



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

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Queensland

# Water Supply (Safety and Reliability) Act 2008

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# Water Supply (Safety and Reliability) Act 2008

**An Act to provide for the safety and reliability of water supply**

## Chapter 1 Preliminary

### 1 Short title

This Act may be cited as the *Water Supply (Safety and Reliability) Act 2008*.

*Editor's note—*

Some section numbers have been deliberately left blank at the end of some parts because of the size and complexity of this Act. If this Act is amended in the future, this will assist in adding sections.

### 2 Commencement

- (1) Sections 677 to 679 commence on 1 August 2008.
- (2) The remaining provisions of this Act, other than the following provisions, commence on a day to be fixed by proclamation—
  - chapter 10, part 3, other than section 663
  - sections 666, 674 to 676, 680 to 682, 684 to 692, 695, 696, 715 to 721, 735(1) to (3) and 736
  - section 738, to the extent it inserts part 3A
  - sections 739, 743 and 744
  - section 745, to the extent it inserts division 11 heading and sections 1166 and 1167
  - section 747(3)
  - chapter 11

- schedule 2, amendment of the *Water Resource (Fitzroy Basin) Plan 1999*.

### **3 Purpose of Act and its achievement**

- (1) The purpose of this Act is to provide for the safety and reliability of water supply.
- (2) The purpose is achieved primarily by—
  - (a) providing for—
    - (i) a regulatory framework for providing water and sewerage services in the State, including functions and powers of service providers; and
    - (ii) a regulatory framework for providing recycled water and drinking water quality, primarily for protecting public health; and
    - (iii) the regulation of referable dams; and
    - (iv) flood mitigation responsibilities; and
  - (b) protecting the interests of customers of service providers.

### **4 Definitions**

The dictionary in schedule 3 defines particular words used in this Act.

### **5 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*.

## Chapter 2      Infrastructure and service

### Part 1              Preliminary

#### 6      Application of ch 2 to local governments

Nothing in this chapter affects the powers of a local government or an authorised person under the Local Government Act.

#### 7      Sections 7–9 not used

See editor’s note for section 1.

### Part 2              The regulator

#### 10     Who is the regulator

The regulator is the chief executive.

#### 11     Regulator’s general functions

- (1) The regulator’s general functions are—
- (a) to keep a register of service providers registered under this Act; and
  - (b) to review and make recommendations about standards and practices under this Act; and
  - (c) to monitor compliance with this Act; and

- (d) to perform other functions given to the regulator under this Act or another Act.
- (2) In performing the regulator's functions, the regulator must consider the purposes of this Act.
- (3) In this section—  
*function* includes power.

## 12 Register of service providers

- (1) The regulator must keep a register of service providers.
- (2) The register may be kept in the form, including electronic form, the regulator considers appropriate.
- (3) The register must contain the following for each entity registered by the regulator as a service provider—
  - (a) the service provider's name and contact details;
  - (b) the service provider's nominated contact officer;
  - (c) details of the infrastructure operated by the service provider to supply the relevant water or sewerage service;
  - (d) if the service provider appoints another entity (*an operating agent*) to operate the infrastructure for the service provider—the operating agent's name and contact details;
  - (e) the nature of the services offered by the service provider;
  - (f) any other particulars the regulator considers necessary.
- (4) The regulator must publish on a Queensland Government website a list of the entities registered as service providers.

## 12A Register of registered recycled water schemes

- (1) The regulator must keep a register of registered recycled water schemes.

- 
- (2) The register may be kept in the form, including electronic form, the regulator considers appropriate.
  - (3) The register must contain the following information for each registered recycled water scheme—
    - (a) the scheme’s name and contact details;
    - (b) the name of—
      - (i) for a single-entity recycled water scheme—the recycled water provider for the scheme; and
      - (ii) for a multiple-entity recycled water scheme—
        - (A) the scheme manager; and
        - (B) each recycled water provider; and
        - (C) any other declared entities;
    - (c) the location of the infrastructure for the production or supply of recycled water under the scheme;
    - (d) the source water used for the production or supply of recycled water under the scheme;
    - (e) the uses for the recycled water supplied under the scheme.
  - (4) The register may also contain any other particulars the regulator considers necessary.
  - (5) The regulator—
    - (a) must publish on a Queensland Government website a list of registered recycled water schemes and the information mentioned in subsection (3)(b) for each scheme; and
    - (b) may publish any other information mentioned in subsection (3).
  - (6) In this section—

***registered recycled water scheme*** means a recycled water scheme registered under section 196AC.

### 13 Requirement for responsible entity to give information

- (1) The regulator may, by notice, require a responsible entity to give the regulator either or both of the following information within a stated reasonable period—
  - (a) information the regulator reasonably requires to perform the regulator’s functions;
  - (b) information about water security.
- (2) A requirement under subsection (1) is not limited to information the responsible entity has before the requirement was made.
- (3) When making the requirement, the regulator must warn the responsible entity it is an offence to fail to comply with the requirement unless the responsible entity has a reasonable excuse.
- (4) The responsible entity must comply with the requirement unless the responsible entity has a reasonable excuse.

Maximum penalty—200 penalty units.

- (5) If the responsible entity is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information might tend to incriminate the responsible entity.
- (6) In this section—

***responsible entity*** means each of the following—

- (a) a recycled water provider or other declared entity for a recycled water scheme;
- (b) a service provider;
- (c) the scheme manager for a multiple-entity recycled water scheme;
- (d) if a service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

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## 14 Reports and other publications by regulator

- (1) The regulator may prepare reports under this part about the regulator's activities.
- (2) The regulator may—
  - (a) include in a report any information the regulator obtains under this Act (*relevant information*); and
  - (b) publish relevant information by way of television, radio, the internet or another form of communication.
- (3) However, subsection (2) does not apply to—
  - (a) personal information under the *Information Privacy Act 2009*, other than information identifying an individual as a service provider; or
  - (b) information that, under section 580, the regulator must take all reasonable steps to ensure not to disclose.

## 15 Delegation by regulator

- (1) The regulator may delegate the regulator's functions under this Act to an appropriately qualified officer of the department.
- (2) A regulation may state a particular function of the regulator—
  - (a) may not be delegated; or
  - (b) may be delegated only to a particular person.
- (3) In this section—

*function* includes power.

## 16 Sections 16–19 not used

See editor's note for section 1.

## Part 3 Service providers

### Division 1 Registration of service providers

#### Subdivision 1 Application for registration

#### 20 Who must apply for registration as a service provider

- (1) The following entities must, before starting to operate as the supplier of a water or sewerage service, apply for registration as a service provider—
  - (a) a local government that owns infrastructure for supplying water or sewerage services;
  - (b) a water authority that owns infrastructure for supplying water or sewerage services;
  - (c) 1, but not both, of the following—
    - (i) an entity (the *relevant infrastructure owner*) who is the owner of 1 or more elements of infrastructure (the *relevant infrastructure*) for supplying a water or sewerage service for which a charge is intended to be made;
    - (ii) an entity (the *prescribed related entity*) that is prescribed under a regulation as a related entity of the relevant infrastructure owner.
- (2) For subsection (1)(c)(ii), the prescribed related entity must be nominated by the relevant infrastructure owner to operate the relevant infrastructure to supply the service, whether before or after the relevant infrastructure owner becomes the owner of the relevant infrastructure.
- (3) However, subsection (1) does not apply to a person who owns infrastructure that produces and supplies recycled water unless the person also owns other infrastructure for supplying a water or sewerage service.



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## **21 Applying for registration as a service provider**

- (1) An application for registration as a service provider must be—
  - (a) made to the regulator in the approved form; and
  - (b) supported by sufficient information to enable the regulator to decide the application; and
  - (c) accompanied by—
    - (i) the fee prescribed under a regulation; and
    - (ii) if the applicant is the prescribed related entity of the relevant infrastructure owner—the owner’s written consent to the registration of the prescribed related entity.
- (2) The regulator may require either or both of the following to give additional information about the application—
  - (a) the applicant;
  - (b) if the applicant is the prescribed related entity of the relevant infrastructure owner—the owner.
- (3) The regulator may require the information included in the application, or the additional information required under subsection (2), to be verified by statutory declaration.

## **22 Registration as a service provider**

- (1) This section applies if the regulator is satisfied—
  - (a) the applicant has complied with section 21(1); and
  - (b) an entity of whom a requirement is made under section 21(2) or (3) has complied with the requirement; and
  - (c) for an applicant who is the prescribed related entity of the relevant infrastructure owner—
    - (i) the applicant can exercise the powers of a service provider under this Act for supplying the water or sewerage service to which the application relates; and

- (ii) without limiting subparagraph (i), the contractual arrangements between the applicant and the relevant infrastructure owner adequately provide for the applicant to operate the infrastructure to supply the water or sewerage service; and
  - (iii) if the applicant were to stop supplying, or cease to be the service provider for, the water or sewerage service, the relevant infrastructure owner could within a reasonable period nominate another entity to operate the infrastructure to supply the water or sewerage service.
- (2) The regulator must—
  - (a) register the applicant in the service provider register as the service provider for the water or sewerage service to which the application relates; and
  - (b) give notice of the registration to—
    - (i) the applicant; and
    - (ii) if the applicant is the prescribed related entity of the relevant infrastructure owner—the owner.
- (3) The registration takes effect the day the regulator registers the applicant under subsection (2)(a).

## **Subdivision 2      Changing registration details**

### **23      Applying to change service provider’s details of registration**

- (1) A service provider may apply to change the service provider’s details of registration in the service provider register by, for example—
  - (a) including a service or adding infrastructure for which the service provider is not currently registered; or
  - (b) removing a service or infrastructure for which the service provider is currently registered.

- 
- (2) The application must be—
    - (a) made to the regulator in the approved form; and
    - (b) if the service provider is the prescribed related entity of the relevant infrastructure owner—accompanied by the owner’s written consent to the changes.
  - (3) On receiving the application the regulator must—
    - (a) record the changes in the register; and
    - (b) give the service provider a copy of the service provider’s details, including the changes, as registered in the register; and
    - (c) if the service provider is the prescribed related entity of the relevant infrastructure owner—give the owner notice of the changed details.

### **23A Reviewing and changing service provider registration details**

- (1) Within 30 business days after 30 June each year, each service provider must review the service provider’s registration details.
- (2) Within 10 business days after the review is completed, the service provider must give the regulator notice of the review that—
  - (a) is in the approved form; and
  - (b) states whether the service provider’s registration details have changed; and
  - (c) if the service provider’s registration details have changed—includes particulars of the change.
- (3) If the service provider’s registration details have changed, the regulator must, on receiving the notice—
  - (a) record the changes in the service provider register; and
  - (b) give the service provider a copy of the service provider’s details, including the changes, as registered in the service provider register; and

- (c) if the service provider is the prescribed related entity of the relevant infrastructure owner—give the owner notice of the changed details.

## Subdivision 3      Transferring registration

### 24      Definitions for sdiv 3

In this subdivision—

*current infrastructure owner* see section 25(1).

*incoming related entity*, of the current or new infrastructure owner, means the entity that the current or new infrastructure owner proposes to nominate, under section 20(2), to operate the infrastructure to supply the relevant service when the registration for the service is transferred under this subdivision.

*new infrastructure owner* see section 25(2)(a).

*new service provider* see section 25B(2)(c).

*outgoing related entity*, of the current infrastructure owner, means the prescribed related entity of the current infrastructure owner who is the service provider for the relevant service until the registration for the service is transferred under this subdivision.

*relevant service* see section 25(1).

### 25      Application of sdiv 3

- (1) This subdivision applies if the owner (the *current infrastructure owner*) of infrastructure for a registered service (the *relevant service*) intends to transfer the registration as service provider for the relevant service to the incoming related entity of the current infrastructure owner.
- (2) This subdivision also applies if the current infrastructure owner intends to transfer—

- (a) the ownership of the infrastructure for the relevant service to another entity (the *new infrastructure owner*); and
  - (b) the registration as service provider for the relevant service to 1 of the following—
    - (i) the new infrastructure owner;
    - (ii) the incoming related entity of the new infrastructure owner.
- (3) Subsections (1) and (2)(b) apply whether the current infrastructure owner or the outgoing related entity of the current infrastructure owner is the service provider for the relevant service.

## **25A Notice of transfer**

- (1) The current infrastructure owner must give the regulator notice (the *transfer notice*) of the proposed transfer.
- (2) The transfer notice must be—
  - (a) in the approved form; and
  - (b) accompanied by the fee prescribed under a regulation.
- (3) The regulator may require the following to give additional information about the transfer notice—
  - (a) the current infrastructure owner;
  - (b) any of the following, if relevant to the proposed transfer—
    - (i) the outgoing related entity of the current infrastructure owner;
    - (ii) the incoming related entity of the current infrastructure owner;
    - (iii) the new infrastructure owner;
    - (iv) the incoming related entity of the new infrastructure owner.

- (4) The regulator may require the information included in the transfer notice, or the additional information required under subsection (3), to be verified by statutory declaration.

## **25B Registering new service provider for transferred service**

- (1) This section applies if the regulator is satisfied—
- (a) the current infrastructure owner has complied with section 25A(1) and (2); and
  - (b) an entity of whom a requirement is made under section 25A(3) or (4) has complied with the requirement; and
  - (c) for a proposed service provider who is the incoming related entity of the current or new infrastructure owner—
    - (i) the entity has been nominated under section 20(2) and prescribed under section 20(1)(c)(ii) as the prescribed related entity of the current or new infrastructure owner; and
    - (ii) the entity can exercise the powers of a service provider under this Act for supplying the relevant service; and
    - (iii) without limiting subparagraph (ii), the contractual arrangements between the entity and the current or new infrastructure owner adequately provide for the entity to operate the infrastructure to supply the relevant service; and
    - (iv) if the entity were to stop supplying, or cease to be the service provider for, the relevant service, the current or new infrastructure owner could within a reasonable period nominate another entity to operate the infrastructure to supply the relevant service.
- (2) The regulator must—

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- (a) cancel the service provider's registration for the relevant service; and
  - (b) give notice of the cancellation to—
    - (i) the current infrastructure owner; and
    - (ii) if the service provider was the outgoing related entity of the current infrastructure owner—the outgoing related entity; and
  - (c) register the following (the *new service provider*) in the service provider register as the service provider for the relevant service—
    - (i) for a transfer of registration under section 25(1)—the incoming related entity of the current infrastructure owner;
    - (ii) for a transfer of registration under section 25(2)(b)(ii) for which the regulator is satisfied of the matters mentioned in subsection (1)(c)—the incoming related entity of the new infrastructure owner;
    - (iii) for a transfer of registration under section 25(2) to which subparagraph (ii) does not apply—the new infrastructure owner; and
  - (d) give notice of the registration to—
    - (i) the new service provider; and
    - (ii) if the new service provider is the incoming related entity of the current infrastructure owner—the current infrastructure owner; and
    - (iii) if the new service provider is the incoming related entity of the new infrastructure owner—the new infrastructure owner.
- (3) The registration—
- (a) must not be on a day earlier than the day the regulator received the transfer notice under section 25A; but
  - (b) may be on a later day, if agreed in writing between—

- (i) the current infrastructure owner; and—
- (ii) either—
  - (A) or a transfer of registration under section 25(1)—the new service provider; or
  - (B) or a transfer of registration under section 25(2)—the new infrastructure owner.

## **25C Compliance notice taken to have been given to new service provider**

- (1) This section applies if—
  - (a) the regulator has given a service provider (the *original service provider*) a compliance notice; and
  - (b) the original service provider’s registration as service provider is transferred under this subdivision; and
  - (c) the original service provider has not complied with the compliance notice before the new service provider is registered under section 25B(2)(c).
- (2) Subject to subsection (3), the new service provider is taken to have been the original service provider given the compliance notice.
- (3) For subsection (2)—
  - (a) the compliance notice is taken to have been given to the original service provider on the day the new service provider is registered; and
  - (b) a period to remedy a contravention or comply with a requirement, however provided for in the compliance notice, is taken to be the equivalent period starting on the day the new service provider is registered.

### *Example—*

A compliance notice states a day, that is 30 business days after the notice is issued, by which a contravention is required to be remedied. The period for remedying the contravention is taken to be 30 business days after the new service provider is registered.



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## **Subdivision 4      Cancelling registration other than for transfer**

### **26      Notice of intention to stop operating as a service provider**

- (1) This section applies if—
  - (a) a service provider is likely to stop supplying a registered service; and
  - (b) there is no other entity willing to take over the operation of all or part of the service provider’s infrastructure for the service.
- (2) The service provider must, unless the service provider has a reasonable excuse, give at least 60 business days notice of the possible stoppage to—
  - (a) the regulator; and
  - (b) if the service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

*Note—*

See section 530(1)(a) (Governor in Council may appoint administrator to operate infrastructure).

Maximum penalty—1,000 penalty units.

- (3) The notice must—
  - (a) be in the approved form; and
  - (b) state the day by which the service provider intends to stop supplying the service.
- (4) The regulator may require either or both of the following to give additional information about the notice—
  - (a) the service provider;
  - (b) if the service provider is the prescribed related entity of the relevant infrastructure owner—the owner.
- (5) The regulator may require any information included in the notice, or any additional information required under subsection (4), to be verified by statutory declaration.

- (6) If a requirement is made of the service provider under subsection (4) or (5) and the service provider fails, without reasonable excuse, to comply with the requirement within the reasonable period stated in the requirement, the notice given under subsection (2) is of no effect.
- (7) If the service provider continues supplying the service after the day stated in the notice—
  - (a) the notice ceases to have effect as a notice for subsection (2); and
  - (b) if the service provider is again likely to stop supplying the service—the service provider must give a further notice under subsection (2).
- (8) If the service provider stops supplying the service, the service provider must, within 5 business days after stopping supply, give notice of the stoppage to—
  - (a) the regulator; and
  - (b) if the service provider is the prescribed related entity of the relevant infrastructure owner—the owner.
- (9) The notice must—
  - (a) be in the approved form; and
  - (b) state the day on which the provider stopped supplying the service.

## **27 Cancellation of registration if service provider stops supplying service**

If the regulator receives a notice under section 26(8), the regulator must—

- (a) cancel the service provider's registration as a service provider for the infrastructure and services to which the notice relates; and
- (b) give notice of the cancellation to—
  - (i) the service provider; and

- (ii) if the service provider was the prescribed related entity of the relevant infrastructure owner—the owner.

## **28 Applying for cancellation of registration as service provider**

- (1) A service provider may apply to the regulator to have the provider's registration cancelled if the provider has not supplied, and does not intend to start supplying, the service for which the provider is registered.
- (2) The application must be—
  - (a) made in the approved form; and
  - (b) supported by sufficient information to enable the regulator to decide the application.
- (3) If the service provider is the prescribed related entity of the relevant infrastructure owner, the service provider must give the owner notice of the application.
- (4) The regulator may require—
  - (a) the applicant to give additional information about the application; or
  - (b) the information included in the application, or the additional information required under paragraph (a), to be verified by statutory declaration.
- (5) If the regulator is satisfied the applicant has complied with subsections (2) and (3) and any requirement under subsection (4), the regulator must—
  - (a) cancel the service provider's registration as a service provider for the infrastructure and services to which the application relates; and
  - (b) give notice of the cancellation to—
    - (i) the service provider; and

- (ii) if the service provider was the prescribed related entity of the relevant infrastructure owner—the owner.

## **Subdivision 5      Other matters**

### **29      Registration as a service provider is not a right to water entitlement or resource operations licence**

To remove any doubt, it is declared that registration as a service provider does not, of itself, entitle a service provider to a water entitlement or a resource operations licence.

### **30      Operation of infrastructure by prescribed related entity**

- (1) This section applies to a service provider that is the prescribed related entity of the relevant infrastructure owner for a registered service of the service provider.
- (2) To remove any doubt, it is declared that the service provider can operate the infrastructure for the service under this chapter as if it were the owner.
- (3) Subsection (2) applies despite a contract, covenant or claim of right under a law of a State.

### **30A      Ownership and operation of service provider's infrastructure that is part of land**

- (1) This section applies to—
  - (a) the ownership of a service provider's infrastructure; or
  - (b) a service provider's operation of the service provider's infrastructure under this chapter.
- (2) Neither the ownership nor the operation of the service provider's infrastructure is affected only because—
  - (a) the infrastructure is, or becomes, part of land; or

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- (b) the land of which the infrastructure is a part is sold or otherwise disposed of.
  - (4) This section applies despite—
    - (a) an Act or law of a State; or
    - (b) a contract, covenant or claim of right under a law of a State.

## **Division 2                    General powers of service providers and authorised persons**

### **31            Definition for div 2**

In this division—

*place* does not include a building or structure used for residential purposes.

### **32            Application of div 2**

This division applies only to the services for which a service provider is registered.

### **33            Power to disconnect unauthorised connections**

- (1) This section applies if a person makes an unauthorised connection to the service provider's infrastructure.
- (2) The service provider may give the person a notice asking the person to state, within the reasonable period stated in the notice, why the service provider should not disconnect the connection.
- (3) The period stated in the notice must not be less than 48 hours after the notice is given.
- (4) If the service provider is not satisfied, within the period stated in the notice, that the connection should not be disconnected—

- (a) an authorised person of the service provider may enter the place where the connection is and disconnect the connection; and
  - (b) the service provider may recover from the person as a debt—
    - (i) the cost of the disconnection; and
    - (ii) the value of any service used by the person through the connection.
- (5) However, if the connection is causing damage to the service provider’s infrastructure—
- (a) an authorised person may, without notice, enter the place where the connection is and disconnect the connection; and
  - (b) the service provider may recover from the person as a debt—
    - (i) the cost of the disconnection; and
    - (ii) the value of any service used by the person through the connection.
- (6) If an authorised person enters a place under subsection (5), the authorised person must give the person who appears to the authorised person to be the owner of, or in control of, the place, a notice advising the purpose of the entry.
- (7) If there is no person at the place at the time of the entry under subsection (5), the authorised person must leave the notice at the place in a conspicuous position and in a reasonably secure way.

### **34 Power to direct remedial work**

- (1) This section applies to the owner of—
- (a) defective or improper equipment connected to, or adversely affecting, a service provider’s infrastructure;
- or

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- (b) land on which there is situated vegetation or any other thing adversely affecting the service provider's infrastructure or ability to provide the services for which the service provider is registered.
- (2) The service provider may give the owner a notice to do work, within the reasonable period stated in the notice, to—
    - (a) rectify the equipment; or
    - (b) remove the vegetation or other thing.
  - (3) If the owner does not do the work within the period stated in the notice—
    - (a) an authorised person may, under section 36, enter the place where the work is required and do the work; and
    - (b) the service provider may recover from the owner as a debt the cost of the work.

### **35 Power to install meters**

- (1) A service provider may install, or approve the installation of, a meter in a position, decided by the service provider, on infrastructure supplying water to premises.
- (2) The meter is the property of the service provider even if it is installed inside the boundary of the premises.

*Note—*

A licence under the *Plumbing and Drainage Act 2018* may be required to install a meter.

### **36 Power to enter places for restricted purposes**

- (1) An authorised person may enter a place to—
  - (a) inspect, operate, change, maintain, remove, repair or replace a service provider's infrastructure at the place; or
  - (b) install, under section 169, a device to reduce the water supply to premises at the place; or

- (c) if the place is public land that adjoins a watercourse or lake downstream of a dam or weir—erect a sign on the land to warn individuals of the risks of entering an area downstream of the dam or weir.
- (2) However, the authorised person may enter the place at any reasonable time only if—
    - (a) the occupier consents to the entry; or
    - (b) the service provider has given the occupier at least 14 days notice of the entry and the purpose of the entry; or
    - (c) for entry under subsection (1)(a) or (b)—the service provider needs to take urgent action to protect its infrastructure at the place.
  - (3) Subsection (2) does not apply to an authorised person entering public land under subsection (1)(c) if there is no person in actual occupation of the land.
  - (4) After entering the place, the authorised person may carry out the activity that is the purpose of the entry.
  - (5) If an authorised person enters a place under subsection (2)(c), the authorised person must give the person who appears to the authorised person to be the owner of, or in control of, the place, a notice advising the purpose of the entry.
  - (6) If there is no person at the place at the time of the entry under subsection (2)(b), the authorised person must leave the notice at the place in a conspicuous position and in a reasonably secure way.
  - (7) This section does not limit section 37.
  - (8) In this section—

**public land** means land that is under the management or control of—

    - (a) the State; or
    - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.



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**37 Power to enter place to read, check, maintain or replace meter**

- (1) An authorised person may enter a place at any reasonable time—
  - (a) to read a meter; or
  - (b) to check the accuracy of a meter; or
  - (c) to maintain or replace a meter.
- (2) In this section—

*meter*, in relation to a place, means a device, including equipment related to the device, for measuring the volume of water supplied to the place and installed on infrastructure that supplies retail water services at the place.

**38 Notice of damage**

- (1) This section applies if—
  - (a) an authorised person damages property when exercising or purporting to exercise a power under this division; or
  - (b) a person (the *other person*) acting under the direction or authority of an authorised person damages property.
- (2) The authorised person must immediately give notice of particulars of the damage to a person who appears to the authorised person to be an owner of the property.
- (3) If the authorised person believes the damage was caused by a latent defect in the property or circumstances beyond the authorised person's or other person's control, the authorised person may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the authorised person must leave the notice where the damage happened in a conspicuous position and in a reasonably secure way.
- (5) This section does not apply to damage the authorised person reasonably believes is trivial.
- (6) In this section—

*owner*, of property, includes a person in possession or control of it.

### **39 Compensation**

- (1) If a person incurs loss or expense because of the exercise or purported exercise of a power under this division, the person may claim compensation from the service provider.
- (2) Without limiting subsection (1), compensation may also be claimed for loss or expense incurred in complying with a requirement made of the person under this division.
- (3) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- (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.
- (5) For this section, loss or expense does not include loss or expense caused by the act of—
  - (a) removing an unauthorised connection; or
  - (b) rectifying defective or improper equipment; or
  - (c) removing vegetation or any other thing.

### **40 Recovery of costs**

- (1) This section applies if—
  - (a) a person damages a service provider's infrastructure; or
  - (b) a service provider suffers loss because a person—
    - (i) makes an unauthorised connection to the service provider's infrastructure; or
    - (ii) discharges material, if it is not material the service provider has authorised to be discharged, into the service provider's infrastructure; or

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- (iii) interferes with the service provider's infrastructure; or
  - (iv) pollutes the water in the service provider's infrastructure.
- (2) The service provider may recover from the person as a debt the amount of the loss or the reasonable cost of repairing the damage.

## Division 3                      Power to restrict water supply

### 41                      Restricting water supply

- (1) If a water service provider considers it necessary, the water service provider may restrict—
- (a) the volume of water taken by or supplied to a customer or type of customer; or
  - (b) the hours when water may be used on premises for stated purposes; or
  - (c) the way water may be used on premises.
- (2) The water service provider may impose a restriction under subsection (1) (a *service provider water restriction*) only if—
- (a) there is an urgent need for the service provider water restriction; 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 service provider has a reasonable and comprehensive strategy for demand management for water and the restriction is essential to ensure the aims of the strategy are met; or
  - (d) the Minister has published a notice under the Water Act, section 25B, or a regulation has been made under the Water Act, section 25F, and the restriction is for the purposes of the notice or regulation; or

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- (e) the water service provider is directed, under a water supply emergency declaration, a water supply emergency regulation or an approved water supply emergency response, to impose the restriction; or
  - (f) the water service provider is directed by the regulator, under section 42(2), to impose the restriction.
- (3) A water service provider may apply a restriction imposed under subsection (1) to water taken from a rainwater tank connected to the service provider's reticulated supply.
- (4) However, a restriction imposed under subsection (1) must be consistent with conditions contained in the service provider's resource operations licence, interim resource operations licence, water licence or water allocation, relating to the supply of the water.
- (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.

## **42 Regulator may direct restriction**

- (1) This section applies if the regulator considers—
- (a) there is a significant threat to sustainable and secure water supply in an area; and
  - (b) it is necessary or desirable to impose a restriction under section 41 on the area or another area.
- (1A) To remove any doubt, it is declared that the regulator may direct a service provider for an area not under an immediate significant threat to sustainable and secure water supply to impose a restriction if the regulator considers the restriction is necessary or desirable because of a significant threat to sustainable and secure water supply in another area.

*Example—*

The regulator may direct the Gold Coast City Council to impose a restriction if another area in the SEQ region is facing a significant threat

to its water supply and water from the Hinze Dam is needed for the other area.

- (2) The regulator may, after consultation with the water service provider for the area or the other area, direct the water service provider to—
  - (a) impose a restriction, under section 41, in the area or the other area within a stated period; and
  - (b) provide a written response to the regulator, within a stated period, stating the steps the water service provider intends to take to ensure the restriction is complied with.
- (3) A service provider to whom a direction is given under subsection (2) must comply with the direction.

Maximum penalty—200 penalty units.

- (4) If the regulator is satisfied the response is adequate to ensure compliance with the restriction, the regulator must—
  - (a) approve the response; and
  - (b) give the service provider notice of the approval.
- (5) If the regulator is not satisfied the response is adequate to ensure compliance with the restriction, the regulator 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.
- (6) A service provider must comply with the approved response by taking the steps stated in the response for ensuring the restriction is complied with.

Maximum penalty for subsection (6)—200 penalty units.

### **43 Notice of service provider water restriction must be given**

- (1) A water service provider must give notice of a service provider water restriction imposed by the service provider to anyone affected by it in the way the service provider considers

appropriate having regard to the circumstances in which the restriction is imposed.

- (2) Subsection (3) applies if the service provider water restriction is imposed because—
  - (a) there is an urgent need for the restriction; or
  - (b) the service provider is directed under a water supply emergency declaration to impose the restriction.
- (3) Without limiting subsection (1), an appropriate way for the service provider to give notice of the service provider water restriction is by broadcasting the restriction on radio or television or using another form of electronic communication.
- (4) The service provider water restriction has effect from—
  - (a) ordinarily—the beginning of the day after the notice is given; or
  - (b) if the restriction is imposed because of an urgent need or water supply emergency declaration—when the restriction is imposed.
- (5) A person must not contravene a service provider water restriction.  
Maximum penalty—
  - (a) for a non-residential customer—1,665 penalty units; or
  - (b) for any other person—200 penalty units.
- (6) Subsections (7) and (8) apply if a water service provider, directed under a water supply emergency declaration, a water supply emergency regulation or an approved water supply emergency response to impose service provider water restrictions, does not comply with the direction.
- (7) The Minister may give notice of the service provider water restrictions, required under the declaration, regulation or response to be imposed, to anyone affected by the restrictions in the way the Minister considers appropriate.
- (8) Notice given by the Minister under subsection (7)—

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- (a) imposes the service provider water restrictions stated in the notice; and
  - (b) is taken to be notice given by the service provider under subsection (1).
- (9) Evidence of compliance with a relevant part of a service provider water restriction includes—
- (a) an authorised person is satisfied the premises meets the requirements for the restriction; or
  - (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.

#### **44 Temporary interruptions to water supply**

- (1) A water service provider may shut off the water supply to premises for the time reasonably necessary for the service provider to perform work on the service provider's infrastructure, including a property service.
- (2) However, the service provider must give anyone likely to be affected by the shutting off of the water supply at least 48 hours notice of its intention to shut off the water supply, advising the reasons for shutting it off, and for how long it will be shut off.
- (3) Subsection (2) does not stop the service provider shutting off its water supply, without notice, if there is—
  - (a) a serious risk to public health; or
  - (b) a likelihood of serious injury to persons or damage to property; or
  - (c) another emergency.
- (4) If the service provider acts under subsection (3), the service provider must give anyone likely to be affected by the action—

- (a) notice of the action; and
- (b) the reasons for the action; and
- (c) if the action is continuing when the notice is given—notice about how long the action will continue.

## **Division 4                    Authorised persons**

### **45            Appointing authorised persons**

- (1) A service provider may appoint a person to be an authorised person of the service provider if—
  - (a) the service provider is satisfied the person has the necessary expertise or experience to be an authorised person; or
  - (b) the person has satisfactorily finished training approved by the service provider.
- (2) However, the service provider can not appoint the person unless the provider is satisfied the person—
  - (a) can perform the functions of an authorised person safely; and
  - (b) can, while performing those functions, mitigate any risks to public health and safety.

### **46            Authorised person’s identity cards**

- (1) The service provider must give an identity card to each authorised person.
- (2) The identity card must—
  - (a) contain a recent photograph of the person; and
  - (b) be signed by the person; and
  - (c) identify the person as an authorised person of the service provider; and
  - (d) include an expiry date.



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#### **47 Failure to return identity card**

A person who ceases to be an authorised person must give the person's identity card to the service provider within 15 business days after the person ceases to be an authorised person unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

#### **48 Producing and displaying identity card**

- (1) An authorised person may exercise a power under division 2 in relation to someone else (the *other person*) only if the authorised person—
  - (a) first produces the authorised person's identity card for the other person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the other person.
- (2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised person must produce the identity card for the other person's inspection at the first reasonable opportunity.

### **Division 5 Liability of service providers**

#### **49 Liability of service providers and others for particular events or circumstances**

- (1) A service provider, entity operating a service provider's infrastructure, relevant infrastructure owner, owner of land, operator of water infrastructure, operator of special infrastructure or lessee of a service provider or operator of water infrastructure (each *an indemnified party*) is not liable for an event or circumstance beyond the control of the indemnified party.
- (2) Subsection (1)—

- (a) applies only if, in relation to the event or circumstance, the indemnified party acted reasonably and without negligence; and
- (b) does not affect, or in any way limit, the liability of an indemnified party for negligence.

(3) In this section—

***an event or circumstance*** includes—

- (a) the escape of water from water infrastructure or works; and
- (b) flooding upstream or downstream of water infrastructure or works; and
- (c) contamination, or the quality, of water, including manufactured water flowing, or released, from water infrastructure, special infrastructure or works.

***manufactured water*** means water, including desalinated or recycled water or any substance resulting from the production of desalinated or recycled water, from any source.

***relevant water infrastructure*** means infrastructure that is—

- (a) infrastructure the subject of—
  - (i) a water supply emergency declaration or water supply emergency regulation; or
  - (ii) works to be undertaken, including works included in a program of works approved by the Governor in Council, under the *State Development and Public Works Organisation Act 1971*; and
- (b) a prescribed project under the *State Development and Public Works Organisation Act 1971*; and
- (c) infrastructure the Minister declares in a gazette notice to be relevant water infrastructure for the purposes of this section.

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## Division 6                      Water efficiency management plans

### 50            Purpose of div 6

The purpose of this division is to promote water savings by non-residential customers.

### 51            Application of div 6

- (1) This division applies for a non-residential customer who does not hold a water entitlement.
- (2) However, if this division would not apply to a non-residential customer because of subsection (1), but the customer takes water from a water service provider under another arrangement, this division applies for the other arrangement.
- (3) Also, if a customer to whom this division applies is a customer of more than 1 water service provider, the water service provider who provides the customer with the most water is the water service provider for the customer for this division.

### 52            When water efficiency management plan may be required

- (1) The chief executive may, by written direction, require a water service provider to give a customer, or type of 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 period stated by the chief executive.
- (2) The water service provider must comply with the direction.  
Maximum penalty—500 penalty units.
- (3) A water service provider may, without direction, give a customer, or type of customer, a written notice—

- (a) to prepare a plan (also a *water efficiency management plan*); and
  - (b) to give it to the water service provider within the reasonable period stated by the water service provider.
- (4) The customer must comply with a notice given by the water service provider under subsection (1) or (3).
- Maximum penalty—500 penalty units.
- (5) A plan prepared as a water efficiency management plan under a requirement of a service provider water restriction is also a *water efficiency management plan* for this section.
  - (6) This division applies to the preparation and approval of a plan mentioned in subsection (1), (3) or (5).

### **53 Content of water efficiency management plan**

- (1) A water efficiency management plan prepared under section 52(1) must comply with any guidelines made by the chief executive for preparing the plan.
- (2) A water efficiency management plan prepared under section 52(3) must comply with—
  - (a) any guidelines made by the chief executive for preparing the plan; or
  - (b) if the chief executive has not made any guidelines—any guidelines made by the water service provider for preparing the plan.
- (3) A water efficiency management plan must also 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.

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**54 Approving water efficiency management plan**

- (1) For deciding whether or not to approve a water efficiency management plan, the water service provider may require the customer to give additional information about the plan within the reasonable period stated by the water service provider.
- (2) The water service provider 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 water service provider must give the customer an information notice.
- (4) If the water service provider 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 after receiving a notice under subsection (3) or the extended period under subsection (5), give the water service provider the revised plan.

Maximum penalty—200 penalty units.

- (5) The water service provider 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) The water service provider may recover from the customer as a debt an application fee for the approval of the customer's water efficiency management plan that is not more than the cost to the water service provider of approving the plan.

**55 Complying with water efficiency management plan**

A customer must comply with the customer's approved water efficiency management plan.

Maximum penalty—1,665 penalty units.

**56 Reporting under water efficiency management plan**

- (1) A customer to whom an approved water efficiency management plan applies must give the water service provider 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 57(1)(a).

Maximum penalty—100 penalty units.

- (2) The report must be given within 10 business days after the anniversary day for the plan.
- (3) The chief executive may at any time ask a water service provider to give the chief executive—
- (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.

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**57 Amending or replacing water efficiency management plan by chief executive direction**

- (1) This section applies if the chief executive 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 chief executive 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 period stated by the chief executive; or
  - (b) prepare a new water efficiency management plan and give it to the water service provider within the reasonable period stated by the chief executive.
- (3) The water service provider must comply with the direction.  
Maximum penalty—500 penalty units.
- (4) The customer must comply with a notice given under subsection (2).  
Maximum penalty—500 penalty units.
- (5) This division, other than section 52, applies for preparing the amended or new plan, with any necessary changes to give effect to the division.

**58 Amending or replacing water efficiency management plan by water service provider direction**

- (1) This section applies if a water service provider 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—
  - (a) amend the plan and give it to the water service provider within the reasonable period 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 period 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 52, applies for preparing the amended or new plan, with any necessary changes to give effect to the division.

## **59 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 water service provider approves the request the customer must—
  - (a) amend the plan and give it to the water service provider within the reasonable period 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 period stated by the water service provider.
- (3) This division, other than section 52, applies for preparing the amended or new plan, with any necessary changes to give effect to the division.



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**60 Notice to comply with water efficiency management plan**

- (1) This section applies if a water service provider is satisfied or reasonably believes a customer to whom an approved water efficiency management plan applies has not complied with the plan.
- (2) The water service provider may give the customer a notice requiring the customer to comply with the plan within the reasonable period stated in the notice.

**61 Reviewing water efficiency management plans**

- (1) A water service provider must ensure a customer to whom an approved water efficiency management plan applies reviews the plan when the water service provider considers it appropriate.
- (2) The customer must give the water service provider a copy of the review report within the reasonable period stated by the water service provider.
- (3) A review must occur at least every 5 years.

**Division 7 Miscellaneous**

**62 No charge for water in rainwater tank**

A service provider must not make a charge for water that—

- (a) has been collected from a roof; and
- (b) is in, or taken from, a rainwater tank.

**63 Sections 63–69 not used**

See editor's note for section 1.

## **Part 4                      Service provider obligations**

### **Division 1                Drinking water quality management**

#### **Subdivision 1        Offences**

#### **92        Offence to carry out drinking water service without approved drinking water quality management plan**

A drinking water service provider must not carry out a drinking water service unless there is an approved drinking water quality management plan for the drinking water service.

Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

#### **93        Offence about compliance with drinking water quality management plan**

A drinking water service provider who has an approved drinking water quality management plan must comply with—

- (a) the plan; and
- (b) the conditions of the plan.

Maximum penalty—1,665 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

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## **Subdivision 2      Drinking water quality management plans**

### **94      Purpose of drinking water quality management plan**

The purpose of a drinking water quality management plan is to protect public health.

### **95      Preparing drinking water quality management plan**

- (1) Each drinking water service provider must prepare a drinking water quality management plan for the provider's drinking water service and apply to the regulator for approval of the plan.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by—
    - (i) a copy of the drinking water quality management plan; and
    - (ii) the fee prescribed under a regulation.
- (3) The drinking water quality management plan must—
  - (a) be prepared in accordance with the guidelines, if any, made by the regulator about preparing the plan; and
  - (b) state the registered services to which the plan applies; and
  - (c) include details of the infrastructure for providing the services; and
  - (d) identify the hazards and hazardous events the drinking water service provider considers may affect the quality of water to which the services relate; and
  - (e) include an assessment of the risks posed by the hazards and hazardous events; and

- (f) demonstrate how the drinking water service provider intends to manage the risks posed by the hazards and hazardous events; and
- (g) include details of the operational and verification monitoring programs under the plan, including the parameters to be used for indicating compliance with the plan and the water quality criteria for drinking water; and
- (h) for a plan prepared by the prescribed related entity of the relevant infrastructure owner—be accompanied by the owner’s written agreement to the plan.

## 96 Additional information may be required

- (1) The regulator may, by notice, require either or both of the following (the *recipient*) to give additional information about the drinking water quality management plan—
  - (a) the drinking water service provider;
  - (b) if the drinking water service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

*Example of additional information—*

information about arrangements relating to the supply of water to or from the provider’s drinking water service

- (2) If the recipient fails, without reasonable excuse, to comply with the requirement within the reasonable period stated in the notice, the application is taken to have been withdrawn.
- (3) A requirement under this section is an *information requirement*.

## 97 Regulator may obtain advice about application

The regulator may obtain advice from an advisory council or any other entity the regulator considers appropriate before deciding the application.

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## **98 Consideration of application**

- (1) The regulator must consider each application and decide to approve, with or without conditions, or refuse to approve, the drinking water quality management plan—
  - (a) if an information requirement is not made in relation to the plan—within 3 months after receiving the plan; or
  - (b) if an information requirement is made in relation to the plan—within 3 months after the requirement has been complied with.
- (2) In considering an application, the regulator must have regard to the following—
  - (a) the drinking water quality management plan and any additional information about the plan given to the regulator under section 96;
  - (b) the guidelines, if any, made by the regulator about preparing the plan;
  - (c) any advice obtained by the regulator under section 97;
  - (d) the water quality criteria for drinking water.

## **99 Notice of decision**

- (1) Within 10 business days after deciding the application, the regulator must give the drinking water service provider—
  - (a) if the decision is to approve the drinking water quality management plan without conditions—notice of the decision; or
  - (b) if the decision is to approve the plan with conditions, or refuse to approve the plan—an information notice for the decision.
- (2) If the regulator approves the drinking water quality management plan, the notice of the decision or information notice for the decision must state all of the following—
  - (a) the conditions, if any, of the approval;

[s 99A]

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- (b) the intervals at which regular reviews of the approved plan must be conducted;
- (c) if the regulator requires audits of the approved plan—the intervals at which the audits must be conducted.

*Note—*

See also section 108 in relation to auditing the drinking water quality management plan.

- (3) An interval mentioned in subsection (2)(b) must not be less than 1 year.
- (4) An interval mentioned in subsection (2)(c) must not be less than 2 years.

#### **99A Amendment of drinking water quality management plan—agreement**

- (1) A drinking water service provider may, with the regulator's agreement, amend the provider's approved drinking water quality management plan if the amendment—
  - (a) is only to correct a minor error in the plan or make another change that is not a change of substance; or
  - (b) is to record a change of name or change of ownership of the provider.
- (2) The drinking water quality management plan as amended is taken to be the drinking water service provider's approved drinking water quality management plan.

#### **100 Amendment of drinking water quality management plan—application**

- (1) This section applies if a drinking water service provider proposes to amend the provider's approved drinking water quality management plan and the amendment is not an amendment mentioned in section 99A(1).

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- (2) The drinking water service provider must apply to the regulator for approval of the proposed amended drinking water quality management plan.
  - (3) Sections 95(2) and (3) and 96 to 99 apply to the application and the proposed amended drinking water quality management plan—
    - (a) as if a reference in the sections to the drinking water quality management plan were a reference to the amended drinking water quality management plan; and
    - (b) as if a reference in the sections to the plan were a reference to the amended plan.

## **101 Amendment of drinking water quality management plan—requirement of regulator**

- (1) The regulator may, under this section, require a drinking water service provider to amend the provider’s drinking water quality management plan if the regulator is satisfied the amendment is required to protect public health.
- (2) Before requiring the drinking water service provider to amend the drinking water quality management plan, the regulator must give the provider a show cause notice about the proposed amendment.
- (3) If, after considering all properly made submissions about the proposed amendment, the regulator decides the proposed amendment should be made, the regulator must—
  - (a) give the drinking water service provider a notice requiring the provider—
    - (i) to amend the drinking water quality management plan in the way stated in the notice; and
    - (ii) to give the regulator a copy of the amended plan, within the reasonable period of at least 30 business days stated in the notice, for approval; and
  - (b) give the drinking water service provider an information notice for the decision.

