Queensland

Water Act 2000

Current as at [Not applicable]

Indicative reprint note

This is an ***unofficial*** version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Water Legislation Amendment Bill 2022. This indicative reprint has been prepared for information only—***it is not an authorised reprint of the Act***.

Amendments to this Act are also included in the Public Sector Bill 2022 and the Land and Other Legislation Amendment Bill 2022. These proposed amendments are not included in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Water Legislation Amendment Bill 2022—12 October 2022.

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Water Act 2000

An Act to provide for the sustainable management of water and the management of impacts on underground water, and for other purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Water Act 2000*.

2 Purposes of Act and their achievement

(1) The main purposes of this Act are to provide a framework for the following—

(a) the sustainable management of Queensland's water resources and quarry material by establishing a system for—

(i) the planning, allocation and use of water; and

(ii) the allocation of quarry material and riverine protection;

(b) the sustainable and secure water supply and demand management for the south-east Queensland region and other designated regions;

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(c) the management of impacts on underground water caused by the exercise of underground water rights by the resource sector;

(d) the effective operation of water authorities.

(2) For subsection (1)(a), ***sustainable management*** is management that—

(a) incorporates the principles of ecologically sustainable development; 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, water-dependent ecological processes and biological diversity associated with watercourses, lakes, springs, aquifers and other natural water systems, including, where practicable, reversing degradation that has occurred; and

(d) recognises the interests of Aboriginal people and Torres Strait Islanders and their connection with water resources; and

(e) enables water resources and quarry material to be obtained through fair, transparent and orderly processes to support the economic development of Queensland; and

(f) builds confidence regarding the availability, security and value of water entitlements and other authorisations; and

(g) 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; or

(iv) increasing community understanding of the need to use and manage water in a sustainable way; and

(h) facilitates the community taking an active part in planning for the management and allocation of water.

(3) For subsection (2)(g), 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.

3 Act binds all persons

(1) This Act binds all persons, including the State, and, in so far as the legislative power of the State permits, the Commonwealth and the other States.

(2) Subsection (1) does not apply to—

(a) the operation of the *State Development and Public Works Organisation Act 1971*; or

(b) the powers of the coordinator-general under the *State Development and Public Works Organisation Act 1971*.

Part 2 Interpretation

4 Definitions

The dictionary in schedule 4 defines particular words used in this Act.

5 Meaning of *watercourse*

(1) A ***watercourse*** is a river, creek or other stream, including a stream in the form of an anabranch or a tributary, in which water flows permanently or intermittently, regardless of the frequency of flow events—

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(a) in a natural channel, whether artificially modified or not; or

(b) in an artificial channel that has changed the course of the stream.

(2) A ***watercourse*** includes any of the following located in it—

(a) in-stream islands;

(b) benches;

(c) bars.

(3) However, a ***watercourse*** does not include a drainage feature.

(4) Further—

(a) unless there is a contrary intention, a reference to a watercourse in this Act, other than in this part or in the definitions in schedule 4 to the extent they support the operation of this part, is a reference to anywhere that is—

(i) upstream of the downstream limit of the watercourse; and

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

(b) a reference in this Act to, or to a circumstance that involves, land adjoining a watercourse, is a reference to, or to a circumstance that involves, land effectively adjoining a watercourse.

Note for paragraph (b)—

Generally, the non-tidal boundary (watercourse) of land bounded by a watercourse, as provided for under the *Survey and Mapping Infrastructure Act 2003*, would not correspond precisely with the line of the outer bank of a watercourse under this Act.

(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.

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);

(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 a Queensland Government 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.

(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.

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(10) In this section—

watercourse includes part of a watercourse.

5A Meaning of *outer bank*

(1) The ***outer bank***, at any location on one side of a watercourse, is—

(a) if there is a floodplain on that side of the watercourse—the edge of the floodplain that is on the same side of the floodplain as the watercourse; or

(b) if there is not a floodplain on that side of the watercourse—the place on the bank of the watercourse marked by—

(i) a scour mark; or

(ii) a depositional feature; or

(iii) if there are 2 or more scour marks, 2 or more depositional features or 1 or more scour marks and 1 or more depositional features—whichever scour mark or depositional feature is highest.

(2) However, subsection (3) applies if, at a particular location in the watercourse—

(a) there is a floodplain on one side of the watercourse; and

(b) the other side of the watercourse is confined by a valley margin.

Examples of valley margin—

hill, cliff, terrace

(3) Despite subsection (1)(b), the ***outer bank*** on the valley margin side of the watercourse is the line on the valley margin that is at the same level as the outer bank on the other side of the watercourse.

(4) Despite subsections (1) to (3), if under this part the chief executive has declared an outer bank on a side of a watercourse for any length of the watercourse, the ***outer bank***

on that side of the watercourse for that length is the outer bank as declared by the chief executive.

(5) To remove any doubt, it is declared that an outer bank of a watercourse—

(a) can not be, or be a part of, an in-stream island, bench or bar located in the watercourse; and

(b) can not be generally closer to the middle of the watercourse than any part of an in-stream island, bench or bar located in the watercourse.

5B Declaration of outer bank

(1) The chief executive may by gazette notice declare an outer bank of a watercourse for a length (the ***relevant length***) of the watercourse.

(2) The chief executive may make a declaration under subsection (1) only if—

(a) it is not reasonably practicable to otherwise identify the outer bank of the watercourse for the relevant length; or

(b) the chief executive is satisfied that the outer bank of the watercourse for the relevant length does not appropriately locate a watercourse for the purposes of the exercise of jurisdiction over watercourses under this Act.

(3) If the chief executive acts under subsection (2)(a), the chief executive must, in making a declaration under subsection (1), take reasonable steps to declare the outer bank consistently with what would have been the location of the outer bank if it had not become impracticable to identify it.

(4) However, a declaration can not have effect to locate an outer bank for any period before the declaration is made.

6 Meaning of *domestic purposes*

(1) ***Domestic purposes***, for taking water, means taking water for the following—

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(a) household purposes;

(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.

7 Meaning of *principles of ecologically sustainable development*

The following principles are ***principles of ecologically sustainable development***—

(a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;

(b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

(c) the present generation should ensure the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

(d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;

(e) recognition of the need to develop a strong, growing and diversified economy that can enhance the capacity for environmental protection;

(f) decisions and actions should provide for broad community involvement on issues affecting them.

Chapter 1A Water supply emergencies and restrictions

Part 1 Water supply emergencies

Division 1 Preliminary

25A Meaning of *water supply emergency*

(1) A water supply emergency is a situation in which there is a demonstrably serious risk the State's, or a part of the State's, essential water supply needs will not be met.

(2) The following are examples of circumstances from which a situation mentioned in subsection (1) may arise—

(a) failure of a large part of water supply, treatment or distribution infrastructure or wastewater infrastructure;

(b) extended severe drought conditions;

(c) contamination of a water storage used for essential water supply needs causing the water to be unfit for supply.

(3) In this section—

demonstrably, in relation to a serious risk, means the serious risk can be demonstrated by reliable data about water supply.

essential water supply needs means water supply for—

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(a) domestic purposes; or

(b) essential services, including the generation or distribution of electricity; or

(c) processing or refining minerals or petroleum in the local government area of the Gladstone Regional Council.

Division 2 Water supply emergency declaration and regulation

25B Declaration of water supply emergency

(1) The Minister may make a water supply emergency declaration if the Minister is satisfied—

(a) there is a water supply emergency; or

(b) a water supply emergency is developing.

(2) Before making a water supply emergency declaration, the Minister must have regard to other measures, instead of a water supply emergency declaration, that could be taken under this or another Act to deal with the water supply emergency.

(3) The water supply emergency declaration—

(a) has effect from the time it is made by the Minister or the later day stated in the declaration; and

(b) remains in force until the earlier of the following—

(i) the commencement of a regulation dealing with the matters mentioned in the declaration;

(ii) the end of 20 business days after the declaration takes effect.

(4) As soon as possible after making a water supply declaration, the Minister must give a copy of the declaration to each service provider to which the declaration applies.

(5) As soon as practicable after making a water supply declaration, the Minister must publish a copy of the declaration in the gazette.

25C Contents of water supply emergency declaration

(1) A water supply emergency declaration must state—

(a) the water supply emergency to which the declaration applies; and

(b) the part of the State to which the declaration applies; and

(c) the service providers to which the declaration applies; and

(d) for dealing with the water supply emergency—

(i) the measures each service provider is directed to carry out and the day by which the measures are to be carried out; and

(ii) if the measures a service provider is directed to carry out include making non-Act water available to, or operating infrastructure to allow non-Act water to be supplied to, a customer or type of customer—whether section 25K applies to the direction; and

(iii) if the measures a service provider is directed to carry out include imposing the restrictions mentioned in section 25D—that the service provider is directed to give the Minister for approval, within the time stated, a response (a ***water supply emergency response***) stating the way the service provider intends to ensure the restrictions are complied with; and

(iv) the outcomes each service provider is directed to achieve and the day by which the outcomes are to be achieved; and

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(v) that a service provider directed to achieve outcomes is directed to give the Minister for approval, within the time stated, a response (also a ***water supply emergency response***) stating—

(A) the actions the service provider intends to take to achieve the outcomes; and

(B) if the actions include imposing the restrictions mentioned in section 25D—the way the service provider intends to ensure the restrictions are complied with.

(2) The declaration must, to the greatest practicable extent, state, for the measures directed to be carried out or outcomes directed to be achieved—

(a) whether the State or 1 or more service providers are to pay the cost and, if more than 1 entity is to pay the cost, the apportionment of the costs; and

(b) if the State is to contribute to the cost—the amount to be contributed and the way in which it is to be paid; and

(c) the extent to which, and the service providers from whom, the State may recover any contributions made; and

(d) the extent to which, and the service provider's customers or other service providers from whom, a service provider may recover the contributions made by the State and the costs approved by the Minister; and

(e) whether, and on what, a service provider may recover a rate of return and the service provider's customers or other service providers from whom it may be recovered.

(3) A water supply emergency declaration may authorise persons to exercise powers, including powers of decision and direction and delegated powers, to facilitate the implementation of the directions under the declaration.

(4) If a water supply emergency declaration for a part of the State is inconsistent with the objectives of a water plan for the part,

the water supply emergency declaration is ineffective to the extent of the inconsistency.

(5) However—

(a) the water supply emergency declaration may, to the extent stated in the declaration, be inconsistent with—

(i) the operations manual that implements the water plan; or

(ii) a resource operations licence for the water to which the plan applies; or

(iii) an interim resource operations licence; and

(b) to the extent of the inconsistency, the water supply emergency declaration prevails.

25CA Amendment of water supply emergency declaration

(1) This section applies if, when the Minister makes a water supply emergency declaration (the ***original declaration***), it is not practicable to state, for each of the measures directed to be carried out and each of the outcomes directed to be achieved, all of the matters mentioned in section 25C(2)(a) to (e).

(2) The Minister must, as soon as practicable after the original declaration is published in the gazette, and after consultation with the Treasurer, amend the original declaration to state the matters.

25D Measures mentioned in a water supply emergency declaration

The measures a service provider may, in a water supply emergency declaration, be directed to carry out are the following—

(a) to make available, water from the service provider's authority under this Act to take or interfere with water or non-Act water, to—

(i) other service providers; or

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(ii) entities responsible for generating electricity; or

(iii) the coordinator-general;

(b) to operate infrastructure to allow water, including non-Act water, to be supplied to the entities mentioned in paragraph (a);

(c) to make non-Act water available to a customer or type of customer;

(d) to operate infrastructure to allow non-Act water to be supplied to a customer or type of customer;

(e) to restrict, in the way stated in the declaration, the following—

(i) the volume of water taken by or supplied to a customer or type of customer;

(ii) the hours when water may be used on premises for stated purposes;

(iii) the way water may be used on premises;

(f) to apply a restriction imposed under paragraph (e) to water, including non-Act water, taken from a rainwater tank connected to the service provider's reticulated water supply.

25E Requirement to comply with water supply emergency declaration

(1) A service provider to whom a direction is given under a water supply emergency declaration must comply with the direction.

Maximum penalty—

(a) for a direction mentioned in section 25C(1)(d)(i)—1,665 penalty units; or

(b) for a direction mentioned in section 25C(1)(d)(iii) or (v)—1,000 penalty units.

Note—

See also the Water Supply Act, section 43(4) to (6).

(2) Subsection (1) applies even if complying with the direction would be inconsistent with the service provider's current supply and infrastructure contractual arrangements and the current arrangements are ineffective—

(a) to the extent of the inconsistency; and

(b) for the period stated in the declaration.

(3) It is a defence to a prosecution for an offence against subsection (1) to prove—

(a) the service provider made all reasonable efforts to comply with the direction; and

(b) the service provider is unable to comply with the direction because the service provider is unable to acquire, to the extent necessary to comply with the direction—

(i) the development and other approvals necessary for carrying out the measures or achieving the outcomes; or

(ii) the land on which infrastructure is to be constructed; or

(iii) finance to carry out the measures or achieve the outcomes.

25F Regulation about water supply emergency

(1) This section applies if—

(a) there is a water supply emergency; or

(b) a water supply emergency is developing.

(2) A regulation (a ***water supply emergency regulation***) may state—

(a) the water supply emergency to which the regulation applies; and

(b) the part of the State to which the regulation applies; and

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(c) the service providers to which the regulation applies; and

(d) for dealing with the water supply emergency—

(i) the measures each service provider is directed to carry out and the day by which the measures are to be carried out; and

(ii) if the measures a service provider is directed to carry out include making non-Act water available to, or operating infrastructure to allow non-Act water to be supplied to, a customer or type of customer—whether section 25K applies to the direction; and

(iii) if the measures a service provider is directed to carry out include imposing the restrictions mentioned in section 25D—that the service provider is directed to give the Minister for approval, within the time stated, a water supply emergency response stating the way the service provider intends to ensure the restrictions are complied with; and

(iv) the outcomes each service provider is directed to achieve and the day by which the outcomes are to be achieved; and

(v) that a service provider directed to achieve outcomes is directed to give the Minister for approval, within the time stated, a water supply emergency response stating—

(A) the actions the service provider intends to take to achieve the outcomes; and

(B) if the actions include imposing the restrictions mentioned in section 25D—the way the service provider intends to ensure the restrictions are complied with; and

(vi) any works that are to be carried out by the coordinator-general.

(2A) Before a water supply emergency regulation is made, the Minister must have regard to other measures, instead of a water supply emergency regulation, that could be taken under this or another Act to deal with the water supply emergency.

(3) For the matters mentioned in subsection (2)(d), the regulation must, to the greatest practicable extent, state the matters mentioned in section 25C(2)(a) to (e).

(4) The regulation may, to the extent stated in the regulation, continue the effect of a water supply emergency declaration.

(5) A water supply emergency regulation may authorise persons to exercise powers, including powers of decision and direction and delegated powers, to facilitate the implementation of the directions under the regulation.

(6) The regulation, for the part of the State to which it applies, must not be inconsistent with the objectives of a water plan for the part.

(7) However—

(a) the regulation may, to the extent stated in the regulation, be inconsistent with—

(i) the operations manual that implements the water plan; or

(ii) a resource operations licence for the water to which the plan applies; or

(iii) an interim resource operations licence; and

(b) to the extent of the inconsistency, the regulation prevails.

25FA Amendment of water supply emergency regulation

(1) This section applies if, when a water supply emergency regulation (the ***original regulation***) is made, it is not practicable to state, for each of the measures directed to be carried out and each of the outcomes directed to be achieved, all of the matters mentioned in section 25C(2)(a) to (e).

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(2) The Minister must consult with the Treasurer about the matters.

(3) As soon as practicable after the original regulation is made, it must be amended to state the matters.

25G Measures mentioned in a water supply emergency regulation

The measures a service provider may, under a water supply emergency regulation, be directed to carry out are the following—

(a) the measures mentioned in section 25D(a) to (f);

(b) to make changes to the service provider's infrastructure, for example to improve efficiency by—

(i) reducing water losses from leakage from the service provider's distribution system; or

(ii) bringing forward maintenance programs;

(c) to allow reasonable access, to connect to the service provider's infrastructure and to operate and maintain the connection, to—

(i) other service providers; or

(ii) entities responsible for generating electricity; or

(iii) the coordinator-general;

(d) to implement a demand management program that, for a stated part of the State or type of customer, may include, but is not limited to, subsidising the installation by customers of water-saving devices;

(e) to design, construct and operate new infrastructure;

(f) to recommission and operate infrastructure that is not operating at the time the regulation is made.

25H Requirement to comply with water supply emergency regulation

(1) A service provider to whom a direction is given under a water supply emergency regulation must comply with the direction.

Maximum penalty—

(a) for a direction mentioned in section 25F(2)(d)(i)—1,665 penalty units; or

(b) for a direction mentioned in section 25F(2)(d)(iii) or (v)—1,000 penalty units.

(2) Subsection (1) applies even if complying with the direction would be inconsistent with the service provider's current supply and infrastructure contractual arrangements and the current arrangements are ineffective—

(a) to the extent of the inconsistency; and

(b) for the period stated in the regulation.

(3) It is a defence to a prosecution for an offence against subsection (1) to prove—

(a) the service provider made all reasonable efforts to comply with the direction; and

(b) the service provider is unable to comply with the direction because the service provider is unable to acquire, to the extent necessary to comply with the direction—

(i) the development and other approvals necessary for carrying out the measures or achieving the outcomes; or

(ii) the land on which infrastructure is to be constructed; or

(iii) finance to carry out the measures or achieve the outcomes.

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25I Approval of, or change to, response

(1) If the Minister is satisfied a water supply emergency response is adequate for carrying out the measures or to achieve the outcomes stated in a water supply emergency declaration or a water supply emergency regulation, the Minister must—

(a) approve the response; and

(b) give the service provider notice of the approval.

(2) If the Minister is not satisfied, the Minister must—

(a) change the response to make it adequate; and

(b) approve the changed response; and

(c) give the service provider notice of the approval.

(3) The service provider must comply with the approved water supply emergency response.

Maximum penalty—1,665 penalty units.

(4) Subsection (3) applies even if complying with the approved response would be inconsistent with the service provider's current supply and infrastructure contractual arrangements and the current arrangements are ineffective—

(a) to the extent of the inconsistency; and

(b) for the period stated in the approved response.

(5) It is a defence to a prosecution for an offence against subsection (3) to prove—

(a) the service provider made all reasonable efforts to comply with the approved response; and

(b) the service provider is unable to comply with the approved response because the service provider is unable to acquire, to the extent necessary to comply with the response—

(i) the development and other approvals necessary for carrying out the measures or achieving the outcomes; or

(ii) the land on which the infrastructure is to be constructed; or

(iii) finance to carry out the measures or achieve the outcomes.

25J When water supply emergency ends

(1) The Governor in Council must make a regulation under this section if the Minister considers a water supply emergency has ended.

(2) The regulation must state—

(a) that the water supply emergency to which it applies no longer exists; and

(b) the actions that may be taken, or continue to be taken, to deal with circumstances arising because of the water supply emergency, including any actions taken under a water supply emergency regulation that must be completed or discontinued.

(3) However, for the regulation to state that an action taken under a water supply emergency regulation must be completed, the Minister must be satisfied it would be detrimental to the interests of the State or another entity not to complete the action, taking into account the following—

(a) the extent of work undertaken;

(b) the obligations arising under any contract or other agreement;

(c) any costs or other amounts the State or another entity is liable to pay;

(d) the amount of money spent;

(e) any other relevant circumstance.

(4) The actions that may be taken or continue to be taken include giving any directions that could have been given under the water supply emergency regulation if the emergency continued to exist.

Not authorised—indicative only

Not authorised—indicative only

(5) Subject to a regulation under this section, the ending of a water supply emergency has no effect on the exercise of powers under this part.

Division 3 Carrying out measures and achieving outcomes

25K Supply arrangements

(1) Subsection (3) applies if a water supply emergency declaration or a water supply emergency regulation, directs a service provider—

(a) to make water, including non-Act water, available; or

(b) to operate infrastructure to allow water, including non-Act water, to be supplied.

(2) However, if the direction is to make non-Act water available to, or to operate infrastructure to allow non-Act water to be supplied to, a customer or type of customer, this section applies only to the extent stated in the declaration or regulation.

(3) The service provider must, at the time the provider makes the water available or operates the infrastructure, have a supply contract with each entity to whom the service provider is directed to make water available or allow water to be supplied.

(4) The chief executive may approve a supply contract for the supply, storage and delivery of water under a water supply emergency declaration or regulation including the price to be paid for the supply, storage and delivery.

(5) The chief executive must gazette approval of the supply contract.

(6) If, at any time, the service provider and an entity do not have a supply contract in compliance with subsection (3), the supply contract approved by the chief executive applies, for the time, to the supply, storage and delivery of water under the declaration or regulation.

25L Relationship with State Development and Public Works Organisation Act 1971

(1) This section applies to facilitate—

(a) carrying out measures mentioned in a water supply emergency declaration or a water supply emergency regulation; and

(b) compliance with an approved water supply emergency response; and

(c) the carrying out of works, mentioned in a water supply emergency regulation, by the coordinator-general.

(2) The *State Development and Public Works Organisation Act 1971* (the ***State Development Act***) has effect in the following way—

(a) section 103 applies as if—

(i) the water supply emergency declaration, water supply emergency regulation or approved water supply emergency response were a regulation made under section 100; and

(ii) the service provider were a local body;

(b) sections 105, 106 and 154 apply as if—

(i) an appointment of the coordinator-general under section 25M of this Act were an authorisation of the coordinator-general under section 104(6); and

(ii) the service provider were a local body;

(c) sections 109 and 110 apply as if a statement in the water supply emergency regulation about works to be carried out by the coordinator-general were a regulation under section 109 directing works be undertaken;

(d) section 125(1)(a) applies as if a statement in the water supply emergency regulation about works to be carried out by the coordinator-general were an authorisation to undertake works;

Not authorised—indicative only

Not authorised—indicative only

(e) sections 125(1)(c) and 134 apply as if the service provider were a local body;

(f) sections 134 and 136 apply as if the works mentioned in the water supply emergency regulation or approved water supply emergency response were authorised works;

(g) section 137 applies as if the reference in section 137(b) to section 136 were a reference to section 136 as it has effect under paragraph (f);

(h) section 139 applies to the extent it relates to the application of section 136.

(3) Despite the State Development Act, section 111(2)(b), the coordinator-general may delegate to a service provider a power, function or duty conferred or imposed on the coordinator-general under this part.

(4) If agreement is not reached under the State Development Act, section 134, a regulation may approve particulars of arrangements for the transfer, management, operation and control of the works.

(5) The regulation, to the extent it approves the particulars, is taken to be a regulation made under the State Development Act, section 134.

(6) In this section—

authorised works see the State Development Act, schedule 2.

local body see the State Development Act, schedule 2.

25M Appointment of person to carry out measures or achieve outcomes

(1) This section applies if a service provider does not comply with—

(a) a direction under a water supply emergency declaration or a water supply emergency regulation; or

(b) an approved water supply emergency response; or

(c) a compliance notice given by the chief executive under section 780(1) in relation to the direction or response.

(2) The Governor in Council may appoint a person to comply with the direction or response as agent for the service provider.

(3) The appointment—

(a) has effect when it is notified in the gazette; and

(b) remains in force until—

(i) the day stated in the notification; or

(ii) if no day is stated in the notification—the day withdrawal of the appointment is notified.

(4) The appointment may deal with any matter necessary or convenient to help the person comply with the direction or response.

(5) A direction or response mentioned in subsection (1) does not include a direction or response about imposing service provider water restrictions.

25N Effect of appointee carrying out measures or achieving outcomes

(1) A person appointed under section 25M(2) (the ***appointee***) may do all things necessary or convenient to comply with the direction or response.

(2) A person in possession of premises on which the service provider's infrastructure is situated must give the appointee access to the premises to enable the appointee to comply with the direction or response.

Maximum penalty—500 penalty units.

(3) A person in possession of premises must not take action or refuse to take action if the taking or refusal has the effect of preventing the appointee from, or hindering the appointee in, complying with the direction or response.

Maximum penalty—1,665 penalty units.

Not authorised—indicative only

Not authorised—indicative only

(4) Subsections (2) and (3) do not apply to an act done, or omission made, during or relating to industrial action under the *Industrial Relations Act 2016*.

(5) The service provider is liable for the appointee's reasonable costs of complying with the direction or response as agent for the service provider.

Division 4 Recovery of costs

25O Recovery of costs incurred

(1) This section applies to a service provider who—

(a) under a water supply emergency declaration or a water supply emergency regulation—

(i) is directed to pay the cost of carrying out measures, achieving outcomes or works carried out by the coordinator-general; or

(ii) may recover contributions by the State; or

(b) under a regulation made under section 25J(2)(b), incurs costs in completing or discontinuing actions taken under a water supply emergency regulation; or

(c) under section 25N(5), is liable to pay an appointee's costs; or

(d) under a regulation made under the State Development Act, section 134 or 154, is required to pay costs incurred by or for the coordinator-general.

(2) The service provider may, to the extent stated in the declaration or regulation, recover from the service provider's customers or other service providers—

(a) the contributions made by the State; and

(b) the costs mentioned in subsection (1) to the extent they are approved by the Minister; and

(c) the rate of return.

(3) Subsection (2) applies despite—

(a) any condition of the service provider's authority under this Act to take or interfere with water; or

(b) any provision to the contrary in a supply contract, or a contract for the supply of registered services, between the service provider and the service provider's customers or other service providers; or

(c) the pricing arrangements in a relevant notice mentioned in section 1137 or a regulation amending a relevant notice; or

(d) any direction given under section 999.

(4) The service provider may recover, as a debt due to the service provider, any amount the service provider is entitled to recover under subsection (2).

25P Recovery of contributions by the State

The State may recover, as a debt due to the State by a service provider, any contributions the State is entitled, under a water supply emergency declaration or a water supply emergency regulation, to recover from the service provider.

25Q Queensland Competition Authority

The Queensland Competition Authority, in performing its functions under the *Queensland Competition Authority Act 1997*, must not act in a way that is inconsistent with a water supply emergency declaration, a water supply emergency regulation or section 25O.

Not authorised—indicative only

Not authorised—indicative only

Division 5 Compensation

25R Applying for compensation

(1) A person, including a service provider, who suffers loss or damage because of actions taken under this part may apply to the Minister for compensation for the loss or damage.

(2) The application must be made in writing within 65 business days after the person suffers the loss or damage.

(3) The application must state—

(a) details of the person's loss or damage; and

(b) the amount of compensation claimed and the grounds for the amount claimed.

(4) The applicant must also provide any other relevant information reasonably required by the Minister to decide the application.

(5) Despite subsection (2), the Minister may accept a person's application for compensation made more than 65 business days after the person suffers the loss or damage if the Minister is satisfied it would be reasonable in all the circumstances to accept the application.

(6) The Minister's acceptance of an application for compensation does not give an applicant an entitlement to the compensation.

25S When compensation is not payable

(1) Compensation is not payable to a person for—

(a) loss or damage suffered because of a service provider water restriction imposed under—

(i) a direction under a water supply emergency declaration or water supply emergency regulation; or

(ii) an approved water supply emergency response; or

(b) costs or contributions mentioned in section 25O(1); or

(c) loss or damage to the extent that an amount for the loss or damage is recovered or recoverable by the person under a policy of insurance; or

(d) costs that were recovered from the person by a service provider under section 25O(2).

(2) Also, compensation is not payable to the person for loss or damage if the loss or damage would have happened irrespective of actions taken under this part.

25T Requirement for further information

(1) The Minister may give the applicant a notice stating—

(a) the information required by the Minister for deciding the application; and

(b) the time by which the information must be given to the Minister; and

(c) that, if the information is not given to the Minister by the stated time, the application will lapse.

(2) The stated time must be reasonable and, in any case, at least 15 business days after the notice is given.

(3) The Minister may give the applicant a further notice extending or further extending the time if the Minister is satisfied it would be reasonable in all the circumstances to give the extension.

(4) A notice may be given under subsection (3) even if the time to which it relates has lapsed.

(5) If the applicant does not comply with the requirement within the stated time, or any extension of the time, the application lapses.

25U Deciding application

(1) The Minister must consider and decide an application made under section 25R within 65 business days after the later of the following—

Not authorised—indicative only

Not authorised—indicative only

(a) the day the Minister receives the application;

(b) the day the Minister receives all information required by the Minister for deciding the application.

(2) In deciding an application, the Minister may have regard to—

(a) the extent and nature of the applicant's loss or damage; and

(b) the extent to which the applicant has mitigated, or attempted to mitigate, the loss or damage; and

(c) any other matter the Minister considers appropriate.

(3) The Minister may decide—

(a) to pay all or part of the compensation claimed; or

(b) to refuse to pay the compensation.

(4) If the Minister has not decided an application within the period stated in subsection (1) for the application, the Minister is taken to have refused to pay compensation.

25V Notice about decision

As soon as practicable after deciding the application, the Minister must give the applicant a notice stating—

(a) the decision and the reasons for the decision; and

(b) if the Minister decides to pay compensation—details of the amount to be paid and how the amount was calculated.

25W Protection of State and Minister from liability

Civil liability does not attach to the State or a Minister because of a failure to make a water supply emergency declaration under section 25B or a water supply emergency regulation under section 25F.

25X Protection of service provider from liability

(1) Subsection (2) applies to actions taken by a service provider that are inconsistent with the service provider's current supply and infrastructure contractual arrangements.

(2) The service provider is not liable for loss or damage caused by taking the actions in compliance with—

(a) a direction under a water supply emergency declaration or water supply emergency regulation; or

(b) an approved water supply emergency response.

(3) Subsection (2)—

(a) applies only to the extent the service provider acted reasonably and without negligence; and

(b) does not affect the service provider's liability for negligence.

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;

Not authorised—indicative only

Not authorised—indicative only

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

Part 3 Restrictions on use of subartesian water

25ZA Application for approval to restrict use of subartesian water

(1) A water service provider may apply for written approval for the power to impose a restriction on the use of subartesian water by a customer of the water service provider in an area if the water is taken, other than for stock purposes, under—

(a) section 101(1)(c); or

(b) if the water is not taken under a water entitlement—

(i) a water plan; or

(ii) a regulation made under section 1046.

(2) The application must be—

(a) made to the chief executive in writing; and

(b) supported by sufficient information to enable the chief executive to decide the application.

(3) The chief executive may ask the applicant for additional information about the application.

25ZB Deciding application

(1) The chief executive must give the approval if the chief executive is satisfied that—

(a) the subartesian water and the water service provider's water supply for a retail water service is being taken from the same source; and

(b) the taking of the subartesian water may threaten the security of the water service provider's water supply for the retail water service; and

(c) service provider water restrictions have been imposed, or are about to be imposed, in relation to the water supply.

(2) If the chief executive is not satisfied about the matters mentioned in subsection (1)(a), (b) and (c), the chief executive must refuse to give the approval.

(3) The approval may be given with or without conditions.

25ZC Notice about decision to give approval

(1) If the chief executive gives the approval, the chief executive must, within 30 business days after giving the approval, give the applicant a notice advising the applicant about the approval.

(2) If the chief executive refuses to give the approval, the chief executive must, within 30 business days after refusing to give the approval, give the applicant a notice advising the applicant of the reasons why the approval was refused.

25ZE Restriction of subartesian water by water service provider

(1) This section applies if the chief executive gives the approval to a water service provider.

(2) The water service provider may impose a restriction on the use of the subartesian water by a customer of the water service provider in an area.

Not authorised—indicative only

Not authorised—indicative only

(3) The restriction may be no more onerous than a service provider water restriction currently imposed on the customer.

(4) For the Water Supply Act, section 43, a restriction on the use of subartesian water under this section is taken to be a service provider water restriction.

(5) In this section, the power to restrict includes the power to prohibit.

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—

Not authorised—indicative only

Not authorised—indicative only

(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)—1,665 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;

(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—

Not authorised—indicative only

Not authorised—indicative only

(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—

(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.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—1,665 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.

(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.

Not authorised—indicative only

Not authorised—indicative only

(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.

(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 sustainable management of Queensland's water—

(a) by preparing and implementing water plans; and

(b) by preparing and implementing water use plans.

Not authorised—indicative only

Not authorised—indicative only

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

Subdivision 1 Matters for regulation

39 Matters for regulation

For the purpose of planning for the sustainable 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 acceptable 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.

Subdivision 2 Release of unallocated water—volume stated in water plan or prescribed by regulation

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.

Note—

An application can not be made for a water licence in relation to the release of unallocated water unless the application is part of a process prescribed under subsection (2). See section 109(1)(b) and (2).

(3) However, if the unallocated water is neither of the following, subsection (2) does not apply to the extent the relevant water plan provides for an alternative process for the release of the unallocated water—

(a) unallocated water held as a general reserve under the water plan;

(b) unallocated water temporarily released under subdivision 3 from a strategic water infrastructure reserve.

(4) The chief executive may set a price for the unallocated water.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 3 Temporary release of water from strategic water infrastructure reserve

40A Chief executive may temporarily release water from reserve

(1) The chief executive may temporarily release water from a strategic water infrastructure reserve for a purpose other than that stated in a water planning instrument.

(2) The chief executive must release the water under the process prescribed under section 39(b).

Note—

This is the process under section 40(2).

(3) However, the process can make the water available only under a water licence.

(4) Also, a water licence granted for the release must be granted for a stated term of not more than 3 years.

(5) Despite section 106(3), the water licence can not be renewed, reinstated, relocated, amalgamated or subdivided.

(6) This section applies despite any provision of a water planning instrument relating to the release of water from the reserve.

40B Deciding whether to release water from reserve and considerations for the release

(1) In deciding whether to temporarily release water from the reserve, the chief executive must consider—

(a) the volume of water that can be released from the reserve without the proposed infrastructure for which the reserve may have been intended being constructed; and

(b) the likelihood of a process, for the release of water from the reserve for a purpose that is stated in a water planning instrument, commencing in the short term; and

(c) alternatives for access to water.

(2) For the release, the chief executive must consider—

(a) the outcomes and objectives of the relevant water plan, including the water allocation security objectives and environmental flow objectives; and

(b) water supply schemes; and

(c) other water users; and

(d) existing water markets.

(3) If the water the chief executive proposes to release relates to a water supply scheme, the chief executive must consult with the resource operations licence holder for the scheme before releasing the water.

40C When water returns to reserve

On the expiry, surrender, cancellation or repeal of a water licence granted for the release, the water made available under the licence returns to the strategic water infrastructure reserve.

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 sustainable 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.

Not authorised—indicative only

Not authorised—indicative only

43 Contents of a water plan

(1) A water plan must—

(a) state the water to which the plan applies; and

(b) state the desired economic outcomes, social outcomes, cultural outcomes 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 not held as a general reserve under the water plan; 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 criteria and processes for deciding an application for a dealing with a water licence; and

(j) state the types of applications for water licences that must not be accepted under section 107; and

(k) state the proposed holders of resource operations licences and distribution operations licences in the plan area; and

(l) state whether a water management protocol is to be prepared for the plan area and the matters the protocol must address; and

(m) state the types of amendments that may be made to the plan without consultation; and

Note—

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

(n) state the categories of water licences in the plan area that are to be cancelled or repealed; and

(o) include anything else that the Minister considers relevant to advance the matters mentioned in section 41.

(3) To remove any doubt, it is declared that subsection (2)(f) does not override, or prevent, in an existing or future water plan a limitation, a condition or a matter that must or may be considered (however called) in a process for the release of unallocated water held as a general reserve under the water plan.

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—

Not authorised—indicative only

Not authorised—indicative only

(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;

(g) the water-related effects of climate change on water availability;

(h) the interests of any Aboriginal parties or Torres Strait Islander parties in relation to the water resources for the plan area.

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 considerations made in finalising the plan including—

(a) the submissions received on the draft of the plan; and

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Not authorised—indicative only

(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.

(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.

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 or 55.

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

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Not authorised—indicative only

(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 to 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 sustainable 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.

Not authorised—indicative only

Not authorised—indicative only

(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;

(c) the water-related effects of climate change on—

(i) water use practices; and

(ii) the risk to land or water resources arising from the use of water on land.

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

Not authorised—indicative only

Not authorised—indicative only

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—

(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) if provided for in the water plan—the criteria and process for deciding applications for a seasonal water assignment or for relocation of a water licence;

(d) 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;

(e) 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 objectives 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

Not authorised—indicative only

Not authorised—indicative only

(c) be developed with adequate consultation with persons affected by the protocol as it implements the plan.

(3) If the water plan outcomes, measures or objectives are changed, the chief executive must amend the relevant water management protocol to the extent necessary to be consistent with the water plan.

(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, 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 replace a surrendered water allocation;

(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) Subsection (5) applies if—

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Not authorised—indicative only

(a) the draft of a water entitlement notice provides for the conversion to a water allocation of a water licence; and

(b) a person (the ***relevant person***) other than an affected person is also an owner, as defined in section 104, of the land to which the licence attaches.

(5) A copy of the notice under subsection (2) must also be given to the relevant person.

(6) The period for making submissions must not be less than 30 business days after the notice is published.

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(1)(b).

(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—

(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

Not authorised—indicative only

Not authorised—indicative only

(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.

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.

94 General authorisations to interfere with water

Any person may do any of the following—

(a) interfere with overland flow water;

Not authorised—indicative only

Not authorised—indicative only

(b) interfere with water from a watercourse, lake or spring by impoundment for 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—

(a) the impacts of the take or interference were assessed as part of a grant of an environmental authority or development permit; and

Not authorised—indicative only

Not authorised—indicative only

(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 in conjunction with the use of a measurement device 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 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.

Not authorised—indicative only

Not authorised—indicative only

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.

(2) A regulation may prescribe limitations on the carrying out of an activity prescribed under subsection (1)(a).

(3) Despite subsection (1)(b), the alteration or limitation can not prevent a person from taking overland flow water, that is contaminated agricultural run-off, to the extent the taking is necessary to comply with an obligation on the person under the *Environmental Protection Act 1994*.

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

(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*;

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Not authorised—indicative only

(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) A water licence attaches to the water licensee's land unless—

(a) the licensee is a prescribed entity; or

(b) the water licence is an associated water licence granted under chapter 9, part 8, division 2.

(3) Unless this Act provides otherwise, 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

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Not authorised—indicative only

(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.

(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

(1) An application can not be made for a water licence—

(a) for an activity the applicant is authorised to do under part 3, division 1; or

(b) in relation to the release of unallocated water.

(2) Subsection (1)(b) does not apply to an application that is part of a process prescribed under section 40(2).

110 When 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.

Not authorised—indicative only

Not authorised—indicative only

(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 publish, on a Queensland Government website, a notice (a ***public submissions notice***) that—

(a) states the application has been made; and

(b) includes the following information—

(i) the location of the proposed taking of, or interference with, water;

(ii) where copies of the application may be inspected;

Example—

a Queensland Government website

(iii) that written submissions may be made by any entity about the application;

(iv) a day, that is not earlier than 30 business days after the day the notice is published, by which submissions must be made;

(v) the person to whom submissions must be made.

(4) The chief executive may, by written notice, require the applicant to publish a copy of the public submissions notice for the period, and in the way, stated in the written notice.

(5) Within 10 business days after the applicant publishes the copy of the public submissions notice under subsection (4), the applicant must give the chief executive evidence of the publication.

(6) The application lapses if the applicant fails, without a reasonable excuse, to comply with—

(a) the written notice mentioned in subsection (4); or

(b) the requirement under subsection (5).

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

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Not authorised—indicative only

(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

(f) 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 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 entity 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 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.

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Not authorised—indicative only

(2) The chief executive may grant a water licence under this section in accordance with the process 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) calculate or measure water taken under the licence, and record, or transmit or otherwise report, information about the water 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—1,665 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 *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;

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Not authorised—indicative only

(e) transferring a licence;

(f) amalgamating licences;

(g) subdividing a licence;

(h) seasonal water assignment of—

(i) a licence; or

(ii) a seasonal water assignment notice for 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.

(2A) Despite subsection (1), an application to relocate the water licence may be made only if section 126 applies to the 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 of a seasonal water assignment notice for the water year in which the application is made—the holder of the seasonal water assignment notice;

(b) for the transfer of a water licence—the licensee and proposed transferee if the proposed transferee is an owner of land to which the water licence attaches or a prescribed entity;

(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;

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(b) where copies of the application may be inspected.

(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

(1) This section applies to a water licence if any of the following allow all or part of the water licence to be relocated under this section—

(a) a regulation;

(b) a water management protocol;

(c) a water plan.

(2) An application may be made to relocate the water licence or the part of the water licence.

(3) For section 122(2), the application must be made, assessed and decided under the process prescribed by regulation.

(4) 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.

relocate, a water licence, means—

(a) if the licence attaches to land—amend the licence, so that all or part of the licence attaches to other land whether in or outside Queensland; or

(b) amend the licence to change the location from which water may be taken under the licence; or

(c) any of the following associated with, and applied for in the same application as, an amendment applied for under paragraph (a) or (b)—

(i) amend the licence to change the purpose for which water may be taken under the licence;

(ii) transfer the licence to a prescribed person;

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Not authorised—indicative only

(iii) amalgamate the licence with another water licence held or to be held by the transferee.

127 Application for a seasonal water assignment

(1) This section applies to an application for a seasonal water assignment of—

(a) a water licence; or

(b) a seasonal water assignment notice for a water 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, or seasonal water assignment notices 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.

(4) To remove any doubt, it is declared that the assignor and the proposed assignee may be the same person.

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.

(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, water entitlement notice 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 application for dealing must be assessed as application for new water licence

(1) This section applies to an application for a dealing with a water licence, other than an application made under section 126(2), if the dealing—

(a) will, or is likely to, do 1 or more of the following—

(i) increase the amount of water that may be taken under the licence;

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Not authorised—indicative only

(ii) increase the rate at which water may be taken under the licence;

(iii) change the location of taking or interference with water under the licence;

(iv) increase or change the interference with water under the licence; or

(b) is an amendment to add, remove or change a condition of the licence; or

(c) is the renewal or reinstatement of the licence.

(2) Subject to subsection (3), sections 112 to 115 apply to the application for the dealing as if—

(a) a reference in sections 112 to 115 to an application for a water licence were a reference to the application for the dealing; and

(b) a reference in section 112(3)(b)(i) to the location of the proposed taking of, or interference with, water were a reference to the particulars of the dealing; and

(c) a reference in section 113 to any water licence granted were a reference to the water licence mentioned in subsection (1); and

(d) a reference in section 113(c) to section 111 were a reference to section 128; and

(e) a reference in section 114(8) to a water licence were a reference to an amended water licence, or a new water licence, that gives effect to the dealing; and

(f) a reference in section 114(9) to the licence were a reference to the amended water licence, or the new water licence, mentioned in paragraph (e).

(3) The chief executive is not required to publish a public submissions notice for an application for an amendment to add, remove or change a condition of a water licence if the chief executive is satisfied—

(a) publishing a public submissions notice for the application would not be in the public interest; and

(b) granting the application will not adversely affect any of the following—

(i) an authorisation or entitlement of a person to take or interfere with water under this Act;

(ii) the interests of Aboriginal people and Torres Strait Islanders and their connection with water resources;

(iii) a natural ecosystem.

(4) In this section—

public submissions notice, for an application for a dealing with a water licence, means a notice about the application under section 112(3), as applied under subsection (2).

131 Recording other dealings

(1) This section applies to a proposed dealing other than a dealing to which section 126 or 130 applies.

(2) Subject to section 131A, 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) However, if the application has not been decided and the applicant has ceased to be an owner of the land to which the application relates, the chief executive must, if required, issue

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Not authorised—indicative only

to the registered owner of the land 1 or more new water licences.

(4) 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.

(5) A water licence or notice issued under subsection (2)(b) takes effect on the day stated in the licence or notice.

(6) A water licence replaced by a new water licence issued under subsection (2)(b) expires on the day the new licence takes effect.

(7) To the extent an application for a seasonal water assignment is approved, the assignor is not authorised to take water that is the subject of the seasonal water assignment.

131A Effect of disposal of part of land relating to particular dealing with water licence

(1) This section applies to a proposed dealing, with a water licence, to which section 131 applies, if—

(a) the applicant for the dealing disposes of part of the land to which the application relates; and

(b) at the time the applicant disposes of the part, the chief executive has not decided the application under subsection 131.

(2) The application lapses on the day the applicant disposes of the part.

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.

(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.

Not authorised—indicative only

Not authorised—indicative only

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 the interference with water under the licence.

(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.

Not authorised—indicative only

Not authorised—indicative only

137A Additional information may be required

(1) The chief executive may require—

(a) the applicant to give additional information about the application within the reasonable period 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.

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

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

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(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 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

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(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 a Queensland Government 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

(1) Subsection (2) applies if a water plan, water management protocol or regulation states a process for the allocation of water under a water allocation.

(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.

(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 water allocations 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—

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(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 water allocations 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 registrar 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—

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(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—

(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***).

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(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

(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.

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(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—

(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 of 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;

(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 must give the applicant a certificate of the dealing.

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Not authorised—indicative only

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 water allocations 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.

(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.

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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.

(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—

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(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 person has notice of an interest in a water allocation if the interest is included in the water allocations register.

169 Form of register

(1) The water allocations 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.

169A Delegations by registrar

(1) The registrar may delegate the registrar's functions under this Act to—

(a) an appropriately qualified public service employee; or

(b) the titles registry operator.

(2) If a function of the registrar is delegated to the titles registry operator, the titles registry operator must subdelegate the function to an appropriately qualified employee of the titles registry operator.

(3) The titles registry operator may impose conditions on a subdelegation under subsection (2) that are not inconsistent with any conditions to which the delegation to the titles registry operator is subject.

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(4) If the registrar delegates the registrar's function of keeping the water allocations register to the titles registry operator, a reference in an Act to an office of the registry is, if the context permits, taken to be a reference to an office of the titles registry operator—

(a) where documents may be lodged; and

(b) that is published on the operator's website.

(5) In this section—

function includes power.

169B Use of registrar's title

(1) A public service employee delegated a function of the registrar under this Act or another Act may, when performing the function, act under the title 'registrar of water allocations'.

Note—

See the *Queensland Future Fund (Titles Registry) Act 2021*, section 30 in relation to the titles registry operator, or the operator's employees, using the registrar's title.

(2) In this section—

function includes power.

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.

(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 water allocations register.

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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 water allocations 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 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, including a titles registry fee, 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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Not authorised—indicative only

(b) part 3, section 27 and divisions 2 and 2A;

(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, 4AA, 4A, 4B, 4C and 5;

(f) part 6A;

(g) part 7, section 122(3) and sections 132 to 135;

(h) part 8, section 165;

(i) part 9, division 2, section 181 and subdivisions B and C;

(j) part 11, section 193;

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

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 relevant titles registry fee—

(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 water allocations 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.

Not authorised—indicative only

Not authorised—indicative only

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.

(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

Not authorised—indicative only

Not authorised—indicative only

(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 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) requirements about calculating or measuring water taken under the licence or water allocations managed under the licence; and

(v) monitoring and reporting requirements; and

(vi) a requirement to pay fees prescribed by regulation; and

(vii) a requirement that the licence holder collect and publish the sale price for each seasonal water assignment of a water allocation managed under the licence; and

(viii) for a resource operations licence—environmental management rules for the licence; and

(ix) 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 to either of the following named in a water plan—

(a) for a resource operations licence—an entity mentioned in section 176(2);

Not authorised—indicative only

Not authorised—indicative only

(b) for a distribution operations licence—an entity mentioned in section 177(2).

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 sustainable 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.

Not authorised—indicative only

Not authorised—indicative only

(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) Subsection (5) applies if—

(a) the licence is a resource operations licence; and

(b) the amendment proposed by the chief executive under subsection (2) is or includes a change to the environmental management rules for the licence.

(5) The holder of the resource operations licence may, after the chief executive has consulted with the holder under subsection (3) about the proposed amendment, ask the chief executive, in writing, to refer the proposed change to the rules to a referral panel.

(6) Section 184A includes the procedure relating to a request made under subsection (5).

(7) 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.

(4) Subsections (5) to (7) apply if—

(a) the licence is a resource operations licence; and

(b) the proposed amendment is or includes a change to the environmental management rules for the licence; and

(c) the chief executive refuses to approve all or part of the change to the rules.

(5) The chief executive must give the holder of the resource operations licence notice of the refusal.

(6) The holder may, in writing, ask the chief executive to refer the proposed change to the rules to a referral panel.

(7) Section 184A includes the procedure relating to a request made under subsection (6).

(8) If the chief executive approves the amendment, the chief executive must give the holder of the resource operations licence or distribution operations licence notice of the approval.

(9) If the chief executive refuses to approve the amendment, the chief executive must give the holder of the resource operations licence or distribution operations licence notice of the refusal and the reasons for it.

Not authorised—indicative only

Not authorised—indicative only

184A Procedure if request is made under s 183(5) or 184(6) to refer proposed change to rules to referral panel

(1) This section applies if the holder of a resource operations licence makes a request under section 183(5) or 184(6) to refer a proposed change to the environmental management rules to a referral panel.

(2) The chief executive must refer the proposed change to a referral panel together with sufficient information to enable the referral panel to make a recommendation to the chief executive about the proposed change, having regard to whether it—

(a) is consistent with the water plan outcomes and measures; and

(b) achieves any objectives stated in the water plan, including, for example, the water allocation security objectives and the environmental flow objectives; and

(c) is developed with adequate consultation with persons affected by the environmental management rules if the proposed change were to be made.

(3) The referral panel must review the proposed change and the information and make recommendations to the chief executive within 30 business days after receiving the request and information.

(4) In deciding whether to do either of the following, the chief executive must consider the referral panel's recommendations—

(a) amend the resource operations licence, under section 183(2);

(b) approve the amendment, under section 184(3), of the resource operations licence.

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—

(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

Not authorised—indicative only

Not authorised—indicative only

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

Not authorised—indicative only

Not authorised—indicative only

(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—

(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.

Not authorised—indicative only

Not authorised—indicative only

(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—

(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

Not authorised—indicative only

Not authorised—indicative only

(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

(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.

Not authorised—indicative only

Not authorised—indicative only

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—

(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

(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.

Not authorised—indicative only

Not authorised—indicative only

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;

Not authorised—indicative only

Not authorised—indicative only

(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 5A Minister or chief executive may give direction to take action about water quality issue

203A Application of division

(1) This division applies if the Minister or the chief executive (the ***official***) is satisfied of the following in relation to water to which this Act applies—

(a) there is a water quality issue or potential water quality issue;

(b) urgent action, or prevention of action, by a relevant entity is necessary to prevent, minimise, mitigate or remedy the issue;

(c) taking the action or preventing the action would or may be inconsistent with an instrument of any of the following types—

(i) a distribution operations licence;

(ii) an interim resource operations licence;

(iii) a resource operations licence;

(iv) a water management protocol;

(v) if the official is the Minister—a water plan.

(2) In this section—

relevant entity means—

(a) the holder of a licence mentioned in subsection (1)(c); or

(b) an entity that has an obligation under—

(i) if the official is the Minister—an instrument of a type mentioned in subsection (1)(c); or

(ii) if the official is the chief executive—an instrument of a type mentioned in subsection (1)(c)(i), (ii), (iii) or (iv).

water quality issue means a matter or thing relating to the quality of water that—

(a) affects whether the water can be used for its intended purpose; or

(b) causes damage to infrastructure or affects whether infrastructure functions as intended; or

(c) is harmful to the health of humans or the environment.

203B Direction to take action or direction not to take action

(1) The official may by a notice given to the relevant entity direct the entity in either or both of the following ways—

(a) to take stated reasonable action within or for a stated reasonable period;

Example—

if the entity is the holder of a resource operations licence, direct the entity to operate stated water infrastructure, operated by the entity, in a stated way (for example, to release water from the infrastructure for the purpose of remedying the water quality issue) for a stated reasonable period

Not authorised—indicative only

Not authorised—indicative only

(b) not to take stated action for a stated reasonable period.

(2) The notice must also state—

(a) the notice is given under this section; and

(b) complying with the direction would or may be inconsistent with—

(i) if the official is the Minister—a stated instrument of a type mentioned in section 203A(1)(c); or

(ii) if the official is the chief executive—a stated instrument of a type mentioned in section 203A(1)(c)(i), (ii), (iii) or (iv); and

(c) the direction prevails over the instrument to the extent of any inconsistency with the instrument.

203C Deciding whether to give direction and deciding content of direction

In deciding whether to give a direction under section 203B(1) to the relevant entity, or the content of the direction, the official—

(a) must have regard to the following—

(i) any impacts on water supplies (including, for example, impacts on any town water supplies or the critical needs of a power station);

(ii) any impacts on water security for water entitlement holders;

(iii) any impacts on the environment, including, for example, the Great Barrier Reef;

(iv) the public interest, including, for example, public health and safety;

(v) whether under an Act there is another means that could be used to require timely action to be taken, or timely prevention of action, for the purpose of preventing, minimising, mitigating or remedying the water quality issue; and

(b) may have regard to any other matter the official considers appropriate.

203D Direction must be complied with

A relevant entity given a direction under section 203B(1) must comply with the direction unless the entity has a reasonable excuse.

Maximum penalty—1,665 penalty units.

203E Protection of relevant entity

(1) Subsection (2) applies to a relevant entity given a direction under section 203B(1) that takes action, or does not take action, that is—

(a) inconsistent with the entity's current supply contractual arrangements; and

(b) in compliance with the direction.

(2) The relevant entity is not liable for loss or damage caused by taking the action or not taking the action.

(3) Subsection (2)—

(a) applies only to the extent the relevant entity acted honestly and without negligence; and

(b) does not affect the relevant entity's liability for negligence.

203F Protection of State and official from liability

Civil liability does not attach to the State or the official because of a failure to give a direction under section 203B(1).

Not authorised—indicative only

Not authorised—indicative only

203G Report by official

(1) This section applies if an official gives a relevant entity a direction under section 203B(1) in relation to a water quality issue.

(2) The official must prepare and publish a report stating the following—

(a) details of the water quality issue;

(b) the circumstances under which the urgent action, or prevention of action, by the entity was necessary;

(c) any action taken, or any action not taken, by the entity as a result of the direction.

(3) In preparing the report the official must consult with the relevant entity.

(4) The official may ask the relevant entity to give to the official information the official reasonably requires for preparing the report.

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

(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

Not authorised—indicative only

Not authorised—indicative only

(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.

(2) Without limiting subsection (1), the conditions may require the licensee to do the following—

(a) calculate or measure water taken under the water entitlements to which the licence relates, and record, or transmit or otherwise report, information about the water 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.

Not authorised—indicative only

Not authorised—indicative only

(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.

(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.

Not authorised—indicative only

Not authorised—indicative only

(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 3A Measurement requirements for taking water

Division 1 Preliminary

217A Purpose of part

This part provides for—

(a) a regulation to prescribe requirements about measuring water taken under this Act, including, for example, requirements about—

(i) calculating or measuring water taken under an authorisation to take water under this Act; and

(ii) recording, or transmitting or otherwise reporting, information about—

(A) water taken under an authorisation to take water under this Act; or

(B) other matters related to calculating or measuring water taken under an authorisation to take water under this Act; and

(b) other matters related to the requirements.

217B Definitions for part

In this part—

duly qualified person means a person prescribed by regulation to be a duly qualified person for stated measurement requirements.

faulty, in relation to a measurement device or measurement system, means faulty or otherwise not operating properly, within the meaning prescribed by regulation.

relevant authorisation, in relation to a measurement requirement, means an authorisation declared under section 217C to be subject to the measurement requirement.

217C Application of measurement requirements

(1) A measurement requirement applies to an authorisation, or a class of authorisations, to take water under this Act if the authorisation, or class of authorisations, is declared by regulation to be subject to the requirement.

(2) The following authorisations may be declared under subsection (1) to be subject to a measurement requirement—

(a) an authorisation that is subject to a limit (however applied to the authorisation) on the volume of water that may be taken under the authorisation;

(b) another authorisation to which the measurement requirement is to apply to calculate or measure water taken under the authorisation.

Division 2 Measurement requirements

217D Regulation may prescribe measurement requirements

A regulation may prescribe measurement requirements under section 217E or 217F that apply to relevant authorisations.

Note—

See section 808(3) for an offence for the holder of a relevant authorisation taking water while contravening measurement requirements to which the authorisation is subject.

Not authorised—indicative only

Not authorised—indicative only

217E Using measurement devices

A measurement requirement may require the holder of a relevant authorisation to do any of the following things—

(a) to attach 1 or more measurement devices to works through which water is taken under the authorisation, either directly or in another stated way, including, for example, by attachment to another device;

(b) to maintain each measurement device mentioned in paragraph (a) in accordance with stated requirements or standards made under section 217I;

(c) to ensure each measurement device mentioned in paragraph (a)—

(i) is certified by a duly qualified person as complying with standards made under section 217I; and

(ii) is not faulty;

(d) to ensure water taken under the authorisation is taken only—

(i) through works to which the measurement devices mentioned in paragraph (a) are attached; or

(ii) for any period during which any of the measurement devices mentioned in paragraph (a) are faulty—in accordance with stated alternative requirements;

(e) to give the chief executive information—

(i) stated in the regulation or standards made under section 217I about water taken under the authorisation during stated periods; and

(ii) at the stated times and in the stated way.

