of service providers**

s 1159 ins 2007 No. 59 s 149

**Declaration of service areas**

s 1160 ins 2007 No. 59 s 149

**Division 11—Transitional provisions for Water Supply (Safety and Reliability) Act 2008**

div hdg ins 2008 No. 34 s 745

**Declared water services**

s 1161 ins 2008 No. 34 s 745

**Grid customers**

s 1162 ins 2008 No. 34 s 745  
amd 2010 No. 53 s 204

**Changing source of water supplied under particular contract**

s 1163 ins 2008 No. 34 s 745

**Existing water supply agreements end**

s 1164 ins 2008 No. 34 s 745

**References to particular entities in relevant water resource plans**

s 1165 ins 2008 No. 34 s 745

**Codes for assessment under the Sustainable Planning Act 2009**

prov hdg amd 2009 No. 36 s 872 sch 2  
s 1166 ins 2008 No. 34 s 745

**Amendment of water resource plans**

s 1167 ins 2008 No. 34 s 745

**Division 12—Transitional provisions for Water (Commonwealth Powers) Act 2008**

div 12 (ss 1168–1169) ins 2008 No. 58 s 18

**Division 13—Transitional provision for Sustainable Planning Act 2009**

div 13 (s 1170) ins 2009 No. 36 s 872 sch 2

**Division 14—Transitional provisions for Natural Resources and Other Legislation Amendment Act 2010**

div 14 (ss 1171–1172) ins 2010 No. 12 s 247

**Division 15—Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

**div hdg** ins 2010 No. 20 s 117

**Subdivision 1—Provisions for water efficiency management plans**

**sdiv hdg** ins 2010 No. 20 s 117

**Definitions for sdiv 1**

**s 1173** ins 2010 No. 20 s 117

**Application of s 360ZCB**

**s 1174** ins 2010 No. 20 s 117

**Particular notices to prepare water efficiency management plans**

**s 1175** ins 2010 No. 20 s 117

**Approved water efficiency management plans for water service providers in SEQ region**

**s 1176** ins 2010 No. 20 s 117

**Subdivision 2—Other provisions**

**sdiv hdg** ins 2010 No. 20 s 117

**First commission CEO**

**s 1177** ins 2010 No. 20 s 117

**Division 16—Transitional provisions for Water and Other Legislation Amendment Act 2010**

**div 16 (ss 1179–1181)** ins 2010 No. 53 s 205

**Division 17—Transitional provisions for Water and Other Legislation Amendment Act 2011**

**div 17 (ss 1182–1208)** ins 2011 No. 40 s 92

**Division 18—Transitional provision for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012**

**div 18 (s 1209)** ins 2012 No. 29 s 18

**PART 6—REPEALS**

**pt hdg** om 2005 No. 56 s 16

**CHAPTER 10—AMENDMENTS**

**ch hdg** om R1 (see RA s 40)

**SCHEDULE 1—PROHIBITED SUBSTANCES**

om 2008 No. 34 s 746

**SCHEDULE 2—AMENDMENTS ABOUT PLANNING MATTERS**

om R1 (see RA s 40)

**SCHEDULE 3—OTHER AMENDMENTS**

om R1 (see RA s 40)

