



Queensland

Water Reform and Other Legislation Amendment Act 2014

Act No. 64 of 2014



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Queensland

Water Reform and Other Legislation Amendment Act 2014

Act No. 64 of 2014

An Act to amend the Water Act 2000, the Alcan Queensland Pty. Limited Agreement Act 1965, the Coal Mining Safety and Health Act 1999, the Coal Mining Safety and Health Regulation 2001, the Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957, the Explosives Act 1999, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral Resources Act 1989, the Mineral Resources Regulation 2013, the Mining and Quarrying Safety and Health Act 1999, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the River Improvement Trust Act 1940, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the Sustainable Planning Act 2009 and the Vegetation Management Act 1999 for particular purposes, to amend the statutory instruments mentioned in part 10 for particular purposes, to make minor or consequential amendments of the legislation mentioned in schedule 1, and to make minor amendments of the Water Resource Plans mentioned in schedule 2

[Assented to 5 December 2014]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Water Reform and Other Legislation Amendment Act 2014*.

2 Commencement

(1) The following provisions commence on assent—

- parts 3A, 6A and 6B
- sections 208A to 208E
- section 210, other than to the extent it inserts new section 303
- part 9, division 1A
- part 9, division 3, other than section 217
- section 231A
- section 234, other than to the extent it inserts new section 990
- section 235(3).

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

Part 2 **Amendment of Alcan Queensland Pty. Limited Agreement Act 1965**

3 **Act amended**

This part amends the *Alcan Queensland Pty. Limited Agreement Act 1965*.

4 **Insertion of new s 4D**

After section 4C—

insert—

4D Authorisation of variation by further agreement

The agreement may be varied by further agreement corresponding to the proposed further agreement set out in schedule 4.

5 **Insertion of new sch 4**

After schedule 3—

insert—

Schedule 4 Proposed further agreement

section 4D

THIS AGREEMENT is made this ____ day of _____, 20__

BETWEEN STATE OF QUEENSLAND

[s 5]

AND ALCAN SOUTH PACIFIC PTY LTD (FORMERLY ALCAN QUEENSLAND PTY. LIMITED), ACN 009 726 078, 123 Albert Street, Brisbane in the State of Queensland (the *Company*)

BACKGROUND:

1. Under section 2 of the *Alcan Queensland Pty. Limited Agreement Act 1965* (the Act), the State and the Company entered into the agreement set out in Schedule 1 of the Act (the Principal Agreement).
2. The Principal Agreement may be varied by agreement between the Minister and the Company if authorised under the Act.
3. The State and the Company wish to vary the Principal Agreement.

IT IS AGREED THAT—

4. The Principal Agreement is amended by deleting clause 29A and replacing it with new clause 29A, which provides:

“29A.

- (1) Subclause (2) prevails to the extent of any inconsistency with subclauses 28(a) to (e), 28(g) and clause 29 of the Principal Agreement.
- (2) The Company’s right to take or interfere with water, other than artesian water or subartesian water connected to artesian water, in the ‘Wenlock Basin’ (as defined in the *Water Act 2000*) is subject to the following specified conditions:
 - (a) the right to take or interfere with water in the Wenlock Basin is subject to an annual volumetric limit of 90,000 ML (subject to the sum of the annual volumetric limits that may be taken under water licences held by the Company and the holder of mining tenements for a project for which the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957* was enacted, not exceeding 90,000 ML in total);
 - (b) the location from which the water may be taken or at which the water may be interfered with is from sources

within or in the vicinity of the bauxite field referred to in clause 28(a); and

- (c) the period over which the Company may take or interfere with water continues for the term of this Agreement, including any future extensions of term.
- (3) To remove any doubt, it is declared that subclauses (1) and (2) do not limit:
- (a) the rights of the Company under subclauses 28(a) to (e), 28(g) and clause 29 of the Principal Agreement to take or interfere with water outside the Wenlock Basin; or
 - (b) the Company's right to take or interfere with artesian water or subartesian water connected to artesian water in the Wenlock Basin."

5. This Agreement comes into effect on and from the date notified by the Minister (being the Minister for the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

IN WITNESS WHEREOF the Parties hereto have executed these presents on the day and year aforesaid.

**S I G N E D ON BEHALF OF THE STATE OF
QUEENSLAND BY THE HONOURABLE**

_____,
MINISTER FOR

In the presence of

Executed in accordance with section 127
of the *Corporations Act 2001* by
Alcan South Pacific Pty Ltd (ACN 009 726 078):

[s 6]

Director Signature

Director/Secretary signature

Print Name

Print Name

Part 3

Amendment of Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957

6 Act amended

This part amends the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

7 Insertion of new s 4E

After section 4D—

insert—

4E Authorisation of variation by further agreement

The agreement may be varied by further agreement corresponding to the proposed further agreement set out in schedule 5.

8 Insertion of new sch 5

After schedule 4—

insert—

Schedule 5 Proposed further agreement

section 4E

THIS AGREEMENT is made the ____ day of _____, 20__

BETWEEN STATE OF QUEENSLAND

AND RTA WEIPA PTY LTD, ACN 137 266 285, 123 Albert Street, Brisbane in the State of Queensland (RTA Weipa) **AND RIO TINTO ALUMINIUM LIMITED (FORMERLY COMMONWEALTH ALUMINIUM CORPORATION PTY LIMITED and COMALCO ALUMINIUM LIMITED)**, ACN 009 679 127, 123 Albert Street, Brisbane in the State of Queensland (RTAL)

BACKGROUND:

1. Under section 2 of the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957* (the Act), the State and RTAL entered into an agreement on 16 December 1957, which has been amended from time to time (the Principal Agreement).
2. The State, RTA Weipa and RTAL have agreed to amend the Principal Agreement in accordance with the Act to vary the authorisation for RTA Weipa and RTAL to take or interfere with water in the Wenlock Basin other than artesian water or subartesian water connected to artesian water.

IT IS AGREED THAT—

3. The Principal Agreement is amended by deleting clause 32A and replacing it with new clause 32A, which provides:

“32A.

- (1) Subclause (2) prevails to the extent of any inconsistency with subclauses 31(a) to (e), 31 (g) and clause 32 of the Principal Agreement.

- (2) RTA Weipa's and RTAL's right to take or interfere with water, other than artesian water or subartesian water connected to artesian water, in the 'Wenlock Basin' (as defined in the *Water Act 2000*) is subject to the following specified conditions:
 - (a) the right to take or interfere with water in the Wenlock Basin is subject to an annual volumetric limit of 90,000 ML (subject to the sum of the annual volumetric limit that may be taken under water licences held by RTA Weipa and RTAL and the holder of mining tenements for a project for which the *Alcan Queensland Pty. Limited Agreement Act 1965* was enacted, not exceeding 90,000 ML in total);
 - (b) the location from which the water may be taken or at which the water may be interfered with is from sources within or in the vicinity of the western bauxite field referred to in clause 31(a); and
 - (c) the period over which RTA Weipa and RTAL may take or interfere with water continues for the term of this Agreement, including any future extensions of term.
 - (3) To remove any doubt, it is declared that subclauses (1) and (2) do not limit:
 - (a) the rights of RTA Weipa and RTAL under subclauses 31(a) to (e), 31(g) and clause 32 of the Principal Agreement to take or interfere with water outside the Wenlock Basin; or
 - (b) RTA Weipa's and RTAL's right to take or interfere with artesian water or subartesian water connected to artesian water in the Wenlock Basin."
4. This Agreement comes into effect on and from the date notified by the Minister (being the Minister for the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as at the day and year first written above.

**S I G N E D ON BEHALF OF THE STATE OF QUEENSLAND BY
THE HONOURABLE**

_____,
MINISTER FOR

In the presence of

Executed in accordance with section 127
of the *Corporations Act 2001* by
RTA Weipa Pty Ltd (ACN 137 266 285):

Witness Signature

Signature

Print Name

Executed in accordance with section 127
of the *Corporations Act 2001* by
Rio Tinto Aluminium Limited (ACN
009 679 127):

Director Signature

Director/Secretary signature

Print Name

Print Name

END OF FURTHER AGREEMENT

[s 8A]

Part 3A **Amendment of Mineral and Energy Resources (Common Provisions) Act 2014**

8A **Act amended**

This part amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

8B **Insertion of new s 142A**

After section 142—

insert—

142A Petroleum production notice given more than 6 months after advance notice

- (1) This section applies if—
 - (a) an EP (coal) holder or MDL (coal) holder gave an advance notice for an ML (coal) to an ATP holder under part 2 in relation to an overlapping area; and
 - (b) a petroleum production notice in relation to the overlapping area was given under this part more than 6 months after the giving of the advance notice; and
 - (c) the PL is granted, but the ML (coal) has not yet been granted.
- (2) The mining commencement date for an IMA in the overlapping area must be taken to be the date that is the earlier of the following—
 - (a) the end of 9 years after the giving of the advance notice;
 - (b) the end of 11 years after the giving of the advance notice, less the period between the giving of the advance notice and the giving of the petroleum production notice.

- (3) This section does not limit—
- (a) the petroleum resource authority holder in relation to giving an exceptional circumstances notice under section 127; or
 - (b) the ML (coal) holder in relation to giving an acceleration notice under section 128; or
 - (c) the requirement under section 130 for a joint development plan to be in place within 12 months after the giving of the advance notice.

8C Insertion of new ch 7, pt 4, div 4A

Chapter 7, part 4—

insert—

Division 4A Undecided ML (coal) and PL applications

241A Application for ML (coal) and application for PL both undecided before commencement

- (1) This section applies if—
- (a) before the commencement—
 - (i) an application was made under the pre-amended Mineral Resources Act for the grant of an ML (coal); and
 - (ii) an application was made under the pre-amended P&G Act for the grant of a PL; and
 - (b) each application was made over some or all of the area over which the other application was made; and
 - (c) neither application was decided before the commencement.

[s 8D]

- (2) For this section, it does not matter in which order the applications for the ML (coal) and the PL were made before the commencement.
- (3) The new overlap provisions apply to the circumstances of the applications.
- (4) For applying the requirements under the new overlap provisions to give an advance notice for the ML (coal) or a petroleum production notice for the PL, the applications are taken to have been made on the commencement.
- (5) Despite section 115, the proposed mining commencement date for an IMA to be included in the advance notice must be at least 6 years after the commencement.
- (6) If neither the ML (coal) nor the PL are granted within 6 years after the commencement, the mining commencement date for an IMA must be—
 - (a) if the ML (coal) application is the first application to be granted after the 6 years have ended—at least 3 months after the grant of the ML (coal), unless the ML (coal) holder and the petroleum resource authority holder otherwise agree; or
 - (b) if the PL application is the first application to be granted after the 6 years have ended—at least 5 years after the 6 years have ended, unless the PL holder and the coal resource authority holder otherwise agree.
- (7) This section applies despite divisions 3 and 4.

8D Amendment of s 408 (Insertion of new s 826)

- (1) Section 408, inserted section 826(2)(b)—
omit, insert—

-
- (b) another person holds—
- (i) an ATP, whenever granted; or
 - (ii) a PL, whenever granted; and
- (2) Section 408, inserted section 826(5)—
renumber as section 826(6).
- (3) Section 408, inserted section 826—
insert—
- (5) However, for applying the Common Provisions Act, section 138, each of the following applies—
 - (a) the written notice of the offer given under section 138(2) need not comply with the requirements under paragraphs (a) to (c) of section 138(2);
 - (b) section 138(3) is taken to provide only that the petroleum resource authority holder may accept the offer within 12 months after receiving the written notice, or a later period agreed to by the ML (coal) holder;
 - (c) the reference in section 138(7) to ‘gas offered to a petroleum resource authority holder under subsection (2)(a)’ is taken to be a reference to ‘undiluted incidental coal seam gas offered to a petroleum resource authority holder under subsection (2)’.

Editor’s note—

Legislation ultimately amended—

- *Mineral Resources Act 1989*

8E Amendment of s 436 (Replacement of ss 252–252D)

- (1) Section 436, inserted section 252A(6), definition *adjoining land*—
omit.

[s 8F]

(2) Section 436, inserted section 252A(6)—

insert—

adjoining land—

- (a) means private land that adjoins—
 - (i) the subject land; or
 - (ii) a lot, within the meaning of the *Land Act 1994* or the *Land Title Act 1994*, that contains any part of the subject land; and
- (b) includes land that would adjoin land mentioned in paragraph (a)(i) or (ii) if it were not separated by a road, watercourse, railway, stock route, reserve or drainage or other easement; and
- (c) does not include land only because it adjoins land necessary for—
 - (i) access to the subject land; or
 - (ii) transporting things to the subject land.

private land see the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 13.

Editor's note—

Legislation ultimately amended—

- *Mineral Resources Act 1989*

8F Amendment of s 463 (Insertion of new ss 827 to 832)

Section 463, inserted section 832—

omit, insert—

832 New application for inclusion of restricted land in mining lease granted before or after commencement

- (1) This section applies if—

-
- (a) a mining lease was granted before the commencement, or was granted after the commencement having been applied for before the commencement, over a part of the area for which the mining lease was sought; and
 - (b) because of the absence of consent under the pre-amended Act, s 238(1), the mining lease was not granted over the surface of relevant land.
- (2) The holder of the mining lease may apply under section 275, as in force after the commencement, for the surface of the relevant land, or part of the relevant land, to be included in the mining lease.
 - (3) Section 245(1)(h)(ii), (i) and (l) does not apply to an application under subsection (2).
 - (4) Section 279, whether as in force before or after the commencement, does not apply to the application.
 - (5) If the application is granted, a person must not enter the relevant land to carry out an authorised activity for the mining lease unless the owner for the relevant land has given written consent to the mining lease holder to carry out the activity.
 - (6) The consent may be given on conditions.
 - (7) The conditions of the consent are taken to be conditions of the mining lease.
 - (8) The consent can not be withdrawn during the period stated in the consent as the period during which the holder may enter the relevant land.
 - (9) In this section—

commencement means the commencement of this section.

new restricted land entry provisions means the Common Provisions Act, chapter 3, part 4.

[s 8F]

pre-amended Act means this Act as in force before the commencement.

relevant land means land that was restricted land under the pre-amended Act, whether or not it is restricted land under the new restricted land entry provisions.

832A Inclusion of restricted land in application for mining lease not decided before commencement

- (1) This section applies if—
 - (a) before the commencement, a person made an application for a mining lease under the pre-amended Act; and
 - (b) the proposed lease area for the lease included relevant land; and
 - (c) the application was not decided before the commencement; and
 - (d) before the commencement, no consent had been given under the pre-amended Act, section 238 for the mining lease to be granted over the surface of the relevant land.
- (2) This section applies—
 - (a) whether or not, before the commencement, the applicant had, for the application, been given a certificate of application under the pre-amended Act, section 252; and
 - (b) if the applicant had been given a certificate of application—whether or not the applicant had, for the application, been given a certificate of public notice under the pre-amended Act, section 252A.
- (3) Section 279, whether as in force before or after the commencement, does not apply to the grant

of the mining lease over the surface of the relevant land.

- (4) If the mining lease is granted, and the applicant agrees, the lease may be granted over the surface of the relevant land.
- (5) However, if subsection (4) is to be applied, and before the commencement, the applicant had, for the application, been given a certificate of application under the pre-amended Act, section 252—
 - (a) a replacement certificate of application for the application must be given to the applicant; and
 - (b) the provisions applying under the pre-amended Act to an application for, and granting of, a mining lease, starting with pre-amended Act, section 252, must be complied with as if none of the provisions had previously been complied with in relation to the application.
- (6) If the application is granted, a person must not enter the relevant land to carry out an authorised activity for the mining lease unless the owner for the relevant land has given written consent to the mining lease holder to carry out the activity.
- (7) The consent may be given on conditions.
- (8) The conditions of the consent are taken to be conditions of the mining lease.
- (9) The consent can not be withdrawn during the period stated in the consent as the period during which the holder may enter the relevant land.
- (10) In this section—

commencement means the commencement of this section.

Chapter 12A Provisions about water for mineral development licences and mining leases

Part 1 Water rights for mineral development licences and mining leases

334ZP Entitlement to use underground water

- (1) The holder of a mineral development licence or mining lease may take or interfere with underground water in the area of the licence or lease if the taking or interference happens during the course of, or results from, the carrying out of an authorised activity for the licence or lease.

Examples—

- 1 mine dewatering of underground water to the extent necessary to achieve safe operating conditions in the mine
 - 2 taking underground water as a result of evaporation from an open mine pit
- (2) The rights of the holder of the mineral development licence or mining lease under subsection (1)—
- (a) are the holder's *underground water rights* for the licence or lease; and
 - (b) are subject to the holder complying with the holder's underground water obligations.
- (3) Underground water taken or interfered with under subsection (1) is *associated water*.

[s 11]

- (4) The holder of the mineral development licence or mining lease may use associated water for any purpose and within or outside the area of the licence or lease.
- (5) The holder of the mineral development licence or mining lease must, in accordance with any requirements prescribed by regulation—
 - (a) measure the volume of associated water taken by the holder or, if the taking is the result of evaporation, estimate the volume of water taken; and
 - (b) report the volume or estimated volume of associated water taken by the holder to the chief executive.

Maximum penalty—500 penalty units.

- (6) The holder of the mineral development licence or mining lease must advise the chief executive of the department in which chapter 3 of the Water Act is administered of the exercise of the holder's underground water rights immediately after the holder starts exercising the rights.

Maximum penalty—500 penalty units.

- (7) However, if the mineral development licence or mining lease is in force at the commencement of this section, the holder of the licence or lease does not commit an offence against subsection (6) if the holder notifies the chief executive of the exercise of the holder's underground water rights within 3 months after the commencement.
- (8) Subsection (9) applies if, after the commencement of this section, the holder of a mineral development licence or mining lease exercises an entitlement under a water licence or water permit under the Water Act to take or interfere with water.

- (9) To remove any doubt, it is declared that the exercise of the entitlement by the holder of the mineral development licence or mining lease during the course of, or resulting from, the carrying out of an authorised activity for the licence or lease is also an exercise of the holder's underground water rights under this section and is subject to compliance with the holder's underground water obligations.

334ZQ Water monitoring activities

- (1) The holder of the mineral development licence or mining lease may carry out any of the following activities in the area of the licence or lease to comply with its underground water obligations for the licence or lease—
- (a) gathering information about, or undertaking an assessment of, a water bore;
 - (b) monitoring effects of the exercise of the holder's underground water rights for the licence or lease;
 - (c) constructing or plugging and abandoning a water monitoring bore;
 - (d) gathering information for preparing an underground water impact report or final report under the Water Act, chapter 3;
 - (e) carrying out any other activity necessary to comply with the holder's underground water obligations.
- (2) If the holder of the mineral development licence or mining lease is also the holder of an exploration permit, the holder may carry out any of the activities mentioned in subsection (1) in the area of the exploration permit to comply with its underground water obligations for the licence or lease.

[s 11]

- (3) The constructing or plugging and abandoning of a water monitoring bore must be carried out by an individual licensed under the Water Act, chapter 8, part 2B to carry out the activity.

Maximum penalty—500 penalty units.

- (4) An activity mentioned in subsection (1) is a *water monitoring activity*.

334ZR Authorisation for Water Act

Taking, interfering with, or using underground water under section 334ZP is authorised for the Water Act.

Note—

See the Water Act, section 808.

334ZS Water Act not otherwise affected

- (1) To remove any doubt, it is declared that a holder of a mineral development licence or mining lease can not take, interfere with, or use water unless the taking, interference or use is authorised under this part or the Water Act.

- (2) In this section—

water see the Water Act, schedule 4.

Note—

See the Water Act, chapter 2, part 3 and section 808.

Part 2 Water monitoring authorities

Division 1 Obtaining water monitoring authority

334ZT Who may apply for water monitoring authority

- (1) The holder of a mineral development licence or mining lease may apply for a water monitoring authority for stated land outside the area of the licence or lease to allow the holder to comply with the holder's underground water obligations for the licence or lease.
- (2) Without limiting subsection (1), the application may be made or granted—
 - (a) over land in the area of another mining tenement; and
 - (b) for 1 or more mineral development licences or mining leases held by the same applicant.

334ZU Requirements for making application

The application must be—

- (a) in the approved form; and
- (b) accompanied by the fee prescribed by regulation.

334ZV Deciding application for water monitoring authority

- (1) The Minister may grant or refuse to grant the water monitoring authority.

[s 11]

- (2) However, the water monitoring authority must not be granted unless an environmental authority for the water monitoring authority has been issued.

Note—

If the application relates to acquired land, see also section 10AAC.

- (3) The Minister may, before deciding the application, seek advice about the application from the chief executive of the department in which the Water Act is administered.
- (4) A water monitoring authority must state its area and each mineral development licence or mining lease to which it relates.
- (5) A water monitoring authority may also state—
- (a) conditions or other provisions of the authority, other than conditions or provisions that are—
- (i) inconsistent with division 2 or section 334ZZF or 334ZZG or any other mandatory condition for water monitoring authorities; or

Note—

The *Mineral and Energy Resources (Common Provisions) Act 2014*, chapter 3 also imposes mandatory conditions on water monitoring authorities.

- (ii) inconsistent with a condition of any mineral development licence or mining lease to which the authority relates; or
- (iii) the same as, or substantially the same as, or inconsistent with any relevant environmental condition for a water monitoring activity for the authority; and

- (b) the day it takes effect.
- (6) However, the provisions of a water monitoring authority may exclude or restrict the carrying out of water monitoring activities, if the exclusion or restriction does not prevent the holder of the mineral development licence or mining lease to which it relates from complying with the holder's underground water obligations.
- (7) The Minister may, as a condition of deciding to grant the water monitoring authority, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual rent for the first year of the authority;
 - (b) give security for the authority.
- (8) If the applicant does not comply with the requirement, the application may be refused.

Division 2 Particular activities authorised for water monitoring authorities

334ZW Operation of div 2

- (1) This division provides for particular activities that are authorised for a water monitoring authority.

Note—

The carrying out of particular activities on particular land in a water monitoring authority's area may not be authorised following the taking of the land under a resumption law. See section 10AAB.

- (2) The activities may be carried out despite the rights of an owner or occupier of land on which they are exercised.

[s 11]

- (3) However, the carrying out of the activities is subject to—
- (a) sections 3A, 334ZZA and 334ZZB and the *Mineral and Energy Resources (Common Provisions) Act 2014*, chapter 3; and
 - (b) the mandatory and other conditions of the water monitoring authority; and
 - (c) any exclusion or restriction provided for in the water monitoring authority on the carrying out of the activities.

334ZX Water monitoring activities

Subject to section 334ZV(6), the holder of the water monitoring authority may carry out any water monitoring activity in the area of the authority.

334ZY Limited right to take or interfere with underground water

The holder of the water monitoring authority may take or interfere with underground water only to the extent that the taking or interference is the unavoidable result of carrying out a water monitoring activity in the area of the authority.

Example—

taking or interfering with underground water during the drilling or maintenance of a water monitoring bore in the area

334ZZ Authorisation for Water Act

For the Water Act, taking or interfering with underground water under section 334ZY is taken to be authorised.

Note—

See the Water Act, section 808.

334ZZA Water Act not otherwise affected

To remove any doubt, it is declared that the holder of a water monitoring authority can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under this division or the Water Act.

Note—

See the Water Act, chapter 2, part 3 and section 808.

334ZZB Restriction on carrying out authorised activities

In carrying out an activity authorised for the water monitoring authority under this division, the holder of the authority must not interfere with the carrying out of an authorised activity for a mining tenement or petroleum authority, or for another water monitoring authority, the area of which includes the area of the authority.

Maximum penalty—1000 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 412B, to have also committed the offence.

334ZZC No right to mineral discovered

To remove any doubt, it is declared that the discovery of a mineral while carrying out an activity authorised for the water monitoring authority under this division does not, of itself, give the holder of the authority a right to the mineral.

Division 3 Miscellaneous provisions

334ZZD Term of authority

- (1) Subject to the prescribed provisions, a water monitoring authority continues in force until there is no longer any mineral development licence or mining lease to which the authority relates in force.
- (2) In this section—
prescribed provisions means—
 - (a) for a mineral development licence—section 209; or
 - (b) for a mining lease—section 308.

334ZZE Provision for who is the holder of a water monitoring authority

- (1) If there is only 1 mineral development licence or mining lease to which a water monitoring authority relates, the holder of the authority is taken to be the person who, from time to time, holds the licence or lease to which the authority relates.
- (2) Subsections (3) and (4) apply if there is more than 1 mineral development licence or mining lease to which a water monitoring authority relates.
- (3) If, as a result of dealing with the mineral development licences or mining leases, all of the licences or leases are transferred to the same person, the transferee is taken to be the holder of the water monitoring authority.
- (4) If, as a result of dealing with the mineral development licences or mining leases, 1 or more but not all of the licences or leases are transferred

to the same person, the person from whom the licences or leases were transferred continues to be the holder of the water monitoring authority.

- (5) A water monitoring authority, or an interest in a water monitoring authority, can not be transferred except by operation of law under this section.

334ZZF Additional condition of relevant mineral development licence or mining lease

If a condition is imposed on a water monitoring authority (the *authority condition*), it is a condition of each mineral development licence or mining lease to which the authority relates that the holder of the licence or lease must comply with the authority condition.

334ZZG Annual rent

- (1) A water monitoring authority holder must pay the State the annual rent, as prescribed by regulation.
- (2) The annual rent must be paid in the way, and on or before the day, prescribed by regulation.

334ZZH Power to use security

- (1) This section applies if the Minister is satisfied that—
 - (a) a condition of a water monitoring authority or any provision of this Act relating to the water monitoring authority has not been complied with; or
 - (b) damage has been caused by the holder of a water monitoring authority or a person acting under the authority of the holder.

[s 11]

- (2) The Minister may require the holder to take all action necessary to rectify the noncompliance or damage.
- (3) If the holder does not rectify the noncompliance or damage, the Minister may use the security deposited for the water monitoring authority to rectify the noncompliance or damage.
- (4) In this section—
damage means actual damage caused to pre-existing improvements on the area of the water monitoring authority.

334ZZI Amending water monitoring authority by application

- (1) The holder of a water monitoring authority may apply to the Minister to amend it—
 - (a) to increase or decrease its area; or
 - (b) to add or remove, or to reflect an amendment of, a mineral development licence or mining lease that relates to the authority.
- (2) The holder of a water monitoring authority can not apply to amend the authority in any other way.
- (3) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed by regulation.
- (4) The Minister may grant or refuse to grant the amendment.
- (5) However, the Minister may, before deciding the application, seek advice about the application from the chief executive of the department in which the Water Act is administered.

- (6) The amendment may be granted (a *conditional grant*) subject to the applicant's written agreement to the Minister amending the water monitoring authority in a stated way that the Minister considers appropriate.
- (7) On refusal of the amendment or the making of a decision to make a conditional grant, the chief executive must give the applicant an information notice about the decision to refuse or to make the conditional grant.
- (8) In this section—
information notice means a notice stating—
 - (a) the reasons for the decision; and
 - (b) that the applicant may appeal against the decision; and
 - (c) how to appeal.

Part 3 Ownership of particular works

334ZZJ Ownership of works constructed in connection with water monitoring bore

- (1) This section applies if the holder of a mineral development licence or mining lease constructs a water monitoring bore on land in the area of a prescribed holding to comply with the holder's underground water obligations for a mineral development licence or mining lease.
- (2) While the water monitoring bore remains on the land and the mineral development licence or mining lease remains in force, works constructed in connection with the water monitoring bore remain the property of the person who owned

[s 11]

them immediately before they were constructed on the land.

- (3) Subsection (2) applies despite—
 - (a) the works having become part of the land; or
 - (b) the sale or other disposal of the land.
- (4) The works can not be—
 - (a) levied or seized in execution; or
 - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (5) This section applies despite—
 - (a) an Act or law of the State; or
 - (b) a contract, covenant or claim of right under a law of the State.
- (6) In this section—

prescribed holding means a mineral development licence, mining lease, exploration permit or water monitoring authority.

334ZZK Interfering with water monitoring bore

- (1) A person must not interfere with a water monitoring bore unless the person is the owner of the bore or the owner of the bore consents.

Maximum penalty—1000 penalty units.

- (2) In this section—

owner, of a water monitoring bore, means the person who, under section 334ZZJ, owns the works constructed in connection with the bore.

12 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *mining tenement*—
omit.
- (2) Schedule 2—
insert—

mining tenement means a prospecting permit, mining claim, exploration permit, mineral development licence, mining lease or water monitoring authority.

petroleum authority see the *Petroleum and Gas (Production and Safety) Act 2004*, section 18(2).

underground water see the Water Act, schedule 4.

underground water obligations, of a holder of a mineral development licence or mining lease, means—

- (a) the holder's underground water obligations under the Water Act, chapter 3; and
- (b) any other obligation under the Water Act, chapter 3 with which the holder is required to comply, if failure to comply with the obligation is an offence against that Act.

Examples of another obligation under the Water Act, chapter 3 with which the holder may be required to comply—

- giving an underground water impact report under section 370 of that Act
- preparing and complying with a baseline assessment plan under sections 397 and 400 of that Act

underground water rights, for a mineral development licence or mining lease, see section 334ZP.

Water Act means the *Water Act 2000*.

Examples—

- underground water necessarily or unavoidably taken during the drilling of a petroleum well or water observation bore
- underground water necessarily or unavoidably taken during testing for petroleum production or petroleum production authorised under section 32 or 109

(3) Section 185(6) and (7)—

omit.

(4) Section 185(8)—

renumber as section 185(6).

15 Insertion of new s 186

After section 185—

insert—

186 Underground water rights—limited additional rights

- (1) This section applies to the holder of a petroleum tenure until—
 - (a) if the area of the tenure is in the area declared by gazette notice under the Water Act on 18 March 2011 to be a cumulative management area and referred to as the Surat Cumulative Management Area—the day 5 years after the commencement of this section; or
 - (b) if paragraph (a) does not apply—the day 2 years after the commencement of this section; or
 - (c) a water licence or water permit is granted to take or interfere with underground water under the Water Act, section 1277.

[s 16]

- (2) The holder of a petroleum tenure may take or interfere with underground water in the area of the tenure for use in the carrying out of another authorised activity for the tenure.

Note—

After the relevant period provided for under subsection (1) ends, the holder must be authorised under the Water Act to take or interfere with the water.

- (3) The rights under subsection (2) are—
- (a) also ***underground water rights*** for the petroleum tenure; and
- (b) subject to the tenure holder complying with the holder's underground water obligations.
- (4) The holder must, in accordance with the requirements prescribed by regulation, measure and report the volume of water taken under subsection (2) to the chief executive.

Maximum penalty—500 penalty units.

- (5) In this section—
- another authorised activity***, for the petroleum tenure, means an authorised activity for the tenure under part 1, division 1 or part 2, division 1.

cumulative management area see the Water Act, schedule 4.

16 Amendment of s 188 (Authorisation for Water Act)

Section 188, 'water, under the underground water rights'—

omit, insert—

underground water, under the underground water rights,

17 Amendment of s 189 (Water Act not otherwise affected)

- (1) Section 189, ‘as defined under the Water Act’—

omit.

- (2) Section 189—

insert—

- (2) In this section—

water see the Water Act, schedule 4.

18 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *underground water*, *water observation bore* and *water supply bore*—

omit.

- (2) Schedule 2—

insert—

underground water see the Water Act, schedule 4.

water observation bore—

1 A *water observation bore* is a bore to monitor water levels and includes—

- (a) a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water observation bore; and

- (b) a water monitoring bore under the Water Act.

2 A reference to a water observation bore includes its casing, wellhead and any other works constructed in connection with the bore.

water supply bore—

2A Object

- (1) The object of this Act is to provide for the responsible management of river catchment areas through—
 - (a) planning for and implementing measures that improve the protection, health and resilience of rivers and their catchments; and
 - (b) repairing, and preventing damage to, rivers and their catchments; and
 - (c) restoring natural resilience to flooding and cyclones in rivers and their catchments; and
 - (d) protection of water security; and
 - (e) improving water quality and river system function in rivers and their catchments.
- (2) The object is to be achieved mainly by—
 - (a) establishing river improvement areas; and
 - (b) establishing for the areas trusts that have the powers and functions to achieve the matters mentioned in subsection (1)(a) to (e).

23 Replacement of pt 2 (Constitution of river improvement areas and trusts)

Part 2—

omit, insert—

Part 2 Establishment of river improvement areas and trusts

3 River improvement areas

- (1) A regulation may establish a river improvement area, and may change or abolish the area.

[s 23]

- (2) A river improvement area must be made up of—
 - (a) all or part of a local government area; or
 - (b) all or part of each of 2 or more local government areas.
- (3) A local government, or 2 or more local governments acting jointly, may apply to the Minister for the establishment, change or abolition of a river improvement area.
- (4) The Minister must consider an application under subsection (3) and make a recommendation on the application to the Governor in Council.
- (5) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1) whether or not an application has been made under subsection (3), and whether or not the regulation recommended is consistent with an application under subsection (3).
- (6) A regulation establishing a river improvement area must assign a name to the area.
- (7) A regulation changing a river improvement area may change the name of a river improvement area.

4 Trusts for river improvement areas

- (1) A regulation establishing a river improvement area must establish and name a trust for the area.
- (2) A regulation changing a river improvement area may change the trust for a river improvement area, including by changing its name.
- (3) A regulation abolishing a river improvement area must abolish the trust for the area.
- (4) The name of a trust as provided for in a regulation establishing or changing the trust must be a name the Minister is satisfied is suitable,

having regard to the intended scope of operations of the trust and the persons who are appointed to make up the trust.

- (5) It is not necessary for the word ‘trust’ to form part of a trust’s name.
- (6) A regulation changing or abolishing a river improvement area may provide for any matter necessary or convenient to give effect to the change or abolition.
- (7) Without limiting subsection (6), the regulation may transfer assets and liabilities of a trust to another trust.

24 Amendment of s 5 (Membership of trust)

(1) Section 5(1)—

omit, insert—

- (1) A trust may be established as a trust made up of—
 - (a) 2 councillors of each constituent local government for the trust’s river improvement area, appointed by the local government; and
 - (b) up to 3 persons, as stated in the regulation establishing the trust, appointed by the Minister.
- (1A) Alternatively, a trust may be established as a trust made up of the members, up to the number as stated in the regulation establishing the trust, who are appointed by the Governor in Council and who—
 - (a) must include 1 or more councillors, as stated in the regulation, of each constituent local government for the trust, nominated by the constituent local government; and

[s 25]

- (b) may include—
 - (i) persons nominated by other entities stated in the regulation as being entities entitled to nominate members for the trust; and
 - (ii) persons nominated by the Minister.
- (1B) The regulation establishing a trust as a trust under subsection (1A)—
 - (a) may provide that the members of the trust are to be known as directors or another term stated in the regulation; and
 - (b) if there are 2 or more constituent local governments for the trust—is not required to state the same number of councillors for nomination by each local government.
- (1A) Section 5(2), after ‘for a trust’—

insert—

established under subsection (1)
- (2) Section 5—

insert—

 - (4A) Each person appointed by the Governor in Council under subsection (1A) holds office for the term, of no more than 4 years, decided by the Governor in Council.
- (3) Section 5(5), ‘(3) and (4)’—

omit, insert—

(3), (4) and (4A)

25 Amendment of s 5A (Appointment of members to vacancies)

Section 5A—

insert—

- (5A) If the office of a member of a trust appointed under section 5(1A) becomes vacant, the Governor in Council may appoint a person to the vacant office.
- (5B) If the member was nominated by a local government under section 5(1A)(a) or by another entity under section 5(1A)(b)(i), the Minister must have regard to the views of the local government or other entity in recommending the appointment to the Governor in Council.

25A Amendment of s 5C (Eligibility for appointment as member)

Section 5C—

insert—

- (3) Further, a person is not eligible to be appointed as a member of a trust by the Governor in Council under section 5(1A)(a) if the person's term of office as a councillor of the constituent local government that nominated the person has ended or the office has otherwise become vacant.

26 Amendment of s 5F (Chairperson)

Section 5F—

insert—

- (4) The Governor in Council appoints the chairperson of the trust for a river improvement area as mentioned in section 5(1A).

27 Amendment of s 5I (Casual vacancy)

Section 5I(1)—

insert—

[s 28]

- (e) for a member appointed by the Governor in Council—the Governor in Council removes the member from office.

28 Amendment of s 5K (Removal from office as member)

- (1) Section 5K(1), ‘local government or the Minister’—
omit, insert—
local government, the Minister or the Governor in Council
- (2) Section 5K(1) and (2), ‘local government or Minister’—
omit, insert—
local government, Minister or Governor in Council
- (3) Section 5K—
insert—
 - (3) The Minister may remove a person from office as a member of a trust if—
 - (a) the person was appointed by the Minister under section 5(1)(b); and
 - (b) the Minister believes on reasonable grounds that the person is not acting in the best interests of the trust.
 - (4) The Governor in Council may remove a person from office as a member of a trust if—
 - (a) the person was appointed by the Governor in Council under section 5(1A)(b)(ii); and
 - (b) the Minister, in recommending the person’s removal to the Governor in Council, believes on reasonable grounds that the person is not acting in the best interests of the trust.

29 Amendment of s 5L (Removal from office as chairperson or deputy chairperson)

(1) Section 5L(1)(b)—

omit, insert—

(b) the Minister or Governor in Council, for removing from office a person the Minister or Governor in Council has appointed to the office of chairperson or deputy chairperson of a trust under section 5F(2), (3) or (4) or 5G(2).

(2) Section 5L(2), ‘The trust or Minister’—

omit, insert—

The trust, Minister or Governor in Council

30 Amendment of s 5M (Removal of all trust members)

(1) Section 5M(1), after ‘Minister’—

insert—

or Governor in Council

(2) Section 5M(1)(a), ‘a year’—

omit, insert—

in a financial year

(3) Section 5M(2)—

omit, insert—

(2) For applying subsection (1)—

(a) the Minister may remove the members of a trust even if any of them was appointed by a local government; and

(b) only the Governor in Council may remove the members of a trust appointed by the Governor in Council.

[s 31]

31 Amendment of s 5N (Times and places of meetings)

Section 5N(2), ‘a year’—

omit, insert—

in a financial year

32 Insertion of new s 5RA

Part 3, division 5—

insert—

5RA Trust committees

- (1) A trust may establish committees to advise the trust about matters identified by the trust.
- (2) A committee may be made up of persons appointed by the trust from—
 - (a) members of the trust; and
 - (b) other persons considered by the trust to have experience in or knowledge about matters to be referred to the committee.
- (3) The trust may pay a member of a committee, other than a person who is also a member of the trust, fees and allowances that are—
 - (a) decided by the trust; and
 - (b) not more than the fees and allowances payable to a member of the trust.

33 Amendment of s 6 (Secretary, officers, and employees)

- (1) Section 6(1A), ‘any local government represented thereon’—

omit, insert—

any relevant local government for the trust

- (2) Section 6—

insert—

(5) In this section—

relevant local government, for a trust, means a local government that may appoint a member of the trust or may nominate a person to be a member of the trust.

34 Omission of s 6A (Maintenance of a superannuation scheme)

Section 6A—

omit.

35 Replacement of s 7 (Trusts are bodies corporate)

Section 7—

omit, insert—

Division 1 Status of trusts

7 Trusts are bodies corporate etc.

- (1) A trust—
 - (a) is a body corporate; and
 - (b) may sue and be sued in its corporate name.
- (2) A trust has all the powers of an individual and may, for example—
 - (a) enter into contracts; and
 - (b) acquire, hold, deal with and dispose of property.
- (3) Subsection (2) does not limit a trust's powers under this or another Act.
- (4) A trust does not represent the State.

36 Replacement of s 9 (Compulsory acquisition of land)

Section 9—

[s 37]

omit, insert—

Division 2 Powers for land and works

9 Compulsory acquisition of land

- (1) A trust may take land within its river improvement area for the purpose (the *relevant purpose*) of doing anything it is permitted or required to do under this Act, including undertaking or maintaining works as mentioned in section 10(1).
- (2) Without limiting subsection (1)—
 - (a) a trust is a constructing authority under the *Land Act 1994* (the *Land Act*) and the *Acquisition of Land Act 1967* (the *ALA*); and
 - (b) the relevant purpose is taken to be a purpose that, for the taking of land by a trust, is set out in the ALA, schedule 1; and
 - (c) the taking of land must be carried out under the Land Act or the ALA and not this Act.

37 Amendment of s 10 (Works which trust shall undertake or maintain)

- (1) Section 10, heading, ‘shall’—

omit, insert—

may

- (2) Section 10(1) to (2A)—

omit, insert—

- (1) A trust—
 - (a) may undertake or maintain any works for the purpose of achieving the object of this Act; and

-
- (b) subject to paragraph (a), must undertake or maintain any works the chief executive directs the trust to undertake or maintain.
- (2) Subsection (1) does not operate to exempt a trust from complying with any law providing for how the undertaking or maintenance must be performed.
- (2A) Also, for undertaking or maintaining works, including for designing and for any subsequent monitoring, a trust must obtain advice from suitably qualified persons to ensure intended outcomes for the works are achieved, including, for example, the effective mitigation of loss or damage intended to be achieved by the works.
- (2B) A trust must, for each financial year, give the chief executive a report about its undertaking and maintenance of works in the financial year.
- (3) Section 10(5), (5A) and (6)—
omit, insert—
- (5) A trust may enter into an agreement (a ***trust agreement***) with any person having an interest in land about any matter necessary to allow the trust to effectively undertake or maintain works directly or indirectly associated with the land.
- (6) Subject to the trust agreement, the obligations under the agreement on an owner of the land, or on another person who holds a registered interest in the land, attach to the land and bind the successors in title of the owner or other person.
- (6A) The trust may give the registrar of titles notice of the trust agreement and the registrar must record the notice in a way that a search of the register kept by the registrar under any Act relating to the relevant land will show—
- (a) the existence of the agreement; and

[s 38]

- (b) the terms of the agreement.
- (6B) If the trust agreement is cancelled, as soon as practicable after the cancellation—
 - (a) the trust must give the registrar notice of the cancellation; and
 - (b) the registrar must remove the particulars of the agreement from the registrar’s records.
- (4) Section 10(7A) to (9)—
 - omit, insert—*
 - (8) The power to enter land under subsection (7) includes power, to the extent reasonably necessary to achieve the purpose of entry—
 - (a) to take on to the land any persons, vehicles, materials and equipment; and
 - (b) to stay on the land.

38 Replacement of ss 11 and 11A

Sections 11 and 11A—

omit, insert—

Division 3 Improvement notices

11 Definitions

In this division—

improvement notice see section 11A(1).

occupier, of land, means, if there is no person in actual occupation of the land, a person, whether or not an owner of the land, who is entitled to immediate possession of the land.

owner, of land, means—

- (a) for land held from the State for an estate less than freehold—a person who holds the land directly from the State; or
- (b) otherwise—a person who is entitled to the rents and profits of the land.

prohibit, a person from doing a relevant act, includes control or regulate the person's doing of the relevant act.

relevant act means an act causing or contributing to, or likely to cause or contribute to, relevant damage.

relevant damage means damage to the bank of a river caused, or likely to be caused, by flood or cyclone.

relevant land, for an improvement notice, means any land the subject of a prohibition or requirement provided for in the notice.

11A Improvement notice

- (1) A trust may, by a notice (an ***improvement notice***) given to a person, do either or both of the following—
 - (a) prohibit the person from doing a relevant act as stated in the notice;
 - (b) require the person to take action, as stated in the notice, to remedy or prevent relevant damage.
- (2) An improvement notice must—
 - (a) state the time within which compliance with any prohibition or requirement included in the notice must be complied with; and
 - (b) state when the notice ceases to be in force; and

[s 38]

- (c) identify any relevant land for the notice.
- (3) An improvement notice may be given to a person only if it is reasonable in the circumstances to give the person the notice.
- (4) An improvement notice has effect within the trust's river improvement area.
- (5) If an improvement notice is given to a person in the person's capacity as the occupier of relevant land for the notice, the improvement notice applies not only to the person to whom it is given but also to each other person who is an occupier of the relevant land from time to time while the notice is in force as if it had also been given to the other person.
- (6) An improvement notice may include information about action the trust may take for noncompliance with the notice.

11B Recording of improvement notice

- (1) A trust may ask the registrar of titles to record an improvement notice for which there is relevant land.
- (2) The registrar must record the notice in a way that a search of the register kept by the registrar under any Act relating to relevant land for the notice will show the existence of the notice.
- (3) As soon as practicable after the improvement notice ceases to be in force for any reason—
 - (a) the trust must advise the registrar that the improvement notice has ceased to be in force; and
 - (b) the registrar must remove the particulars of the improvement notice from the registrar's records.

11C Requirement to comply with improvement notice

- (1) A person to whom an improvement notice applies must take all reasonable steps to comply with the notice while the notice is in force unless the person has a reasonable excuse.

Maximum penalty—

- (a) for a first offence—20 penalty units; or
- (b) for a second or later offence—100 penalty units.
- (2) Without limiting subsection (1), for a person who is the occupier of relevant land for the improvement notice, it is a reasonable excuse that the person was not aware, and could not reasonably be expected to have become aware, of the existence of the notice.

11D Compensation for crop damage

- (1) This section applies if an occupier of relevant land for an improvement notice—
- (a) takes action to comply with the notice; and
- (b) in taking the action, can not reasonably avoid causing damage to a cultivated crop growing on the land.
- (2) The trust must pay the occupier an amount of compensation—
- (a) agreed between the trust and the occupier; or
- (b) if there is no agreement—decided by the Land Court as being fair compensation for the damage.

11E Work by trust to ensure compliance with improvement notice

- (1) This section applies if a person to whom an improvement notice applies does not fully comply with the notice.
- (2) The trust may, through its employees and agents, and with any necessary equipment—
 - (a) perform all works necessary to ensure that the person's obligations under the notice are complied with; and
 - (b) to the extent necessary under paragraph (a), enter and stay on any land.
- (3) All expenses reasonably incurred by the trust in performing the works may be recovered by the trust as a debt owing by the person to the trust.
- (4) If the same improvement notice applies to 2 or more persons, the persons are jointly and severally liable to pay the debt owing.

11F Action for debt does not stop proceeding for offence

- (1) A person may be proceeded against for an offence against section 11C(1) in relation to an improvement notice even if the person is also liable for a debt under section 11E(3) arising out of a failure to comply with the same improvement notice.
- (2) However, in a proceeding against a person for an offence against section 11C(1), the court may, instead of, or in addition to, imposing a penalty, order that—
 - (a) the person must pay an amount the court is satisfied would otherwise be recoverable as a debt under section 11E(3); and

- (b) payment of the amount is in satisfaction of the debt.

11G Injunction

- (1) This section applies if a person to whom an improvement notice applies (the *relevant person*) has not complied with the notice.
- (2) On application by the trust that gave the improvement notice, the court may grant an injunction, on terms the court considers appropriate for achieving the purposes of the notice—
 - (a) to restrain the relevant person from engaging in stated conduct; or
 - (b) to require the relevant person to do any stated act or thing.
- (3) If the court considers it desirable to do so, the court may—
 - (a) grant an interim injunction pending its decision on an application under subsection (2); or
 - (b) discharge or vary an injunction or interim injunction granted under this section.
- (4) In this section—
court means the Supreme Court.