217F Using measurement plans

A measurement requirement may require the holder of a relevant authorisation to do any of the following things—

(a) to have a measurement plan for the authorisation;

(b) to ensure—

(i) the measurement plan mentioned in paragraph (a) is certified by a duly qualified person as complying with standards made under section 217I; and

(ii) the measurement system outlined in the measurement plan mentioned in paragraph (a) is not faulty;

(c) to ensure water taken under the authorisation is taken only in a way that allows the water to be calculated or measured in accordance with—

(i) the measurement plan mentioned in paragraph (a); or

(ii) for any period during which the measurement system outlined in the measurement plan mentioned in paragraph (a) is faulty—stated alternative requirements;

(d) to give the chief executive information—

(i) stated in the regulation or standards made under section 217I about water taken under the authorisation during stated periods; and

(ii) at the stated times and in the stated way.

Division 3 Other requirements

217G Faulty measurement devices or measurement systems

A regulation may prescribe matters about a faulty measurement device or measurement system, including, for example, requirements applying to the holder of a relevant authorisation about—

(a) ensuring the fault in the device or system is identified and rectified; and

(b) notifying the chief executive about the fault in the device or system.

Not authorised—indicative only

Not authorised—indicative only

Note—

The regulation may create offences against the regulation—see section 1014(2)(b).

217H Record keeping requirements

A regulation may prescribe requirements about—

(a) the records that a holder of a relevant authorisation must keep in relation to the measurement requirements; and

(b) giving copies of the records to the chief executive.

Note—

The regulation may create offences against the regulation—see section 1014(2)(b).

Division 4 Other matters

217I Standards for measurement requirements

(1) The chief executive may make standards, for the measurement requirements, about—

(a) the design, construction, installation and maintenance of measurement devices; and

(b) the preparation of measurement plans; and

(c) the operation of measurement systems included in measurement plans; and

(d) processes for the certification of measurement devices or measurement plans as complying with standards under this section, including, for example, the validation of measurement devices; and

(e) the information about water taken under a relevant authorisation that must be given to the chief executive under the measurement requirements; and

(f) any other matter about measurement devices or measurement plans necessary for the effective operation of the measurement requirements.

(2) The standards made under subsection (1)—

(a) must be published on a Queensland Government website; and

(b) take effect from the day stated in the standards, which must not be earlier than the day the standards are published.

(3) The chief executive must ensure that a copy of the standards made under subsection (1) as in force from time to time is available for inspection on a Queensland Government website.

217J Other matters prescribed by regulation

A regulation may provide for the following matters for the measurement requirements—

(a) the appointment of persons as duly qualified persons;

(b) the suspension and cancellation of the appointment of duly qualified persons;

(c) persons who are duly qualified persons other than because of an appointment under the regulation;

Example for paragraph (c)—

A regulation may state that a particular class of persons are duly qualified persons for the measurement requirements.

(d) the functions of duly qualified persons under this Act and requirements for the performance of the functions;

(e) the functions of the chief executive to ensure the effective operation of the measurement requirements, including, for example, functions about—

(i) notifying holders of relevant authorisations of their obligations under the measurement requirements; and

Not authorised—indicative only

Not authorised—indicative only

(ii) monitoring compliance with the measurement requirements.

Part 4 Riverine protection

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

218 Applying for permit to destroy vegetation, 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 any or all of the following activities—

(a) destroy vegetation in a watercourse, lake or spring;

(b) excavate in a watercourse, lake or spring;

(c) 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 of vegetation to be destroyed or material to be excavated or placed;

(c) the type of vegetation to be destroyed or material to be excavated or placed;

(d) the seasonal factors influencing the watercourse, lake or spring from time to time;

(e) the position in the watercourse, lake or spring of the vegetation to be destroyed or the proposed excavation or placing of fill;

Not authorised—indicative only

Not authorised—indicative only

(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 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.

Not authorised—indicative only

Not authorised—indicative only

(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.

(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—1,665 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—

(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

Not authorised—indicative only

Not authorised—indicative only

(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—1,665 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.

Not authorised—indicative only

Not authorised—indicative only

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.

(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

Not authorised—indicative only

Not authorised—indicative only

(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.

Not authorised—indicative only

Not authorised—indicative only

(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.

(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.

(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.

Not authorised—indicative only

Not authorised—indicative only

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) water licences to be granted or amended under section 116 or 133; or

(d) water allocations to be granted under section 147; or

(e) environmental management rules for a resource operations licence; or

(f) the granting of an application to relocate a water licence under section 126; or

(g) 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—

(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.

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Not authorised—indicative only

(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.

Chapter 2A Water supply and demand management

Part 1 Preliminary

340 Main purpose of ch 2A and its achievement

(1) The main purpose of this chapter is to ensure the delivery of sustainable and secure water supply and demand management for the SEQ region and designated regions.

(2) The purpose is achieved by—

(a) providing for the desired level of service objectives for water security in the SEQ region and designated regions; and

(b) requiring the bulk water supply authority and water service providers for designated regions to have a water security program including plans and strategies to facilitate the achievement of the desired level of service objectives; and

(c) optimising an efficient and reliable supply of water for the SEQ region by providing for the making of—

(i) agreements for the supply of bulk services between SEQ bulk suppliers and bulk water customers; and

(ii) a code to decide costs and prices and to regulate the way in which entities supply bulk services.

341 What is the *SEQ region*

(1) The ***SEQ region*** is—

(a) the local government areas of the following local governments—

- Brisbane City Council
- Gold Coast City Council
- Ipswich City Council
- Lockyer Valley Regional Council
- Logan City Council
- Moreton Bay Regional Council
- Noosa Shire Council
- Redland City Council
- Scenic Rim Regional Council
- Somerset Regional Council
- Sunshine Coast Regional Council; and

(b) any local government area, or part of a local government area, adjacent to a local government area mentioned in paragraph (a) and designated by gazette notice.

(2) The SEQ region also includes Queensland waters adjacent to any of the local government areas mentioned in subsection (1).

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Part 2 Water security planning

Division 1 Designation of regions and nomination of water service providers

342 Designation of regions

(1) A regulation may designate a part of the state other than the SEQ region as a designated region for this part.

(2) Before recommending the making of a regulation under subsection (1), the Minister must—

(a) have regard to—

(i) the geography, society and economy of the proposed designated region; and

(ii) water users and potential water users in the proposed designated region; and

(b) consider options for achieving water security for the proposed designated region; and

(c) consult with each local government whose local government area is wholly or partly in the proposed designated region.

(3) The Minister may carry out the consultation in any way the Minister considers appropriate.

343 Nomination of water service providers

(1) This section applies if there is more than 1 water service provider for a designated region.

(2) A regulation may nominate 1 or more of the water service providers as a water service provider (a ***nominated water service provider***) for the designated region or a part of the region for this part.

Division 2 Desired level of service objectives

344 Desired level of service objectives

(1) A regulation may prescribe—

(a) the desired level of service objectives for water security for the SEQ region, or part of the SEQ region; or

(b) the desired level of service objectives for water security for a designated region, or part of the designated region.

(2) The Minister may recommend to the Governor in Council a regulation under subsection (1) only if the Minister is satisfied sections 345 and 346 have been complied with for the regulation.

(3) However, the Minister may recommend to the Governor in Council a regulation under subsection (1) that is only to correct a minor error or make another change that is not a change of substance even though only section 345 has been complied with for the regulation.

(4) Without limiting subsection (1), the desired level of service objectives for water security include the duration, frequency and severity of water restrictions that may be expected by end users of the water.

345 Public notice about proposed desired level of service objectives

(1) Before a regulation is made under section 344 to prescribe the desired level of service objectives for water security for the SEQ region, a designated region or a part of the SEQ region or a designated region, the chief executive must publish a notice about the regulation.

(2) The notice must state the following—

(a) that the desired level of service objectives for water security (the ***proposed desired level of service objectives***) are to be prescribed;

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(b) the region or the part of the region for which the proposed desired level of service objectives for water security are to apply;

(c) a description of the proposed desired level of service objectives;

(d) that written submissions may be made by any entity about the proposed level of service objectives;

(e) the day by which submissions must be made and the person to whom, and the place where, the submissions must be made.

(3) The day stated under subsection (2)(e) must not be earlier than 28 business days after the day the notice is published.

(4) The chief executive must give a copy of the notice to the following—

(a) if the proposed desired level of service objectives are for the SEQ region or part of the SEQ region—the bulk water supply authority;

(b) if the proposed desired level of service objectives are for a designated region or part of a designated region—

(i) if there is a nominated water service provider for the region—the nominated water service provider; or

(ii) otherwise—each water service provider for the designated region.

(5) The chief executive may—

(a) give a copy of the notice to any other entity the chief executive considers appropriate; and

(b) publish a copy of the notice on a Queensland Government website.

346 Chief executive must consider properly made submissions

(1) The chief executive must consider all properly made submissions about the proposed desired level of service objectives.

(2) If, after considering all properly made submissions, the chief executive is satisfied that the proposed desired level of service objectives should be revised, the chief executive may revise the proposed desired level of service objectives (the ***revised proposed objectives***).

(3) If the chief executive decides to revise the proposed desired level of service objectives, section 345 and subsections (1) and (2) apply in relation to the revised proposed objectives as if a reference in the section or subsections to the proposed desired level of service objectives were a reference to the revised proposed objectives.

(4) However, this section does not apply to a regulation to amend the desired level of service objectives for water security if the amendment is only to correct a minor error or make another change that is not a change of substance.

347 Report on desired level of service objectives

(1) If a regulation prescribes desired level of service objectives for water security for the SEQ region, a designated region or a part of the SEQ region or a designated region, the chief executive must prepare a report about the desired level of service objectives for water security for the region or the part of the region.

(2) The report must include—

(a) a summary of issues raised in properly made submissions about the desired level of service objectives; and

(b) a summary of how the issues raised in the submissions have been addressed by the chief executive.

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348 Review of desired level of service objectives

If a regulation prescribes desired level of service objectives for water security, the chief executive must review the objectives at least every 5 years.

Division 3 Water security program

Subdivision 1 Preliminary

349 Definition for div 3

In this division—

designated water security entity means—

(a) the bulk water supply authority; or

(b) a water service provider required to have a water security program under section 351 or 352.

Subdivision 2 Requirement for water security program

350 Bulk water supply authority to have water security program

The bulk water supply authority must have a water security program complying with section 353 to facilitate the achievement of the desired level of service objectives for water security for the SEQ region or each part of the SEQ region.

Maximum penalty—1,665 penalty units.

351 Nominated water service providers to have water security program

A nominated water service provider for a designated region or part of a designated region must have a water security program complying with section 353 to facilitate the achievement of the desired level of service objectives for water security for the designated region or the part of the designated region.

Maximum penalty—1,665 penalty units.

352 Particular water service providers to have water security program

(1) This section applies if there is no nominated water service provider for a designated region.

(2) A water service provider for the designated region or part of the designated region must have a water security program complying with section 353 to facilitate the achievement of the desired level of service objectives for water security for the designated region or the part of the designated region.

Maximum penalty—1,665 penalty units.

353 Content of water security program

(1) A water security program must include information about a designated water security entity's arrangements, strategies or measures for—

(a) operating the designated water security entity's assets for providing water services in the region or part of the region to which the water security program relates; and

(b) addressing future infrastructure needs, including building new infrastructure or augmenting existing infrastructure; and

(c) managing the infrastructure relevant to the designated water security entity's operations; and

(d) managing demand for water; and

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(e) responding to drought conditions; and

(f) any other matter prescribed under a regulation.

(2) The chief executive may make guidelines to provide information and guidance to a designated water security entity about the content of a water security program.

(3) Subsections (1) and (2) do not limit what may be included in a water security program.

(4) A water security program may comprise 1 or more existing documents that comply with the requirements of this section.

Subdivision 3 Preparing and finalising water security program

354 Preparing draft water security program

A designated water security entity must prepare a draft water security program.

355 Consultation for draft water security program

(1) In preparing the draft water security program, the designated water security entity must make reasonable endeavours to consult with each of the designated water security entity's customers likely to be affected by the water security program.

(2) A failure to comply with subsection (1) does not invalidate or otherwise affect the program.

356 Chief executive to review draft water security program

(1) After preparing the draft water security program, the designated water security entity must give the chief executive the draft water security program.

(2) The chief executive must review the draft water security program and decide whether to recommend changes to the draft water security program.

(3) If the chief executive decides not to recommend changes, the chief executive must give the designated water security entity notice of the decision within 30 days after receiving the draft water security program.

357 Special procedures for draft water security program if changes recommended

(1) This section applies if the chief executive decides to recommend a change, other than a change to correct a minor error or another change that is not a change of substance, to the draft water security program.

(2) Within 30 days after receiving the draft water security program, the chief executive must give the designated water security entity notice of the decision and request it to—

(a) consider, or further consider, any matter and deal with the matter in the draft program; and

(b) revise the draft program in the light of its consideration or further consideration.

(3) Within 14 days after receiving the notice, the designated water security entity must consider the request and decide whether to revise the draft program.

(4) If the designated water security entity decides to revise the draft water security program, the designated water security entity must prepare a revised draft water security program within 14 days after making the decision.

(5) If the designated water security entity prepares a revised draft water security program, section 356 and this section apply—

(a) as if a reference in the subdivision to a draft water security program were a reference to the revised draft water security program; and

(b) with any other necessary changes.

(6) If the designated water security entity decides not to revise the draft water security program, the designated water security entity must, within 14 days after making the decision, give the

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chief executive notice of the decision and the reasons for the decision.

358 Finalisation and publication of water security program

(1) This section applies if—

(a) the chief executive gives the designated water security entity a notice under section 356(3); or

(b) the designated water security entity gives the chief executive a notice under section 357(6).

(2) The designated water security entity may finalise the water security program.

(3) As soon as practicable after finalising the water security program, the designated water security entity must publish the program on its website.

(4) The water security program does not have effect until it is published under subsection (3).

(5) Despite subsection (3), the designated water security entity may decide not to publish or allow inspection of any part of the water security program the designated water security entity is reasonably satisfied contains sensitive security information.

Subdivision 4 Review and amendment of water security program

359 Review of water security program

(1) A designated water security entity must review its water security program at least every 5 years.

(2) The designated water security entity must also review its water security program if there is a significant change in any matter affecting, or likely to affect, the achievement of the desired level of service objectives for water security.

360 Amendment of water security program

(1) A designated water security entity may amend its water security program.

(2) The designated water security entity must amend its water security program if—

(a) the designated water security entity considers it reasonably necessary to amend the program as a result of a review under section 348; or

(b) the chief executive directs the designated water security entity to amend the program.

360A Procedure for amending water security program

(1) For amending a water security program, subdivision 3 applies—

(a) as if a reference in the subdivision to a draft water security program were a reference to the draft amendments of the water security program; and

(b) with any other necessary changes.

(2) However, subsection (1) does not apply if the amendment is only to correct a minor error in the water security program or make another change that is not a change of substance.

Subdivision 5 Miscellaneous provision

360B Designated water security entity not required to prepare drought management plan under Water Supply Act

(1) This section applies to a designated water security entity if the entity has a water security program for the SEQ region, a designated region or part of the SEQ region or designated region.

(2) Despite the Water Supply Act, section 123, the designated water security entity is not required to have a drought

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management plan under that Act for the region or the part of the region.

Part 3 Arrangements for SEQ region

Division 1 Preliminary

360C Definitions for pt 3

In this part—

agreement amendment see section 360H(2).

bulk services means each of the following—

(a) a water service or a part of a water service;

(b) a service relating to the supply of water.

bulk water customer means—

(a) an SEQ service provider; or

(b) an entity declared under a regulation to be a bulk water customer for this part.

bulk water party means—

(a) a bulk water customer; or

(b) an SEQ bulk supplier.

bulk water supply agreement see section 360G(1).

bulk water supply code see section 360M(1).

code-regulated entity means—

(a) a bulk water party; or

(b) an entity declared under a regulation to be a code-regulated entity for this part.

emergency plan means a plan of a type the bulk water supply code states is required to be made by a code-regulated entity for an emergency related to water.

mandatory term see section 360G(2)(a).

SEQ bulk supplier means—

(a) the bulk water supply authority; or

(b) an entity declared under a regulation to be an SEQ bulk supplier for this part.

360D Operation of pt 3

This part provides for the following to optimise the efficient and reliable supply of water for the SEQ region—

(a) the preparation of agreements for the supply of bulk services between SEQ bulk suppliers and bulk water customers;

(b) the making of a code to—

(i) decide costs and prices; and

(ii) regulate the way in which entities supply bulk services.

360E Application of pt 3

This part applies to bulk services whether or not the bulk services are supplied in the SEQ region.

360F Obtaining information

(1) For this part, the chief executive may give the bulk water supply authority a notice requiring information about 1 or more of the following—

(a) demand for bulk services from bulk water customers;

(b) operating arrangements for the authority's assets or infrastructure;

(c) the costs or revenue of the authority for bulk services;

(d) other information the chief executive reasonably requires for the administration of this part.

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(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; and

(c) may require the information for 1 or more of the following—

(i) a particular period of time;

(ii) each bulk water customer or class of bulk water customer;

(iii) a local government area or part of a local government area.

(3) The bulk water supply authority must comply with the notice, unless it has a reasonable excuse.

Maximum penalty—200 penalty units.

Division 2 Bulk water supply agreements

360G Making agreement

(1) The Minister may make a document (a ***bulk water supply agreement***), in the form of a contract, providing for the supply of bulk services, stated in the document, between an SEQ bulk supplier, named in the document, and a bulk water customer, named in the document.

(2) A bulk water supply agreement may include—

(a) terms that must not be amended (each a ***mandatory term***); and

(b) terms that may be amended by the bulk water parties named in the agreement.

(3) A bulk water supply agreement has effect as a contract between each bulk water party named in the agreement on the day the agreement is made by the Minister.

(4) A bulk water supply agreement has effect as a contract whether or not—

(a) it is executed by each bulk water party named in the agreement, other than to the extent an amendment to the agreement must be executed under section 360H; or

(b) an amount payable for the supply of bulk services is provided for under the agreement.

360H Bulk water party may amend non-mandatory terms of agreement

(1) A bulk water party for a bulk water supply agreement may amend the agreement, including by adding a term to the agreement, to the extent the amendment does not conflict with a mandatory term of the agreement.

(2) An amendment to a bulk water supply agreement (an ***agreement amendment***) must be—

(a) executed by each bulk water party for the agreement; and

(b) given to the Minister as soon as practicable after the amendment has been executed.

(3) An agreement amendment takes effect on the day it is executed under subsection (2)(a).

360I Minister's direction about agreement amendment

(1) The Minister may direct a bulk water party for a bulk water supply agreement to change an agreement amendment if the Minister considers the agreement amendment conflicts with a mandatory term of the bulk water supply agreement.

(2) Before giving a direction under subsection (1), the Minister must—

(a) within 2 months after the day the Minister receives the agreement amendment, give each bulk water party for the bulk water supply agreement a notice stating—

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(i) the reasons why the Minister considers the agreement amendment conflicts with a mandatory term; and

(ii) that the bulk water party may, within the period of at least 10 business days stated in the notice, make a submission to the Minister about the agreement amendment and the reasons mentioned in subparagraph (i); and

(b) consider any submissions made by a bulk water party under paragraph (a).

(3) If the Minister gives a direction under subsection (1), the agreement amendment is taken never to have had effect.

360J Offence to fail to comply with Minister's direction about agreement amendment

A bulk water party must comply with a direction given to it by the Minister under section 360I.

Maximum penalty—1,665 penalty units.

360K Record of bulk water supply agreements

The chief executive must keep a copy of each agreement and each agreement amendment made under this part, as in force from time to time.

360L Liability of bulk water parties

(1) A bulk water party is not civilly liable to another bulk water party (a ***relevant entity***) for any consequential loss suffered by the relevant entity arising out of, or in relation to, an act or omission, including a negligent act or omission, of the bulk water party in the performance of, or in a failure to perform, its functions under this Act or its obligations—

(a) other than to the extent that the consequential loss was caused, or contributed to, by the wilful default of the bulk water party; or

(b) if the bulk water party recovers compensation from an entity in relation to the consequential loss suffered by the relevant entity—other than to the extent of the net compensation amount.

(2) To remove any doubt, it is declared that—

(a) nothing in this section is taken—

(i) to create a cause of action against a bulk water party; or

(ii) to limit the liability of the bulk water party to an entity for a claim for personal injury suffered by the entity; and

(b) to the extent that an act or omission of a bulk water party is inconsistent with a contract, in force immediately before the commencement of this section, to which the bulk water party and a relevant entity are parties, the bulk water party's liability to the relevant entity is limited by subsection (1).

(3) A bulk water party may, in a contract, expressly vary or exclude the operation of subsection (1) in relation to the liability of the bulk water party to another party to the contract.

(4) Subsection (1) does not apply to a bulk water party to the extent that a contract mentioned in subsection (3) expressly varies or excludes its operation in relation to the other party to the contract.

(5) In this section—

consequential loss includes the following—

(a) any loss of anticipated or actual revenue or profits;

(b) loss of use of equipment;

(c) business interruption or a failure to realise anticipated savings;

(d) loss of data;

(e) downtime costs or wasted overheads;

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(f) loss of goodwill or business opportunity;

(g) punitive or exemplary damages;

(h) any special or indirect loss or damage of any nature whatsoever.

function includes power.

net compensation amount, for compensation recovered by a bulk water party, means the compensation less an amount that represents any loss suffered by the bulk water party in relation to the consequential loss and any costs incurred in recovering the compensation.

obligations, of a bulk water party, means the bulk water party's obligations under the following—

(a) the bulk water supply code or operating protocols;

(b) a bulk water supply agreement in which the bulk water party is named as a party;

(c) an instrument made, or direction given, under the bulk water supply code or operating protocols.

operating protocols means the operating protocols made under the bulk water supply code.

perform includes purport to perform.

wilful default, by a bulk water party, includes—

(a) any fraudulent conduct, including concealment; and

(b) any criminal conduct; and

(c) any intentional or reckless breach of, or failure to remedy a breach of, the bulk water party's obligations.

Division 3 Bulk water supply code

Subdivision 1 General provisions about code

360M Minister's power to make code

(1) Subject to subdivision 2, the Minister may make a code (the ***bulk water supply code***) for the SEQ region about the supply of bulk services by a code-regulated entity.

(2) The bulk water supply code applies to each code-regulated entity whether or not the entity supplies bulk services under a bulk water supply agreement.

(3) The bulk water supply code is a statutory instrument under the *Statutory Instruments Act 1992* but is not subordinate legislation.

360N Content of code—costs and prices

(1) The bulk water supply code may establish principles for deciding the following categories of costs and prices—

(a) the bulk water cost;

(b) the bulk water price;

(c) the other user price.

(2) The bulk water cost is the cost for the bulk water supply authority to supply bulk services.

(3) The bulk water price is the price the bulk water supply authority may charge an SEQ service provider for the supply of bulk services.

(4) The other user price is the price the bulk water supply authority may charge a bulk water customer, other than an SEQ service provider, for the supply of bulk services.

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360O Content of code—general

The bulk water supply code may include the following—

(a) the rights and obligations of a code-regulated entity under the code;

(b) operating requirements for a code-regulated entity;

(c) requirements to make or comply with an emergency plan;

(d) the principles for the supply of bulk services by an SEQ service provider to the bulk water supply authority, including the principles for the bulk water supply authority to pay a charge for the bulk services;

(e) provision for an entity to give advice to the Minister about—

(i) the principles mentioned in paragraph (d); or

(ii) costs or prices under the code; or

(iii) any other thing that may affect costs or prices under the code;

(f) the way in which an entity to which paragraph (e) applies may investigate a matter under the code;

(g) whether any part of the code may be amended without consultation;

(h) any other thing the Minister considers appropriate to facilitate the supply of bulk services.

360P When code takes effect

(1) The Minister must notify the making of the bulk water supply code.

(2) The notice made under subsection (1) is subordinate legislation.

(3) The bulk water supply code takes effect—

(a) on the day the Minister's notice is notified; or

(b) if a later day is stated in the Minister's notice—on that day.

360Q Tabling of code

(1) Within 21 days after the bulk water supply code or an amendment of the code takes effect, the Minister must table a copy of the code or the amendment in the Legislative Assembly.

(2) The copy is tabled for information only.

(3) A failure to table a copy does not affect the bulk water supply code's ongoing effect.

360R Publication of code

The chief executive must publish the bulk water supply code, as in force from time to time, on a Queensland Government website.

360S Compliance with code

A code-regulated entity must not contravene a provision of the bulk water supply code.

Maximum penalty—

(a) for contravention of a provision about making or complying with an emergency plan—1,665 penalty units; or

(b) otherwise—200 penalty units.

360T Civil liability not affected by code

(1) Compliance or noncompliance with the bulk water supply code does not—

(a) create a civil cause of action based on the compliance or noncompliance; or

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(b) affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

(2) Without limiting subsection (1)(b), compliance with the bulk water supply code does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.

Subdivision 2 Process for making or amending code

360U Consultation for code

(1) If the Minister proposes to make or amend the bulk water supply code, the Minister must consult with each code-regulated entity affected by the proposed code or amendment.

(2) For subsection (1), the Minister must ensure that each code-regulated entity is given a reasonable opportunity to make submissions to the Minister about the proposed code or amendment.

(3) However, the Minister may amend the bulk water supply code without consultation if the Minister proposes to—

(a) correct a minor error in the code; or

(b) make an amendment of a type the code states may be made without consultation.

Division 4 Supply of bulk services

360V Supply under bulk water supply agreement

(1) The supply of bulk services, other than the supply of an exempt water service, may be made only under a bulk water supply agreement between an SEQ bulk supplier and a bulk water customer for the bulk services.

(2) In this section—

exempt water service means a water service declared under a regulation to be exempt from requiring a bulk water supply agreement for the supply of the water service.

360W Minister may decide cost or price

(1) The Minister may, under the principles in the bulk water supply code, decide a cost or price mentioned in section 360N for a particular period.

(2) Before deciding a cost or price, the Minister may seek advice from an entity nominated to provide advice about costs or prices to the Minister under the bulk water supply code.

(3) The Minister must consider any advice given by an entity under subsection (2) before deciding a cost or price.

(4) A decision of the Minister under subsection (1) has effect on the day decided by the Minister and stated in the notice mentioned in subsection (5)(a).

(5) The Minister must, as soon as practicable—

(a) give notice of the Minister's decision to each code-regulated entity affected by the decision; and

(b) amend each bulk water supply agreement affected by the decision.

(6) If a cost or price decided by the Minister for the supply of bulk services is inconsistent with the cost or price for the bulk services under a bulk water supply agreement, the cost or price decided by the Minister prevails to the extent of any inconsistency.

(7) If the Minister does not intend to decide a cost or price under subsection (1), the Minister must give a notice to each SEQ bulk supplier advising—

(a) that the SEQ bulk supplier may decide the cost or price under the principles in the bulk water supply code; and

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(b) the period for which the SEQ bulk supplier may decide the cost or price.

(8) The notice under subsection (7) must be given at least 4 months before the period under subsection (7)(b) starts.

360X Amended cost or price

(1) The Minister may, at any time, amend a cost or price decided by the Minister under section 360W(1).

(2) Section 360W(2) to (6) applies for amending a cost or price as if a reference in the subsections to a decision for a cost or price were a reference to a decision for an amended cost or price.

360Y Limitation of review

(1) Unless there is a determination by the Supreme Court that a decision of the Minister under section 360W or 360X is affected by jurisdictional error, the decision—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

(2) In this section—

decision includes a decision or conduct leading up to or forming part of the process of making a decision.

360Z Minister's direction about bulk services supplied by SEQ service provider

(1) This section applies if—

(a) an SEQ service provider supplies bulk services to the bulk water supply authority under a bulk water supply agreement; and

(b) the SEQ service provider and the bulk water supply authority can not agree, under the terms of the bulk water supply agreement, about a matter relating to the supply of, or the charge for, the bulk services.

(2) The Minister may, under the principles in the bulk water supply code, give the SEQ service provider or the bulk water supply authority a direction about 1 or both of the following—

(a) the supply of bulk services by the SEQ service provider to the bulk water supply authority, including a direction to the SEQ service provider to give the bulk water supply authority access to infrastructure owned by the SEQ service provider;

(b) the charge payable for bulk services supplied by the SEQ service provider to the bulk water supply authority.

(3) The SEQ service provider or the bulk water supply authority must comply with a direction given to it by the Minister under subsection (2).

Maximum penalty—1,665 penalty units.

Not authorised—indicative only

Not authorised—indicative only

Chapter 3 Underground water management

Part 1 Preliminary

Division 1 Interpretation

361 Purpose of ch 3

(1) The purpose of this chapter is to provide for the management of impacts on underground water caused by the exercise of underground water rights by resource tenure holders.

(2) This purpose is achieved primarily by—

(a) providing a regulatory framework to—

(i) require resource tenure holders to monitor and assess the impact of the exercise of underground water rights on water bores and to enter into make good agreements with the owners of the bores; and

(ii) require the preparation of underground water impact reports that establish underground water obligations, including obligations to monitor and manage impacts on aquifers and springs; and

(ii) manage the cumulative impacts of the exercise of 2 or more resource tenure holders' underground water rights on underground water; and

(b) giving the chief executive and the office functions and powers for managing underground water.

362 Definitions for ch 3

In this chapter—

authorised use or purpose, of water, means the use or purpose for which the taking of the water is authorised under this Act.

baseline assessment see section 394.

bore owner, of a water bore, means the owner of the land on which the bore is located.

bore trigger threshold, for an aquifer, means a decline in the water level in the aquifer that is—

(a) if a regulation prescribes the bore trigger threshold for an area in which the aquifer is situated—the prescribed threshold for the area; or

(b) otherwise—

(i) for a consolidated aquifer—5m; or

(ii) for an unconsolidated aquifer—2m.

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.

consolidated aquifer means an aquifer consisting predominantly of consolidated sediment.

consultation day, for a proposed underground water impact report or final report, means the day a notice is first published about the proposed report under section 382(1).

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.

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impact considerations, in relation to a resource tenure holder, means the following—

(a) the impacts, or likely impacts, of the exercise of the holder's underground water rights on a water bore or spring;

(b) the location and area of the holder's resource tenure;

(c) the holder's water monitoring authorities;

(d) existing water monitoring infrastructure or equipment put in place by the holder;

(e) existing make good agreements entered into by the holder;

(f) existing agreements entered into by the holder with other resource tenure holders about managing the impacts of the exercise of underground water rights.

make good obligations, of a resource tenure holder for a water bore, see section 409.

production testing means—

(a) for a petroleum tenure granted under the Petroleum and Gas Act—

(i) ATP production testing under section 71A of that Act; or

(ii) if section 71A does not apply—PL production testing under section 150A of that Act; or

(b) for a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*—testing authorised under the petroleum tenure, for petroleum production in the area of the tenure.

relevant underground water rights means—

(a) in relation to an underground water impact report, the underground water rights of—

(i) if the report is for a cumulative management area—the holders of each CMA tenure within the

area to which the report relates, other than the holder of a closing CMA tenure; or

(ii) if the report is for a resource tenure—the holder of the resource tenure; or

(b) in relation to a final report for the end of a resource tenure—the underground water rights of the holder of the resource tenure.

report obligation means a requirement with which a responsible tenure holder must comply under an approved underground water impact report or final report.

Note—

See, for example, sections 376 (Content of underground water impact report), 377 (Content of final report), 378 (Content of water monitoring strategy), 379 (Content of spring impact management strategy) and 390 (Compliance with approved reports).

responsible entity see section 368.

responsible tenure holder see section 369.

start day, for a petroleum tenure, means—

(a) the earlier of the following—

(i) the day production testing starts in the area of the petroleum tenure;

(ii) the day production of petroleum starts in the area of the petroleum tenure; or

(b) if production testing or production of petroleum has already started in the area of the tenure on the day this definition commences—the day this definition commences.

unconsolidated aquifer means an aquifer other than a consolidated aquifer.

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

underground water obligation, of a resource tenure holder, means a make good obligation of the holder for a water bore,

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or a report obligation for which the holder is the responsible tenure holder.

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.

water monitoring bore means a water bore used for monitoring impacts on underground water caused by the exercise of underground water rights of resource tenure holders.

363 Water bores to which ch 3 applies

(1) This chapter applies to a water bore if—

(a) the taking of, or interference with, water from the bore is authorised under this Act; and

(b) if the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997* required a development approval under that Act in relation to the bore for operational work for the taking of, or interfering with, water under this Act— the approval has been granted.

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

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.

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(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.

Division 2 Cumulative management areas

365 Declaring cumulative management areas

(1) This section applies if the chief executive considers an area containing 2 or more resource tenures may be affected by the exercise of underground water rights by the tenure holders.

(2) The chief executive may, by gazette notice, declare the area to be a cumulative management area for resource tenures identified in the gazette notice.

(3) The gazette notice must describe the area for which the declaration is made.

(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 cumulative management area, the chief executive may decide whether the tenure, or part of the tenure, is a CMA tenure and, in deciding this, must have regard to—

(a) the impacts on underground water caused by, or likely to be caused by, the exercise of underground water rights by the tenure holder; and

(b) advice from the Office of Groundwater Impact Assessment, the tenure holder and any other entity the chief executive considers appropriate.

(4) The chief executive must, within 20 business days—

(a) give notice of the declaration to the office and each CMA tenure holder in the cumulative management area, other than the holder of a closing CMA tenure; and

(b) publish a map showing the cumulative management area on a Queensland Government website.

(5) A failure to comply with subsection (4) does not invalidate or otherwise affect the declaration of the cumulative management area in relation to the identified resource tenures.

Division 3 General obligations of resource tenure holders

366 Obligation to use best endeavours to obtain approvals

(1) A resource tenure holder must use its best endeavours to obtain any approval necessary to comply with its obligations under this chapter.

(2) In this section—

approval includes a licence, permit, authorisation, consent, permission or other authority required under this Act or another Act.

367 Obligation to use best endeavours to obtain information

A responsible entity or other resource tenure holder must use its best endeavours to obtain all information about water bores necessary to comply with its obligations under this chapter.

Examples of using best endeavours—

- searching a database of information relevant to underground water management kept by the department
- asking a landowner to disclose the location and details of water bores

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Not authorised—indicative only

Part 2 Reporting

Division 1 Preliminary

368 Who is a *responsible entity*

A ***responsible entity*** is—

(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.

369 Who is a *responsible tenure holder*

(1) A ***responsible tenure holder***, for a make good obligation for a water bore or a report obligation, for a resource tenure to which an approved underground water impact or final report relates, is—

(a) if the report is an underground water impact report for a cumulative management area—the resource tenure holder identified in an underground water impact report as the responsible tenure holder for the obligation; or

(b) if the report is an underground water impact report or final report for a resource tenure, including a closing CMA tenure—the holder of the resource tenure.

(2) Also, a resource tenure holder directed under section 418 to undertake a bore assessment of a water bore is a ***responsible tenure holder*** for the make good obligations for the bore.

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 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

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holder must give the chief executive an underground water impact report under section 370; and

(b) an information notice about the decision.

Division 2 Underground water impact reports

370 Obligation to give underground water impact report

(1) Subject to sections 370A, 370B and 371, a responsible entity must, within the period or by the day mentioned in subsection (2) or (3), give the chief executive an underground water impact report that complies with subsection (2)(a) and (d) for—

(a) if the responsible entity is the office—each cumulative management area; or

(b) if the responsible entity is a resource tenure holder—the resource tenure.

Maximum penalty—1,665 penalty units.

(2) An underground water impact report must—

(a) comply with the requirements under division 4; and

(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

(c) be given within 10 business days after each third anniversary of the day the first underground water impact report for the cumulative management area or resource tenure took effect or, if the chief executive agrees to a later day, the later day; and

(d) be accompanied by a submissions summary under section 383; and

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

(3) However, the chief executive may, by notice given to the responsible entity, require the entity to give the report—

(a) for a report to which subsection (2)(b) applies—within a reasonable period that ends earlier than the initial report period; or

(b) for a report to which subsection (2)(c) applies—before the day mentioned in subsection (2)(c), if the earlier day allows the entity a reasonable period to give the report.

(4) In this section—

initial report period means 14 months after—

(a) if the responsible entity is the office—the day the cumulative management area is declared; or

(b) if the responsible entity is a resource tenure holder—

(i) the start day for the tenure; or

(ii) if this section applies because of section 371(3)—the day the renewal of the resource tenure is granted.

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.

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(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 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'.

371 When obligation to give underground water impact report does not apply—notice of closure

(1) This section applies if—

(a) a resource tenure holder is required under section 370(1) to give the chief executive an underground water impact report; and

(b) before the report is given under that section, the resource tenure holder gives the chief executive a notice of closure for the tenure.

(2) Section 370 does not apply to the holder.

(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.

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Not authorised—indicative only

Division 3 Notices of closure and final reports

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.

(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.

373 Obligation to give notice of closure—relevant events

(1) This section applies to a resource tenure holder if—

(a) the obligation to give a final report does not apply to the holder because the holder makes a renewal application for the tenure before the time for making the application expires; and

(b) after the holder gives the chief executive a written declaration stating that the holder intends to apply for a renewal of the tenure, any of the following happens (each a ***relevant event***)—

(i) the holder withdraws the renewal application;

(ii) the renewal application for the tenure is rejected;

(iii) the renewal application is granted, and the holder later makes a surrender application for the tenure.

(2) The holder must, on the day the relevant event happens, give the chief executive a notice of closure complying with section 372(3).

Maximum penalty—500 penalty units.

(3) However, subsection (2) applies only if the resource tenure holder has started exercising its underground water rights.

374 Obligation to give final report

(1) This section applies if a notice of closure for a resource tenure is given by the holder of the resource tenure under section 372 or 373.

(2) The chief executive must, as soon as practicable after the notice of closure is received, give a notice requiring a final report to be given for the tenure within the reasonable period stated in the notice to—

(a) for a CMA tenure other than a closing CMA tenure—the office as responsible entity for the cumulative management area; or

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Not authorised—indicative only

(b) for a closing CMA tenure or other resource tenure—the holder of the resource tenure.

(3) The chief executive must give a copy of a notice given to the office for a cumulative management area under subsection (2)(a) to each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.

(4) Subject to section 375, the responsible entity must, within the period stated in the notice given under subsection (2), give the chief executive a final report for the resource tenure that complies with division 4.

Maximum penalty—1,665 penalty units.

(5) A final report must be accompanied by a submissions summary under section 383 and the fee prescribed by regulation.

375 When obligation to give final report does not apply

(1) Subsection (2) applies if—

(a) a holder's resource tenure is ending other than by a surrender application; and

(b) the chief executive gives a notice to the holder under section 374(2); and

(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.

(2) Section 374(4) does not apply to the holder if the holder makes a renewal application for the tenure before the time for making the application expires, unless the holder later gives a notice of closure under section 373.

(3) Subsection (4) applies if a resource tenure holder has made a surrender application for the tenure and, after a notice of closure is given, the holder withdraws the surrender application.

(4) Section 374(4) does not apply to the holder.

(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.

Division 4 Requirements for underground water impact reports and final reports

Subdivision 1 Content

376 Content of underground water impact report

(1) An underground water impact report must include each of the following—

(a) for the area to which the report relates—

(i) the quantity of water produced or taken from the area because of the exercise of any previous relevant underground water rights; and

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.

(ii) an estimate of the quantity of water to be produced or taken because of the exercise of the relevant underground water rights for a 3-year period starting on the consultation day for the report;

(b) for each aquifer affected, or likely to be affected, by the exercise of the relevant underground water rights—

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Not authorised—indicative only

(i) a description of the aquifer; and

(ii) an analysis of the movement of underground water to and from the aquifer, including how the aquifer interacts with other aquifers; and

(iii) an analysis of the trends in water level change for the aquifer because of the exercise of the rights mentioned in paragraph (a)(i); and

(iv) a map showing the area of the aquifer where the water level is predicted to decline, because of the taking of the quantities of water mentioned in paragraph (a), by more than the bore trigger threshold within 3 years after the consultation day for the report; and

(v) a map showing the area of the aquifer where the water level is predicted to decline, because of the exercise of relevant underground water rights, by more than the bore trigger threshold at any time;

Note—

If the underground water impact report or final report is approved, the mapped areas mentioned in subparagraphs (iv) and (v) establish immediately affected and long-term affected areas under section 387.

(c) a description of the methods and techniques used to obtain the information and predictions under paragraph (b);

(d) a summary of information about all water bores in the area shown on a map mentioned in paragraph (b)(iv), including the number of bores, and the location and authorised use or purpose of each bore;

(da) a description of the impacts on environmental values that have occurred, or are likely to occur, because of any previous exercise of underground water rights;

(db) an assessment of the likely impacts on environmental values that will occur, or are likely to occur, because of the exercise of underground water rights—

(i) during the period mentioned in paragraph (a)(ii); and

(ii) over the projected life of the resource tenure;

(e) a program for—

(i) conducting an annual review of the accuracy of each map prepared under paragraph (b)(iv) and (v); and

(ii) giving the chief executive a summary of the outcome of each review, including a statement of whether there has been a material change in the information or predictions used to prepare the maps;

(f) a water monitoring strategy;

(g) a spring impact management strategy;

(h) if the responsible entity is the office—

(i) a proposed responsible tenure holder for each report obligation mentioned in the report; and

(ii) for each immediately affected area—the proposed responsible tenure holder or holders who must comply with any make good obligations for water bores within the immediately affected area;

(i) other information or matters prescribed under a regulation.

(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).

(3) In this section—

environmental value see the *Environmental Protection Act 1994*, section 9.

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Not authorised—indicative only

377 Content of final report

(1) A final report must include each of the matters mentioned in section 376, other than the following—

(a) an estimate of the quantity of water mentioned in section 376(1)(a)(ii);

(b) a map mentioned in section 376(1)(b)(iv);

(c) any of the information mentioned in section 376(1)(d);

(d) a program mentioned in section 376(1)(e);

(e) if the responsible entity is the office—the proposed responsible tenure holders mentioned in section 376(1)(h).

(2) Also, a final report must include—

(a) a summary of information about all water bores in the area shown on a map mentioned in section 376(1)(b)(v), including the number of bores, and the location and authorised use or purpose of each bore; and

(b) a summary about how the make good obligations of the responsible tenure holder for each water bore to which the final report relates have been complied with by the holder over the term of the tenure; and

(c) a summary of the make good obligations of the responsible tenure holder for each water bore that have not yet been complied with by the holder; and

(d) a plan about how the obligations mentioned in paragraph (c) will be complied with.

378 Content of water monitoring strategy

(1) A responsible entity's water monitoring strategy must include the following for each immediately affected area and long-term affected area identified in its underground water impact report or final report—

(a) a strategy for monitoring—

(i) the quantity of water produced or taken from the area because of the exercise of relevant underground water rights; and

(ii) changes in the water level of, and the quality of water in, aquifers in the area because of the exercise of the rights;

(b) the rationale for the strategy;

(c) a timetable for implementing the strategy;

(d) a program for reporting to the office about the implementation of the strategy.

(2) The strategy for monitoring mentioned in subsection (1)(a) must include—

(a) the parameters to be measured; and

(b) the locations for taking the measurements; and

(c) the frequency of the measurements.

(3) If the strategy is prepared for an underground water impact report, the strategy must also include a program for the responsible tenure holder or holders under the report to undertake a baseline assessment for each water bore that is—

(a) outside the area of a resource tenure; but

(b) within the area shown on the map prepared under section 376(1)(b)(v).

(4) If the strategy is prepared for a final report, the strategy must also include a statement about any matters under a previous strategy that have not yet been complied with.

379 Content of spring impact management strategy

(1) A responsible entity's spring impact management strategy must include each of the following for each spring of interest in the area to which the entity's underground water impact report or final report relates—

(a) the details of the spring, including its location;

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(b) an assessment of the connectivity between the spring and the aquifer over which the spring is located;

(c) the predicted risk to, and likely impact on, the ecosystem and cultural and spiritual values of the spring because of a decline in water level of the aquifer over which the spring is located;

(d) a strategy, including the actions to be taken, for preventing or mitigating the predicted impacts on the spring or, if a strategy for preventing or mitigating the predicted impacts on the spring under paragraph (c) is not included, the reason for not including the strategy;

(e) a timetable for implementing the strategy;

(f) a program for reporting to the office about the implementation of the strategy.

(2) If the strategy is prepared for a final report, the strategy must also include a statement about any matters under a previous strategy that have not yet been complied with.

(3) In this section—

cultural and spiritual values, of a spring, means its aesthetic, historical, scientific, social or other significance to the present generation or past or future generations.

spring of interest means a spring overlying an aquifer affected by underground water rights, if—

(a) the water level in the aquifer is predicted, in an underground water impact report or final report, to decline by more than the spring trigger threshold at the location of the spring at any time; and

(b) the cause of the predicted decline is, or is likely to be, the exercise of the underground water rights.

spring trigger threshold, for an aquifer, means a decline in the water level of the aquifer that is—

(a) if a regulation prescribes the threshold for a particular area—the prescribed threshold for the area; or

(b) otherwise—0.2m.

380 Identifying responsible tenure holders for cumulative management areas

(1) In identifying proposed responsible tenure holders under section 376(1)(h), the office may have regard to the impact considerations relating to each holder of a CMA tenure in the cumulative management area the subject of the report.

(2) The office can not identify the holder of a closing CMA tenure as a proposed responsible tenure holder unless, after the notice of closure for the tenure is given, the tenure does not end.

(3) The office may identify responsible tenure holders using maps showing the areas in which the holders' underground water obligations arise.

Subdivision 2 Consultation by responsible entity

381 Requirement for consultation

Before giving the chief executive an underground water impact report or final report under this part, the responsible entity must consult on the report as required under this subdivision.

382 Public notice and copies of report

(1) The responsible entity must—

(a) publish a notice about the proposed underground water impact report or final report in the way required by the chief executive; and

(b) give a copy of the notice to each owner of a water bore within the area to which the report relates.

(2) The responsible entity for a cumulative management area must also give a copy of the notice to each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.

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(3) The notice must state each of the following—

(a) a description of the area to which the report relates;

(b) that copies of the report may be obtained from the responsible entity;

(c) how the copies may be obtained;

(d) that—

(i) written submissions on the report may be given; and

(ii) the submissions must be given to the responsible entity; and

(ii) a copy of the submissions must be given to the chief executive;

(e) the day that is at least 20 business days after the notice is published by which the submissions may be made;

(f) where the submissions may be given.

(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).

383 Submissions summary

(1) The responsible entity must, before giving the chief executive an underground water impact report or final report under this part—

(a) consider each properly made submission about the report; and

(b) prepare a summary of the submissions (a ***submissions summary***).

(2) The submissions summary must summarise—

(a) the properly made submissions about the report; and

(b) how the responsible entity addressed the submissions; and

(c) any changes the responsible entity has made to the report because of the submissions.

Division 5 Approval of report by chief executive

384 Modifying report before approval

(1) This section applies if, before approving an underground water impact report or final report, the chief executive considers the report is inadequate in a material particular.

Example of a report that is inadequate in a material particular—

In the circumstances, it was appropriate for the water monitoring strategy detailed in the report to include the construction of a water monitoring bore. The construction of the bore is not provided for in the report.

(2) The chief executive may give the responsible entity for the report a notice stating—

(a) why the chief executive considers the report is inadequate in a material particular; and

(b) how the report must be modified; and

(c) that the responsible entity must either—

(i) modify the report in the way stated in the notice and give the amended report to the chief executive within a stated reasonable period; or

(ii) make a submission to the chief executive within a stated reasonable period, which must be at least 20 business days after the notice is given, about why the report should not be modified.

(3) If the responsible entity makes a submission to the chief executive within the stated period and, after considering the submission, the chief executive still considers the report

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should be modified the chief executive may give the responsible entity a notice stating—

(a) how the report must be modified; and

(b) a reasonable period within which the modified report must be given to the chief executive.

(4) If the responsible entity is given a notice under subsection (2) or (3), the entity must comply with it.

Maximum penalty—500 penalty units.

(5) The chief executive may give the responsible entity more than 1 notice under this section.

385 Decision on report

(1) If a responsible entity gives the chief executive an underground water impact report or final report under this part, the chief executive must, within 60 business days after receiving the report, decide—

(a) to approve the report, with or without conditions; or

(b) to require the responsible entity to modify the report under section 384.

(2) A condition imposed under subsection (1)(a) is taken to be part of the report.

(3) If the responsible entity is a resource tenure holder, the chief executive may seek advice from the office before making a decision under subsection (1).

(4) The chief executive must, within 10 business days after approving the report, give notice of the decision to—

(a) the responsible entity for the report; and

(b) if the report relates to a cumulative management area—each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.

(5) The notice must state—

(a) any conditions of the approval; and

(b) the day the approved report takes effect.

(6) An underground water impact report or final report takes effect on the day stated in the notice.

385A Statutory condition of approved underground water impact report

(1) This section applies if the chief executive—

(a) approves an underground water impact report under section 385(1)(a) that includes the program mentioned in section 376(1)(e); and

(b) does not impose a condition on the approval stating the period within which the responsible entity for the report must give the chief executive the information mentioned in section 376(1)(e)(ii).

(2) It is a condition of the approval that the responsible entity must give the chief executive the information mentioned in section 376(1)(e)(ii)—

(a) within 20 business days after each anniversary of the day the report took effect; or

(b) if, within the period mentioned in paragraph (a), the chief executive agrees in writing to a longer period—within the longer period.

(3) This section does not limit the chief executive's power to impose conditions under section 385(1)(a).

386 Publishing approval and making report available

(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—

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(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

(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.

(2) The notice must state—

(a) that copies of the approved report may be obtained from the entity; and

(b) how the copies may be obtained.

(3) The responsible entity must give a copy of the report to any person who requests a copy.

(4) The chief executive must publish each approved underground water impact report and approved final report on a Queensland Government website.

Division 6 Provisions about approved reports

387 Approved underground water impact report or final report establishes immediately affected and long-term affected areas

On the day an underground water impact report or final report takes effect—

(a) the area shown on a map mentioned in section 376(1)(b)(iv) is an ***immediately affected area***; and

(b) the area shown on a map mentioned in section 376(1)(b)(v) is a ***long-term affected area***.

388 Effect of approved underground water impact report

(1) On the day an approved underground water impact report takes effect, the following cease to apply—

(a) if the report relates to a cumulative management area other than an area that is within a closing CMA tenure—any existing underground water impact report relating to the cumulative management area or a resource tenure within the area identified in the CMA gazette notice for the area;

(b) if the report relates to a closing CMA tenure or a resource tenure other than a CMA tenure—any existing underground water impact report relating to the resource tenure.

(2) Subsection (1) does not prevent proceedings being started or continued for an offence under section 390 for a failure to comply with an underground water impact report that has ceased applying under subsection (1), if the failure to comply happened when the report was in effect.

(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.

389 Effect of approved final report

(1) Subsections (2) and (3) apply if—

(a) an approved final report takes effect for a CMA tenure, other than a closing CMA tenure; and

(b) an approved underground water impact report applies to the CMA tenure's cumulative management area.

(2) If the final report conflicts with a matter provided for in the approved underground water impact report prepared for the cumulative management area—

(a) the final report prevails to the extent of the conflict; and

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(b) the underground water impact report is taken to have been amended to agree with the final report; and

(c) the holder of any remaining CMA tenures in the cumulative management area must continue to comply with the approved underground water impact report as amended by the final report under paragraph (b).

(3) If the CMA tenure the subject of the final report is the last CMA tenure in a cumulative management area to end, the underground water impact report for the cumulative management area stops applying when the final report takes effect.

(4) An underground water impact report for a closing CMA tenure or a resource tenure other than a CMA tenure stops applying when a final report for the tenure takes effect.

390 Compliance with approved reports

(1) Each of the following resource tenure holders must comply with an approved underground water impact report, unless the holder has a reasonable excuse—

(a) for a report about a cumulative management area—each responsible tenure holder for a report obligation;

(b) for a report about a resource tenure—the holder of the resource tenure.

Maximum penalty—1,665 penalty units.

(2) The holder of the resource tenure to which a final report relates must comply with the final report, unless the holder has a reasonable excuse.

Maximum penalty—1,665 penalty units.

Division 7 Amending approved reports

391 Minor or agreed amendments of approved report

(1) The chief executive may amend an approved underground water impact report or final report if—

(a) the amendment is only to—

(i) correct a minor error; or

(ii) update a resource tenure holder's details; or

(iii) make another change that is not a change of substance; or

(b) for a report relating to a cumulative management area—the office and any CMA tenure holder other than a closing CMA tenure holder affected by the amendment agree to the amendment; or

(c) for a report for a closing CMA tenure or other resource tenure—the holder of the tenure agrees to the amendment.

(2) If the chief executive amends a report under subsection (1), the chief executive must publish the amended report on a Queensland Government website.

(3) The chief executive must give notice of the amendment to—

(a) the responsible entity for the report; and

(b) if the report relates to a cumulative management area—each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.

(4) Any amendment takes effect on the day stated in the notice.

(5) The chief executive may include in the notice a requirement that the responsible entity—

(a) publish a notice of the amendment in a stated period and in a stated way; and

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Not authorised—indicative only

(b) give a notice of the amendment to any bore owners the chief executive considers may be affected by the amendment.

392 Direction to propose amendment and consult on proposal

(1) This section applies if the chief executive reasonably believes—

(a) there has been a material change in the information or a prediction contained in an approved underground water impact report or final report; or

(b) the information or a prediction contained in an approved underground water impact report or final report is incorrect in a material particular.

(2) The chief executive may give to the responsible entity for the report a notice directing the entity to, within a stated reasonable period—

(a) propose an amendment of the report to address the material change or correct the material particular; and

(b) consult on the proposed amendment in the way required under subsection (4); and

(c) give the proposed amendment to the chief executive for approval under subsection (5).

(3) The responsible entity must comply with the notice.

Maximum penalty—500 penalty units.

(4) In consulting on the proposed amendment, division 4, subdivision 2 applies to the proposed amendment as if a reference in that subdivision to an underground water impact report or final report were a reference to the proposed amendment.

(5) In deciding whether to approve the proposed amendment, division 5 applies to the chief executive's decision as if a reference in that division to an underground water impact

report or final report were a reference to the proposed amendment.

(6) The approved underground water impact report or final report, as amended, takes effect on the day the amendment takes effect under section 385(6).

393 Other amendments

(1) This section applies if—

(a) the chief executive reasonably considers an approved underground water impact report or final report requires amendment because a matter in the report is—

(i) no longer appropriate because there has been a material change in circumstances; or

(ii) inappropriate for another reason; and

(b) the amendment will not adversely affect a bore owner; and

(c) section 391 or 392 does not apply for the amendment.

(2) The chief executive may give the responsible entity for the approved report, and if the responsible entity is the office, any responsible tenure holder who may be affected by the proposed amendment, a notice stating—

(a) why the chief executive considers the approved report requires amendment; and

(b) how the chief executive proposes to amend the approved report; and

(c) that the recipient of the notice may make a submission within a stated time, which must be at least 20 business days, about why the approved report should not be amended.

(3) After considering all properly made submissions about the proposed amendment, the chief executive must decide whether to make the amendment.

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(4) The chief executive must give notice of the decision to any entity given notice of the proposed amendment under subsection (2).

(5) Any amendment takes effect from the day stated in the notice.

(6) The responsible entity for the amended report must, within 10 business days after receiving notice of the amendment, publish a notice about the amendment that complies with subsection (7), and in the way required by the chief executive.

Maximum penalty—50 penalty units.

(7) The notice must state—

(a) that copies of the amended report may be obtained from the entity; and

(b) how the copies may be obtained.

(8) The responsible entity must give a copy of the amended report to any person who requests a copy.

(9) The chief executive must publish the amended report on a Queensland Government website.

Part 3 Baseline assessments

Division 1 Preliminary

394 What is a *baseline assessment*

A ***baseline assessment*** is an assessment of a water bore undertaken by a resource tenure holder to obtain information about the bore, including the following—

(a) the level and quality of water in the bore;

(b) how the bore is constructed;

(c) the type of infrastructure used to pump water from the bore.

Note—

Undertaking a baseline assessment includes analysing data obtained during the assessment to establish the matters in paragraphs (a) to (c).

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 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

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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.

395 Chief executive may make guidelines

(1) The chief executive may make guidelines about the minimum requirements for undertaking a baseline assessment.

(2) Before making the guidelines, the chief executive may consult with the entities the chief executive considers appropriate.

(3) The chief executive must publish the guidelines on a Queensland Government website.

396 Method of undertaking baseline assessment

(1) In undertaking a baseline assessment of a water bore, a resource tenure holder must comply with—

(a) guidelines made by the chief executive under section 395; or

(b) if there are no guidelines—best practice industry standards for carrying out work similar in nature to undertaking a baseline assessment.