- (4) The drinking water service provider must comply with the notice mentioned in subsection (3)(a).  
Maximum penalty—1,665 penalty units.
- (5) If the regulator is satisfied the drinking water quality management plan has been amended in the way stated in the notice mentioned in subsection (3)(a)—
  - (a) the plan as amended is taken to be the approved plan; and
  - (b) the regulator must give the drinking water service provider notice that the plan as amended is taken to be the approved plan.
- (6) The amended drinking water quality management plan takes effect from the day the notice mentioned in subsection (5)(b) is given to the drinking water service provider.
- (7) If, after considering all properly made submissions about the proposed amendment, the regulator decides the proposed amendment should not be made, the regulator must give the drinking water service provider notice that the plan need not be amended.
- (8) If the drinking water service provider is the prescribed related entity of the relevant infrastructure owner, the regulator must give the relevant infrastructure owner a copy of all the notices.

### **Subdivision 3      Reporting requirements**

#### **102AA Application of sdiv 3**

This subdivision applies to a drinking water service provider carrying out a drinking water service if there is an approved drinking water quality management plan for the drinking water service.



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## **102 Notice of noncompliance with water quality criteria**

- (1) This section applies if the drinking water service provider becomes aware that the quality of water supplied from the provider's drinking water service does not comply with the water quality criteria relating to the service.
- (2) The drinking water service provider must, unless the provider has a reasonable excuse, immediately inform the regulator of the noncompliance and the circumstances that gave rise to the noncompliance.

Maximum penalty—1,665 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

- (3) The drinking water service provider must, unless the provider has a reasonable excuse, give the regulator notice of the following in the approved form as soon as practicable—
  - (a) the noncompliance and the circumstances that gave rise to the noncompliance;
  - (b) any action taken, or to be taken, by the provider to correct the noncompliance;
  - (c) the measures the provider will take to prevent the noncompliance in the future.

Maximum penalty for subsection (3)—200 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

## **102A Notice of prescribed incident**

- (1) This section applies if a drinking water service provider becomes aware a prescribed incident has happened in relation to the provider or the provider's service.

- (2) The drinking water service provider must, unless the provider has a reasonable excuse, immediately inform the regulator of the prescribed incident.

Maximum penalty—1,665 penalty units.

- (3) The drinking water service provider must, unless the provider has a reasonable excuse, give the regulator notice of the following in the approved form as soon as practicable—
- (a) the prescribed incident and the circumstances that gave rise to the incident;
  - (b) any action taken, or to be taken, by the provider relating to the prescribed incident;
  - (c) the measures the provider will take to prevent the prescribed incident happening again in the future.

Maximum penalty—200 penalty units.

- (4) In this section—

*prescribed incident* means an incident prescribed under a regulation.

### **102B Self-incrimination not a reasonable excuse for sdiv 3**

- (1) It is not a reasonable excuse, under section 102 or 102A, for a drinking water service provider to fail to give the relevant information that giving the information might tend to incriminate the provider.
- (2) If the drinking water service provider is an individual, evidence of, or evidence directly or indirectly derived from, the relevant information that might tend to incriminate the provider is not admissible in evidence against the provider in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.
- (3) In this section—

*relevant information* means information given to the regulator under section 102 or 102A.

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## **Subdivision 4      Miscellaneous**

### **103      Requirement about giving water quality information**

- (1) This section applies if a drinking water service provider obtains water for the provider's drinking water service from a water storage or other infrastructure that is not part of a water service for which there is a drinking water quality management plan.
- (2) The drinking water service provider may, by notice given to the owner of the water storage or other infrastructure, ask the owner to give the drinking water service provider the information reasonably required by the provider about the quality of water in the water storage or infrastructure.
- (3) The notice must—
  - (a) include enough details about the information reasonably required to enable the owner of the water storage or other infrastructure to comply with the request; and
  - (b) state the reasonable period within which the information must be given.
- (4) The owner of the water storage or other infrastructure must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty—500 penalty units.

- (5) The owner of the water storage or other infrastructure may recover from the drinking water service provider the reasonable costs incurred by the owner in obtaining the information.
- (6) The owner of the water storage or other infrastructure may recover, as a debt due to the owner, any amount the owner is entitled to recover under subsection (5).

## 104 Requirement about operation of drinking water service

A drinking water service provider must ensure that there are persons engaged in the operation of the provider's drinking water service who have the qualifications or experience prescribed under a regulation for section 586(2)(d)(i).

Maximum penalty—1,665 penalty units.

## Division 2 Audit reports and reviews

### 105 Meaning of *auditor*

- (1) This section applies in relation to—
  - (a) an audit of a service provider's drinking water quality management plan; or
  - (b) an audit of data in a service provider's performance report.
- (2) A person is an *auditor* for the audit if the person—
  - (a) is not the provider or an employee of the provider; and
  - (b) if the provider is a prescribed related entity of a relevant infrastructure owner—is not the owner or an employee of the owner; and
  - (c) is not employed in the operation of the provider's infrastructure.
- (3) Also, the person must—
  - (a) for an audit mentioned in subsection (1)(a)—
    - (i) be certified under the Drinking Water-Quality Management System Auditor Certification Scheme to audit drinking water quality management plans; or
    - (ii) have another qualification the regulator is satisfied is at least equivalent to the certification mentioned in subparagraph (i); or

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- (b) for an audit mentioned in subsection (1)(b)—be suitably qualified.

## **106 Reviewing plans**

- (1) A service provider must regularly review the service provider's drinking water quality management plan, in accordance with the notice given by the regulator under section 99.

Maximum penalty—500 penalty units.

- (2) The purpose of the review is to ensure the plan remains relevant having regard to the operation of the water service provided by the service provider.

## **107 Changing plans following review**

- (1) Subsection (2) applies if a review of a drinking water quality management plan indicates the plan needs to be changed to reflect changes to the operation of the water service provided by the service provider.

- (2) Within 30 business days after the review ends, the service provider must—

(a) amend the drinking water quality management plan to reflect the changes to the operation of the water service; and

(b) apply to the regulator for approval of the amended plan.

Maximum penalty—200 penalty units.

- (3) The amended drinking water quality management plan must indicate the way the plan has been amended.

- (4) Sections 95(2) and (3), and 96 to 99 apply to the application for approval of the amended drinking water quality management plan and the amended plan—

(a) as if a reference in the sections to the drinking water quality management plan were a reference to the amended drinking water quality management plan; and

- (b) as if a reference in the sections to the plan were a reference to the amended plan.

## **108 Audits of drinking water quality management plans**

- (1) This section applies if, under section 99, the regulator requires audits of a service provider's drinking water quality management plan.
- (2) The service provider must, unless the provider has a reasonable excuse—
  - (a) have the drinking water quality management plan audited, by an auditor, in accordance with the notice given by the regulator under section 99; and
  - (b) within 30 business days after each audit mentioned in paragraph (a) is completed, give the regulator a report about the audit that complies with subsection (3) (a *drinking water quality management plan audit report*).  
Maximum penalty—500 penalty units.
- (3) The drinking water quality management plan audit report must—
  - (a) be prepared by the auditor in accordance with any guidelines about preparing the report made by the regulator; and
  - (b) verify whether the monitoring and performance data given to the regulator under the drinking water quality management plan is accurate; and
  - (c) assess—
    - (i) the provider's compliance with the plan and its conditions; and
    - (ii) the plan's relevance to the provider's drinking water service.

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## 108A Audits of particular performance reports

- (1) This section applies if the regulator reasonably believes that a service provider's performance report for a particular financial year (the *relevant financial year*) does not comply with section 142A(3).
- (2) The regulator may, by written notice, require the service provider to have the data in the performance report audited.
- (3) If the service provider is given a notice under subsection (2), the provider must, unless the provider has a reasonable excuse—
  - (a) have the data in performance report audited by an auditor; and
  - (b) give the regulator a report about the audit that complies with subsection (4) (a *performance audit report*) on or before the later of the following days—
    - (i) 1 October immediately after the relevant financial year ends;
    - (ii) the day that is 30 days after the provider receives the notice.

Maximum penalty—500 penalty units.

- (4) The performance audit report must—
  - (a) be prepared by the auditor in accordance with any guidelines about preparing the report made by the regulator; and
  - (b) for each KPI the performance report is about—include the data for the KPI submitted in the performance report under section 142A(3)(d); and
  - (c) verify whether the data audited for the relevant financial year is accurate.
- (5) Without limiting subsection (3), the service provider is taken to comply with that subsection if—
  - (a) an audit process under another Act would, if complied with by the provider, require the provider to give the

- regulator a document containing the verification mentioned in subsection (4)(c); and
- (b) the provider complies with the audit process.

## **109 Declarations about reports under this division**

- (1) A report under this division must be accompanied by a statutory declaration by the service provider and the auditor who prepared the report.
- (2) The service provider's declaration must be made—
- (a) if the service provider is an individual—by the service provider; or
  - (b) if the service provider is a corporation—by an executive officer of the corporation.
- (3) The service provider's declaration must state that the service provider—
- (a) has not knowingly given any false or misleading information to the auditor; and
  - (b) has given all relevant information to the auditor.
- (4) The auditor's declaration must—
- (a) state the auditor's qualifications and experience relevant to the audit; and
  - (b) state that the auditor has not knowingly included any false, misleading or incomplete information in the report; and
  - (c) state that the auditor has not knowingly failed to reveal any relevant information or document to the regulator; and
  - (d) certify that—
    - (i) the report addresses the relevant matters for the evaluation and is factually correct; and
    - (ii) the opinions expressed in it are honestly and reasonably held.



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- (5) If, under section 108A(5), the service provider is taken to comply with section 108A(3), this section applies as if—
- (a) a reference to an audit were a reference to the audit process mentioned in section 108A(5)(a); and
  - (b) a reference to a report were a reference to the document mentioned in section 108A(5)(a); and
  - (c) a reference to the auditor were a reference to the person who prepared the document mentioned in section 108A(5)(a).

## **110 Spot audits of plans**

- (1) Subsection (2) applies if—
- (a) the regulator is satisfied, or reasonably believes—
    - (i) a service provider is not complying with its drinking water quality management plan; or
    - (ii) a service provider's drinking water quality management plan is no longer adequate for its registered services; or
  - (b) a service provider does not give the regulator a drinking water quality management plan audit report under section 108(2)(b).
- (2) In addition to any audit mentioned in section 108, the regulator may, by giving a service provider a show cause notice, arrange for a spot audit report to be prepared about the service provider's drinking water quality management plan.
- (3) The spot audit report for a drinking water quality management plan must be prepared by an auditor.
- (4) The regulator must give the service provider a copy of the report within 30 business days after its completion.
- (5) Subsections (6) to (8) apply if the report states either or both of the following—
- (a) the service provider's drinking water quality management plan is inadequate in a material particular;

- (b) the service provider has not properly carried out the plan.
- (6) The regulator must give the service provider an information notice requiring the service provider, within the reasonable period stated in the notice—
  - (a) if subsection (5)(a) applies—to rectify the inadequacy; or
  - (b) if subsection (5)(b) applies—to properly carry out the plan.
- (7) The service provider must comply with the notice unless the service provider has a reasonable excuse.  
Maximum penalty—1,665 penalty units.
- (8) The regulator may recover from the service provider an amount equal to the cost of completing the report.

### **111 Declarations about spot audit report**

- (1) The spot audit report submitted to the regulator must be accompanied by a statutory declaration by the auditor.
- (2) The declaration must state the matters mentioned in section 109(4).

### **112 Access for conducting audit reports**

- (1) For conducting an audit under this division, a service provider must give the following persons free and uninterrupted access to the service provider's infrastructure and any records relating to the infrastructure—
  - (a) the auditor;
  - (b) any person employed or authorised by the auditor to participate in conducting the audit.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) If the service provider is the prescribed related entity of the relevant infrastructure owner, subsection (1) also applies to the owner as if the reference in the subsection to a service provider were a reference to the owner.

## **Division 3                      Customer service standards**

### **113      Purpose of div 3**

The purpose of this division is to ensure customers who do not have a contract with the service provider for the supply of registered services (a *service contract*) are protected by standards relating to the supply.

### **114      Application of div 3**

- (1) This division applies to a service provider if the service provider does not have a service contract with all of its customers.
- (2) Sections 118 and 119 do not apply to a service provider that is an agency to which the *Ombudsman Act 2001* applies.
- (3) This division, other than this subsection, does not apply to a service provider that is a distributor-retailer or a withdrawn SEQ council.

*Note—*

For the rights and obligations of customers of a distributor-retailer or a withdrawn SEQ council, see the *South-East Queensland (Distribution and Retail Restructuring) Act 2009*, chapter 4, part 4 and the customer water and wastewater code made under that Act.

- (4) Also, this division does not apply to a service provider that is not a relevant service provider.

## 115 Preparing customer service standards

- (1) The service provider must—
  - (a) prepare a proposed customer service standard for the supply of its registered service; and
  - (b) publish the proposed customer service standard.
- (2) Any person may make submissions to the service provider about the proposed customer service standard within the period set by the service provider.
- (3) The service provider must prepare the final customer service standard for the supply of its registered service after considering all submissions made to the provider about the proposed customer service standard.
- (4) The service provider must prepare the final customer service standard under subsection (3) within 6 months after being registered as a service provider.

*Note—*

For a service provider that prepared a customer service standard before the commencement of this section, see section 661.

## 116 Content of customer service standard

- (1) The service provider's customer service standard must state—
  - (a) a target for the level of service to be provided for the CSS KPIs; and
  - (b) the process for service connections, billing, metering, accounting, customer consultation, complaints and dispute resolution.
- (2) If the service provider's infrastructure contains separate schemes to which different CSS KPIs apply, the customer service standard may include different parts for each scheme.
- (3) In this section—

**CSS KPI**, for a service provider, means only those KPIs, for the service provider, stated in a notice about the provider's

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customer service standard given to the provider by the regulator under this section.

### **117 Complying with customer service standard**

The service provider must comply with the customer service standard when supplying services to the service provider's customers who do not have a service contract.

### **118 Customer complaints**

- (1) This section applies if—
  - (a) a customer who does not have a service contract considers—
    - (i) there is a significant deficiency in the customer service standard; or
    - (ii) the service provider has not complied with the standard; and
  - (b) the customer can not resolve the complaint through negotiation with the service provider.
- (2) The customer may give the regulator notice of the complaint.
- (3) If the customer gives the regulator a notice under subsection (2), the regulator must—
  - (a) give the service provider a copy of the notice; and
  - (b) inquire into the matter.
- (4) After inquiring into the matter, the regulator must give the service provider a notice—
  - (a) if the service provider has not complied with the service provider's customer service standard—requiring the service provider to comply with the standard; or
  - (b) if the complaint highlights a deficiency in the standard—requiring the service provider to revise the standard; or

- (c) if the regulator is satisfied no action is required in relation to the complaint—stating that the regulator will not take any further action.
- (5) The notice is taken to be a compliance notice to which section 465(4) does not apply.
- (6) The regulator must give the customer an information notice about the action taken under subsection (4).

### **119 Revising customer service standard**

If, under section 118, the regulator requires the service provider to revise the customer service standard, the service provider must revise the standard having regard to the complaint.

### **120 Reviewing customer service standard**

- (1) The service provider must review the customer service standard at least every 5 years.
- (2) If, because of the review, the service provider changes the standard, the service provider must comply with section 115.
- (3) For subsection (2), section 115 applies as if the 6-month period mentioned in section 115(4) were 6 months after the completion of the review.

## **Division 4 Other service provider obligations**

### **Subdivision 1 Residential premises**

#### **137 Application of sdiv 1**

This subdivision applies if—

- (a) a water service provider provides a retail water service to residential premises; and

- (b) the supply of water to the premises is measured and charged by the water service provider, or a related local government, only in relation to the premises; and
- (c) the premises are not common property under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980*.

**138 Guidelines for rate notice or account for supply of water to residential premises**

- (1) A rate notice or account issued by the water service provider, or the related local government, for the supply of water to the residential premises, must comply with guidelines made by the regulator.
- (2) The guidelines may state—
  - (a) the frequency at which a rate notice or account must be issued for the supply of water to residential premises; and
  - (b) the type of information to be included in the rate notice or account about the volume of water supplied to the premises during each billing period for the premises.
- (3) This section applies despite the requirements for levying rates under the Local Government Act.
- (4) Subsection (5) applies for a service provider that is a withdrawn SEQ council.
- (5) If there is any conflict between the guidelines and any requirement under the 2009 restructuring Act for a rate notice or account, the guidelines and subsection (1) do not apply to the extent of the conflict.

## **Subdivision 2      Premises with more than 1 sole-occupancy unit**

### **140      Service provider to give information about water usage**

- (1) This section applies to premises if—
  - (a) a building located on the premises includes more than 1 sole-occupancy unit; and
  - (b) after 1 January 2008 meters are installed in relation to a compliance request made under the repealed *Plumbing and Drainage Act 2002* or under a permit under the *Plumbing and Drainage Act 2018* after 31 December 2007—
    - (i) for measuring the supply of water to each sole-occupancy unit; and
    - (ii) on infrastructure that supplies retail water services for the premises.
- (2) A rate notice or account issued by a water service provider or a related local government for the provision of a retail water service to the premises must—
  - (a) state the volume of water supplied through each meter during each billing period for the premises; and
  - (b) the amount of the total charge for the retail water service that relates to the volume of water supplied through each meter.
- (3) In this section—

***Building Code of Australia*** see the *Building Act 1975*, section 12.

***premises*** does not include scheme land under the *Body Corporate and Community Management Act 1997*.

***sole-occupancy unit***, in relation to a building, means—
  - (a) a room or other part of the building for occupation by one or a joint owner, lessee, tenant, or other occupier to



the exclusion of any other owner, lessee, tenant, or other occupier, including, for example—

- (i) a dwelling; or
  - (ii) a room or suite of associated rooms in a building classified under the Building Code of Australia as a class 2, 4, 5, 6, 7 or 8 building; or
- (b) any part of the building that is a common area.

## **Division 5                      Reporting for particular financial years**

### **141      Notices about reports**

- (1) The regulator may give a relevant service provider a notice requiring the inclusion of information in the provider's drinking water service annual report or performance report (a *report requirement*).
- (2) A report requirement must state—
  - (a) for a drinking water service annual report—the information about compliance with the plan that must be included in the report; or
  - (b) for a performance report—
    - (i) the KPIs that must be included in the report; and
    - (ii) the way in which the report must include data for each KPI.

### **142      Drinking water service annual reports**

- (1) This section applies for each financial year after a financial year in which a relevant service provider's drinking water quality management plan has been approved.
- (2) The provider must, unless the provider has a reasonable excuse—

- (a) prepare a report (a *drinking water service annual report*) for the financial year complying with this section and, if section 142C(2) applies to the provider, that subsection; and
- (b) give the regulator a copy of the report within 120 business days after the financial year ends.

Maximum penalty—500 penalty units.

- (3) The report must state or include all of the following—
  - (a) the information required under the latest report requirement given to the provider;
  - (b) the actions the provider took to implement the plan;
  - (c) the outcome of any review of the plan in the financial year and how the provider has addressed matters raised in the review;
  - (d) if a drinking water quality management plan audit report has been given to the regulator during the financial year—a summary of its findings and any recommendations;
  - (e) details of any information the provider gave the regulator under sections 102 and 102A in the financial year;
  - (f) details of the provider’s compliance with water quality criteria for drinking water;
  - (g) if the provider supplies drinking water to customers—details of any complaints to the provider about the provider’s drinking water service;
  - (h) if the provider has reviewed a customer service standard during the financial year—the outcome of the review and how the provider has addressed matters raised in the review.

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## 142A Performance reports

- (1) This section applies for each financial year of a relevant service provider starting on or after the regulator gives the provider a notice requiring the provider to prepare performance reports.
- (2) The provider must, unless the provider has a reasonable excuse—
  - (a) prepare a report (a *performance report*) for the financial year complying with this section and, if section 142C(2) applies to the provider, that subsection; and
  - (b) give the regulator a copy of the report on or before 1 October occurring immediately after the financial year ends.

Maximum penalty—500 penalty units.

*Note—*

See also section 108A in relation to auditing the performance report.

- (3) The report must be about the KPIs stated in the latest report requirement given to the provider and state or include all of the following—
  - (a) the provider's performance for the financial year as measured against the KPIs;
  - (b) details of the targets for the level of service to be provided for the CSS KPIs under section 116;
  - (c) if a performance audit report has been given to the regulator during the financial year—a summary of its findings and any recommendations;
  - (d) the data for each KPI, submitted in the way stated in the latest report requirement given to the provider;
  - (e) a report about—
    - (i) the implementation of any improvement plan; and
    - (ii) what actions the provider took because of any direction given to it under section 436(1)(a) during the financial year.

- (4) The report may include a commentary on the performance, including any of the following—
  - (a) a matter that impacted on, improved or deteriorated performance;
  - (b) an issue of future concern identified through the report;
  - (c) any strategies to deal with issues of concern.

### **142B System operating plan reports**

- (1) This section applies for each financial year of a relevant service provider starting after the one in which a system operating plan applying to the provider is made.
- (2) The provider must, unless the provider has a reasonable excuse—
  - (a) prepare a report for the financial year complying with this section (a *system operating plan report*); and
  - (b) give the regulator a copy of the report within 120 business days after the financial year ends.

Maximum penalty—500 penalty units.

- (3) The report must—
  - (a) be about the provider’s performance on the desired levels of service objectives and other obligations and requirements under the plan; and
  - (b) state measures of the performance.

### **142C Common provisions for reports**

- (1) Subsection (2) applies if a relevant service provider is the prescribed related entity of the relevant infrastructure owner.
- (2) A drinking water service annual report or performance report by the provider must include, or be accompanied by, the owner’s written agreement to the report.

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- (3) Reports under this division may be combined, unless doing so would prevent compliance with a requirement under this division about when they must be given.

### **142D Application of division to chief executive**

- (1) An obligation under this division to prepare or give a report does not apply to the chief executive as a relevant service provider or service provider if—
- (a) the chief executive includes the information required for the report in a report under the *Financial Accountability Act 2009*, section 63 (the **FAA report**); and
  - (b) the chief executive gives the regulator a copy of the FAA report within 30 business days after the Minister is given it.
- (2) Subsection (1)(b) does not apply if the chief executive and the regulator are the same entity.

## **Division 6 Water for fire fighting**

### **143 Application of div 6**

This division applies to a service provider who provides a retail water service.

### **144 No charge for water for firefighting purposes**

- (1) A water service provider must not make a charge for water taken from a firefighting system or a service provider's hydrant for firefighting purposes.
- (2) However, the service provider may fix either or both of the following to any private firefighting system—
- (a) a meter;
  - (b) a seal.

- (3) Within 24 hours after a seal is broken, the occupier of the premises must give the service provider written notice of the breaking unless the occupier has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

## 145 Water to be used only for firefighting purposes

- (1) A person must not take water from a firefighting system or a service provider's hydrant without the permission of the service provider unless the water is taken for firefighting purposes.

*Note—*

Under the *Fire and Emergency Services Act 1990*, section 53(2)(h), the Queensland Fire and Emergency Service may take water for firefighting purposes from any source whether natural or artificial.

Maximum penalty—1,000 penalty units.

- (2) If a person is convicted of an offence against subsection (1), the service provider may recover from the person as a debt the amount of the loss or the reasonable cost of repairing any damage caused by the unlawful taking of the water.

## Part 5 Service areas

### Division 1 Preliminary

#### 160 Definition for pt 5

In this part—

***service provider***, for a retail water service or sewerage service in a service area, means an entity declared under section 161 to be the service provider for the service in the service area.

*Note—*

See also the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, sections 53AQ and 92DB.

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## Division 2                      Service areas

### 161      Declaration of service area

- (1) Subsection (2) applies if a local government, or a local government entity, supplies a reticulated water service or sewerage service in all or part of the local government area for the local government (a *relevant area*).
- (2) The local government must, by resolution, declare—
  - (a) the relevant area to be a service area for the reticulated water service or the sewerage service; and
  - (b) the local government, or the local government entity, to be the service provider for the service in the service area.
- (3) The declaration under subsection (2) must be made within 1 year after the local government, or the local government entity, first supplies the reticulated water service or the sewerage service in the relevant area.

*Note—*

See also section 676.

- (4) Also, the local government may, by resolution, declare—
  - (a) all or part of the local government area for the local government, other than a relevant area, to be a service area for a reticulated water service or sewerage service; and
  - (b) a stated service provider to be the service provider for the service in the service area.
- (5) A local government must not declare an entity, other than the local government or a local government entity, to be the service provider for a reticulated water service or sewerage service in all or part of the local government area for the local government unless the other entity agrees in writing to the declaration before the declaration is made.

- (6) A local government may, by resolution, amend a declaration made under this section by adding an area to, or removing an area from, the service area.
- (7) The local government must not amend a declaration made under this section without the written agreement of the service provider unless the service provider is the local government or a local government entity.
- (8) A resolution under this section takes effect on—
  - (a) if the declaration states a day—the stated day; or
  - (b) otherwise—the day the declaration is made.
- (9) A local government must not declare an area to be a service area for a retail water service or a sewerage service if the area is already a service area for a service of the same type.
- (10) In this section—

*reticulated water service*—

  - (a) means a water service that is the reticulation of water; but
  - (b) does not include—
    - (i) an irrigation service or bulk water service in any area; or
    - (ii) the supply of recycled water in any area.

## **162 Notice of declaration of service area**

If a local government makes or amends a declaration under section 161, the local government must—

- (a) publish a notice of the declaration or amendment on the local government’s website; and
- (b) make the notice available for inspection and purchase under the Local Government Act.



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### **163 Map of service area**

- (1) The service provider for a registered service in a service area must keep a map showing, for the service—
  - (a) the limits of the service area; and
  - (b) the location of the service provider’s infrastructure.
- (2) The service provider must—
  - (a) update the map at least annually; and
  - (b) if the service provider is not the local government—give the local government a copy of the map.

## **Division 3 Access to services in service areas**

### **164 Access to service in service area**

- (1) The service provider must, to the greatest practicable extent, ensure that—
  - (a) all premises in the service area are able to be connected directly and separately to the service provider’s infrastructure for the area; and
  - (b) if 2 or more premises are part of a premises group—the premises group, rather than each individual premises, is able to be connected, directly and separately to its infrastructure; and
  - (c) the infrastructure can deal with the service requirements of all premises in the service area; and
  - (d) for a retail water service—the design of its infrastructure allows for a connection point at or within the boundary of each premises connected to the service; and
  - (e) for a sewerage service—the design of its infrastructure allows for a connection point—
    - (i) at or within the boundary of each premises connected to the service; and

- (ii) to the greatest practicable extent, at an invert level below ground level at which the sanitary drain or property sewer laid at minimum grade is capable of servicing the premises.
- (2) A property service is part of the service provider's infrastructure for a water service or sewerage service.

### **165 Recovering cost of giving access to registered service**

The service provider may recover from a customer the reasonable cost of complying with section 164 for the customer's premises.

### **166 When service provider not required to supply water in service area**

- (1) This section applies if—
  - (a) the owner of premises in the service area wants the service provider to supply water to the premises; and
  - (b) the service provider can not supply water from its infrastructure to the premises at a satisfactory pressure because of physical constraints.
- (2) The service provider must supply water to the premises if the owner installs enough water storage tanks and pumps to ensure that water can be supplied at a satisfactory pressure and flow.
- (3) The service provider may impose conditions on the installation of the water storage tanks and pumps, including, for example, a condition requiring that a pump installed on the supply side of a water storage tank does not cause negative pressures in the service provider's water main.

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## **Division 4                      Connecting to particular registered services**

### **167      Owner may ask for connection to service provider's infrastructure**

- (1) This section applies if an owner of premises in the service area asks the service provider to connect the owner's premises to the service provider's infrastructure.

*Note—*

For provisions that relate to distributor-retailers, see the 2009 restructuring Act, chapter 4C.

- (2) The service provider must advise the owner of any work the service provider considers reasonably necessary to be carried out on the premises and any reasonable connection fee to enable the premises to be connected to the infrastructure.

*Note—*

If the work is development as defined under the Planning Act, that Act applies to the work.

- (3) If the owner satisfactorily completes the work (including complying with any conditions for carrying out the work) and pays the connection fee, the service provider must connect the owner's property to the infrastructure.
- (4) This section does not apply to a service provider that is a distributor-retailer.

### **168      Notice requiring connection to registered service**

- (1) The service provider may, by notice given to the owner of premises in the service area, require the owner to carry out works for connecting the premises to a registered service.
- (2) The notice must state—
  - (a) the work to be carried out on the premises to enable the service to be supplied; and

*Note—*

The Planning Act provides for the process of granting approvals for the work.

- (b) a reasonable period, but not less than 20 business days, for completing the work; and
  - (c) that the work must be completed within the stated period or any extension of the period agreed to by the service provider; and
  - (d) anything else the owner must do to enable the service to be supplied.
- (3) The owner must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty—200 penalty units.

- (4) When the owner has satisfactorily completed the work, the service provider must connect the owner's premises to the service provider's infrastructure.
- (5) This section does not apply to a service provider that is a distributor-retailer.

## **Division 5                      Restricting domestic water supply**

### **169      Restricting domestic water supply in particular circumstances**

- (1) This section applies if—
  - (a) premises are connected to a water service; and
  - (b) the owner or occupier of the premises—
    - (i) contravenes a service provider water restriction; or
    - (ii) does not pay the rate or charge for the service; and
  - (c) the owner or occupier has been given a notice not to continue to contravene the restriction or to pay the rate or charge; and

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- (d) the owner or occupier continues to contravene the restriction or refuses to pay the rate or charge; and
  - (e) the service provider is not a withdrawn SEQ council.

*Note—*

For withdrawn SEQ councils see the 2009 restructuring Act, section 99AT (Restricting water supply).

- (2) The service provider may reduce the water supply to the premises to the minimum level necessary for the health and sanitation purposes of the owner or occupier.
- (3) However, the service provider must not completely shut off the water supply to the premises.

## **Division 6                      Water approvals under 2009 restructuring Act**

### **170      Definitions for div 6**

In this division—

*connection* see the 2009 restructuring Act, schedule.

*staged water connection* see the 2009 restructuring Act, schedule.

*water approval* see the 2009 restructuring Act, schedule.

### **171      Water approvals—generally**

Section 173 applies if—

- (a) a water approval, other than a water approval for a staged water connection, attaches to land under the 2009 restructuring Act; and
- (b) a person makes a connection under the water approval to the extent authorised under the approval.

## **172 Water approvals—staged water connections**

Section 173 applies if—

- (a) a water approval for a staged water connection attaches to land under the 2009 restructuring Act; and
- (b) a person makes a connection under the water approval to the extent authorised under the approval.

## **173 Deemed consent or approval for water approvals**

- (1) For sections 191, 192, 193 and 195—
  - (a) the distributor-retailer is taken to have given the person a written consent or written approval for the connection; and
  - (b) a condition of the approval under the 2009 restructuring Act is taken to be a condition of the written consent or written approval under this Act.
- (2) However, for an approval for a staged water connection, the distributor-retailer is only taken to have given the person written consent or written approval for the stage of the approval mentioned in section 172(b).

## **174 Sections 174–179 not used**

See editor's note for section 1.

# **Part 6 Trade waste and seepage water approvals**

## **180 Approvals for discharge of trade waste and seepage water**

- (1) A sewerage service provider may give a person 1 or both of the following approvals (each *an approval*) for the sewerage service provider's sewerage infrastructure—

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- (a) an approval (a *trade waste approval*) to discharge trade waste into the sewerage infrastructure;
  - (b) an approval (a *seepage water approval*) to discharge seepage water into the sewerage infrastructure, other than seepage water from mining activities, or petroleum activities, within the meaning of the *Environmental Protection Act 1994*.
- (2) However, an approval can not be given if the regulator has given the sewerage service provider a regulator notice prohibiting the provider from giving that type of approval.
  - (3) Before giving an approval, the sewerage service provider must consider the effect of the proposed discharge on any existing or potential re-use of waste water or sludge.
  - (4) The sewerage service provider may give an approval only if the sewerage service provider is satisfied—
    - (a) having regard to the amount, type and strength of the proposed discharge, the discharge will not harm the sewerage or the health and safety of anyone working on the sewerage; and
    - (b) the sewage treatment plant to treat the discharge is capable of treating the discharge to an acceptable standard.
  - (5) Also, if the sewerage service provider has a trade waste plan, the provider may give a trade waste approval only if satisfied the proposed discharge into the sewerage is consistent with the plan.
  - (6) In this section—

*sludge* means semi-liquid solids settled from sewage in septic tanks, arresters and sewage treatment plants.

*trade waste plan*, for a sewerage service provider, means a plan to manage and control trade waste entering into the provider's sewerage.

*waste water* means the spent or used water of a community or industry that contains dissolved or suspended matter.

## **181 Approval may be conditional**

- (1) The sewerage service provider may give a trade waste approval or seepage water approval on conditions, including, for example, conditions about 1 or more of the following—
  - (a) the maximum daily quantity of trade waste or seepage water that may be discharged;
  - (b) the maximum permissible rate of the discharge;
  - (c) the permissible limits for the quality of the waste or seepage water, including limits for suspended solids, biochemical oxygen demand, acidity, alkalinity and salinity;
  - (d) whether the waste or seepage water must be treated before being discharged into the sewerage service provider's sewerage;
  - (e) the appropriate management of polluted areas, including, for example, conditions requiring—
    - (i) the building of a roof over a stated area to prevent rainwater entering a sanitary drain or sewer; or
    - (ii) the paving of the floor of a stated area with an approved impervious material and to a stated grade to an outlet; or
    - (iii) the installation of an arrester or pre-treatment device;
  - (f) works that must be constructed to treat or store the waste or seepage water.
- (2) If the regulator has given the sewerage service provider a regulator notice requiring the sewerage service provider to impose particular conditions on trade waste approvals or seepage water approvals, the provider must comply with the notice.



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**182 Criteria for suspending or cancelling trade waste approval or seepage water approval**

A sewerage service provider may suspend or cancel a trade waste approval or seepage water approval (the *proposed action*) if the sewerage service provider is satisfied—

- (a) the approval holder has contravened a condition of the approval; or
- (b) the approval holder has contravened a provision of this Act; or
- (c) the approval is no longer appropriate because—
  - (i) for a trade waste approval—the circumstances under which trade wastes are generated by the holder have significantly changed since the approval was given; or
  - (ii) for a seepage water approval—there is no longer any seepage water to discharge into the provider's sewerage infrastructure; or
- (d) urgent action is necessary in the interests of public health or safety to prevent environmental harm or prevent damage to the sewerage service provider's sewerage system.

**183 Suspending or cancelling trade waste approval or seepage water approval**

- (1) Before the sewerage service provider acts under section 182, the sewerage service provider must give the approval holder a show cause notice about the proposed action.
- (2) If, after considering any properly made submissions by the approval holder, the sewerage service provider is still satisfied the proposed action should be taken, the sewerage service provider may—
  - (a) if the proposed action was to suspend the approval for a stated period—suspend the approval for not longer than the proposed suspension period; or

- (b) if the proposed action was to cancel the approval—either cancel the approval or suspend it for a period.
- (3) Within 30 business days after making a decision under subsection (2), the sewerage service provider must give the approval holder an information notice about the decision.
- (4) If, after considering any properly made submissions by the approval holder, the sewerage service provider is not satisfied the proposed action should be taken, the sewerage service provider must give the approval holder a notice about the decision.
- (5) A decision under subsection (2), takes effect on the later of the following—
  - (a) the day the information notice is received by the approval holder;
  - (b) the day stated in the notice.

## **184 Immediate suspension or cancellation**

- (1) Despite section 183(1), the sewerage service provider may suspend or cancel a trade waste approval or seepage water approval without giving a show cause notice if the sewerage service provider considers urgent action is necessary—
  - (a) in the interests of public health or safety; or
  - (b) to prevent environmental harm; or
  - (c) to prevent damage to the sewerage service provider’s sewerage system.
- (2) Also, a sewerage service provider must cancel a trade waste approval or seepage water approval given by the sewerage service provider if the sewerage service provider has been given a regulator notice prohibiting the sewerage service provider from giving the trade waste approval or seepage water approval.

- (3) If the sewerage service provider acts under subsection (1) or (2), the sewerage service provider must give the approval holder an information notice about the action.

## **185 Amending trade waste approval or seepage water approval**

- (1) This section applies if—
  - (a) a sewerage service provider receives a regulator notice stating conditions the sewerage service provider must impose on a trade waste approval or seepage water approval; and
  - (b) a trade waste approval or seepage water approval that has been given by the sewerage service provider is not consistent with the conditions mentioned in paragraph (a).
- (2) The sewerage service provider must, by notice given to the approval holder, amend the approval to ensure it is consistent with the conditions mentioned in subsection (1)(a).
- (3) The notice must, for the purpose of subsection (2)—
  - (a) if the approval is subject to conditions—state how the conditions of the approval are amended; and
  - (b) state any other conditions to which the approval is subject.
- (4) If the sewerage service provider gives an approval holder a notice under this section, the approval is taken to be amended in the way stated in the notice when the notice is given.

## **186 Sections 186–189 not used**

See editor's note for section 1.



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a lot that contains, or is adjacent to a lot that contains, a sewer or water main of the service provider.

(4) In this section—

*building* see the *Building Act 1975*, schedule 2.

*building work* see the *Building Act 1975*, section 5.

*structure* see the *Building Act 1975*, schedule 2.

### 193 Discharging particular substances

(1) A person must not discharge trade waste or seepage water into a sewerage service provider's infrastructure without the sewerage service provider's approval under section 180.

Maximum penalty—1,665 penalty units.

*Note—*

A sewerage service provider can not give a person an approval, under section 180, to discharge seepage water from a mining activity or petroleum activity, within the meaning of the *Environmental Protection Act 1994*, into sewerage infrastructure.

(2) A person must not discharge a prohibited substance, surface water, soil, sand or rock into a service provider's infrastructure.

Maximum penalty—1,665 penalty units.

(3) A person must not discharge water from an ornamental pond, a swimming pool or the filtration system of a swimming pool into a service provider's infrastructure without the written consent of the service provider.

Maximum penalty—500 penalty units.

### 194 Polluting water

A person must not do anything likely to pollute water in a service provider's water service.

Maximum penalty—1,000 penalty units.

## **195 Taking water without approval**

- (1) A person must not, without a service provider's written approval, take water from a service provider's infrastructure.

Maximum penalty—1,000 penalty units.

- (2) If water is supplied to premises by a service provider's infrastructure for domestic purposes, a person must not, without the service provider's written approval, take water from a supply pipe on the premises for use off the premises, other than for the domestic purposes of the owner or occupier of the premises.

Maximum penalty—1,000 penalty units.

- (3) However, a person may take water from a service provider's infrastructure—

- (a) for firefighting purposes; or
- (b) if the water is supplied for general public use.

# **Chapter 3 Recycled water management**

## **Part 1A Recycled water schemes**

### **Division 1 Registration**

#### **196AA Requirement to seek registration**

- (1) The relevant entity for a recycled water scheme must apply for registration of the scheme before the deadline.

Maximum penalty—500 penalty units.

- (2) In this section—

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**deadline**, for a relevant entity for a recycled water scheme, means—

- (a) if an entity must have an approved recycled water management plan for the scheme under section 196—before supplying recycled water under the scheme; or
- (b) otherwise—the day that is 3 months after first supplying recycled water under the scheme.

*Note—*

For recycled water schemes in existence before the commencement of this section, the deadline is 1 July 2014. See section 664.

### **196AB Registration application**

- (1) An application to register a scheme mentioned in section 196AA must be—
  - (a) made to the regulator in the approved form; and
  - (b) supported by sufficient information to enable the regulator to register the scheme; and
  - (c) accompanied by the fee prescribed under a regulation.
- (2) The regulator may require the relevant entity to give additional information about the application.
- (3) The regulator may require the information included in the application, or the additional information required under subsection (2), to be verified by statutory declaration.

### **196AC Registration of recycled water scheme**

- (1) This section applies if the regulator is satisfied—
  - (a) an application complies with section 196AB(1); and
  - (b) any requirement for the application, made under section 196AB(2) or (3), has been complied with.
- (2) The regulator must—
  - (a) register the recycled water scheme applied for; and

- (b) give notice of the registration to the relevant entity.
- (3) The registration takes effect the day the regulator registers the recycled water scheme under subsection (2)(a).

## Division 2                      Changing registration details

### 196AD Applying to change details of registration

- (1) The relevant entity for a recycled water scheme registered under division 1 must apply to change the details of the registration if the details of the registration recorded in the register have changed.
- (2) The application must be made to the regulator in the approved form.
- (3) On receiving the application the regulator must—
  - (a) record the change in the register; and
  - (b) give the relevant entity notice confirming the change to the register.
- (4) In this section—  
*register* means the register of recycled water schemes kept under section 12A.

### 196AE Applying to cancel registration

- (1) The relevant entity for a recycled water scheme registered under division 1 may apply to cancel the registration if recycled water is no longer supplied under the scheme.
- (2) The application must be made to the regulator in the approved form.
- (3) On receiving the application the regulator must—
  - (a) record the cancellation in the register; and
  - (b) give the relevant entity a notice confirming the cancellation.



(4) In this section—

*register* means the register of recycled water schemes kept under section 12A.

## Part 1 Particular offences

### 196 Offence about supplying recycled water without approved recycled water management plan

(1) This section applies for a supply of recycled water under a recycled water scheme if—

- (a) the scheme is a critical recycled water scheme; or
- (b) the recycled water is supplied to augment a supply of drinking water; or
- (c) the recycled water is supplied to premises by way of a dual reticulation system; or
- (d) the recycled water is supplied for use in irrigating minimally processed food crops; or
- (e) the recycled water is supplied for a use prescribed under a regulation.

(2) The recycled water provider for a single-entity recycled water scheme must not supply the recycled water under the scheme, unless there is an approved recycled water management plan for the supply of the water.

Maximum penalty—1,665 penalty units.

(3) A recycled water provider or other declared entity for a multiple-entity recycled water scheme must not supply the recycled water under the scheme, unless there is an approved recycled water management plan for the supply of the water.

Maximum penalty—1,665 penalty units.

(4) In this section—

*minimally processed food crops* means crops stated to be minimally processed food crops, in relation to using recycled

water to irrigate the crops, in a regulation under the Public Health Act about standards for the quality of recycled water.

## **197 Offences about compliance with recycled water management plan**

- (1) This section applies for an approved recycled water management plan only if a recycled water provider is required to have the plan under section 196(2) or (3).
- (2) A recycled water provider who has an approved recycled water management plan for the provider's single-entity recycled water scheme must comply with—
  - (a) the plan; and
  - (b) the conditions of the plan.

Maximum penalty—1,665 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

- (3) The scheme manager and each recycled water provider or other declared entity for a multiple-entity recycled water scheme must comply with—
  - (a) the approved recycled water management plan for the scheme to the extent it applies to the scheme manager, recycled water provider or other entity; and
  - (b) the conditions of the plan to the extent the conditions apply to the scheme manager, recycled water provider or other entity.

Maximum penalty—1,665 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

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## Part 2                      **Recycled water management planning**

### **200      Purpose of recycled water management plan**

The purposes of a recycled water management plan are—

- (a) if the plan is for a critical recycled water scheme—
  - (i) to protect public health; and
  - (ii) if applicable, to ensure the continuity of operation of the scheme; or
- (b) otherwise—to protect public health.

### **201      Content of particular plans**

- (1) A recycled water management plan must—
  - (a) describe the recycled water scheme to which the plan relates; and
  - (b) include details of the infrastructure for the production or supply of recycled water under the scheme, and how the infrastructure is to be maintained; and
  - (c) include the proposed water quality criteria for recycled water for the plan; and
  - (d) identify the hazards and hazardous events that may affect the quality of the recycled water; and
  - (e) include an assessment of the risks posed by the hazards and hazardous events; and
  - (f) demonstrate how the risks posed by the hazards and hazardous events are proposed to be managed; and
  - (g) include details of the operational and verification monitoring programs under the plan, including the parameters to be used for indicating compliance with the plan and the water quality criteria for recycled water for the plan; and

- (h) include the incident and emergency response plan for the scheme; and
  - (i) if recycled water is supplied under the recycled water scheme to premises by way of a dual reticulation system—include details of an education and risk awareness program for customers of the scheme.
- (2) Also, a recycled water management plan for a multiple-entity recycled water scheme must include—
- (a) a scheme manager plan prepared by the scheme manager for the scheme; and
  - (b) each scheme provider plan prepared by each recycled water provider and other declared entity for the scheme.
- (3) A recycled water management plan, scheme manager plan and scheme provider plan must be prepared in accordance with any guidelines made by the regulator about—
- (a) preparing recycled water management plans; and
  - (b) validating recycled water schemes.