Division 4 General

11H Other dealings in land are available to trust

- (1) Nothing in this part is intended to stop a trust from seeking to achieve the object of this Act in relation to land through dealings relating to land,

[s 39]

including, for example, the registration of an easement.

- (2) For the purposes of allowing a public utility easement under the *Land Title Act 1994* or the *Land Act 1994* to be registered in favour of a trust, a trust is taken to be a person authorised to provide a public utility service, as mentioned in—
 - (a) the *Land Title Act 1994*, section 81A, definition *public utility provider*, paragraph (d); or
 - (b) the *Land Act 1994*, schedule 6, definition *public utility provider*, paragraph (d).

39 Replacement of s 12 (Fund of the trust)

Section 12—

omit, insert—

12 Funds of the trusts

- (1) A trust must establish the following funds at a financial institution—
 - (a) a general fund, to be called the [name of trust] fund;
 - (b) a loan fund for each loan borrowed;
 - (c) a reserve fund comprising any reserve accounts established under subsection (4).
- (2) The general fund must be made up of all revenues of the trust and must be applied to expenditure properly incurred by the trust, other than expenditure for works for which the trust is authorised to spend loan moneys.
- (3) A loan fund must be made up of the amounts received under a loan and must be applied to expenditure for which the loan was obtained or as otherwise authorised under this Act.

- (4) A trust may establish reserve accounts for the transfer from its general fund of amounts as provided for under its annual budget.
- (5) An amount held in a reserve account must be used only for the purposes stated for that account.

40 Replacement of s 13 (Budget)

Section 13—

omit, insert—

13 Budget

- (1) A trust must propose and adopt a budget for each financial year.
- (2) In proposing the budget the trust must estimate for the financial year concerned—
 - (a) the amount of revenue; and
 - (b) the expenditure from revenue, including, specifically, expenditure for the undertaking or maintenance of works; and
 - (c) the expenditure from loan funds for the undertaking or maintenance of works; and
 - (d) the amount payable for interest on, or redemption of, loans; and
 - (e) the amounts to be transferred from the general fund to any reserve account established under section 12(4).
- (3) Also, in proposing the budget—
 - (a) all expenditure not approved by the Treasurer to be met from loans must be allocated to revenue; and
 - (b) the estimate of revenue must be sufficient in amount to balance with the expenditure allocated under paragraph (a).

[s 41]

- (4) A trust must give a copy of its adopted annual budget to the chief executive on or before the day prescribed by regulation.
- (5) A trust must follow its budget in its expenditure from revenue and loan funds and, as far as possible, balance the expenditure with the budget.

13A Unanticipated expenditure

- (1) A trust must, before making a payment from its general fund or a loan fund in a financial year, approve the payment by a resolution of the trust if the payment—
 - (a) was not provided for in its budget for the financial year; or
 - (b) exceeds the amount stated for the payment in the estimates for items of expenditure in the budget for the financial year.
- (2) Also, loan funds that are already allocated must not be diverted for any expenditure not relating to the allocation without the approval of the Treasurer.
- (3) Section 13(5) does not stop the trust from expending revenue or loan funds on the undertaking, maintenance or repair of any works made necessary by a flood or cyclone.

41 Amendment of s 14 (Liability of local government to contribute to trust)

- (1) Section 14(1B), from ‘shall be’—

omit, insert—

is the amount negotiated and agreed each financial year by the trust and each of the local governments.
- (2) Section 14(1C)—

omit, insert—

- (1C) If there is a failure under subsection (1B), within a time the Minister considers reasonable, to negotiate and agree an amount to be contributed by a local government, the amount the local government must contribute is the amount decided by the Minister.
- (3) Section 14(2), ‘sealed with its seal and in the form hereunder set out or to the like effect’—
omit.
- (4) Section 14(2), all words after ‘of the trust.’—
omit.
- (5) Section 14(3) to (6)—
omit.

42 Omission of s 14A (Contribution by harbour board in aid of works)

Section 14A—

omit.

43 Amendment of s 14B (Other contributions in aid of works)

- (1) Section 14B(1), ‘(other than a port authority)’—

omit.

- (2) Section 14B(2) to (4)—

omit, insert—

- (2) A trust may make with the owner or, where the owner is not the occupier, with the owner and occupier, of land within the trust’s river improvement area an arrangement under which the owner or occupier undertakes to contribute to the undertaking or maintenance of any works by

[s 44]

the trust which are or will be to the benefit of the owner or occupier.

- (3) A trust may do all things necessary or convenient to be done in connection with, or incidental to, the making of an arrangement under subsection (1) or (2), including, for example—
 - (a) entering into and complying with contracts, agreements or arrangements the trust considers to be necessary or desirable to enable it to properly perform its functions under this section; and
 - (b) obtaining, taking and holding securities for the payment of any amount by any person under this section, including interest charges and expenses chargeable to the owner or occupier.
- (4) An arrangement made by a trust under subsection (2) is binding on the trust and all other parties to the agreement, their successors, executors, administrators, and permitted assigns.
- (5) Any amount payable to the trust under this section and not paid is recoverable by the trust as a debt.

44 Omission of pt 7 (State powers to undertake or maintain works)

Part 7—

omit.

45 Omission of s 19A (Chief executive may conduct research and experiments)

Section 19A—

omit.

46 Replacement of s 20 (Offences)

Section 20—

omit, insert—

20 Proceedings for offences

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886* within the later of the following—
 - (a) 6 months after the offence is committed;
 - (b) 4 months after the commission of the offence comes to the complainant's knowledge, but not later than 1 year after the offence is committed.
- (2) On convicting a person for an offence in relation to damaging or destroying or attempting to damage or destroy any works, a court may, instead of or in addition to imposing a penalty, order the person to pay to the trust responsible for the works the whole of the expenses reasonably incurred by the trust as a result of the commission of the offence.
- (3) A person can not be required under subsection (2) to pay an amount as reimbursement for damage or destruction unless the damage or destruction was caused by the person directly.

47 Omission of s 20A (Arrangements for auditing accounts of superannuation schemes)

Section 20A—

omit.

48 Amendment of s 21 (Delegations)

Section 21(2) and example—

omit.

[s 49]

49 Amendment of s 22 (Regulation-making power)

- (1) Section 22(2)(a), (c), (f), (i) and (j)—
omit.
- (2) Section 22(2)(e), (g), (h) and (k)—
renumber as section 22(2)(a) to (d).

50 Omission of pt 9 (Transitional provisions)

Part 9—
omit.

51 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *trust* and *year*—
omit.
- (2) Schedule 1—
insert—

catchment, of a river, includes any land draining into the river.

criminal history, of a person, has the meaning given by the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3, but does not include convictions for which the rehabilitation period has expired, and has not been revived, under that Act.

improvement notice see section 11A(1).

occupier, of land, for part 5, division 3, see section 11.

owner, of land, for part 5, division 3, see section 11.

prohibit, for part 5, division 3, see section 11.

registrar of titles means the registrar under the *Land Title Act 1994* or the chief executive under the *Land Act 1994*.

relevant act, for part 5, division 3, see section 11.

relevant damage, for part 5, division 3, see section 11.

relevant land, for part 5, division 3, see section 11.

Treasurer see the *Financial Accountability Act 2009*, schedule 3.

trust means a trust established under this Act.

- (2A) Schedule 1, definition *councillor*, after ‘schedule 4’—
insert—
or the *City of Brisbane Act 2010*, schedule 1
- (3) Schedule 1, definition *works*, paragraph (a), after ‘river improvement area’—
insert—
, or land within the river’s catchment area that may have a direct impact on the river,
- (4) Schedule 1, definition *works*, paragraph (e)—
omit, insert—
(e) preventing erosion of the bed or banks of a river, or of adjoining or adjacent land or of land in the river’s catchment, by water of or from the river or its catchment; and
- (5) Schedule 1, definition *works*, paragraph (h)—
omit, insert—
(h) activities directed at restoring a river’s natural function or improving water quality in a river, if the activities are undertaken in the bed or banks of the river or on adjoining,

adjacent or nearby land or on any land
within the river's catchment; and

- (6) Schedule 1, definition *works*—

insert—

- (k) the construction and maintenance of levees.

Part 6A **Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009**

51A Act amended

This part amends the *South-East Queensland Water
(Distribution and Retail Restructuring) Act 2009*.

51B Amendment of s 99BRAK (Power to amend)

- (1) Section 99BRAK(5)(c)—

omit, insert—

- (c) the distributor-retailer may give the
applicant an infrastructure charges notice
under part 7, division 3, subdivision 3 if the
notice relates to the amended condition.

- (2) Section 99BRAK—

insert—

- (5A) If an infrastructure charges notice is given under
subsection (5)(c) for a water approval, the notice
replaces any existing infrastructure charges
notice in effect for the approval.

51C Amendment of s 99BRCI (When charge may be levied and recovered)

Section 99BRCI(3), ‘distributor-retailer may give the infrastructure charges notice only’—

omit, insert—

infrastructure charges notice must be given

51D Amendment of s 99BRCJ (Limitation of levied charge)

Section 99BRCJ—

insert—

(3A) Also, the demand generated by development mentioned in subsection (2)(b)(iii) may be included if—

- (a) an infrastructure requirement applies to the land on which the development will be carried out; and
- (b) the infrastructure requirement was imposed on the basis of development of a lower scale or intensity being carried out on the land.

51E Amendment of s 99BRCK (Requirements for infrastructure charges notice)

Section 99BRCK(1)(f), ‘details of’—

omit, insert—

information about

51F Amendment of s 99BRCR (Necessary infrastructure condition for other infrastructure)

Section 99BRCR(3)—

omit, insert—

- (3) However, the distributor-retailer may impose a condition under subsection (2) only if the

development infrastructure services a connection consistent with the assumptions stated in the water netserv plan about the type, scale, location, timing or intensity of future development.

51G Amendment of s 99BRCT (Offset or refund requirements)

Section 99BRCT(3)(b)—

omit, insert—

- (b) the distributor-retailer must refund the applicant an amount equal to the difference between the establishment cost of the trunk infrastructure and the amount worked out by applying the adopted charge to the connection.

51H Amendment of s 99BRCW (Restriction if connection completely in connection area and future connection area)

Section 99BRCW(2)(a)—

omit, insert—

- (a) for trunk infrastructure to be provided earlier than planned in the water netserv plan—the additional establishment cost that would be incurred by the distributor-retailer in providing the trunk infrastructure earlier than planned;

Part 6B Amendment of Sustainable Planning Act 2009

51I Act amended

This part amends the *Sustainable Planning Act 2009*.

51J Amendment of s 976B (Existing development approvals)

(1) Section 976B(4), ‘and (6)’—

omit, insert—

to (10)

(2) Section 976B—

insert—

(7) Subsection (8) applies to the development approval if—

(a) it is a development approval to which section 959E applies because of section 959E(1); and

(b) any change to the approval is to a water connection aspect of the approval.

(8) A distributor-retailer may give an infrastructure charges notice under the SEQ Water Act, chapter 4C, for the development approval as if the development approval were a water approval under that Act.

(9) The SEQ Water Act, chapter 4C, applies to the giving of an infrastructure charges notice under subsection (8)—

(a) as if a reference in that Act to an amendment to a condition of a water approval were a reference to a change to, or extension of, the development approval; and

(b) with any other necessary changes.

- the document called ‘Vegetation management watercourse and drainage feature map (1:100 000 and 1:250 000)’.

54 Amendment of s 20ANA (What is a *category R* area)

Section 20ANA, ‘regrowth watercourse area’—

omit, insert—

regrowth watercourse and drainage feature area

55 Insertion of new pt 6, div 11

After section 123—

insert—

**Division 11 Transitional provision for
Water Reform And Other
Legislation Amendment
Act 2014**

**124 References to regrowth watercourse area and
vegetation management watercourse map**

- (1) A reference in an Act or document to the regrowth watercourse area may, if the context permits, be read as a reference to the regrowth watercourse and drainage feature area.
- (2) A reference in an Act or document to the vegetation management watercourse map may, if the context permits, be read as a reference to the vegetation management watercourse and drainage feature map.

56 Amendment of sch (Dictionary)

- (1) Schedule, definitions *bed and banks*, *regrowth watercourse area*, *vegetation management watercourse map* and *watercourse—*

[s 56]

omit.

(2) Schedule—

insert—

downstream limit, of a watercourse, see the *Water Act 2000*, schedule 4.

drainage feature see the *Water Act 2000*, schedule 4.

regrowth watercourse and drainage feature area means an area located within 50m of a watercourse or drainage feature located in the Burdekin, Mackay Whitsunday or Wet Tropics catchments identified on the vegetation management watercourse and drainage feature map.

vegetation management watercourse and drainage feature map see section 20AB.

watercourse has the meaning given by the *Water Act 2000*, section 5, but a reference to a watercourse in this Act includes a reference to anywhere that is downstream of the downstream limit of the watercourse.

Note for definition watercourse—

For the purposes of this Act, the length of a watercourse is not limited by any downstream limit applying to it under the *Water Act 2000*.

(3) Schedule, definition *vegetation management map*, paragraph (c)—

omit, insert—

- (c) the vegetation management watercourse and drainage feature map; or

[s 59]

- (2) For subsection (1)(a), ***responsible and productive management*** is management that—
- (a) incorporates consideration of long-term and short-term economic, social and environmental considerations; and
 - (b) allows for the allocation and use of water resources and quarry material for the economic, physical and social wellbeing of the people of Queensland, within limits that can be sustained indefinitely; and
 - (c) sustains the health of ecosystems, water quality and water-dependent ecological processes and biological diversity associated with catchments, watercourses, lakes, springs, aquifers and other natural systems; and
 - (d) enables water resources and quarry material to be obtained through fair, transparent and orderly processes to support the economic development of Queensland; and
 - (e) builds confidence regarding the availability, security and value of water entitlements and other authorisations for those investing in developing the water resource; and
 - (f) promotes the efficient use of water through—
 - (i) the establishment and operation of water markets; or
 - (ii) the initial allocation of water; or
 - (iii) the regulation of water use if there is a risk of land or water degradation; and
 - (g) facilitates the community taking an active part in planning for the management and allocation of water; and

(h) recognises the interests of Aboriginal and Torres Strait Islander peoples and their connection with water resources.

(3) For subsection (2), the *efficient use of water*—

(a) incorporates water demand management and water conservation measures; or

(b) considers the volume and quality of water required for particular circumstances, including release into the environment.

60 Relocation and renumbering of s 3 (Definitions)

Section 3—

relocate to chapter 1, part 2 and *renumber* as section 4.

61 Renumbering of s 4 (Act binds all persons)

Section 4—

renumber as section 3.

62 Replacement of ch 1, pt 2, hdg (Watercourses)

Chapter 1, part 2, heading—

omit, insert—

Part 2 Interpretation

63 Amendment of s 5 (Meaning of *watercourse*)

(1) Section 5(4)(a)(ii) and (iii)—

omit, insert—

(ii) between the lateral limits of the watercourse; and

(2) Section 5(5)—

omit, insert—

[s 64]

(5) In this section—

adjoining includes being bounded by, being adjacent to, or abutting.

lateral limits, of a watercourse, are the outer bank on one side of the watercourse and the outer bank on the other side of the watercourse.

64 Insertion of new s 5AA

After section 5—

insert—

5AA Watercourse etc. may be mapped

- (1) The chief executive may prepare a map (*watercourse identification map*) identifying any of the following features—
 - (a) a watercourse (other than its lateral limits);
 - (b) a designated watercourse (other than its lateral limits);
 - (c) the downstream limit of a watercourse;
 - (d) a drainage feature;
 - (e) a lake;
 - (f) a spring.
- (2) The watercourse identification map must be—
 - (a) certified by the chief executive as the watercourse identification map as in force from a stated day; and
 - (b) published, in digital electronic form, on the department's website.
- (3) A feature identified on the watercourse identification map as a watercourse is taken to be a watercourse (to the extent of its lateral limits) for this Act.

- (4) A feature identified on the watercourse identification map as a designated watercourse is taken to be a designated watercourse (to the extent of its lateral limits) for this Act.
- (5) A position or feature identified on the watercourse identification map as the downstream limit of a watercourse is taken to be the downstream limit of the watercourse for this Act.
- (6) A feature identified on the watercourse identification map as a drainage feature is taken to be a drainage feature for this Act.
- (7) A feature identified on the watercourse identification map as a lake is taken to be a lake for this Act.
- (8) A feature identified on the watercourse identification map as a spring is taken to be a spring for this Act.
- (9) The chief executive must consult with the chief executive of the department in which the *Coastal Protection and Management Act 1995* is administered before identifying a feature on the watercourse identification map as the downstream limit of a watercourse.
- (10) In this section—
watercourse includes part of a watercourse.

65 Insertion of new s 6

Chapter 1, part 2—

insert—

6 Meaning of *domestic purposes*

- (1) *Domestic purposes*, for taking water, means taking water for the following—
 - (a) household purposes;

[s 66]

- (b) watering of animals kept as pets;
- (c) watering a garden.
- (2) For subsection (1)(c), the combined size of the garden must not exceed an area of 0.5ha.
- (3) However, if a water plan states either of the following for this definition, it applies instead of subsection (2)—
 - (a) a different size for the garden;
 - (b) a volume of water sufficient to water a different size garden.
- (4) In this section—
garden includes a lawn.

66 Replacement of ch 2, hdg

Chapter 2, heading—

omit, insert—

Chapter 1A Water supply emergencies and restrictions

67 Amendment of particular provisions of ch 2 (Allocation and sustainable management)

- (1) Chapter 2, parts 1, 3 to 6, and 8 to 11—
omit.
- (2) Chapter 2, part 2, heading—
omit.
- (3) Chapter 2, part 2, divisions 1, 1A, 2, 3 and 4—
omit.
- (4) Chapter 2, part 2, division 2A, subdivision 6—
omit, insert—

Part 2 Obtaining information

25Y Obtaining information from a service provider

- (1) The chief executive may give a service provider a notice requiring information about 1 or more of the following—
 - (a) current and projected future water consumption by the service provider's customers or a class of the customers;
 - (b) water restrictions the service provider has imposed or intends to impose;
 - (c) the events that would cause the service provider to impose the restrictions, for example, the available water supply falling to a stated level;
 - (d) the actions the service provider intends to take to ensure compliance with the restrictions;
 - (e) the demand management program the service provider proposes to implement;
 - (f) other measures the service provider proposes to take, for example, constructing new infrastructure or making changes to existing infrastructure.
- (2) The notice may be given at any time and must state the reasonable time by which the information must be given to the chief executive.
- (3) The service provider must comply with the notice, unless the service provider has a reasonable excuse.

Maximum penalty—200 penalty units.

- (4) It is a reasonable excuse for a service provider who is an individual not to comply with the

[s 68]

notice if complying with the notice might tend to incriminate the individual.

68 Insertion of new ch 2

After section 25ZE—

insert—

Chapter 2 Management and allocation of water

Part 1 Water rights

Division 1 Ownership of water

26 Rights in all water vests in the State

All rights to the use, flow and control of all water in Queensland are vested in the State.

Division 2 Allowing use of water

27 State may allow the use of water

- (1) The State may allow the use of water by authorising persons to take or interfere with water.
- (2) The State may authorise persons to take water—
 - (a) through legislation and statutory instruments; or
 - (b) through any of the following authorisations issued under this Act—
 - (i) water allocations;
 - (ii) water licences;

-
- (iii) water permits;
 - (iv) seasonal water assignment notices;
 - (v) resource operations licences;
 - (vi) distribution operations licences;
 - (vii) operations licences.
- (3) The State may authorise persons to interfere with water—
- (a) through legislation and legislative instruments; or
 - (b) through any of the following authorisations issued under this Act—
 - (i) water licences;
 - (ii) resource operations licences;
 - (iii) distribution operations licences.

Division 3 Restricting use of water

Subdivision 1 Restrictions for contamination and water shortages

28 Limiting or prohibiting taking, or interfering with, water during contamination or water shortages

- (1) Subsection (2) applies if the Minister is satisfied urgent action should be taken because—
 - (a) there is a shortage of water; or
 - (b) there is a thing in harmful quantities in water.
- (2) The Minister must publish a notice—
 - (a) limiting, for a particular purpose or otherwise, either or both of the following—

[s 68]

- (i) the volume of water a person may take;
 - (ii) the rate at which, and the times when, a person may take water; or
 - (b) limiting a person's entitlement to interfere with water; or
 - (c) prohibiting taking or interfering with water.
- (3) The limit or prohibition has effect despite any authority a person has under another provision of this Act.
 - (4) The notice remains in force for the period of not more than one year stated in the notice.
 - (5) Nothing prevents the Minister from acting under this section a second or subsequent time.
 - (6) The notice is subordinate legislation.
 - (7) A person must not take or interfere with water in contravention of the notice.

Maximum penalty for subsection (7)—1665 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 828, to have also committed the offence.

29 Limiting water taken under water licence, water permit or water allocation

- (1) If there is a shortage of water, the chief executive may, by publishing a notice do the following—
 - (a) limit the water that may be taken under a water entitlement, water permit or seasonal water assignment notice;
 - (b) limit the water that may be taken under part 3, division 1, subdivision 2.

- (2) The notice may be for any 1 or more of the following—
 - (a) the times when water may be taken;
 - (b) the purpose for which water may be taken;
 - (c) the volume of water, measured or estimated that may be taken, including for a stated purpose.
- (3) The notice remains in force for the period of not more than one year stated in the notice.
- (4) Nothing prevents the chief executive from acting under this section a second or subsequent time.
- (5) A person must not take water in contravention of the notice.

Maximum penalty for subsection (5)—500 penalty units.

Subdivision 2 Moratorium notices

30 Moratorium notices

- (1) The Minister may publish a notice under this section, for a part of the State, (a *moratorium notice*) if the Minister is satisfied action should be taken in the part—
 - (a) to protect existing water entitlements and other authorities under this Act to take or interfere with water; or
 - (b) to protect natural ecosystems.
- (2) For part of the State to which the moratorium notice applies, the notice may state the following—
 - (a) that an application for or about a water entitlement will not be accepted;

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- (b) that the construction of works, or changing existing works, for taking or interfering with water, is limited in the way stated or is prohibited.
- (3) For subsection (2)(b), the notice may also state, while the moratorium notice has effect—
- (a) new works must not be physically started; and
 - (b) completed works in existence must not be raised, enlarged, deepened or changed; and
 - (c) works that have been started—
 - (i) may be completed only to the extent stated in the notice; and
 - (ii) must be completed by the day stated in the notice; and
 - (d) a person who is completing works that have been started must give the chief executive notice about the works by the day stated in the notice; and
 - (e) construction of works must stop if notice has not been given under paragraph (d).
- (4) However, the moratorium notice may only apply to an application or construction of works to the extent the application or construction would have 1 or more of the following effects stated in the notice—
- (a) increase the amount of water that may be taken;
 - (b) change the location from which water may be taken;
 - (c) increase the rate at which water may be taken;
 - (d) change the flow conditions under which water may be taken;

- (e) increase or change the interference with the water;
 - (f) change the purpose for which the water may be taken or interfered with.
- (5) Subsection (4) applies even if the application was made before the moratorium notice was published.
- (6) A moratorium notice may state matters to which the notice does not apply.
- (7) For this section, works are not started unless—
- (a) construction of the works has physically started or, if construction has not physically started, a contract has been entered into to start construction, and construction is started, within 60 days after the day the notice has effect; and
 - (b) an independently verifiable construction program exists for progressive construction towards completion of the works; and
 - (c) detailed design plans exist showing, among other things, the extent of the works; and
 - (d) if a development permit is required for the works or for other development associated with the works—the permit has been given.

31 Effect of moratorium notice

- (1) The moratorium notice has effect—
- (a) from the later of the following—
 - (i) the day stated in the notice;
 - (ii) the day the notice is published; and
 - (b) until the Minister publishes a further notice withdrawing or replacing the first notice.
- (2) Subsection (3) applies if—

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- (a) a moratorium notice applies to a part of the State; and
- (b) a water planning instrument also applies to that part of the State.
- (3) The moratorium prevails over the instrument to extent of any inconsistency.
- (4) A moratorium notice does not affect—
 - (a) the issuing of water permits;
 - (b) taking water under sections 93 to 99 and 103;
 - (c) matters stated in the notice under section 30(6).

32 Offence to contravene moratorium notice

A person must not start the construction of works, or continue to construct works, in contravention of a moratorium notice.

Maximum penalty—1665 penalty units.

33 Application to vary effect of moratorium notice

- (1) Subsection (2) applies to an owner of land if—
 - (a) the owner is completing works that had been started at the time a moratorium notice took effect; and
 - (b) the works will not be completed by the day stated in the notice (the *completion day*); and
 - (c) the owner wishes to apply for an extension of the completion day.
- (2) The owner—
 - (a) must stop construction of the works by the completion day; and

- (b) may apply to the Minister for an extension of the completion day if—
 - (i) the works are substantially completed; or
 - (ii) the works will not be completed by the completion day because of a change in circumstances beyond the applicant's control including, for example, construction difficulties, extreme bad weather or the applicant's ill health.
- (3) The application must—
 - (a) be in the approved form; and
 - (b) be accompanied by the prescribed fee; and
 - (c) be made before the completion day; and
 - (d) include sufficient information to support the application.
- (4) The Minister may refer the application to a referral panel established under section 242.
- (5) The Minister must—
 - (a) decide the application; and
 - (b) give the applicant notice of the decision.
- (6) If the application has been referred to a referral panel, the Minister must have regard to the panel's recommendation before making a decision.
- (7) If the Minister grants the application, the moratorium notice, for the applicant, is varied in the following way—
 - (a) the completion day, for the works, is the day stated in the Minister's notice;
 - (b) the works may be completed to the extent stated in the notice.

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- (8) For this section, works are not started unless—
- (a) construction of the works has physically started or, if construction has not physically started, a contract has been entered into to start construction, and construction is started, within 60 days after the day the notice has effect; and
 - (b) an independently verifiable construction program exists for progressive construction towards completion of the works; and
 - (c) detailed design plans exist showing, among other things, the extent of the works; and
 - (d) if a development permit is required for the works or for other development associated with the works—the permit has been given.

34 Reviewing and replacing moratorium notices

- (1) If the Minister is satisfied a moratorium notice should have effect for more than 1 year, the Minister must review the notice within 1 year after the day the notice was published and during each year the notice has effect.
- (2) If, on the review, the Minister is satisfied the notice should be amended, the Minister must replace the notice with a new notice containing the amended provisions.
- (3) The replacement notice may provide for any matter for which the original moratorium notice could have made provision.
- (4) On and after the day the notice is published the replacement notice is taken to be the moratorium notice.
- (5) The replacement notice applies to an application mentioned in section 30(2), even if the

application was made before the replacement notice was published.

Division 4 Collecting information about water

35 Obtaining water information

- (1) The chief executive may give a person who is authorised, or has an entitlement, to take or interfere with water under this Act a notice requiring information—
 - (a) the person is required to keep under a condition of the person's authority or entitlement; or
 - (b) about the person's water use; or
 - (c) about the water managed, taken or supplied under the person's authority or entitlement; or
 - (d) about the water that was managed, taken or supplied through water infrastructure to which a person's authority or entitlement applies; or
 - (e) about the taking or supplying of water by the person under the person's authority or entitlement.
- (2) The notice—
 - (a) may be given at any time; and
 - (b) must state the reasonable time by which the information must be given to the chief executive.
- (3) The person must comply with the notice, unless the person has a reasonable excuse.
Maximum penalty—200 penalty units.

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- (4) However, this section does not require a person who is an individual to give information if giving the information might tend to incriminate the person.

36 Notice of works and water use

- (1) This section applies to works for taking or interfering with water if the taking or interfering with the water is authorised other than under a water entitlement.
- (2) The chief executive may, by publishing a notice (the *chief executive's notice*), require the owner of land on which the works are, or are to be, constructed to give the chief executive notice (the *owner's notice*) of the works and the water use or, for works to be constructed, proposed water use, relating to the works, by the date stated in the notice.
- (3) The chief executive's notice—
 - (a) may require the owner's notice to be in the approved form; and
 - (b) must state the matters prescribed by regulation, including the proposed consultation arrangements for the notice.
- (4) A person to whom the chief executive's notice applies must comply with the notice.
Maximum penalty—20 penalty units.

Part 2 Water planning

Division 1 Planning by the State

37 Planning for the management of water

The State plans for the responsible and productive management of Queensland's water—

- (a) by preparing and implementing water plans; and
- (b) by preparing and implementing water use plans.

38 Information for planning

The chief executive must provide information for planning purposes by—

- (a) regularly measuring and keeping publicly available records of the volume and quality of water in Queensland; and
- (b) collecting information on the water requirements of, and impacts of water management on, natural ecosystems, including, for example, from the department in which the *Environmental Protection Act 1994* is administered; and
- (c) collecting information about future water requirements.

Division 2 Matters for and related to regulation

39 Matters for regulation

- (1) For the purpose of planning for the responsible and productive management, use and allocation of water, a regulation may do the following—
 - (a) reserve unallocated water for a part of the State or for particular water to which no water plan applies;
 - (b) prescribe the processes for releasing unallocated water, including through the grant or sale of a water entitlement;
 - (c) prescribe processes and criteria for establishing the elements of proposed water allocations;
 - (d) prescribe water allocation dealing rules applying to whole of the State.
 - (e) prescribe the processes for granting a seasonal water assignment for a water allocation;
 - (f) prescribe the types of works that are to be regulated as self-assessable development or assessable development;
 - (g) prescribe the requirements for the holders of resource operations licences and distribution operations licences in collecting and providing information to the chief executive.
- (2) A regulation under subsection (1)(b) must state that the release may only proceed if the chief executive has first decided that is appropriate having regard to any existing water development options that relate to the unallocated water.

40 Chief executive may release unallocated water

- (1) The chief executive may release unallocated water if a volume is stated in a water plan or prescribed by regulation.
- (2) The chief executive must release unallocated water under the process prescribed by regulation.
- (3) However, subsection (2) does not apply to the extent the relevant water plan provides for an alternative process for the release of the unallocated water.
- (4) The chief executive may set a price for the unallocated water.

Division 3 Water plans

41 What is a *water plan*

A *water plan* is a plan that applies to a part of the State and advances the responsible and productive management of Queensland's water.

42 Minister may prepare a water plan

- (1) The Minister may prepare a water plan for any part of Queensland.
- (2) Two plans may have effect for the same part of Queensland at the same time if each relates to a different type of water.

Example—

There may be 2 plans applying to the same part of Queensland where 1 relates to surface water and the other to underground water.

43 Contents of a water plan

- (1) A water plan must—

[s 68]

- (a) state the water to which the plan applies; and
 - (b) state the desired economic, social and environmental outcomes of the management and allocation of water to which the plan applies (the *water plan outcomes*); and
 - (c) state the volume of unallocated water reserved under the plan; and
 - (d) state arrangements for providing water for the environment including the measures, strategies or objectives for environmental flows; and
 - (e) if the plan provides a framework for managing water allocations—
 - (i) state trading zones for the allocations; and
 - (ii) state water allocation security objectives.
- (2) A water plan may—
- (a) state measures that contribute to achieving the water plan outcomes; and
 - (b) state the strategies for achieving the water plan outcomes; and
 - (c) state limitations on taking or interfering with water in the plan area; and
 - (d) state the taking or interfering with water in the plan area that does not require a water entitlement; and
 - (e) state the purpose for, and the location of, unallocated water reserves; and
 - (f) state a process for releasing unallocated water; and

-
- (g) state the arrangements and process for converting, adjusting or granting water entitlements or other authorisations under a water entitlement notice; and
 - (h) state criteria for deciding applications for water licences; and
 - (i) state the types of applications for water licences that must not be accepted under section 107; and
 - (j) state the proposed holders of resource operations licences and distribution operations licences in the plan area; and
 - (k) state whether a water management protocol is to be prepared for the plan area and the matters the protocol must address; and
 - (l) state the types of amendments that may be made to the plan without consultation; and

Note—

For the power of to amend a water plan without consultation see section 51(2)(a).

- (m) state the categories of water licences in the plan area that are to be cancelled or repealed; and
- (n) include anything else that the Minister considers relevant to advance the matters mentioned in section 41.

44 Preliminary public consultation

- (1) If the Minister proposes to prepare a water plan, the Minister may decide whether public consultation on the proposal is required.
- (2) If the Minister decides public consultation is required, the Minister must publish a notice of the proposal stating—

[s 68]

- (a) the water to which the water plan will apply; and
- (b) the reason for preparing the plan; and
- (c) proposed arrangements for consultation.

45 Making draft water plan

- (1) Before finalising a water plan the Minister must make a draft of the plan.
- (2) The Minister must consider all of the following in making a draft of a water plan—
 - (a) regional plans made under the *Sustainable Planning Act 2009* that apply to the plan area;
 - (b) environmental values established under the *Environmental Protection (Water) Policy 2009*;
 - (c) if the draft water plan is within the Queensland Murray-Darling Basin—the Murray-Darling Basin Plan under the *Water Act 2007* (Cwlth);
 - (e) the public interest;
 - (f) the results of any public consultation under section 44.

46 Publishing draft water plan

- (1) After the Minister makes a draft of a water plan, the Minister must publish the draft plan.
- (2) As soon as practicable after publishing the draft of a water plan, the Minister must publish a notice stating—
 - (a) the draft plan has been published; and
 - (b) how the draft plan may be inspected; and

- (c) that submissions about the draft plan may be made by any entity; and
 - (d) the day by which, how and to whom, the submissions must be made.
- (3) The period for making submissions must not be less than 30 business days after the notice is published.
 - (4) To inform the public, the Minister must publish a statement of intent for the draft water plan which provides a summary of the—
 - (a) intent of the draft plan; and
 - (b) effect of the draft plan.

47 Decision about finalising water plan

- (1) Before deciding to finalise a water plan, the Minister must consider all properly made submissions about the draft of the plan under section 46.
- (2) If the Minister decides to finalise the plan, the Minister must submit the plan for approval by the Governor in Council.
- (3) If the Minister decides not to finalise the plan, the Minister must publish a notice advising of the decision and the reasons for the decision.

48 Effect of a water plan

- (1) A water plan does not have effect until it has been approved by the Governor in Council, and from the approval is—
 - (a) the water plan for its plan area; and
 - (b) subordinate legislation.
- (2) If a water plan is approved under subsection (1), the Minister must publish a report stating the

[s 68]

considerations made in finalising the plan including—

- (a) the submissions received on the draft of the plan; and
- (b) whether or not issues raised in the submissions were addressed and, if addressed, how the issues were addressed.

49 Report on water plan

- (1) Minister must prepare reports about each water plan.
- (2) The reports must—
 - (a) be prepared at the times and state the matters prescribed by regulation; and
 - (b) state the effectiveness of the plan and its implementation in advancing the matters mentioned in section 41.

50 Amending or replacing a water plan

- (1) The Minister may—
 - (a) amend a water plan; or
 - (b) prepare a new water plan to replace one or more existing water plans.
- (2) The Minister must amend a water plan, or prepare a new water plan to replace the plan, if the Minister is satisfied the plan is no longer advancing the matters mentioned in section 41.

51 Preparing an amendment or replacement of water plan

- (1) To amend or replace a water plan, sections 44 to 48 apply to the proposed amending or

replacement water plan (the *amending or replacement plan*)—

- (a) as if a reference in the sections to a water plan were a reference to the amended or replaced plan; and
 - (b) with any other necessary changes.
- (2) However, the consultation provisions do not apply if the amendment to be made is—
- (a) of a type stated in the plan as not requiring public consultation on a draft of the plan and the Minister reasonably believes the amendment will not adversely affect the rights of the water entitlement holders or natural ecosystems; or
 - (b) only to correct a minor error in the water plan, or make another change that is not a change of substance; or
 - (c) to implement a water development option under section 52.
- (3) The consultation provisions do not apply to the Minister preparing and finalising a new water plan that is to replace 2 or more existing water plans if the new plan does not change the substance of the plans being replaced.
- (4) In this section—
- consultation provisions* means sections 44 to 46.

52 Amending a water plan to implement a water development option

- (1) The Minister may amend a water plan so that it is consistent with the commitment for a major water infrastructure project under a water development option.

[s 68]

- (2) In making a decision under subsection (1), the Minister must consider the criteria mentioned in section 91(5).
- (3) The Minister may only act under subsection (1) if—
 - (a) the proposed amendment advances the responsible and productive management of water; and
 - (b) equivalent consultation to that required under sections 44 to 46 has been undertaken.

53 Expiry of water plan

The *Statutory Instruments Act 1992*, part 7 does not apply to a water plan and the plan expires on 1 September first occurring after the 10th anniversary of the day it was approved by the Governor in Council unless—

- (a) it is sooner repealed; or
- (b) the expiry of the plan is postponed by the Minister under section 54.

54 Postponement of expiry of water plan if water plan is not being replaced

- (1) The Minister may postpone the expiry of a water plan if satisfied the plan is advancing the matters mentioned in section 41 and water plan outcomes.
- (2) Before postponing the expiry of the expiring plan, the Minister must publish a notice of the intention to postpone the expiry—
 - (a) stating that a report under section 49 has been prepared and where it can be accessed; and
 - (b) stating the proposed new expiry date; and

- (c) that submissions about the postponement may be made by any entity; and
 - (d) the day by which, how and to whom the submissions must be made.
- (3) The period for making submissions must not be less than 30 days after the notice is published.
 - (4) After considering any properly made submissions, the Minister may decide whether or not to postpone the expiry of the expiring plan.
 - (5) The Minister may postpone the expiry more than once but any postponement can not have the effect of continuing the plan in force for more than 20 years.

55 Postponement of expiry of water plan while water plan is being replaced

- (1) This section applies if the Minister is preparing a new water plan to replace one or more existing water plans.
- (2) The Minister may postpone the expiry of the existing plan from time to time but can not postpone the expiry for more than 3 years.
- (3) Section 54(2) to (5) does not apply a postponement under this section.

56 Publication of new expiry date for plan

- (1) If the Minister decides to postpone the expiry of a water plan under section 54 or 55, the Minister must publish a notice in the gazette stating the new expiry date for the plan.
- (2) A notice under subsection (1) is subordinate legislation.

Division 4 Water use plans

57 Minister may prepare water use plan

The Minister may prepare a water use plan for any part of Queensland.

58 What is a water use plan

A *water use plan* is a plan that applies to a part of the State and advances the responsible and productive management of Queensland's water by regulating water use if there is a risk of land and water degradation, including as a result of—

- (a) rising underground water levels;
- (b) increasing salinisation;
- (c) deteriorating water quality;
- (d) waterlogging of soils;
- (e) destabilisation of bed and banks of watercourses;
- (f) damage to riverine environment;
- (g) increasing soil erosion.

59 Contents of water use plans

- (1) The water use plan must—
 - (a) state the purpose of the plan; and
 - (b) contain a map of the plan area; and
 - (c) state the types of water use that are subject to the plan; and
 - (d) state standards for water use practices; and
 - (e) state objectives for water use efficiency, water reuse and water quality; and

- (f) state the monitoring requirements and responsibilities.
- (2) The plan may include, but is not limited to, schedules for the progressive implementation of the plan's requirements.

60 Making draft water use plan

- (1) Before finalising a water use plan the Minister must make a draft of the plan.
- (2) The Minister must consider the following in making a draft of a water use plan—
 - (a) changes to water use practices that will reduce the risk to land and water resources arising from the use of water on land;
 - (b) existing industry codes of practice for water use.

61 Publishing draft water use plan

- (1) After the Minister makes a draft of a water use plan, the Minister must publish the draft plan.
- (2) As soon as practicable after publishing the draft of a water use plan, the Minister must publish a notice stating—
 - (a) the draft plan has been published; and
 - (b) how the draft plan may be inspected; and
 - (c) that submissions about the draft plan may be made by any entity;
 - (d) the day by which, how and to whom, the submissions must be made.
- (3) The period for making submissions must not be less than 30 business days after the notice is published.

62 Decision about finalising water use plan

- (1) Before deciding to finalise a water use plan, the Minister must consider all properly made submissions about the draft of the plan under section 61.
- (2) If the Minister decides to finalise the plan, the Minister must submit the plan for approval by the Governor in Council.
- (3) If the Minister decides not to finalise the plan, the Minister must publish a notice advising of the decision and the reasons for the decision.

63 Effect of water use plan

A water use plan does not have effect until it has been approved by the Governor in Council, and from the approval is—

- (a) the water use plan for its plan area; and
- (b) subordinate legislation.

64 Public notice of content of water use plan

As soon as practicable after a water use plan is approved, the chief executive must—

- (a) publicly notify the requirements of the plan for water users; and
- (b) conduct public meetings to explain the requirements.

65 Amending or replacing a water use plan

- (1) The Minister may—
 - (a) amend a water use plan; or
 - (b) prepare a new water use plan to replace an existing water use plan.

- (2) The Minister must amend a water use plan or prepare a new water use plan to replace an existing water use plan if the Minister is satisfied the water use plan is not addressing the risk to land and water arising from the use of water on land in the plan area.

66 Preparing an amendment or replacement of a water use plan

- (1) To amend or replace a water use plan, section 61 applies to the proposed amending or replacement water use plan (the *amending or replacement plan*)—
 - (a) as if a reference in the section to a water use plan were a reference to the amended or replaced plan; and
 - (b) with any other necessary changes.
- (2) However, section 61 does not apply if the amendment to be made is—
 - (a) to correct a minor error in the water use plan, or make another change that is not a change of substance; or
 - (b) of a type stated in the plan as not requiring public consultation.

Division 5 Water management protocols

67 What is a *water management protocol*

A *water management protocol* is a document that, for the purpose of implementing a water plan, may state any of following for the plan area—

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- (a) if provided for in the water plan—the volumes of unallocated water reserved for stated purposes or stated locations, or a process for releasing unallocated water;
- (b) for water allocations managed under a resource operations licence—the water allocation dealing rules;

Note—

See section 158 (Water allocation dealing rules).

- (c) for water allocations not managed under a resource operations licence—
 - (i) the water allocation dealing rules; and
 - (ii) the water sharing rules; and
 - (iii) the seasonal water assignment rules;
- (d) anything else the chief executive considers necessary for implementing the water plan.

68 Making a water management protocol

- (1) The chief executive may make 1 or more water management protocols to implement a water plan.
- (2) A water management protocol must, for a water plan—
 - (a) be consistent with the water plan outcomes and the measures that contribute to achieving them; and
 - (b) achieve any objectives stated in the plan, including the water allocation security objective and the environmental flow objectives; and
 - (c) be developed with adequate consultation with persons affected by the protocol as it implements the plan.

69 Amending or replacing a water management protocol

- (1) The chief executive may amend or replace a water management protocol at any time.
- (2) The amendment or replacement must—
 - (a) be consistent with the water plan outcomes and the measures that contribute to achieving them; and
 - (b) achieve any objectives stated in the plan, including the water allocation security objective and the environmental flow objectives; and
 - (c) be developed with adequate consultation with persons affected by the protocol as it implements the plan.
- (3) The chief executive must amend a water management protocol—
 - (a) if the water plan outcomes, measures or objectives of the relevant water plan are changed, to the extent necessary to be consistent with the plan; or
 - (b) if necessary to implement a water development option.
- (4) If the chief executive amends or replaces a water management protocol, the chief executive must publish a statement of changes made to the protocol.

Division 6 Water entitlement notice

70 What is a *water entitlement notice*

- (1) A *water entitlement notice* is a notice that, for the purpose of implementing a water plan,

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provides for any or all of the following in the plan area—

- (a) the conversion to a water allocation of a water licence, interim water allocation or other authority to take water;
- (b) the grant of a water allocation or water licence—
 - (i) as a result of an unallocated water release; or
 - (ii) to implement a water development option;
- (c) the cancellation of a surrendered water allocation;
- (d) the granting of a water licence without the need for an application to be made under section 107;

Note—

See section 116 (Granting a water licence under a process in a plan or regulation).

- (e) the amendment of a water licence to implement the plan;
 - (f) the refusal of a particular application for a water licence if necessary to implement the plan;
 - (g) the repeal of a water licence if the licence is no longer necessary to authorise a particular take of, or interference with, water;
 - (h) the replacement of a water licence with another water licence necessary to authorise a particular take of, or interference with, water.
- (2) If a water allocation or water licence is no longer necessary to authorise a particular take of, or interference with, water, the water entitlement

notice may state the authority under this Act that authorises the take or interference.

71 Making a water entitlement notice

The chief executive may make a water entitlement notice.

72 Draft water entitlement notice

- (1) Before making a water entitlement notice, the chief executive must publish a draft of the water entitlement notice.
- (2) As soon as practicable after publishing the draft of a water entitlement notice, the chief executive must publish a notice stating—
 - (a) the draft has been published; and
 - (b) where copies of the draft may be inspected; and
 - (c) that submissions about the draft may be made by any affected person; and
 - (d) the day by which, how and to whom, the submissions must be made; and
 - (e) that a notice under section 73 may be given at any time before the water entitlement notice has effect.
- (3) A copy of the notice under subsection (2) must be given to each affected person.
- (4) The period for making submissions must not be less than 30 business days after the notice is published.

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73 Additional requirements for notices for draft water entitlement notices that establish water allocations

(1) If the draft water entitlement notice allows for water allocations to be granted under section 70(1), the notice published under section 72(2) must also state that—

- (a) any proposed water allocation holders may give the chief executive a notice in the approved form stating the holders wish to be recorded on the water allocations register other than as tenants in common in equal shares; and

Note—

See section 146(4) and (5).

- (b) existing interest holders may give the chief executive a notice in the approved form stating the interest holder intends to take action to have the holder's interest recorded on the water allocations register; and
- (c) if an interest holder who gives the chief executive a notice under paragraph (b) has the consent of the proposed water allocation holder to the encumbering of the proposed water allocation with the interest the interest holder has in the existing water entitlement or other authority to take water, the interest holder may give the chief executive notice of the consent in the approved form.

(2) It is declared that—

- (a) an existing mortgagee of land to which an existing water entitlement or other authority to take water attaches is an existing interest holder; and
- (b) the existing mortgagee's interest under the mortgage in the land is an existing interest

in the existing water entitlement or other authority to take water.

- (3) It is also declared that a person is not a proposed water allocation holder under subsection (1)(c) unless—
 - (a) the person is the registered owner of all of the land to which the existing water entitlement or other authority to take water relates; and
 - (b) the interest the interest holder has in the existing water entitlement or other authority to take water relates to all of the land.

74 Reviewing submissions about draft water entitlement notice

- (1) This section applies if there is a properly made submission from an affected person about a draft water entitlement notice.
- (2) After the last day for the making of submissions about the draft water entitlement notice, the chief executive must—
 - (a) collate information about all properly made submissions made about the draft; and
 - (b) give the collated information to a referral panel.
- (3) The panel must review the draft water entitlement notice and the submissions and make recommendations to the chief executive within 40 business days after receiving the collated information.
- (4) However, subsection (2) does not apply for a submission if the chief executive is satisfied that—

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- (a) the submission requests a change to the draft water entitlement notice that would be inconsistent with the water plan that the draft is to implement; or
- (b) the draft should be amended in accordance with the submission.

