



Queensland

# Water Amendment Regulation (No. 5) 2006

## Explanatory Notes for SL 2006 No. 159

made under the

*Water Act 2000*

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## General Outline

### Objective of the subordinate legislation (and reasons)

The objective of the regulation is to amend the *Water Regulation 2002* (Water Regulation) for the following purposes—

- (a) prescribing the period of time triggering the requirement for a land and water management plan in respect of seasonal water assignments;
- (b) providing, to state and shire and island councils, a conditional exemption from the requirement to obtain a riverine protection permit for road infrastructure restoration works required because of flooding resulting from Tropical Cyclones Larry and Monica.
- (c) declaring water in specified aquifers to be water in a watercourse, to allow better management of watercourse water;
- (d) approving two codes for self-assessable development under the *Integrated Planning Act 1997*;
- (e) providing for the recovery of costs for part delivery of a metering service;
- (f) nominating three entities so they are required to apply for an Interim Resource Operations Licence;

- (g) adding five new entities to the list of entities able to hold an interim water allocation or water licence separate from land and removing two existing entities from the list;
- (h) amending the authority areas for Glamorgan Vale and Coreen Water Boards;
- (i) making Consumer Price Index (CPI) adjustments to drainage rates, royalties and fees;
- (j) declaring the Mulgildie subartesian area;
- (k) declaring all water licences in the Boyne River Basin resource operations plan area to be metered entitlements; and
- (l) making other minor amendments.

### **Achieving the Objectives**

The objectives of the regulation will be achieved by amending the Water Regulation, in relation to—

(a) Prescribed period - Land and water management plans (LWMP)

The regulation amends section 3D of the Water Regulation in order to link the time period prescribed to trigger the requirement for a LWMP to new subsections in the Water Act inserted in 2005.

(b) Exemption from requirement to obtain a Riverine Protection Permit

Section 814(2) (a) (viii) of the Water Act provides that a regulation may permit a person to carry out certain activities in watercourses without a riverine protection permit (RPP). Sections 49, 50 and 51 of the Water Regulation detail the circumstances when a RPP is not required.

The regulation provides specified shire and island councils with a conditional exemption from the requirement to obtain an RPP for the above restoration works.

(c) Declaration of Water in a Watercourse

Section 1006(2) of the Act provides that a regulation or a water resource plan may declare water in an aquifer under a watercourse, or under land adjacent to a watercourse, to be water in the watercourse. This is implemented in the Water Regulation in section 55.

The regulation—

- extends the declaration of water in a watercourse for water in an alluvial aquifer under the bed or banks of the Boyne River from AMTD 86.7km to AMTD180km;
- declares water in an aquifer under the bed or banks of Barambah Creek, between AMTD 85km and AMTD 189.5km, to a depth of 15 below the bed of the creek, to be water in a watercourse; and
- declares water in an alluvial aquifer under the bed or banks of Stuart River, between AMTD 0km and AMTD 80km, to a depth of 10m below the bed of the river, to be water in a watercourse.

(d) Codes for Self-assessable Development under the *Integrated Planning Act 1997* (IPA)

The regulation approves the Code for Self-assessable Development of Bores Identified in a Water Resource Plan as Self-assessable and the Code for Self-assessable Development of Replacement Bores as approved codes for carrying out relevant development made self-assessable in a water resource plan.

(e) Recovery of Metering Assessment Charge

Section 1014(2) (d) of the Act states that a regulation may provide for matters in relation to meters, including when a meter must be installed; who may install a meter; who must pay and the arrangements for payment, for the installation, maintenance and reading of a meter; and the minimum standards to apply to meter design, construction, installation and maintenance. This is implemented in part 7 of the Water Regulation, which provides a framework for the installation of State owned meters.

The regulation—

- requires a person to notify the chief executive if they receive a notice advising of the start of the meter installation process but have no existing works in place to take or interfere with water; and
- provides a mechanism for the Department to recover from authorisation holders or owners of works, the reasonable costs the Department incurs where the meter installation process in Division 2 of Part 7 of the Water Regulation commences but an approved meter is not ultimately installed or approved because—

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- (a) there are no existing works in place to attach the meter to, and the works owner or authorisation holder has failed to notify the Department of this fact; or
- (b) there are existing works in place to attach the meter to when the meter installation process in Division 2 of Part 7 of the Water Regulation commences, but the works owner or authorisation holder advises the Department during the meter installation process that it wishes to stop using those works, i.e. before the installation process is completed.
- (f) Nomination of Entity for Grant of Interim Resource Operations Licence (IROL)

Section 168 of the Act provides that a regulation may nominate the owner of water infrastructure in relation to the operation of the infrastructure of the management of water stated in the regulation and requires that nominated owner to apply for an IROL to continue to operate the water infrastructure or manage the water within 60 business days after the regulation is made. This is implemented in the Water Regulation in section 6 and schedule 1.

