

Water and Other Legislation Amendment Regulation 2024

Explanatory notes for SL 2024 No. 121

made under the

State Penalties Enforcement Act 1999
Water Act 2000

General Outline

Short title

Water and Other Legislation Amendment Regulation 2024 (Amendment Regulation).

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*.
Sections 217A, 217B, 217C, 217D, 217E, 217G, 217H, 217J and 1014 of the *Water Act 2000* (Water Act).

Policy objectives and the reasons for them

The policy objectives of the Amendment Regulation are to amend the *Water Regulation 2016* (Water Regulation) for the following water-related matters:

- To provide the operational and administrative requirements to implement Queensland's strengthened policy for measuring the take of non-urban water, introduced by the *Water Legislation Amendment Act 2023*.
- Prescribing water authorisations that will be subject to measurement requirements.
- Stating measurement requirements including for devices, device read frequency and frequency of supply of measurement data to the chief executive.
- Expanding provisions about dealing with faulty measurement devices.
- Providing for the certification of measurement devices and the periodic (every 5 years) recertification of certain measurement devices by duly qualified persons.

- Stating relevant standards for devices and provisions in relation to device maintenance and record keeping.
- Providing a duly qualified persons framework including provisions to prescribe or appoint these persons for specific roles, state the functions of these persons and to be able to hold these people accountable for the work they perform.
- Stating transitional arrangements as required.
- Making consequential amendments to schedule 1 of the *State Penalties Enforcement Regulation 2014* for the Water Regulation entry where necessary in relation to relevant changes to offence provisions.

Achievement of policy objectives

The Amendment Regulation achieves the policy objectives by providing the operational and administrative requirements necessary to implement the strengthened non-urban water measurement policy in relation to the application of measurement devices.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the main objectives of the Water Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There is no alternative mechanism available to meet the policy objectives.

Benefits and costs of implementation

Metering and measurement are existing requirements under the Water Act and Water Regulation and have been in place for some time. The Department of Regional Development Manufacturing and Water's (DRDMW) responsibilities in relation to regulating the State's measurement device requirements are undertaken as part of business-as-usual activities for new metering and ongoing meter re-validation. Managing the implementation of strengthened measurement requirements established by this amendment regulation will be incorporated these existing work programs.

The requirement for telemetry is new in relation to how DRDMW receives water take information from entitlement holders. The initial cost for entitlement holders to purchase and install telemetry devices is being subsidised with funding from the Australian Government. Costs to DRDMW to design and configure systems to ingest and manage telemetered data is also funded under DRDMW's Rural Water Futures Program.

The cost to government for any monitoring and compliance associated with the new measurement framework will also be accounted for as part of business-as-usual activities.

DRDMW will also benefit from having improved water take information to support compliance activities, water sharing, water allocation and water planning decisions.

Consistency with fundamental legislative principles

The Amendment Regulation has been drafted with regard to the fundamental legislative principles (FLPs) as defined by section 4 of the *Legislative Standards Act 1992* and is consistent with these provisions.

Consultation

DRMDW consulted with the Water Engagement Forum (WEF) on the proposed amendments in December 2022, April 2023 and May 2024. WEF is the DRDMW's peak body advisory group on government-related water matters and is comprised of representatives from AgForce Queensland; the Association of Mining and Exploration Companies; the Australian Bankers' Association; Australian Petroleum Production and Exploration Association Ltd; the Environmental Defenders Office; Irrigation Australia; the Local Government Association Queensland; NRM Regions Queensland; the Queensland Conservation Council; Queensland Farmers' Federation; Queensland Resources Council; Queensland Seafood Industry Association; State Council of River Trusts Queensland; Seqwater; SunWater; the Wilderness Society; and WWF Australia.

The amendments made by the Amendment Regulation have been considered in accordance with the Queensland Government Better Regulation Policy. Please refer to the associated Impact Analysis Statement.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 specifies that the short title of the Amendment Regulation is the *Water and Other Legislation Amendment Regulation 2024*.

Commencement

Clause 2 states that the provisions of the Amendment Regulation commence on 22 July 2024.

Part 2 Amendment of Water Regulation 2016

Regulation amended

Clause 3 states that the Amendment Regulation amends the Water Regulation.

Replacement of pt 11 (Metering)

Clause 4 omits part 11 of the Water Regulation and inserts new part 11.

New – Part 11 Measurement Requirements for taking water

New part 11 includes provisions about the measurement requirements that apply for taking water under the Water Act.

New – Division 1 General

New section 103 Definitions for part

New section 103 provides definitions for terms that apply to the operation of new part 11.

In new part 11:

- the term ‘associated document’ is defined in relation to a compliance certificate given by a duly qualified person. In this context, an associated document is a document such as a calibration report, a diagnostic record or a photograph, or other document or record that the duly qualified person has used as evidence or considered as part of their inspection of a measurement device;
- the term ‘compliance certificate’, for a measurement device means a certificate that is given by a duly qualified person stating that the device complies with the measurement standards. The certificate must be in the approved form to be accepted as a compliance certificate;
- the term ‘duly qualified person’ is defined in section 104. The reader is directed to the explanation in this section;
- the term ‘faulty’, in relation to a measurement device, is defined in section 105. The reader is directed to the explanation in this section;
- the term ‘faulty period’ defines the time during which a measurement device is considered faulty:
 - if the holder of a relevant authorisation becomes aware or suspects the device is faulty, the faulty period starts when they become aware or suspect it is faulty through to when they have notified and rectified the fault. The requirements for notifying and rectifying a faulty device are provided in section 117.
 - if the chief executive gives the holder of a relevant authorisation a notice stating they suspect the device is faulty, the faulty period starts when the chief executive gives the notice and ends when the holder has completed the requirements in the notice. Section 118 details what action the holder needs take if they receive this notice.
- the term ‘measurement standards’ means the standards that the chief executive may make for the measurement requirements in this regulation amendment. The power to make these is provided by section 217I of the Water Act.

New section 104 Who is a *duly qualified person*

New section 104 provides definitions for who is a ‘duly qualified person’ for performing functions in relation to different measurement devices under new part 11. Duly qualified persons must hold the relevant certification or appropriate qualifications in order to perform functions related to specific measurement devices.