75 Finalising water entitlement notice

- (1) In finalising the water entitlement notice, the chief executive must consider—
 - (a) all properly made submissions; and
 - (b) the referral panel's recommendations.
- (2) The chief executive may make the water entitlement notice, with or without amendment.
- (3) After considering the matters mentioned in subsection (1), the chief executive must submit the water entitlement notice to the Governor in Council for approval.

76 Effect of water entitlement notice

- (1) A water entitlement notice does not have effect until it is approved by the Governor in Council.
- (2) A water entitlement notice may state the day or days, occurring after its approval by the Governor in Council, from which the different matters implemented by the notice are to have effect.

77 Publication of approved water entitlement notice

As soon as practicable after a water entitlement notice is approved by the Governor in Council, the chief executive must—

- (a) publish the notice; and

- (b) notify each affected person of the publication of the notice within 30 business days after the publication.

78 When water entitlement notice ceases to have effect

A water entitlement notice ceases to have effect when all matters to be implemented by the notice have taken effect.

Division 7 Water development options

Subdivision 1 Preliminary

79 Definition for div 7

In this division—

major water infrastructure project means a project declared to be a major water infrastructure project under section 81.

80 What is a *water development option*

A *water development option* is a commitment by the chief executive, to a person proposing a major water infrastructure project, to reserve an amount of water on the conditions decided by the chief executive.

Subdivision 2 Granting water development options

81 Declaration of major water infrastructure project

- (1) The chief executive may, by gazette notice, declare a project to be a major water infrastructure project.
- (2) However, the chief executive may make a declaration under subsection (1) only if satisfied—
 - (a) the project is—
 - (i) a coordinated project; or
 - (ii) a project the chief executive considers is likely to become a coordinated project; and
 - (b) that appropriate environmental assessments will be carried out in relation to the project.
- (3) The chief executive may make a declaration—
 - (a) after receiving an application for a water development option under section 83; or
 - (b) without application before granting a water development option under section 84.

82 Matters chief executive must have regard to before making declaration

- (1) In deciding whether to declare a project to be a major water infrastructure project, the chief executive must have regard to the following—
 - (a) a pre-feasibility assessment of the project, including how the project satisfies an identified need or demand for the volume of water being sought for the project;

- (b) relevant planning schemes or policy frameworks of a local government or the State;
 - (c) relevant water plans;
 - (d) State policies, government priorities and regional plans made under the *Sustainable Planning Act 2009*;
 - (e) any other matter the chief executive considers relevant.
- (2) However, the chief executive need not consider an application under section 83 unless the chief executive is satisfied that the project has at least 1 of the following—
- (a) complex approval requirements imposed by a local government, the State or the Commonwealth;
 - (b) strategic significance to a locality, region or the State, including for the infrastructure, economic and social benefits, capital investment or employment opportunities it may provide;
 - (c) the potential for significant impact on flows that would affect the environment or existing water authorisations because of taking or interfering with water;
 - (d) a requirement for more water than would be available through existing unallocated water reserves for the relevant area.
- (3) The chief executive is not bound to declare a project to be a major water infrastructure project merely because the project satisfies 1 or more of the matters mentioned in subsection (2).

83 Granting a water development option on application

- (1) The proponent of a proposed or gazetted major water infrastructure project may apply to the chief executive for a water development option for the project.
- (2) The application must—
 - (a) be in an approved form; and
 - (b) contain a pre-feasibility assessment of the project and sufficient information to enable the chief executive to declare the project to be major water infrastructure and decide the application; and
 - (c) be accompanied by the fee prescribed by regulation.
- (3) The chief executive must decide whether or not to grant the water development option.
- (4) The chief executive must—
 - (a) give the applicant notice of the decision, and the reasons for the decision within 30 business days; and
 - (b) if the chief executive grants the water development option—
 - (i) give the applicant a copy of the option; and
 - (ii) publish details of the grant of the option on the department's website.

84 Granting a water development option without application

- (1) The chief executive may grant a water development option without application under a process prescribed by regulation.

- (2) However, the option may be granted only if the option is consistent with the terms of an agreement between the State and a proponent of a major water infrastructure project.

85 Deciding to grant a water development option

In deciding whether to grant a water development option the chief executive must consider the following—

- (a) availability of alternative water supplies, including through the market;
- (b) the time frame for completion of the major water infrastructure project;
- (c) other commitments or future demands for the water, including existing water development options;
- (d) whether an environmental assessment is likely to demonstrate that any significant impacts on flows that would affect the environment or existing water authorisations can be adequately mitigated;
- (e) detailed information about the project given by the proponent in an application under section 83 or under a process mentioned in section 84;
- (f) any other matters the chief executive considers relevant.

86 Content of a water development option

A water development option must state—

- (a) the name of the holder of the option;
- (b) the water to which the option applies;

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- (c) if the option is for taking water—the volume of water that may be taken;
- (d) if the option is for interfering with water—the storage capacity and location of proposed infrastructure that would interfere with or store water for the project;
- (e) the term of the option;
- (f) milestones to be achieved by particular dates, for example, the public notification of an environmental impact statement;
- (g) the conditions of the option, including, for example, conditions requiring the mitigation of impacts on the environment or existing water authorisations;
- (h) the price, or the process for establishing the price, to be paid on the implementation of the water development option;
- (i) any other matters the chief executive considers relevant.

87 Expiry of water development option

A water development option expires—

- (a) for a project that has not yet been declared a coordinated project—if the holder of the option has not applied for a coordinated project declaration with 6 months of the option being granted; or
- (b) if the Coordinator-General—
 - (i) refuses the application for a coordinated project declaration; or
 - (ii) recommends that the coordinated project should not proceed; or
- (c) at the end of the term of the option; or

- (d) on the granting of water authorisations.

88 Extending term of water development option

The chief executive may extend the term of a water development option, or the time for achieving a milestone, if the holder of the option agrees to the extension and—

- (a) demonstrates to the satisfaction of the chief executive that they have a reasonable excuse for requiring the extension; and
- (b) submits a program outlining the revised milestones that the holder must meet to prevent the expiration of the option.

89 Transferring water development option

- (1) This section applies to a water development option if the existing holder of the option proposes to transfer the option to another person.
- (2) The holder may apply by notice to the chief executive to record the transfer.
- (3) The chief executive may record the transfer only if the chief executive is satisfied the holder has given the Co-ordinator General notice of the change of the proponent for the major water infrastructure project.
- (4) A transfer has no effect unless recorded by the chief executive.

90 Cancelling a water development option

- (1) The chief executive may cancel a water development option for a project if the chief executive is satisfied—

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- (a) the holder of the option fails to meet the milestones to be achieved by particular dates; or
 - (b) the environmental assessment for the major water infrastructure project does not—
 - (i) demonstrate that there is sufficient water available to support the project; and
 - (ii) demonstrate that any significant impacts on flows that would affect the environment or existing water authorisations can be adequately mitigated.
- (2) If the chief executive intends to cancel a water development option, the chief executive must—
 - (a) give the holder of the option notice of the intention to cancel and the chief executive's reasons for the proposed cancellation; and
 - (b) invite the holder to make a submission about the cancellation by the date stated in the notice.
- (3) Before making a decision about the cancellation, the chief executive must consider any submission made by the holder of the option.
- (4) If the chief executive decides to cancel the option, the chief executive must give the holder of the option notice of the decision, including the reasons for the decision.
- (5) The chief executive may revoke a declaration made under section 81 after making a decision to cancel a water development option.

Subdivision 3 Implementing water development options

91 Implementing a water development option

- (1) The chief executive must give effect to a water development option by granting authorisations under section 92 if consistent with the water plan and any moratorium notice relevant to the major infrastructure project.
- (2) Subsection (3) applies if implementing a water development option would require an amendment to a water plan, water management protocol or moratorium.
- (3) The chief executive must not act under subsection (1) unless—
 - (a) if the water management protocol requires amendment—the chief executive has amended the protocol; or
 - (b) if the water plan or moratorium notice requires amendment—the Minister has amended the plan or notice.
- (4) The chief executive may only act under subsection (1) if the chief executive is satisfied—
 - (a) the Coordinator-General recommends that the coordinated project should proceed; and
 - (b) the holder of the water development option has met the conditions of the option, including meeting the required milestones.
- (5) The chief executive may amend a protocol under subsection (3)(a) only if the chief executive is satisfied—
 - (a) that adequate consultation has been undertaken by the holder of the water development option; and

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- (b) that the proposed arrangements following implementation will mitigate any significant impacts on flows that would affect the environment or existing water authorisations.

92 Granting water entitlements and other authorisations for water development options

- (1) The chief executive must grant either of the following to implement the water development option upon receipt of payment of the price stated on the water development option or determined through the process for establishing the price stated on the option—
 - (a) a water entitlement granted under section 116 or 147;
 - (b) a resource operations licence or distribution operations licence granted under section 180.
- (2) For subsection (1), the grant must be consistent with—
 - (a) the Coordinator-General's approval for the coordinated project, including any approval conditions; and
 - (b) the water planning instruments relevant to the water development option.
- (3) No legal right or interest in the water arises in the holder of the water development option until a grant is made under this section.

**Part 3 How State authorises
take or interference
with water**

**Division 1 Statutory authorisation to
take or interfere with water**

**Subdivision 1 Authorisations that may
not be limited by water
planning instrument**

93 General authorisations to take water

A person may do any of the following—

- (a) take water for a public purpose in an emergency situation;
- (b) take water for fighting a fire;
- (c) take water for undertaking routine testing of fire fighting equipment;
- (d) take water from a watercourse, lake or spring for camping purposes;
- (e) take water from a watercourse, lake or spring for watering travelling stock;
- (f) take overland flow water that is contaminated agricultural run-off.

94 General authorisations to interfere with water

Any person may do any of the following—

- (a) interfere with overland flow water;
- (b) interfere with water from a watercourse, lake or spring by impoundment for

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structures used by the State or the Commonwealth to collect monitoring data.

95 Aboriginal and Torres Strait Islander parties

- (1) An Aboriginal party or Torres Strait Islander party may, in the area of the State for which the person is an Aboriginal or Torres Strait Islander party, take or interfere with water for traditional activities or cultural purposes.

- (2) In this section—

Aboriginal party see the *Aboriginal Cultural Heritage Act 2003*, section 35.

cultural purpose means an activity, other than a commercial activity, that supports the maintenance or protection of the following—

- (a) Aboriginal cultural heritage within the meaning of the *Aboriginal Cultural Heritage Act 2003*, section 8;
- (b) Torres Strait Islander cultural heritage within the meaning of the *Torres Strait Islander Cultural Heritage Act 2003*, section 8.

Torres Strait Islander party see the *Torres Strait Islander Cultural Heritage Act 2003*, section 35.

traditional activities, for an Aboriginal party or Torres Strait Islander party, means any of the following activities the party carries out in accordance with Aboriginal tradition or Island custom—

- (a) hunting, fishing, gathering or camping;
- (b) performing rites or other ceremonies;
- (c) visiting sites of significance.

96 Land owners may take water for stock or domestic purposes

- (1) An owner of land on which there is water collected in a dam may take the water for stock or domestic purposes.
- (2) An owner of land adjoining a watercourse, lake or spring may take water from the watercourse, lake or spring for stock or domestic purposes.
- (3) However, water can not be taken for domestic purposes under subsection (1) or (2) if the land is—
 - (a) declared by regulation as land to which this subsection applies; and
 - (b) subdivided after the regulation is made.
- (4) In this section—

land includes any land contiguous with the land adjoining the watercourse, lake or spring if all the land is owned by the same owner.

97 Environmental authorities

- (1) A person may take overland flow water that is not more than the volume necessary to satisfy the requirements of—
 - (a) an environmental authority; or
 - (b) a development permit for carrying out an environmentally relevant activity, other than a mining or petroleum activity, under the *Environmental Protection Act 1994*, schedule 4.
- (2) A person may interfere with the flow of water by impoundment if the interference is not more than is necessary to satisfy the requirements of an environmental authority.
- (3) However, subsections (1) and (2) apply only if—

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- (a) the impacts of the take or interference were assessed as part of a grant of an environmental authority or development permit; and
- (b) the environmental authority or development permit was granted with a condition about the take or interference with water.

98 Resource activities

- (1) A person may interfere with the flow of water by diversion if—
 - (a) the interference is a diversion of a watercourse and is associated with a resource activity; and
 - (b) the impacts of the interference were assessed as part of a grant of an environmental authority for the resource activity; and
 - (c) the environmental authority was granted with a condition about the diversion of the watercourse.
- (2) In this section—
resource activity see the *Environmental Protection Act 1994*, section 107.

99 Constructing authorities and water service providers

- (1) A constructing authority or water service provider may take water to operate public showers or toilets.
- (2) A constructing authority may take water to construct or maintain infrastructure if—
 - (a) the construction or maintenance is lawful; and

- (b) taking water for that purpose is prescribed by regulation; and
 - (c) the constructing authority complies with the following conditions—
 - (i) those prescribed by regulation;
 - (ii) those fixed by the chief executive, by notice given to the constructing authority, about taking water.
- (3) The conditions may do all or any of the following—
- (a) limit the volume of water the constructing authority may take in a year;
 - (b) limit the volume of water the constructing authority may take from a particular source at a particular location during a stated period;
 - (c) require the constructing authority to give the chief executive notice of the constructing authority's intention to take water from a particular source;
 - (d) require the constructing authority to take the water only through a meter of a type approved by the chief executive;
 - (e) require the constructing authority to give a written report to the chief executive about stated matters for the water taken;

Examples of matters about which a report may be required—

- the locations from which water was taken
 - the source from which the water was taken
 - the volume of water taken from a source
 - the day on which the water was taken
- (f) require the constructing authority to obtain written approval from the operator of a

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water supply scheme before taking water managed under an interim resource operations licence, resource operations licence or distribution operations licence.

Subdivision 2 Authorisations that may be limited by water planning instrument or regulation

100 How this subdivision applies

Nothing in this subdivision limits an authorisation under subdivision 1.

101 Authorisation that may be altered or limited by water planning instrument

- (1) A person may, subject to any relevant alteration or limitation prescribed under a moratorium notice, water plan or a regulation under section 1046 do the following—
 - (a) take water if doing so is necessary to carry out an activity prescribed by regulation;
 - (b) take overland flow water for any purpose;
 - (c) take or interfere with underground water for any purpose;
 - (d) take water that has been collected in a dam for any purpose other than a dam across a watercourse or lake;
 - (e) take or interfere with water from a designated watercourse.
- (2) A regulation may prescribe limitations on the carrying out of an activity prescribed under subsection (1)(a).

102 Authorisations under water plans or regulation

- (1) A person may, in a water plan area, subject to any relevant alteration or limitation prescribed under a moratorium notice, do the following—
 - (a) take water up to a volume stated in the water plan for the area;
 - (b) take water if doing so is necessary to carry out an activity stated in the water plan for the area;
 - (c) interfere with water to the extent stated in the water plan for the area.
- (2) Subsection (3) applies if—
 - (a) there is no water plan; or
 - (b) the water plan for a water plan area does not provide for the taking or interfering with water up to a volume stated in the plan.
- (3) A person may, subject to any relevant alteration or limitation prescribed under a moratorium notice, do the following—
 - (a) take water up to a volume prescribed by regulation;
 - (b) interfere with water to the extent prescribed by regulation.

103 Authorisation to take water for stock or domestic purposes may be limited

An owner of land may take water from a watercourse, lake or spring for stock or domestic purposes if—

- (a) for a watercourse, lake or spring located in the plan area for a water plan—the water is taken from a location, and in the way, stated in the plan; or

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- (b) otherwise—the water is taken from a location, and in the way, prescribed by regulation.

Division 2 Water licences

Subdivision 1 Preliminary

104 Definitions for div 2

In this division—

owner, of land, means any of the following—

- (a) the registered proprietor of the land;
- (b) the lessee, sublessee or licensee of the land under the *Land Act 1994*;
- (c) the trustee of a reserve over the land or the holder of a permit to occupy the land under the *Land Act 1994*;
- (d) the lessee of the land under a registered lease under the *Land Title Act 1994*.

prescribed entity means any of the following—

- (a) the State;
- (b) a local government;
- (c) the applicant for a resource tenure;
- (d) a resource tenure holder;
- (e) the holder of a geothermal tenure under the *Geothermal Energy Act 2010* relating to the land;
- (f) the holder of a GHG tenure under the *Greenhouse Gas Storage Act 2009* relating to the land;

- (g) the plantation licensee of a plantation licence under the *Forestry Act 1959*;
- (h) a water authority;
- (i) the holder of a resource operations licence, distribution operations licence or an operations licence;
- (j) the holder of, or applicant for, a pipeline licence or petroleum facility licence under the Petroleum and Gas Act;
- (k) CEWH;
- (l) an entity prescribed by regulation.

105 Purpose of div 2

Under this division, the chief executive may grant water licences for taking water and interfering with the flow of water, for example, by a weir.

106 What is a water licence

- (1) A water licence may authorise the taking of water from a location or the interference with water at a location.
- (2) Generally, a water licence attaches to the water licensee's land, other than if the licensee is an prescribed entity.
- (3) However, a water licence to take underground water for stock or domestic purposes—
 - (a) attaches to the parcel of land on which the water is taken; and
 - (b) if the water is used on another parcel that is the licensee's land—may attach to all parcels on which the water is used.

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- (4) A water licence may be amended, renewed, reinstated, relocated, transferred, amalgamated, subdivided, surrendered, cancelled or repealed.

Subdivision 2 Obtaining a water licence

107 Applying for a water licence

- (1) An owner of a parcel or parcels of land may apply for a water licence for the parcel or parcels—
 - (a) for taking water and using the water on any of the land; or
 - (b) to interfere with the flow of water on, under or adjoining any of the land; or
 - (c) for both taking and using water under paragraph (a) and interfering with the flow of water under paragraph (b) if the take is from the storage created by the interference.
- (2) An application under subsection (1)(a) may be for taking water from any of the following—
 - (a) a watercourse, lake or spring on or adjoining any of the land;
 - (b) an aquifer under any of the land;
 - (c) water flowing across any of the land.
- (3) Also, an application under subsection (1)(a) or (b) may be for taking water from a watercourse, lake, spring or aquifer if—
 - (a) for water from a watercourse, lake or spring—the watercourse, lake or spring does not adjoin any of the applicant's land or the proposed point of taking the water is not on the applicant's land; or

- (b) for water from an aquifer—the aquifer is not under the applicant’s land.
- (4) A prescribed entity may also apply for a water licence for taking water or interfering with the flow of water.

108 Applying for transmission water licence

- (1) Subject to subsection (3), each of the following entities may apply for a water licence (a *transmission water licence*) for taking water from a receiving water source—
 - (a) the bulk water supply authority;
 - (b) a relevant entity for a recycled water scheme;
 - (c) an entity nominated by a relevant entity for a recycled water scheme.
- (2) An application made under subsection (1) is a *licence application*.
- (3) If recycled water in a receiving water source is supplied from water supply works that supply bulk services under a bulk water supply agreement, the bulk water supply authority is the only entity that may make a licence application in relation to the receiving water source.
- (4) This subdivision, other than sections 110, 111, 113 and 114 and this section, does not apply to a licence application.
- (5) For applying sections 110, 111, 113 and 114, a reference to an application is taken to be a reference to a licence application.
- (6) The chief executive may decide the licence application without notice of the licence application being published.

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(7) If the chief executive grants a licence application, the transmission water licence does not attach to the licensee's land.

(8) In this section—

approved recycled water management plan has the meaning given in the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

receiving water source means a lake, or watercourse, into which recycled water is supplied under an approved recycled water management plan to augment a supply of drinking water.

relevant entity has the meaning given in the *Water Supply (Safety and Reliability) Act 2008*, schedule 3.

109 When application may not be made

An application can not be made for a water licence for an activity that the applicant is authorised to do under part 3, division 1.

110 How application may be made

An application under section 107 or section 108 must be—

- (a) made to the chief executive in the approved form; and
- (b) accompanied by the fee prescribed by regulation.

111 Additional information may be required

(1) The chief executive may require—

- (a) the applicant to give additional information about the application within the reasonable time stated in the requirement; or
 - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration; or
 - (c) if notice of the application is published—any submitter to give additional information about the submission.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

112 Public notice of application for water licence

- (1) This section applies if the chief executive is satisfied the application has been properly made and the applicant has given the chief executive any additional information requested for the application.
- (2) However, this section does not apply if—
 - (a) the application is for taking underground water only for domestic purposes or watering stock of a number that would normally be depastured on the land to which the application relates; or
 - (b) the chief executive is satisfied granting the application would be inconsistent with a water plan.
- (3) The chief executive must give the applicant a notice requiring the applicant to publish the information, for the period and in the way, stated in the notice.

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- (4) The information to be published must include at least the following—
 - (a) the location of the proposed taking of, or interfering with, water;
 - (b) where copies of the application may be inspected;
 - (c) that written submissions may be made by any entity about the application;
 - (d) a day by which submissions must be made, and the person to whom, and the place where, the submissions must be made.
- (5) The day stated under subsection (4)(d) must not be earlier than 30 business days after the day the information is published.
- (6) Within 10 business days after the information is published, the applicant must give the chief executive evidence of the publication.
- (7) If the applicant fails, without reasonable excuse, to comply with subsection (6), the application lapses.

113 Criteria for deciding application for water licence

In deciding whether to grant or refuse the application, the chief executive must consider the application together with—

- (a) if a water plan would apply to any water licence granted—the water plan; and
- (b) if the application relates to the Murray-Darling Basin—the long-term average sustainable diversion limits included in the Basin Plan; and

- (c) if additional information has been given to the chief executive under section 111—the additional information; and
- (d) if notice of the application has been published under section 112—all properly made submissions about the application; and
- (e) if a water plan would not apply to any water licence granted—
 - (i) existing water entitlements and authorities to take or interfere with water; and
 - (ii) any information about the effects of taking, or interfering with, water on natural ecosystems; and
 - (iii) any information about the effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs or aquifers; and
 - (iv) strategies and policies for water resource management in the area to which the application relates; and
 - (v) the public interest.

114 Deciding application for water licence

- (1) The chief executive must decide to grant, or to grant in part, with or without conditions, or refuse to grant, the application.
- (2) Subsection (3) applies if the granting, or granting in part, of the application would be inconsistent with a water plan.
- (3) The chief executive must refuse the application and give notice of the decision, including the

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- reasons for the decision, within 30 business days after deciding the application.
- (4) Subsection (5) applies if the chief executive makes a decision consistent with—
- (a) the water plan, if no other decision could have been made; or
 - (b) a water entitlement notice; or
 - (c) the terms of grant or sale for an unallocated water release process.
- (5) The chief executive must give notice of the decision, including the reasons for the decision, within 30 business days after deciding the application.
- (6) Subsection (7) applies if—
- (a) a water plan does not apply to the water the subject of the application; or
 - (b) the chief executive makes a decision consistent with the water plan and a different decision consistent with the plan could have been made.
- (7) The chief executive must give the applicant, and any person who gave a properly made submission about the application, an information notice about the decision within 30 business days after deciding the application.
- (8) If the chief executive grants the application, or grants the application in part, with or without conditions, the chief executive must, within 30 business days after the granting, give a water licence in the approved form to—
- (a) the applicant; or
 - (b) if after making the application the applicant has ceased to be an owner of land to which

the application relates—the registered owner of the land.

- (9) The licence has effect from the day the information notice or notice of the decision is given to the applicant.

115 Effect of disposal of part of land to which application for water licence relates

- (1) Subsection (2) applies if—
- (a) an application for a water licence is made to the chief executive; and
 - (b) the applicant disposes of part of the land to which the application relates; and
 - (c) at the time the applicant disposes of the part, the chief executive has not decided the application under section 114.
- (2) The application lapses on the day the applicant disposes of the part.

116 Granting a water licence under a process in a plan or regulation

- (1) Subsection (2) applies if—
- (a) a water plan, water management protocol or regulation states a process for the allocation of water, or interference with the flow of water, under a water licence; or
 - (b) the chief executive decides to grant a water licence for the allocation of water, or interference with the flow of water, to implement a water development option under section 92.
- (2) The chief executive may grant a water licence under this section in accordance with the process

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without the need for an application to be made under section 107.

- (3) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and a notice about the granting of the licence in the way stated in section 114.
- (4) The licence has effect from the day the licence is given to the licensee.

Subdivision 3 Contents, terms and conditions of water licences

117 Contents of water licence

A water licence must state—

- (a) the term of the licence; and
- (b) the water to which the licence relates; and
- (c) one of the following—
 - (i) the location from which the water may be taken;
 - (ii) the location at which water may be interfered with;
 - (iii) the location from which the water may be taken and at which it may be interfered with; and
- (d) the conditions of the licence.

118 Conditions of water licence

- (1) The water licence is subject to the conditions—
 - (a) prescribed by regulation; and

- (b) the chief executive may impose for a particular licence.
- (2) Without limiting subsection (1), the conditions may require the holder of the licence to do all or any of the following—
 - (a) install a measuring device to measure the volume of water taken, the rate at which it is taken and the time it is taken;
 - (b) provide and maintain access to alternative water supplies for other persons, authorised under this Act to take water, who would be affected by the granting of the licence;
 - (c) carry out and report on a stated monitoring program;
 - (d) give relevant information reasonably required by the chief executive for the administration or enforcement of this Act.

119 Where water under certain licences must be used

- (1) Water taken under a licence that is attached to land must be used only on the land to which the licence attaches.
Maximum penalty—1665 penalty units.
- (2) However, subsection (1) does not apply to—
 - (a) water taken under a licence attached to land the subject of a water facility agreement under the *Land Protection (Pest and Stock Route Management) Act 2002*; or
 - (b) underground water taken under a water licence for stock or domestic purposes.

Subdivision 4 Dealings with water licences

120 What are dealings with water licences

The following are dealings with water licences—

- (a) amending a licence;
- (b) renewing a licence;
- (c) reinstating a licence;
- (d) relocating a licence;
- (e) transferring a licence;
- (f) amalgamating licences;
- (g) subdividing a licence;
- (h) seasonal water assignment of a licence;
- (i) cancelling a licence;
- (j) surrendering a licence;
- (k) repealing a licence.

121 Who may apply for dealing with water licence

- (1) The licensee of a water licence may apply for 1 or more dealings with the licence.
- (2) However, this section does not apply to a licensee surrendering the licensee's water licence or the cancellation or repeal of a licence.
- (3) Also, the following persons may apply for the dealing with the water licence mentioned in the circumstances mentioned—
 - (a) for a seasonal water assignment for the water year in which the application is made—the holder of a seasonal water assignment notice;

- (b) for the transfer of a water licence—the licensee and proposed transferee if the proposed transferee may apply for water licence under section 107;
- (c) for an application to reinstate an expired water licence—
 - (i) if a licensee fails to renew a water licence—the licensee; or
 - (ii) if the licensee has ceased to be an owner of the land to which the licence was attached—another owner of the land;
- (d) for an application to amalgamate 2 or more water licences into a single licence—either of the following—
 - (i) the licensee or licensees of 2 or more water licences relating to the same land;
 - (ii) a prescribed entity.

122 How to apply for dealing with water licence

- (1) An application for a dealing with a water licence must be—
 - (a) made to the chief executive in the approved form; and
 - (b) accompanied by the fee prescribed by regulation.
- (2) For an application mentioned in section 123, 126 or 127, the application must comply with the requirements stated in the section.

123 Application to amend water licence to add or remove land

- (1) This section applies to an application to amend a water licence—
 - (a) by adding land to the land to which the licence attaches; or
 - (b) by removing land from the land to which the licence attaches, whether or not the application also seeks a reduction in the volume of water that may be taken under the licence.
- (2) The applicant must give notice of the application to any entity that has an interest in the land to which the licence attaches, the land to be added or the land to be removed.
- (3) The notice must include at least the following—
 - (a) a description of the proposed changes to the land to which the licence attaches;
 - (b) where copies of the application may be inspected and, on payment of a fee, purchased.
- (4) The application to amend the licence must be accompanied by written advice from the applicant that the applicant has complied with subsection (2) for the application.
- (5) Within 10 business days after the notice is given, the applicant must give the chief executive a copy of the notice.
- (6) If the applicant fails, without reasonable excuse, to comply with subsection (5), the application lapses.
- (7) The chief executive may send a copy of the notice to any other entity the chief executive considers appropriate.

124 Water licence remains in force until application for renewal decided

If a water licensee applies to renew a water licence before the licence expires, the licence remains in force until—

- (a) if the application is approved with or without variation—the applicant is given a new licence; or
- (b) if the application is refused and the applicant has appealed against the decision—until the date on which notification of the final outcome of the appeal has been given to the applicant; or
- (c) if the application is refused and the applicant has not appealed against the decision—30 business days after the applicant is given an information notice.

125 Application to reinstate expired water licence

- (1) This section applies to an application mentioned in section 121(3)(c).
- (2) The applicant may apply to have the water licence reinstated within 60 business days after the licence expires.
- (3) If an application for the reinstatement of a water licence is made, the expired licence is taken to have been in force from the day the application was made until the applicant has been notified of the chief executive's decision on the application.

126 Application to relocate water licence etc.

- (1) This section applies if, for a water licence, to take water—

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- (a) a regulation or water management protocol states that all or part of the water licence may be—
 - (i) if the licence attaches to land—transferred so that the whole or the part attaches to other land, whether in or outside Queensland; or
 - (ii) transferred to a prescribed person; or
 - (iii) amended to change the location from which the water may be taken or the purpose for which the water may be taken; or
 - (iv) amalgamated with another water licence held or to be held by the transferee; and
 - (b) a regulation states the process for dealing with an application for the transfer, amendment or amalgamation.
- (2) The application must be made in accordance with the process prescribed by regulation.
- (3) In this section—
- prescribed person*** means—
- (a) a person who is, or will be, an owner of land to which a water licence will attach when a transfer under this section is approved; or
 - (b) a prescribed entity.

127 Application for a seasonal water assignment

- (1) This section applies to an application for a seasonal water assignment of a licence.
- (2) The application may be made only if—

- (a) a water plan or the water management protocol that implements the water plan allows seasonal water assignments; or
 - (b) for water licences to which no water plan or water management protocol applies—a regulation allows seasonal water assignments and prescribes seasonal water assignment rules.
- (3) The application must—
- (a) relate to the water year in which the application is made; and
 - (b) include the name and address of the proposed assignee; and
 - (c) if the proposed assignee holds a water licence for the water management area in which the assignee proposes to take the benefit of the assignment—include details of the water licence; and
 - (d) include evidence of the consent of the proposed assignee.

128 Additional information may be required for application for dealings

- (1) The chief executive may require—
- (a) the applicant to give additional information about the application for a dealing; or
 - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration; or
 - (c) if notice of the application is published—any submitter to give additional information about the submission.

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- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

129 When chief executive must refuse application

- (1) If the granting of the application would be inconsistent with a water plan, water management protocol or the seasonal water assignment rules prescribed in a regulation, the chief executive must refuse the application without notice of the application being published.
- (2) Within 30 business days after refusing the application, the chief executive must give the applicant a notice under section 114 about the refusal.

130 When dealing must be assessed as if it were a new water licence

If a proposed dealing for a water licence does 1 or more of the following, it must be assessed as if it were an application for a new water licence—

- (a) increases the amount of water that may be taken under the licence;
- (b) increases the daily rate or maximum rate per second at which water may be taken under the licence;
- (c) changes the location of taking or interfering with water under the licence, unless the dealing is permitted under a regulation or water management protocol;
- (d) increases or changes the interference with water under the licence.

131 Recording other dealings

- (1) This section applies to a proposed dealing other than a dealing to which section 130 applies.
- (2) The chief executive must—
 - (a) approve the dealing and record it in the department's records within 30 business days after receiving the application for the dealing if the chief executive is satisfied—
 - (i) the application is consistent with any relevant regulation, water plan or water management protocol; and
 - (ii) the requirements for the application have been met; and
 - (b) if required, issue—
 - (i) 1 or more new water licences; or
 - (ii) a new seasonal water assignment notice.
- (3) If the chief executive does not record the dealing, the chief executive must give the applicant notice of the decision, including the reasons for the decision.
- (4) A water licence or notice issued under subsection (2)(b) takes effect on the day it is given to the applicant.
- (5) A water licence replaced by a new water licence issued under subsection (2)(b) expires on the day the new licence is given.
- (6) To the extent an application for a seasonal water assignment notice is approved, the licensee is not authorised to take water that is the subject of the seasonal water assignment under the water licence.

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132 Actions chief executive may take in relation to water licences

- (1) The chief executive may do the following without complying with the provisions of this division, other than this section and sections 133 to 135—
 - (a) amend a water licence to correct a minor error in the licence, or make another change that is not a change of substance;
 - (b) amend a water licence after a show cause process if the chief executive is satisfied the amendment is required;
 - (c) cancel a water licence after a show cause process if the chief executive is satisfied the licence should be cancelled;
 - (d) repeal a water licence if the licence is no longer required to authorise the taking or interference with water.
- (2) If the chief executive repeals a water licence, the chief executive must give the licensee notice of the decision, including the reasons for the decision.
- (3) If the chief executive amends a water licence under subsection (1)(a), the chief executive must give the licensee an amended licence in the approved form.

133 Actions chief executive must take in relation to water licences

- (1) The chief executive must amend, replace or repeal a water licence if the water licence is inconsistent with a water plan or a water entitlement notice.

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- (2) The chief executive must, within the time stated in the plan or notice or as soon as possible after the plan or notice is approved—
 - (a) amend, replace or repeal the water licence; and
 - (b) give the licensee a notice under section 114 stating the aspects of the existing licence that are inconsistent with the plan or notice; and
 - (c) if required—give the licensee an amended or new water licence in the approved form.
 - (3) The amended or new water licence, or the repeal of a water licence, takes effect from the day the chief executive gives the licensee the amended or new licence or notice of the repeal.

134 Amendment of water licence after show cause process

- (1) This section applies to an amendment of a water licence by the chief executive under section 132(1)(b).
- (2) The amendment must not—
 - (a) increase the amount of water that may be taken under the licence; or
 - (b) increase the daily rate or maximum rate per second at which water may be taken under the licence; or
 - (c) change the location of taking or interfering with water under the licence, unless the dealing is permitted under a regulation or water management protocol; or
 - (d) increase or change the interference with water under the licence.

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- (3) Before the chief executive acts under subsection (1), the chief executive must give the licensee a show cause notice about the proposed amendment.
- (4) In deciding whether to amend the water licence, the chief executive must consider any properly made submission about the proposed amendment.
- (5) If the chief executive is satisfied the proposed amendment should be made, the chief executive must, within 30 business days after the decision, give the licensee an amended water licence in the approved form and an information notice about the decision.
- (6) If the chief executive is not satisfied the amendment should be made, the chief executive must give the licensee notice that the water licence will not be amended.
- (7) The amended water licence takes effect from the day the licence is given to the licensee.

135 Cancellation of water licence

- (1) This section applies to a cancellation of a water licence by the chief executive under section 132(1)(c).
- (2) Section 134 applies to the cancellation—
 - (a) as if a reference in the section to an amendment of the water licence were a reference to the cancellation of the licence; and
 - (b) with any other necessary changes.
- (3) The chief executive must not cancel a water licence if a seasonal water assignment notice applies to the licence.

136 Surrender of a water licence

- (1) A licensee may surrender a water licence by giving the chief executive a notice of surrender.
- (2) The surrender—
 - (a) takes effect on the date on which the notice to surrender is received by the chief executive; and
 - (b) does not affect in any way a duty under this Act about works imposed on the licensee before the surrender.
- (3) A licensee must not surrender a water licence if a seasonal water assignment notice applies to the licence.

Division 3 Water permits

137 Applying for water permit

- (1) A person may apply for a water permit for taking water for an activity.
- (2) At the time the application is made, the activity, must have a reasonably foreseeable conclusion date.
- (3) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) supported by sufficient information to enable the chief executive to decide the application; and
 - (c) accompanied by the fee prescribed by regulation.

138 Criteria for deciding application for water permit

In deciding whether to grant or refuse the application or the conditions for the water permit, the chief executive must consider the following—

- (a) the application and additional information given in relation to the application;
- (b) existing water entitlements and authorisations to take or interfere with water;
- (c) any information about the impacts on natural ecosystems;
- (d) any information about the impacts on the physical integrity of watercourses, lakes, springs or aquifers;
- (e) the public interest.

139 Deciding application for water permit

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant all or part of the application for a stated period, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant an information notice about the decision.
- (4) If the chief executive grants all or part of the application, with or without conditions, the chief executive must, within 30 business days after granting the application, give the applicant a water permit in the approved form.

- (5) The water permit has effect from the day the information notice is given to the applicant.

140 Contents of water permit

A water permit—

- (a) relates to the location or locations stated on the permit; and
- (b) must be granted for a stated period; and
- (c) can not be transferred, amended, renewed or suspended; and
- (d) must be for a stated activity.

141 Conditions of water permit

The water permit is subject to the conditions—

- (a) prescribed by regulation; and
- (b) the chief executive may impose for a particular permit.

142 Cancelling water permit

- (1) The chief executive may cancel a water permit if the chief executive is satisfied the permit should be cancelled.
- (2) Section 134 applies to the cancellation—
 - (a) as if a reference in the section to—
 - (i) an amendment were a reference to a cancellation; and
 - (ii) a licence were a reference to a permit; and
 - (iii) a licensee were a reference to a permittee; and
 - (b) with any other necessary changes.

Division 4 Water allocations

Subdivision 1 Preliminary

143 Meaning of *element of a water allocation*

- (1) For this division, an element of a water allocation is an attribute or a condition of the allocation.
- (2) The following are attributes of a water allocation—
 - (a) the nominal volume for the allocation;
 - (b) the maximum rate;
 - (c) the volumetric limit.
- (3) The following are conditions of a water allocation—
 - (a) the location from which the water may be taken under the allocation;
 - (b) the purpose for which the water may be taken under the allocation;
 - (c) flow conditions under which the water may be taken;
 - (d) any other condition required by the chief executive under section 152(1)(e).

144 Meaning of *maximum rate* for div 4

- (1) For this division, the *maximum rate* for a water allocation is the maximum volume of water, in megalitres, that may be taken under the allocation during a day.
- (2) However, if a condition on a water allocation contains a water sharing rule about the maximum rate that applies to the water allocation, the maximum rate is, under the rule, the maximum

rate at which water may be taken during a particular period of time or in particular circumstances.

- (3) A water allocation may include more than one maximum rate if there is more than one condition that applies to the maximum rate that may be taken.

145 Meaning of *volumetric limit* for div 4

- (1) For this division, the *volumetric limit* for a water allocation is the maximum volume of water, in megalitres, that may be taken under the allocation during a water year.
- (2) However, if a condition on a water allocation or a water management protocol contains a water sharing rule about volumetric limits that applies to the water allocation, the volumetric limit stated on the water allocation is used to calculate, under the rule, the maximum volume that may be taken under the allocation during a particular period or in particular circumstances.
- (3) A water allocation may include more than one volumetric limit if there is more than one condition that applies to the limit.

Subdivision 2 Converting water entitlements and granting water allocations

146 Converting water entitlements

- (1) On the day a water entitlement notice takes effect—
 - (a) all water licences, interim water allocations or other authorities to take water, to be

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- converted under the notice, expire and the chief executive must grant to the holders of the expired water licences, interim water allocations or other authorities, the water entitlements stated in the notice; and
- (b) the registrar must record on the water allocations register details of each water allocation granted.
- (2) If the allocation is managed under a resource operations licence, the allocation holder and the resource operations licence holder must have a supply contract for the allocation.
 - (3) Subsection (4) applies if—
 - (a) the allocation holder and the resource operations licence holder have not entered into a supply contract for the allocation; and
 - (b) the resource operations licence holder has placed a standard supply contract on the resource operations licence holder's website.
 - (4) The resource operations licence holder and the allocation holder are taken to have been entered into the standard supply contract on the day the water allocation is registered.
 - (5) Subsection (6) applies if—
 - (a) the allocation holder and the resource operations licence holder have not entered into a supply contract for the allocation; and
 - (b) the resource operations licence holder has not placed a standard supply contract on the resource operations licence holder's website.
 - (6) The resource operations licence holder and the allocation holder are taken to have been entered into the standard supply contract published on the

department's website on the day the water allocation is registered.

- (7) Subsection (2) does not apply if—
 - (a) the resource operations licence holder and the water allocation holder are the same person; or
 - (b) the water allocation holder is a subsidiary company of the resource operations licence holder.
- (8) Subsection (9) applies if the chief executive has been given a notice under section 73(1)(a).
- (9) The water allocation must be recorded in accordance with the notice and has effect on the day the granting of the allocation is recorded.

147 Granting water allocations under a process in a plan or to implement a water development option

- (1) Subsection (2) applies if—
 - (a) a water plan, water management protocol or regulation states a process for the allocation of water under a water allocation; or
 - (b) the chief executive decides to grant a water allocation to implement a water development option under section 92.
- (2) The chief executive may grant a water allocation in accordance with the process.
- (3) On the day the allocation is granted, the registrar must record on the water allocations register details of the allocation.
- (4) If the allocation is managed under a resource operations licence, the allocation holder and the resource operations licence holder must have a supply contract for the allocation.

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- (5) Subsection (4) does not apply if—
 - (a) the resource operations licence holder and the water allocation holder are the same person; or
 - (b) the water allocation holder is a subsidiary company of the resource operations licence holder.
- (6) Within 30 business days after the chief executive grants the allocation, the chief executive must give the allocation holder a notice about the granting of the allocation.
- (7) The allocation has effect on the day the registrar records the granting of the allocation in the register.

148 Relationship between water plans and water allocation

- (1) Taking water under a water allocation is subject to—
 - (a) the water plan for a plan area; and
 - (b) either—
 - (i) for a water allocation managed under a resource operations licence—the conditions of the resource operations licence and any operations manual; or
 - (ii) for a water allocation not managed under a resource operations licence—the water management protocol.
- (2) If there is a conflict between the water plan and the water allocation, the plan prevails.

149 Security for supply and storage of water allocation

If a water allocation is managed under a resource operations licence, the licence holder may require the allocation holder to give the licence holder reasonable security for supplying and storing the allocation.

150 Amending water allocations

- (1) Subsection (2) applies if—
 - (a) a water plan states that a water allocation must be amended; or
 - (b) there is a change to the name of the water management area that includes the location from which water under a water allocation may be taken; or
 - (c) there is a change to the name of the resource operations licence under which a water allocation is managed.
- (2) The chief executive must—
 - (a) amend the water allocation in accordance with the plan or the change; and
 - (b) within 30 days from the day the amendment takes effect, give the allocation holder a notice about the amendment.
- (3) On the day the water allocation is amended, the registrar must record on the water allocations register details of the amendment.
- (4) The amendment has effect on the day the registrar records the amendment in the register.

151 Correcting water allocation when recording the granting or amending

- (1) The registrar may make any necessary corrections to the name of the holder of the existing water entitlement when recording the granting or amending of the water allocation.
- (2) For subsection (1), the chief executive may require—
 - (a) the applicant to give additional information about the correction; or
 - (b) any information about the correction, or any additional information required under paragraph (a), to be verified by statutory declaration.

152 Registration details for water allocations

- (1) The entry on the water allocations register for a water allocation must state the following—
 - (a) the name of the person who holds, and how the person holds, the allocation;
 - (b) a nominal volume for the allocation;
 - (c) the location from which water under the allocation may be taken;
 - (d) the purpose for which the water may be taken, including, for example, rural, distribution loss, town water supply or for any purpose;
 - (e) any conditions required by the chief executive;
 - (f) the water plan under which the allocation is managed;
 - (g) other matters prescribed by regulation.

- (2) If the water allocation is managed under a resource operations licence, the entry on the water allocations register for the allocation must also state the following—
 - (a) the resource operations licence under which the allocation is managed;
 - (b) the priority group to which the allocation belongs.
- (3) If the water allocation is not managed under a resource operations licence, the entry on the water allocations register for the allocation—
 - (a) must also state the following—
 - (i) the volumetric limit for the allocation;
 - (ii) the water allocation group to which the allocation belongs;
 - (iii) the water management area that includes the location from which the water may be taken; and
 - (b) may also state the following—
 - (i) the maximum rate for the allocation;
 - (ii) the flow conditions under which water under the allocation may be taken.

153 Water allocations to which a distribution operations licence applies

- (1) This section applies if—
 - (a) a water allocation is granted under section 146 and, at the time the allocation is granted, water may be distributed to the water allocation holder by the holder of a distribution operations licence; or
 - (b) the chief executive is satisfied that because of a change to the location—

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- (i) a water allocation takes water in a distribution operations licence area; and
 - (ii) the water to which the water allocation applies is now distributed under a distribution operations licence.
- (2) The chief executive must give the registrar notice that the water allocation is an allocation to which a distribution operations licence applies.

154 Preservation of obligation in particular circumstances

- (1) This section applies if—
 - (a) the location from which water may be taken under a water allocation to which section 153(1) applies is changed to a location to which the holder of the distribution operations licence (the *licence holder*) does not distribute water; or
 - (b) the allocation is changed or subdivided or amalgamated with another water allocation.
- (2) The obligation on the water allocation holder to pay a charge, in relation to the licence holder's distribution works, to the licence holder under the distribution arrangements between the parties continues to attach to the water allocation until the licence holder agrees that the obligation has been satisfied.
- (3) If the licence holder agrees, under subsection (2), that the obligation has been satisfied, the licence holder must give the chief executive notice in the approved form of the satisfaction.
- (4) If the chief executive receives notice under subsection (3), the chief executive must give the registrar notice that the water allocation is no

longer an allocation to which a distribution operations licence applies.

155 Disclosure to proposed transferee or lessee of water allocation to which distribution operations licence applies

- (1) This section applies to a water allocation if the water to which the water allocation relates is distributed to its holder (the *allocation holder*) under a distribution operations licence (the *DOL*).
- (2) The allocation holder must, before entering into a contract for the transfer or lease of the water allocation, give the transferee or lessee under the contract—
 - (a) a disclosure statement for the water allocation; and
 - (b) an acknowledgement notice for the water allocation, for signing by the transferee or lessee.

Examples of a contract—

a contract for the sale or lease of the water allocation or for the transfer or sublease of a lease of the water allocation

- (3) The disclosure statement for the water allocation—
 - (a) must fairly set out, for the water allocation, the relevant details of the distribution arrangements of the DOL holder, and the financial obligations of the allocation holder arising from the arrangements; and
 - (b) subject to paragraph (a), must be, or must include, a document—
 - (i) as prepared by the DOL holder for the purposes of the water allocation; and

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- (ii) given by the DOL holder to the allocation holder at the request of the allocation holder.
- (4) The DOL holder must ensure that the matters stated in the document mentioned in subsection (3)(b) are the matters that the transferee or lessee reasonably needs to be aware of before entering into the contract.
- (5) If the contract is entered into, but has not already been settled, and the allocation holder did not give the transferee or lessee the disclosure statement as required under this section, the transferee or lessee may terminate the contract.
- (6) In this section—
 - acknowledgement notice*, for the water allocation, means a statement in the approved form acknowledging that the transferee or lessee—
 - (a) has seen a disclosure statement for the water allocation; and
 - (b) understands the obligations, as set out in the disclosure statement, that apply to the transferee or lessee on becoming the holder of the water allocation.

