



Queensland

Disaster Readiness Amendment Act 2011

Act No. 33 of 2011

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An Act to amend the Disaster Management Act 2003, the South East Queensland Water (Restructuring) Act 2007, the Sustainable Planning Act 2009, the Transport Infrastructure Act 1994, the Transport Operations (Road Use Management) Act 1995, the Water Act 2000 and the Water Supply (Safety and Reliability) Act 2008, for particular purposes

[Assented to 28 October 2011]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Disaster Readiness Amendment Act 2011*.

Part 2 Amendment of Disaster Management Act 2003

2 Act amended

This part amends the *Disaster Management Act 2003*.

3 Amendment of s 19 (Membership)

(1) Section 19(1)—

insert—

- ‘(f) an officer of the Australian Defence Force who is appropriately qualified to provide advice on the role of the Australian Defence Force in disaster management;
- (g) an employee of the Australian Red Cross Society who is appropriately qualified to provide advice on how the Society can contribute to disaster management;
- (h) an employee of Surf Life Saving Queensland ABN 27 360 485 381 who is appropriately qualified to provide advice on how Surf Life Saving Queensland can contribute to disaster management;
- (i) an officer of the Commonwealth Bureau of Meteorology established under the *Meteorology Act 1955* (Cwlth) who is appropriately qualified to provide hydrological

and meteorological advice, and advice on how the Bureau can contribute to disaster management.’.

- (2) Section 19(2), ‘(e)’—
omit, insert—
‘(i)’.

4 Amendment of s 23 (Functions)

Section 23(d)—

omit, insert—

‘(d) to regularly review and assess—

- (i) the disaster management of local groups in the district; and
- (ii) local disaster management plans prepared by local governments whose areas are in the district;’.

5 Insertion of new pt 2, div 7

Part 2—

insert—

‘Division 7 Requirement for disaster management groups to consult

‘48A Essential services providers

- ‘(1) If the chairperson of a disaster management group considers a provider of essential services can help the group perform its functions, the group must consult with the provider in performing the functions.

Examples of essential services—

gas, electricity, telecommunications, water, sewerage infrastructure

- ‘(2) The group may consult with the provider by, for example—
- (a) inviting the provider to attend meetings held by the group; or

[s 6]

- (b) seeking the provider's advice in providing reports and making recommendations about matters relating to disaster management and disaster operations; or
- (c) seeking the provider's advice in preparing disaster management plans.'.

6 Amendment of s 52 (Plan to be available for inspection etc.)

- (1) Section 52(1), from 'public at'—
omit, insert—
'public—
 - (a) at the department's head office; and
 - (b) on the department's website; and
 - (c) at other places the chairperson of the group considers appropriate.'.
- (2) Section 52(2)—
omit.
- (3) Section 52(3) and (4)—
renumber as section 52(2) and (3).

7 Amendment of s 56 (Plan to be available for inspection etc.)

- (1) Section 56(1)—
omit, insert—
'(1) A district group must ensure a copy of its district disaster management plan is available for inspection, free of charge, by members of the public—
 - (a) on the website of the Queensland Police Service; and
 - (b) at other places the chairperson of the group considers appropriate.'.
- (2) Section 56(2)—

omit.

- (3) Section 56(3) and (4)—
renumber as section 56(2) and (3).

8 Amendment of s 60 (Plan to be available for inspection etc.)

- (1) Section 60(1)—
omit, insert—

- ‘(1) A local government must ensure a copy of its local disaster management plan is available for inspection, free of charge, by members of the public—
- (a) at the local government’s head office; and
 - (b) on the local government’s website; and
 - (c) at other places the chief executive officer of the local government considers appropriate.’.

- (2) Section 60(2)—
omit.

- (3) Section 60(3) and (4)—
renumber as section 60(2) and (3).

9 Amendment of s 66 (Duration)

Section 66(b)(ii)—
omit, insert—

- ‘(ii) a regulation under section 67 or a declaration under section 67A extends the period of the disaster situation beyond the end of the 14 days.’.

10 Amendment of s 67 (Extending disaster situation)

- (1) Section 67(3) and (4)—
omit, insert—

[s 11]

- ‘(3) A regulation extending the period of the disaster situation—
 - (a) must state—
 - (i) the period, of not more than 14 days, by which the disaster situation is extended; and
 - (ii) if the disaster situation has previously been extended under this section or section 67A—the date of each previous extension; and
 - (b) expires at the end of the stated period unless it is sooner repealed or it expires under section 68(4).’.
- (2) Section 67(5) and (6)—
renumber as section 67(4) and (5).