For subsection (2):

- for functions related to a closed conduit meter or a modular meter, a duly qualified person is someone who holds a certification from Irrigation Australia as a certified meter installer and validator;
- for functions related to a storage meter, a duly qualified person is someone who holds a certification from Irrigation Australia as a certified storage meter installer and validator;
- for functions related to a telemetry device, a duly qualified person is someone who holds a certification from Irrigation Australia as a telemetry installer and validator; and
- this subsection also states that under section 121A, a person may be appointed by the chief executive as an appropriately qualified person to perform the function of a duly qualified person for a measurement device.

Subsection (3) states which persons are not duly qualified persons for performing a function in relation to a measurement device. These persons include the holder of a relevant authorisation and an employee or agent of the holder of a relevant authorisation. This means that if a holder of a relevant authorisation, or an employee, owner or director of a company that is the holder of a relevant authorisation, is a certified meter installer and validator, they cannot certify their own or the company’s meter as complying with the measurement standards. This is applicable for all types of measurement devices that may be required for a relevant authorisation. This provides assurance that there is a degree of independence when it comes to who can certify a measurement device.

However, subsection (4) clarifies that subsection (2) does not apply in relation to a relevant authorisation held by the State, a local government or a water authority, or in relation to a relevant authorisation that is held by the holder of a resource operations licence or a distribution operations licence.

Subsection (5) provides definitions for multiple terms used in this section:

- the term ‘closed conduit meter’ means a meter used to measure or record water volume in full flowing pipes;
- ‘Irrigation Australia’ means the company registered as Irrigation Australia under the Australian Securities & Investments Commission. (Irrigation Australia is the peak national organisation representing the Australian irrigation industry that provides irrigation training and certification, including meter and telemetry device certification);
- the term ‘modular meter’ means a meter that includes 2 or more sensors and is used to measure or record water volume;
- the term ‘storage meter’ means a meter used to measure the level of water held in storage.

New section 105 When a measurement device is *faulty*

New section 105 states the circumstances in which a measurement device (the device) will be considered faulty. These include where:

- the device is not capable of measuring or recording the volume of water taken through works to which the device is attached either at all, or within the accuracy range for the device stated in the measurement standards. For example, the removal of a sensor from a modular meter would cause such a meter to be considered faulty as would a flat battery for an electronic meter;
- where it is not possible to read or obtain information from a device to calculate or measure the volume of water taken through works to which the device is attached. For clarity, where information from a device to calculate or measure the volume of water taken through works to which the device is attached is intended to be readable on that device, it will be faulty if it is not possible to read the device, regardless of whether that information may otherwise be obtained some other way. For example, if the dials screen is broken and the numbers on the dials cannot be read, this is considered a fault;
- the device is leaking water or air;
- a fitting or other thing used to attach the device to works through which water is taken is leaking water or air;
- a tamper-proof item such as a seal, mark, access code or other thing attached or applied to the device by an authorised officer, a measurement contractor, or a duly qualified person is removed, damaged or otherwise tampered with. This includes changing a password to an electronic meter. The terms ‘authorised officer’ and ‘measurement contractor’ take the meanings given by schedule 4 of the Water Act;
- the device does not transmit or otherwise report information calculated, measured, read or recorded by the device for a period of 3 or more days. This may include a situation where the holder of a relevant authorisation fails to have a third-party data supplier arrangement in place. This will apply to a device that is normally used to transmit or otherwise report information calculated, measured, read or recorded by the device. For example – a telemetry device.

Section 105 also states that a measurement device is considered faulty if the holder of the relevant authorisation is aware or suspects the device is faulty as mentioned in the new section 117 or the chief executive gives a notice under the new section 118 to a relevant authorisation holder stating that that they suspect their measurement device is faulty.

New – Division 2 Measurement requirements for using measurement devices

New – Subdivision 1 Preliminary

New section 106 Purpose of division

New section 106 states that the purpose of new division 2 is to prescribe the measurement requirements that apply to relevant authorisations. Section 217E of the Water Act provides the power for the Water Regulation to prescribe these measurement requirements, while new section 107 that follows details the relevant authorisations that the measurement requirements apply to.

New section 106 includes a note to make readers aware that section 808(3) of the Water Act makes it an offence for a holder of a relevant authorisation mentioned in section 107 to take water without complying with the measurement requirements stated in this division.

New section 107 Relevant authorisations

New section 107 states the relevant authorisations that the measurement requirements under new division 2 apply to. Section 217C of the Water Act provides the power for the Water Regulation to state these relevant authorisations.

These include:

- an authorisation identified for an area in new schedule 11;
- an authorisation that replaces an authorisation identified for an area in new schedule 11;
- a seasonal water assignment notice for taking water given in relation to an authorisation identified in new schedule 11 for an area under a water plan. The intent here is to ensure that the measurement requirements also apply if the relevant authorisation is temporarily transferred under a seasonal water assignment notice.

For the purposes of new section 107, new Schedule 11 has been designed with the relevant authorisations for an area listed is alphabetically within each water plan area. This is to ensure the holders of relevant authorisations can find measurement requirements that apply to them.

New section 107 also clarifies the circumstances when an authorisation (referred to as the ‘second authorisation’) replaces another authorisation (referred to as the ‘original authorisation’). These include when:

- the original authorisation expires and the second authorisation is granted in relation to the same land;
- the original authorisation is amalgamated with another authorisation and the second authorisation is granted in relation to the land to which the original authorisation and other authorisation related;
- the original authorisation expires and 2 or more second authorisations are granted in relation to the same land;

- part of the land to which the original authorisation related is disposed of and 1 or more second authorisations are granted in relation to the same land;
- the original authorisation expires under section 146(1)(a) of the Water Act (on the day a water entitlement notice for that authorisation takes effect) and the second authorisation is granted under that section to the holder of the original authorisation.

New – Subdivision 2 General requirements

New section 108 Attaching and maintaining measurement device

New section 108 provides direction about how a measurement device must be attached and maintained.

Subsection (1) states that the holder of a relevant authorisation must attach a measurement device—as listed in schedule 11—to the works through which water is taken under the authorisation. The reader is directed to section 153 for information about how this section applies in relation to attaching particular measurement devices on or before a particular date.

Subsection (2) states that holder of the relevant authorisation must ensure that the measurement device is attached to the works in the way described in the measurement standards, and that the measurement device is certified by a duly qualified person as complying with the requirements in the measurement standards. Subsection (2) also states that the measurement device must not be faulty.

These requirements provide assurance that a measurement device will be capable of working properly.

Subsection (3) states that the holder of the relevant authorisation must also ensure that they maintain the measurement device in the way described in the measurement standards. Maintaining a device as required by the standards will better enable a device to work properly on an ongoing basis and give DRDMW confidence that water take is being measured as required.