## **202 Application for approval of recycled water management plan**

- (1) If, under section 196, a relevant entity for a recycled water scheme must have an approved recycled water management plan for the supply of recycled water under the scheme, the entity must apply to the regulator for approval of a recycled water management plan for the scheme.
- (2) An application under this section must—
- (a) be in the approved form; and
  - (b) be accompanied by—
    - (i) a copy of the recycled water management plan; and
    - (ii) the fee prescribed under a regulation.
- (3) Subsection (4) applies if, under a recycled water scheme, recycled water is proposed to be supplied to augment a supply of drinking water.

- (4) Despite subsection (1), a relevant entity for the recycled water scheme must not apply for approval of the recycled water management plan for the scheme unless there is an approved validation program for the scheme.

### **203 Additional information may be required**

- (1) The regulator may, by notice given to the relevant entity, require—
- (a) the entity to give additional information about the recycled water management plan, including, for example, information about arrangements relating to the supply of recycled water under the scheme; or
  - (b) any information included in the plan, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the relevant entity fails, without reasonable excuse, to comply with the requirement within the reasonable period stated in the notice, the application is taken to have been withdrawn.
- (3) A requirement under this section is an *information requirement*.
- (4) In this section—  
*relevant entity*, in relation to a multiple-entity recycled water scheme, includes any recycled water provider or other declared entity for the scheme.

### **204 Regulator may obtain advice about application**

The regulator may obtain advice from an advisory council or any other entity the regulator considers appropriate before deciding the application.

## **205 Consideration of application**

- (1) The regulator must consider each application and decide to approve, with or without conditions (*regulator conditions*), or refuse to approve, the recycled water management plan—
  - (a) if an information requirement is not made in relation to the plan—within 80 business days after receiving the plan; or
  - (b) if an information requirement is made in relation to the plan—within 80 business days after the requirement has been complied with.
- (2) In considering an application, the regulator must have regard to the following—
  - (a) the recycled water management plan and any additional information about the plan given to the regulator under section 203;
  - (b) the guidelines, if any, made by the regulator about preparing recycled water management plans and validating recycled water schemes;
  - (c) the approved validation program for the recycled water scheme to which the plan relates, if the scheme involves the supply of recycled water to augment a supply of drinking water;
  - (d) any advice obtained by the regulator under section 204;
  - (e) the water quality criteria for recycled water.

## **206 Notice of decision**

- (1) Within 10 business days after deciding the application, the regulator must give the relevant entity—
  - (a) if the decision is to approve the recycled water management plan without regulator conditions—notice of the decision; or
  - (b) if the decision is to approve the plan with regulator conditions, or refuse to approve the plan—an information notice for the decision.

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- (2) If the regulator approves the recycled water management plan, the notice of the decision or information notice for the decision must state all of the following—
    - (a) the regulator conditions, if any, of the approval;
    - (b) the intervals at which regular reviews of the approved plan must be conducted;
    - (c) the intervals at which internal audits of the approved plan must be conducted;
    - (d) the intervals at which regular audits of the approved plan must be conducted.
  - (3) An interval mentioned in subsection (2)(b) or (c) must not be less than—
    - (a) if any part of the recycled water management plan is for a critical recycled water scheme—1 year; or
    - (b) otherwise—2 years.
  - (4) An interval mentioned in subsection (2)(d) is the interval decided by the regulator.

## **207 When regulator must not approve recycled water management plan**

- (1) This section applies to a recycled water scheme if—
  - (a) recycled water is proposed to be supplied under the scheme to augment a supply of drinking water; and
  - (b) the supply of the recycled water is into a water storage of a drinking water service provider that, under chapter 2, part 4, division 1, must have a drinking water quality management plan.
- (2) The regulator must not approve the recycled water management plan for the recycled water scheme unless there is an approved drinking water quality management plan for the water storage.

## **208 Statutory condition of approved recycled water management plans**

- (1) An approved recycled water management plan for a single-entity recycled water scheme is subject to the conditions stated in subsections (2) and (3).
- (2) If the recycled water provider for the scheme stops or intends to stop the production or supply of recycled water under the scheme, other than as provided for under the recycled water management plan or permanently, the provider must as soon as practicable give the regulator notice of the stoppage or proposed stoppage.
- (3) If the recycled water provider for the scheme becomes aware that an entity to whom the provider supplies recycled water is using the water other than in a way or for the purpose provided for under the plan, the provider must stop supply of the water to the entity.
- (4) An approved recycled water management plan for a multiple-entity recycled water scheme is subject to the conditions stated in subsections (5) and (6).
- (5) If a recycled water provider or other declared entity for the scheme stops or intends to stop the production or supply of recycled water under the scheme, other than as provided for under the recycled water management plan or permanently, the scheme manager for the scheme must as soon as practicable give the regulator notice of the stoppage or proposed stoppage.
- (6) If a recycled water provider or other declared entity for the scheme becomes aware that an entity to whom the provider or declared entity supplies recycled water is using the water other than in a way or for the purpose provided for under the plan, the provider or declared entity must stop supply of the water to the entity.

*Note—*

For when a notice must be given to the regulator if supply of recycled water is to stop permanently, see section 230.



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**209 Amending recycled water management plan by agreement**

- (1) The relevant entity for a recycled water scheme may, with the regulator's agreement, amend the recycled water management plan for the scheme if the amendment—
  - (a) is only to correct a minor error in the plan or make another change that is not a change of substance; or
  - (b) is to record a change of name or change of ownership of—
    - (i) for a single-entity recycled water scheme—the recycled water provider for the scheme; or
    - (ii) for a multiple-entity recycled water scheme—the scheme manager, a recycled water provider or other declared entity for the scheme.
- (2) The recycled water management plan as amended is taken to be the approved recycled water management plan.

**210 Amendment of recycled water management plan for single-entity recycled water scheme—requirement of regulator**

- (1) The regulator may, under this section, require the recycled water provider for a single-entity recycled water scheme to amend the recycled water management plan for the scheme if the regulator is satisfied the amendment is required—
  - (a) if the scheme is a critical recycled water scheme—
    - (i) to protect public health; or
    - (ii) to ensure the continuity of operation of the scheme; or
  - (b) otherwise—to protect public health.
- (2) Before requiring the recycled water provider to amend the recycled water management plan, the regulator must give the provider a show cause notice about the proposed amendment.

- (3) If, after considering all properly made submissions about the proposed amendment, the regulator decides the proposed amendment should be made, the regulator must—
  - (a) give the recycled water provider a notice requiring the provider—
    - (i) to amend the recycled water management plan in the way stated in the notice; and
    - (ii) to give the regulator, within the reasonable period of at least 30 business days stated in the notice, a copy of the amended plan for approval; and
  - (b) give the provider an information notice for the decision.
- (4) The recycled water provider must comply with the notice mentioned in subsection (3)(a).

Maximum penalty—1,665 penalty units.
- (5) If the regulator is satisfied the recycled water management plan has been amended in the way stated in the notice mentioned in subsection (3)(a)—
  - (a) the plan as amended is taken to be the approved plan; and
  - (b) the regulator must give the recycled water provider notice that the plan as amended is taken to be the approved plan.
- (6) The amended recycled water management plan takes effect from the day the notice mentioned in subsection (5)(b) is given to the recycled water provider.
- (7) If, after considering all properly made submissions about the proposed amendment, the regulator decides the proposed amendment should not be made, the regulator must give the recycled water provider notice that the plan need not be amended.

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**211 Amendment of recycled water management plan for multiple-entity recycled water scheme—requirement of regulator**

- (1) The regulator may, under this section, require a scheme manager or a declared entity for a multiple-entity recycled water scheme to amend the manager’s scheme manager plan or the entity’s scheme provider plan for the scheme if the regulator is satisfied the amendment is required—
  - (a) if the scheme is a critical recycled water scheme—
    - (i) to protect public health; or
    - (ii) to ensure the continuity of operation of the scheme; or
  - (b) otherwise—to protect public health.
- (2) Before requiring the scheme manager or declared entity to amend the scheme manager plan or scheme provider plan, the regulator must—
  - (a) give the manager or entity a show cause notice about the proposed amendment; and
  - (b) give a copy of the show cause notice to—
    - (i) for an amendment to a scheme manager plan—each declared entity for the scheme; and
    - (ii) for an amendment to a scheme provider plan—the scheme manager for the scheme and any other declared entity for the scheme.
- (3) If, after considering all properly made submissions about the proposed amendment, the regulator decides the proposed amendment should be made, the regulator must—
  - (a) give the scheme manager or declared entity a notice requiring the manager or entity to amend the manager’s or entity’s scheme manager plan or scheme provider plan in the way stated in the notice; and
  - (b) give the scheme manager or declared entity, and any other entity that gave the regulator a properly made

submission about the amendment, an information notice for the decision.

- (4) The scheme manager or declared entity must comply with the notice mentioned in subsection (3)(a).

Maximum penalty—1,665 penalty units.

- (5) If a scheme manager plan or scheme provider plan for a multiple-entity recycled water scheme is amended as required under this section, the scheme manager for the scheme must as soon as practicable give the regulator a copy of the amended recycled water management plan for the scheme.

Maximum penalty—200 penalty units.

*Note—*

A recycled water management plan for a multiple-entity recycled water scheme consists of the scheme manager plan, and each scheme provider plan, for the scheme.

- (6) If the regulator is satisfied the recycled water management plan has been amended in the way stated in the notice mentioned in subsection (3)(a)—
- (a) the plan as amended is taken to be the approved plan; and
  - (b) the regulator must give the scheme manager for the recycled water scheme to which the plan relates notice that the plan as amended is taken to be the approved plan.
- (7) The amended recycled water management plan takes effect from the day the notice mentioned in subsection (6)(b) is given to the scheme manager.
- (8) If, after considering all properly made submissions about the proposed amendment, the regulator decides the proposed amendment should not be made, the regulator must give the scheme manager and each declared entity for the scheme notice that the plan need not be amended.

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**212 Amendment of recycled water management plan—application**

- (1) This section applies if a recycled water management plan for a recycled water scheme is proposed to be amended other than under section 209, 210 or 211.
- (2) The relevant entity for the recycled water scheme must apply to the regulator for approval of the proposed amended recycled water management plan.
- (3) Sections 202(2), (3) and (4), and 203 to 208 apply to the application—
  - (a) as if a reference in the sections to the recycled water management plan were a reference to the amended recycled water management plan; and
  - (b) as if a reference in the sections to the plan were a reference to the amended plan.

**213 Suspending or cancelling recycled water management plan if regulator is satisfied about particular matters**

- (1) The regulator may suspend or cancel a recycled water management plan (the *proposed action*) if the regulator is satisfied or reasonably believes the relevant entity or a declared entity (each the *responsible entity*) for the recycled water scheme to which the plan relates has not complied with—
  - (a) the plan; or
  - (b) a condition of the plan; or
  - (c) a compliance notice.
- (2) Before acting under subsection (1), the regulator must—
  - (a) give the responsible entity a show cause notice about the proposed action; and
  - (b) for a multiple-entity recycled water scheme, give a copy of the show cause notice to—

- (i) the scheme manager for the scheme, if the scheme manager is not the responsible entity; and
  - (ii) each declared entity for the scheme that is not the responsible entity.
- (3) If, after considering any properly made submissions about the proposed action, the regulator decides the proposed action should be taken, the regulator may—
  - (a) if the proposed action was to suspend the recycled water management plan—suspend the plan; or
  - (b) if the proposed action was to cancel the plan—either cancel the plan or suspend it.
- (4) If a recycled water management plan is suspended under this section, the suspension ends when the resumption of supply of recycled water under the recycled water scheme to which the plan relates is taken to be approved under section 215.
- (5) Within 10 business days after making a decision under subsection (3), the regulator must give an information notice for the decision to—
  - (a) if the recycled water management plan is for a single-entity recycled water scheme—the recycled water provider for the scheme; or
  - (b) if the recycled water management plan is for a multiple-entity recycled water scheme—the scheme manager for the scheme.
- (6) If, after considering any properly made submissions about the proposed action, the regulator decides the proposed action should not be taken, the regulator must give notice of the decision to—
  - (a) if the recycled water management plan is for a single-entity recycled water scheme—the recycled water provider for the scheme; or
  - (b) if the recycled water management plan is for a multiple-entity recycled water scheme—the scheme manager for the scheme.

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- (7) The notice under subsection (6) must be given within 10 business days after the decision is made.
  - (8) A decision under subsection (3) takes effect on the day the information notice for the decision is given.

## **214 Suspending recycled water management plan if production or supply of recycled water stops**

- (1) The regulator may, by notice given to the relevant entity for a recycled water scheme, suspend the recycled water management plan for the scheme if the regulator—
  - (a) has received notice under section 208 that the production or supply of recycled water under the scheme has stopped or is to stop; and
  - (b) is satisfied the production or supply of recycled water under the scheme has stopped.
- (2) If a recycled water management plan is suspended under this section, the suspension ends when the resumption of supply of recycled water under the recycled water scheme to which the plan relates is taken to be approved under section 215.
- (3) The suspension takes effect on the day the notice is given.

## **215 Application to resume supply**

- (1) If a recycled water management plan has been suspended under this part, the relevant entity for the recycled water scheme to which the plan relates may apply to the regulator for an approval to resume supply of recycled water under the scheme.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be supported by enough information to enable the regulator to decide the application; and
  - (c) be accompanied by the fee prescribed under a regulation.

- (3) Sections 203 and 204 apply to the application—
  - (a) as if a reference in the sections to the recycled water management plan were a reference to the suspended recycled water management plan; and
  - (b) as if a reference in the sections to the plan were a reference to the suspended plan.
- (4) After considering the application, and any matter the regulator considers relevant to the application, the regulator must as soon as practicable decide—
  - (a) to approve the application without conditions; or
  - (b) to approve the application on the condition that—
    - (i) the validation program for the scheme is undertaken; and
    - (ii) the testing of plant and equipment under the program shows the quality of the scheme's recycled water consistently meets the water quality criteria for recycled water relevant to the scheme; and
    - (iii) the relevant entity for the scheme gives the regulator evidence, satisfactory to the regulator, of the matter mentioned in subparagraph (ii); or
  - (c) for a recycled water scheme that is a single-entity recycled water scheme—to refuse to approve the application, and direct the recycled water provider for the scheme—
    - (i) to amend the recycled water management plan for the scheme in the way the regulator considers appropriate; and
    - (ii) apply to the regulator, under this part, for approval of the amended plan; or
  - (d) for a recycled water scheme that is a multiple-entity recycled water scheme—to refuse to approve the application, and direct—



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- (i) the scheme manager or a declared entity for the scheme to amend the scheme manager's scheme manager plan or the entity's scheme provider plan for the scheme in the way the regulator considers appropriate; and
    - (ii) the scheme manager to apply to the regulator, under this part, for approval of the amended recycled water management plan for the scheme;  
or
  - (e) to refuse to approve the application.
- (5) Within 10 business days after deciding the application, the regulator must give the relevant entity—
- (a) if the decision is to approve the application under subsection (4)(a)—notice of the decision; and
  - (b) if the decision is to approve the application under subsection (4)(b), or refuse to approve the application under subsection (4)(c), (d) or (e)—an information notice for the decision.
- (6) The resumption of supply of recycled water under the recycled water scheme is taken to be approved under this section—
- (a) if the decision is to approve the application under subsection (4)(a)—when the notice of the decision is given to the relevant entity; or
  - (b) if the decision is to approve the application under subsection (4)(b)—when the regulator gives the relevant entity a notice stating the regulator is satisfied the testing of plant and equipment under the validation program for the scheme shows the quality of the scheme's recycled water consistently meets the water quality criteria for recycled water relevant to the scheme; or
  - (c) if the decision is to refuse to approve the application under subsection (4)(c) or (d)—when the amended recycled water management plan for the scheme has been approved under this part.

[s 216]

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- (7) Sections 202(2), (3) and (4), and 203 to 208 apply to an application for approval of the amended plan—
  - (a) as if a reference in the sections to the recycled water management plan were a reference to the amended recycled water management plan; and
  - (b) as if a reference in the sections to the plan were a reference to the amended plan.

### **216 Sections 216–229 not used**

See editor’s note for section 1.

## **Part 3 Notice about permanently stopping supply of recycled water**

### **230 Notice about permanently stopping supply of recycled water**

- (1) Subsection (2) applies if a recycled water provider for a recycled water scheme that is not a critical recycled water scheme proposes to permanently stop the supply of recycled water under the scheme.
- (2) The recycled water provider must give the regulator notice of the proposed stoppage at least 30 days before supply of the recycled water is stopped, unless the provider has a reasonable excuse for not giving the notice.

Maximum penalty—200 penalty units.

- (3) Subsection (4) applies if—
  - (a) a recycled water provider or other declared entity for a critical recycled water scheme proposes to permanently stop the supply of recycled water by the provider or entity under the scheme; and

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(b) there is no other entity willing to take over the operation of all or part of the scheme to ensure the continued production and supply of recycled water under the scheme.

(4) The relevant entity for the critical recycled water scheme must give the regulator notice of the proposed stoppage at least 60 days before supply of the recycled water is stopped, unless the relevant entity has a reasonable excuse for not giving the notice.

Maximum penalty—1,665 penalty units.

(5) A notice under subsection (2) or (4) must—

- (a) be in the approved form; and
- (b) state the day by which the supply of recycled water is proposed to stop.

(6) The regulator may require—

- (a) the relevant entity for the recycled water scheme to give the regulator additional information about the notice; or
- (b) any information included in the notice, or any additional information required under paragraph (a), to be verified by statutory declaration.

(7) If the relevant entity fails, without reasonable excuse, to comply with a requirement under subsection (6) within the reasonable period stated in the notice, the notice given by the entity under subsection (2) or (4) is of no effect.

(8) If the supply of recycled water under the recycled water scheme continues after the day stated in the notice, the notice ceases to have effect as a notice given under subsection (2) or (4).

(9) If the supply of the recycled water under the recycled water scheme stops, the relevant entity for the recycled water scheme must give the regulator notice of the stoppage within 5 days after the supply stops.

(10) The notice must—

- (a) be in the approved form; and

(b) state the day on which the supply of recycled water stopped.

(11) In this section—

*relevant entity*, in relation to a multiple-entity recycled water scheme, includes any recycled water provider or other declared entity for the scheme.

### **231 Cancelling recycled water management plan on receipt of notice under s 230**

If the regulator receives a notice under section 230(5), the regulator may—

- (a) cancel the recycled water management plan for the recycled water scheme to which the notice relates; and
- (b) give the relevant entity for the scheme notice of the cancellation.

### **232 Sections 232–234 not used**

See editor’s note for section 1.

## **Part 4 Validation programs**

### **235 Application of pt 4**

This part applies to a recycled water scheme if recycled water is proposed to be supplied under the scheme to augment a supply of drinking water.

### **236 Preparing validation program**

- (1) If the recycled water scheme is a single-entity recycled water scheme, the recycled water provider for the scheme must prepare a validation program for the scheme for approval by the regulator.

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- (2) If the recycled water scheme is a multiple-entity recycled water scheme, the scheme manager and each declared entity for the scheme must prepare a validation program for the scheme for approval by the regulator.
  - (3) The validation program must—
    - (a) describe the recycled water scheme to which the program relates; and
    - (b) describe the infrastructure for the production and supply of recycled water under the scheme; and
    - (c) be prepared in accordance with the guidelines, if any, made by the regulator about validating recycled water schemes.

### **237 Application for approval of validation program**

- (1) The relevant entity for the recycled water scheme must apply to the regulator for approval of the validation program.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by—
    - (i) a copy of the validation program; and
    - (ii) the fee prescribed under a regulation.

### **238 Additional information may be required**

- (1) The regulator may, by notice given to the relevant entity, require—
  - (a) the entity to give additional information about the validation program; or
  - (b) any information included in the program, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the relevant entity fails, without reasonable excuse, to comply with the requirement within the reasonable period

stated in the notice, the application is taken to have been withdrawn.

- (3) A requirement under this section is an *information requirement*.
- (4) In this section—  
*relevant entity*, in relation to a multiple-entity recycled water scheme, includes any recycled water provider or other declared entity for the scheme.

### **239 Regulator may obtain advice about application**

The regulator may obtain advice from an advisory council or any other entity the regulator considers appropriate before deciding the application.

### **240 Consideration of application**

- (1) The regulator must consider the application and decide to approve, with or without conditions, or refuse to approve, the validation program—
  - (a) if an information requirement is not made in relation to the program—30 business days after receiving the program; or
  - (b) if an information requirement is made in relation to the program—30 business days after the requirement has been complied with.
- (2) In considering whether to approve the validation program, the regulator must have regard to—
  - (a) the program and any additional information about the program given to the regulator under section 238; and
  - (b) the guidelines, if any, made by the regulator about validating recycled water schemes; and
  - (c) any advice received by the regulator under section 239; and
  - (d) the water quality criteria for recycled water.

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## **241 Notice of decision**

Within 10 business days after deciding the application, the regulator must give the relevant entity—

- (a) if the decision is to approve the validation program without conditions—notice of the decision; or
- (b) if the decision is to approve the validation program with conditions, or to refuse to approve the validation program—an information notice for the decision.

## **242 Amendment of validation program**

- (1) This section applies if the relevant entity for a recycled water scheme proposes to amend the approved validation program for the scheme.
- (2) The relevant entity must apply to the regulator for approval of the proposed amended validation program.
- (3) Sections 237(2) and 238 to 241 apply to the application—
  - (a) as if a reference in the sections to the validation program were a reference to the amended validation program; and
  - (b) as if a reference in the sections to the program were a reference to the amended program.

## **243 Sections 243–249 not used**

See editor's note for section 1.

# **Part 6                      Reviews and audits of recycled water management plans**

## **258 Reviewing recycled water management plans**

- (1) The relevant entity for a recycled water scheme must, at each required interval, conduct a review of the approved recycled

water management plan for the scheme to assess whether the plan is consistent with—

- (a) the operation of the scheme; and
- (b) the water quality criteria for recycled water relevant to the scheme; and
- (c) best practice industry standards for the production and supply of recycled water.

Maximum penalty—500 penalty units.

- (2) If the recycled water scheme is a multiple-entity recycled water scheme, the relevant entity complies with subsection (1) if a declared entity for the scheme conducts the review in accordance with subsection (1).

- (3) In this section—

*required interval* means an interval, at which regular reviews of the approved recycled water management plan must be conducted, stated in the notice about the plan under section 206(2)(b).

## 259 Changing plan after review

- (1) This section applies if a review of a recycled water management plan indicates the plan should be changed to be consistent with—
  - (a) the operation of the recycled water scheme to which it relates; or
  - (b) the water quality criteria for recycled water relevant to the scheme; or
  - (c) best practice industry standards for the production and supply of recycled water.
- (2) If the recycled water scheme is a single-entity recycled water scheme, the recycled water provider for the scheme must, within 60 business days after the review ends—



- (a) amend the recycled water management plan for the scheme to be consistent with the matters mentioned in subsection (1); and
  - (b) apply to the regulator for approval of the amended plan.  
Maximum penalty—200 penalty units.
- (3) If the recycled water scheme is a multiple-entity recycled water scheme—
- (a) the scheme manager for the scheme must, within 60 business days after the review ends, amend the manager's scheme manager plan for the scheme to the extent necessary to be consistent with the matters mentioned in subsection (1); and
  - (b) each declared entity for the scheme must, within 60 business days after the review ends, amend the entity's scheme provider plan for the scheme to the extent necessary to be consistent with the matters mentioned in subsection (1).

Maximum penalty—200 penalty units.

- (4) If a scheme manager plan or scheme provider plan for a multiple-entity recycled water scheme is amended under subsection (3), the scheme manager for the scheme must as soon as practicable apply to the regulator for approval of the amended recycled water management plan for the scheme.

Maximum penalty—200 penalty units.

- (5) An amended recycled water management plan must indicate the way the plan has been amended to be consistent with the matters mentioned in subsection (1).
- (6) Sections 202(2), (3) and (4), and 203 to 208 apply to an application under this section—
- (a) as if a reference in the sections to the recycled water management plan were a reference to the amended recycled water management plan; and
  - (b) as if a reference in the sections to the plan were a reference to the amended plan.

## 260 Internal audits of recycled water management plans

- (1) The relevant entity for a recycled water scheme must—
  - (a) at each required interval, have a suitably qualified person conduct an audit (an *internal audit*) of the approved recycled water management plan for the scheme to assess compliance with the plan and its conditions; and
  - (b) within 30 business days after each internal audit is completed, give the regulator a report about the audit that complies with subsection (2) (an *internal audit report*).

Maximum penalty—500 penalty units.

- (2) The internal audit report must—
  - (a) be prepared by the suitably qualified person in accordance with any guidelines about preparing the report made by the regulator; and
  - (b) state whether there has been noncompliance with the approved recycled water management plan; and
  - (c) if there has been noncompliance with the plan—state the actions taken, or planned to be taken, in relation to the noncompliance.
- (3) If the recycled water scheme is a multiple-entity recycled water scheme, the relevant entity complies with subsection (1)(a) if a declared entity for the scheme has a suitably qualified person conduct the internal audit in accordance with subsection (1)(a).

- (4) In this section—

*required interval* means an interval, at which internal audits of the approved recycled water management plan must be conducted, stated in the notice about the plan under section 206(2)(c).

## 261 Regular audits of recycled water management plans

- (1) The relevant entity for a recycled water scheme must—

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- (a) at each required interval, have an independent suitably qualified person conduct an audit (a **regular audit**) of the approved recycled water management plan for the scheme to assess compliance with the plan and its conditions; and
  - (b) within 30 business days after each regular audit is completed, give the regulator a report about the audit that complies with subsection (2) (a **regular audit report**).

Maximum penalty—500 penalty units.

- (2) The regular audit report must—
  - (a) be prepared by the independent suitably qualified person in accordance with any guidelines about preparing the report made by the regulator; and
  - (b) state whether there has been noncompliance with the approved recycled water management plan; and
  - (c) if there has been noncompliance with the plan—state the actions taken, or planned to be taken, in relation to the noncompliance.
- (3) If the recycled water scheme is a multiple-entity recycled water scheme, the relevant entity complies with subsection (1)(a) if a declared entity for the scheme has an independent suitably qualified person conduct the regular audit in accordance with subsection (1)(a).

- (4) In this section—

**independent suitably qualified person** means a suitably qualified person who is not an employee of—

- (a) if the recycled water scheme is a single-entity recycled water scheme—the recycled water provider for the scheme; or
- (b) if the recycled water scheme is a multiple-entity recycled water scheme—the scheme manager, or a declared entity, for the scheme.

*required interval* means an interval, at which regular audits of the approved recycled water management plan must be conducted, stated in the notice about the plan under section 206(2)(d).

## 262 Spot audits

- (1) Subsection (2) applies if the regulator is satisfied or reasonably believes—
  - (a) the scheme manager, or a recycled water provider or other declared entity, for a recycled water scheme is not complying, or has not complied, with the recycled water management plan for the scheme or the conditions of the plan; or
  - (b) the approved recycled water management plan for the scheme is no longer adequate.
- (2) The regulator may arrange for a spot audit report to be prepared about the recycled water management plan.
- (3) Before arranging for a spot audit report to be prepared because of the matter mentioned in subsection (1)(b), the regulator—
  - (a) must give a show cause notice about the proposed spot audit to—
    - (i) if the recycled water management plan is for a single-entity recycled water scheme—the recycled water provider for the scheme; or
    - (ii) if the recycled water management plan is for a multiple-entity recycled water scheme—the scheme manager and each declared entity for the scheme; and
  - (b) consider all properly made submissions about the proposed spot audit.
- (4) The spot audit report may be prepared by the regulator or a suitably qualified person appointed by the regulator.

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- (5) The spot audit report must be prepared in accordance with the guidelines, if any, about preparing spot audit reports under this section.
  - (6) Within 30 business days after the spot audit report is completed, the regulator must give a copy of the report to—
    - (a) if the report relates to a single-entity recycled water scheme—the recycled water provider for the scheme; or
    - (b) if the report relates to a multiple-entity recycled water scheme—the scheme manager for the scheme.
  - (7) Subsection (8) applies if the spot audit report states either or both of the following—
    - (a) the recycled water management plan for the recycled water scheme is inadequate in a material particular;
    - (b) the scheme manager, or recycled water provider or other declared entity, for the recycled water scheme (the *responsible entity*) has not properly carried out the plan to the extent it applies to the responsible entity.
  - (8) The regulator must give the responsible entity an information notice requiring the entity, within the reasonable period stated in the notice, to—
    - (a) if subsection (7)(a) applies—rectify the inadequacy; or
    - (b) if subsection (7)(b) applies—properly carry out the plan.
  - (9) The responsible entity must comply with the notice, unless the responsible entity has a reasonable excuse.  
Maximum penalty—1,665 penalty units.
  - (10) The regulator may recover an amount equal to the cost of completing the spot audit report from—
    - (a) if the report relates to a single-entity recycled water scheme—the recycled water provider for the scheme; or
    - (b) if the report relates to a multiple-entity recycled water scheme—the scheme manager, and any recycled water providers or other declared entities, for the scheme.

### **263 Auditor's responsibility to inform regulator**

- (1) This section applies if, in conducting an audit about a recycled water management plan, an auditor forms a reasonable belief that—
  - (a) a following entity has not, or is not, complying with the plan or a condition of the plan—
    - (i) for a plan for a single-entity recycled water scheme—the recycled water provider for the scheme;
    - (ii) for a plan for a multiple-entity recycled water scheme—the scheme manager, or a recycled water provider or other declared entity, for the scheme; and
  - (b) the noncompliance is likely to have an imminent and serious adverse effect on public health.
- (2) The auditor must immediately give details of the facts and circumstances giving rise to the belief to the regulator.

Maximum penalty—1,665 penalty units.

- (3) If the auditor complies with subsection (2) by giving the regulator the details orally, the auditor must, as soon as practicable after giving the details orally, give the regulator notice of the details.

Maximum penalty—200 penalty units.

### **264 Declarations about audit reports**

- (1) An audit report given to the regulator under this part must be accompanied by a statutory declaration by the auditor.
- (2) The auditor's declaration must—
  - (a) state the auditor's qualifications and experience relevant to the audit; and
  - (b) state that the auditor has not knowingly included any false, misleading or incomplete information or document to the regulator; and

- (c) state that the auditor has not knowingly failed to reveal any relevant information or document to the regulator; and
- (d) certify that—
  - (i) the report addresses the matters relevant to the audit to which it relates, and is factually correct; and
  - (ii) the opinions expressed in it are honestly and reasonably held.

## **265 Access for conducting audits**

- (1) For conducting an audit under this part, the relevant entity and any declared entity for a recycled water scheme 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 infrastructure forming part of the scheme 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 conducting the audit, must not enter the premises of a person other than the relevant entity or a declared entity for the recycled water scheme unless the person agrees to the entry.

## **266 Sections 266–269 not used**

See editor's note for section 1.

## Part 7 Reporting requirements

### Division 1 Notices to be given

#### 270AA Application of div 1

This division applies to a scheme manager, a recycled water provider or other declared entity, for a recycled water scheme if there is an approved recycled water management plan for the scheme.

#### 270 Notice of noncompliance with water quality criteria

- (1) This section applies if a scheme manager, a recycled water provider or other declared entity, for a recycled water scheme (the *alerting entity*) becomes aware that the quality of recycled water produced or supplied under the recycled water scheme for the entity does not comply with the water quality criteria for the recycled water relevant to the scheme.
- (2) The alerting entity must, unless the entity has a reasonable excuse, immediately inform each of the following of the noncompliance and the circumstances that gave rise to the noncompliance—
  - (a) the regulator;
  - (b) if another entity is the responsible entity for the noncompliance—the responsible entity.

Maximum penalty—1,665 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

- (3) Subsection (4) applies—
  - (a) if the alerting entity is also the responsible entity for the noncompliance—as soon as practicable after the noncompliance; or



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- (b) otherwise—as soon as practicable after the alerting entity informs the responsible entity under subsection (2).
- (4) The responsible entity for the noncompliance must, unless the entity has a reasonable excuse, give the regulator notice of the following in the approved form—
- (a) the noncompliance and the circumstances that gave rise to the noncompliance;
  - (b) any action taken, or to be taken, by the entity to correct the noncompliance;
  - (c) the measures the entity will take to prevent the noncompliance in the future.

Maximum penalty—200 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

- (5) In this section—
- responsible entity***, for a noncompliance, means the scheme manager, recycled water provider or other declared entity, for a recycled water scheme that is responsible for taking any action to correct the noncompliance.

## 271 Notice of prescribed incidents

- (1) This section applies if a scheme manager, a recycled water provider or other declared entity, for a recycled water scheme (the ***alerting entity***) becomes aware a prescribed incident has happened in relation to the alerting entity or the scheme.
- (2) The alerting entity must, unless the entity has a reasonable excuse, immediately inform each of the following of the prescribed incident—
- (a) the regulator;
  - (b) if another entity is the responsible entity for prescribed incident—the responsible entity.

Maximum penalty—1,665 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

- (3) Subsection (4) applies—
- (a) if the alerting entity is also the responsible entity for the prescribed incident—as soon as practicable after the prescribed incident; or
  - (b) otherwise—as soon as practicable after the alerting entity informs the responsible entity under subsection (2).
- (4) The responsible entity must, unless the entity has a reasonable excuse, give the regulator notice of the following in the approved form—
- (a) the prescribed incident and the circumstances that gave rise to the prescribed incident;
  - (b) any action taken, or to be taken, by the entity relating to the prescribed incident;
  - (c) the measures the entity will take to prevent the prescribed incident happening again in the future.

Maximum penalty—200 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 487A, to have also committed the offence.

- (5) In this section—

***prescribed incident*** means an incident prescribed under a regulation.

***responsible entity***, for a prescribed incident, means the scheme manager, recycled water provider or other declared entity, for a recycled water scheme that is responsible for taking action relating to the prescribed incident.

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## **272 Self-incrimination not a reasonable excuse for div 1**

- (1) It is not a reasonable excuse, under section 270 or 271, for an entity to fail to give the relevant information that giving the information might tend to incriminate the entity.
- (2) However, if the entity is an individual, evidence of, or evidence directly or indirectly derived from, the relevant information that might tend to incriminate the entity is not admissible in evidence against the entity in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.
- (3) In this section—  
*relevant information* means information given to the regulator under section 270 or 271.

## **Division 2 Annual reports**

### **273 Annual reporting requirement**

- (1) The relevant entity for a recycled water scheme must prepare an annual report for each financial year after a recycled water management plan for the scheme has been approved.
- (2) The annual report must—
  - (a) be prepared in accordance with the guidelines, if any, made by the regulator about the preparation of annual reports; and
  - (b) state the outcome of any review of the recycled water management plan in the financial year to which the annual report relates, and how the matters raised in the review have been addressed; and
  - (c) contain details of the findings of, and any recommendations stated in, an internal audit report under section 260 or a regular audit report under section 261 given to the regulator in the financial year; and

- (d) contain details of the information given to the regulator under section 270 or 271 in the financial year.
- (3) The relevant entity must give a copy of the annual report to the regulator within 120 business days after the end of the financial year.  
Maximum penalty—500 penalty units.
- (4) If a relevant entity is a recycled water provider for a single entity recycled water scheme, the annual report may be combined with a report given to the regulator under section 141.

## Division 3                      Public reports

### 274      Public reporting requirement

- (1) This section applies if recycled water is supplied under—
  - (a) a recycled water scheme to augment a supply of drinking water; or
  - (b) a recycled water scheme to premises by way of a dual reticulation system.
- (2) The relevant entity for the recycled water scheme must, for each reporting period, prepare and make publicly available a report about the scheme (a **public report**) in compliance with subsection (6).  
Maximum penalty—500 penalty units.
- (3) The relevant entity must comply with subsection (2) unless the relevant entity has a reasonable excuse.
- (4) It is not a reasonable excuse for subsection (2) that the public report may tend to incriminate the relevant entity.
- (5) However, if the relevant entity is an individual, evidence of, or evidence directly or indirectly derived from, the public report that might incriminate the entity is not admissible in evidence against the entity in a civil or criminal proceeding, other than

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a proceeding for an offence about the falsity of the information.

- (6) A public report for a reporting period must—
- (a) be made publicly available within 30 business days after the last day of the reporting period; and
  - (b) include the results of water quality monitoring carried out for the recycled water scheme during the reporting period by—
    - (i) for a single-entity recycled water scheme—the recycled water provider; or
    - (ii) for a multiple-entity recycled water scheme—the scheme manager and each recycled water provider and other declared entity for the scheme; and
  - (c) include details of the information given to the regulator under sections 270 and 271 during the reporting period by the entity or entities mentioned in paragraph (b); and
  - (d) subject to paragraphs (a) to (c), be prepared and made publicly available as required under the guidelines made by the regulator about the preparation and publication of reports under this section.
- (7) In this section—
- reporting periods*** means—
- (a) each of the following 3-month periods in a year—
    - (i) 1 January to 31 March;
    - (ii) 1 April to 30 June;
    - (iii) 1 July to 30 September;
    - (iv) 1 October to 31 December; or
  - (b) if the regulator gives the relevant entity a notice stating reporting periods that are longer than the periods mentioned in paragraph (a)—the longer periods.

**275 Sections 275–299 not used**

See editor’s note for section 1.

**Part 8 Declaration of critical recycled water schemes**

**300 Meaning of *scheme manager* for a recycled water scheme**

The *scheme manager* for a multiple-entity recycled water scheme is the entity—

- (a) the recycled water providers and other entities declared to be part of the scheme agree is the scheme manager for the scheme; and
- (b) either—
  - (i) stated in the declaration under this part for the scheme to be the scheme manager; or
  - (ii) stated in the notice given under section 307(2).

**301 Making declaration**

- (1) The regulator may declare a recycled water scheme to be a critical recycled water scheme if the regulator reasonably believes the declaration is necessary—
  - (a) to maintain continuity of operation of the scheme to meet the essential water supply needs of the community or industry; or
  - (b) to ensure the appropriate management of risks to public health posed by the supply of recycled water under the scheme.
- (2) Without limiting subsection (1), the regulator must declare a recycled water scheme to be a critical recycled water scheme if—

- (a) recycled water is supplied, or proposed to be supplied, under the scheme to augment a supply of drinking water; or
- (b) under the scheme, at least 500kL of recycled water a day is supplied, or proposed to be supplied, to premises by way of a dual reticulation system.

### 302 Regulator may request information about a recycled water scheme

- (1) Before declaring a recycled water scheme to be a critical recycled water scheme, the regulator may ask the recycled water providers and other entities proposed to be declared to be part of the scheme to give the regulator a notice about who the providers and entities agree is the scheme manager for the scheme.
- (2) Also, the regulator may by notice require a responsible entity to give the regulator, within a stated reasonable period, information about the scheme.
- (3) When making the requirement, the regulator must warn the responsible entity it is an offence to fail to comply with the requirement unless the responsible entity has a reasonable excuse.
- (4) A responsible entity must comply with the requirement unless the responsible entity has a reasonable excuse.

Maximum penalty—200 penalty units.

- (5) If a responsible entity is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information might tend to incriminate the responsible individual.
- (6) In this section—

*responsible entity*, in relation to a recycled water scheme, means—

- (a) a recycled water provider or other entity proposed to be declared to be part of the scheme; or

- (b) the proposed scheme manager for the scheme.

### **303 Notice of regulator's intention to make declaration**

- (1) Before declaring a recycled water scheme to be a critical recycled water scheme, the regulator must—
  - (a) give notice of the regulator's intention to make the declaration to—
    - (i) if the scheme is a single-entity recycled water scheme—the recycled water provider for the scheme; or
    - (ii) if the scheme is a multiple-entity recycled water scheme—each recycled water provider and other entity the regulator intends to declare to be part of the scheme; and
  - (b) consider all properly made submissions given to the regulator under subsection (3).
- (2) Subsection (1) does not apply to the declaration of a recycled water scheme if, under section 301(2), the regulator must declare the scheme to be a critical recycled water scheme.
- (3) The notice must—
  - (a) describe the recycled water scheme; and
  - (b) describe the infrastructure proposed to be part of the scheme; and
  - (c) state the reasons that the regulator intends to make the declaration; and
  - (d) for a notice about a multiple-entity recycled water scheme—
    - (i) state each recycled water provider and other entity proposed to be declared to be part of the scheme; and
    - (ii) if known, state the proposed scheme manager for the scheme; and



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- (e) state the entity to whom the notice is given may, within 30 days after receiving the notice, give the regulator a written submission about the proposed declaration.
  - (4) If the notice is about a multiple-entity recycled water scheme and the scheme manager for the scheme is not known when the notice is given, the notice may also state the recycled water provider or other entity may give the regulator advice about who the provider or entity considers should be the scheme manager for the scheme.
  - (5) An entity that is not a recycled water provider may be stated to be part of a multiple-entity recycled water scheme only if the entity owns infrastructure for the supply of recycled water.

### **304 Notice of declaration**

- (1) If the regulator decides to declare a recycled water scheme to be a critical recycled water scheme, the regulator must give notice of the declaration to—
  - (a) if the scheme is a single-entity recycled water scheme—the recycled water provider for the scheme; or
  - (b) if the scheme is a multiple-entity recycled water scheme—
    - (i) each recycled water provider and other entity declared to be part of the scheme; and
    - (ii) if known, the scheme manager for the scheme.
- (2) The notice must—
  - (a) describe the recycled water scheme; and
  - (b) state the infrastructure and any proposed infrastructure that is or will be part of the scheme; and
  - (c) state the reasons that the regulator made the declaration; and
  - (d) for a declaration for a multiple-entity recycled water scheme—if known, state the entity that is the scheme manager for the scheme and each recycled water

provider and other entity declared to be part of the scheme; and

- (e) state each recycled water provider and other entity declared to be part of the scheme must have a scheme provider plan for the scheme.

### **305 When declaration has effect**

The declaration has effect on the day the regulator gives notice of the declaration under section 304.

### **306 Review of declaration on request**

- (1) The relevant entity for a critical recycled water scheme may, at any time after 1 year after the declaration of the scheme to be a critical recycled water scheme takes effect, ask the regulator to review the making of the declaration if the relevant entity considers the scheme should not be a critical recycled water scheme.
- (2) The request must—
  - (a) be in writing; and
  - (b) be given to the regulator; and
  - (c) state the reasons that the relevant entity considers the scheme should not be a critical recycled water scheme.
- (3) If the regulator is asked to review a declaration under this section, the regulator must review the declaration.
- (4) In reviewing the declaration, the regulator may have regard to—
  - (a) the reasons that the regulator made the declaration; and
  - (b) the stated reasons mentioned in subsection (2)(c); and
  - (c) the matters mentioned in section 301; and
  - (d) any other information the regulator considers relevant.
- (5) If, after reviewing the declaration, the regulator decides the recycled water scheme to which the declaration relates should

continue to be a critical recycled water scheme, the regulator must give the relevant entity for the scheme an information notice for the decision.

- (6) If, after reviewing the declaration, the regulator decides the recycled water scheme to which the declaration relates should not continue to be a critical recycled water scheme, the regulator must give the relevant entity for the scheme notice of the decision.
- (7) If the regulator gives a relevant entity a notice under subsection (6), the recycled water scheme to which the notice relates stops being a critical recycled water scheme on the day the notice is given.
- (8) If a declaration for a critical recycled water scheme is reviewed under this section (the *previous review*), the relevant entity for the scheme can not ask for another review of the declaration under subsection (1) until at least 1 year after the previous review has ended.

### **307 Requirement to advise regulator about scheme manager**

- (1) This section applies if the scheme manager for a multiple-entity recycled water scheme is not known when the scheme is declared to be a critical recycled water scheme.
- (2) The recycled water providers and other entities declared to be part of the scheme must, as soon as practicable after the declaration is made, give the regulator notice of who is the scheme manager.

### **308 Sections 308–314 not used**

See editor's note for section 1.



- (ii) the dispute is likely to adversely affect public health or the continuity of operation of the scheme unless it is resolved.