Subdivision 3 Dealings with water allocations

156 Meaning of *water allocation dealing*

- (1) For this subdivision, a *water allocation dealing* is—
 - (a) a transfer or lease under section 157; or

- (b) a change or subdivision of a water allocation or the amalgamation of 2 or more water allocations.
- (2) A change in relation to a water allocation is a reconfiguration of any 1 or more of the elements of the allocation or a change to priority group or water allocation group.

157 Transfers or leases of water allocations not managed under a resource operations licence

- (1) A water allocation holder who proposes to transfer or lease a water allocation not managed under a resource operations licence must give the chief executive notice of the proposed transfer or lease.
- (2) The notice must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed by regulation.
- (3) The chief executive must give the water allocation holder a certificate about the proposed transfer or lease within 10 business days after receiving the notice.

158 Water allocation dealing rules

- (1) A regulation may prescribe water allocation dealing rules applying to whole of the State.
- (2) A water management protocol may state water allocation dealing rules applying to the relevant water plan area.
- (3) The rules must not allow a water allocation dealing that would—
 - (a) for a water allocation managed under a resource operations licence—

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- (i) increase the water allocation's share of the water the resource operations licence holder has available to supply the water allocations managed under the licence; or
 - (ii) increase the water the resource operations licence holder has available to supply the water allocations managed under the licence; or
 - (b) for a water allocation not managed under a resource operations licence—
 - (i) change the nominal volume for the water allocation; or
 - (ii) increase the share of the water available to be taken under the water allocation.
- (4) Water allocation dealing rules may—
 - (a) state the types of water allocation dealings that are permitted under the rules; and
 - (b) state types of water allocation dealings that must be assessed against stated criteria under the rules; and
 - (c) state the types of water allocation dealings that are prohibited under the rules.
- (5) The rules must prescribe or state the process relating to—
 - (a) the making or an application for a water allocation dealing; and
 - (b) deciding an application for a water allocation dealing by the chief executive if the dealing is a type that must be assessed.
- (6) Without limiting subsection (5), the process may state the following—
 - (a) the way an application must be made;

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- (b) that an application must be accompanied by a fee;
 - (c) the requirements for publishing notice of the application;
 - (d) that the applicant must pay the reasonable costs incurred by the chief executive in investigating the application;
 - (e) how the chief executive is to decide the application and give notice of the chief executive's decision to the applicant.

159 Applying for water allocation dealing consistent with water allocation dealing rules

- (1) The holder of a water allocation may apply to the chief executive for a water allocation dealing, other than a transfer or lease, under the water allocation dealing rules.
- (2) The chief executive must—
 - (a) if the application is for a type of dealing permitted under the water allocation dealing rules—approve the application; or
 - (b) if the application is for a type of dealing assessed under the water allocation dealing rules—approve or refuse the application and, if approved, approve it with or without conditions;
 - (c) if the application for a type of dealing prohibited under the water allocation dealing rules—refuse the application.
- (3) The chief executive must not approve an application unless the dealing is consistent with the water allocation dealing rules.
- (4) If the chief executive approves an application for a water allocation dealing, the chief executive

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must give the applicant a certificate of the dealing.

160 Form and validity of certificate

A certificate under sections 157 and 159—

- (a) must be in the approved form; and
- (b) remains valid—
 - (i) until the date stated in the certificate; or
 - (ii) if the certificate does not state a date—for 40 business days.

161 Registering approved application for a water allocation dealing

- (1) If the water allocation holder lodges a certificate given under sections 157 and 159 with the registrar, the registrar must record on the water allocations register the details of the water allocation dealing.
- (2) The water allocation dealing has effect on the day the registrar records the dealing in the register.

162 Water allocations may be surrendered

- (1) A water allocation may be surrendered to the chief executive by agreement between the chief executive and the water allocation holder.
- (2) However, a water allocation managed under a resource operations licence or a distribution operations licence can not be surrendered without the consent of the holder of the licence which may be given with or without conditions.
- (3) If a water allocation is subject to a supply contract or distribution arrangements, the chief executive is liable for fees under the supply

contract or distribution arrangements unless otherwise agreed between the chief executive and the holder of a resource operations licence or a distribution operations licence.

- (4) However, the chief executive's liability for fees under subsection (3) is limited to fees that arise from holding the allocation after surrender and does not include exit or termination fees.
- (5) If a water allocation is surrendered, the chief executive may, subject to any conditions under subsection (2)—
 - (a) hold the allocation; or
 - (b) lease or sell the allocation by public auction, public ballot, public tender or in another way decided by the chief executive; or
 - (c) transfer the allocation to the holder of the relevant resource operations licence or distribution operations licence; or
 - (d) cancel the allocation under a water entitlement notice and—
 - (i) grant another water entitlement to replace the allocation; or
 - (ii) state the authority under this Act that replaces it; or
 - (e) cancel the allocation.

163 Cancelling water allocations

- (1) The chief executive may cancel a water allocation if the water allocation is surrendered.
- (2) However, if the chief executive cancels a water allocation managed under a resource operations licence or a distribution operations licence, the chief executive must give notice of the cancellation to the licence holder.

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- (3) If the chief executive cancels a water allocation, the chief executive must give notice to the registrar.
- (4) On receiving notice, the registrar must record the cancellation on the water allocations register.

164 Water allocations may be forfeited

- (1) Subsection (2) applies if a water allocation holder has been convicted of an offence against this Act.
- (2) The chief executive may give the holder a show cause notice as to why the water allocation should not be forfeited.
- (3) If, after considering any properly made submission, the chief executive is still satisfied the water allocation should be forfeited, the chief executive may forfeit the water allocation.
- (4) If the chief executive decides to forfeit the water allocation, the chief executive must give the holder an information notice within 10 business days after the chief executive makes the decision.
- (5) The forfeiture takes effect on the later of—
 - (a) if the holder does not appeal against the forfeiture—the day the period for appeals ends; or
 - (b) if the holder appeals against the forfeiture but withdraws the appeal—the day the appeal is withdrawn; or
 - (c) if the holder appeals against the forfeiture and the appeal is dismissed—the day the appeal is decided.
- (6) If the water allocation is forfeited, the chief executive must sell the allocation by public auction, public ballot, public tender or in another way decided by the chief executive.

- (7) Any money received by the chief executive on the sale of the forfeited water allocation must be applied as follows—
- (a) first—in paying the costs of the sale and any other costs incurred in proceedings under this section;
 - (b) second—in discharging any liability of the former water allocation holder under this Act to the chief executive under this Act;
 - (c) third—in discharging the liability, if any, of the former water allocation holder for any outstanding debt owing to the distribution operations licence holder under distribution arrangements;
 - (d) fourth—in discharging the liability, if any, of the former water allocation holder for any outstanding debt owing to the resource operations licence holder under a supply contract;
 - (e) fifth—in discharging, in accordance with the priorities of their registered interests, any liabilities of the former allocation holder owing to a person who has a registered interest recorded over the forfeited allocation on the water allocations register;
 - (f) sixth—in payment to the former water allocation holder.
- (8) If the former allocation holder can not be found after making reasonable inquiries as to the holder's whereabouts, an amount payable to the holder must be dealt with as unclaimed money under the *Public Trustee Act 1978*.
- (9) A genuine purchaser for value of a water allocation under this section takes the allocation free of all interests.

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- (10) Section 146(2) to (7) applies to the purchaser of a water allocation under this section as if the allocation were granted on the day the allocation was sold.

165 Dealing with water allocations granted or dealt with through fraud

- (1) Subsection (2) applies if a water allocation was granted, or dealt with or recorded on the water allocations register, in consequence of a false or misleading representation or declaration, made either orally or in writing.
- (2) The Supreme Court may make the order it considers just to deal with the water allocation.

166 Priority for applying proceeds of sale of water allocations under a power of sale

- (1) In addition to any other person who may exercise a power of sale in relation to a water allocation, the following persons may exercise a power of sale in relation to a water allocation—
 - (a) the chief executive under section 164(6);
 - (b) if a supply contract gives a resource operations licence holder a power to sell the water allocation—the holder;
 - (c) if distribution arrangements give a distribution operations licence holder a power to sell the water allocation—the holder.
- (2) The holder of a resource operations licence may exercise a power of sale only in accordance with the supply contract.
- (3) The holder of a distribution operations licence may exercise a power of sale only in accordance with the distribution arrangements.

- (4) Subsection (1) applies despite any registered interest in the water allocation.
- (5) Before exercising the power of sale, a person proposing to exercise the power must give any person who has a registered interest in the water allocation not less than 30 business days notice of the proposed exercise of the power.
- (6) An amount received on the sale of the water allocation must be applied in the way mentioned in section 164(7).
- (7) A genuine purchaser for value of a water allocation under this section takes the allocation free of all interests.
- (8) Section 146(2) to (7) applies to the purchaser of a water allocation under this section as if the allocation were granted on the day the allocation was sold.

Subdivision 4 Registering interests and dealings for water allocations

167 Registrar

- (1) There is to be a registrar of water allocations.
- (2) The registrar has a seal of office.
- (3) The registrar is to be employed under the *Public Service Act 2008*.
- (4) In acting under this Act or another Act, the registrar is subject to the chief executive.

168 Water allocations register

- (1) For registering water allocations and interests and dealings with water allocations, the registrar must keep a water allocations register.
- (2) A regulation may prescribe—
 - (a) the locations of offices of the registry where documents may be lodged for registration; and
 - (b) the particular documents that may, or may not, be lodged at a particular office of the registry for registration or recording on the register; and
 - (c) how documents may be lodged; and
 - (d) fees to be paid in relation to—
 - (i) the lodgement and registration of documents in the registry; and
 - (ii) the provision of other services by the registrar; and
 - (e) how fees are to be paid and may be recovered, including the provision of credit facilities to persons approved by the registrar; and
 - (f) additional information to be supplied with a document; and
 - (g) transitional arrangements if a new document is approved; and
 - (h) how documents may be signed; and
 - (i) anything else about a document.
- (3) A person has notice of an interest in a water allocation if the interest is included in the register.

169 Form of register

- (1) The register may be kept in the form the registrar considers appropriate.
- (2) Without limiting subsection (1), the registrar may change the form in which a register or a part of a register is kept.

170 Interests and dealings that may be registered

- (1) Subject to subsection (2), an interest or dealing that may be registered for land under the *Land Title Act 1994* may be registered for a water allocation on the water allocations register.
- (2) An interest or dealing, the provisions for which are excluded under section 173(1)(e), may not be registered under this Act.
- (3) If a water allocation is managed under a resource operations licence, the registrar must not record an interest on, or dealing with, the allocation until the registrar has received from the resource operations licence holder notice in the approved form of the existence of a supply contract—
 - (a) for a transfer or lease—between the transferee or lessee of the allocation and the resource operations licence holder; or
 - (b) otherwise—between the holder of the allocation and the resource operations licence holder.
- (4) Subsection (3) does not apply if—
 - (a) the resource operations licence holder and the holder or proposed holder of the water allocation are the same person; or
 - (b) the holder or proposed holder of the allocation is a subsidiary company of the resource operations licence holder.

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- (5) Also, if a water allocation being amalgamated or subdivided is subject to a registered mortgage, the registrar must not act under subsection (1) unless the mortgagee has consented to the amalgamation or subdivision.
- (6) The registrar must not record a dealing capable of being the subject of a contract under section 155 until the registrar receives an acknowledgement notice for the water allocation, signed by the transferee or lessee.
- (7) Subsection (6) applies whether or not the holder of the water allocation has complied with the allocation holder's obligation under section 155 to give the transferee or lessee a disclosure statement for the allocation.
- (8) The registrar must not record the transfer or lease of a water allocation not managed under a resource operations licence until the registrar receives a certificate given under section 157.
- (9) An instrument that purports to give effect to a dealing of the type mentioned in subsection (1) does not transfer or create an interest at law until it is registered on the register.

171 Effect on priority of notices given under s 73(1)(b)

- (1) If the chief executive is given a notice about a water allocation under section 73(1)(b), the notice causes to be continued, in the water allocation, an interest equivalent to the interest had by the interest holder in the former water entitlement or other authority to take water until whichever of the following first happens—
 - (a) 60 business days expire after details of the water allocation are recorded on the water allocations register under section 146(1)(b);

- (b) the interest mentioned in the notice is recorded on the register.
- (2) Subsection (1) applies despite the expiry under section 146(1)(a) of the former water entitlement or other authority to take water.
- (3) However, if, before an event mentioned in subsection (1)(a) or (b) happens, the interest holder lodges a caveat claiming an interest in the water allocation, the equivalent interest continues until—
 - (a) the interest claimed in the caveat is recorded on the water allocations register; or
 - (b) the caveat earlier lapses or is otherwise cancelled, removed or withdrawn.
- (4) The registrar must not record any other dealing for the water allocation, other than a notice mentioned in section 172(1), until subsections (1) and (3) cease to have effect in relation to the interest.
- (5) If more than 1 notice is given under section 73(1)(b), the interests must be recorded in accordance with the priority the interests have on the land registry, as at the day the water allocation is recorded, for the land to which the former water entitlement or other authority to take water was attached.
- (6) However—
 - (a) for an interest that is not an interest that was recorded under the land registry but is recorded in another register, the interest must be registered in priority according to the time the interest was recorded in the other register; or
 - (b) for an interest not recorded in another register, the interest must be registered in the

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priority in which the interest was lodged for registration.

172 Effect on priority of notices given under s 73(1)(c)

- (1) If the chief executive is given a notice about a water allocation under section 73(1)(c), the registrar must record the notice for the water allocation—
 - (a) within 60 business days after details of the water allocation are recorded on the water allocations register under section 146(1)(b); and
 - (b) with the priority the interest mentioned in the notice had on the land registry for the land to which the interest relates as at the day the allocation is recorded.
- (2) A notice recorded under subsection (1)—
 - (a) has the effect of encumbering the water allocation for which the notice is recorded with the interest mentioned in the notice; and
 - (b) for the application of section 173, is taken to be a mortgage for the water allocation for the *Land Title Act 1994*, part 6, division 3.
- (3) No fee under this Act or duty under the *Duties Act 2001* is payable for the recording of a notice under subsection (1).

173 Application of Land Title Act 1994 to water allocations register

- (1) The *Land Title Act 1994*, other than the following provisions, applies to matters under this part—
 - (a) part 2, sections 16, 18(1)(a), 18(3), 18A;

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- (b) part 3, section 27 and divisions 2, 2A and 3;
 - (c) part 4;
 - (d) part 5, sections 55 and 58;
 - (e) part 6, sections 60(2), 64 to the extent it permits the lease of part of a lot, and 65(2) and divisions 4, 4A, 4B and 5;
 - (f) part 7, section 122(3) and sections 132 to 135;
 - (g) part 8, sections 154 and 165;
 - (h) part 9, division 2, section 181 and subdivisions B and C;
 - (i) part 11, section 193;
 - (j) part 12.
- (2) An interest or dealing mentioned in section 170 may be registered in the way mentioned in the *Land Title Act 1994* and the registrar of water allocations may exercise a power and perform an obligation of the registrar of titles under the *Land Title Act 1994*—
- (a) as if a reference in that Act to the registrar of titles were a reference to the registrar appointed under this division; and
 - (b) as if a reference in that Act to the freehold land register were a reference to the water allocations register; and
 - (c) as if a reference in that Act to freehold land or land were a reference to a water allocation; and
 - (d) as if a reference in that Act to a lot were a reference to a water allocation; and
 - (e) with any other necessary changes.
- (3) An instrument executed under the authority of a power of attorney may be registered under this

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Act only if the power of attorney is registered under the *Land Title Act 1994*, section 133.

(4) In this section—

Land Title Act 1994 does not include the *Land Title Regulation 2005*.

174 Application of other Acts to the water allocations register

- (1) If a provision of the *Property Law Act 1974* refers to the *Land Title Act 1994*, or land, the reference is, if the context permits, taken to be a reference to the *Land Title Act 1994*, as applied by this Act, or a water allocation.
- (2) The following sections of the *Land Valuation Act 2010* apply as if a reference to land or a parcel of land includes a reference to a water allocation—
 - (a) section 208(6), definition *microfiche data*;
 - (b) section 245.

175 Searching water allocations register

A person may, on payment of the fee prescribed by regulation—

- (a) search and obtain a copy of—
 - (i) a water allocation; or
 - (ii) an instrument registered in relation to an allocation; or
 - (iii) an instrument that has been lodged but is not registered (whether or not it has been cancelled); or
 - (iv) information kept on the register about the allocation; or

- (b) obtain a copy of the allocation, or a registered instrument, certified by the registrar to be an accurate copy.

Division 5 Resource operations licences and distribution operations licences

Subdivision 1 Nature and content of resource operations licences and distribution operations licences

176 What is a resource operations licence

- (1) A resource operations licence is an authorisation—
 - (a) to interfere with the flow of water to the extent necessary to construct or operate the water infrastructure to which the licence applies; or
 - (b) to take water or interfere with the flow of water to distribute water under water allocations.
- (2) A resource operations licence can only be held by the owner of the water infrastructure to which the licence applies or the parent company of a subsidiary company that is the owner that holds the infrastructure.

177 What is a distribution operations licence

- (1) A distribution operations licence authorises its holder to take water or interfere with the flow of water to distribute water under water allocations.

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- (2) A distribution operations licence can be held only by—
 - (a) the water infrastructure owner; or
 - (b) if the water infrastructure owner is a subsidiary company, the parent company of the subsidiary; or
 - (c) an entity (the *approved nominee*) nominated by the water infrastructure owner and approved under section 178 to be the holder of the licence.
- (3) Subsection (2)(c) applies whether the approved nominee was nominated or approved under section 178 before or after—
 - (a) the entity that is the water infrastructure owner became the water infrastructure owner; or
 - (b) the licence started to apply to the water infrastructure.

178 Nomination and approval of entity as distribution operations licence holder

- (1) This section applies if any of the following entities (each a *nominator*) gives the chief executive a notice in the approved form nominating an entity (a *nominee*) to be the holder of a distribution operations licence—
 - (a) the water infrastructure owner;
 - (b) if a water authority is, or is to be, dissolved and converted under chapter 4, part 7, to 1 or more entities that are alternative institutional structures—the entity in whom is vested, on the changeover day, the water infrastructure to which the licence is to apply;

- (c) if the nominee is applying for the licence under section 181 and paragraph (b) does not apply—the entity that is to be the owner of the water infrastructure to which the licence is to apply if and from when the licence is granted;
 - (d) if an application has been made to transfer the licence to the nominee under section 187 and paragraph (b) does not apply—the entity that is to be the owner of the water infrastructure to which the licence is to apply if and from when the licence is transferred.
- (2) The chief executive may approve the nominee to be the holder of the licence only if—
- (a) the chief executive is satisfied the nominee—
 - (i) is a suitable entity to hold the licence; and
 - (ii) can carry out the activities authorised, or to be authorised, under the licence; and
 - (iii) can comply with the conditions, or proposed conditions, of the licence; and
 - (b) at least 1 of the following applies—
 - (i) the nominator holds the licence and has carried out the activities authorised under the licence in compliance with the conditions of the licence;
 - (ii) the chief executive is satisfied paragraph (a)(i), (ii) and (iii) applies to the nominator;
 - (iii) the chief executive is satisfied that, if the nominee were to cease to be the

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licence holder, the nominator could within a reasonable period nominate another nominee to hold the licence.

- (3) However—
- (a) the approval of the nominee of a nominator mentioned in subsection (1)(c) ends if the application to grant the licence is refused; and
 - (b) the approval of the nominee of a nominator mentioned in subsection (1)(d) ends if the application to transfer the licence lapses or is refused.
- (4) In this section—
- changeover day*, for dissolution of a water authority, means the day the water authority is dissolved under chapter 4, part 7, division 1.

179 Content of a resource operations licence or distribution operations licence

A resource operations licence or distribution operations licence must state—

- (a) the name of the licence holder; and
- (b) any water plan to which the licence relates; and
- (c) the principal water infrastructure to which the licence relates; and
- (d) if applicable, the authority to use watercourses to distribute water; and
- (e) the conditions applying to the licence which may include—
 - (i) a requirement to have and comply with an approved operations manual; and

- (ii) the full supply level for the relevant infrastructure; and
- (iii) water sharing and other operational rules; and
- (iv) monitoring and reporting requirements; and
- (v) a requirement to pay fees prescribed by regulation; and
- (vi) other conditions the chief executive considers appropriate.

Subdivision 2 Granting or amending resource operations licence or distribution operations licence

180 Chief executive may grant a resource operations licence or distribution operations licence without application

The chief executive may grant a resource operations licence or distribution operations licence without application—

- (a) to either of the following named in a water plan—
 - (i) for a resource operations licence—an entity mentioned in section 176(2);
 - (ii) for a distribution operations licence—an entity mentioned in section 177(2); or
- (b) to implement a water development option under section 92.

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181 Application for resource operations licence or distribution operations licence

- (1) An entity mentioned in section 176(2) may apply for a resource operations licence for existing or proposed water infrastructure.
- (2) An entity mentioned in section 177(2) may apply for a distribution operations licence for existing or proposed water infrastructure.
- (3) The application for either licence must—
 - (a) be made to the chief executive in the approved form; and
 - (b) include details of the existing or proposed infrastructure and arrangements for operating the infrastructure; and
 - (c) state the impact on flows of the existing or proposed infrastructure and arrangements for the mitigation of the impact; and
 - (d) be accompanied by—
 - (i) the fee prescribed by regulation; and
 - (ii) if the application is not by the owner of the infrastructure—the owner’s written consent.

182 Deciding application for resource operations licence or distribution operations licence

- (1) In deciding whether to grant the application for a resource operations licence or distribution operations licence, the chief executive—
 - (a) must consider the application; and
 - (b) may consider whether the applicant has been convicted of an offence against this Act, the repealed Act or an interstate law.

- (2) The chief executive may grant the application, with or without conditions, if the chief executive is satisfied the application—
 - (a) advances the responsible and productive management of Queensland’s water; and
 - (b) if the application relates to water managed under a water plan—
 - (i) is consistent with the water plan outcomes and the measures that contribute to achieving them stated in the plan; and
 - (ii) achieves any objectives stated in the plan, including the water allocation security objective and the environmental flow objectives.
- (3) If the chief executive is not satisfied the application should be granted, the chief executive must refuse to grant the application.
- (4) Within 30 business days after deciding the application, the chief executive must give the applicant—
 - (a) an information notice about the decision; and
 - (b) if the chief executive has decided to grant the licence—a resource operations licence or a distribution operations licence.
- (5) If a licence is granted under this section, the licence takes effect from the day the applicant is given the information notice.
- (6) Subsections (1) and (2) do not limit the matters the chief executive may consider in deciding whether to grant the application.

183 Chief executive must amend a resource operations licence or distribution operations licence for consistency with water plan

- (1) This section applies if the resource operations licence or distribution operations licence is inconsistent with the water plan outcomes, measures or objectives of the water plan.
- (2) The chief executive must amend the licence to the extent necessary to be consistent with water plan outcomes, measures or objectives of the plan.
- (3) However, the chief executive must consult with the holder of the licence before amending the licence.
- (4) The chief executive must, within 30 business days, give the holder of the licence notice of the amendment and a copy of the amended licence.

184 Holder may apply to amend resource operations licence or distribution operations licence

- (1) The holder of a resource operations licence or distribution operations licence may apply to amend the licence.
- (2) The application must—
 - (a) be made to the chief executive in the approved form; and
 - (b) provide details of the amendment; and
 - (c) state the impact of the proposed amendment; and
 - (d) be accompanied by—
 - (i) the fee prescribed by regulation; and

- (ii) if the application is not by the owner of the infrastructure—the owner’s written consent.
- (3) The chief executive may approve the amendment if the chief executive is satisfied—
 - (a) if the licence is for water managed under a water plan—the amendment is consistent with the water plan outcomes, measures or objectives of the plan; and
 - (b) the impact of the amendment can be satisfactorily mitigated.

185 Chief executive may amend resource operations licence or distribution operations licence in an emergency

- (1) The chief executive may amend a resource operations licence or distribution operations licence if the chief executive is satisfied this is necessary—
 - (a) to deal with a shortage of water for essential services or town water supply; or
 - (b) because there is a risk to public safety.
- (2) The chief executive must give the holder of the licence notice of the amendment.

186 Minor, stated or agreed amendments of resource operations licence or distribution operations licence

The chief executive may amend a resource operations licence or distribution operations licence without complying with the provisions of this subdivision about amending the licence if the licence holder agrees to the amendment and the amendment is—

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- (a) of a type stated on the licence and the chief executive reasonably believes the amendment will not adversely affect the rights of the water entitlement holders or natural ecosystems; or
- (b) to correct a minor error on the licence, or make another change that is not a change of substance.

Subdivision 3 Transferring, amalgamating and cancelling resource operations licences or distribution operations licences

187 Applying for transfer of licence

- (1) The holder of a resource operations licence or a distribution operations licence may apply to the chief executive to transfer all or part of the licence to another entity (the *transferee*) that can hold the licence.
- (2) If a distribution operations licence is held by the approved nominee of the water infrastructure owner (the *current infrastructure owner*), the current infrastructure owner may also apply, with or without the consent of the approved nominee, to transfer all or a part of the licence to the transferee.
- (3) The application must be—
 - (a) made to the chief executive in the approved form; and

- (b) supported by sufficient information to enable the chief executive to decide the application; and
- (c) accompanied by—
 - (i) the fee prescribed by regulation; and
 - (ii) if the application is by the approved nominee—the current infrastructure owner’s written consent to the transfer.

188 Additional requirements for transfer of distribution operations licence to nominee

- (1) This section applies to an application to transfer all or part of a distribution operations licence if—
 - (a) the transferee is the nominee of the current infrastructure owner; or
 - (b) the current infrastructure owner is transferring ownership of the water infrastructure to which the licence or part applies to another entity (the *incoming owner*) and the transferee for the licence or part is the nominee of the incoming owner.
- (2) The application must be—
 - (a) accompanied by the written consent of—
 - (i) the current infrastructure owner, unless the owner is the applicant; and
 - (ii) if subsection (1)(b) applies—the incoming owner; and
 - (b) supported by sufficient information to enable the chief executive to decide whether or not to approve the nominee under section 178.

189 Additional information may be required

- (1) The chief executive may require all or any of the following to give additional information about the application within a stated reasonable period—
 - (a) the holder of the resource operations licence or a distribution operations licence;
 - (b) the transferee;
 - (c) for an application to transfer all or part of a distribution operations licence, if relevant—
 - (i) the current infrastructure owner; or
 - (ii) the incoming owner.
- (2) The chief executive may require information in the application, or any additional information required under subsection (1), to be verified by statutory declaration.
- (3) If an entity of whom a requirement is made under subsection (1) or (2) fails, without reasonable excuse, to comply with the requirement within the reasonable period stated in the requirement, the application lapses.

190 Deciding application to transfer licence

The chief executive must decide the application within 30 business days after—

- (a) if the chief executive does not request further information about the application under section 189—the day the chief executive received the application; or
- (b) if the chief executive requests further information about the application under section 189—the day the chief executive receives the information.

191 Approving application to transfer licence

- (1) If the chief executive decides to approve the application, the chief executive must, within 30 business days after making the decision (the *notice period*)—
 - (a) give the applicant and transferee notice of the decision, including the reasons for the decision; and
 - (b) subject to subsection (3), cancel the existing licence and give a new licence to the transferee.
- (2) If the application was for the transfer of all or part of a distribution operations licence, the chief executive must also, within the notice period, give notice of the decision to—
 - (a) the current infrastructure owner, unless the owner was the applicant; and
 - (b) if the transferee is the nominee of the incoming owner—the incoming owner.
- (3) If the application was not to transfer all of a licence, the chief executive must, within the notice period, give the holder of the part (the *remaining part*) of the licence that was not transferred an amended licence for the remaining part.
- (4) The new licence takes effect from the day the notice is given under subsection (1)(a).

192 Refusing application to transfer licence

- (1) The chief executive may refuse the application if the chief executive is satisfied the transferee does not have the necessary expertise or experience to be a licence holder or is not a suitable person to hold the licence, including, for example—

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- (a) because the transferee has been convicted of an offence against this Act or an interstate law or has held 1 of the following licences (each a *relevant licence*) that has been cancelled or suspended under this Act or an interstate law—
 - (i) a resource operations licence;
 - (ii) an interstate resource operations licence;
 - (iii) a distribution operations licence;
 - (iv) an interstate distribution operations licence; or
 - (b) if the transferee is a corporation—because an executive officer of the corporation—
 - (i) has been convicted of an offence against this Act or an interstate law, or has held a relevant licence that has been cancelled or suspended under this Act or an interstate law; or
 - (ii) is or has been an executive officer of another corporation that has been convicted of an offence against this Act or an interstate law, or has held a relevant licence that has been cancelled or suspended under this Act or an interstate law.
- (2) The chief executive may also refuse the application on grounds not mentioned in subsection (1).
 - (3) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice about the decision within 30 business days after making the decision.
 - (4) In this section—

this Act includes the repealed Acts.

193 Amalgamating licences

- (1) The holder of a resource operations licence may apply to the chief executive to amalgamate, into a single licence, the resource operations licence with another resource operations licence in the same water supply scheme.
- (2) The holder of a distribution operations licence may apply to the chief executive to amalgamate, into a single licence, the distribution operations licence with another distribution operations licence in the same water supply scheme.
- (3) An application under subsection (1) or (2) must be—
 - (a) in the approved form; and
 - (b) accompanied by the written consent of the holder of the other licence; and
 - (c) supported by sufficient information to enable the chief executive to amalgamate the licences; and
 - (d) accompanied by the fee prescribed by regulation.
- (4) If an application under subsection (2) relates to a distribution operations licence held by the approved nominee of the water infrastructure owner, the application must also be accompanied by the owner's written consent to the amalgamation.
- (5) The chief executive must grant the application.
- (6) Within 30 business days after granting the application, the chief executive must—
 - (a) give notice of the amalgamation to—

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- (i) the applicant; and
 - (ii) the holder of the other licence; and
 - (iii) if the amalgamation relates to a distribution operations licence mentioned in subsection (4)—the water infrastructure owner; and
- (b) cancel the existing licences and give a new licence to the applicant.
- (7) The new licence takes effect from the day the notice is given.

194 Cancelling licence

- (1) The chief executive may cancel a resource operations licence or a distribution operations licence on the following grounds—
- (a) the licence holder has not complied with a condition of the licence or a requirement of the holder under this Act;
 - (b) either of the following has been convicted of an offence against this Act—
 - (i) the licence holder;
 - (ii) for a distribution operations licence held by the approved nominee of the water infrastructure owner—the owner;
 - (c) the licence was granted because of a materially false or misleading representation or declaration made, either orally or in writing, by—
 - (i) the licence holder; or
 - (ii) for a licence mentioned in paragraph (b)(ii)—the owner;
 - (d) for a licence mentioned in paragraph (b)(ii)—

- (i) an application to transfer all or part of the licence has lapsed because the approved nominee has not complied with a requirement under section 189; and
 - (ii) the water infrastructure owner has requested cancellation of the licence.
- (2) Subsection (1)(a) does not apply if the holder has been convicted under section 813 for the noncompliance.

195 Procedure for cancelling licence

- (1) If the chief executive is satisfied a ground exists under section 194 to cancel the licence, the chief executive must—
 - (a) give a show cause notice about the proposed cancellation to the licence holder; and
 - (b) for a distribution operations licence held by the approved nominee of the water infrastructure owner—give a copy of the notice to the water infrastructure owner.

- (2) If, after considering any properly made submission about the proposed cancellation, the chief executive is still satisfied the licence should be cancelled, the chief executive may cancel the licence.

Note—

For appointment of administrator following cancellation of licence, see section 955.

- (3) If the chief executive decides to cancel the licence, the chief executive must, within 10 business days after making the decision, give an information notice about the decision to—
 - (a) the licence holder; and

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- (b) for a licence mentioned in subsection (1)(b)—the water infrastructure owner.
- (4) The decision takes effect on the later of—
 - (a) if the applicant does not appeal against the decision—the day the period for appeals ends; or
 - (b) if the applicant appeals against the decision but withdraws the appeal—the day the appeal is withdrawn; or
 - (c) if the applicant appeals against the decision and the appeal is dismissed—the day the appeal is decided.
- (5) However, if the licence is cancelled because of the conviction of a person for an offence—
 - (a) the cancellation does not take effect until the later of—
 - (i) the day the period for appeals against the conviction ends; or
 - (ii) if the appeal is made against the conviction—the day the appeal is finally decided; and
 - (b) the cancellation has no effect if the conviction is quashed on appeal.

196 Cancelling licence no longer required

- (1) The chief executive may cancel a resource operations licence if—
 - (a) another resource operations licence has been granted to replace the licence to be cancelled; or
 - (b) the chief executive and the resource operations licence holder have agreed the

resource operations licence is no longer required.

- (2) The chief executive may cancel a distribution operations licence if—
 - (a) another distribution operations licence has been granted to replace the licence to be cancelled; or
 - (b) the chief executive and the distribution operations licence holder have agreed the distribution operations licence is no longer required.
- (3) If the chief executive decides to cancel a licence under subsection (1) or (2), the chief executive must, within 30 business days after making the decision, give an information notice about the decision to—
 - (a) the licence holder; and
 - (b) for a distribution operations licence held by the approved nominee of the water infrastructure owner—the owner.
- (4) The cancellation takes effect from the day the chief executive gives the licence holder the information notice.

Subdivision 4 Operations manuals

197 Requirement to have an operations manual

- (1) This section applies if a condition on a resource operations licence or distribution operations licence requires the holder of the licence to have a manual dealing with matters stated in the condition (an *operations manual*).
- (2) The holder must—

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- (a) prepare the operations manual; and
 - (b) submit it to the chief executive for approval together with sufficient information to enable the chief executive to decide whether the manual should be approved having regard to the matters mentioned in section 198(1).
- (3) For subsection (2)(b), the holder does not submit sufficient information unless the information includes—
- (a) if a resource operations licence holder is preparing the operations manual and there is a related distribution operations licence—details of the impact on the distribution operations licence holder; or
 - (b) if a distribution operations licence holder is preparing the operations manual and there is a related resource operations licence—details of the impact on the resource operations licence holder.

198 Approval of operations manual

- (1) The chief executive may approve the operations manual only if the manual—
- (a) is consistent with the water plan outcomes and measures; and
 - (b) achieves any objectives stated in the water plan, including the water allocation security objective and the environmental flow objectives; and
 - (c) is developed with adequate consultation with persons affected by the operations manual as it relates to the resource operations licence or distribution operations licence.

- (2) The chief executive must give the holder of the licence notice of the approval, including the date the approval takes effect.
- (3) The holder of the licence must publish the approved operations manual on the holder's website.

199 Resolving disputes about approval of operations manual

- (1) This section applies if the chief executive refuses to approve all or part of the operations manual for a resource operations licence or distribution operations licence.
- (2) The chief executive must advise the holder of the licence of the matters that have not been approved.
- (3) The holder of the licence may apply in writing to the chief executive to have those matters referred to a referral panel.
- (4) If an application is made under subsection (3), the chief executive must refer the matters to a referral panel together with the information provided to the chief executive under section 197(2)(b).
- (5) The panel must review the matters and make recommendations to the chief executive within 30 business days after receiving the collated information.
- (6) In deciding whether to approve the operations manual the chief executive must consider the referral panel's recommendations.
- (7) The chief executive may—
 - (a) approve the operations manual; or

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- (b) approve the manual with the amendments the chief executive considers appropriate.
- (8) The chief executive must give the holder of the licence notice of the approval, including the date the approval takes effect.

200 Application to amend or replace operations manual

- (1) The holder of a resource operations licence or distribution operations licence may apply to the chief executive to amend or replace an operations manual.
- (2) The provisions of this division applying to the approval and publication of an operations manual apply—
 - (a) as if a reference to the approval of the manual were a reference to its amendment; and
 - (b) with any necessary changes.
- (3) Subsections (4) and (5) apply if the amendment or replacement of an operations manual requires an amendment of the relevant resource operations licence or distribution operations licence.
- (4) The holder of the relevant licence must apply to amend the licence under section 184 before, or at the same time as, the holder applies to amend or replace the operations manual under this section.
- (5) The chief executive must decide the application under section 184 before deciding the application under this section.
- (6) If the holder of the licence amends or replaces an operations manual, the holder must publish a statement of changes made to the manual.

201 Operations manual must remain consistent with water plan, resource operations licence and distribution operations licence

- (1) This section applies if an operations manual for a resource operations licence or distribution operations licence becomes inconsistent with the water plan outcomes, measures and objectives mentioned in section 198(1)(a) and (b).
- (2) The holder of the licence to which the operations manual applies must apply to the chief executive in writing to amend the manual.
- (3) However, if the holder does not apply, the chief executive may direct the holder to review the operations manual to address the inconsistency.
- (4) If the chief executive directs the holder to review the operations manual under subsection (3), the holder must review the manual as required by the chief executive and apply to the chief executive in writing to amend it.
- (5) The provisions of this division applying to the approval and publication of an operations manual apply—
 - (a) as if a reference to the approval of the manual were a reference to its amendment; and
 - (b) with any necessary changes.
- (6) This section applies if an operations manual is inconsistent with a resource operations licence or distribution operations licence.
- (7) The provisions of the licence prevail to the extent of the inconsistency.

Subdivision 5 Audit reports

202 Preparing regular audit reports

The chief executive may prepare an audit report—

- (a) about a resource operation licence holder's or a distribution operations licence holder's compliance with the licence; and
- (b) to verify the accuracy of monitoring and reporting information given to the chief executive by the holder.

203 Access for conducting a relevant audit

- (1) This section applies to the following entities—
 - (a) the holder of a resource operations licence;
 - (b) the holder of a distribution operations licence;
 - (c) if a distribution operations licence is held by the approved nominee of the water infrastructure owner—the owner.
- (2) The entity must give an authorised person free and uninterrupted access to the water infrastructure to which the licence applies and any records relating to the water infrastructure for conducting a relevant audit.

Maximum penalty—200 penalty units.

- (3) In this section—

authorised person means a person authorised by the chief executive to participate in conducting a relevant audit.

relevant audit means an audit for preparing an audit report under section 202.

Division 6 Operations licences

Subdivision 1 Preliminary

204 Purpose of div 6

- (1) Under this division, the chief executive may grant an operations licence for a single operation for taking water by a person as an agent for 2 or more water entitlement holders.
- (2) An operations licence—
 - (a) must state the water entitlements to which the licence relates; and
 - (b) must state the volumes, rates and times when the water may be taken; and
 - (c) may be transferred, amended, suspended or cancelled.

205 Application of div 6

This division applies to water entitlements not managed under a resource operations licence.

Subdivision 2 Granting operations licences

206 Applying for operations licence

- (1) A person may apply for an operations licence.
- (2) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) accompanied by the written consent of the relevant water entitlement holders; and

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- (c) supported by sufficient information to enable the chief executive to decide the application; and
- (d) accompanied by the fee prescribed by regulation.

207 Additional information may be required

The chief executive may require—

- (a) the applicant to give additional information about the application; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.

208 Criteria for deciding application for operations licence

In deciding whether to grant or refuse the application or what should be the conditions of the operations licence, the chief executive—

- (a) must consider the application and any additional information given in relation to the application; and
- (b) may consider whether the applicant has been convicted of an offence against this Act, the repealed Act or an interstate law.

209 Deciding application for operations licence

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant all or part of the application, with or without conditions.

- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must—
 - (a) give the applicant an information notice about the decision; and
 - (b) give the relevant water entitlement holders notice of the decision.
- (4) If the chief executive grants all or part of the application, with or without conditions, the chief executive must, within 30 business days after granting the application—
 - (a) give the applicant an operations licence in the approved form; and
 - (b) give the relevant water entitlement holders notice that the application was granted and that the holder must not take water under the entitlement.
- (5) If the operations licence is granted, the licence has effect from the day the information notice is given to the applicant.
- (6) From the day the operations licence has effect, a holder of a water entitlement mentioned in the licence must not take water under the entitlement.

210 Conditions of operations licence

- (1) The operations licence is subject to the conditions—
 - (a) prescribed by regulation; and
 - (b) the chief executive may impose for a particular licence.

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- (2) Without limiting subsection (1), the conditions may require the licensee to do the following—
 - (a) install a measuring device to measure the volume of water taken, the rate at which it is taken and the time it is taken;
 - (b) give relevant information reasonably required by the chief executive for the administration or enforcement of this Act.

Subdivision 3 Dealings with operations licences

211 Amending operations licences on application of licensee

- (1) The licensee may apply to amend an operations licence.
- (2) The application to amend the licence must be dealt with under sections 206 to 210 as if it were an application for a licence.

212 Giving show cause notice about proposed amendment of operations licence

- (1) The chief executive may amend an operations licence if the chief executive is satisfied the licence should be amended.
- (2) Before the chief executive acts under subsection (1), the chief executive must give the licensee a show cause notice about the proposed amendment.
- (3) In deciding whether to amend the licence, the chief executive must consider any properly made submission about the proposed amendment.
- (4) If the chief executive is satisfied the proposed amendment should be made, the chief executive

must, within 30 business days after the decision, give the licensee an amended licence in the approved form and an information notice about the decision.

- (5) If the chief executive is not satisfied the amendment should be made, the chief executive must give the licensee notice that the licence will not be amended.
- (6) The amended licence takes effect from the day the information notice is given to the licensee.

213 When chief executive must amend operations licence

- (1) Subsection (2) applies if—
 - (a) a water entitlement holder gives the chief executive notice in the approved form that the holder no longer wishes the holder's water to be taken under the operations licence; or
 - (b) a water entitlement holder ceases to be a water entitlement holder.
- (2) The chief executive must—
 - (a) amend the operations licence; and
 - (b) give the licensee a copy of the notice received under subsection (1)(a) and an amended licence in the approved form; and
 - (c) advise the water entitlement holder of the action taken.
- (3) The amended licence takes effect from the day stated in the amended licence.
- (4) Unless the licensee otherwise consents, the day stated in the amended licence must not be earlier than 5 business days after the day the chief executive gives the licensee an amended licence.

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- (5) If subsection (2) applies because of subsection (1)(b), the amendment may, with the consent of the new water entitlement holder and the licensee, include the new holder instead of the previous holder.

214 Minor amendment of operations licence

- (1) The chief executive may amend the operations licence without complying with the provisions of this division about amending a licence if the amendment is only to correct a minor error in the licence, or make another change that is not a change of substance.
- (2) If the chief executive amends an operations licence under subsection (1), the chief executive must give the licensee an amended licence in the approved form.

215 Transferring operations licence

- (1) The licensee may apply to transfer the operations licence.
- (2) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) accompanied by the fee prescribed by regulation.
- (3) Within 30 business days after receiving the application, the chief executive must give the transferee a new licence on conditions that have the same effect as the licence being transferred, other than for the change of name of the licensee.

216 Surrendering operations licence

- (1) A licensee may surrender an operations licence by giving the chief executive a notice of surrender.
- (2) The surrender—
 - (a) takes effect on the date on which the surrender notice is received by the chief executive; and
 - (b) does not affect in any way a duty under this Act about works imposed on the licensee before the surrender.

217 Cancelling operations licence

- (1) The chief executive may cancel an operations licence if the chief executive is satisfied the licence should be cancelled.
- (2) Section 212 applies to the cancellation—
 - (a) as if a reference in the section to an amendment of the licence were a reference to the cancellation of the licence; and
 - (b) with any other necessary changes.

Part 4 Riverine protection

Division 1 Granting permits for excavating or placing fill in a watercourse, lake or spring

218 Applying for permit to excavate or place fill in a watercourse, lake or spring

- (1) A person may apply to the chief executive for a permit (a *riverine protection permit*) to do either or both of the following activities—
 - (a) excavate in a watercourse, lake or spring;
 - (b) place fill in a watercourse, lake or spring.
- (2) Subsection (3) applies if the applicant is neither of the following in relation to land that wholly contains the watercourse, lake or spring or the part of the watercourse, lake or spring where the activity is to take place—
 - (a) the registered owner of the land;
 - (b) the holder of a mineral development licence or a mining lease under the Mineral Resources Act for the land.
- (3) The application must include the written consent of the registered owners of land—
 - (a) wholly containing the length of the watercourse in which the activity is to take place or the part of the lake or spring where the activity is to take place; or
 - (b) adjoining the watercourse, lake or spring where the activity is to take place.
- (4) The application must—

- (a) be made to the chief executive in the approved form; and
- (b) state the proposed activity and the purpose of the activity; and
- (c) be accompanied by the fee prescribed by regulation.

219 Additional information may be required

- (1) The chief executive may require—
 - (a) the applicant to give additional information about the application, including, for example, a statement of environmental effects; or
 - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

220 Criteria for deciding application

In deciding whether to grant or refuse the application or what should be the conditions of the riverine protection permit, the chief executive must consider all of the following—

- (a) the effects of the proposed activity on water quality;
- (b) the quantity and type of material to be excavated or placed;
- (c) the seasonal factors influencing the watercourse, lake or spring from time to time;

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- (d) the quantity and type of vegetation that would be destroyed as a necessary and unavoidable part of the proposed excavation or placing of fill (*affected vegetation*);
- (e) the position in the watercourse, lake or spring of the proposed excavation or placing of fill and any affected vegetation;
- (f) the reasons given by the applicant for wishing to carry out the activity;
- (g) whether, and to what extent, the activity that the permit would allow may have an adverse effect on the physical integrity of the watercourse, lake or spring;
- (h) the implications of granting the permit for the long-term sustainable use of the river systems of Australia, and especially the cumulative effect of granting the application and likely similar applications;
- (i) any other matters the chief executive considers to be relevant.

221 Deciding application

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must issue a riverine protection permit, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding the application, the chief executive must give the applicant an information notice about the decision.
- (4) If the chief executive grants all or part of the application, with or without conditions, the chief

executive must, within 30 business days after granting the application, give the applicant a riverine protection permit in the approved form.

- (5) The riverine protection permit—
 - (a) has effect from the day the applicant is given the permit; and
 - (b) must state how long it is to stay in force.

Division 2 Dealings with riverine protection permits

222 Amending conditions or cancelling permit

- (1) The chief executive may amend the conditions of, or cancel, a riverine protection permit if—
 - (a) the conditions of the permit are not being complied with or have been contravened; or
 - (b) it becomes evident that any adverse effect of the permitted activity on the physical integrity of the watercourse, lake or spring is greater than was anticipated when the permit was issued.
- (2) Before amending or cancelling the riverine protection permit, the chief executive must give the permittee a show cause notice inviting the permittee to show cause, within the reasonable time stated in the notice, why the permit should not be amended or cancelled.

223 Deciding whether to proceed with proposed cancellation or amendment

- (1) In deciding whether to cancel or amend the riverine protection permit, the chief executive

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- must consider any properly made submission about the proposed cancellation or amendment.
- (2) If the chief executive is satisfied the riverine protection permit should be amended or cancelled, the chief executive must give the permittee—
 - (a) an information notice about the decision to amend or cancel the permit; and
 - (b) if the permit is amended—an amended permit in the approved form.
 - (3) If the chief executive is not satisfied the riverine protection permit should be amended or cancelled, the chief executive must give the permittee notice that the permit will not be amended or cancelled.
 - (4) If the riverine protection permit is cancelled or amended, the amendment or cancellation takes effect from the day the permittee is given the information notice.