**SCHEDULE 4—DICTIONARY**

def “accredited ERMP” ins 2010 No. 7 s 65

- def “**ADR**” ins 2010 No. 53 s 206(2)
- def “**allocation notice**” amd 2008 No. 34 s 747(3)
- def “**amending Act**” ins 2011 No. 40 s 93(2)
- def “**anniversary day**” ins 2006 No. 59 s 84(2)
- def “**annual report**” sub 2003 No. 19 s 3 sch  
amd 2003 No. 25 s 147(2) (amdt could not be given effect)  
sub 2008 No. 34 s 747(1)–(2)  
amd 2009 No. 9 s 136 sch 1
- def “**applicable code**” ins 2005 No. 42 s 52 sch 1  
amd 2009 No. 36 s 872 sch 2
- def “**application day**” om 2008 No. 34 s 747(1)
- def “**appointer**” om 2008 No. 34 s 747(1)
- def “**appointor**” ins 2010 No. 20 s 118(2)
- def “**approved baseline assessment plan**” ins 2010 No. 53 s 206(2)
- def “**approved final report**” ins 2010 No. 53 s 206(2)
- def “**approved meter**” ins 2005 No. 19 s 173(2)
- def “**approved recycled water management plan**” ins 2008 No. 34 s 747(2)
- def “**approved underground water impact report**” ins 2010 No. 53 s 206(2)
- def “**approved water efficiency management plan**” ins 2006 No. 59 s 84(2)  
amd 2008 No. 34 s 747(4)
- def “**approved water supply emergency response**” ins 2005 No. 56 s 17(1)
- def “**assessment manager**” sub 2009 No. 36 s 872 sch 2
- def “**auditor**” ins 2006 No. 23 s 22(2)  
om 2008 No. 34 s 747(1)
- def “**authorised person**” amd 2008 No. 34 s 747(5)  
om 2010 No. 20 s 118(1)
- def “**authorised use or purpose**” ins 2010 No. 53 s 206(2)
- def “**authority area**” amd 2003 No. 19 s 3 sch; 2003 No. 25 s 147(3) (amdt could not be given effect)
- def “**bar**” ins 2010 No. 12 s 248(2)
- def “**baseline assessment**” ins 2010 No. 53 s 206(2)
- def “**baseline assessment plan**” ins 2010 No. 53 s 206(2)
- def “**bed and banks**” sub 2010 No. 12 s 248(1)–(2)
- def “**bench**” ins 2010 No. 12 s 248(2)
- def “**billing period**” ins 2007 No. 57 s 104(2)  
om 2008 No. 34 s 747(1)
- def “**bore assessment**” ins 2010 No. 53 s 206(2)
- def “**bore owner**” ins 2010 No. 53 s 206(2)
- def “**bore trigger threshold**” ins 2010 No. 53 s 206(2)
- def “**bulk water service**” ins 2001 No. 75 s 116(2)
- def “**bulk water service provider**” om 2001 No. 75 s 116(1)
- def “**bulk water supply authority**” ins 2008 No. 34 s 747(2)
- def “**CEWH**” ins 2011 No. 40 s 93(2)
- def “**chairperson**” ins 2006 No. 23 s 22(2)  
om 2009 No. 18 s 7(1)
- def “**chief executive**” ins 2008 No. 34 s 747(2)
- def “**chief executive’s notice**” ins 2011 No. 40 s 93(2)
- def “**closing CMA tenure**” ins 2010 No. 53 s 206(2)