Subsection (4) clarifies that the holder does not contravene subsection (2)(c) in relation to a faulty measurement device if the holder complies with subdivision 3 during the faulty period for the device.

New section 109 Taking water under relevant authorisation

New section 109 states how water must be taken under a relevant authorisation to meet the measurement requirements. Water must be taken through works to which a measurement device is attached, as outlined in section 108 about how to attach a measurement device. If the measurement device becomes faulty, the holder of the relevant authorisation must ensure that they follow the alternative measurement requirements stated in new subdivision 3. These alternative requirements ensure that information about water take can still be recorded and documented while the faulty measurement device is fixed.

New section 110 Ongoing certification requirements

New section 110 provides the certification requirements for measurement devices (excluding telemetry devices) that are attached to works through which water is taken under a relevant authorisation. It is the responsibility of the holder of a relevant authorisation to ensure that the measurement device is certified by a duly qualified person as complying with the measurement standards every 5 years. Each period of 5 years starts when the measurement device is certified. This establishes a rolling 5 year ‘anniversary date’ for device certification. This means that if a device becomes faulty and is fixed and re-certified within its 5 year certification period, the 5 year anniversary date resets and starts again from the date it was re-certified. Examples are given to explain how the 5 year expiry would work in different scenarios. This section also provides that if the holder of the relevant authorisation does not meet the 5 year recertification, then the previous compliance certificate is of no effect, meaning it expires and the device is no longer certified as meeting the standards.

New section 111 Information about water taken

New section 111 provides instructions about how the holder of a relevant authorisation must give the chief executive information about water taken under the authorisation as stated in the new schedule 11A and at the times, and in the way, stated in the table in schedule 11A. Column 1 of this table states the information to be given; column 2 states when the information is to be given; and column 3 states the way the information is to be given.

Five types of information must be given by the holder of a relevant authorisation:

1. Information about the works through which water is taken. This includes details of the works themselves; details about each measurement device attached to the works; and the details of each person who takes water through the works. This information is used to confirm that water is only being taken under a relevant authorisation through works to which a measurement device is attached and identifies who is responsible for taking water through the works. This information must be given within 20 business days, after each time a duly qualified person completes an inspection of a measurement device attached to the works under section 121B. This information must be given in the approved form.
2. Information about changes to, the works through which water is taken, the relevant authorisations under which water is taken using the works and any persons taking water through the works. These details must be given in the approved form within 10 business days after the change.
3. Meter readings for water taken at each time the meter or telemetry device is replaced. These details must be given in the approved form within 10 business days after the replacement.
4. Meter readings for water taken in each water period stated in table 2 for the authorisation. Details of each meter reading taken during the water year must be given. Column 1 states the relevant authorisation and column 2 states the water period.

For a relevant authorisation for taking water in the—

- a. Border Rivers Alluvium (deep) underground water sub-unit under the Water Plan (Border Rivers and Moonie) 2019;
- b. Central Condamine Alluvium underground water sub-area under the Water Plan (Condamine and Balonne) 2019;

- c. Coastal Burnett groundwater management sub-area under the Water Plan (Burnett Basin) 2019;
- d. Don and Dee groundwater sub-area under the Water Plan (Fitzroy Basin) 2011—
the water period is from 1 July of a year to 1 March of the following year and the period from 1 July of a year to 30 June of the following year.

For a relevant authorisation for taking water in the Dawson Valley water management area under the Water Plan (Fitzroy Basin) 2011, the water period is from 1 October of a year to 30 September of the following year.

For a relevant authorisation for taking water in the Lockyer Valley groundwater management area under the Water Plan (Moreton) 2007, the water period is from 1 May of a year to 30 April of the following year.

For a relevant authorisation for taking water in the Bowen underground water area on plan CAS 3065, the water period is from 1 April to 1 November of a year and 1 April of a year to 31 March of the following year.

For relevant authorisations not otherwise mentioned in the table, the water period is from 1 July of a year to 30 June of the following year.

For each relevant authorisation and the corresponding water period, the information must be given within 10 business days after the water period ends in the way stated in the measurement standards.

- 5. Information from telemetry devices. This information must include each record made by a telemetry for water taken in a day. The information must be given at the end of day in the way stated in the measurement standards.

New – Subdivision 3 Alternative requirements

New section 112 Purpose of subdivision

New section 112 provides that the purpose of this new subdivision is to state the alternative requirements that apply if a measurement device becomes faulty. These requirements apply to devices attached to works through which water is taken under a relevant authorisation.

New section 113 Alternative measurement requirements

New section 113 states that the holder of the relevant authorisation must give the chief executive information about water taken through the works during the faulty period for the measurement device. This information must be given to the chief executive following all the instructions, and covering all the matters, stated in the approved form.

The information must be given to the chief executive within 20 business days after the end of the faulty period for the measurement device or at a later time if agreed to by the chief executive. The chief executive may agree to a longer rectification period in reasonable circumstances.

Information may also be required to be given at other times during the rectification period if the chief executive has requested this through a notice to the holder of the relevant authorisation.

- For section 113, ‘rectification period’ means either the 30 business days given to notify and rectify a fault under section 117(1)(b) or the 30 business days or longer if agreed by the chief executive under section 118(2)(b).

New – Subdivision 4 Contravention of particular measurement requirements

New section 114 Offence to contravene requirement to give particular information

New section 114 states that it is an offence for the holder of a relevant authorisation not to give information about water taken (required under section 111) or not to follow the alternative measurement requirements (required under section 113) without a reasonable excuse. This offence carries a maximum penalty of 20 penalty units.

Penalties also apply under section 808(3) of the Water Act if the holder of a relevant authorisation takes water without following the measurement requirements.

Subsections (2) and (3) clarify that if the holder commits an offence against section 808(3) by not giving information (an offence under section 111) or not following the alternative measurement requirements (an offence under section 113), they can either be punished under section 808(3) of the Water Act *or* under sections 111 or 113 of the Water Regulation, but not both.

This is to prevent the holder from being punished simultaneously for the same offence.

New – Division 3 Faulty measurement devices

New section 115 Application of division

New section 115 states that new part 11, division 3 prescribes what the holder of a relevant authorisation, who is subject to the measurement requirements, must do about a faulty measurement device, including identifying the fault, notifying the chief executive about the fault and taking action to rectify the fault.