224 Immediate suspension of riverine protection permit in exceptional circumstances

- (1) In addition to giving the permittee a show cause notice about the amendment or cancellation of the riverine protection permit, the chief executive may give the permittee an information notice that immediately suspends the permit.
- (2) The suspension has effect from the day the permittee is given the notice.
- (3) The notice may be given only if the chief executive is satisfied exceptional circumstances exist in relation to the riverine protection permit to cause the chief executive reasonable concern for the physical integrity of the watercourse, lake or spring.

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- (4) The permittee must not act under the riverine protection permit during the period the permit is suspended, unless the permittee has a reasonable excuse.
Maximum penalty—1665 penalty units.
 - (5) The notice has effect until—
 - (a) the riverine protection permit is amended or cancelled; or
 - (b) the chief executive gives the permittee notice that the suspension has been withdrawn.
 - (6) If the chief executive is satisfied the suspension should not continue, the chief executive must give the permittee notice that the suspension has been withdrawn.
 - (7) If suspension of the riverine protection permit is withdrawn, the withdrawal takes effect from the day the permittee is given notice of the withdrawal.
 - (8) After the suspension is withdrawn, the riverine protection permit remains in effect only for the period during which it would have been in effect but for the suspension.

Division 3 Notices

225 Notice to owner of land to remove vegetation etc.

- (1) This section applies if—
 - (a) there is vegetation, litter, refuse or other matter on any land; and
 - (b) it appears to the chief executive that—
 - (i) the vegetation, litter, refuse or matter—

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- (A) has obstructed, or may obstruct, the flow of water in a watercourse, lake or spring; or
 - (B) has had, or may have, a significant adverse effect on the physical integrity of a watercourse, lake or spring; or
 - (C) has significantly affected, or may significantly affect, the quality of water in a watercourse, lake or spring; and
- (ii) action should be taken in relation to the vegetation, litter, refuse or matter to protect or restore the flow of water in the watercourse, lake or spring, the physical integrity of the watercourse, lake or spring or the quality of water in the watercourse, lake or spring.
- (2) This section also applies if—
- (a) there is vegetation, litter, refuse or other matter in a watercourse or lake; and
 - (b) the circumstances of the vegetation, litter, refuse or matter in the watercourse or lake correspond to the circumstances under subsection (1)(b) in relation to vegetation, litter, refuse or matter; and
 - (c) the watercourse or lake is on land or forms a boundary or part of a boundary of land.
- (3) The chief executive may give notice to the owner of the land requiring the owner to take the reasonable action stated in the notice within the reasonable time and in the way, if any, stated in the notice.
- (4) However, in relation to a watercourse forming a boundary, or part of a boundary, of the owner's land, the notice must not require the owner to

take action beyond the centre-line of the watercourse.

- (5) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty—1665 penalty units.

- (6) For sections 783 and 851, the notice is taken to be a compliance notice.

- (7) In this section—

vegetation includes non-native vegetation of any kind.

Part 5 Quarry materials

Division 1 Preliminary

226 Ownership and management of certain quarry material

Despite the *Forestry Act 1959*—

- (a) quarry material that is in the part of a watercourse or lake that is the property of the State, is the property of the State; and

Note—

See the *Land Act 1994*, chapter 1, part 4, division 3 in relation to the ownership by the State of land adjoining a non-tidal boundary (watercourse).

- (b) all quarry material is under the control of the chief executive.

Division 2 Granting and selling allocations of quarry material

227 Applying for allocation of quarry material

- (1) Any person may apply for an allocation of quarry material.
- (2) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) supported by sufficient information to enable the chief executive to decide the application; and
 - (c) accompanied by the fee prescribed by regulation.

228 Additional information may be required

- (1) For deciding the application, the chief executive may require all or any of the following—
 - (a) the applicant to give additional information about the application;
 - (b) the applicant to pay to the chief executive the reasonable amount decided by the chief executive by way of contribution towards the costs of research and investigations necessary for deciding the application;
 - (c) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant does not give the chief executive the further information, documents or amount by

the reasonable date stated in the notice, the application lapses.

229 Criteria for deciding application for allocation of quarry material

- (1) In deciding whether to grant or refuse the application or what should be the conditions of the allocation, the chief executive must consider the impact the removal of the quarry material will have on the long-term sustainable use of the watercourse or lake, including the following—
 - (a) the physical integrity of the watercourse or lake, including bed and bank stability;
 - (b) the condition of the watercourse or lake, including its ability to function naturally;
 - (c) the supply of sediments to estuaries and the sea from the watercourse or lake;
 - (d) the quarry material available in the watercourse or lake and any existing quarry material allocations in relation to the watercourse or lake.
- (2) Subsection (1) does not stop the chief executive from considering other matters relevant to the removal of the quarry material.

230 Deciding application for allocation of quarry material

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant the application, with or without conditions.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.

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- (3) Within 30 business days after deciding the application, the chief executive must give the applicant—
 - (a) notice of the decision; and
 - (b) if the chief executive grants all or part of the application, with or without conditions—an allocation notice in the approved form.
- (4) The allocation notice—
 - (a) has effect from the day stated in the notice; and
 - (b) remains in force, unless sooner cancelled, suspended or surrendered, for the period decided by the chief executive of not more than 5 years.

231 Selling allocation of State quarry material by auction or tender

- (1) The chief executive may sell by auction or tender an allocation of State quarry material.
- (2) In selling the allocation, the chief executive must consider the impact the removal of the quarry material will have on the long-term sustainable use of the watercourse or lake, including the matters mentioned in section 229.
- (3) The chief executive must give the buyer an allocation notice.
- (4) Sections 232 to 234 apply to the allocation notice.

Division 3 Content and conditions of allocation notices

232 Content of allocation notices

Without limiting what may be included in an allocation notice, the notice must state—

- (a) the quantity of quarry material for the allocation; and
- (b) the maximum rate for extracting the quarry material.

233 Conditions of allocation notices

An allocation notice is subject to—

- (a) the condition that the allocation holder give to the chief executive, within 7 days after the end of each month, a written return in the approved form for all quarry material removed by the holder in the month; and
- (b) any other condition stated in the allocation notice.

234 Financial assurance for allocation of quarry material

- (1) Without limiting section 233(b), the allocation of quarry material may be subject to a condition that the allocation holder give the chief executive financial assurance in the form, and for the reasonable amount, decided by the chief executive.
- (2) The financial assurance must continue in force until all the conditions of the allocation notice are complied with to the satisfaction of the chief executive.

Division 4 Dealings with allocations of quarry material

235 Transferring allocation of quarry material

- (1) The allocation notice holder may apply to transfer all or part of the allocation to another person.
- (2) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) supported by sufficient information to enable the chief executive to decide the application, including, for example, the consent of the transferee to the transfer; and
 - (c) accompanied by the fee prescribed by regulation.
- (3) Within 30 business days after receiving the application, the chief executive must—
 - (a) if the transfer is for all the allocation—approve the transfer; or
 - (b) if the transfer is for part of the allocation—
 - (i) approve the transfer, as applied for, with or without conditions; or
 - (ii) approve the transfer, as varied by the chief executive, with or without conditions; or
 - (iii) refuse the transfer.
- (4) In making a decision under subsection (3)(b), the chief executive must consider the impact the transfer will have for the matters mentioned in section 229.
- (5) Within 30 business days after deciding the application, the chief executive must—

- (a) give the applicant and the transferee an information notice about the decision; and
 - (b) if the transfer is approved, with or without conditions—give the transferee a new allocation notice in accordance with the approval; and
 - (c) if the application was not to transfer all of an allocation and the transfer is approved—give the applicant an amended allocation notice for the part not transferred.
- (6) The transfer has effect from the day the information notice is given.

236 Renewing allocations of quarry material

- (1) The allocation notice holder may apply to renew the allocation notice before it expires.
- (2) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) accompanied by the fee prescribed by regulation.
- (3) Within 30 business days after receiving the application, the chief executive must—
 - (a) approve the renewal, as applied for, with or without conditions; or
 - (b) approve the renewal, as varied by the chief executive, with or without conditions; or
 - (c) refuse the renewal.
- (4) In deciding whether to renew the allocation, the chief executive must consider the impact the renewal will have for the matters mentioned in section 229.

[s 68]

- (5) Within 30 business days after deciding the application, the chief executive must give the applicant—
 - (a) an information notice about the decision; and
 - (b) if the renewal is approved, with or without conditions—a new allocation notice in accordance with the approval.
- (6) A renewed allocation notice remains in force, unless sooner cancelled, suspended or surrendered, for the period decided by the chief executive of not more than 5 years.

237 Amending, suspending or cancelling allocation notice

- (1) The chief executive may amend, suspend or cancel an allocation notice if the chief executive is satisfied, or reasonably believes—
 - (a) the allocation notice was granted in error or in consequence of a false or fraudulent document, statement or representation; or
 - (b) the allocation notice holder—
 - (i) is convicted of an offence against this Act; or
 - (ii) failed to comply with a condition of the allocation notice; or
 - (c) unforeseen degradation in the condition of the watercourse or lake requires the allocation notice to be amended, suspended or cancelled.
- (2) An amendment under subsection (1) must not increase the quantity of material that may be extracted, the rate of extraction or the period for which the allocation notice has effect.

- (3) Before amending, suspending or cancelling an allocation notice, the chief executive must give the holder a show cause notice inviting the holder to show cause, within the reasonable time stated in the notice, why the allocation notice should not be amended, suspended or cancelled.

238 Deciding whether to proceed with proposed amendment, suspension or cancellation of allocation notice

- (1) In deciding whether to amend, suspend or cancel the allocation notice, the chief executive must consider any properly made submission about the proposed amendment, suspension or cancellation.
- (2) If the chief executive is satisfied the allocation notice should be amended, suspended or cancelled, the chief executive must amend, suspend or cancel the allocation notice.
- (3) If the chief executive is satisfied the allocation notice should not be amended, suspended or cancelled, the chief executive must give the holder a notice that the allocation notice will not be amended, suspended or cancelled.
- (4) Within 30 business days after amending, suspending or cancelling the allocation notice, the chief executive must give the holder an information notice about the decision to amend, suspend or cancel the notice.
- (5) The amendment, suspension or cancellation takes effect the day the holder is given the information notice.
- (6) If the allocation notice is amended, the chief executive must give the holder an amended allocation notice.

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- (7) If the allocation notice is suspended, it is of no effect during the period of suspension and, after the suspension, remains in effect only for the period during which it would have been in effect but for the suspension.
- (8) The suspension may be for the reasonable period the chief executive decides.

239 Surrendering allocation notice

- (1) The allocation notice holder may surrender the allocation notice by giving the chief executive notice of its surrender.
- (2) The surrender—
 - (a) takes effect on the day the notice is received by the chief executive; and
 - (b) does not affect in any way a requirement under this Act about the removal of quarry material imposed on the holder before the surrender.

Division 5 General

240 Royalty or price for State quarry material

- (1) For State quarry material removed under an allocation notice, royalty at the rate prescribed by regulation or the price set for the sale is payable to the State in the way and at the times prescribed under the regulation or the sale.
- (2) Royalty or the price payable and not paid is a debt due to the State.
- (3) A person who fails to pay the royalty or the price payable commits an offence against this Act.

Maximum penalty for subsection (3)—50 penalty units.

Part 6 Miscellaneous

241 Referral panels

- (1) The chief executive may establish a referral panel to advise on—
 - (a) a draft water entitlement notice; or
 - (b) a proposed operations manual; or
 - (c) proposed water allocations and water licences to be granted, amended or refused; or
 - (d) the granting of an application to vary the effect of a moratorium notice under section 33; or
 - (e) the granting of an application to relocate a water licence under section 126; or
 - (f) an application about started works that are subject to a moratorium notice referred to the panel by the Minister under section 242.
- (2) The panel is to consist of the number of individuals, and has the functions, the chief executive decides.
- (3) A member of the panel may be paid the fees and allowances decided by the Governor in Council.

242 Minister may direct chief executive to establish referral panel

- (1) If the Minister receives an application under section 33, the Minister may—

[s 69]

- (a) direct the chief executive to establish a referral panel to consider the application; and
- (b) refer the application to panel.
- (2) The referral panel must consider—
 - (a) whether the works to which the application relates—
 - (i) are substantially completed; or
 - (ii) would have been completed by the completion day but for a change in circumstances beyond the applicant's control; and
 - (b) whether the works can be completed, to the extent they would be functional, within a reasonable time.
- (3) The panel must make a recommendation, about the application, to the Minister within 20 business days after the day the panel receives the application.

69 Amendment of s 361 (Purpose of ch 3)

Section 361, 'petroleum tenure'—

omit, insert—

resource tenure

70 Amendment of s 362 (Definitions for ch 3)

(1) Section 362, definitions *closing CMA tenure, CMA tenure* and *water level*—

omit.

(2) Section 362—

insert—

closing CMA tenure means a CMA tenure for which the holder of the tenure—

- (a) has given, before the cumulative management area for the tenure was declared, a notice of closure for the tenure; or
- (b) gives, within 6 months after the cumulative management area for the tenure is declared, a notice of closure for the tenure.

CMA tenure means a resource tenure identified in a gazette notice declaring a cumulative management area under section 365.

cumulative management area means an area declared by gazette notice under section 365 to be a cumulative management area.

final report, for a resource tenure, means a report for the tenure given to the chief executive under section 374.

underground water impact report means a report a responsible entity is obliged to give to the chief executive under section 370.

water level, of an aquifer, means—

- (a) if the aquifer was tapped by an artesian bore—the level to which the water would rise naturally above the surface of the land at the location of the bore if the water was contained vertically above the surface of the land; or
 - (b) if the aquifer were tapped by a subartesian bore—the level of the water in the bore.
- (3) Section 362, definitions *impact considerations*, *make good obligations*, *relevant underground water rights*, *underground water obligation* and *water monitoring bore*, ‘petroleum’—
omit, insert—

[s 71]

resource

71 Amendment of s 363 (Water bores to which ch 3 applies)

Section 363—

insert—

- (2) However, this chapter does not apply to a water bore if it is used only for water monitoring.

72 Replacement of s 364 (References to petroleum tenure holder in ch 3)

Section 364—

omit, insert—

364 References in ch 3 to resource tenures and holders of resource tenures if the tenure ends

- (1) This section applies if a resource tenure ends.
- (2) Subsection (3) applies if—
 - (a) the resource tenure was a mineral development licence and under the Mineral Resources Act, chapter 6, part 1 the holder of the licence became the holder of a mining lease; or
 - (b) the resource tenure was an authority to prospect under the *Petroleum Act 1923* and under part 6, division 1 of that Act the holder of the tenure became a lease holder; or
 - (c) the resource tenure was an authority to prospect under the Petroleum and Gas Act and under chapter 2, part 2, division 2 of that Act the holder of the tenure became a petroleum lease holder.
- (3) A reference in this chapter—

- (a) to the resource tenure includes a reference to—
 - (i) if the resource tenure is a mining lease—the mineral development licence; or
 - (ii) if the resource tenure is a lease granted under the *Petroleum Act 1923*, part 6, division 1 (*1923 Act lease*)—the authority to prospect under the *Petroleum Act 1923*; or
 - (iii) if the resource tenure is a petroleum lease under the Petroleum and Gas Act—the authority to prospect under the Petroleum and Gas Act; and
- (b) to the resource tenure holder includes a reference to—
 - (i) if the resource tenure is a mining lease—the holder of the mineral development licence; or
 - (ii) if the resource tenure is a 1923 Act lease—the holder of the authority to prospect under the *Petroleum Act 1923*; or
 - (iii) if the resource tenure is a petroleum lease under the Petroleum and Gas Act—the holder of the authority to prospect under the Petroleum and Gas Act.
- (4) If subsection (3) does not apply to a resource tenure, a reference in this chapter to the holder of the resource tenure is a reference to the holder of the resource tenure immediately before it ended.

[s 73]

73 Amendment of s 365 (Declaring cumulative management areas)

- (1) Section 365(1), ‘petroleum tenures’—
omit, insert—
resource tenures
- (2) Section 365(2), after ‘management area’—
insert—
for resource tenures identified in the gazette notice
- (3) Section 365—
insert—
(3A) The gazette notice may identify resource tenures specifically or generally, including resource tenures granted in the cumulative management area after the declaration is published in the gazette.
(3B) If the area of an identified resource tenure is partly within and partly outside the declared area, the declared area is taken to include the whole of the area of the resource tenure.
- (4) Section 365(5), after ‘management area’—
insert—
in relation to the identified resource tenures

74 Amendment of ch 3, pt 1, div 3, hdg

Chapter 3, part 1, division 3, heading, ‘petroleum’—
omit, insert—

resource

75 Amendment of s 366 (Obligation to use best endeavours to obtain approvals)

Section 366(1), ‘petroleum’—

omit, insert—

resource

76 Amendment of s 367 (Obligation to use best endeavours to obtain information)

Section 367, ‘petroleum’—

omit, insert—

resource

77 Amendment of s 368 (Who is a *responsible entity*)

Section 368(a) and (b)—

omit, insert—

- (a) for a CMA tenure, other than a closing CMA tenure—the office; or
- (b) for a closing CMA tenure or a resource tenure that is not a CMA tenure—the holder of the tenure.

78 Amendment of s 369 (Who is a *responsible tenure holder*)

Section 369, ‘petroleum’—

omit, insert—

resource

79 Insertion of new s 369A

Chapter 3, part 2, division 1—

insert—

369A Application of pt 2

- (1) This part does not apply to the holder of a mineral development licence or mining lease who takes or interferes with underground water in the

[s 79]

- area of the licence or lease if subsection (2) or (3) applies.
- (2) This subsection applies if—
- (a) the holder of the mineral development licence or mining lease is authorised, under a water licence or water permit, to take or interfere with underground water in the area of the licence or lease; and
 - (b) the taking or interference happens during the course of, or results from, the carrying out of an authorised activity for the licence or lease.
- (3) This subsection applies if—
- (a) immediately before the commencement, the holder of the mineral development licence or mining lease was otherwise lawfully entitled to take or interfere with underground water in the area of the licence or lease; and
 - (b) after the commencement—
 - (i) the holder takes or interferes with water during the course of, or as the result of, the carrying out of an authorised activity for the licence or lease; and
 - (ii) had the taking or interference mentioned in subparagraph (i) occurred before the commencement, the holder would have been authorised to take or interfere with the water in connection with the activity.
- (4) However, this part does apply to the holder of a mineral development licence or mining lease mentioned in subsection (1) if—
- (a) the licence or lease is a CMA tenure; or

-
- (b) the chief executive decides, having regard to the impact considerations relating to the holder, that this part applies to the holder.
 - (5) The chief executive must give a holder mentioned in subsection (4)(b)—
 - (a) a notice advising the holder that this part applies to the holder and a stated reasonable time within which the holder must give the chief executive an underground water impact report under section 370; and
 - (b) an information notice about the decision.

80 Amendment of s 370 (Obligation to give underground water impact report)

- (1) Section 370, ‘petroleum’—
omit, insert—
resource
- (2) Section 370(1), ‘section 371’—
omit, insert—
sections 370A, 370B and 371
- (3) Section 370(2)(b)—
omit, insert—
 - (b) be given—
 - (i) if the responsible entity is a mining tenure holder—before the day the holder exercises its underground water rights or, if the chief executive agrees to a later day, by that day; or
 - (ii) if the responsible entity is the office or a petroleum tenure holder—within the initial report period or, if the chief executive agrees to a longer period, within that period; and

[s 81]

(4) Section 370(2)—

insert—

- (e) be accompanied by the fee prescribed by regulation.

81 Insertion of new ss 370A and 370B

After section 370—

insert—

370A When obligation to give underground water impact report does not apply—exemption for low risk resource tenures

- (1) A regulation may identify circumstances in which a resource tenure is taken to be a low risk resource tenure for this division.
- (2) The circumstances may relate to 1 or more of the following—
 - (a) the likely impacts of the exercise of underground water rights on water bores and springs;
 - (b) the nature and scale of a mining or petroleum operation;
 - (c) the characteristics of the underground water resource;
 - (d) the location of the resource tenure.
- (3) The holder of a low risk resource tenure is not required to give the chief executive an underground water impact report under section 370 while the resource tenure remains a low risk resource tenure.

370B When obligation to give further underground water impact report does not apply

- (1) This section applies if—

- (a) the responsible entity is the holder of a resource tenure that is not a CMA tenure; and
 - (b) the responsible entity has given the chief executive an underground water impact report that is approved by the chief executive under section 385 (the *existing report*); and
 - (c) the existing report—
 - (i) estimated, under section 376(1)(a)(ii), the quantity of water to be taken to be zero; and
 - (ii) did not predict, under section 376(1)(b)(iv) or (v), a decline in the water level of an aquifer of more than the bore trigger threshold either during the period or at any time as mentioned in the subparagraph.
- (2) Subject to subsection (5), the responsible entity is not required to give the chief executive a further underground water impact report.
- (3) However if, after the approval of the existing underground water impact report, the responsible entity exercises its underground water rights, the responsible entity must notify the chief executive within 10 business days of the exercise of the rights.
- Maximum penalty—500 penalty units.
- (4) Subsection (5) applies if—
- (a) the chief executive requires the responsible entity to amend the existing report under section 392; and
 - (b) the report, as amended, indicates a decline in the water level of an aquifer affected, or

[s 82]

likely to be affected, because of the exercise of the underground water rights.

- (5) Section 370 applies to the responsible entity as if a reference in section 370(2)(c) to ‘the day the first underground water impact report for the cumulative management area or resource tenure took effect’ were a reference to ‘the day the approved underground water impact report as amended took effect’.

82 Amendment of s 371 (When obligation to give underground water impact report does not apply)

- (1) Section 371, heading, after ‘apply’—

insert—

—notice of closure

- (2) Section 371(1)(a) and (b), ‘petroleum’—

omit, insert—

resource

- (3) Section 371(3)—

omit, insert—

- (3) However, section 370 does apply if, after the notice of closure is given, an application for renewal of the resource tenure, made under the relevant Act, is granted.

- (4) In this section—

relevant Act, for the renewal of a resource tenure, means whichever of the following Acts is relevant to the renewal—

- (a) the Mineral Resources Act;
- (b) the *Petroleum Act 1923*;
- (c) the Petroleum and Gas Act.

83 Replacement of s 372 (Obligation to give notice of closure—general)

Section 372—

omit, insert—

372 Obligation to give notice of closure—general

- (1) A resource tenure holder who has started exercising its underground water rights must, on either of the following days, give the chief executive a notice of closure—
- (a) the day that is 1 year before the term of the resource tenure ends;
 - (b) the day the holder makes an application under a relevant Act for the surrender of the resource tenure.

Maximum penalty—500 penalty units.

- (2) Subsection (1) does not apply to a resource tenure holder who is exempt from preparing an underground water impact report under a regulation made under section 370A.
- (3) The notice of closure must state—
- (a) the details of the holder and resource tenure; and
 - (b) whether the tenure is ending or being surrendered; and
 - (c) if the tenure is ending—the day the tenure will end.
- (4) If the resource tenure is a CMA tenure, including a closing CMA tenure, the holder must give the office a copy of the notice of closure.
- (5) For subsection (1)(a), a resource tenure that is a petroleum tenure is not taken to end only because the tenure is divided under the Petroleum and Gas Act, chapter 2.

[s 84]

- (6) In this section—
- relevant Act*, for an application for the surrender of a resource tenure, means whichever of the following Acts is relevant to the surrender of the tenure—
- (a) the Mineral Resources Act;
 - (b) the *Petroleum Act 1923*;
 - (c) the Petroleum and Gas Act.

84 Amendment of s 373 (Obligation to give notice of closure—relevant events)

- (1) Section 373(1), ‘petroleum’—
omit, insert—
resource
- (2) Section 373—
insert—
- (3) However, subsection (2) applies only if the resource tenure holder has started exercising its underground water rights.

85 Amendment of s 374 (Obligation to give final report)

- (1) Section 374(1), (2) and (4), ‘petroleum’—
omit, insert—
resource
- (2) Section 374(5), after ‘383’—
insert—
and the fee prescribed by regulation

86 Amendment of s 375 (When obligation to give final report does not apply)

(1) Section 375(1)(a) and (3), ‘petroleum’—

omit, insert—

resource

(2) Section 375(1)(c)—

omit, insert—

(c) before the last day by which the holder may apply for a renewal of the resource tenure under a relevant Act, the holder gives the chief executive a written declaration stating that the holder intends to apply for the renewal.

(3) Section 375—

insert—

(5) In this section—

relevant Act, for a renewal of a resource tenure, means whichever of the following Acts is relevant to the renewal of the tenure—

(a) the Mineral Resources Act;

(b) the *Petroleum Act 1923*;

(c) the Petroleum and Gas Act.

87 Amendment of s 376 (Content of underground water impact report)

(1) Section 376(a)—

insert—

Example for paragraph (a)(i)—

If the report is prepared by a mining tenure holder before it exercises its underground water rights, the quantity of water produced or taken from the area would be shown in the report as zero.

[s 88]

(2) Section 376—

insert—

- (2) However, if the underground water impact report does not show any predicted water level decline in any area of an affected aquifer by more than the bore trigger threshold during the period mentioned in subsection (1)(b)(iv) or at any time as mentioned in subsection (1)(b)(v), the report does not have to include the program mentioned in subsection (1)(e).

88 Amendment of s 378 (Content of water monitoring strategy)

Section 378(3)(a), ‘petroleum’—

omit, insert—

resource

89 Amendment of s 379 (Content of spring impact management strategy)

(1) Section 379(1) and (3), ‘potentially affected spring’—

omit, insert—

spring of interest

(2) Section 379(1)(d)—

omit.

(3) Section 379(1)(e), after ‘predicted impacts on the spring’—

insert—

under paragraph (c)

(4) Section 379(1)(e) to (g)—

renumber as section 379(1)(d) to (f).

90 Amendment of s 382 (Public notice and copies of report)

Section 382(4)—

omit, insert—

- (4) The responsible entity must—
 - (a) give a copy of the report to each person who requests a copy; and
 - (b) advise the chief executive that the entity has complied with subsections (1) and (2).

91 Amendment of s 385 (Decision on report)

Section 385(3), ‘petroleum’—

omit, insert—

resource

92 Amendment of s 386 (Publishing approval and making report available)

Section 386(1)—

omit, insert—

- (1) The responsible entity that gave the chief executive an underground water impact report or final report that is approved by the chief executive must—
 - (a) within 10 business days after receiving notice of the approval—
 - (i) publish, in the way required by the chief executive, a notice about the approval that complies with subsection (2); and
 - (ii) give a copy of the notice to each bore owner of a water bore within the area to which the report relates; and

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- (b) within 15 business days after receiving notice of the approval—advise the chief executive that the entity has complied with paragraph (a).

Maximum penalty—50 penalty units.

93 Amendment of s 388 (Effect of approved underground water impact report)

- (1) Section 388(1)(a) and (b), ‘petroleum’—

omit, insert—

resource

- (2) Section 388(1)(a), after ‘within the area’—

insert—

identified in the CMA gazette notice for the area

- (3) Section 388—

insert—

- (3) In this section—

CMA gazette notice, for a cumulative management area, means the gazette notice under section 365 declaring the area to be a cumulative management area.

94 Amendment of s 389 (Effect of approved final report)

Section 389(4), ‘petroleum’—

omit, insert—

resource

95 Amendment of s 390 (Compliance with approved reports)

Section 390, ‘petroleum’—

omit, insert—

resource

96 Amendment of s 391 (Minor or agreed amendments of approved report)

Section 391(1)(a)(ii) and (c), ‘petroleum’—

omit, insert—

resource

97 Amendment of s 393 (Other amendments)

Section 393(6)—

insert—

Maximum penalty—50 penalty units.

98 Amendment of s 394 (What is a *baseline assessment*)

Section 394, ‘petroleum’—

omit, insert—

resource

99 Insertion of new s 394A

After section 394—

insert—

394A Application of pt 3

- (1) This part does not apply to the holder of a mineral development licence or mining lease who takes or interferes with underground water in the area of the licence or lease if subsection (2) or (3) applies.
- (2) This subsection applies if—
 - (a) the holder of the mineral development licence or mining lease is authorised, under

[s 99]

- a water licence or water permit, to take or interfere with underground water in the area of the licence or lease; and
- (b) the taking or interference happens during the course of, or results from, the carrying out of an authorised activity for the licence or lease.
- (3) This subsection applies if—
- (a) immediately before the commencement of this section, the holder of the mineral development licence or mining lease was otherwise lawfully entitled to take or interfere with underground water in the area of the licence or lease; and
- (b) after the commencement—
- (i) the holder takes or interferes with water during the course of, or as the result of, the carrying out of an authorised activity for the licence or lease; and
- (ii) had the taking or interference mentioned in subparagraph (i) occurred before the commencement, the holder would have been authorised to take or interfere with the water in connection with the activity.
- (4) However, this part does apply to the holder of a mineral development licence or mining lease mentioned in subsection (1) if the chief executive decides, having regard to the impact considerations relating to the holder, that this part applies to the holder.
- (5) The chief executive must give a holder mentioned in subsection (4)—
- (a) a notice advising the holder that this part applies to the holder and a stated reasonable

time within which the holder must give the chief executive a baseline assessment plan under section 397; and

(b) an information notice about the decision.

100 Amendment of s 396 (Method of undertaking baseline assessment)

(1) Section 396(1), ‘responsible’—

omit, insert—

resource

(2) Section 396(1)—

insert—

Maximum penalty—50 penalty units.

101 Amendment of s 397 (Obligation to prepare baseline assessment plan)

(1) Before section 397(1)—

insert—

(1A) This section does not apply while there are no water bores in the area of a resource tenure.

(1B) A mining tenure holder must give the chief executive a baseline assessment plan for the area of the holder’s tenure—

(a) before the day the holder exercises its underground water rights; or

(b) if the chief executive agrees to a later day, by that day.

Maximum penalty—500 penalty units.

(2) Section 397(2)—

omit, insert—

[s 101]

- (4) A baseline assessment plan for the area of a resource tenure must—
 - (a) state whether a baseline assessment has been undertaken for any bores in the area before the day the plan is given to the chief executive and, if so, identify the bores; and
 - (b) identify each area of the holder's resource tenure in which water bores, other than the bores mentioned in paragraph (a), are or may be located (each a *priority area*); and
 - (c) state a timetable for undertaking baseline assessments of water bores in each priority area of the resource tenure for which an assessment has not already been completed, including a stated date by which all baseline assessments in each priority area will be undertaken, that complies with section 398 (a *baseline assessment timetable*); and
 - (d) state the rationale for the baseline assessment timetable; and
 - (e) be accompanied by the fee prescribed by regulation.
- (5) Despite subsection (4)(b), the chief executive may accept a baseline assessment plan—
 - (a) for a petroleum tenure that is an authority to prospect under the *Petroleum Act 1923* or the *Petroleum and Gas Act*—that excludes a block of the authority—
 - (i) that is not contiguous with any other block of the authority; and
 - (ii) on which no production testing is being undertaken or is planned to be undertaken; or
 - (b) generally—that excludes an area if the resource tenure holder can demonstrate to

the chief executive's satisfaction that any relevant aquifer in the area is not affected, or likely to be affected, because of the exercise of the holder's underground water rights.

- (3) Section 397(1A) to (1)—
renumber as section 397(1) to (3).

102 Replacement of s 398 (Requirements for baseline assessment timetable)

Section 398—

omit, insert—

398 Requirements for baseline assessment timetable

- (1) If the resource tenure is a petroleum tenure, the baseline assessment timetable must provide for a baseline assessment to be undertaken for each water bore located in a priority area for the tenure by the earliest of the following—
- (a) before production testing starts, if—
 - (i) the bore in the priority area is located within 2km of the production testing; and
 - (ii) during the production testing, water will be taken from the aquifer supplying the water bore;
 - (b) before production of petroleum starts in the priority area;
 - (c) the day after a period of 30 days, whether continuous or not, of undertaking production testing in the priority area.
- (2) However, subsection (1)(a) does not apply if the petroleum tenure holder obtains the written agreement of the owner of the water bore to a

[s 103]

baseline assessment being undertaken on a later day.

- (3) Subject to subsection (4), if the resource tenure is a mining tenure, the baseline assessment timetable must provide for a baseline assessment to be undertaken for each water bore in a priority area before the exercise of underground water rights in the priority area.
- (4) If the chief executive gives the holder of a mining tenure a notice under section 394A(5)(a), the baseline assessment timetable must state a day by which a baseline assessment will be undertaken for each water bore in a priority area.
- (5) A baseline assessment timetable must state the rationale for each date by which baseline assessments will be undertaken.

103 Amendment of s 399 (Approval of baseline assessment plan)

- (1) Section 399—

insert—

- (1A) The holder must submit the amended plan to the chief executive within the stated reasonable period.

Maximum penalty—50 penalty units.

- (2) Section 399(2), ‘petroleum’—

omit, insert—

resource

104 Replacement of s 400 (Compliance with approved baseline assessment plan)

Section 400—

omit, insert—

400 Compliance with approved baseline assessment plan

A resource tenure holder must, unless the holder has a reasonable excuse—

- (a) undertake a baseline assessment of a water bore in a priority area for the tenure on or before the day stated in the baseline assessment timetable in the baseline assessment plan for the area of the resource tenure; and
- (b) comply with each condition of its approved baseline assessment plan.

Maximum penalty—500 penalty units.

105 Amendment of s 401 (Application to amend)

- (1) Section 401(1) and (5), ‘petroleum tenure’—
omit, insert—

resource tenure

- (2) Section 401(1), after ‘plan’—
insert—

for the area of the resource tenure

- (3) Section 401(2)—
omit, insert—

- (2) If—

- (a) a resource tenure holder who is the holder of a mining tenure becomes aware of a material change to the holder’s program for carrying out activities for the mining tenure that may cause the holder’s baseline assessment timetable in the baseline assessment plan not to comply with section 398; or

[s 106]

- (b) a resource tenure holder who is a petroleum tenure holder becomes aware of a material change to the holder's program for production testing or production of petroleum that may cause the holder's baseline assessment timetable in the baseline assessment plan not to comply with section 398;

the resource tenure holder must apply to the chief executive for an amendment of the plan.

Maximum penalty—50 penalty units.

- (2A) The resource tenure holder must also apply to the chief executive for an amendment of the plan if—

- (a) for an area excluded from a baseline assessment plan under section 397(5)(a)—there is a material change in the holder's program for production testing; or
- (b) for an area excluded from a baseline assessment plan under section 397(5)(b)—the holder becomes aware a relevant aquifer is being, or is likely to be, affected by the exercise of the holder's underground water rights by more than the bore trigger threshold for the aquifer.

Maximum penalty—50 penalty units.

- (4) Section 401(3), after 'for the application'—

insert—

and be accompanied by the fee prescribed by regulation

106 Amendment of s 402 (Direction by chief executive to undertake baseline assessment)

Section 402(1), 'petroleum'—

omit, insert—

resource

107 Amendment of s 403 (Notice of intention to undertake baseline assessment)

Section 403, 'petroleum'—

omit, insert—

resource

108 Amendment of s 404 (Bore owner must give information)

Section 404(1), 'petroleum'—

omit, insert—

resource

109 Amendment of s 405 (Notice of outcome of baseline assessment)

(1) Section 405, 'petroleum'—

omit, insert—

resource

(2) Section 405—

insert—

- (2) If the resource tenure holder gives the notice to the office by an electronic communication, the electronic communication must be in the format required by the office unless otherwise agreed to in writing by the office.

110 Amendment of s 406 (Obligation to negotiate general agreement)

Section 406(1)—

omit, insert—

[s 111]

- (1) This section applies—
- (a) for a resource tenure holder who is not required to give an underground water impact report under this Act—from the day the holder first exercises its underground water rights after the commencement of this paragraph and while the holder continues to hold the resource tenure; or
 - (b) otherwise—
 - (i) for each mining tenure holder—from the day the holder first exercises its underground water rights and until an underground water impact report applies to the holder’s mining tenure; or
 - (ii) for each petroleum tenure holder—from the start day for the holder’s petroleum tenure and until an underground water impact report applies to the holder’s tenure.

111 Amendment of s 407 (Effect of an agreement under this part)

Section 407(b), ‘petroleum’—

omit, insert—

resource

112 Amendment of s 409 (*Make good obligations for water bores*)

Section 409(1) and (2), ‘petroleum’—

omit, insert—

resource

113 Amendment of s 411 (What is a *bore assessment*)

Section 411, ‘petroleum’—

omit, insert—

resource

114 Amendment of s 414 (Method of undertaking bore assessment)

Section 414(1)—

insert—

Maximum penalty—50 penalty units.

115 Amendment of s 416 (Bore owner must give information)

Section 416(1), ‘petroleum’—

omit, insert—

resource

116 Amendment of s 418 (Direction by chief executive to undertake bore assessment)

(1) Section 418(1)—

omit, insert—

(1) This section applies if the chief executive reasonably believes a water bore—

(a) can no longer supply a reasonable quantity or quality of water for its authorised use or purpose; or

(b) is affected, or is likely, in the future, to be affected, by the exercise of a resource tenure holder’s underground water rights.

(2) Section 418(2) and (4), ‘petroleum’—

omit, insert—

[s 117]

resource

117 Amendment of s 419 (Notice of outcome of bore assessment)

(1) Section 419, ‘petroleum’—

omit, insert—

resource

(2) Section 419—

insert—

- (2) If the resource tenure holder gives the notice to the office by an electronic communication, the electronic communication must be in the format required by the office unless otherwise agreed to in writing by the office.

118 Amendment of s 422 (Persons bound by make good agreement)

Section 422, ‘petroleum’—

omit, insert—

resource

119 Amendment of s 423 (Requirement to enter into make good agreement and reimburse bore owner)

Section 423(3)—

omit, insert—

- (3) The holder must—
- (a) reimburse the bore owner for any accounting, legal or valuation costs the bore owner necessarily and reasonably incurs in negotiating or preparing a make good agreement, other than the costs of a person

facilitating an ADR requested by the bore owner; and

- (b) advise the chief executive if the holder enters into the make good agreement.

120 Amendment of s 425 (Application of div 4)

Section 425(a), 'petroleum'—

omit, insert—

resource

121 Amendment of s 436 (Provisions for deciding any compensation)

Section 436(1), (2)(a) and (3), 'petroleum'—

omit, insert—

resource

122 Amendment of s 437 (Land Court's decision binds successors and assigns)

Section 437, 'petroleum'—

omit, insert—

resource

123 Amendment of s 438 (Application of make good obligations to particular bores)

Section 438, 'petroleum'—

omit, insert—

resource

[s 124]

124 Amendment of s 439 (Continuation of underground water obligations)

Section 439, 'petroleum'—

omit, insert—

resource

125 Amendment of s 440 (Petroleum tenure holder may start complying with make good obligations before final report approved)

(1) Section 440, heading, 'Petroleum'—

omit, insert—

Resource

(2) Section 440, 'petroleum'—

omit, insert—

resource

126 Amendment of s 441 (Right of entry after petroleum tenure ends to comply with particular obligations)

(1) Section 441, heading, 'petroleum'—

omit, insert—

resource

(2) Section 441(1), 'petroleum'—

omit, insert—

resource

(3) Section 441(3)—

insert—

(aa) the tenure were a resource authority to which the relevant entry provisions apply; and

(4) Section 441(4), definition 'relevant entry provisions'—

omit, insert—

relevant entry provisions means the *Mineral and Energy Resources (Common Provisions) Act 2014*, chapter 3.

127 Amendment of s 448 (Application of div 1)

Section 448(1) and (2), ‘petroleum’—

omit, insert—

resource

128 Amendment of s 449 (Chief executive may direct petroleum tenure holder to carry out water monitoring activities)

Section 449, ‘petroleum’—

omit, insert—

resource

129 Amendment of s 451 (Power to give direction)

Section 451(1) and (3), ‘petroleum’—

omit, insert—

resource

130 Amendment of s 452 (Offence to fail to comply with direction)

Section 452, ‘petroleum’—

omit, insert—

resource

[s 131]

131 Amendment of s 453 (Chief executive may take action and recover costs)

Section 453(1), 'petroleum'—

omit, insert—

resource

132 Amendment of s 454 (Directions to petroleum tenure holders and bore owners to give information)

Section 454, 'petroleum'—

omit, insert—

resource

133 Amendment of s 456 (Functions of office)

Section 456(1)(a), 'petroleum'—

omit, insert—

resource

134 Amendment of s 460 (Obtaining information about underground water from petroleum tenure holders)

(1) Section 460, 'petroleum'—

omit, insert—

resource

(2) Section 460(1), 'the exercise of underground water rights under'—

omit.

(3) Section 460—

insert—

(5) If a person (the *first person*) who is a resource tenure holder has nominated or specified another person (the *nominated person*) for service under

a relevant provision, the notice is taken to have been given to the first person if it is given to the nominated person.

(6) In this section—

relevant provision means—

- (a) for a resource tenure holder who is the holder of a mineral development licence—the Mineral Resources Act, section 183(1)(c); or
- (b) for a resource tenure holder who is the holder of a mining lease—the Mineral Resources Act, section 245(1)(c); or
- (c) for a resource tenure holder who is the holder of a 1923 Act petroleum tenure under the *Petroleum Act 1923*—the *Petroleum Act 1923*, section 129; or
- (d) for a resource tenure holder who is the holder of a petroleum tenure under the Petroleum and Gas Act—the Petroleum and Gas Act, section 852.

135 **Amendment of s 479 (Annual levy for underground water management)**

(1) Section 479(1), (3) and (4)(b), ‘petroleum’—

omit, insert—

resource

(2) Section 479(7) and (8)—

omit, insert—

- (7) The office must give notice about the levy, and any changes to the levy, to each resource tenure holder.
- (8) If a person (the *first person*) who is a resource tenure holder has nominated or specified another

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person (the *nominated person*) for service under a relevant provision, the notice is taken to have been given to the first person if it is given to the nominated person.

(9) In this section—

relevant provision means—

- (a) for a resource tenure holder who is the holder of a mineral development licence—the Mineral Resources Act, section 183(1)(c); or
- (b) for a resource tenure holder who is the holder of a mining lease—the Mineral Resources Act, section 245(1)(c); or
- (c) for a resource tenure holder who is the holder of a 1923 Act petroleum tenure under the *Petroleum Act 1923*—the *Petroleum Act 1923*, section 129; or
- (d) for a resource tenure holder who is the holder of a petroleum tenure under the Petroleum and Gas Act—the Petroleum and Gas Act, section 852.

136 Insertion of new s 479A

After section 479—

insert—

479A Recovery of levy

- (1) The levy worked out under section 479 must be paid by each resource tenure holder in the amount, at the time and in the way prescribed by regulation.
- (2) If a resource tenure holder does not pay the levy as required under the regulation, the State may recover from the holder the amount of the levy as a debt.

137 Amendment of s 480 (Payment of amounts into Groundwater Impact Assessment Fund)

Section 480(a) and (b), ‘petroleum’—

omit, insert—

resource

138 Amendment of s 483 (Public access to database)

Section 483(2)—

omit, insert—

- (2) However, the publicly available part of the database must not include information the office reasonably believes is commercially sensitive.

139 Amendment of s 484 (Petroleum tenure holder access to information)

- (1) Section 484, heading, ‘Petroleum’—

omit, insert—

Resource

- (2) Section 484(1) and (2), ‘petroleum’—

omit, insert—

resource

140 Insertion of new s 485

Chapter 3A—

insert—

485 Chief executive’s access to information

The office must make any information in the database, including information the office reasonably believes is commercially sensitive, available to the chief executive of the department in which chapter 3 is

[s 141]

administered if the information may be relevant to the administration of chapter 3.

141 Amendment of s 542 (Purposes of ch 4)

(1) Section 542(1), ‘establishment and’—

omit.

(2) Section 542(2)—

omit.

142 Replacement of ch 4, pt 2, hdg (Establishing water authorities)

Chapter 4, part 2, heading—

omit, insert—

Part 2 Water authorities

143 Amendment of s 548 (Establishing water authorities)

Section 548—

insert—

- (4) After the commencement of this subsection, a regulation under subsection (1) may amend an establishment regulation but can not establish a new water authority.

144 Omission of ss 552–555

Sections 552 to 555—

omit.

145 Amendment of s 556 (Amending establishment regulation)

Section 556—

insert—

- (5) Also, subsection (2) does not apply if—
 - (a) the amendment is for the purpose of including land in, or excluding land from, the water authority's authority area; and
 - (b) the water authority has by resolution asked the chief executive for the amendment to be made; and
 - (c) the chief executive is satisfied that all owners of land who are likely to be affected by the amendment have agreed to the amendment.

146 Amendment of s 572 (Power to make and levy rates and charges)

- (1) Section 572(2), from 'levy'—

omit, insert—

levy—

- (a) charges on its customers; and
- (b) if the authority has an authority area—rates and charges on its ratepayers.

- (2) Section 572(5)—

omit, insert—

- (5) A rate may be made and levied on a ratepayer's land in the authority area in relation to a water service—
 - (a) if the water service is provided to the land as an irrigation service involving the supply of water the volume of which is not measured—on the basis of the area of the land that is the subject of the irrigation service; or

[s 147]

- (b) otherwise—on the basis that it is land to which water may be supplied under the water service.

147 Omission of s 574 (Interest on overdue rates and charges)

Section 574—

omit.

148 Amendment of s 584 (Water authority may enter into work performance arrangements)

- (1) Section 584(1), from ‘with—’—

omit, insert—

with the appropriate authority of a government entity.

- (2) Section 584(4)(b), ‘employing office for the water authority, or an employee of the other’—

omit.

149 Amendment of s 585 (Duties and liabilities of water authority officers)

Section 585(9), definition *officer*, paragraph (b)—

omit, insert—

- (b) an employee of a government entity who performs work for the water authority under a work performance arrangement between the water authority and the government entity.

150 Amendment of s 598 (Composition of board for water authorities)

- (1) Section 598(1), from ‘As soon as’ to ‘section 690’—

omit, insert—

As soon as practicable after a new water authority is formed on an amalgamation under section 690

- (2) Section 598(1A) and (2)—

omit, insert—

- (2) Directors that are to be elected must be elected—
- (a) in the way prescribed by regulation; and
 - (b) to the extent the way is not prescribed by regulation—in the way approved by the chief executive.

151 Replacement of s 600 (Appointment)

Section 600—

omit, insert—

600 Appointment of directors

- (1) The directors for a category 1 water authority must be appointed by the Governor in Council.
- (2) After the commencement of this section, the directors for a category 2 water authority must be appointed by the Minister.

152 Amendment of s 602 (Administration of water authority)

- (1) Section 602(1)—

omit, insert—

- (1) The Minister may appoint the chief executive, or another person if the Minister considers the person is appropriately qualified, to administer a water authority formed on an amalgamation under section 690 until the authority's first board is appointed.