Maximum penalty—50 penalty units.

(2) However, subsection (1) does not apply to a baseline assessment that was undertaken before the commencement of this section if the holder obtained information about the water bore that substantially meets the requirements of section 394

and any guidelines made by the chief executive under section 395.

Division 2 Preparing and approving baseline assessment plans

397 Obligation to prepare baseline assessment plan

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

(2) 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.

(3) A petroleum tenure holder must give the chief executive a baseline assessment plan for the area of the holder's tenure before—

(a) the start day for the petroleum tenure; or

(b) if production testing or production of petroleum has already started in the area on the commencement of this section—30 business days after the commencement; or

(c) if a longer period is agreed by the chief executive—the longer period.

Maximum penalty—500 penalty units.

(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

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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.

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 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.

399 Approval of baseline assessment plan

(1) If a baseline assessment plan is given to the chief executive under section 397, the chief executive must—

(a) approve the plan, with or without conditions; or

(b) ask the holder to amend the plan and submit the amended plan within a stated reasonable period.

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

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Maximum penalty—50 penalty units.

(2) The chief executive must give notice of the decision to the resource tenure holder within 10 business days after making the decision.

(3) If the chief executive approves the plan, the plan takes effect on the day stated in the notice.

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.

Division 3 Amending approved baseline assessment plans

401 Application to amend

(1) A resource tenure holder may apply in writing to the chief executive for an amendment of the holder's approved baseline assessment plan for the area of the resource tenure.

(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

(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.

(3) The application must state the reasons for the application and be accompanied by the fee prescribed by regulation.

(4) The chief executive may—

(a) approve the amendment, with or without conditions; or

(b) ask the holder to amend the application and submit the amended application within a reasonable period.

(5) The chief executive must give notice of the decision to the resource tenure holder within 10 business days after making the decision.

(6) If the chief executive approves the application, the amendment takes effect on the day stated in the notice.

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Not authorised—indicative only

Division 4 Miscellaneous

402 Direction by chief executive to undertake baseline assessment

(1) This section applies to a water bore if the chief executive reasonably considers the bore is likely, in the future, to be affected by the exercise of a resource tenure holder's underground water rights.

(2) The chief executive may, by notice given to the holder, direct the holder to undertake a baseline assessment of the water bore that complies with this section and section 396.

(3) The notice must state the following—

(a) where the bore is situated;

(b) why the chief executive considers the bore is likely to be affected by the exercise of the holder's rights;

(c) a reasonable period within which the assessment must be undertaken;

(d) that a copy of the notice given under section 405 must be given to the chief executive at the same time the notice is given under that section.

(4) In deciding the holder to whom a direction is to be given under subsection (2), the chief executive must have regard to the impact considerations relating to the holder.

(5) The holder must comply with a direction given under subsection (2), unless the holder has a reasonable excuse.

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

403 Notice of intention to undertake baseline assessment

A resource tenure holder must, at least 10 business days before undertaking a baseline assessment of a water bore, give the bore owner of the bore a notice stating—

(a) when the baseline assessment will be undertaken; and

(b) who will undertake the baseline assessment.

404 Bore owner must give information

(1) To comply with its obligations under this part, a resource tenure holder may ask an owner of land for information about the following—

(a) the location of any water bores on the owner's land;

(b) any other information the holder reasonably requires to undertake a baseline assessment of any bores mentioned in paragraph (a).

(2) If there are water bores located on the owner's land, the owner of the land must comply with any reasonable request by a holder made under subsection (1), if the person has the information.

405 Notice of outcome of baseline assessment

(1) A resource tenure holder must give notice in the approved form of the outcome of a baseline assessment of a water bore to the office and the bore owner within—

(a) if the baseline assessment was undertaken before the commencement of this section—30 business days after the commencement; or

(b) otherwise—30 business days after undertaking the assessment.

Maximum penalty—500 penalty units.

(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.

Not authorised—indicative only

Not authorised—indicative only

Part 4 General agreements about water bores

406 Obligation to negotiate general agreement

(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.

(2) For each water bore the holder reasonably believes has an impaired capacity, the holder must use the holder's best endeavours to negotiate and enter into an agreement with the bore owner of the bore about the following matters—

(a) the reasons for the bore's impaired capacity;

(b) the measures the holder will take to ensure the bore owner has access to a reasonable quantity and quality of water for the authorised use and purpose of the bore;

(c) any monetary or non-monetary compensation payable to the bore owner for impacts on the bore.

407 Effect of an agreement under this part

If an agreement relating to a water bore is entered into under section 406—

(a) the agreement is taken to be a make good agreement for the bore for the purposes of part 5; and

(b) the resource tenure holder is taken to have complied with the holder's obligation to undertake a bore assessment for the bore under section 417.

Part 5 Make good obligations for water bores

Division 1 Preliminary

408 Definition for pt 5

In this part—

immediately affected area bore means a water bore located in an immediately affected area of an aquifer.

409 *Make good obligations* for water bores

(1) The ***make good obligations*** of a resource tenure holder for an immediately affected area bore are—

(a) undertaking a bore assessment of the bore as required under division 2; and

(b) entering into a make good agreement with the bore owner of the bore as required under division 3; and

(c) complying with the make good agreement; and

(d) if asked to vary the make good agreement under section 424—negotiating a variation of the make good agreement.

Not authorised—indicative only

Not authorised—indicative only

(2) The ***make good obligations*** of a resource tenure holder for a water bore other than an immediately affected area bore are—

(a) if the holder is required under section 418 to undertake a bore assessment of the bore—undertaking the bore assessment; and

(b) entering into a make good agreement with the bore owner of the bore as required under division 3; and

(c) complying with the make good agreement; and

(d) if asked to vary the make good agreement under section 424—negotiating a variation of the make good agreement.

410 Who must comply with make good obligations

The responsible tenure holder for a water bore must comply with the make good obligations for the bore.

Division 2 Bore assessments

Subdivision 1 Preliminary

411 What is a *bore assessment*

A ***bore assessment*** is an assessment of a water bore undertaken by a resource tenure holder to establish—

(a) whether the bore has an impaired capacity; or

(b) whether the bore is likely to start having an impaired capacity.

Note—

Undertaking a bore assessment includes analysing data obtained during the assessment to establish the matters in paragraphs (a) and (b).

412 When does a water bore have an *impaired capacity*

(1) An existing water bore has an ***impaired capacity*** if—

(a) there is a decline in the water level of the aquifer at the location of the bore and the exercise of underground water rights has, or has likely, caused or materially contributed to the decline; and

(b) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.

(2) A new water bore has an ***impaired capacity*** if—

(a) there is a decline in the water level of the aquifer at the location of the bore and the exercise of underground water rights has, or has likely, caused or materially contributed to the decline; and

(b) the decline is more than the decline predicted at the location of the bore in the relevant report; and

(c) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.

(3) Also, an existing water bore or a new water bore has an ***impaired capacity*** if—

(a) there is evidence of any of the following (each an ***adverse effect***)—

(i) damage to the bore or to the bore's pumps or other infrastructure;

(ii) that the bore poses a health or safety risk;

(iii) that the bore can no longer, or it is likely that the bore can no longer, provide a reasonable quantity or quality of water for its authorised use or purpose; and

(b) free gas derived from the carrying out of authorised activities under a resource tenure has, or has likely, caused or materially contributed to the adverse effect.

Not authorised—indicative only

Not authorised—indicative only

(4) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.

(5) In this section—

existing water bore means any water bore in existence before the first underground water impact report relating to the area where the bore is located takes effect.

new water bore means a water bore other than an existing water bore.

relevant report, for a new water bore, means the approved underground water impact report—

(a) in effect when the bore is constructed; and

(b) relating to the area where the bore is located.

413 Chief executive may make guidelines

(1) The chief executive may make guidelines about the minimum requirements for undertaking a bore assessment.

(2) Before making the guidelines, the chief executive may consult with the entities the chief executive considers appropriate.

(3) The chief executive must publish the guidelines on a Queensland Government website.

414 Method of undertaking bore assessment

(1) In undertaking a bore assessment of a water bore, a responsible tenure holder must comply with—

(a) guidelines made by the chief executive under section 413; or

(b) if there are no guidelines—best practice industry standards for carrying out work similar in nature to undertaking a bore assessment.

Maximum penalty—50 penalty units.

(2) However, subsection (1) does not apply to a bore assessment undertaken before the commencement of this section if the holder obtained information about the water bore that is sufficient to establish a matter mentioned in section 411.

Subdivision 2 Obligations relating to bore assessments

415 Notice of intention to undertake bore assessment

A responsible tenure holder must, at least 10 business days before undertaking a bore assessment of a water bore, give the bore owner of the bore a notice stating—

(a) when the bore assessment will be undertaken; and

(b) who will undertake the bore assessment.

416 Bore owner must give information

(1) To comply with its obligations under this division, a resource tenure holder may ask an owner of land for information about the following—

(a) the location of any water bores on the owner's land;

(b) any other information the holder reasonably requires to undertake a bore assessment of any bores mentioned in paragraph (a).

(2) If there are water bores located on the owner's land, the owner of the land must comply with any reasonable request by a holder made under subsection (1), if the person has the information.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 3 Obligations to undertake bore assessments

417 Obligation to undertake bore assessment of immediately affected area bore in particular circumstances

(1) This section applies if—

(a) an underground water impact report or an amendment of a report takes effect; and

(b) the report identifies, or the amendment changes the area or location of, an immediately affected area of an aquifer.

(2) For each immediately affected area bore that is not already the subject of a make good agreement, the responsible tenure holder for the bore must, unless the holder has a reasonable excuse, undertake a bore assessment of the bore that complies with this division before—

(a) the day that is 60 business days after the report or amendment takes effect; or

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

Maximum penalty—500 penalty units.

(3) However, subsection (2) does not apply if a bore assessment of the bore has already been undertaken.

418 Direction by chief executive to undertake bore assessment

(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; or

(c) has an impaired capacity.

(2) The chief executive may give a resource tenure holder a notice stating that the holder must either—

(a) undertake a bore assessment that complies with this section and section 414 within a stated reasonable time; or

(b) make a submission within a stated reasonable period of at least 20 business days about why the holder should not be required to undertake the bore assessment.

(3) If the holder undertakes a bore assessment under subsection (2)(a), the holder must give the chief executive a copy of the notice given under section 419.

(4) In deciding the resource tenure holder to whom a notice is to be given under subsection (2), the chief executive must have regard to the impact considerations relating to the holder.

(5) If the holder makes a submission within the stated period and, after considering the submission, the chief executive still considers the holder should undertake the bore assessment, the chief executive may give the holder a notice stating—

(a) that the holder must undertake the bore assessment; and

(b) a reasonable period within which the bore assessment must be undertaken; and

(c) that a copy of the notice given under section 419 must be given to the chief executive.

(6) The holder must comply with a notice given under subsection (2) or (5), unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

(7) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.

(8) In this section—

bore assessment includes an assessment of a water bore to establish—

Not authorised—indicative only

Not authorised—indicative only

(a) whether it can supply a reasonable quantity or quality of water for its authorised use or purpose; and

(b) the reason for any reduced capacity of the water bore to supply the reasonable quantity or quality of water.

419 Notice of outcome of bore assessment

(1) A resource tenure holder must give notice in the approved form of the outcome of a bore assessment to the office and the bore owner for the bore within—

(a) if the bore assessment was undertaken before the commencement of this section—30 business days after the commencement; or

(b) otherwise—30 business days after undertaking the bore assessment.

Maximum penalty—500 penalty units.

(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.

Division 3 Make good agreements

Subdivision 1 Preliminary

420 What is a *make good agreement* for a water bore

(1) A ***make good agreement*** for a water bore is an agreement—

(a) entered into by the following parties—

(i) the responsible tenure holder for the make good obligations for the bore;

(ii) the bore owner; and

(b) that provides for each of the following matters—

(i) the outcome of the bore assessment for the bore;

(ii) whether the bore has or is likely to have an impaired capacity;

(iii) if the bore has or is likely to have an impaired capacity—the make good measures for the bore to be taken by the responsible tenure holder;

(iv) that the agreement may be terminated without penalty during the cooling-off period for the agreement; and

(c) that is not terminated by the bore owner under section 423A at any time during the cooling-off period for the agreement.

(2) In this section—

cooling-off period, for a make good agreement for a water bore, see section 423A(4).

421 What is a *make good measure* for a water bore

A ***make good measure*** for a water bore is any of the following measures—

(a) ensuring the bore owner has access to a reasonable quantity and quality of water for the bore's authorised use or purpose;

Examples—

- bore enhancement by deepening the bore or improving its pumping capacity
- constructing a new bore
- providing a supply of an equivalent amount of water of a suitable quality by piping it from an alternative source

(b) carrying out a plan to monitor the bore, including, for example, by undertaking periodic bore assessments;

(c) giving the bore owner monetary or non-monetary compensation for the bore's impaired capacity.

Not authorised—indicative only

Not authorised—indicative only

422 Persons bound by make good agreement

A make good agreement for a water bore binds the parties to it and each of their successors and assigns, including successors and assigns of the relevant resource tenure.

Note—

See also section 364 (References to resource tenure holder in ch 3).

Subdivision 2 Requirements to enter into make good agreements

423 Requirement to enter into make good agreement and reimburse bore owner

(1) This section applies in relation to a water bore for which a responsible tenure holder has undertaken a bore assessment under division 2.

(2) The holder must use the holder's best endeavours to enter into a make good agreement for the bore with the bore owner by—

(a) the day that is 40 business days after the bore assessment is undertaken; or

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

(3) The holder must—

(a) reimburse the bore owner for any accounting, hydrogeology, legal or valuation costs the bore owner necessarily and reasonably incurs in negotiating or preparing a make good agreement; and

(b) advise the chief executive if the holder enters into the make good agreement.

(4) However, the holder is not required to reimburse the bore owner for hydrogeology costs incurred for work performed other than by an appropriately qualified hydrogeologist.

(5) In this section—

appropriately qualified hydrogeologist means an individual who has the minimum experience or qualifications, stated in the guidelines made by the chief executive under section 413, for undertaking a bore assessment.

423A Termination of make good agreement during cooling-off period

(1) This section applies if the responsible tenure holder for a water bore and the bore owner enter into a make good agreement for the bore.

(2) The bore owner may, within the cooling-off period for the agreement, terminate the agreement by giving written notice to the responsible tenure holder for the water bore.

(3) On the giving of the notice under subsection (2), the terminated agreement is taken never to have had effect.

(4) This section does not apply to a make good agreement for a water bore that is the subject of a decision of the Land Court under division 4, subdivision 4.

(5) In this section—

cooling-off period, for a make good agreement for a water bore, means a period of 5 business days—

(a) starting on the day the make good agreement is entered into; and

(b) ending at 5p.m. on the fifth business day.

Subdivision 3 Obligation to negotiate variation of make good agreements

424 Negotiating variation of make good agreement

(1) This section applies if, after entering into a make good agreement for a water bore, either party to the agreement considers a matter stated in the agreement is not appropriate because—

Not authorised—indicative only

Not authorised—indicative only

(a) of a material change in circumstances; or

(b) 1 or more of the make good measures agreed to is not effective; or

(c) another effective and more efficient make good measure is available.

Examples—

1 The impacts on a water bore because of the exercise of underground water rights are substantially greater than predicted in an underground water impact report.

2 A change in the authorised activities conducted in the area of a tenure is causing a substantial change in the impact of the exercise of underground water rights on aquifer water levels.

(2) A party to the agreement may give a notice to the other party—

(a) stating why the party considers a matter stated in the agreement is not appropriate; and

(b) asking the other party to vary the agreement.

(3) A party to whom a notice is given under subsection (2) must use the party's best endeavours to negotiate a variation of the make good agreement for the water bore that addresses the matters stated in the notice.

(4) Subsection (3) does not prevent the parties to the make good agreement from otherwise agreeing to vary the agreement.

Division 4 Disputes about make good obligations

Subdivision 1 Preliminary

425 Application of div 4

This division applies if—

(a) a resource tenure holder and the owner of a water bore (each a ***party***) can not agree on the terms of a make good

agreement for the bore within the period provided for under section 423, including whether or not the bore has an impaired capacity; or

(b) the parties to a make good agreement for a water bore can not agree about—

(i) whether a matter stated in the agreement is inappropriate for a reason stated in section 424(1); or

(ii) if the parties agree a matter stated in the agreement is inappropriate—the terms of any variation of the agreement; or

(c) a party to a make good agreement for a water bore reasonably believes the other party has not complied with the agreement.

426 Parties may seek conference or independent ADR

(1) This section applies if a dispute arises about a matter mentioned in section 425.

(2) Either party may—

(a) by a notice (a ***conference election notice***) given to the other party and the chief executive—ask the chief executive to direct an authorised officer to call a conference to negotiate a resolution of the dispute; or

(b) by a notice (an ***ADR election notice***) given to the other party—call for the other party to agree to a non-binding alternative dispute resolution process (an ***ADR***) to seek to negotiate a resolution of the dispute.

(3) The ADR may be a non-binding process of any type, including, for example, a case appraisal, conciliation, mediation or negotiation.

(4) A conference election notice must state—

(a) details of the matters the subject of the dispute; and

(b) any other information prescribed by regulation.

Not authorised—indicative only

Not authorised—indicative only

(5) An ADR election notice must state—

(a) details of the matters the subject of the dispute; and

(b) the type of ADR proposed; and

(c) the name of an ADR facilitator, who is independent of both parties, proposed to conduct the ADR; and

(d) that the resource tenure holder is liable for the costs of the ADR facilitator; and

(e) any other information prescribed by regulation.

(6) A party given an ADR election notice must, within 10 business days after the notice is given, accept or refuse the type of ADR, and the ADR facilitator, proposed in the notice.

(7) If the party given an ADR election notice does not accept, under subsection (6), the type of ADR or ADR facilitator proposed in the notice, the party giving the notice may make another proposal, or obtain a decision from the Land Court or a prescribed ADR institute, about the matter not accepted.

(8) If a party obtains a decision under subsection (7) from the Land Court or a prescribed ADR institute, the party must give the other party notice of the decision.

(9) The resource tenure holder must bear the costs of the ADR facilitator.

(10) The *Civil Proceedings Act 2011*, part 6, division 5 applies to an ADR conducted by an ADR facilitator as if—

(a) a reference to an ADR process included a reference to the ADR; and

(b) a reference to an ADR convenor included a reference to the ADR facilitator.

(11) In this section—

ADR facilitator means a person who facilitates an ADR.

prescribed ADR institute means an entity for deciding a type of ADR to be conducted, or an ADR facilitator to conduct an ADR, prescribed by regulation.

427 Duration of conference or ADR

(1) If a conference election notice is given under section 426(2)(a), the authorised officer directed under section 428 to conduct the conference must take all reasonable steps to facilitate the resolution of the dispute within 30 business days after the notice is given (the ***usual period***).

(2) If an ADR election notice is given under section 426(2)(b), the parties must use all reasonable endeavours to resolve the dispute within 30 business days after the notice is given (also the ***usual period***).

(3) Either party may, within the usual period, ask the other party to agree to a longer period to apply instead of the usual period.

(4) If the parties agree to the longer period, that period applies instead of the usual period.

(5) If an ADR is called for, sections 430 and 433 apply to the ADR as if a reference in the sections to a conference were a reference to an ADR.

Subdivision 2 Calling conference and attendance

428 Calling conference

(1) If a conference election notice is given requesting a conference, the chief executive must direct an authorised officer to conduct the conference.

(2) The authorised officer must, by notice, ask the parties to attend a conference to negotiate a resolution of the dispute.

(3) The notice must state what the subject of the conference is and when and where it will be held.

429 Who may attend conference

(1) The authorised officer directed to conduct the conference under section 428 and the parties to the dispute may attend it.

Not authorised—indicative only

Not authorised—indicative only

(2) A party may be represented by an agent only if the authorised officer agrees.

(3) Also, with the authorised officer's approval, someone else may be present to help a party attending the conference.

(4) However, a party can not be represented by a lawyer unless the other party agrees and the authorised officer is satisfied there is no disadvantage to a party.

430 What happens if a party does not attend

(1) This section applies if a party given notice of the conference does not attend.

(2) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.

(3) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.

(4) If the Land Court makes an order under subsection (2), it must decide the amount of the costs.

Subdivision 3 Conduct of conference

431 Authorised officer's role

(1) In conducting a conference, the authorised officer must endeavour to help those attending to negotiate an early and inexpensive settlement of the dispute.

(2) The authorised officer must decide how the conference is conducted.

432 Statements made at conference

Nothing said by a person at the conference is admissible, without the person's consent, in a proceeding.

433 Negotiated agreement

(1) If, at the conference, the parties negotiate an agreement about the matters the subject of the conference, the agreement must be written and signed by or for the parties.

(2) The agreement may be a make good agreement or a variation of an existing make good agreement between the parties.

Subdivision 3A Arbitration

433A Parties may request arbitration

(1) This section applies if—

(a) a party has given a conference election notice, or an ADR election notice, to another party about a dispute about a matter mentioned in section 425(a); and

(b) at the end of the period applying under section 427(2) or (4), the parties have not resolved the dispute.

(2) Either party may give a notice (an ***arbitration election notice***) to the other party requesting the other party to participate in an arbitration to decide the dispute.

(3) The arbitration election notice must state—

(a) details of the matters the subject of the dispute; and

(b) the name of an arbitrator, who is independent of both parties, proposed to conduct the arbitration; and

(c) that, if the request for arbitration is accepted, an application to the Land Court under section 434 for a decision about the dispute can not be made; and

(d) that the costs of the arbitration are payable by the parties as mentioned in section 433E; and

(f) any other information prescribed by regulation.

(4) A party given an arbitration election notice must, within 15 business days after the notice is given, accept or refuse the request for arbitration.

Not authorised—indicative only

Not authorised—indicative only

(5) If the request for arbitration is accepted under subsection (4), the parties may, within 10 business days after the acceptance, jointly appoint the arbitrator proposed under subsection (3)(b), or another arbitrator, to conduct the arbitration.

(6) If the parties do not, under subsection (5), jointly appoint an arbitrator, the party giving the arbitration election notice must require a prescribed arbitration institute to appoint an arbitrator, who is independent of both parties, to conduct the arbitration.

(7) A prescribed arbitration institute does not incur any civil monetary liability for an act or omission in the performance, or purported performance, of a function under subsection (6) unless the act or omission is done or made in bad faith or through negligence.

(8) In this section—

prescribed arbitration institute means an entity for appointing arbitrators that is prescribed by regulation.

433B Arbitrator's functions

(1) The arbitrator has authority to decide the dispute by the issuance of an award.

(2) However, the arbitrator may decide a matter the subject of the dispute only to the extent it is not subject to a make good agreement between the parties.

(3) The award must be made within 6 months after the appointment of the arbitrator.

433D Application of Commercial Arbitration Act 2013

The *Commercial Arbitration Act 2013* applies to the arbitration to the extent it is not inconsistent with this subdivision.

433E Costs of arbitration

(1) If, before the appointment of the arbitrator, the parties have not participated in an ADR about the dispute, the resource tenure holder is liable to pay the fees and expenses of the arbitrator.

(2) If, before the appointment of the arbitrator, the parties have participated in an ADR about the dispute, the parties are liable to pay the fees and expenses of the arbitrator in equal shares unless the parties agree, or the arbitrator decides, otherwise.

(3) Other than as provided under subsection (1) or (2), each party to an arbitration must bear the party's own costs for the arbitration unless the parties agree, or the arbitrator decides, otherwise.

433F Effect of arbitrator's decision

(1) The arbitrator's decision is final.

(2) The parties may not apply for review of, or appeal against, the decision.

(3) The arbitrator's decision does not limit or otherwise affect a power of the Supreme Court to decide a decision of the arbitrator is affected by jurisdictional error.

(4) The arbitrator's decision has the same effect as if the parties had entered into a binding and enforceable agreement to the same effect as the decision.

Subdivision 4 Land Court decision on dispute

434 Deciding dispute through Land Court after unsuccessful conference or ADR

(1) This section applies if—

(a) a party gives another party a conference election notice and the authorised officer does not finish the conference

Not authorised—indicative only

Not authorised—indicative only

within the period required under section 427 (the ***required period***); or

(b) a party gives another party an ADR election notice and the parties do not finish the ADR within the period required under section 427 (also the ***required period***).

(2) This section also applies if—

(a) only 1 of the parties attended the conference or ADR; or

(b) both parties attended the conference or ADR and, at the end of the required period, there is no resolution of the dispute.

(3) However, this section does not apply if—

(a) a party has issued an arbitration election notice about the matters the subject of the conference election notice or ADR election notice; and

(b) the party given the arbitration election notice has accepted, under section 433A(4), the request for arbitration.

(4) An eligible party may apply to the Land Court to decide the matters the subject of the conference election notice or ADR election notice.

(5) In this section—

eligible party means—

(a) if subsection (1) applies—any party to the dispute; or

(b) if subsection (2) applies—a party who attended the conference or ADR.

435 Provisions for making decision

(1) Without limiting the Land Court's jurisdiction, it may decide—

(a) if the dispute is about the terms of a make good agreement for a water bore—the terms of the agreement; or

(b) if the dispute is about varying the terms of a make good agreement for a water bore under section 424—

(i) whether a matter stated in the agreement is inappropriate for a reason stated in section 424; or

(ii) the terms of any variation of the agreement; or

(c) if the dispute is about whether a party to a make good agreement for a water bore has complied with the agreement—whether anything must be done by a party to comply with the agreement.

(2) However, the Land Court may decide to vary a make good agreement for a water bore only to the extent the court considers the variation is appropriate to—

(a) address a material change in circumstances; or

(b) address a make good measure for the bore that is not effective; or

(c) provide for another effective and more efficient make good measure for the bore.

(3) Subject to subsection (2), the Land Court may make any order it considers appropriate about the make good agreement for the water bore or to meet or enforce its decision.

(4) If the Land Court decides terms of a make good agreement for a water bore, the decision is taken to be a make good agreement for the bore.

(5) If the Land Court decides to vary a make good agreement for a water bore, the agreement as varied by the decision is, for this Act, taken to be the make good agreement for the bore.

436 Provisions for deciding any compensation

(1) This section applies if the Land Court decides to include in a make good agreement, or a variation of a make good agreement, for a water bore a term requiring the resource tenure holder to compensate the bore owner.

(2) The compensation may only be for—

Not authorised—indicative only

Not authorised—indicative only

(a) diminution of any of the following because of the impacts on the bore of the exercise of underground water rights by resource tenure holders—

(i) the value of the bore owner's land on which the water bore is located;

(ii) the authorised use or purpose the bore owner has or would have made, of water from the water bore; or

(b) any cost to the bore owner, or loss the bore owner suffers, caused by the impaired capacity of the water bore.

Example for paragraph (b)—

the cost of transporting water to the bore owner's land from an alternative water source

(3) In deciding the amount of the compensation, the Land Court may consider any make good measures for the water bore, whether successful or otherwise, taken or attempted by the resource tenure holder.

Subdivision 5 Successors and assigns

437 Land Court's decision binds successors and assigns

A decision by the Land Court under section 435 binds the parties to the dispute and each of their successors and assigns, including successors and assigns of the relevant resource tenure.

Note—

Under section 422, the parties to a make good agreement for a water bore and each of their successors and assigns is bound by the make good agreement.

437A Arbitrator's decision binding on successors and assigns

(1) This section applies to a decision of an arbitrator under subdivision 3A.

(2) The decision binds the parties to the arbitration that led to the decision, and each of their successors and assigns.

Part 6 End of tenure provisions

438 Application of make good obligations to particular bores

(1) This section applies if—

(a) a final report for a resource tenure is approved under section 385; and

(b) the report identifies a long-term affected area and 1 or more water bores in the long-term affected area.

(2) Part 5 applies for each water bore mentioned in subsection (1)(b) as if—

(a) the long-term affected area was an immediately affected area; and

(b) the bore was an immediately affected area bore; and

(c) the final report was an underground water impact report.

Note—

If a resource tenure ends, a reference in this chapter to a resource tenure holder includes a reference to the holder of the resource tenure immediately before it ended. See section 364.

439 Continuation of underground water obligations

A resource tenure holder's obligation to give a final report under section 374, and the holder's underground water obligations, continue to apply despite the ending of the tenure.

Note—

For access to the relevant land after the tenure ends to allow a resource tenure holder to comply with the holder's underground water obligations, see section 441.

Not authorised—indicative only

Not authorised—indicative only

440 Resource tenure holder may start complying with make good obligations before final report approved

If a resource tenure ends, nothing in this chapter is taken to prevent the holder of the tenure undertaking a bore assessment of a water bore, or entering into a make good agreement for a water bore, before a final report for the tenure is approved.

441 Right of entry after resource tenure ends to comply with particular obligations

(1) This section applies if a resource tenure ends and the former holder of the resource tenure (the ***former tenure holder***)—

(a) is the responsible tenure holder for an underground water obligation; or

(b) has not complied with an obligation to give a final report under part 2; or

(c) has been given a direction by the chief executive under part 8.

(2) The former tenure holder may enter land under the relevant entry provisions to comply with an obligation or direction mentioned in subsection (1).

(3) The relevant entry provisions apply to the former tenure holder as if—

(a) the tenure were still in force; and

(aa) the tenure were a resource authority to which the relevant entry provisions apply; and

(b) the former tenure holder were the holder of the tenure; and

(c) any water monitoring authorities held by the former tenure holder were still in force; and

(d) carrying out an activity to comply with an underground water obligation or a direction given by the chief executive under part 8 were an authorised activity for the tenure.

(4) In this section—

relevant entry provisions means the *Mineral and Energy Resources (Common Provisions) Act 2014*, chapter 3.

Part 8 Directions by chief executive

Division 1 Direction to undertake water monitoring activities

448 Application of div 1

(1) This division applies to a resource tenure holder if there is no approved underground water impact report applying to the area of the holder's resource tenure.

(2) Also, this division applies to a resource tenure holder if—

(a) an approved underground water impact report or final report applies to the holder; and

(b) the chief executive has given the responsible entity for the report—

(i) a notice directing the entity to propose an amendment of the report under section 392; or

(ii) a notice of a proposed amendment under section 393; and

(c) the chief executive either—

(i) has not yet decided whether to approve or to make the amendment; or

(ii) has decided to approve the amendment or to amend the report, but the amendment has not yet taken effect.

Not authorised—indicative only

Not authorised—indicative only

449 Chief executive may direct resource tenure holder to carry out water monitoring activities

(1) The chief executive may give notice to the resource tenure holder to carry out a water monitoring activity for a stated area.

(2) In deciding to give the notice, the chief executive must have regard to the impact considerations relating to the holder.

(3) The notice must state the following—

(a) a reasonable timetable for carrying out the water monitoring activity;

(b) a program for reporting to the office and the chief executive about the implementation of the activity;

(c) the parameters to be measured in carrying out the activity;

(d) the locations for taking the measurements;

(e) the frequency of the measurements.

(4) The holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

(5) In this section—

water monitoring activity, for a resource tenure, means gathering information about, or monitoring, the effects of the exercise of underground water rights by the holder of the tenure.

Division 2 Emergency directions

450 Application of div 2

This division applies if—

(a) the chief executive reasonably believes urgent action is necessary—

(i) to restore water supply to a water bore with an impaired capacity; or

(ii) to prevent or minimise the likelihood of a water bore having an impaired capacity; and

(b) the chief executive is satisfied or reasonably believes failure to take the action may result in 1 or more of the following—

(i) significant economic loss or damage to any person;

(ii) a significant risk to the health of stock;

(iii) a loss of supply of water for domestic purposes or essential services, including, for example, the generation of electricity or the distribution of town water.

451 Power to give direction

(1) The chief executive may, for the purpose of taking the action for a matter mentioned in section 450 and by notice given to a resource tenure holder, direct the holder to take stated reasonable steps within a stated reasonable period.

(2) The notice must state that it is an offence for the holder not to comply with the direction unless the holder has a reasonable excuse.

(3) In deciding to give a direction to a resource tenure holder under subsection (1), the chief executive must consider the impact considerations relating to the holder.

452 Offence to fail to comply with direction

A resource tenure holder given a direction under section 451 must comply with the direction unless the holder has a reasonable excuse.

Maximum penalty—1,665 penalty units.

Not authorised—indicative only

Not authorised—indicative only

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.

453 Chief executive may take action and recover costs

(1) This section applies if a resource tenure holder fails to comply with a direction given under section 451.

(2) The chief executive may take the action.

(3) If the chief executive takes the action, the chief executive may give the holder a notice (a ***cost recovery notice***) requiring the holder to pay the stated costs and expenses reasonably incurred by the chief executive in taking the reasonable steps.

(4) However, subsection (3) does not apply if the chief executive is satisfied the holder had a reasonable excuse for not complying with the direction.

(5) The cost recovery notice must state the following—

(a) the name of the holder;

(b) the location of the water bore to which the action related;

(c) a description of the action taken;

(d) the amount of the costs and expenses incurred;

(e) a description of the costs and expenses incurred;

(f) that if the holder does not pay the amount to the chief executive within 30 days after the day the notice is given, the chief executive may recover the amount and any interest payable on the amount from the holder as a debt;

(g) the contact details of the chief executive.

(6) If the holder does not pay the amount stated in the cost recovery notice to the chief executive within 30 days after the day the notice is given, the chief executive may recover the

amount, and any interest payable on the amount, from the holder as a debt.

(7) A debt due under subsection (6) bears interest at the rate stated in a regulation.

Division 3 Other directions

454 Directions to resource tenure holders and bore owners to give information

(1) The chief executive may give a resource tenure holder a notice requiring information about—

(a) compliance by the holder with its make good obligations for a water bore; or

(b) the quantity and quality of water produced or taken because of the exercise of the holder's underground water rights; or

(c) a matter stated in an underground water impact report or final report given by the holder to the chief executive under part 2.

(2) Also, the chief executive may give a bore owner a notice requiring information about—

(a) a matter for which the owner is required to keep information under this Act in relation to the water bore; or

(b) the condition and capacity of the water bore.

(3) A notice given under this section—

(a) may be given at any time; and

(b) must state the reasonable period within which the information must be given to the chief executive.

(4) The person to whom the notice is given must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

Not authorised—indicative only

Not authorised—indicative only

(5) If the person is an individual it is a reasonable excuse not to comply with the notice if giving the information might tend to incriminate the individual.

Chapter 3A Office of Groundwater Impact Assessment

Part 1 General provisions about the office

Division 1 Establishment

455 Establishment

The Office of Groundwater Impact Assessment is established.

Division 2 Functions and powers

456 Functions of office

(1) The office's main functions are—

(a) to advise the chief executive on matters relating to impacts on underground water caused by the exercise of underground water rights by resource tenure holders; and

(b) to establish and maintain a database of information about underground water; and

(c) to prepare underground water impact reports for cumulative management areas.

(2) The office's functions also include any other function given to the office under this Act or another Act.

457 General powers of office

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

458 Advice to chief executive

(1) The chief executive may give the office a written direction requiring the office to advise the chief executive on any matter relating to impacts on underground water caused by the exercise of underground water rights.

(2) The office must comply with the direction.

(3) In this section—

chief executive means the chief executive of the department in which chapter 3 is administered.

459 Office to keep and maintain database

(1) The office must keep and maintain a database of information relevant to monitoring underground water, including—

(a) information obtained by the office under chapter 3; and

(b) information given to the office for, in or under an underground water impact report.

(2) The database may be kept in the way the manager considers appropriate, including, for example, in an electronic form.

Not authorised—indicative only

Not authorised—indicative only

460 Obtaining information about underground water from resource tenure holders

(1) The manager may give a resource tenure holder a notice requesting the following information about the holder's resource tenure—

(a) information the manager requires for complying with its obligations as a responsible entity under chapter 3, part 2;

(b) other information the manager requires to analyse and monitor impacts on underground water generally.

(2) The notice must state how, and a reasonable period of at least 20 business days by which, the information must be given.

(3) The resource tenure holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty—1,665 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.

(4) If the resource tenure holder is an individual, it is a reasonable excuse not to comply with the notice if complying with the notice might tend to incriminate the holder.

(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.

461 Advisory bodies

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

Division 3 Membership of the office

462 Membership of office

The office consists of—

(a) the manager of the office; and

(b) the other staff of the office.

Division 4 Staff of the office

Subdivision 1 Manager of the office

463 Manager of the office

The office must have a manager.

Not authorised—indicative only

Not authorised—indicative only

464 Appointment of manager

(1) The manager is appointed on a full-time basis by the Governor in Council.

(2) Subject to sections 469 and 472, the manager is employed under the *Public Service Act 2008* as if the manager were a senior executive.

(3) However, despite the *Public Service Act 2008*, the manager can be removed from office only by the Governor in Council.

465 Eligibility for appointment

A person is eligible to be appointed as manager if the person has—

(a) appropriate qualifications relevant to underground water assessment and management or geology; and

Example of an appropriate qualification—

a degree relevant to groundwater management or geology

(b) experience relevant to the functions of the office.

466 Term of appointment

(1) Despite the *Public Service Act 2008*, the manager holds office for the term stated in the instrument of the manager's appointment.

(2) The term stated in the instrument of appointment can not be longer than 5 years.

(3) However, the manager is eligible for reappointment.

467 Functions of the manager

(1) The manager's main functions are—

(a) to ensure the office performs its functions effectively and efficiently; and

(b) to make recommendations to the Minister about any matter that relates to the performance or exercise of the manager's or office's functions or powers.

(2) The manager's functions also include any other function given to the manager under this Act or another Act.

(3) Subsection (1) does not prevent the attachment of the office to the department to ensure the office is supplied with the administrative support services it requires to perform its functions effectively and efficiently.

468 Powers of the manager

(1) The manager may exercise—

(a) the powers necessary or convenient for performing the manager's functions under this Act or another Act; and

(b) all other powers necessary or convenient for discharging the obligations imposed on the manager under this Act or another Act.

(2) Also, the manager may exercise the powers of the office.

469 Independence in performing functions

The manager must, in performing the manager's functions, exercise an independent judgment and is not subject to direction from anyone else.

470 Manager not to engage in other paid employment

The manager must not, without the approval of the Minister—

(a) hold any office of profit other than that of manager of the office; or

(b) engage in any paid employment outside the duties of that office; or

(c) actively take part in the activities of a business, or in the management of a corporation carrying on business.

Not authorised—indicative only

Not authorised—indicative only

471 Vacancy in office of manager

The office of the manager becomes vacant if the manager—

(a) completes a term of office; or

(b) resigns office by signed notice given to the Minister; or

(c) is removed from office by the Governor in Council under section 472; or

(d) is convicted of an indictable offence or an offence against this Act; or

(e) is a person who is an insolvent under administration under the Corporations Act, section 9.

472 Termination of appointment

(1) The manager may be removed from office only under this section.

(2) The Governor in Council may remove the manager from office on any of the following grounds—

(a) proved incapacity, incompetence or misconduct;

(b) misconduct of a type that could, other than for section 464(3), warrant dismissal from the public service;

(c) contravention of section 470.

473 Delegation

(1) The manager may delegate to an appropriately qualified person the manager's functions under this or another Act.

(2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate for the functions.

Examples of qualifications, experience or standing—

- a degree relevant to groundwater management or geology
- a person's classification level in the public service

function includes power.

474 Preservation of rights as public service officer

(1) This section applies if—

(a) a person is appointed as the manager; and

(b) the person resigns the person's role as a public service officer to accept the appointment.

(2) The person retains and is entitled to all rights that have accrued to the person because of the person's employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as the manager were a continuation of service as a public service officer.

(3) At the end of the person's term of office or on resignation—

(a) the person is entitled to be appointed to an office in the public service at a salary level not less than the current salary level of an office equivalent to the office the person held before being appointed as the manager; and

(b) the person's service as the manager is to be regarded as service of a similar kind in the public service for deciding the person's rights as a public service officer.

Subdivision 2 Other staff of the office

476 Office staff

The other staff are employed under the *Public Service Act 2008*.

477 Alternative staffing arrangements

(1) The manager may arrange with the chief executive of a department for the services of officers or employees of the department to be made available to the office.

Not authorised—indicative only

Not authorised—indicative only

(2) An officer or employee whose services are made available under subsection (1)—

(a) continues to be an officer or employee of the department; and

(b) continues to be employed or otherwise engaged by the department on the same terms and conditions applying to the officer or employee before his or her services were made available; and

(c) is, for the period the services are made available and for performing the office's functions, taken to be a member of the staff of the office.

Part 2 Funding for office

478 Groundwater Impact Assessment Fund

The Groundwater Impact Assessment Fund is established.

479 Annual levy for underground water management

(1) The performance of the office's functions are to be funded by an annual levy payable by each resource tenure holder.

(2) The levy must be worked out in the way prescribed under a regulation.

(3) The way the levy is worked out must be transparent and likely to be readily understood by resource tenure holders.

(4) The levy must be—

(a) based on the amount needed to recover the estimated costs to the office of performing its functions under chapter 3 in a financial year; and

(b) apportioned, where practicable, between resource tenure holders or classes of holders according to the cost to the office of performing functions specific to the holders or class of holders.

(5) For subsection (4)(a), the office's estimated costs must be—

(a) prepared by the office; and

(b) approved by the Minister.

(6) When preparing the office's estimated costs, the office may consult with a relevant advisory body.

(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 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.

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.

Not authorised—indicative only

Not authorised—indicative only

(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.

480 Payment of amounts into Groundwater Impact Assessment Fund

The following amounts, on receipt by the department, must be paid into the Groundwater Impact Assessment Fund —

(a) levy amounts paid by resource tenure holders under section 479;

(b) all interest paid because of late payment of levy amounts payable by resource tenure holders.

481 Payment of amounts from Groundwater Impact Assessment Fund

(1) The manager may make payments from the Groundwater Impact Assessment Fund under subsection (2).

(2) A payment from the fund must be for 1 or more of the following—

(a) paying expenses incurred by the office in administering the office or performing the functions of the office;

(b) paying expenses incurred by the manager in performing the manager's functions;

(c) paying fees or expenses related to administering the fund;

(d) paying other amounts required or permitted under this Act or another Act to be paid out of the fund.

482 Administration of Groundwater Impact Assessment Fund

(1) Accounts for the Groundwater Impact Assessment Fund must be kept as part of the departmental accounts of the department.

(2) Amounts received for the fund must be deposited in a departmental financial institution account of the department.

(3) Amounts received for the fund may be deposited in an account used for depositing other moneys of the department.

(4) In this section—

departmental accounts, of a department, means the accounts of the department kept under the *Financial Accountability Act 2009*, section 69.

departmental financial institution account, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

other moneys, of the department, means all moneys of the department other than amounts received for the Groundwater Impact Assessment Fund.

Part 3 Miscellaneous provisions

483 Public access to database

(1) The office may make information in the database available to the public.

(2) However, the publicly available part of the database must not include information the office reasonably believes is commercially sensitive.

(3) A person may—

(a) free of charge, inspect the details contained in the publicly available part of the database at the office's head office during normal business hours; and

(b) on payment of a fee decided by the chief executive, obtain a copy of the details from the office.

(4) The fee decided by the chief executive must not be more than the reasonable cost of producing the copy.

Not authorised—indicative only

Not authorised—indicative only

484 Resource tenure holder access to information

(1) The office must make any information in the database available to a resource tenure holder if the office is reasonably satisfied the information would assist the holder in complying with the holder's obligations under this chapter.

(2) However, the office must not give information to a resource tenure holder under subsection (1) if the office reasonably believes the information is commercially sensitive.

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 administered if the information may be relevant to the administration of chapter 3.

Chapter 4 Water authorities

Part 1 Preliminary

542 Purposes of ch 4

The main purpose of this chapter is to establish a framework for the operation of water authorities that provides for the following—

(a) efficiency in carrying out water activities by the application of commercial principles;

(b) appropriate governance arrangements and accountability requirements;

(c) community involvement in making and implementing arrangements for using, conserving and sustainably managing water.

Part 2 Water authorities

Division 1 General

548 Establishing water authorities

(1) A regulation may establish a water authority to carry out water activities—

(a) generally in the State; or

(b) for a particular area (the ***authority area***) identified in the regulation.

(2) The authority area may comprise 2 or more non-contiguous areas.

(3) The regulation must name the authority and, if the authority is established for an authority area, identify the authority area.

(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.

549 Categories of water authorities

A water authority may be a category 1 water authority or a category 2 water authority.

550 Water authority is a body corporate etc.

(1) A water authority—

(a) is a body corporate; and

(b) has a seal; and

Not authorised—indicative only

Not authorised—indicative only

(c) may sue and be sued in its corporate name.

(2) A water authority 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 water authority's powers under this or another Act.

(4) A water authority does not represent the State.

551 Application of particular Acts to a water authority

(1) A water authority is a statutory body under the *Financial Accountability Act 2009* and *Statutory Bodies Financial Arrangements Act 1982*.

(2) However, provisions of the *Financial Accountability Act 2009* relating to planning, special payments, evaluations of assets and losses, other than losses resulting from an offence or misconduct, do not apply to a category 1 water authority.

Division 2 Procedure

556 Amending establishment regulation

(1) This section applies despite the *Acts Interpretation Act 1954*, section 24AA(b).

(2) Before an establishment regulation for a water authority is amended, the chief executive must publish notice of the amendment—

(a) in the gazette; and

(b) in another way the chief executive considers appropriate having regard to the intended audience for the notice.

(3) The notice must state the following—

(a) the proposed amendment;

(b) that written submissions on the proposed amendment may be made to the chief executive;

(c) the date, at least 20 business days after the notice is published, by which the submissions may be made;

(d) where the submissions may be made.

(4) Subsection (2) does not apply if the amendment—

(a) merely corrects a minor error in the regulation; or

(b) is not a change of substance.

(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.

557 Considering submissions on amending establishment regulation

The chief executive must consider each properly made submission about amending an establishment regulation before the regulation is amended.

Not authorised—indicative only

Not authorised—indicative only

Part 3 Functions and powers of water authorities

Division 1 Functions

569 Main function of water authority

(1) A water authority's main function is to carry out the water activities decided by the authority.

(2) If the authority has an authority area, its main function is to carry out the water activities for the authority area.

(3) However, a water authority with an authority area may carry out water activities outside its authority area if carrying out the activity—

(a) does not—

(i) limit the authority's ability to perform its main function; or

(ii) financially prejudice the authority or its ratepayers or customers; and

(b) for a category 1 authority—is in accordance with the authority's performance plan.

570 Other functions of water authority

(1) A water authority may carry out 1 or more of the following functions decided by it—

(a) riverine area protection;

(b) soil erosion control;

(c) land degradation treatment and prevention;

(d) the management of recreational areas on land owned by the authority or under its control.

(2) If a water authority has an authority area, it may carry out a function mentioned in subsection (1) either inside or outside its authority area.

571 Establishment as a water authority is not a right to water entitlement or resource operations licence

To remove any doubt, it is declared that the establishment of a water authority to carry out water activities does not, of itself, entitle the authority to a water entitlement or a resource operations licence.

Division 2 Powers

Subdivision 1 Rates and charges

572 Power to make and levy rates and charges

(1) A category 1 water authority, for carrying out its functions under this Act, may make and levy charges on its customers.

(2) A category 2 water authority, for carrying out its functions under this Act, may make and levy—

(a) charges on its customers; and

(b) if the authority has an authority area—rates and charges on its ratepayers.

(3) Without limiting subsection (1) or (2)(a), the authority may make and levy a charge for providing connections to its works.

(4) A charge may be made and levied on a volumetric basis for water activities carried out.

(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

Not authorised—indicative only

Not authorised—indicative only

volume of which is not measured—on the basis of the area of the land that is the subject of the irrigation service; or

(b) otherwise—on the basis that it is land to which water may be supplied under the water service.

(6) Subsections (4) and (5) do not limit the ways in which a charge or rate may be made or levied.

573 Exemption from rates

Despite section 572(2)(b), a water authority can not make and levy rates for water activities for the following land—

(a) unoccupied State land;

(b) unallocated State land reserved for a public purpose;

(c) land occupied by the State, other than land leased by the State from a person;

(d) land prescribed under a regulation for this section.

575 Discount for payment of rates and charges

(1) A water authority may allow a discount for payment of a rate or charge made or levied by it.

(2) Unless a regulation prescribes otherwise, the discount must not be more than 15% of the rate or charge.

576 Recovering rates and charges

A water authority may recover an overdue rate or charge made or levied by it, and any interest payable on the overdue rate or charge, as a debt due to the authority by the person on whom the rate or charge is made or levied.

Subdivision 2 Taking land

577 Power to take land

(1) A water authority may take any land.

(2) For land to which the *Acquisition of Land Act 1967* applies, the authority is a constructing authority for that Act.

(3) The *Land Act 1994*, chapter 5, part 3, applies, with any necessary changes, to land to which it applies.

(4) However, if the land is further land, a category 1 water authority must also obtain the Minister's written approval before taking the land.

(5) In this section—

further land, for a water authority, means land the authority intends to acquire.

578 Purposes for which land may be taken

A water authority may take land for carrying out works, and any other purpose, within the authority's main functions.

Subdivision 3 General

579 Delegation

(1) A water authority may, in writing, delegate its powers to a director or an appropriately qualified employee of the authority.

(2) A person must not, in relation to a matter, exercise a power that has been delegated to the person under subsection (1) if the person has a direct or indirect financial or personal interest in the matter.

Maximum penalty for subsection (2)—100 penalty units.

Not authorised—indicative only

Not authorised—indicative only

Division 3 Reporting requirements

580 Notice of proposed significant action

(1) This section applies if—

(a) a water authority proposes to do anything that may prevent, or have a significant adverse effect on, the authority performing its main function; or

(b) a category 2 water authority proposes to sell or buy property for more than $100,000.

(2) Before doing anything (the ***proposed significant action***) mentioned in subsection (1), and as soon as practicable after proposing to do it, the water authority must give the Minister notice of the proposed significant action.

581 Minister may require information

(1) The Minister, by notice given to a water authority, may require the authority to give the Minister information about the performance of its functions and operations under this Act.

(2) The notice must state the day by which the information must be given.

(3) The water authority must give the information to the Minister by the stated day.

582 Statement of operations

(1) A category 1 water authority must include in its annual report a statement of its operations under this Act during the preceding financial year.

(2) The statement must contain the following—

(a) sufficient information to enable an informed assessment to be made of the operations, including a comparison of the authority's performance with its performance plan;

(b) particulars of any amendments made to the authority's performance plan in the financial year;

(c) particulars of any directions, including directions about community service obligations to be carried out by the authority, or notices, given to the authority for the financial year;

(d) particulars of the impact that any changes to the authority's performance plan may have had on its financial position, including its operating surplus and deficit and prospects;

(e) particulars of any funding provided to the authority for community service obligations for the financial year.

583 Identification and disclosure of cross-subsidies

(1) This section applies to water authorities that charge on a volumetric basis for water the authorities manage and are prescribed by regulation.

(2) Each water authority must include in its annual report a statement—

(a) identifying and disclosing all cross-subsidies between classes of its ratepayers or customers in carrying out its water activities; and

(b) disclosing—

(i) the classes of its ratepayers or customers for whom a water activity is carried out at an amount below the full cost of the activity; and

(ii) the amount.

(3) The cross-subsidies must be calculated in accordance with the guidelines, if any, issued by the chief executive for calculating cross-subsidies.

Not authorised—indicative only

Not authorised—indicative only

Division 4 Work performance arrangements

584 Water authority may enter into work performance arrangements

(1) A water authority may enter into, and give effect to, a work performance arrangement with the appropriate authority of a government entity.

(2) A work performance arrangement may make provision for all matters necessary or convenient to be provided under the arrangement.

(3) For example, a work performance arrangement may provide for—

(a) the appointment of a person to an office, and the holding of the office by the person, for the arrangement; and

(b) the authorising of a person to exercise powers for the arrangement; and

(c) whether payment is to be made for work done under the arrangement and, if so, what payment is to be made and who is to make the payment.

(4) A person performing work for a water authority under a work performance arrangement entered into under subsection (1)—

(a) is not employed by the water authority; and

(b) remains an employee of the government entity whose appropriate authority is a party to the arrangement.

(5) To remove any doubt, it is declared that a water authority does not have power to employ a person performing work for the water authority under a work performance arrangement entered into under subsection (1).

Division 5 Water authority officers' duties and responsibilities

585 Duties and liabilities of water authority officers

(1) An officer of a water authority must act honestly in exercising powers, and discharging functions, as an officer of the authority.

Maximum penalty—

(a) if the contravention is committed for a fraudulent purpose—500 penalty units or imprisonment for 5 years; or

(b) in any other case—100 penalty units.

(2) In exercising powers and discharging functions, an officer of a water authority must exercise the degree of care and diligence that a reasonable person in a like position in a water authority would exercise in the authority's circumstances.

Maximum penalty—100 penalty units.

(3) An officer of a water authority, or a person who has been an officer of a water authority, must not make improper use of information acquired because of his or her position as an officer of a water authority—

(a) to gain, directly or indirectly, an advantage for himself or herself or for another person; or

(b) to cause detriment to the authority.

Maximum penalty—500 penalty units or imprisonment for 5 years.

(4) An officer of a water authority must not make improper use of his or her position as an officer of the authority—

(a) to gain, directly or indirectly, an advantage for himself or herself or another person; or

(b) to cause detriment to the authority.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—500 penalty units or imprisonment for 5 years.

(5) If a person contravenes this section in relation to a water authority, the authority may recover from the person as a debt due to the authority—

(a) if the person or another person made a profit because of the contravention—an amount equal to the profit; and

(b) if the authority suffered loss or damage because of the contravention—an amount equal to the loss or damage.

(6) An amount may be recovered from the person under subsection (5) whether or not the person has been convicted of an offence in relation to the contravention.

(7) Subsection (6) is in addition to, and does not limit, the *Criminal Proceeds Confiscation Act 2002*.

(8) This section—

(a) is in addition to, and does not limit, any rule of law relating to the duty or liability of a person because of the person's office in relation to a corporation; and

(b) does not prevent civil proceedings being instituted for a breach of the duty or the liability.

(9) In this section—

officer, of a water authority, includes—

(a) an employee of the water authority; and

(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.

Part 4 Board of directors

Division 1 Appointment and related matters

597 Board of directors

Each water authority has a board of directors (a ***board***).

598 Role of board

(1) The board of a water authority is responsible for the way in which the authority performs its functions and exercises its powers.

(2) Without limiting subsection (1), it is the board's role—

(a) to decide the objectives, strategies and policies to be followed by the authority; and

(b) to ensure the authority performs its functions in a proper, effective and efficient way.

599 Number of directors

The board of a water authority consists of the number of directors for the authority stated by the chief executive in a gazette notice.

600 Appointment

(1) The Governor in Council may appoint an appropriately qualified person as a director for a category 1 water authority.

(2) The Minister may appoint an appropriately qualified person as a director for a category 2 water authority.

(3) In recommending a person to the Governor in Council for appointment under subsection (1), or appointing a person under subsection (2), the Minister must have regard to—

Not authorised—indicative only

Not authorised—indicative only

(a) providing balanced gender representation in the boards of water authorities; and

(b) any other matter the Minister considers relevant.

(4) Also, in appointing a person under subsection (2), the Minister must have regard to the names of suitable candidates, if any, given to the Minister under section 609.

601 Chairperson

(1) The chief executive may appoint a director for a category 1 water authority as the board's chairperson.

(2) The directors for a category 2 water authority may appoint a director as the board's chairperson.

(3) If a chairperson is not appointed under subsection (2) within 1 month after the board's first meeting under section 620(2)(a) or 1 month after the office of chairperson becomes vacant, the chief executive may appoint a director as the board's chairperson.

(4) Unless a director's appointment as chairperson ends sooner under this Act, the director holds office as chairperson until the annual meeting after the appointment is made and may be reappointed at that meeting.

602 Disqualification as director

(1) A person is disqualified from being appointed or continuing as a director for a water authority if the person—

(a) has a conviction, other than a spent conviction, for an indictable offence; or

(b) is an insolvent under administration; or

(c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or

(d) is an employee of the authority; or

(e) is directly interested in an agreement with, or on behalf of, the authority.

(2) Subsection (1)(e) does not apply to a person to the extent the person is directly interested in an agreement with the water authority for the supply of water.

603 Criminal history report

(1) To decide if a person is disqualified from being appointed or continuing as a director for a water authority, the Minister may ask the commissioner of the police service for—

(a) a written report about the criminal history of the person; and

(b) a brief description of the circumstances of a conviction mentioned in the criminal history.

(2) However, the Minister may make the request only if the person has given the Minister written consent for the request.

(3) The commissioner of the police service must comply with the request.

(4) However, the duty to comply applies only to information in the possession of the commissioner of the police service or to which the commissioner of the police service has access.

(5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

604 Term

(1) A director for a water authority holds office for the term stated in the director's instrument of appointment.

(2) The stated term must not be more than 4 years.

