



Queensland

Water Amendment Act 2006

Act No. 23 of 2006



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Contents

		Page
1	Short title	6
2	Act amended	6
3	Amendment of s 25M (Appointment of person to carry out measures or achieve outcomes)	6
4	Amendment of s 25S (When compensation is not payable)	6
5	Amendment of s 99 (Matters the chief executive must consider when preparing draft resource operations plan)	6
6	Amendment of s 105 (Amending resource operations plan)	6
7	Amendment of s 110 (Conditions of resource operations licence or distribution operations licence)	7
8	Amendment of s 178 (Conditions of interim resource operations licence)	7
9	Insertion of new ch 2A	7
	Chapter 2A Water supply and demand management	
	Part 1 Preliminary	
	340 Main purpose of ch 2A and its achievement	8
	341 What is the SEQ region	8
	Part 2 Queensland Water Commission	
	Division 1 Establishment	
	342 Establishment of commission	9
	343 Commission represents the State	10
	344 Application of other Acts	10
	Division 2 Functions and powers	
	345 Main functions of commission	10
	346 Principles for performing functions	11
	347 General powers	12
	Division 3 Commissioners	
	348 Appointment	12

349	Eligibility for appointment	13
350	Duration of appointment	13
351	Terms and conditions of appointment.	13
352	Resignation	14
353	Termination of appointment	14
354	Disclosure of interests	15
Division 4	Meetings and other business of commission	
355	Conduct of business	15
356	Times and places of meetings	15
357	Quorum	16
358	Presiding at meetings	16
359	Conduct of meetings	16
360	Decisions outside meetings	16
360A	Minutes and record of decisions.	16
Division 5	Staff and other assistance to commission	
360B	Commission's staff	17
360C	Advisory bodies	17
Division 6	Standing and other references	
360D	Standing references	17
360E	Other references.	18
Division 7	Funding for commission's functions	
360F	Annual levy	18
Part 3	Water security planning	
Division 1	Preliminary	
360G	Purpose of pt 3.	19
Division 2	Regional water security options	
360H	Application of div 2	19
360I	Advice to Minister on options	19
360J	Content of options	20
360K	Consultation	20
Division 3	Regional water security program	
360M	Ministerial response to commission's advice	20
360N	Effect of program for Integrated Planning Act 1997 . .	21
Part 4	Facilitation of regional water security programs	
360O	Application of pt 4.	22
360P	Status of works for State Development and Public Works Organisation Act 1971.	22

	360Q	Designation of preferred entity for works	22
	Part 5	Implementation of and compliance with regional water security programs	
	Division 1	Program implementation	
	360R	Commission's role	23
	360S	Review and compliance reports	23
	360T	Information may be required from water service providers	23
	Division 2	System operating plans	
	Subdivision 1	Making system operating plans	
	360U	Application of sdiv 1	24
	360V	Commission to make system operating plan for region	24
	360W	Content of plan	24
	360X	Consultation for plan	25
	360Y	Publication and taking effect of plan	25
	Subdivision 2	Amendment of system operating plans	
	360Z	Amendment of plan	26
	Subdivision 3	Compliance with system operating plans	
	360ZA	Water service providers must comply with system operating plan	27
	360ZB	Publication requirements	27
	360ZC	Derivative use immunity for compliance with publication requirement	27
	Part 6	Restriction of water supply by commission	
	360ZD	Restricting water supply	28
	360ZE	Notice of commission water restriction must be given	29
	360ZF	Relationship with service provider water restrictions	30
	360ZG	Delegation of particular functions for commission water restrictions	30
10		Amendment of s 388 (Restricting water supply)	30
11		Amendment of s 389 (Notice of water restriction must be given)	31
12		Amendment of s 408 (Preparing strategic asset management plan)	31
13		Amendment of s 414 (Complying with approved strategic asset management plan)	31
14		Replacement of s 414N (Application of div 1B)	31
	Subdivision 1	Service provider plans	
	414N	Application of sdiv 1	32

15	Amendment of s 417 (Providing regular audit reports)	32
16	Amendment of s 419 (Spot audits of plans)	32
17	Insertion of new ch 3, pt 3, div 1B, sdiv 2 and sdiv 3, hdg	32
	Subdivision 2 System operating plans	
	420A Spot audit by commission	32
	420B Requirement to comply with plan and provision for cost of report	33
18	Amendment of s 430 (Service provider to report annually)	33
19	Amendment of s 457 (Restricting domestic water supply in certain circumstances)	34
20	Amendment of s 932 (Proceedings for offences)	34
21	Insertion of new ch 9, pt 5, div 6	34
	Division 6 Transitional provisions for Water Amendment Act 2006	
	1140 Definitions for div 6	35
	1141 Existing regional water supply strategies	35
	1142 Provision for particular existing licences	36
	1143 Existing development approvals	36
22	Amendment of sch 4 (Dictionary)	36



Queensland

Water Amendment Act 2006

Act No. 23 of 2006

an Act to amend the *Water Act 2000*

[Assented to 17 May 2006]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Water Amendment Act 2006*.