- (2) Section 602(2)(a), 'the Governor in Council'—

omit, insert—

[s 153]

the Governor in Council or Minister

(3) Section 602—

insert—

- (4) Subsection (5) applies if the Minister considers it is not practicable for the chief executive or another person to administer a new category 2 water authority formed on an amalgamation under section 690 until the authority's first board is appointed.
- (5) The Minister may direct, or the regulation providing for the amalgamation may provide, that until the new authority's board is appointed under section 600, the new authority is to be administered by a board made up of each person who, immediately before the amalgamation, was a director of 1 or more of the water authorities that were amalgamated.

153 Insertion of new s 604A

After section 604—

insert—

604A Special provision for director nominated by local government

If a director of a category 2 water authority is the nominee of a local government, the day the director's term ends must be not later than 6 months after the day prescribed under the *Local Government Act 2009* for holding the quadrennial election next following the director's appointment.

154 Amendment of s 607 (Termination of appointment as director)

(1) Section 607, after 'Governor in Council'—

insert—

, for a category 1 water authority, and the Minister, for a category 2 water authority,

(2) Section 607—

insert—

(2) The Minister may remove a director under subsection (1) even if the director was appointed by the Governor in Council.

155 Amendment of s 608 (Casual vacancy)

Section 608(1)(c), after ‘Governor in Council’—

insert—

or Minister

156 Amendment of s 609 (Removal of board)

(1) Section 609, after ‘Governor in Council’—

insert—

, for a category 1 water authority, and the Minister, for a category 2 water authority,

(2) Section 609—

insert—

(2) The Minister may remove directors under subsection (1) even if the directors were appointed by the Governor in Council.

157 Amendment of s 618 (Power to grant relief)

(1) Section 618(1)(b)—

omit, insert—

(b) an employee of a government entity who performs work for a water authority under a work performance arrangement between the water authority and the government entity.

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- (2) Section 618(2) and (4), ‘employing office for the water authority or of the other’—

omit.

158 Amendment of s 619 (False or misleading information or documents)

Section 619(1), definition *officer*, paragraph (b)—

omit, insert—

- (b) an employee of a government entity who performs work for the water authority under a work performance arrangement between the water authority and the government entity.

159 Insertion of new s 619A

Chapter 4, part 4, division 3—

insert—

619A Application

- (1) Sections 620 to 622 apply to the board of a category 1 water authority.
- (2) Section 623 applies to the board of any water authority.

160 Omission of ch 4, pt 4A (Employing offices for water authorities)

Chapter 4, part 4A—

omit.

161 Amendment of s 691 (Dissolution of water authority and authority area)

Section 691(1)(a)—

omit, insert—

- (a) dissolve a water authority if the Minister is satisfied either of the following applies to the water authority—
 - (i) the water authority has not complied with requirements applying to it under this Act and is unlikely to be able to do so in the future;
 - (ii) the water authority no longer serves the function for which it was established;or

162 Insertion of new s 691A

After section 691—

insert—

691A Distribution contract applying for particular water allocations

- (1) This section applies if—
 - (a) a regulation provides for the dissolution of a category 2 water authority (the *old entity*) under section 691(1)(b); and
 - (b) immediately before the dissolution, the old entity is the holder of a distribution operations licence (the *DOL*).
- (2) The regulation must identify a document (the *old entity document*) held by the old entity and available for public access on the old entity's website before the dissolution.
- (3) The old entity document must set out—
 - (a) the distribution arrangements for water distributed under the DOL by the old entity; and

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- (b) the financial obligations, arising from the distribution arrangements, of the holder of any water allocation to whom water is distributed under the DOL.
- (4) The old entity document must fairly represent the distribution arrangements and financial obligations as in place before the dissolution of the old entity.
- (5) The old entity document may include additional provisions to facilitate implementing the arrangements and meeting the obligations, but the additional provisions must not be capable of operating to the detriment, in substance, of an allocation holder after the dissolution of the old entity.
- (6) After the dissolution of the old entity, the old entity document has effect as a contract (the ***distribution contract***), relating to the distribution of water under the DOL, between—
 - (a) any entity that becomes the DOL holder; and
 - (b) the holder of each water allocation to whom water—
 - (i) was distributed under the DOL immediately before the dissolution; and
 - (ii) continues to be distributed under the DOL.
- (7) Subsection (8) applies if—
 - (a) a new water allocation comes into existence after the old entity is dissolved; and
 - (b) water is or is to be distributed to the holder of the new water allocation under the DOL; and

-
- (c) a document, in the form of a contract, is held by the DOL holder as a document available for public access on the DOL holder's website; and
 - (d) the document relates to the distribution of water under the DOL to the holders of water allocations that are similar in type to the new water allocation.
- (8) The document has effect as a contract (also a *distribution contract*) between—
- (a) the DOL holder; and
 - (b) the holder of the new water allocation.
- (9) The distribution contract applying to a water allocation has effect subject to any change agreed to by the DOL holder and the water allocation holder.
- (10) If the holder of a water allocation the subject of a distribution contract transfers or leases the water allocation to another person, the other person is bound by the distribution contract as in force between the DOL holder and the water allocation holder immediately before the transfer or lease.

163 Amendment of s 692 (Public notice of proposed amalgamation or dissolution)

- (1) Section 692(1)(b)—
omit, insert—
- (b) in another way, if the chief executive considers the way to be appropriate having regard to the intended audience for the notice.
- (2) Section 692(3), 'a former water area or authority area mentioned in section 691(3)'—
omit, insert—

[s 164]

an authority area mentioned in section 691(3)(b)

(3) Section 692(3)(b), ‘former water area or’—

omit.

(4) Section 692—

insert—

(4) A notice given under subsection (1) must—

(a) contain the information about the proposed amalgamation or dissolution the chief executive considers appropriate; and

(b) state the following—

(i) that written submissions on the proposed amalgamation or dissolution may be made to the chief executive;

(ii) the date, at least 20 business days after the notice is published, by which the submissions may be made;

(iii) where the submissions may be made.

164 Omission of s 693 (Content of notice of proposed amalgamation or dissolution)

Section 693—

omit.

165 Amendment of s 695 (Water authority may request its dissolution)

(1) Section 695(1)(b)—

omit, insert—

(b) for an authority with an authority area—

(i) there is a closed water activity agreement for the authority area; or

- (ii) there is not a closed water activity agreement for the authority area but at least a majority of the ratepayers in the area, by special ballot, agree to the authority making the request.

(2) Section 695(3)—

omit, insert—

(3) The special ballot must be conducted—

- (a) in the way prescribed by regulation; and
- (b) to the extent the way is not prescribed by regulation—in the way approved by the chief executive.

166 Amendment of s 695A (Closed water activity agreement)

(1) Section 695A(1)(b), ‘all the’—

omit, insert—

all relevant

(2) Section 695A—

insert—

(6) In this section—

relevant registered owner, of land in the authority area, means a registered owner of land in the authority area who is also a ratepayer for the water authority on whom a rate is currently levied.

167 Omission of ss 698–700

Sections 698 to 700—

omit.

[s 168]

168 Amendment of s 700A (Alternative process for proposed transfer)

- (1) Section 700A, heading, ‘Alternative process for proposed’—
omit, insert—

Process for

- (2) Section 700A(1)(c)—
omit.

169 Amendment of s 704 (Existing employees)

- (1) Section 704(1), from ‘another water authority’—
omit, insert—

another water authority, a person who was employed by the former water authority becomes an employee of the new entity.

- (2) Section 704(2), from ‘structure’—
omit, insert—

structure, a person who was employed by the former water authority becomes an employee of the new entity.

- (3) Section 704(2A), from ‘day for the authority’—
omit, insert—

day for the authority, a person who was employed by the former water authority becomes an employee of a new entity for the authority in accordance with the authority’s allocation notice.

170 Amendment of s 706 (Non-liability for State taxes)

Section 706—

insert—

- (2A) Subsection (2) does not apply to anything done after 30 June 2015.

171 Amendment of s 808 (Unauthorised taking, supplying or interfering with water)

(1) Section 808(1)(a), ‘this Act’—

omit, insert—

this or another Act

(2) Section 808(1)(a), note, after ‘also’—

insert—

the Mineral Resources Act, section 334ZR (Authorisation for Water Act) and

(3) Section 808(2)(a)—

omit, insert—

(a) under this or another Act; or

Note—

See also the Mineral Resources Act, section 334ZR (Authorisation for Water Act) and the *Petroleum and Gas (Production and Safety) Act 2004*, sections 188 and 196 (Authorisation for Water Act).

172 Omission of ss 812A and 812B

Sections 812A and 812B—

omit.

173 Amendment of s 813 (Contravening licence condition)

Section 813—

insert—

(3) Subsection (4) applies if—

(a) the resource operations licence authorises the holder of the licence to interfere with the flow of water to the extent necessary to operate a dam; and

(b) a condition of the licence relates to the full supply level for the dam; and

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- (c) a flood mitigation manual has been approved for the dam under the Water Supply Act, chapter 4, part 2, division 3; and
 - (d) a temporary full supply level is declared for the dam under the Water Supply Act, chapter 4, part 3.
- (4) While the declaration of the temporary full supply level for the relevant dam is in force, a reference to the full supply level for the dam is taken to be a reference to the temporary full supply level.

174 Amendment of s 814 (Excavating or placing fill without permit)

Section 814(5), definition *prescribed assessable development*, paragraph (a)(i)—

omit, insert—

- (i) the operations allow the taking or interfering with water from a watercourse, lake or spring, or from a dam constructed on a watercourse or lake; or

175 Amendment of s 816 (Unauthorised water bore activities)

- (1) Section 816(1), ‘chapter 2, part 10’—

omit, insert—

chapter 8, part 2B

- (2) Section 816(2)(b)—

omit, insert—

- (b) carrying out an activity under the Mineral Resources Act if the activity—
 - (i) is not constructing or decommissioning a water monitoring bore; or

- (ii) would not result in a water bore being left as a functional bore for the supply of water at the end of the activity; or

176 Amendment of s 921 (Evidentiary aids)

Section 921(1)—

insert—

- (ba) a stated document is a copy of the watercourse identification map as in force on a stated day;
- (bb) a feature or position on the watercourse identification map is a stated feature or stated position;

177 Amendment of s 936 (Responsibility for acts or omissions of representatives)

Section 936(4), definition *representative*, paragraph (a)(ii)—

omit, insert—

- (ii) an employee of a government entity who performs work for the water authority under a work performance arrangement between the water authority and the government entity; or

178 Amendment of s 968 (Chief executive as assessing authority or advice agency)

Section 968(1)(c) and (2)(c)—

omit.

179 Insertion of new ch 8, pt 2B

Chapter 8—

insert—

Part 2B Water bore drillers

Division 1 Granting water bore driller's licences

981 Applying for water bore driller's licence

- (1) An individual may apply for a water bore driller's licence.
- (2) The application must—
 - (a) be made to the chief executive in the approved form; and
 - (b) state the class of licence prescribed by regulation for which the applicant is applying; and
 - (c) state any licence endorsements, prescribed by regulation, the applicant is applying for; and
 - (d) be supported by evidence that the applicant has the qualifications or experience prescribed by regulation for a water bore driller; and
 - (e) be accompanied by the fee prescribed by regulation.

982 Additional information may be required

- (1) The chief executive may require—
 - (a) the applicant to give additional information about the applicant's experience or history in the water bore drilling industry, including, for example, if the applicant has—

-
- (i) been convicted of an offence against this Act, the repealed Acts or an interstate law; or
 - (ii) held a licence to drill water bores that has been cancelled or suspended under this Act, the repealed Acts or an interstate law; or
- (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- (2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable time stated in the requirement, the application lapses.

983 Deciding application for water bore driller's licence

- (1) If the chief executive is satisfied the application should be granted, or granted in part, the chief executive must grant the application.
- (2) If the chief executive is not satisfied the application should be granted, the chief executive must refuse the application.
- (3) Within 30 business days after deciding to grant all or part of the application, the chief executive must give the applicant a water bore driller's licence in the approved form—
 - (a) for a particular class of licence; and
 - (b) with particular endorsements; and
 - (c) with or without conditions.
- (4) If the application is refused or the licence given to the applicant is different, in any respect, to the licence applied for, the chief executive must give

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the applicant an information notice about the decision within 30 business days after deciding the application.

983A Conditions of water bore driller's licence

- (1) The water bore driller's licence is subject to the conditions—
 - (a) prescribed by regulation, including the period for which the licence has effect; and
 - (b) the chief executive may impose for a particular licence.
- (2) Without limiting subsection (1), the conditions may limit the types of equipment and drilling methods the licence holder may use.

Division 2 Dealings with water bore driller's licences

983B Applying to amend water bore driller's licence

- (1) A licence holder may apply to amend a water bore driller's licence, including to upgrade the licence.
- (2) An application to amend the licence must be dealt with under division 1 as if it were an application for a licence.

983C Giving show cause notice about proposed amendment of water bore driller's licence

- (1) Subsection (2) applies if the chief executive is satisfied the licence holder is no longer competent to carry out water bore drilling activities authorised by the licence.

- (2) The chief executive must give the holder a show cause notice as to why the licence should not be amended in the way stated in the notice.

983D Deciding proposed amendment of water bore driller's licence

- (1) In deciding whether to proceed with the proposed amendment, the chief executive must consider any properly made submission about the proposed amendment.
- (2) If the chief executive is satisfied the proposed amendment should be made the chief executive must, within 30 business days after the decision, give the holder an amended licence in the approved form and an information notice.
- (3) If the holder agrees in writing to an amendment that is different from the amendment stated in the show cause notice, the chief executive must, within 30 business days after the agreement is received, give the holder an amended licence in the approved form.
- (4) If the chief executive is not satisfied the amendment should be made, the chief executive must give the holder notice that the licence will not be amended.
- (5) The amended licence takes effect from the day the holder is given the amended licence.

983E Minor or stated amendments of water bore driller's licence

The chief executive may amend the licence without complying with the provisions of this division about amending a licence if the amendment is only—

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- (a) to correct a minor error in the licence, or make another change that is not a change of substance; or
- (b) if the licence states that an amendment of a stated type may be made to the licence by amendment under this section—to make an amendment of the stated type.

983F Renewing water bore driller's licence

- (1) The licence holder may apply to renew a water bore driller's licence.
- (2) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) made before the licence expires; and
 - (c) accompanied by the fee prescribed by regulation.
- (3) If the holder applies to renew the licence, the licence remains in force until the applicant has been notified of the chief executive's decision on the application.
- (4) After considering the application and any need to change the class, endorsements or conditions shown on the licence, if the chief executive is satisfied the application should be approved, the chief executive must—
 - (a) approve the application; or
 - (b) approve the application, subject to variation of the class, endorsements or conditions shown on the licence.
- (5) If the chief executive is not satisfied the application should be approved, the chief executive must refuse the application.

- (6) If the chief executive refuses the application, or approves the application under subsection (4)(b), the chief executive must, within 30 business days after deciding the application, give the applicant an information notice about the decision.
- (7) The chief executive, on approving the application, must give the holder a new licence in the approved form.

983G Reinstating expired water bore driller's licence

- (1) If a licence holder fails to renew a water bore driller's licence, the holder may, within 30 business days after the licence expires, apply to have the licence reinstated.
- (2) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) accompanied by the fee prescribed by regulation.
- (3) If an application for the reinstatement of a water bore driller's licence is made, the expired licence is taken to have been in force from the day the application was made until the applicant has been notified of the chief executive's decision on the application.
- (4) For deciding the application, section 983F(4) to (7) applies—
 - (a) as if a reference in the section to the renewal of a licence were a reference to the reinstatement of a licence; and
 - (b) with any other necessary changes.

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983H Suspending water bore driller's licence

- (1) The chief executive may suspend a water bore driller's licence if the chief executive is satisfied the licence holder—
 - (a) has been convicted of an offence against this Act, the repealed Acts or an interstate law; or
 - (b) has carried out water bore drilling activities not permitted for the class of licence; or
 - (c) has failed to comply with the conditions of the licence; or
 - (d) has failed to comply with section 983L.
- (2) Before the chief executive acts under subsection (1), the chief executive must give the holder a show cause notice about the proposed suspension.
- (3) In deciding whether to suspend the licence, the chief executive must consider any properly made submission about the proposed suspension.
- (4) If the chief executive is satisfied the licence should be suspended, the chief executive must, within 30 business days after the decision, give the holder an information notice.
- (5) If the chief executive is not satisfied the licence should be suspended, the chief executive must give the holder notice that the licence will not be suspended.
- (6) The suspension takes effect from the day the information notice is given to the holder.
- (7) If the licence is suspended, it is of no effect during the period of suspension.

983I Cancelling water bore driller's licence

- (1) The chief executive may cancel a water bore driller's licence if the chief executive is satisfied—
 - (a) the licence was granted or renewed in error or in consequence of a false or misleading representation or declaration (made either orally or in writing); or
 - (b) the holder—
 - (i) has been convicted of an offence against this Act, the repealed Acts or an interstate law; or
 - (ii) has carried out water bore drilling activities not permitted under the licence; or
 - (iii) has failed to comply with the conditions of the licence.
- (2) Before the chief executive acts under subsection (1), the chief executive must give the holder a show cause notice about the proposed cancellation.
- (3) In deciding whether to cancel the licence, the chief executive must consider any properly made submission about the proposed cancellation.
- (4) If the chief executive is satisfied the licence should be cancelled, the chief executive must, within 30 business days after the decision, give the holder an information notice.
- (5) If the chief executive is not satisfied the licence should be cancelled, the chief executive must give the holder notice that the licence will not be cancelled.
- (6) The cancellation takes effect from the day the information notice is given to the holder.

Division 3 General

983J Production of licence to authorised officer

- (1) This section applies if an authorised officer finds an individual in circumstances that lead, or has information that leads, the authorised officer to reasonably suspect the individual is—
 - (a) drilling, deepening, enlarging or casing a water bore; or
 - (b) removing, replacing, altering or repairing the casing, lining or screening of a water bore; or
 - (c) decommissioning a water bore.
- (2) The authorised officer may require the individual to produce the individual's water bore driller's licence for the authorised officer's inspection.
- (3) If the individual holds a current water bore driller's licence, the individual must comply with the requirement, unless the individual has a reasonable excuse.

Maximum penalty—50 penalty units.
- (4) When making the requirement, the authorised officer must warn the individual it is an offence to fail to produce the licence, unless the individual has a reasonable excuse.
- (5) Subsection (3) does not apply to the individual who is—
 - (a) carrying out an activity under the *Mineral Resources Act 1989* if the activity would not result in a water bore being left as a functional bore for the supply of water at the end of the activity; or
 - (b) carrying out an activity under the *Petroleum Act 1923* or the *Petroleum and Gas Act*.

983K Failure to return suspended, cancelled or expired licence

- (1) Subsection (2) applies if an individual's water bore driller's licence has been suspended or cancelled or has expired.
- (2) The individual must, unless the individual has a reasonable excuse, return the licence to the chief executive as soon as practicable (but within 15 business days) after—
 - (a) for the suspension of a licence—the day notice of the suspension was given to the individual; or
 - (b) for the cancellation of a licence—the day notice of the cancellation was given to the individual.

Maximum penalty—50 penalty units.

- (3) If a licence has been returned to the chief executive under subsection (2) because of suspension of the licence, the chief executive must return the licence to the individual at the end of the period of suspension.

983L Records of water bores drilled

- (1) A water bore driller's licence holder must keep, in the approved form, information prescribed by regulation about any activity the holder may carry out under this Act.
- (2) The holder must record the information as each water bore is being drilled.

Maximum penalty—50 penalty units.

- (3) The holder must give to the chief executive a copy of the information about each water bore within 60 business days after the day the drilling of the water bore starts.

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Maximum penalty for subsection (3)—50 penalty units.

983M Replacing lost or destroyed water bore driller's licence

- (1) If a water bore driller's licence has been lost or destroyed, the licence holder may apply to the chief executive for a replacement licence.
- (2) The application must be—
 - (a) in writing; and
 - (b) accompanied by the fee prescribed by regulation.
- (3) If the holder complies with subsection (2), the chief executive must give the holder a replacement licence.

180 Insertion of new ch 8, pt 3C, div 1, hdg

Chapter 8, part 3C, before section 992G—

insert—

**Division 1 Particular authority for
Wenlock Basin**

181 Amendment of s 992G (Definitions for pt 3C)

- (1) Section 992G, heading, '3C'—

omit, insert—

div 1

- (2) Section 992G, 'In this part'—

omit, insert—

In this division

- (3) Section 992G, definitions *specified conditions*, *threshold limit*, *Wenlock Basin wild river area* and *Wenlock Basin Wild River Declaration*—

omit.

- (4) Section 992G—

insert—

Wenlock Basin means the physical river catchments contained within the indicative boundaries shown for the Wenlock Basin in the spatial dataset ‘Drainage Basins Queensland (IQ_QLD_DRNBASIN_100K), Department of Natural Resources and Mines 20/1/2009’ held in digital electronic form by the chief executive.

Note—

A map of the Wenlock Basin can be accessed from the dataset by downloading it from the department’s website at <www.dnrm.qld.gov.au>.

182 Amendment of s 992H (Application of pt 3C)

- (1) Section 992H, heading, ‘pt 3C’—

omit, insert—

div 1

- (2) Section 992H(1) and (2), ‘part’—

omit, insert—

division

- (3) Section 992H(1) and (2)(a) and (b), ‘wild river area’—

omit.

183 Amendment of s 992I (Continuation of authority and grant of water licence to replace authority)

Section 992I(7)(b) and (c)—

omit, insert—

[s 184]

- (b) an environmental impact statement, or any report or study prepared in support of the environmental impact statement, that deals with taking or interfering with water in the Wenlock Basin, to the extent the environmental impact statement, report or study is not inconsistent with the specified conditions mentioned in paragraph (a).

184 Amendment of s 992J (Amendment of water licence that replaces authority)

Section 992J(2)(b) and (c)—

omit, insert—

- (b) an environmental impact statement, or any report or study prepared in support of the environmental impact statement, that deals with taking or interfering with water in the Wenlock Basin, to the extent the environmental impact statement, report or study is not inconsistent with the specified conditions mentioned in paragraph (a).

185 Insertion of new ch 8, pt 3C, divs 2 and 3

Chapter 8, part 3C—

insert—

**Division 2 Particular authority for
Alcan agreement Act and
Comalco agreement Act**

992K Definitions for div 2

In this division—

Alcan agreement Act means the *Alcan Queensland Pty. Limited Agreement Act 1965*.

Comalco agreement Act means the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

relevant company, for a special agreement Act, means the entity that is authorised to obtain water under the special agreement under the special agreement Act.

special agreement Act means the Alcan agreement Act or the Comalco agreement Act.

992L Continuation of authority and grant of water licence

- (1) Subsection (2) applies to a relevant company to the extent a special agreement Act authorises the company to take or interfere with water.
- (2) The relevant company—
 - (a) continues to hold the authority to take or interfere with water under the special agreement Act; and
 - (b) also holds an authority under this Act to take or interfere with water to the same extent the relevant company can take or interfere with water under the special agreement Act.
- (3) A relevant company may, at any time within 2 years after the commencement of this section, request the chief executive to grant the company 1 or more water licences for the company's take of, or interference with, water under the special agreement Act.
- (4) A relevant company may make more than 1 request under subsection (3).
- (5) The chief executive must grant the water licence or water licences within 30 business days after receiving the request if—

[s 185]

- (a) the relevant company demonstrates to the chief executive's satisfaction that taking or interfering with the water is necessary to support the company's existing or proposed activities under the special agreement Act; and

Example—

A recommendation by the Coordinator-General in a report under the *State Development and Public Works Organisation Act 1971*, part 4 that a water licence under this Act be issued in connection with a coordinated project may demonstrate that taking or interfering with water by the company is necessary to support a proposed activity.

- (b) taking or interfering with the water is consistent with the company's authority under the special agreement Act.
- (6) Chapter 2, part 3, division 2, subdivision 2 does not apply to the grant of a water licence under this section.
- (7) A relevant company that is granted a water licence under this section may, at any time, request the chief executive to amend the licence.
- (8) The chief executive must amend the licence within 30 business days after receiving the request if—
 - (a) the relevant company demonstrates to the chief executive's satisfaction that taking or interfering with the water is necessary to support the company's existing or proposed activities under the special agreement Act; and

Example—

A recommendation by the Coordinator-General in a report under the *State Development and Public Works Organisation Act 1971*, part 4 that a water licence under this Act be issued in connection with a coordinated project may demonstrate that taking

or interfering with water by the company is necessary to support a proposed activity.

- (b) taking or interfering with the water is consistent with the company's authority under the special agreement Act.
- (9) Chapter 2, part 3, division 2, subdivision 4 does not apply to the amendment of a water licence under this section.
- (10) A water licence may be granted or amended under this section with or without conditions.
- (11) However, any conditions under subsection (10) must not be inconsistent with the special agreement Act.

Division 3 Other authorities

992M Definitions for div 3

In this division—

relevant company, for a special agreement Act, means the entity that is authorised to obtain water under the special agreement Act.

special agreement Act see the *Environmental Protection Act 1994*, section 584.

992N Application of div 3

- (1) This division applies to a relevant company to the extent the company is authorised under a special agreement Act or, if a water licence has been granted to the company under division 2, the water licence to take or interfere with water.
- (2) However, this division does not apply to the extent division 1 applies.

992O Relevant company may request water entitlement

- (1) This section applies if the chief executive and a relevant company agree to wholly or partly replace the company's authority to take or interfere with water under a special agreement Act with 1 or more water entitlements.
- (2) The relevant company may request the chief executive to grant the company 1 or more water entitlements for the company's take of, or interference with, water.
- (3) The relevant company may make more than 1 request under subsection (2) if the company wishes to replace the company's authority to take or interfere with water under a special agreement Act in stages.
- (4) The request must include sufficient information to support the request.
- (5) If the relevant company makes a request under subsection (2), the chief executive must, within 30 business days after receiving the request, grant the company a water entitlement or water entitlements in accordance with the request.
- (6) A water entitlement may be granted with or without conditions.
- (7) Chapter 2, part 3, division 2, subdivision 2 does not apply to the grant of any water entitlement under this section.

992P Effect of grant of water entitlement on existing authority to take or interfere with water under the special agreement

- (1) A relevant company's authority to take or interfere with water continues under the special agreement Act until 1 or more water entitlements

are granted under section 992O to wholly replace the authority.

- (2) However, if 1 or more water entitlements are granted under section 992O that partly replace the authority under the special agreement Act, the relevant company's authority to take or interfere with water under the special agreement Act continues to operate but only to the extent the authority has not been replaced by the water entitlement or water entitlements.
- (3) Subsection (4) applies if the chief executive and the relevant company agree that the water entitlement or water entitlements granted under section 992O wholly replace the company's authority to take or interfere with water under a special agreement Act.
- (4) After the water entitlement or water entitlements are granted under section 992O to the relevant company to wholly replace the authority under the special agreement Act—
 - (a) the company may only take or interfere with the water under the water entitlement or water entitlements; and
 - (b) any specified conditions for the special agreement Act cease to have effect.
- (5) This section applies despite anything to the contrary in the special agreement Act.

186 Omission of ss 1004 and 1004A

Sections 1004 and 1004A—

omit.

187 Amendment of s 1006 (Declarations about watercourses)

- (1) Section 1006(1) and (4), including example—

[s 188]

omit.

(2) Section 1006(2A), '(2)'—

omit, insert—

(1)

(3) Section 1006(2) and (2A)—

renumber as section 1006(1) and (2).

(4) Section 1006(3), 'subartesian'—

omit, insert—

underground

188 Replacement of s 1009 (Public inspection and purchase of documents)

Section 1009—

omit, insert—

1009 Public inspection and purchase of documents

- (1) The chief executive must keep a copy of the following documents available for inspection by the public during office hours on business days at the head office, or at the appropriate regional office, of the department—
 - (a) until a water plan is approved for a plan area—the draft water plan publicly notified for the area under section 46;
 - (b) each approved water plan;
 - (c) each periodic report for a water plan prepared under section 49;
 - (d) each approved water use plan;
 - (e) each approved water management protocol;
 - (f) each resource operations licence;
 - (g) each distributions operations licence;

- (h) each interim resource operations licence;
 - (i) each operations licence;
 - (j) each interim water allocation;
 - (k) each water licence;
 - (l) each water permit, including seasonal water assignments;
 - (la) each water development option;
 - (m) each riverine protection permit issued;
 - (n) each notice of existing works that allow taking overland flow water required to be given to the chief executive under a water plan;
 - (o) each allocation notice given to an applicant under section 230;
 - (p) each water bore driller's licence;
 - (q) each private water supply agreement.
- (2) The chief executive may publish a copy of a document mentioned in subsection (1) on the department's website and make it available for inspection by the public in any other way the chief executive considers appropriate.
 - (3) On payment of a fee, a person may purchase a copy of a document available for inspection under this section.
 - (4) The fee for the copy of the document must not be more than the reasonable cost of publishing the copy.

189 Insertion of new s 1009A

After section 1009—

insert—

1009A Publishing under this Act

- (1) This section provides for how an entity may *publish* a notice, document, information or other thing to a person or persons for this Act.
- (2) If the thing is a document made by an entity mentioned in chapter 2A, the entity must—
 - (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, if the entity is the Minister or chief executive, on the department’s website on the internet.
- (3) Also, if the provision of this Act states the thing must be published in a particular way, the thing must be published in that way.
- (4) Otherwise, the thing may be published in any way intended, and likely, to bring it to the attention of the person or persons to whom it is to be published, including, for example, in any of the following ways considered to be appropriate in the particular circumstances of the requirement—
 - (a) in any way a thing required to be served on a person may be served;
 - (b) by announcing the thing over a radio station broadcasting generally throughout the area in which the person or persons reside;
 - (c) publishing the thing in a newspaper circulating generally throughout the area in which the person or persons reside;
 - (d) publishing the thing on the department’s website on the internet;
 - (e) publishing the thing by gazette notice.

-
- (5) Subsections (2) and (3) do not prevent the thing also being published in other ways.

190 Insertion of new s 1013AA

After section 1013—

insert—

1013AA Acceptance of particular requests and applications not in the approved form

- (1) Subsection (2) applies if a provision of this Act requires or otherwise provides for a request or application to be made in an approved form.
- (2) Despite the approval of a form for use for the request or application, the chief executive may accept a document, not in the approved form, that purports to make the request or application if the chief executive is satisfied that—
- (a) the nature of the request or application is clear; and
- (b) the document contains enough information to allow the chief executive to act on the request or application.

191 Insertion of new ss 1013C and 1013CA

After section 1013B—

insert—

1013C Fees—payment methods

- (1) A regulation may prescribe the methods to be used for payment of fees payable under this Act.
- (2) An approved form for a document under this Act may state the methods to be used for payment of any fee relating to the form.

[s 192]

- (3) A method prescribed or approved to be used for the payment of a fee under subsection (1) or (2) is an *approved payment method* for the fee.

1013CA Fees—evidence and timing of payment

- (1) This section applies to a person if—
- (a) a document lodged by the person must be accompanied by a fee under this Act; and
 - (b) the person uses an approved payment method to pay the fee; and
 - (c) the fee is received by the entity to which the fee must be paid within the prescribed period for receiving an amount using the approved payment method.

- (2) The fee is taken to accompany the document if the document is accompanied by evidence of the fee having been paid using the approved payment method.

Example—

a receipt for an electronic funds transfer

- (3) If the document is accompanied by evidence of the fee having been paid using the approved payment method, the fee is taken to have been paid at the time the person lodged the document under this Act.

192 Amendment of s 1013E (Advice to Petroleum Act Minister about commission of particular offences)

- (1) Section 1013E, heading, ‘Petroleum Act Minister’—
omit, insert—

administering Minister

- (2) Section 1013E(2), ‘Petroleum Act Minister’—
omit, insert—

administering Minister

(3) Section 1013E(3)—

omit, insert—

(3) In this section—

administering Minister means—

- (a) if the offence is committed by a person who is the holder of a mining tenure—the Minister administering the Mineral Resources Act; or
- (b) if the offence is committed by a person who is the holder of a petroleum tenure—the Minister administering the *Petroleum Act 1923* and the Petroleum and Gas Act.

chief executive means the chief executive of the department in which chapter 3 is administered.

193 Amendment of s 1014 (Regulation-making power)

Section 1014(2)(ga), (gb), (gc) and (h)—

omit, insert—

- (f) prescribe processes for dealings with water licences; and
- (g) state the effect of land dealings, or acquisition of land, on water licences; and

194 Amendment of s 1046 (Declared subartesian areas)

(1) Section 1046, heading, ‘subartesian areas’—

omit, insert—

underground water areas

(2) Section 1046, ‘a subartesian area’—

omit, insert—

an underground water area

[s 195]

(3) Section 1046, ‘subartesian water’—
omit, insert—
underground water

195 Omission of s 1117A (When conditions of supply contract do not apply)

Section 1117A—
omit.

196 Omission of ch 9, pt 5, div 8 (Transitional provisions for Statutory Bodies Legislation Amendment Act 2007)

Chapter 9, part 5, division 8—
omit.

197 Omission of ch 9, pt 5, div 10 (Transitional provisions for Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007)

Chapter 9, part 5, division 10—
omit.

198 Omission of s 1166 (Codes for assessment under the Sustainable Planning Act 2009)

Section 1166—
omit.

199 Omission of ch 9, pt 5, div 15 (Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010)

Chapter 9, part 5, division 15—
omit.

200 Omission of ch 9, pt 5, div 18 (Transitional provision for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012)

Chapter 9, part 5, division 18—

omit.

201 Amendment of ch 9 (Transitional provisions and repeals)

Chapter 9—

insert—

Part 8 Transitional and saving provisions for Water Reform And Other Legislation Amendment Act 2014

1250 Definitions for pt 8

In this part—

amended Act means this Act as in force after the commencement.

application includes a request and a submission for a decision by the chief executive.

commencement means the commencement of this section.

consultation process, for a resource operations plan, means a process under which—

- (a) the Minister has published a notice about a draft or amending water resource plan for public consultation; or
- (b) the chief executive has published a notice about a draft or amending resource operations plan for public consultation.

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corresponding provision, of the amended Act, for a matter, means the provision of that Act that corresponds, or most closely corresponds, to a provision of the unamended Act for that matter.

new, in relation to a provision number, means the provision of that number of the amended Act.

old, in relation to a provision number, means the provision of that number of the unamended Act.

unamended Act means this Act as in force immediately before the commencement.

1251 Existing authorisations continue to have effect

- (1) This section applies to a licence, permit, notice, or other authorisation (each *an authorisation*) granted by the chief executive or otherwise given under chapter 2 of the unamended Act that is in force immediately before the commencement.
- (2) The authorisation is taken to continue in force under the corresponding provisions of the amended Act according to its terms and conditions.

Examples—

- 1 A water bore driller's licence under the unamended Act continues in force as a water bore driller's licence under the amended Act.
- 2 An allocation notice for quarry material under the unamended Act continues in force as an allocation notice for quarry material under the amended Act.

1252 Limitations and prohibitions relating to water in force before commencement

- (1) Subsection (2) applies if—

- (a) the Minister or chief executive has published a notice limiting or prohibiting taking or interfering with water; and
 - (b) the notice is in force at the commencement.
- (2) The notice continues in force after the commencement and has effect as if the unamended Act had not been amended.
 - (3) Subsection (4) applies if a regulation limiting or prohibiting taking or interfering with water is in force under the amended Act at the commencement.
 - (4) The regulation continues in force after the commencement and has effect as if the unamended Act had not been amended.

1253 Continuation under the amended Act of notices or documents published by Minister or chief executive

- (1) This section applies if—
 - (a) the Minister or the chief executive has published a notice or other document before the commencement; and
 - (b) the process relating to the notice or document has not been completed before the commencement; and
 - (c) there are corresponding provisions for dealing with the notice or document under the amended Act.
- (2) The notice or document is taken to be given under the corresponding provisions of the amended Act and may be continued under that Act after the commencement.
- (3) This section does not apply to a notice under section 1252.

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Example—

If the Minister has published a notice of proposal to prepare a draft water resource plan under the unamended Act, the process may continue to make a draft water plan under the amended Act.

1254 Request or notice by chief executive under unamended Act

- (1) This section applies if—
 - (a) the chief executive has, before the commencement, given a notice or made a request under the unamended Act for a person, entity or constructing authority to give information, to comply with conditions or to do anything else; and
 - (b) the person, entity or constructing authority has not complied with the notice or request before the commencement.
- (2) The notice or request is taken to be given under the corresponding provisions of the amended Act and may be continued under that Act after the commencement.
- (3) This section does not apply to a notice under section 1267.

1255 Submissions made to Minister under unamended Act

- (1) This section applies if—
 - (a) a person or other entity has, before the commencement, made a submission to the Minister under the unamended Act; and
 - (b) the process relating to the submission has not been completed before the commencement.

- (2) The submission must be dealt with under the unamended Act after the commencement.

1256 Water resource plans taken to be water plans

- (1) A water resource plan in force immediately before the commencement continues in force under the amended Act as a water plan from the commencement.
- (2) However, subsection (1) does not apply to a water resource plan if at the commencement—
- (a) the Minister has published a notice about a draft water resource plan, including an amending or replacement plan, for public consultation; or
 - (b) the chief executive has published a notice about a draft resource operations plan, including an amending or replacement plan, for public consultation.
- (3) For a water resource plan mentioned in subsection (2)—
- (a) the plan continues in force and must be dealt with under the unamended Act as if the unamended Act had not been amended; and
 - (b) the plan becomes a water plan under the amended Act—
 - (i) if the Minister has published a notice about a draft water resource plan, including an amending or replacement plan, for public consultation and subparagraph (iii) does not apply—on approval by the Governor in Council of the final draft of the water resource plan; or
 - (ii) if the chief executive has published a notice about a draft resource operations

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plan, including an amending or replacement plan, for public consultation and subparagraph (iii) does not apply—on approval by the Governor in Council of the final draft of the resource operations plan; or

- (iii) if the circumstances mentioned in subparagraphs (i) and (ii) both apply—on approval by the Governor in Council of both the final draft of the water resource plan and the final draft of the resource operations plan.

1256A Deciding application for water licence under section 113

- (1) Subsection (2) applies if—
 - (a) the chief executive is deciding an application for a water licence under section 113; and
 - (b) a water resource plan continued in force under section 1256(2) and (3) would apply to any water licence granted.
- (2) The reference to the water plan in section 113(a) is taken to include a reference to the water resource plan continued in force.

1257 References to water resource plans taken to be references to water plans

From the commencement, a reference in an Act or document to a water resource plan may, if the context permits, be taken to be a reference to a water plan.

1258 Notices given, or submissions made, to chief executive under unamended Act

- (1) This section applies if—

- (a) a person, constructing authority or other entity has, before the commencement, given a notice or made a submission to the chief executive; and
 - (b) the process relating to the notice or submission has not been completed before the commencement; and
 - (c) there are corresponding provisions for dealing with the notice or submission under the amended Act.
- (2) The notice or submission is taken to be given under the corresponding provisions of the amended Act and may be continued under that Act after the commencement.

1259 Stated provisions of a resource operations plan are taken to be, or are included in, or to be read and construed with, other documents

- (1) This section applies to a resource operations plan in force immediately before the commencement.
- (2) On the commencement, the provisions of the resource operations plan—
 - (a) if section 1260 applies—are taken to be omitted from the plan and included in a resource operations licence; or
 - (b) if section 1261 applies—are taken to be omitted from the plan and to be an operations manual; or
 - (c) if section 1262 applies—are taken to be omitted from the plan and included in a distribution operations licence; or
 - (d) if section 1263 applies—are taken to be omitted from the plan and included in a water licence; or

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- (e) if section 1264 applies—cease to have effect for the resource operations plan but are taken to have effect for the purposes of the water plan (previously the water resources plan) the provisions were implementing and, for those purposes, are to be read and construed with the water plan, with necessary changes; or
 - (f) if they are not taken to be an operations manual mentioned in paragraph (b) or taken to be included in a document mentioned in paragraphs (a), (c) or (d) or otherwise provided for under paragraph (e) and, under the amended Act, the provisions of the plan deal with a matter that is relevant to the usual content of a water management protocol—are taken to be omitted from the plan and to be a water management protocol; or
 - (g) if they are not taken to be, or not taken to be included in, a document mentioned in paragraphs (a) to (d) or (f) or otherwise provided for under paragraph (e)—cease to have effect.
- (3) For a resource operations plan that is not subject to a consultation process, subsection (2) applies from the commencement.
 - (4) For a resource operations plan that is subject to a consultation process—
 - (a) the plan continues in force and must be dealt with under the unamended Act as if the unamended Act had not been amended; and
 - (b) subsection (2) applies to the provisions of the plan from—
 - (i) if the Minister has released a draft or amending water resource plan for public consultation and subparagraph

- (iii) does not apply—the approval by the Governor in Council of the final draft of the water resource plan; or
 - (ii) if the chief executive has released a draft or amending resource operations plan under the water resource plan for public consultation and subparagraph (iii) does not apply—the approval by the Governor in Council of the final draft of the resource operations plan; or
 - (iii) if the conditions mentioned in subparagraphs (i) and (ii) both apply—the approval by the Governor in Council of both the final draft of the water resource plan and the final draft of the resource operations plan.
- (5) Subsection (6) applies to a document mentioned in subsection (2)(a) to (d) and (2)(f).
- (6) The chief executive may prepare or amend the document to give effect to this section, in the way the chief executive considers appropriate.
- (7) Subsection (2)(e) continues to apply for the purposes of a water plan until the plan is amended to include provisions of the kind mentioned in section 1264.
- (8) An amendment of a water plan as mentioned in subsection (7) must include a declaration that it is made for the subsection.
- (9) On amendment of the water plan as mentioned in subsection (7)—
 - (a) the provisions of the resource operations plan mentioned in section 1264 are taken to be omitted from the resource operations plan; and
 - (b) subsection (2)(e) ceases to have effect for the purposes of the water plan.

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- (10) Section 51(1) does not apply to an amendment of a water plan under subsection (7).

1260 Provisions of resource operations plan taken to be included in a resource operations licence

For section 1259(2)(a), the provisions are the following provisions relevant to a water supply scheme—

- (a) the monitoring and reporting arrangements;
- (b) the infrastructure details, including any full supply level stated in the resource operations plan;
- (c) authority to use watercourses to distribute water;
- (d) matters relating to the implementation of, and compliance with, the resource operations plan.

1261 Provisions of a resource operations plan taken to be an operations manual

For section 1259(2)(b), the provisions are the following provisions relevant to a water supply scheme—

- (a) the operating rules, other than the authority to use watercourses to distribute water;
- (b) the environmental management rules;
- (c) the water sharing rules;
- (d) the seasonal water assignment rules.

1262 Provisions of resource operations plan taken to be included in a distribution operations licence

For section 1259(2)(c), the provisions are the provisions stating the responsibilities for the holder of a distribution operations licence, other than the responsibilities of the holder under provisions mentioned in section 1261.

1263 Provisions of resource operations plan taken to be included in a water licence

For section 1259(2)(d), the provisions are the provisions that are relevant to a water licence to take or interfere with water, including—

- (a) the monitoring and reporting arrangements;
- (b) the infrastructure details, including any full supply level stated in the resource operations plan.

1264 Provisions of resource operations plan taken to be included in a water plan

- (1) For section 1259(2)(e), the provisions are the provisions that are relevant to—
 - (a) resource operations plan zones, including water management area zones and water supply scheme zones; or
 - (b) water management areas, subcatchment areas or subartesian areas; or
 - (c) the criteria and process for granting, refusing, amending or otherwise dealing with water licences; or
 - (d) the volume or volumes of unallocated water reserved or available to be released.

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1265 Provisions of Burnett water resource plan taken to be included in operations manual

- (1) This section applies to the rules for taking or sharing water under the *Water Resource (Burnett Basin) Plan 2014*, section 32 (the **water plan**).

Note—

On the commencement of the *Water Reform and Other Legislation Amendment Act 2014*, schedule 2, the *Water Resource (Burnett Basin) Plan 2014* may be cited as the *Water Plan (Burnett Basin) 2014*.

- (2) Subsection (3) applies to rules for taking or sharing water under the water plan that are in force immediately before the commencement.
- (3) Immediately after the commencement of section 1261, the rules are taken to replace the provisions of the operations manual (as provided for under section 1261) that deal with the same subject matter.
- (4) Subsection (5) applies to rules for taking or sharing water under the water plan that are not commenced on the commencement of this section.
- (5) Immediately after the commencement of section 1261—
 - (a) the rules are taken to be included in the operations manual (as provided for under section 1261) as uncommenced rules; and
 - (b) on 1 July 2015, the rules replace the provisions of the operations manual that deal with the same subject matter.

1266 References to resource operations plans

In an Act or document, a reference to a resource operations plan may, if the context permits, be taken to be a reference to whichever of the following

documents is relevant to the reference having regard to sections 1259 to 1264—

- (a) a resource operations licence;
- (b) an operations manual;
- (c) a distribution operations licence;
- (d) a water licence;
- (e) a water plan;
- (f) a water management protocol.

Example—

A condition of a resource operations licence might be that the holder of the licence comply with the provisions of a resource operations plan. Having regard to sections 1259(2)(b) and 1261, the reference in the condition to the resource operations plan is to be read as a reference to the operations manual.

1267 Request to water infrastructure operators to provide proposed arrangements for management of water

- (1) Subsection (2) applies if—
 - (a) the chief executive has, before the commencement, given a notice under section 97 of the unamended Act to a holder mentioned in the section requesting the holder to provide proposed arrangements for the management of water; and
 - (b) the holder has not provided the proposed arrangements before the commencement.
- (2) The notice continues to have effect after the commencement and the unamended Act continues to apply in relation to the notice.
- (3) Subsection (4) applies if—
 - (a) proposed arrangements are provided in response to a notice under section 97 of the unamended Act, whether the arrangements

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- are provided before or after the commencement; and
- (b) before the commencement, no notice has been published about the draft resource operations plan under section 100 of the unamended Act.
- (4) The proposed arrangements are taken to be 1 of the following under the amended Act having regard to the transitional provisions under this part for resource operations plans—
- (a) an operations manual submitted to the chief executive for approval;
 - (b) an application to amend or replace an operations manual;
 - (c) an application to amend a resource operations licence or distribution operations licence.

1268 Applications made but not decided before commencement

- (1) This section applies if, before the commencement—
 - (a) the Minister or the chief executive had received an application under chapter 2 of the unamended Act; and
 - (b) the Minister or the chief executive had not decided the application.
- (2) If this Act provides for an equivalent application, the application is taken to have been made, and may be dealt with, under the corresponding provisions of this Act.
- (3) This section does not apply to an application for a water licence.

Examples—

- 1 An application to vary the effect of a moratorium notice under the unamended Act is taken to be an application to vary the effect of the moratorium notice under the amended Act.
- 2 An application for a dealing with a water allocation under the unamended Act is taken to be an application for a dealing with a water allocation under the amended Act.
- 3 An application for a permit relating to riverine protection under the unamended Act is taken to be an application relating to riverine protection under the amended Act.

1269 Applications decided but not given effect before commencement

- (1) This section applies if the Minister or chief executive has decided an application under the unamended Act but the process following the decision has not been completed.
- (2) The Minister or chief executive must complete the process under the unamended Act after the commencement as if the unamended Act had not been amended.
- (3) If the completion of the process results in the issue of an authorisation under the unamended Act, the authorisation is taken to continue in force under the corresponding provisions of the amended Act according to its terms and conditions.
- (4) If the completion of the process results in the variation of a notice under the unamended Act, the variation is taken to continue in force under the corresponding provisions of the amended Act according to its terms and conditions.

