



Queensland

# Water Amendment Regulation (No. 1) 2005

## Explanatory Notes for SL 2005 No. 10

made under the  
*Water Act 2000*

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## General outline

### Short title

*Water Amendment Regulation (No. 1) 2005.*

### Authorising law

Sections 168, 190, 193, 206, 213, 548, 598, 814, 1014, 1046 and 1083 of the *Water Act 2000* (***Water Act***).

Policy objectives of the subordinate legislation and how the policy objectives will be achieved

The objective of the regulation is to amend the *Water Regulation 2000* (***Water Regulation***) to—

- (a) establish a framework for the implementation of metering for water extraction monitoring and compliance; and
- (b) provide for other amendments for the administration and effective operation of the Water Act.

The Water Act provides a regulation, in relation to meters, may state when a meter is to be installed to measure the volume of water; who may install the meter; who must pay and the arrangements for

payment, for the installation and maintenance of meters and reading of meters and the minimum standards for the design, construction and installation and maintenance of meters.

The regulation will achieve the objectives by amending the Water Regulation, in relation to—

(a) metering, to prescribe the—

- process for the installation of a meter, including site preparation works, resulting in an approved meter;
- creation of a metered entitlement, being an authorisation under the Water Act to take or interfere with water;
- requirement for water, under a metered entitlement, to be taken through works which have an approved meter installed;
- State's ownership of an approved meter;
- times when approved meters are to be read, and by whom;
- process for ceasing to use an approved meter; and
- metering service charge payable, by holder of metered entitlement or owner of works, taking water through works to which an approved meter is attached, for the installation, maintenance, reading and use of the meter installed under this process.

(b) other matters, to provide for—

- the nomination of an entity who operates water infrastructure as a candidate for an interim resource operations licence;
- an entity, other than a landholder, to be the holder of an interim water allocation and water licence;
- the establishment of a new water authority together with dissolving the existing water authority area;
- a change to the boundary of an existing water authority area;
- an alternative process, by way of a meeting, for the election of directors of a water authority;
- an exemption for a riverine protection permit for certain activities carried out in a watercourse or lake;

- a change to the water year for a water management area;
- additional fees payable under the Water Act; and
- other minor amendments.

## **Achieving the objectives**

The objectives will be achieved by—

- Providing a uniform regime for metering water extraction for water monitoring through a framework under the Water Regulation that prescribes a process for the installation of State owned meters, together with a metering service charge to be payable to the State.
- Providing for a number of other minor amendments to the Water Regulation.

## **Administrative costs**

No additional administrative costs will result from these amendments.

## **Fundamental legislation principles**

The regulation is consistent with fundamental legislative principles.

## **Consultation**

The Department of Natural Resources and Mines (NRM) has consulted with all State Government Agencies with regard to the proposed amendments and the possible impact on other State legislation. In addition NRM has also consulted on metering implementation with the Water Reform Implementation Group consisting of NRM, the Queensland Irrigator's Council, CANEGROWERS, AgForce, Local Government Association of Queensland, Queensland Conservation Council, Australian Conservation Foundation, World Wide Fund for Nature, Brisbane City Council, Environmental Defenders Office, Queensland Dairy Farmers' Organisation, Queensland Fruit and Vegetable Growers, Cotton

Australia, Queensland Seafood Industry Association, Border Rivers Food and Fibre and the Combined Weir Water Users Associations.

The Department of State Development and Innovation's Business Regulation Reform Unit confirmed that a regulatory impact statement (RIS) was required under the provisions of the *Statutory Instruments Act 1992* and were satisfied with the final RIS that was released for public consultation. A RIS was publicly advertised for comment from 3 December 2004 until 28 January 2005 in relation to the implementation of metering water extraction. Comments on the RIS and draft regulation closed on 28 January 2005.