- def “**CMA tenure**” ins 2010 No. 53 s 206(2)
- def “**commencement**” ins 2010 No. 53 s 206(2)
- sub 2011 No. 40 s 93(1)–(2)
- def “**commercially sensitive**” ins 2010 No. 53 s 206(2)
- def “**commission**” ins 2006 No. 23 s 22(2)
- def “**commission CEO**” ins 2010 No. 20 s 118(2)
- def “**commissioner**” ins 2006 No. 23 s 22(2)
- sub 2009 No. 18 s 7
- def “**commission water restriction**” ins 2006 No. 23 s 22(2)
- def “**concurrence agency**” amd 2009 No. 36 s 872 sch 2
- def “**consolidated aquifer**” ins 2010 No. 53 s 206(2)
- def “**constructing authority**” ins 2011 No. 8 s 115
- def “**consultation day**” ins 2010 No. 53 s 206(2)
- def “**cost-benefit analysis**” ins 2005 No. 19 s 173(2)
- om 2008 No. 34 s 747(1)
- def “**criminal history**” ins 2003 No. 25 s 147(1)
- def “**cumulative management area**” ins 2010 No. 53 s 206(2)
- def “**customer**” amd 2003 No. 19 s 3 sch; 2003 No. 25 s 147(4)
- sub 2006 No. 59 s 84(1)–(2); 2008 No. 34 s 747(1)–(2)
- def “**customer service standard**” om 2008 No. 34 s 747(1)
- def “**dam**” amd 2001 No. 75 s 116(3)
- def “**declarations register**” ins 2008 No. 34 s 747(2)
- def “**declared catchment area**” ins 2008 No. 34 s 747(2)
- def “**declared pest**” ins 2005 No. 42 s 52 sch 1
- def “**declared water service**” ins 2008 No. 34 s 747(2)
- def “**de facto spouse**” om 2002 No. 74 s 90 sch
- def “**deferred aspect**” ins 2008 No. 58 s 19(1)
- def “**demand management**” ins 2006 No. 23 s 22(2)
- def “**depositional feature**” ins 2010 No. 12 s 248(2)
- def “**designated region**” ins 2006 No. 23 s 22(2)
- def “**desired levels of service objectives**” ins 2006 No. 23 s 22(2)
- def “**development**” amd 2009 No. 36 s 872 sch 2
- def “**development approval**” amd 2009 No. 36 s 872 sch 2
- def “**development condition**” sub 2008 No. 34 s 747(1)–(2)
- def “**development permit**” amd 2009 No. 36 s 872 sch 2
- def “**distribution operations licence**” ins 2005 No. 19 s 173(2)
- def “**distribution service provider**” ins 2008 No. 34 s 747(2)
- def “**distribution system**” ins 2005 No. 19 s 173(2)
- def “**downstream limit**” ins 2010 No. 12 s 248(2)
- def “**drainage and embankment area**” ins 2005 No. 42 s 52 sch 1
- om 2009 No. 36 s 872 sch 2
- def “**drainage feature**” ins 2010 No. 12 s 248(2)
- def “**election notice**” ins 2010 No. 53 s 206(2)
- def “**employee of the employing office**” ins 2007 No. 20 s 116
- def “**employing office**” ins 2007 No. 20 s 116
- def “**environmental impact statement**” ins 2010 No. 52 s 55
- def “**executive officer**”, sub 2008 No. 34 s 747(1)–(2)

- def “**executive officer**”, of the employing office for a water authority, ins 2007 No. 20 s 116  
om 2008 No. 34 s 747(1)
- def “**external review**” ins 2009 No. 24 s 967(1)
- def “**failure**” om 2008 No. 34 s 747(1)
- def “**failure impact assessment**” om 2008 No. 34 s 747(1)
- def “**final report**” ins 2010 No. 53 s 206(2)
- def “**fire fighting purposes**” om 2008 No. 34 s 747(1)
- def “**fire fighting system**” om 2008 No. 34 s 747(1)
- def “**flood mitigation manual**” om 2008 No. 34 s 747(1)
- def “**floodplain**” ins 2010 No. 12 s 248(2)
- def “**floodwater**” om 2008 No. 34 s 747(1)  
ins 2008 No. 58 s 19(1)  
sub 2010 No. 12 s 248(1)–(2)
- def “**flow conditions**” amd 2001 No. 75 s 116(4)
- def “**full supply level**” sub 2011 No. 33 s 33
- def “**government entity**” ins 2007 No. 20 s 116  
amd 2009 No. 25 s 83 sch
- def “**graded jump up**” ins 2002 No. 77 s 250(1)
- def “**grid contract document**” prev def ins 2008 No. 34 s 747(2)  
om 2010 No. 20 s 118(1)  
pres def ins 2011 No. 21 s 25
- def “**grid customer**” ins 2008 No. 34 s 747(2)
- def “**grid service provider**” ins 2008 No. 34 s 747(2)
- def “**hazardous waste**” sub 2007 No. 57 s 104(1)–(2)
- def “**height**” om 2008 No. 34 s 747(1)
- def “**holder**” ins 2005 No. 19 s 173(2)
- def “**immediately affected area**” ins 2010 No. 53 s 206(2)
- def “**immediately affected area bore**” ins 2010 No. 53 s 206(2)
- def “**impact considerations**” ins 2010 No. 53 s 206(2)
- def “**impaired capacity**” ins 2010 No. 53 s 206(2)
- def “**indirect financial or personal interest**” amd 2002 No. 74 s 90 sch
- def “**industrial instrument**” ins 2007 No. 20 s 116
- def “**information notice**” amd 2001 No. 75 s 116(5)–(6)  
sub 2005 No. 19 s 173(1)–(2); 2008 No. 34 s 747(1)–(2)  
amd 2009 No. 24 s 967(2)–(3)
- def “**in-stream island**” ins 2010 No. 12 s 248(2)
- def “**Integrated Planning Act 1997 offence**” ins 2005 No. 19 s 173(2)  
om 2009 No. 36 s 872 sch 2
- def “**interim water allocation**” amd 2003 No. 25 s 147(5)
- def “**intermittent**” ins 2010 No. 12 s 248(2)
- def “**interstate distribution operations licence**” ins 2005 No. 19 s 173(2)
- def “**jump up**” ins 2002 No. 77 s 250(1)
- def “**lake**” amd 2001 No. 75 s 116(7)
- def “**limited authority**” ins 2008 No. 34 s 747(2)
- def “**long-term affected area**” ins 2010 No. 53 s 206(2)
- def “**make good agreement**” ins 2010 No. 53 s 206(2)
- def “**make good measure**” ins 2010 No. 53 s 206(2)