### **317 Dispute resolution process**

- (1) To resolve the dispute, the parties to the dispute must follow the process for resolving the dispute prescribed under a regulation.
- (2) A regulation for subsection (1) may provide for the following matters—
  - (a) whether the dispute must be dealt with under mediation or arbitration;
  - (b) the appointment of a mediator or arbitrator to resolve the dispute;
  - (c) the mediation or arbitration process required to be followed to resolve the dispute, including, for example, requirements about—
    - (i) giving documents or other information to the mediator or arbitrator; and
    - (ii) paying the costs of the mediation or arbitration.
- (3) Subsection (2) does not limit the matters for which the regulation may provide.
- (4) If a contract between 2 or more parties to the dispute is inconsistent with a regulation under subsection (1), the regulation prevails to the extent of the inconsistency.

## **Part 10 Miscellaneous**

### **330 Notice to sewerage service provider**

- (1) This section applies if the regulator considers the discharge of trade waste or seepage water into the sewerage infrastructure of a sewerage service provider is likely to adversely affect the

quality of recycled water supplied, or proposed to be supplied, under a recycled water scheme.

- (2) The regulator may give the sewerage service provider a notice (a *regulator notice*) about the discharge of trade waste or seepage water into the sewerage infrastructure.
- (3) The notice may—
  - (a) prohibit the sewerage service provider from giving a trade waste approval or seepage water approval; or
  - (b) state the conditions the sewerage service provider must impose on a trade waste approval or seepage water approval.
- (4) Without limiting subsection (3)(b), the conditions may be about 1 or more of the following—
  - (a) the maximum daily quantity of trade waste or seepage water that may be discharged;
  - (b) the maximum permissible rate of the discharge;
  - (c) the permissible limits for the quality of the trade waste or seepage water;
  - (d) whether the waste or seepage water must be treated before being discharged.
- (5) The sewerage service provider must comply with the notice.  
Maximum penalty—1,665 penalty units.

### **331 Report about compliance with notice**

- (1) The regulator may, by notice given to a sewerage service provider, require the provider to give the regulator a report about the actions taken by the provider to comply with a regulator notice.
- (2) The sewerage service provider must give the report mentioned in subsection (1) to the regulator within the reasonable period stated in the notice given under subsection (1), and must include in the report the information reasonably required by the regulator.

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Maximum penalty—1,000 penalty units.

**332 Particular requirement about production or supply of recycled water**

A recycled water provider must ensure that there are persons engaged in the production or supply of recycled water by the provider who have the qualifications or experience prescribed under a regulation for section 586(2)(d)(ii).

Maximum penalty—1,665 penalty units.

**333 Requirement for certain entities to give information to scheme manager**

- (1) This section applies for a multiple-entity recycled water scheme.
- (2) The scheme manager may, by notice, require a recycled water provider or other declared entity for the scheme to give the scheme manager, within a stated reasonable period, information the scheme manager reasonably requires to comply with the scheme manager's obligations under this Act.
- (3) When making the requirement, the scheme manager must warn the recycled water provider or other declared entity it is an offence to fail to comply with the requirement unless the provider or entity has a reasonable excuse.
- (4) The recycled water provider, or the other declared entity, must comply with the requirement unless the provider or entity has a reasonable excuse.

Maximum penalty—200 penalty units.

- (5) If the recycled water provider, or the other declared entity, is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information might tend to incriminate the provider or entity.

**334 Sections 334–339 not used**

See editor's note for section 1.

## Chapter 4      Referable dams and flood and drought mitigation

### Part 1              Referable dams

#### Division 1          Preliminary

#### 340      Ch 4 does not apply to particular dams

This chapter does not apply to—

- (a) a hazardous waste dam; or
- (b) a weir that does not have a variable flow control structure on the crest of the weir.

#### 341      What is a *referable dam*

- (1) A dam is, or a proposed dam after its construction will be, a *referable dam* if—
  - (a) a failure impact assessment of the dam, or the proposed dam, is carried out under this part; and
  - (b) the assessment states the dam has, or the proposed dam after its construction will have, a category 1 or category 2 failure impact rating; and
  - (c) the chief executive has, under section 349, accepted the assessment.
- (2) Also, a dam is a *referable dam* if—
  - (a) under section 342B, the dam becomes a referable dam; and
  - (b) the chief executive has not, under section 349, accepted a failure impact assessment of the dam.
- (3) The following are not referable dams—
  - (a) a hazardous waste dam;



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- (b) a weir, unless the weir has a variable flow control structure on the crest of the weir.

*Note—*

For particular dams that are taken to be referable dams under this section, see section 611.

### **342 What is *failure impact assessment***

- (1) A *failure impact assessment* is an assessment certified under this part about the safety of a dam, or a proposed dam—
- (a) by a registered professional engineer who is not, for the dam, or the proposed dam—
- (i) the owner; or
  - (ii) an employee of the owner; or
  - (iii) the operator; or
  - (iv) an employee of the operator; and
- (b) in accordance with the guidelines, made by the chief executive, for failure impact assessment of water dams (the *failure impact assessment guidelines*).
- (2) The certification must include the engineer's name and registration details.

## **Division 1A Referable dam notices**

### **342A Chief executive may give referable dam notice to particular dam owners**

- (1) This section applies if the chief executive reasonably believes a dam would, if it were failure impact assessed, have a category 1 or category 2 failure impact rating.
- (2) The chief executive may give the owner of the dam a notice (a *referable dam notice*) stating—
- (a) the failure impact rating the chief executive believes the dam would have if it were failure impact assessed; and

[s 342B]

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- (b) the reasons for the belief; and
  - (c) that the dam will be a referable dam with the stated failure impact rating on and from a stated day (the *effective day*), unless the owner gives the chief executive a failure impact assessment for the dam; and
  - (d) that if a failure impact assessment for the dam is not given to the chief executive before the effective day, the owner must have the dam failure impact assessed within a stated period of at least 5 years after the effective day; and
  - (e) any safety conditions the chief executive proposes to apply to the dam under division 3.
- (3) The effective day must be at least 60 business days after the notice is given.
  - (4) The referable dam notice must include or be accompanied by an information notice for the decision to give the notice.
  - (5) This section does not apply to a dam that must be failure impact assessed under section 343.

**342B Effect of referable dam notice if dam is not failure impact assessed**

- (1) This section applies if the owner of a dam is given a referable dam notice and, before the effective day for the notice, does not give the chief executive a failure impact assessment for the dam.
- (2) The dam becomes a referable dam with the failure impact rating stated in the notice on the effective day.

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## Division 2                      Failure impact assessing dams

### 343      When dam must be failure impact assessed

- (1) A person who proposes to construct a dam must have the dam failure impact assessed if the dam, after its construction, will be—
- (a) more than 10m in height and have a storage capacity of more than 1,500ML; or
  - (b) more than 10m in height and have a storage capacity of more than 750ML and a catchment area that is more than 3 times its maximum surface area at full supply level.

Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

- (2) The owner of a dam that is not a referable dam must have the dam failure impact assessed if, because of any works proposed to be carried out in relation to the dam, the dam will meet the criteria stated in subsection (1)(a) or (b) after the works are carried out.

Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

- (3) The owner of a dam that is not a referable dam but meets the criteria stated in subsection (1)(a) or (b) must have the dam failure impact assessed if, because of any works proposed to be carried out in relation to the dam, the storage capacity of the dam will increase by more than 10% after the works are carried out.

Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

[s 344]

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- (4) The owner of a dam that is a referable dam must have the dam failure impact assessed if, because of any works proposed to be carried out in relation to the dam, the storage capacity of the dam will increase by more than 10% after the works are carried out.

Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

- (5) Also, the chief executive may give the owner of any existing dam or any dam being constructed (whether or not the dam meets or will meet the criteria stated in subsection (1)(a) or (b)) a notice to have the dam failure impact assessed.
- (6) The chief executive may give the notice only if the chief executive reasonably believes the dam, or the dam after its construction, would have a category 1 or category 2 failure impact rating.
- (7) In this section—

*height*, for a dam, means the measurement of the difference in level between the natural bed of the watercourse at the downstream toe of the barrier or, if the barrier is not across a watercourse, between the lowest elevation of the outside limit of the barrier of the dam and the top of the barrier.

*top of the barrier*, of a dam, means the level of the top of the barrier of the dam exclusive of any parapet or ancillary structure or, if the barrier includes a spillway, the level of the top of the abutment walls adjoining the spillway of the dam exclusive of any parapet or ancillary structure.

### **344 Requirements for giving failure impact assessment to chief executive**

- (1) A person required under section 343(1), (2), (3) or (4) to have a dam failure impact assessed must ensure the assessment is completed, and accepted by the chief executive under section 349, before construction of the dam or the carrying out of the works begins.

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Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

- (2) A person required under section 343(5) to have a dam failure impact assessed must ensure the assessment is completed and given to the chief executive within the reasonable period stated in the notice.

Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

- (3) A failure impact assessment given to the chief executive under this part must be accompanied by the prescribed fee.

### **345 Obligation to complete later failure impact assessment**

- (1) This section applies if—
- (a) the owner of a dam is given a referable dam notice for the dam and, before the effective day for the notice, the owner does not give the chief executive a failure impact assessment for the dam; or
  - (b) a dam has been failure impact assessed under this part, including under subsection (2).
- (2) The owner must—
- (a) if subsection (1)(a) applies—ensure a failure impact assessment of the dam is completed and given to the chief executive within the period stated in the referable dam notice under section 342A(2)(d); or
  - (b) otherwise—ensure another failure impact assessment of the dam is completed and given to the chief executive within the period stated in the notice given to the owner under section 350.

Maximum penalty—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

### **346 Failure impact ratings for dams**

- (1) A dam has, or a proposed dam after its construction will have, a category 1 failure impact rating if—
  - (a) a failure impact assessment for the dam states that the population at risk is 2 or more persons but not more than 100 persons; and
  - (b) the chief executive, under section 349, accepts the failure impact assessment.
- (2) A dam has, or a proposed dam after its construction will have, a category 2 failure impact rating if—
  - (a) a failure impact assessment for the dam states that the population at risk is more than 100 persons; and
  - (b) the chief executive, under section 349, accepts the failure impact assessment.
- (3) In this section—

***population at risk***—

  - (a) means the number of persons, worked out under the failure impact assessment guidelines, whose safety will be at risk if the dam or the proposed dam after its construction fails; but
  - (b) does not include—
    - (i) a resident on the parcel of land on which the dam is situated; or
    - (ii) if the dam is situated at a workplace under the *Work Health and Safety Act 2011*— a person at the workplace; or
    - (iii) if the dam is situated at a place that is a mine under the *Mining and Quarrying Safety and Health Act 1999* or coal mine under the *Coal Mining Safety and Health Act 1999*—a person at the mine or coal mine.

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### **347 Offences about failure impact assessments**

- (1) A person must not certify a failure impact assessment containing information the person knows is false or misleading.

Maximum penalty—1,665 penalty units.

- (2) A person must not give another person who is certifying a failure impact assessment information the person knows—
- (a) the other person will rely on when certifying the failure impact assessment; and
  - (b) is false or misleading.

Maximum penalty—1,665 penalty units.

- (3) It is enough for a complaint for an offence against subsection (1) or (2) to state the assessment or information given to the person certifying the assessment was false or misleading to the person's knowledge, without specifying whether it was false or whether it was misleading.

### **348 Cost of failure impact assessment**

- (1) For a failure impact assessment required under section 343(1), (2), (3) or (4), the owner of the dam must pay the cost of preparing and certifying the failure impact assessment.
- (2) For a failure impact assessment required under section 343(5) or carried out by an owner of a dam for which a referable dam notice is given—
- (a) the chief executive must pay the reasonable cost of preparing and certifying the assessment if—
    - (i) the chief executive accepts the assessment; and
    - (ii) the dam, or the proposed dam, is assessed as having neither a category 1 nor a category 2 failure impact rating; and
    - (iii) for a failure impact assessment required under section 343(5)—the dam, or the proposed dam,

does not meet the criteria stated in section 343(1)(a) or (b); or

- (b) otherwise, the owner of the dam must pay the cost of preparing and certifying the assessment.
- (3) For subsections (1) and (2), the cost of preparing and certifying the assessment includes the cost of any review of the assessment under section 351.

### **349 Decision about failure impact assessment**

- (1) The chief executive may decide to accept, reject or require a review of a failure impact assessment.
- (2) However, before requiring a review of, or rejecting, the assessment, the chief executive may require the owner to give additional information about the assessment to assist the chief executive in deciding if the review or rejection is necessary.
- (3) Without limiting subsection (2), the chief executive may require the preparation of documents including a comprehensive report, by a registered professional engineer, on the design and operation of the dam.

### **350 Notice accepting failure impact assessment**

- (1) If the chief executive accepts a failure impact assessment, the chief executive must give notice of the acceptance to the owner of the dam within 30 business days after the acceptance.
- (2) The notice must also state the period, of at least 5 years from the day the chief executive accepted the assessment, within which the owner must ensure another failure impact assessment of the dam is completed and given to the chief executive.
- (3) However, the chief executive can not state a period for a further failure impact assessment of—



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- (a) a dam given a category 2 failure impact rating under the failure impact assessment accepted under subsection (1); or
  - (b) a dam that—
    - (i) does not meet the criteria stated in section 343(1)(a) or (b); and
    - (ii) was not given a category 1 or category 2 failure impact rating under the failure impact assessment accepted under subsection (1).
- (4) In deciding the period for subsection (2), the chief executive must have regard to—
- (a) the failure impact assessment accepted by the chief executive under subsection (1); and
  - (b) the nature and location of the dam.

### **351 Reviewing failure impact assessment**

- (1) This section applies if the chief executive is satisfied a failure impact assessment is—
  - (a) incorrect in a material particular; or
  - (b) incomplete in a material particular; or
  - (c) not completed in accordance with the failure impact assessment guidelines.
- (2) The chief executive must, within 30 business days after being satisfied under subsection (1)—
  - (a) give the owner of the dam an information notice; and
  - (b) return the assessment to the owner.
- (3) The information notice must require the owner to—
  - (a) have the assessment reviewed, corrected or completed and recertified; and
  - (b) return the recertified assessment to the chief executive for a decision under section 349 by the day stated in the notice.

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- (4) The owner must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty for subsection (4)—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

### **352 Rejecting failure impact assessment**

- (1) The chief executive may reject a failure impact assessment or a recertified assessment if the assessment or recertified assessment is incorrect or incomplete in a material particular or not completed in accordance with the failure impact assessment guidelines.
- (2) If the chief executive rejects the assessment or the recertified assessment, the chief executive must, within 30 business days after the rejection, give the owner of the dam an information notice.
- (3) If the assessment relates to an existing dam, the information notice must require the owner to—
- (a) have a new assessment completed and certified; and
  - (b) give the certified assessment to the chief executive for a decision under section 349 within the reasonable period stated in the notice.
- (4) The owner must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty for subsection (4)—1,665 penalty units.

*Note—*

This provision is an executive liability provision—see section 487.

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## Division 2A                      Emergency action planning and reporting

### Subdivision 1                  Preliminary

#### 352A Definitions for division

In this division—

*approval period* see section 352K(7).

*approved emergency action plan* means an emergency action plan that is approved under section 352I(1)(a) or taken to be an approved emergency action plan under section 352Q(2).

*chairperson* means—

- (a) for a district group—the chairperson of the group under the Disaster Management Act; or
- (b) for a local group—the chairperson of the group under the Disaster Management Act.

*dam hazard*, for a dam, means a reasonably foreseeable situation or condition that may—

- (a) cause or contribute to the failure of the dam, if the failure may cause harm to persons or property; or
- (b) require an automatic or controlled release of water from the dam, if the release of the water may cause harm to persons or property.

*dam hazard event*, for a dam, means an event arising from a dam hazard if—

- (a) persons or property may be harmed because of the event; and
- (b) a coordinated response involving 2 or more of the relevant entities mentioned in paragraphs (b) to (d) of the definition *relevant entity* is unlikely to be required to respond to the event; and
- (c) the event is not an emergency event.

***disaster district*** see the Disaster Management Act, schedule.

***disaster management plan***, of a district group or local government, means the group's or local government's disaster management plan under the Disaster Management Act.

***district group***, for an emergency action plan, means a district group established under the Disaster Management Act, section 22 whose disaster district under that Act could, under the plan, be affected by a dam hazard.

***emergency action plan*** means a plan that complies with section 352H.

***emergency event***, for a dam, means an event arising from a dam hazard if—

- (a) persons or property may be harmed because of the event; and
- (b) any of the following apply—
  - (i) a coordinated response involving 2 or more of the relevant entities mentioned in paragraphs (b) to (d) of the definition *relevant entity* is likely to be required to respond to the event;
  - (ii) the event may arise because of a disaster situation declared under the Disaster Management Act;
  - (iii) an entity performing functions under the State disaster management plan may, under that plan, require the owner of the dam to give the entity information about the event.

***emergency event interim report*** see section 352U(2)(a).

***emergency event report*** see section 352T(2).

***emergency management chief executive*** means the chief executive of the department in which the Disaster Management Act is administered.

***local disaster area***, of a local group, means the area of the local group under the Disaster Management Act.

**local group**, for an emergency action plan, means a local group established under the Disaster Management Act, section 29 whose local government area could, under the plan, be affected by a dam hazard.

**notice response** see sections 352HB(4) and 352HC(3).

**relevant entity**, for a dam, means each of the following under the emergency action plan for the dam—

- (a) the persons who may be affected, or whose property may be affected, if a dam hazard event or emergency event were to happen for the dam;

*Examples for paragraph (a)—*

- the owners of parcels of farm land adjacent to the dam
- residents of a township

- (b) each local group and district group for the emergency action plan;

- (ba) each local government whose local government area may be affected if a dam hazard event or emergency event were to happen for the dam;

- (c) the chief executive;

- (d) another entity the owner of the dam considers appropriate.

*Example for paragraph (d)—*

the Queensland Police Service

## **Subdivision 2      Requirements for emergency action plans**

### **352E Requirement for, and main purpose of, emergency action plan**

- (1) The owner of a referable dam must have an approved emergency action plan for the dam.

[s 352F]

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- (2) The main purpose of an emergency action plan for a dam is to minimise the risk of harm to persons or property if a dam hazard event or emergency event for the dam happens.

### **352F Requirement to prepare emergency action plan**

The owner of a referable dam must, unless the owner has a reasonable excuse, prepare an emergency action plan for the dam under subdivision 3 and give it to the chief executive for approval—

- (a) if construction of the dam is not finished when the chief executive accepts a failure impact assessment for the dam under section 349—
- (i) within 3 months after the construction is finished;  
or
  - (ii) if the chief executive gives the owner of the dam a notice requiring the emergency action plan before the construction is finished—within the period of at least 30 business days stated in the notice; or
- (b) if construction of the dam has finished when the chief executive accepts a failure impact assessment for the dam—within 4 months after the chief executive accepts the failure impact assessment; or
- (c) if the dam becomes a referable dam under section 342B—within 4 months after the day it becomes a referable dam.

Maximum penalty—1,665 penalty units.

*Note—*

For the obligation of the owner of an existing dam to prepare and submit an emergency action plan, see also section 645.

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## **Subdivision 3      Preparation of emergency action plans**

### **352H Requirements for plan**

- (1) The emergency action plan must—
  - (a) identify each dam hazard for the dam; and
  - (b) for each dam hazard—
    - (i) identify the area likely to be affected by a dam hazard event or emergency event arising from the dam hazard, including, for example, by attaching to the plan maps showing areas vulnerable to flooding if the event were to happen; and
    - (ii) identify each circumstance that indicates a material increase in the likelihood of the dam hazard event or emergency event happening; and  
*Examples for subparagraph (ii)—*
      - an unusual amount of seepage from the dam
      - rainfall in the catchment area of the dam
    - (iii) state when and how the owner of the dam plans to warn persons who may be harmed, or whose property may be harmed, by the dam hazard event or emergency event, if a circumstance mentioned in subparagraph (ii) arises or the dam hazard event or emergency event happens, including the order of priority in which the persons or categories of persons are to be warned; and
    - (iv) state when and how the owner plans to notify the relevant entities for the dam if a circumstance mentioned in subparagraph (ii) arises or the dam hazard event or emergency event happens, including the order of priority in which the relevant entities are to be notified; and

[s 352HA]

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- (v) state the actions the owner plans to take in response to a dam hazard event or emergency event; and
  - (c) be accompanied by each notice given by a local government or district group under section 352HB(3) or 352HC(2) for the plan, and any notice responses by the owner; and
  - (d) include any other relevant matter prescribed by regulation.
- (2) For subsection (1)(b)(iii) the emergency action plan may provide for the dam owner to make arrangements with a relevant entity for warnings to be given by the relevant entity on behalf of the dam owner in appropriate circumstances.

### **352HA Requirement to give emergency action plan to local governments and district groups**

Before giving the chief executive an emergency action plan for a dam, the owner of the dam must give a copy of the plan to—

- (a) each local government whose local government area may be affected by a dam hazard identified in the plan; and
- (b) each district group for the plan.

### **352HB Assessment by local government**

- (1) If a local government is given a copy of an emergency action plan under section 352HA(a), the local government must assess the emergency action plan for consistency with its disaster management plan.
- (2) In assessing the emergency action plan, the local government must consult with its local group for the plan.
- (3) The local government must, within 30 business days after receiving the emergency action plan, give the owner of the dam a notice stating—



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- (a) whether the local government considers the plan is consistent with its disaster management plan; and
  - (b) if it considers the plan is not consistent with its disaster management plan, the reasons why it considers the plan is not consistent.
- (4) The owner of the dam may prepare a written response to the notice (a *notice response*) and attach it to the notice.

### **352HC Review by district group**

- (1) If a district group is given a copy of an emergency action plan under section 352HA(b), the chairperson of the group may review the plan for consistency with the group's disaster management plan.
- (2) The chairperson may, within 30 business days after receiving the emergency action plan, give the owner of the dam a notice stating—
  - (a) whether the group considers the plan is consistent with the group's disaster management plan; and
  - (b) if the group considers the plan is not consistent with its disaster management plan, the reasons why it considers the plan is not consistent.
- (3) If the chairperson gives a notice under subsection (2), the owner of the dam may prepare a written response to the notice (a *notice response*) and attach it to the notice.

## **Subdivision 4 Approving emergency action plans**

### **352I Chief executive to consider plan**

- (1) The chief executive must consider an emergency action plan given to the chief executive for approval and, within 30 business days after receiving the plan, decide to—
  - (a) approve it; or
  - (b) refuse to approve it.

[s 352J]

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- (2) In considering the emergency action plan, the chief executive must have regard to—
  - (a) each notice given by a local government under section 352HB(3) for the plan; and
  - (b) each notice given by the chairperson of a district group under section 352HC(2) for the plan; and
  - (c) any notice responses prepared by the owner of the dam; and
  - (d) any disaster management standards under the Disaster Management Act.
- (3) For deciding whether to approve or refuse to approve the emergency action plan, the chief executive may get advice from—
  - (a) the emergency management chief executive; or
  - (b) an advisory council.

### **352J Criteria for approving plan**

The chief executive may approve the emergency action plan only if satisfied it—

- (a) complies with section 352H; and
- (b) effectively deals with each dam hazard for the dam.

### **352K Approval of plan**

- (1) If the chief executive approves the emergency action plan, the chief executive must—
  - (a) give notice of the approval to the owner of the dam; and
  - (b) give a copy of the approved plan to the emergency management chief executive; and
  - (c) publish the approved plan in the register of approved emergency action plans under section 352M.

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- (2) The approval must be for a period of no more than 5 years stated in the approved plan.
  - (3) Subsection (4) applies if, within 30 business days after the emergency action plan is given to the chief executive for approval under section 352F or 352S, the chief executive has not decided to approve, or refuse to approve, the plan.
  - (4) The chief executive is taken to have approved the plan on the day that is 30 business days after the plan was given to the chief executive (the *deemed approval day*).
  - (5) If subsection (4) applies to an emergency action plan—
    - (a) the approval is—
      - (i) for 2 years after the deemed approval day; or
      - (ii) if the chief executive gives the dam owner notice of a longer period—the longer period; and
    - (b) the chief executive must comply with subsection (1) in relation to the plan as soon as practicable after the deemed approval day.
  - (6) For subsection (5)(a)(ii)—
    - (a) the notice must be given within 2 years after the deemed approval day; and
    - (b) the longer period must not be more than 5 years after the deemed approval day.
  - (7) The period mentioned in subsection (2) or (5)(a) for an emergency action plan is the *approval period* for the approved plan.

### **352L Refusal to approve plan**

- (1) If the chief executive decides to refuse to approve the emergency action plan, the chief executive must give the owner of the dam—
  - (a) an information notice about the decision; and
  - (b) a notice directing the owner of the dam to prepare a new emergency action plan under subdivision 3 and give it to

the chief executive within a stated period of at least 30 business days.

- (2) The owner of the dam must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty—500 penalty units.

## **Subdivision 5      Keeping and publishing emergency action plans**

### **352M Register of approved emergency action plans**

- (1) The chief executive must keep a register of approved emergency action plans.
- (2) The register may be kept in the form, including electronic form, the chief executive considers appropriate.
- (3) The chief executive must make information in the register available to the public on a Queensland Government website.
- (4) However, the publicly available part of the register must not include the name, address and contact details of an individual.

### **352N Dam owner must ensure particular individuals have access to plan**

The owner of a referable dam must—

- (a) keep a copy of the approved emergency action plan for the dam; and
- (b) make it available to an individual—
  - (i) who has a function under the plan; or
  - (ii) who, under the plan, is named and required to be personally notified of a dam hazard event or emergency event.

Maximum penalty—500 penalty units.

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## Subdivision 6      Reviewing emergency action plans

### 352O    Review by chief executive and direction to prepare and submit new plan

- (1) This section applies if the chief executive, at any time, considers an approved emergency action plan for a dam no longer deals effectively with a dam hazard the chief executive reasonably considers has the potential to affect the safe operation of the dam.

*Examples—*

- 1 An emergency event report recommends a change to the plan.
  - 2 The chairperson of a local group or district group for the plan advises that the plan is not consistent with the disaster management plan for the group.
- (2) The chief executive must give the owner of the dam a notice stating—
- (a) the chief executive considers the approved emergency action plan no longer effectively deals with the dam hazard; and
  - (b) the reasons the chief executive considers the plan no longer effectively deals with the dam hazard; and
  - (c) the owner of the dam must—
    - (i) prepare a new emergency action plan, under subdivision 3, that effectively deals with the dam hazard; and
    - (ii) give it to the chief executive within a stated period of at least 30 business days.
- (3) The owner of the dam must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty—500 penalty units.

### **352P Review by dam owner**

- (1) The owner of a referable dam must, before the review day each year—
  - (a) review the approved emergency action plan for the dam; and
  - (b) give the chief executive—
    - (i) a notice stating whether or not the owner proposes an amendment of the plan because of the review; and
    - (ii) if the owner proposes an amendment—a copy of the plan including the proposed amendment.

Maximum penalty—500 penalty units.

- (2) For subsection (1), the review day is—
  - (a) if, before 1 October in a year, the chief executive gives the owner written notice stating a day, not earlier than 30 business days after the notice is given, for compliance with subsection (1) in the year—the day stated in the notice; or
  - (b) otherwise—1 October.
- (3) However, a notice may not be given under subsection (2)(a) later than 30 business days before 1 October in the year.

## **Subdivision 7 Amending emergency action plans**

### **352Q Amending plan by agreement**

- (1) The owner of a referable dam may ask the chief executive to amend the approved emergency action plan for the dam to—
  - (a) correct a minor error; or
  - (b) make another change that is not a change of substance.
- (1A) Without limiting subsection (1)(b), the owner may, within 10 business days after a change in ownership of the dam, ask the

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chief executive to amend the approved emergency action plan to—

- (a) record the change in ownership of the dam; and
  - (b) make other changes to the plan required because of the change in ownership.
- (2) The request must be in writing and accompanied by a copy of the plan showing the proposed amendment.
- (3) The chief executive may—
- (a) decide to approve or refuse the amendment; and
  - (b) give the owner notice of the decision.
- (4) If, within 10 business days after the request is made, the chief executive has not decided to approve or refuse to approve the amendment, the chief executive is taken to have approved the amendment.
- (5) If the amendment is approved under this section, the plan as amended is taken to be the approved emergency action plan.

### **352R Substantive amendment of plan**

- (1) This section applies if—
- (a) the owner of a referable dam—
    - (i) proposes an amendment of the emergency action plan for the dam; and
    - (ii) gives the chief executive a copy of the plan including the proposed amendment; and
  - (b) the chief executive considers the proposed amendment is a change of substance.
- (2) The chief executive must give the owner of the dam a notice stating—
- (a) the chief executive considers the proposed amendment is a change of substance; and
  - (b) the reasons the chief executive considers the proposed amendment is a change of substance; and

- (c) that, if the owner proposes to include the amendment in the emergency action plan, the owner must prepare a new emergency action plan including the amendment under subdivision 3 and give it to the chief executive.

## **Subdivision 8      Renewing emergency action plans**

### **352S    Renewal of plan**

- (1) This section applies if an approved emergency action plan for a referable dam is in force.
- (2) The owner of the dam must, unless the owner has a reasonable excuse, at least 2 months before the end of the approval period for the plan—
  - (a) prepare a new emergency action plan for the dam under subdivision 3; and
  - (b) give it to the chief executive for approval.Maximum penalty—500 penalty units.
- (3) The chief executive must decide to approve or refuse to approve the new emergency action plan under subdivision 4.

## **Subdivision 9      Emergency event reporting**

### **352T    Preparation and submission of emergency event report**

- (1) This section applies to the owner of a referable dam if an emergency event relating to the dam happens.
- (1A) For subsection (1), an emergency event relating to the dam happens if—
  - (a) a person or property has been or may be harmed because of the event; and
  - (b) any of the following applies—



- 
- (i) a coordinated response involving 2 or more of the relevant entities mentioned in paragraphs (b) to (d) of the definition *relevant entity* was required to respond to the event;
    - (ii) the event arose because of a disaster situation declared under the Disaster Management Act;
    - (iii) an entity performing functions under the State disaster management plan has, under that plan, required the owner of the dam to give the entity information about the event.
  - (2) The owner of the dam must, unless the owner has a reasonable excuse, prepare a report (an ***emergency event report***) under this subdivision and give it to the chief executive within—
    - (a) 30 business days after the end of the emergency event; or
    - (b) if a further period is agreed in writing by the chief executive and the owner of the dam—the further period.

Maximum penalty—1,665 penalty units.

*Note—*

For the obligation of the owner of an existing dam to prepare and submit an emergency event report, see also section 646.

- (3) In this section—

***end***, of an emergency event, means when the dam hazard giving rise to the event is no longer a material risk to persons or property.

### **352U Preparation and submission of emergency event interim report**

- (1) This section applies if—
  - (a) an emergency event relating to a referable dam happens; and
  - (b) the chief executive considers the emergency event is likely to continue for at least 1 month.

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- (1A) For subsection (1)(a), an emergency event relating to the referable dam happens if—
- (a) a person or property has been or may be harmed because of the event; and
  - (b) any of the following applies—
    - (i) a coordinated response involving 2 or more of the relevant entities mentioned in paragraphs (b) to (d) of the definition *relevant entity* was required to respond to the event;
    - (ii) the event arose because of a disaster situation declared under the Disaster Management Act;
    - (iii) an entity performing functions under the State disaster management plan has, under that plan, required the owner of the dam to give the entity information about the event.
- (2) The chief executive may give the owner of the dam a notice requiring the owner to—
- (a) prepare a report (an *emergency event interim report*) under this subdivision; and
  - (b) give it to the chief executive within 10 business days after receiving the notice.
- (3) If the chief executive gives the owner of the dam a notice under subsection (2), the owner must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty—1,665 penalty units.

### **352V Content of report**

- (1) An emergency event report or emergency event interim report for a referable dam must—
- (a) describe the emergency event to which the report relates; and

- 
- (b) describe the implementation of the approved emergency action plan for the dam in relation to the emergency event, including relevant details of—
- (i) communications made and actions taken in response to the emergency event; and
  - (ii) monitoring of the dam and the area affected or potentially affected by the emergency event; and
- (c) describe any damage to the dam, including by reference to photographs of the damage; and
- (d) state whether and to what extent any damage to the dam has been caused or contributed to by the emergency event; and
- (e) include an assessment of whether and to what extent the approved emergency action plan effectively dealt with the emergency event; and
- (f) recommend any changes to the approved emergency action plan that would allow the plan to deal with a similar emergency event more effectively; and
- (g) include details of any other matter that is relevant to the emergency event or how it was dealt with under the emergency action plan; and
- (h) include any other relevant matter prescribed under a regulation.
- (2) Subsection (1) does not prevent an emergency event report or emergency event interim report from dealing with 2 or more emergency events if—
- (a) the emergency events are related; and  
*Examples of related emergency events—*
    - an emergency event that has been caused or contributed to by another emergency event
    - 2 emergency events that happen at the same time
  - (b) the chief executive has agreed to the report dealing with the emergency events.

## **Division 3                      Safety conditions for existing referable dams**

### **353      Applying safety conditions for existing referable dams**

- (1) The chief executive may apply safety conditions to a referable dam.
- (2) For assessing the safety conditions that are to apply, the chief executive may give the owner of the dam a notice requesting the owner give the chief executive, within the reasonable period stated in the notice—
  - (a) information that will assist the chief executive in deciding the conditions to be applied; and
  - (b) the fee prescribed under a regulation.
- (3) The owner must comply with the notice unless the owner has a reasonable excuse.  
Maximum penalty—200 penalty units.
- (4) Without limiting subsection (2), the notice may require the preparation of documents including a comprehensive report, by a registered professional engineer, on the design and operation of the dam.

### **354      Deciding safety conditions**

- (1) When the chief executive has received the information requested in a notice under section 353(2), the chief executive must assess the information and decide the safety conditions for the dam.
- (2) In deciding the safety conditions for the dam, the chief executive must have regard to the guidelines, if any, made by the chief executive for applying safety conditions to a referable dam.
- (3) The chief executive must decide the safety conditions for the dam—

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- (a) within 40 business days after the chief executive receives the information requested; or
  - (b) if the owner of the dam, by written agreement, extends the period—within the extended period.
- (4) The safety conditions must be relevant to, but not an unreasonable imposition on, the dam or be reasonably required for the dam.

### **355 Process after deciding safety conditions**

- (1) When the chief executive has decided the safety conditions for a dam, the chief executive must—
  - (a) give the owner of the dam an information notice about the safety conditions; and
  - (b) give the local government for the area a copy of the safety conditions.
- (2) If a development permit has been given, or is taken to have been given, for the construction of the dam, the safety conditions are taken to be conditions attaching to the permit.
- (3) If a development permit has not been given for the construction of the dam—
  - (a) the chief executive's decision is taken to be a development permit given for the construction of the dam; and
  - (b) the safety conditions are taken to be conditions attaching to the permit.
- (4) An information notice about the safety conditions need not include reasons for each safety condition.

### **356 Changing conditions**

- (1) This section applies for a referable dam if the chief executive is satisfied either or both of the following should be changed—
  - (a) safety conditions;

- (b) development conditions.
- (2) The chief executive may change the conditions.
- (3) In deciding what the conditions should be, the chief executive may give the owner of the dam a notice requesting the owner give the chief executive, within the reasonable period stated in the notice—
  - (a) information that will help the chief executive to decide the conditions to be applied; and
  - (b) the fee prescribed under a regulation.
- (4) The owner must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty—200 penalty units.
- (5) Without limiting subsection (3), the notice may require the preparation of documents including a comprehensive report, by a registered professional engineer, on the design and operation of the dam.
- (6) In changing the conditions, the chief executive must have regard to the guidelines, if any, made by the chief executive for applying safety conditions to a referable dam.
- (7) If the chief executive changes the conditions, the chief executive must—
  - (a) give the owner of the dam an information notice about the changed safety conditions; and
  - (b) give the local government for the area a copy of the changed safety conditions.
- (8) The change has effect from the day the notice is given.
- (9) The chief executive's power to change the conditions includes the power to add conditions.
- (10) The changed safety conditions are taken to be conditions attaching to the development permit mentioned in section 355(2) or (3).

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### **356A Compliance with safety or development condition**

The owner of a referable dam to which a safety condition or other development condition applies must not contravene the condition.

Maximum penalty—4,500 penalty units.

### **357 Reassessing dams**

If a failure impact assessment for a referable dam, accepted by the chief executive, assesses the dam as not having a category 1 or category 2 failure impact rating, any existing safety conditions for the dam no longer apply to the dam.

### **357A Chief executive may engage person to provide information**

- (1) This section applies if the chief executive believes a person has not complied with a notice given to the person under section 353(2) or 356(3) requiring information about a dam, including, for example, a comprehensive report by a registered professional engineer on the design and operation of the dam.
- (2) The chief executive may engage a person with suitable qualifications, experience or expertise to investigate the dam and give the chief executive the information requested.
- (3) If the chief executive incurs expense in engaging the person under subsection (2), 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 engaging the person under subsection (2) may be recovered by the chief executive as a debt.
- (5) A debt under subsection (4) bears interest at the rate stated in a regulation.

## **Division 4            Emergency powers**

### **Subdivision 1        Preliminary**

#### **358    Application of div 4**

This division applies if the chief executive is satisfied, or reasonably believes—

- (a) there is danger of the failure of—
  - (i) a referable dam; or
  - (ii) another dam (whether or not a failure impact assessment has been carried out for the dam), if the chief executive reasonably believes the dam would have a category 1 or category 2 failure impact rating if an assessment or another assessment were carried out for the dam; and
- (b) action is necessary to prevent the failure or minimise its impact.

### **Subdivision 2        Chief executive may give direction                               or take action about failure of dam**

#### **359    Direction to owner of emergency part of land**

- (1) The chief executive may, by notice, direct the owner of land on which the part of the dam where the action is necessary is situated (the *emergency part*), or the operator of the dam, to take stated reasonable action within a stated reasonable period.
- (2) The notice—
  - (a) is taken to be a compliance notice; and
  - (b) if the emergency part is land other than land mentioned in paragraph (c)—attaches to the land and binds the



owner of the land and the owner's successors in title;  
and

- (c) if the emergency part is land leased from the State under the *Land Act 1994*—is taken to be a remedial action notice under the *Land Act 1994*, other than for the purposes of a review of, or an appeal against, the decision to give the notice.

*Note—*

See chapter 7 (Review, appeals and arbitration).

- (3) The person to whom the notice is given, and any person bound by the notice under subsection (2)(b), must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—1,665 penalty units.

- (4) Subsection (3) does not apply if the person to whom the notice is given—
  - (a) gives the chief executive notice that the person intends to remove the dam; and
  - (b) complies with the intention in accordance with any direction given by the chief executive.

### **359A Taking immediate action about failure of dam**

- (1) This section applies if the chief executive is satisfied or reasonably believes—
  - (a) there is danger of the failure of a dam; and
  - (b) the failure is likely to pose a risk to safety or health of the public or an individual; and
  - (c) immediate action is necessary to prevent or minimise the impact of the failure.
- (2) The chief executive may take reasonable steps or authorise an authorised officer to take reasonable steps to prevent or minimise the impact of the failure.
- (3) Subsection (2) applies even if the chief executive has given a notice under section 359 about the failure.

- (4) If the chief executive decides to take the reasonable steps, or authorise an authorised officer to take the reasonable steps, the chief executive or officer may—
  - (a) without a warrant, enter any place, other than premises or a part of premises where a person resides, to take the steps; and
  - (b) in taking the steps, exercise any powers of an authorised officer under chapter 5, part 2, 3 or 4.
- (5) Before entering the place—
  - (a) the chief executive must do or make a reasonable attempt to—
    - (i) tell the occupier of the place the chief executive is permitted under this Act to enter the place; and
    - (ii) give the occupier an opportunity to allow the chief executive immediate entry to the place without using force; or
  - (b) the authorised officer must do or make a reasonable attempt to—
    - (i) comply with section 405(1); and
    - (ii) tell the occupier of the place the officer is permitted under this Act to enter the place; and
    - (iii) give the occupier an opportunity to allow the officer immediate entry to the place without using force.
- (6) The chief executive or authorised officer may exercise the powers mentioned in subsection (4) at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.
- (7) In exercising or attempting to exercise the powers relating to a place, the chief executive or authorised officer must take all reasonable steps to ensure the chief executive or officer causes as little inconvenience to any person at the place, and does as little damage, as is practicable in the circumstances.

- (8) Any reasonable expenses incurred by the chief executive or an authorised officer in doing anything under subsection (4) may be recovered by the chief executive as a debt.
- (9) A debt under subsection (8) bears interest at the rate stated in a regulation.

### **Subdivision 3 Chief executive may recover expenses**

#### **360 Notice for recovering expenses**

- (1) This section applies if—
  - (a) a person to whom a notice under section 359 is given does not comply, or does not fully comply, with the notice and the chief executive incurs an expense under section 467(1) or (3) relating to the notice; or
  - (b) the chief executive or an authorised officer incurs expense in acting under section 359A.
- (2) The chief executive may give the owner of the land for which the expenses were incurred a notice stating—
  - (a) for action taken under section 467(1) or (3)—the action taken; and
  - (b) for reasonable steps taken under section 359A—the steps taken; and
  - (c) the amount of the expense incurred (the *relevant debt*).
- (3) A notice under subsection (2) is a *debt notice*.

#### **361 Notice in relation to land other than leased State land**

- (1) If the chief executive gives a debt notice in relation to land that is not leased from the State under the *Land Act 1994*—
  - (a) the relevant debt becomes a charge on the land; and
  - (b) the chief executive must lodge in the land registry—

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- (i) a request in the appropriate form to register the charge as an encumbrance over the land; and
    - (ii) a certificate signed by the chief executive stating the relevant debt is a charge over the land under this division; and
    - (iii) a copy of the debt notice; and
  - (c) the charge is in addition to any other remedy the chief executive has for recovery of the relevant debt.
- (2) The chief executive must, as soon as practicable after payment of the relevant debt, lodge in the land registry—
- (a) a request in the appropriate form to release the charge; and
  - (b) a certificate stating that the relevant debt has been paid.
- (3) The chief executive may at any time lodge in the land registry—
- (a) a request to vary or release the charge; and
  - (b) for a request to vary a charge—a certificate stating the type of variation requested.

### **362 Notice in relation to leased State land**

If the chief executive gives a debt notice in relation to land leased from the State under the *Land Act 1994*—

- (a) the relevant debt is a condition of the lease from the day the notice is given; and
- (b) the chief executive must lodge in the land registry—
  - (i) a request in the appropriate form to register the details of the condition; and
  - (ii) a certificate signed by the chief executive stating the details of the relevant debt; and
  - (iii) a copy of the debt notice; and
- (c) the condition is in addition to any other remedy the chief executive has for recovery of the relevant debt; and

- (d) if the owner has possession of a tenure document for the lease—the owner must return the tenure document to the land registry.

## **Subdivision 4      Miscellaneous**

### **363      Form of notice if imminent danger of dam failure**

- (1) This section applies if the chief executive is satisfied, or reasonably believes—
  - (a) there is imminent danger of the failure of a dam; and
  - (b) immediate action is necessary to prevent or minimise the impact of the failure.
- (2) The chief executive may give a notice under section 359(1) verbally or by leaving the notice on the land.
- (3) For giving notice under subsection (2), it is sufficient to give the notice to an employee or agent of the owner or operator.

## **Division 5              General matters**

### **364      Liability for loss or damage caused by failure of dam**

Nothing in this chapter affects the liability of a dam owner or operator for any loss or damage caused by the failure of a dam or the escape of water from the dam.

### **365      Cancellation of development permit for decommissioned dam**

- (1) This section applies if a dam is—
  - (a) decommissioned from use in accordance with a safety condition applying to the dam; or
  - (b) decommissioned from use or removed in compliance with a notice under section 359(1); or

- (c) removed under section 359(4); or
  - (d) decommissioned from use or removed because of steps taken to prevent or minimise the impact of the failure of the dam under section 359A.
- (2) For this Act and the Planning Act, the development permit for the dam is taken to be cancelled and of no effect on and from the day the dam is decommissioned from use or removed.
- (3) The chief executive must, as soon as practicable after the dam is decommissioned from use or removed, give the local government for the area in which the dam is located notice of the decommissioning or removal.

### **366 Changes in dam ownership**

- (1) This section applies if there is a change in ownership of—
- (a) a referable dam; or
  - (b) a dam that has been failure impact assessed under this part and of which a further failure impact assessment is required to be completed under section 345(2)(b).
- (2) The former owner of the dam must, within 10 business days after the change in ownership of the dam, give the chief executive notice of the change.

*Note—*

Under chapter 5, part 8, division 2, the chief executive, regulator or an authorised officer may give a person a compliance notice if the chief executive, regulator or authorised officer reasonably believes the person is contravening a provision of this Act.