New section 116 When holder of a relevant authorisation taken to be aware or suspect measurement device is faulty

New section 116 states the circumstances in which a holder of a relevant authorisation is taken to be aware or suspect that a measurement device attached to works taking water is faulty. The circumstances in subsection (2) are those where the holder would obviously know there is a fault with the measurement device. The circumstances provided also help the reader understand the meaning of the terms ‘be aware’ or ‘suspect’ for new section 117. The examples provided do not include every possible circumstance in which a holder may become aware or suspect a measurement device is faulty. Other circumstances may exist and these examples do not limit the ways in which a holder may become aware or suspect a measurement device is faulty.

For a measurement device, the holder of a relevant authorisation is taken to be aware or suspect a device is faulty if the holder:

- knows the device has been damaged or is reasonably sure the device has been damaged (for example, because they know it was hit by machinery and that is likely to have caused damage to the device); or
- knows the device is not measuring or recording the volume of water that has been taken, or is reasonably sure that the device is not measuring or recording the volume of water that has been taken (for example, because they know they usually take more water than has been recorded or measured by the device or the numbers on the dials, or the reading on the meter is reducing or going backwards compared to a previous read).

For a telemetry device, the holder of a relevant authorisation taken to be aware or suspect a device is faulty if the holder knows that the device is not transmitting information about water taken or is reasonably sure that the device is not transmitting information about water taken (for example, because they are not seeing the usual signs that indicate that the device has successfully transmitted information).

Often it will be possible for a holder of a relevant authorisation to identify faults as part of routine inspections and maintenance activities they are expected to undertake as part of their ongoing responsibility to maintain a measurement device.

New section 117 Notifying and rectifying faults

New section 117 states the obligations for the holder of the relevant authorisation if they become aware, or suspect, that the measurement device is faulty, and unless they have a reasonable excuse:

- the holder must give the chief executive written notice of the fault within 3 business days after becoming aware of, or suspecting, the fault. The written notice must include details about the device that is faulty or suspected to be faulty; the date the holder became aware of, or suspected the fault; details about the fault or suspected fault; and, if known at the time the notice is given, details of the duly qualified person they have engaged or will engage to certify that the fixed or replaced device meets the requirements of the measurement standards;
- the holder must also rectify the fault or replace the device within 30 business days after becoming aware of, or suspecting, the fault. This includes having the fixed or replaced device certified by a duly qualified person as complying with the measurement standards;
Note that where a faulty device is fixed or replaced and certified by a duly qualified person, the 5 year date for recertification restarts for the purposes of new section 110.
- in certain situations, the chief executive may grant a holder longer than 30 business days to rectify a fault. In this case, the holder must rectify the fault or replace the device and have it certified by a duly qualified person as complying with the measurement standards by the date agreed with the chief executive.

A maximum penalty of 20 penalty units applies if a holder does not follow these requirements for notifying and rectifying a faulty measurement device.

New section 118 Chief executive may give notice of suspected faulty measurement device

New section 118 outlines the action a holder of a relevant authorisation must take if the chief executive gives the holder a notice stating that the chief executive suspects the measurement device is faulty.

If the chief executive suspects a measurement device is faulty, they may give the holder a notice stating that they suspect the measurement device is faulty. If such a notice is given, it will outline what the holder must do within 30 business days of being given the notice. If the chief executive has granted the holder longer than 30 business days to take action, the holder must ensure they meet the following requirements by the date agreed with the chief executive.

If the measurement device is not faulty—the holder must engage a duly qualified person to certify that the device complies with the requirements of the measurement standards.

If the measurement device is faulty—the holder must either rectify the fault or if it cannot be rectified, replace the faulty device with another device. In either case, the holder must engage a duly qualified person to certify that the new or rectified device complies with the requirements of the measurement standards.

Subsection (3) provides that the holder must comply with the requirements in the notice, unless they have a reasonable excuse why they are unable to. A maximum penalty of 20 penalty units applies if the holder does not comply with the notice.

A note is included to draw attention to the measurement requirements that apply when taking water when a measurement device is faulty and to the offence that applies under the Water Act for taking water without complying with measurement requirements.

New – Division 4 Record keeping

New section 119 Application of division

New section 119 states that new part 11, division 4 prescribes requirements about the records that a holder of a relevant authorisation must keep in relation to measurement requirements and giving these records to the chief executive. Section 217H of the Water Act enables the Water Regulation to prescribe these requirements.

New section 120 Requirement to keep copies of records

New section 120 states the records that a holder of a relevant authorisation must keep in relation to measurement requirements unless they have a reasonable excuse. Each of the records must be kept for a specific record keeping period. The records and their record keeping periods are detailed below:

- a record of the volume of water measured or recorded by a measurement device at the end of each 5 year certification period; and each time the holder becomes aware, or suspects that the measurement device is faulty. This record must be kept for 6 months from when the record was made;

Retaining these records is important as these will assist the holder of the relevant authorisation to demonstrate the volume of water taken under the authorisation at the time of compliance certificate expiry or the device becoming faulty.

- a record of each activity carried out to maintain a measurement device attached to works through which water is taken. This record must be kept from the day the record is made until the day a duly qualified person gives a compliance certificate for the device. A note reminds the reader that a measurement device must be maintained in accordance with the requirements stated in the measurement standards;
- a copy of each compliance certificate for the device stating that the measurement device complies with the measurement standards. A copy of a compliance certificate will be given to the holder of the relevant authorisation by a duly qualified person and the record must be kept for 6 years from the day the certificate is given;
- a copy of each associated document given to the holder for each compliance certificate given for the device mentioned above. These associated documents will also be given to the holder of the relevant authorisation by a duly qualified person. These records must be kept for 6 years from the day the certificate is given;

A maximum penalty of 20 penalty units applies if the holder does not comply with these recording keeping requirements.

Record keeping period is defined in subsection (2) to mean:

- for a record mentioned in subsection (1)(a)—12 months from when the record was made; or
- for a record mentioned in subsection (1)(b) about a measurement device—from the day the record is made until the day a duly qualified person gives a new compliance certificate for the device; or
- for a compliance certificate, or associated document for a compliance certificate mentioned in subsection (1)(c)—6 years from the day the certificate is given.

New section 121 Requirement to give copies of records

New section 121 states that the chief executive may give the holder of a relevant authorisation a notice that requires them to give the chief executive a copy of any of the records that a holder is required to keep. This copy must be provided within 20 business days after the notice is given.

The holder must comply with this notice unless they have a reasonable excuse. A maximum penalty of 20 penalty units applies if the holder does not comply with the notice.