- def “**make good obligations**” ins 2010 No. 53 s 206(2)
- def “**market**” ins 2008 No. 34 s 747(2)
- def “**market rules**” ins 2008 No. 34 s 747(2)
- def “**megalitre**” ins 2001 No. 75 s 116(2)
- def “**meter**” ins 2007 No. 57 s 104(2)
- def “**metered entitlement**” ins 2005 No. 19 s 173(2)
- def “**metering contractor**” ins 2003 No. 25 s 147(1)
- def “**ML**” ins 2001 No. 75 s 116(2)
- def “**monitoring equipment**” ins 2005 No. 19 s 173(2)  
sub 2007 No. 57 s 104(1)–(2)
- def “**moratorium notice**” amd 2003 No. 25 s 147(6)
- def “**nominal volume**” ins 2003 No. 25 s 147(1)
- def “**nominated waterway**” ins 2006 No. 59 s 85 sch
- def “**non-Act water**” ins 2005 No. 56 s 17(1)  
sub 2007 No. 57 s 104(1)–(2)
- def “**non-residential customer**” ins 2006 No. 59 s 84(2)
- def “**non-residential premises**” ins 2006 No. 59 s 84(2)
- def “**notice of closure**” ins 2010 No. 53 s 206(2)
- def “**old**” ins 2011 No. 40 s 93(2)
- def “**operational work**” ins 2009 No. 36 s 872 sch 2
- def “**operator**” ins 2011 No. 33 s 33(2)
- def “**original decision**” amd 2001 No. 75 s 116(8); 2008 No. 34 s 747(6)
- def “**outdoor water use conservation plan**” ins 2007 No. 57 s 104(2)  
om 2008 No. 34 s 747(1)
- def “**outer bank**” ins 2010 No. 12 s 248(2)
- def “**overland flow water**” amd 2001 No. 75 s 116(9); 2011 No. 40 s 93(3)
- def “**owner**” sub 2008 No. 34 s 747(1)–(2)  
amd 2010 No. 12 s 251 sch; 2011 No. 40 s 93(4); 2010 No. 31 s 582
- def “**owner**”, for chapter 2, part 6, ins 2001 No. 75 s 116(2)  
om 2008 No. 34 s 747(1)
- def “**owner**”, of a referable dam, om 2008 No. 34 s 747(1)
- def “**owner’s notice**” ins 2011 No. 40 s 93(2)
- def “**performance indicator**” sub 2001 No. 75 s 116(1)–(2)
- def “**petroleum tenure**” ins 2010 No. 53 s 206(2)
- def “**petroleum tenure holder**” ins 2004 No. 25 s 1053(1)  
sub 2010 No. 53 s 206
- def “**premises**” amd 2009 No. 36 s 872 sch 2
- def “**premises group**” ins 2002 No. 77 s 250(1)
- def “**priority group**” sub 2004 No. 25 s 1053(2)
- def “**private water supply agreement**” ins 2005 No. 19 s 173(2)
- def “**process**” sub 2011 No. 40 s 93(5)
- def “**production testing**” ins 2010 No. 53 s 206(2)
- def “**prohibited development**” ins 2009 No. 36 s 872 sch 2
- def “**prohibited substance**” om 2008 No. 34 s 747(1)
- def “**property service**” sub 2002 No. 77 s 250(2)
- def “**property sewer**” ins 2002 No. 77 s 250(1)
- def “**proposed Barlil Weir**” ins 2003 No. 25 s 147(1)