11 Insertion of new s 67A

After section 67—

insert—

‘67A Declaration extending disaster situation

- ‘(1) This section applies for a disaster situation declared under section 64 if the Minister and the Premier are satisfied—
 - (a) the disaster situation should be extended or further extended; and
 - (b) it is not practicable to make a regulation under section 67 before the day the disaster situation ends.
- ‘(2) The Minister and the Premier may, by declaration, extend the period of the disaster situation.
- ‘(3) The declaration must—
 - (a) be in the approved form; and
 - (b) state—
 - (i) the time and date of the declaration; and
 - (ii) the period, of not more than 7 days, by which the disaster situation is extended.

-
- ‘(4) As soon as practicable after the extension is declared, the Minister and Premier must give notice of the declaration by gazette notice.
 - ‘(5) The gazette notice must include the time and date of the declaration.
 - ‘(6) A declaration under this section—
 - (a) may be made more than once for a particular disaster situation; but
 - (b) can not be made consecutively to extend and further extend the disaster situation.’.

12 Amendment of s 71 (Duration)

Section 71(b)(ii)—

omit, insert—

- ‘(ii) a regulation under section 72 or a declaration under section 72A extends the period of the disaster situation beyond the end of the 14 days.’.

13 Amendment of s 72 (Extending disaster situation)

(1) Section 72(3) and (4)—

omit, insert—

- ‘(3) A regulation extending the period of the disaster situation—
 - (a) must state—
 - (i) the period, of not more than 14 days, by which the disaster situation is extended; and
 - (ii) if the disaster situation has previously been extended under this section or section 72A—the date of each previous extension; and
 - (b) expires at the end of the stated period unless it is sooner repealed or it expires under section 73(4).’.
- (2) Section 72(5) and (6)—

[s 14]

renumber as section 72(4) and (5).

14 Insertion of new s 72A—

After section 72—

insert—

‘72A Declaration extending disaster situation

- ‘(1) This section applies for a disaster situation declared under section 69 if the Minister and the Premier are satisfied—
- (a) the disaster situation should be extended or further extended; and
 - (b) it is not practicable to make a regulation under section 72 before the day the disaster situation ends.
- ‘(2) The Minister and the Premier may, by declaration, extend the period of the disaster situation.
- ‘(3) The declaration must—
- (a) be in the approved form; and
 - (b) state—
 - (i) the time and date of the declaration; and
 - (ii) the period, of not more than 7 days, by which the disaster situation is extended.
- ‘(4) As soon as practicable after the extension is declared, the Minister and Premier must give notice of the declaration by gazette notice.
- ‘(5) The gazette notice must include the time and date of the declaration.
- ‘(6) A declaration under this section—
- (a) may be made more than once for a particular disaster situation; but
 - (b) can not be made consecutively to extend and further extend the disaster situation.’.

[s 19]

19 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘*water chief executive* means the chief executive under the *Water Act 2000*.’.

**Part 4 Amendment of Sustainable
Planning Act 2009**

20 Act amended

This part amends the *Sustainable Planning Act 2009*.

21 Amendment of s 584 (General exemption for emergency development or use)

Section 584(1)(a)(ii)—

omit, insert—

- ‘(ii) the structural safety of a building; or
- (iii) the operation or safety of community infrastructure that is not a building; and’.

22 Amendment of s 585 (Coastal emergency exemption for operational work that is tidal works)

Section 585(1)(c)—

insert—

- ‘(iv) the operation or safety of community infrastructure that is not a building.’.

23 Amendment of s 586 (Exemption for building work on Queensland heritage place or local heritage place)

Section 586(1)(c)—

insert—

‘(iii) the operation or safety of community infrastructure that is not a building.’.

Part 5 Amendment of Transport Infrastructure Act 1994

24 Act amended

This part amends the *Transport Infrastructure Act 1994*.

25 Amendment of s 46 (Temporary restrictions on use of State-controlled roads)

(1) Section (1)(b), ‘, during a specified limited period,’—

omit.

(2) Section 46(2)—

omit, insert—

‘(2) A restricted road use notice must—

(a) be erected or displayed on the road to which the notice applies; and

(b) be easily visible to persons using the road; and

(c) state how the use of the road is restricted; and

(d) state the maximum penalty for failing to comply with the notice.’.