Submissions received generally accepted the need for compulsory metering to facilitate effective resource management. The key issues in the submission are—

- Stakeholders were concerned about the State ownership of the meters. State ownership of the meters is to prevent the rise of inconsistencies in the types of meter, standards of installation and levels of maintenance, which together may have an adverse impact on meter accuracy.
- Concern was raised about the complexity of the metering service charge, the possible high cost and potential for cost increases. The metering service charge will reflect the type and size of meter installed and the associated costs for reading and maintenance. The use of a standing offer arrangement established through competitive tendering processes will allow water users to benefit from economies of scale and competition between metering contractors.
- Concern was raised about paying for replacement meters, where those meters were installed subject to earlier licence conditions. A number of existing meters may need to be replaced to comply with departmental specifications. If an existing meter is unsuitable, it may be retained by the user for use elsewhere.
- Stakeholders raised the option of paying the up front cost of the meter to reduce the annual metering service charge. The alternative options of 'up front' and 'over the life' payment for metering service was considered, however it determined that administratively the up front option presented difficulties and complexity.
- On the issue of meter reading, concerns were raised about the tendering process and its transparency and allocation on a local

area basis. The tendering process has been completed and was fully transparent. A single State wide metering contractor was seen as advantageous in reducing costs of contract management, ensuring consistency of quality service and reducing the average metering service charge.

- It was raised by some stakeholders that metering is not the only means for managing the resource. The metering of water extraction is the preferred means of water extraction monitoring and compliance for resource management. In addition, the market of tradeable water allocations relies on a viable market that demands that water entitlements are defined and measured accurately to ensure security of entitlement.

## Notes on provisions

### 1 Short title

Clause 1 provides for the short title of the subordinate legislation as the *Water Amendment Regulation (No. 1) 2005*.

### 2 Commencement

Clause 2 states section 37(2) commences on 1 April 2005.

### 3 Regulation amended

Clause 3 states the regulation amends the *Water Regulation 2002*.

### 4 Amendment of s 32 (Returning officer for election of directors)

Clause 4 corrects an anomaly in relation to the election of directors in circumstances where there are no directors comprising a water authority's board. The current section, requiring a board to appoint a returning officer for a subsequent election of directors, in circumstances where there may be no directors, cannot strictly be given effect. Where there are no directors, it is not possible for a returning officer to be appointed by the board. The amendment

provides for the chief executive to appoint the returning officer in these circumstances.

## **5 Insertion of new ss 32A–32E**

Clause 5 inserts new sections 32A–32E.

### **‘32A Procedures for election of directors**

Clause 32A provides an alternative process for the election of directors by meeting rather than by mail ballot, either at the first or a subsequent election of directors. In addition, for the purposes of a mail ballot, mail is defined broadly to mean other than at a meeting, with examples given.

### **‘32B Election of directors by mail or at a meeting**

Clause 32B provides that a decision about whether the returning officer may conduct an election at a meeting is made by (a) the chief executive for a first election or where there is no directors comprising the board, and (b) the board for subsequent meetings. This is consistent with the powers of the chief executive and the board respectively under section 32 for appointing the returning officer. The chief executive or the board may decide to allow the returning officer to conduct an election of directors of a water authority's board at a meeting of the authority's ratepayers if satisfied the authority's area includes only a small number of ratepayers and the ratepayers would be able to attend a meeting for the election.

### **‘32C 'Notice of election at meeting**

Clause 32C outlines what is required of the returning officer if the chief executive or the board decides to allow for an election of directors at a meeting. The returning officer must send a written notice about the election to each of the authority's ratepayers. The Water Act defines 'notice' to mean written notice. The notice must state the requirements set out in subsection (2). In particular, for the first election of directors, the notice must state that the water authority has been established or formed. A ratepayer may appoint a proxy for carrying out the matters detailed in subsection (2)(d).

**‘32D 'Appointment of proxy for election at meeting**

Clause 32D provides for what is an effective appointment of a proxy for a meeting for the election of directors. The appointment is only effective if a properly completed proxy form is given to the returning officer before the calling of nominations at the meeting. Subsection (2) sets out requirements for a properly completed proxy form. The appointment of the proxy can not be transferred by the holder of the appointment to another person and can be irrevocable. A ratepayer who is a proxy for another ratepayer may, in the absence of the other ratepayer, vote both in the ratepayer's own right and as proxy. A proxy must not be exercised if the ratepayer who appointed the proxy attends the meeting for the election.

**‘32E 'Minutes of meeting for election**

Clause 32E imposes obligations on the returning officer in relation to minute taking. The returning officer or any other person appointed by the returning officer may take the minutes.