- def “**publish**” sub 2001 No. 75 s 116(1)–(2)  
amd 2003 No. 25 s 147(7)–(9); 2006 No. 23 s 22(2)
- def “**rate notice**” ins 2007 No. 57 s 104(2)  
om 2008 No. 34 s 747(1)
- def “**receiving entity**” ins 2008 No. 34 s 747(2)
- def “**referable dam**” prev def om 2008 No. 34 s 747(1)  
pres def ins 2009 No. 36 s 872 sch 2
- def “**referral agency**” amd 2009 No. 36 s 872 sch 2
- def “**regional water security options**” ins 2006 No. 23 s 22(2)
- def “**regional water security program**” ins 2006 No. 23 s 22(2)
- def “**registered grid participant**” ins 2008 No. 34 s 747(2)
- def “**registered professional engineer**” sub 2004 No. 4 s 57 sch  
om 2008 No. 34 s 747(1)
- def “**registered proprietor**” ins 2005 No. 19 s 173(2)
- def “**regulator**” prev def om 2008 No. 34 s 747(1)  
pres def ins 2011 No. 8 s 115
- def “**related local government**” ins 2007 No. 57 s 104(2)  
om 2008 No. 34 s 747(1)
- def “**relevant authority**” ins 2008 No. 34 s 747(2)
- def “**relevant company**” ins 2010 No. 52 s 55
- def “**relevant dam**” ins 2011 No. 33 s 33(2)
- def “**relevant underground water rights**” ins 2010 No. 53 s 206(2)
- def “**report obligation**” ins 2010 No. 53 s 206(2)
- def “**residential complex**” ins 2006 No. 59 s 85 sch  
amd 2008 No. 52 s 98 sch 2
- def “**residential premises**” ins 2007 No. 57 s 104(2)
- def “**resource operations licence**” amd 2005 No. 19 s 173(3)
- def “**resource operations plan**” amd 2008 No. 58 s 19(2)
- def “**responsible entity**” ins 2010 No. 53 s 206(2)
- def “**responsible tenure holder**” ins 2010 No. 53 s 206(2)
- def “**retail water service**” amd 2001 No. 75 s 116(10)
- def “**review decision**” amd 2009 No. 24 s 967(4)
- def “**review notice**” amd 2009 No. 24 s 967(5)
- def “**rules administrator**” ins 2010 No. 20 s 118(2)
- def “**safety condition**” om 2008 No. 34 s 747(1)
- def “**sanitary drain**” ins 2002 No. 77 s 250(1)
- def “**scheme**” ins 2008 No. 34 s 747(2)
- def “**scour mark**” ins 2010 No. 12 s 248(2)
- def “**seasonal water assignment**” amd 2003 No. 25 s 147(10)  
sub 2005 No. 19 s 173(1)–(2)
- def “**seasonal water assignment notice**” ins 2005 No. 19 s 173(2)
- def “**seasonal water assignment rules**” amd 2003 No. 25 s 147(11)
- def “**SEQ region**” ins 2006 No. 23 s 22(2)
- def “**SEQ Water**” ins 2005 No. 56 s 17(1)
- def “**service area**” om 2008 No. 34 s 747(1)
- def “**service provider**” sub 2008 No. 34 s 747(1)–(2)
- def “**service provider register**” om 2008 No. 34 s 747(1)
- def “**service provider water restriction**” ins 2006 No. 23 s 22(2)