2 Act amended

This Act amends the *Water Act 2000*.

3 Amendment of s 25M (Appointment of person to carry out measures or achieve outcomes)

Section 25M(5), ‘water restrictions’—

omit, insert—

‘service provider water restrictions’.

4 Amendment of s 25S (When compensation is not payable)

Section 25S(1)(a), ‘water restriction’—

omit, insert—

‘service provider water restriction’.

5 Amendment of s 99 (Matters the chief executive must consider when preparing draft resource operations plan)

Section 99—

insert—

‘(ba) any system operating plan applying to the proposed plan area, or a part of the proposed plan area;’.

6 Amendment of s 105 (Amending resource operations plan)

Section 105(4)—

insert—

‘(d) improve the relationship between the resource operations plan and any system operating plan applying to the plan area, or a part of the plan area.’.

7 Amendment of s 110 (Conditions of resource operations licence or distribution operations licence)

Section 110(1), ‘holder.’—

omit, insert—

‘holder and with section 360ZA.¹’.

8 Amendment of s 178 (Conditions of interim resource operations licence)

Section 178—

insert—

‘(2) Also, it is a condition of an interim resource operations licence that the licence holder must comply with section 360ZA.²’.

9 Insertion of new ch 2A

After section 339—

insert—

1 Section 360ZA (Water service providers must comply with system operating plan)

2 Section 360ZA (Water service providers must comply with system operating plan)

‘Chapter 2A Water supply and demand management

‘Part 1 Preliminary

‘340 Main purpose of ch 2A and its achievement

- ‘(1) The main purpose of this chapter is to ensure the delivery of sustainable and secure water supply and demand management for the SEQ region and designated regions.
- ‘(2) The purpose is achieved primarily by—
- (a) making and implementing regional water security programs for the regions; and
 - (b) establishing a commission to—
 - (i) advise the Minister on—
 - (A) matters relating to water supply and demand management; and
 - (B) the delivery of desired levels of service objectives for water supplied to the SEQ region and designated regions; and
 - (ii) facilitate and implement the programs; and
 - (iii) ensure compliance with the programs; and
 - (iv) in appropriate cases, impose restrictions on water supply; and
 - (v) monitor and enforce compliance with the restrictions.

‘341 What is the *SEQ region*

- ‘(1) The *SEQ region* is—
- (a) the local government areas of the following local governments—
 - Beaudesert Shire Council;
 - Boonah Shire Council;

- Brisbane City Council;
 - Caboolture Shire Council;
 - Caloundra City Council;
 - Esk Shire Council;
 - Gatton Shire Council;
 - Gold Coast City Council;
 - Ipswich City Council;
 - Kilcoy Shire Council;
 - Laidley Shire Council;
 - Logan City Council;
 - Maroochy Shire Council;
 - Noosa Shire Council;
 - Pine Rivers Shire Council;
 - Redcliffe City Council;
 - Redland Shire Council; and
- (b) any local government area, or part of a local government area, adjacent to a local government area mentioned in paragraph (a) and designated by gazette notice.
- (2) The SEQ region also includes Queensland waters adjacent to any of the local government areas mentioned in subsection (1).

‘Part 2 Queensland Water Commission

‘Division 1 Establishment

‘342 Establishment of commission

‘The Queensland Water Commission is established.

‘343 Commission represents the State

- ‘(1) The commission represents the State.
- ‘(2) Without limiting subsection (1), the commission has the status, privileges and immunities of the State.

‘344 Application of other Acts

- ‘(1) The commission is—
 - (a) a unit of public administration; and
 - (b) a statutory body under the *Financial Administration and Audit Act 1977*; and
 - (c) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- ‘(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B, sets out the way in which the commission’s powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

‘Division 2 Functions and powers**‘345 Main functions of commission**

‘The commission’s main functions are to do the following for the SEQ region and designated regions—

- (a) advise the Minister on—
 - (i) matters relating to water supply and demand management for water; and
 - (ii) the delivery of desired levels of service objectives for water supplied to the SEQ region and designated regions;
- (b) facilitate and implement regional water security programs;
- (c) ensure compliance with the programs and with commission water restrictions.