(3) Section 46(4)—

omit, insert—

[s 25]

‘(4) A person must not drive past a restricted road use notice erected or displayed under subsection (1) in contravention of the notice, unless the person—

- (a) has a reasonable excuse; or
- (b) is acting in accordance with a written approval given by the chief executive or police commissioner; or

Note—

A written approval includes, for example, an approval given by text message, email or fax.

- (c) is carrying out road works or inspecting a road for the chief executive, and the contravention is necessary for the person to carry out the road works or inspect the road.

Maximum penalty—200 penalty units.’.

(4) Section 46(6), ‘a declaration in force under subsection (1)’—
omit, insert—

‘subsection (4)’.

(5) Section 46(7)—
renumber as section 46(9).

(6) Section 46—
insert—

‘(7) Also, civil liability does not attach to the chief executive or police commissioner for giving an approval mentioned in subsection (4)(b) if the approval was given in good faith without reckless disregard for the possible occurrence of the personal injury or loss or damage to property from which liability would arise if this subsection did not apply.

‘(8) If subsection (7) prevents civil liability attaching to the chief executive or police commissioner liability attaches instead to the State.’.

(7) Section 46(9), as renumbered—
insert—

-
- ‘(3) The holder of the resource operations licence mentioned in subsection (1)(a) is the *operator* of the dam.

‘32 Minister must require information about impacts of proposed temporary full supply level

- ‘(1) This section applies if the Minister considers the declaration of a new full supply level (a *temporary full supply level*) for a relevant dam may mitigate the impacts of a potential flood or drought.
- ‘(2) In considering whether a temporary full supply level may mitigate the impacts of a potential flood or drought, the Minister may have regard to any matter the Minister considers appropriate, including, for example—
- (a) meteorological forecasts; and
 - (b) the public interest.
- ‘(3) The Minister must ask the chief executive to require the operator of the dam to provide information about how a proposed temporary full supply level may impact—
- (a) the safety of the dam; and
 - (b) how the dam operates.
- ‘(4) The chief executive must comply with the Minister’s request by requiring the operator, by notice, to give the information to the chief executive.
- ‘(5) The notice must—
- (a) state a reasonable period by which the information must be given; and
 - (b) include a warning that it is an offence to fail to comply with the notice unless the operator has a reasonable excuse.
- ‘(6) The operator must comply with the notice unless the operator has a reasonable excuse.

Maximum penalty—200 penalty units.

[s 30]

- ‘(7) The chief executive must provide a copy of the information given by the operator under this section to the commission.

‘33 Consultation requirements

- ‘(1) Before making a recommendation under section 34 about declaring a proposed temporary full supply level for a relevant dam, the chief executive must consult the entities mentioned in subsection (2) about—
- (a) the extent to which the proposed temporary full supply level is likely to mitigate the impacts of a potential flood or drought; and
 - (b) the impacts of the proposed temporary full supply level on water security.
- ‘(2) For subsection (1), the entities are—
- (a) if the dam is in the SEQ region or a designated region—the commission; or
 - (b) otherwise—
 - (i) the operator of the dam; and
 - (ii) any other entity responsible for operating the dam.
- ‘(3) In giving advice to the chief executive for a dam mentioned in subsection (2)(a), the commission must consult with the following—
- (a) for a dam in the SEQ region—
 - (i) in relation to a matter mentioned in subsection (1)(a)—Seqwater under the *South-East Queensland Water (Restructuring) Act 2007*; and
 - (ii) in relation to a matter mentioned in subsection (1)(b)—the water grid manager;
 - (b) for a dam in a designated region—
 - (i) the operator of the dam; and
 - (ii) any other entity responsible for operating the dam.

‘34 Chief executive must advise Minister

- ‘(1) As soon as practicable after sections 32 and 33 have been complied with, the chief executive must advise the Minister about whether declaring a temporary full supply level for a relevant dam is likely to mitigate the impacts of a potential flood or drought.
- ‘(2) In giving the advice, the chief executive must have regard to the following—
- (a) information given by the operator to the chief executive under section 32;
 - (b) the extent to which the proposed temporary full supply level is likely to mitigate the impacts of a potential flood or drought;
 - (c) the impacts of the proposed temporary full supply level on water security;
 - (d) whether the proposed temporary full supply level will affect the safety of the dam;
 - (e) generally, any other positive or negative impacts the proposed full supply level may have;
- Examples of impacts—*
- impacts on public safety
 - environmental, social and economic impacts downstream of the dam
- (f) another matter the chief executive considers appropriate.
- ‘(3) The advice must include—
- (a) details of the matters the chief executive has considered in giving the advice under subsection (2); and
 - (b) a recommendation about whether a temporary full supply level should be declared; and
 - (c) if the advice recommends declaring a temporary full supply level—the likely implications of the declaration on water security and the safety of the dam.