**6 Amendment of s 33 (Roll of voters)**

Clause 6 amends section 33 in relation to the roll of voters. If an election for directors is held at a meeting, the returning officer must compile the roll of voters at the meeting.

**7 Replacement of s 34, hdg**

Clause 7 replaces the current heading with “34 Nominations for election by mail”. As a consequence of the amendments inserting the alternative process for the election of directors by meeting, section 34 needs to be renamed as the section now only applies to calling for nominations for election of directors by mail.

**8 Insertion of new s 34A**

Clause 8 inserts a new section 34A about nominations for election of directors at a meeting.

**‘34A 'Nominations for election at meeting**

This clause outlines the process for the returning officer to call for nominations for election of directors at a meeting and the process for a candidate to be nominated. It is an offence for a person nominating to provide evidence that is false or misleading.

**9 Amendment of s 36 (Preparing ballot papers)**

Clause 9 amends section 36 by not requiring the ballot papers for election of directors at a meeting to include details not relevant to an election at a meeting.

**10 Replacement of s 37, hdg**

Clause 10 replaces the current heading with “37 Distributing voting material for election by mail”. As a consequence of the amendments inserting the alternative process for the election of directors by meeting, section 37 needs to be renamed as the section now only applies to distributing voting material for election of directors by mail.

**11 Insertion of new s 37A**

Clause 11 inserts a new section 37A.

**‘37A 'Distributing ballot papers for election by mail**

This clause states the process to be followed by the returning officer in distributing the ballot papers for election at a meeting.

**12 Replacement of s 38 (How long ballot is open)**

Clause 12 amends section 38 to only apply to a ballot for election of directors by mail.

**13 Replacement of s 39, hdg**

Clause 13 replaces the current heading with “39 Voting in election by mail”. As a consequence of the amendments inserting the alternative process for the election of directors by meeting, section 39 needs to be



renamed as the section now only applies to voting for election of directors by mail.

#### **14 Insertion of new s 39A**

Clause 14 inserts a new section 39A about voting in an election at a meeting.

#### **'39A 'Voting in election at meeting**

Clause 39A sets out the requirements for how voting takes place at a meeting. In particular, a voter is only entitled to vote once in an election and details the requirements for a voter completing a ballot paper and a person who is not on the roll of voters for the election may not vote. A voter may vote for up to the number of vacancies that there are on the board. That is, if there are 4 positions available on the board, then a voter may place crosses beside up to 4 candidates on the ballot. The returning officer must note the It is an offence for a person who is not on the roll of voters for the election may not vote in the election.

#### **15 Amendment of s 40 (How returning officer must deal with voting material)**

Clause 15 amends section 40 by stating the section does not apply to an election at a meeting.

#### **16 Amendment of s 41 (Scrutiny)**

Clause 16 is amended to require a returning officer to give each candidate notice of when and where votes are to be collected, examined and counted only for an election by mail. In addition, a candidate in relation to an election at a meeting may also appoint a scrutineer.

#### **17 Amendment of s 42 (Initial scrutiny of voting material)**

Clause 17 amends section 42 by stating the section relevantly does not apply to an election at a meeting.

**18 Amendment of s 43 (Counting votes)**

Clause 18 amends the process for the counting of votes by providing that the requirements detailed in subsection 2(a) to (c) relevantly do not apply to the counting of votes at a meeting. The counting of votes at a meeting must be in the presence of the voters and any scrutineers.

**19 Amendment of s 45 (Declaring election result)**

Clause 19 amends how election results are declared to accommodate how results are declared for an election at a meeting. For all election processes, the returning officer must give each candidate a signed declaration of the result. Given the nature of an election held at a meeting, it is not unreasonable for the meeting attendees to expect to be informed of the election result. Therefore the amendment allows the returning officer to announce the result to all at the meeting. For consistency, given the election result at a meeting may be announced to ratepayers other than ratepayers who are also voters, the returning officer is required to give each ratepayer notice of the result of an election conducted by mail.