(3) The director may be reappointed.

(4) Despite subsections (1) and (2), a director for a category 1 water authority continues holding office after the director's term of office ends until the day the director's successor is appointed under section 600.

Not authorised—indicative only

Not authorised—indicative only

605 Resignation

(1) A director for a water authority may resign by signed notice given to the chairperson of the authority's board and the chief executive.

(2) The chairperson of a board may resign from office as chairperson, or as a director, by signed notice of resignation given to the other directors of the board and the chief executive.

606 Suspension and removal of director

(1) This section applies if a director for a water authority—

(a) has engaged in inappropriate or improper conduct—

(i) in an official capacity; or

(ii) in a private capacity that reflects seriously and adversely on the office; or

(b) has become incapable of performing the director's functions; or

(c) has neglected the director's duties or performed the director's functions incompetently.

(2) If the water authority is a category 1 water authority—

(a) the Minister may, by written notice to the director—

(i) suspend the director from office for a period not more than 60 days; and

(ii) extend the suspension from time to time by periods not more than 60 days; or

(b) the Governor in Council may remove the director from office, whether or not the director is suspended under paragraph (a).

(3) If the water authority is a category 2 water authority, the Minister may remove the director from office.

607 Vacancy in office

(1) The office of a director for a water authority becomes vacant if the director—

(a) completes a term of office and is not reappointed; or

(b) resigns office under section 605; or

(c) becomes disqualified under section 602 from continuing as a director; or

(d) is removed from office under section 606.

(2) Also, the office of a director for a water authority becomes vacant if the director—

(a) is a nominee and councillor of a local government; and

(b) stops being a councillor of the local government other than by defeat at an election of councillors of the local government or failure to contest an election.

(3) In addition, the office of a director for a water authority becomes vacant if—

(a) the director is the nominee of a local government; and

(b) 6 months have elapsed from the day for holding the quadrennial election next following the director's appointment.

(4) In this section—

nominee, of a local government, means a person nominated by the local government under section 609(2)(a) or (4)(a).

quadrennial election see the *Local Government Electoral Act 2011*.

608 Acting director

The Governor in Council, for a category 1 water authority, or the Minister, for a category 2 water authority, may appoint a person to act as director for a water authority—

(a) during a vacancy in the office; or

Not authorised—indicative only

Not authorised—indicative only

(b) during any period, or during all periods, when the director is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.

609 Category 2 water authority board must seek and nominate suitable candidates

(1) This section applies to a category 2 water authority.

(2) At least 6 months, but not more than 12 months, before the end of a director's term of office, the board of the authority must—

(a) seek suitable candidates for the office; and

(b) give the Minister the names of suitable candidates for the office.

(3) Also, the authority must comply with subsection (2)(a) and (b) within 3 months after a director's office becomes vacant under section 607(1)(b), (c) or (d).

(4) The chief executive may require the board of a category 2 water authority—

(a) to seek suitable candidates under subsection (2)(a) in a particular way, including, for example, by asking the authority's ratepayers or another entity to elect or nominate suitable candidates; or

(b) to give under subsection (2)(b) a stated number of names.

(5) If the chief executive makes a requirement under subsection (4), the chief executive must publish the requirement on a Queensland Government website.

(6) In performing the board's functions under subsection (2), the board must have regard to providing balanced gender representation in the board.

(7) Subsection (2) does not apply if the Minister gives the board a notice stating the Minister does not expect to appoint a person to the office of the director mentioned in subsection (2)

because the water authority may be amalgamated or dissolved, or its functions transferred to a local government, under part 7.

(8) In this section—

suitable candidate means an appropriately qualified person suitable for appointment under this division as a director.

609A Removal of all directors of board

The Governor in Council, for a category 1 water authority, or the Minister, for a category 2 water authority, may remove all the directors for the authority from office if the board—

(a) does not comply with a public sector policy notified to the board by the Minister under this Act; or

(b) does not comply with a direction given to the board by the Minister under this Act; or

(c) does not comply with an obligation of the board under this Act for the preparation and submission of—

(i) a performance plan; or

(ii) a report under a performance plan; or

(iii) a corporate plan; or

(d) does not comply with an obligation of the board under the *Financial Accountability Act 2009* for the preparation or submission of a report or plan.

609B Administration of water authority if no board

(1) The Minister may appoint the chief executive, or another appropriately qualified person, to administer a water authority formed on an amalgamation under section 690 until the authority's first board is appointed.

(2) Subsection (3) applies if—

(a) the Governor in Council or Minister removes all the directors of a water authority's board from office; or

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Not authorised—indicative only

(b) for another reason, there are no directors for a water authority's board.

(3) The Minister may appoint either of the following persons to administer the water authority until a board is appointed for the authority—

(a) the chief executive;

(b) another appropriately qualified person.

(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 first 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 for 1 or more of the water authorities that were amalgamated.

Division 2 Directors' duties

610 Disclosure of interests

(1) This section applies to a director on a water authority's board if—

(a) the director has a direct or indirect financial or personal interest in a matter being considered, or about to be considered, by the board; and

(b) the interest could conflict with the proper performance of the director's duties about the consideration of the matter.

(2) As soon as practicable after the relevant facts come to the director's knowledge, the director must disclose the nature of the interest to a meeting of the board.

Maximum penalty—100 penalty units.

(3) The disclosure must be recorded in the board's minutes.

(4) Unless the board otherwise decides, the director must not—

(a) be present when the board considers the matter; or

(b) take part in a decision of the board on the matter.

Maximum penalty—100 penalty units.

(5) The director must not be present when the board is considering its decision under subsection (4).

Maximum penalty—100 penalty units.

(6) Another director who also has a direct or indirect financial or personal interest in the matter must not—

(a) be present when the board is considering its decision under subsection (4); or

(b) take part in making the decision.

Maximum penalty—100 penalty units.

(7) In this section—

financial or personal interest, of a person in a matter, does not include—

(a) the person's interest in the matter as a customer or ratepayer of the water authority; or

(b) for a person nominated by an entity for appointment as a director, an interest in an agreement with the authority for the supply of water to the entity.

611 Declaration about duty to act in authority's interest

To remove any doubt, it is declared that a director of a water authority, in exercising powers, and discharging functions, as a director of the authority, must act in the best interests of the authority.

Not authorised—indicative only

Not authorised—indicative only

612 Prohibition on loans to directors

(1) A water authority must not, directly or indirectly—

(a) make a loan to a director, a director's spouse, or a relative of a director or a director's spouse; or

(b) give a guarantee or provide security for a loan made to a director, a director's spouse, or a relative of a director or a director's spouse.

(2) Subsection (1) does not apply to the entering into by the authority of an instrument with a person mentioned in the subsection if the instrument is entered into on the same terms as similar instruments are entered into by the authority with members of the public.

(3) A director of a water authority must not be knowingly concerned in a contravention of subsection (1) by the authority, whether or not in relation to the director.

Maximum penalty—100 penalty units.

(4) In this section—

relative, of a person, means the person's—

(a) parent or remoter lineal ancestor; or

(b) son, daughter or remoter issue; or

(c) brother or sister.

613 Water authority not to indemnify officers

(1) A water authority must not—

(a) indemnify a person who is or has been an officer of the authority against a liability incurred by the person as an officer of the authority; or

(b) exempt a person who is or has been an officer of the authority from a liability incurred as an officer of the authority.

(2) An instrument is void to the extent it is inconsistent with subsection (1).

(3) Subsection (1) does not prevent a water authority from indemnifying a person against a civil liability, other than a liability to the authority, unless the liability arises out of conduct involving lack of good faith.

(4) Subsection (1) does not prevent a water authority from indemnifying a person against a liability for costs and expenses incurred by the person—

(a) in defending a proceeding, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or

(b) in connection with an application in relation to a proceeding in which relief is granted to the person by a court.

(5) A water authority may give an indemnity mentioned in subsection (3) or (4) only if the Minister has approved the giving of the indemnity.

614 Water authority not to pay premiums for particular liabilities of officers

(1) A water authority must not pay, or agree to pay, a premium for a contract insuring a person who is or has been an officer of the authority against a liability—

(a) incurred by the person as an officer of the authority; and

(b) arising out of a breach of conduct involving—

(i) a wilful breach of duty in relation to the authority; or

(ii) a contravention of section 585(3) or (4).

(2) Subsection (1) does not apply to a liability for costs and expenses incurred by a person in defending proceedings, whether civil or criminal, and whatever the outcome of the proceedings.

(3) An instrument is void to the extent it is inconsistent with subsection (1).

(4) In this section—

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Not authorised—indicative only

pay includes pay indirectly through 1 or more interposed entities.

615 Director's duty to prevent insolvent trading

(1) This section applies if—

(a) immediately before a water authority incurs a debt—

(i) there are reasonable grounds to suspect the authority will not be able to pay all its debts as and when they become payable; or

(ii) there are reasonable grounds to suspect that, if the authority incurs the debt, it will not be able to pay all its debts as and when they become payable; and

(b) the authority is, or later becomes, unable to pay all its debts as and when they become payable.

(2) A person who is a director of the authority, or takes part in the authority's management, at the time the debt is incurred commits an offence.

Maximum penalty—100 penalty units or imprisonment for 1 year.

(3) In a proceeding against a person for an offence against this section, it is a defence if it is proved—

(a) that the debt was incurred without the person's express or implied authority or consent; or

(b) that, at the time the debt was incurred, the person did not have reasonable cause to suspect that—

(i) the authority would not be able to pay all its debts as and when they became payable; or

(ii) if the authority incurred the debt, it would not be able to pay all its debts as and when they became payable; or

(c) the person took all reasonable steps to prevent the authority from incurring the debt; or

(d) for a director—the person did not take part at the time in the authority's management because of illness or for some other good cause.

616 Court may order compensation

(1) This section applies if a person is convicted of an offence against section 615 in relation to the incurring of a debt by a water authority.

(2) The Supreme Court or the District Court may declare that the person is to be personally responsible, without any limitation of liability, for the payment to the authority of the amount required to satisfy the part of the authority's debts that the court considers appropriate.

(3) This section does not affect any rights of a person to indemnity, subrogation or contribution.

(4) This section—

(a) is in addition to, and does not limit, any rule of law about the duty or liability of a person because of the person's office in relation to a water authority; and

(b) does not prevent proceedings being started for a breach of the duty or the liability.

617 Examination of persons concerned with water authorities

(1) This section applies if it appears to the Attorney-General that—

(a) a person who has been concerned, or taken part, in a water authority's management, administration or affairs has been, or may have been, guilty of fraud, negligence, default, breach of trust or breach of duty or other misconduct in relation to the authority; or

(b) a person may be capable of giving information in relation to a water authority's management, administration or affairs.

Not authorised—indicative only

Not authorised—indicative only

(2) The Attorney-General may apply to the Supreme Court or the District Court for an order under this section in relation to the person.

(3) The court may order that the person attend before the court at a time and place fixed by the court to be examined on oath on any matters relating to the water authority's management, administration or affairs.

(4) The examination of the person must be held in public except so far as the court considers that, because of special circumstances, it is desirable to hold the examination in private.

(5) The court may give directions about—

(a) the matters to be inquired into at the examination; and

(b) the procedures to be followed at the examination including, if the examination is to be held in private, the persons who may be present.

(6) The person must not fail, without reasonable excuse—

(a) to attend as required by the order; or

(b) to continue to attend as required by the court until the completion of the examination.

Maximum penalty—200 penalty units or imprisonment for 2 years.

(7) The person must not fail to take an oath or make an affirmation at the examination.

Maximum penalty—200 penalty units or imprisonment for 2 years.

(8) The person must not fail to answer a question that the person is directed by the court to answer.

Maximum penalty—200 penalty units or imprisonment for 2 years.

(9) The person may be directed by the court (whether in the order or by subsequent direction) to produce any document in the person's possession, or under the person's control, relevant to

the matters on which the person is to be, or is being, examined.

(10) The person must not, without reasonable excuse, contravene a direction under subsection (9).

Maximum penalty—200 penalty units or imprisonment for 2 years.

(11) If the court directs the person to produce a document and the person has a lien on the document, the production of the document does not prejudice the lien.

(12) The person must not knowingly make a statement at the examination that is false or misleading in a material particular.

Maximum penalty—500 penalty units or imprisonment for 5 years.

(13) The person is not excused from answering a question put to the person at the examination on the ground that the answer might tend to incriminate the person or make the person liable to a penalty.

(14) Subsection (15) applies if—

(a) before answering a question put to the person at the examination, the person claims that the answer might tend to incriminate the person or make the person liable to a penalty; and

(b) the answer might in fact tend to incriminate the person or make the person liable to a penalty.

(15) The answer is not admissible in evidence against the person in a criminal proceeding or a proceeding for the imposition of a penalty, other than a proceeding for an offence against this section or another proceeding in relation to the falsity of the answer.

(16) The court may order the questions put to the person and the answers given by the person at the examination to be recorded in writing and may require the person to sign the record.

(17) Subject to subsection (15), any written record of the examination signed by the person, or any transcript of the

Not authorised—indicative only

Not authorised—indicative only

examination that is authenticated by the signature of the examiner, may be used in evidence in any legal proceeding against the person.

(18) The person may, at his or her own expense, employ a lawyer, and the lawyer may put to the person questions that the court considers just for the purpose of enabling the person to explain or qualify any answers given by the person.

(19) The court may adjourn the examination from time to time.

(20) If the court is satisfied that the order for the examination of the person was obtained without reasonable cause, the court may order all, or any part, of the costs incurred by the person be paid by the State.

618 Power to grant relief

(1) This section applies to a person who is—

(a) an officer or employee of a water authority; or

(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.

(2) Subsection (3) applies if, in a proceeding against the person for negligence, default, breach of trust or breach of duty as an officer or employee of the water authority or as an employee of the government entity, it appears to the court that—

(a) the person is or may be liable for the negligence, default or breach; but

(b) the person has acted honestly and, having regard to all the circumstances of the case, including circumstances connected with the person's appointment, the person ought fairly to be excused for the negligence, default or breach.

(3) The court may relieve the person, wholly or partly, from liability on terms the court considers appropriate.

(4) If the person believes that a claim will or might be made against the person for negligence, default, breach of trust or breach of duty as an officer or employee of the water authority or as an employee of the government entity, the person may apply to the Supreme Court or the District Court for relief.

(5) The court has the same power to relieve the person as it would have if a proceeding had been brought against the person in the court for the negligence, default or breach.

(6) Subsection (7) applies if—

(a) a proceeding mentioned in subsection (2) is being tried by a judge with a jury; and

(b) the judge, after hearing the evidence, is satisfied that the defendant ought under that subsection be relieved, wholly or partly, from the liability sought to be enforced against the person.

(7) The judge may withdraw the case, wholly or partly, from the jury and direct that judgment be entered for the defendant on the terms, as to costs or otherwise, that the judge considers appropriate.

619 False or misleading information or documents

(1) In this section—

officer, of a water authority, includes—

(a) an employee of the water authority; and

(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.

(2) An officer of a water authority must not—

(a) make a statement concerning the affairs of the authority to another officer or the Minister that the first officer knows is false or misleading in a material particular; or

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Not authorised—indicative only

(b) omit from a statement concerning the authority's affairs made to another officer or the Minister anything without which the statement is, to the first officer's knowledge, misleading in a material particular.

(3) It is enough for a complaint for an offence against subsection (2)(a) or (b) to state the statement made was 'false or misleading' to the person's knowledge, without specifying which.

(4) An officer of a water authority must not give to another officer or the Minister a document containing information that the first officer knows is false, misleading or incomplete in a material particular without—

(a) indicating to the recipient that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and

(b) giving the correct information to the recipient if the first officer has, or can reasonably obtain, the correct information.

Maximum penalty—

(a) if the contravention is committed with intent to deceive or defraud the water authority, its creditors or creditors of another person or for another fraudulent purpose—500 penalty units or imprisonment for 5 years; or

(b) otherwise—100 penalty units.

Division 3 Board proceedings

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.

620 Time and place of meetings

(1) Meetings of the board are to be held at the times and places it decides.

(2) However, the board must hold—

(a) its first meeting at the time and place decided by the chief executive; and

(b) at least 1 meeting a year.

(3) The board chairperson—

(a) may call a board meeting at any time; and

(b) must call a meeting if asked by at least one-half of the directors comprising the board or, if the number is not a whole number, the next highest whole number of directors.

621 Conduct of proceedings

(1) The board's chairperson must preside at all meetings at which the chairperson is present.

(2) If the chairperson is absent, the director chosen by the directors present must preside.

(3) At a board meeting—

(a) a quorum is the number of directors equalling one-half the number of directors on the board plus 1 or, if the number is not a whole number, the next highest whole number; and

(b) a question is decided by a majority of the votes of the directors present and voting; and

(c) each director present has a vote on each question to be decided and, if the votes are equal, the chairperson has a casting vote.

(4) Unless otherwise prescribed under a regulation, the board may conduct its proceedings, including its meetings, as it considers appropriate.

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Not authorised—indicative only

622 Participation in meetings by telephone etc.

(1) The board may permit directors to participate in a particular meeting, or all meetings, by—

(a) telephone; or

(b) closed circuit television; or

(c) another means of communication.

(2) A director who participates in a meeting of the board under a permission under subsection (1) is taken to be present at the meeting.

623 Minutes

The board must keep minutes of its proceedings.

Division 4 Directors' fees and allowances

624 Fees and allowances

A director is entitled to be paid the fees and allowances approved by the Minister.

Part 5 Category 1 water authority matters

Division 1 Commercialising category 1 water authorities

Subdivision 1 Preliminary

637 Meaning of *commercialisation*

Commercialisation of a category 1 water authority involves the authority undergoing a structural reform process so that it operates, as far as practicable, on a commercial basis and in a competitive environment.

638 Key commercialisation principles

(1) The key commercialisation principles are the following—

(a) principle 1—clarity of objectives;

(b) principle 2—management autonomy and authority;

(c) principle 3—accountability for performance;

(d) principle 4—competitive neutrality.

(2) The elements of principle 1 are as follows—

(a) the water authority will have clear, non-conflicting objectives;

(b) specific financial and non-financial performance targets will be set for the commercial activities of the water authority and stated in its performance plan;

(c) any community service obligations of the water authority will be—

(i) clearly identified in its performance plan; and

(ii) separately costed;

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Not authorised—indicative only

(d) the water authority will be appropriately funded for its community service obligations and any funding will be made apparent;

(e) the water authority will be set performance targets for its community service obligations.

(3) The elements of principle 2 are as follows—

(a) the water authority will be required to use its best endeavours to ensure it meets its performance targets;

(b) subject to this Act, the water authority will be given autonomy in its day-to-day operations;

(c) government directions for the water authority to achieve non-commercial objectives will be exercised in an open way;

(d) in its day-to-day operations, the water authority will be at arms-length to the State.

(4) The elements of principle 3 are as follows—

(a) the water authority's board will be accountable to the Minister for the authority's performance;

(b) the authority's performance plan will form the basis for accountability;

(c) the authority's performance will be monitored by the chief executive against the performance targets specified in its performance plan;

(d) government monitoring of the authority is intended to compensate for the absence of the wide range of monitoring to which corporations whose shares are listed on a stock exchange are subject.

(5) The elements of principle 4 are as follows—

(a) the efficiency of overall resource use is promoted by ensuring markets are not unnecessarily distorted;

(b) wherever possible and appropriate, advantages and disadvantages accruing to the water authority because it is a statutory authority should be removed.

(6) Without limiting subsection (5)(b), advantages accruing to the water authority may be removed by requiring the authority—

(a) to pay to the State amounts equivalent to—

(i) government taxes that are not otherwise payable by the authority to the Commonwealth, State or local government; and

(ii) any cost of funds advantage the authority obtains over commercial rates of interest because of State guarantees given for providing the goods or services; and

(b) to comply with Commonwealth, State and local government requirements that apply only if the activity carried on by the authority were carried on by a private sector business, including, for example, requirements about protecting the environment and planning and approval processes.

Subdivision 2 Category 1 water authorities subject to commercialisation

639 Category 1 water authorities subject to commercialisation

Category 1 water authorities are subject to commercialisation.

640 Key objectives of category 1 water authority

(1) Under commercialisation, the key objectives of a category 1 water authority are to be—

(a) commercially successful in carrying on its activities; and

(b) efficient and effective in providing goods and delivering its services, including things done as community service obligations.

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Not authorised—indicative only

(2) The commercial success, efficiency and effectiveness of a category 1 water authority are to be measured against its financial and non-financial performance targets stated in its performance plan.

Division 3 Corporate plan for category 1 water authorities

645 Category 1 water authority must have corporate plan

A category 1 water authority must have a corporate plan.

646 Guidelines for corporate plans

(1) The Minister may issue guidelines about the form and content of corporate plans.

(2) Each category 1 water authority must comply with the guidelines.

(3) Guidelines under this section are subordinate legislation.

647 Draft corporate plan

(1) A category 1 water authority must prepare and submit to the Minister, for the Minister's agreement, a draft corporate plan no later than 2 months before the start of each financial year.

(2) The authority and Minister must endeavour to reach agreement on the draft plan no later than the start of the financial year to which the plan applies.

648 Special procedures for draft corporate plan

(1) The Minister may return the draft corporate plan to the water authority and request it to—

(a) consider, or further consider, any matter and deal with the matter in the draft plan; and

(b) revise the draft plan in the light of its consideration or further consideration.

(2) The board must comply with the request as a matter of urgency.

(3) If a draft corporate plan has not been agreed to by the Minister before the start of the financial year, the Minister may, by notice, direct the authority—

(a) to take specified steps in relation to the draft plan; or

(b) to make specified modifications to the draft plan.

(4) The authority must immediately comply with a direction under subsection (3).

(5) The Minister must cause a copy of a direction to be published in the gazette within 15 business days after it is given.

649 Corporate plan on agreement

When a water authority's draft corporate plan is agreed to by the Minister, it becomes the authority's corporate plan for the relevant financial year.

650 Corporate plan pending agreement

(1) This section applies if the Minister has not agreed to a draft corporate plan before the start of the financial year to which the plan applies.

(2) The draft corporate plan submitted, or last submitted, by the authority to the Minister before the start of the financial year (with any modifications made by the authority, whether before or after that time, at the direction of the Minister) is taken to be the authority's corporate plan until a draft corporate plan becomes the authority's corporate plan under section 649.

651 Modifying corporate plan

(1) A water authority's corporate plan may be modified by the authority with the Minister's agreement.

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Not authorised—indicative only

(2) The Minister, by notice, may direct the authority to modify the corporate plan.

(3) The Minister must cause a copy of the direction to be published in the gazette within 15 business days after it is given.

Division 4 Performance plan for category 1 water authorities

652 Category 1 water authority must have performance plan

(1) A category 1 water authority must have a performance plan for each financial year.

(2) The performance plan must be consistent with the authority's corporate plan.

653 Content of performance plan

(1) A category 1 water authority's performance plan must include the following for the relevant financial year—

(a) the authority's financial and non-financial performance targets for its functions;

(b) particulars of the authority's relevant employment and industrial relations plan;

(c) an outline of the authority's objectives;

(d) an outline of the nature and scope of the activities proposed to be undertaken by the authority during the financial year;

(e) an outline of the authority's main undertakings during the financial year;

(f) the authority's proposed infrastructure investments;

(g) the authority's capital structure and dividend policies;

(h) the authority's forecast taxation obligations;

(i) an outline of the borrowings made, and proposed to be made, by the authority;

(j) an outline of the policies adopted by the authority to minimise and manage any risk of investments and borrowings that may adversely affect its financial stability;

(k) an outline of the authority's asset management plans, including its policies and procedures relating to the acquisition and disposal of major assets;

(l) the authority's accounting policies that apply to the preparation of its accounts;

(m) style and frequency of reporting requirements;

(n) the performance indicators for the authority's performance targets.

(2) The performance plan must also contain the following particulars about the water authority's community service obligations—

(a) the nature and extent of the obligations to be performed by the authority for the financial year to which the plan relates;

(b) the costs for the obligations;

(c) the ways in which, and the extent to which, the authority must be compensated by the State for performing the obligations;

(d) performance targets for the obligations.

654 Preparing draft performance plan

(1) A category 1 water authority must prepare, and give to the Minister for approval, a draft performance plan.

(2) The draft must be given to the Minister no later than 2 months before the start of the financial year to which the plan applies.

(3) The authority and the Minister must try to reach agreement on the draft performance plan—

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(a) as soon as possible; and

(b) no later than the start of the financial year to which the plan applies.

655 Special procedures for draft performance plan

(1) The Minister may return the draft performance plan to the water authority and request it to—

(a) consider, or further consider, any matter and deal with the matter in the draft plan; and

(b) revise the draft plan in the light of its consideration or further consideration.

(2) The authority must immediately comply with the request.

(3) If a draft performance plan has not been agreed to by the Minister before the start of the financial year, the Minister may, by notice, direct the authority—

(a) to take specified steps in relation to the draft plan; or

(b) to make specified modifications to the draft plan.

(4) The authority must immediately comply with a direction under subsection (3).

(5) The Minister must cause a copy of a direction to be published in the gazette within 15 business days after it is given.

656 Performance plan on agreement

When a water authority's draft performance plan is agreed to by the Minister, it becomes the authority's performance plan for the relevant financial year.

657 Performance plan pending agreement

(1) This section applies if the Minister has not agreed to a draft performance plan before the start of the financial year to which the plan applies.

(2) The draft performance plan submitted, or last submitted, by the authority to the Minister before the start of the financial year (with any modifications made by the authority, whether before or after that time, at the direction of the Minister) is taken to be the authority's performance plan until a draft performance plan becomes the authority's performance plan under section 656.

658 Modifying performance plan

(1) A water authority's performance plan may be modified by the authority with the Minister's agreement.

(2) The Minister, by notice, may direct the authority to modify the performance plan.

(3) The Minister must cause a copy of the direction to be published in the gazette within 15 business days after it is given.

Division 5 Tax equivalents manual for category 1 water authorities

659 Treasurer may issue tax equivalents manual

(1) The Treasurer may issue a manual (the ***tax equivalents manual***) about deciding the amounts (***tax equivalents***) that must be taken into account by a category 1 water authority in applying full cost pricing to its operations as the value of benefits derived by the authority if there is no liability to pay a government tax that would be payable by the authority if it were not a statutory authority.

(2) Without limiting subsection (1), the tax equivalents manual may provide for the following—

(a) rulings by the tax assessor appointed under subsection (3) on issues about tax equivalents, including the application of rulings under a Commonwealth Act about Commonwealth tax;

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(b) lodging returns and giving information;

(c) assessing returns;

(d) the tax assessor's functions and powers;

(e) objections and appeals against assessments and rulings.

(3) The Treasurer may appoint a person to be the tax assessor under the tax equivalents manual.

(4) A category 1 water authority must, as required under the tax equivalents manual, pay tax equivalents to the Minister for payment to the consolidated fund.

(5) The Treasurer must table a copy of the tax equivalents manual, and each amendment of the manual, in the Legislative Assembly within 14 sitting days after the manual is issued or the amendment is made.

Division 6 Dividends payable by category 1 water authorities

660 Payment of dividends

(1) On or after 1 May, but before 16 May, of each financial year, a category 1 water authority must recommend to the Minister that it pay a specified dividend, or not pay a dividend, to the State for the financial year.

(2) The recommendation must be accompanied by—

(a) the authority's estimate of the authority's profits (the ***estimated profits***) for the financial year, after provision has been made for income tax or its equivalent; and

(b) if the authority has made any adjustment to the estimated profits in making the recommendation—a statement of the amount of, and reason for, each adjustment.

Example of an adjustment to estimated profits—

exclusion of an amount for unrealised capital gains from upwards revaluation of non-current assets

(3) Before the end of the financial year, the Minister must either—

(a) approve the recommendation; or

(b) direct the payment to the State of a specified dividend or a dividend different from the specified dividend mentioned in the recommendation.

(4) The dividend for a financial year must not exceed the authority's profits, after—

(a) provision has been made for income tax or its equivalent; and

(b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.

(5) The dividend must be paid within 6 months after the end of the financial year or any further period the Minister allows.

(6) The Minister must cause a copy of a direction given under subsection (3)(b) to be published in the gazette within 15 business days after the direction is given.

661 Interim dividends

(1) The Minister, at any time after 1 January in a financial year, may require a category 1 water authority to make a recommendation about the payment of interim amounts to the State, including when the amounts are to be paid, on account of the dividend that may become payable under section 660 for the financial year.

(2) Within 1 month after receiving notice of the requirement, the authority must make a recommendation to the Minister.

(3) The Minister must, within 1 month after receiving the recommendation, either—

(a) approve the recommendation; or

(b) direct the payment, at specified times, of specified amounts, or different specified amounts, on account of

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the dividend that may become payable for the financial year.

(4) A direction under subsection (3)(b) must not direct the payment of an amount that exceeds the authority's estimated profit for the first 6 months of the financial year, after—

(a) provision has been made for income tax or its equivalent; and

(b) any unrealised capital gains from upwards revaluation of non-current assets have been excluded.

(5) The Minister must cause a copy of a direction under subsection (3)(b) to be published in the gazette within 15 business days after the direction is given.

Part 6 Reserve powers of Minister

675 Minister's power to notify water authority of public sector policies

(1) The Minister may give a water authority notice of a public sector policy that is to apply to the authority if the Minister is satisfied it is necessary to give the notice in the public interest.

(2) The water authority must comply with the policy.

(3) Before giving the notice, the Minister must—

(a) consult with the water authority; and

(b) ask the authority to advise whether, in its opinion, complying with the policy would not be in its financial interest.

(4) The Minister must gazette a copy of the notice within 15 business days after it is given.

676 Minister's power to give directions in public interest

(1) The Minister may give a water authority a written direction if the Minister is satisfied it is necessary to give the direction in the public interest because of exceptional circumstances.

(2) The water authority must comply with the direction.

(3) Before giving the direction, the Minister must—

(a) consult with the water authority; and

(b) ask the authority to advise whether, in its opinion, complying with the direction would not be in its financial interest.

(4) The Minister must gazette a copy of the direction within 15 business days after it is given.

678 Notice of suspected insolvency because of notice or direction

(1) This section applies if—

(a) a water authority is given a notice about a public sector policy (a ***public sector policy notice***) or direction under this part; and

(b) the authority suspects that it will or may become insolvent; and

(c) in the authority's opinion, the cause or a substantial cause of the suspected insolvency would be compliance with the public sector policy notice or direction.

(2) The authority must immediately give the Minister notice of the suspicion and its reasons for the opinion.

(3) The notice must state that it is given under this section.

(4) The giving of the notice operates to suspend the public sector policy notice or direction until—

(a) the Minister gives the authority written advice that the Minister is not satisfied that—

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(i) the authority's suspicion mentioned in subsection (1)(b) is well-founded; or

(ii) the authority's opinion mentioned in subsection (1)(c) is justified; or

(b) the public sector policy notice or direction is revoked.

(5) If the authority was given a public sector policy notice or a direction, and the Minister is satisfied that the authority's suspicion is well-founded, the Minister must immediately—

(a) if the Minister is also satisfied that the authority's opinion is justified—revoke the public sector policy notice or direction; and

(b) in any case—give the authority the written directions the Minister considers necessary or desirable, including any directions necessary or desirable to ensure—

(i) the authority does not incur further debts; or

(ii) the authority will be able to pay all its debts as and when they become due.

(6) Without limiting subsection (5), a direction under this section may require the authority to stop or limit particular activities.

(7) The authority must comply with a direction under this section.

(8) The Minister must publish a copy of the direction in the gazette within 15 business days after it is given.

(9) This section is in addition to, and does not limit, another provision of this Act or another law.

Part 7 Amalgamating, dissolving and transferring functions of water authorities and authority areas

Division 1 Amalgamating or dissolving water authorities and authority areas

Subdivision 1 General procedure

690 Amalgamating water authorities and authority areas

(1) A regulation may amalgamate 2 or more water authorities (***former authorities***) to form a new water authority.

(2) The regulation must—

(a) name the new water authority; and

(b) if the new water authority is to have an authority area—identify the area; and

(c) dissolve the former authorities; and

(d) if the former authorities had authority areas—dissolve the areas.

(3) A regulation may amalgamate 2 or more former water areas—

(a) taken, under section 1083(2), to be authority areas; and

(b) for which the chief executive continues to perform the functions of a water authority.

(4) The regulation must—

(a) identify the new area; and

(b) dissolve the former areas.

691 Dissolution of water authority and authority area

(1) A regulation may—

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(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

(b) dissolve a water authority for converting the authority to an alternative institutional structure; or

(c) dissolve a water authority after transferring all its functions to a local government under section 700A; or

(d) dissolve a water authority and appoint the chief executive to perform the authority's functions.

(2) If a water authority mentioned in subsection (1)(a) to (c) has an authority area, the regulation may also dissolve the authority area.

(3) If the Minister is satisfied that either of the following no longer serves the function for which it was established, a regulation may dissolve—

(a) a former water area—

(i) taken, under section 1083(2), to be an authority area; and

(ii) for which the chief executive continues to perform the functions of a water authority;

(b) an authority area whose water authority was dissolved under subsection (1)(d).

(4) The chief executive's appointment to perform the functions of a water authority, for an authority area dissolved under subsection (3), ceases on the dissolution of the area.

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

(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

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(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.

692 Public notice of proposed amalgamation or dissolution

(1) Before a regulation amalgamates water authorities or authority areas or dissolves a water authority or an authority area, the chief executive must publish notice of the proposed amalgamation or dissolution—

(a) in the gazette; and

(b) in another way, if the chief executive considers the way to be appropriate having regard to the intended audience for the notice.

(2) However, subsection (1) does not apply to a proposed amalgamation or dissolution mentioned in the subsection if the chief executive is satisfied—

(a) the ratepayers in each authority area to which the proposed amalgamation or dissolution relates have been informed about the proposal by the water authority for the area; and

(b) the proposed amalgamation or dissolution is because of action taken by the State in response to the Webbe-Weller review; and

(c) the publication of the notice is not appropriate, having regard to the public interest.

(3) For a proposed amalgamation or dissolution of an authority area mentioned in section 691(3)(b)—

(a) subsection (1)(b) does not apply; but

(b) the chief executive must give the notice to all landholders in the authority area who are being supplied with water at the time of the proposed amalgamation or dissolution.

(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.

694 Considering submissions on proposed amalgamation or dissolution

The chief executive must consider each properly made submission about a proposed water authority or authority area amalgamation or dissolution before the amalgamation or dissolution happens.

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Subdivision 2 Additional procedures for conversion to an alternative institutional structure

695 Water authority may request its dissolution

(1) A water authority may request its dissolution to enable it to convert to an alternative institutional structure if—

(a) its board, by special resolution, resolves to make the request; and

(b) for an authority with an authority area—

(i) there are 1 or more closed water activity agreements 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) The request must be given, in writing, to the chief executive and must state the particulars of the proposed conversion.

(2A) Before conducting the special ballot, the water authority must give all ratepayers details of the possible consequences for the ratepayers of the proposed conversion.

(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.

(3A) The chief executive may require the authority to provide further particulars of the proposed conversion.

(4) In this section—

special resolution means a resolution that is passed by a two-thirds majority at a meeting of the board.

695A Closed water activity agreement

(1) This section applies for a water authority if—

(a) the water authority carries out water activities including water supply or drainage for an authority area; and

(b) all relevant registered owners of the land in the authority area enter into a written agreement complying with subsection (3) (a ***closed water activity agreement***) about carrying out the water activities for the land.

(2) For subsection (1)(b), the relevant registered owners of the land in the authority area may enter into 2 or more closed water activity agreements if—

(a) each agreement applies to different works, and different parts of the land, in the authority area; and

(b) each relevant registered owner is a party to only 1 of the agreements.

(3) The agreement must state—

(a) the land and works to which the agreement applies; and

(b) if the water activities include water supply—

(i) the water to which the agreement applies; and

(ii) the arrangements for supplying the water to each party's land; and

(c) the arrangements for the maintenance or replacement of the works and the sharing of the cost of the maintenance or replacement; and

(d) the arrangements for accessing the works; and

(e) provisions for the cancellation of the agreement with the consent of all parties.

(4) The agreement has effect only when the water authority and its authority area are dissolved under this division.

(5) While the agreement has effect, the obligations under the agreement on each party attach to the party's land and bind the party and the party's successors in title to the land.

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(6) Section 1001(1) to (3) applies to the registration of the agreement as if—

(a) a reference in the subsections to the private water supply agreement or agreement were a reference to the closed water activity agreement; and

(b) a reference in the subsections to the parties were a reference to the parties to the closed water activity agreement; and

(c) a reference in the subsections to relevant land were a reference to the land mentioned in subsection (3)(a).

(7) 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.

696 Procedure before authority is dissolved to convert to alternative institutional structures

(1) Before a regulation is made dissolving a water authority to allow it to convert to 1 or more alternative institutional structures—

(a) each new entity that is an alternative institutional structure must be established; and

(b) the Minister, after consultation with the Treasurer, must be satisfied the State has obtained or will obtain—

(i) a satisfactory indemnity for civil liabilities incurred by the State under section 705; and

(ii) appropriate payment from the new entity for the authority's assets; and

(c) if 2 or more alternative institutional structures are or are to be established, the water authority must give the Minister a notice (an ***allocation notice***) stating the proposed allocation of employees, assets, liabilities and

property of any kind between the alternative institutional structures.

(2) For subsection (1)(a), an alternative institutional structure consisting of all the parties to a closed water activity agreement is established if—

(a) the parties have entered the agreement; and

(b) section 1001(1) and (2), as applied under section 695A(5), has been complied with.

(3) To remove any doubt, it is declared, for the conversion of a water authority to 1 or more alternative institutional structures consisting of all the parties to a closed water activity agreement, that nothing in this Act or the agreement or another document prevents the State from obtaining an indemnity or payment mentioned in subsection (1)(b) from any 1 or more of the parties.

Subdivision 3 Other matters

697 Recovering amalgamation or dissolution costs

The State may recover from—

(a) 2 or more water authorities the costs incurred by the State in publishing notice of the authorities' proposed amalgamation under section 692; or

(b) a water authority the costs incurred by the State in publishing notice of the authority's proposed dissolution under section 692.

Division 2 Transferring water authority's functions to local government

700A Process for transfer

(1) This section applies if—

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(a) the Minister is satisfied—

(i) a local government and a water authority have agreed in writing—

(A) to a proposed transfer by the water authority to the local government of all or part of the authority's functions; and

(B) on how to implement the proposed transfer; and

(ii) the water authority has taken reasonable steps to inform—

(A) its customers and ratepayers of the proposed transfer; and

(B) its customers and ratepayers of the date of the proposed transfer; and

(C) its ratepayers of the amount of any proposed charges by the local government for the supply of water to be imposed for the first year after the proposed transfer, or how to work out the proposed charges; and

(D) its ratepayers of the terms of a model agreement between the local government and the persons to whom the local government is to supply water about the supply of water to the persons; and

(E) its ratepayers of whether the local government proposes to require persons to whom the local government is to supply water to enter into agreements between the local government and the persons about the supply of water; and

(b) the local government and water authority have—

(i) notified the Minister of their agreement about the proposed transfer and on how it is to be implemented; and

(ii) asked, in writing, for the Minister's approval of the proposed transfer.

(2) The Minister may require the local government or water authority to do either or both of the following—

(a) provide the Minister with further particulars relating to the proposed transfer within a reasonable period of at least 28 days after the requirement is made;

(b) address an issue relevant to the proposed transfer in the agreement mentioned in subsection (1)(a)(i).

(3) The Minister may approve the proposed transfer.

(4) If the Minister approves the proposed transfer, a regulation may approve the agreement entered into between the water authority and the local government.

(5) The regulation must include, as an attachment, a copy of the agreement.

(6) The agreement takes effect when the regulation commences.

Division 3 Effect of amalgamating, dissolving, converting to alternative institutional structure and transferring functions

701 Definitions for div 3

In this division—

changeover day, for a former water authority, means the day the authority is amalgamated with another water authority or dissolved under division 1.

former water authority means a water authority that is—

(a) amalgamated with another water authority; or

(b) converted to 1 or more alternative institutional structures; or

(c) dissolved under section 691(1)(a), (c) or (d).

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Not authorised—indicative only

new entity means—

(a) for a former water authority that is amalgamated with another water authority—the water authority constituted as a result of the amalgamation; or

(b) for a former water authority that is converted to 1 or more alternative institutional structures—each entity that is an alternative institutional structure; or

(c) for a former water authority that is dissolved under section 691(1)(a) or (d)—the State; or

(d) for a former water authority that is dissolved under section 691(1)(c)—the local government to which the former water authority transferred its functions.

701A Notification for conversion to 2 or more alternative institutional structures

If a former water authority is converted to 2 or more alternative institutional structures, the Minister must, on the changeover day for the former water authority, publish in the gazette the allocation notice for the former water authority.

702 Vesting of assets, rights and liabilities

(1) The assets, rights and liabilities of a former water authority vest in the new entity on the changeover day.

(2) However, if a former water authority is converted to 2 or more alternative institutional structures, the assets, rights and liabilities of the authority vest, on its changeover day, in each new entity for the authority in accordance with the authority's allocation notice.

703 Continuing legal proceedings

(1) On the changeover day for a former water authority, a legal proceeding by or against the authority that has not been finished before the changeover day may be continued and finished by or against the new entity.

(2) However, if a former water authority is converted to 2 or more alternative institutional structures, a legal proceeding by or against the authority that has not been finished before its changeover day may, from the changeover day, be continued and finished by or against whichever of the new entities for the authority that is the most appropriate in the circumstances.

(3) Also, if a former water authority is converted to an alternative institutional structure consisting of all the parties to a closed water activity agreement, a legal proceeding against the authority that has not been finished before the changeover day may be continued and finished against any 1 or more of the parties.

(4) Subsection (3) applies despite section 702(1).

Example—

If there is a legal proceeding against a former water authority in relation to supply of water to a customer of the authority that has not been finished before the changeover day for the authority, the legal proceeding may be continued and finished by the alternative institutional structure that takes over the function of supplying water to the authority's customers.

704 Existing employees

(1) On the changeover day for a former water authority that is amalgamated with another water authority, a person who was employed by the former water authority becomes an employee of the new entity.

(2) On the changeover day for a former water authority that is converted to an alternative institutional structure, a person who was employed by the former water authority becomes an employee of the new entity.

(2A) However, if the former water authority is converted to 2 or more alternative institutional structures, on the changeover 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.

(3) A person mentioned in subsection (1) or (2)—

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Not authorised—indicative only

(a) must be employed on terms and conditions of employment that are at least as favourable as the person's existing terms and conditions of employment; and

(b) remains entitled to all existing and accruing rights of employment.

(4) A person who was employed by a former water authority that is dissolved after transferring all its functions to a local government under section 700A and who, on the changeover day, becomes an employee of a local government—

(a) must be employed on terms and conditions of employment that are at least as favourable as the person's existing terms and conditions of employment; and

(b) remains entitled to all existing and accruing rights of employment.

705 State undertakes non-transferable civil liability

(1) This section applies only to an act done or omission made by a changing authority in relation to its functions and powers under this Act before the authority is changed.

(2) If the act or omission gives rise to a civil liability that, at law, can not be transferred to the new entity, the State stands in the place of the authority for the act or omission.

(3) In this section—

changed, for an authority, means—

(a) amalgamated with another water authority; or

(b) converted to 1 or more alternative institutional structures.

changing authority means a water authority that is to be—

(a) amalgamated with another water authority; or

(b) converted to 1 or more alternative institutional structures.

706 Non-liability for State taxes

(1) This section applies to a former water authority that is a category 2 water authority, and a new entity for the former water authority, if—

(a) the former water authority is amalgamated with another authority or dissolved under division 1; and

(b) the Minister is satisfied the amalgamation or dissolution happened because of action taken by the State in response to the Webbe-Weller review.

(2) The former water authority and the new entity are not liable to pay a State tax for anything done in relation to the amalgamation or dissolution.

(2A) Subsection (2) does not apply to anything done after 30 June 2015.

(3) In this section—

State tax means—

(a) duty under the *Duties Act 2001*; or

(b) a fee or charge under the *Land Act 1994*, *Land Title Act 1994* or this Act.

707 Water authority to help local government for transfer

(1) This section applies if a water authority transfers all or part of its functions to a local government under division 2.

(2) The water authority must give the local government all reasonable help to facilitate the transfer.

Examples for subsection (2)—

- providing a list of ratepayers and customers
- providing information about the state of the accounts of ratepayers and customers
- providing details of how rates and charges were calculated
- providing documents about the water authority's infrastructure

Not authorised—indicative only

Not authorised—indicative only

Part 8 Miscellaneous

717 Recovering water authority's establishment costs

(1) The State may recover from a water authority the costs incurred by the State for the following—

(a) designing the works stated in the authority's establishment proposal as works the authority proposes to build;

(b) conducting site investigations for the works;

(c) publishing notice of the authority's proposed establishment under section 552.

(2) However, the State may recover the costs mentioned in subsection (1)(a) and (b) only if the establishment proposal for the authority states—

(a) the amount of the costs; and

(b) that the State may recover the costs from the authority.

Chapter 4A Declared channel schemes

Part 1 Preliminary

718 Definitions for chapter

In this chapter—

acquisition Act means the *Acquisition of Land Act 1967* or another Act providing for the compulsory acquisition of land.

declared channel scheme see section 720.

declared project see section 719.

employee register, for a declared channel scheme, see section 737.

irrigation entity see section 721.

project direction see section 724(1).

transferable employee see section 738.

transfer day, for a declared channel scheme, means the day declared as the transfer day for the scheme under section 722.

transfer notice see section 723(1).

719 What is a *declared project*

(1) Each of the following is a ***declared project***—

(a) the transfer of the businesses, assets and liabilities of SunWater in relation to a declared channel scheme to an irrigation entity;

(b) the divestment from the State of an irrigation entity.

(2) The Minister may, by gazette notice, declare a thing to be part of a declared project for this chapter if the Minister is satisfied it is appropriate to include the thing as part of a transfer or divestment or otherwise necessary to do so for the proper completion of the declared project.

720 What is a *declared channel scheme*

(1) Each of the following is a ***declared channel scheme***—

(a) Emerald channel scheme;

(b) Eton channel scheme;

(c) St George channel scheme;

(d) Theodore channel scheme;

(e) another channel scheme declared by regulation to be a declared channel scheme for this chapter.

(2) In this section—

Not authorised—indicative only

Not authorised—indicative only

channel scheme means the distribution system or water infrastructure for which SunWater holds a resource operations licence immediately before the transfer of its businesses, assets and liabilities to an irrigation entity.

Emerald channel scheme—

1 *Emerald channel scheme* is the distribution system used to supply water under water allocations to customers who purchase irrigation services in the Nogoa Mackenzie water supply scheme.

2 For paragraph 1, the Nogoa Mackenzie water supply scheme is the irrigation infrastructure by which water is supplied from Fairbairn Dam to the customers.

Eton channel scheme—

1 *Eton channel scheme* is the distribution system used to supply water under water allocations to customers who purchase irrigation services in the Eton water supply scheme.

2 For paragraph 1, the Eton water supply scheme is the irrigation infrastructure by which water is supplied from Kinchant Dam to the customers.

St George channel scheme—

1 *St George channel scheme* is the distribution system used to supply water under water allocations to customers who purchase irrigation services in the St George water supply scheme.

2 For paragraph 1, the St George water supply scheme is the irrigation infrastructure by which water is supplied from Beardmore Dam to the customers.

Theodore channel scheme—

1 *Theodore channel scheme* is the distribution system used to supply water under water allocations to customers who purchase irrigation services in the Dawson Valley water supply scheme.

2 For paragraph 1, the Dawson Valley water supply scheme is the irrigation infrastructure by which water is supplied from Theodore Weir to the customers.

721 What is an *irrigation entity*

An ***irrigation entity*** is a corporation, other than a GOC—

(a) that is established for the purposes of a declared project; and

(b) to which the State provides financial support, under a funding arrangement, for the corporation to undertake the project.

722 Minister may declare transfer day for declared channel scheme

The Minister may, by gazette notice, declare a day to be the transfer day for a declared channel scheme.

Part 2 Particular Ministerial powers relating to declared projects

723 Transfer notice

(1) For the purpose of a declared project, the Minister may, by gazette notice (a ***transfer notice***), do any of the following—

(a) transfer a business, asset or liability of SunWater to an irrigation entity;

(b) make provision about the consideration for a business, asset or liability transferred under paragraph (a);

(c) grant a lease, easement or other interest in land to SunWater or an irrigation entity;

(d) vary or extinguish a lease, easement or other interest in land held by SunWater, the State, or an irrigation entity;

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Not authorised—indicative only

(e) transfer an easement held by SunWater or the State to an irrigation entity;

(f) in relation to a lease held under the *Land Act 1994* or another Act—

(i) transfer the lease; or

(ii) change a purpose for which the lease is issued; or

(iii) change a condition imposed on the lease; or

(iv) grant a sublease;

(g) in relation to a reserve under the *Land Act 1994*—

(i) change a purpose for which the reserve is dedicated; or

(ii) remove a trustee of the reserve; or

(iii) appoint a trustee of the reserve, subject to conditions or without conditions;

(h) provide whether and, if so, the extent to which an irrigation entity is the successor in law of SunWater;

(i) provide for a legal proceeding that is being, or may be, taken by or against SunWater to be continued or taken by or against an irrigation entity;

(j) provide for or about the issue, transfer, amendment or application of an instrument to SunWater or an irrigation entity, including—

(i) whether SunWater or an irrigation entity holds, or is a party to, an instrument; and

(ii) whether an instrument, or a benefit or right provided by an instrument, is taken to have been given to, by or in favour of SunWater or an irrigation entity; and

(iii) whether a reference to an entity in an instrument is a reference to SunWater or an irrigation entity; and

(iv) whether, under an instrument, an amount is or may become payable to or by SunWater or an irrigation

entity or other property is, or may be, transferred to or by SunWater or an irrigation entity; and

(v) whether a right or entitlement under an instrument is held by SunWater or an irrigation entity;

(k) provide for the transfer, other than a transfer under part 4, or secondment of an employee of SunWater to an irrigation entity;

(l) make provision about the employees of SunWater or an irrigation entity and their terms and conditions of employment, rights and entitlements;

(m) make provision about the records of SunWater or an irrigation entity, including records and agreements relating to the employment of employees transferred or seconded under a transfer notice;

(n) make provision about an incidental, consequential or supplemental matter the Minister considers necessary or convenient for effectively carrying out the declared project.

(2) A transfer notice may include conditions applying to something done or to be done under the notice.

(3) If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice (for example, because of the size or nature of the matter), the Minister may provide for the matter by including a reference in the transfer notice to another document that is—

(a) signed by the Minister; and

(b) kept available, at a place stated in the transfer notice, for inspection by the persons to whom the matter relates.

(4) The transfer of a liability of SunWater or an irrigation entity under a transfer notice discharges SunWater or the irrigation entity from the liability, except to the extent stated in the notice.

(5) A transfer notice has effect despite any other law or instrument.

Not authorised—indicative only

Not authorised—indicative only

(6) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.

(7) If a transfer notice provides for a matter under subsection (1)(j) in relation to an instrument, the responsible entity for the instrument must take the action necessary to register or record the effect of the transfer notice, including—

(a) updating a register or other record; and

(b) amending, cancelling or issuing an instrument.

(8) A reference in this section to an irrigation entity includes a reference to an entity that is no longer an irrigation entity but was an irrigation entity before its divestment from the State if the Minister declares under section 719(2) that the application of this section to the entity is part of a declared project for this chapter.

(9) In this section—

authority includes an accreditation, allocation, approval, certificate, entitlement, exemption, licence, manual, notice, permit and plan.

employee, of SunWater or an irrigation entity, does not include a director of SunWater or of the irrigation entity.

instrument includes—

(a) an oral agreement; and

(b) an application or authority under an Act.

responsible entity, for an instrument, means the entity required or authorised by law to register or record matters in relation to the instrument.

724 Project direction

(1) The Minister may give a direction (a ***project direction***) to SunWater or an irrigation entity (each a ***relevant entity***), a relevant entity's board or a government agency requiring the relevant entity, board or agency to do something the Minister

considers necessary or convenient for effectively carrying out a declared project.

(2) Without limiting subsection (1), a project direction may be about—

(a) forming a company for the purpose of transferring a business, asset or liability to a company; or

(b) winding up or deregistering a company; or

(c) making or executing an instrument; or

(d) making a particular decision about transferring or disposing of an interest held in a relevant entity or a business, asset or liability; or

(e) disclosing information.

(3) A project direction must be in writing and signed by the Minister.

(4) A relevant entity or government agency must comply with a project direction given to it.

(5) A relevant entity's board must—

(a) if a project direction is given to the board—comply with the direction; or

(b) if a project direction is given to the entity—take the action necessary to ensure the entity complies with the direction.

(6) A relevant entity's employees must help the entity or the entity's board to comply with a project direction given to the entity or board.

(7) In this section—

government agency means a government entity under the *Public Service Act 2008*, section 24, or a government owned corporation, that the Minister declares by gazette notice to be a government agency for this section.

Not authorised—indicative only

Not authorised—indicative only

Part 3 Interests in land

725 Resource authorities unaffected

(1) This section applies if a transfer notice provides for—

(a) a perpetual lease under the *Land Act 1994* that is held by SunWater or an irrigation entity to be varied or extinguished; or

(b) a perpetual lease under the *Land Act 1994* to be issued by the State to SunWater or an irrigation entity.

(2) The variation, extinguishment or issue of the perpetual lease does not affect a resource authority held in relation to land the subject of the perpetual lease.

(3) In this section—

resource authority see the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 10.

725A Rent payable if perpetual lease issued or transferred to irrigation entity

(1) This section applies if a transfer notice provides for the issuing or transfer of a perpetual lease under the *Land Act 1994* to an irrigation entity.

(2) The lease must be for a rent of $1 each year, if demanded, payable to the State.

726 Particular easements

(1) This section applies if—

(a) a transfer notice provides for the transfer of an easement held by SunWater to an irrigation entity; and

(b) the easement was acquired by SunWater, or SunWater's predecessor in title of the easement, under an acquisition Act for water supply or irrigation purposes or for a

purpose of this Act, the repealed Act or the repealed *Irrigation Act 1922*, including—

(i) an easement taken by a gazette resumption notice under the *Acquisition of Land Act 1967* (a ***resumption easement***); and

(ii) a public utility easement under the *Land Act 1994* or the *Land Title Act 1994*.

(1A) This section applies whether or not the easement was acquired compulsorily or by agreement.

(2) The irrigation entity has the benefit of the easement from the day the easement is transferred (the ***easement transfer day***) as if the irrigation entity were SunWater immediately before the easement transfer day.

(3) However, subsection (2) does not apply to the extent the benefit of a right, power or privilege over, or in relation to, the easement—

(a) involves or permits the exercise of a SunWater statutory power in relation to the land over which SunWater held the benefit of the easement; or

(b) is inconsistent with the irrigation entity's functions or powers.

(4) Despite subsection (2), the irrigation entity incurs a liability, or exercises a right, power or privilege over, or in relation to, the easement in its own name.

(5) A liability of SunWater relating to the easement becomes a liability of the irrigation entity on the easement transfer day.

(6) The *Acquisition of Land Act 1967*, section 41, does not apply to the transfer of a resumption easement.

(7) No compensation is payable to any person because of the transfer.

(8) This section applies despite any other Act or anything to the contrary in the terms of the easement.

(9) In this section—

Not authorised—indicative only

Not authorised—indicative only

SunWater statutory power means a power exercisable by SunWater under an Act immediately before the easement transfer day.

727 Unregistered easements

(1) This section applies if—

(a) a transfer notice provides for the transfer to an irrigation entity of an easement mentioned in section 726(1)(b) that is held by SunWater and is in a declared channel scheme; and

(b) there is no outstanding issue of substance relating to the payment of compensation under the acquisition Act for the acquisition; and

Examples—

1 All compensation payable under the acquisition Act for the acquisition was paid to the person entitled to it.

2 The issue of compensation payable under the acquisition act for the acquisition was never pursued because any amount payable would have been negligible.

(c) the particulars of the acquisition of the easement have never been recorded in the appropriate register for the land the subject of the easement; and

(d) the rights conferred, and the obligations imposed, by the easement have never been extinguished; and

(e) immediately before the transfer day for the declared channel scheme, infrastructure associated with the purposes for which the easement was taken is situated on the land; and

(f) the Minister is satisfied, to the greatest practicable extent on the basis of documentary evidence, that the matters mentioned in paragraphs (a) to (e) are true.

(2) Subsection (1)(d) applies despite the *Land Act 1994* or the *Land Title Act 1994*.

(3) The Governor in Council may, by gazette notice published within 2 years after the transfer day for the declared channel

scheme, declare that the easement is valid and held by the irrigation entity.

(4) For an application under section 738X, the chief executive or registrar of titles may rely on the gazette notice for amending the appropriate register for the land the subject of the easement to include the current particulars of the easement in the register.