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Example for subsection (4)—

If the Minister grants an application to vary a moratorium notice under the unamended Act, the effect of the variation for the applicant continues under the amended Act.

- (5) A review of, or an appeal against, a decision of the Minister or the chief executive must be dealt with under the unamended Act.

1270 Certificates or notices about water allocations continue under the amended Act

- (1) This section applies to—
 - (a) a certificate under the unamended Act relating to an application for a dealing with a water allocation if the certificate is valid and the dealing to which it relates has not been recorded in the register; or
 - (b) a notice given under section 101(1)(a), (b) or (c) of the unamended Act if the notice is in force and the ownership or interest to which it relates has not been recorded in the register.
- (2) The certificate or notice continues to have effect and may be dealt under the amended Act.

1271 Interim resource operations licences and interim water allocations

- (1) This section applies if, before the commencement, interim resource operations licences or interim water allocations under chapter 2, part 5 (as in force at any relevant time) have not been converted or replaced.
- (2) Chapter 2, part 5 of the unamended Act continues to apply, after the commencement, until the interim resource operations licences or interim

water allocations have been converted or replaced.

1272 Applications about a water licence under unamended Act if required notice has not been published

- (1) This section applies if—
 - (a) a person has, before the commencement, made an application about a water licence; and
 - (b) there is a requirement to publish a notice in relation to the application and the notice has not been published before the commencement.
- (2) Subsection (3) applies if the granting of the application would do 1 or more of the matters listed in section 130.
- (3) The application must be dealt with as if it were an application for a new licence under the amended Act.
- (4) Subsection (5) applies if the granting of the application does not do any of the matters listed in section 130.
- (5) The application must be dealt with as an application for a dealing under the amended Act.

1273 Notices published about an application under unamended Act

- (1) This section applies if—
 - (a) before the commencement—
 - (i) a person has published a notice about an application for a water licence or a dealing with a water allocation under the unamended Act; and

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- (ii) the process relating to the application has not been completed; and
 - (b) there are corresponding provisions for dealing with the notice under the amended Act.
- (2) The notice is taken to be published under the corresponding provisions of the amended Act and the application must be continued under the amended Act as if it were an application for a new licence or dealing with a water allocation.

1273A Application for reinstatement or replacement of particular water licences that expired under old ss 221 or 229 as previously in force or under the repealed Act

- (1) This section applies in relation to the following licences (each an *expired licence*) if the licence expired (its *initial expiry*) without the holder of the licence being notified, in writing, by the chief executive of its impending expiry or within a reasonable time after its expiry—
 - (a) a water licence that expired before 1 July 2013 for which no application to renew or reinstate the licence was made under old section 220 or 221;
 - (b) a water licence that expired under section 229 as in force immediately before 24 November 2011;
 - (c) a licence that ceased to exist under the repealed Act, section 49.
- (2) An owner of land to which the expired licence attached may apply to the chief executive—
 - (a) for an expired licence mentioned in subsection (1)(a)—to reinstate the licence and make a validating declaration; or

- (b) for an expired licence mentioned in subsection (1)(b) or (c)—to replace the licence and make a validating declaration.
- (3) If there is more than 1 owner of the land, or any part of the land, to which the expired licence attached, the owners may jointly apply to the chief executive to reinstate or replace the licence and make a validating declaration.
- (4) However, if there is more than 1 owner of the land, or any part of the land, to which the expired licence attached, an owner can not apply to the chief executive to reinstate or replace the licence unless the owner gives each other owner of the land or part of the land who is not a party to the application a copy of the application to reinstate or replace the licence and make a validating declaration.
- (5) An owner who is given a copy of the application under subsection (4) who wishes to join in the application to reinstate or replace the expired licence and make a validating declaration must apply to the chief executive to do so within 20 business days after receiving the copy of the application.
- (6) An application under this section must be—
 - (a) made to the chief executive in the approved form; and
 - (b) accompanied by the fee prescribed by regulation for an application for a dealing under section 122.
- (7) In deciding whether to grant or refuse the application, the chief executive must consider the application and the following—
 - (a) any water plan that would apply to the reinstated or replaced licence;

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- (b) the terms and conditions of the expired licence.
- (8) Section 114 applies to the chief executive's decision.
- (9) The chief executive may reinstate or replace the expired licence and make a validating declaration if—
 - (a) the chief executive is satisfied that it is appropriate to do so having regard to all of the circumstances surrounding its expiry; and
 - (b) the applicant pays any fees and charges, or part of any fee or charge, that would otherwise have been payable in relation to the licence from the day of its initial expiry until its reinstatement or replacement that are decided by the chief executive having regard to all of the circumstances.
- (10) If the chief executive makes a validating declaration, the reinstated water licence or the water licence replacing the expired licence is taken, for all purposes, to have been reinstated or replaced on the expiry of the expired licence.
- (11) To remove any doubt, it is declared that the chief executive may reinstate or replace the expired licence without making a validating declaration.
- (12) Chapter 2, part 3, division 2 does not apply to an application under this section except to the extent provided by this section.
- (13) In this section—
validating declaration, for an expired licence, means a declaration having the effect mentioned in subsection (10).

1273B Particular water licences taken to be in force from day of initial expiry

- (1) This section applies to a water licence (*expired licence*) that, before the commencement—
 - (a) expired (its *initial expiry*) without the holder of the licence being notified, in writing, by the chief executive of its impending expiry or within a reasonable time after its initial expiry; and
 - (b) was later reinstated or replaced by another water licence (*new licence*) on application by the holder of the licence.
- (2) The holder of the new licence may request the chief executive to make a validating declaration in relation to the licence.
- (3) The chief executive may make the validating declaration if—
 - (a) the chief executive is satisfied that it is appropriate to do so having regard to all of the circumstances surrounding the initial expiry of the expired licence and the consequences of a failure to make the declaration on the applicant; and
 - (b) the applicant pays any fees and charges, or part of any fee or charge, that would have been payable in relation to the expired licence from its initial expiry until the grant of the new licence that are decided by the chief executive having regard to all of the circumstances.
- (4) If the chief executive makes the validating declaration, the new licence is taken, for all purposes, to have been granted on the initial expiry of the expired licence.

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- (5) The chief executive must advise the holder of the chief executive's decision within 30 business days after making the decision.
- (6) In this section—
validating declaration, for a new licence, means a declaration having the effect mentioned in subsection (4).

1274 Show cause process started before commencement

- (1) This section applies if a show cause process for a matter was started under the unamended Act before the commencement but is not completed before the commencement.
- (2) The show cause process must be completed under the unamended Act after the commencement as if the unamended Act had not been amended.

1275 Referral panels continued under amended Act

- (1) This section applies to the following—
 - (a) the referral panel established by the chief executive under section 1004 of the unamended Act;
 - (b) the referral panel established by the Minister under section 1004A of the unamended Act.
- (2) The 2 panels continue as a single referral panel as if it were established under section 241 after the commencement.
- (3) On the commencement, a member of the single panel is to continue to be paid the fees and allowances decided by the Governor in Council under section 1004 of the unamended Act until

changed by the Governor in Council under section 241.

- (4) The term of a member of the single panel ends on 30 March 2017 or an earlier day the member's appointment is terminated by the Governor in Council.
- (5) For matters referred to the panels before the commencement, the single panel must consider the matters referred under the unamended Act as if that Act had not been amended.

1276 Unallocated water release process started before commencement

- (1) This section applies if—
 - (a) the chief executive has, before the commencement, started a process for releasing unallocated water under the unamended Act; and
 - (b) the process relating to the release of the water has not been completed before the commencement.
- (2) The chief executive must complete the process under the unamended Act after commencement.
- (3) If the completion of the process results in the issue of an authorisation under the unamended Act, the authorisation is taken to continue in force under the corresponding provisions of the amended Act according to its terms and conditions.

1277 Special provision for particular petroleum tenure holders

- (1) The holder of a relevant petroleum tenure may request the chief executive to grant an authority

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- under this Act to take or interfere with underground water in the area of the tenure—
- (a) if the relevant petroleum tenure is a 1923 Act tenure—for use in the carrying out of an activity the holder is authorised to carry out under the *Petroleum Act 1923*; or
 - (b) if the relevant petroleum tenure is a 2004 Act tenure—for use in the carrying out of another authorised activity mentioned in the *Petroleum and Gas Act*, section 186(2).
- (2) The holder of a relevant petroleum tenure may make the request at any time before the end of—
- (a) if the area of the tenure is in the area declared by gazette notice under this Act on 18 March 2011 to be a cumulative management area and referred to as the Surat Cumulative Management Area—the day 5 years after the commencement; or
 - (b) if the area of the tenure is not in the area mentioned in paragraph (a)—the day 2 years after the commencement.
- (3) The request must include sufficient information to support the request.
- (4) In considering a request made by the holder of a 1923 Act tenure, the chief executive must consider the following matters—
- (a) the historical take of underground water by the holder of the tenure, including under a permission granted under the *Petroleum Act 1923*, section 86;
 - (b) any take of underground water necessary to carry out the holder’s work program for an authority to prospect or its development plan for a petroleum lease;

- (c) whether it is appropriate, having regard to the request, to consider the grant of 1 or more water licences or water permits or a combination of 1 or more water licences and 1 or more water permits;
 - (d) if 1 or more water licences are considered to be appropriate, the matters mentioned in section 113(a), (b) and (e);
 - (e) if 1 or more water permits are considered to be appropriate, the matters mentioned in section 138(b) to (e).
- (5) In considering a request made by the holder of a 2004 Act tenure, the chief executive must consider the following matters—
- (a) the historical take of underground water by the holder of the petroleum tenure, other than the take of associated water under the Petroleum and Gas Act, section 185;
 - (b) any take of water reported to the chief executive as required under the Petroleum and Gas Act, section 186;
 - (c) any take of underground water necessary to carry out the holder's work program for an authority to prospect or its development plan for a petroleum lease;
 - (d) whether it is appropriate, having regard to the request, to consider the grant of 1 or more water licences or water permits or a combination of 1 or more water licences and 1 or more water permits;
 - (e) if 1 or more water licences are considered to be appropriate, the matters mentioned in section 113(a), (b) and (e);
 - (f) if 1 or more water permits are considered to be appropriate, the matters mentioned in section 138(b) to (e).

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- (6) To the extent the holder of a relevant petroleum tenure demonstrates the need for an authority, the chief executive must grant 1 or more water licences or water permits or a combination of 1 or more water licences and 1 or more water permits, with or without conditions.
- (7) Subject to subsections (4)(d) and (e) and (5)(e) and (f), chapter 2, part 3 does not apply to the grant of a water licence or water permit under this section.
- (8) Within 30 days after deciding the request, the chief executive must give the holder of a relevant petroleum tenure an information notice about the decision.
- (9) In this section—

1923 Act tenure means an authority to prospect or petroleum lease under the *Petroleum Act 1923*.

2004 Act tenure means a petroleum tenure under the Petroleum and Gas Act—

- (a) that is in force on the commencement; or
- (b) if the petroleum tenure was not in force on the commencement—for which an application was made before the commencement but which had not been granted on the commencement.

historical take, of underground water, includes, for example, the volume of water taken, the location of take and works relating to the take.

holder, of a relevant petroleum tenure, means—

- (a) the holder of a 1923 Act tenure; or
- (b) the holder of a 2004 Act tenure.

relevant petroleum tenure means a 1923 Act tenure or a 2004 Act tenure.

1278 Provision for old s 365 (Declaring cumulative management areas)

- (1) This section applies to an area declared to be a cumulative management area under old section 365.
- (2) The declaration of the area continues to have effect—
 - (a) after the commencement as if it had been validly made under new section 365; and
 - (b) until a further declaration for the area is made under section 365.
- (3) To remove any doubt, it is declared that—
 - (a) the declaration of the area under old section 365 applies, and always applied, in relation to—
 - (i) each holder of a petroleum tenure in the cumulative management area when the declaration was made; and
 - (ii) each holder of a petroleum tenure in the area that was, or is, granted after the declaration was made; and
 - (b) each holder of a petroleum tenure in the cumulative management area is a holder of a CMA tenure for the area for this Act; and
 - (c) the declaration of the area does not apply, and never has applied, in relation to the holder of a mining tenure in the cumulative management area.
- (4) If the area of a petroleum tenure is partly within and partly outside the cumulative management area, the area is taken to include, and to have always included, the whole of the petroleum tenure.

[s 201]

- (5) A petroleum tenure to which a declaration under old section 365 applies is taken to be a petroleum tenure identified in a gazette notice declaring a CMA for the purposes of chapter 3.

1279 Provision for existing agreements between mining tenure holders and bore owners

- (1) This section applies if, on the commencement, an agreement is in force between a holder of a mineral development licence or mining lease and a bore owner about a water bore affected, or likely to be affected, by taking or interfering with underground water in the area of the licence or lease.
- (2) From the commencement—
 - (a) the holder is taken to have complied with the holder's obligation to undertake a bore assessment for the bore under chapter 3, part 5, division 2; and
 - (b) the agreement is taken to be a make good agreement entered into between the holder and bore owner for the water bore for the purposes of chapter 3, part 5.

1280 Continuation of effect of ss 812A and 812B

Despite the repeal of sections 812A and 812B, the sections are taken to continue in force for a proceeding for a contravention of this Act, to which the sections applied, if the contravention happened before the commencement of this section.

1280A When reporting and monitoring requirements prescribed both by regulation and water planning instrument

- (1) Subsection (2) applies if, after the commencement—
 - (a) a regulation is made prescribing either of the following—
 - (i) the matters that must be included in the report prepared by the Minister about each water plan under section 49;
 - (ii) the requirements for the holders of resource operations licences and distribution operation licences in collecting and providing information to the chief executive; and
 - (b) there are provisions in a water planning instrument dealing with the same subject matter that are inconsistent with the matters prescribed by the regulation.
- (2) The provisions of the water planning instrument prevail over the regulation to the extent of the inconsistency.

1281 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a savings or transitional nature to allow or facilitate the change from the operation of the unamended Act to the operation of the amended Act.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.

[s 202]

- (4) This section and any transitional regulation expire 1 year after the commencement.

202 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *accredited ERMP*, *corporatised entity*, *cumulative management area*, *declared pest*, *deferred aspect*, *domestic purposes*, *downstream limit*, *drainage feature*, *ecological outcome*, *employee of the employing office*, *employing office*, *environmental flow objective*, *environmental management rules*, *establishment regulation*, *executive officer*, *final report*, *full supply level*, *incoming owner*, *interim resource operations licence*, *interim water allocation*, *lake*, *nominator*, *nominee*, *operator*, *process*, *proposed Barlil Weir*, *publish*, *ratepayer*, *relevant company*, *relevant dam*, *resource operations plan*, *seasonal water assignment notice*, *special agreement Act*, *specified conditions*, *spring*, *sustainable management*, *threshold limit*, *underground water*, *underground water impact report*, *underground water rights*, *upstream limit*, *volumetric limit*, *water allocation*, *water allocation change rules*, *water allocation group*, *water allocation security objective*, *water monitoring authority*, *water resource plan*, *water sharing rules*, *water supply scheme*, *water year*, *Wenlock Basin wild river area* and *Wenlock Basin Wild River Declaration*—
omit.

- (2) Schedule 4—
insert—

acknowledgement notice see section 155(6).

affected person, for a draft or final water entitlement notice, means each of the following persons—

- (a) the holder or the proposed holder of a water entitlement;
- (b) the holder of a resource operations licence;

(c) the holder of a distribution operations licence;

(d) the applicant for a water licence.

Alcan agreement Act, for chapter 8, part 3C, division 2—see section 992K.

approved payment method, for a fee, see section 1013C.

aquifer means a geological structure, formation or formations that holds water in sufficient quantity to provide a source of water that can be tapped by a bore.

closing CMA tenure, for chapter 3, see section 362.

CMA tenure, for chapter 3, see section 362.

Comalco agreement Act, for chapter 8, part 3C, division 2—see section 992K.

coordinated project has the meaning given in the *State Development and Public Works Organisation Act 1971*.

corporatised entity, means the commercialised business unit, previously within the department and known as State Water Projects, corporatised under the *Government Owned Corporations Act 1993*.

cumulative management area, for chapter 3, see section 362.

dealing, with a water licence, means a dealing mentioned in section 120.

designated watercourse means the part of a watercourse identified as a designated watercourse on the watercourse identification map.

domestic purposes see section 6.

[s 202]

downstream limit, of a watercourse, means—

- (a) if a point is identified on the watercourse identification map as the downstream limit of the watercourse—the point identified on the map; or
- (b) otherwise—the point to which the high spring tide ordinarily flows and reflows in the watercourse, whether due to a natural cause or to an artificial barrier.

drainage feature means—

- (a) if a feature is identified on the watercourse identification map as a drainage feature—the feature identified on the map; or
- (b) otherwise—a natural landscape feature, including a gully, drain, drainage depression or other erosion feature that—
 - (i) is formed by the concentration of, or operates to confine or concentrate, overland flow water during and immediately after rainfall events; and
 - (ii) flows for only a short duration after a rainfall event, regardless of the frequency of flow events; and
 - (iii) commonly, does not have enough continuing flow to create a riverine environment.

Example for paragraph (b)(iii)—

There is commonly an absence of water favouring riparian vegetation.

element of a water allocation see section 143.

environmental flow objective means a flow objective stated in a water plan to protect the share of water available to the environment.

environmental management rules, for a water management protocol, resource operations licence or operations manual, means the environmental management rules included in the relevant protocol, licence or manual.

environmental outcome means a consequence for an ecosystem in its component parts specified for aquifers, drainage basins, catchments, subcatchments and watercourses.

establishment regulation means a regulation, made under section 548 before the commencement of this definition, establishing a water authority.

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

final report, for a resource tenure, for chapter 3, see section 362.

full supply level means 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.

incoming owner, for chapter 2, part 3, division 5, subdivision 3, see section 188(1)(b).

interference, with the flow of water in a watercourse lake or spring, includes interference with the flow of water—

- (a) by impoundment, for example, by a dam, weir or excavation that stores water;
- (b) by diversion, for example, by works such as a diversion channel that—

[s 202]

- (i) divert the course of water in a watercourse outside of its bed and banks; and
- (ii) may rejoin a watercourse downstream.

lake—

- (a) if a feature is identified on the watercourse identification map as a lake—means the feature identified on the map; or
- (b) otherwise, includes—
 - (i) a lagoon, swamp or other natural collection of water, whether permanent or intermittent; and
 - (ii) the bed and banks and any other element confining or containing the water.

lateral limits, in relation to a watercourse, see section 5(5).

maximum rate, for chapter 2, part 3, division 4, see section 144.

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining tenure means a mineral development licence or mining lease under the Mineral Resources Act.

mining tenure holder means the holder of a mining tenure.

nominator, for chapter 2, part 3, division 5, see section 178(1).

nominee, for chapter 2, part 3, division 5, see section 178(1).

operations manual see section 197(1).

Petroleum and Gas Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

plan area, for a statutory water resource plan, means the area of Queensland to which the plan applies.

process—

- (a) for sections 39(1)(b), 40(2) and (3), 43(2)(f), 67(a), 84(1), 116 and 147—includes selling or dealing with water entitlements, interim resource operations licences or resource operations licences by public auction, public ballot or public tender; and
- (b) for sections 43(2)(g), 67(a), 116 and 147—includes a direction to the chief executive to grant a water licence to a particular person.

publish see section 1009A.

ratepayer, of a water authority that has an authority area, means an owner of land within that authority area.

relevant company means—

- (a) for chapter 8, part 3C, division 1—see section 992G; or
- (b) for chapter 8, part 3C, division 2—see section 992K; or
- (c) for chapter 8, part 3C, division 3—see section 992M.

resource tenure means—

- (a) a mining tenure; or
- (b) a petroleum tenure.

resource tenure holder means—

- (a) a mining tenure holder; or
- (b) a petroleum tenure holder.

[s 202]

riverine protection permit see section 218(1).

seasonal water assignment notice means—

- (a) for a water allocation—a seasonal water assignment notice granted under a process prescribed by regulation; or
- (b) for a water licence—a seasonal water assignment notice granted under chapter 2, part 3, division 2.

special agreement means a special agreement Act or an agreement contained in a special agreement Act.

special agreement Act means—

- (a) for chapter 8, part 3C, division 1—see section 992G; or
- (b) for chapter 8, part 3C, division 2—see section 992K; or
- (c) for chapter 8, part 3C, division 3—see section 992M.

specified conditions—

- (a) for chapter 8, part 3C, division 1—
 - (i) for the *Alcan Queensland Pty. Limited Agreement Act 1965*, means the conditions stated in section 29A(2) of the agreement under that Act; or
 - (ii) for the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*, means the conditions stated in section 32A(2) of the agreement under that Act; or
- (b) for chapter 8, part 3C, division 3—for any special agreement Act, means any condition stated in the special agreement under the special Agreement Act relating to taking or interfering with water.

spring means—

- (a) if a feature is identified on the watercourse identification map as a spring—the feature identified on the map; or
- (b) otherwise—the land to which water rises naturally from below the ground and the land over which the water then flows.

statutory authorisation to take or interfere with water means an authorisation to take or interfere with water under chapter 2, part 3, division 1.

underground water means water that occurs naturally in, or is introduced artificially into, an aquifer.

underground water impact report, for chapter 3, see section 362.

underground water rights—

- (a) for the holder of a mining tenure—see the Mineral Resources Act, section 334ZP; or
- (b) for the holder of a 1923 Act petroleum tenure under the *Petroleum Act 1923*—means the taking of water necessarily taken as part of production testing or petroleum production under 1 or more 1923 Act petroleum tenures; or
- (c) for the holder of a petroleum tenure under the Petroleum and Gas Act—see the Petroleum and Gas Act, sections 185(2)(a) and 186(3).

volumetric limit, for chapter 2, part 3, division 4, see section 145.

water allocation means an authority granted under section 146 or 147 to take water.

water allocation dealing see section 156.

[s 202]

water allocation dealing rules means the rules under section 158.

water allocation group means a group of water allocations mentioned in a water plan.

water allocation security objective means an objective stated in a water plan to protect the share of water available to the holder of a water allocation.

watercourse identification map see section 5AA.

water entitlement notice see section 70.

water management protocol see section 67.

water monitoring authority means a water monitoring authority granted under the Mineral Resources Act, the *Petroleum Act 1923* or the Petroleum and Gas Act.

water plan see section 41.

water planning instrument means a water plan, water management protocol or moratorium notice.

water plan outcomes see section 43(1)(b).

water sharing rules means—

- (a) for a water entitlement, or other authorisation to take water under this Act, managed under a water management protocol—the water sharing rules included in the protocol; or
- (b) for a water entitlement or other authorisation to take water under this Act, managed under a resource operations licence—the water sharing rules included in the licence or operations manual under the licence; or
- (c) for a water licence, or other authorisation to take water under this Act, not managed

under a water management protocol or resource operations licence—the water sharing rules prescribed by regulation.

water supply scheme means a water supply scheme for which a resource operations licence or interim resource operations licence has been issued.

water use plan see section 58.

water year, for a water management protocol, resource operations licence, operations manual, interim resource operations licence or water licence, means—

- (a) the accounting period prescribed by regulation for the protocol, licence or manual; or
- (b) until a period is prescribed under paragraph (a)—the accounting period stated in the protocol, licence or manual for taking water under the protocol, licence or manual.

Wenlock Basin, for chapter 8, part 3C, division 1, see section 992G.

- (3) Schedule 4, definition *allocation notice*, ‘part 9’—
omit, insert—
part 5
- (4) Schedule 4, definition *approved nominee*, ‘part 4, division 3, see section 107B(2)(c)’—
omit, insert—
part 3, division 5, subdivision 1, see section 177(2)(c)
- (5) Schedule 4, definition *artesian water*, ‘means’—
omit, insert—
, for chapter 8, part 3C, means
- (6) Schedule 4, definition *baseline assessment plan*, ‘397(2)’—

[s 202]

omit, insert—

397(4)

- (7) Schedule 4, definition *chief executive's notice*, 'section 37(2)'—

omit, insert—

section 36(2)

- (8) Schedule 4, definition *environmental impact statement*, after 'part 3C,'—

insert—

division 1,

- (9) Schedule 4, definition *fill*, 'part 8'—

omit, insert—

part 4

- (10) Schedule 4, definition *moratorium notice*, 'section 26'—

omit, insert—

section 30(1)

- (11) Schedule 4, definition *owner*, after 'of land,'—

insert—

other than for chapter 2, part 3, division 2,

- (12) Schedule 4, definition *owner*, paragraph (b)—

omit, insert—

(b) for chapter 2, part 3, division 2, see section 104.

- (13) Schedule 4, definition *performance indicator*, 'water resource plan'—

omit, insert—

water plan

- (14) Schedule 4, definition *registrar*, 'section 147'—

omit, insert—

section 167

- (15) Schedule 4, definition *resource operations licence*, ‘part 4, division 3’—

omit, insert—

part 3, division 5

- (16) Schedule 4, definition *seasonal water assignment rules*, ‘or resource operations plan’—

omit, insert—

, water management protocol or operations manual

- (17) Schedule 4, definition *State quarry material*, ‘section 279’—

omit, insert—

section 226

- (18) Schedule 4, definition *stock purposes*, ‘taking’—

omit, insert—

taking or interfering with

- (19) Schedule 4, definition *transferee*, ‘part 4, division 3, subdivision 4, see section 114(1)’—

omit, insert—

part 3, division 5, subdivision 3, see section 187(1)

- (20) Schedule 4, definition *underground water obligation*, ‘petroleum’—

omit, insert—

resource

- (21) Schedule 4, definition *water management area*, ‘water resource plan or a resource operations plan’—

omit, insert—

water plan or a water management protocol

[s 203]

Part 9 **Amendments relating to mining safety**

Division 1 **Amendment of Coal Mining Safety and Health Act 1999**

203 **Act amended**

This division amends the *Coal Mining Safety and Health Act 1999*.

204 **Amendment of s 41 (Obligations of coal mine operators)**

Section 41(1)(c), ‘under the *Petroleum and Gas (Production and Safety) Act 2004*’—

omit.

205 **Amendment of s 62A (Additional requirement for coal mining operation for incidental coal seam gas)**

(1) Section 62A—

insert—

(1A) The single safety and health management system must include a plan to achieve an acceptable level of risk in relation to the activities.

(2) Section 62A(2), ‘safety management plan’—

omit, insert—

safety management system

(3) Section 62A(2), notes—

omit, insert—

Notes—

1 See the *Petroleum and Gas (Production and Safety) Act 2004*, sections 675 and 705C.

2 For mineral hydrocarbon mining leases as defined under the *Mineral Resources Act 1989*, chapter 15, part 2, division 6, see section 747 of that Act and the *Petroleum and Gas (Production and Safety) Act 2004*, section 671.

- (4) Section 62A(1A) and (2)—
renumber as section 62A(2) and (3).

206 Insertion of new pt 4, div 3A

Part 4—

insert—

Division 3A Joint interaction management plans for overlapping resource authorities

64C Application of div 3A

- (1) This division applies to a coal mine if coal mining operations at the coal mine are carried out, or are to be carried out, in an overlapping area.
- (2) This division does not apply to a coal mine if coal mining operations at the coal mine are carried out, or are to be carried out, under a coal mining lease to which the *Mineral Resources Regulation 2013*, chapter 2, part 4, division 4 applies.

64D Definitions for div 3A

In this division—

arbitration, of a dispute, means arbitration of the dispute under the Common Provisions Act, chapter 4, part 6, division 4.

authorised activities operating plant means an operating plant under the *Petroleum and Gas (Production and Safety) Act 2004*, section 670(6).

[s 206]

joint interaction management plan see section 64E(1)(a).

operating plant see the *Petroleum and Gas (Production and Safety) Act 2004*, section 670.

operator, of an operating plant, see the *Petroleum and Gas (Production and Safety) Act 2004*, section 673.

64E Requirement for joint interaction management plan

- (1) The site senior executive for the coal mine must—
 - (a) before carrying out coal mining operations in the overlapping area, make a plan for the mine that complies with section 64F (a ***joint interaction management plan***); and
 - (b) before making the plan—
 - (i) make reasonable attempts to consult with the operator of each authorised activities operating plant in the overlapping area to jointly identify, analyse and assess risks and hazards in the overlapping area; and
 - (ii) have regard to any reasonable provisions for the plan, relating to the management of the risks and hazards, that are proposed by the operators within 20 days after receiving a copy of the proposed plan; and
 - (iii) either—
 - (A) reach agreement with the operator of each authorised activities operating plant in the overlapping area about the content of the proposed plan; or

- (B) apply for arbitration of the dispute under subsection (3) or (4); and
 - (c) comply with the plan.
- Maximum penalty—500 penalty units.
- (2) For subsection (1)(b)(i), the site senior executive is taken to have made reasonable attempts to consult with the operator of an authorised activities operating plant if—
 - (a) the site senior executive gives the operator a copy of the proposed plan; and
 - (b) the operator has not, within 20 days after being given the copy, made any proposal to the site senior executive about the provisions for the plan.
 - (3) If the site senior executive and the operator of an authorised activities operating plant can not agree on the content of a proposed plan within 3 months after the operator receives a copy of the proposed plan, the site senior executive must apply for arbitration of the dispute.
 - (4) Despite subsection (3), either party may apply for arbitration of the dispute at any time.

64F Content of joint interaction management plan

- (1) A joint interaction management plan must—
 - (a) be stored or kept together with the other parts of the safety and health management system for the coal mine; and
 - (b) identify, if any, each IMA, RMA and SOZ in the overlapping area; and
 - (c) identify the hazards and assess the risks to be controlled that—

[s 206]

- (i) are, or may be, created by the coal mining operations or petroleum activities carried out in the overlapping area; and
- (ii) affect, or may be likely to affect, the safety and health of persons in the overlapping area; and
- (d) for each risk—identify the triggers or material changes, or likely triggers or material changes, that—
 - (i) must be monitored to ensure the safety and health of persons in the overlapping area; and
 - (ii) will require the plan to be reviewed; and
- (e) for each trigger or material change identified under paragraph (d)—
 - (i) state the response procedures and times; and
 - (ii) state the type of action required for the response; and

Examples of action that may be required—

- 1 a risk analysis
 - 2 notice to the operator of an operating plant in the overlapping area of—
 - (a) a drop in hydrostatic pressure that may show a potential hazard to persons carrying out authorised activities under a petroleum lease; or
 - (b) a change in water level that may indicate differences in fluid interconnections with an adjacent petroleum lease
- (iii) state the reporting procedures; and

- (f) if there is proposed, or there is likely to be, interaction with other persons in the overlapping area—
 - (i) describe the proposed or likely interactions and how they will be managed; and
 - (ii) identify the specific risks that may arise as a result of the proposed or likely interactions and how the risks will be controlled; and
 - (iii) identify the safety responsibilities of each person; and
 - (iv) state the name of the operator and any other person responsible under the *Petroleum and Gas (Production and Safety) Act 2004* for each operating plant; and
 - (g) describe the way in which the plan will be reviewed and revised, including ongoing consultation with the persons mentioned in paragraph (f); and
 - (h) describe the way in which details of any new site senior executive, or other senior person in the management structure, will be communicated to all operators of operating plants in the overlapping area; and
 - (i) include any other information prescribed by regulation.
- (2) A regulation may prescribe a guide of potential hazards that may be created by coal mining operations in relation to exploring for or producing coal seam gas or petroleum (the ***potential hazard guide***).
 - (3) The potential hazard guide must be referred to for help in identifying the hazards and assessing the

[s 206]

risks mentioned in subsection (1)(c) but is not intended to be exhaustive.

- (4) To remove any doubt, it is declared that a joint interaction management plan may apply to more than 1 overlapping area.

64G Notification of making of joint interaction management plan

As soon as practicable after making a joint interaction management plan, and before carrying out coal mining operations in the overlapping area, the site senior executive for the coal mine must notify the chief inspector that the plan has been made.

Maximum penalty—40 penalty units.

64H Review

- (1) This section applies if—
- (a) it is proposed to change a joint interaction management plan; or
 - (b) a change at the coal mine is likely to give rise to an additional risk to safety or health in the overlapping area; or
 - (c) any of the following circumstances exist—
 - (i) an additional risk to safety or health in the overlapping area is identified;
 - (ii) consultation with coal mine workers indicates a review is necessary;
 - (iii) a risk control measure did not control the risk it was intended to control to an acceptable level.
- (2) For subsection (1)(b), a change at the coal mine includes—

- (a) a change to the mine itself or any aspect of the mine environment; and
 - (b) a change to a system of work, process or procedure at the mine.
- (3) The site senior executive for the coal mine must review and, if necessary, revise the joint interaction management plan.

Maximum penalty—200 penalty units.

- (4) The review must take place in consultation with the operator of each authorised activities operating plant in the overlapping area and coal mine workers to the extent they are affected by the matters under review.

Maximum penalty—200 penalty units.

- (5) The review must take place—
- (a) for subsection (1)(a) or (b)—before the change to the joint interaction management plan is made; or
 - (b) for subsection (1)(c)—as soon as possible after the circumstance exists.

Maximum penalty—200 penalty units.

- (6) A revision of the plan under subsection (3) must be recorded on the plan.

Maximum penalty—200 penalty units.

- (7) If the site senior executive and the operator for an authorised activities operating plant in the overlapping area can not agree on the content of a revision of the plan, either party may apply for arbitration of the dispute.

[s 207]

64I Availability of joint interaction management plan

- (1) The site senior executive for the coal mine must make available for inspection, by persons in the overlapping area, a copy of the joint interaction management plan.

Maximum penalty—100 penalty units.

- (2) The site senior executive for the coal mine must give a copy of the joint interaction management plan to a person whose work in the overlapping area is affected by the requirements of the plan and who requests a copy of it.

Maximum penalty—100 penalty units.

- (3) The site senior executive for the coal mine must give a copy of the joint interaction management plan to a person who employs persons at the coal mine whose work is affected by the plan's requirements.

Maximum penalty—200 penalty units.

207 Amendment of s 67 (Plans of coal mine workings)

- (1) Section 67(1)—

insert—

- (e) if part 4, division 3A applies—plans showing each of the following for the overlapping area if identified in an agreed joint development plan—

- (i) the IMA;
- (ii) the RMA;
- (iii) the FMA;
- (iv) the SOZ.

- (2) Section 67—

insert—

(8) In this section—

agreed joint development plan see the Common Provisions Act, section 103.

208 Replacement of s 73B (Qualifications for appointment)

Section 73B—

omit, insert—

73B Qualifications for appointment

To be appointed as commissioner, a person must have—

- (a) a science or engineering qualification relevant to the mining industry, and professional experience in mine safety; or
- (b) a qualification in law, and professional experience in the law relating to mine safety; or
- (c) at least 10 years professional experience in senior positions relating to operational mine safety management.

Example of a senior position for paragraph (c)—

a site senior executive at an underground mine

208A Replacement of s 149 (Return of things that have been seized)

Section 149—

omit, insert—

149 Return of seized things

- (1) This section applies if a seized thing has some intrinsic value and is not forfeited.

[s 208A]

- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply to the chief inspector for its return.
- (3) Within 30 days after receiving the application, the chief inspector must—
 - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner written notice of the decision, including the grounds for retaining the thing; or
 - (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.
- (5) Without limiting subsections (3) and (4), there are reasonable grounds for retaining the thing if—
 - (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for the purposes of—
 - (i) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that is likely to be started; or
 - (ii) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that has been started but not completed; or
 - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
 - (c) it is not lawful for the owner to possess the thing.

(6) In this section—

examine includes analyse, test, measure, weigh, grade, gauge and identify.

owner, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.

208B Amendment of pt 14, div 2, hdg (Appeals against chief inspector’s directives and review decisions)

Part 14, division 2, heading, ‘review’—

omit, insert—

particular

208C Amendment of s 243 (Who may appeal)

(1) Section 243(a) and (b)—

renumber as section 243(b) and (c).

(2) Section 243—

insert—

(a) a decision of the chief inspector under section 149(3)(a) to retain a seized thing;

208D Amendment of s 244 (How to start appeal)

(1) Section 244(2)(a) and (b)—

renumber as section 244(2)(b) and (c).

(2) Section 244(2)—

insert—

(a) if the appeal is from a decision under section 149(3)(a) to retain a seized thing—the day the appellant receives the notice of the decision; or

[s 208E]

208E Amendment of s 248 (Powers of court on appeal)

Section 248(1), ‘review’—

omit.

209 Amendment of s 255 (Proceedings for offences)

(1) Section 255(5)—

omit, insert—

(5) A proceeding for an offence against this Act may only be taken by—

(a) the commissioner; or

(b) the chief executive; or

(c) another appropriately qualified person, with the written authorisation of the chief executive, either generally or in a particular case.

(5A) An authorisation under subsection (5)(c) is sufficient authority to continue proceedings in any case where the court amends the charge, warrant or summons.

(2) Section 255(5A) and (6)—

renumber as section 255(6) and (7).

210 Insertion of new pt 20, div 4

Part 20—

insert—

**Division 4 Transitional and validation
provisions for Water
Reform and Other
Legislation Amendment
Act 2014**

**303 Application of joint interaction management
plan provisions**

- (1) The joint interaction management plan provisions do not apply to a coal mining lease mentioned in the *Mineral Resources Regulation 2013*, section 23(1).

Note—

The holder of the coal mining lease would continue to be subject to the *Mineral Resources Regulation 2013*, chapter 2, part 4, division 4 as in force from time to time.

- (2) The joint interaction management plan provisions do not apply in relation to the following for a period of 6 months starting on the commencement—
- (a) coal mining operations carried out in an overlapping area the subject of an exploration permit (coal), within the meaning of the Common Provisions Act, if an activity under an authority to prospect (csg) or petroleum lease (csg) within the meaning of that Act is also carried out in the overlapping area;
 - (b) coal mining operations carried out in an overlapping area the subject of a mineral development licence (coal), within the meaning of the Common Provisions Act, if an activity for an authority to prospect (csg) or petroleum lease (csg) within the meaning

[s 211]

of that Act is also carried out in the overlapping area.

(3) In this section—

joint interaction management plan provisions means part 4, division 3A.

304 Return of seized things

(1) New section 149 applies in relation to a thing seized under part 9 before the commencement that, on the commencement, is still seized.

(2) If, at any time before the commencement, a thing seized under part 9 was not returned to its owner within the time required under old section 149—

(a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 149; and

(b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the thing in contravention of old section 149.

(3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.

(4) In this section—

new section 149 means section 149 as in force from the commencement.

old section 149 means section 149 as in force from time to time before the commencement.

211 Amendment of sch 2 (Subject matter for regulations)

(1) Schedule 2, part 2, item 32, ‘principal hazard management plans for operating plant’—

omit, insert—

joint interaction management plans

(2) Schedule 2, part 2—

insert—

32A The responsibilities and obligations of site senior executives in an overlapping area including in relation to joint interaction management plans.

(3) Schedule 2, part 2, item 33, ‘and efficient’—

omit.

212 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

arbitration, of a dispute, for part 4, division 3A, see section 64D.

authorised activities operating plant, for part 4, division 3A, see section 64D.

Common Provisions Act means the *Mineral and Energy Resources (Common Provisions) Act 2014*.

FMA means the future mining area as defined under the Common Provisions Act, section 110.

IMA means the initial mining area as defined under the Common Provisions Act, section 109.

joint interaction management plan, for part 4, division 3A, see section 64E(1)(a).

operating plant, for part 4, division 3A, see section 64D.

operator, of an operating plant, for part 4, division 3A, see section 64D.

[s 212A]

overlapping area see the Common Provisions Act, section 104.

RMA means the rolling mining area as defined under the Common Provisions Act, section 111.

safety and health management system means a safety and health management system that complies with—

- (a) the requirements for a safety and health management system under section 62; and
- (b) if section 62A applies—the requirements for a safety management system under the *Petroleum and Gas (Production and Safety) Act 2004*; and
- (c) if part 4, division 3A, or the *Mineral Resources Regulation 2013*, chapter 2, part 4, division 4 applies—the requirements for a joint interaction management plan under that division.

SOZ means the simultaneous operations zone as defined under the Common Provisions Act, section 112.

Division 1A Amendment of Explosives Act 1999

212A Act amended

This division amends the *Explosives Act 1999*.

212B Replacement of s 95 (Return of seized things)

Section 95—

omit, insert—

95 Return of seized things

- (1) This section applies to a thing that—
 - (a) has been seized under this part, other than in the course of dealing with a dangerous situation; and
 - (b) has some intrinsic value; and
 - (c) is not forfeited to the State.
- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply to the chief inspector for its return.
- (3) Within 30 days after receiving the application, the chief inspector must—
 - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner an information notice for the decision; or
 - (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.
- (5) Without limiting subsections (3) and (4), there are reasonable grounds for retaining the thing if—
 - (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for the purposes of—
 - (i) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that is likely to be started; or

[s 212C]

- (ii) an investigation, board of inquiry, coroner's inquest or proceeding for an offence against this Act that has been started but not completed; or
 - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
- (c) it is not lawful for the owner to possess the thing.
- (6) In this section—
 - examine* includes analyse, test, measure, weigh, grade, gauge and identify.
 - owner*, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.

212C Amendment of s 111 (Application for external review)

Section 111—

insert—

- (5) An owner of a seized thing who is given an information notice under section 95(3)(a) for a decision to retain the thing may apply, as provided under the QCAT Act, for an external review of the decision.

212D Insertion of new pt 10, div 4

Part 10—

insert—

Division 4 **Transitional and validation provision for Water Reform and Other Legislation Amendment Act 2014**

146 Return of seized things

- (1) New section 95 applies in relation to a thing seized under part 6 before the commencement that, on the commencement, is still seized.
- (2) If, at any time before the commencement, a thing seized under part 6 was not returned to its owner within the time required under old section 95—
 - (a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 95; and
 - (b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the thing in contravention of old section 95.
- (3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.
- (4) In this section—

new section 95 means section 95 as in force from the commencement.

old section 95 means section 95 as in force from time to time before the commencement.

[s 213]

Division 2 Amendment of Mineral and Energy Resources (Common Provisions) Act 2014

213 Act amended

This division amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

214 Amendment of s 10 (What is a resource authority)

Section 10(a), after ‘mining lease’—

insert—

- a water monitoring authority;

215 Amendment of s 175 (Application of div 4)

Section 175—

insert—

- (d) a dispute mentioned in the *Coal Mining Safety and Health Act 1999*, section 64E(3) or (4) or 64H(7);
- (e) a dispute mentioned in the P&G Act, section 705B(3) or (4) or 705CB(7);
- (f) a dispute mentioned in the *Mineral Resources Regulation 2013*, section 25(3) or (4) or 28(7).

Division 3 **Amendment of Mining and
Quarrying Safety and Health Act
1999**

216 Act amended

This division amends the *Mining and Quarrying Safety and Health Act 1999*.

216A Replacement of s 146 (Return of things that have been seized)

Section 146—

omit, insert—

146 Return of seized things

- (1) This section applies if a seized thing has some intrinsic value and is not forfeited.
- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply to the chief inspector for its return.
- (3) Within 30 days after receiving the application, the chief inspector must—
 - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner written notice of the decision, including the grounds for retaining the thing; or
 - (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.
- (5) Without limiting subsections (2) and (3), there are reasonable grounds for retaining the thing if—

[s 216B]

- (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for the purposes of—
 - (i) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that is likely to be started; or
 - (ii) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that has been started but not completed; or
 - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
 - (c) it is not lawful for the owner to possess the thing.
- (6) In this section—
- examine* includes analyse, test, measure, weigh, grade, gauge and identify.
- owner*, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.

216B Amendment of pt 13, div 2, hdg (Appeals against chief inspector’s directives and review decisions)

Part 13, division 2, heading, ‘review’—

omit, insert—

particular

216C Amendment of s 223 (Who may appeal)

- (1) Section 223(a) and (b)—

renumber as section 223(b) and (c).

(2) Section 223—

insert—

- (a) a decision of the chief inspector under section 146(3)(a) to retain a seized thing;

216D Amendment of s 224 (How to start appeal)

(1) Section 224(2)(a) and (b)—

renumber as section 224(2)(b) and (c).

(2) Section 224(2)—

insert—

- (a) if the appeal is from a decision under section 146(3)(a) to retain a seized thing—the day the appellant receives the notice of the decision; or

216E Amendment of s 226 (Hearing procedures)

Section 226(2), ‘review’—

omit.

216F Amendment of s 228 (Powers of court on appeal)

Section 228(1), ‘review’—

omit.

217 Amendment of s 234 (Proceedings for offences)

(1) Section 234(6)—

renumber as section 234(7).

(2) Section 234(5)—

omit, insert—

[s 217A]

- (5) Proceedings for an offence against this Act may only be taken by—
 - (a) the commissioner; or
 - (b) the chief executive; or
 - (c) another appropriately qualified person, with the written authorisation of the chief executive, either generally or in a particular case.
- (6) An authorisation under subsection (5)(c) is sufficient authority to continue proceedings in any case where the court amends the charge, warrant or summons.

217A Insertion of new pt 20, div 3

Part 20—

insert—

Division 3 Transitional and validation provision for Water Reform and Other Legislation Amendment Act 2014

280 Return of seized things

- (1) New section 146 applies in relation to a thing seized under part 9 before the commencement that, on the commencement, is still seized.
- (2) If, at any time before the commencement, a thing seized under part 9 was not returned to its owner within the time required under old section 146—
 - (a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 146; and
 - (b) the State is not liable to pay compensation, and does not incur any other liability, for the

retention of the thing in contravention of old section 146.

(3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.

(4) In this section—

new section 146 means section 146 as in force from the commencement.

old section 146 means section 146 as in force from time to time before the commencement.

Division 3A Amendment of Petroleum Act 1923

217B Act amended

This division amends the *Petroleum Act 1923*.

217C Amendment of s 2 (Definitions)

Section 2, definition *safety management plan*, ‘plan’—

omit, insert—

system

217D Amendment of s 76R (Restriction)

Section 76R(1)(a)—

omit, insert—

- (a) the mining lease holder has agreed in writing to the carrying out of the activity and to the joint interaction management plan developed by the site senior executive and the authority holder; and

[s 217E]

217E Amendment of s 76V (Content requirements for CSG statement)

- (1) Section 76V(1)(b) and (2), ‘safety management plan’—
omit, insert—
safety management system
- (2) Section 76V(2), ‘sections 388 and 675’—
omit, insert—
sections 675 and 705C

217F Amendment of s 76W (Applicant’s obligations)

Section 76W(1)(b) and (d), ‘safety management plan’—
omit, insert—
safety management system

217G Amendment of s 77 (Submissions by coal or oil shale exploration tenement holder)

Section 77(3)(d), ‘safety management plan’—
omit, insert—
safety management system

217H Amendment of s 77T (Requirements for making application)

Section 77T(2), ‘safety management plan’—
omit, insert—
safety management system

217I Amendment of s 78CI (Statement about interests of overlapping tenure holder)

- (1) Section 78CI(b), ‘safety management plan’—
omit, insert—

safety management system

(2) Section 78CI(c), ‘plans’—

omit, insert—

plan or system

217J Amendment of pt 6FA, div 4, sdiv 1, hdg

Part 6FA, division 4, subdivision 1, heading, ‘safety management plans’—

omit, insert—

safety management systems

217K Amendment of s 78CK (Requirements for consultation with particular overlapping tenure holders)

Section 78CK(4), (5), (7) and (8), ‘plan’—

omit, insert—

system

217L Amendment of s 78CL (Application of 2004 Act provisions for resolving disputes about reasonableness of proposed provision)

(1) Section 78CL(1), ‘safety management plan’—

omit, insert—

safety management system

(2) Section 78CL(2) and editor’s note—

omit, insert—

(2) Either party to the dispute may refer it to the chief inspector to decide whether the proposed provision is reasonable.