**20 Amendment of s 49 (Destroying vegetation in a watercourse, lake or spring—Act, s 814)**

Clause 20 includes an additional exemption for riverine protection permits granted under section 49 of the Water Regulation for Powerlink for specified activities carried out under guidelines approved by the chief executive. The activities relate to destroying vegetation up to 0.25 ha, excavating up to 500 m<sup>3</sup> and placing up to 500 m<sup>3</sup> of fill.

**21 Amendment of s 50 (Excavating in a watercourse, lake or spring—Act, s 814)**

Clause 21 includes an additional exemption for riverine protection permits granted under section 40 of the Water Regulation for Powerlink for specified activities carried out under guidelines approved by the chief executive. The activities relate to destroying vegetation up to 0.25 ha, excavating up to 500 m<sup>3</sup> and placing up to 500 m<sup>3</sup> of fill.

**22 Amendment of s 51 (Placing fill in a watercourse, lake or spring—Act, s 814)**

Clause 22 includes an additional exemption for riverine protection permits granted under section 51 of the Water Regulation for Powerlink for specified activities carried out under guidelines approved by the chief executive. The activities relate to destroying vegetation up to 0.25 ha, excavating up to 500 m<sup>3</sup> and placing up to 500 m<sup>3</sup> of fill.

**23 Amendment of s 56 (Water management areas)**

Clause 23 inserts into section 56(2) a new subparagraph (d) to provide that a water management area may be declared for the purpose of implementing water metering under part 6A of the regulation. In addition to the chief executive declaring an area, the area may be declared under a water resource plan or resource operations plan. Water resource plans and resource operations go through a public notification process, therefore there is no requirement to separately publish a notice where these plans are the means of declaring the water management area. The term 'licensed' in section 56(6)(a) is replaced with "authorised". The term 'licensed' is too limiting a term to apply to the taking or interfering with water whereas 'authorised' includes all forms of taking or interfering with water under the Water Act.

**24 Amendment of s 57 (Changing boundaries of water management areas)**

Clause 24 replaces the term "licensed" with "authorised". The term "licensed" is too limiting a term to apply to the taking or interfering with water whereas "authorised" includes all forms of taking or interfering with water under the Water Act.

**25 Amendment of s 59 (Minimum charge)**

Clause 25 replaces the term "water licence" with "an authorisation under this Act". The term "water licence" is only one means of authorising the taking or interfering with water under the Water Act. The reference to "authorisation" includes all forms of taking or interfering with water under the Water Act.

**26 Amendment of s 60 (Notice for payment of charges)**

Clause 26 replaces the term “water licence” with “an authorisation under this Act”. The term “water licence” is only one means of authorising the taking or interfering with water under the Water Act. The reference to “authorisation” includes all forms of taking or interfering with water under the Water Act.

**27 Omission of s 60A (Metering service charge—Act, s1014)**

Clause 27 omits section 60A of the regulation.

**28 Insertion of new pt 6A**

Clause 28 inserts a new part 6A for the implementation of metering water extraction, as authorised under the Water Act, throughout the State.

**‘Part 6A Metering****‘Division 1 Preliminary****‘67A ‘Definitions for pt 6A**

Clause 67A defines terms used in part 6A that are relevant to part 6A about metering. The term “approved meter” applies in two circumstances. Firstly, in relation to a meter, acceptable, modified or installed in accordance with the process outlined in division 2 and which is attached to existing works. Secondly, in relation to a meter installed in accordance with the process outlined in division 2 and which is attached to new works, and required to be installed with the division 2 process as part of the IDAS approval under the *Integrated Planning Act 1997*. If the construction of the new works is assessable development, the obligation to comply with the division 2 process is imposed as a condition of the development permit. If the construction of the new works is self-assessable development, the obligation to comply with the division 2 process is imposed as requirements of the applicable code.

**‘67B Purpose of part 6A**

Clause 67B outlines the purpose of part 6A is to implement a system for the compulsory use of water meters for taking or interfering with water in the State.

**‘67C How purpose is to be achieved**

Clause 67C states how the purpose of part 6A is to be achieved. The implementation of metering water extraction throughout the State will be achieved by—

- Providing a process for the installation of meters which includes imposing obligations on a holder of an authorisation to take or interfere with water or an owner of works through which water may be taken or interfered with to facilitate the installation of a meter. The installation process results in an approved meter being attached to works, through which water is, or could be, taken or interfered with.
- Declaring certain authorisations under the Water Act to be a metered entitlement.
- Requiring the taking or interfering with water under a metered entitlement to be taken through works which has an approved meter attached to the works.
- Requiring certain obligations in relation to metering.
- Providing for a metering service charge payable by the holder of a metered entitlement or owner of works.