‘346 Principles for performing functions

- ‘(1) This section states the principles under which the commission is to perform its functions for the SEQ region or a designated region.
- ‘(2) The general principle is that water in the region is to be managed on a sustainable and integrated basis to provide secure and reliable supplies of water of acceptable quality for all uses.
- ‘(3) The specific principles are—
 - (a) for water sharing—the principle that water is a scarce resource that is to be shared across the region; and
 - (b) for water sources—the principle that water quality should be managed from its source to its end-users in a way that—
 - (i) ensures the health of catchments, aquifers and their ecosystems; and
 - (ii) delivers water of a quality desired by the end-users at the lowest overall cost; and
 - (c) for water supply operations—the principle that water supply arrangements should maximise efficient and cost-effective service delivery and the efficient use of water as defined under section 10(3), including, for example, appropriate connectivity between supply sources, and in accordance with desired levels of service objectives for the water; and
 - (d) for cost sharing and pricing, the principles that—
 - (i) the cost of water sources should be shared among users who benefit from them; and
 - (ii) pricing should be consistent with commitments of the State under intergovernmental agreements to which it is a party; and
 - (e) for planning—the principle that assessments of regional water supply should—
 - (i) consider environmental, social and economic factors; and

- (ii) include the application of ‘least cost planning’ to ensure proper economic comparison of all supply-side and demand-side options; and
 - (f) for commission water restrictions—the principle that they should—
 - (i) help the achievement of the region’s objectives for long-term demand management for water; and
 - (ii) enable the appropriate management of any significant threat to the region having a sustainable and secure water supply; and
 - (g) for flood mitigation and dam safety—the principle that these issues should be considered in the preparation of assessments of regional water supply.
- ‘(4) Subsection (3)(f) is in addition to, and does not limit, section 360ZD(1).³

‘347 General powers

‘The commission has the powers necessary or convenient to perform its functions or to help to achieve the purposes of this chapter, including, for example, the power to enter into contracts or appoint agents.

‘Division 3 Commissioners

‘348 Appointment

- ‘(1) The commission consists of the chairperson and at least 2 other commissioners.
- ‘(2) The commissioners are to be appointed by the Governor in Council.
- ‘(3) The commissioners may be appointed as full-time or part-time commissioners.

³ Section 360ZD (Restricting water supply)

‘349 Eligibility for appointment

‘A person is eligible for appointment as a commissioner only if the person—

- (a) has a high level of knowledge and understanding of all or any of the following—
 - (i) sustainable water supply and demand management for water;
 - (ii) natural resource management;
 - (iii) the water industry;
 - (iv) the interests of customers of water service providers;
 - (v) economics, finance or business; and
- (b) is not—
 - (i) under the Corporations Act, a related entity of a body corporate that is a water service provider; or
 - (ii) an employee of a water service provider; or
 - (iii) a member of Parliament; or
 - (iv) a councillor of a local government.

‘350 Duration of appointment

- ‘(1) Subject to sections 352 and 353, a commissioner holds office for the term stated in the commissioner’s instrument of appointment.
- ‘(2) The term stated in the instrument of appointment must not be longer than 3 years.
- ‘(3) However, a person appointed as a commissioner is eligible for reappointment.

‘351 Terms and conditions of appointment

- ‘(1) A commissioner is to be paid the remuneration and allowances decided by the Governor in Council.

- ‘(2) A commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

‘352 Resignation

‘A commissioner may resign by signed notice given to the Minister.

‘353 Termination of appointment

- ‘(1) The Governor in Council may end a commissioner’s appointment if the commissioner—
- (a) is convicted of an indictable offence, whether in Queensland or elsewhere; or
 - (b) is or becomes an insolvent under administration under the Corporations Act, section 9; or
 - (c) does not, without reasonable excuse, comply with section 354.
- ‘(2) Also, if a commissioner is appointed as a full-time commissioner, the Governor in Council may end the commissioner’s appointment if the commissioner—
- (a) is absent from duty or from the State, without the Minister’s leave and without reasonable excuse, for 14 consecutive days or 28 days in a year; or
 - (b) engages in paid employment outside the duties of office without the Minister’s approval.
- ‘(3) In this section—

convicted, of an indictable offence, means a conviction for an indictable offence other than a spent conviction, including a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

- (b) that is not revived as prescribed by section 11 of that Act.

‘354 Disclosure of interests

- ‘(1) This section applies if—
 - (a) a commissioner has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the commission; and
 - (b) the interest could conflict with the proper performance of the commissioner’s functions for a matter.
- ‘(2) The commissioner must, as soon as practicable, disclose the interest to—
 - (a) for the chairperson—all the other commissioners; or
 - (b) for another commissioner—the chairperson.
- ‘(3) If a commissioner has disclosed an interest relating to a matter, the commissioner must not participate in the commission’s consideration of the matter.

‘Division 4 Meetings and other business of commission

‘355 Conduct of business

‘Subject to this division, the commission may conduct its business, including its meetings, in the way it considers appropriate.

‘356 Times and places of meetings

- ‘(1) Commission meetings are to be held at the times and places the chairperson decides.
- ‘(2) However, the chairperson must call a meeting if asked, in writing, to do so by at least 2 commissioners.
- ‘(3) Also, the chairperson must call a meeting at least once in each quarter.

‘357 Quorum

‘A quorum for a commission meeting is more than half of the number of commissioners.