- def “**sewerage service**” amd 2005 No. 19 s 173(4)  
sub 2008 No. 34 s 747(1)–(2)
- def “**sewerage service provider**” om 2008 No. 34 s 747(1)
- def “**small service provider**” amd 2001 No. 75 s 116(11); 2003 No. 25 s 147(12)  
om 2008 No. 34 s 747(1)
- def “**special agreement Act**” ins 2010 No. 52 s 55
- def “**specified conditions**” ins 2010 No. 52 s 55
- def “**specified works**” ins 2005 No. 42 s 52 sch 1
- def “**spot audit**” om 2008 No. 34 s 747(1)
- def “**spot audit report**” ins 2008 No. 34 s 747(2)
- def “**spouse**” om 2002 No. 74 s 90 sch
- def “**spring impact management strategy**” ins 2010 No. 53 s 206(2)
- def “**start day**” ins 2010 No. 53 s 206(2)
- def “**stock purposes**” ins 2003 No. 25 s 147(1)  
sub 2005 No. 19 s 173(1)–(2)
- def “**stock route**” ins 2005 No. 19 s 173(2)
- def “**storage capacity**” om 2005 No. 19 s 173(1)
- def “**strategic asset management plan**” amd 2005 No. 19 s 173(5)  
om 2008 No. 34 s 747(1)
- def “**subartesian area**” ins 2005 No. 42 s 52 sch 1
- def “**submissions summary**” ins 2010 No. 53 s 206(2)
- def “**subsidiary company**” ins 2011 No. 40 s 93(2)
- def “**supply contract**” amd 2005 No. 56 s 17(2)
- def “**Sustainable Planning Act 2009 offence**” ins 2009 No. 36 s 872 sch 2
- def “**system leakage management plan**” ins 2005 No. 19 s 173(2)  
om 2008 No. 34 s 747(1)
- def “**system operating plan**” ins 2006 No. 23 s 22(2)
- def “**temporary full supply level**” ins 2011 No. 33 s 33(2)  
sub 2012 No. 29 s 19
- def “**threshold limit**” ins 2010 No. 52 s 55
- def “**top of the barrier**” om 2008 No. 34 s 747(1)
- def “**trade waste**” om 2008 No. 34 s 747(1)
- def “**trade waste approval**” om 2008 No. 34 s 747(1)
- def “**transfer notice**” ins 2008 No. 34 s 747(2)
- def “**transferring entity**” ins 2008 No. 34 s 747(2)
- def “**travelling stock**” ins 2005 No. 19 s 173(2)
- def “**unallocated State land**” ins 2005 No. 19 s 173(2)
- def “**unconsolidated aquifer**” ins 2010 No. 53 s 206(2)
- def “**underground water impact report**” ins 2010 No. 53 s 206(2)
- def “**underground water obligation**” ins 2010 No. 53 s 206(2)
- def “**underground water rights**” ins 2010 No. 53 s 206(2)
- def “**unit of public administration**” ins 2006 No. 23 s 22(2)
- def “**upstream limit**” ins 2010 No. 12 s 248(2)
- def “**urban area**” ins 2011 No. 40 s 93(2)
- def “**urban stormwater**” ins 2011 No. 40 s 93(2)
- def “**urban water service**” ins 2011 No. 8 s 115
- def “**vegetation**” sub 2005 No. 42 s 52 sch 1