**‘Division 2 Meter Installation****‘67D Metered entitlement notice**

Clause 67D provides for the chief executive to give a metered entitlement notice. A metered entitlement notice is the first step in the process of meter installation under this part. In general the purpose of the metered entitlement notice is inform the person about the need for a meter to be installed, the process of installation and that a metering service charge will apply on completion of installation. A metered entitlement notice may be given in two circumstances. Firstly, to the holder of an authorisation. An authorisation is defined in the schedule

to mean a water licence, water permit, water allocation or other authority to take or interfere with water. An example of another authority to take water is the right to take subartesian water under section 20(4) of the Water Act. Secondly, to the owner of works, being works for the purpose of taking or interfering with water on land where the owner of the works does not have an authorisation to take or interfere with water. For example, an owner of land adjoining a watercourse is entitled to take, for stock and domestic purposes, water from a watercourse under section 20(3) of the Water Act without having to hold a water licence or other instrument. The metered entitlement notice must state the requirements detailed in subsection (2). The requirement in subsection (2)(c) to complete a metering information notice about existing works on the land provides the chief executive with necessary information in order to assess what site preparation may be required to install a meter. The recipient of the notice is not, at this stage, required to give the completed notice to the chief executive. Clause 67E requires the recipient to provide the requested information verbally, at a later time, to a metering contractor, as required by the metering contractor. The giving of the notice at this stage serves to inform the recipient of the type of information that will need to be provided to the metering contractor at the later stage and gives time for the recipient to ascertain the required information. A metering contractor is a person appointed by the chief executive under section 973 of the Water Act.

### **'67E 'Metering information notice**

Clause 67E provides for the type of information required by a metering information notice and details the obligations on the recipient of the notice in relation to providing the information. The metering information notice may include, but is not limited to, the requirements of subsection (1). It may be necessary for the recipient to verify the information given by statutory declaration. It is intended that a metering contractor will collect the requested information personally from the recipient. The chief executive may request the recipient of the notice to provide further information within a required time. It is an offence if the recipient fails to comply with the request. In addition, the recipient of the notice is under an obligation to inform the chief executive of any change to the works or meter after complying with the notice and as soon as practicable after the change. This is to ensure that at the time of installation of the meter, which will be some time after the complying with the notice, any changes to

existing works or a meter that may impact on the preparation of the site in readiness for meter installation or installation of the meter, have been considered. It is an offence if the recipient fails to comply with this obligation.

### **'67F 'Meter assessment notice**

Clause 67F provides for a meter assessment notice. This is the second step in the meter installation process under this part. Once the recipient of the metered entitlement notice has complied with giving all the required information, the chief executive assesses the information, and gives to the recipient a second notice, the meter assessment notice. The details contained in the meter assessment notice are an outcome of the chief executive's assessment of what is required to progress the installation of a meter specifically for the recipient. This notice must include the requirements of subsection (2). If there is an existing meter, the notice will detail whether the existing meter is acceptable and can therefore continue to be used or can only continue to be used subject to certain modification or alternatively cannot be used and must be replaced. However an existing meter, or modified existing meter, can only continue to be used, if the owner of the meter agrees to assign ownership of the meter to the State. This ensures consistency with the overall meter installation policy in that a meter is to be owned by the State. If the owner of the meter does not assign the existing meter to the State, the existing meter can not continue to be used and will need to be replaced with a new meter. The notice details the nature and extent of site preparation required for meter installation and whether the site preparation is to be carried out by the recipient of the notice or a metering contractor. If the recipient is to carry out the site preparation, the notice details the guidelines/specifications that must be complied with and the time in which the site preparation must be completed and notice given to the chief executive of its completion. This notice must be written notice as the 'notice' is defined in the Water Act to mean written notice. The notice details, if a new meter is to be installed, whether the meter is to be installed by the recipient or a metering contractor. If the recipient is to install the meter, the notice details the guidelines/specifications that must be complied with and the time in which the meter installation must be completed and notice given to the chief executive of its completion. This notice must also be written notice.