[s 30]

‘34A Minister may declare temporary full supply level

- ‘(1) On receiving advice from the chief executive under section 34, the Minister may, by gazette notice, declare a temporary full supply level for the relevant dam the subject of the advice.
- ‘(2) In deciding whether to declare a temporary full supply level, the Minister must have regard to—
 - (a) the advice given by the chief executive under section 34; and
 - (b) the public interest.
- ‘(3) The temporary full supply level—
 - (a) takes effect on a day stated in the declaration; and
 - (b) ceases to have effect—
 - (i) the day that is 6 months after the declaration is made, or an earlier day stated in the declaration; or
 - (ii) if the declaration is revoked before the day the declaration would have ceased to have effect under subparagraph (i)—on the day the declaration is revoked.
- ‘(4) The Minister may declare a temporary full supply level under this division more than once for a particular dam.

‘34B Effect of temporary full supply level on resource operations plan

‘If a temporary full supply level for a relevant dam has been declared and is in force, a reference in the resource operations plan to the full supply level for the dam is taken to be a reference to the temporary full supply level.

‘34C Obligations of operator if temporary full supply level declared

- ‘(1) This section applies to the operator of a relevant dam if—
 - (a) a temporary full supply level is declared for the dam; and

-
- (b) because of the temporary full supply level, the operator will be unable to comply with a requirement of the resource operations plan under which the dam operates; and
 - (c) the resource operations plan states a process for submitting a program (an *interim program*) to the chief executive for approval about how the requirements of the plan will be met when the operator is unable to comply with the plan because of an emergency or other incident.
- ‘(2) The operator must give the chief executive a proposed interim program under the resource operations plan within 10 business days after the temporary full supply level is declared.
- ‘(3) The proposed interim program must—
- (a) relate to the period for which the declaration is in force; and
 - (b) comply with any other requirements under the resource operations plan for submitting an interim program.

‘34D Chief executive must review safety requirements

- ‘(1) This section applies if a temporary full supply level declared for a relevant dam exceeds the full supply level stated in the resource operations plan for the dam.
- ‘(2) The chief executive must review any requirements about safety (the *safety requirements*) applying to the dam under—
- (a) safety conditions applied under the Water Supply Act, chapter 4, part 1, division 3; or
 - (b) the flood mitigation manual prepared for the dam under the Water Supply Act, chapter 4, part 2.
- ‘(3) The review must be conducted within—
- (a) 1 month after the full supply level is declared; or
 - (b) if the Minister requests a shorter period in writing—the shorter period.

[s 31]

- ‘(4) If the chief executive considers an amendment of the safety requirements is necessary having regard to the temporary full supply level, the chief executive must arrange for the amendment to be made—
- (a) for safety conditions—under the Water Supply Act, section 356; or
 - (b) for a flood mitigation manual—under the Water Supply Act, section 372.

‘34E No compensation payable

‘No compensation is payable to any person because of the operation of this division.’.

31 Amendment of s 98 (Content of draft resource operations plan)

- (1) Section 98(1)(e) to (g)—
renumber as section 98(1)(f) to (h).
- (2) Section 98(1)—
insert—
 - ‘(e) if the water infrastructure identified includes a relevant dam—the full supply level for the dam; and’.

32 Amendment of s 345 (Main functions of commission)

- (1) Section 345(b)—
renumber as section 345(c).
- (2) Section 345—
insert—
 - ‘(b) to advise the chief executive about its activities to assist in the performance of the chief executive’s functions under chapter 2, part 2, division 4; and’.

33 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definition *full supply level* and *water security*—
omit.

(2) Schedule 4—

insert—

‘full supply level means—

- (a) for a dam generally—the level of the dam’s water surface when water storage is at maximum operating level without being affected by flood; or
- (b) for a relevant dam under chapter 2, part 2, division 4—the full supply level stated in the resource operations plan under which the dam operates.

operator, of a dam for chapter 2, part 2, division 4, see section 31(3).

relevant dam see section 31(2).

temporary full supply level, for a dam, see section 32(1).

water security includes—

- (a) generally—the reliability of water supply; and
- (b) in relation to a relevant dam for which a temporary full supply level is proposed under chapter 2, part 2, division 4—the reliability of water supply having regard to the availability of water stored in, and the cost of supplying water from, the dam.’.