‘358 Presiding at meetings

- ‘(1) The chairperson is to preside at all commission meetings at which the chairperson is present.
- ‘(2) Otherwise, the commissioner chosen by the commissioners present is to preside.

‘359 Conduct of meetings

- ‘(1) The commission may hold meetings, or allow commissioners to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- ‘(2) A person who takes part in a commission meeting under subsection (1) is taken to be present at the meeting.
- ‘(3) A decision at a commission meeting must be a majority decision of the commissioners present.

‘360 Decisions outside meetings

‘A decision of the commission, other than a decision at a commission meeting, may be made only with the written agreement of a majority of the number of commissioners.

‘360A Minutes and record of decisions

‘The commission must keep—

- (a) minutes of its meetings; and
- (b) a record of any decisions under section 360.

‘Division 5 Staff and other assistance to commission

‘360B Commission’s staff

- ‘(1) The commission may employ the staff it considers appropriate to perform its functions, including, for example, a chief executive officer.
- ‘(2) The commission’s staff are to be employed under the *Public Service Act 1996*.
- ‘(3) The chairperson may arrange with the chief executive of a department, or with another unit of public administration, for the services of officers or employees of the department or other unit to be made available to the commission.

‘360C Advisory bodies

‘The commission may establish advisory bodies it considers appropriate to give the commission advice on the performance of its functions.

‘Division 6 Standing and other references

‘360D Standing references

- ‘(1) The Minister may, by gazette notice—
 - (a) designate regions for which the commission is to perform its functions; and
 - (b) if the commission has already given regional water security options for the SEQ region or a designated region—require the commission to update or revise the options, having regard to the implementation of the relevant regional water security program.
- ‘(2) The Minister may, in the gazette notice, also identify the period within which the commission must give regional water security options, or updated or revised options, for the region.

- ‘(3) In deciding what are regions for subsection (1), the Minister must have regard to the geography, society and economy of proposed regions and water users and potential water users within them.
- ‘(4) Before designating a region under subsection (1)(a), the Minister must consult with each local government whose area is wholly or partly in the region.
- ‘(5) The Minister may carry out the consultation in any way the Minister considers appropriate.

‘360E Other references

‘The Minister may give the commission written directions to advise the Minister on any matter relating to—

- (a) water supply and demand management in the SEQ region or a designated region; or
- (b) water supply and demand management generally.

‘Division 7 Funding for commission’s functions

‘360F Annual levy

- ‘(1) The commission and the performance of the commission’s functions are to be funded by an annual levy payable by each water service provider.
- ‘(2) The levy is to be in the amount and paid at the time and in the way prescribed under a regulation.
- ‘(3) If a water service provider does not pay the levy as required under a regulation made under subsection (2), the State may recover from the provider the amount of the levy as a debt.

‘Part 3 Water security planning

‘Division 1 Preliminary

‘360G Purpose of pt 3

‘The purpose of this part is to provide for the commission’s planning functions and its relationship with the Minister in assessing and recommending options to achieve water security in the SEQ region and designated regions.

‘Division 2 Regional water security options

‘360H Application of div 2

- ‘(1) This division applies to the commission for the SEQ region and designated regions.
- ‘(2) This division also applies to the commission if the Minister has, under section 360D(1)(b), required it to update or revise its options for the SEQ region or a designated region.
- ‘(3) In this division a reference to the options includes a reference to the updated or revised options.

‘360I Advice to Minister on options

- ‘(1) The commission must—
 - (a) make and give the Minister advice about its regional water security options for the region; or
 - (b) if the Minister asks—make and give advice about revised options for the region.
- ‘(2) The advice must be given within any period required under section 360D(2).⁴

4 Section 360D (Standing references)

‘360J Content of options

- ‘(1) The options must address each of the following issues and may include alternatives for addressing the issues—
- (a) water service providers for water supply works in the region who should have desired levels of service objectives;
 - (b) what are desired levels of service objectives for each of the water service providers mentioned in paragraph (a);
 - (c) demand management for water in the region;
 - (d) the extent to which implementation of the levels would involve modifying existing water supply works or building new water supply works;
 - (e) assessing the likely costs and pricing implications of addressing the issues mentioned in paragraphs (c) and (d);
 - (f) the preferred ways of sharing the cost, taking into account the extent to which end-users of water benefit from the demand management, and the modifications or building.
- ‘(2) Subsection (1) does not limit what may be included in the options.

‘360K Consultation

‘The commission may, before giving the Minister the options, engage in any consultation the commission considers appropriate.