The regulation nominates—

- North Burdekin Water Board as the owner of water distribution and aquifer recharge works located within the North Burdekin Water Board authority area;
- South Burdekin Water Board as the owner of in respect of water distribution and aquifer recharge works located within the South Burdekin Water Board authority area; and
- Townsville-Thurwingowa Water Supply Joint Board trading as NQ Water as owner of Ross River Dam, Paluma Dam and Crystal Creek.

In accordance with section 168 of the Act, these Boards will be required to apply for an IROL to continue to operate the water infrastructure or manage the water within 60 business days after the regulation is made.

- (g) Declaration of Entities for Holding Water Licence Where Not an Owner of Land and Removing Existing Entities

Sections 190(d)(iv), 193(1)(e), 206(4)(g) and 213(e)(viii) of the Act permit a regulation to state entities entitled to apply for or hold water licences or interim water allocations that do not attach to land. Sections 7, 14 and schedule 2 of the Water Regulation identify those entities.

The Regulation prescribes Australian Stockman's Hall of Fame and Outback Heritage Centre ACN 010 007 093, Etgold Pty Ltd ACN 010 705 432, John Neville Rawlins as holder of title reference 17645135, Stockyard Point Services Co-op Ltd QC0202 and Thomas Powell Stevens, Elsie Janett Stevens, John Brian Stevens and Deborah Jean Stevens as holders of licence numbers 61070B and 17990B, as entities able to hold interim water allocations and water licences not attaching to land so they can supply water to people on land to which their entitlement does not currently attach.

Although the prescription of individuals as an entity is unusual, the addition of Thomas Powell Stevens, Elsie Janett Stevens, John Brian Stevens and Deborah Jean Stevens as holders of licence numbers 61070B and 17990B, to the list has occurred to allow the resumption of an historical arrangement for supplying water to other landholders. The addition of John Neville Rawlins as holder of title reference 17645135 to the list has occurred to allow water to be supplied for a mining operation (legislation prevents the company from holding the relevant land title).

The Regulation also removes Revaw Pty Ltd ACN 052 096 401 and Laroboe Pty Ltd ACN 011 058 763 as entities, as their entitlement has now been converted to a water allocation, which does not attach to land.

(h) Amendment of Glamorgan Vale and Coreen Water Boards' Authority Areas

Section 548 of the Water Act provides for the establishment of a water authority and identification of its authority area, by regulation. Sections 556 and 557 of the Act allow a regulation to be amended if the chief executive has published notice of the proposed amendment and considered properly made submissions. These provisions of the Act are implemented in section 31 and schedule 6 of the Water Regulation.

The regulation amends the authority areas for the Glamorgan Vale and Coreen Water Boards by including new administrative plan references.

(i) CPI adjustments to drainage rates, royalties and fees

Schedules 7, 15 and 16 of the Water Regulation provide for various fees and charges. In accordance with government policy, the regulation replaces these schedules and changes the relevant fee amounts, to take account of CPI adjustments in accordance with government policy.

(j) Declaration of the Mulgildie subartesian area

Section 1046(2) of the Act provides that a regulation may declare an area to be a subartesian area and may regulate the taking of, or interfering with subartesian water and state the types of works for taking subartesian water

that are assessable or self-assessable development under IPA. This is implemented in section 102 and schedule 11 of the Water Regulation.

The regulation declares a new subartesian area to regulate works for taking subartesian water from the alluvial aquifers in the Mulgildie Basin. All works, other than for stock and domestic purposes, will be assessable development under IPA.

This new declared area will only have relevance for the direct regulation of subartesian water not regulated under the Great Artesian Basin water resource plan.

(k) Declaration of all water licences in the Boyne River Basin resource operations plan area to be metered entitlements

Section 75 of the Water Regulation provides for the declaration of metered entitlements in Schedule 15A. The declaration of metered entitlements provides the statutory basis for requiring the affected water users to pay the metering charges provided for in section 76. The regulation provides for water licences within the Boyne resource operations plan area to be metered entitlements.

(l) Minor amendments

A number of amendments are made that correct references in the Water Regulation to renumbered sections of the Water Act, the water regulation and IPA and to confirm that specified water meter charges are included in the suspension of the part 8 water charges.

## **Administrative costs**

Implementation of the regulation will be met from Departmental resources.

## **Fundamental Legislation Principles**

The regulation is consistent with fundamental legislative principles.

## **Consultation**

Each entity that is being added to the list of entities entitled to hold an interim water allocation or water licence separate from land has requested that they be prescribed in the Water Regulation for this purpose.

Queensland Treasury has been consulted on the imposition of the metering assessment charge.

North Burdekin Water Board, South Burdekin Water Board and Townsville–Thurwingowa Water Supply Joint Board are aware of their upcoming nomination as owners of their respective infrastructure.