- (3) The notice must state—
- (a) the name of the dam; and
  - (b) the date of the change in ownership; and
  - (c) the real property description of the land on which the dam is situated; and
  - (d) contact details for the new owner, including, for example, the new owner's name and address; and

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- (e) if the new owner is a corporation—
    - (i) the new owner’s ABN or ACN; and
    - (ii) the name of the new owner’s chief executive officer (however described).
  - (4) The former owner of the dam must ensure all relevant documentation for the dam is given to the new owner of the dam within 10 business days after the change in ownership of the dam.

*Note—*

Under chapter 5, part 8, division 2, the chief executive, regulator or an authorised officer may give a person a compliance notice if the chief executive, regulator or authorised officer reasonably believes the person is contravening a provision of this Act.

- (5) In this section—

***relevant documentation***, for a dam, means—

  - (a) documentation required for the dam under chapter 4, including, for example, documentation required for the dam under a safety condition; or
  - (b) documentation under chapter 5 that relates to the dam, including, for example, a compliance notice relating to the dam.

## **367 Sections 367–369 not used**

See editor’s note for section 1.

# **Part 2 Flood mitigation manuals and reporting**

## **Division 1 Preliminary**

### **370 Definitions for pt 2**

In this part—

*alternative procedure* see section 378(b)(ii).

*annual preparedness report* see section 375(a).

*approval period* see section 371G(2).

*approved flood mitigation manual* means a flood mitigation manual approved under section 371E(1)(a) or 372(3).

*authorisation request information* see section 379(1).

*authorised alternative procedure* see sections 380(2) and 381(3).

*existing procedure* see section 378(b)(i).

*flood event* see section 371.

*flood event interim report* see section 384(2)(a).

*flood event report* see section 383(2).

*flood mitigation manual*, for a dam, means a manual of the operational procedures for flood mitigation for the dam that complies with section 371D.

*forecast system*, for a dam, see section 371D(e).

*responsible person*, under a flood mitigation manual, see section 371D(d)(i).

### **371 What is a flood event**

A *flood event*, for a dam, is a circumstance in relation to which—

- (a) there is a reasonable likelihood that the level of the water surface of the dam may exceed its full supply level; and
- (b) if the level of the water surface were to exceed the full supply level, it would be reasonable to release the excess water only by opening the gates of the dam.



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### **371A Application of pt 2**

- (1) This part applies to a referable dam prescribed under a regulation for this section.
- (2) A referable dam may be prescribed under subsection (1) only if the Minister, having regard to the following, considers the dam requires a flood mitigation manual—
  - (a) whether the dam has significant water storage capacity exceeding the full supply level of the dam;
  - (b) whether the dam can be safely and effectively operated under a flood mitigation manual to—
    - (i) moderate the rate of outflow from the dam; and
    - (ii) avoid significant damage to property caused by outflow from the dam.

*Note—*

For the application of this section to a dam for which there is an existing flood mitigation manual, see section 649.

## **Division 2                      Preparation of flood mitigation manuals**

### **371B Requirement for approved flood mitigation manual**

The owner of a referable dam to which this part applies must have an approved flood mitigation manual for the dam.

### **371C Requirement to prepare flood mitigation manual**

The owner of the dam must prepare a flood mitigation manual for the dam under this division and give it to the Minister for approval within 6 months after the dam is prescribed under section 371A(1).

Maximum penalty—1,665 penalty units.

### 371D Content of manual

The flood mitigation manual must—

- (a) state the objectives for flood mitigation for the dam and their importance relative to each other; and
- (b) state—
  - (i) the operational strategies required to achieve the objectives for flood mitigation for the dam; and
  - (ii) how the operational strategies achieve an appropriate balance in relation to the matters mentioned in section 371F(c); and
- (c) state the operational procedures required to achieve the operational strategies for flood mitigation for the dam including—
  - (i) the operational procedures for releasing water from the dam in response to a flood event; and
  - (ii) variations to the operational procedures under subparagraph (i) to deal with urgent circumstances; and

*Example—*

operational procedures to be followed if communications among any of the responsible persons are disrupted during a flood event

  - (iii) the operational procedures for releasing water from the dam in response to the declaration of a temporary full supply level for the dam; and
- (d) state—
  - (i) the role and responsibilities of each person (a ***responsible person***) who is required to carry out operational procedures for flood mitigation under the manual; and
  - (ii) the qualifications and experience each responsible person must have; and
  - (iii) the training each responsible person must complete; and

- 
- (iv) the procedures that are required to be carried out by or for the owner of the dam to verify the qualifications, experience and training for each responsible person; and
  - (e) provide for a system (the *forecast system*) to forecast—
    - (i) the amount of rainfall in, or affecting, the catchment area of the dam; and
    - (ii) the amount of inflow to the dam; and
    - (iii) the amount of outflow from the dam required under the manual; and
    - (iv) the level of the water surface of the dam required under the manual; and
  - (f) state any other relevant matter prescribed under a regulation.

## **Division 3                      Approving flood mitigation manuals**

### **371E Minister to consider manual**

- (1) The Minister must consider a flood mitigation manual given to the Minister for approval and decide to—
  - (a) approve it; or
  - (b) refuse to approve it.
- (2) The Minister may get advice from an advisory council for deciding whether or not to approve the manual.

### **371F Criteria for approving manual**

The Minister may approve the flood mitigation manual only if satisfied—

- (a) the manual complies with section 371D; and

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- (b) the carrying out of the operational strategies and operational procedures under the manual would minimise risk to human life and safety; and
- (c) the manual achieves an appropriate balance in relation to each of the following—
  - (i) preventing failure of the dam, including, for example, by protecting the structural integrity of the dam;
  - (ii) minimising risk to property;
  - (iii) minimising disruption to transport;
  - (iv) maintaining the full supply level for the dam after a flood event;
  - (v) minimising environmental impacts on the stability of banks of watercourses and on riparian flora and fauna.

### **371G Approval of manual**

- (1) If the Minister approves the flood mitigation manual, the Minister must notify the approval by gazette notice.
- (2) The approval must be for a period of no more than 5 years (the *approval period*) stated in the gazette notice.

### **371H Refusal to approve manual**

- (1) If the Minister decides to refuse to approve the flood mitigation manual, the Minister must give the owner of the dam a notice directing the owner to prepare a new flood mitigation manual and give it to the Minister within a stated period of at least 30 business days after receiving the notice.
- (2) The owner of the dam must comply with the notice.  
Maximum penalty—1,665 penalty units.

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## **Division 4                      Amending and reviewing flood mitigation manuals**

### **372      Amending flood mitigation manual**

- (1) The Minister may require the owner of a dam, by notice, to amend the flood mitigation manual for the dam.
- (2) The owner must comply with the requirement.
- (3) If the owner complies with the requirement, the Minister must, by gazette notice, approve the manual as amended.
- (4) The approval of the manual as amended must be for—
  - (a) the balance of the period of the approval for the manual before the amendment; or
  - (b) a period of not more than 5 years from the day the manual as amended was approved.
- (5) The Minister may get advice from an advisory council before approving the manual as amended.

### **373      Regular reviews of flood mitigation manual**

Before an approval for the flood mitigation manual for a dam expires, the owner of the dam must—

- (a) review, and if necessary, update the manual; and
- (b) give the Minister a copy of it for the Minister's approval under division 3.

## **Division 5                      Renewing flood mitigation manuals**

### **374      Preparation and submission of new manual**

- (1) This section applies if an approved flood mitigation manual for a dam is in force.
- (2) The owner of the dam must prepare a new flood mitigation manual for the dam and give it to the Minister for approval

under division 3 at least 1 month before the end of the approval period for the manual.

Maximum penalty—1,665 penalty units.

## **Division 6                      Annual preparedness reports**

### **375      Dam owner must prepare and submit report**

The owner of a referable dam to which this part applies must after 1 August and before 1 September each year—

- (a) prepare a report (an *annual preparedness report*) under this division about the level of preparedness of the dam for a flood event under its flood mitigation manual; and
- (b) give the report to the chief executive.

Maximum penalty—1,665 penalty units.

### **376      Content of report**

- (1) The annual preparedness report must—
  - (a) state the names, contact details and current qualifications and experience of, and training completed by each person—
    - (i) who was a responsible person under the flood mitigation manual in the reporting period; and
    - (ii) whom the owner of the dam expects will be a responsible person under the manual before the next annual preparedness report for the dam is prepared; and
  - (b) be accompanied by documents evidencing the current qualifications, experience and training; and

*Example—*

a current certificate of registration as a registered professional engineer under the *Professional Engineers Act 2002*

- 
- (c) describe the training given to each responsible person for carrying out his or her role and responsibilities under the manual in the reporting period, including the following—
    - (i) who gave the training and to whom it was given;
    - (ii) the type of training given;
    - (iii) when the training was given and its duration; and
  - (d) include an assessment of the suitability of communication equipment for use by the responsible persons for carrying out their roles and responsibilities under the manual; and

*Examples of communication equipment—*

computer equipment for sending email, CB or other two-way radio, mobile telephone, satellite telephone

- (e) include an assessment of the following—
    - (i) the current adequacy of the forecast system for the dam and the supporting network for the forecast system;
    - (ii) the demonstrated adequacy of the forecast system and supporting network in the reporting period.
- (2) In this section—

***demonstrated adequacy***, of a forecast system, includes—

- (a) the reliability of the system that has been demonstrated generally and under flood conditions, if relevant, in the reporting period; and
- (b) the accuracy of forecasts of inflow using the system compared to measured rainfall and inflow in the reporting period; and
- (c) the accuracy of forecasts of the required outflow and the water surface level of the dam using the system compared to the measured outflow and water surface level in the reporting period.

***reporting period*** means—

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- (a) for the first annual preparedness report after a flood mitigation manual is approved for the dam—the period since the approval; or
- (b) otherwise—the period since the last annual preparedness report for the dam was given to the chief executive.

*Note—*

See also section 650.

***supporting network***, for a forecast system for a dam, means the infrastructure that enables the forecast system to be used effectively under the dam’s flood mitigation manual.

*Example—*

a gauging station at which rainfall or water level can be measured

## **Division 7                      Qualifications, experience and training for responsible persons**

### **377 Chief executive may require dam owner to ensure responsible person has qualifications etc.**

- (1) This section applies if the chief executive considers it appropriate that a responsible person under a flood mitigation manual for a dam has particular qualifications or experience or has completed particular training for the safe and effective operation of the dam.
- (2) The chief executive may, by notice given to the owner of the dam, require the owner to ensure that the responsible person has the qualifications or experience, or has completed the training, stated in the notice.
- (3) The notice may identify a responsible person by reference to the person’s position or title.
- (4) If the chief executive gives the owner of the dam a notice under subsection (2), the owner must comply with the notice.

Maximum penalty—1,665 penalty units.



- (5) In this section—  
*responsible person* includes a class of responsible persons.

## **Division 8 Authorising alternative operational procedures**

### **378 Application of div 8**

This division applies if a flood event for a dam happens and the owner of the dam reasonably considers that—

- (a) an operational strategy under the flood mitigation manual for the dam does not provide or does not adequately provide for the flood event or an aspect of the flood event; and
- (b) to achieve an objective under the flood mitigation manual and respond effectively to the flood event it is necessary to—
  - (i) disregard an operational procedure under the manual (the *existing procedure*) that would, other than for this division, apply under the manual; and
  - (ii) observe a different operational procedure (the *alternative procedure*).

### **379 Dam owner must seek authorisation for alternative procedure**

- (1) The owner of the dam must, as soon as practicable, give the chief executive the following information (the *authorisation request information*)—
- (a) the grounds for considering the matters mentioned in section 378;
  - (b) the facts and circumstances that are the basis for the grounds;
  - (c) information to identify the existing procedure;

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- (d) details of the alternative procedure;
  - (e) the time by which the owner of the dam would need the chief executive to make a decision under section 380 for the owner to be able to respond effectively to the flood event;
  - (f) other information to enable the chief executive to make a decision under section 380.
- (2) The owner of the dam may give the chief executive the authorisation request information orally.
  - (3) However, the owner of the dam must record the authorisation request information in writing as soon as practicable after giving the chief executive the information orally.
  - (4) Subsection (1) applies subject to section 381.

### **380 Chief executive must decide whether or not to authorise alternative procedure**

- (1) The chief executive must, as soon as practicable after receiving the authorisation request information—
  - (a) decide whether or not to authorise the owner of the dam to disregard the existing procedure and observe the alternative procedure; and
  - (b) advise the owner of the dam of the decision.
- (2) If the chief executive decides to authorise the owner of the dam to observe the alternative procedure, the alternative procedure is an ***authorised alternative procedure***.
- (3) The chief executive may orally advise the owner of the dam of the decision.
- (4) However, the chief executive must, as soon as practicable, give the owner of the dam a notice of the decision including—
  - (a) a summary of the authorisation request information given to the chief executive; and
  - (b) the reasons for the decision, having regard to the authorisation request information.

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**381 Authorisation to observe alternative procedure if chief executive can not be contacted**

- (1) This section applies if the owner of the dam—
  - (a) makes reasonable efforts to contact the chief executive to give the chief executive the authorisation request information for the alternative procedure; but
  - (b) can not contact the chief executive within a reasonable time to respond effectively to the flood event.
- (2) This section also applies if—
  - (a) the owner of the dam contacts the chief executive to give the chief executive the authorisation request information for the alternative procedure; but
  - (b) before the chief executive can advise the owner of the dam of the chief executive's decision on the request, contact with the executive is lost and can not be re-established within the time by which the owner would need a decision on the request.
- (3) The alternative procedure is also an *authorised alternative procedure*.
- (4) However, the owner of the dam must, as soon as practicable after failing to contact, or losing contact with, the chief executive—
  - (a) record the authorisation request information in writing; and
  - (b) give the information to the chief executive.
- (5) For subsection (1)(b), contact with the chief executive is not established until the chief executive acknowledges receipt of the authorisation request information.
- (6) For subsection (2), contact with the chief executive is lost if the owner of the dam reasonably believes the chief executive is no longer able to respond to the owner.

### **382 End of authorisation of alternative procedure**

The authorisation to carry out an authorised alternative procedure ends when the flood event to which the procedure relates has ended.

## **Division 9 Flood event reporting**

### **383 Preparation and submission of flood event report**

- (1) This section applies to the owner of a referable dam to which this part applies if a flood event relating to the dam happens.
- (2) The owner of the dam must, unless the owner has a reasonable excuse, prepare a report (a *flood event report*) under this division and give it to the chief executive within—
  - (a) 30 business days after the end of the flood event; or
  - (b) if a further period is agreed in writing by the chief executive and the owner of the dam—the further period.

Maximum penalty—1,665 penalty units.

- (3) In this section—

*end*, of a flood event, means 24 hours after the last occasion that water is released from the dam in response to the flood event.

### **384 Preparation and submission of flood event interim report**

- (1) This section applies if—
  - (a) a flood event relating to a referable dam to which this part applies happens; and
  - (b) the chief executive considers the flood event is likely to continue for at least 1 month.
- (2) The chief executive may give the owner of the dam a notice requiring the owner to—

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- (a) prepare a report (a *flood event interim report*) under this division; and
  - (b) give it to the chief executive within 10 business days after receiving the notice.
- (3) If the chief executive gives the owner of the dam a notice under subsection (2), the owner must comply with the notice unless the owner has a reasonable excuse.

Maximum penalty—1665 units.

### **385 Content of report**

- (1) A flood event report or a flood event interim report must—
- (a) describe the flood event to which it relates; and
  - (b) describe the implementation of the flood mitigation manual for the dam in relation to the flood event, including relevant details of—
    - (i) communications made, strategies used and actions taken in response to the flood event; and
    - (ii) the reasons for the use of the strategies; and
  - (c) state the amount of the following that was forecast when the flood event started and measured during the flood event—
    - (i) rainfall in, or affecting, the catchment area of the dam;
    - (ii) inflow to the dam; and
  - (d) state the level of the water surface of the dam that was forecast when the flood event started and the levels measured during the flood event; and
  - (e) state the amount of the outflow from the dam that was—
    - (i) forecast under the flood mitigation manual when the flood event started; and
    - (ii) measured during and after the flood event; and

- (f) include an assessment of the adequacy of the forecast system for the dam; and
  - (g) describe any damage to the dam caused by the flood event, including by attaching photographs of the damage; and
  - (h) state whether and to what extent any damage to the dam has been caused or contributed to by the flood event; and
  - (i) include an assessment of whether and to what extent the flood mitigation manual effectively dealt with the flood event; and
  - (j) recommend any changes to the flood mitigation manual and forecast system that would allow the manual to deal with a similar flood event more effectively; and
  - (k) include details of any other matter that is relevant to how the flood event was dealt with under the flood mitigation manual; and
  - (l) include any other relevant matter prescribed under a regulation.
- (2) If the owner of the dam carried out or purported to carry out an authorised alternative procedure in relation to the flood event, the flood event report or the flood event interim report must also include the authorisation request information for the procedure.
- (3) Subsection (1) does not prevent a flood event report from dealing with 2 or more flood events if—
- (a) the flood events are related; and
  - (b) the chief executive has agreed to the report dealing with the flood events.

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## Division 10                      General matters

### 386      Protection from liability under pt 2

- (1) Each of the following persons does not incur civil liability for an act done, or omission made, honestly and without negligence under this part—
  - (a) the Minister;
  - (b) the chief executive;
  - (c) a member of an advisory council from which the Minister has sought advice under section 371E(2) or 372(5).
- (2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the State.

### 387      Protection from liability for complying with flood mitigation manual

- (1) Subsection (2) applies to an owner of a dam who observes—
  - (a) subject to paragraph (b), the operational procedures in the approved flood mitigation manual for the dam; and
  - (b) if an alternative procedure is authorised for the dam under division 8—the authorised alternative procedure.
- (2) The owner of the dam does not incur civil liability for an act done, or omission made, honestly and without negligence in observing the procedures.
- (3) If subsection (2) prevents civil liability attaching to a person, the liability attaches instead to the State.
- (4) In this section—

*owner*, of a dam, includes—

  - (a) the operator of the dam; and
  - (b) a director of the owner or operator of the dam; and
  - (c) an employee of the owner or operator of the dam; and

- (d) an agent of the owner or operator of the dam.

## **Part 3**                      **Declaring temporary full supply levels to mitigate flood or drought**

### **Division 1**                **Preliminary**

#### **388**      **Definition for part**

In this part—

*safety requirements* see section 396(2).

#### **389**      **Application of part**

This part applies to a dam for which an approved flood mitigation manual is in force.

### **Division 2**                **Declaring temporary full supply level**

#### **390**      **Minister may declare temporary full supply level**

- (1) This section applies if the Minister considers the impacts of a potential flood or drought may be mitigated by having a full supply level for a dam that is different from the full supply level stated in the resource operations licence.
- (2) The Minister may, by notice given to the owner of the dam, declare a new full supply level (a *temporary full supply level*) for the dam.

*Notes—*

- 1 Under the *Water Act 2000*, section 813(3)(c)(i) and (4)(a), if a declaration is in force for a temporary full supply level for the dam, a reference in the resource operations licence to the full supply



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- level for the dam is taken to be a reference to the temporary full supply level declared for the dam.
- 2 Under the *Water Act 2000*, section 813(3)(c) and (4)(c), if both a declaration is in force for a temporary full supply level for the dam, and the full supply level of the dam is reduced under chapter 4, part 4 of this Act, a reference in the resource operations licence to the full supply level for the dam is taken to be a reference to the lower of the temporary full supply level and the reduced full supply level under section 399B(2).
- (3) In deciding whether to make the declaration, the Minister—
- (a) must have regard to—
    - (i) the outcome of any consultation between the chief executive and the owner of the dam about the full supply level for the dam; and
    - (ii) the extent to which the temporary full supply level is likely to mitigate the impacts of a potential flood or drought; and
    - (iii) impacts the temporary full supply level may have on the water security of the dam; and
    - (iv) whether the temporary full supply level would affect the safety of the dam; and
    - (v) any other positive or negative impacts of the temporary full supply level the Minister considers relevant; and
  - (b) may have regard to any matter the Minister considers appropriate, including, for example—
    - (i) meteorological forecasts; and
    - (ii) the public interest.
- (4) A declaration under this section—
- (a) takes effect on the day stated in the declaration; and
  - (b) ceases to have effect on the earlier of the following days—
    - (i) the day stated in the declaration;
    - (ii) the day that is 1 year after the declaration is made;

- (iii) the day the declaration is revoked.
- (5) A copy of a notice given to an owner of a dam under subsection (2) must be published in the gazette as soon as practicable after it is given.
- (6) The Minister may declare a temporary full supply level more than once for a particular dam.
- (7) To remove any doubt, it is declared that, if the Minister declares a temporary full supply level for a dam under subsection (2), the owner of the dam may operate the dam at the temporary full supply level, including, for example, by releasing water from the dam to maintain the temporary full supply level.
- (8) In this section—  
*water security*, of a dam, includes the reliability of water supply having regard to the availability of water stored in, and the cost of supplying water from, the dam.

## Division 4                      **Reviewing safety requirements for temporary full supply level**

### **396 Chief executive must review safety requirements**

- (1) This section applies if a temporary full supply level declared for a dam exceeds the full supply level stated in the resource operations licence under which the dam operates.
- (2) The chief executive must review any requirements about safety (the *safety requirements*) applying to the dam under the safety conditions or flood mitigation manual for the dam.
- (3) The review must be conducted within—
- (a) 1 month after the temporary full supply level is declared; or
- (b) if the Minister requires a shorter period in writing—the shorter period.

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**397 Changing safety conditions in response to review**

If the chief executive—

- (a) reviews the safety requirements applying under the safety conditions for the dam; and
- (b) having regard to the temporary full supply level, considers an amendment of the safety requirements is necessary;

the chief executive must arrange for the amendment to be made under section 356.

**398 Amending flood mitigation manual in response to review**

(1) If the chief executive—

- (a) reviews the safety requirements applying under the flood mitigation manual for the dam; and
- (b) having regard to the temporary full supply level, considers an amendment of the safety requirements is necessary;

the chief executive must advise the Minister of the proposed amendment.

(2) On receiving advice of an amendment, the Minister may arrange for the amendment to be made under section 372.

**Division 5 Miscellaneous provision**

**399 No compensation payable**

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

## Part 4 Reducing full supply level for safety purposes

### 399A Application of part

This part applies to a dam to which a resource operations licence applies.

### 399B Dam owner may reduce full supply level in certain circumstances

- (1) This section applies if a dam owner believes, based on advice of a registered professional engineer, that there is an unacceptable risk of a failure of a dam if it operates at the full supply level stated in the resource operations licence for the dam.
- (2) The owner may reduce the full supply level of the dam to the level (the *reduced full supply level*) that lowers the risk of a failure of the dam, having regard to the advice of the registered professional engineer.

*Notes—*

- 1 Under the *Water Act 2000*, section 813(3)(c)(i) and (4)(b), if the full supply level for the dam is reduced, a reference in the resource operations licence to the full supply level for the dam is taken to be a reference to the reduced full supply level.
  - 2 Under the *Water Act 2000*, section 813(3)(c) and (4)(c), if both a declaration is in force for a temporary full supply level for the dam under chapter 4, part 3 of this Act, and the full supply level of the dam is reduced under this part, a reference in the resource operations licence to the full supply level for the dam is taken to be a reference to the lower of the temporary full supply level under section 390(2) and the reduced full supply level.
- (3) The owner must, as soon as practicable after reducing the full supply level, give notice of the reduced full supply level to—
    - (a) the chief executive; and
    - (b) if the Water Act, section 813 is not administered in the department—the chief executive of the department in which the section is administered.

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- (4) The notice must—
    - (a) include the reasons why it is necessary to operate the dam at the reduced full supply level; and
    - (b) include the period for which it is necessary to operate the dam at the reduced full supply level; and
    - (c) be accompanied by a copy of the registered professional engineer's advice about the reduced full supply level.
  - (5) To remove any doubt, it is declared that, if a dam owner reduces the full supply level for a dam under subsection (2), the owner may operate the dam at the reduced full supply level, including, for example, by releasing water from the dam to maintain the reduced full supply level.
  - (6) No compensation is payable to any person because of the operation of this section.
  - (7) In this section—

***unacceptable risk***, of a failure of a dam, means a risk that is not acceptable under a guideline about the flood capacity of dams made under section 572.

### **399C Reporting requirements while full supply level reduced**

- (1) This section applies if a dam continues to operate at a reduced full supply level under section 399B for more than 1 year.
- (2) The owner of the dam must, within 1 month after the end of each 1 year period after the full supply level is reduced, give a report to—
  - (a) the chief executive; and
  - (b) if the Water Act, section 813 is not administered in the department—the chief executive of the department in which the section is administered.
- (3) The report must state—
  - (a) when the owner intends to allow the dam to return to the full supply level stated in the resource operations licence for the dam; and

- (b) if the owner is a service provider—
  - (i) the impacts the reduced full supply level has had on the provider’s customers since its reduction; and
  - (ii) the likely future impacts on customers for the period for which the provider proposes to keep the dam at a reduced full supply level; and
  - (iii) the impacts the reduced full supply level has had or is likely to have on achieving the water plan outcomes for a water plan under the Water Act.

## **Chapter 5            Investigations and                                  enforcement matters**

### **Part 1                    Authorised officers**

#### **Division 1             Authorised officers’ functions and                                  powers generally**

##### **400    Functions**

An authorised officer has the following functions—

- (a) collecting information for this Act;
- (b) conducting investigations and inspections—
  - (i) to monitor and enforce compliance with this Act, or the Planning Act so far as that Act relates to a development condition; and
  - (ii) to monitor the performance of a relevant service provider relating to its supply of a water or sewerage service.

## **401 Powers generally**

- (1) For performing an authorised officer's functions, an authorised officer has the powers given to the authorised officer under this or another Act.
- (2) An authorised officer is subject to the directions of the appointer in exercising the powers.

## **Division 2 Appointment of authorised officers**

### **402 Appointment and qualifications**

- (1) The chief executive or the regulator (the *appointer*) may appoint a person as an authorised officer.
- (2) However, the appointer may appoint a person as an authorised officer only if the appointer is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

### **403 Appointment conditions and limit on powers**

- (1) An authorised officer holds office on any conditions stated in—
  - (a) the authorised officer's instrument of appointment; or
  - (b) a signed notice given to the authorised officer; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers under this Act.
- (3) In this section—

*signed notice* means a notice signed by the appointer.

#### **404 Issue of identity card**

- (1) The appointer must issue an identity card to each authorised officer.
- (2) The identity card must—
  - (a) contain a recent photograph of the authorised officer; and
  - (b) contain a copy of the authorised officer's signature; 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 purposes.

#### **405 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an authorised officer must—
  - (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer, as authorised under this Act, enters—
  - (a) a public place when it is open to the public; or
  - (b) a place for the purpose of asking the occupier of the place for consent to enter.



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#### **406 When authorised officer ceases to hold office**

- (1) An authorised officer ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the authorised officer ceases to hold office;
  - (c) the authorised officer’s resignation takes effect.
- (2) Subsection (1) does not limit the ways an authorised officer may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the authorised officer holds office.

#### **407 Resignation**

An authorised officer may resign by signed notice given to the appointer.

#### **408 Return of identity card**

A person who ceases to be an authorised officer must return the person’s identity card to the appointer 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.

## **Part 2 Powers of authorised officers**

### **Division 1 Entry of places**

#### **409 Definition for pt 2**

In this part—

**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.

#### **410 Power to enter land to monitor compliance**

An authorised officer may, at any reasonable time, enter land to find out if—

- (a) the Planning Act is being complied with in relation to a development condition; or
- (b) a drinking water quality management plan or a recycled water management plan, or the conditions of the plans, are being complied with; or
- (c) a notice given to a drinking water service provider under section 630(2) is being complied with.

#### **411 Power to enter land in relation to information collection**

(1) An authorised officer may, at any reasonable time—

- (a) enter land to inspect—
  - (i) a dam or a referable dam on the land; or
  - (ii) any records about a referable dam; or
- (b) enter other land to ascertain—
  - (i) the impact a failure of the dam or referable dam would have; or
  - (ii) if there are factors that are likely to cause the dam or referable dam to fail; or
  - (iii) if a failure impact assessment of the dam or referable dam should be requested.

(2) For exercising a power mentioned in subsection (1), an authorised officer may enter and cross any land to access land mentioned in the subsection.

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## **412 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 410 or 411 if—
  - (a) an occupier of the place consents to the entry; or
  - (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 is—
    - (i) open for carrying on the business; or
    - (ii) otherwise open for entry.
- (2) For the purpose of asking an 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 section (1)(d), a place of business does not include a part of the place where a person resides.

## **Division 2 Procedure for entry**

### **413 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 412(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.
- (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 part; 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) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

#### **414 Application for warrant**

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) 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—*

The magistrate may require additional information supporting the written application to be given by statutory declaration.

## **415 Issue of warrant**

- (1) The magistrate may issue the warrant for the place 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 Planning Act offence; and
  - (b) the evidence is at the place, or, within the next 7 days, will be at the place.
- (2) The warrant must state—
  - (a) the place to which the warrant applies; and
  - (b) 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
  - (c) particulars of the offence that the magistrate considers appropriate in the circumstances; and
  - (d) the name of the person suspected of having committed the offence, unless the name is unknown or the magistrate considers it inappropriate to state the name; and
  - (e) the evidence that may be seized under the warrant; and
  - (f) the hours of the day or night when the place may be entered; and
  - (g) the extent of re-entry permitted; and

- (h) 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.

#### **416 Application by electronic communication and duplicate warrant**

- (1) An application under section 414 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) The application—
  - (a) may not be made before the authorised officer prepares the written application under section 414(2); but
  - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
  - (a) it was necessary to make the application under subsection (1); and
  - (b) the way the application was made under subsection (1) was appropriate.
- (4) After the magistrate issues the original warrant—
  - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised officer; or
  - (b) otherwise—

- 
- (i) the magistrate must tell the authorised officer the date and time the warrant is issued and the other terms of the warrant; and
    - (ii) the authorised officer must complete a form of warrant, including by writing on it—
      - (A) the magistrate’s name; and
      - (B) the date and time the magistrate issued the warrant; and
      - (C) the other terms of the warrant.
  - (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.
  - (6) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
    - (a) the written application complying with section 414(2) and (3); and
    - (b) if the authorised officer completed a form of warrant under subsection (4)(b)—the completed form of warrant.
  - (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
    - (a) attach the documents to the original warrant; and
    - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
  - (8) Despite subsection (5), if—
    - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
    - (b) the original warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

- (9) This section does not limit section 414.
- (10) In this section—  
*relevant magistrates court*, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

#### **417 Defect in relation to a warrant**

- (1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 414, 415 or 416, unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—  
*warrant* includes a duplicate warrant mentioned in section 416(5).

#### **418 Warrants—procedure before entry**

- (1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.
- (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 a copy of the authorised officer's identity card or other document evidencing the authorised officer's appointment;
  - (b) give the person a copy of the warrant;
  - (c) tell the person the authorised officer is permitted by the warrant to enter the place;
  - (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.



- (4) In this section—  
*warrant* includes a duplicate warrant mentioned in section 416(5).

## **Division 3 Powers after entry**

### **419 General powers after entering places**

- (1) This section applies to an authorised officer who enters a place under this part.
- (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) The authorised officer may do any of the following—
  - (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 or take the document to another place to copy it;
  - (e) take into or onto the place any person, equipment and materials the authorised officer reasonably requires for the exercise of a power under this part;
  - (f) require a person at the place to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (e);
  - (g) require a person at the place to give the authorised officer information to help the authorised officer ascertain whether the Act is being or has been complied with.

- (4) When making a requirement mentioned in subsection (3)(f) or (g), 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.
- (5) If an authorised officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.

#### **420 Failure to help authorised officer**

- (1) A person required to give reasonable help under section 419(3)(f) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) If the person is an individual, it is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

#### **421 Failure to give information**

- (1) A person of whom a requirement is made under section 419(3)(g) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) If the person is an individual, it is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

## **Part 3 Power to seize evidence**

#### **422 Seizing evidence**

- (1) This section applies if, under part 2, 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 Planning Act 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 under 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 Planning Act 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.
  - (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 Planning Act offence.

## 423 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

#### **424 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.

#### **425 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.

#### **426 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.
- (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.

#### **427 Forfeiture by authorised officer**

- (1) A thing that has been seized under this part 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.

#### **428 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 part—
  - (a) an offence against this Act;
  - (b) a Planning Act 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.

#### **429 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.

### **430 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 Planning Act 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.

### **431 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) This section does not apply if it is impracticable, or would be unreasonable, to allow the inspection or copying.

## **Part 4 Power to require information**

### **432 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) Also, the authorised officer may require the person to give evidence of the correctness of the stated name and address if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated name or address or to otherwise be able to give the evidence.

### **433 Failure to give name or address**

- (1) A person of whom a requirement under section 432 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.

### **434 Power to require information or documents**

- (1) Subsection (2) 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 the authorised officer, either orally or in writing, information in the person's knowledge about the offence within a stated reasonable period and in a stated reasonable way.
  - (3) An authorised officer may, by notice given to a person, require the person to give an authorised officer, within a stated reasonable period and in a stated reasonable way, a document in the person's possession or control relating to a service provider's registered service or a recycled water provider's production or supply of recycled water.
  - (4) The authorised officer may keep the document mentioned in subsection (3) to copy it.
  - (5) If the authorised officer copies the document, or an entry in the document, the chief executive or officer may require the person who has possession or control of the document to certify the copy as a true copy of the document or entry.
  - (6) The authorised officer must return the document to the person as soon as practicable after copying it.
  - (7) A person of whom a requirement is made under subsection (2), (3) or (5) must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (8) If the person is an individual, it is not a reasonable excuse for the person to fail to comply with a requirement made under subsection (2) or (3) that complying with the requirement might tend to incriminate the person.
- (9) 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.

- (10) If a court convicts a person of an offence against subsection (7), the court may also order the person to give a stated authorised officer, within a stated period and in a stated way, information or a document to which the requirement related.

*Note—*

The powers in this part are limited by part 2 (Powers of authorised officers).

## **Part 5**                      **Particular enforcement provisions relating to drinking water and recycled water**

### **Division 1**                **Preliminary**

#### **435**    **Application of pt 5**

- (1) This part applies if—
- (a) the regulator is satisfied or reasonably believes that—
    - (i) a noncompliance has happened or is likely to happen, in relation to a recycled water scheme or drinking water service, and the noncompliance may have an adverse effect on public health; or
    - (ii) an event has happened or is likely to happen, in relation to a recycled water scheme or drinking water service, that may have an adverse effect on public health; and

*Example for subparagraph (ii)—*

Contaminated water has leaked from an industrial site into a source of drinking water.

- (b) the regulator is satisfied or reasonably believes that—
  - (i) urgent action is necessary to prevent or minimise the adverse effect; or

- 
- (ii) the noncompliance or event has happened on another occasion in relation to the recycled water scheme or drinking water service and action is necessary to prevent the noncompliance or event from happening again.
- (2) In this section—
- noncompliance* means—
- (a) a drinking water service provider has not complied with—
- (i) the drinking water quality management plan or a condition of the plan for the provider’s drinking water service; or
- (ii) a notice issued to the provider under section 630(2); or
- (b) a scheme manager, recycled water provider or other declared entity for a recycled water scheme has not complied with the recycled water management plan for the scheme or a condition of the plan.

## Division 2                      Enforcement provisions

### 436      Power about preventing or minimising adverse effects—general

- (1) The regulator may, for the purpose of preventing or minimising the adverse effect—
- (a) direct any person to take stated reasonable steps within a stated reasonable period; or
- (b) take the reasonable steps; or
- (c) authorise an authorised officer to take the reasonable steps.
- (2) A direction under subsection (1)(a) may be given orally or by written notice.

[s 437]

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- (3) However, if the direction is given orally, the regulator must as soon as practicable confirm the direction by notice given to the person.
- (4) When giving a person a direction under subsection (1)(a), the regulator must warn the person it is an offence not to comply with the direction unless the person has a reasonable excuse.

#### **437 Offence to fail to comply with direction**

A person given a direction under section 436(1)(a) must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—1,665 penalty units.

#### **438 Particular powers of regulator or authorised officer**

- (1) If the regulator decides to take the reasonable steps, or authorise an authorised officer to take the reasonable steps, the regulator or officer may—
  - (a) without a warrant, enter any place, other than premises or a part of premises where a person resides, to take the steps; and
  - (b) in taking the steps, exercise any powers of an authorised officer under part 2, 3 or 4.
- (2) Before entering a place under subsection (1)(a), the regulator must do or make a reasonable attempt to do the following—
  - (a) tell the occupier of the place the regulator is permitted under this Act to enter the place;
  - (b) give the occupier an opportunity to allow the regulator immediate entry to the place without using force.
- (3) Before entering a place under subsection (1)(a), the authorised officer must do or make a reasonable attempt to do the following—
  - (a) comply with section 405(1);

- (b) tell the occupier of the place the officer is permitted under this Act to enter the place;
- (c) give the occupier an opportunity to allow the officer immediate entry to the place without using force.

#### **439 How powers may be exercised**

- (1) The regulator or authorised officer may exercise the powers mentioned in section 438 (the *emergency powers*) at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.
- (2) In exercising or attempting to exercise emergency powers in relation to a place, the regulator or authorised officer must take all reasonable steps to ensure the regulator or officer causes as little inconvenience to any person at the place, and does as little damage, as is practicable in the circumstances.

#### **440 Regulator's powers not affected**

This division does not limit any power the regulator has apart from this division.

### **Division 3 Cost recovery**

#### **441 Definitions for div 3**

In this division—

*cost recovery notice* see section 443(2).

*costs and expenses* includes labour, equipment and administrative costs and expenses.

*event* means anything that has happened or is likely to happen, in relation to a recycled water scheme or drinking water service, that may have an adverse effect on public health.

*noncompliance* see section 435(2).

*prescribed person* see section 442(1).

*water supply incident* means—

- (a) a noncompliance; or
- (b) an event.

#### **442 Who is a *prescribed person* for a water supply incident**

(1) Each of the following is a *prescribed person* for a water supply incident—

- (a) for a noncompliance—the relevant provider responsible for the noncompliance;
- (b) for an event that has happened—
  - (i) a person who caused or permitted the event to happen; and
  - (ii) a person who at the time of the event was—
    - (A) the occupier of a place at which the event happened; or
    - (B) the owner, or person in control, of a contaminant involved in the event;
- (c) for an event that is likely to happen—
  - (i) a person who would be responsible for causing the event if it were to happen; and
  - (ii) a person who is—
    - (A) the occupier of a place at which the event is likely to happen; or
    - (B) the owner, or person in control, of a contaminant likely to be involved in the event.

(2) In this section—

*contaminant* means anything likely to affect a recycled water scheme or drinking water service in a way that would have an adverse effect on public health.

*relevant provider* means—

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- (a) a drinking water service provider; or
  - (b) a recycled water provider or other declared entity for a recycled water scheme; or
  - (c) a scheme manager for a multiple-entity recycled water scheme.

#### **443 Regulator may give notice for recovery of costs**

- (1) This section applies if—
  - (a) the regulator decides to take reasonable steps, or authorises an authorised officer to take reasonable steps, under section 436 in relation to a water supply incident; and
  - (b) the regulator or authorised officer takes the reasonable steps.
- (2) The regulator may decide to give a notice (a *cost recovery notice*) to a person who the regulator is satisfied is a prescribed person for the water supply incident for payment of the costs and expenses reasonably incurred in taking the reasonable steps.
- (3) However, subsection (2) does not apply if the water supply incident was caused by a natural disaster.
- (4) The cost recovery notice must—
  - (a) state the following—
    - (i) the name of the recipient;
    - (ii) a description of the water supply incident;
    - (iii) the place at which the regulator is satisfied the water supply incident happened;
    - (iv) the amount claimed;
    - (v) a description of the costs and expenses giving rise to the amount claimed;
    - (vi) that if the recipient does not pay the amount to the regulator within 30 days after the day the notice is

given, the regulator may recover the amount and any interest payable on the amount from the recipient as a debt;

- (vii) the contact details of the regulator; and
- (b) include or be accompanied by an information notice for the decision to give the cost recovery notice.

#### **444 Regulator may recover costs**

- (1) If the recipient of a cost recovery notice does not pay the amount claimed to the regulator within 30 days after the day the notice is given, the regulator may recover the amount and any interest payable on the amount under subsection (4) from the recipient as a debt.
- (2) However, the amount is not payable if the recipient is not a prescribed person.
- (3) Also, the amount is not payable if—
  - (a) the water supply incident was caused by a terrorist act or other deliberate act of sabotage by someone other than the recipient; and
  - (b) the recipient had taken all measures it would be reasonable for the recipient to have taken to prevent the incident, having regard to all the circumstances including the inherent nature of the risk and the nature of the recipient's connection with the incident.
- (4) An amount that is a debt under subsection (1) bears interest at the rate stated in a regulation.
- (5) If a cost recovery notice is given to 2 or more recipients the amount claimed in the notice is payable by the recipients jointly and severally.
- (6) To the extent that the recipient pays an amount in compliance with a cost recovery notice but did not cause or permit the water supply incident to happen, the recipient may recover the amount as a debt from another person who caused or permitted the water supply incident to happen.



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## **Part 5A**                      **Particular provisions to monitor relevant service providers**

### **Division 1**                      **Investigations**

#### **445**      **When regulator may investigate and recover costs**

- (1) This section applies if the regulator reasonably believes there is a risk to water security or continuity of the supply of a relevant service provider's water service or sewerage service.
- (2) Without limiting section 403, the regulator may start, or direct an authorised officer to start, an investigation about the provider's supply of its service.
- (3) The regulator must give the provider a copy of any report prepared because of the investigation.
- (4) The regulator may decide to require the provider to pay the reasonable costs incurred by the regulator in conducting the investigation.
- (5) However, the requirement may only be made if, because of the investigation, the regulator is satisfied there is a risk to water security or continuity of the supply of the provider's service.
- (6) The regulator must give the provider an information notice about the decision that also states the following—
  - (a) the amount claimed;
  - (b) a description of the reasonable expenses giving rise to the amount;
  - (c) that if the provider does not pay the regulator the amount within 30 days after the day the notice is given, the regulator may recover the amount, and any interest payable under subsection (8), from the provider as a debt.

- (7) If the provider does not comply with the requirement, the regulator may recover from the provider the amount claimed, and any interest payable on the amount under subsection (8), as a debt owing in a court of competent jurisdiction.
- (8) The debt bears interest at the rate prescribed under a regulation.

## Division 2                    Improvement plans

### 446    Regulator may require an improvement plan

- (1) This section applies if, because of an investigation under section 445, the regulator—
  - (a) is satisfied a circumstance mentioned in section 445(1) exists for a relevant service provider; and
  - (b) is not satisfied adequate measures to address the circumstance are in place.
- (2) The regulator may decide to give the provider a notice (an *improvement notice*), requiring the provider to make a plan (an *improvement plan*) about the following—
  - (a) how the provider intends to address the recommendations from the investigation that need to be addressed in the improvement plan;
  - (b) the funding options for addressing the recommendations;
  - (c) the time frames for implementing the plan;
  - (d) the requirements for reporting on the progress of implementing the plan.
- (3) However, before giving the improvement notice, the regulator must—
  - (a) give the provider a show cause notice for the decision; and

- 
- (b) consider any properly made submissions given in response to the show cause notice.
  - (4) The improvement notice must—
    - (a) state the following—
      - (i) that the regulator requires the provider to do the following—
        - (A) make the improvement plan and give the regulator a copy of it within a stated reasonable period;
        - (B) implement the plan;
      - (ii) the recommendations from the investigation that the plan must address;
      - (iii) the outcomes required to be achieved by implementing the plan; and
    - (b) include, or be accompanied by, an information notice about the decision.

#### **447 Offence to contravene improvement notice**

A relevant service provider given an improvement notice under section 446 must comply with the notice, unless the provider has a reasonable excuse.

Maximum penalty—1,000 penalty units.

### **Division 3                      Directions for water security or continuity of supply**

#### **448 Power to give direction for water security or continuity of supply**

- (1) This section applies if the regulator—
  - (a) reasonably believes that—

[s 449]

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- (i) there is an imminent risk to water security or continuity of the supply of a relevant service provider's water service or sewerage service; and
  - (ii) urgent action is necessary to prevent or minimise the risk; and
- (b) is not satisfied adequate measures to address the risk are in place.
- (2) The regulator may, for the purpose of preventing or minimising the risk, by notice direct the provider to take stated reasonable steps within a stated reasonable period.
- (3) The regulator must, as soon as practicable after giving the direction, give the provider an information notice about the decision to give the direction.