**'67G 'Site preparation by holder or owner**

Clause 67G details obligations of a holder of a metered entitlement or owner of works about carrying out site preparation, if required by the chief executive. It is an offence to not comply with any obligation.

**'67H 'Meter installation by holder or owner**

Clause 67H details obligations of a holder of a metered entitlement or owner of works about carrying out meter installation, if required by the chief executive. It is an offence to not comply with any obligation.

**'Division 3 Metered entitlements**

Division 3 provides for the declaration of a metered entitlement and what is the metering service charge and how and when it is payable to the chief executive.

**'67I 'Declaration of metered entitlement**

Clause 67I provides for the declaration of a metered entitlement. An authorisation, as defined in schedule 17, may be declared to be a metered entitlement by inclusion in Schedule 15A. Once declared, the taking of water under the metered entitlement through works that has an approved meter attached is subject to the metering service charge. The declaration of a metered entitlement in schedule 17 may also refer to the number of meters installed, being approved meters, in relation to the works taking or interfering with water under the metered entitlements.

**'67J 'Metering service charge—Act, s 1014**

Clause 67J details the metering service charge payable to the chief executive by the holder of a metered entitlement or owner of works. The metering service charge is made up of two parts—a meter use charge for the use of the approved meter, being a State owned meter, and an operating charge for the reading of the meter and maintenance of the meter and administration. The meter use charge and meter operating charge must not be more than the cost to the department of making the use of the meter available for use or not be more than the



cost to the department of reading and maintaining the meter and administration respectively. However the metering service charge can be adjusted in favour of a holder or owner who carried out the site preparation, who assigned ownership of an existing meter to the State or whose existing meter, assigned to the State, was not replaced.

## **'Division 4 Miscellaneous**

### **'67K 'Ownership of approved meters**

Clause 67K states an approved meter remains the property of the State. This applies to a new meter installed and also to an existing meter, whether modified or not, and assigned to the State.

### **'67L 'Meter reading by holder of metered entitlement or owner of works**

Clause 67L details the circumstances when the chief executive can require a meter reading of an approved meter. It is an offence for the recipient of a notice given by the chief executive under this section to not comply.

### **'67M 'Meter reading by chief executive**

Clause 67M details the circumstances when the chief executive may arrange for a meter reading of an approved meter. Firstly, a metered entitlement holder may apply for a meter reading if the holder is proposing to transfer or seasonally assign their metered entitlement. Secondly, if an owner of works decides to cease using works, to which an approved meter is attached, the owner of the works. Thirdly, at any other time the chief executive considers necessary.

### **'67N 'Metering exit charge—Act, s 1014**

Clause 67N provides for a metering exit charge to apply if an owner of works gives notice to the chief executive that the owner has decided to stop using the works which have an approved meter attached. This allows an owner to no longer be subject to the continuing metering service charge provided the metering exit charge is paid. The approved meter will either be removed or disabled if applicable.

**'67O 'Specifications**

Clause 67O provides the chief executive may make specifications for carrying out site preparation or for installing a meter under this part.

**29 Amendment of s 70 (Declaration subartesian areas—Act, s 1046)**

Clause 29 replaces the reference to licence with water entitlement. The reference to licence is inadvertently limiting. The taking of water in a subartesian area is currently authorised not only under a water licence but also an interim water allocation. A water licence and interim water allocation are within the meaning of water entitlement.

**30 Amendment of pt 7, div 6, hdg**

Clause 30 renumbers the heading of division 6 as division 7.

**31 Insertion of new pt 7, div 6**

Clause 31 inserts a new part 7, div 6 providing for a number of transitional provisions for the regulation.

**'Division 6 transitional provisions for Water and Other Legislation Amendment Regulation (No. 1) 2005****'74C 'Water licences mentioned in s 60A**

Clause 74C applies to water licences which were part of a pilot metering program in 2004 for the implementation of metering water extraction. Under the pilot metering program, a meter was installed to works taking water under the licences. These water licences transition as a metered entitlement for the purposes of metering, including the metering service charge, under the regulation.