The proposals to amend the authority areas of Glamorgan Vale Water Board and Coreen Water Board have been publicly advertised.

Water users in the Mulgildie area have been consulted on the intention to create the new declared Mulgildie subartesian area.

The declaration of water licences within the Boyne resource operations plan area as metered entitlements is consistent with the Department's Metering Water Extractions Policy 2005, published in May 2005.

## Notes on Provisions

### Part 1 Preliminary

#### Clause 1 Short title

*Clause 1* provides for the short title of the subordinate legislation as the *Water Amendment Regulation (No. 5) 2006*.

#### Clause 2 Commencement

*Clause 2* states that the provisions relating to CPI adjustments of drainage rates, royalties, and fees, and the declaration of metered entitlements, commence on 1 July 2006. The remaining provisions will commence upon gazettal.

#### Clause 3 Regulation amended

*Clause 3* states this regulation amends the *Water Regulation 2002* (the Water Regulation).

**Clause 4      Amendment of s 3D (Requirement for land and water management Plan—Act, s 73)**

*Clause 4* omits section 73(1A)(b) and inserts section 73(1)(b)(ii) and (2A)(c) as a consequence of renumbered sections in the Act and prescribes a time to trigger the requirement for a land and water management Plan (LWMP), where water is obtained under a seasonal water assignment.

**Clause 5      Amendment of s 14 (Entities—Act, ss 206 and 213)**

*Clause 5* omits sections 206(4)(f) and 213(e)(vi) and inserts sections 206(4)(g) and 213(e)(vii) as a consequence of renumbered sections of the Water Act.

**Clause 6      Amendment of s 23 (Conditions of water bore driller's licence—Act, s 302)**

*Clause 6* corrects an incorrect reference to an item in the *Integrated Planning Act 1997*

**Clause 7      Amendment of s 49 (Destroying vegetation in a watercourse, lake or spring—Act s814)**

*Clause 7* permits local governments listed in new Schedule 6A to destroy vegetation in a watercourse, lake or spring without the necessity to obtain a Riverine Protection Permit if the proposed destruction—

- is carried out for the purpose of restoring road infrastructure under the natural disaster relief arrangements for Tropical Cyclones Larry and Monica; and
- complies with a specified Queensland Department of Main Roads Guideline, read as if the guideline also applies to the local governments in this situation.

**Clause 8      Amendment of s 50 (Excavating in a watercourse, lake or spring—Act s 814)**

*Clause 8* permits local governments listed in new Schedule 6A to excavate in a watercourse, lake or spring without the necessity to obtain a Riverine Protection Permit if the proposed excavation—



- is carried out for the purpose of restoring road infrastructure under the natural disaster relief arrangements for Tropical Cyclones Larry and Monica; and
- complies with a specified Queensland Department of Main Roads Guideline, read as if the guideline also applies to the local governments in this situation.

**Clause 9      Amendment of s 51 (Placing fill in a watercourse, lake or spring—Act s 814)**

*Clause 9* permits local governments listed in new Schedule 6A to place fill in a watercourse, lake or spring without the necessity to obtain a Riverine Protection Permit if the placing of fill—

- is carried out for the purpose of restoring road infrastructure under the natural disaster relief arrangements for Tropical Cyclones Larry and Monica; and
- complies with a specified Queensland Department of Main Roads Guideline, read as if the guideline also applies to the local governments in this situation.

**Clause 10     Amendment of s 55 (Water declared to be water in a watercourse—Act, s 1006 (2))**

*Clause 10* amends section 55 to—

- extend the declaration of water in a watercourse for water in an alluvial aquifer under the bed or banks of the Boyne River from AMTD 86.7km to AMTD180km;
- declare water in an aquifer under the bed or banks of Barambah Creek, between AMTD 85km and AMTD 189.5km, to a depth of 15 below the bed of the creek, to be water in a watercourse; and
- declare water in an alluvial aquifer under the bed or banks of Stuart River, between AMTD 0km and AMTD 80km, to a depth of 10m below the bed of the river, to be water in a watercourse.

**Clause 11 Amendment of s 62 (Code for self-assessable development—Act, s 1014)**

*Clause 11* omits sub section 62(c) and replaces it with new subsection(c) which lists two codes, which will support the Barron and the Great Artesian Basin water resource plans and future water resource plans, to the extent they make relevant works self-assessable.

**Clause 12 Amendment of s 70 (metered entitlement notice)**

*Clause 12* includes two additional requirements for a metered entitlement notice. The notice must—

- tell the holder or owner about the metering assessment charge; and
- require the holder to notify the chief executive officer within a stated period if there are no existing works on the land.