(5) Without limiting subsections (3) and (4), the chief executive or registrar of titles must, in recording the particulars of the easement, record in the appropriate register copies of the following—

(a) the plan of survey used for identifying the easement when the easement was acquired, and any subsequent plan of survey relevant to identifying the easement;

(b) any gazette notice forming part of the acquisition process under the acquisition Act.

(6) For this section, it does not matter whether the relevant land was freehold land or leasehold land when the easement was created, or whether the relevant land is freehold land or leasehold land when the gazette notice mentioned in subsection (3) is published.

(7) To remove any doubt, it is declared that the transfer of an easement to the irrigation entity does not require or permit the irrigation entity to perform a function, or exercise a power, of a water authority.

(8) In this section—

appropriate register, for land the subject of an easement, means the register in which the easement is required to be registered under the *Land Act 1994* or the *Land Title Act 1994*.

extinguished includes surrendered.

Not authorised—indicative only

Not authorised—indicative only

728 Compensation not payable to any person for action under s 727

A person is not entitled to compensation from the State under this Act, the *Land Act 1994*, the *Land Title Act 1994* or the *Acquisition of Land Act 1967*, or otherwise, for deprivation of an interest in land, or for loss or damage of any kind, arising out of the recording of the particulars of an easement under section 727.

729 Third party licences preserved

(1) This section applies if—

(a) an unregistered right or permission was granted or purportedly granted (whether in writing or orally) by SunWater before the transfer day for a declared channel scheme for a person to enter or use land in a perpetual lease under the *Land Act 1994* that is held by SunWater and is in the area of the scheme (a ***third party licence***); and

(b) apart from this section, the third party licence was not lawfully granted by SunWater but would have been lawfully granted if, before the transfer day for the scheme, the land over which SunWater granted the third party licence was freehold land owned by SunWater rather than land in a perpetual lease; and

(c) a transfer notice provides for the transfer of the third party licence to the irrigation entity for the declared channel scheme.

(2) The third party licence is, immediately before the transfer day, taken to have effect in law and to continue from the transfer day according to its terms.

730 Subleases and licences under Land Act 1994

(1) This section applies to any of the following dealings affecting land—

(a) a transfer under the *Land Act 1994*, section 322 of a sublease;

(b) a sublease under the *Land Act 1994*, section 332;

(c) an amendment under the *Land Act 1994*, section 336 of a sublease.

(2) If land affected by the dealing is held under a transferred lease or a sublease of a transferred lease, despite a provision of the *Land Act 1994* mentioned in subsection (1), the Minister's approval is not required for the dealing or the registration of a document for the dealing.

(3) If an irrigation entity holds a lease under the *Land Act 1994* of transferred land, the irrigation entity may grant a licence to enter and use the land (a ***relevant licence***).

(4) Subsection (3) is subject to any condition of the lease that prohibits or restricts the grant of a licence.

(5) The indemnity and insurance conditions are conditions of each sublease of a transferred lease or relevant licence.

(6) For applying the indemnity and insurance conditions under subsection (5)—

(a) a reference to a lease may be taken to include a reference to a sublease or relevant licence; and

(b) a reference to a lessee may be taken to include a reference to a sublessee or licensee of a relevant licence.

(7) To remove any doubt, it is declared that the Minister's approval under the *Land Act 1994* is not required for the grant of a licence under this section.

(8) In this section—

indemnity and insurance conditions means the conditions stated in the *Land Regulation 2009*, schedule 10A, part 1, sections 1 and 2.

transferred land means land that has, by a transfer notice, been transferred from SunWater to an irrigation entity.

Not authorised—indicative only

Not authorised—indicative only

transferred lease means a perpetual lease under the *Land Act 1994* that has, by a transfer notice, been transferred from SunWater to an irrigation entity.

731 Disapplied mediation provisions

(1) The *Land Act 1994*, chapter 6, part 4, division 3A, does not apply to a sublease of a transferred lease.

Note—

The *Land Act 1994*, chapter 6, part 4, division 3A provides for the chief executive to mediate disputes about terms of particular subleases.

(2) In this section—

transferred lease means a perpetual lease under the *Land Act 1994* that has, by a transfer notice, been transferred from SunWater to an irrigation entity.

732 Application of Land Act 1994 and registration

(1) Subject to this part, the *Land Act 1994* applies to a sublease mentioned in section 730 as if it were granted under the *Land Act 1994*.

(2) The chief executive of the department in which the *Land Act 1994* is administered may record a dealing effected for a sublease under section 730 in the leasehold land register.

733 Permits to occupy under Land Act 1994

(1) Subsections (2) and (3) apply to a permit to occupy unallocated State land, a reserve or a road under the *Land Act 1994*, chapter 4, part 4 (the ***Land Act provisions***), issued to SunWater and in the area of a declared channel scheme.

(2) On the transfer day for the declared channel scheme, the permit to occupy is taken to be a permit to occupy issued to the irrigation entity for the scheme.

(3) To remove any doubt, it is declared that this section does not limit or otherwise affect the power of the chief executive

(land) to deal further with the permit to occupy under the Land Act provisions.

(4) Subsections (5) to (7) apply if SunWater—

(a) has infrastructure for an irrigation service located on a road under the *Land Act 1994* in the area of a declared channel scheme; but

(b) has not been issued with a permit to occupy the road under the Land Act provisions.

(5) On the transfer day for the declared channel scheme, the irrigation entity for the scheme is taken to have been issued with a permit to occupy the road.

(6) Subject to the *Land Act 1994*, section 180, the permit to occupy is for a term of 1 year.

(7) Despite the *Land Act 1994*, section 177(8), the permit to occupy need not be registered.

(8) In this section—

chief executive (land) means the chief executive of the department in which the *Land Act 1994* is administered.

734 Ancillary works and encroachments under Transport Infrastructure Act 1994

(1) This section applies to an approval under the *Transport Infrastructure Act 1994*, section 50(2), held by SunWater, to construct, maintain, operate or conduct specified ancillary works and encroachments on a State-controlled road in the area of a declared channel scheme.

(2) On the transfer day for the declared channel scheme, the approval is taken to be an approval given to the irrigation entity for the scheme.

735 Approvals for Transport Infrastructure Act 1994, s 255

(1) This section applies to an approval under the *Transport Infrastructure Act 1994*, section 255(1)(a), held by SunWater,

Not authorised—indicative only

Not authorised—indicative only

to interfere with a railway in the area of a declared channel scheme.

(2) On the transfer day for the declared channel scheme, the approval is taken to be an approval given to the irrigation entity for the scheme.

736 Access across irrigation channels

(1) This section applies if SunWater is required to construct or maintain a means of access across an irrigation channel from a parcel of land to a road in the area of a declared channel scheme.

Note—

See the repealed Act, section 127.

(2) On the transfer day for the declared channel scheme—

(a) SunWater's rights and obligations in relation to constructing or maintaining a means of access across the irrigation channel end; and

(b) SunWater's rights and obligations in relation to constructing or maintaining a means of access across the irrigation channel become the rights and obligations of the irrigation entity for the scheme.

(3) This section does not apply to a means of access mentioned in subsection (1) that SunWater is required to construct or maintain under a contract or other agreement or arrangement.

Part 4 Employees

737 What is the *employee register* for a declared channel scheme

(1) The ***employee register***, for a declared channel scheme, is a register of employees of SunWater whom SunWater proposes to transfer to the irrigation entity for the scheme, that is

prepared and approved by the chief executive officer, however called, of SunWater.

(2) The chief executive officer of SunWater may approve the employee register for the purpose of subsection (1).

(3) At any time within 1 year after the transfer day for a declared channel scheme, the chief executive officer of SunWater may change the employee register to correct an omission or error in relation to the scheme.

738 Who is a *transferable employee*

A ***transferable employee*** is a person—

(a) who, immediately before the transfer day for a declared channel scheme, was an employee of SunWater; and

(b) whose name is stated in the employee register for the declared channel scheme as an employee to be transferred to the irrigation entity for the scheme.

738A Transfer of transferable employees

(1) On the transfer day for a declared channel scheme—

(a) a transferable employee for the declared channel scheme becomes an employee of the irrigation entity for the scheme; and

(b) a transferable employee for the declared channel scheme ceases to be an employee of SunWater; and

(c) the records of SunWater, to the extent they relate to the employment of transferable employees for the declared channel scheme, become records of the irrigation entity for the scheme.

(2) However, if an employee of SunWater becomes a transferable employee because of a register correction for a declared channel scheme, subsection (1) applies to the employee as if the reference in the subsection to the transfer day for the scheme were a reference to the day after the register correction happens.

Not authorised—indicative only

Not authorised—indicative only

(3) Also, if a person ceases to be a transferable employee because of a register correction for a declared channel scheme, the person is taken never to have been—

(a) a transferable employee for the declared channel scheme; or

(b) transferred to the irrigation entity for the declared channel scheme.

(4) In this section—

register correction means a change to the employee register for a declared channel scheme under section 737(3) to correct an omission or error.

738B Preservation of rights of transferable employees

The transfer of a transferable employee to an irrigation entity does not—

(a) affect the employee's total remuneration; or

(b) prejudice the employee's existing or accruing rights to superannuation or annual, sick or long service leave; or

(c) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or

(d) constitute a retrenchment, redundancy or termination of the employee's employment by SunWater; or

(e) entitle the employee to a payment or other benefit because the employee is no longer employed by SunWater; or

(f) require SunWater to make any payment in relation to the employee's accrued rights to annual, sick or long service leave irrespective of any arrangement between SunWater and the employee.

738C Individual contracts of employment

(1) This section applies if a transferable employee of a declared channel scheme immediately before the transfer day for the scheme is not employed under a federal enterprise agreement but instead has an individual contract of employment with SunWater.

(2) The transferable employee's individual contract of employment with SunWater is, on the transfer day, taken to be an individual contract of employment between the employee and the irrigation entity for the declared channel scheme and applies with any necessary changes to give effect to the contract.

(3) In this section—

***federal enterprise agreement*—**

(a) means an agreement, however called, certified under the *Fair Work Act 2009* (Cwlth) between SunWater and its employees; and

(b) includes the SunWater Enterprise Agreement 2015–2018.

Part 5 Water service provider provisions

738D Application of part

This part applies to a declared channel scheme from the transfer day for the scheme.

738E Irrigation entity becomes water service provider

(1) SunWater ceases to be the water service provider for the supply of an irrigation service in the area of the declared channel scheme.

Not authorised—indicative only

Not authorised—indicative only

(2) The irrigation entity for the declared channel scheme becomes the water service provider for the supply of the irrigation service.

(3) The Water Supply Act, section 20 does not apply to the irrigation entity.

(4) The irrigation entity must, as soon as practicable, give the regulator the information mentioned in the Water Supply Act, section 12 about the irrigation entity as a water service provider.

(5) To remove any doubt, it is declared that SunWater does not cease to be a water service provider primarily providing bulk water services in the area of the scheme only because of subsection (1).

738F No notice to regulator required

The Water Supply Act, chapter 2, part 3, division 1, subdivision 3, does not apply for SunWater's cessation as, or the irrigation entity for the declared channel scheme becoming, a water service provider for the supply of an irrigation service in the area of the scheme.

738G Migration of customers

(1) This section applies to a person who, immediately before the transfer day for the declared channel scheme, is a customer of SunWater as a water service provider providing an irrigation service in the area of the scheme.

(2) On the transfer day, the person becomes a customer of the irrigation entity for the scheme as a water service provider providing the irrigation service.

Part 6 Distribution operations licences, water allocations and particular contracts

738H Issuing of distribution operations licence to irrigation entity

(1) This section applies if a transfer notice provides for the issuing to the irrigation entity for a declared channel scheme of a distribution operations licence to take water or interfere with the flow of water to distribute water under water allocations in the area of the scheme.

(2) Sections 181 and 182 do not apply for the issuing of the distribution operations licence to the irrigation entity.

738I Supply contracts applying for particular water allocations

(1) Before the transfer day for a declared channel scheme, the irrigation entity for the scheme must prepare a document (the ***irrigation entity document***) that sets out—

(a) the arrangements for water supplied under the resource operations licence (the ***ROL***) by SunWater in the area of the declared channel scheme; and

(b) the financial obligations, arising from the arrangements, of the holder of any water allocation to whom water is supplied under the ROL.

(2) The irrigation entity document must—

(a) be based on the standard supply contract applying to SunWater and the holders of the water allocations; and

(b) fairly represent the supply arrangements and financial obligations as in place before the transfer day.

(3) The irrigation entity document may include additional provisions to facilitate implementing the arrangements and meeting the obligations, but the additional provisions must not

Not authorised—indicative only

Not authorised—indicative only

be capable of operating to the detriment, in substance, of the holder of a water allocation after the transfer day.

(4) The irrigation entity must, before the transfer day, publish the irrigation entity document on the irrigation entity's website.

(5) On the transfer day, the irrigation entity document has effect as a contract (the ***supply contract***), relating to the supply of water under the distribution operations licence (the ***DOL***) held by the irrigation entity, between—

(a) the irrigation entity for the scheme; and

(b) the holder of each water allocation to whom water—

(i) was supplied under the ROL immediately before the transfer day; and

(ii) continues to be supplied under the DOL.

(6) Subsection (7) applies if—

(a) a new water allocation comes into existence after the transfer day; and

(b) water is or is to be supplied 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 irrigation entity as a document available for public access on the irrigation entity's website; and

(d) the document relates to the supply of water under the DOL to the holders of water allocations that are similar in type to the new water allocation.

(7) The document has effect as a contract (also a ***supply contract***) between—

(a) the irrigation entity; and

(b) the holder of the new water allocation.

(8) The supply contract applying to a water allocation has effect subject to any change agreed to by the irrigation entity and the holder of the water allocation.

(9) If the holder of a water allocation the subject of a supply contract transfers or leases the water allocation to another person, the other person is bound by the supply contract as in force between the irrigation entity and the holder immediately before the transfer or lease.

738J Power to charge fees for drainage services under supply contract

A supply contract under section 738I may provide that the irrigation entity may charge a person bound by the contract a fee for providing drainage services under the contract.

738JA Bulk water contracts

(1) Before the transfer day for a declared channel scheme, SunWater must prepare a document (the ***SunWater document***) that sets out—

(a) the arrangements for bulk water for irrigation services supplied under the resource operations licence (the ***ROL***) by SunWater in the area of the declared channel scheme; and

(b) the financial obligations, arising from the arrangements, of the holder of any water allocation to whom irrigation services are supplied.

(2) The SunWater document must—

(a) be based on the standard supply contract applying to SunWater and the holders of the water allocations; and

(b) fairly represent the supply arrangements and financial obligations as in place before the transfer day.

(3) The SunWater 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 the holder of a water allocation after the transfer day.

Not authorised—indicative only

Not authorised—indicative only

(4) SunWater must, before the transfer day, publish the SunWater document on SunWater's website.

(5) On the transfer day, the SunWater document has effect as a contract (the ***bulk water contract***), relating to the supply of bulk water for irrigation services under the ROL between—

(a) SunWater; and

(b) the holder of each water allocation to whom irrigation services—

(i) were supplied under the ROL immediately before the transfer day; and

(ii) continue to be supplied by SunWater.

(6) Subsection (7) applies if—

(a) a new water allocation in the area of the declared channel scheme comes into existence after the transfer day; and

(b) water is or is to be supplied to the holder of the new water allocation under the ROL; and

(c) a document, in the form of a contract, is held by SunWater as a document available for public access on SunWater's website; and

(d) the document relates to the supply of bulk water for irrigation services under the ROL to the holders of water allocations that are similar in type to the new water allocation.

(7) The document has effect as a contract (also a ***bulk water contract***) between—

(a) SunWater; and

(b) the holder of the new water allocation.

(8) The bulk water contract applying to a water allocation has effect subject to any change agreed to by SunWater and the holder of the water allocation.

(9) If the holder of a water allocation the subject of a bulk water contract transfers or leases the water allocation to another

person, the other person is bound by the bulk water contract as in force between SunWater and the holder immediately before the transfer or lease.

738JB Drainage contracts

(1) Before the transfer day for a declared channel scheme, the irrigation entity for the scheme must prepare a document (the ***drainage services document***) that sets out—

(a) the arrangements for drainage services provided by SunWater in the area of the declared channel scheme; and

(b) the financial obligations, arising from the arrangements, of a person to whom drainage services are provided but who will not, on the transfer day for the scheme, become the holder of a water allocation the subject of a supply contract under section 738I (a ***drainage services customer***).

(2) The drainage services document must fairly represent the arrangements for drainage services and financial obligations as in place before the transfer day.

(3) The drainage services 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 the drainage services customers after the transfer day.

(4) The irrigation entity must, before the transfer day, publish the drainage services document on the irrigation entity's website.

(5) On the transfer day, the drainage services document has effect as a contract (the ***drainage services contract***), relating to the provision of drainage services between—

(a) the irrigation entity; and

(b) each drainage services customer.

Not authorised—indicative only

Not authorised—indicative only

(6) The drainage services contract applying to a drainage services customer has effect subject to any change agreed to by the irrigation entity and the drainage services customer.

Part 7 Other authorities

738K Environmental authorities

(1) This section applies if a transfer notice provides for the transfer to an irrigation entity of an environmental authority for a prescribed ERA under the *Environmental Protection Act 1994*.

(2) The irrigation entity is taken to be a suitable operator under that Act for the carrying out of the prescribed ERA under the environmental authority.

(3) The *Environmental Protection Act 1994*, chapter 5A, part 4, division 1 does not apply for the registration of the irrigation entity as a suitable operator for the carrying out of the prescribed ERA.

738L Licensing as a ground distribution contractor under Agricultural Chemicals Distribution Control Act 1966

(1) This section applies if a transfer notice provides for the issuing to the irrigation entity for a declared channel scheme of a ground distribution contractor licence under the *Agricultural Chemicals Distribution Control Act 1966*.

(2) The ground distribution contractor licence is taken to have been granted under section 16B of that Act.

(3) The ground distribution contractor licence is subject to the same conditions as that part of the SunWater licence that applies to the declared channel scheme.

(4) To remove any doubt, it is declared that this section does not limit or otherwise affect the power of the chief executive (agricultural) to deal further with the ground distribution contractor licence.

(5) In this section—

chief executive (agricultural) means the chief executive of the department in which the *Agricultural Chemicals Distribution Control Act 1966* is administered.

SunWater licence means the ground distribution contractor licence held by SunWater immediately before the transfer day for the declared channel scheme.

Part 8 Divestment

738M Application of part

This part applies to an irrigation entity from the day the State is divested of the entity.

738N Providing irrigation services not a monopoly business activity

(1) The carrying on by the irrigation entity for the declared channel scheme of the business activity of providing irrigation services in the area of the scheme is taken not to be a monopoly business activity for the purposes of the *Queensland Competition Authority Act 1997*, part 3.

(2) However, subsection (1) does not affect the power of the Minister, or of the Governor in Council to make a regulation, to declare under the *Queensland Competition Authority Act 1997*, part 3 that the carrying on by the irrigation entity of the business activity of providing irrigation services in the area of the scheme is a monopoly business activity.

738O Application of Co-operatives National Law (Queensland)

(1) This section applies if the irrigation entity converts to a co-operative.

Not authorised—indicative only

Not authorised—indicative only

(2) In this section, a reference to a numbered provision is a reference to the provision of the Co-operatives National Law (Queensland) with that number.

(3) For registration of the irrigation entity as a co-operative, or an application for registration made by the irrigation entity, under the Co-operatives National Law (Queensland)—

(a) a document mentioned in section 23(1) of the Law must be submitted to the registrar at least 7 days before the formation meeting mentioned in that section is held; and

(b) section 30 of the Law does not apply.

(4) Section 359 does not apply in relation to the transfer of the irrigation entity's assets to the co-operative.

(5) In this section—

co-operative means a co-operative under the Co-operatives National Law (Queensland).

registrar means the Registrar under the Co-operatives National Law (Queensland).

738P Notifiable event for Auditor-General Act 2009

(1) This section applies if there is a notifiable event under the *Auditor-General Act 2009*, section 33 because an irrigation entity stops being a public sector entity.

(2) The Minister is taken to have complied with the requirements of section 33(3) of that Act despite not giving the Treasurer and the auditor-general a written notice about the notifiable event.

Part 9 Other matters for declared projects

738Q Duty to facilitate declared projects

SunWater and an irrigation entity must do all acts and things necessary or desirable for the purpose of a declared project.

738R Confidentiality agreement with irrigation entity

(1) An irrigation entity may enter into a confidentiality agreement with the State for the purpose of obtaining access to information in the possession or control of the State or SunWater.

(2) The agreement must state—

(a) the information to which access may be given; and

(b) the employees or agents of the irrigation entity to whom the access may be given; and

(c) any conditions of the agreement.

(3) Information mentioned in subsection (2)(a) may be identified by description including by a stated category.

(4) The persons mentioned in subsection (2)(b) may be identified by name, by a stated class, or by being a person approved by the State.

(5) In this section—

(a) a reference to an agreement includes a deed; and

(b) a reference to entering into an agreement with the State includes executing a deed in favour of the State.

738S Disclosure and use of information for declared project

(1) A person may disclose information in the possession or control of the State or SunWater, for the purpose of a declared project, to—

Not authorised—indicative only

Not authorised—indicative only

(a) a person involved in the declared project; or

(b) a person to whom the information may be given under a confidentiality agreement; or

(c) an irrigation entity, or an employee or agent of an irrigation entity.

(2) SunWater or its board must comply with a request by the Minister for the disclosure of information under subsection (1) to a person.

(3) A person may use information in the possession or control of the State or SunWater for the purpose of the declared project.

(4) Also, to remove any doubt, it is declared that a person may disclose or use information in compliance with a transfer notice or project direction.

(5) A person who, acting honestly, discloses or uses information under this section is not liable, civilly, criminally or under an administrative process, for the disclosure or use.

(6) In this section—

confidentiality agreement means an agreement mentioned in section 738R, whether entered into or executed before or after the commencement.

738T Non-liability for State taxes, charges or fees

(1) SunWater or an irrigation entity is not liable to pay any of the following relating to anything done under a transfer notice or any other instrument for the purpose of a declared project—

(a) a tax under the *Duties Act 2001* or another Act;

(b) a charge or fee under this Act, the *Land Act 1994*, *Land Title Act 1994*, *Transport Operations (Road Use Management) Act 1995* or another Act.

(2) In this section—

tax includes a duty, impost and levy.

738U Disposal of public records

(1) This section applies if—

(a) a thing is done under a transfer notice or project direction; and

(b) the thing is, or involves, a disposal of a public record under the *Public Records Act 2002*.

(2) To remove any doubt, it is declared that, for the purpose of section 13 of that Act, the public record is disposed of under legal authority, justification or excuse.

738V Application of instruments

(1) This section applies if a transfer notice provides for an instrument that applied to SunWater to apply to an irrigation entity in place of SunWater.

(2) Without limiting the application of the transfer notice to the instrument—

(a) any right, title, interest or liability of SunWater arising under or relating to the instrument is taken to be transferred from SunWater to the irrigation entity; and

(b) if the instrument, including a benefit or right provided by the instrument, is given to, by or in favour of SunWater, the instrument is taken to have been given to, by or in favour of the irrigation entity; and

(c) the irrigation entity is taken to be a party to the instrument in place of SunWater; and

(d) a reference in the instrument to SunWater is, to the extent possible and if the context permits, taken to be a reference to the irrigation entity; and

(e) if an application was made for the instrument in the name of SunWater, the application is taken to have been made in the name of the irrigation entity; and

(f) if the instrument is an instrument under which an amount is or may become payable to or by SunWater, the instrument is taken to be an instrument under which

Not authorised—indicative only

Not authorised—indicative only

the amount is or may become payable to or by the irrigation entity, in the way the amount was or might have been payable to or by SunWater; and

(g) if the instrument is an instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by SunWater, the instrument is taken to be an instrument under which the property is or may become liable to be transferred, conveyed or assigned to or by the irrigation entity, in the way it was or might have been liable to be transferred, conveyed or assigned to or by SunWater.

738W Documents applying to SunWater and an irrigation entity

(1) This section applies if a transfer notice provides for a document that applied to SunWater to apply to the irrigation entity for a declared channel scheme to the extent that the document is relevant to the scheme.

Example of a document—

an asbestos management plan under the *Work Health and Safety Regulation 2011*

(2) Without limiting the application of the transfer notice to the document—

(a) a reference in the document to SunWater is, to the extent possible and if the context permits, taken to be a reference to the irrigation entity; and

(b) the approval of the document is for the balance of the period of approval for which the document was approved.

(3) In this section—

approval includes an authorisation.

738X Registering authority to note transfer or other dealing

(1) A registering authority must, on written application by an irrigation entity, register or record in the appropriate way a

transfer of, or other dealing affecting, an asset or liability that is provided for under a transfer notice.

(2) The relevant irrigation entity must comply with any relevant procedures required by the registering authority for the purpose of registering or recording the transfer or other dealing.

Example—

The registering authority may require the relevant irrigation entity to complete and submit a particular form.

(3) In this section—

registering authority means the registrar of titles or another person required or authorised by law to register or record transactions affecting assets or liabilities.

738Y Act applies despite other laws and instruments

A thing may be done under this chapter despite any other law or instrument.

Example—

A transfer notice may transfer a trustee lease under the *Land Act 1994* without the written approvals that would otherwise be required for a transfer under section 58 of that Act.

738Z Excluded matter for Corporations Act

Anything done by the Minister under this chapter is an excluded matter for the Corporations Act, section 5F, in relation to the Corporations Act, chapter 2D.

Editor's notes—

- Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)
- Corporations Act, chapter 2D (Officers and employees)

738ZA Effect on legal relationships

(1) Nothing done under this chapter—

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(a) makes a relevant entity liable for a civil wrong or contravention of a law, including for a breach of a contract, confidence or duty; or

(b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or

(c) except as expressly provided under a transfer notice, is taken to fulfil a condition that—

(i) terminates, or allows a person to terminate, an instrument or obligation; or

(ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or

(iii) allows a person to avoid or enforce a liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or

(iv) requires any money to be paid before its stated maturity; or

(d) releases a surety or other obligee, wholly or partly, from an obligation.

(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this chapter, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.

(3) If, apart from this subsection, giving notice to a person would be necessary to do something under this chapter, the notice is taken to have been given.

(4) A transfer to an irrigation entity has effect despite any other contract, law or instrument.

(5) In this section—

relevant entity means—

(a) the State or an employee or agent of the State; or

(b) SunWater or an employee or agent of SunWater; or

(c) an irrigation entity or an employee or agent of an irrigation entity.

738ZB Approval under Government Owned Corporations Act 1993, s 139

An approval under the *Government Owned Corporations Act 1993*, section 139 is taken to have been given before the disposal, for the purpose of a declared project, of any of SunWater's main undertakings under that section.

738ZC Things done under chapter

To remove any doubt, it is declared that a thing is taken to be done under this chapter if it is done by, or in compliance with, a transfer notice or project direction, even if the thing includes taking steps under another Act.

738ZD Limitation of review

(1) This section applies to a decision under this chapter.

(2) The *Judicial Review Act 1991*, part 4 does not apply to the decision.

(3) Subject to subsection (4), the decision—

(a) is final and conclusive; and

(b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

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Not authorised—indicative only

(4) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent it is affected by jurisdictional error.

(5) In this section—

decision includes a decision, or conduct, leading up to or forming part of the process of making a decision.

738ZE Severability

(1) Subsection (2) applies if a provision of—

(a) this chapter; or

(b) a transfer notice;

is held by a court or judge to be beyond power, invalid or unenforceable.

(2) The provision is to be disregarded or severed and the court's or judge's decision does not affect the remaining provisions of this chapter or the transfer notice that continue to have effect.

(3) This section does not affect the operation of the *Acts Interpretation Act 1954*, section 9 in any way.

Part 10 Miscellaneous

738ZF Evidentiary aids

(1) This section applies to a proceeding under this chapter.

(2) A certificate signed by the Minister stating any of the following matters is conclusive evidence of the matter—

(a) that a stated thing was, or is being, done for the purpose of a declared project;

(b) that a stated person is, or was at a stated time, involved in a declared project;

(c) that a stated company was established for a declared project;

(d) that a stated direction given by the Minister related to a declared project.

(3) A document certified by the Minister to be a copy of a project direction is conclusive evidence of the direction.

738ZG Delegations

The Minister may delegate the Minister's functions or powers under this chapter, other than section 719(2), 722, 723 or 724, to the chief executive.

738ZH References to SunWater

A reference in an Act or document to SunWater in relation to a declared channel scheme is, from the transfer day for the scheme and if the context permits, taken to be a reference to the irrigation entity for the scheme.

Part 12 Expiry and savings provisions

738ZJ Expiry of chapter

This chapter expires 10 years after the commencement.

738ZK Saving of operation of chapter

This chapter is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.

Not authorised—indicative only

Not authorised—indicative only

Chapter 5 Investigations, enforcement and offences

Part 1 Investigation matters

Division 1 Authorised officers

739 Appointment and qualifications of authorised officers

(1) The chief executive or the office (each an ***appointor***) may appoint a person as an authorised officer.

(2) The appointor may appoint a person as an authorised officer only if, in the appointor's opinion, the person has the necessary expertise or experience to be an authorised officer.

740 Functions and powers of authorised officers

(1) An authorised officer has the following functions—

(a) collecting information for this Act;

(b) conducting investigations and inspections to monitor and enforce compliance with—

(i) this Act; or

(ii) the Planning Act so far as that Act relates to—

(A) operations of any kind and all things constructed or installed for taking, or interfering with, water under this Act; or

(B) all aspects of development for removing quarry material from a watercourse or lake if an allocation notice is required under this Act;

(c) any other function conferred under this Act.

(2) For performing an authorised officer's functions under this Act, an authorised officer has the powers given under this or another Act.

(3) An authorised officer is subject to the directions of the appointor in exercising the powers.

(4) The powers of an authorised officer may be limited—

(a) under a regulation; or

(b) under a condition of appointment; or

(c) by notice of the appointor given to the authorised officer.

741 Conditions of appointment of authorised officers

(1) An authorised officer holds office on the conditions stated in the officer's instrument of appointment.

(2) An authorised officer—

(a) if the appointment provides for a term of appointment—ceases to hold office at the end of the term; and

(b) may resign by signed notice of resignation given to the appointor.

742 Authorised officer's identity card

(1) The appointor must give each authorised officer an identity card.

(2) The identity card must—

(a) contain a recent photograph of the authorised officer; and

(b) be signed by the authorised officer; and

(c) identify the person as an authorised officer under this Act; and

(d) state an expiry date.

Not authorised—indicative only

Not authorised—indicative only

(3) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.

743 Failure to return identity card

A person who ceases to be an authorised officer must return the person's identity card to the appointor as soon as practicable (but within 15 business days) after ceasing to be an authorised officer, unless the person has a reasonable excuse for not returning it.

Maximum penalty—50 penalty units.

744 Producing or displaying identity card

(1) An authorised officer may exercise a power under this Act in relation to someone else only if the authorised officer—

(a) first produces his or her identity card for the person's inspection; or

(b) has the identity card displayed so it is clearly visible to the person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.

Division 2 Powers of entry of authorised officers

745 Definition for div 2

In this division—

land means a parcel of land other than the part on which there is erected a building or structure that is—

(a) a dwelling place; or

(b) being used, at the relevant time, as a dwelling place.

746 Power to enter land to monitor compliance

(1) An authorised officer may, at any reasonable time, enter land of an owner of land authorised, or taken to be authorised, under this Act to take, interfere with or use water to do any 1 or more of the following—

(a) inspect, read or obtain information from a device, equipment or other thing used for recording the taking of, interfering with, or use of the water, including, for example—

(i) a measurement device; and

(ii) a device, equipment or other thing that is a component of a measurement system;

(b) check the operation of, or repair or replace, a device, equipment or other thing mentioned in paragraph (a);

(c) calculate or measure the water taken, interfered with or used;

(d) ensure the conditions of the authorisation or the provisions of a plan under this Act for the taking of, interfering with or use of the water are being complied with;

(e) find out if a petroleum tenure holder is complying with an obligation applying to the holder under chapter 3;

(f) test or assess equipment or water monitoring bores used for complying with an obligation applying to a petroleum tenure holder under chapter 3.

(2) An authorised officer may, at any reasonable time, enter land of an owner of land authorised, or taken to be authorised, under this Act to take, interfere with or destroy other resources to do any 1 or more of the following—

(a) calculate or measure the resource taken, interfered with or destroyed;

(b) ensure the conditions of the authorisation are being complied with.

Not authorised—indicative only

Not authorised—indicative only

(3) An authorised officer may, at any reasonable time, enter land where an activity mentioned in section 983J(1) is being carried out to ensure the carrying out of the activity complies with this Act.

(4) An authorised officer may, at any reasonable time, enter land to find out if a development approval is being complied with.

(5) Subsection (4) applies only to the extent the development approval relates to a matter mentioned in section 740(1)(b)(ii).

747 Power to enter land in relation to information collection

(1) An authorised officer may, at any reasonable time, enter land—

(a) if there is monitoring equipment on the land—

(i) to read the equipment; or

(ii) to recalibrate, repair or replace the equipment; or

(b) if paragraph (a) does not apply—to calculate or measure on the land rainfall, water flow, water levels or for assessing the effects of water use on land and water; or

(c) to take samples of soil or water from the land; or

(d) to construct monitoring equipment on the land; or

(e) to retrieve or decommission monitoring equipment previously constructed on the land.

(2) An authorised officer may, at any reasonable time, enter land—

(a) to calculate or measure other resources on the land; or

(b) to take samples of the resources from the land; or

(c) to measure the health of watercourses, lakes, springs and aquifers.

(3) An authorised officer may, at any reasonable time, enter land of an owner of land authorised under section 96 to take water, to do 1 or more of the following—

(a) calculate or measure the amount of, and rate at which, water is being taken or interfered with;

(b) ascertain the purpose for which the water is being taken or interfered with;

(c) ascertain the location from which water is being taken.

(4) An authorised officer may, at any reasonable time, enter land to collect information required to assess the condition of, or the impact of the exercise of underground water rights on, an aquifer, spring or water bore.

(5) For exercising a power mentioned in this section, an authorised officer may enter and cross any land to access land mentioned this section.

748 Power to enter land to search for unauthorised activities

(1) Subsection (2) applies if an authorised officer reasonably believes 1 or more of the following activities is happening—

(a) unauthorised drilling;

(b) unauthorised taking of, interfering with or use of water;

(c) unauthorised taking, or destruction, of other resources;

(d) unauthorised interference with the physical integrity of a watercourse, lake or spring.

(2) The authorised officer may enter land to find out, or confirm whether, an unauthorised activity mentioned in subsection (1) is happening or has happened.

(3) The authorised officer may exercise powers under subsection (2), at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.

749 Power to enter places for other purposes

(1) An authorised officer may enter a place for a purpose other than a purpose mentioned in section 746, 747 or 748 if—

(a) its occupier consents to the entry; or

Not authorised—indicative only

Not authorised—indicative only

(b) it is a public place and the entry is made when it is open to the public; or

(c) the entry is authorised by a warrant; or

(d) it is a place of business to which this Act relates and the entry is made when the place is open for business or otherwise open for entry.

(2) For the purpose of asking the occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

(3) For subsection (1)(d)—

place of business does not include a part of the place where a person resides.

Division 3 Procedure for entry

750 Entry with consent

(1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 749(1)(a).

(2) Before asking for the consent, the authorised officer must tell the occupier—

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

(3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.

(4) The acknowledgement must state—

(a) the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) the occupier gives the authorised officer consent to enter the place and exercise powers under this chapter; and

(d) the time and date the consent was given.

(5) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.

(6) A court must find the occupier of a place did not consent to an authorised officer entering the place under this chapter if—

(a) a matter arises in a proceeding before the court whether the occupier of the place consented to the entry under section 749(1)(a); and

(b) an acknowledgement mentioned in subsection (4) is not produced in evidence for the entry; and

(c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

751 Applying for warrant

(1) An authorised officer may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

Not authorised—indicative only

Not authorised—indicative only

752 Issue of warrant

(1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the ***evidence***) that may provide evidence of—

(i) an offence against this Act; or

(ii) a Planning Act offence; and

(b) the evidence is at the place, or, within the next 7 days, may be at the place.

(2) The warrant must state—

(a) that any authorised officer or a stated authorised officer may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for the entry; and

(ii) exercise the authorised officer's powers under this chapter; and

(b) the offence for which the warrant is sought; and

(c) the evidence that may be seized under the warrant; and

(d) the hours of the day or night when the place may be entered; and

(e) the extent of re-entry permitted; and

(f) the date, within 14 days after the warrant's issue, the warrant ends.

(3) A provision of this part applying to entry authorised under a warrant is taken also to apply to any re-entry authorised under the warrant.

753 Special warrants

(1) An authorised officer may apply for a warrant (a ***special warrant***) by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised officer's remote location.

(2) Before applying for the special warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised officer may apply for the special warrant before the application is sworn.

(4) After issuing the special warrant, the magistrate must promptly fax a copy (a ***facsimile warrant***) to the authorised officer if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy to the authorised officer—

(a) the magistrate must tell the authorised officer—

(i) what the terms of the special warrant are; and

(ii) the date and time the special warrant is issued; and

(b) the authorised officer must complete a form of warrant (a ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the special warrant; and

(iii) the terms of the special warrant.

(6) The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers stated in the special warrant issued.

(7) The authorised officer must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the authorised officer completed a warrant form—the completed warrant form.

Not authorised—indicative only

Not authorised—indicative only

(8) On receiving the documents, the magistrate must attach them to the special warrant.

(9) A court must find the exercise of the power by an authorised officer was not authorised by a special warrant if—

(a) a matter arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant mentioned in subsection (1); and

(b) the special warrant is not produced in evidence; and

(c) it is not proved by the person relying on the lawfulness of the entry that the authorised officer obtained the special warrant.

754 Warrants—procedure before entry

(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this division.

(2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing the authorised officer's identity card or a copy of another document evidencing the authorised officer's appointment;

(b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 753(6), a copy of the facsimile warrant or warrant form;

(c) tell the person the authorised officer is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.

(3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

Division 4 Powers of authorised officers after entering a place

755 General powers after entering places

(1) This section applies to an authorised officer who enters a place under division 2.

(2) However, if an authorised officer enters a place to get the occupier's consent to enter the place, this section applies to the authorised officer only if the consent is given or the entry is otherwise authorised.

(3) For monitoring or enforcing compliance with this Act, the authorised officer may exercise 1 or more of the following powers—

(a) search any part of the place;

(b) inspect, measure, test, photograph or film any part of the place or anything at the place;

(c) take a thing, or a sample of or from a thing, at the place for analysis or testing;

(d) copy a document at the place;

(e) regulate or prevent the taking of water or other resources under this Act so as to comply with the quantity authorised to be taken under this Act;

(f) take all steps and do all acts and things necessary for advancing the purposes of this Act;

(g) take into or onto the place any person, equipment and materials the authorised officer reasonably requires for the exercise of a power under this division;

(h) require the occupier of the place, or a person at the place, to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (g);

(i) require the occupier of the place, or a person at the place, to give the authorised officer information to help

Not authorised—indicative only

Not authorised—indicative only

the authorised officer ascertain whether the Act is being complied with.

(4) When making a requirement mentioned in subsection (3)(h) or (i), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

756 Failure to help authorised officer

(1) A person required to give reasonable help under section 755(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) If the requirement is to be complied with by an individual giving information, or producing a document, it is a reasonable excuse for the individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

757 Failure to give information

(1) A person of whom a requirement is made under section 755(3)(i) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) It is a reasonable excuse for an individual not to comply with the requirement that complying with the requirement might tend to incriminate the individual.

Division 4A Power to seize evidence

757A Seizing evidence

(1) This section applies if, under this part, an authorised officer enters a place after obtaining the consent of an occupier or under a warrant.

(2) If the authorised officer enters the place with the occupier's consent, the authorised officer may seize a thing at the place if—

(a) the authorised officer reasonably believes the thing is evidence of—

(i) an offence against this Act; or

(ii) a Planning Act offence; and

(b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

(3) If the authorised officer enters the place with a warrant, the authorised officer may seize the evidence for which the warrant was issued.

(4) The authorised officer may seize anything else at the place if the authorised officer reasonably believes—

(a) the thing is evidence of—

(i) an offence against this Act; or

(ii) a Planning Act offence; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

(ii) used to continue, or repeat, the offence.

(5) Also, the authorised officer may seize a thing at the place if the authorised officer reasonably believes it has just been used in committing—

(a) an offence against this Act; or

(b) a Planning Act offence.

757B Securing seized things

Having seized a thing, an authorised officer may—

(a) move the thing from the place where it was seized (the ***place of seizure***); or

Not authorised—indicative only

Not authorised—indicative only

(b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or

Examples of restricting access to a thing—

1 sealing a thing and marking it to show access to it is restricted

2 sealing the entrance to a place where the thing is situated and marking it to show access to it is restricted

(c) if the thing is equipment—make it inoperable.

Example of making equipment inoperable—

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

757C Tampering with seized things

(1) If an authorised officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an authorised officer's approval.

Maximum penalty—100 penalty units.

(2) If an authorised officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without an authorised officer's approval.

Maximum penalty—100 penalty units.

757D Powers to support seizure

(1) To enable a thing to be seized, an authorised officer may require the person in control of it—

(a) to take it to a stated reasonable place by a stated reasonable time; and

(b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

(2) The requirement—

(a) must be made by notice in the approved form; or

(b) if for any reason it is not practicable to give the notice—may be made orally and confirmed by a notice in the approved form as soon as practicable.

(3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.

(4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—50 penalty units.

757E Receipts for seized things

(1) As soon as practicable after an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom it was seized.

(2) However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

(3) The receipt must describe generally each thing seized and its condition.

(4) This section does not apply to a thing if it is impracticable, or would be unreasonable, to give the receipt, having regard to the thing's nature, condition and value.

757F Forfeiture by authorised officer

(1) A thing that has been seized under this division is forfeited to the State if the authorised officer who seized the thing—

(a) can not find its owner, after making reasonable inquiries; or

(b) can not return it to its owner, after making reasonable efforts.

(2) In applying subsection (1)—

Not authorised—indicative only

Not authorised—indicative only

(a) subsection (1)(a) does not require the authorised officer to make inquiries if it would be unreasonable to make inquiries to find the owner; and

(b) subsection (1)(b) does not require the authorised officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

Example for paragraph (b)—

The owner of the thing has migrated to another country.

(3) Regard must be had to a thing's nature, condition and value in deciding—

(a) whether it is reasonable to make inquiries or efforts; and

(b) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable.

757G Forfeiture on conviction

(1) On conviction of a person for either of the following, the court may order the forfeiture to the State of anything owned by the person and seized under this division—

(a) an offence against this Act;

(b) a Planning Act offence.

(2) The court may make any order to enforce the forfeiture it considers appropriate.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

757H Dealing with forfeited things

(1) On forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

(2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

757I Return of seized things

(1) If a seized thing is not forfeited, the authorised officer must return it to its owner—

(a) at the end of 6 months; or

(b) if a proceeding for either of the following involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding—

(i) an offence against this Act;

(ii) a Planning Act offence.

(2) Despite subsection (1), unless the thing is forfeited, the authorised officer must immediately return a thing seized to its owner if the authorised officer stops being satisfied—

(a) its continued retention as evidence is necessary; or

(b) its continued retention is necessary to prevent the thing being used to continue, or repeat, the offence.

757J Access to seized things

(1) Until a seized thing is forfeited or returned, an authorised officer must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable, or would be unreasonable, to allow the inspection or copying.

Division 5 Power to obtain information

758 Power to require name and address

(1) This section applies if an authorised officer—

(a) finds a person committing an offence against this Act; or

(b) finds a person in circumstances that lead the authorised officer reasonably to suspect the person has just committed an offence against this Act; or

Not authorised—indicative only

Not authorised—indicative only

(c) has information that leads the authorised officer reasonably to suspect a person has just committed an offence against this Act.

(2) The authorised officer may require the person to state the person's name and residential address.

(3) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

(4) The authorised officer may require the person to give evidence of the correctness of the stated name or residential address if the authorised officer reasonably suspects the stated name or address to be false.

759 Failure to give name or address

(1) A person of whom a requirement under section 758 is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(2) A person does not commit an offence against subsection (1) if—

(a) the person was required to state the person's name and residential address by an authorised officer who suspected the person had committed an offence against this Act; and

(b) the person is not proved to have committed the offence.

760 Power to require production of documents

(1) An authorised officer may require a person to make available for inspection by an authorised officer, or produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer, a document relating to the taking of, or interfering with, water.

(2) The authorised officer may keep the document to copy it.

(3) If the authorised officer copies a document mentioned in subsection (1), or an entry in the document, the authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

(4) The authorised officer must return the document to the person as soon as practicable after copying it.

(5) However, if a requirement (a ***document certification requirement***) is made of a person under subsection (3), the authorised officer may keep the document until the person complies with the requirement.

(6) A requirement under subsection (1) is called a ***document production requirement***.

761 Failure to certify copy of document

A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

762 Failure to produce document

(1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(2) It is not a reasonable excuse for a person to fail to comply with a document production requirement because complying with the requirement might tend to incriminate the person.

(3) However, if the person is an individual, evidence of, or evidence directly or indirectly derived from, the document that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the document.

Not authorised—indicative only

Not authorised—indicative only

(4) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

763 Power to require information

(1) This section applies if an authorised officer reasonably believes—

(a) an offence against this Act has been committed; and

(b) a person may be able to give information about the offence.

(2) The authorised officer may, by notice given to the person, require the person to give information about the offence to the authorised officer at a stated reasonable place and at a stated reasonable time.

(3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(4) It is not a reasonable excuse for a person to fail to give the information because giving the information might tend to incriminate the person.

(5) However, if the person is an individual, evidence of, or evidence directly or indirectly derived from, the information that might tend to incriminate the person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.

(6) If a person is convicted of an offence against subsection (3), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.

Division 6 Compensation for damage caused when exercising power

764 Giving notice of damage

(1) This section applies if—

(a) an authorised officer damages property when exercising or purporting to exercise a power; or

(b) a person (the ***other person***) acting under the direction or authority of an authorised officer damages property.

(2) The authorised officer must immediately give notice of particulars of the damage to the person who appears to the authorised officer to be the owner of the property.

(3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the authorised officer's, or other person's, control, the authorised officer may state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the authorised officer reasonably believes is trivial.

(6) In this section—

owner, of property, includes the person in possession or control of it.

765 Compensation for damage

(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under division 2 or 4.

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the division.

Not authorised—indicative only

Not authorised—indicative only

(3) Compensation may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

Division 7 Obtaining criminal history reports

766 Purpose of div 7

The purpose of this division is to help an authorised officer to decide whether the authorised officer's unaccompanied entry of a place under this part would create an unacceptable level of risk to the authorised officer's safety.

767 Chief executive's power to obtain criminal history report

(1) The chief executive may ask the commissioner of the police service for a written report about the criminal history of a person if the authorised officer reasonably suspects the person may be present at the place when the authorised officer enters the place under this part.

(2) The commissioner must give the report to the chief executive.

(3) However, the report is required to contain only criminal history that is in the commissioner's possession or to which the commissioner has access.

(4) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving the use of a weapon or violence against a person.

(5) The chief executive may give the authorised officer information in the report about the offences identified under subsection (4).

768 Criminal history is confidential document

(1) A person must not, directly or indirectly, disclose to anyone else a report about a person's criminal history, or information contained in the report, given under section 767.

Maximum penalty—100 penalty units.

(2) However, the person does not contravene subsection (1) if—

(a) the disclosure is for the purpose of the other person performing a function under or in relation to this Act; or

(b) the disclosure is otherwise required or permitted by law.

(3) The chief executive or an authorised officer to whom the report or written information in the report is provided must destroy the report or information as soon as practicable after the authorised officer considers the risk mentioned in section 766.

Part 2 Enforcement matters

Division 1 Show cause and compliance notices

779 General requirements for show cause notices

(1) A show cause notice must state the following—

(a) the proposed action;

(b) the grounds for the proposed action;

(c) the facts and circumstances forming the basis for the grounds;

Not authorised—indicative only

Not authorised—indicative only

(d) that a submission may be made about the show cause notice;

(e) how the submission may be made;

(f) where the submission may be made or sent;

(g) a day and time within which the submission must be made.

(2) The day stated in the notice must be, or must end, at least 15 business days after the notice is given.

780 Who may give a compliance notice

(1) This section applies if the chief executive or an authorised officer reasonably believes—

(a) a person—

(i) is contravening a provision of this Act; or

(ii) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated; and

(b) a matter relating to the contravention is reasonably capable of being rectified; and

(c) it is appropriate to give the person an opportunity to rectify the matter.

(2) The chief executive or authorised officer may give the person a notice (a ***compliance notice***) requiring the person to refrain from doing an act or to rectify the matter.

781 General requirements for compliance notices

(1) The compliance notice must state—

(a) that the chief executive or authorised officer believes the person to whom the notice is to be given—

(i) is contravening a provision of this Act; or

(ii) has contravened a provision of this Act in circumstances that make it likely that the contravention will continue or be repeated; and

(b) the provision the chief executive or authorised officer believes is being, or has been, contravened; and

(c) briefly, how it is believed the provision is being, or has been contravened; and

(d) the matter relating to the contravention that the chief executive or authorised officer believes is reasonably capable of being rectified; and

(e) the reasonable steps the person must take to rectify the matter; and

(f) that the person must take the steps within a stated reasonable period; and

(g) if the notice is in relation to a direction or response mentioned in section 25M(1)—that if the notice is not complied with, the Governor in Council may, under section 25M(2), appoint a person to comply with the direction or response; and

(h) that the person may apply for an internal review of the decision to give the notice within 30 business days after the day the notice is given; and

(i) how the person may apply for the internal review.

(2) If a compliance notice requires the person to do an act involving the carrying out of work, it also must give details of the work involved.

(3) If a compliance notice requires the person to refrain from doing an act, it also must state either—

(a) a period for which the requirement applies; or

(b) that the requirement applies until further notice.

Not authorised—indicative only

Not authorised—indicative only

782 Compliance with compliance notice

The person must comply with the compliance notice, unless the person has a reasonable excuse.

Maximum penalty—1.5 times the maximum penalty for committing the offence to which the notice relates.

783 Chief executive may take action and recover costs

(1) If the person contravenes the compliance notice by not doing something, the chief executive may do the thing.

(3A) If the chief executive incurs expense in doing a thing under subsection (1), the chief executive must give the person a notice stating the amount of the expense incurred.

(4) Any reasonable expenses incurred by the chief executive in doing anything under subsection (1), may be recovered by the chief executive as a debt due to it by the person.

(5) A debt due under subsection (4) bears interest at the rate stated in a regulation.

Division 2 Enforcement orders

784 Proceeding for orders

(1) A person may bring a proceeding in the District Court for 1 or more of the following orders—

(a) an order to remedy or restrain the commission of an offence against this Act (an ***enforcement order***);

(b) an order that a person who has committed an offence against this Act pay damages to compensate the applicant for injury suffered by the applicant or loss or damage to the applicant's property because of the commission of the offence;

(c) if the person has brought a proceeding under paragraph (a) and the court has not decided the

proceeding—for an order under section 786 (an ***interim enforcement order***);

(d) to cancel or change an enforcement order or interim enforcement order.

(2) The person may bring a proceeding under subsection (1)(a) whether or not any right of the person has been, or may be, infringed by, or because of, the commission of the offence.

(3) If a person other than the chief executive brings a proceeding under this section, the person must, within 5 business days of commencing to bring the proceeding, give the chief executive notice of the proceeding.

785 Proceeding brought in a representative capacity

(1) A proceeding under section 784(1) may be brought by the person on their own behalf or in a representative capacity.

(2) However, if the proceeding is brought in a representative capacity, 1 of the following consents must be obtained—

(a) if the proceeding is brought on behalf of a body of persons or a corporation—the members of the governing body;

(b) if the proceeding is brought on behalf of an individual—the individual.

786 Making interim enforcement order

(1) The court may make an interim enforcement order pending a decision of the proceeding if the court is satisfied it would be appropriate to make the order.

(2) The court may make the order subject to conditions, including a condition requiring the applicant for the order to give an undertaking to pay costs resulting from damage suffered by the respondent.

Not authorised—indicative only

Not authorised—indicative only

787 Proceeding for enforcement order without notice

(1) A person may bring a proceeding for an enforcement order without notice to the other party.

(2) Without limiting the discretion of the court in the exercise of its equitable jurisdiction, the court may, with or without conditions—

(a) grant the order for a limited period stated in the order; or

(b) grant the order until the trial of the proceeding; or

(c) grant an order for a limited time prohibiting a person from leaving Australia; or

(d) make another order.

Example of an injunction under subsection (2)(c)—

This order may be used if the departure of the person would render a proceeding useless, for example, because the person's departure would make it impossible to have an enforcement hearing in relation to a judgment against the person and so ascertain the location of the person's assets. Conditions imposed may, for example, relate to payment of an amount, or surrendering a passport, to the court.

788 Making enforcement order

(1) The court may make an enforcement order if the court is satisfied the offence—

(a) has been committed; or

(b) will be committed unless restrained.

(2) If the court is satisfied the offence has been committed, the court may make either or both of the following orders—

(a) an enforcement order whether or not there has been a prosecution for the offence;

(b) an order for exemplary damages.

(3) In considering whether to make an order for exemplary damages, the court may consider—

(a) any impact on water available to other water entitlement holders and natural ecosystems, resulting, or likely to result, because of the commission of the offence; and

(b) any effect on a watercourse, lake, spring, aquifer or water quality; and

(c) any financial saving or other benefit the person who committed the offence received or is likely to receive because of the commission of the offence.

(4) If an order is made for exemplary damages, the amount of the damages must be paid to the consolidated fund.

789 Effect of orders

(1) An enforcement order or an interim enforcement order may direct the respondent—

(a) to stop an activity that constitutes, or will constitute, an offence against this Act; or

(b) not to start an activity that will constitute an offence against this Act; or

(c) to do anything required to stop committing an offence against this Act; or

(d) to return anything to a condition as close as practicable to the condition it was in immediately before an offence against this Act was committed; or

(e) to do anything to comply with this Act.

(2) Without limiting the court's powers, the court may make an order requiring the demolition, removal or modification of works for taking or interfering with water or other resources.

(3) An enforcement order or an interim enforcement order—

(a) may be in terms the court considers appropriate to secure compliance with this Act; and

(b) must state the time by which the order is to be complied with.

Not authorised—indicative only

Not authorised—indicative only

790 Court's powers about orders

(1) The court's power to make an enforcement order or interim enforcement order to stop, or not to start, an activity may be exercised whether or not—

(a) it appears to the court the person against whom the order is made intends to engage, or to continue to engage, in the activity; or

(b) the person has previously engaged in an activity of the kind; or

(c) there is danger of substantial damage to natural ecosystems if the person engages, or continues to engage, in the activity.

(2) The court's power to make an enforcement order or interim enforcement order to do anything may be exercised whether or not—

(a) it appears to the court the person against whom the order is made intends to fail, or to continue to fail, to do the thing; or

(b) the person has previously failed to do a thing of the kind; or

(c) there is danger of substantial damage to natural ecosystems if the person fails, or continues to fail, to do the thing.

(3) The court may cancel or change an enforcement order or interim enforcement order.

(4) The court's powers under this section are in addition to its other powers.

791 Contributing to cost of bringing proceeding

If the proceeding is brought in a representative capacity, the person on whose behalf the proceeding is brought may contribute to, or pay, the legal costs and expenses incurred by the person bringing the proceeding.

Division 3 Costs for proceedings under division 2

792 Parties to pay own costs for proceedings

(1) Each party to a proceeding in a court under division 2 must bear the party's own costs for the proceeding.

(2) However, the court may order costs for the proceeding, including allowances to witnesses attending for giving evidence at the proceeding, as it considers appropriate in the following circumstances—

(a) the court considers the proceeding was started merely to delay or obstruct;

(b) the court considers the proceeding, or part of the proceeding, to have been frivolous or vexatious;

(c) a party has not been given reasonable notice of intention to apply for an adjournment of the proceeding;

(d) a party has incurred costs because the party is required to apply for an adjournment because of the conduct of another party;

(e) a party has incurred costs because another party has defaulted in the court's procedural requirements;

(f) without limiting paragraph (d), a party has incurred costs because another party has introduced, or sought to introduce, new material;

(g) a party to the proceeding does not properly discharge its responsibilities in the proceedings.

(3) If the court makes an order under subsection (2), the court may also order the party ordered to pay costs under subsection (2) to pay to the other party an amount as compensation for loss or damage suffered by the other party because of the proceeding if the court considers—

(a) the proceeding was started merely to delay or obstruct; or

Not authorised—indicative only

Not authorised—indicative only

(b) the proceeding, or part of the proceeding, to have been frivolous or vexatious.