#### **449 Offence to contravene direction**

A relevant service provider given a direction under section 448 must comply with the direction, unless the provider has a reasonable excuse.

Maximum penalty—1,665 penalty units.

## **Part 6 Other matters**

#### **450 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 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 where the damage happened in a conspicuous position and in a reasonably secure way.
- (5) This section does not apply to damage the authorised officer reasonably believes is trivial.
- (6) In this section—  
*owner*, of property, includes a person in possession or control of it.

## **451 Compensation**

- (1) If a person incurs loss or expense because of the exercise or purported exercise of a power under part 2, division 1 or 3, or part 5, the person may claim compensation from the State.
- (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.

## **452 Sections 452–459 not used**

See editor's note for section 1.

## **Part 7**                      **Obtaining criminal history reports**

### **460 Purpose of pt 7**

The purpose of this part is to help an authorised officer to decide whether the authorised officer's unaccompanied entry of a place under part 2 would create an unacceptable level of risk to the authorised officer's safety.

### **461 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 an authorised officer reasonably suspects the person may be present at a place when the authorised officer enters the place under part 2.
- (2) The commissioner of the police service 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).

### **462 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 461.

Maximum penalty—100 penalty units.

- (2) However, the person does not contravene subsection (1) if—

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- (a) the disclosure of the report or information 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 as soon as practicable after the authorised officer considers the risk mentioned in section 460.

## **Part 8                      Notices and cost recovery**

### **Division 1                      Show cause notices**

#### **463      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 person given a show cause notice, or a copy of the notice, may make submissions 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.

#### **464 Show cause notice must be given**

- (1) The regulator must, before giving a service provider a compliance notice for a matter, give the service provider a show cause notice about the matter.
- (2) Subsection (1) does not apply to a compliance notice given to a drinking water service provider or a recycled water provider in relation to a matter involving drinking water or recycled water.

### **Division 2 Compliance notices**

#### **465 Who may give compliance notice**

- (1) This section applies if the chief executive, regulator 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, regulator or authorised officer may give the person a notice (a ***compliance notice***) requiring the person to remedy the contravention.
- (3) Subsection (4) applies if the giving of the compliance notice is for a matter for which a show cause notice has been given by the regulator.
- (4) The compliance notice may be given only if, after considering any properly made submission by the service provider about the show cause notice, the regulator still believes it is appropriate to give the compliance notice.



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## 466 Compliance notice

- (1) A compliance notice must state the following—
  - (a) that the chief executive, regulator or authorised officer reasonably 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;
  - (b) the provision the chief executive, regulator or authorised officer believes is being, or has been, contravened;
  - (c) briefly, how it is believed the provision is being, or has been contravened;
  - (d) that the person must remedy the contravention within a stated reasonable period;
  - (e) that it is an offence to fail to comply with the compliance notice unless the person has a reasonable excuse;
  - (f) that, within 30 business days after the notice is given, the person may apply for an internal review of the decision to give the notice;
  - (g) how the person may apply for the review.
- (2) The compliance notice may also state the reasonable steps that the chief executive, regulator or authorised officer is satisfied are necessary to remedy the contravention, or avoid further contravention, of the provision.
- (3) 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.
- (4) If a compliance notice requires the person to refrain from doing an act, it also must state—
  - (a) a period for which the requirement applies; or
  - (b) that the requirement applies until further notice.

- (5) A person to whom a compliance notice is given must comply with the compliance notice unless the person has a reasonable excuse.

Maximum penalty—

- (a) if the compliance notice relates to an offence—the number of penalty units that applies for the offence; or
- (b) otherwise—100 penalty units.
- (6) If it is an offence to contravene a provision and a compliance notice is given, the person can not be prosecuted for that offence unless the person contravenes subsection (4) in relation to the compliance notice.

#### **467 Chief executive or regulator may take action and recover costs**

- (1) If a person to whom a compliance notice is given contravenes the notice by not doing something, the chief executive or regulator may do the thing.
- (2) Subsection (3) applies if—
- (a) under section 359(2), a notice is taken to be a compliance notice; and
- (b) the person to whom the notice is given has not complied with the notice by the day stated in the notice.
- (3) The chief executive may, instead of doing the thing under subsection (1), take any action the chief executive reasonably believes is necessary to prevent or minimise the impact of the failure of the dam.
- (4) If the chief executive or regulator incurs expense in doing a thing under subsection (1) or (3), the chief executive or regulator must give the person a notice stating the amount of the expense incurred.
- (5) Any reasonable expenses incurred by the chief executive or regulator in doing anything under subsection (1) or (3) may be recovered by the chief executive or regulator as a debt.

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- (6) A debt under subsection (5) bears interest at the rate stated in a regulation.

## Division 3                      Cost recovery

### 468      Regulator may engage expert and recover costs

- (1) This section applies if the regulator—
- (a) reasonably believes a person is contravening, or has contravened, a provision of this Act; and
  - (b) reasonably considers the suspected contravention—
    - (i) has had, may have had, or may have an adverse effect on public health; or
    - (ii) is a matter about which the regulator requires expert advice including, for example, a matter involving complex operational or technical issues.
- (2) The regulator may engage an expert with suitable qualifications, expertise or experience to investigate and give advice about matters relevant to the suspected contravention.
- (3) If, after receiving the expert's advice, the regulator reasonably believes the person is contravening or has contravened a provision of this Act, the regulator may give the person a notice claiming a stated amount (the ***claimed amount***) for the reasonable expenses incurred by the regulator in engaging the expert.
- (4) The notice must—
- (a) state the claimed amount; and
  - (b) include a description of the reasonable expenses giving rise to the claimed amount; and
  - (c) state that if the person does not pay the claimed amount to the regulator within 30 days after the day the notice is given, the regulator may recover the amount, and any interest payable on the amount under subsection (6), from the person as a debt; and

- (d) include or be accompanied by an information notice for the regulator's decision about whether the person is contravening, or has contravened, a provision of this Act.
- (4A) However, if the person has applied under section 512 for a review of the regulator's decision about whether the person is contravening, or has contravened, a provision of this Act, the regulator can not recover the amount—
  - (a) until the internal review has been concluded; and
  - (b) unless the review decision confirms the regulator's decision.
- (5) If the person does not pay the claimed amount to the regulator within 30 days after the day the notice is given, the amount, and any interest payable on the amount under subsection (6), may be recovered by the regulator as a debt.
- (6) A claimed amount that is a debt under subsection (5) bears interest at the rate stated in a regulation.

#### **469 Sections 469–474 not used**

See editor's note for section 1.

## **Part 9 Enforcement proceedings**

### **475 Starting proceeding for enforcement order**

- (1) Subject to subsection (2), a person may start a proceeding in a District Court—
  - (a) for an enforcement order to remedy or restrain the commission of an offence against this Act; or
  - (b) if the person has started a proceeding under paragraph (a) for an enforcement order and the court has not decided the proceeding—for an order under section 478; or

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- (c) for 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.
- (2) A proceeding for an enforcement order in relation to an offence against a following provision of this Act may be started only by the person stated for the provision—
    - (a) a provision of chapter 2, part 4, division 1 or chapter 3 or section 26, 106 to 108A, 110, 112, 142 to 142B, 190, 447, 449, 531, 575A, 576A or 630—the regulator;
    - (b) section 43, 47, 144, 145, 193, 194 or 195—the service provider;
    - (c) section 168, 191 or 192—the regulator or the service provider.
  - (3) Subsection (2)(a) applies for an offence against section 531 only if the appointment of the administrator was made for section 530(1)(a).
  - (4) A proceeding for an enforcement order may be started whether or not anyone's right has been, or may be, infringed by, or because of, the commission of the offence.
  - (5) If a person other than the chief executive starts a proceeding under this section, the person must, within 5 business days of starting the proceeding, give the chief executive notice of the proceeding.

#### **476 Proceeding started in a representative capacity**

- (1) A proceeding for an enforcement order may be started by a person on behalf of an entity with the entity's consent.
- (2) If the entity on whose behalf the proceeding is started is an unincorporated body, the body's committee or other controlling or governing body must give the consent.

- (3) The entity on whose behalf the proceeding is started may contribute to, or pay, the legal costs incurred by the person starting the proceeding.

#### **477 Starting proceeding for enforcement order without notice**

- (1) A person may start a proceeding for an enforcement order without notice to the other party.
- (2) Without limiting the discretion of a District Court in the exercise of its equitable jurisdiction, it 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
  - (c) grant an order for a limited period 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, including, 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.

#### **478 Making interim enforcement order**

- (1) A District Court may make an order pending a decision of a proceeding for an enforcement order 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 damages.

#### **479 Making enforcement order**

- (1) A District Court may make an enforcement order if the court is satisfied the offence—

- (a) is being, or has been, committed; or
  - (b) will be committed unless the enforcement order is made.
- (2) If the court is satisfied the offence is being or has been committed, it 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 adverse impact on public health resulting, or likely to result, because of the commission of the offence; and
  - (b) 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.

#### **480 Effect of enforcement order**

- (1) An 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 District Court's powers, it may make an enforcement order requiring the repairing, demolition or removal or modification of a referable dam.
- (3) An enforcement order must state the time by which it must be complied with.
- (4) An enforcement order—
  - (a) may be in terms the court considers appropriate to secure compliance with this Act; and
  - (b) must state the day by which the order must be complied with.

#### **481 Powers about enforcement orders**

- (1) A District Court's power to make an enforcement order to stop, or not to start, an activity may be exercised—
  - (a) whether or not it appears to the court the person against whom the order is made (the *relevant person*) intends to engage, or to continue to engage, in the activity; or
  - (b) whether or not the relevant person has previously engaged in an activity of the kind; or
  - (c) whether or not there is danger of substantial damage to property or injury to another person if the relevant person engages, or continues to engage, in the activity; or
  - (d) whether or not there is risk of failure of a referable dam.
- (2) The court's power to make an enforcement order to do anything may be exercised—
  - (a) whether or not 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) whether or not the person has previously failed to do a thing of the kind; or



- (c) whether or not there is danger of substantial damage to property or injury to another person if the relevant person fails, or continues to fail, to do the thing; or
  - (d) whether or not there is risk of failure of a referable dam.
- (3) The court may cancel or change an enforcement order on the application of the person who started the proceeding or the person against whom the order is made.
- (4) The court's powers under this section are in addition to, and do not limit, its other powers.

#### **482 Parties to pay own costs for proceedings**

- (1) Each party to a proceeding for an enforcement order must bear the party's own costs for the proceeding.
- (2) However, the court may order a party to a proceeding to pay costs to another party if the court considers—
- (a) the proceeding was frivolous or vexatious; or
  - (b) the party has incurred costs because the other party defaulted in the procedural requirements.

## **Chapter 6 Offences, evidentiary matters and legal proceedings**

### **Part 1 General offences**

#### **483 False or misleading statements**

- (1) A person must not state anything to the chief executive, regulator or an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) A complaint against a person for an offence against subsection (1) is sufficient if it states that the document was false or misleading to the person's knowledge, without specifying whether it was false or whether it was misleading.

#### **484 False or misleading documents**

- (1) A person must not give the chief executive, regulator 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) A complaint against a person for an offence against subsection (1) is sufficient if it states that the document was false or misleading to the person's knowledge, without specifying whether it was false or whether it was misleading.

#### **485 Obstructing an authorised officer**

- (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) In this section—

*obstruct* includes assault, hinder and threaten, and attempt to obstruct.

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**486 Impersonation of an authorised officer**

A person must not pretend to be an authorised officer.

Maximum penalty—200 penalty units.

**487 Liability of executive officer—particular offences committed by corporation**

- (1) An executive officer of a corporation commits an offence if—
- (a) the corporation commits an offence against an executive liability provision; and
  - (b) the officer did not take all reasonable steps to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

- (2) In deciding whether things done or omitted to be done by the executive officer constitute reasonable steps for subsection (1)(b), a court must have regard to—
- (a) whether the officer knew, or ought reasonably to have known, of the corporation's conduct constituting the offence against the executive liability provision; and
  - (b) whether the officer was in a position to influence the corporation's conduct in relation to the offence against the executive liability provision; and
  - (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, the offence against the executive liability provision.
- (4) This section does not affect—
- (a) the liability of the corporation for the offence against the executive liability provision; or
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer

of the corporation, for the offence against the executive liability provision.

(5) In this section—

*executive liability provision* means any of the following provisions—

- section 92
- section 190
- section 196(2)
- section 196(3)
- section 343(1)
- section 343(2)
- section 343(3)
- section 343(4)
- section 344(1)
- section 344(2)
- section 345(2)
- section 351(4)
- section 352(4).

#### **487A Executive officer may be taken to have committed offence**

- (1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—
- (a) the officer authorised or permitted the corporation's conduct constituting the offence; or
  - (b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive

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liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.

- (3) This section does not affect either of the following—
- (a) the liability of the corporation for the offence against the deemed executive liability provision;
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.

- (4) In this section—

*deemed executive liability provision* means any of the following provisions—

- section 93
- section 102(2)
- section 102(3)
- section 197(2)
- section 197(3)
- section 270(2)
- section 270(4)
- section 271(2)
- section 271(4).

## Part 2 Evidentiary matters

### 488 Application of pt 2

This part applies to a proceeding under this Act.

### 489 Appearance

A party to a proceeding may appear personally or by lawyer or agent.

## **490 Appointments and authority**

It is not necessary to prove—

- (a) the chief executive's appointment; or
- (b) the regulator's appointment; or
- (c) an authorised officer's appointment; or
- (d) the authority of the chief executive, regulator or an authorised officer to do anything under this Act.

## **491 Evidentiary aids**

- (1) A certificate purporting to be signed by or for the chief executive or regulator stating any of the following matters is evidence of the matter—
  - (a) a stated decision, direction, notice or requirement is a decision, direction, notice or requirement under this Act;
  - (b) a stated thing is a thing that must or may be included in a register;
  - (c) that a stated document is a document kept under this Act;
  - (d) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
  - (e) that on a stated day—
    - (i) a stated person was given a stated decision, direction or notice under this Act; or
    - (ii) a stated direction or requirement under this Act was given to or made of a stated person;
  - (f) that on a stated day, or during a stated period, a person's appointment as an authorised officer was, or was not, in force.
- (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.

## Part 3 Proceedings for offences

### 492 Indictable and summary offences

- (1) An offence against this Act for which the maximum penalty of imprisonment is 2 or more years is an indictable offence.
- (2) An indictable offence against this Act is—
  - (a) for an offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or
  - (b) otherwise—a misdemeanour.
- (3) Any other offence against this Act is a summary offence.

### 493 Proceedings for indictable offences

- (1) A proceeding for an indictable offence against this Act may, at the prosecution's election, be taken—
  - (a) by way of summary proceedings under the *Justices Act 1886*; or
  - (b) on indictment.
- (2) Subsection (3) applies if—
  - (a) a person charged with an indictable offence asks at the start of a summary proceeding for the offence that the charge be prosecuted on indictment; or
  - (b) the magistrate hearing a charge of an indictable offence considers the charge should be prosecuted on indictment.
- (3) The magistrate—
  - (a) must not decide the charge as a summary offence; and
  - (b) must proceed by way of an examination of witnesses in relation to an indictable offence.

- (4) If a magistrate acts under subsection (3)—
  - (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 (3) is taken to be evidence in the proceeding for 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 under the *Justices Act 1886*, section 104(2)(b).

#### **494 Limitation on who may summarily hear indictable offence proceedings**

- (1) A proceeding against a person for an indictable offence must be before a magistrate if it is a proceeding—
  - (a) for the summary conviction of a person; or
  - (b) for an examination of witnesses in relation to the charge.
- (2) However, if a proceeding for an indictable 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*.
- (3) The maximum penalty that may be imposed on a summary conviction of an indictable offence is as follows—
  - (a) to the extent the penalty imposed is a number of penalty units—500 penalty units;
  - (b) to the extent the penalty imposed is imprisonment—1 year's imprisonment.

#### **495 Limitation on time for starting proceeding for summary offence**

A proceeding for a summary offence against this Act must start—



- (a) within 1 year after the offence is committed; or
- (b) within 1 year after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

#### **496 Notice of proceedings for offences**

If a person other than the chief executive or the regulator brings a proceeding under this part, the person must, within 5 business days of starting the proceeding, give the chief executive notice of the proceeding.

#### **497 Limitation on who may bring particular proceedings**

- (1) A proceeding for an offence against this Act may be started only by—
  - (a) for an offence against a provision of chapter 2, part 4, division 1 or chapter 3 or section 26, 106 to 108A, 110, 112, 142 to 142B, 190, 447, 449, 531, 575A, 576A or 630—the Attorney-General or regulator; or
  - (b) for an offence against section 43, 47, 144, 145, 193, 194 or 195—the Attorney-General or service provider; or
  - (c) for an offence against section 168, 191 or 192—the Attorney-General, regulator or service provider; or
  - (d) for an offence against a provision of chapter 4—the Attorney-General or chief executive.
- (2) Subsection (1) applies for an offence against section 531 only if the appointment of the administrator was made for section 530(1)(a).

#### **498 Proceeding brought in a representative capacity**

- (1) A proceeding mentioned in section 497(1) may be started by a person on behalf of an entity with the entity's consent.

- (2) If the entity on whose behalf the proceeding is started is an unincorporated body, the body's committee or other controlling or governing body must give the consent.
- (3) The entity on whose behalf the proceeding is started may contribute to, or pay, the legal costs incurred by the person starting the proceeding.

#### **499 Orders Magistrates Court may make in offence proceeding**

- (1) After hearing a complaint for an offence against this Act, the Magistrates Court may make an order against the defendant the court 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—
  - (a) to do or not to do another act in relation to failure impact assessment; or
  - (b) to 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 by which, or period within which, the order must be complied with.
- (5) The order may state that contravention of the order is a public nuisance.

#### **500 Offence to contravene Magistrates Court order**

A person against whom an order under section 499 has been made must comply with the order.

Maximum penalty—1,000 penalty units.

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## Part 4                      Miscellaneous provisions

### 501      **Chief executive's and regulator's power to remedy stated public nuisance**

- (1) This section applies if an order under section 499 states that contravention of the order is a public nuisance.
- (2) If the order is not complied with, the chief executive or the regulator may undertake any work necessary to remove the nuisance.
- (3) If the chief executive or the regulator carries out works under subsection (2), the chief executive or the regulator may recover as a debt from the person against whom the order was made the reasonable cost of the works.

### 502      **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 corporation—an executive officer, employee or agent of the corporation; or

- (b) 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.

### **503 Sections 503–509 not used**

See editor’s note for section 1.

## **Chapter 7      Reviews, appeals and arbitration**

### **Part 1              Preliminary**

#### **510 Who is an *interested person***

- (1) An *interested person* for this chapter is—
  - (a) 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; or
  - (b) a person who has been given an information notice or a compliance notice by the regulator, or an authorised officer appointed by the regulator; or
  - (c) a person who has been given an information notice by a service provider.
- (2) The decision or action for which a notice was given under subsection (1) is an *original decision*.

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## Part 2                      Review of decisions

### 511      **Appeal, arbitration or external review process starts with internal review**

Every appeal, application for external review of an original decision, or application for arbitration on a review decision, must be, in the first instance, by way of an application for internal review.

### 512      **Who may apply for review**

- (1) An interested person for an original decision may apply for an internal review of the decision (an *internal review application*).
- (2) An internal review application may be made only to the following person (the *reviewer*)—
  - (a) for a decision mentioned in section 510(1)(a)—the chief executive;
  - (b) for a decision mentioned in section 510(1)(b)—the regulator;
  - (c) for a decision mentioned in section 510(1)(c)—the chief executive officer of the service provider.

### 513      **Requirements for making internal review application**

- (1) An internal review application must be—
  - (a) in the approved form; and
  - (b) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and
  - (c) supported by enough information to enable the reviewer to decide the application; and
  - (d) made within 30 business days after the day the applicant is given an information notice about the decision to which the application relates or a compliance notice.

- (2) However, the reviewer may, at any time, extend the time for making an internal review application.
- (3) On or before making the internal review 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 of the notice that written submissions on the internal review application may be made to the reviewer within 5 business days after the application is made to the reviewer.

## 514 Review decision

- (1) The reviewer must, within 20 business days after receiving an internal review application—
  - (a) review the original decision the subject of the application; 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.
- (2) The reviewer may, by notice to the applicant and before the period mentioned in subsection (1) has expired, extend the period by not more than 30 business days.
- (3) Only 1 notice may be given under subsection (2) for each internal review.
- (3A) For an application about a safety condition or a development condition applying to a referable dam and for which a notice has been given under subsection (2), the reviewer may, before

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the extended period under that subsection expires and with the agreement of the applicant, further extend the period for deciding the application.

- (4) 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.
- (5) Subsection (4)—
  - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
  - (b) does not apply to an original decision made by the chief executive.
- (6) If the review decision confirms the original decision, for the purpose of arbitration, external review or an appeal, the original decision is taken to be the review decision.
- (7) If the review decision amends the original decision, for the purpose of arbitration, external review or an appeal, the original decision as amended is taken to be the review decision.

## **515 Notice of review decision**

- (1) The reviewer must, within 10 business days after making a review decision, give each of the following notice of the review decision (a *review notice*)—
  - (a) the applicant;
  - (b) any person who was given notice of the original decision.
- (2) The review notice must state—
  - (a) the reasons for the review decision; and
  - (b) if the applicant may appeal against the review decision to the Planning and Environment Court under part 3—

- (i) that the applicant may apply to the Planning and Environment Court for a stay of the decision; and
    - (ii) how, and by when, the person may appeal; and
  - (c) if the applicant may apply to QCAT for an external review of the review decision under part 3—the matters stated in the QCAT Act, section 157(2); and
  - (d) if the applicant may apply for arbitration on the review decision under part 4—
    - (i) how the applicant applies for arbitration on the decision under part 4; and
    - (ii) that the applicant may apply to a court with jurisdiction to hear the proceeding for a stay of the decision.
- (3) A copy of the relevant appeal or arbitration provisions of this Act, or the provisions of the QCAT Act about external review, must also be given with each review notice or copy of a review notice.
- (4) If the reviewer does not give the review notice within the 10 days, the reviewer is taken to have made a decision confirming the original decision.

## **516 Stay of operation of original decision**

- (1) An internal review application does not stay the original decision the subject of the application.
- (2) However, the applicant may immediately apply for a stay of the original decision to—
  - (a) if, under part 3, the applicant would be able to appeal to the Planning and Environment Court—the Planning and Environment Court; or
  - (b) if, under part 3, the applicant would be able to apply to QCAT for an external review—QCAT; or



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- (c) if, under part 4, the applicant would be able to apply for arbitration—a court with jurisdiction to hear the proceeding.
  - (2A) An application to QCAT under subsection (2)(b) must be made as provided under the QCAT Act.
  - (3) The court or QCAT may stay the original decision to secure the effectiveness of the internal review and a later arbitration, appeal to the court or external review by QCAT.
  - (4) The stay—
    - (a) may be given on conditions the court or QCAT considers appropriate; and
    - (b) operates for the period fixed by the court or QCAT; and
    - (c) may be revoked or amended by the court or QCAT.
  - (5) The period of the stay must not extend past the day when the reviewer makes a review decision about the original decision and any later period the court or QCAT allows the applicant to enable the applicant to—
    - (a) seek arbitration on the review decision; or
    - (b) appeal against or apply for external review of the review decision.
  - (6) An internal review application affects the original decision, or carrying out of the decision, only if the decision is stayed.

## **Part 3 Appeals and external reviews**

### **517 Who may appeal or apply for an 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 an external review of the review decision under this section.
- (2) For the following decisions, the appeal must be made to the Planning and Environment Court—

- (a) a decision by the chief executive to give an information notice under chapter 4;
  - (b) a decision by the chief executive to give a compliance notice under section 359(1);
  - (c) a decision by the chief executive, or an authorised officer appointed by the chief executive, to give a compliance notice relating to a dam safety and flood mitigation contravention;
  - (d) a decision by the regulator, or an authorised officer appointed by the regulator, to give an information notice or compliance notice relating to a matter involving drinking water or recycled water.
- (3) The appeal must be started within 30 business days after the review notice is given for the review decision under section 515.
- (4) For the following decisions, the external review must be to QCAT as provided under the QCAT Act—
- (a) a decision by the chief executive, or an authorised officer appointed by the chief executive, to give a compliance notice relating to a contravention, other than a dam safety and flood mitigation contravention;
  - (b) a decision by a service provider to give an information notice.
- (5) In this section—

*dam safety and flood mitigation contravention* means a contravention of a provision of chapter 4 or section 645.

## **518 Starting an appeal to Planning and Environment Court**

- (1) An appeal is started by—
- (a) filing a notice of appeal with the court; and
  - (b) if the review decision being appealed against was about an original decision of the chief executive—serving a copy of the notice on the chief executive; and

- (c) if the review decision being appealed against was about an original decision of the regulator—serving a copy of the notice on the regulator; and
  - (d) complying with the rules of court applicable to the appeal.
- (2) The notice of appeal must be filed within 30 business days after the appellant receives notice of the review decision appealed against.
  - (3) However, the court may, at any time, extend the period for filing the notice of appeal.
  - (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **519 Stay of operation of review decision**

- (1) The court may grant a stay of the operation of a review decision appealed against to secure the effectiveness of the appeal.
- (2) A 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.
- (3) The period of the stay stated by the court must not extend past the time when the court decides the appeal.
- (4) An appeal against a review decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

### **520 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 or magistrate.

- (2) An appeal is by way of rehearing, unaffected by the review decision.

## **521 Assessors**

If the judge or magistrate hearing an appeal is satisfied the appeal involves a question of special knowledge and skill, the judge or magistrate may appoint 1 or more assessors to help in deciding the appeal.

## **522 Powers of court on appeal**

- (1) In deciding an appeal, the court may—
  - (a) confirm the review decision appealed against; or
  - (b) set aside the review decision and substitute another decision; or
  - (c) send the matter back to the reviewer and give the directions the court considers appropriate.
- (2) If the court substitutes another decision, the substituted decision is, for the purposes of this Act, other than this part, taken to be the review decision.

## **523 Appeal costs**

- (1) Each party to an appeal must bear the party's own costs for the appeal.
- (2) However, the court may order a party to an appeal to pay costs to another party if the court considers—
  - (a) the appeal was frivolous or vexatious; or
  - (b) the party has incurred costs because the other party defaulted in the procedural requirements.

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## Part 4 Arbitration

### 524 Who may apply for arbitration

- (1) This section applies to a review decision about an original decision the subject of an information notice or a compliance notice mentioned in section 510(1)(b), other than an original decision that is a decision relating to a matter involving drinking water or recycled water.
- (2) An interested person who applied for an internal review of the original decision and is dissatisfied with the review decision may give the authority under the *Queensland Competition Authority Act 1997* a notice (a **dispute notice**) applying for arbitration on the decision.
- (3) The dispute notice must—
  - (a) be given within 30 business days after the interested person receives notice of the decision; and
  - (b) state—
    - (i) the name and address of the interested person; and
    - (ii) details of the review decision and the grounds on which arbitration is sought.
- (4) The interested person must, at the same time, give a copy of the dispute notice to the regulator.

### 524A Stay of operation of review decision

- (1) An application for arbitration does not stay the review decision.
- (2) However, an applicant may immediately apply for a stay of the review decision to a court with jurisdiction to hear the proceeding.
- (3) The court may stay the review decision to secure the effectiveness of the arbitration.
- (4) A stay—

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- (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.
- (5) The period of the stay stated by the court must not extend past the time when the arbitration is decided.

**525 Acknowledging dispute notice**

On receiving the dispute notice, the authority must give the interested person and the regulator a notice acknowledging receipt of the dispute notice.

**526 Withdrawing dispute notice**

The interested person may withdraw the dispute notice at any time before the authority makes its decision on the dispute.

**527 Parties to arbitration**

The parties to the arbitration are the interested person and the regulator.

**528 Decision by authority**

- (1) The authority must give a written decision in an arbitration on the dispute.
- (2) When making the decision, the authority must give the parties its reasons for making the decision.
- (3) However, the authority is not required to make a decision if it ends the arbitration and the authority is satisfied—
  - (a) the giving of the dispute notice was vexatious; or
  - (b) the subject matter of the dispute is trivial, misconceived or lacking in substance.

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**529 Conduct of arbitration**

The *Queensland Competition Authority Act 1997*, part 7, applies to the arbitration.

## **Chapter 8 Miscellaneous**

### **Part 1 Appointment of administrator and emergency powers for particular infrastructure**

#### **Division 1 Appointment of administrator**

##### **530 Governor in Council may appoint administrator to operate infrastructure**

- (1) Subsection (2) applies if the Minister is satisfied, or reasonably believes—
  - (a) a service provider has not complied with a compliance notice given by the regulator under section 465; or
  - (b) a service provider has stopped, or is likely to stop, supplying a registered service and there is no other entity willing to take over the operation of all or part of the service provider's infrastructure for the service.
- (2) The Governor in Council may, by gazette notice, authorise any of the following persons (an *administrator*) to operate the infrastructure and use the service provider's water entitlement to supply the registered service—
  - (a) the regulator;
  - (b) any other person who has the necessary experience or qualifications to operate the infrastructure.

- (3) Subsection (4) applies if the Minister is satisfied, or reasonably believes, a scheme manager, or recycled water provider or other declared entity, (the *responsible entity*) for a critical recycled water scheme—
  - (a) has not complied with a compliance notice; or
  - (b) has stopped, or is likely to stop, supplying recycled water under the scheme.
- (4) The Governor in Council may, by gazette notice, authorise any of the following persons (also an *administrator*) to operate the responsible entity's infrastructure for producing or supplying recycled water under the scheme—
  - (a) the regulator;
  - (b) any other person who has the necessary experience or qualifications to operate the infrastructure.
- (5) An authorisation under subsection (2) or (4) 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 authorisation is published in the gazette.
- (6) The authorisation may deal with any matter necessary or convenient to help the administrator operate the infrastructure and supply the registered service or recycled water.

### **531 Effect of administrator operating infrastructure**

- (1) If an administrator is authorised under section 530 to operate infrastructure, the infrastructure may be operated by—
  - (a) the administrator; or
  - (b) 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 act, or refuse to act, if the acting or refusal has the effect of preventing or hindering the administrator or operator from operating the infrastructure.

Maximum penalty—1,665 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 2016*.

- (6) The service provider or responsible entity 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 the service provider or responsible entity any income received by the administrator from operating the infrastructure less all costs mentioned in subsection (6).

## **532 Effect of appointment of administrator**

- (1) Subsections (2) and (3) apply if an administrator is authorised under section 530(2) to operate a service provider's infrastructure.
- (2) The registration of the service provider as a service provider is suspended from the day the notice is published in the gazette under section 530(2) until the day stated in the notice or a further notice under section 530(5)(b) is published.
- (3) The administrator is taken to be the service provider for the period the administrator's authorisation under section 530(2) is effective.

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- (4) Subsection (5) applies if an administrator is authorised under section 530(4) to operate a responsible entity's infrastructure.
- (5) The administrator is taken to be the responsible entity for the period the administrator's authorisation under section 530(4) is effective.

### **533     Withdrawing appointment of administrator**

- (1) The Governor in Council may, by gazette notice, withdraw an authorisation given under section 530(2) or (4).
- (2) If the authorisation is about the operation of a service provider's infrastructure, the suspension of the service provider's registration is removed from the day the notice is published.

## **Division 2                   Emergency powers for operating particular infrastructure**

### **534     Regulator or other person may operate infrastructure for drinking water—regulator's notice**

- (1) This section applies if the regulator is satisfied, or reasonably believes—
  - (a) a drinking water service provider for a drinking water service—
    - (i) has not complied with a compliance notice; or
    - (ii) has stopped, or is likely to stop, the drinking water service; and
  - (b) that because of exceptional circumstances, it is necessary for the regulator, or another person appointed by the regulator, to operate the provider's infrastructure for the service to protect public health.
- (2) The regulator may, on giving notice under this section to the drinking water service provider—

- (a) operate the provider's infrastructure for the drinking water service; or
  - (b) appoint another person, who has the necessary experience or qualifications, to operate the infrastructure.
- (3) The notice must—
- (a) describe the infrastructure; and
  - (b) state the reasons that the regulator has given the notice; and
  - (c) state the period for which the regulator or other person may operate the infrastructure.
- (4) If the regulator operates the infrastructure under subsection (2)(a), the regulator may operate the infrastructure for the period—
- (a) starting on the day the notice is given to the drinking water service provider; and
  - (b) ending on the first of the following days to happen—
    - (i) the day that is 30 business days after the day the notice is given;
    - (ii) the day an administrator is authorised under section 530 to operate the infrastructure for the drinking water service provider's drinking water service.
- (5) If, under subsection (2)(b), the regulator appoints another person to operate the infrastructure—
- (a) the regulator must give the drinking water service provider notice of the appointment; and
  - (b) the person may operate the infrastructure for the period starting on the day the person is appointed and ending on the first of the following days to happen—
    - (i) the day that is 30 business days after the day the notice mentioned in subsection (2) is given to the drinking water service provider;

- (ii) the day an administrator is authorised under section 530 to operate the infrastructure for the provider's drinking water service.

**535 Regulator or other person may operate infrastructure for recycled water—regulator's notice**

- (1) This section applies if the regulator is satisfied, or reasonably believes—
  - (a) a scheme manager, or recycled water provider or other declared entity, (the *responsible entity*) for a critical recycled water scheme—
    - (i) has not complied with a compliance notice; or
    - (ii) has stopped, or is likely to stop, supplying recycled water under the scheme; and
  - (b) that because of exceptional circumstances, it is necessary for the regulator, or another person appointed by the regulator, to operate the responsible entity's infrastructure for supplying recycled water under the scheme—
    - (i) to protect public health; or
    - (ii) to ensure the continuity of operation of the recycled water scheme.
- (2) The regulator may, on giving notice under this section to the responsible entity—
  - (a) operate the responsible entity's infrastructure for producing or supplying recycled water under the scheme; or
  - (b) appoint another person, who has the necessary experience or qualifications, to operate the infrastructure.
- (3) The notice must—
  - (a) describe the infrastructure; and

- (b) state the reasons that the regulator has given the notice;  
and
  - (c) state the period for which the regulator or other person may operate the infrastructure.
- (4) If the regulator operates the infrastructure under subsection (2)(a), the regulator may operate the infrastructure for the period—
- (a) starting on the day the notice is given to the responsible entity; and
  - (b) ending on the first of the following days to happen—
    - (i) the day that is 30 business days after the day the notice is given;
    - (ii) the day an administrator is authorised under section 530(4) to operate the responsible entity's infrastructure for supplying recycled water under the critical recycled water scheme.
- (5) If, under subsection (2)(b), the regulator appoints another person to operate the infrastructure—
- (a) the regulator must give the responsible entity notice of the appointment; and
  - (b) the person may operate the infrastructure for the period starting on the day the person is appointed and ending on the first of the following days to happen—
    - (i) the day that is 30 business days after the day the notice mentioned in subsection (2) is given to the responsible entity;
    - (ii) the day an administrator is authorised under section 530(4) to operate the responsible entity's infrastructure for supplying recycled water under the critical recycled water scheme.

### **536 Effect of operating infrastructure**

- (1) This section applies if, under section 534 or 535, the regulator or another person operates an entity's infrastructure.
- (2) Section 531(2) to (7) applies in relation to the operation of the infrastructure—
  - (a) as if a reference in the section to the administrator or operator were a reference to the regulator or other person; and
  - (b) as if the reference in section 531(6) to the administrator's reasonable costs were a reference to the regulator's or other person's reasonable costs; and
  - (c) as if the reference in section 531(7) to the administrator were a reference to the regulator or other person.
- (3) The regulator or other person is taken to be the drinking water service provider or responsible entity for the period for which the regulator or person may operate the infrastructure.

## **Division 3 Other matter**

### **537 Corporations legislation displacement provision**

This part is declared to be a Corporations legislation displacement provision for the purposes of the Corporations Act, section 5G, in relation to the provisions of chapter 5 of that Act.

*Notes—*

- 1 Chapter 5 of the Corporations Act provides for the external administration of corporations.
- 2 Section 5G of that Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

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**538 Sections 538–558 not used**

See editor's note for section 1.

## **Part 2 Relationship with Planning Act**

**559 Definition for pt 2**

In this part—

*relevant operational work* means operational work under the Planning Act that is the construction of a dam or that is carried out in relation to a dam if, because of the work, the dam must be failure impact assessed.

**561 Particular applications for relevant operational work**

- (1) This section applies to—
  - (a) an application for a development approval for relevant operational work; or
  - (b) a change application, other than a minor change application, to change a development approval that already approves relevant operational work; or
  - (c) a change application, other than a minor change application, to change a development approval—
    - (i) to approve relevant operational work; and
    - (ii) that does not already approve relevant operational work.
- (2) The application must be supported by evidence that the chief executive has accepted a failure impact assessment of the dam or proposed dam to which the relevant operational work relates.
- (3) In this section—

*change application* means a change application under the Planning Act.

***minor change application*** means a change application for a minor change to a development approval, as defined in the Planning Act.

## **562 When appeal may be made to Land Court**

- (1) This section applies if—
  - (a) a person makes an application to which section 561 applies; and
  - (b) the assessable development to which the application relates is for, or relates to, an activity authorised under the *Mineral Resources Act 1989*; and
  - (c) the person has applied under the *Mineral Resources Act 1989* for authorisation to carry out the activity.
- (2) Despite the Planning Act, chapter 6, the person may appeal against a decision about the application to the Land Court.
- (3) In this section—

***assessable development*** means development that is assessable development under the Planning Act.

## **563 Sections 563–569 not used**

See editor’s note for section 1.

# **Part 3 Other miscellaneous provisions**

## **570 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 any of the following—
  - (a) flood mitigation;
  - (b) referable dams;



- (c) guidelines;
  - (d) 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.

### **571 Regulator may make guidelines**

- (1) The regulator may make guidelines to provide guidance to persons about any of the following—
  - (a) the quality of drinking water or recycled water;
  - (b) preparing a drinking water quality management plan or recycled water management plan;
  - (c) validating recycled water schemes;
  - (e) preparing audit reports under chapter 2 or 3;
  - (f) preparing annual reports under section 273;
  - (g) preparing, and making publicly available, reports under section 274;
  - (h) issuing a rate notice or account for the supply of water to residential premises;
  - (i) granting exemptions for small service providers under section 147;
  - (j) conducting a review of a recycled water management plan or drinking water quality management plan;
  - (k) for schedule 3, definition *supply*, paragraph (b)—who is a related entity of a person who produces recycled water;
  - (l) another matter relating to the administration of this Act.

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- (2) A guideline about the quality of drinking water or recycled water must not be inconsistent with any standard about the quality of drinking water or recycled water prescribed in a regulation under the Public Health Act.

### **572 Chief executive may make guidelines**

The chief executive may make guidelines to provide guidance to persons about any of the following—

- (a) preparing a water efficiency management plan;
- (b) failure impact assessment of water dams;
- (c) applying safety conditions to a referable dam;
- (d) managing a referable dam;
- (e) flood capacity of dams;
- (f) another matter relating to the administration of this Act.

### **573 Water service provider may make guidelines**

A water service provider may make guidelines to provide guidance to persons about preparing a water efficiency management plan.

### **574 Documents regulator and chief executive must keep available for inspection and purchase**

- (1) The regulator and 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 guideline made under section 571 or 572;
  - (b) each annual report prepared by the regulator under section 14.
- (2) The chief executive may also keep a copy of a document mentioned in subsection (1) available for inspection by the

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public at other places the chief executive considers appropriate.

- (3) A person may, on payment of a fee decided by the chief executive or regulator, obtain a copy of a document available for inspection under this section.
- (4) The fee decided by the chief executive or regulator must not be more than the reasonable cost of providing the copy.

### **575 Documents service provider must keep available for inspection and purchase**

- (1) A service provider must keep a copy of the following documents, for the provider, available for inspection by the public during office hours on business days at the office of the provider—
  - (a) guidelines made for preparing a water efficiency management plan;
  - (b) the approved drinking water quality management plan;
  - (c) drinking water quality management plan audit reports;
  - (d) performance audit reports;
  - (e) customer service standards;
  - (f) drinking water service annual reports;
  - (g) performance reports;
  - (h) service area maps prepared under section 163.
- (2) Without limiting subsection (1), a service provider complies with that subsection, in relation to a document, if the provider—
  - (a) considers that information in the document is cybersecurity information; and
  - (b) removes the cybersecurity information from a copy of the document; and

*Examples of ways cybersecurity information may be removed from a document—*

- omitting the cybersecurity information from the document
  - redacting the cybersecurity information in the document
- (c) keeps the copy of the document, with the cybersecurity information removed, available for inspection by the public under subsection (1).
- (3) If a service provider keeps a copy of a document available for inspection by the public under subsection (1) or (2)(c), the provider may also keep the copy of the document available for inspection by the public at other places the service provider considers appropriate.
- (4) A person may, on payment of a fee decided by the service provider, obtain a copy of a document kept available by the provider for inspection by the public under subsection (1) or (2)(c).
- (5) The fee decided by the service provider must not be more than the reasonable cost of providing the copy.

### **575A Documents service providers must publish**

- (1) A service provider must publish each of its documents mentioned in section 575(1), other than the following, unless the provider has a reasonable excuse—
- (a) drinking water quality management plans;
  - (b) drinking water quality management plan audit reports;
  - (c) performance audit reports.
- Maximum penalty—50 penalty units.
- (2) Without limiting subsection (1), a service provider complies with that subsection, in relation to a document, if the provider—
- (a) considers that information in the document is cybersecurity information; and

- 
- (b) removes the cybersecurity information from the document; and

*Examples of ways cybersecurity information may be removed from a document—*

- omitting the cybersecurity information from the document
  - redacting the cybersecurity information in the document
- (c) publishes the document with the cybersecurity information removed.

**576 Documents recycled water provider and scheme managers must keep available for inspection and purchase**

- (1) The relevant entity for a recycled water scheme must keep a copy of the following documents available for inspection by the public during office hours on business days at the office of the entity—
- (a) the entity’s approved recycled water management plan;
  - (b) each regular audit report prepared by the entity under section 261;
  - (c) each annual report prepared by the entity under section 273.
- (2) The relevant entity may also keep a copy of a document mentioned in subsection (1) available for inspection by the public at other places the entity considers appropriate.
- (3) A person may, on payment of a fee decided by the relevant entity, obtain a copy of a document available for inspection under this section.
- (4) The fee decided by the relevant entity must not be more than the reasonable cost of providing the copy.

### **576A Documents recycled water provider and scheme managers must publish**

The relevant entity for a recycled water scheme must publish the annual report prepared by the entity under section 273, unless the entity has a reasonable excuse.

Maximum penalty—50 penalty units.

### **577 Records to be kept in registries**

- (1) If the chief executive gives an owner or operator of a dam a notice under section 359(1), the chief executive must give the registrar of titles a copy of the notice.
- (2) The registrar of titles must record the notice in a way that a search of the register kept by the registrar under any Act relating to the land mentioned in section 359(1) will show that—
  - (a) a notice has been given under section 359(1) for the land; and
  - (b) particulars of the notice may be obtained from the chief executive.
- (3) If the chief executive is satisfied the notice has been complied with or is no longer required, the chief executive must ask the registrar of titles to remove the notice from the register.
- (4) If the registrar of titles receives a request under section 361, the registrar must register, release or vary the charge according to the request.

### **578 Protecting officials from liability**

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—

*official* means—

- (a) the Minister; or
- (b) the chief executive; or
- (c) the regulator; or
- (d) an authorised officer; or
- (e) a member of an advisory council; or
- (f) a person acting under the direction of a person mentioned in paragraph (a), (b), (c) or (d).

**578A Chief executive may prepare and publish comparative reports**

- (1) The chief executive may prepare and publish a report (a *comparative report*) about 2 or more relevant service providers that includes the following information about the providers—
  - (a) compliance actions;
  - (b) investigations;
  - (c) progress on any improvement plans;
  - (d) data in a drinking water service annual report or performance report.
- (2) The chief executive may use the information mentioned in subsection (1) and any other information to analyse performance of the providers and prepare the comparative report.
- (3) The information used by the chief executive, a summary of the information or the chief executive’s analysis may be included in the comparative report.

**578B The chief executive may share information in particular reports etc.**

The chief executive may give a copy of any of the following to any person—

- (a) a drinking water service annual report;

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- (b) a performance report;
- (c) a report about an investigation under chapter 5;
- (d) information contained in a relevant service provider's improvement plan.