New – Division 5 Duly qualified persons

New – Subdivision 1 Appointment of duly qualified persons

New section 121A Appointment of duly qualified person

New section 121A states that the chief executive is able to appoint an appropriately qualified person to be a duly qualified person for a measurement device.

Persons appointed by the chief executive under this section are prescribed as duly qualified persons under new section 104.

New – Subdivision 2 Performance of functions

New section 121B Inspection by duly qualified person

New section 121B outlines the functions a duly qualified person must perform when they are engaged by a holder of a relevant authorisation to certify that a measurement device attached to works through which water is taken complies with the measurement standards.

The duly qualified person must do the following unless they have a reasonable excuse:

- physically inspect the measurement device as soon as practicable; and
- within 10 business days after the inspection:
 - if the measurement device does not comply with the measurement standards—give a notice to the chief executive stating the ‘non-compliance particulars’ for the device. This means stating:
 - how the device does not comply with the measurement standards;
 - how the device could be modified if the duly qualified person believes that modifying the device would make it compliant with the measurement standards;
 - that the device cannot be modified to comply with the measurement standards if the duly qualified person believes the device cannot be modified to be compliant with the measurement standards.
 - if the measurement device does comply with the measurement standards—give the chief executive a compliance certificate for the device.
 - depending on the outcome of the inspection—give the holder a copy of the notice of non-compliance or a copy of the compliance certificate. If any associated documents are provided or required as part of the compliance certificate, copies of these must also be given to the holder.

A maximum penalty of 20 penalty units applies if the duly qualified person does not perform these duties.

New section 121C Chief executive may require further inspection

New section 121C applies if the chief executive, after being given a compliance certificate under section 121B for a measurement device is satisfied that the information stated in the certificate is inaccurate, incomplete or mistaken; or the person who gave the certificate was not a duly qualified person for the measurement device when the certificate was given.

In this situation, the chief executive may give the holder of the relevant authorisation a notice directing the holder to engage a duly qualified person to certify that the measurement device complies with the measurement standards.

The notice must state the grounds on which the notice is given and that the holder of the relevant authorisation must engage a duly qualified person to certify the device is compliant with the measurement standards. The holder has 30 business days to have the device certified. If the holder has been given a longer time to have the device certified, they must make sure they have the device certified by the date agreed with the chief executive.

The holder of a relevant authorisation must comply with the notice unless they have a reasonable excuse. A maximum penalty of 20 penalty units applies for not complying with the notice.

The duly qualified person engaged under this section must perform their duties as outlined in section 121B.

It is important that the chief executive has confidence in the device certification process and receives accurate records. This new section ensures inaccuracies, mistakes, or missing information can be corrected or provided and assures the integrity of the device certification process.

New – Subdivision 3 Action for improper conduct

New section 121D Application of subdivision

New section 121D states the actions the chief executive may take if a duly qualified person has performed their required duties improperly. The chief executive may take action if they know or believe that a person who is a duly qualified person has:

- contravened section 121B; or
- performed their duties incompetently; or
- engaged in fraudulent conduct as part of performing their duties as a duly qualified person; or
- been found guilty of an offence under the Water Act or guilty of an offence under an act in another state that is equivalent of the offence under the Water Act.

New section 121E Action chief executive may take

New section 121E states the action the chief executive may take if a duly qualified person has performed their required duties improperly.

If the chief executive appointed the person as a duly qualified person, the chief executive may cancel the appointment. Otherwise (that is, if the person is a duly qualified person through their certification by a professional body), the chief executive may give the relevant professional body a notice about the chief executive's knowledge or belief about the matters mentioned in section 121D(a), (b), (c), or (d).

For clarity, new section 121E defines that the term 'relevant professional body' in this section to mean the entity that issued the certificate to certify that the person is a duly qualified person. For example, if the person is a certified meter installer and validator certified by Irrigation Australia, then the relevant professional body is Irrigation Australia.

Professional bodies, such as Irrigation Australia, have existing processes for addressing matters in relation to persons for which they have issued certification credentials. For example, a professional body may have its own disciplinary procedures. Referral of matters (as listed under new section 121D) will enable these professional bodies to use their existing processes to address matters as they relate to the referred person and their certification status.

New section 121F Process for cancelling appointment

New section 121F outlines the actions the chief executive must take if they propose to cancel the appointment of a person they have appointed as a duly qualified person. The chief executive must give the person a show cause notice stating the following:

- the chief executive's intent to cancel the person's appointment as a duly qualified person;
- the grounds for proposing to cancel the person's appointment;
- an outline of the facts and circumstances that have led the chief executive to propose to cancel the person's appointment;
- that the person has 14 days from being given the notice to respond in writing to the chief executive. If the person has been granted longer to respond, they must respond by the date agreed with the chief executive.

Before taking any action, the chief executive must consider any written response received by the person.

If the chief executive cancels a person's appointment as a duly qualified person following the process outlined, the chief executive must give the person an information notice for the decision to cancel the appointment. The cancellation will take effect from the day the person is given the information notice.

Amendment of s 137 (Water management areas)

Clause 5 omits the words 'water metering' from section 137(2)(d) of the Water Regulation and replaces them with 'measurement requirements'. This change in terminology reflects the purpose of the new part 11.

Insertion of new pt 16, div 5

Clause 6 inserts new division 5 into part 16 of the Water Regulation.

New – Division 5 Transitional provisions for Water and Other Legislation Amendment Regulation 2024

New – Subdivision 1 Preliminary

New section 150 Definitions for division

New section 150 provides definitions for terms that apply to the operation of new division 5.

New – Subdivision 2 General arrangements

New section 151 Approved meters

Subsection (1) provides a transitional provision for a circumstance in which, immediately before the commencement of the Amendment Regulation, an approved meter was attached to works through which water was taken under a relevant authorisation.

Subsection (2) states that an approved meter is taken to be a measurement device attached to the works as required under section 108(2)(a) of the Water Regulation and certified by a duly qualified person as complying with the measurement standards.

Subsection (3) states the holder of the relevant authorisation must ensure the meter is certified by a duly qualified person as complying with the measurement standards on or before the revalidation date for the meter.

Subsection (4) states, for applying section 110(2) to the meter, the 5 year period starts on the day the meter is certified as mentioned in subsection (4).

Subsection (5) states that if the holder of the relevant authorisation does not comply with subsection (4), subsection (2) stops applying to the meter on the revalidation date for the meter.

Subsection (6) clarifies that new section 151 does not apply in relation to a relevant authorisation to which new sections 154, 155, 156 or 160 to 162 applies.