‘Division 3 Regional water security program**‘360M Ministerial response to commission’s advice**

- ‘(1) Within 4 months after receiving, under division 2, advice by the commission for the SEQ region or a designated region, the Minister must make and publish—
- (a) a report outlining the Minister’s response to the commission’s advice; and

- (b) a regional water security program to achieve water security for the region.
- ‘(2) The program must make provision about the matters mentioned in section 360J(1).⁵

‘360N Effect of program for Integrated Planning Act 1997

- ‘(1) This section applies if there is a regional water security program for the SEQ region or designated region.
- ‘(2) For the *Integrated Planning Act 1997*, the program is taken to be an applicable code for development relating to water supply works in the region.
- ‘(3) For the *Integrated Planning Act 1997*, section 3.1.3(4),⁶ the program is a code that can not be changed under a local planning instrument or local law.
- ‘(4) Subsections (4A) and (4B) apply for the *Integrated Planning Act 1997* if there is any inconsistency between the program and a plan, policy or code under an Act.
- ‘(4A) If the plan is the SEQ regional plan under that Act, the plan prevails to the extent of the inconsistency.
- ‘(4B) Otherwise, the program prevails to the extent of the inconsistency.
- ‘(5) It is taken to be a condition (the *imposed condition*) of any development approval for water supply works in the region that the carrying out of development under the approval must comply with the program.
- ‘(6) If there is any inconsistency between the imposed condition and any other condition of the development approval, the imposed condition prevails to the extent of the inconsistency.

5 Section 360J (Content of options)

6 *Integrated Planning Act 1997*, section 3.1.3 (Code and impact assessment for assessable development)

‘Part 4 Facilitation of regional water security programs

‘360O Application of pt 4

‘This part applies to water supply works or proposed water supply works the subject of the regional water security program for the SEQ region or a designated region.

‘360P Status of works for State Development and Public Works Organisation Act 1971

‘For the *State Development and Public Works Organisation Act 1971*, part 6, divisions 6 and 7, the works are taken to be an infrastructure facility mentioned in section 125(1)(f) of that Act.⁷

‘360Q Designation of preferred entity for works

- ‘(1) The Coordinator-General under the *State Development and Public Works Organisation Act 1971* may, by gazette notice, designate an entity as the preferred entity to build or carry out the works.
- ‘(2) However, the designation may be made only if the entity has agreed to the designation.
- ‘(3) From the making of the designation—
 - (a) the preferred entity is taken to be a water service provider for the works; and
 - (b) the works are taken to be works under the *State Development and Public Works Organisation Act 1971*.

⁷ *State Development and Public Works Organisation Act 1971*, part 6, divisions 6 (Special powers incidental to planned development) and 7 (Investigating potential infrastructure facility) and section 125 (Power of Coordinator-General to take land)

‘Part 5 Implementation of and compliance with regional water security programs

‘Division 1 Program implementation

‘360R Commission’s role

‘Without limiting section 345,⁸ the commission must ensure the key actions and responsibilities of each of the following under each regional water security program and system operating plan are carried out or complied with—

- (a) the department;
- (b) other units of public administration;
- (c) water service providers.

‘360S Review and compliance reports

‘The commission must whenever it considers it appropriate—

- (a) review the implementation of each regional water security program; and
- (b) give the Minister a report about the implementation of and the level of compliance with the system operating plan for the program; and
- (c) publish the report.

‘360T Information may be required from water service providers

- ‘(1) The commission may give a water service provider a notice requiring information the commission reasonably requires to enable the commission to perform its functions under this chapter.

8 Section 345 (Main functions of commission)

- ‘(2) The notice must state the reasonable time in which the information must be given to the commission.
- ‘(3) The water service provider must comply with the notice, unless the provider has a reasonable excuse.
Maximum penalty—200 penalty units.
- ‘(4) However, if the water service provider is an individual, this section does not require the individual to give information if giving the information might tend to incriminate the individual.

‘Division 2 System operating plans

‘Subdivision 1 Making system operating plans

‘360U Application of sdiv 1

‘This subdivision applies if there is a regional water security program for the SEQ region or a designated region.

‘360V Commission to make system operating plan for region

‘The commission must make a system operating plan for existing water supply works the subject of the program and other measures provided for under the program.

‘360W Content of plan

- ‘(1) The system operating plan must—
 - (a) give effect to the program in relation to the existing or proposed water supply works the subject of the program and the other measures provided for under the program; and
 - (b) state each of the following—
 - (i) the plan area for the plan;
 - (ii) the water supply works in the plan area;

- (iii) the water service providers for the water supply works;
 - (iv) the share of water available under the plan to each of the water service providers;
 - (v) the desired levels of service objectives and other obligations, requirements and other regulatory provisions imposed on the water service providers under the plan.
- ‘(2) However, the plan must be consistent with any water resource plan applying to the plan area for the system operating plan.
- ‘(3) Subsection (1) does not limit what may be included in the system operating plan.

‘360X Consultation for plan

- ‘(1) Before making the system operating plan the commission must make reasonable endeavours to consult with each proposed water service provider for the plan area.
- ‘(2) A failure to comply with subsection (1) does not invalidate or otherwise affect the plan.