### **578C Publishing under this Act**

- (1) This section applies if—
  - (a) a provision of this Act requires or allows an entity to publish information in a notice or other document; and
  - (b) the provision does not require the entity to publish the document in a particular way.
- (2) The entity must publish the document—
  - (a) if the document is a notice and the entity is the Minister or the chief executive—on a Queensland Government website; or
  - (b) if the document is a notice and the entity is not the Minister or the chief executive—on the entity's website; or
  - (c) if the document is not a notice—on the internet, free of charge.
- (3) Subsection (2) does not prevent the entity from also publishing the document in other ways.

### **579 Regulator may share particular information**

- (1) The regulator may give the following information to any person or entity to prevent or minimise a risk or potential risk to public health—
  - (a) information about a responsible entity, including information identifying an individual;
  - (b) information about a drinking water service or recycled water scheme.
- (2) The regulator may give information about water quality to—



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- (a) a service provider; or
- (b) an employee of the health department.
- (3) In this section—
- responsible entity*** means—
- (a) a drinking water service provider; or
- (b) a recycled water provider or other declared entity for a recycled water scheme; or
- (c) the scheme manager for a multiple-entity recycled water scheme.

### **579A Chief executive may share particular information**

- (1) The chief executive may give relevant information to a local government or a prescribed entity for the purpose of helping the local government or entity deal with an emergency situation or respond to a matter affecting public health or safety.

- (2) In this section—

***prescribed entity*** means an entity the functions of which include managing, or carrying out activities in response to, emergency situations in the State.

*Examples of a prescribed entity—*

- the Queensland Police Service
- a disaster management group under the *Disaster Management Act 2003*
- the State Emergency Service under the *State Emergency Service Act 2024*

***relevant information*** means information in the chief executive's possession about a dam in the State, including, for example—

- (a) the name of the owner of the dam; and
- (b) the dam's location and storage capacity; and

- (c) the location and contact details of persons at risk if the dam were to fail.

## **580 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 13 or chapter 2, part 4, division 1 or chapter 3; and
  - (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—
  - (a) an employee of the department or the health department who receives the information in the course of the employee’s duties; or
  - (b) the chief executive of the health department, if the disclosure is for the purpose of preventing or minimising a risk, or potential risk, to public health; or
  - (c) an investigator for the purpose of an investigation; or
  - (d) the Minister, the chief executive or the regulator.
- (3) An employee mentioned in subsection (2)(a) must not disclose to any person information the employee obtains under subsection (2).
- (4) In this section—

*commercially sensitive* means reasonably expected to affect adversely the client's commercial activities, if made publicly available.

*investigator* means a person—

- (a) engaged by the regulator under section 468; or
- (b) appointed under an Act for the purpose of monitoring or enforcing that Act or another law.

### **581 Delegation by Minister**

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.

### **582 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.

### **583 Fees and charges payable to chief executive and regulator**

- (1) This section applies to a fee or charge payable under a regulation made under this Act to the chief executive or regulator.
- (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 payable to the State; and
  - (b) the late fee prescribed in the regulation applies to the amount.
- (3) The Minister may waive all or part of a fee or charge payable by a person if the Minister is satisfied payment of the fee would cause financial hardship to the person because of the effects of—

- (a) drought, flood, fire or other natural disaster; or
- (b) economic recession.

#### **584 Non-payment of fees or charges**

- (1) This section applies if all or part of a fee or charge payable to the chief executive or regulator remains unpaid for 20 business days after the day stated in the regulation for payment of the fee or charge.
- (2) The chief executive or regulator 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 or regulator, for payment of the amount owing.

#### **585 Approved forms**

The chief executive and the regulator may each approve forms for use under this Act.

#### **586 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) prescribe fees and charges payable under this Act; or
  - (b) state the standards for the design and construction of water supply and sewerage infrastructure; or

- 
- (c) prescribe the experience or qualifications necessary for a person to conduct an audit under chapter 3; or
  - (d) prescribe the qualifications or experience necessary for particular persons engaged in—
    - (i) the operation of a drinking water service; or
    - (ii) the production or supply of recycled water by a recycled water provider; or
  - (e) impose a penalty of no more than 20 penalty units for contravention of a regulation.

## **Chapter 9      Transitional and savings provisions for Act No. 34 of 2008**

### **Part 1                      Purposes, definitions and general approach**

#### **587      Main purposes of ch 9**

The main purposes of this chapter are as follows—

- (a) to provide for provisions of this Act that are substantially the same as provisions of the Water Act to be dealt with as replacements of the provisions of that Act;
- (b) without limiting paragraph (a), if a matter was dealt with in the Water Act, chapter 3, by providing for something to be dealt with under that Act, to provide for the matter to be dealt with under this Act;
- (c) to provide for matters that were not dealt with in the Water Act that are dealt with under this Act.

## **588 Definitions for ch 9**

In this chapter—

*authorised action* means an action done under a previous provision.

*authorised document* means a document made or kept under a previous provision.

*commencement* means the day this section commences.

*corresponding provision*, for a previous provision, means a provision of this Act that is substantially the same as the previous provision.

*made* includes given and issued.

*obligation* includes duty.

*previous*, in relation to a stated provision that includes a number, means the provision of the Water Act with that number immediately before the commencement.

*previous provision* means a provision of the Water Act, as in force immediately before the commencement.

*protection* includes a statement that—

- (a) there is no liability; and
- (b) there is no invalidity; and
- (c) a person has an entitlement.

## **589 Authorised actions and documents etc. under previous provision**

- (1) This section applies to the following—
  - (a) an authorised action or document done, made or kept under a previous provision if the authorised action or document continued to have effect or was in force immediately before the commencement;
  - (b) an entity's obligation under a previous provision if the obligation applied to the entity immediately before the commencement;

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- (c) a protection under a previous provision that applied to an entity immediately before the commencement.
  - (2) Subject to a specific provision of this Act in relation to an authorised action or document, or obligation or protection under a previous provision, if there is a corresponding provision for the previous provision, the authorised action or document, or the obligation or protection—
    - (a) continues in force or to have effect according to its terms; and
    - (b) may be taken to have been done, made, kept or applied under the corresponding provision.
  - (3) Subsection (2) does not apply to a statutory instrument that is, immediately before the commencement, subordinate legislation.
  - (4) However subsection (2)(b) applies whether or not the previous provision refers to the action or document, or obligation or protection by reference to a provision of the Water Act.
  - (5) Other provisions of this part include examples for this section.

*Note—*

The examples are examples under the *Acts Interpretation Act 1954*, section 14D.

## **590 Things continued in force under Water Act**

- (1) This section applies to a thing (*the thing*) that happened under an Act other than the Water Act but that, under the Water Act and in particular under the Water Act, chapter 3, continued to have effect.
- (2) If the thing has not ended before the commencement of this section, the thing continues to have effect under this Act.
- (3) Matters in relation to the thing are to be done under this Act unless a provision of the Water Act, chapter 3, provides otherwise and for the purpose the provision continues to have effect.

- (4) This section does not limit section 589 or another provision of this chapter about the thing.

### **591 Terminology in things mentioned in s 589(1)**

- (1) This section applies to a document that is—
- (a) any of the things mentioned in section 589(1), including, for example, an authorised action or document; or
  - (b) evidence of any of the things.
- (2) A reference in the document to the thing is to be read, if the context permits and with the necessary changes to terminology, as if the thing were done, made or kept under this Act.

*Example for subsection (2)—*

A notice given under the Water Act by the appointer to an authorised person limiting the powers of the authorised officer is to be read as if the notice limited the powers of the authorised officer under this Act.

### **592 Period stated in previous provision**

- (1) This section applies if, in a previous provision, there is a period for doing something, and the period for doing the thing started before the commencement.
- (2) If there is a corresponding provision to the previous provision and both the corresponding provision and the previous provision state the same period, the period for the thing continues to have started from when the period started under the previous provision.

### **593 Period or date stated in document given under previous provision**

- (1) This section applies if—
- (a) there was a previous provision that provided for a document to be made under it; and



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- (b) there is a corresponding provision to the previous provision; and
  - (c) under the previous provision and before the commencement—
    - (i) a document was given to a person, whether or not the person had received the document before the commencement; or

*Example for subparagraph (i)—*

A notice under previous section 381 that states a period within which a person who is making an unauthorised connection to a service provider's infrastructure must state why the service provider should not disconnect the connection.

- (ii) a document was published.

*Example for subparagraph (ii)—*

a gazette notice under previous section 955(2) authorising an administrator to operate a service provider's infrastructure for a registered service

- (2) If the document stated a period for doing something—
  - (a) the stated period continues to apply for doing the thing; and
  - (b) the period continues to have started from when the period started under the previous provision.
- (3) If the document stated a day before which, or by which, a thing is to be done (however expressed), the thing must be done by the stated day.

## **594 Act or omission happening before commencement may be relevant to proceeding for particular acts or omissions**

- (1) An act or omission that happened before the commencement of this section may be relevant to a proceeding relating to a contravention of a provision of this Act involving an act or omission that happened after the commencement.
- (2) This section does not limit the *Acts Interpretation Act 1954*, section 20C.

- (3) In this section—  
*contravention* includes an alleged contravention.

### **595 Acts Interpretation Act 1954, s 20 not limited**

This chapter does not limit the *Acts Interpretation Act 1954*, section 20.

## **Part 2 Transitional provisions relating to particular provisions of the Water Act**

### **Division 1 Transitional provisions relating to the Water Act, chapter 3**

#### **Subdivision 1 Examples for chapter 2**

### **596 Examples for ch 2 of things under s 589**

For the operation of chapter 2, the following are examples of authorised actions or documents for section 589 in relation to matters dealt with under the Water Act, chapter 3—

- (a) an application to the regulator under a previous provision, including, for example, the following—
  - (i) an application under previous section 371 for registration as a service provider;
  - (ii) an application under previous section 373 to amend a service provider's details of registration in the service provider register;
  - (iii) an application under previous section 376B to have a service provider's registration cancelled;
- (b) the registration by the regulator under previous section 372 of a service provider;

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- (c) a notice under a previous provision, including, for example, the following—
- (i) a notice under previous section 374 of a proposed transfer of ownership of a service provider's infrastructure;
  - (ii) a notice under previous section 376 of a possible stoppage of the supply of a service provider's registered service;
  - (iii) a notice under previous section 378 of a change of a service provider's registration details;
  - (iv) a notice given under previous section 381 asking a person to state why the service provider should not disconnect an unauthorised connection to the service provider's infrastructure;
  - (v) a notice under previous section 382 to do particular work in relation to a service provider's infrastructure;
- (d) the installation of a meter under previous section 383;
- (e) the imposition of a service provider water restriction under previous section 388;
- (f) an extension of time under previous section 402(5) or 491(5);
- (g) a report under previous section 404;
- (h) a show cause notice under a previous provision, including, for example, a show cause notice under previous section 419(2) or 471(2);
- (i) a submission made in relation to a show cause notice;
- (j) an information notice under a previous provision;
- Examples—*
- previous sections 412(2), 414F(3), 414H(3), 414J(3), 414K(2), 419(6), 427(6), 429F(5), 429G(3), 436(1) or (5), 437(3) and 471(4) or (8)
- (k) a register of service providers under previous section 516.

### **597 Examples for ch 2 of obligations under s 589**

For the operation of chapter 2, the following are examples of obligations for section 589 in relation to matters dealt with under the Water Act, chapter 3—

- (a) an obligation under previous section 384(2) to give notice of entry to premises;
- (b) an obligation under previous section 385 to give notice of the particulars of damage to anything;
- (c) an obligation to comply with a direction given under previous section 388A(3);
- (d) an obligation to comply with an approved response under previous section 388A(6);
- (e) a requirement of a service provider under previous section 400(3);
- (f) a requirement for a service provider to arrange regular audit reports, and give the reports to the regulator, under previous section 417(1).

### **598 Examples for ch 2 of protections under s 589**

For the operation of chapter 2, the following are examples of protections for section 589 in relation to matters dealt with under the Water Act, chapter 3—

- (a) a right for a service provider to recover a loss or costs, as a debt due to the service provider, under a previous provision;

*Example—*

See previous sections 381 and 387.

- (b) a right for a person to claim compensation under previous section 386;
- (c) the statement in previous section 395(1) that no liability was incurred as mentioned in that provision.

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## **Subdivision 2      Service providers and service provider obligations**

### **599      Existing service providers**

- (1) This section applies to a person registered under previous section 372 as a service provider, or taken to be a service provider under the Water Act, section 1060(2), for supplying a water or sewerage service immediately before the commencement.
- (2) On the commencement, the person is taken to be registered under chapter 2, part 3, as a service provider for supplying the service.

### **600      Water efficiency management plans**

- (1) A water efficiency management plan approved under the Water Act, chapter 3, part 2, division 7 and in force immediately before the commencement is, from the commencement, taken to be a water efficiency management plan approved under chapter 2, part 3, division 6.
- (2) The Water Act, section 1155 continues to apply except that a reference to the Water Act, chapter 3, part 2, division 7 is taken to be a reference to chapter 2, part 3, division 6.

### **601      Approved strategic asset management plans**

A strategic asset management plan approved under previous section 411 and in force immediately before the commencement is, from the commencement, taken to be a strategic asset management plan approved under section 74.

### **602      Approved system leakage management plans**

- (1) A system leakage management plan approved under previous section 414I and in force immediately before the commencement is, from the commencement, taken to be a system leakage management plan approved under section 87.

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- (2) An exemption given under previous section 414F and in force immediately before the commencement—
  - (a) is, on the commencement, taken to be an exemption given under section 84; and
  - (b) applies for the balance of the period for which it was granted under the Water Act.
- (3) The Water Act, section 1136F continues to apply, subject to any amendment of that section, except that a reference to section 414D is taken to be a reference to section 82.

### **603 Audit reports**

An audit report given under previous section 417 to the regulator is, from the commencement, taken to be an audit report given under section 108.

### **604 Customer service standard**

A customer service standard prepared under previous section 424 is, from the commencement, taken to be a customer service standard prepared under section 115.

### **605 Drought management plan**

- (1) A drought management plan registered under previous section 429H and in force immediately before the commencement is, from the commencement, taken to be a drought management plan registered under section 128.
- (2) An exemption given under previous section 429F and not cancelled before the commencement is, from the commencement, taken to be an exemption given under section 126.

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**606 Application of provision about guidelines for rate notice or account for water supply**

The Water Act, section 1153 continues to apply except that a reference to section 429R is taken to be a reference to section 138.

**607 Application of provision about water advices**

The Water Act, section 1154 continues to apply except that a reference to section 429S is taken to be a reference to section 139.

**608 Service areas**

- (1) This section applies to a local government area, or part of a local government area, that was, immediately before the commencement, a service area under previous section 449 or the Water Act, section 1063 for a retail water service or sewerage service (the *existing service area*).
- (2) On the commencement—
  - (a) the existing service area is taken to be a service area declared under section 161 (the *new service area*) by the local government for the local government area; and
  - (b) the service provider for the existing service area is the service provider for the new service area.
- (3) The Water Act, section 1064 continues to apply except that a reference to chapter 3, part 4, divisions 3 and 4 is taken to be a reference to chapter 2, part 5, divisions 3 and 4.

**609 Existing trade waste approvals**

- (1) This section applies to each of the following approvals (a *Water Act approval*), in force immediately before the commencement of this section—
  - (a) a trade waste approval given under previous section 469;

- (b) an approval taken to be a trade waste approval under the Water Act, section 1048B.
- (2) On the commencement—
- (a) the approval is taken to be a trade waste approval granted under section 180; and
  - (b) any conditions applying to the Water Act approval continue to apply.

### **Subdivision 3      Referable dams and flood mitigation**

#### **610      Examples for ch 4 of things under s 589**

- (1) For the operation of chapter 4, the following are examples of authorised actions or documents for section 589 in relation to matters dealt with under the Water Act, chapter 3—
- (a) a requirement under previous section 486 for an owner of a dam to pay the cost of preparing and certifying a failure impact assessment for the dam;
  - (b) an information notice, including an information notice under previous section 489(2), 490(2), 491(7) or 492(7);
  - (c) a decision made by the chief executive, including a decision about safety conditions for a dam;
  - (d) a notice given under previous section 494.
- (2) For the operation of chapter 4, the following are examples of obligations for section 589 in relation to matters dealt with under the Water Act, chapter 3—
- (a) an obligation under previous section 483 in relation to having a dam failure impact assessed;
  - (b) an obligation to comply with a notice given under previous section 494;
  - (c) an obligation under previous section 499 for the owner of a dam to review the flood mitigation manual for the dam.



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- (3) For the operation of chapter 4, the following are examples of protections for section 589 in relation to matters dealt with under the Water Act, chapter 3—
- (a) the statement in previous section 500(1) that no liability was incurred as mentioned in that provision;
  - (b) the statement in previous section 500(2) that no liability was incurred as mentioned in that provision.

### **611 Referable dams and failure impact assessment**

- (1) This section applies to a dam if, immediately before the commencement, the dam was a referable dam (a *Water Act referable dam*) under previous section 481 or the Water Act, section 1067(5)(a), 1068(2)(a) or 1069(2)(a).
- (2) On the commencement, a Water Act referable dam is taken to be a referable dam under section 341.
- (3) If a Water Act referable dam has been failure impact assessed, within the meaning of the Water Act, the assessment is taken to be a failure impact assessment completed under chapter 4, part 1, division 2.

### **612 Hazardous dams**

- (1) This section applies to a dam that, immediately before the commencement of the Water Act, section 1065 contained hazardous waste.
- (2) The Water Act, section 1065(3)(c) continues to apply except that—
  - (a) a reference to section 43 of the repealed Act is taken to be a reference to the repealed *Water Resources Act 1989*, section 43; and
  - (b) a reference to the commencement is taken to be a reference to the commencement of the Water Act, section 1065.
- (3) The Water Act, section 1065AA continues to apply.

### **613 Approved flood mitigation manuals**

- (1) A flood mitigation manual approved under the previous section 497 and in force immediately before the commencement is, from the commencement, taken to be a flood mitigation manual approved under section 371.
- (2) The approval of the flood mitigation manual is for the balance of the period of approval for which the manual was approved under the Water Act.

## **Division 2 Transitional provisions relating to the Water Act, chapter 5**

### **614 Examples for ch 5 of things under s 589**

- (1) For the operation of chapter 5, the following are examples of authorised actions or documents for section 589 in relation to matters dealt with under the Water Act, chapter 5—
  - (a) the appointment of a person as an authorised officer under previous section 739;
  - (b) an order of a court, including, for example, the following—
    - (i) an order for a person to forfeit a thing to the State under previous section 757G;
    - (ii) an order for a person to comply with a document production requirement under previous section 762;
    - (iii) an enforcement order under previous section 788;
  - (c) a request to the commissioner of police for a written report under previous section 767.
- (2) For the operation of chapter 5, the following are examples of obligations for section 589 in relation to matters dealt with under the Water Act, chapter 5—
  - (a) a requirement under previous section 757D by an authorised officer;

- (b) a requirement under previous section 763 that a person give information to an authorised officer.
- (3) For the operation of chapter 5, the following are examples of protections for section 589 in relation to matters dealt with under the Water Act, chapter 5—
- (a) the statement in previous section 759(2) that a person does not commit an offence in the circumstances mentioned in that provision;
  - (b) the statement in previous section 762(3) that evidence that may tend to incriminate an individual, derived from a document the individual is compelled to give, is not admissible in proceedings as mentioned in that provision;
  - (c) the statement in previous section 763(5) that evidence that may tend to incriminate an individual, derived from a document the individual is compelled to give, is not admissible in proceedings as mentioned in that provision;
  - (d) a right to claim compensation from the State under previous section 765.
- (4) For the operation of chapter 6, the following are examples of authorised actions or documents for section 589 in relation to matters dealt with under the Water Act, chapter 5—
- (a) a show cause notice under previous section 778(2), and any submission made in relation to the show cause notice;
  - (b) a starting of proceedings under previous section 931.
- (5) For the operation of chapter 6, the statement in previous section 828(4) that an executive officer of a corporation has the defence mentioned in that provision in relation to the executive officer committing an offence under the section is an example of a protection for section 589 in relation to matters dealt with under the Water Act, chapter 5.

## **Division 3                      Transitional provisions relating to the Water Act, chapter 6**

### **615      Examples for ch 7 of things under s 589**

- (1) For the operation of chapter 7, the following are examples of authorised actions or documents for section 589 in relation to matters dealt with under the Water Act, chapter 6—
  - (a) an application under previous section 862 for an internal review;
  - (b) an extension of time under previous section 863(2);
  - (c) an application for arbitration under a previous provision;
  - (d) an appeal under a previous provision;
  - (e) an application for the stay of an original decision under a previous provision;
  - (f) an extension of time under previous section 878(3);
  - (g) a withdrawal of a dispute notice under previous section 893.
- (2) For the operation of chapter 7, the following are examples of obligations for section 589 in relation to matters dealt with under the Water Act, chapter 6—
  - (a) an obligation under previous section 864(2) to review an original decision;
  - (b) an obligation under previous section 895(1) for the authority to make a written determination in an arbitration on a dispute.
- (3) For the operation of chapter 7, the statement in previous section 895(3) that the authority is not required to make a determination in the circumstances mentioned in the provision is an example of a protection for section 589 in relation to matters dealt with under the Water Act, chapter 6.

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## **Division 4                      Transitional provisions relating to the Water Act, chapter 7**

### **616      Examples for ch 6 of things under s 589**

For the operation of chapter 6, the following are examples of authorised actions or documents for section 589 in relation to matters dealt with under the Water Act, chapter 7—

- (a) a certificate, under previous section 921, purportedly signed by the chief executive or regulator about a matter;
- (b) an order of a Magistrates Court under previous section 934 in relation to a complaint.

## **Division 5                      Transitional provisions relating to the Water Act, chapter 8**

### **617      Examples for ch 8 of things under s 589**

(1) For the operation of chapter 8, the following are examples of authorised actions or documents for section 589 in relation to matters dealt with under the Water Act, chapter 8—

- (a) the appointment of a person as an administrator under previous section 955;
- (b) the suspension of the registration of a service provider under previous section 957(2);
- (c) a withdrawal under previous section 958;
- (d) the establishment of an advisory council under previous section 1005;
- (e) a written notice under previous section 1013B.

(2) For the operation of chapter 8, the following are examples of obligations for section 589 in relation to matters dealt with under the Water Act, chapter 8—

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- (a) an obligation under previous section 956(3) to give the administrator and operator access to premises;
  - (b) an obligation under previous section 956(7) for the administrator to make payment as mentioned in that provision.
- (3) For the operation of chapter 8, the statement in previous section 1010(2) that no liability was incurred as mentioned in that provision is an example of a protection for section 589 in relation to matters dealt with under the Water Act, chapter 8.

## **Division 6                      Transitional provisions relating to the Water Act—general matters**

### **618      Existing applications**

An application made under a previous provision and not decided on the commencement must be decided under the corresponding provision for the previous provision.

### **619      Existing exemptions**

If, immediately before the commencement, a person was exempted from a previous provision, the person is taken to be exempted from the corresponding provision for the previous provision.

### **620      Existing authorised officers**

A person who held an appointment as an authorised officer under a previous provision immediately before the commencement is taken to be appointed as an authorised officer under the corresponding provision for the previous provision.

## **621 Guidelines**

Any guidelines issued under the Water Act by the regulator under the Water Act, the chief executive or a service provider under the Water Act in relation to a previous provision and in force immediately before the commencement are, from the commencement, taken to be guidelines made by the regulator under this Act, the chief executive or a service provider under this Act for the corresponding provision for the previous provision.

## **622 Internal review**

- (1) If a person had, under previous section 863, applied for an internal review of an original decision made under the Water Act, chapter 3, and the review decision had not been made before the commencement, the review decision may be made under previous section 864.
- (2) If a person could have applied under previous section 863 for an internal review of an original decision made under the Water Act, chapter 3, and the person had not applied before the commencement, the person may apply for an internal review of the original decision under previous section 863.

## **623 Appeals**

- (1) Subsection (2) applies if—
  - (a) a person had appealed to a court under a previous provision before the commencement against a review decision in relation to a matter arising under the Water Act, chapter 3; and
  - (b) the appeal had not been decided before the commencement.
- (2) The court may hear, or continue to hear, and decide the appeal under the previous provision.
- (3) Subsection (4) applies if—

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- (a) a person could have appealed to a court under a previous provision before the commencement against a review decision in relation to a matter arising under Water Act, chapter 3; and
  - (b) the person had not appealed before the commencement.
- (4) The person may appeal under the previous provision.

## **624 Arbitration**

- (1) If a person had applied for arbitration of a review decision in relation to a matter arising under the Water Act, chapter 3, and the arbitration had started, but not finished, under a previous provision before the commencement, the arbitration may be finished under the previous provision.
- (2) If a person could, under a previous provision, have applied for arbitration of a review decision in relation to a matter arising under the Water Act, chapter 3, and the person had not applied before the commencement, the person may apply under the previous provision for arbitration of the review decision.

## **625 Legal proceedings**

- (1) A legal proceeding that could, immediately before the commencement, have been started or continued under a previous provision by or against the Attorney-General or a service provider under the Water Act may, from the commencement, be started or continued under the previous provision by or against the Attorney-General or the service provider.
- (2) A legal proceeding that could, immediately before the commencement, have been started or continued under a previous provision by or against the regulator under the Water Act may, from the commencement, be started or continued under the previous provision by or against the regulator under this Act.



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## **626 References in Acts and documents**

- (1) A reference in an Act or document to a previous provision may, if the context permits, be taken as a reference to the corresponding provision of the previous provision.
- (2) A reference in an Act or document to 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.

## **Part 3 Transitional provisions about outdoor water use conservation plans**

### **627 Application of provision about outdoor water use conservation plan**

- (1) Section 133 does not apply to a person, registered as a water service provider immediately before the commencement of this section, until 2 years after the commencement.
- (2) Section 133 does not apply to a person, registered as a water service provider after the commencement of this section, until 2 years after the provider's registration.

## **Part 4 Transitional provisions about drinking water**

### **628 Application of particular provision**

- (1) Section 92 does not apply to a large drinking water service provider in relation to the carrying out of an existing drinking water service by the provider until—
  - (a) if the provider is given a notice under section 629—the day the period mentioned in section 629(3) ends; or
  - (b) otherwise—1 July 2011.

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- (2) Section 92 does not apply to a medium drinking water service provider in relation to the carrying out of an existing drinking water service by the provider until—
  - (a) if the provider is given a notice under section 629—the day the period mentioned in section 629(3) ends; or
  - (b) otherwise—1 July 2012.
- (3) Section 92 does not apply to a small drinking water service provider in relation to the carrying out of an existing drinking water service by the provider until—
  - (a) if the provider is given a notice under section 629—the day the period mentioned in section 629(3) ends; or
  - (b) otherwise—1 July 2013.
- (4) Section 92 does not apply to an entity that becomes a drinking water service provider after 1 July 2008 until 1 year after the day the entity becomes a drinking water service provider.
- (5) Subsections (1) to (4) do not apply to a drinking water service provider if the drinking water service carried out by the provider is—
  - (a) water collection in a water storage, if the water in the storage—
    - (i) includes recycled water; and
    - (ii) is used to augment a drinking water supply; or
  - (b) the treatment of water intended for drinking that is sourced from a water storage, or water released from a water storage, mentioned in paragraph (a).
- (6) In this section—

***existing drinking water service*** means a drinking water service the drinking water service provider was carrying out immediately before 1 July 2008.

***large drinking water service provider*** means a drinking water service provider that is a large service provider.

***medium drinking water service provider*** means a drinking water service provider that is a medium service provider.

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*small drinking water service provider* means a drinking water service provider that is a small service provider.

**629 Notice requiring entity to have approved drinking water quality management plan**

- (1) This section applies in relation to a drinking water service provider to which section 92 does not apply because of the operation of section 628 if the regulator is satisfied, or reasonably believes, the continued operation of the provider's drinking water service may have an adverse effect on public health.
- (2) The regulator may, by notice given to the drinking water service provider, require the provider to prepare a drinking water quality management plan for the provider's drinking water service for approval by the regulator.
- (3) The notice must state the reasonable period within which there must be an approved drinking water quality management plan for the provider's drinking water service.

**630 Provision about water quality monitoring and reporting**

- (1) This section applies to a drinking water service provider if, under section 628, section 92 does not apply to the provider.
- (2) The regulator may, by notice given to the drinking water service provider, require the provider to do any of the following—
  - (a) to carry out monitoring, described in the notice, of the quality of water supplied to or from the provider's drinking water service;
  - (b) to give the regulator reports, at the intervals stated in the notice, about the results of the monitoring mentioned in paragraph (a);
  - (c) to give the regulator other reports about the operation of the drinking water service, including, for example, reports about whether the quality of water supplied to or



*existing recycled water scheme* means a recycled water scheme under which recycled water was supplied before 1 July 2008.

*minimally processed food crops* means crops stated to be minimally processed food crops, in relation to using recycled water to irrigate the crops, in a regulation under the Public Health Act about standards for the quality of recycled water.

### **632 Application of particular provisions—schemes supplying recycled water for particular purposes**

- (1) Subsection (2) applies to a recycled water scheme if recycled water is supplied under the scheme—
  - (a) for the first time on or after 1 July 2008 and before 31 December 2008; and
  - (b) either—
    - (i) to premises by way of a reticulation system used only to provide recycled water for outdoor use or for use in flushing toilets or in washing machines; or
    - (ii) for use in irrigating minimally processed food crops.
- (2) Sections 196, 201 and 270 do not apply in relation to the scheme until—
  - (a) if the relevant entity or a declared entity for the scheme is given a notice under section 634—the day the period mentioned in section 634(4) and stated in the notice ends; or
  - (b) otherwise—the day that is 6 months after the day recycled water is first supplied under the scheme.
- (3) Subsection (4) applies to a recycled water scheme if recycled water is supplied under the scheme—
  - (a) for the first time on or after 31 December 2008 and before 1 July 2009; and
  - (b) either—

- (i) to premises by way of a reticulation system used only to provide recycled water for outdoor use or for use in flushing toilets or in washing machines; or
  - (ii) for use in irrigating minimally processed food crops.
- (4) Sections 196, 201 and 270 do not apply in relation to the scheme until—
  - (a) if the relevant entity or a declared entity for the scheme is given a notice under section 634—the day the period mentioned in section 634(4) and stated in the notice ends; or
  - (b) otherwise—1 July 2009.
- (5) In this section—

*minimally processed food crops* means crops stated to be minimally processed food crops, in relation to using recycled water to irrigate the crops, in a regulation under the Public Health Act about standards for the quality of recycled water.

### **633 Application of particular provisions—other schemes**

- (1) Subsections (2) and (3) apply to any recycled water scheme, other than a recycled water scheme—
  - (a) mentioned in section 631 or 632; or
  - (b) under which recycled water is supplied to augment a supply of drinking water; or
  - (c) that is an existing CSG recycled water scheme under chapter 10, part 4; or
  - (d) under which recycled water is supplied—
    - (i) for the first time on or after 1 July 2009; and
    - (ii) to premises by way of a dual reticulation system; or
  - (e) under which recycled water is supplied—

- (i) for the first time on or after 1 July 2009; and
  - (ii) for use in irrigating minimally processed food crops.
- (1A) However, subsections (2) and (3) cease to apply to a recycled water scheme if—
  - (a) a recycled water management plan is approved for the scheme; or
  - (b) the recycled water provider for the scheme is granted an exemption from having an approved recycled water management plan under section 253.
- (2) If recycled water was supplied under the scheme before 1 July 2008, sections 196, 201 and 270 do not apply in relation to the scheme until—
  - (a) if the relevant entity or a declared entity for the scheme is given a notice under section 634—the day the period mentioned in section 634(4) and stated in the notice ends; or
  - (b) otherwise—1 July 2014.
- (3) If recycled water is supplied under the scheme for the first time on or after 1 July 2008, sections 196, 201 and 270 do not apply in relation to the scheme until—
  - (a) if the relevant entity or a declared entity for the scheme is given a notice under section 634—the day the period mentioned in section 634(4) and stated in the notice ends; or
  - (b) otherwise, the later of the following—
    - (i) 1 July 2014;
    - (ii) the day that is 1 year after the day recycled water is first supplied under the scheme.
- (4) In this section—

*minimally processed food crops* means crops, stated to be minimally processed food crops, relating to using recycled

water to irrigate the crops, in a regulation under the Public Health Act about standards for the quality of recycled water.

### **634 Notice requiring entity to have approved plan**

- (1) This section applies in relation to a recycled water scheme to which sections 196, 201 and 270 do not apply because of the operation of section 631, 632 or 633 if—
  - (a) the scheme becomes a critical recycled water scheme; or
  - (b) the regulator is satisfied, or reasonably believes the continued operation of the scheme is likely to pose a risk to public health.
- (2) If the scheme is a single-entity recycled water scheme, the regulator may, by notice given to the recycled water provider for the scheme, require the provider to prepare a recycled water management plan for the scheme for approval by the regulator.
- (3) If the scheme is a multiple-entity recycled water scheme, the regulator may—
  - (a) by notice given to each recycled water provider or other declared entity for the scheme, require the provider or other entity to prepare a scheme provider plan for the scheme; and
  - (b) by notice given to the scheme manager for the scheme, require the scheme manager to prepare a scheme manager plan for the scheme.
- (4) The notice must state the reasonable period within which there must be an approved recycled water management plan for the recycled water scheme.



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## Chapter 10 Other transitional provisions

### Part 1 Transitional provision for Sustainable Planning Act 2009

#### 636 Application of s 562

- (1) This section applies to a development application mentioned in section 562(1)(a) as in force before the commencement of the section that is made before the commencement and dealt with under the repealed *Integrated Planning Act 1997* after the commencement.
- (2) Despite the Planning Act or the repealed *Sustainable Planning Act 2009*, if the applicant for the development application appeals against a decision about the application, the appeal may be to the Land Court.

### Part 2 Transitional provision for South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

#### 637 Provision for recovery of costs for particular investigations

- (1) This section applies if the regulator has, after 13 May 2009 but before the commencement, engaged an expert to give the regulator advice about a suspected contravention of a provision of this Act by an entity before the commencement.
- (2) Section 468(3) to (6), other than section 468(4)(d), applies for the engagement of the expert as if that section had commenced on 13 May 2009.

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- (3) To remove any doubt, it is declared that if the regulator claims an amount under section 468(3) because of the operation of subsection (2), the amount, and any interest payable on the amount under section 468(6)—
  - (a) is a debt owing to the regulator; and
  - (b) may be recovered by the regulator as a debt.
- (4) If a notice is given under section 468 because of the operation of subsection (2), chapter 7 does not apply in relation to the notice.
- (5) In this section—

*commencement* means the day this section commences.

## **Part 3**

# **Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

### **638 Provision for carrying out particular failure impact assessments**

- (1) This section applies to the owner of a dam to which former section 345(2) applied immediately before the commencement.
- (2) Subject to this section, former section 345(2) continues to apply to the owner of the dam until the owner first receives a notice about the dam under new section 350.
- (3) The chief executive may, by notice given to the owner, extend the period under former section 345(2) within which the owner must ensure another failure impact assessment of the dam is completed and given to the chief executive.

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- (4) The notice must state the period within which the assessment must be completed and given to the chief executive.
  - (5) The chief executive may give a notice under subsection (3) if, having regard to the last failure impact assessment of the dam and any other information the chief executive considers appropriate, the chief executive reasonably believes a further failure impact assessment would not change the dam's failure impact rating, or give the dam a failure impact rating, under this Act.
  - (6) If the chief executive gives the owner a notice under this section, former section 345(2) continues to apply to the owner as if the reference in that section to 5 years after the last failure impact assessment was accepted by the chief executive were a reference to the period stated in the notice.
  - (7) In this section—

*commencement* means the day this section commences.

*former section 345* means that section as in force immediately before the commencement.

*new section 350* means section 350 as in force after the commencement.

## **639 Service provider water restrictions**

- (1) This section applies if, immediately before the commencement of this section, a service provider water restriction is in force in the SEQ region.
- (2) From the commencement, the service provider water restriction is taken to be a commission water restriction made by the commission under the Water Act.

## **Part 4**

# **Transitional provisions for Water and Other Legislation Amendment Act 2010**

### **640 Definitions for pt 4**

In this part—

*commencement* means the commencement of this part.

*CSG environmental authority* means a coal seam gas environmental authority within the meaning of the *Environmental Protection Act 1994*, section 310D.

*existing CSG recycled water scheme* means a recycled water scheme under which recycled water that was coal seam gas water was supplied before the commencement by its disposal under a CSG environmental authority.

*transitional period*, for an existing CSG recycled water scheme, see section 642(2).

### **641 Conditions of particular CSG environmental authorities taken to be interim recycled water management plan**

- (1) This section applies to an existing CSG recycled water scheme if, within 4 months after the commencement, the relevant CSG environmental authority for the scheme is prescribed for this section under a regulation.
- (2) The drinking water conditions of the relevant CSG environmental authority are taken to be an approved recycled water management plan for the existing CSG recycled water scheme.
- (3) The approved recycled water management plan is an interim recycled water management plan.
- (4) For chapter 3, part 9A, division 4, the interim period for the existing CSG recycled water scheme starts on the commencement of the regulation mentioned in subsection (1).

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- (5) For this section, the *drinking water conditions* of the relevant CSG environmental authority are the conditions of the authority that—
- (a) relate to the augmentation of drinking water supplies of a drinking water service provider; and
  - (b) are identified in a notice given to the recycled water provider for the scheme by the regulator.

## **642 Transitional period for existing CSG recycled water schemes**

- (1) Section 196 does not apply in relation to an existing CSG recycled water scheme until the day after the transitional period for the scheme ends.
- (2) The *transitional period* for an existing CSG recycled water scheme starts on the commencement and ends on the day provided for under subsections (3) to (5).
- (3) If the relevant CSG environmental authority for an existing CSG recycled water scheme is prescribed for section 641, the transitional period for the scheme ends on the day the regulation prescribing the authority commences.
- (4) The transitional period for an existing CSG recycled water scheme ends on the day that is 4 months after the commencement if, by that day—
  - (a) the recycled water provider has not applied for—
    - (i) approval of a recycled water management plan for the scheme; or
    - (ii) an exclusion decision for the scheme or part of the scheme; and
  - (b) the relevant CSG environmental authority for the scheme has not been prescribed for section 641.
- (5) If subsections (3) and (4) do not apply to an existing CSG recycled water scheme, the transitional period for the scheme ends on the earlier of the following days—
  - (a) the day that is 15 months after the commencement;

- (b) the day a recycled water management plan is approved for the scheme or an exclusion decision is made for the scheme or part of the scheme.

### **643 Provision about water quality monitoring and reporting**

- (1) This section applies in relation to an existing CSG recycled water scheme during the transitional period for the scheme.
- (2) The regulator may, by notice given to the recycled water provider for the existing CSG recycled water scheme, require the provider to do any of the following—
  - (a) carry out monitoring, described in the notice, of the quality of—
    - (i) recycled water produced or supplied under the scheme, including water in feed ponds for the scheme or, if it is not possible to monitor water in feed ponds, water from the petroleum wells for the scheme; or
    - (ii) the water in a water source into which recycled water is released under the scheme;
  - (b) give the regulator reports, at the intervals stated in the notice, about the results of the monitoring mentioned in paragraph (a);
  - (c) give the regulator other reports about the operation of the scheme, including, for example, reports about whether the quality of water produced or supplied under the scheme is consistent with the water quality criteria for recycled water stated in the notice.
- (3) The recycled water provider must comply with the notice unless the provider has a reasonable excuse.

Maximum penalty—500 penalty units.

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## Part 5

# Transitional provisions for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012

### 644 Definitions for pt 5

In this part—

*commencement* means the commencement of this section.

*existing approval period* see section 648(2)(b).

*existing dam* see section 645(1).

*existing flood mitigation manual* see section 648(1).

### 645 Owner of existing dam must prepare and submit emergency action plan

- (1) This section applies to the owner of a dam (an *existing dam*) that—
  - (a) immediately before the commencement was a referable dam; and
  - (b) is a referable dam under section 341 on and after the commencement.
- (2) The owner of the dam must, unless the owner has a reasonable excuse, prepare an emergency action plan for the dam under chapter 4, part 1, division 2A, subdivision 3 and give it to the chief executive for approval before 1 October 2013.

Maximum penalty—1,665 penalty units.

- (3) Section 352E does not apply to the owner of the dam until—
  - (a) if the owner gives the chief executive an emergency action plan under subsection (2)—the chief executive

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approves the plan or gives the owner a notice under section 352L(1)(b); or

(b) otherwise—1 October 2013.

#### **646 Emergency event reporting for owner of existing dam**

- (1) Chapter 4, part 1, division 2A, subdivision 9 applies to the owner of an existing dam from the first of the following—
  - (a) the day an emergency action plan is approved for the dam;
  - (b) 1 October 2013.
- (2) This section applies despite chapter 4, part 1, division 2A, subdivision 9.

#### **647 Particular safety conditions and development conditions taken to have been complied with**

- (1) Subsection (2) applies if—
  - (a) an equivalent plan preparation condition applies to an existing dam; and
  - (b) the owner of the dam complies with the obligation to prepare and submit an emergency action plan under chapter 4, part 1, division 2A.
- (2) The owner of the dam is taken to have complied with the equivalent plan preparation condition for the preparation and submission of the emergency action plan.
- (3) Subsection (4) applies if—
  - (a) an equivalent plan review condition applies to an existing dam; and
  - (b) the owner of the dam complies with the obligation to review an emergency action plan under section 352P.
- (4) The owner of the dam is taken to have complied with the equivalent plan review condition for the review of the emergency action plan.



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- (5) Subsection (6) applies if—
- (a) an equivalent reporting condition applies to an existing dam; and
  - (b) the owner of the dam complies with the obligation to prepare and submit an emergency event report under chapter 4, part 1, division 2A, subdivision 9.
- (6) The owner of the dam is taken to have complied with the equivalent reporting condition for the preparation and submission of the emergency event report.
- (7) In this section—

*equivalent plan preparation condition* means a safety condition or development condition that is equivalent to an obligation to prepare or submit an emergency action plan under chapter 4, part 1, division 2A.

*equivalent plan review condition* means a safety condition or development condition that is equivalent to the obligation to review an emergency action plan under section 352P.

*equivalent reporting condition* means a safety condition or development condition that is equivalent to the obligation to prepare and submit an emergency event report under chapter 4, part 1, division 2A, subdivision 9.

## 648 Continuation of existing flood mitigation manuals

- (1) This section applies to a flood mitigation manual (an *existing flood mitigation manual*) for a dam that was approved under pre-amended section 371 and in force immediately before the commencement.
- (2) The existing flood mitigation manual—
  - (a) is taken to be an approved flood mitigation manual; and
  - (b) continues in force for the balance of the period for which it was approved under pre-amended section 371 (the *existing approval period*).
- (3) In this section—

*pre-amended*, in relation to a provision, means the provision as it was in force immediately before the commencement.

**649 Application of particular provisions to dam with existing flood mitigation manual**

- (1) This section applies to a dam for which an existing flood mitigation manual was in force immediately before the commencement.
- (2) Section 371A(2) does not apply to the dam until after it is first prescribed under a regulation under section 371A(1).
- (3) Section 374 applies to the owner of the dam as if the reference in the section to the approval period were a reference to the existing approval period.
- (4) To remove any doubt, it is declared that the application of section 373 to the existing flood mitigation manual does not limit the operation of section 371D, 371E or 371F in relation to the preparation or approval of a flood mitigation manual.
- (5) This section applies despite sections 371A and 374.

**650 Reporting period for first annual preparedness report for dam with existing flood mitigation manual**

- (1) This section applies to the first annual preparedness report required to be prepared after the commencement by the owner of a dam for which an existing flood mitigation manual was in force immediately before the commencement.
- (2) The reporting period for the annual preparedness report is the period since the commencement.
- (3) This section applies despite section 376.

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## Part 6 Transitional provisions for Land, Water and Other Legislation Amendment Act 2013

### Division 1 Transitional provisions relating to incoming and outgoing service providers

#### 652 Definitions for div 1

In this division—

*changeover day* means the day the outgoing service provider is dissolved under the Water Act, chapter 4, part 7, division 1.

*incoming service provider* see section 653(1)(d).

*outgoing service provider* see section 653(1)(a).