Subsection (7) provides the definition for the term ‘revalidation date’ in new section 151. In this section, the term revalidation date, for a relevant authorisation that immediately before the commencement was a metered entitlement, means the revalidation date for the relevant authorisation under former section 111.

New section 152 Approved telemetry devices

New section 152 applies if, in relation to a relevant authorisation, an approved telemetry device is attached to works through which water is taken either before or after the commencement of the Amendment Regulation. ‘Approved telemetry device’ is defined in subsection (3), along with other terms.

- The term ‘approved telemetry device’ means a telemetry device installed by Goanna Ag under the Queensland Murray-Darling Basin Telemetry Project.

- The term ‘Goanna Ag’ means Discovery Ag Pty Ltd, ACN 117 305 567, trading as Goanna Ag.
- The term ‘Queensland Murray-Darling Basin Telemetry Project’ means the project implemented by the department to provide a subsidy for the installation of telemetry devices in particular locations in the Murray-Darling Basin. Details of this project can be found on the department’s website.

The approved telemetry device, in the above circumstance, is taken to be a measurement device attached to works as required under new section 108(2)(a) and certified by a duly qualified person as complying with the measurement standards. A reference in new part 11 to a measurement device attached to works through which water is taken under a relevant authorisation includes a reference to the telemetry device. No further inspection will initially be required for the telemetry device in this situation, and it will automatically be brought into the new framework as made by the Amendment Regulation.

New section 153 Application of measurement requirements requiring measurement device from stated day

Subsection (1) states new section 153 applies in relation to a relevant authorisation if schedule 11 states that a particular measurement device must be attached to works through which water is taken under the authorisation from a stated day (*the compliance start day*).

Subsection (2) states the measurement requirements under part 11 apply to the holder of the relevant authorisation in relation to the measurement device from the earlier of the day after the commencement on which the holder first complies with section 108 for the device or the compliance start day for the device.

New – Subdivision 3 Arrangements relating to faulty meters

New section 154 Faulty meters

Subsection (1) states that the new section 154 applies in relation to an approved meter to which section 151(2) applies that is attached to works through which water is taken under a relevant authorisation if, immediately before commencement, former section 110A(4) applied to the works.

Subsection (2) states section 151(2) applies to the meter only while the holder of the relevant authorisation continues to give the chief executive the information mentioned in former section 110A(4) and until the end of the expiry date applying to the meter under former section 110A.

Subsection (3) states the holder of the relevant authorisation may arrange for a validation inspection to be carried out on the meter before the expiry date.

Subsection (4) states if the holder arranges a validation inspection under subsection (3), former section 112 continues to apply in relation to the validation inspection as if the amendment regulation had not been made. A note refers the reader to subdivision 5 in relation to validation inspections finalised after the commencement.

New section 155 Requirement if holder of relevant authorisation aware of faulty meter

Subsection (1) states that new section 155 applies in relation to an approved meter to which section 151(2) applies that is attached to works through which water is taken under a relevant authorisation if, immediately before the commencement the holder of the authorisation was required to give, but had not given, the chief executive notice under former section 110A(3) stating the meter is a faulty meter and the period within which the notice under former section 110A(3) was required to be given had not ended.

Subsection (2) states the meter is taken to be faulty for the purposes of section 109.

Subsection (3) states the holder of the relevant authorisation must comply with section 117 in relation the meter and for that purpose, the holder is taken to have become aware of the faulty on the day this section commences and the period within which the holder must comply with section 117(1)(a) ends on the later of the either 1 business day after this section commences or the day on or before which the holder was required to give notice under former section 110A(3) and the period within which the holder must comply with section 117(1)(b) is 30 business days after the day this section commences.

New – Subdivision 4 Arrangements for validation inspections not started or finalised

New section 156 Starting validation inspection on approved meter in particular circumstances

Subsection (1) states that new section 156 applies if, immediately before the commencement, a validation inspection was required to be carried out on a meter attached to works through which water is taken under a relevant authorisation because the revalidation period for the authorisation under former section 111 had started in relation the meter or the chief executive had given the holder of the authorisation a notice under former section 112A requiring the holder to arrange another validation inspection on the meter; and the validation inspection had not been started on the meter; and the validation date for the validation inspection had not ended.

Subsection (2) states the holder of the relevant authorisation may arrange for a validation inspection to be carried out on the meter before the validation date.

Subsection (3) states if the holder of the relevant authorisation arranges a validation inspection under subsection (2), former section 112 continues to apply in relation to the validation inspection as if the amendment regulation had not been made. A note refers the reader to subdivision 5 in relation to validation inspections finalised after the commencement.

Subsection (4) states that if the holder of the relevant authorisation does not arrange a validation inspection under subsection (2), section 151(2) stops applying to the meter on the validation date.

Subsection (5) defines validation date for a validation inspection mentioned in subsection (1)(a).

New section 157 Starting validation inspection if meter notice given before commencement

New section 157 provides that new section 157 applies in relation to a relevant authorisation if, immediately before the commencement:

- a relevant authorisation was not a metered entitlement; and
- the works through which water is taken under the relevant authorisation did not have an approved meter attached; and
- the chief executive had given the holder of the authorisation a meter notice for the authorisation; and
- The validation date for the meter notice had not passed.

Subsection (2) states the holder of the relevant authorisation may arrange for a validation inspection to be carried out on the meter before the validation date.

Subsection (3) states the holder of the relevant authorisation arranges a validation inspection under subsection (2), former section 112 continues to apply in relation to the validation inspection as if the amendment regulation had not been made. A note directs the reader to subdivision 5 in relation to validation inspections finalised after the commencement.

Subsection (4) states that if the holder of the relevant authorisation does not arrange a validation inspection under subsection (2), part 11 applies in relation to the authorisation as provided under section 153 disregarding the meter notice and the validation date for the meter notice.

Subsection (5) defines meter notice in relation to a relevant authorisation as a notice given by the chief executive under the former section 108 requiring an approved meter to be attached to works through which water is taken under the authorisation. Validation date for a meter notice is defined as the date stated in the meter notice as the validation date or if applicable, a later date stated in a notice given by the chief executive under former section 108(5) in relation to the meter notice.

New section 158 Finalising validation inspection started before commencement

Subsection (1) states that new section 158 applies if, immediately before the commencement, an authorised meter validator had started or completed a validation inspection on a meter attached to works through which water is taken under a relevant authorisation but had not given a notice or validation certificate under former section 112(2) in relation to the inspection.