**Clause 13 Insertion of new s 70A**

*Clause 13* inserts a new section 70A which requires a holder to notify the chief executive officer (CEO), within a period of time stated in the metered entitlement notice, that there are no existing works on the land. If the holder fails to do so, and the CEO incurs costs in arranging for a metering contractor to undertake a site inspection and assessment, the CEO may require the holder to pay the reasonable costs incurred in doing so.

**Clause 14 Amendment of s 75 (Declaration of metered entitlements)**

*Clause 14* makes a minor amendment as a consequence of renumbered sections under this regulation.

**Clause 15 Insertion of new s 80A**

*Clause 15* inserts new section 80A which states that—

- if the chief executive officer (CEO) provides a metered entitlement notice to a holder and then proceeds to incur costs for activities such as site inspections, assessments and site preparation;
- before these processes are complete, the holder decides to stop using the works; and

- the CEO must seek payment from the holder for the reasonable costs incurred.

### **Clause 16 Replacement of ss 123 and 124**

*Clause 16* replaces sections 123 and 124, to provide appropriate transitional provisions associated with the amendments resulting from clause 17 (which confirms that specified water meter charges are included in the suspension of the Part 8 water charges). The new sections remove doubt about how invoices should be issued for the stated water and groundwater management areas, for the period from 1 July 2005 to 31 December 2005, given the suspension of the water meter and other water charges for those areas from 1 January 2006 to 30 June 2006.

### **Clause 17 Amendment of s 125 (Definition for sdiv 2)**

*Clause 17* amends section 125 to confirm that specified water meter charges are included in the suspension of the Part 8 water charges from 1 January 2006 to 30 June 2006. The amendments achieve this by including water meter fees for the stated water and groundwater management areas in the existing definition of “part 8 water charges”.

### **Clause 18 Amendment of sch 1 (Persons nominated for the Act section 168)**

*Clause 18* amends Schedule 1 to nominate the following Boards as entities that will be required to apply for an IROL within 60 business days after the regulation is made, to continue to operate water infrastructure or manage water—

- North Burdekin Water Board as the owner of water distribution and aquifer recharge works located within the North Burdekin Water Board authority area;
- South Burdekin Water Board as the owner of in respect of water distribution and aquifer recharge works located within the South Burdekin Water Board authority area; and
- Townsville-Thurwingowa Water Supply Joint Board as owner of Ross River Dam, Paluma Dam and Crystal Creek.

**Clause 19 Amendment of sch 2 (Entities—Act, ss 190, 193, 206 and 213)**

*Clause 19* prescribes Australian Stockman's Hall of Fame and Outback Heritage Centre ACN 010 007 093, Etgold Pty Ltd ACN 010 705 432, John Neville Rawlins as holder of title reference 17645135, Stockyard Point Services Co-op Ltd QC0202 and Thomas Powell Stevens, Elsie Janett Stevens, John Brian Stevens and Deborah Jean Stevens as holders of licence numbers 61070B and 17990B, as entities able to hold interim water allocations and water licences not attaching to land so they can supply water to people on land to which their entitlement does not currently attach.

Although the prescription of individuals as an entity is unusual, the addition of Thomas Powell Stevens, Elsie Janett Stevens, John Brian Stevens and Deborah Jean Stevens as holders of licence numbers 61070B and 17990B, to the list has occurred to allow the resumption of an historical arrangement for supplying water to other landholders. The addition of John Neville Rawlins as holder of title reference 17645135 to the list has occurred to allow water to be supplied for a mining operation (legislation prevents the company from holding the relevant land title).

The clause also removes Revaw Pty Ltd ACN 052 096 401 and Laroboe Pty Ltd ACN 011 058 763 as entities, as their entitlement has now been converted to a water allocation, which does not attach to land.

**Clause 20 Amendment of sch 6 (Water authorities)**

*Clause 20* amends the authority areas for the Glamorgan Vale and Coreen Water Boards by inserting new administrative plan references.

**Clause 21 Insertion of new sch 6A**

*Clause 21* lists the local governments who will benefit from the exemption from obtaining a riverine protection permit resulting from the amendments in clauses 7–9.

**Clause 22 Replacement of sch 7 (Drainage rates)**

*Clause 22* adjusts drainage rates payable in accordance with CPI increases.

**Clause 23 Amendment of sch 11 (Subartesian areas)**

*Clause 23* declares a new subartesian area to regulate works for taking subartesian water from the alluvial aquifers in the Mulgildie Basin. Works for purposes other than stock and domestic are made assessable development. Water licences are not required for any works.

**Clause 24 Replacement of schs 15–16**

*Clause 24* adjusts royalty rates and fees payable under the Act in accordance with CPI increases.

**Clause 25 Amendment of sch 17 (Dictionary)**

*Clause 25* makes minor amendments as a consequence of renumbered sections of the Water Act and under this regulation.

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## ENDNOTES

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