**'74D 'Effect of change to date water year ends**

Clause 74D provides for a transitional provision in relation to the change in the end of the water year for the Bowen groundwater management area. The current water year for the Bowen groundwater

management area, ending December 2004, is to be extended, as from 1 April 2005, to end 31 March 2006 under this regulation. The minimum charge for the allocation, supply and taking of water in the area will transition for the extended water year ending on 31 March 2006. The chief executive has made a decision about the announced entitlement for the area which was published on 22 December 2004. This announced entitlement is transitioned to apply for the extended water year ending on 31 March 2006 however the chief executive may still vary this announced entitlement during the extended water year.

### **32 Amendment of sch 1 (Persons nominated for the Act, section 168)**

Clause 32 provides for the nomination of Gold Coast City Council for an interim resource operations licence. Prior to the establishment of the Water Act, the use of water from the Nerang River and Little Nerang Creek by Gold Coast City Council was authorised by an Order in Council. Under the Water Act, that authority is transitioned and continues until replaced by another authority under the Water Act. Section 168 of the Water Act provides for a person who operates water infrastructure to be nominated by regulation to apply for an interim resource operations licence as a replacement authority. This clause starts the process of granting an interim resource operations licence to the Council to govern the operation of two identified storages and the entitlement to the water managed by the Council.

### **33 Amendment of sch 2 (Entities—Act, sections 190, 193, 206 and 213)**

Clause 33 prescribes, for where there are joint holders of a mineral development licence or mining lease under the *Mineral Resources Act 1989*, one of the holders may be nominated by the joint holders to be the holder of the associated water licence or interim water allocation. Currently a holder of these mining tenures under the *Mineral Resources Act 1989* is prescribed to be the holder of a water licence or interim water allocation without the need to be a landowner or for the water licence or interim water allocation to attach to the land where the water is used. In many cases for mining operations, the holder of the mining tenure may be a complex corporate arrangement, which due to its nature, often changes. Despite the changes to the corporate arrangement, the mining operation itself does not change. This creates

an unnecessary administrative burden on the department to ensure the corporate holding of the tenure reflects the holding of the associated water entitlement. The holder of the tenure will be able to nominate one of the holders to be the holder of the water licence or interim water allocation.

#### **34 Amendment of sch 6 (Water authorities)**

Clause 34 provides for a change to the boundary of the Kaywanna Bore Water Board with the replacement of the current administered plan with a new plan reflecting the altered boundary. In addition the clause establishes the new Myall Plains Water Authority with the identified administered plan showing the area.

#### **35 Amendment of sch 11 (Subartesian areas)**

Clause 35 replaces the reference to licence with water entitlement. Consistent with clause 29, the reference to licence is inadvertently limiting. The taking of water in a subartesian area is currently authorised not only under a water licence but also an interim water allocation. A water licence and interim water allocation are within the meaning of water entitlement.

#### **36 Amendment of sch 13 (Authority areas)**

Clause 36 provides for the dissolution of the Myall Plains Bore Water Supply Area. The area, the subject of the dissolution, has in the main, been taken up in the establishment of the new Myall Plains Water Authority under clause 34.

#### **37 Amendment of sch 14 (Water charges)**

Clause 37 provides for a water charge for each water meter payable by a water licence holder in the water management area. In addition, the clause amends the end of the water year for the Bowen groundwater management area from 31 December to 31 March. However this change to the water year does not commence until 1 April 2005. On and from 1 April 2005, this will have the effect of extending the current 2005 water year, commenced on 1 January 2005, through to 31 March 2006. Clause 31 provides for the transitioning of the minimum charge payable for this extended water year.

**38 Insertion of new sch 15A**

Clause 38 provides for a new schedule 15A. The schedule includes the water licences transitioned as metered entitlements under clause for the purpose of the new metering framework established under the regulation.

**39 Amendment of sch 16 (Fees)**

Clauses 39 adds further fees to the list of fees payable for matters done under the Water Act.

**40 Amendment of sch 17 (Dictionary)**

Clause 40 inserts definitions into the dictionary in relation to metering under part 6A.

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**ENDNOTES**

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Natural Resources and Mines.