(3) The referral must be written and be lodged.

[s 217M]

- (4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge submissions about the dispute.
- (5) The chief inspector's decision binds each party to the dispute.
- (6) The chief inspector must give each party an information notice about the decision.
- (7) The chief inspector's decision is not, of itself, evidence that a safety management system, or purported safety management system, for an operating plant complies with the 2004 Act, section 675.
- (8) In this section—

chief inspector means the person who, under the 2004 Act, section 735, holds appointment as the chief inspector, petroleum and gas.

217M Amendment of s 177 (Obligation of lessee to give access to MDL holder)

Section 177(2)(b)(ii), 'safety management plan'—

omit, insert—

safety management system

217N Amendment of schedule (Decisions subject to appeal)

Schedule, under Common provisions—

insert—

78CL decision about whether proposed provision for safety management system is reasonable

Division 4 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

218 **Act amended**

This division amends the *Petroleum and Gas (Production and Safety) Act 2004*.

Note—

See also the amendments in schedule 3.

219 **Replacement of ss 386–389**

Sections 386 to 389—

omit, insert—

386 Requirement for joint interaction management plan

- (1) This section applies if—
 - (a) a person (the *operator*) proposes to be an operator of operating plant in the area of a petroleum tenure; and
 - (b) activities carried out, or proposed to be carried out, at the plant may adversely affect the safe mining of coal in the area of a coal or oil shale mining tenement.
- (2) Chapter 9, part 4, division 5, subdivision 1 applies to the operator as if—
 - (a) a reference in the provisions to the operator of an authorised activities operating plant were a reference to the operator mentioned in subsection (1)(a); and
 - (b) a reference in the provisions to the overlapping area were a reference to the area of the coal or oil shale mining tenement mentioned in subsection (1)(b); and

[s 220]

- (c) a reference in the provisions to the site senior executive were a reference to the site senior executive for the coal or oil shale mining tenement mentioned in subsection (1)(b).

220 Amendment of s 392BO (Application of provisions for resolving disputes about reasonableness of proposed provision)

Section 392BO(2) and editor's note—

omit, insert—

- (2) Either party to the dispute may refer it to the chief inspector to decide whether the proposed provision is reasonable.
- (3) The referral must be written and be lodged.
- (4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge submissions about the dispute.
- (5) The chief inspector's decision binds each party to the dispute.
- (6) The chief inspector must give each party an information notice about the decision.
- (7) The chief inspector's decision is not, of itself, evidence that a safety management system, or purported safety management system, for an operating plant complies with section 675.

221 Amendment of s 669 (Making safety requirement)

Section 669—

insert—

- (f) responsibilities and obligations of operators of operating plants or site safety managers

in an overlapping area, including in relation to joint interaction management plans.

222 Amendment of s 674 (Requirement to have safety management plan)

- (1) Section 674, ‘safety management plan’—

omit, insert—

safety management system

- (2) Section 674, ‘the plan’—

omit, insert—

the system

- (3) Section 674(1) and (2), ‘388, subject to any exemption given under section 389’—

omit, insert—

705C

- (4) Section 674(4), note, ‘safety management plans’—

omit, insert—

safety management systems

- (5) Section 674(5)—

omit, insert—

- (5) Also, if chapter 9, part 4, division 5, subdivision 1 applies for an operating plant, the safety management system must include a joint interaction management plan.

223 Amendment of s 675 (Content requirements for safety management plans)

- (1) Section 675, heading, ‘plans’—

omit, insert—

systems

[s 224]

- (2) Section 675(1), ‘safety management plan’—
omit, insert—
safety management system
- (3) Section 675(1)—
insert—
(cb) for each site mentioned in paragraph
(ca)—the site safety manager;
- (4) Section 675(1)(n), ‘plans’—
omit, insert—
systems
- (5) Section 675(1)(p) and (2), ‘the plan’—
omit, insert—
the system
- (6) Section 675(1)(t)—
omit, insert—
(t) if the operating plant is a major hazard
facility under the *Work Health and Safety
Regulation 2011*—each matter not
mentioned in paragraphs (b) to (r) that is
mentioned in schedule 16, 17 or 18 of that
regulation;
- (7) Section 675(5), definition *NOHSC standard*—
omit.

224 Amendment of s 675A (Generic safety management plans)

- (1) Section 675A, heading, ‘plans’—
omit, insert—
systems
- (2) Section 675A, ‘safety management plan’—

omit, insert—

safety management system

(3) Section 675A, ‘generic SMP’—

omit, insert—

generic SMS

225 Amendment of s 678A (Requirement to have resulting records for safety management plan)

Section 678A(2), definition *resulting records*—

insert—

(ia) records about the details of the operator mentioned in section 675(1)(c) and the site safety manager mentioned in section 675(1)(cb);

226 Amendment of s 688 (Executive safety manager’s general obligations)

Section 688(b)(i), ‘employees’—

omit, insert—

workers

227 Amendment of ch 9, pt 4, div 5, hdg (Additional obligations of operator of operating plant on coal or oil shale mining lease)

Chapter 9, part 4, division 5, heading, after ‘lease’—

insert—

or coal resource authority

228 Replacement of ch 9, pt 4, div 5, sdiv 1 (Principal hazard management plans)

Chapter 9, part 4, division 5, subdivision 1—

[s 228]

omit, insert—

Subdivision 1 Joint interaction management plans

705 Application of sdiv 1

This subdivision applies for an operating plant, other than a coal mining-CSG operating plant, if—

- (a) the operating plant operates or is to operate in any of the following areas (each an *overlapping area*)—
 - (i) the area of a coal or oil shale mining lease or tenement;
 - (ii) an area adjacent to the area of a coal or oil shale mining lease or tenement;
 - (iii) the area of a coal resource authority to which the Common Provisions Act, chapter 4 applies; and
- (b) the operation of the plant physically affects, or may physically affect, the mining of coal or oil shale under the coal or oil shale mining lease or tenement or coal resource authority.

705A Definitions for sdiv 1

In this subdivision—

authorised activities operating plant means an operating plant under section 670(6).

coal resource authority see the Common Provisions Act, section 103.

joint interaction management plan see section 705B(1)(a).

overlapping area see section 705(a).

site senior executive means the site senior executive for a coal mine in the overlapping area.

705B Requirement for joint interaction management plan

- (1) The operator of an authorised activities operating plant in the overlapping area must—
 - (a) before carrying out activities in the overlapping area, make a plan for the plant that applies to all operators of operating plants in the overlapping area and that complies with section 705C (a *joint interaction management plan*); and
 - (b) before making the plan—
 - (i) make reasonable attempts to consult with the operators of each operating plant in the overlapping area and the site senior executive to jointly identify, analyse and assess risks and hazards in the overlapping area; and
 - (ii) have regard to any reasonable provisions for the plan, relating to the management of the risks and hazards that are proposed by the site senior executive within 20 days after receiving a copy of the proposed plan; and
 - (iii) either—
 - (A) reach agreement with the site senior executive about the content of the proposed plan; or
 - (B) apply for arbitration of the dispute under subsection (3) or (4); and
 - (c) comply with the plan.

[s 228]

Maximum penalty—500 penalty units.

- (2) For subsection (1)(b)(i), the operator is taken to have made reasonable attempts to consult with the site senior executive if—
 - (a) the operator gives the site senior executive a copy of the proposed plan; and
 - (b) the site senior executive has not, within 20 days after being given the copy, made any proposal to the operator about the provisions for the plan.
- (3) If the operator and the site senior executive can not agree on the content of a proposed plan within 3 months after the site senior executive receives a copy of the proposed plan, the operator must apply for arbitration of the dispute.
- (4) Despite subsection (3), either party may apply for arbitration of the dispute at any time.

705C Content of joint interaction management plan

- (1) A joint interaction management plan must—
 - (a) be stored or kept together with the other parts of the safety management system for the plant; and
 - (b) for an overlapping area mentioned in section 705(a)(iii)—identify, if any, each IMA, RMA and SOZ, as defined under the Common Provisions Act, in the overlapping area; and
 - (c) identify the hazards and assess the risks to be controlled that—
 - (i) are, or may be, created by the mining operations or petroleum activities carried out in the overlapping area; and

- (ii) affect, or may be likely to affect, the safety and health of persons in the overlapping area; and
- (d) for each risk—identify the triggers or material changes, or likely triggers or material changes, that—
 - (i) must be monitored to ensure the safety and health of persons in the overlapping area; and
 - (ii) will require the plan to be reviewed; and
- (e) for each trigger or material change identified under paragraph (d)—
 - (i) state the response procedures and times; and
 - (ii) state the type of action required for the response; and

Examples of action that may be required—

- 1 a risk analysis
- 2 notice to the site senior executive of—
 - (a) a drop in hydrostatic pressure that may show a potential hazard to persons carrying out mining; or
 - (b) a change in water level that may indicate differences in fluid interconnections with an adjacent mine
- (iii) state the reporting procedures; and
- (f) if there is proposed, or there is likely to be, interaction with other persons in the overlapping area—
 - (i) describe the proposed or likely interactions, and how they will be managed; and

[s 228]

- (ii) identify the specific risks that may arise as a result of the proposed or likely interactions, and how the risks will be controlled; and
 - (iii) identify the safety responsibilities of each person; and
 - (iv) state the name of the site senior executive and any other senior persons in the management structure for the coal mine under the *Coal Mining Safety and Health Act 1999*; and
 - (g) describe the way in which the plan will be reviewed and revised, including ongoing consultation with the persons mentioned in paragraph (f); and
 - (h) describe the way in which details of any new operator or site safety manager will be communicated to the site senior executive; and
 - (i) include any other information prescribed by regulation.
- (2) A regulation may prescribe a guide of potential hazards that may be created by an operating plant in relation to mining coal (the ***potential hazard guide***).
 - (3) The potential hazard guide must be referred to for help in identifying the hazards and assessing the risks mentioned in subsection (1)(c) but is not intended to be exhaustive.
 - (4) To remove any doubt, it is declared that a joint interaction management plan may apply to more than 1 overlapping area.

705CA Notification of making of joint interaction management plan

As soon as practicable after making a joint interaction management plan, and before carrying out activities in the overlapping area or at an operating plant in the overlapping area, the operator of the authorised activities operating plant must notify the chief inspector that the plan has been made.

Maximum penalty—40 penalty units.

705CB Review

- (1) This section applies if—
 - (a) it is proposed to change a joint interaction management plan; or
 - (b) a change in the overlapping area, or at an operating plant in the overlapping area, is likely to give rise to an additional risk to safety or health in the overlapping area or at the plant; or
 - (c) any of the following circumstances exist—
 - (i) an additional risk to safety or health in the overlapping area, or at an operating plant in the overlapping area, is identified;
 - (ii) consultation with workers indicates a review is necessary;
 - (iii) a risk control measure did not control the risk it was intended to control to an acceptable level.
- (2) For subsection (1)(b), a change in the overlapping area, or at an operating plant in the overlapping area, includes—
 - (a) a change to any aspect of the overlapping area or the plant itself; and

[s 229]

- (b) a change to a system of work, process or procedure in the overlapping area or at the plant.
- (3) The operator of the authorised activities operating plant must review and, if necessary, revise the joint interaction management plan.
Maximum penalty—200 penalty units.
- (4) The review must take place in consultation with the operators of each operating plant in the overlapping area, the site senior executive and any other workers to the extent they are affected by the matters under review.
Maximum penalty—200 penalty units.
- (5) The review must take place—
 - (a) for subsection (1)(a) or (b)—before the change to the joint interaction management plan is made; or
 - (b) for subsection (1)(c)—as soon as possible after the circumstance exists.Maximum penalty—200 penalty units.
- (6) A revision of the plan under subsection (3) must be recorded on the plan.
Maximum penalty—200 penalty units.
- (7) If the operator of the authorised activities operating plant and the site senior executive can not agree on the content of a revision of the plan, either party may apply for arbitration of the dispute.

229 Amendment of s 728B (Interim licence or authorisation)

- (1) Section 728B(1) and (7), ‘skills’—
omit, insert—
experience

- (2) Section 728B(4), ‘1 year’—
omit, insert—
3 years

230 Insertion of new ss 731A and 731B

Chapter 9, part 7—

insert—

731A Person may owe obligations in more than 1 capacity

A person on whom an obligation is imposed under this Act may be subject to more than 1 safety and health obligation.

731B Person not relieved of obligations

To remove doubt, it is declared that nothing in this Act that imposes an obligation on a person relieves another person of the person’s obligations under this Act.

230A Amendment of s 732 (Increase in maximum penalties in circumstances of aggravation)

Section 732(1), ‘part 2, 4 or 6’—

omit, insert—

this chapter

231 Amendment of s 736 (Functions)

- (1) Section 736(1)(d)—
renumber as section 736(1)(e).
- (2) Section 736(1)—
insert—

[s 231A]

- (d) to provide the advice and help that may be required from time to time during emergencies at operating plants that may affect the safety or health of persons;
- (3) Section 736(2)(b)—
renumber as section 736(2)(c).
- (4) Section 736(2)—
insert—
 - (b) to provide the advice and help that may be required from time to time during emergencies at operating plants that may affect the safety or health of persons; and

231A Replacement of s 772 (Return of seized things)

Section 772—

omit, insert—

772 Return of seized things

- (1) This section applies if a seized thing has some intrinsic value and is not forfeited.
- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply to the chief inspector for its return.
- (3) Within 30 days after receiving the application, the chief inspector must—
 - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner an information notice for the decision; or
 - (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.

-
- (5) Without limiting subsections (3) and (4), there are reasonable grounds for retaining the thing if—
- (a) the thing is being, or is likely to be, examined; or
 - (b) the thing is needed, or may be needed, for the purposes of—
 - (i) an investigation, board of inquiry, coroner's inquest or proceeding for an offence against this Act that is likely to be started; or
 - (ii) an investigation, board of inquiry, coroner's inquest or proceeding for an offence against this Act that has been started but not completed; or
 - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
 - (c) it is not lawful for the owner to possess the thing.
- (6) In this section—
- examine* includes analyse, test, measure, weigh, grade, gauge and identify.

232 Amendment of s 834 (Other evidentiary aids)

- (1) Section 834, 'purporting to be signed by the chief executive'—

omit.

- (2) Section 834—

insert—

- (2) In this section—

certificate means a certificate purporting to be signed by the commissioner, the chief executive,

[s 233]

the chief inspector, an inspector or an authorised officer.

233 Amendment of s 837 (Offences under Act are summary)

Section 837(1) to (3)—

omit, insert—

- (1) Proceedings for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) Proceedings for an offence against a provision of chapter 7, 8, 9 or 10 may only be taken by—
 - (a) the commissioner; or
 - (b) the chief executive; or
 - (c) another appropriately qualified person, with the written authorisation of the chief executive, either generally or in a particular case.
- (3) An authorisation under subsection (2)(c) is sufficient authority to continue proceedings in any case where the court amends the charge, warrant or summons.

234 Insertion of new ch 15, pt 19

Chapter 15—

insert—

Part 19 **Transitional and validation provisions for Water Reform and Other Legislation Amendment Act 2014**

990 Application of joint interaction management plan provisions

- (1) The pre-amended Act continues to apply in relation to the following for a period of 6 months after the commencement as if the joint interaction management plan provisions had not commenced—
 - (a) an operating plant, or the area of a petroleum tenure in which an operating plant is situated, mentioned in the pre-amended Act, section 386(1)(a);
 - (b) an operating plant, the area of a coal or oil shale mining lease (the *lease area*) in which an operating plant is situated, or an area adjacent to the lease area, mentioned in the pre-amended Act, section 705(a);
 - (c) an activity under an authority to prospect (csg) carried out in an overlapping area the subject of the authority to prospect (csg), within the meaning of the Common Provisions Act, if coal mining operations under an exploration permit (coal), mineral development licence (coal) or mining lease (coal) within the meaning of that Act are also carried out in the overlapping area.
- (2) Despite subsection (1), a principal hazard management plan made under the pre-amended Act, section 705A is to be known as a 'joint

[s 234]

interaction management plan' from the date of the commencement.

- (3) In this section—

joint interaction management plan provisions means chapter 9, part 4, division 5, subdivision 1, as inserted by the *Water Reform and Other Legislation Amendment Act 2014*.

pre-amended Act means this Act as in force before the commencement.

991 Return of seized things

- (1) New section 772 applies in relation to a thing seized under chapter 10, part 1 before the commencement that, on the commencement, is still seized.
- (2) If, at any time before the commencement, a thing seized under chapter 10, part 1 was not returned to its owner within the time required under old section 772—
- (a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 772; and
- (b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the thing in contravention of old section 772.
- (3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.
- (4) In this section—
- new section 772*** means section 772 as in force from the commencement.

old section 772 means section 772 as in force from time to time before the commencement.

235 Amendment of sch 1 (Reviews and appeals)

- (1) Schedule 1, table 1, entries for 387 and 705C—

omit.

- (2) Schedule 1, table 1—

insert—

392BO Decision about whether proposed provision for safety management system is reasonable

- (3) Schedule 1, table 1, entry for section 772(1)(c)—

omit, insert—

772(3)(a) Decision to retain a seized thing

236 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *principal hazard management plan* and *safety management plan*—

omit.

- (2) Schedule 2—

insert—

arbitration, of a dispute, means arbitration of the dispute under the Common Provisions Act, chapter 4, part 6, division 4.

authorised activities operating plant, for chapter 9, part 4, division 5, subdivision 1, see section 705A.

coal resource authority, for chapter 9, part 4, division 5, subdivision 1, see section 705A.

[s 237]

joint interaction management plan, for chapter 9, part 4, division 5, subdivision 1, see section 705B(1)(a).

overlapping area, for chapter 9, part 4, division 5, subdivision 1, see section 705(a).

safety management system—

1 A safety management system, for an operating plant, is—

- (a) the system made under section 674 as in force from time to time; and

Note—

If chapter 9, part 4, division 5, subdivision 1 applies for an operating plant, the safety management system under section 674 must include a joint interaction management plan.

- (b) an auditable documented system that forms part of an overall management system for the plant.

2 If the plant has stages, a reference to the term includes the parts of the safety management system developed for each stage.

site senior executive, for chapter 9, part 4, division 5, subdivision 1, see section 705A.

Division 5

Amendment of Mineral Resources Regulation 2013

237 Regulation amended

This division amends the *Mineral Resources Regulation 2013*.

238 Replacement of ch 2, pt 4, div 4 (Conditions applying to particular coal mining leases)

Chapter 2, part 4, division 4—

omit, insert—

**Division 4 Joint interaction
management plans**

23 Application of div 4

- (1) This division applies to a coal mining lease granted before the commencement if—
 - (a) coal mining operations are carried out, or are to be carried out, under the lease at a coal mine in any of the following areas (each an *overlapping area*)—
 - (i) the area of a petroleum lease;
 - (ii) an area adjacent to the area of a petroleum lease; and
 - (b) the operations physically affect, or may physically affect, mining under the coal mining lease.
- (2) In this section—

petroleum lease means a petroleum lease granted before the commencement.

24 Definitions for div 4

In this division—

arbitration, of a dispute, means arbitration of the dispute under the Common Provisions Act, chapter 4, part 6, division 4.

authorised activities operating plant means an operating plant under the Petroleum and Gas (Production and Safety) Act, section 670(6).

[s 238]

coal mine has the meaning given under the *Coal Mining Safety and Health Act 1999*, schedule 3.

coal mining operations has the meaning given under the *Coal Mining Safety and Health Act 1999*, schedule 3.

holder means the holder of the coal mining lease.

joint interaction management plan see section 25(1)(a).

operating plant see the Petroleum and Gas (Production and Safety) Act, section 670.

operator, of an operating plant, see the Petroleum and Gas (Production and Safety) Act, section 673.

overlapping area see section 23(1)(a).

petroleum lease means—

- (a) a lease under the *Petroleum Act 1923*; or
- (b) a petroleum lease under the Petroleum and Gas (Production and Safety) Act.

25 Requirement for joint interaction management plan

- (1) The holder must—
 - (a) before carrying out coal mining operations in the overlapping area, make a plan for the mine that complies with section 26 (a *joint interaction management plan*); and
 - (b) before making the plan—
 - (i) make reasonable attempts to consult with the operator of each authorised activities operating plant in the overlapping area to jointly identify, analyse and assess risks and hazards in the overlapping area; and

- (ii) have regard to any reasonable provisions for the plan relating to the management of the risks and hazards that are proposed by the operators within 20 days after receiving a copy of the proposed plan; and
 - (iii) either—
 - (A) reach agreement with the operator of each authorised activities operating plant in the overlapping area about the content of the proposed plan; or
 - (B) apply for arbitration of the dispute under subsection (3) or (4); and
 - (c) comply with the plan.
- Maximum penalty—500 penalty units.
- (2) For subsection (1)(b)(i), the holder is taken to have made reasonable attempts to consult with the operator of an authorised activities operating plant if—
 - (a) the holder gives the operator a copy of the proposed plan; and
 - (b) the operator has not, within 20 days after being given the copy, made any proposal to the holder about the provisions for the plan.
 - (3) If the holder and the operator of an authorised activities operating plant can not agree on the content of a proposed plan within 3 months after the operator receives a copy of the proposed plan, the holder must apply for arbitration of the dispute.
 - (4) Despite subsection (3), either party may apply for arbitration of the dispute at any time.

26 Content of joint interaction management plan

- (1) A joint interaction management plan must—
- (a) be stored or kept together with the other parts of the safety and health management system for the mine; and
 - (b) identify the hazards and assess the risks to be controlled that—
 - (i) are, or may be, created by the mining operations or petroleum activities carried out in the overlapping area; and
 - (ii) affect, or may be likely to affect, the safety and health of persons in the overlapping area; and
 - (c) for each risk—identify the triggers or material changes, or likely triggers or material changes, that—
 - (i) must be monitored to ensure the safety and health of persons in the overlapping area; and
 - (ii) will require the plan to be reviewed; and
 - (d) for each trigger or material change identified under paragraph (c)—
 - (i) state the response procedures and times; and
 - (ii) state the type of action required for the response; and

Examples of action that may be required—

- 1 a risk analysis
- 2 notice to the operator of an operating plant in the overlapping area of—
 - (a) a drop in hydrostatic pressure that may show a potential hazard to persons carrying out authorised

-
- activities under the petroleum lease; or
 - (b) a change in water level that may indicate differences in fluid interconnections with an adjacent petroleum lease
 - (iii) state the reporting procedures; and
 - (e) if there is proposed, or there is likely to be, interaction with other persons in the overlapping area—
 - (i) describe the proposed or likely interactions, and how they will be managed; and
 - (ii) identify the specific risks that may arise as a result of the proposed or likely interactions, and how the risks will be controlled; and
 - (iii) identify the safety responsibilities of each person; and
 - (iv) state the name of the operator and any other person responsible under the Petroleum and Gas (Production and Safety) Act for the operating plant; and
 - (f) describe the way in which the plan will be reviewed and revised, including ongoing consultation with the persons mentioned in paragraph (e); and
 - (g) describe the way in which details of any new site senior executive, or other senior person in the management structure, will be communicated to all operators of operating plants in the overlapping area; and
 - (h) include any other information prescribed by regulation.
- (2) A regulation may prescribe a guide of potential hazards that may be created by coal mining

[s 238]

operations in relation to exploring for or producing coal seam gas or petroleum (the *potential hazard guide*).

- (3) The potential hazard guide must be referred to for help in identifying the hazards and assessing the risks mentioned in subsection (1)(b) but is not intended to be exhaustive.
- (4) To remove any doubt, it is declared that a joint interaction management plan may apply to more than 1 overlapping area.

27 Notification of making of joint interaction management plan

As soon as practicable after making a joint interaction management plan, and before carrying out coal mining operations in the overlapping area, the holder must notify the chief inspector that the plan has been made.

Maximum penalty—40 penalty units.

28 Review

- (1) This section applies if—
 - (a) it is proposed to change a joint interaction management plan; or
 - (b) a change at the coal mine is likely to give rise to an additional risk to safety or health in the overlapping area; or
 - (c) any of the following circumstances exist—
 - (i) an additional risk to safety or health in the overlapping area is identified;
 - (ii) consultation with coal mine workers indicates a review is necessary;

-
- (iii) a risk control measure did not control the risk it was intended to control to an acceptable level.
- (2) For subsection (1)(b), a change at the coal mine includes—
- (a) a change to the mine itself or any aspect of the mine environment; and
 - (b) a change to a system of work, process or procedure at the mine.
- (3) The site senior executive must review and, if necessary, revise the joint interaction management plan.
- Maximum penalty—200 penalty units.
- (4) The review must take place in consultation with the operator of each authorised activities operating plant in the overlapping area and coal mine workers to the extent they are affected by the matters under review.
- Maximum penalty—200 penalty units.
- (5) The review must take place—
- (a) for subsection (1)(a) or (b)—before the change to the joint interaction management plan is made; or
 - (b) for subsection (1)(c)—as soon as possible after the circumstance exists.
- Maximum penalty—200 penalty units.
- (6) A revision of the plan under subsection (3) must be recorded on the plan.
- Maximum penalty—200 penalty units.
- (7) If the site senior executive and the operator of an authorised activities operating plant in the overlapping area can not agree on the content of a

[s 239]

revision of the plan, either party may apply for arbitration of the dispute.

29 Holder must stop coal mining operations in particular circumstances

- (1) The holder must ensure coal mining operations in the overlapping area stop immediately if—
 - (a) the holder becomes aware, or ought reasonably to be aware, that the operations physically affect the efficiency with which authorised activities under a petroleum lease in the overlapping area can be carried out; and
 - (b) the petroleum lease holder has not consented to the mining operations being carried out.

Maximum penalty—20 penalty units.

- (2) The holder must ensure the coal mining operations do not resume until—
 - (a) they are modified so they do not have the physical effect on the efficiency of the petroleum activities to the extent mentioned in subsection (1); or
 - (b) the petroleum lease holder consents in writing to the mining operations being carried out.

Maximum penalty—20 penalty units.

239 Amendment of s 94 (Prescribed way for making applications etc.—Act, s 386O)

Section 94(1), ‘sections 28(2) and (3) and 95’—

omit, insert—

section 95

240 Insertion of new ch 4, pt 10

Chapter 4—

insert—

**Part 10 Transitional provision
for Water Reform and
Other Legislation
Amendment Act 2014**

**111 Application of joint interaction management
plan provisions**

- (1) The pre-amended regulation continues to apply in relation to coal mining operations carried out under a coal mining lease in an overlapping area for a period of 6 months after the commencement as if the joint interaction management plan provisions had not commenced.
- (2) Despite subsection (2), a plan made under the pre-amended regulation, section 25 or 26 is to be known as a ‘joint interaction management plan’ from the commencement.
- (3) In this section—

joint interaction management plan provisions means chapter 2, part 4, division 4, as inserted by the *Water Reform and Other Legislation Amendment Act 2014*.

overlapping area see section 23(1)(a).

pre-amended regulation means this regulation as in force immediately before the commencement.

241 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *adjacent petroleum lease*, *chief inspector of coal mines*, *coal mine*, *coal mining operations*,

[s 241]

*holder, overlapping petroleum lease, petroleum lease, relevant mining lease and relevant mining operations—
omit.*

(2) Schedule 6—

insert—

arbitration, of a dispute, for chapter 2, part 4, division 4, see section 24.

authorised activities operating plant, for chapter 2, part 4, division 4, see section 24.

coal mine, for chapter 2, part 4, division 4, see section 24.

coal mining operations, for chapter 2, part 4, division 4, see section 24.

holder, for chapter 2, part 4, division 4, see section 24.

holder—

(a) for chapter 2, part 4, division 4, see section 24; or

(b) for chapter 3, see section 32.

joint interaction management plan, for chapter 2, part 4, division 4, see section 25(1)(a).

operating plant, for chapter 2, part 4, division 4, see section 24.

operator, of an operating plant, for chapter 2, part 4, division 4, see section 24.

overlapping area, for chapter 2, part 4, division 4, see section 23(1)(a).

petroleum lease, for chapter 2, part 4, division 4, see section 24.

Part 10 Amendment of particular statutory instruments

Division 1 Amendment of Environmental Offsets Regulation 2014

242 Regulation amended

This division amends the *Environmental Offsets Regulation 2014*.

243 Amendment of sch 2 (Prescribed environmental matters—matters of State environmental significance)

- (1) Schedule 2, section 2(6), definitions *relevant watercourse* and *vegetation management watercourse map*—
omit.
- (2) Schedule 2, section 2(6)—
insert—

relevant watercourse means a watercourse identified on the vegetation management watercourse and drainage feature map.

vegetation management watercourse and drainage feature map see the *Vegetation Management Act 1999*, section 20AB.

Division 2 Amendment of Sustainable Planning Regulation 2009

244 Regulation amended

This division amends the *Sustainable Planning Regulation 2009*.

[s 245]

245 Amendment of sch 3 (Assessable development, self-assessable development and type of assessment)

- (1) Schedule 3, part 1, table 4, item 3, column 2, paragraph (d)—
omit.
- (2) Schedule 3, part 2, table 4, item 1, column 2, paragraph (c)—
omit.

246 Amendment of sch 5 (Applicable codes, laws, policies and prescribed matters for particular development)

Schedule 5, part 1, table 4, item 4 and heading—
omit.

247 Amendment of sch 7 (Referral agencies and their jurisdictions)

Schedule 7, table 2, item 10 and heading—
omit.

248 Amendment of sch 26 (Dictionary)

- (1) Schedule 26, definition *bed and banks*—
omit.
- (2) Schedule 26, definition *watercourse*, paragraph 2—
omit, insert—
 - 2 *Watercourse*, for schedule 24, part 1, section 1(2), has the meaning given by the *Vegetation Management Act 1999*, schedule.

Division 3 **Amendment of Water Resource
(Great Artesian Basin) Plan 2006**

249 **Plan amended**

This division amends the *Water Resource (Great Artesian Basin) Plan 2006*.

250 **Replacement of s 1 (Short title)**

Section 1—

omit, insert—

1 **Short title**

This water plan may be cited as the *Water Plan (Great Artesian Basin) 2006*.

251 **Amendment of s 10 (Decisions about taking water)**

Section 10(3)—

insert—

(ea) to grant a water licence to the Toowoomba Regional Council of up to 2000ML for town water supply; or

252 **Replacement of s 11 (Limitation on taking or interfering with water—Act, s 20(2))**

(1) Section 11—

omit, insert—

11 **Limitation on taking or interfering with water—Act, s 101**

(1) In a management area other than Eastern Downs, Mulgildie or Clarence Moreton, a person may not take or interfere with underground water other than—

[s 253]

- (a) for domestic purposes; or
 - (b) under a water entitlement or other authorisation held before the commencement of this plan; or
 - (c) under an authorisation mentioned in section 10(3).
- (2) In the Eastern Downs, Mulgildie and Clarence Moreton management areas, a person may not take or interfere with underground water other than—
- (a) for stock or domestic purposes; or
 - (b) under a water entitlement or other authorisation held before the commencement of this plan; or
 - (c) under an authorisation mentioned in section 10(3).

253 Replacement of s 26 (Limitation on volume of unallocated water granted)

Section 26—

omit, insert—

26 Limitation of volume of unallocated water granted

The volumetric limits, for water licences for water granted from the State reserve is—

- (a) for the Cape management area—a total of 9800ML; and
- (b) for all other management areas—a combined total of 10,000ML for all the areas.

Part 11 Other amendments

254 Legislation amended

Schedule 1 amends the legislation it mentions.

255 Plans amended

Schedule 2 amends the water resource plans it mentions.

256 Mining safety legislation amended

Schedule 3 amends the legislation it mentions.

Schedule 1 Minor or consequential amendments of particular legislation

section 254

Cape York Peninsula Heritage Act 2007

- 1 Section 27(1), (2), (3) and (4), ‘water resource plan’—**
omit, insert—
 water plan

Coastal Protection and Management Act 1995

- 1 Section 167(2)(j)—**
omit.
- 2 Schedule, definition *tidal water*, paragraph (b),
‘declared’—**
omit, insert—
 as defined

Land Valuation Act 2010

- 1 Sections 75(4)(a), 91(2) and schedule, definition *resource
operations plan*, ‘resource operations plan’—**
omit, insert—
 water entitlement notice

2 Section 91(2), ‘the plan’—

omit, insert—

the notice

Petroleum and Gas (Production and Safety) Act 2004

1 Section 422A, from ‘be the holder of—’

omit, insert—

be the holder of a relevant environmental authority for the licence.

State Development and Public Works Organisation Act 1971

1 Section 138(3), ‘water resource plan’—

omit, insert—

water plan

Survey and Mapping Infrastructure Act 2003

1 Section 70(2), ‘declared under the Water Act 2000, section 1006(1)’—

omit, insert—

identified on the watercourse identification map under the *Water Act 2000*

Water Act 2000

1 Chapter 2, part 2, division 2A, heading—

omit, insert—

**Part 1 Water supply
emergencies**

**2 Chapter 2, part 2, division 2A, subdivision 1, heading,
'Subdivision'—**

omit, insert—

Division

**3 Chapter 2, part 2, division 2A, subdivision 2, heading,
'Subdivision'—**

omit, insert—

Division

**4 Sections 25C(4) and (5)(a)(i), 25F(6) and (7), 25ZA(1)(b)(i)
and (2)(b)(i), 986(1)(b), 986A(1)(a), (2)(a) and (c), 986C(3),
986F(1)(a) and (b), 986I(2), 991(1)(c), 1046(3), 'water
resource plan'—**

omit, insert—

water plan

**5 Sections 25C(5)(a)(i) and 25F(7)(a)(i), 'resource
operations plan'—**

omit, insert—

operations manual

6 Section 25J(5), 'division'—

omit, insert—

part

7 Chapter 2, part 2, division 2A, subdivision 3, heading, 'Subdivision'—

omit, insert—

Division

8 Section 25L(3), 'division'—

omit, insert—

part

9 Chapter 2, part 2, division 2A, subdivision 4, heading, 'Subdivision'—

omit, insert—

Division

10 Chapter 2, part 2, division 2A, subdivision 5, heading, 'Subdivision'—

omit, insert—

Division

11 Section 25R(1), 'division'—

omit, insert—

part

12 Section 25S(2), 'division'—

omit, insert—

part

- 13 Chapter 2, part 2, division 2B, heading, ‘Division 2B’—**
omit, insert—
Part 3
- 14 Section 362, definition *production testing*, ‘Petroleum and Gas (Production and Safety) Act 2004’—**
omit, insert—
Petroleum and Gas Act
- 15 Section 808(1)(a), note, ‘Petroleum and Gas (Production and Safety) Act 2004’—**
omit, insert—
Petroleum and Gas Act
- 16 Section 816(2)(d), ‘Petroleum and Gas (Production and Safety) Act 2004’—**
omit, insert—
Petroleum and Gas Act
- 17 Section 972B(1)(b) and (c), ‘Mineral Resources Act 1989’—**
omit, insert—
Mineral Resources Act
- 18 Section 984, definition *change*, ‘water resource plan’—**
omit, insert—
water plan
- 19 Section 984, definition *designated plan*—**
omit, insert—

designated plan means any of the following or any replacement of the following—

- (a) *Water Plan (Border Rivers) 2003*;
- (b) *Water Plan (Condamine and Balonne) 2004*;
- (c) *Water Plan (Moonie) 2003*;
- (d) *Water Plan (Warrego, Paroo, Bulloo and Nebine) 2003*.

20 Section 984, definition *owner*, ‘water resource plan’—

omit, insert—

water plan

21 Section 984, definition *replacement*, ‘water resource plan’—

omit, insert—

water plan

22 Section 986A(1)(a), ‘water resource plans’—

omit, insert—

water plans

23 Section 986I, heading, ‘Water resource plan’—

omit, insert—

Water plan

24 Sections 1038 to 1045A—

omit.

25 Section 1047—

omit.

- 26 Sections 1049 to 1056—**
omit.
- 27 Chapter 9, part 2, division 1—**
omit.
- 28 Sections 1085 to 1086—**
omit.
- 29 Section 1092—**
omit.
- 30 Section 1107—**
omit.
- 31 Section 1112—**
omit.
- 32 Section 1115—**
omit.
- 33 Section 1118—**
omit.
- 34 Section 1121—**
omit.
- 35 Chapter 9, part 4, division 2, subdivision 4—**
omit.

- 36 Sections 1134 to 1135A—**
omit.
- 37 Chapter 9, part 5, divisions 2 and 3—**
omit.
- 38 Sections 1136E to 1136H—**
omit.
- 39 Section 1138—**
omit.
- 40 Section 1143—**
omit.
- 41 Chapter 9, part 5, division 7—**
omit.
- 42 Section 1155—**
omit.
- 43 Sections 1161 to 1164—**
omit.
- 44 Section 1180—**
omit.
- 45 Sections 1183 to 1189—**
omit.

- 46 Sections 1191 to 1195—**
omit.
- 47 Sections 1198 and 1199—**
omit.
- 48 Section 1202—**
omit.
- 49 Sections 1204 to 1206—**
omit.
- 50 Sections 1223 to 1224—**
omit.
- 51 Sections 1228 to 1230—**
omit.
- 52 Schedule 4, definitions *nominal volume* and *proposed plan area*, ‘water resource plan’—**
omit, insert—
water plan
- 53 Schedule 4, definition *owner*, paragraph (a)(iii), ‘*Mineral Resources Act 1989*’—**
omit, insert—
Mineral Resources Act
- 54 Schedule 4, definition *owner*, paragraph (a)(viii), ‘*Petroleum and Gas (Production and Safety) Act 2004*’—**
omit, insert—

Petroleum and Gas Act

- 55** Schedule 4, definition *petroleum tenure*, paragraph (a)(ii), ‘*Petroleum and Gas (Production and Safety) Act 2004*’—
omit, insert—
Petroleum and Gas Act

Water Supply (Safety and Reliability) Act 2008

- 1** Sections 390(4), note to 395(4) and 396(1), ‘resource operations plan’—
omit, insert—
resource operations licence
- 2** Schedule 3, definition *interim resource operations licence*—
omit, insert—
interim resource operations licence means a licence granted under the Water Act before the commencement of section 1271 of the Water Act.
- 3** Schedule 3, definition *resource operations licence*—
omit, insert—
resource operations licence means a resource operations licence granted under the Water Act, chapter 2, part 3, division 5.
- 4** Schedule 3, definition *water entitlement*, paragraph (b)—
omit, insert—

- (b) an interim water allocation granted under the Water Act before the commencement of section 1271 of the Water Act.

5 Schedule 3, definition *water licence*—

omit, insert—

water licence means a licence granted under the Water Act, chapter 2, part 3, division 2.

Environmental Protection (Water) Policy 2009

1 Section 24(3)(e), ‘water resource plan’—

omit, insert—

water plan

Sustainable Planning Regulation 2009

1 Schedule 3, part 1, table 4, item 3, paragraphs (c)(i) and (f), ‘water resource plan’—

omit, insert—

water plan

2 Schedule 3, part 2, table 4, item 1, paragraphs (a), (b)(i) and (e), ‘water resource plan’—

omit, insert—

water plan

3 Schedule 3, part 1, table 4, item 3, paragraph (a)(i), ‘part 2, division 1A’—

omit, insert—

part 3, division 1

3A Schedule 3, part 2, table 4, item (1)(a)(i), ‘part 2, division 1A’—

omit, insert—

part 3, division 1

4 Schedule 24, part 1, section 1(2)(a)(ii)—

omit, insert—

(ii) a necessary and unavoidable consequence of an activity authorised by a riverine protection permit issued under the *Water Act 2000*; or

5 Schedule 26, definition *water resource plan*—

omit, insert—

water plan means a water plan under the *Water Act 2000*.

Schedule 2 Amendment of Water Resource Plans

section 255

Water Resource (Baffle Creek Basin) Plan 2010

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Baffle Creek Basin) 2010*.

Water Resource (Barron) Plan 2002

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Barron) 2002*.

Water Resource (Border Rivers) Plan 2003

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Border Rivers) 2003*.

Water Resource (Boyne River Basin) Plan 2013

1 Section 1—

omit, insert—

1 Short title

This water plan (*this plan*) may be cited as the *Water Plan (Boyne River Basin) 2013*.

Water Resource (Burdekin Basin) Plan 2007

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Burdekin Basin) 2007*.

Water Resource (Burnett Basin) Plan 2014

1 Section 1—

omit, insert—

1 Short title

This water plan (*this plan*) may be cited as the *Water Plan (Burnett Basin) 2014*.

2 Section 41—

omit, insert—

41 Taking water for stock or domestic purposes

- (1) For section 20A(5) of the Act, an owner of land may take water from a watercourse, lake or spring in the plan area—
 - (a) if the taking is from a watercourse within the Barker Barambah, Boyne River and Tarong, Bundaberg, Three Moon Creek or Upper Burnett Water Supply Schemes—only by using existing stock or domestic works; or
 - (b) if paragraph (a) does not apply—in any way.
- (2) In subsection (1)—

existing stock or domestic works, in relation to an owner of land, means works that are in place at the commencement of this section and had been used by the owner, before the commencement, to take water from a watercourse within the Barker Barambah, Boyne River and Tarong, Bundaberg, Three Moon Creek or Upper Burnett Water Supply Schemes for stock or domestic purposes on the owner's land.

Water Resource (Calliope River Basin) Plan 2006

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Calliope River Basin) 2006*.

Water Resource (Condamine and Balonne) Plan 2004

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Condamine and Balonne) 2004*.

Water Resource (Cooper Creek) Plan 2011

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Cooper Creek) 2011*.

Water Resource (Fitzroy Basin) Plan 2011

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Fitzroy Basin) 2011*.

Water Resource (Georgina and Diamantina) Plan 2004

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Georgina and Diamantina) 2004*.

Water Resource (Gold Coast) Plan 2006

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Gold Coast) 2006*.

Water Resource (Gulf) Plan 2007

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Gulf) 2007*.

Water Resource (Logan Basin) Plan 2007

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Logan Basin) 2007*.

Water Resource (Mary Basin) Plan 2006

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Mary Basin) 2006*.

Water Resource (Mitchell) Plan 2007

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Mitchell) 2007*.

Water Resource (Moonie) Plan 2003

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Moonie) 2003*.

Water Resource (Moreton) Plan 2007

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Moreton) 2007*.

Water Resource (Pioneer Valley) Plan 2002

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Pioneer Valley) 2002*.

Water Resource (Warrego, Paroo, Bulloo and Nebine) Plan 2003

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Warrego, Paroo, Bulloo and Nebine) 2003*.

Water Resource (Wet Tropics) Plan 2013

1 Section 1—

omit, insert—

1 Short title

This water plan (*this plan*) may be cited as the *Water Plan (Wet Tropics) 2013*.

Water Resource (Whitsunday) Plan 2010

1 Section 1—

omit, insert—

1 Short title

This water plan may be cited as the *Water Plan (Whitsunday) 2010*.

Schedule 3 Minor or consequential amendments of particular legislation relating to mining safety

section 256

Coal Mining Safety and Health Regulation 2001

1 Section 6A(2), ‘plan’—

omit, insert—

joint interaction management plan

2 Section 6A(3)(b), ‘and efficient’—

omit.

3 Section 12B(1) and (2), ‘plan’—

omit, insert—

joint interaction management plan

4 Section 12B(1), ‘section 27(1)(c), (d) and (e)’—

omit, insert—

section 26(1)(b), (2) and (3)

5 Section 12B(2), ‘section 25(3)(a) and (b)’—

omit, insert—

section 25

6 Section 100AD(3)—

omit.

7 Section 157A, ‘section 156(2)(b)(i)’—

omit, insert—

section 156(3)(a)

Petroleum and Gas (Production and Safety) Act 2004

1 Sections 306, 310(1)(b)(i) and (d)(iv), 314(3)(f), 350(1)(c) and (d), 360(1)(a), 372(2), 385(2), 392AH(3)(e), 392BB(3)(a)(ii), 392BM(2), 392BN(4), (5), (7) and (8), 392BO(1), 672(2)(b), 676, 677, 678, 678A, 679(1), 681, 683(b)(ii), 684(2), 688, 690(1)(e), 692(1), 699, 702, 727(3)(a), 779, 836, ‘safety management plan’—

omit, insert—

safety management system

2 Section 306(2), ‘388 and 675’—

omit, insert—

675 and 705C

3 Sections 306(2), note, 314(3), note, 350(1), note, 676(2), note and 678(2), note—

omit.

4 Section 310(1)(c), ‘proposed plans’—

omit, insert—

proposed plan or system

-
- 5 Sections 350(1)(d), 392BN(4), (5), (7) and (8), 672(2)(b), 676, 677, 679, 680(3), 688, 690(1)(f), 727(3)(a), 836, ‘the plan’—**
omit, insert—
the system
- 6 Chapter 3, part 7, heading, ‘safety management plan’—**
omit, insert—
safety management system
- 7 Section 385, heading, ‘plan’—**
omit, insert—
safety management system
- 8 Section 385(2)(b), ‘388 or 675’—**
omit, insert—
675 or 705C
- 9 Chapter 3A, part 7, heading, ‘safety management plans’—**
omit, insert—
safety management systems
- 10 Section 392BM, heading, ‘plan’—**
omit, insert—
safety management system
- 11 Chapter 9, part 2, heading, ‘Safety management plans’—**
omit, insert—
Safety management systems

- 12 Sections 675A(3) and 688, ‘a plan’—**
omit, insert—
a system
- 13 Section 678A(2), definition *resulting records*, paragraph (f), ‘safety management plans’—**
omit, insert—
safety management systems
- 14 Chapter 9, part 2, divisions 3 and 4, heading, ‘safety management plans’—**
omit, insert—
safety management systems
- 15 Sections 690(1)(h) and 736(1)(a), ‘safety management plans’—**
omit, insert—
safety management systems
- 16 Section 688, 727(3)(a) and schedule 2, definition *generic SMP*, ‘generic SMP’—**
omit, insert—
generic SMS
- 17 Section 834(a)(vi), ‘a safety management plan’—**
omit, insert—
the safety management system
- 18 Section 836, heading, ‘Safety management plans’—**
omit, insert—

Safety management systems

- 19 Sections 842(5) and 843(7), ‘389,’—**
omit.
- 20 Schedule 1, table 1, entries for section 681(2), ‘safety management plan’—**
omit, insert—
safety management system
- 21 Schedule 2, definition *overview*, ‘safety management plan’—**
omit, insert—
safety management system
- 22 Schedule 2, definition *overview*, ‘the plan’—**
omit, insert—
the system