‘360Y Publication and taking effect of plan

- ‘(1) As soon as practicable after making the system operating plan the commission must publish the plan and give a copy to each water service provider for water supply works in the plan area.
- ‘(2) The plan does not have effect until it is published.
- ‘(3) Despite subsection (1), the commission may decide not to publish or allow inspection of any part of the plan that the commission is reasonably satisfied contains sensitive security information.

‘Subdivision 2 Amendment of system operating plans

‘360Z Amendment of plan

- ‘(1) The commission must amend a system operating plan if—
- (a) a water resource plan is made or amended and the water resource plan applies to the plan area for the system operation plan; or
 - (b) under section 360Q,⁹ a preferred entity is designated for proposed water supply works in the plan area; or
 - (c) water supply works in the plan area not the subject of the existing system operating plan are commissioned.
- ‘(2) For subsection (1)(c), works are commissioned when, under the relevant contract to build the works, they reach a stage under which the building of the works is, in a practical sense, complete.
- ‘(3) If subsection (1)(a) applies, the system operating plan must be amended so that it is consistent with the water resource plan.
- ‘(4) If subsection (1)(b) or (c) applies, the system operating plan must be amended so that the plan complies with section 360W¹⁰ in relation to the works.
- ‘(5) The commission may amend the plan to provide for proposed water supply works in the plan area for the plan.
- ‘(6) Subdivision 1 applies, with necessary changes, for an amendment under this section as if a reference in the sections to the plan were a reference to the amendment.

9 Section 360Q (Designation of preferred entity for works)

10 Section 360W (Content of plan)

‘Subdivision 3 Compliance with system operating plans

‘360ZA Water service providers must comply with system operating plan

‘Each water service provider for water supply works in the plan area for a system operating plan must ensure the plan is complied with to the extent it applies to the provider.

Maximum penalty—1665 penalty units.

‘360ZB Publication requirements

- ‘(1) This section applies to a water service provider for water supply works in the plan area for a system operating plan.
- ‘(2) The commission may, by notice (the *commission’s notice*), require the water service provider to publish a notice (the *provider’s notice*) about the extent to which the provider has, during a stated period, complied with the plan in relation to—
 - (a) all matters under the plan; or
 - (b) if the commission’s notice states a particular matter under the plan—that matter.
- ‘(3) The commission’s notice must state a reasonable period for the water service provider to publish the provider’s notice.
- ‘(4) The water service provider must comply with the requirement.

Maximum penalty—1665 penalty units.

- ‘(5) In this section—

publish means publish in a newspaper circulating generally in the plan area.

‘360ZC Derivative use immunity for compliance with publication requirement

- ‘(1) It is not a defence to a proceeding for an offence against section 360ZB that complying with the requirement might tend to incriminate the water service provider.
- ‘(2) However, if the water service provider is an individual

evidence of, or directly or indirectly derived from complying with the requirement or information it contains that might tend to incriminate the individual is not admissible in evidence against the individual in a civil or criminal proceeding, other than for an offence for which the falsity or misleading nature of the information is relevant.

‘Part 6 **Restriction of water supply by commission**

‘360ZD Restricting water supply

- ‘(1) If the commission considers it necessary, because of a significant threat to sustainable and secure water supply, it may impose a written restriction (a ***commission water restriction***) restricting all or any of the following in the SEQ region or a designated region—
- (a) the volume of water taken by or supplied to a customer or type of customer of a service provider;
 - (b) the hours when water may be used on premises for stated purposes;
 - (c) the way water may be used on premises.

Examples of things that may pose a significant threat to sustainable and secure water supply—

- climatic conditions
- water conservation needs
- water quality needs
- a failure of water supply works to operate properly or at all

- ‘(2) However, the restriction may be imposed only if—
- (a) there is an urgent need for it; or
 - (b) the available water supply has fallen to a level at which unrestricted use of the water is not in the public interest;
or

- (c) the restriction is essential to ensure the aims of a relevant regional water security program or system operating plan are met; or
 - (d) the Minister has published a notice under section 22 or if a regulation has been made under section 23.
- ‘(3) Also, the commission may apply the restriction to water taken from a rainwater tank connected to a service provider’s reticulated supply.
- ‘(4) Also, the restriction may be made even if a service provider water restriction applies to a matter the subject of the restriction.

‘360ZE Notice of commission water restriction must be given

- ‘(1) The commission must give notice of a commission water restriction to anyone affected by it in the way the commission considers appropriate having regard to the circumstances in which the restriction is imposed.
- ‘(2) If, because of section 360ZF(2), a service provider water restriction will not apply while the commission water restriction continues in force, the notice must state that while the commission water restriction continues in force the service provider water restriction does not apply to the matter.
- ‘(2A) Before it gives the notice the commission must consult with water service providers for water supply works in the region the subject of the commission water restriction.
- ‘(2B) However, subsection (2A) does not apply if the commission considers that there is an urgent need for the commission water restriction.
- ‘(2C) A failure to consult under subsection (2A) does not invalidate or otherwise affect the validity of the notice.
- ‘(3) The commission water restriction does not have effect until the day after the notice is given.
- ‘(4) A person must not contravene a commission water restriction.
Maximum penalty for subsection (4)—200 penalty units.