#### 653 Application of div 1

(1) This division applies if—

- (a) a water authority (the *outgoing service provider*) is a service provider for a water service; and
- (b) the outgoing service provider is dissolved and converted, under the Water Act, chapter 4, part 7, division 1, to 2 or more entities (the *new entities*) that are alternative institutional structures; and
- (c) 1 of the new entities becomes the relevant infrastructure owner of 1 or more elements of infrastructure for supplying the water service for which a charge is intended to be made; and
- (d) another of the new entities (the *incoming service provider*)—

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- (i) becomes the prescribed related entity of the relevant infrastructure owner for operating the infrastructure to supply the water service; and
  - (ii) is registered as the service provider for the water service.
- (2) However, this division applies only if the changeover day is no later than 1 year after the commencement of this section.
- (3) In this section—  
*alternative institutional structure* see the Water Act, schedule 4.

#### **654 Continuation of strategic asset management plan**

- (1) This section applies if, immediately before the changeover day, the outgoing service provider has a strategic asset management plan for the water service.
- (2) From the changeover day—
  - (a) the plan becomes the incoming service provider's strategic asset management plan; and
  - (b) the notice of the approval of the plan given to the outgoing service provider under section 74(1) is taken to apply to the incoming service provider.

#### **655 Continuation of exemption from system leakage management plan**

- (1) This section applies if, immediately before the changeover day, the outgoing service provider has an exemption from preparing a system leakage management plan for the water service under chapter 2, part 4, division 2, subdivision 3.
- (2) From the changeover day, the exemption becomes an exemption of the same type and duration for the incoming service provider.
- (3) Subsection (2) is subject to section 86.

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**656 Continuation of exemption from drought management plan**

- (1) This section applies if, immediately before the changeover day, the outgoing service provider has an exemption from preparing a drought management plan for the water service under section 126.
- (2) From the changeover day, the exemption becomes an exemption of the same type for the incoming service provider.
- (3) Subsection (2) is subject to section 127.

**657 Preparing relevant annual report**

- (1) This section applies to a relevant annual report for—
  - (a) the financial year ending on 30 June 2013, if—
    - (i) the changeover day happens before 18 December 2013; and
    - (ii) the outgoing service provider has not given a copy of the report to the regulator; and
  - (b) the financial year ending on 30 June 2014, if the changeover day happens in that financial year.
- (2) A reference in section 142(1) or (4) (each a *relevant provision*) to the service provider is taken to include a reference to the outgoing service provider.
- (3) A reference in a relevant provision to the financial year for the services for which the service provider is registered is taken to include a reference only to that part of the financial year for which the outgoing service provider was registered for the services.
- (4) In this section—

*relevant annual report* means—

  - (a) the annual report required under section 141(1)(a) for the strategic asset management plan continued under section 654(2); or
  - (b) the annual report required under section 141(1)(c).

## 658 References to outgoing service provider

A reference to the outgoing service provider in a plan, exemption or other document may, if the context permits, be taken to be a reference to the incoming service provider.

## Division 2 Other transitional provision

### 659 Application of particular provisions—relevant recycled water scheme

- (1) Sections 631 and 632 do not apply, and are taken never to have applied, to a relevant recycled water scheme.
- (2) Despite section 633(1)—
  - (a) section 633(2) applies, and is taken always to have applied, to a relevant recycled water scheme if recycled water was supplied under the scheme before 1 July 2008; and
  - (b) section 633(3) applies, and is taken always to have applied, to a relevant recycled water scheme if recycled water is supplied under the scheme for the first time on or after 1 July 2008.
- (3) However, section 633(2) or (3) ceases to apply to a relevant recycled water scheme if—
  - (a) a recycled water management plan is approved for the scheme; or
  - (b) the recycled water provider for the scheme is granted an exemption under section 253 from having an approved recycled water management plan.
- (4) In this section—

***relevant recycled water scheme*** means a recycled water scheme under which recycled water is or was supplied to premises by way of a reticulation system that—

  - (a) is used only to provide recycled water for outdoor use or for use in flushing toilets or in washing machines; and

- (b) that is not a dual reticulation system.

## Part 7                      Transitional provisions for Water Supply Services Legislation Amendment Act 2014

### Division 1                Preliminary

#### 660      Definitions for pt 7

In this part—

*amending Act* means the *Water Supply Services Legislation Amendment Act 2014*.

*commencement* means the commencement of the provision in which the term is used.

*former*, for a provision, means the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

### Division 2                Provisions for chapter 3 of amending Act

#### 661      Customer service standards continue to apply

- (1) If, immediately before the commencement, a service provider's customer service standard (the *existing standard*) is in effect—
- (a) subject to subsection (2), the existing standard continues in effect on and after the commencement; and
  - (b) the service provider must prepare a customer service standard (a *new standard*) under chapter 2, part 4,

division 3 no later than the later of the following two days—

- (i) 31 December 2014;
  - (ii) the day that is 6 months after the commencement.
- (2) The existing standard ceases to have effect when the new standard is published.

**662 Exemptions from having a recycled water management plan are revoked**

- (1) All exemptions from having an approved recycled water management plan under former section 253 are revoked.
- (2) All applications for an exemption under former section 250, made but not decided before the commencement, are taken to be withdrawn.

**663 Particular approved recycled water management plans of no effect**

- (1) This section applies to a recycled water management plan—
  - (a) in effect immediately before the commencement; or
  - (b) in effect after the commencement, if the application for approving the plan was made, but not decided, before the commencement.
- (2) The plan is of no effect to the extent it relates to a supply of recycled water under a recycled water scheme that, under section 196, does not require an approved recycled water management plan.

**664 Particular recycled water providers must apply for registration of recycled water scheme**

- (1) This section applies to a relevant entity for a recycled water scheme supplying recycled water under the scheme on the commencement.



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- (2) For section 196AA(1), the deadline for the relevant entity is 1 July 2014.
  - (3) To remove any doubt, this section does not oblige the relevant entity to register a CSG recycled water scheme.

## **Division 3                      Provisions for chapter 2 of amending Act**

### **665      Continuation of requests for connection**

- (1) This section applies if—
  - (a) before the commencement, an owner of premises asked a service provider to connect the owner’s premises to the service provider’s infrastructure; and
  - (b) immediately before the commencement, the owner’s premises were not connected to the service provider’s infrastructure.
- (2) Former chapter 2, part 5 continues to apply to the connection of the owner’s premises as if the amending Act had not commenced.

### **666      Continuation of notices requiring connection**

- (1) This section applies if—
  - (a) before the commencement, a service provider required an owner of premises to carry out works for connecting the premises to a registered service; and
  - (b) immediately before the commencement, the owner had not satisfactorily finished the works.
- (2) Former chapter 2, part 5 continues to apply to the connection of the owner’s premises as if the amending Act had not commenced.

## Part 8

# Transitional provisions for Electricity and Other Legislation Amendment Act 2014

### 667 Definitions for pt 8

In this part—

***administering authority*** means the administering authority under the *Environmental Protection Act 1994*.

***coal seam gas*** means petroleum (in any state) occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.

***coal seam gas water*** means underground water brought to the surface of the earth in connection with exploring for or producing coal seam gas, and includes coal seam gas water—

- (a) whether it is treated or untreated; or
- (b) that is mixed with other water.

***commencement*** means the commencement of this section.

***CSG environmental authority*** means an environmental authority for a CSG activity issued under the *Environmental Protection Act 1994*.

***pre-amended Act*** means this Act as in force before its amendment by the *Electricity and Other Legislation Amendment Act 2014*, part 4.

***public health conditions*** means conditions or requirements about—

- (a) protecting public health; and
- (b) assessing and minimising any impacts the release of coal seam gas water may have on human health.

***specific approval*** means a specific approval under the *Waste Reduction and Recycling Act 2011*.

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**668 Continuation of recycled water management plan and exclusion decision**

- (1) This section applies to the following in effect immediately before the commencement—
  - (a) a recycled water management plan that relates to coal seam gas water that augments a supply of drinking water;
  - (b) an exclusion decision.
- (2) On and from the commencement, the plan or decision continues in effect under the pre-amended Act until the earlier of the following—
  - (a) the CSG environmental authority or a specific approval to which the plan or decision relates is amended to include public health conditions that are consistent with the plan or decision;
  - (b) 1 July 2015.

**669 Continuation of interim recycled water management plan**

- (1) This section applies to an interim recycled water management plan in effect immediately before the commencement.
- (2) On and from the commencement, the interim plan continues in effect under the pre-amended Act until the earlier of the following—
  - (a) the CSG environmental authority or a specific approval to which the interim plan relates is amended to include public health conditions that are consistent with the interim plan;
  - (b) 1 July 2015.
- (3) Despite section 329G of the pre-amended Act, the approval of the interim plan continues until the interim plan ceases to have effect under subsection (2).

**670 Amending CSG environmental authority related to particular plan or decision**

- (1) This section applies to a CSG environmental authority that relates to a recycled water management plan, interim recycled water management plan or exclusion decision continued in effect under section 668 or 669.
- (2) Despite the *Environmental Protection Act 1994*, section 215, the administering authority may amend the CSG environmental authority to include public health conditions that are consistent with the plan, interim plan or decision to which the authority relates.
- (3) However, the administering authority may only act under subsection (2)—
  - (a) if it considers the amendment is necessary or desirable; and
  - (b) if the procedure under the *Environmental Protection Act 1994*, chapter 5, part 6, division 2 is followed; and
  - (c) while the plan, interim plan or decision is in effect.
- (4) This section does not limit any power of the administering authority under the *Environmental Protection Act 1994* in relation to the CSG environmental authority.

**671 Amending other CSG environmental authorities**

- (1) This section applies to a CSG environmental authority, other than a CSG environmental authority mentioned in section 670.
- (2) Despite the *Environmental Protection Act 1994*, section 215, the administering authority may amend the CSG environmental authority to include public health conditions.
- (3) The administering authority may only act under subsection (2)—
  - (a) if it considers the amendment is necessary or desirable; and



*existing development application* means a development application made under the repealed *Sustainable Planning Act 2009*, to which the Planning Act, section 288 applies.

*former chapter 8, part 2* means chapter 8, part 2 as in force immediately before the commencement.

## Part 11                      **Transitional provision for Water Legislation (Dam Safety) Amendment Act 2017**

### **674      Application of s 352K for emergency action plans given to chief executive before commencement**

- (1) This section applies to an emergency action plan given to the chief executive under previous chapter 4, part 1, division 2A if, immediately before the commencement, the chief executive had not decided to approve or refuse to approve the plan under previous section 352I.
- (2) For section 352K(4), the plan is taken to have been given to the chief executive on the commencement.
- (3) In this section—

*previous*, followed by a provision number, means the provision as in force immediately before the commencement.

## Part 12                      **Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019**

### **675      Definition for part**

In this part—

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*former*, in relation to a provision, means as in force from time to time before the commencement of the section in which the term is used.

## **676 Application of new s 161**

- (1) This section applies if, immediately before the commencement, a local government or a local government entity supplied a reticulated water service or sewerage service (the *service*) in the local government area for the local government.
- (2) If the local government declared a service area for the service under former section 161(1)—
  - (a) the service area is taken to be declared, under new section 161(2), as a service area for the service; and
  - (b) the local government or the local government entity is taken to be declared, under new section 161(2), as the service provider for the service in the service area.
- (3) If the local government had not declared a service area for the service under former section 161(1)—
  - (a) new section 161(3) does not apply to the local government; and
  - (b) the local government must make a declaration in relation to the service under new section 161(2) within 1 year of the commencement.
- (4) In this section—

*new*, in relation to a provision, means as in force on the commencement.

*reticulated water service* see section 161(10).

## **677 Continued application of former s 390**

Former section 390(4)(b)(ii) continues to apply in relation to a declaration made under that section before the commencement.

## **Part 13**                      **Transitional provisions for Water Legislation Amendment Act 2023**

### **678**      **Definition for part**

In this part—

*former*, for a provision of this Act, means the provision as in force from time to time before the commencement.

### **679**      **Saving of former s 110 in relation to failure to give drinking water quality management plan audit report before commencement**

- (1) This section applies if, before the commencement, a service provider failed to give the regulator a drinking water quality management plan audit report under former section 108(1)(c).
- (2) Former section 110(1)(b) continues to apply in relation to a spot audit report about the plan as if the *Water Legislation Amendment Act 2023* had not been enacted.

### **680**      **References to particular existing reports**

From the commencement—

- (a) a reference, in section 142(3)(d), 575(1)(c) or 575A(1)(b), to a drinking water quality management plan audit report is taken to include a reference to a drinking water quality management plan audit report prepared under former section 108(1)(b); and
- (b) a reference, in section 142A(3)(c), 575(1)(d) or 575A(1)(c), to a performance audit report is taken to include a reference to a performance audit report prepared under former section 108A(1)(b); and
- (c) a reference, in section 575(1)(f), 578A(1)(d) or 578B(a), to a drinking water service annual report is taken to include a reference to a drinking water quality



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management plan report prepared under former section 142(2)(a); and

- (d) a reference, in section 273(2)(c), to an internal audit report is taken to include a reference to an internal audit report prepared under former section 260; and
- (e) a reference, in section 273(2)(c) or 576, to a regular audit report is taken to include a reference to a regular audit report prepared under former section 261.

### **681 Proceedings for particular offences**

- (1) This section applies in relation to a relevant former offence if the acts or omissions constituting the offence occurred—
  - (a) entirely before the commencement; or
  - (b) both before and after the commencement.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person charged with the offence may be convicted of and punished for the offence, as if the *Water Legislation Amendment Act 2023* had not been enacted.
- (3) Subsection (2) applies despite the Criminal Code, section 11.
- (4) In this section—

***relevant former offence*** means an offence against any of the following provisions—

  - (a) former section 108(1);
  - (b) former section 108A(1);
  - (c) former section 260(1);
  - (d) former section 260(2);
  - (e) former section 261(1);
  - (f) former section 261(2).

## Schedule 1 Prohibited substances

schedule 3, def *prohibited substance*

- 1 A solid or viscous substance in a quantity, or of a size, that can obstruct sewerage, or interfere with the operation of sewerage.

*Examples of solids or viscous substances that are prohibited substances if of a size or in the quantity mentioned in item 1—*

- ash, cinders, sand, mud, straw and shavings
  - metal, glass and plastics
  - paper and plastic dishes, cups and milk containers whether whole or ground by garbage grinders
  - rags, feathers, tar and wood
  - whole blood, paunch manure, hair and entrails
  - oil and grease
  - cement laden waste water, including, wash down from exposed aggregate concrete surfaces
- 2 A flammable or explosive solid, liquid or gaseous substance, including petrol.
- 3 Floodwater, rainwater, roof water, stormwater, subsoil water and surface water.
- 4 A substance that, given its quantity, is capable alone, or by interaction with another substance discharged into sewerage, of—
- (a) inhibiting or interfering with a sewage treatment process; or
  - (b) causing damage or a hazard to sewerage; or
  - (c) causing a hazard for humans or animals; or
  - (d) creating a public nuisance; or
  - (e) creating a hazard in waters into which it is discharged; or

- (f) contaminating the environment in places where effluent or sludge from a sewage treatment plant is discharged or reused.

*Example of substance under item 4—*

a substance with a pH lower than 6.0 or greater than 10.0, or having another corrosive property

- 5 A substance at a temperature of more than—
  - (a) if the local government has approved a maximum temperature for the substance—the approved maximum temperature; or
  - (b) if paragraph (a) does not apply—38°C.

## Schedule 3 Dictionary

### section 4

**2009 restructuring Act** means the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**administrator** see section 530.

**advisory council** means an advisory council established under section 570.

**alternative procedure**, for chapter 4, part 2, see section 378(b)(ii).

**animal husbandry activities** means the breeding, keeping or raising of animals, or caring for animals, for commercial purposes if the animals are kept in an enclosure, pond or other confined area.

**anniversary day**, for an approved water efficiency management plan, means each anniversary of the day the plan was approved.

**annual preparedness report** see section 375(a).

**annual report** means a report prepared by a recycled water provider under section 273.

**appointer** see section 402.

**approval period**—

(a) for chapter 4, part 1, division 2A—see section 352K(7);  
or

(b) for chapter 4, part 2—see section 371G(2).

**approved drinking water quality management plan** means a drinking water quality management plan approved by the regulator under chapter 2, part 4, division 1.

**approved emergency action plan**, for chapter 4, part 1, division 2A, see section 352A.

**approved flood mitigation manual** see section 370.

***approved form*** means a form approved under section 585.

***approved recycled water management plan*** means a recycled water management plan approved by the regulator, and not suspended or cancelled, under chapter 3.

***approved validation program*** means a validation program approved by the regulator under chapter 3.

***approved water efficiency management plan*** means a water efficiency management plan approved under chapter 2, part 3, division 6.

***approved water supply emergency response*** see the Water Act, schedule 4.

***associated works***, for chapter 4, part 5, see section 399E.

***auditor***—

- (a) for chapter 2, part 4, division 2—see section 105; or
- (b) for an audit under chapter 3—means the person who, under the chapter, has prepared, or is to prepare, an audit report for the audit.

***authorisation request information***, for chapter 4, part 2, see section 379(1).

***authorised alternative procedure***, for chapter 4, part 2, see sections 380(2) and 381(3).

***authorised officer*** means a person appointed as an authorised officer under section 402.

***authorised person***, of a service provider, means a person authorised by the service provider under chapter 2, part 3, division 4.

***billing period***, for premises of a customer of a water service provider, means a period during which the water service provider measures the volume of water supplied to the premises for the purpose of charging for the water.

***bulk water service*** means the supply of large quantities of water other than as an irrigation service.

***category 1 failure impact rating***, for a dam, means a category 1 failure impact rating for the dam under section 346.

**category 2 failure impact rating**, for a dam, means a category 2 failure impact rating for the dam under section 346.

**chairperson**, for chapter 4, part 1, division 2A, see section 352A.

**commencement**—

- (a) for chapter 10, part 4, see section 640; or
- (b) for chapter 10, part 5, see section 644.

**commission** means the Queensland Water Commission.

**compliance notice** means a notice given under section 465.

**condition**, of an approved recycled water management plan, means—

- (a) any regulator conditions for the plan; or
- (b) a condition mentioned in section 208(2), (3), (5) or (6) that applies to the plan.

**connection**—

- (a) generally—means a property service that supplies either water supply services or sewerage services, or both, to premises; or
- (b) for chapter 2, part 5, division 6—see section 170.

**convicted** includes a finding of guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

**cost-benefit analysis**, for a distribution system, means an analysis of—

- (a) the cost of measures to reduce leakage; and
- (b) the economic benefit of saving water from leakage; and
- (c) the reduced operational costs and deferred infrastructure costs that would result from reducing leakage.

**cost recovery notice**, for chapter 5, part 5, division 3, see section 443(2).

**costs and expenses**, for chapter 5, part 5, division 3, see section 441.

***criminal history***, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than for 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.

***critical recycled water scheme*** means a recycled water scheme declared to be a critical recycled water scheme under chapter 3.

***current infrastructure owner***, for chapter 2, part 3, division 1, subdivision 3, see section 25(1).

***customer***—

1 Generally, *customer*—

- (a) of a service provider that is a local government (other than a withdrawn SEQ council), means a ratepayer of the local government who enjoys registered services supplied by the local government; or
- (b) of a service provider that is a distributor-retailer or withdrawn SEQ council, means any of the following—
  - (i) a person who purchases registered services or services relating to trade waste supplied by the distributor-retailer or withdrawn SEQ council;
  - (ii) a person on relevant premises to whom both of the following apply—
    - (A) the person wants to receive registered services or services relating to trade waste from the distributor-retailer or withdrawn SEQ council;
    - (B) the services are, or can reasonably be made, available to the premises,

whether or not they are connected to the service;

(iii) a person to whom registered services are available, whether or not—

(A) the person wants to receive the services; or

(B) the relevant premises are connected to the service; or

(c) of a service provider other than a local government or a service provider that is a distributor-retailer or withdrawn SEQ council, means a person who purchases registered services supplied by the service provider on premises other than a public place or premises owned by a service provider (*relevant premises*).

2 In chapter 2, part 3, division 6 and in the definition of non-residential customer, *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.

*customer service standard*—

1 *Customer service standard* means a standard prepared under section 115.



2 The term includes the standard as revised under section 119.

**cybersecurity information** means information that could be used to interfere with, damage, disrupt, or destroy—

- (a) an electronic system owned or controlled by the State or a service provider, including, for example, a system used for the delivery of a sewerage service or a water service; or
- (b) data owned or controlled by the State or a service provider.

**dam**—

1 *Dam* means—

- (a) works that include a barrier, whether permanent or temporary, that does or could 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.

**dam hazard**, for chapter 4, part 1, division 2A, see section 352A.

**dam hazard event**, for chapter 4, part 1, division 2A, see section 352A.

**debt notice** see section 360(3).

**declared entity**, for a multiple-entity recycled water scheme, means each recycled water provider and other entity, other than the scheme manager for the scheme, declared to be part of the scheme under chapter 3, part 8.

***demand management***, for water—

- 1 *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; and
  - (e) substituting one water resource for another.
- 2 For item 1(b), water supply works are water infrastructure or other works for the supply of water or the storage, distribution or treatment of water.

***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.

***development*** see the Planning Act, schedule 2.

***development approval*** means a development approval as defined under the Planning Act.

*Note—*

Under the Planning Act, a development approval is required for certain development. A development approval may be in the form of a preliminary approval, a development permit or a combination of both of them.

***development condition—***

- 1 *Development condition*, of a development approval, means a condition of the approval that relates to a referable dam and was imposed by, or at the direction of—
  - (a) the chief executive; or
  - (b) the chief executive of the department in which the Planning Act is administered.

2 *Development condition* includes either of the following—

- (a) a safety condition;
- (b) a condition mentioned in the Water Act, section 1068 or 1069.

*development permit* means a development permit as defined under the Planning Act.

*disaster district*, for chapter 4, part 1, division 2A, see section 352A.

*Disaster Management Act* means the *Disaster Management Act 2003*.

*disaster management plan*, for chapter 4, part 1, division 2A, see section 352A.

*dispute*, for chapter 3, part 9, see section 315.

*dispute notice* see section 524(2).

*distribution system* means the infrastructure for—

- (a) the transmission of water; or
- (b) the reticulation of water; or
- (c) water treatment or recycling.

*distributor-retailer* means a distributor-retailer established under the 2009 restructuring Act, section 8.

*district group*, for chapter 4, part 1, division 2A, see section 352A.

*domestic purposes* includes irrigating a garden that has an area of not more than 0.25ha and is cultivated for domestic use and not for the sale, barter or exchange of goods produced in the garden.

*drinking water*—

- 1 *Drinking water* means water, for human consumption, intended primarily as water for drinking, whether or not the water is used for other purposes.
- 2 *Drinking water* does not include—

- (a) water that is food as defined under the *Food Act 2006*; or
- (b) water taken or supplied for domestic purposes under the Water Act.

***drinking water quality management plan*** means a plan about the storage, treatment, transmission or reticulation of water for drinking by a drinking water service provider.

***drinking water quality management plan audit report*** see section 108(2)(b).

***Drinking Water-Quality Management System Auditor Certification Scheme*** means the scheme—

- (a) relating to the conduct of audits of drinking water service providers; and
- (b) developed by RABQSA International Inc ARBN 112 238 169 and other entities.

***drinking water service*** means a water service that is—

- (a) the treatment, transmission or reticulation of water for supply as drinking water; or
- (b) water collection in a water storage, if the water in the storage—
  - (i) includes recycled water; and
  - (ii) is used to augment a drinking water supply.

***drinking water service annual report*** see section 142(2)(a).

***drinking water service provider*** means a water service provider for a drinking water service.

***dual reticulation system*** means a network of pipes enabling drinking water and recycled water to be supplied to premises from separate pipes, but only if used to provide recycled water for—

- (a) flushing toilets; or
- (b) connection to a cold water laundry tap for a washing machine at a residential premises; or
- (c) irrigating lawns or gardens of a residential premises; or

(d) washing down external parts of a residential premises, including, for example, a driveway.

***economic dispute***, for chapter 3, part 9, see section 315.

***effective day***, for a referable dam notice, see section 342A(2)(c).

***emergency action plan*** see section 352A.

***emergency event***, for chapter 4, part 1, division 2A, see section 352A.

***emergency event interim report***, for chapter 4, part 1, division 2A, see section 352U(2)(a).

***emergency event report***, for chapter 4, part 1, division 2A, see section 352T(2).

***emergency management chief executive***, for chapter 4, part 1, division 2A, see section 352A.

***emergency powers*** see section 439(1).

***enforcement order*** means an order made under chapter 5, part 9.

***event***, for chapter 5, part 5, division 3, see section 441.

***executive officer***, 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.

***existing approval period***, for chapter 10, part 5, see section 648(2)(b).

***existing dam***, for chapter 10, part 5, see section 645(1).

***existing flood mitigation manual*** see section 648(1).

***existing procedure***, for chapter 4, part 2, see section 378(b)(ii)(A).

***external review***, for a decision, means a review of the decision by QCAT under the QCAT Act.

***failure***, of a referable dam, means—

(a) the physical collapse of all or part of the dam; or

(b) the uncontrolled release of any of the dam's contents.

**failure impact assessment** see section 342(1).

**failure impact assessment guidelines** see section 342(1)(b).

**firefighting purposes** includes training for firefighting and testing firefighting equipment.

**firefighting system** means a system of water pipes, fire hydrants and water storage or pumping facilities connected to a water service provider's infrastructure solely for firefighting purposes.

**flood event**, for chapter 4, part 2, see section 371.

**flood event interim report**, for chapter 4, part 2, see section 384(2)(a).

**flood event report**, for chapter 4, part 2, see section 383(2).

**flood mitigation manual**, for a dam, see section 370.

**floodwater** means water overflowing, or that has overflowed, from a watercourse or lake onto or over riparian land that is not submerged when the watercourse or lake flows between or is contained within its bed and banks.

**forecast system**, for chapter 4, part 2, see section 371D(e).

**full supply level** means 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.

**hazardous waste dam**—

- 1 **Hazardous waste dam** means a dam containing, or that after its construction will contain—
  - (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.
- 2 The term includes a dam that is used, or after its construction will be used, to prevent contamination of the environment by storing waste or a contaminant

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within the meaning of the *Environmental Protection Act 1994*.

**health department** means the department in which the Public Health Act is administered.

**improvement plan** see section 446(2).

**incident and emergency response plan**, for a recycled water scheme, means a documented plan about the procedures to be followed for incidents or emergencies that affect or may affect the quality of recycled water under the scheme, including—

- (a) the preventative and corrective actions to be taken; and
- (b) protocols for communication between entities that are part of the recycled water scheme, the regulator and any other stakeholders.

**incoming related entity**, for chapter 2, part 3, division 1, subdivision 3, see section 24.

**indictable offence** means an indictable offence under section 492(1).

**information notice**, for a decision of the regulator, chief executive, a service provider or an authorised officer, 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 the person to whom the notice is given may apply for an internal review of the decision, within 30 business days after the notice is given;
  - (v) how to apply for the internal review; and
- (b) including a copy of the relevant internal review provisions of this Act.

**information requirement**—

- (a) for chapter 2, part 4, division 1—see section 96(3); and

(b) for chapter 3, part 2—see section 203(3); and

(c) for chapter 3, part 4—see section 238(3).

***interested person*** see section 510(1).

***interim resource operations licence*** means a licence granted under the Water Act before the commencement of section 1271 of the Water Act.

***internal audit*** see section 260(1)(a).

***internal review application*** see section 512(1).

***irrigation service*** means the supply of water or drainage services for irrigation of crops or pastures for commercial gain.

***KPI*** (an acronym of ‘key performance indicator’), for a provision about a relevant service provider, means—

- (a) a measure of the efficiency and effectiveness of the delivery of services; or
- (b) data that, when combined, provides a measure of the efficiency and effectiveness of the delivery of services.

***lake*** has the meaning given under the Water Act.

***land***, for chapter 5, part 2, see section 409.

***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 25,000 connections to a registered service; or
- (c) for a drinking water service that is the reticulation of water and is not a retail water service—a service provider with more than 25,000 connections to a registered service; or
- (d) 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 10,000ML.

**local disaster area**, for chapter 4, part 1, division 2A, see section 352A.

**Local Government Act** means the *Local Government Act 2009*.

**local government entity** see the *Local Government Act 2009*, section 216A.

**local group**, for chapter 4, part 1, division 2A, see the Disaster Management Act, section 29.

**medium service provider** means—

- (a) for a retail water service or sewerage service—a service provider with more than 1,000 but not more than 25,000 connections to a registered service; or
- (b) for a drinking water service that is the reticulation of water and is not a retail water service—a service provider with more than 1,000 but not more than 25,000 connections to a registered service; or
- (c) 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 10,000ML.

**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.

**multiple-entity recycled water scheme**—

- 1 A *multiple-entity recycled water scheme* means a scheme involving the production and supply of recycled water by more than 1 recycled water provider, or at least 1 recycled water provider and another entity.
- 2 A *multiple-entity recycled water scheme* is made up of—

- (a) each recycled water provider and other entity declared to be part of the scheme under a declaration for the scheme made under chapter 3, part 8; and
- (b) the infrastructure for the production and supply of the recycled water that is stated to be part of the scheme under the declaration.

***new infrastructure owner***, for chapter 2, part 3, division 1, subdivision 3, see section 25(2)(a).

***new service provider***, for chapter 2, part 3, division 1, subdivision 3, see section 25B(2)(c).

***noncompliance***, for chapter 5, part 5, division 3, see section 435(2).

***non-economic dispute***, for chapter 3, part 9, see section 315.

***non-residential customer*** means a customer who uses water on non-residential premises.

***non-residential premises*** means premises that are not used for ordinary 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 the *Building Units and Group Titles Act 1980*.

***notice*** means written notice.

***notice response***, for chapter 4, part 1, division 2A, see sections 352HB(4) and 352HC(3).

***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.

***operating agent***, for a service provider, see section 12(3)(d).

***original decision*** see section 510(2).

***outgoing related entity***, for chapter 2, part 3, division 1, subdivision 3, see section 24.

**owner—**

- 1 An *owner* of land is any of the following, and includes the occupier of the land—
  - (a) the registered proprietor of the land under the *Land Title Act 1994*;
  - (b) the lessee or licensee under the *Land Act 1994* of the land;
  - (c) the holder of a mineral development licence or mining lease over the land under the *Mineral Resources Act 1989*;
  - (d) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise;
  - (e) the person who is entitled to receive the rents and profits of the land.
- 2 An *owner* of a dam is the owner of land on which the dam is constructed or is to be constructed.

**party**, for chapter 3, part 9, see section 315.

**performance audit report** see section 108A(3)(b).

**performance report** see section 142A(2)(a).

**petroleum well** see the *Petroleum and Gas (Production and Supply) Act 2004*, schedule 2.

**place**, for chapter 2, part 3, division 2, see section 31.

**place of seizure** see section 423(a).

**plan area**, for any plan under this Act, means the part of the State to which the plan applies.

**Planning Act** means the *Planning Act 2016*.

**Planning Act offence** means an offence against the Planning Act, section 162, 163(1), 164, 165 or 168(5) or (7) to the extent the section relates to the taking of, or interfering with, water.

**premises** means—

- (a) a lot as defined under the Planning Act, schedule 2; 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 person**, for chapter 5, part 5, division 3, see section 442(1).

**prescribed related entity**, of a relevant infrastructure owner, see section 20(1)(c)(ii).

**prohibited substance**, means a substance stated in schedule 1.

**properly made submission** means a submission that—

- (a) is in writing and is signed by each person who made the submission; and
- (b) is received on or before the last day for the making of the submission; and
- (c) states the name and address of each person who made the submission; and
- (d) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (e) is received by the person stated in the notice inviting the submission.

**property service**—

- 1 *Property service*—
- (a) for a water service—is the pipes and fittings installed for connecting premises to a service provider’s infrastructure; or
  - (b) for a sewerage service—is 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.
- 2 For item 1(b)—
- (a) a graded jump up is an inclined section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels; and
  - (b) a jump up is a vertical section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels.

***property sewer*** means a sewer for a premises or a premises group.

***Public Health Act*** means the *Public Health Act 2005*.

***publish***, in relation to a notice or other document to which section 578C applies, means publish in accordance with that section.

***Queensland Government website*** means a website with a URL that contains ‘qld.gov.au’, other than a website of a local government.

***rate notice*** means a rate notice issued under the Local Government Act.

***reasonably believes*** means believes on grounds that are reasonable in the circumstances.

***recycled water*** means any of the following that are intended to be reused—

- (a) sewage or effluent sourced from a service provider’s sewerage;
- (b) wastewater, other than water mentioned in paragraph (a).

***recycled water management plan*** means—

- (a) for a single-entity recycled water scheme—a plan about the production and supply of recycled water under the scheme by the recycled water provider for the scheme; or
- (b) for a multiple-entity recycled water scheme—a plan about the production and supply of recycled water under the scheme consisting of a scheme manager plan and a scheme provider plan for each declared entity for the scheme.

***recycled water provider*** means an entity that—

- (a) owns infrastructure for the production and supply of recycled water; or
- (b) another entity, prescribed under a regulation, that owns infrastructure for the supply of recycled water.

***recycled water scheme*** means a single-entity or a multiple-entity recycled water scheme.

***reduced full supply level***, for a dam, see section 399B(2).

***referable dam*** see section 341.

***referable dam notice***, for chapter 4, part 1, division 1A, see section 342A(2).

***registered professional engineer*** see the *Professional Engineers Act 2002*, schedule 2.

***registered service***, for a service provider, means a water or sewerage service for which the service provider is registered.

***regular audit*** see section 261(1)(a).

***regulator*** see section 10.

***regulator conditions***, for an approved recycled water management plan, see section 205(1).

***regulator notice*** see section 330(2).

***related local government*** means a local government who charges for the supply of water for a retail water service if the

retail water service is provided by a water service provider who is not the local government.

**relevant debt** see section 360(2).

**relevant entity**, for a recycled water scheme, means—

- (a) for a single-entity recycled water scheme—the recycled water provider for the scheme; or
- (b) for a multiple-entity recycled water scheme—the scheme manager for the scheme.

**relevant infrastructure owner** see section 20(1)(c)(i).

**relevant operational work**, for chapter 8, part 2, see section 559.

**relevant service**, for chapter 2, part 3, division 1, subdivision 3, see section 25(1).

**relevant service provider** means—

- (a) a drinking water service provider; or
- (b) a sewerage service provider; or
- (c) another water service provider prescribed under a regulation.

**report requirement** see section 141(1).

**residential premises** means premises used ordinarily for a residential purpose.

**resource operations licence** means a resource operations licence granted under the Water Act, chapter 2, part 3, division 5.

**resource operations plan** see the Water Act, schedule 4.

**responsible entity**—

- (a) for chapter 8, part 1, division 1—see section 530(3); or
- (b) for chapter 8, part 1, division 2—see section 535(1)(a).

**responsible person**, for chapter 4, part 2, see section 371D(d)(i).

**retail water service**—

- 1 A *retail water service* is a water service that is the reticulation of water 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.

***reused***, in relation to recycled water, includes being treated to improve the water's quality, but does not include merely being discharged into, or disposed of in, the environment.

***review decision*** see section 514(1)(c).

***reviewer*** see section 512(2).

***review notice*** see section 515(1).

***safety condition***, for a dam, means a safety condition for a referable dam decided by the chief executive under section 354 and includes a safety condition as changed under section 356.

***safety requirements***, for chapter 4, part 3, see section 396(2).

***sanitary drain*** means a sanitary drain under the *Plumbing and Drainage Act 2018*.

***scheme manager***, for a multiple-entity recycled water scheme, see section 300.

***scheme manager plan***, for a multiple-entity recycled water scheme, means a plan about how the scheme manager for the scheme is to coordinate management of the scheme to ensure the continued operation of the scheme.

***scheme provider plan***, for a multiple-entity recycled water scheme, means a plan about the production or supply of recycled water under the scheme by a recycled water provider or other declared entity for the scheme.

***seepage water*** means water that seeps from the ground into that part of a structure that is built below ground level.

*Examples of structures built below ground level—*

tunnels for traffic, underground car parks, basements, lift wells



***seepage water approval*** see section 180(1)(b).

***SEQ region*** see the Water Act, section 341.

***service area*** means an area declared under section 161 for either or both of the following—

- (a) a retail water service to customers;
- (b) a sewerage service to customers.

***service contract*** see section 113.

***service provider***—

- (a) of a retail water service or sewerage service in a service area, for chapter 2, part 5, see section 160; or
- (b) generally—means a water service provider or a sewerage service provider.

***service provider register*** means the register kept under section 12.

***service provider's infrastructure*** means the infrastructure operated by or for the service provider to supply a registered service, whether or not the infrastructure is owned by the service provider.

***service provider water restriction*** see section 41(2).

***sewage*** means household and commercial wastewater that contains, or may contain, faecal, urinary or other human waste.

***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***—

- 1 ***Sewerage service*** means—
  - (a) sewage treatment; or
  - (b) the collection and transmission of sewage through infrastructure; or
  - (c) the disposal of sewage or effluent.

- 2 For chapter 2, part 3, the term does not include a service supplied by infrastructure, if—
- (a) the infrastructure is used solely for mining purposes; or
  - (b) the service is used only by—
    - (i) the owner of the infrastructure or the owner’s guests or employees including, for example, guests at a resort; or
    - (ii) if the owner of the infrastructure is a body corporate for a community titles scheme, however described, established under an Act—the occupants of lots in the scheme.

*Examples of body corporates for community title schemes—*

- a body corporate under the *Body Corporate and Community Management Act 1997*
- a community body corporate or a precinct body corporate under the *Mixed Use Development Act 1993*
- the primary thoroughfare body corporate or the principal body corporate under the *Sanctuary Cove Resort Act 1985*

***sewerage service provider*** means an entity registered under chapter 2, part 3 as a service provider for a sewerage service.

***show cause notice*** means a notice that complies with section 463.

***single-entity recycled water scheme***—

- (a) means a scheme involving the production and supply of recycled water by only 1 recycled water provider; and
- (b) includes infrastructure, owned by the provider, for the production and supply of the water.

***small service provider*** means—

- (a) for a retail water service or sewerage service—a service provider with 1,000 or less connections to a registered service; or

- (b) for a drinking water service that is the reticulation of water and is not a retail water service—a service provider with 1,000 or less connections to a registered service; or
- (c) for an irrigation service—a service provider with—
  - (i) 100 or less users; or
  - (ii) a volume throughput, in any of the last 5 financial years, of 10,000ML or less; or
- (d) for a water service other than a water service mentioned in paragraph (a), (b) or (c), a service provider—
  - (i) with not more than 500 customers; and
  - (ii) that mainly provides drainage services or water for domestic purposes or for watering stock.

***spillway works***, for chapter 4, part 5, see section 399E.

***spot audit*** means an audit conducted under section 110 or 262.

***staged water connection***, for chapter 2, part 5, division 6, see section 170.

***State disaster management plan*** see the Disaster Management Act, section 49(1).

***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 under the *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 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.

***submitter notice*** see section 513(3)(a).

***suitably qualified***, in relation to a person who prepares a report about an audit under chapter 2, part 4, division 2 or chapter 3, means a person who—

- (a) has the experience or qualifications appropriate to conduct the audit to which the report relates; or
- (b) if a regulation prescribes the experience or qualifications necessary for a person to conduct the audit to which the report relates—has the experience or qualifications prescribed under the regulation.

***supply***, of recycled water, means—

- (a) for recycled water that is sewage or effluent—
  - (i) the reuse of the water by the entity that produces it; or
  - (ii) the supply of the water, by the entity that produces it, to another entity for reuse; and
- (b) for other recycled water—supply of the water, by the entity that produces it, to another entity for reuse, other than another entity that, under a guideline made by the regulator and prescribed under a regulation, is a related entity of the entity that produced it.

***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.

***system operating plan*** means a system operating plan under the Water Act, chapter 2A, part 5, division 2.

***system operating plan report*** see section 142B(2)(a).

***taking***, for water, includes diverting water.

***temporary full supply level***, for a dam, see section 390(2).

***trade waste*** means water-borne waste from business, trade or manufacturing premises, other than—

- (a) waste that is a prohibited substance; or
- (b) human waste; or
- (c) stormwater.

**trade waste approval** see section 180(1)(a).

**transitional period**, for chapter 10, part 4, see section 642(2).

**underground water** means water that is—

- (a) artesian water; or
- (b) subartesian water.

**validate**, in relation to a recycled water scheme, means to carry out testing of the plant or equipment used for the treatment of recycled water under the scheme to show the quality of the recycled water consistently meets the water quality criteria for recycled water relevant to the scheme.

**validation program**, for a recycled water scheme, means a documented program about how the plant or equipment used for the treatment of recycled water under the scheme are to be tested to show the quality of the recycled water consistently meets the water quality criteria for recycled water relevant to the scheme.

**vegetation**—

- (a) means native plants including trees, shrubs, bushes, seedlings, saplings and reshoots; and
- (b) for a wild river area under the *Wild Rivers Act 2005*, includes dead vegetation.

**wastewater** means the spent or used water generated on premises from industrial, commercial or manufacturing activities, or animal husbandry activities, other than spent or used water generated from—

- (a) an agricultural activity; or
- (b) a resource activity as defined under the *Environmental Protection Act 1994*, section 107.

**Water Act** means the *Water Act 2000*.

**water allocation** means an authority granted under the Water Act, section 121 or 122 to take water.

**water approval**, for chapter 2, part 5, division 6, see section 170.

***water authority*** means a water authority established under the Water Act.

***watercourse*** see the Water Act, schedule 4.

***water efficiency management plan*** see section 52.

***water entitlement*** means—

- (a) a water allocation; or
- (b) an interim water allocation granted under the Water Act before the commencement of section 1271 of the Water Act; or
- (c) a water licence.

***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 licence*** means a licence granted under the Water Act, chapter 2, part 3, division 2.

***water quality criteria***—

- (a) for drinking water, means all of the following—
  - (i) the standards for the quality of drinking water prescribed in a regulation under the Public Health Act;
  - (ii) the criteria stated in a guideline, if any, made by the regulator about the quality of drinking water;
  - (iii) the criteria for the quality of drinking water stated in a condition applying to a drinking water quality management plan; and
- (b) for recycled water, means all of the following—
  - (i) the standards for the quality of recycled water, relating to the sources and uses of the water, prescribed in a regulation under the Public Health Act;
  - (ii) the criteria for the quality of recycled water, relating to the sources and uses of the water—

- (A) stated in a guideline, if any, made by the regulator about the quality of recycled water; or
- (B) for the quality of recycled water to which a recycled water management plan relates—stated in a regulator condition for the plan.

*Note—*

A recycled water scheme may have more than 1 water quality criteria relevant to the scheme depending on the number of different purposes for which water is supplied.

***water security*** includes the reliability of water supply.

***water service—***

- 1 *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.
- 2 For chapter 2, part 3, the term does not include a service supplied by infrastructure, if—
  - (a) the infrastructure is used solely for mining purposes; or
  - (b) the service is used only by—
    - (i) the owner of the infrastructure or the owner's guests or employees including, for example, guests at a resort; or
    - (ii) if the owner of the infrastructure is a body corporate for a community titles scheme, however described, established under an Act—the occupants of lots in the scheme.

*Examples of body corporates for community title schemes—*

- a body corporate under the *Body Corporate and Community Management Act 1997*
- a community body corporate or a precinct body corporate under the *Mixed Use Development Act 1993*
- the primary thoroughfare body corporate or the principal body corporate under the *Sanctuary Cove Resort Act 1985*

***water service provider*** means an entity registered under chapter 2, part 3, as a service provider for a water service.

***water source*** means any of the following—

- (a) a watercourse or lake, including a dam or weir across the watercourse or lake;
- (b) an aquifer;
- (c) a dam or weir that is not located across a watercourse or lake;
- (d) another source of water prescribed under a regulation.

***water supply emergency*** see the Water Act, section 25A.

***water supply emergency declaration*** means a declaration made under the Water Act, section 25B.

***water supply emergency regulation*** see the Water Act, section 25F.

***water supply emergency response*** see the Water Act, section 25C.

***water supply incident***, for chapter 5, part 5, division 3, see section 441.

***weir***—

- (a) means a barrier constructed across a watercourse below the banks of the watercourse that hinders or obstructs the flow of water in the watercourse; and
- (b) for the definition of *water source*—includes a barrier constructed across or within a lake that interferes with water in the lake.



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***withdrawn SEQ council*** means the Gold Coast City Council, Logan City Council or Redland City Council.

***works***—

- (a) means—
  - (i) operations of any kind and all things constructed, erected or installed for the purposes of this Act or the *Water Act 2000*; and
  - (ii) any land used for the operations; and
- (b) for chapter 4, part 5—includes building work, and operational work, within the meaning of the *Planning Act 2016*.