Part 3 Offences

Division 1 Offences for chapter 2

808 Unauthorised taking, supplying or interfering with water

(1) A person must not take or supply water to which this Act applies unless authorised to take or supply the water—

(a) under this or another Act; or

Note—

See also the Mineral Resources Act, sections 334ZR and 334ZZ and the Petroleum and Gas Act, sections 188 and 196.

(b) under a law of another State or Territory if the authorisation is declared under a regulation to be of a similar nature and to have a similar effect to a stated authorisation under this Act.

Maximum penalty—1,665 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.

(2) A person must not interfere with water to which this Act applies, other than overland flow water, unless authorised to interfere with the water—

(a) under this or another Act; or

Note—

See also the Mineral Resources Act, sections 334ZR and 334ZZ and the Petroleum and Gas Act, sections 188 and 196.

(b) under a law of another State or Territory if the authorisation is declared under a regulation to be of a

similar nature and to have a similar effect to a stated authorisation under this Act.

Maximum penalty—1,665 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.

(3) The holder of an authorisation to take water under this Act to which measurement requirements apply commits an offence if—

(a) the holder takes water under the authorisation; and

(b) at the time of the taking, the holder is contravening the measurement requirements.

Maximum penalty—1,665 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.

808A Taking water in excess of volume or rate allowed under water entitlement

(1) The holder of a water entitlement must not, in a period, take a volume of water more than the volume of water allowed to be taken under the water entitlement in the period.

Maximum penalty—1,665 penalty units.

Examples of a period for a water entitlement—

- a water year for a water licence
- a period set for a water entitlement by a water sharing rule in a water management protocol
- a period announced for a water entitlement by the chief executive under a water management protocol

(2) The holder of a water entitlement must not take water at a rate more than the rate at which water is allowed to be taken under the entitlement.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—1,665 penalty units.

809 Using water contrary to water use plan

A person must not use water in a water use plan area contrary to the plan.

Maximum penalty—1,665 penalty units.

811 Tampering with devices

(1) A person must not tamper with a device used under this Act—

(a) to calculate or measure water taken, by a person, or the rate and time of taking; or

(b) to record, or transmit or otherwise report, information about the taking of water; or

(c) to reduce the water supply to the premises.

Maximum penalty—1,665 penalty units.

(2) A person must not tamper with a device installed by the chief executive to monitor water.

Maximum penalty—1,665 penalty units.

(3) In this section—

tamper, with a device, includes—

(a) remove the device from the place where—

(i) it is used for a purpose mentioned in subsection (1); or

(ii) it was installed by the chief executive to monitor water; and

(b) tamper with works or another thing associated with the device in a way that may hinder the capacity of the device to—

(i) calculate, measure, read, record, transmit or otherwise report information; or

(ii) restrict the water supply to the premises; and

(c) tamper with a seal, mark, access code or other thing attached or applied to the device by an authorised officer, a measurement contractor or another person performing functions under this Act.

Example of another person for paragraph (c)—

a duly qualified person

812 Contravening conditions of water entitlement, seasonal water assignment notice or water permit

The holder of a water allocation, interim water allocation, water licence, seasonal water assignment notice or water permit must not contravene a condition of the allocation, licence, notice or permit.

Maximum penalty—1,665 penalty units.

813 Contravening licence condition

(1) A holder of a resource operations licence, a distribution operations licence, an interim resource operations licence or an operations licence must not contravene a condition of the licence.

Maximum penalty—1,665 penalty units.

(2) Subsection (1) does not apply to a contravention for which a licence has been cancelled.

(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

(c) under the Water Supply Act—

Not authorised—indicative only

Not authorised—indicative only

(i) a declaration is in force for a temporary full supply level for the dam under chapter 4, part 3 of that Act; or

(ii) the full supply level for the dam is reduced under chapter 4, part 4 of that Act.

(4) A reference in the resource operations licence to the full supply level for the dam is taken to be a reference to—

(a) if a declaration is in force for a temporary full supply level—the temporary full supply level declared for the dam; or

(b) if the full supply level for the dam is reduced—the reduced full supply level; or

(c) if both paragraphs (a) and (b) apply to the dam—the lower of the temporary full supply level and the reduced full supply level.

814 Destroying vegetation, excavating or placing fill without permit

(1) A person must not do any of the following activities unless the person has a riverine protection permit to carry out the activity—

(a) destroy vegetation in a watercourse, lake or spring;

(b) excavate in a watercourse, lake or spring;

(c) place fill in a watercourse, lake or spring.

Maximum penalty—1,665 penalty units.

(2) Subsection (1) does not apply to the destruction of vegetation, excavation or placing of fill—

(a) that is permitted or required, or happens as a necessary and unavoidable part of some other activity that is permitted or required under—

(i) a licence, permit or other authority under another section of this Act; or

(ii) a development permit for prescribed assessable development; or

(b) that is permitted or required under the *River Improvement Trust Act 1940*; or

(c) that happens as a necessary and unavoidable part of extracting quarry material or forest products under the *Forestry Act 1959*; or

(d) that happens as a necessary and unavoidable part of the construction of works that are accepted development and involve the taking or interfering with water in a watercourse, lake or spring; or

(e) that is required or happens as a necessary and unavoidable part of some other activity that is required because of an emergency endangering either of the following, and for which notice is given to the chief executive as soon as practicable after starting to carry out the activity—

(i) the life or health of a person;

(ii) the water quality or physical integrity of a watercourse, lake or spring; or

(f) in a watercourse, lake or spring prescribed under a regulation; or

(g) in a watercourse, lake or spring in an area prescribed under a regulation; or

(h) happening within the quantity limits prescribed under a regulation; or

(i) permitted under a regulation.

(2AA) Also, subsection (1) does not apply to the destruction of vegetation—

(a) that is required under a requisition under the *Fire and Emergency Services Act 1990*, section 69, for reducing the risk of fire; or

(b) that is permitted or required to be carried out under the *Electrical Safety Act 2002* or the *Electricity Act 1994* to

Not authorised—indicative only

Not authorised—indicative only

prevent the obstruction of, or interference with, an electric line or the creation of an electrical hazard; or

(c) that is necessary for construction or maintenance of government supported transport infrastructure under the *Transport Infrastructure Act 1994*; or

(d) that happens as a necessary part of works carried out under this Act, other than under a licence, permit or notice; or

(e) that is regrowth (other than mulga or other fodder trees) following destruction of vegetation under a riverine protection permit issued less than 2 years previously; or

(f) that has been lawfully planted for woodlot, fodder, agriculture, forestry, garden or horticultural purposes; or

(g) that is necessary to prevent personal injury or property damage or to provide for emergency access.

(2A) A person must not contravene a condition of a riverine protection permit unless the person has a reasonable excuse.

Maximum penalty—1,665 penalty units.

(3) On the conviction of a person for an offence against subsection (1) or (2A), the court may order the person to pay to the State the cost of any remedial work or rehabilitation necessary or desirable because of the commission of the offence.

(4) Subsection (3) does not limit the court's power under the *Penalties and Sentences Act 1992* or another law.

(5) In this section—

prescribed assessable development means—

(a) operational work that is assessable development if—

(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

(ii) the operational work—

(A) is the construction of a referable dam; or

(B) will increase the storage capacity of a referable dam by more than 10%; or

(b) other development that is assessable development and involves the removal of quarry material from a watercourse or lake for which an allocation notice is required under chapter 2, part 5.

815 Removing quarry material

(1) A person must not remove quarry material without an allocation notice.

Maximum penalty—1,665 penalty units.

(2) A person must not contravene the conditions of an allocation notice, unless the person has a reasonable excuse.

Maximum penalty—1,665 penalty units.

(3) On a conviction for an offence under subsection (1), the court in addition to imposing a penalty may order the offender pay to the chief executive royalty at the rate prescribed under a regulation for the State quarry material removed in contravention of subsection (1).

(4) Subsection (1) does not apply to a person who collects quarry material while fossicking under a licence under the *Fossicking Act 1994* if the person does not collect more than $1m^3$ of quarry material in a year.

816 Unauthorised water bore drilling activities

(1) An individual must not carry out a water bore drilling activity, other than an exempt activity, unless the individual is—

(a) licensed under chapter 8, part 2B to carry out the activity; or

(b) under the constant physical supervision of an individual who is licensed under chapter 8, part 2B to carry out the activity; or

(c) lawfully carrying out the activity under—

Not authorised—indicative only

Not authorised—indicative only

(i) the Mineral Resources Act, section 334ZQ; or

(ii) the *Petroleum Act 1923*, section 75K; or

(iii) the Petroleum and Gas Act, section 282.

Maximum penalty—1,665 penalty units.

(2) In this section—

exempt activity means a water bore drilling activity that would not result in a water bore or test hole being more than 6m deep.

817 Contravening requirements for mining and petroleum drilling

(1) Subsection (2) applies to an individual mentioned in section 816(1)(c) who is decommissioning a water bore.

(2) The individual, in carrying out the decommissioning, must comply with the requirements prescribed under a regulation, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

818 Contravening condition of water bore driller's licence

A holder of a water bore driller's licence must not—

(a) contravene a condition of the licence; or

(b) carry out a water bore drilling activity—

(i) of a class for which the holder is not licensed; or

(ii) with equipment for which the holder does not have endorsement.

Maximum penalty—500 penalty units.

819 False or misleading advertising

A person must not, in relation to water bore drilling activities—

(a) advertise in a way that is false or misleading in a material particular; or

(b) advertise or hold himself or herself out as willing to undertake water bore drilling activities of a kind for which the person is not licensed.

Maximum penalty—500 penalty units.

820 Taking water without operations licence

A person must not, as a single operation, take water as an agent for 2 or more water entitlement holders under water allocations not managed under a resource operations licence unless the person holds an operations licence.

Maximum penalty—1,000 penalty units.

Division 3 General offences

825 False or misleading statements

(1) A person must not state anything to the chief executive or an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

(2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was, without specifying which, 'false or misleading'.

826 False or misleading documents

(1) A person must not give the chief executive or an authorised officer a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

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Not authorised—indicative only

(a) tells the chief executive or authorised officer, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) In a proceeding for an offence against subsection (1), it is enough to state that the document was, without specifying which, 'false or misleading'.

827 Obstructing and impersonating authorised officers

(1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

(2) If a person has obstructed an authorised officer and the authorised officer decides to proceed with the exercise of the power, the authorised officer must warn the person that—

(a) it is an offence to obstruct the authorised officer, unless the person has a reasonable excuse; and

(b) the authorised officer considers the person's conduct an obstruction.

(3) A person must not pretend to be an authorised officer.

Maximum penalty—200 penalty units.

(4) In this section—

obstruct includes assault, hinder and threaten, and attempt to obstruct.

828 Executive officer may be taken to have committed offence

(1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—

(a) the officer authorised or permitted the corporation's conduct constituting the offence; or

(b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.

(2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.

(3) This section does not affect either of the following—

(a) the liability of the corporation for the offence against the deemed executive liability provision;

(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.

(4) In this section—

deemed executive liability provision means any of the following provisions—

- section 28(7)
- section 452
- section 460(3)
- section 808(1)
- section 808(2)
- section 808(3).

829 Persons taken to have committed particular offences

(1) This section applies if—

(a) more than 1 person is the holder of a particular water entitlement; or

(b) more than 1 water entitlement holder takes water through particular works to which a measurement device is attached, or to which a measurement system

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relates, in accordance with measurement requirements to which the water entitlement is subject.

(2) If subsection (1)(a) applies and the taking of water purportedly under the water entitlement constitutes an offence, each water entitlement holder is taken to have committed the offence.

(3) If subsection (1)(b) applies and the taking of water through the works constitutes an offence, each water entitlement holder is taken to have committed the offence.

(4) However, a person (the ***first person***) is not liable, under this section, for an offence constituted by the taking of the water mentioned in subsections (2) or (3) if—

(a) another person, including, for example, another holder of the water entitlement, makes a written admission stating the other person committed the offence; or

(b) the chief executive is reasonably satisfied—

(i) the water was taken by another person, including, for example, another holder of the water entitlement; and

(ii) the first person was not associated with the other person at the time the offence was committed, and

(iii) the first person took all reasonable steps to prevent the water being taken.

(5) For subsection (4)(b), the first person is associated with the other person if the other person is the employee, or agent of, or a contractor for, the first person.

Chapter 6 Reviews and appeals

Part 1 Interpretation

851 Who is an *interested person*

(1) A person who has been given an information notice or a compliance notice by the chief executive, or an authorised officer appointed by the chief executive, is an ***interested person***.

(2) However, if the decision for which the notice was given is in relation to a water plan or water entitlement notice, the interested person may appeal only to the extent a different decision, consistent with the plan or water entitlement notice, could have been made.

(3) A ratepayer or customer of a category 2 water authority who is dissatisfied with the authority's decision about a rate or charge made and levied on the customer or ratepayer is an ***interested person***.

(4) The decision or action for which a notice was given under subsection (1) or the decision mentioned in subsection (3) is an ***original decision***.

Part 2 Internal review of decisions

861 Appeal or external review process starts with internal review

Every appeal against or application for external review of an original decision must be, in the first instance, by way of an application for internal review.

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862 Who may apply for internal review

(1) An interested person may apply for a review (an ***internal review***) of an original decision mentioned in—

(a) section 851(1)—to the chief executive (the ***reviewer***); or

(b) section 851(3)—to the chief executive officer of the category 2 water authority (also the ***reviewer***).

(2) The application must be—

(a) in the approved form; and

(b) supported by enough information to enable the reviewer to decide the application.

863 Applying for an internal review

(1) The application must be made within 30 business days after—

(a) if the person is given an information notice about the decision or a compliance notice—the day the person is given the information notice or a compliance notice; or

(b) if paragraph (a) does not apply and notice of the decision is published—the day notice of the decision is published.

(2) The reviewer may extend the time for applying for an internal review.

(3) On or before making the application, the applicant must send the following documents to any other person who was given an information notice about the original decision—

(a) notice of the application (the ***submitter notice***);

(b) a copy of the application and supporting documents.

(4) The submitter notice must inform the recipient that written submissions on the application may be made to the reviewer within 5 business days after the application is made to the reviewer.

(5) The application does not stay the original decision.

(6) The application must not be dealt with by—

(a) the person who made the original decision; or

(b) a person in a less senior office than the person who made the original decision.

(7) Subsection (6)—

(a) applies despite the *Acts Interpretation Act 1954*, section 27A; and

(b) does not apply to an original decision made by the chief executive; and

(c) does not apply to an original decision made by a reviewer who is a category 2 water authority.

864 Review decision

(1) Subsection (2) applies if the reviewer is satisfied the applicant has complied with—

(a) section 862; and

(b) either—

(i) section 863(1); or

(ii) if the reviewer has extended the time for applying for an internal review—section 863(1) within the time extended under section 863(2); and

(c) if any other person was given an information notice about the original decision—section 863(3) and (4).

(2) The reviewer must, within 20 business days after receiving the application—

(a) review the original decision; and

(b) consider any properly made submissions by a recipient of the submitter notice; and

(c) make a decision (the ***review decision***) to—

(i) confirm the original decision; or

(ii) amend the original decision; or

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Not authorised—indicative only

(iii) substitute another decision for the original decision.

(2A) The reviewer may, by notice to the applicant, before the period mentioned in subsection (2) has expired, extend the period by not more than 30 business days.

(2B) Only 1 notice may be given under subsection (2A) for each review.

(3) Within 10 business days after making the review decision, the reviewer must give the applicant and any person who was given notice of the original decision notice (the ***review notice***) of the review decision.

(4) The review notice must also state—

(a) the reasons for the review decision; and

(b) that the applicant may, within 30 business days after the day the applicant is given the notice—

(i) for a decision or action mentioned in section 851(1), other than the giving of a compliance notice—appeal against the review decision to the Land Court; and

(ii) for a decision or action mentioned in section 851(3)—appeal against the review decision to the Land Court; and

(c) that the applicant may apply to the court that under paragraph (b) would hear the appeal against the review decision for a stay of the review decision.

(4AA) For the following decisions, the review notice must comply with the QCAT Act, section 157(2)—

(a) a decision or action about a water bore driller's licence;

(b) a decision or action mentioned in section 851(1) for which a compliance notice was given.

(4A) A copy of the relevant appeal provisions of this Act or the provisions of the QCAT Act about an external review must also be given with each review notice or copy of a review notice.

(5) If the reviewer does not comply with subsection (2) or (3), the reviewer is taken to have made a decision confirming the original decision.

(6) If the review decision confirms the original decision, for the purpose of external review by QCAT or an appeal to a court, the original decision is taken to be the review decision.

(7) If the review decision amends the original decision, for the purpose of external review by QCAT or an appeal to a court, the original decision as amended is taken to be the review decision.

865 Stay of operation of original decision

(1) If an application is made for an internal review of an original decision, the applicant may immediately apply for a stay of the original decision to—

(a) if, under section 877(1)(a) or (c), the applicant would be able to apply to QCAT for an external review—QCAT; and

(b) if, under section 877(1)(b) or (d), the applicant would be able to appeal to the Land Court—the Land Court.

(1A) An application to QCAT under subsection (1)(a) must be made as provided under the QCAT Act.

(2) QCAT or the Land Court may stay the original decision to secure the effectiveness of the review and a later application for external review to QCAT or appeal to the court.

(3) The stay—

(a) may be given on conditions QCAT or the court considers appropriate; and

(b) operates for the period fixed by QCAT or the court; and

(c) may be revoked or amended by QCAT or the court.

(4) The period of the stay must not extend past the time when the reviewer makes a review decision about the original decision and any later period QCAT or the court allows the applicant to

Not authorised—indicative only

Not authorised—indicative only

enable the applicant to apply for an external review or appeal against the review decision.

(5) The application affects the original decision, or carrying out of the decision, only if the decision is stayed.

Part 3 Appeals and external reviews

877 Who may appeal or apply for external review

(1) If an interested person has applied for an internal review of an original decision, any interested person for the original decision may appeal against or apply for a review of the review decision to—

(a) if the review decision was about an original decision or action about a water bore driller's licence—QCAT; and

(b) if the review decision was about an original decision or action mentioned in section 851(1), other than the giving of a compliance notice—the Land Court; and

(c) if the review decision was about a decision or action mentioned in section 851(1) for which a compliance notice was given—QCAT; and

(d) if the review decision was about an original decision or action mentioned in section 851(3)—the Land Court.

(2) An application to QCAT made under subsection (1)(a) or (c) must be made as provided under the QCAT Act.

878 Starting an appeal to the Land Court

(1) An appeal is started by—

(a) filing a notice of appeal with the court; and

(b) complying with rules of court applicable to the appeal.

(2) The notice of appeal must be filed within 30 business days after the day the appellant receives notice of the decision or the decision is taken to have been made.

(3) The court may extend the period for filing the notice of appeal.

(4) A copy of the notice of appeal must be served on the chief executive within 10 business days after the notice of appeal is filed with the court.

879 Staying operation of review decision

(1) The appellant may apply to the court to which the appellant could have applied for a stay of an original decision for a stay of the operation of the review decision to secure the effectiveness of the appeal.

(2) The court may grant a stay of the operation of the review decision to secure the effectiveness of the appeal.

(3) The stay—

(a) may be given on conditions the court considers appropriate; and

(b) operates for the period fixed by the court; and

(c) may be revoked or amended by the court.

(4) The period of the stay must not extend past the time when the court decides the appeal.

(5) The appeal affects the review decision, or carrying out of the decision, only if the decision is stayed.

880 Hearing procedures

(1) The procedure for an appeal must be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the judge.

(2) An appeal is by way of rehearing, unaffected by the reviewer's decision.

Not authorised—indicative only

Not authorised—indicative only

881 Assessors

If the judge or member hearing an appeal is satisfied the appeal involves a question of special knowledge and skill, the judge or member may appoint 1 or more assessors to help the judge or member in deciding the appeal.

882 Powers of court on appeal

(1) In deciding an appeal, the court may—

(a) confirm the review decision; or

(b) set aside the review decision; or

(c) amend the review decision in the way the court considers appropriate; or

(d) send the matter back to the reviewer and give the directions the court considers appropriate; or

(e) set aside the review decision and substitute it with a decision the court considers appropriate.

(2) If the court amends the review decision or substitutes another decision for the review decision, the amended or substituted decision is, for this Act (other than this part) taken to be the reviewer's decision.

(3) Each party to the appeal must bear the party's own costs for the appeal.

(4) However, the court may order costs for the appeal, including allowances to witnesses attending for giving evidence at the appeal, as it considers appropriate in the following circumstances—

(a) the court considers the appeal was started merely to delay or obstruct;

(b) the court considers the appeal, or part of the appeal, to have been frivolous or vexatious;

(c) a party has not been given reasonable notice of intention to apply for an adjournment of the appeal;

(d) a party has incurred costs because the party is required to apply for an adjournment because of the conduct of another party;

(e) a party has incurred costs because another party has defaulted in the court's procedural requirements;

(f) without limiting paragraph (d), a party has incurred costs because another party has introduced, or sought to introduce, new material;

(g) a party to the appeal does not properly discharge its responsibilities in the appeal.

(5) If the court makes an order under subsection (4), the court may also order the party ordered to pay costs under subsection (4) to pay to the other party an amount as compensation for loss or damage suffered by the other party because of the appeal if the court considers—

(a) the appeal was started merely to delay or obstruct; or

(b) the appeal, or part of the appeal, to have been frivolous or vexatious.

Chapter 7 Legal proceedings

Part 1 Evidence

918 Application of pt 1

This part applies to a proceeding under this Act.

919 Appearance

A party to a proceeding may appear personally or by lawyer or agent.

Not authorised—indicative only

Not authorised—indicative only

920 Appointments and authority

It is not necessary to prove—

(a) the chief executive's appointment; or

(b) an authorised officer's appointment; or

(c) the authority of the chief executive or an authorised officer to do anything under this Act.

921 Evidentiary aids

(1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

(a) a stated document is 1 of the following things made, given, granted or kept under this Act—

(i) an appointment;

(ii) an authority or licence;

(iii) a decision;

(iv) a notice, direction or requirement;

(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;

(b) a stated document is a copy of a thing mentioned in paragraph (a);

(c) on a stated day, or during a stated period, a stated person was or was not an authority holder;

(d) on a stated day, or during a stated period, an authority—

(i) was or was not in force; or

(ii) was or was not subject to a stated condition; or

(iii) was or was not cancelled;

(e) on a stated day, or during a stated period, a person's appointment as an authorised officer was, or was not, in force;

(f) on a stated day, a stated person was given a stated notice under this Act;

(g) on a stated day, a stated requirement was made of a stated person;

(h) on a stated day, the chief executive received stated information about water taken, under a stated authorisation to take water under this Act to which the measurement requirements apply, that—

(i) was transmitted or otherwise reported by a device, equipment or other thing in accordance with the measurement requirements; or

(ii) was calculated or measured in accordance with a measurement plan for the authorisation.

(2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of the day it came to the complainant's knowledge.

(3) A certificate purporting to be signed by an authorised officer stating any of the following is evidence of the matters stated—

(a) a stated device, equipment or other thing recorded or produced stated information about water taken, interfered with or used during a stated period;

(b) a stated measurement system used in accordance with the measurement requirements produced stated information about water taken, under a stated authorisation to take water under this Act to which the measurement requirements apply, during a stated period.

Not authorised—indicative only

Not authorised—indicative only

Part 2 Proceedings

931 Proceedings for offences

(1) Subject to subsection (2), a proceeding for an offence by way of a summary proceeding under the *Justices Act 1886* must start within—

(a) 1 year after the commission of the offence; or

(b) 1 year after the offence comes to the complainant's knowledge, but not later than 2 years after the commission of the offence.

(2) A proceeding for a prescribed offence may, at the election of the prosecution, be taken—

(a) by way of summary proceedings under the *Justices Act 1886*; or

(b) on indictment.

(2A) A prescribed offence is—

(a) for a prescribed offence for which the maximum penalty of imprisonment is 5 or more years—a crime; or

(b) otherwise—a misdemeanour.

(3) A proceeding must be before a magistrate if it is a proceeding—

(a) with a view to the summary conviction of a person on a charge of a prescribed offence; or

(b) for an examination of witnesses in relation to a charge for a prescribed offence.

(4) However, if a proceeding for a prescribed offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

(5) If—

(a) a person charged with a prescribed offence, in relation to which a proceeding is taken by way of a summary proceeding, requests, at the start of the proceeding, that the charge be prosecuted on indictment; or

(b) the magistrate hearing and deciding a charge of a prescribed offence is of the opinion that the charge ought to be prosecuted on indictment;

the magistrate—

(c) must not hear and decide the charge as a summary offence; but

(d) must proceed by way of an examination of witnesses in relation to an indictable offence.

(6) If a magistrate acts under subsection (5)—

(a) any plea of the person charged, made at the start of the proceeding, must be disregarded; and

(b) any evidence brought in the proceeding before the magistrate decided to act under subsection (5) is taken to be evidence in the proceeding with a view to the committal of the person for trial or sentence; and

(c) before committing the person for trial or sentence the magistrate must make a statement to the person in accordance with the *Justices Act 1886*, section 104(2)(b).

(7) The maximum penalty that may be imposed on a summary conviction of a prescribed offence is 500 penalty units or imprisonment for 1 year.

(8) If a person other than the chief executive brings a proceeding under this section, the person must, within 5 business days of starting the proceeding, give the chief executive notice of the proceeding.

932 Who may bring proceedings for offences

(1) Proceedings for an offence against section 956 may be brought only by the Attorney-General.

Not authorised—indicative only

Not authorised—indicative only

(2) This section applies despite section 931(1).

933 Proceeding brought in a representative capacity

(1) A proceeding under section 932(1) may be brought by the person on their own behalf or in a representative capacity.

(2) However, if the proceeding is brought in a representative capacity, 1 of the following consents must be obtained—

(a) if the proceeding is brought on behalf of a body of persons or a corporation—the members of the governing body;

(b) if the proceeding is brought on behalf of an individual—the individual.

934 Magistrates Court may make orders

(1) After hearing the complaint, the Magistrates Court may make an order on the defendant it considers appropriate.

(2) The order may be made in addition to, or in substitution for, any penalty the court may otherwise impose.

(3) The order may require the defendant to—

(a) demolish, remove or modify a work that takes or interferes with water or other resources; or

(b) pay an amount by way of damages to the complainant for injuries suffered by the complainant as the result of the defendant committing an offence against this Act.

(4) The order must state the time, or period, within which the order must be complied with.

(5) A person who knowingly contravenes the order commits an offence against this Act.

Maximum penalty—1,000 penalty units.

(6) If the order states that contravention of the order is a public nuisance, the chief executive or the regulator may undertake any work necessary to remove the nuisance.

(7) If the chief executive or the regulator carries out works under subsection (6), the chief executive or the regulator may recover the reasonable cost of the works as a debt due to the chief executive or the regulator from the person to whom the order was given.

935 Costs involved in bringing proceeding

If the proceeding is brought in a representative capacity, the person on whose behalf the proceeding is brought may contribute to, or pay, the legal costs and expenses incurred by the person bringing the proceeding.

936 Responsibility for acts or omissions of representatives

(1) This section applies in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

representative means—

(a) for a water authority—

(i) an executive officer, employee or agent of the water authority; or

Not authorised—indicative only

Not authorised—indicative only

(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

(b) for a corporation, other than a water authority—an executive officer, employee or agent of the corporation; or

(c) for an individual—an employee or agent of the individual.

state of mind of a person includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

Chapter 8 Miscellaneous

Part 1 Appointment of administrator

955 Governor in Council may appoint administrator to operate infrastructure

(1) This section applies if the chief executive cancels a resource operations licence, an interim resource operations licence or a distribution operations licence.

(2) The Governor in Council may, by gazette notice, authorise the following person (the ***administrator***) to operate the infrastructure to which the licence relates and use the licence holder's water entitlement to operate the infrastructure—

(a) the chief executive;

(b) any other person who has the necessary experience or qualifications to operate the infrastructure.

(3) The appointment has effect from the day the notice is published until—

(a) the day stated in the notice; or

(b) if no day is stated in the notice—the day a further notice withdrawing the appointment is published in the gazette.

(4) The appointment may deal with any matter necessary or convenient to help the administrator operate the infrastructure.

956 Effect of administrator operating infrastructure

(1) If the administrator is authorised under section 955 to operate infrastructure, the infrastructure may be operated by the administrator or another person (the ***operator***) appointed by the administrator.

(2) The administrator and operator may do all things necessary or convenient to ensure the effective operation of the infrastructure.

(3) A person in possession of premises on which the infrastructure operates must give the administrator and operator access to the premises to enable operation of the infrastructure.

Maximum penalty—500 penalty units.

(4) A person in possession of premises must not take action, or refuse to take action, if the taking or refusal, has the effect of preventing or hindering the administrator or operator from operating the infrastructure.

Maximum penalty—1,665 penalty units.

(5) Subsections (3) and (4) do not apply to an act done, or omission made, during or relating to industrial action as defined under the *Industrial Relations Act 2016*.

(6) The former holder of the resource operations licence or interim resource operations licence is liable for the administrator's reasonable costs of—

(a) operating the infrastructure; and

Not authorised—indicative only

Not authorised—indicative only

(b) repairing, replacing or improving the infrastructure.

(7) The administrator must pay to the former holder any income received by the administrator from operating the infrastructure less all costs mentioned in subsection (6).

959 Displacement provision for Corporations legislation

This part is declared to be a Corporations legislation displacement provision for the Corporations Act, section 5G, in relation to the Corporations Act, parts 5.2 to 5.7.

Part 2 Relationship with Planning Act

Division 1 Particular development applications and change applications

Subdivision 1 Requirements for particular development applications and change applications

966 Particular applications for removal of quarry material

(1) This section applies if a person makes—

(a) a development application for a development approval for the removal of quarry material from leased land; or

(b) a change application, other than a minor change application, to change a development approval that already approves the removal of quarry material from leased land; or

(c) a change application, other than a minor change application, to change a development approval—

(i) to approve the removal of quarry material from leased land; and

(ii) that does not already approve the removal of the quarry material.

(2) The application must be accompanied by—

(a) the written consent of the lessee of the leased land to arrangements about the route the person may use across the lessee's land for the removal of the quarry material; or

(b) if the lessee of the leased land and the person can not agree on arrangements—the arrangements decided by a Magistrates Court.

(3) In this section—

leased land means land leased under the *Land Act 1994*.

967 Applications for levees

(1) This section applies—

(a) to development that is the construction of a new levee or the modification of an existing levee; and

(b) for the purpose of minimising the adverse impacts levees could have on overland flow water, the catchment, landholders, communities and land planning and emergency procedures.

(2) A regulation may prescribe—

(a) assessment benchmarks for the Planning Act for the assessment of development, other than an assessment carried out by the chief executive of the department in which that Act is administered (the ***planning chief executive***); or

(b) for the Planning Act, the matters a referral agency under that Act, other than the planning chief executive—

(i) must or may assess a development application against; or

(ii) must or may assess a development application having regard to.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 4 Miscellaneous

972B When appeal may be made to Land Court

(1) This section applies if—

(a) a person makes a development application or change application, other than a minor change application, relating to operational work for taking or interfering with water; and

(b) the operational work is for, or relates to, an activity authorised under the *Mineral Resources Act 1989*; and

(c) the person has applied under the *Mineral Resources Act 1989* for authorisation to carry out the activity.

(2) Despite the Planning Act, chapter 6, the person may appeal against a decision on the application to the Land Court.

Division 2 Development permits and development approvals

972D Additional rights for permits for operational work

(1) A development permit, to the extent it relates to operational work for taking or interfering with water, or the removal of quarry material, from a watercourse or lake, is taken to include a right to use and occupy the part of the watercourse or lake—

(a) that forms all or part of the boundary of the land to which the development permit attaches; and

(b) on which the works are situated.

(2) An owner of land carrying out operational work that involves taking water from a watercourse, lake or spring under section 96(2) and is accepted development, is taken to have a right to use and occupy the part of the watercourse or lake—

(a) that forms all or part of the boundary of the owner's land; and

(b) on which the works are situated.

(3) Operational work that allows taking or interfering with water in a watercourse, lake or spring, other than under a relevant provision, and is accepted development, is taken to include a right to use and occupy the part of the watercourse or lake on which the operations are situated.

(4) In this section—

relevant provision means any of the following—

(a) section 93;

(b) section 95(1);

(c) section 96;

(d) section 99;

(e) section 102.

Division 3 Directions by chief executive

Subdivision 1 Direction powers

972G Relationship with Planning Act

This subdivision applies despite the Planning Act.

972H Modification or removal of works

(1) This section applies to works—

(a) that are used, or could be used, for taking or interfering with water; and

(b) that, if the works were to be constructed, are either—

(i) works for which a development permit would be required; or

Not authorised—indicative only

Not authorised—indicative only

(ii) works that would be accepted development.

(2) The chief executive may give all or any of the following entities a show cause notice as to why the entity should not be required to modify or remove the works—

(a) the holder of a water entitlement under which the works are used for taking or interfering with water;

(b) an entity who has held a water entitlement under which the works were used for taking or interfering with water;

(c) the owner of the land on which the works are situated.

(3) If, after considering any properly made submissions, the chief executive is still satisfied the works should be modified or removed, the chief executive may give the entity a notice directing the entity to modify or remove the works.

972I Removal of quarry material

(1) The chief executive may give the holder of an allocation notice a show cause notice as to why the holder should not be required to change the way quarry material is removed.

(2) If, after considering any properly made submissions, the chief executive is still satisfied the change should be made, the chief executive may give the holder a notice directing the holder to make the change.

972J Modification or removal of levees

(1) This section applies to a levee—

(a) that is used, or could be used, for taking or interfering with water; and

(b) that, if the levee were to be constructed or modified, is either—

(i) a levee for which a development permit would be required; or

(ii) a levee that would be accepted development.

(2) The chief executive may give the owner of the land on which the levee is situated a show cause notice as to why the owner should not be required to modify or remove the levee.

(3) If, after considering any properly made submissions, the chief executive is still satisfied the levee should be modified or removed, the chief executive may give the owner a notice directing the owner to modify or remove the levee.

Subdivision 2 Effect of directions

972K Application of sdiv 2

This subdivision applies if a direction is given under subdivision 1.

972L Direction is a compliance notice

For this Act, the direction is taken to be a compliance notice.

972M When direction takes effect

The direction takes effect on the later of the following—

(a) at the end of the period to appeal against the direction as a compliance notice;

(b) if an appeal is made, when the appeal is decided if the decision is to confirm the giving of the direction.

972N Direction prevails over development permit

If the direction is inconsistent with a development permit, the direction prevails to the extent of the inconsistency.

972O Offence to fail to comply with direction

A person to whom the direction is given must comply with the direction, unless the person has a reasonable excuse.

Not authorised—indicative only

Not authorised—indicative only

Maximum penalty—1,665 penalty units.

Part 2A Installing, maintaining and reading measurement devices

973 Appointment and qualifications of measurement contractors

(1) The chief executive may appoint a person as a measurement contractor.

(2) The chief executive may appoint a person as a measurement contractor only if, in the chief executive's opinion, the person has the necessary expertise or experience to be a measurement contractor.

974 Measurement contractor's identity card

(1) The chief executive must give each measurement contractor an identity card.

(2) The identity card must—

(a) contain a recent photo of the measurement contractor; and

(b) be signed by the measurement contractor; and

(c) identify the person as a measurement contractor under this Act; and

(d) state an expiry date.

975 Failure to return identity card

A person who ceases to be a measurement contractor must return the person's identity card to the chief executive within 15 business days after ceasing to be a measurement contractor, unless the person has a reasonable excuse for not returning it.

Maximum penalty—50 penalty units.

976 Producing or displaying identity card

(1) A measurement contractor may exercise a power under this Act in relation to someone else only if the measurement contractor—

(a) first produces his or her identity card for the person's inspection; or

(b) has the identity card displayed so it is clearly visible to the person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the measurement contractor must produce the identity card for the person's inspection at the first reasonable opportunity.

977 Power to enter places for stated purposes

(1) A measurement contractor may enter land—

(a) to inspect a site and any works on the site in preparation for installing a measurement device on the site; or

(b) to carry out preparation work on the site; or

(c) to install a measurement device and any works necessarily associated with the device on a site; or

(d) to calibrate and test a measurement device installed under paragraph (c); or

(e) to maintain, repair and replace measurement devices installed under paragraph (c); or

(f) to read measurement devices installed under paragraph (c); or

(g) to clear vegetation or any other thing adversely affecting access to a measurement device installed under paragraph (c).

Not authorised—indicative only

Not authorised—indicative only

(2) However, the measurement contractor may enter the land at any reasonable time only if—

(a) the occupier consents to the entry; or

(b) the measurement contractor has given the occupier at least 10 business days notice of the entry and the purpose of the entry.

(3) After entering the place, the measurement contractor may carry out the activity that is the purpose of the entry.

(4) For carrying out the activity, the measurement contractor may require the occupier, or a person on the land, to give the measurement contractor information to help the contractor carry out the activity.

(5) If there is no person on the land at the time of the entry under subsection (2)(b), the measurement contractor must—

(a) leave a notice at the place; and

(b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

(6) In this section—

land means a parcel of land other than the part on which there is erected a building or structure that is—

(a) a dwelling place; or

(b) being used, at the relevant time, as a dwelling place.

978 Obstructing measurement contractors

A person must not obstruct a measurement contractor exercising a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

979 Giving notice of damage

(1) If a measurement contractor, in the exercise or purported exercise of a power under this Act, damages anything, the

measurement contractor must immediately give notice of the particulars of the damage.

(2) The notice must be given to the person who appears to the measurement contractor to be the owner of, or in control of, the thing damaged.

(3) If, for any reason, it is not practicable to comply with subsection (2), the measurement contractor must—

(a) leave the notice at the place where the damage happened; and

(b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

(4) This section does not apply to damage the measurement contractor believes, on reasonable grounds, is trivial.

980 Compensation for damage

(1) A person may claim compensation from a measurement contractor if the person incurs loss or expense because of the exercise or purported exercise of a power under this Act by the measurement contractor.

(2) Payment of compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) For this section, loss or expense does not include loss or expense caused by the act of removing vegetation or any other thing.

Not authorised—indicative only

Not authorised—indicative only

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 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.

Not authorised—indicative only

Not authorised—indicative only

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—

(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

Not authorised—indicative only

Not authorised—indicative only

(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.

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

Not authorised—indicative only

Not authorised—indicative only

(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 lining or screen of a water bore; or

(c) removing, replacing, altering or repairing the casing of a water bore other than a subartesian bore casing less than 1.2m below the surface; or

(d) 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.

Not authorised—indicative only

Not authorised—indicative only

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.

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.

Part 3 Compensation

Division 1 Preliminary

984 Definitions for pt 3

In this part—

change, for a water allocation, means a change to a water plan relating to the allocation.

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*.

environmental update purpose means the purpose of providing additional water to the environment because of new scientific knowledge demonstrating the amount previously allocated to the environment is inadequate.

interim water resource plan see the *Water Act 2007* (Cwlth), section 242.

owner, of a water allocation, means a registered owner of the allocation at the time a change to a water plan is made.

prescribed area plan see section 986A(1)(a)(iii) and (iv).

relevant reduction means a reduction in the maximum long-term annual average quantities of water that can be taken on a sustainable basis from the water resources, or particular parts of the water resources, for the plan area of a plan mentioned in section 986A(1)(a).

replacement, for a provision about a water plan (the ***original***), means a plan of the same type as the original that is the first or a later replacement, with or without changes, of the original.

water access entitlement means—

(a) a water allocation; or

(b) another authority prescribed under a regulation to take water.

985 Application of pt 3

(1) Compensation is not payable under this Act except as provided in this part.

Not authorised—indicative only

Not authorised—indicative only

(2) Subsection (1) does not affect compensation that may be paid under section 765.

Division 2 Particular water allocation owners

986 Particular reductions in allocation's value

(1) An owner of a water allocation is entitled to be paid reasonable compensation by the State if a change, while the water plan relating to the allocation is in force, reduces the value of the allocation.

(2) This section does not apply to the owner of a water allocation for a change that reduces the value of the allocation if section 986A(1)(a) applies, unless no compensation is payable under section 986G(3) for the change.

Division 3 Particular water access entitlement owners

Subdivision 1 Preliminary

986A Application of div 3

(1) This division applies if—

(a) a water access entitlement is regulated under an interim water plan or any of the following water plans—

(i) a designated plan;

(ii) a replacement of a designated plan;

(iii) if a regulation prescribes that this subsection applies to a particular area, or a particular part of an area—one whose plan area includes the area or part (a ***prescribed area plan***);

(iv) a replacement of a water resource plan mentioned in subparagraph (iii) (also a ***prescribed area plan***); and

(b) a relevant reduction results in a change to the water access entitlement or the water that may be taken under the entitlement; and

(c) the change reduces the entitlement's value.

(2) However, this division does not apply if—

(a) the change increases the total amount of water available under the water plan resulting in additional water access entitlements being granted; or

(b) the change is required to give effect to a court decision; or

(c) the plan is a water plan and the change is to restore water to the environment because of a natural decrease in water availability within the plan area for the plan, including, for example, because of a decrease resulting from climate change, drought or bush fires; or

(d) the relevant reduction is less than 3% and for the environmental update purpose.

Subdivision 2 Compensation for particular changes for the environmental update purpose

986B Compensation entitlement

(1) This subdivision applies only if the change is for the environmental update purpose.

(2) The owner of the water access entitlement is entitled to be paid reasonable compensation by the State for the relevant reduction, as provided for under this subdivision.

Not authorised—indicative only

Not authorised—indicative only

(3) However, the compensation entitlement under subsection (2) is subject to any relevant exclusion, limitation or restriction under this subdivision or subdivision 4.

986C Designated plans and replacements

(1) This section applies if the water access entitlement is regulated under a designated plan or a replacement of a designated plan.

(2) No compensation is payable for a relevant reduction of 3% or less.

(3) Compensation is payable for a relevant reduction of more than 3% over the 10-year period starting on the end of the period for which the first water plan relating to the area for which the water access entitlement applies was in force.

(4) However, only one-third of the compensation payable for a relevant reduction of more than 3%, but not more than 6%, over the 10-year period is payable.

(5) Also, only one-half of the compensation payable for a relevant reduction of more than 6% over the 10-year period is payable.

986D Prescribed area plans

(1) This section applies if the water access entitlement is regulated under a prescribed area plan.

(2) No compensation is payable for a relevant reduction of 3% or less.

(3) Compensation is payable for a relevant reduction of more than 3% over the 10-year period starting on the making of the regulation under section 986A(1)(a)(iii) relating to the area for which the water access entitlement applies.

(4) However, only one-third of the compensation payable for a relevant reduction of more than 3%, but not more than 6%, over the 10-year period is payable.

(5) Also, only one-half of the compensation payable for a relevant reduction of more than 6% over the 10-year period is payable.

986E Interim water resource plans

(1) This section applies if the water access entitlement is regulated under an interim water resource plan.

(2) No compensation is payable for a relevant reduction of 3% or less.

(3) Compensation is payable for a relevant reduction of more than 3% over the 10-year period starting on the making of a water management plan under section 986J relating to the area for which the water access entitlement applies.

(4) However, only one-third of the compensation payable for a relevant reduction of more than 3%, but not more than 6%, over the 10-year period is payable.

(5) Also, only one-half of the compensation payable for a relevant reduction of more than 6% over the 10-year period is payable.

Subdivision 3 Compensation for particular policy changes

986F Compensation entitlement

(1) This subdivision applies if—

(a) the change is because of an amendment or replacement of a water plan; and

(b) the Minister has stated in the water plan that the change is because of a change in State government policy.

(2) Subject to subdivision 4, the owner of the water access entitlement is entitled to be paid reasonable compensation by the State for the relevant reduction.

(3) For subsection (2), a change in State government policy does not include a change that reflects a change in Commonwealth government policy.

Not authorised—indicative only

Not authorised—indicative only

Subdivision 4 Restrictions on compensation entitlement

986G Restrictions

(1) If the water access entitlement is regulated under a prescribed area plan, the compensation entitlement applies only while a designated intergovernmental agreement is in force for the area.

(2) If the water access entitlement is regulated under any of the following, the compensation entitlement applies only while a designated intergovernmental agreement is in force—

(a) a designated plan;

(b) a replacement of a designated plan;

(c) an interim water resource plan.

(3) Also, the compensation entitlement is not payable for the change if the Commonwealth has not provided funding for the relevant reduction to meet its obligations under all designated intergovernmental agreements for prescribed plan areas and for all plans mentioned in subsection (2).

(4) In this section—

designated intergovernmental agreement means an agreement between the State and the Commonwealth as follows—

(a) for a prescribed plan area, one that—

(i) is about supplementing the payment of prescribed area compensation; and

(ii) is separate from one between them about supplementing non-prescribed area compensation;

(b) for a plan mentioned in subsection (2), one that—

(i) is about supplementing and funding the payment of non-prescribed area compensation; and

(ii) is separate from one between them about supplementing prescribed area compensation.

non-prescribed area compensation means compensation worked out under section 986C or 986E.

prescribed area compensation means compensation worked out under section 986D.

Division 4 Miscellaneous provisions

986H Regulation-making power

A regulation may prescribe—

(a) the basis on which a change mentioned in section 986A(1)(b) is to be worked out; and

(b) the basis on which compensation for the decreased value of water access entitlements is to be worked out; and

(c) the way compensation under this part is to be paid.

986I Water plan to identify particular changes

(1) This section applies if—

(a) a change mentioned in section 986A(1)(b) is made; and

(b) the change is—

(i) to address a risk mentioned in the national water initiative agreement, clause 49; or

(ii) for the environmental update purpose.

(2) The water plan must identify the change.

(3) In this section—

national water initiative agreement means the Intergovernmental Agreement on a National Water Initiative between the Commonwealth and the governments of New South Wales, Victoria, Queensland, South Australia, the

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Australian Capital Territory and the Northern Territory made on 25 June 2004.

Editor's note—

At the commencement of this section, the national water initiative agreement may be viewed on the National Water Commission's website.

986J Making water management plans by declaration

(1) The Minister may make a water management plan by declaring, by gazette notice—

(a) that a particular instrument forms a water management plan for this section; or

(b) that particular instruments are combined to form a water management plan for this section.

(2) The making of the water management plan does not affect the existence or operation of the instrument or instruments.

(3) Any rights, liabilities, obligations or information under the water management plan are the same as under the instrument or instruments.

(4) The water management plan operates as an alternative to the instrument or instruments and does not duplicate any rights, liabilities, obligations or information under the instrument or instruments.

(5) In this section—

instrument means an instrument under the Act for the management of water resources within the meaning of the *Water Act 2007* (Cwlth), section 242(1)(a).

987 Limiting compensation for reduced value of entitlement to water

(1) Despite section 986, compensation is not payable if the change has the same effect as another statutory instrument, in respect of which compensation is not payable.

(2) Also, compensation is not payable—

(a) for a matter under this part if compensation has already been paid for the matter to a previous owner of the authority to take water; or

(b) for anything done in contravention of this Act.

(3) If a matter for which compensation is payable under this part is also a matter for which compensation is payable under another Act, the claim for the compensation must be made under the other Act.

988 Time limits for claiming compensation

A claim for compensation under this part must be given to the chief executive within 6 months after the day the approval of the plan or the amendment of the plan reducing the value of the water allocation.

989 Time limits for deciding and advising on claims

(1) The chief executive must decide each claim for compensation within 60 business days after the day the claim is made.

(2) The chief executive must, within 10 business days after the day the claim is decided—

(a) give the claimant an information notice; and

(b) if the decision is to pay compensation—advise in the notice the amount of the compensation to be paid.

990 Deciding claims for compensation

In deciding a claim for compensation under this part, the chief executive must—

(a) grant the claim; or

(b) grant part of the claim and refuse the rest of the claim; or

(c) refuse the claim.

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Not authorised—indicative only

991 Calculating reasonable compensation involving changes

(1) For compensation payable because of a change, reasonable compensation is the difference between the market values, appropriately adjusted having regard to the following matters, to the extent they are relevant—

(a) any benefit accruing to the claimant from the change, including, but not limited to, the likelihood of improved water services;

(b) if the claimant has an authority to take water in addition to the water allocation for which the claim is made, any benefit accruing to the authority because of—

(i) the change or any other change made before the claim for compensation was made; or

(ii) the construction of, or improvement to, infrastructure on the watercourse, other than infrastructure funded by the claimant, before the claim for compensation was made;

(c) the effect of any other changes to the water plan made since the change.

(2) In this section—

difference between the market values is the difference between the market value of the water allocation immediately before the change came into effect and the market value of the allocation immediately after the change came into effect.

992 When compensation is payable

If compensation is payable under this part, the compensation must be paid within 30 business days after—

(a) the last day an appeal could be made against the chief executive's decision about the payment of compensation; or

(b) if an appeal is made—within 30 business days after the day the appeal is decided.

Part 3A Authority held by Mount Isa Mines Limited

992A Authority held by Mount Isa Mines Limited under special agreement Act

(1) This section applies to Mount Isa Mines Limited ACN 009 661 447 (the ***entity***) to the extent a special agreement Act authorises the entity to take or interfere with water in relation to Rifle Creek Dam and Lake Moondarra.

(2) The authority continues under the special agreement Act until the chief executive grants the entity the water allocation under the resource operations plan to replace part of the Lake Moondarra authority.

(3) Subsection (2) applies despite section 1037A(3) and (4) and anything to the contrary in the special agreement Act that applies to the entity.

(4) To remove any doubt, it is declared that nothing in this section affects the water licence, held by the entity, to take water from Rifle Creek.

(5) In this section—

Lake Moondarra authority means the authority for taking water from Lake Moondarra—

(a) granted under the Order in Council published in the gazette on 14 August 1976 at page 1987; and

(b) continued under section 1089.

resource operations plan means the resource operations plan that implements the *Water Resource (Gulf) Plan 2007*.

special agreement Act see the *Environmental Protection Act 1994*, section 584.

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Part 3B Seqwater

992B Application of pt 3B

This part applies to the authority held by Seqwater, to take or interfere with water, continued in force under section 1037A.

992C Requirement for supply contract

The holder of each of the following authorities, to take water made available by Seqwater under its authority, must have a supply contract with Seqwater for the holder's water entitlement—

(a) a licence issued under part 4 of the repealed Act to take water for irrigation purposes from the section of the Brisbane River between Wivenhoe Dam and Mt Crosby Weir and taken, under section 1048A, to be a water entitlement under this Act;

(b) an authority under the repealed Act, to take water, that—

(i) was in force on the commencement of the repealed *Water Resources Regulation 1999*, section 15B; and

(ii) relates to the section of the Brisbane River between Wivenhoe Dam and Mt Crosby Weir; and

(iii) is taken, under section 1048A, to be a water entitlement under this Act;

(c) a water entitlement granted under this Act to take water from the section of the Brisbane River between Wivenhoe Dam and Mt Crosby Weir.

992D Chief executive may approve standard supply contract

(1) The chief executive may approve a standard supply contract for the storage and supply, by Seqwater, of water under the authorities mentioned in section 992C.

(2) The chief executive must gazette the approval.

(3) On the commencement of this section, the standard supply contract applies to an authority unless the holder of the authority and Seqwater have a supply contract.

(4) The parties to a standard supply contract must review the contract within 1 year after the contract takes effect.

992E Customer of a service provider

The holder of authority to take water, mentioned in section 992C, is a customer of a service provider for the Water Supply Act.

992F Cost of installing and maintaining meters

Seqwater may recover, from each holder of an authority mentioned in section 992C to whom the standard supply contract applies, the reasonable cost to Seqwater of—

(a) a water meter to measure the volume of water taken under the authority; and

(b) installing, reading and maintaining the water meter.

Part 3C Authorities under particular special agreement Acts

Division 1 Particular authority for Wenlock Basin

992G Definitions for div 1

In this division—

environmental impact statement means an environmental impact statement prepared or finalised under—

(a) the *Environmental Protection Act 1994*; or

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(b) the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); or

(c) the *State Development and Public Works Organisation Act 1971*.

relevant company, for a special agreement Act, means the entity that is authorised to obtain water under the agreement under the special agreement Act.

special agreement Act means each of the following Acts—

(a) *Alcan Queensland Pty. Limited Agreement Act 1965*;

(b) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

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.

992H Application of div 1

(1) This division applies to each relevant company for a special agreement Act to the extent the entity is authorised under the special agreement Act to take or interfere with water, other than artesian water or subartesian water connected to artesian water, in the Wenlock Basin.

(2) This division does not affect a relevant company's right or authority under a special agreement Act to take or interfere with—

(a) water that is not in the Wenlock Basin; or

(b) artesian water or subartesian water connected to artesian water in the Wenlock Basin.

992I Continuation of authority and grant of water licence to replace authority

(1) The authority to take or interfere with the water continues under the special agreement Act until a water licence is granted under this section to replace the authority.

(2) However, the relevant company may take or interfere with the water after the commencement of this section only under a water licence granted under this section to replace all or a part of the authority.

(3) The relevant company may give the chief executive a notice stating the company proposes to—

(a) take or interfere with the water in relation to all or a part of the authority; and

(b) obtain a water licence under this section to replace all or the part of the authority.

(4) Subsections (1) and (2) apply despite section 1037A(3) and (4) and anything to the contrary in the special agreement Act.

(5) If a relevant company gives the chief executive a notice under subsection (3), the chief executive must, within 30 business days after receiving the notice, grant the company a water licence to replace all or the part of the authority to which the notice relates.

(6) The water licence may be granted—

(a) with or without conditions; and

(b) without the need for an application under section 206.

(7) A condition of the water licence must not be inconsistent with—

(a) the specified conditions for the special agreement Act; or

(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

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inconsistent with the specified conditions mentioned in paragraph (a).

(8) If the chief executive grants a water licence under this section, the chief executive must, within 30 business days, give the relevant company—

(a) the water licence in the approved form; and

(b) an information notice about the grant.

(9) A water licence granted under this section is taken to be a water licence for this Act.

992J Amendment of water licence that replaces authority

(1) The chief executive may, under section 217 or 218, amend a water licence granted under section 992I.

(2) However, the conditions of the amended water licence must not be inconsistent with—

(a) the specified conditions for the special agreement Act to which it relates; or

(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).

(3) Subsection (2) applies despite section 217.

(4) A relevant company may, by notice given to the chief executive, propose an amendment to its water licence granted under section 992I.

(5) The notice mentioned in subsection (4) must state the proposed amendment.

(6) If the chief executive is satisfied the proposed amended licence would not be inconsistent with a matter mentioned in

subsection (2), the chief executive must, within 30 business days after receiving the notice—

(a) amend the licence; and

(b) give the licensee—

(i) an amended licence in the approved form; and

(ii) an information notice about the amendment.

(7) The chief executive may amend the water licence under subsection (6) without the need for an application under section 216.

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—

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Not authorised—indicative only

(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—

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

Not authorised—indicative only

Not authorised—indicative only

Part 4 Provisions about the corporatised entity

993 Power to collect drainage rates

(1) The corporatised entity may collect drainage rates prescribed under a regulation.

(2) Subsection (1) does not limit the ways in which a drainage rate may be made or levied under the regulation.

994 Exemption from drainage rates

Despite section 993, the regulation can not make and levy drainage rates for the following land—

(a) unoccupied State land;

(b) unallocated State land reserved for a public purpose;

(c) land occupied by the State, other than land leased by the State from a person;

(d) land prescribed under the regulation for this section.

995 Interest on overdue drainage rates

(1) An overdue drainage rate under section 993 bears interest at the annual rate, decided by the chief executive, of not more than—

(a) 15%; or

(b) if another percentage is prescribed under a regulation—the other percentage.

(2) The interest must be calculated as simple interest.

(3) In this section—

overdue drainage rate means the amount of the rate that is not paid when it becomes payable.

996 Discount for payment of drainage rates

(1) The chief executive may allow a discount for payment of a drainage rate.

(2) Unless a regulation prescribes otherwise, the discount must not be more than 15% of the drainage rate.

997 Recovering drainage rates

The corporatised entity may recover an overdue drainage rate, and any interest payable on the overdue drainage rate, as a debt due to the corporatised entity by the person on whom the rate is made or levied.

999 Minister's and Treasurer's power to give joint directions to corporatised entity

(1) The Minister and Treasurer may give the corporatised entity a written joint direction if the Minister and Treasurer are satisfied it is necessary to give the direction—

(a) to give effect to this Act; or

(b) to facilitate water industry reform in the State; or

(c) to ensure a financially viable water industry in the State.

(2) The corporatised entity must comply with the direction.

(3) The Minister must gazette a copy of the direction within 21 days after it is given.

Part 4A Private water supply agreements for former water areas

1000 Entering private water supply agreements

(1) This section applies for a former water area if—

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Not authorised—indicative only

(a) all the registered owners of land (the ***relevant land***) being supplied with water from the area enter into a written agreement about supplying water to the relevant land; and

(b) the area is, under section 1083(2), an authority area; and

(c) the chief executive is performing the functions of a water authority for the area.