Subsection (2) states that former section 112 continues to apply in relation to the validation inspection as if the amendment regulation had not been made. A note refers to subdivision 5 in relation the effect of a notice or validation certificate under former section 112(2) given after the commencement.

New section 159 Further validation inspection may be started

Subsection (1) states that new section 159 applies if a validation inspection for a meter attached to works through which water is taken under a relevant authorisation was carried out before the commencement and the authorised meter validator gave a notice for the meter under former section 112(2)(a)(ii) less than 30 days before the commencement and immediately before the commencement, the meter was an approved meter; or section 155, 156, 157 or 158 applies in relation to a meter attached to works through which water is taken under a relevant authorisation and an authorised meter validator gives a notice for the meter under former section 112(2)(a)(ii), as applying under section 155, 156, 157 or 158.

Subsection (2) states that the holder of the relevant authorisation may within 30 days after the notice under former section 112(2)(a)(ii) was or is given, arrange the meter to be modified and a further validation inspection on the modified meter to be carried out by an authorised meter validator under former section 112.

Subsection (3) states that if the holder of the relevant authorisation arranges a further validation inspection on a meter under subsection (2), former section 112 continues to apply in relation to the further validation inspection as if the amendment regulation had not been made.

Subsection (4) clarifies that the authorised meter validator may only decide whether the meter, as modified, complies or does not comply with the non-urban metering standard, and may not give a notice under former section 112(2)(a)(ii) in relation to the meter.

Subsection (5) defines non-urban metering standard as former section 105.

New section 160 Status of approved meters if section 159 applies

New section 160 provides that if section 159 applies in relation to a meter and the holder of the relevant authorisation does not arrange a validation inspection under section 159(2), the relevant provision stops applying to the meter on the day the period mentioned in section 159(2) ends.

Subsection (2) provides holder of the relevant authorisation arranges a validation inspection under section 159(2) and subsection (3) states that until the authorised meter validator gives a notice or certificate under former section 112(2), section 159 continues to apply, however the meter is taken to be faulty for the purposes of section 109.

Subsection (5) defines 'relevant provision' as section 151(2) or section 163(2).

New – Subdivision 5 Outcome of validation inspections

New section 161 Effect of notice of noncompliance on approved meters

New section 161 states that, as applying in relation to an approved meter that is the subject of a validation inspection under new section 154, 156, 158 or 159 the meter stops being an approved meter for the purposes of new section 151 if the authorised meter validator gives a notice for the meter under former section 112(2)(a)(iii).

The measurement requirements under new part 11 will apply in relation to taking water under a relevant authorisation through the works to which the meter is attached from the day the notice under former section 112(2)(a)(iii) is given.

In effect, another validation inspection may not be carried out for the meter from this point; a new measurement device will be required to be installed to replace the meter that is unable to comply with the former non-urban metering standard.

New section 162 Effect of validation certificate on approved meters

New section 162 states that, as applying in relation to an approved meter that is the subject of a validation inspection under new section 154, 156, 158 or 159, if the authorised meter validator gives a validation certificate for the meter under former section 112(2)(b), the meter continues to be an approved meter for the purposes of new section 151. New section 162 then provides that the revalidation date for the meter is 5 years from the date the certificate is given.

New section 163 Effect of validation certificate on other meters

New section 163 applies to a meter that is not an approved meter to which section 151(2) applies, if:

- the meter was attached to works used to take water under a relevant authorisation; and
- a validation inspection on the meter is carried out or finalised under new section 157, 158 or 159; and
- the authorised meter validator gives a validation certificate for the meter under former section 112(2)(b), as applying under section 157, 158 or 159.

Subsection (2) states that the meter is taken to be a measurement device attached to the works as required under section 108(2)(a) and certified by a duly qualified person as complying with the measurement standards.

Subsection (3) states the holder of the relevant authorisation must ensure the meter is certified by a duly qualified person as complying with the measurement standards within 5 years after the validation certificate is given.

Subsection (4) states, for applying section 110(2) to the meter, the 5-year period starts on the day the meter is certified as mentioned in subsection (3).

Subsection (5) states that if the holder of the relevant authorisation does not comply with subsection (3), subsection (2) stops applying to the meter on the 5 years after the day the validation certificate is given.

This means that if the holder does not meet the requirement to have the meter recertified within 5 years, the meter will no longer meet the measurement requirements for new section 108. If water continues to be taken, the new part 11 will apply.

New – Subdivision 6 Chief executive powers

New section 164 Chief executive may require new certification

New section 164 provides that if the chief executive has been given a copy of a validation certificate for a meter attached to works through which water is taken under a relevant authorisation under the former section 112, and the chief executive is satisfied that the information stated in the certificate is inaccurate, incomplete or mistaken, or the person who gave the certificate was not an authorised meter validator when the certificate was given, or the person who gave the certificate was the holder of the relevant authorisation, the chief executive may give the holder of a relevant authorisation a notice under section 121C(2).

Subdivision (3) provides that if a notice is given under section 121C(2) and the holder of the relevant authorisation engages a duly qualified person to give the certification required by the notice:

- the relevant provision continues to apply to the meter while the duly qualified person is performing functions for the purpose of giving the certification; and
- if the duly qualified person gives the chief executive a notice under section 121B(2)(b)(i)(B); and
- the relevant provision stops applying to the meter if the duly qualified person gives the chief executive a notice under section 121B(2)(b)(i)(A).

Subsection (4) clarifies that if a relevant provision applies to the meter when the notice under section 121C(2) is given and the holder of the relevant authorisation does not comply with the notice, the relevant provision stops applying to the meter when the period within which the notice is required to be complied with ends.

Subsection (5) defines ‘relevant provision’ as section 151(2) or section 163(2).

This means that if the notice is not complied with within the period, at the end of the period the meter will not meet the measurement requirements for new section 108. If water continues to be taken, the new part 11 will apply.

New section 165 Meter reading required by chief executive under former section 113 not yet complied with

New section 165 provides a transitional provision for a circumstance in which a notice has been given to a person under former section 113 if, immediately before the commencement of the Amendment Regulation:

- the person had not complied with the notice; and
- the time for complying with the notice had not passed.

Subsection (2) states that in this circumstance, former section 113 continues to apply in relation to the notice as if section 4 (Replacement of pt 11 (Metering)) of the Amendment Regulation had not been made. This means that a person given a notice under former section 113 must still provide a meter read to the chief executive.