- def “**volumetric limit**” ins 2003 No. 25 s 147(1)
- def “**water**” amd 2003 No. 25 s 147(13)  
sub 2006 No. 23 s 22(1)–(2)  
amd 2008 No. 34 s 747(6A)
- def “**water advice**” ins 2007 No. 57 s 104(2)  
om 2008 No. 34 s 747(1)
- def “**water allocation change rules**” amd 2001 No. 75 s 116(12)
- def “**water allocation group**” ins 2003 No. 25 s 147(1)
- def “**watercourse**” amd 2001 No. 75 s 116(13); 2003 No. 25 s 147(14)  
sub 2010 No. 12 s 248(1)–(2)
- def “**water efficiency management plan**” ins 2006 No. 59 s 84(2)  
amd 2008 No. 34 s 747(7)
- def “**water grid manager**” ins 2008 No. 34 s 747(2)
- def “**water in a watercourse or lake**” ins 2003 No. 25 s 147(1)
- def “**water level**” ins 2010 No. 53 s 206(2)
- def “**water management area**” ins 2005 No. 19 s 173(2)
- def “**water monitoring authority**” ins 2010 No. 53 s 206(2)
- def “**water monitoring bore**” ins 2010 No. 53 s 206(2)
- def “**water monitoring strategy**” ins 2010 No. 53 s 206(2)
- def “**water restriction**” om 2006 No. 23 s 22(1)
- def “**water security**” ins 2006 No. 23 s 22(2)  
sub 2011 No. 33 s 33; 2012 No. 29 s 19
- def “**water service**” amd 2001 No. 75 s 116(14); 2005 No. 19 s 173(6)  
sub 2008 No. 34 s 747(1)–(2)
- def “**water service declaration**” ins 2008 No. 34 s 747(2)
- def “**water service provider**” sub 2006 No. 23 s 22(1)–(2)  
amd 2007 No. 57 s 104(3); 2008 No. 34 s 747(8)
- def “**water sharing rules**” sub 2001 No. 75 s 116(1)–(2); 2005 No. 19 s 173(1)–(2)
- def “**Water Supply Act**” ins 2008 No. 34 s 747(2)
- def “**water supply emergency**” ins 2005 No. 56 s 17(1)
- def “**water supply emergency declaration**” ins 2005 No. 56 s 17(1)
- def “**water supply emergency regulation**” ins 2005 No. 56 s 17(1)
- def “**water supply emergency response**” ins 2005 No. 56 s 17(1)
- def “**water supply scheme**” ins 2003 No. 25 s 147(1)
- def “**water supply works**” ins 2006 No. 23 s 22(2)
- def “**Webbe-Weller review**” ins 2010 No. 20 s 118(2)
- def “**weir**” amd 2010 No. 12 s 248(3)
- def “**Wenlock Basin wild river area**” ins 2010 No. 52 s 55
- def “**Wenlock Basin Wild River Declaration**” ins 2010 No. 52 s 55
- def “**wild river area**” ins 2005 No. 42 s 52 sch 1  
amd 2006 No. 59 s 85 sch
- def “**wild river declaration**” ins 2005 No. 42 s 52 sch 1  
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- def “**wild river floodplain management area**” ins 2005 No. 42 s 52 sch 1
- def “**wild river high preservation area**” ins 2005 No. 42 s 52 sch 1
- def “**wild river preservation area**” ins 2005 No. 42 s 52 sch 1

def “**wild river special floodplain management area**” ins 2010 No. 53 s 206(2)

def “**wild river subartesian management area**” ins 2005 No. 42 s 52 sch 1

def “**work performance arrangement**” ins 2007 No. 20 s 116

## **7 Forms notified or published in the gazette**

Lists of forms are no longer included in reprints. Now see the separate forms document published on the website of the Office of the Queensland Parliamentary Counsel at <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> under Information—Current annotations. This document is updated weekly and the most recent changes are marked with a change bar.

## **8 Information about retrospectivity**

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor’s note to the text.

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