(2) The agreement (a ***private water supply agreement***) must state—

(a) the water, land and works to which the agreement applies; and

(b) the arrangements for supplying the water to each registered owner's land; and

(c) the arrangements for the maintenance or replacement of the works and the sharing of the cost of the maintenance or replacement; and

(d) the arrangements for accessing the works; and

(e) provisions for the cancellation of the agreement with the consent of all parties.

1001 Registration of private water supply agreement

(1) As soon as practicable after entering the private water supply agreement—

(a) the parties must give the chief executive a copy of the agreement; and

(b) the chief executive must give the registrar of titles notice of the agreement.

(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 the relevant land will show the existence of the agreement.

(3) If the agreement is cancelled, as soon as practicable after the cancellation—

(a) the parties must give the chief executive notice of the cancellation; and

(b) the chief executive must give the registrar of titles notice of the cancellation; and

(c) the registrar must remove the particulars of the agreement from the registrar's records.

(4) While the agreement has effect, the obligations on each party attach to the party's land and bind the party and the party's successors in title to the land.

1002 When agreement has effect

Despite any other provision of this part, the private water supply agreement does not have effect until the former water area is dissolved under this Act.

1003 Amending a private water supply agreement

(1) A private water supply agreement (the ***original agreement***) may be amended only once and only if the works to which the original agreement applies are capped and piped or are to be capped and piped.

(2) If additional land is required because of the capping and piping, the amending agreement may include—

(a) the addition of land to the original agreement; and

(b) if the registered owner of the land is not already a party to the original agreement—the addition of the registered owner as a party.

(3) As soon as practicable after making the amending agreement, the parties must give the chief executive a copy of the amending agreement.

(4) If the amending agreement varies the land to which the original agreement applies, the chief executive must give the registrar of titles notice of the amending agreement.

Not authorised—indicative only

Not authorised—indicative only

(5) 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 land the subject of the original agreement, as amended, will show the existence of the original agreement and the amending agreement.

(6) In this section—

cap and pipe, in relation to works, means—

(a) repairing or replacing a bore forming the whole or part of the works so that the flow of water can be controlled by a valve on the headworks of the bore; and

(b) replacing a bore drain distribution system with a pipeline distribution system.

1003A Chief executive may approve standard agreement

(1) The chief executive may approve a document (a ***standard agreement***) to operate as a private water supply agreement in the absence of the agreement of the registered owners of particular land.

(2) The chief executive must gazette the approval of the standard agreement.

(3) On and from the day the former water area to which the standard agreement applies is dissolved, the standard agreement applies as a private water supply agreement for the area until the registered owners enter into a private water supply agreement to replace the standard agreement.

Part 4B Special provision for Condamine and Balonne Resource Operations Plan

1003B Condamine and Balonne Resource Operations Plan amended

(1) On the commencement of this section, the CB ROP is amended by including the deferred aspect in the CB ROP.

(2) Subsection (1) applies despite any other provision of this Act.

(3) The CB ROP as amended under subsection (1) is the resource operations plan for the *Water Resource (Condamine and Balonne) Plan 2004*.

(4) This section does not affect the power of—

(a) the chief executive to further amend the CB ROP; or

(b) the Governor in Council to approve a further amendment of the CB ROP; or

(c) the chief executive to prepare, or the Governor in Council to approve, a resource operations plan to replace the CB ROP as amended from time to time, including under subsection (1); or

(d) the Governor in Council to repeal the CB ROP as amended from time to time, including under subsection (1).

(5) In this section—

CB ROP means the Condamine and Balonne Resource Operations Plan approved by the Governor in Council on 11 December 2008.

deferred aspect means the provisions for the CB ROP included in the document called 'Condamine and Balonne resource operations plan amendment incorporating the Lower Balonne area' approved by the chief executive on 5 March 2010.

Not authorised—indicative only

Not authorised—indicative only

Editor's note—

On the commencement of this section, the document is available for inspection at the department's office at 41 George Street, Brisbane and on the department's website.

Part 4C Special provision for Gulf Resource Operations Plan

1003C Gulf Resource Operations Plan amended

(1) On the commencement of this section, the Gulf ROP is amended by the Gulf ROP amendment.

(2) Subsection (1) applies despite any other provision of this Act.

(3) The Gulf ROP as amended under subsection (1) is the resource operations plan for the *Water Resource (Gulf) Plan 2007*.

(4) This section does not affect the power of—

(a) the chief executive to further amend the Gulf ROP; or

(b) the Governor in Council to approve a further amendment of the Gulf ROP; or

(c) the chief executive to prepare, or the Governor in Council to approve, a resource operations plan to replace the Gulf ROP as amended from time to time, including under subsection (1); or

(d) the Governor in Council to repeal the Gulf ROP as amended from time to time, including under subsection (1).

(5) In this section—

Gulf ROP means the Gulf Resource Operations Plan approved by the Governor in Council on 24 June 2010.

Gulf ROP amendment means the provisions for the Gulf ROP included in the document called 'Gulf resource operations plan amendment' signed by the chief executive on 6 June 2011.

Editor's note—

On the commencement of this section, the Gulf ROP amendment is available for inspection at the department's office at 41 George Street, Brisbane and on the department's website.

Part 5 General provisions

1005 Advisory councils

(1) The Minister may establish as many advisory councils as the Minister considers appropriate for the administration of this Act, including, for example, for policy recommendations.

(2) An advisory council has the functions the Minister decides.

(3) A member of an advisory council may be paid the fees and allowances decided by the Governor in Council.

(4) The chief executive may make available to an advisory council the technical, clerical, secretarial or other help the chief executive considers necessary for the performance of its functions and the conduct generally of its affairs.

1006 Declarations about watercourses

(1) A regulation or a water plan may declare water in an aquifer under a watercourse, or under land adjacent to a watercourse, to be water in the watercourse.

(2) If subsection (1) applies, a regulation or a water plan may also state the way in which water, taken for stock or domestic purposes, is regulated.

(3) Water declared to be in a watercourse is not underground water.

1006A Underground water may be declared to be overland flow water

(1) A regulation or a water plan may declare particular underground water to be overland flow water.

Not authorised—indicative only

Not authorised—indicative only

(2) Underground water declared to be overland flow water is not underground water.

1007 Records to be kept in registries

(1) If land is declared under section 96(3)(a), the chief executive must give notice of the declaration to the registrar of titles.

(2) The registrar of titles must record the declaration in a way that a search of the register kept by the registrar under any Act relating to the land will show—

(a) that the land has been declared under section 96(3)(a); and

(b) the particulars stated in the declaration.

(3) If the registrar receives a notice under section 153(2), the registrar must record the notice in a way that a search of the register relating to the water allocation will show that the allocation is an allocation to which section 154 applies.

(4) If the registrar receives a notice under section 154(4), the registrar must record the notice in a way that a search of the register relating to the water allocation will show that the allocation is no longer an allocation to which section 154 applies.

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—

(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;

(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 comply with subsection (1) by making a copy of a document mentioned in that subsection available for inspection by the public in any way the chief executive considers appropriate, including, for example, by—

(a) publishing the copy on a Queensland Government website; or

(b) making the copy available for inspection by the public, at an office of the department, during office hours on business days.

(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.

Not authorised—indicative only

Not authorised—indicative only

1009A Publishing under this Act

(1) This section applies if—

(a) a provision of this Act requires or allows an entity to publish information in a document; and

(b) the provision does not require the entity to publish the document in a particular way.

(2) The entity must—

(a) for a document made by an entity under chapter 2A—publish the document on—

(i) if the entity is the Minister or the chief executive—a Queensland Government website; or

(ii) otherwise—the entity's website; or

(b) for another document—publish the document in a way that is likely to bring the document to the attention of each person to whom it is to be published.

Examples of ways likely to bring the document to the attention of each person to whom it is to be published—

- any way a document required to be served on the person may be served
- announcing the document over a radio station broadcasting generally throughout the area in which the person resides
- publishing the document in an online newspaper relevant to the area in which the person resides
- publishing the document on a Queensland Government website
- publishing the document by gazette notice

(3) Subsection (2) does not prevent the entity from also publishing the document in other ways.

1010 Protecting officials from liability

(1) In this section—

official means—

(a) the Minister; or

(b) the chief executive; or

(c) an authorised officer; or

(d) a person acting under the direction of an authorised officer; or

(e) a member of an advisory council; or

(f) a person acting under the direction of the Minister or the chief executive.

(2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

Note—

See the *Queensland Future Fund (Titles Registry) Act 2021*, section 45 in relation to protection from liability for employees of the titles registry operator.

1010A Non-disclosure of commercially sensitive information

(1) This section applies if—

(a) information about a person (a ***client***) is received by the Minister, the chief executive or the regulator (the ***entity***) under section 25T, 25Y, 35 or 181; and

(b) the client who provides the information advises the entity that the information is commercially sensitive; and

(c) the entity believes disclosure of the information—

(i) would be likely to damage the client's commercial activities; and

(ii) would not be in the public interest.

(2) The entity must take all reasonable steps to ensure the information is not, without the client's consent, disclosed to another person other than an employee of the department who receives the information in the course of the employee's duties.

Not authorised—indicative only

Not authorised—indicative only

(3) The employee must not disclose to any person information the employee obtains under subsection (2).

(4) In this section—

commercially sensitive means reasonably expected to adversely affect the client's commercial activities.

1011 Delegation by Minister

The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.

1012 Delegation by chief executive

The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service officer or employee.

1013 Approved forms

(1) The chief executive may approve forms for use under this Act other than in relation to the water allocations register.

(2) The registrar may approve forms for use under this Act in relation to the water allocations register.

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.

1013A Fees and charges payable to the chief executive

(1) This section applies to a fee or charge payable to the chief executive under a regulation made under this Act.

(2) If an amount of a fee or charge remains unpaid after the day stated in the regulation for payment of the fee or charge—

(a) the amount is a debt due and payable to the State; and

(b) the late fee prescribed in the regulation applies to the amount.

(3) The Minister may waive, completely or partly, payment of a fee or charge if the Minister is satisfied the person by whom the fee or charge is payable is suffering hardship because of the effects of—

(a) drought, flood, fire or other natural disaster; or

(b) economic recession.

1013B Non-payment of fees or charges

(1) Subsection (2) applies if all or part of a fee or charge payable to the chief executive under a regulation made under this Act remains unpaid for 20 business days after the day stated in the regulation for payment of the fee or charge.

(2) The chief executive may give the person who is liable to pay the fee or charge a written notice—

(a) stating the period to which the fee or charge relates; and

(b) stating the amount, including any late fee, owing at the date of the notice; and

(c) requiring the person—

(i) to pay the amount owing; or

(ii) to make arrangements, satisfactory to the chief executive, for payment of the amount owing; and

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(d) prohibiting the taking of water under the authority under this Act to take water to which the fee or charge relates until payment or arrangements are made under paragraph (c).

(3) However—

(a) an authority mentioned in subsection (2)(d) does not include an authority under chapter 2, part 3, division 1; and

(b) subsection (2)(d) does not apply if the holder of the authority is a service provider; and

(c) a prohibition under subsection (2)(d) must not apply to taking the minimum volume of water, that may be stated in the notice, necessary for stock or domestic purposes.

(4) A person must not take water in contravention of the notice.

Maximum penalty for subsection (4)—1,665 penalty units.

1013C Fees—payment methods

(1) A regulation may prescribe the methods to be used for payment of fees payable under this Act, other than a titles registry fee.

(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, other than a titles registry fee.

(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.

(4) This section does not apply in relation to a titles registry fee.

1013CB Fees for titles registry functions

(1) The fees provided under the *Queensland Future Fund (Titles Registry) Act 2021* are payable in relation to a titles registry function performed under this Act.

Note—

See the *Queensland Future Fund (Titles Registry) Act 2021*, part 3.

(2) In this section—

titles registry function see the *Queensland Future Fund (Titles Registry) Act 2021*, section 5.

1013CC Forfeiture of fee on rejecting instrument

If an instrument is rejected by the registrar for failing to comply with a requisition, the titles registry fee paid for lodging the instrument is forfeited.

1013CD Fee not payable for particular matters

No fee is payable for the following—

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(a) the lodgement and registration of an instrument of transfer of a water allocation to, or acquisition or lease of a water allocation by, the State;

(b) an application for, or an application for a dealing with, a water licence with a stated purpose of 'CYPHA'.

1013D Minister's and Treasurer's power to give joint directions to bulk water supply authority

(1) The Minister and Treasurer may give the bulk water supply authority a written joint direction if the Minister and Treasurer are satisfied it is necessary to give the direction—

(a) to give effect to this Act; or

(b) to facilitate water industry reform in the State; or

(c) to ensure a financially viable water industry in the State.

(2) The bulk water supply authority must comply with the direction.

(3) The Minister must gazette a copy of the direction within 21 days after it is given.

1013E Advice to administering Minister about commission of particular offences

(1) This section applies if a person is convicted of an offence against chapter 3.

(2) The chief executive may, by notice given to the administering Minister, advise the administering Minister of the commission of the offence by the person.

(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.

1014 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may—

(a) fix fees and charges (other than titles registry fees) payable under this Act, including, for example, for the following—

(i) the taking and supplying of water under this Act;

(ii) drainage and resources management services;

(iii) measurement devices or services provided for the measurement requirements; and

(b) create offences against the regulation and fix a maximum penalty of a fine of 20 penalty units for an offence against the regulation; and

(c) state the minimum standards for the construction and decommissioning of works relating to aquifers; and

(d) prescribe processes for dealings with water licences; and

(e) state the effect of land dealings, or acquisition of land, on water licences; and

(f) state, for the Planning Act, the requirements that the following operational work must comply with to be categorised as accepted development under that Act—

(i) operational work that allows taking or interfering with water;

(ii) operational work that is the construction or modification of a levee; and

Not authorised—indicative only

Not authorised—indicative only

(g) state the information to be contained in, the returns and the times for giving returns to the chief executive by a person about State quarry material or other material removed by the person from a watercourse or lake; and

(h) declare a water service to be exempt from the requirement of a bulk water supply agreement for the supply of the water service; and

(i) declare, for chapter 2A, part 3, an entity to be—

(i) a bulk water customer; or

(ii) a code-regulated entity; or

(iii) an SEQ bulk supplier.

1014A Special regulation-making power to support outer bank identification

(1) Regulations made under this Act may include a regulation supporting the identification of watercourses and the outer banks of watercourses.

(2) Without limiting subsection (1), a regulation may, by words and diagrams—

(a) indicate how chapter 1, part 2, including the definitions in schedule 4 supporting chapter 1, part 2, must be applied in varying environments and in watercourses, or sections of watercourses, of varying profiles; or

(b) give examples of the occurrence of depositional features and scour marks and of how they may locate outer banks; or

(c) give examples of the occurrence of floodplains and of how the edge of a floodplain may be identified; or

(d) explain how a bench, bar or in-stream island in a watercourse may typically be recognised; or

(e) explain how the bed or a bank of a watercourse may typically be recognised; or

(f) explain how an anabranch may be recognised.

(3) A regulation under this section is not invalid only because it supplements the provisions of this Act by providing greater certainty than would otherwise be the case under this Act in relation to the identification of watercourses and the outer banks of watercourses in particular circumstances or types of circumstances.

Part 6 Murray-Darling Basin

1015 Particular documents to be tabled in the Legislative Assembly

(1) The Minister must table in the Legislative Assembly—

(a) a copy of each annual report of the Murray-Darling Basin Authority received by the Minister under the *Water Act 2007* (Cwlth); and

(b) a copy of each amendment of the Agreement that takes effect under the terms of the Agreement;

within 15 sitting days after the report is received or the amendment takes effect.

(2) In this section—

Agreement means the Murray-Darling Basin Agreement set out in the *Water Act 2007* (Cwlth), schedule 1.

Not authorised—indicative only

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Chapter 9 Transitional and validation provisions

Part 1 Transitional provisions for allocation and sustainable management

1037 Local government authorities

(1) If, immediately before 13 September 2000, there was in force an authority for a local government to take or interfere with water, the authority continues under this Act until whichever of the following first happens—

(a) the chief executive grants a water licence to replace the authority;

(b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.

(2) The chief executive may grant a water licence under subsection (1)(a) without the need for an application to be made under section 206.

(3) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and an information notice about the granting of the licence.

(4) The licence has effect from the day the licence is given to the licensee.

1037A Other continuing authorities

(1) Subsection (2) applies to a following entity if, immediately before the commencement of this section, the entity was taking or interfering with water to which this Act applies—

(a) a local government who lodged an application under the *Local Government Act 1936* (repealed), section 32;

(b) Toowoomba City Council in relation to the Cooby Creek Dam.

(2) A local government mentioned in subsection (1)(a), or Toowoomba Regional Council in relation to the Cooby Creek Dam, is taken to hold an authority under this Act to take or interfere with water and the authority continues under this Act until whichever of the following first happens—

(a) the chief executive grants a water licence to replace the authority;

(b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.

(3) Subsection (4) applies to an entity to which a special agreement Act applies—

(a) to the extent the special agreement Act authorises the taking of, or interfering with, water; and

(b) if, immediately before the commencement of this section, the entity was taking or interfering with water to which this Act applies.

(4) An entity mentioned in subsection (3)—

(a) continues to hold the authority to take or interfere with water under the special agreement Act; and

(b) is taken to also hold an authority under this Act to take or interfere with water.

(5) An authority under this Act to take or interfere with water, held by the SEQ Water and in force on 12 April 2003, continues under this Act until whichever of the following first happens—

(a) the chief executive grants a water licence to replace the authority;

(b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.

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Not authorised—indicative only

(6) The chief executive may grant a water licence under subsection (2)(a) or (5)(a) without the need for an application to be made under section 206.

(7) In this section—

special agreement Act see *Environmental Protection Act 1994*, section 584.

1046 Declared underground water areas

(1) A regulation may declare an area to be an underground water area.

(2) A regulation made under subsection (1) may, for an underground water area—

(a) regulate the taking of, or interfering with, underground water; and

(b) state the types of works for taking or interfering with underground water that are assessable development or accepted development under the Planning Act.

(3) Subsection (2) has effect for the area, or a part of the area, until a water plan is approved for underground water in the area, or part of the area.

(4) Subsections (4A) to (7) apply if, immediately before a regulation declares an area to be an underground water area—

(a) a person is an owner of land in the area on which works for taking or interfering with underground water under section 101(1)(c) are situated; and

(b) the works are capable of being used to take or interfere with underground water.

(4A) On a regulation declaring the area to be an underground water area, the person may continue to use the works to take or interfere with water until the chief executive grants a water licence to the person.

(5) The chief executive may grant a water licence to the person without an application being made under section 107.

Note—

If, after a regulation declares an area to be an underground water area, a person is using works in the area for taking or interfering with underground water under a water licence that expires or is surrendered or cancelled, the chief executive may not grant a water licence to the person, or reinstate or replace the expired licence, under this subsection.

(6) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and an information notice about the granting of the licence.

(7) The licence has effect from the day the licence is given to the licensee.

1048 Existing applications

(1) Subsection (2) applies to an application for or about a licence or permit, made under the repealed Act but not decided before the commencement of this section.

(2) On the commencement—

(a) an application under section 42 of the repealed Act for a licence to take or use water, is taken to be an application under section 206 for a licence to take or interfere with the flow of water; and

(b) publication of a notice under section 42(6) of the repealed Act is taken to be publication of a notice under section 208; and

(c) an objection under section 42(9) of the repealed Act is taken to be a properly made submission under section 211(3); and

(d) an application under section 44(2) of the repealed Act to amend, modify, vary, revoke or add a term to which a licence is subject—

(i) to the extent the application relates to the taking of water—is taken to be an application under section 219 to make a minor amendment to a licence; and

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Not authorised—indicative only

(ii) to the extent the application relates to works for the taking of water and conditions that relate to the works—

(A) if the chief executive would be the assessment manager for the construction of the works—is taken to be an application in relation to a development permit to which chapter 8, part 2 applies; and

(B) if the chief executive is not the assessment manager—lapses; and

(e) an application under section 45 of the repealed Act to amend a licence—

(i) to the extent the application relates to the taking of water—is taken to be an application under section 216 to amend a licence; and

(ii) to the extent the application relates to works for the taking of water and conditions that relate to the works—

(A) if the chief executive would be the assessment manager for the construction of the works—is taken to be an application in relation to a development permit to which chapter 8, part 2 applies; and

(B) if the chief executive is not the assessment manager—lapses; and

(f) a show cause notice given under section 50 of the repealed Act is taken to be—

(i) if the notice is about taking or interfering with the flow of water—a show cause notice under section 218(3); and

(ii) if the notice is about modifying or removing works—a show cause notice under section 968(2); and

(g) an application under section 46 of the repealed Act to renew a licence is taken to be an application under section 220; and

(h) an application under section 46 of the repealed Act to renew an expired licence, made within 4 months after the day the licence expired, is taken to be an application under section 221 to reinstate a licence, made within 30 business days after the licence expired; and

(i) for section 221, a licence that expires within 4 months before the day section 221 commences is taken to have expired on the day after section 221 commences; and

(j) an application under section 47 of the repealed Act to transfer a licence is taken to be an application under section 222; and

(k) an application under section 71 of the repealed Act to destroy vegetation, excavate or place fill in a watercourse, lake or spring is taken to be an application under section 266; and

(l) an application under section 58 of the repealed Act to take, get, remove or otherwise interfere with quarry material, lapses; and

(m) an application under section 42 of the repealed Act for a driller's licence is taken to be an application under section 299; and

(n) an application under section 42 of the repealed Act to construct works—

(i) if the chief executive would be the assessment manager for construction of the works—is taken to be an application for a development permit to which chapter 8, part 2 applies; and

(ii) if the chief executive is not the assessment manager—lapses; and

(o) an application under section 57 of the repealed Act, to construct or use works to take water, lapses; and

Not authorised—indicative only

Not authorised—indicative only

(p) an application not mentioned in paragraphs (a) to (o) may be taken to be an application for or about a licence or permit under an equivalent provision of this Act.

(3) If part of an application mentioned in subsection (1) is about a referable dam, the part lapses.

(4) This section does not apply to an application for a licence made under the repealed Act but not decided before the commencement, relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

(5) In subsection (3)—

referable dam has the meaning given by the *Water Resources Act 1989*, section 2, but does not include a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

1048A Existing licences, permits and approvals

(1) Subsection (2) applies to—

(a) each licence or permit granted under the repealed Act and in force immediately before the commencement of this section; and

(b) the part of each licence or permit granted under the repealed Act and that is not an interim water allocation under section 1114 and in force immediately before the commencement.

(2) On the commencement—

(a) if a licence mentioned in subsection (1)(a) was a licence for works under part 4 of the repealed Act—the licence is taken to be a water licence given under chapter 2, part 6, and its conditions that related to the works, are taken to be a development permit; and

(b) if a part of a licence mentioned in subsection (1)(b) was a licence for works under part 4 of the repealed Act—the part is taken to be a development permit; and

(c) if a permit mentioned in subsection (1) was a permit granted under section 56(1)(a) of the repealed Act—the permit is taken to be a water licence given under chapter 2, part 6, and its conditions that related to the works, are taken to be a development permit; and

(d) if a permit mentioned in subsection (1) was a permit granted under section 56(1)(b) of the repealed Act—the permit is taken to be a water permit given under chapter 2, part 6; and

(e) if a permit mentioned in subsection (1) was a permit granted under section 57 of the repealed Act to an owner of land abutting a watercourse, lake or spring, the permit ceases to exist; and

(f) if a permit mentioned in subsection (1) was a permit granted under section 57 of the repealed Act to an owner of land abutting a weir, barrage or dam—

(i) the permit is taken to be—

(A) to the extent it relates to water managed under an interim resource operations licence—an interim water allocation; and

(B) to the extent it relates to the taking of other water—a water licence given under chapter 2, part 6; and

(ii) the permit's conditions that related to works are taken to be a development permit; and

(g) if a permit mentioned in subsection (1) was a permit granted under section 58 of the repealed Act—the permit is taken to be an allocation notice given under chapter 2, part 9, and its conditions that related to removal of quarry material, are taken to be a development permit; and

(h) if a permit mentioned in subsection (1) was a permit granted under section 71 of the repealed Act—the permit is taken to be a permit given under chapter 2, part 8; and

Not authorised—indicative only

Not authorised—indicative only

(i) if a licence mentioned in subsection (1) was a driller's licence—the licence is taken to be a water bore driller's licence given under chapter 2, part 10.

(3) A licence or permit mentioned in subsection (2) and taken to be a licence, permit or allocation notice under this Act is a licence, permit or allocation notice—

(a) for a permit mentioned in subsection (2)(f)(i)(B)—for 2 years from commencement; and

(b) otherwise—for the period the licence or permit would have been in force if the repealed Act had not been repealed.

(4) A person granted an interim water allocation under subsection (2)(f) must, within 60 business days after the day the allocation is granted, enter into a supply contract for the allocation with the interim resource operations licence holder.

(5) If a person fails to comply with subsection (4), section 122A applies as if the interim water allocation were a water allocation.

(6) The chief executive may amend an interim resource operations licence without complying with the provisions of chapter 2, part 5, division 2 about amending the licence if the amendment is merely to allow for an interim water allocation mentioned in subsection (2)(f).

(7) Within 30 business days after the day the chief executive amends the licence, the chief executive must give the licence holder—

(a) an amended licence in the approved form; and

(b) an information notice.

(8) The amended licence takes effect from the day the chief executive gives the licence holder the information notice.

(9) Subsection (10) applies to an agreement—

(a) approved by regulation under section 101 of the repealed Act; and

(b) in force immediately before the commencement.

(10) The agreement is taken to be a water licence given under chapter 2, part 6, and its conditions that relate to works are taken to be a development permit.

(11) This section does not apply to a licence under the repealed Act in force immediately before the commencement, relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste.

(12) For 1 year after the commencement, sections 311 and 816 do not apply to a person carrying out drilling activities for a subartesian bore in an area that was not a declared subartesian area under the repealed Act immediately before the commencement.

(13) Despite the Planning Act, a development permit mentioned in subsection (2) lapses—

(a) if part of the existing licence or permit, or conditions of the existing licence or permit, required works to be installed by a stated date and the works have not been installed by the date—on the stated date; and

(b) otherwise, if the works to which the existing licence or permit relates have not been installed by the end of the period the existing licence or permit would have been in force if the repealed Act had not been repealed—at the end of the period.

(14) In subsection (13)—

existing licence or permit means a licence or permit in force immediately before the commencement of this section.

1048B Existing trade waste approvals

(1) Subsection (2) applies to a trade waste approval—

(a) given under the *Standard Sewerage Law*, section 24; and

(b) in force immediately before the commencement of this section.

(2) On the commencement, the approval is taken to be a trade waste approval granted under section 469.

Not authorised—indicative only

Not authorised—indicative only

1057 Reinstating particular expired licences

(1) This section applies to a licence under the repealed Act—

(a) in force immediately before 13 November 2001; and

(b) not in force immediately before the commencement of this section.

(2) The chief executive may reinstate the licence by granting a water licence under this Act without an application being made under section 221.

(3) A water licence granted under this section is taken to have been in force from the day it expired.

1058 Reinstating particular expired licences in former water areas

(1) This section applies to a licence in a former water area if—

(a) the former water area was continued in existence under section 1083(2); and

(b) under the licence the registered owner of land was supplied with water; and

(c) the licence has expired; and

(d) the registered owner has continued to be supplied with water as if the licence had not expired.

(2) The chief executive may reinstate the licence by granting a water licence under this Act without an application being made under section 221—

(a) if the former water area's former water board was continued in existence as a water authority under section 1083(3)—to the water authority; or

(b) otherwise—to the chief executive.

(3) A water licence granted under subsection (2) is taken to have been in force from the day the licence it replaced expired.

Part 2 Transitional provisions for service providers, service areas, failure impact assessing of dams and flood mitigation

Division 2 Failure impact assessing for dams

Subdivision 1 Hazardous dams

1065 Application of sdiv 1

(1) This subdivision applies to a dam that immediately before the commencement of this section contained hazardous waste.

(2) To remove any doubt it is declared that on and from the commencement, the *Environmental Protection Act 1994* applies to the dam.

(3) If a licence was granted under section 43 of the repealed Act for the dam, on and from the commencement—

(a) to the extent the licence relates to interfering with water in a watercourse, the licence is taken to be a water licence under chapter 2, part 6; and

(b) to the extent the licence relates to works, the licence is taken to be a development permit; and

(c) the conditions about the safety of the dam that applied to the licence are taken to be conditions of the environmental authority issued under the *Environmental Protection Act 1994* or a development approval, if any, for the dam.

Not authorised—indicative only

Not authorised—indicative only

1065AA Additional ground for amending safety condition of environmental authority

(1) This section applies for a condition that, under section 1065(3)(c), is taken to be a condition of an environmental authority.

(2) If the administering authority under the *Environmental Protection Act 1994* forms the opinion that the condition is not, or has ceased to be, appropriate for that Act, the opinion is a ground for amending the condition under section 215 of that Act.

(3) Subsection (2) applies as well as any other ground provided for under the sections and any additional ground for amendment provided for under section 605 of that Act.

1065A Transitional provision for dams containing hazardous waste

(2) Subsection (3) applies to an application—

(a) relating to a dam containing, or a proposed dam that after its construction will contain, hazardous waste; and

(b) made under the repealed Act but not decided before the commencement of section 1065.

(3) On the commencement of section 1065—

(a) any part of the application that is for or about a licence or permit to take or interfere with the flow of water is taken to be an application to which section 1048(2) applied; and

(b) the rest of the application is taken to be an application for an appropriate environmental authority under the *Environmental Protection Act 1994* to carry out environmentally relevant activities in relation to the dam, or proposed dam.

(4) The *Environmental Protection Act 1994* applies to the application mentioned in subsection (3)(b)—

(a) with necessary changes; and

(b) as if the application date for the application is the day section 1065 commences.

(5) Subsection (1) expires immediately after section 1065 commences.

Subdivision 2 Other dams

1065AB Application of sdiv 2

This subdivision applies to a dam, other than a dam to which subdivision 1 applies.

1066 Application of ch 3, pt 6, div 1 to other dams

Chapter 3, part 6, division 1, other than sections 483(1) and 486, also applies to each failure impact assessment required under this subdivision.

1067 Failure impact assessing existing unlicensed dams

(1) Subsection (2) applies to the owner of a dam in existence at the commencement of this section and for which a licence was not granted under section 43 of the repealed Act.

(2) The owner must have the dam failure impact assessed within 1 year after the commencement, if the dam is—

(a) more than 8m in height and has a storage capacity of more than 500ML; or

(b) more than 8m in height and has a storage capacity of more than 250ML and a catchment area that is more than 3 times its maximum surface area at full supply level.

Maximum penalty—1,665 penalty units.

(3) A failure impact assessment completed under subsection (2) is taken to be a failure impact assessment completed under section 483(2).

Not authorised—indicative only

Not authorised—indicative only

(4) Subsection (2) does not apply to the owner of a dam prescribed under a regulation.

(5) A dam mentioned in the regulation—

(a) is a referable dam; and

(b) has the failure impact rating shown for the dam in the regulation.

(6) The failure impact rating shown for the dam in the regulation is taken to be a failure impact assessment completed under section 483(2).

(7) For section 483(8), the day the dam was prescribed is taken to be the day the last failure impact assessment was accepted by the chief executive.

(8) If a failure impact assessment is completed and accepted by the chief executive for a dam for which a failure impact rating has been prescribed, the rating given under the assessment replaces the rating prescribed for the dam.

1068 Failure impact assessing prescribed licensed dams

(1) Subsection (2) applies to a dam if—

(a) a licence was granted under section 43 of the repealed Act for the dam; and

(b) the dam is a dam prescribed under a regulation for this section.

(2) On the commencement of this section—

(a) the dam is a referable dam; and

(b) the dam has the failure impact rating shown for the dam in the regulation; and

(c) the licence, including its conditions that related to the safety of the dam, is taken to be a development permit.

(3) The failure impact rating shown for the dam in the regulation is taken to be a failure impact assessment completed under section 483(2).

(4) For section 483(8), the day the dam was prescribed is taken to be the day the last failure impact assessment was accepted by the chief executive.

(5) If a failure impact assessment is completed and accepted by the chief executive for a dam for which a failure impact rating has been prescribed, the rating given under the assessment replaces the rating prescribed for the dam.

1069 Failure impact assessing licensed dams not prescribed

(1) Subsection (2) applies to a dam if—

(a) a licence was granted under section 43 of the repealed Act for the dam; and

(b) the dam is not a dam prescribed under a regulation for section 1068; and

(c) the dam is—

(i) more than 8m in height and has a storage capacity of more than 500ML; or

(ii) more than 8m in height and has a storage capacity of more than 250ML and a catchment area that is more than 3 times its maximum surface area at full supply level.

(2) On the commencement of this section—

(a) the dam is a referable dam; and

(b) the licence, including its conditions that related to the safety of the dam, is taken to be a development permit.

(3) The owner of each dam mentioned in subsection (2) must ensure a failure impact assessment for the dam is completed in accordance with chapter 3, part 6 and given to the chief executive within 5 years after the commencement.

Maximum penalty—1,665 penalty units.

(4) A failure impact assessment completed under subsection (3) is taken to be a failure impact assessment completed under section 483(2).

Not authorised—indicative only

Not authorised—indicative only

(5) Subsection (3) does not apply if the chief executive gives the owner of the dam a notice under section 483(2) before the dam is failure impact assessed under subsection (3).

(6) If the dam is assessed as not having a category 1 or category 2 failure impact rating under subsection (3) or for an assessment mentioned in subsection (5)—

(a) the dam is no longer a referable dam; and

(b) the development permit is no longer subject to the conditions about the safety of the dam.

1070 Failure impact assessing small licensed dams

(1) Subsection (2) applies to a dam if a licence was granted under section 43 of the repealed Act for the dam and the dam is not—

(a) more than 8m in height and does not have a storage capacity of more than 500ML; or

(b) more than 8m in height and does not have a storage capacity of more than 250ML and a catchment area that is not more than 3 times its maximum surface area at full supply level.

(2) On the commencement of this section, the conditions about the safety of the dam, that applied to the licence, no longer apply.

Division 3 Flood mitigation

1071 Existing flood mitigation manuals

A flood mitigation manual is taken to be flood mitigation manual approved by the chief executive under chapter 3, part 6, for the period expiring 5 years after the commencement of this section, if the manual was, immediately before the commencement in force as a manual—

(a) approved under section 215F of the repealed Act; or

(b) taken to be a flood mitigation manual under section 215Y of the repealed Act.

Part 3 Transitional provisions for water authorities

1083 Continuing former water areas and former water boards—general

(1) This section does not apply to the Gladstone Area Water Board and its operational area established under the repealed GAWB Act.

(2) A former water area in existence immediately before the commencement of this section continues in existence, subject to this Act, and is taken to be an authority area established under this Act with the same name as the former water area.

(3) A former water board in existence immediately before the commencement continues in existence, subject to this Act, and is taken to be a water authority established under this Act—

(a) with the same name as the former water board; and

(b) carry out water activities.

(4) The former water board is taken to be—

(a) for the Mount Isa Water Board—a category 1 water authority; or

(b) for another former water board to which this section applies—a category 2 water authority.

(5) If the former water board was constituted under the repealed Act for a former water area in existence immediately before the commencement, the former water area is taken to be the water authority's authority area.

Not authorised—indicative only

Not authorised—indicative only

1083A Former water areas without water boards

(1) This section applies to a former water area—

(a) mentioned in section 1083(2); and

(b) for which no water board was in existence immediately before the commencement of section 1083.

(2) The chief executive's appointment under the repealed Act to perform the functions and exercise the powers of a water board for the former water area continues as an appointment under this Act to perform the functions and exercise the powers of a water authority for the area.

(3) A regulation must identify each former water area continued in existence and taken to be an authority area under section 1083(2).

1084 Continuing Gladstone Area Water Board

(1) The Gladstone Area Water Board established under the repealed GAWB Act continues in existence, subject to this Act, and is taken to be a water authority established under this Act—

(a) with the same name; and

(b) to carry out water activities generally in the State.

(2) The Gladstone Area Water Board is taken to be a category 1 water authority.

1087 Existing employees of former water boards

(1) This section applies to a person who, immediately before the commencement of this section, was an employee of a former water board that continues in existence as a water authority under section 1083(3) or 1084.

(2) On the commencement, the person becomes an employee of the water authority.

(3) The person—

(a) must be employed on the person's existing or equivalent terms and conditions of employment; and

(b) remains entitled to all existing and accruing rights of employment.

(4) Subsections (5) to (8) apply if, immediately before the commencement, the person was a contributor to a superannuation fund, superannuation scheme or provident fund (the ***former superannuation scheme***) as an employee of the former water board.

(5) The person continues to be a contributor to the former superannuation scheme as if the person's service with the authority were continuous service with the former water board.

(6) If the authority establishes, maintains or takes part in a superannuation scheme (the ***authority's scheme***) to provide superannuation benefits for its employees, the person, under arrangements prescribed under a regulation, may, but is not required to—

(a) stop being a contributor to the former superannuation scheme; and

(b) become a member of the authority's scheme.

(7) If the Gladstone Area Water Board, as established under the repealed GAWB Act, was required, in relation to the person, to contribute to the former superannuation scheme under the repealed GAWB Act, section 114—

(a) the requirement continues under this Act as a requirement of the Gladstone Area Water Board established as a water authority under this Act; and

(b) an amount payable by the authority to the superannuation scheme is a debt due by the authority to the trustees or managers of the scheme.

Not authorised—indicative only

Not authorised—indicative only

1088 Authorised works in former water areas

(1) Subsection (2) applies to works a former water board or the chief executive was authorised to construct under the repealed Act in a former water area.

(2) On the commencement of this section—

(a) if immediately after the commencement there is a water authority for the area—the water authority is taken to hold a development permit for the works; or

(b) if immediately after the commencement there is no water authority for the area—the chief executive is taken to hold a development permit for the works.

1089 Existing authorities to take, or interfere with, water

(1) This section applies if a former water board, customer of a former water board or the chief executive was authorised under the repealed Acts or another Act to take or interfere with water.

(2) If the authority was given under 1 of the repealed Acts, it continues under that Act as if that Act had not been repealed until whichever of the following first happens—

(a) the chief executive grants a water licence to replace the authority;

(b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.

(3) If the authority was given under another Act, it continues under that Act until whichever of the following first happens—

(a) the chief executive grants a water licence to replace the authority;

(b) the authority is replaced with a water entitlement, interim resource operations licence, resource operations licence or distribution operations licence.

(3A) An authority continued under subsection (2) or (3) is taken to also be an authority under this Act to take or interfere with water.

(4) The chief executive may grant a water licence under subsection (2)(a) or (3)(a) without the need for an application to be made under section 206.

(5) Within 30 business days after the chief executive grants the licence, the chief executive must give the licensee the licence and an information notice about the granting of the licence.

(6) The licence has effect from the day the licence is given to the licensee.

1089A Conversion of existing authorities to take water

(1) This section applies if a former water board was authorised to deliver water to the holder of an authorisation in accordance with the instrument mentioned, for the board's area, in the *Water Resources (Areas and Boards) Regulation 2000* (repealed), schedule 5.

(2) Each authorisation that relates to a board mentioned in subsection (9), definition *former water board*, paragraph (a), (b) or (d) is taken to be an interim water allocation, with the volume mentioned for the authorisation as a property allocation or an annual water entitlement in the instrument.

(3) An interim water allocation mentioned in subsection (2) attaches to the land described, for the authorisation to which it relates, in the instrument.

(4) The interim water allocation is taken to be held by—

(a) the person identified, for the authorisation, in the instrument; or

(b) if the person identified, for the authorisation, in the instrument has ceased to be the owner or occupier of all or part of the land to which the interim water allocation attaches—the registered owner or owners of the land; or

Not authorised—indicative only

Not authorised—indicative only

(c) if no person is identified for the authorisation, in the instrument—the registered owner or owners of the land to which the interim water allocation attaches.

(5) Each authorisation that relates to a board mentioned in subsection (9), definition *former water board*, paragraph (c), is taken to be an interim water allocation with the volume mentioned, for the authorisation, as a nominal volume in attachment 3(a) of the Pioneer Draft Resource Operations Plan made available under section 100 on 2 August 2004.

(6) An interim water allocation mentioned in subsection (5) attaches to all or part of the land described in the instrument mentioned for the former water board's area in the *Water Resources (Areas and Boards) Regulation 2000* (repealed) with the farm ID identified for the authorisation in the instrument and in attachment 3(a).

(7) The interim water allocation is taken to be held by—

(a) if the person identified, for the authorisation, in attachment 3(a) has not ceased to be the owner or occupier of all or part of the land to which the interim water allocation attaches—the person identified, for the authorisation, in attachment 3(a); or

(b) if the person identified, for the authorisation, in attachment 3(a) has ceased to be the owner or occupier of all or part of the land to which the interim water allocation attaches—the registered owner or owners of the land.

(8) The provisions of the instruments mentioned in subsection (1) that deal with the delivery of water by a former water board continue to have effect.

(9) In this section—

authorisation means an authorisation to take water continued under section 1089(2).

former water board means each of the following former water boards continued in existence under section 1083(3)—

(a) Avondale Water Supply Board;

(b) Kelsey Creek Water Board;

(c) Pioneer Valley Water Board;

(d) Six Mile Creek Water Supply Board.

1090 Existing contracts to supply water under repealed GAWB Act

(1) This section applies to a contract—

(a) entered into, under the repealed GAWB Act, between the Gladstone Area Water Board established under that Act and an entity for the supply of water by the board to the entity; and

(b) in force immediately before the commencement of this section.

(2) On the commencement, the contract is taken to have been made under this Act between the Gladstone Area Water Board established under this Act and the entity for the remainder of the contract's term.

(3) Despite the repeal of the repealed GAWB Act, sections 53, 54, 117 and 118 of that Act continue to apply to the parties' rights and obligations under the contract for the remainder of the contract's term.

1091 References to former water areas and former water boards

In an Act or document, if the context permits—

(a) a reference to a former water area may be taken to be a reference to the authority area with the same name established under section 1083(2); and

(b) a reference to a former water board may be taken to be a reference to the water authority with the same name established under section 1083(3).

Not authorised—indicative only

Not authorised—indicative only

Part 4 Transitional provisions about State Water Projects and its customers

Division 1 State Water Projects before corporatisation

1108 Delegated powers taken to have been validly exercised

(1) Subsection (2) applies if—

(a) on 30 June 2000 a person had a delegation to exercise a power under the *Water Resources Act 1989*; and

(b) the person purported to exercise the power after 30 June 2000 but before 18 August 2000.

(2) The person is taken to have validly exercised the power.

Division 2 State Water Projects after corporatisation

Subdivision 1 Preliminary

1109 Definitions for div 2

In this division—

authority means—

(a) a licence under part 4 or 9 of the repealed Act; or

(b) an order in council under which water is supplied; or

(c) an agreement for the supply of water made under section 15 of the repealed Act; or

(d) another agreement for the supply of water under the repealed Act.

customer means a person supplied water by the corporatised entity under an authority.

1110 Application of div 2

This division applies—

(a) if the commercialised business unit previously within the department and known as State Water Projects (the ***corporatised entity***) was corporatised under the *Government Owned Corporations Act 1993* before the commencement of this division—on the commencement; or

(b) if the commercialised business unit within the department known as State Water Projects (the ***corporatised entity***) is corporatised under the *Government Owned Corporations Act 1993* on or after the commencement—the day the corporatised entity is corporatised.

Subdivision 2 Granting interim resource operations licences and interim water allocations

1111 Granting interim resource operations licence to corporatised entity

(1) Within 30 business days after this division commences, the chief executive must grant and give to the corporatised entity an interim resource operations licence for Julius Dam and for each irrigation or project area under the *Water Resources (Rates and Charges) Regulation 1992* the corporatised entity operated both immediately before and immediately after the entity was corporatised.

(2) Each licence must state, for the licence—

(a) all the elements mentioned in section 177; and

Not authorised—indicative only

Not authorised—indicative only

(b) the interim water allocations to be granted to the corporatised entity under section 1112 for water losses, unallocated water and water for the supply of customers who are not to be granted or taken to hold an interim water allocation under section 1113 or 1114; and

(c) details of existing customers of the corporatised entity who are to be granted interim water allocations other than those customers who hold interim water allocations taken to be granted under section 1114; and

(d) details of existing customers of the corporatised entity who are not to be granted or taken to hold interim water allocations; and

(e) details of other existing water supply responsibilities.

(3) Within 30 business days after the granting of the interim resource operations licence, the chief executive must give the customers mentioned in subsection (2)(c) and (d) an information notice about the granting of the licence.

(4) Sections 178 to 186 apply to each licence as if the licence were a licence granted under chapter 2, part 5.

(5) Each licence takes effect from the day the holder of the licence is given the licence.

(6) Although a customer mentioned in subsection (2)(d) does not get an interim water allocation, the customer is entitled to the continued supply of water under the authority.

1113 Granting interim water allocations to customers under interim resource operations licences

(1) On the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the chief executive must grant each customer of the corporatised entity, mentioned in section 1111(2)(c), an interim water allocation in accordance with the interim resource operations licence for the allocation.

(2) Before the chief executive grants an interim water allocation under subsection (1), the chief executive must consider, for

the granting of the interim water allocation, the following matters in relation to the customers existing authority—

(a) whether the authority stated that the customer was granted nominal allocation of the water;

(b) whether the authority was in existence when the relevant irrigation area or project was established;

(c) whether the supply of water under the authority had an end date;

(d) whether the customer has, over the term of the authority, paid the full commercial value for the supply of water under the authority;

(e) whether the customer has paid the full commercial value for all or part of the supply of the water under the authority and it is reasonable that a proportion of the authority should be granted to the customer as an interim water allocation.

(3) On the day the grant is made under subsection (1), the chief executive must give the allocation to the grantee.

(4) Each interim water allocation attaches to the land of the grantee unless the grantee is—

(a) a local government; or

(b) a water authority; or

(c) an entity prescribed under a regulation.

(5) Each interim water allocation takes effect from the day the grantee is given the allocation.

(6) Subsection (7) applies if—

(a) a person, immediately before the commencement of this division, was supplied water under an authority; and

(b) the person owed an amount of money to the State under a financial arrangement under the authority for nominal allocation of the water; and

(c) the person is granted an interim water allocation under this section for the water.

Not authorised—indicative only

Not authorised—indicative only

(7) On the commencement—

(a) the amount owed by the person, immediately before the commencement, is a debt due by the person to the corporatised entity; and

(b) repayment of the amount to the corporatised entity is a condition of the interim water allocation.

1114 Authorities under pt 4 or 9 of the repealed Act

(1) Subsection (2) applies if—

(a) an authority under part 4 or part 9 of the repealed Act was in force immediately before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111; and

(b) the authority was to take water in an irrigation area or project under the repealed Act; and

(c) the authority provided for the nominal allocation of water under the repealed Act; and

(d) the water is managed by the corporatised entity using the entity's water infrastructure.

(2) On and from the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the authority, to the extent it relates to the volume of water nominally allocated under the authority, is an interim water allocation.

(3) Each interim water allocation attaches to the land to which the authority attached unless the holder of the authority is—

(a) a local government; or

(b) a water authority; or

(c) an entity prescribed under a regulation.

(4) Subsection (5) applies if a customer granted an interim water allocation under subsection (2) owed an amount of money to the State under a financial arrangement under the authority.

(5) On the commencement—

(a) the amount owed by the customer, immediately before the commencement, is a debt due by the customer to the corporatised entity; and

(b) repayment of the amount to the corporatised entity is a condition of the interim water allocation.

Subdivision 3 Supply contracts

1116 Minister must approve standard supply contracts

(1) On the day the chief executive grants the corporatised entity interim resource operations licences under section 1111, the Minister must approve standard supply contracts for the storage and delivery by the corporatised entity of water under interim water allocations, other than an interim water allocation to which an agreement mentioned in section 1117 relates.

(2) The supply contracts may be different for different areas of the State or different services provided by the entity.

(3) The Minister must gazette the approval of each standard supply contract.

(4) Subsection (5) applies if a contract approved under subsection (1) applies to water to which section 1114(2) applies.

(5) To the extent that the terms of supplying the water under an interim water allocation are inconsistent with the terms of supplying water under the standard supply contract approved by the Minister, the terms of the standard supply contract approved by the Minister prevail.

(6) Subsection (5) applies until the corporatised entity and the customer enter into a different supply contract for supplying the water.

(7) Within 1 year after the day the Minister approves a standard supply contract for an area or service, the corporatised entity and a customer council constituted under the statement of

Not authorised—indicative only

Not authorised—indicative only

corporate intent for the corporatised entity must review the contract.

(8) A reference in subsection (1) to an agreement mentioned in section 1117 is taken to include and to have always included a reference to an order in council mentioned in section 1117.

1117 Supply under written agreements or orders in council

(1) Subsection (2) applies—

(a) to written agreements for the supply of water that is managed under an interim resource operations licence; and

(b) if the agreement was effective, immediately before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111.

(2) The provisions of the agreement, other than the provisions that deal with the allocation of water, continue to have effect after the interim resource operations licences are granted.

(3) Also, if the agreement is an agreement that was made under section 15 of the repealed Act, the conditions in section 15 that deal with the storage and delivery of water by the corporatised entity continue to have effect, for the agreement, after the interim resource operations licences are granted.

(4) Subsection (5) applies if an order in council or other order for the supply of water that is managed under an interim resource operations licence was in force, immediately before the day the chief executive grants the corporatised entity interim resource operations licences under section 1111.

(5) The provisions of the order in council or other order, other than the provisions that deal with the allocation of water, continue to have effect after the interim resource operations licences are granted.

(6) This section does not apply to an interim water allocation mentioned in section 1114(2).

Part 5 General

Division 1 Miscellaneous

1129 References in Acts and documents

A reference in an Act or document to—

(a) the *Gladstone Area Water Board Act 1984* may, if the context permits, be taken to be a reference to chapter 4 of this Act; and

(b) the *Water Resources Act 1989*, the *Water Act 1926* or the *Rights in Water and Water Conservation and Utilization Act 1910* may, if the context permits, be taken to be a reference to this Act; and

(c) a water entitlement of a particular type under the repealed Act may, if the context permits, be taken to be a reference to a similar entitlement under this Act; and

(d) a water entitlement holder under the repealed Act may, if the context permits, be taken to be a reference to the holder of a similar entitlement under this Act; and

(e) the repealed Act, or the *Land Act 1897*, the *Land Act 1902* or the *Land Act 1910*, may, if the context permits, be taken to be a reference to this Act; and

(f) a section of the repealed Act, or the *Land Act 1897*, the *Land Act 1902* or the *Land Act 1910*, may, if the context permits, be taken to be a reference to the corresponding section in this Act.

1133 References to water in a watercourse or lake

A reference in this Act to water in a watercourse or lake is taken to have always included a reference to water collected in a dam across the watercourse or lake.

Not authorised—indicative only

Not authorised—indicative only

Division 4 Transitional provisions for Water and Other Legislation Amendment Act 2005

1136B Notices given under s 101(1)(b) and (1)(c)

(1) This section applies to a notice given under section 101(1)(b) for—

(a) the *Pioneer Valley Resource Operations Plan 2005*; or

(b) the *Barron Resource Operations Plan 2005*; or

(c) a draft resource operations plan that did not become effective under section 103 before the commencement of the *Water and Other Legislation Amendment Act 2005*, section 16.

(2) The notice is taken to be a notice given under section 101(1)(b) as in force after the commencement.

(3) Despite subsection (2), an existing interest holder may, within 60 business days after details of the water allocation to which the notice relates are recorded on the water allocations register, give a notice under section 101(1)(c) as in force after the commencement and, on the giving of the notice—

(a) subsection (2) ceases to apply; and

(b) section 150B(1) as in force after the commencement applies.

1136C Effect of disposal of part of land to which interim water allocation attaches

(1) This section applies if, before the commencement of this section—

(a) an interim water allocation was attached to land; and

(b) the registered owner of the land disposed of part of the land; and

(c) no application was made under section 198(3) as in force before the commencement.

(2) The interim water allocation is taken—

(a) not to have been surrendered; and

(b) to be held jointly by all owners of the land to which the interim water allocation related before the disposal.

(3) However, within 60 business days after the commencement of this section, 1 or more of the owners of the land to which the interim water allocation relates may, with the consent of the other owners, apply for 1 or more interim water allocations to replace the jointly held interim water allocation.

(4) Section 198(4) to (11) as in force after the commencement applies to the application to replace the interim water allocation.

1136D Effect of acquisition of part of land to which interim water allocation attaches

(1) This section applies if, before the commencement of this section—

(a) an interim water allocation was attached to land; and

(b) part of the land was taken under the *Acquisition of Land Act 1967*; and

(c) the remaining part of the land no longer adjoined the watercourse, lake or spring from which water could be taken under the allocation; and

(d) no application was made under section 198(3) as in force immediately before the commencement.

(2) The interim water allocation is taken to have been surrendered and the chief executive must deal with the allocation under section 197(3).

(3) However subsection (2) does not apply if, within 60 business days after the commencement, the holder of the allocation satisfies the chief executive that the requirements of section 206(3)(b) have been met in relation to the allocation.

Not authorised—indicative only

Not authorised—indicative only

Division 5 Transitional provisions for Water Amendment Act 2005

1137 Declaration for s 999

(1) It is declared that—

(a) a relevant notice has effect, and is taken from gazettal to have always had effect, as provided by its terms, as a law binding on all persons; and

(b) the pricing arrangements for the supply of water set out in a relevant notice are, and are taken from gazettal to have always been, the pricing arrangements applicable to the corporatised entity; and

(c) for water supplied by the corporatised entity—

(i) the corporatised entity is required, and is taken from gazettal to have always been required, to charge the prices determined under the relevant notice; and

(ii) amounts charged by the corporatised entity under a relevant notice, before the commencement of this section, were, and are taken to have always been, lawfully charged; and

(iii) amounts charged by the corporatised entity under a relevant notice, after the commencement of this section, are lawfully charged.

(2) A relevant notice may be amended or repealed by regulation.

(3) In this section—

gazettal means the gazettal of the relevant notice.

pricing arrangements include the provision for the adjustment of the arrangements provided for in the relevant notice.

relevant notice means—

(a) Rural Water Pricing Direction Notice (No. 01) 2000, gazetted on 6 October 2000 at pages 429 to 432; or

(b) Rural Water Pricing Direction Notice (No. 01) 2002, gazetted on 28 June 2002 at page 803; or

(c) Rural Water Pricing Direction Notice (No. 02) 2002, gazetted on 27 September 2002 at page 268; or

(d) Amendment of Rural Water Pricing Direction Notices (No. 01) 2005, gazetted on 1 July 2005 at page 678.

1139 Waiver of water meter charges

The Minister may waive, completely or partly, payment of a water meter charge if the waiver is part of the implementation of new water charges.

Division 6 Transitional provisions for Water Amendment Act 2006

1140 Definitions for div 6

In this division—

amending Act means the *Water Amendment Act 2006*.

commencement means the date of assent of the amending Act.

1142 Provision for particular existing licences

The amendments to sections 110 and 178 made under the amending Act apply for a licence mentioned in the sections whether the licence was granted before or after the commencement.

Not authorised—indicative only

Not authorised—indicative only

Division 9 Transitional provisions for Water and Other Legislation Amendment Act 2007

1151 Applications for change to water allocation

(1) This section applies to an application for a change to a water allocation made under section 129 or 130 but not decided before the commencement of this section.

(2) Section 1014(2)(gc) and any regulation made under that paragraph applies to the application.

1153 Application of provision about guidelines for rate notice or account for water supply

(1) Section 429R does not apply to an existing provider until—

(a) for an existing provider in the SEQ region or a designated region—1 July 2009; or

(b) for an existing provider in an area outside the SEQ region or a designated region—4 years after the commencement of this section.

(2) Section 429R does not apply to a person, first registered as a water service provider after the commencement of this section, until 1 year after the provider's registration.

(3) Section 429R does not apply to a related local government until 4 years after the commencement of this section.

(4) In this section—

existing provider means a person registered as a water service provider immediately before the commencement of this section.

1154 Application of provision about water advices

(1) Section 429S does not apply to an existing provider until—

(a) for an existing provider in the local government area of the Brisbane City Council or the Gold Coast City Council—1 January 2008; or

(b) for an existing provider in the SEQ region or a designated region, other than an area mentioned in paragraph (a)—1 July 2009; or

(c) for an existing provider in an area outside the SEQ region or a designated region—4 years after the commencement of this section.

(2) Section 429S does not apply to a person, first registered as a water service provider after the commencement of this section, until 1 year after the provider's registration.

(3) In this section—

existing provider means a person registered as a water service provider immediately before the commencement of this section.

Division 11 Transitional provisions for Water Supply (Safety and Reliability) Act 2008

1165 References to particular entities in relevant water resource plans

(1) This section applies if—

(a) an entity (a ***water entity***) has an authority that allows taking or interfering with water; and

(b) under the *South East Queensland Water (Restructuring) Act 2007*, section 76, the authority is transferred to the bulk water supply authority; and

(c) under a transfer notice, the authority is replaced with 2 or more authorities to take or interfere with water that are transferred to other entities.