‘360ZF Relationship with service provider water restrictions

- ‘(1) The making of a commission water restriction does not of itself invalidate a service provider water restriction that applies to a matter the subject of the commission water restriction.
- ‘(2) However, if the commission water restriction states that while it continues in force it is to be the only restriction for the matter, while the commission water restriction continues in force, the service provider water restriction does not apply to the matter.

‘360ZG Delegation of particular functions for commission water restrictions

- ‘(1) The commission may delegate to a relevant water service provider its functions of—
- (a) giving notices under section 360ZE about commission water restrictions; or
 - (b) monitoring and enforcing compliance with commission water restrictions.
- ‘(2) A water service provider to whom a function is delegated under subsection (1) must make all reasonable efforts to ensure the function is performed.
- Maximum penalty—1665 penalty units.

- ‘(3) In this section—
- functions* includes powers.
- relevant service provider*, for commission water restrictions, means a water service provider for water supply works for the supply of the water the subject of the restrictions.’.

10 Amendment of s 388 (Restricting water supply)

- (1) Section 388(2), ‘a *water restriction*’—
- omit, insert—*
- ‘a *service provider water restriction*’.
- (2) Section 388(2)(a) ‘water restriction’—

omit, insert—

‘service provider water restriction’.

11 Amendment of s 389 (Notice of water restriction must be given)

(1) Section 389, ‘water restriction’—

omit, insert—

‘service provider water restriction’.

(2) Section 389, ‘water restrictions’—

omit, insert—

‘service provider water restrictions’.

12 Amendment of s 408 (Preparing strategic asset management plan)

Section 408(4)—

insert—

‘(ca) demonstrate how the service provider will comply with any system operating plan applying to the service provider; and’.

13 Amendment of s 414 (Complying with approved strategic asset management plan)

Section 414, penalty—

omit, insert—

‘Maximum penalty—1665 penalty units’.

14 Replacement of s 414N (Application of div 1B)

Section 414N—

omit, insert—

‘Subdivision 1 Service provider plans

‘414N Application of sdiv 1

‘This subdivision applies to strategic asset management plans, system leakage management plans and drought management plans’.

15 Amendment of s 417 (Providing regular audit reports)

Section 417(3)(a), ‘(the *auditor*)’—
omit.

16 Amendment of s 419 (Spot audits of plans)

Section 419(3), ‘(the *auditor*)’—
omit.

17 Insertion of new ch 3, pt 3, div 1B, sdiv 2 and sdiv 3, hdg

After section 420—
insert—

‘Subdivision 2 System operating plans

‘420A Spot audit by commission

- ‘(1) This section applies if the commission is satisfied or reasonably believes a water service provider to whom a system operating plan applies has not complied with the plan to the extent it applies to the provider.
- ‘(2) The commission may, after giving the water service provider a show cause notice, arrange for a spot audit report to be prepared about the provider’s level of compliance with the plan.
- ‘(3) The spot audit report must be prepared by a person who is appropriately qualified to carry out the audit.

- ‘(4) The commission must give the water service provider a copy of the report within 30 business days after the commission has received it.
- ‘(5) In this section—
water service provider includes a person who operates water supply works in the plan area for a system operating plan.

‘420B Requirement to comply with plan and provision for cost of report

- ‘(1) This section applies if a spot audit report under section 420A states a water service provider the subject of the report has not complied with the plan to the extent it applies to the provider.
- ‘(2) The commission must give the water service provider an information notice requiring the provider, within the reasonable period stated in the notice, to remedy the noncompliance.
- ‘(3) The water service provider must comply with the requirement, unless the provider has a reasonable excuse.
 Maximum penalty—500 penalty units.
- ‘(4) The commission may recover from the service provider as a debt an amount equal to the cost of preparing the report.

‘Subdivision 3 Miscellaneous provision’.

18 Amendment of s 430 (Service provider to report annually)

- (1) Section 430(1), after ‘approved’—
insert—
 ‘or a system operating plan applying to the service provider has been made’.
- (2) Section 430(4)(a), after ‘subsection (1)’—
insert—
 ‘to the extent the report relates to a strategic asset management plan or system leakage management plan’.

(3) Section 430(4)—

insert—

‘(ab) for a report mentioned in subsection (1) to the extent the report relates to a system operating plan—measure the service provider’s performance with the desired levels of service objectives and other obligations and requirements that apply to the provider under the plan; or’.

19 Amendment of s 457 (Restricting domestic water supply in certain circumstances)

Section 457(1)(b)(i), ‘water restriction’—

omit, insert—

‘service provider water restriction’.