New – Subdivision 7 Charges

New section 166 Meter operating charge

New section 166 applies in relation to a meter for which a meter operating charge was payable under former section 115 immediately before the commencement and that is:

- attached to works through which water is taken under a relevant authorisation; and
- is the property of the State.

Subsection (2) states that, in this circumstance, former section 115 continues to apply in relation to the meter as if the Amendment Regulation had not been made. Subsection (3) clarifies that for subsection (2), the meter operating charge is payable by the holder of the relevant authorisation.

New section 167 Meter use charge

New section 167 applies in relation to a meter for which a meter use charge was payable under former section 116 immediately before the commencement and that is:

- attached to works through which water is taken under a relevant authorisation; and
- Is the property of the State or was the property of the State before ownership was transferred to the holder of the relevant authorisation.

Subsection (2) states that, in this circumstance, former section 116 continues to apply in relation to the meter as if the Amendment Regulation had not been made. Subsection (3) clarifies that for subsection (2), the meter use charge is payable by the holder of the relevant authorisation.

New section 168 Metering exit charge

New section 168 applies if the holder of a relevant authorisation gives the chief executive notice that the holder has decided to stop using a meter to which section 167 applies. A meter under section 167 is property of the State.

Subsection (2) requires the chief executive to give the holder of the relevant authorisation notice of the charge payable, known as the metering exit charge.

Subsection (3) states that former section 117(3) and (4) apply in relation the metering exit charge, as if the notice was given under that section. In this circumstance, former section 117 continues to apply in relation to the meter as if the Amendment Regulation had not been made.

New section 169 Unpaid charges

New section 169 applies in relation to a charge that was payable, but was not paid, under former section 115 (Meter operating charge), 116 (Meter use charge) or 117 (Metering exit charge) before commencement. Subsection (2) clarifies that in this circumstance, the charge continues to be payable and if not paid, may be recovered by the State as a debt.

New – Subdivision 8 Miscellaneous

New section 170 Continued appointment of authorised meter validators

New section 170 provides that a person who, immediately before the commencement, was appointed as an authorised meter validator under former section 109 continues as an authorised meter validator for this division.

Amendment of sch 8 (Water authorities)

Clause 7 removes the entry for Silkwood Drainage Board from the table in schedule 8, part 1, and inserts an entry for Silkwood Drainage Board into the table in schedule 8, part 3. This reflects the dissolution of Silkwood Drainage Board from a water authority to an alternative institutional structure.

Replacement of sch 11 (Metered entitlements)

Clause 8 omits schedule 11 (Metered entitlements) from the Water Regulation and inserts new schedule 11.

New – Schedule 11 Measurement requirements—relevant authorisations and measurement devices

New schedule 11 lists the authorisations for an area declared to be relevant authorisations subject to measurement requirements under new division 2 (Measurement requirements for using measurement devices) as stated in new section 107(1)(a).

New schedule 11 also lists the measurement devices that must be attached to works through which water is taken for each relevant authorisation, as stated in new section 108(1).

New schedule 11 lists relevant authorisations for an area and measurement devices in a separate table for each water plan area (arranged alphabetically) where column 1 states the area under the water plan; column 2 states the relevant authorisation; and column 3 states the measurement device that must be attached.

The last table in new schedule 11 lists the relevant authorisations and measurement devices that must be attached for areas outside of a water plan area.

New Schedule 11A Measurement requirements—information about water taken

The table in new schedule 11A lists the requirements for a holder of a relevant authorisation under new section 111 when providing information about water taken. Column 1 states the information to be given; column 2 states when the information is to be given; and column 3 states the way the information is to be given.

In particular, new Schedule 11A includes the times and frequency for holders of relevant authorisations to record and give meter readings to the chief executive. The way this is given will be stated in the measurement standards.

Amendment of sch 12 (Fees)

Clause 9 omits items 20 and 21 from schedule 12 of the Water Regulation.

Amendment of sch 19 (Dictionary)

Clause 10 omits the definitions for ‘approved meter’, ‘authorised meter validator’, ‘cessation date’, ‘cessation notice’, ‘meter validator’, ‘faulty meter’, ‘meter use charge’, ‘non-urban metering standard’, ‘relevant management area’, ‘relevant person’, ‘transfer notice’, ‘validation certificate’, ‘validation inspection’ and ‘works’ from Schedule 19 of the Water Regulation. These omissions reflect the overall changes made to the measurement framework by the Amendment Regulation.

New definitions are inserted to reflect the new terms that have been used throughout new part 11. These terms include ‘associated document’, ‘compliance certificate’, ‘duly qualified person’, ‘faulty’, ‘faulty period’, ‘measurement standards’, and ‘telemetry device’.

The definition for ‘transfer notice’, for part 4 of the Water Regulation, is inserted. This definition is given by section 37(2) of the Water Regulation. This replacement was necessary due to the replacement of part 11, which previously provided a definition for the term.

Part 3 Amendment of State Penalties Enforcement Regulation 2014

Regulation amended

Clause 11 states that part 3 of the Amendment Regulation amends the *State Penalties Enforcement Regulation 2014*.

Insertion of new pt 7, div 3

Clause 12 inserts new part 7, division 3 into the *State Penalties Enforcement Regulation 2014*.

New – Division 3 Transitional provision for Water and Other Legislation Amendment Regulation 2024

New section 32 Repealed infringement notice offences under Water Regulation 2016

New section 32 provides a transitional provision in relation to the commission of an offence:

- against any of the former sections 110A(4), (5) or 113(3) of the Water Regulation before the commencement of the Amendment Regulation; or
- against former section 113(3) of the Water Regulation, as applying under section 165 of the Water Regulation, *after* the commencement of the Amendment Regulation.

Subsection (2) clarifies that in this circumstance, schedule 1, entry for the *Water Regulation 2016*, as in force before the commencement continues to apply in relation to the offence as if the Amendment Regulation had not been made.

Subsection (3) states this does not limit the application of the *Acts Interpretation Act 1954*, section 20.

Subsection (4) defines the term ‘former’ in this section, in relation to a provision of the Water Regulation, to mean the provision as in force from time to time before the commencement.

Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

Clause 13 omits entries for sections 110A(4), 110A(5) and 113(3) from the entry for the Water Regulation in schedule 1 of the State Penalties Enforcement Regulation 2014 and inserts entries for s 114(1), s 117(1), s 118(3), s 120(1), s 121(2), s 121B(2) and s 121C(4) with 2 penalty units for individuals and 10 penalty units for corporations.