20 Amendment of s 932 (Proceedings for offences)

Section 932(1)—

insert—

‘(c) section 360ZE(4)¹¹—may be brought only by—

(i) the commission; or

(ii) a service provider to whom the commission has delegated the function of bringing the proceeding;
or

(d) chapter 2A (other than section 360ZE(4))—the commission.’.

21 Insertion of new ch 9, pt 5, div 6

After section 1139—

insert—

¹¹ Section 360ZE (Notice of commission water restriction must be given)

‘Division 6 Transitional provisions for Water Amendment Act 2006

‘1140 Definitions for div 6

In this division—

amending Act means the *Water Amendment Act 2006*.

commencement means the date of assent of the amending Act.

‘1141 Existing regional water supply strategies

- ‘(1) Despite not having been given advice by the commission under section 360I(1),¹² the Minister may make a report mentioned in section 360M(1)(a)¹³ and a regional water security program that adopts all or part of a relevant existing strategy.
- ‘(2) If the Minister adopts all or part of a relevant existing strategy as a regional water security program the commission can not give regional water security options for the region the subject of the program, other than under a requirement under section 360D(1)(b).¹⁴
- ‘(3) Subsection (4) applies for the SEQ region or a designated region only if the Minister has not made a regional water security program for the region that adopts all or part of a relevant existing strategy.
- ‘(4) In preparing regional water security options for the region, the commission may have regard to and use all or part of a relevant existing strategy.
- ‘(4A) Subsections (4B) and (4C) apply if, because of subsection (2), no regional water security options have been given for the region.
- ‘(4B) The Minister may, by gazette notice, require the commission to give regional water options for the region for the purpose of

12 Section 360I (Advice to Minister on options)

13 Section 360M (Ministerial response to commission’s advice)

14 Section 360D (Standing references)

updating or revising the region's regional water security program.

'(4C) For chapter 2A, a requirement under subsection (4B) is taken to be a requirement under section 360D(1)(b).

'(5) In this section—

relevant existing strategy means—

- (a) for the SEQ region—the series of documents prepared by the department and local governments for the project called 'South East Queensland regional water supply strategy', the preparation of which started before the commencement; or
- (b) for a designated region—any series of documents (however called) prepared by the department and local governments about a regional water supply strategy for the region, the preparation of which started before the commencement.

'1142 Provision for particular existing licences

The amendments to sections 110 and 178¹⁵ made under the amending Act apply for a licence mentioned in the sections whether the licence was granted before or after the commencement.

'1143 Existing development approvals

The condition under section 360N(5)¹⁶ does not apply to a development approval granted before the commencement.'

22 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *water*, *water restriction* and *water service provider*—
omit.

¹⁵ Sections 110 (Conditions of resource operations licence or distribution operations licence) and 178 (Conditions of interim resource operations licence)

¹⁶ Section 360N (Effect of program for Integrated Planning Act 1997)

(2) Schedule 4—

insert—

‘auditor, for an audit under chapter 3, part 3, division 1B, means the person who, under the division, has prepared, or is to prepare, an audit report for the audit.

chairperson means the commissioner holding an appointment as chairperson under section 348.

commission means the Queensland Water Commission.

commission water restriction see section 360ZD(1).

commissioner means a member of the commission, including the chairperson.

demand management, for water, includes—

- (a) reducing demand for water; and
- (b) increasing the efficiency of water supply works; and
- (c) increasing the efficiency of the use of water by end-users; and
- (d) substituting a process that does not use a water resource for one that does use a water resource;
- (e) substituting one water resource for another.

designated region means a region designated under section 360D.

desired levels of service objectives, for water, includes the maximum duration, frequency, and severity of water restrictions that may be expected by end-users of the water.

regional water security program means a regional water security program made under section 360M.

regional water security options means regional water security options made under section 360I.

SEQ region see section 341.

service provider water restriction see section 388(2).

system operating plan means a system operating plan under chapter 2A, part 5, division 2.

unit of public administration see the *Crime and Misconduct Act 2001*, section 20.

water—

- 1 Generally, *water* means all or any of the following—
 - (a) water in a watercourse, lake or spring;
 - (b) underground water;
 - (c) overland flow water;
 - (d) water that has been collected in a dam.
- 2 In chapter 2A, *water* also includes recycled and desalinated water, from any source.

water security includes the reliability of water supply.

water service provider—

- 1 A *water service provider* is a person registered under chapter 3, part 2 as a service provider for a water service.
- 2 In chapter 2A the term also includes a person who operates, or controls the operation of, water supply works in the plan area for a system operating plan.

water supply works means water infrastructure or other works for the supply of water or the storage, distribution or treatment of water.’.

- (2) Schedule 4, definition *publish*—

insert—

‘2A *Publish*, for a document made by an entity mentioned in chapter 2A means—

- (a) publish a gazette notice about where the document may be inspected, free of charge; and
- (b) publish the document on the entity’s website on the internet, or, for the Minister, on the department’s website on the internet.’.