Not authorised—indicative only

Not authorised—indicative only

(2) If a provision of a relevant water resource plan refers to the water entity, in relation to having an authority to take or interfere with water, the provision must be read with the changes necessary to give practical effect to the transfer notice.

(3) In this section—

relevant water resource plan means each of the following—

(a) *Water Resource (Gold Coast) Plan 2006*;

(b) *Water Resource (Logan Basin) Plan 2007*;

(c) *Water Resource (Mary Basin) Plan 2006*;

(d) *Water Resource (Moreton) Plan 2007*.

transfer notice means a transfer notice under section 360ZDN(1).

Division 12 Transitional provisions for Water (Commonwealth Powers) Act 2008

1168 Existing draft resource operation plans

Chapter 2, part 4, division 2, as amended under the *Water (Commonwealth Powers) Act 2008*, applies for a draft resource operations plan prepared under that division before this section commences.

1169 Enactment of amendment of water resource plans does not affect nature of plan

It is declared that the amendment of a water resource plan (the ***plan***) under the *Water (Commonwealth Powers) Act 2008* does not affect the power of—

(a) the Minister to prepare, or the Governor in Council to approve, a further amendment of the plan; or

(b) the Minister to prepare, and the Governor in Council to approve, another water resource plan to replace the plan; or

(c) the Governor in Council to repeal the plan.

Division 13 Transitional provision for Sustainable Planning Act 2009

1170 Continuing application of ch 8, pt 2

(1) This section applies to a development application made but not decided under the repealed *Integrated Planning Act 1997* before the commencement.

(2) Chapter 8, part 2 of this Act as in force before the commencement continues to apply to the development application as if the *Sustainable Planning Act 2009* had not commenced.

(3) In this section—

commencement means the day this section commences.

Division 14 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2010

1171 Continuing application of s 21

(1) The repealed section 21 continues to apply for all matters arising before the commencement of this section as if the *Water Act 2000* had not been amended by the *Natural Resources and Other Legislation Amendment Act 2010*.

(2) In this section—

repealed section 21 means section 21 as in force before the commencement of this section.

Not authorised—indicative only

Not authorised—indicative only

1172 Transition for jurisdictional change for existing licence or permit

(1) This section applies if—

(a) immediately before the commencement of this section, a person was authorised under a licence or permit under this Act to conduct an activity of any type within a watercourse; and

(b) before the commencement of this section, the person lawfully conducted, on land adjoining the land to which the licence or permit applied, an activity of the same nature; and

(c) on the commencement of this section, the adjoining land became land included in a watercourse; and

(d) the licence or permit is still in force after the commencement of this section.

(2) The licence or permit, while still in force, is taken to be extended to authorise the conduct of the activity on the adjoining land—

(a) for the period of 6 months immediately following the commencement of this section; or

(b) if within the 6 months period the person makes an application under subsection (3) and the application has not been approved or refused at the end of the 6 months period—until the chief executive approves or refuses the application.

(3) The person may apply to the chief executive for the extension of the application of the licence or permit to the adjoining land.

(4) An application under subsection (3) must be made within 6 months after the commencement of this section.

(5) In deciding the application, the chief executive must have regard to the same matters required to be taken into consideration for the grant of the licence or permit.

(6) If the chief executive approves the application, the licence or permit, while still in force, is taken, subject to any reasonable conditions stated in the approval, to be extended to authorise the conduct of the activity on the adjoining land, starting when the extension provided for in subsection (2) ends.

(7) If, having regard to the matters mentioned in subsection (5), the chief executive can not approve an application under subsection (3), the chief executive may nevertheless give an authority that applies as for an approval under subsection (6), but only for the period stated in the authority.

(8) The chief executive may give an applicant an authority under subsection (7) only if the applicant satisfies the chief executive that the applicant will suffer particular hardship because of the refusal of the application under subsection (3).

(9) The period stated in the authority under subsection (7) must not be longer than the period reasonably needed for the applicant to move the conduct of the activity from the adjoining land, but in any event must not end later than 5 years after the commencement of this section.

(10) Within 10 days after making a decision about an application or authority under this section, the chief executive must give the applicant an information notice about the decision.

Division 16 Transitional provisions for Water and Other Legislation Amendment Act 2010

1179 Definition for div 16

In this division—

commencement means the day this section commences.

Not authorised—indicative only

Not authorised—indicative only

1181 Existing agreements between petroleum tenure holders and bore owners

(1) This section applies if, on the commencement, an agreement is in force between a petroleum tenure holder and a bore owner about a water bore affected by the exercise of the holder's underground water rights.

(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.

Division 17 Transitional provisions for Water and Other Legislation Amendment Act 2011

1182 Definitions for div 17

In this division—

amending Act means the *Water and Other Legislation Amendment Act 2011*.

commencement means the commencement of the provision in which the term is used.

old, for a provision of this Act, means the provision as in force immediately before the commencement.

1190 Stated amendments of water resource plan

(1) Subsection (2) applies if a water resource plan states that an amendment of a stated type may be made to the plan by amendment under section 57 and the statement was in the plan immediately before the commencement.

(2) Old section 57(b) continues to apply to the amendment as if the amending Act had not been enacted.

1196 Stated amendments of resource operations plan

(1) Subsection (2) applies if a resource operations plan states that an amendment of a stated type may be made to the plan by amendment under section 106 and the statement was in the plan immediately before the commencement.

(2) Old section 106(b) continues to apply to the amendment as if the amending Act had not been enacted.

1197 Existing draft water resource plans, draft amending water resource plans and draft new water resource plans to replace existing water resource plans

(1) A draft water resource plan in existence under this Act immediately before the commencement continues to be a draft water resource plan for this Act.

(2) A draft amending water resource plan in existence under this Act immediately before the commencement continues to be a draft amending water resource plan for this Act.

(3) A draft new water resource plan, to replace an existing water resource plan, in existence under this Act immediately before the commencement continues to be a draft new water resource plan, to replace the existing water resource plan, for this Act.

1200 Continuation of provisions relating to replacement of expired licence under old s 229(3)

(1) Subsection (2) applies if, before the commencement—

(a) a water licence expired under old section 229(2); and

(b) no application has been made under old section 229(3) for 1 or more licences to replace the expired licence.

(2) Old section 229(3) to (9) continue to apply in relation to the expired licence as if the amending Act had not been enacted.

Not authorised—indicative only

Not authorised—indicative only

(3) Subsection (4) applies if—

(a) before the commencement, 1 or more owners of land applied under old section 229(3) for 1 or more licences to replace an expired licence; and

(b) the application has not been decided before the commencement.

(4) Old section 229(5) to (9) continue to apply in relation to the application as if the amending Act had not been enacted.

1201 Application of s 289(6)

Section 289(6) applies only to an allocation notice that is renewed after the commencement.

1203 Existing process to amend Water Resource (Condamine and Balonne) Plan 2004

(1) Despite section 96, the chief executive need not prepare a resource operations plan, to implement the proposed amending water resource plan, concurrently with the Minister's preparation of the draft water resource plan.

(2) If the chief executive does not prepare a resource operations plan, to implement the proposed amending water resource plan, before the water resource plan commences—

(a) the chief executive must prepare a resource operations plan, to implement the amending water resource plan, as soon as practical after the amending water resource plan commences; and

(b) after the amending water resource plan commences and until the resource operations plan implementing it commences, the *Condamine and Balonne Resource Operations Plan 2008* (***existing ROP***) is taken to be the resource operations plan for the amending water resource plan.

(3) However, to the extent of any inconsistency between the amending water resource plan and the existing ROP, the

existing ROP prevails, unless the amending water resource plan expressly provides otherwise.

(4) Section 100(3) does not apply to—

(a) the draft amending water resource plan (if any); or

(b) the proposed draft amending resource operations plan (if any) to implement the proposed amending water resource plan.

(5) Section 104B does not apply to—

(a) the final draft amending water resource plan (if any); or

(b) the final draft amending resource operations plan (if any) to implement the proposed amending water resource plan.

(6) In this section—

proposed amending water resource plan means the proposed amending water resource plan under the notice of intention to prepare a draft water resource plan to amend the *Water Resource (Condamine and Balonne) Plan 2004* published by the Minister under old section 40 on 14 August 2009.

Editor's note—

The notice may be viewed on the department's website.

1207 Particular notices are taken to be chief executive's or owners' notices

(1) This section applies if—

(a) before the commencement, an owner of land gave a notice, purportedly under the *Water Regulation 2002*, section 3CA in relation to the Lockyer Valley area works as defined under that section; or

(b) before the commencement of the *Water Resource (Pioneer Valley) Plan 2002*, section 30A, an owner of land gave a notice, purportedly under the *Water Regulation 2002*, section 3CA in relation to the Bundaberg, Cooloola and Pioneer Valley area works as defined under that section.

Not authorised—indicative only

Not authorised—indicative only

(2) The requirement under the *Water Regulation 2002*, section 3CA(2) as in force immediately before the commencement, to notify the chief executive of works and water use or proposed water use is taken to be a chief executive's notice for the works mentioned in subsection (1).

(3) A notice mentioned in subsection (1) (a ***relevant notice***) is taken to be the owner's notice for the works.

(4) If a chief executive's notice under section 37, other than a chief executive's notice mentioned in subsection (2), relates to an owner of land and to works to which a relevant notice relates, the owner is not required to give the chief executive an owner's notice under section 37 for the works.

Note—

Section 37 was repealed by the *Water Reform and Other Legislation Amendment Act 2014*, section 67. For notices of works and water use, see section 36.

Division 19 Transitional provisions for South East Queensland Water (Restructuring) and Other Legislation Amendment Act 2012

Subdivision 1 Preliminary

1210 Definitions for div 19

In this division—

amending Act means the *South East Queensland Water (Restructuring) and Other Legislation Amendment Act 2012*.

commencement means the commencement of the provision in which the term is used.

former commission means the Queensland Water Commission established under previous section 342.

previous, for a provision of this Act, means the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

Subdivision 2 Provisions relating to annual levies

1211 Transfer of funds into Groundwater Impact Assessment Fund

(1) On the commencement, the following amounts held by the former commission immediately before the commencement must be paid into the Groundwater Impact Assessment Fund—

(a) the balance of all levy amounts paid by petroleum tenure holders under previous section 360FA;

(b) the balance of any interest accrued on amounts mentioned in paragraph (a).

(2) An amount transferred into the Groundwater Impact Assessment Fund under subsection (1) may be used only for a purpose stated in chapter 3A, part 2.

1212 Notices to pay levy

(1) Subsection (2) applies if—

(a) before the commencement, the chief executive gave a petroleum tenure holder a notice about a levy payable by the petroleum tenure holder under previous section 360FA; and

(b) on the commencement, the petroleum tenure holder has not paid the levy.

(2) Despite the repeal of previous section 360FA—

(a) the notice continues in force; and

(b) the petroleum tenure holder continues to be liable to pay the levy as stated in the notice.

Not authorised—indicative only

Not authorised—indicative only

(3) Subsection (4) applies if—

(a) immediately before the commencement, a petroleum tenure holder was liable to pay a levy for a relevant financial year under previous section 360FA, 360FB or 360FC; and

(b) the chief executive had not given the petroleum tenure holder a notice for the levy for the relevant financial year under previous section 360FA.

(4) Despite the repeal of previous sections 360FA, 360FB and 360FC—

(a) the chief executive may give the petroleum tenure holder a notice about the levy for the relevant financial year; and

(b) the petroleum tenure holder continues to be liable to pay the levy for the relevant financial year.

(5) An amount paid by the petroleum tenure holder under a notice mentioned in subsection (1) or (4)—

(a) must be paid into the Groundwater Impact Assessment Fund; and

(b) may be used only for a purpose stated in chapter 3A, part 2.

(6) In this section—

levy includes part of a levy.

relevant financial year means either of the following—

(a) the financial year ending on 30 June 2011;

(b) the financial year ending on 30 June 2012.

Subdivision 3 Transfer of particular authorities to bulk water supply authority

1213 Definitions for sdiv 3

In this subdivision—

chief executive means the chief executive of the department in which chapter 2, part 6 is administered.

former water entity means either of the following entities—

(a) the former water grid manager;

(b) LinkWater.

former water grid manager means the SEQ Water Grid Manager established under the *South East Queensland Water (Restructuring) Act 2007*, section 6 as in force immediately before the commencement.

limited authority see section 1214(3).

LinkWater means the Queensland Bulk Water Transport Authority established under the *South East Queensland Water (Restructuring) Act 2007*, section 6 as in force immediately before the commencement.

prescribed water authority see section 1214(1).

receiving entity see section 1215(2).

relevant authority see section 1214(2).

scheme see section 1215(1).

transfer notice see section 1216(1).

transferring entity see section 1215(2).

1214 Application of sdiv 3

(1) This subdivision applies to the following authorities (each a ***prescribed water authority***) held by a former water entity immediately before the commencement—

Not authorised—indicative only

Not authorised—indicative only

(a) a water licence to take or interfere with water in the SEQ region;

(b) a water allocation to take or interfere with water in the SEQ region.

(2) If an authority to which this subdivision applies is an authority to take and interfere with water in the SEQ region, the authority is a ***relevant authority***.

(3) If an authority to which this subdivision applies is an authority that allows only taking of water, the authority is a ***limited authority***.

1215 Transfer scheme

(1) This subdivision facilitates the restructure of the bulk water industry in the SEQ region by providing for a scheme (the ***scheme***) to transfer particular authorities to take water, or to take and interfere with water—

(a) to the bulk water supply authority; or

(b) from the bulk water supply authority to other entities.

(2) Under the scheme—

(a) a prescribed water authority may, under this subdivision, be replaced by 1 or more authorities to—

(i) take water; or

(ii) take and interfere with water; and

(b) generally, a water authority mentioned in paragraph (a) is transferred from the holder of the prescribed water authority (each a ***transferring entity***) to an entity that will hold the authority to take water, or the authority to interfere with water (a ***receiving entity***).

1216 Transfer notice

(1) For the purpose of the scheme, the Minister may, by gazette notice (a ***transfer notice***), do any of the following—

(a) replace a relevant authority with—

(i) 1 or more authorities to take water; or

(ii) 1 or more authorities to take and interfere with water; or

(iii) 1 or more authorities to take water and 1 or more authorities to take and interfere with water;

(b) transfer an authority mentioned in paragraph (a)(i), (ii) or (iii) from a transferring entity to a receiving entity;

(c) transfer a limited water authority from a transferring entity to a receiving entity;

(d) replace a limited authority with 2 or more authorities to take water;

(e) transfer an authority to take water mentioned in paragraph (d) from a transferring entity to a receiving entity;

(f) impose requirements on any of the authorities replaced or transferred under this section, including requirements about—

(i) the volume of water that may be taken under the authority by a receiving entity; and

(ii) the purpose for which the water taken under the authority by a receiving entity may be used;

(g) make provision about the application of instruments to a transferring entity or receiving entity including—

(i) whether the transferring entity or receiving entity is a party to an instrument; and

(ii) whether an instrument is taken to have been made by the transferring entity or receiving entity, or given to, by or in favour of the transferring entity or receiving entity; and

(iii) whether a reference to an entity in an instrument is a reference to the transferring entity or receiving entity; and

Not authorised—indicative only

Not authorised—indicative only

(iv) whether, under an instrument, an amount is or may become payable to or by the transferring entity or receiving entity, or other property is, or may be, transferred to or by the transferring entity or receiving entity; and

(v) make provision about an incidental, consequential or supplemental matter the Minister considers necessary or convenient for effectively carrying out the scheme.

(2) Subsection (3) applies if a relevant authority or a limited authority is, under a transfer notice, replaced with 1 or more other authorities to take or interfere with water (each a ***new authority***).

(3) The Minister must be satisfied the conditions under which water may be taken or interfered with under the new authorities are at least as restrictive as the cumulative effect of the conditions on the relevant authority or limited authority.

(4) Without limiting subsection (3), the conditions under which water may be taken or interfered with under the new authorities must not—

(a) increase the total amount of water that may be taken; or

(b) increase the rate at which water may be taken; or

(c) change the flow conditions under which water may be taken; or

(d) increase the interference with the flow of water.

(5) A transfer notice has effect despite any other law or instrument.

(6) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.

(7) In this section—

instrument includes an agreement for an entity to supply water to another entity.

1217 Process after transfer notice

(1) This section applies if an authority is transferred from a transferring entity to a receiving entity under a transfer notice.

(2) The chief executive may take the action that is necessary or convenient for the transfer of the authority under the transfer notice, including—

(a) updating a register or other record; and

(b) amending, cancelling or issuing another authority.

(3) The chief executive may take action under subsection (2) although this Act does not provide for the taking of the action or provides for taking the action in a different way.

Example—

An authority is transferred from a transferring entity to the bulk water supply authority under a transfer notice. Acting under subsection (3), the chief executive grants to the bulk water supply authority a water licence to replace the authority, despite the provisions of chapter 2, part 6, division 2 applying to the granting of a water licence.

1218 Continuing authorities

(1) This section applies to an authority to take or interfere with water that a receiving entity holds, or a transferring entity continues to hold, under a transfer notice.

(2) The authority continues under this Act until whichever of the following first happens—

(a) the chief executive grants a water licence to replace the authority;

(b) the authority is replaced with a water entitlement.

(3) The chief executive may grant the receiving entity or transferring entity a water licence to replace the authority to take or interfere with water without the need for an application to be made under section 206.

Not authorised—indicative only

Not authorised—indicative only

Note—

Section 206 was repealed by the *Water Reform and Other Legislation Amendment Act 2014*, section 67. For applications for water licences, see section 107.

(4) Within 30 business days after the chief executive grants the water licence, the chief executive must give the receiving entity or transferring entity the licence and an information notice about the granting of the licence.

(5) The water licence has effect from the day the licence is given to the receiving entity or transferring entity.

1219 References in supply agreements to particular transferring entities

(1) This section applies if an authority mentioned in a transfer notice is transferred from a transferring entity to a receiving entity.

(2) A reference in an existing supply agreement to the transferring entity is, if the context permits, taken to be a reference to the receiving entity.

(3) On and from the day the transfer notice takes effect, the existing supply agreement gives rise to the same rights and liabilities as would have arisen if the authority had not been transferred.

(4) In this section—

existing supply agreement means an agreement for the supply of water, in force on the day the transfer notice takes effect, between the transferring entity and another entity.

Subdivision 4 Provisions for ending the water market

1220 Definitions for sdiv 4

In this subdivision—

existing customer contract means a contract for the supply of non-potable water between an SEQ service provider and a person that is in effect immediately before the commencement of the amending Act, section 51.

existing grid contract means—

(a) a grid contract document made under previous section 360ZDD(1) that is in effect immediately before the repeal of that section under the amending Act; or

(b) a new contract under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 92CU, that is in effect immediately before the commencement of the amending Act, section 51.

market rules means the market rules made under previous section 360ZCX and in effect immediately before the repeal of that section under the amending Act, section 51.

non-potable water means water that has not been treated by a service provider.

transitional regulation see section 1225(1).

1221 Existing grid contracts

(1) An existing grid contract—

(a) continues to have effect after the commencement of the amending Act, section 51; and

(b) ends on the day a bulk water supply agreement is made by the Minister under section 360G for each party to the existing contract that is a bulk water party for the bulk water supply agreement.

(2) Despite subsection (1)(b), a term of an existing grid contract continues to have effect if the term—

(a) states it survives the ending of the contract; or

(b) is prescribed to survive the ending of the contract under a transitional regulation.

Not authorised—indicative only

Not authorised—indicative only

Example for paragraph (a)—

An existing grid contract may state that a party to the contract must maintain an insurance policy for a particular period after the ending of the contract.

(3) Previous section 360ZDI continues to apply in relation to a term in an existing grid contract that continues to have effect under subsection (2) as if the amending Act had not been enacted.

1222 Existing customer contracts

An existing customer contract—

(a) continues to have effect after the commencement of the amending Act, section 51; and

(b) ends on the day a contract for the supply of non-potable water is executed between the person and the bulk water supply authority to replace the existing customer contract.

Subdivision 5 Miscellaneous provisions

1226 Continuation of system operating plan

(1) This section applies until a regulation is first made under section 344 to prescribe the desired level of service objectives for water security for the SEQ region or part of the SEQ region.

(2) The system operating plan as in effect on 31 December 2012 continues to have effect for the SEQ region.

(3) Each entity to which the system operating plan applies must ensure the plan is complied with to the extent it applies to the entity.

(4) In this section—

system operating plan means the system operating plan for the SEQ region made under previous chapter 2A, part 5, division 2.

1227 Delayed application of ss 350–352

Sections 350, 351 and 352 do not apply to a designated water security entity until the day that is 1 year after a regulation is first made under section 344.

1231 Particular underground water impact reports taken to have been given by the office

(1) This section applies to an underground water impact report that was, before the commencement—

(a) given to the chief executive by the former commission under section 370; and

(b) approved by the chief executive under section 385(1).

(2) The underground water impact report is taken to have been given to the chief executive by the office.

1232 Expenditure Advisory Committee

An advisory body called the Expenditure Advisory Committee, established by the former commission under previous section 360C and in existence immediately before the commencement, is taken to be, on the commencement, an advisory body established under section 461—

(a) with the same name as the former committee; and

(b) to perform the same functions in relation to the office as the former committee performed for the former commission.

Not authorised—indicative only

Not authorised—indicative only

1233 First manager of the office

(1) This section applies to the person who, immediately before the commencement, held office as the commission's General Manager, Coal Seam Gas Water (the ***old office***).

(2) On the commencement—

(a) the old office ends; and

(b) the person is taken to have been appointed as the manager of the office.

(3) The person holds the office of manager for a term of 5 years from when the person was most recently appointed to the old office.

(4) The person's conditions of employment for the office of manager are the conditions of employment for the old office immediately before the commencement.

(5) Subsection (4) applies subject to subsection (3) and any necessary changes from the old office to the office of manager.

(6) Subject to subsections (3) to (5), chapter 3A, part 1, division 4, subdivision 1 applies to the person for the person's holding of the office of manager.

(7) In this section—

commencement means the commencement of the amending Act, section 42.

conditions of employment includes allowances for variations to remuneration.

Part 6 Transitional and validation provisions for Land, Water and Other Legislation Amendment Act 2013

Division 1 Miscellaneous transitional and validation provisions

1235 Term of existing water licence

(1) Subject to any cancellation or surrender of an existing water licence, the licence expires under section 213A despite any period stated on the licence as being the period for which the licence is granted.

(2) Also, section 213A(2) does not apply to an existing water licence granted by the chief executive in accordance with a process mentioned in section 212(1).

(3) In this section—

existing water licence means a water licence in force immediately before the commencement of this section.

Note—

Section 213A was repealed by the *Water Reform and Other Legislation Amendment Act 2014*, section 67. See also section 1291.

1236 Continuation of existing water resource plans

(1) To remove any doubt, it is declared that sections 52A and 52B apply to all existing water resource plans.

(2) Despite section 52A(3)—

(a) a delayed water resource plan continues in force but expires on 31 August 2014; and

(b) a Queensland Murray-Darling plan continues in force but expires on 30 June 2019.

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Not authorised—indicative only

(3) However, a delayed water resource plan or a Queensland Murray-Darling plan also expires when another water resource plan commences if the other water resource plan declares that it replaces the plan.

(4) This section does not prevent a delayed water resource plan or Queensland Murray-Darling plan from being repealed before the expiry of the plan.

(5) In this section—

delayed water resource plans means the following water resource plans—

- *Water Resource (Barron) Plan 2002*
- *Water Resource (Boyne River Basin) Plan 2000*
- *Water Resource (Burnett Basin) Plan 2000*
- *Water Resource (Pioneer Valley) Plan 2002*.

existing water resources plans means a water resource plan in force immediately before this section commences.

Queensland Murray-Darling plans means the following water resource plans—

- *Water Resource (Border Rivers) Plan 2003*
- *Water Resource (Condamine and Balonne) Plan 2004*
- *Water Resource (Moonie) Plan 2003*
- *Water Resource (Warrego, Paroo, Bulloo and Nebine) Plan 2003*.

1237 Land and water management plans

(1) If, immediately before the commencement of this section, an application for the approval of, or deferral of the requirement for, a land and water management plan had not been decided, the application lapses.

(2) If a resource operations plan requires a land and water management plan be approved for land before water can be

used on the land, the requirement is of no effect and the water may be used on the land despite the requirement in the plan.

1238 Changes affecting category 1 water authority boards

The board for the Gladstone Area Water Board continues to be comprised under repealed section 599 until the composition of the board is changed under section 598A.

1239 Validation relating to Mount Isa Water Board

(1) This section applies for a person purportedly chosen as chairperson of the Mount Isa Water Board by the chief executive before the commencement of this section.

(2) The person is declared to always have been validly chosen as chairperson despite previous section 601.

(3) Anything done or omitted to be done by the person that would have been valid and lawful under this Act had the person been validly chosen is declared to always have been valid and lawful.

(4) In this section—

previous section 601 means section 601 as in force immediately before the amendment of that section under the *Land, Water and Other Legislation Amendment Act 2013*.

1240 Removal of particular records from registries

(1) The registrar of titles may remove a record about a water licence, or an interim water allocation, attaching to particular land from any register the registrar was required to include the record in under previous section 1007.

(2) The registrar of water allocations may remove a record about a land and water management plan being required for the use of water from any register the registrar was required to include the record in under previous section 1007.

(3) In this section—

Not authorised—indicative only

Not authorised—indicative only

previous section 1007 means section 1007 as in force immediately before the amendment of that section under the *Land, Water and Other Legislation Amendment Act 2013*.

1242 References to section 20 of this Act

(1) A reference in another Act or a document to section 20 as in force immediately before the replacement of that section under the amending Act (the ***replaced section***) may, if the context permits, be taken as a reference to any provision of this Act, chapter 2, part 2, division 1A all or part of which corresponds, or substantially corresponds, to the replaced section.

(2) To remove any doubt, it is declared that for the *Acts Interpretation Act 1954*, section 14H, the Act, chapter 2, part 2, division 1A as inserted under the amending Act, part 19 is a remake of section 20 as in force immediately before the commencement of section 290 of the amending Act.

(3) In this section—

amending Act means the *Land, Water and Other Legislation Act 2013*.

Division 2 Transitional provisions about the destruction of vegetation in a watercourse, lake or spring

1243 Definitions for div 2

In this division—

commencement means the commencement of the provision in which the word appears.

destruction activity means the destruction of vegetation in a watercourse, lake or spring, other than as a necessary and unavoidable part of excavation or placing of fill authorised under a permit issued under section 269(1).

destruction permit see section 1245(1).

1244 Existing applications

(1) This section applies if, immediately before the commencement—

(a) an application for a permit has been made under section 266; and

(b) the permit has not been issued under section 269.

(2) The application lapses to the extent it relates to a destruction activity.

1245 Existing permits

(1) This section applies for a permit granted under section 269(1) for a destruction activity (a ***destruction permit***) if—

(a) the destruction permit is in force immediately before the commencement; and

(b) the activity relates to an area of vegetation less than 0.5ha within a watercourse, lake or spring; and

(c) there is no development approval for the activity.

(2) From the commencement—

(a) the activity is taken, until the expiry of the destruction permit, to be assessable development for which a development approval, in the form of a development permit, has been granted; and

(b) the area of vegetation is taken to be the land to which the development approval is attached; and

(c) the destruction permit has effect, until its expiry, as if it were the development permit for the destruction activity; and

(d) any condition of the destruction permit takes effect as if it were a condition of the development permit.

Not authorised—indicative only

Not authorised—indicative only

1246 Destruction of vegetation carried out under guidelines

(1) This section applies if, immediately before the commencement—

(a) a person is carrying out destruction of vegetation in a watercourse, lake or spring under one of the following documents approved by the chief executive (the ***activity guidelines***)—

(i) the document called 'Guideline—Activities in a watercourse, lake or spring carried out by an entity';

(ii) the document called 'Guideline—Activities in a watercourse, lake or spring associated with a resource activity or mining operations';

(iii) the document called 'Guideline—Activities in a watercourse, lake or spring carried out by a landowner';

(iv) the document called 'Guideline—Activities in a watercourse or lake undertaken by a holder of an interim resource operations licence, resource operations licence or distribution operations licence'; and

(b) there is no development approval for the destruction; and

(c) the destruction is not a destruction activity for which—

(i) a permit has been issued to the person under section 269(1); or

(ii) the person has applied, under section 266, for a permit that has not been issued under section 269(1).

(2) From the commencement—

(a) the destruction is taken to be assessable development for which a development approval has been granted; and

(b) the area of vegetation is taken to be the land to which the development approval is attached; and

(c) the development approval has effect as if it were a development approval for the destruction; and

(d) any requirement of the activity guidelines takes effect as if it were a development condition of the development approval.

Division 3 Transitional provisions for existing levees

1247 Existing levees

(1) Chapter 8, part 2, division 3, and a regulation made under section 1014(2)(n) do not apply to an existing levee.

(2) In this section—

existing levee means a levee—

(a) that—

(i) was under construction when section 967 commenced; and

(ii) has not been modified since the construction of the levee was completed or otherwise came to an end; or

(b) that was existing on the commencement and has not been modified since.

1248 References to particular provisions of this Act

(1) A reference in another Act or a document to a particular provision of the Act, chapter 8, part 2 as in force immediately before the commencement of section 301 of the amending Act (the ***replaced provision***) may, if the context permits, be taken as a reference to any provision of this Act, chapter 8, part 2 all or part of which corresponds, or substantially corresponds, to the replaced provision.

Not authorised—indicative only

Not authorised—indicative only

Example—

A reference in another Act to section 966A omitted and remade under the amending Act, part 19 is taken to be a reference to section 972 (Operational work) of this Act.

(2) To remove any doubt, it is declared that for the *Acts Interpretation Act 1954*, section 14H, the Act, chapter 8, part 2 as omitted and remade under the amending Act, part 19 is a remake of the Act, chapter 8, part 2 as in force immediately before the commencement of section 301 of the amending Act.

(3) In this section—

amending Act means the *Land, Water and Other Legislation Act 2013*.

Part 8 Transitional and saving provisions for Water Reform And Other Legislation Amendment Act 2014

Division 1 Preliminary

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.

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.

deferred aspect, for a resource operations plan, means a deferred aspect under section 103 of the unamended Act.

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.

Division 2 Associated water licences

Subdivision 1 Preliminary

1250A Application of division

(1) This division applies in relation to a mining tenure if, before the commencement—

(a) either—

(i) an environmental authority was granted in relation to the mining tenure; or

(ii) an application for an environmental authority, or for an amendment of an environmental authority, in relation to the mining tenure was made but not decided; or

(iii) if an environmental authority in relation to the mining tenure had not been granted or applied

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for—there is a notified coordinated project in relation to the tenure; and

(b) the entity who is or will be the holder of the mining tenure did not hold, but would have been required to hold, a water licence or water permit to take or interfere with underground water in the area of the tenure if the taking or interference were to have happened during the course of, or as a result of, the carrying out of authorised activities for the tenure.

(2) This division applies whether the mining tenure was granted before or after the commencement.

(3) In this section—

notified coordinated project means a coordinated project under the *State Development and Public Works Organisation Act 1971* for which—

(a) an environmental impact statement is required; and

(b) the Coordinator-General has publicly notified under section 29 of that Act that an EIS is required for the project; and

(c) either—

(i) the Coordinator-General has publicly notified under that section that comments on the draft terms of reference are invited; or

(ii) if the Coordinator-General has not publicly notified that comments on the draft terms of reference are invited—the terms of reference are finalised under section 30(3) of that Act.

1250B Definitions for division

In this division—

associated water licence means a licence granted under this division.

dealing, with an associated water licence, means a dealing mentioned in section 1250H.

1250C Associated water licence

(1) An associated water licence authorises the taking of or interference with underground water in the area of a mining tenure if the taking or interference happens during the course of, or results from, the carrying out of an authorised activity for the tenure.

(2) An associated water licence may be granted only in relation to a mining tenure to which this division applies.

(3) An associated water licence does not attach to land the subject of a mining tenure.

(4) An associated water licence may be amended, renewed, reinstated, transferred, cancelled, surrendered or repealed.

Subdivision 2 Obtaining associated water licences

1250D Applying for an associated water licence

(1) The entity who is or will be the holder of a mining tenure to which this division applies may apply to the chief executive for an associated water licence.

(2) The application must include sufficient information to address the criteria mentioned in section 1250E(c) to (i).

(3) The application must be accompanied by the same fee prescribed by regulation for an application for a water licence.

(4) Sections 111 and 112, other than section 112(2), apply to the application as if—

(a) a reference in the sections to an application for a water licence were a reference to an application for an associated water licence; and

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(b) a reference in the sections to an applicant for a water licence were a reference to an applicant for an associated water licence.

(5) However, section 112(1) and (3) does not apply to the application if—

(a) the chief executive is satisfied the impacts on underground water in relation to the mining tenure—

(i) were assessed in an EIS under the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*; and

(ii) were subject to consideration in a Land Court hearing in which objectors led expert evidence on the impacts on underground water, and the Land Court outcome on the mining activities application did not specify any impediments, relating to taking or interfering with underground water, to the granting of the mining activities application; and

(b) the Land Court outcome mentioned in paragraph (a)(ii) was given before 13 September 2016.

(6) In this section—

Land Court outcome, on an application, means—

(a) an objections decision of the Land Court under the *Environmental Protection Act 1994* for the application; or

(b) a recommendation on the application made by the Land Court under the Mineral Resources Act.

mining activities application means—

(a) the application for the mining tenure; or

(b) the application for an environmental authority in relation to the mining tenure.

Note—

See also section 1306.

1250E Criteria for deciding application

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

(a) if additional information has been given to the chief executive under section 111 as applied by section 1250D(4)—the additional information; and

(b) all properly made submissions about the application in response to the notice of the application published under section 112 as applied by section 1250D(4); and

(c) existing water entitlements and authorities to take or interfere with water; and

(d) any environmental assessments carried out in relation to the mining tenure, including—

(i) any conditions imposed on the mining tenure or on the environmental authority granted in relation to the mining tenure; and

(ii) any report prepared by the Coordinator-General under the *State Development and Public Works Organisation Act 1971*, section 34D evaluating the EIS prepared in relation to the mining tenure; and

(e) any information about the effects of taking, or interfering with, water on natural ecosystems; and

(f) any information about the effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs and aquifers; and

(g) strategies for the management of impacts on underground water, including the impacts of dewatering; and

(h) strategies and policies for the relevant coastal zone; and

(i) the public interest.

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Not authorised—indicative only

1250F Deciding application

(1) The chief executive must decide to grant, or to grant in part, with or without conditions, or refuse to grant, the application.

(2) Before making a decision under subsection (1), the chief executive must consult with—

(a) the chief executive of the department in which chapter 3 is administered; and

(b) the chief executive of the department in which the *Environmental Protection Act 1994* is administered.

(3) 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.

(4) If the chief executive grants, or grants in part, with or without conditions, the application, the chief executive must, within 30 business days after the granting, give an associated water licence in the approved form to—

(a) the applicant; or

(b) if after making the application the applicant has ceased to be the holder of the mining tenure—the person who is the holder of the tenure when the chief executive gives the associated water licence.

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

1250G Contents and conditions of associated water licence

(1) Sections 117 and 118 apply to an associated water licence as if—

(a) a reference in the sections to a water licence were a reference to an associated water licence; and

(b) a reference in the sections to water were a reference to underground water.

(2) Also, without limiting section 118(1), as applied by subsection (1), the conditions may require the holder of the licence—

(a) to carry out a management strategy to manage impacts on natural ecosystems, including springs; or

(b) to undertake a baseline assessment of water bores in the area of the holder's mining tenure.

Subdivision 3 Dealings with associated water licences

1250H Dealings

The following are dealings with associated water licences—

(a) amending a licence;

(b) renewing a licence;

(c) reinstating a licence;

(d) transferring a licence;

(e) cancelling a licence;

(f) surrendering a licence;

(g) repealing a licence.

1250I Application for dealings

Sections 121(1), (2), (3)(b) and (c)(i) and 122(1) apply to a dealing with an associated water licence as if—

(a) a reference in the sections to a water licence were a reference to an associated water licence; and

(b) a reference in section 121 to a licensee of a water licence were a reference to the holder of an associated water licence; and

(c) a reference in the sections to a dealing were a reference to a dealing under this subdivision; and

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(d) a reference in section 121(3)(b) to 'proposed transferee if the proposed transferee is an owner of land to which the water licence attaches or a prescribed entity' were a reference to 'proposed transferee if the proposed transferee may apply for an associated water licence under section 1250D'.

1250J Application to renew, or reinstate expired, associated water licence

Sections 124 and 125 apply to the renewal of an associated water licence, or reinstatement of an associated water licence that has expired, as if—

(a) a reference in the sections to a water licence were a reference to an associated water licence; and

(b) a reference in the sections to a water licensee were a reference to the holder of an associated water licence; and

(c) the words 'an application mentioned in section 121(3)(c)' in section 125(1) were replaced by 'an application to reinstate an associated water licence that has expired'; and

(d) a reference in section 125 to an expired water licence were a reference to an associated water licence that has expired.

1250K Additional information may be required for application for dealings

Section 128 applies to an application for a dealing with an associated water licence as if a reference in the section to an application for a dealing were a reference to an application for a dealing under this subdivision.

1250L When dealing must be assessed as if it were for a new associated water licence

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

(a) increases the amount of underground water that may be taken under the licence;

(b) increases the daily rate or maximum rate per second at which underground water may be taken under the licence;

(c) changes the location of taking or interfering with underground water under the licence;

(d) increases or changes the interference with underground water under the licence.

Note—

See also section 1307.

1250M Recording other dealings

(1) This section applies to a proposed dealing with an associated water licence other than a dealing to which section 1250L 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 the requirements for the application have been met; and

(b) if required, issue a new associated water licence.

(3) If the chief executive does not approve the dealing, the chief executive must give the applicant notice of the decision, including the reasons for the decision.

(4) An associated water licence issued under subsection (2)(b) takes effect on the day it is given to the applicant.

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Not authorised—indicative only

(5) An associated water licence replaced by a new associated water licence issued under subsection (2)(b) expires on the day the new licence is given.

1250N Actions chief executive may take in relation to associated water licences

Section 132 applies to an associated water licence as if—

(a) the reference in section 132(1) to sections 133 to 135 were a reference to section 1250O(1) and (2) and sections 134(3) and 135 as applied by sections 1250O(3) and 1250P(1) and (2); and

(b) a reference in the section to a water licence were a reference to an associated water licence.

1250O Amendment of associated water licence after show cause process

(1) This section applies to an amendment of an associated water licence by the chief executive under section 132(1)(b) as applied by section 1250N.

(2) The amendment must not—

(a) increase the amount of underground water that may be taken under the licence; or

(b) increase the daily rate or maximum rate per second at which underground water may be taken under the licence; or

(c) change the location of taking or interfering with underground water under the licence; or

(d) increase or change the interference with underground water under the licence.

(3) Section 134(3) to (7) applies to the amendment as if—

(a) a reference in the subsections to the licensee were a reference to the holder of an associated water licence; and

(b) a reference in the subsections to a water licence were a reference to an associated water licence; and

(c) a reference in the subsections to an amended water licence were a reference to an amended associated water licence.

1250P Cancellation or surrender of associated water licence

(1) Subsection (2) applies to a cancellation of an associated water licence by the chief executive under section 132(1)(c) as applied by section 1250N.

(2) Section 134, as applied by section 1250O, applies to the cancellation—

(a) as if a reference in the section to an amendment of an associated water licence were a reference to the cancellation of the licence; and

(b) with any necessary changes.

(3) The holder of an associated water licence may surrender the licence by giving the chief executive notice of the surrender.

(4) The surrender takes effect on the day on which the notice to surrender is received by the chief executive.

Subdivision 4 Other matters

1250Q Application for water licence made but not decided before commencement

(1) This section applies if—

(a) the holder of a mining tenure to which this division applies made an application for a water licence that would authorise the taking of or interference with underground water in the area of the tenure if the taking or interference were to happen during the course of, or as a result of, the carrying out of authorised activities for the tenure; but

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(b) the application was not decided before the commencement.

(2) Despite sections 1272 and 1273, the application is taken to be an application for an associated water licence and must be decided under this division.

1250R Compliance with underground water rights on granting of licence

(1) This section applies if an application for an associated water licence is granted.

(2) Until all rights of review and appeal under this Act in relation to the granting of the associated water licence are exhausted, the holder of the licence is taken not to have complied with the holder's underground water obligations for the purposes of the Mineral Resources Act, section 334ZP.

(3) To remove any doubt, it is declared that this section does not prevent the holder of the associated water licence taking or interfering with underground water under the licence.

1250S Associated water licence taken to be water licence for particular provisions

An associated water licence is taken to be a water licence for the purposes of the following provisions—

(a) section 369A;

(b) section 394A;

Note—

See, however, section 1250G.

(c) section 812;

(d) section 1009;

(e) the Mineral Resources Act, section 334ZP(8) and (9).

1250T Consideration when making decisions about associated water licence

(1) When making a decision under this division in relation to an associated water licence, the chief executive must consider the purpose of this Act as stated in section 2(1)(c).

(2) To remove any doubt, it is declared that this division is not part of the framework for establishing a system for the planning, allocation and use of water.

Note—

For subsection (2), see a purpose of the Act mentioned in section 2(1)(a)(i).

1250U Agreement between holder of mining tenure and water bore

(1) This section applies in relation to an agreement entered into by the following parties about a water bore if the bore is affected, or likely to be affected, by the taking of or interfering with underground water in the area of the tenure—

(a) the holder of a mining tenure who is also the holder of an associated water licence;

(b) the bore owner of the water bore.

(2) The agreement is taken to be a make good agreement for the water bore that is entered into by the holder of the mining tenure and the bore owner.

(3) The holder of the mining tenure is taken to have complied with the holder's obligations to undertake a bore assessment for the water bore under chapter 3, part 5, division 2.

Division 3 Other transitional provisions

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

Not authorised—indicative only

Not authorised—indicative only

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.

Examples—

1 If the Minister has published a statement of proposals to prepare a draft water resource plan under the unamended Act, the process may be continued to make a draft water plan under the amended Act.

2 If the Minister has published a notice about the intention to postpone the expiry of a water resource plan under the unamended Act, the process relating to the postponement may be continued to allow the Minister to decide the matter about the 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.

Not authorised—indicative only

Not authorised—indicative only

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 to implement the water resource plan, including a notice about an amending or replacement plan, for public consultation; or

(c) there is a deferred aspect for the resource operations plan that implements the water resource plan.

(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 plan to implement the water resource plan, including a notice about 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;

(iv) if there is a deferred aspect for the resource operations plan that implements the water resource plan—

(A) on approval by the Governor in Council of an amendment to the resource operations plan about the deferred aspect; or

(B) on the publication of a notice by the chief executive advising that the chief executive has decided not to amend the resource operations plan to include provisions about the deferred aspect.

(4) For subsection (3)(b), if all or any of the provisions of the final draft of the water resource plan or the resource operations plan provide for their commencement on a particular day, the provisions are taken to commence in the water plan on the particular day.

1256A Deciding application for water licence under section 113

(1) Subsection (2) applies if—

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(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

(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 or for which there is a deferred aspect—

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(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; or

(iv) if there is a deferred aspect for the resource operations plan that implements the water resource plan—

(A) the approval by the Governor in Council of an amendment to the resource operations plan about the deferred aspect; or

(B) the publication of a notice by the chief executive advising that the chief executive has decided not to amend the resource operations plan to include provisions about the deferred aspect.

(4A) For subsection (4)(b), if all or any of the provisions of the final draft of the water resource plan or the resource operations plan provide for their commencement on a

particular day, the provisions are taken to commence in the instruments mentioned in subsection (2) on the particular day.

(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.

(10) The consultation provisions under section 51 do not apply to an amendment of a water plan under subsection (7).

(11) To remove any doubt, it is declared that if the draft water plan includes both of the following amendments, section 46(2)(c) as applied by section 51(1) may be complied with in the notice required by section 46(2) by indicating in the notice the part of the draft about which an entity may make a submission—

(a) an amendment mentioned in subsection (7);

(b) an amendment to which the consultation provisions apply.

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Not authorised—indicative only

1259A Reference in particular plans to unamended Act provision that has a corresponding provision

(1) This section applies to a reference in a relevant plan to a provision, of the unamended Act, for a matter, if there is a corresponding provision of the amended Act for the matter.

(2) To remove any doubt it is declared that, unless the relevant plan or this part provides otherwise, the reference to the provision is taken to be a reference to the corresponding provision.

(3) In this section—

relevant plan means—

(a) a water plan; or

(b) a resource operations plan to which section 1259 applies.

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) the environmental management rules;

(e) 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 water sharing rules;

(c) 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

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, other than the criteria and process for deciding applications for a

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seasonal water assignment or for relocation of a water licence; or

(d) the volume or volumes of unallocated water reserved or available to be released.

1265 Provisions of Burnett water resource plan taken to be included in operations manual or resource operations licence

(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 if there are rules in the water plan of the type mentioned in section 1261, immediately after the commencement of that section, relevant to a water supply scheme.

(3) The rules in the water plan are taken to be included in the operations manual relevant to the water supply scheme.

(4) Subsection (5) applies if rules under a resource operations plan relevant to the water supply scheme—

(a) are taken to be an operations manual under section 1259(2)(b); and

(b) the rules that were in the resource operations plan that are now in the operations manual deal with the same subject matter as the rules under the water plan.

(5) The rules under the water plan replace the rules in the operations manual for the water supply scheme.

(6) Subsection (7) applies if there are provisions in the water plan of the type mentioned in section 1260, immediately after the commencement of that section, relevant to a water supply scheme.

(7) The provisions in the water plan are taken to be included in the resource operations licence relevant to the water supply scheme.

(8) Subsection (9) applies if provisions under a resource operations plan relevant to the water supply scheme—

(a) are taken to be included in a resource operations licence under section 1259(2)(a); and

(b) the provisions that were in the resource operations plan that are now taken to be included in the resource operations licence deal with the same subject matter as the rules under the water plan.

(9) The provisions under the water plan replace the provisions in the resource operations licence for the water supply scheme.

(10) For the water plan, section 63, nothing in this section has the effect of requiring the amendment or subdivision of the Burnett Water allocations in the way mentioned in the water plan, section 63.

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

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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 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 if section 1272 applies to the application.

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.

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(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.

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

(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.

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(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;

(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

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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.

(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.

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(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.

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 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);

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(f) if 1 or more water permits are considered to be appropriate, the matters mentioned in section 138(b) to (e).

(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.

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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.

(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.

Not authorised—indicative only

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.

1280B Content of underground water impact report

Section 376(1)(da) does not apply to an underground water impact report given to the chief executive under section 370 within 3 months after the commencement.

Part 9 Validation provisions for Water Legislation Amendment Act 2016

1282 Validation of formation and actions of Lower Herbert Water Management Authority

(1) This section confirms and validates—

(a) the formation of the Lower Herbert Water Management Authority on 16 December 2005; and

(b) the appointment, employment or engagement of the office holders, employees and agents of the authority since its formation on 16 December 2005 as confirmed and validated under this section; and

(c) the actions of the authority, its office holders, employees and agents since its formation on 16 December 2005 as confirmed and validated under this section.

(2) It is declared that the formation of the Lower Herbert Water Management Authority is confirmed and is as valid as it would be if the *Water and Other Legislation Amendment Regulation (No. 1) 2005* SL No. 334 had provided as follows—

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(a) the following water authorities (collectively the ***former authorities***) are amalgamated to form a new water authority—

(i) Foresthome Drainage Board;

(ii) Loder Creek Drainage Board;

(iii) Mandam Drainage Board;

(iv) Ripple Creek Drainage Board;

(b) the authority areas of the former authorities are dissolved;

(c) the former authorities are dissolved;

(d) the new water authority formed on the amalgamation of the former authorities is named the Lower Herbert Water Management Authority;

(e) the authority area of the Lower Herbert Water Management Authority is shown on plan AP4064.

(3) Without limiting subsection (2), it is declared that the actions of the Lower Herbert Water Management Authority and the appointment, employment, engagement and actions of its office holders, employees and agents are confirmed and are as valid as they would be if the *Water and Other Legislation Amendment Regulation (No. 1) 2005* SL No. 334 had provided for the matters mentioned in subsection (2).

(4) In this section—

actions, of the Lower Herbert Water Management Authority, its office holders, employees and agents, means anything done or omitted to be done by the Lower Herbert Water Management Authority, its office holders, employees and agents, including, for example—

(a) the making of decisions; and

(b) the entry into contracts and agreements; and

(c) the receipt and expenditure of amounts.

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1283 Validation of taking of, or interfering with, underground water by holders of particular mineral development licences and mining leases

(1) This section applies to the taking of, or interfering with, underground water, before the commencement, by the holder of a mineral development licence or mining lease in the area of the licence or lease if—

(a) before the commencement, the holder of the licence or lease had started operations in the area of the licence or lease; and

(b) the taking of, or interfering with, the underground water was subject to any relevant alteration or limitation prescribed under a moratorium notice, water resource plan or regulation under section 1046; and

(c) the taking of, or interfering with, the underground water happened in the course of, or resulted from, the carrying out of an authorised activity for the licence or lease, including, for example, either of the following activities—

(i) mine dewatering of underground water to the extent necessary to achieve safe operating conditions in the mine;

(ii) taking underground water as a result of evaporation from an open mine pit; and

(d) the holder of the licence or lease did not hold a water entitlement or permit for the taking of, or interfering with, the underground water.

(2) The holder of the licence or lease—

(a) is taken to have been granted a water licence that authorised the taking of, or interfering with, the underground water, before the taking or interfering happened; and

(b) is taken to continue to hold a water licence authorising the taking of, or interfering with, underground water on the area of the holder's licence or lease, after the

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commencement, if the taking or interfering happens in the course of, or results from, the carrying out of an authorised activity for the licence or lease.

(3) The water licence continued under subsection (2)(b) attaches to the mineral development licence or mining lease.

(4) From 6 December 2016, the provisions of chapter 3 of this Act and the *Mineral Resources Act 1989* apply to the holder of the water licence taken to be continued as if it were a water licence granted under chapter 2 of this Act.

(5) In this section—

authorised activity see the *Mineral Resources Act 1989*, schedule 2.

mineral see the *Mineral Resources Act 1989*, schedule 2.

mineral development licence see the *Mineral Resources Act 1989*, schedule 2.

mining lease see the *Mineral Resources Act 1989*, schedule 2.

stated operations—

(a) for a mineral development licence, means winning a mineral from the area of the licence; or

(b) for a mining lease, means winning a mineral in payable quantities from the area of the lease.

Part 10 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

1284 Existing development applications

(1) This section applies to an existing development application to which former chapter 8, part 2, division 1 applied.

(2) Former chapter 8, part 2, division 1 continues to apply in relation to the application as if the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.

(3) In this section—

existing development application means a development application made under the repealed *Sustainable Planning Act 2009*, to which the Planning Act, section 288 applies.

former chapter 8, part 2, division 1 means chapter 8, part 2, division 1 as in force immediately before the commencement.

Part 11 Transitional provisions for Mineral, Water and Other Legislation Amendment Act 2018

1285 Unfinished process provided by water plan for release of particular unallocated water

(1) This section applies if—

(a) immediately before the commencement, a water plan provided to any extent for a process for the release of unallocated water held as a general reserve under the water plan; and

(b) the process started before the commencement but has not ended.

(2) The process continues to apply in relation to the release of the unallocated water, as if the *Mineral, Water and Other Legislation Amendment Act 2018* had not been enacted.

1286 Amending water plan to remove process for release of particular unallocated water

(1) This section applies if, immediately before the commencement, a water plan provided to any extent for a

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process for the release of unallocated water held as a general reserve under the water plan.

(2) The consultation provisions under section 51 do not apply for amending the water plan to remove the process, including making any consequential amendments.

1286A Application of requirement for water plan to state desired cultural outcomes

The requirement under section 43(1)(b) for a water plan to state desired cultural outcomes applies only to a water plan prepared by the Minister under section 42 or 50(1)(b) after the commencement.

1287 Application of particular matters Minister must consider in making draft water plan

Section 45(2)(g) and (h) applies only to a draft water plan the Minister starts to make after the commencement.

1288 Amendment of existing distribution operations licence or resource operations licence by agreement

(1) This section applies to a distribution operations licence, or resource operations licence, in force immediately before the commencement.

(2) The chief executive may amend the licence without complying with the provisions of chapter 2, part 3, division 5, subdivision 2 if—

(a) the licence holder agrees to the amendment; and

(b) the amendment is to state a condition requiring the holder to collect and publish the sale price for each seasonal water assignment of a water allocation managed under the licence.

1289 References to SEQ Water

In an Act enacted, or subordinate legislation made under this Act, before the commencement, if the context permits, a reference to SEQ Water may be taken to be a reference to Seqwater.

1290 Election notice

(1) This section applies if, before the commencement—

(a) a party gave, under section 426 as in force before the commencement, another party an election notice—

(i) asking for an authorised officer to call a conference to negotiate a resolution of a dispute; or

(ii) calling upon the party to agree to an ADR to negotiate a resolution of a dispute; and

(b) the conference, or the ADR, was not finished under section 427 as in force before the commencement.

(2) This Act, as in force immediately before the commencement, continues to apply in relation to—

(a) the conference or ADR; and

(b) any proceeding in the Land Court, whether started before or after the commencement, that relates to the matters the subject of the dispute.

(3) The new arbitration provisions do not apply in relation to the matters the subject of the dispute.

(4) In this section—

new arbitration provisions means the provisions inserted into chapter 3, part 5 under the *Mineral, Water and Other Legislation Amendment Act 2018*.

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Part 12 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019

Division 1 Provision relating to water licences

1291 Continued effect of former s 213A

(1) This section applies in relation to a water licence the term of which was extended, under former section 213A, until 30 June 2111.

(2) To remove any doubt, it is declared that the extension of the term of the water licence under former section 213A continues in effect, and has always continued in effect, despite the repeal of that section.

(3) In this section—

former section 213A means section 213A as in force from time to time before its repeal under the *Water Reform and Other Legislation Amendment Act 2014*.

Division 2 Provisions relating to boards of water authorities

1292 Definitions for division

In this division—

former, for a provision, means as in force before the commencement.

new, for a provision, means as in force from the commencement.

1293 Number of directors comprising boards of water authorities

(1) This section applies to a gazette notice published under former section 598(1) that was in force immediately before the commencement.

(2) To the extent the gazette notice states the number of directors comprising a water authority's board, the notice is taken to have been made under new section 599.

Note—

See also section 1309.

1294 Directors for water authorities

(1) This section applies if, immediately before the commencement, a person held office under former section 600 as a director for a water authority.

(2) The person is taken to hold office under new section 600.

1295 Chairpersons of boards of water authorities

(1) This section applies if, immediately before the commencement, a person held office under former section 601 as a chairperson of a board of a water authority.

(2) The person is taken to hold office under new section 601.

1296 Continuation of holding of office of particular directors

(1) This section applies if, immediately before the commencement, a director for a water authority continued holding office under former section 604(2) despite the end of the director's term of office.

(2) The director continues holding office after the end of the director's term of office until the earlier of the following days—

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(a) for a director for a category 1 water authority—the day the director's successor is appointed under new section 600;

(b) for a director for a category 2 water authority—

(i) the day the director's successor is appointed under new section 600;

(ii) the day the Minister appoints an acting director to the office;

(iii) the day that is 9 months after the commencement.

(3) For subsection (2)(b)(ii), the Minister may appoint an acting director to the office under new section 608 as if there were a vacancy in the office.

1297 Removal of director for category 2 water authority by Minister even if appointed by Governor in Council

The Minister may remove a director for a category 2 water authority under new section 606 or 609A even if the director was appointed by the Governor in Council.

1298 Vacancy in office if director nominated by local government

A reference in new section 607 to a nominee of a local government includes a person nominated by a local government under former section 598(1)(b) or 598A as a director for a water authority.

1299 Nomination or election of directors for water authority

(1) This section applies if—

(a) before the commencement, anything had been done or begun, under former section 598 or 598A, in relation to the election or nomination of a director for a water authority; and

(b) immediately before the commencement, the Minister had not appointed, under former section 600(2), a person as director in relation to the election or nomination mentioned in paragraph (a).

(2) Despite the *Acts Interpretation Act 1954*, section 20, any requirement to continue any thing related to the election or nomination of a director, or to appoint a director who is elected or nominated, does not apply.

(3) However, if, before the commencement, the Minister had been given the name of a person elected or nominated as a director under former section 598 or 598A and the person is appropriately qualified under new section 600(2)—

(a) the name of the person is taken to have been given to the Minister under new section 609; and

(b) the person may be appointed under new section 600(2).

1300 Notice in gazette of proposed change in composition of board of water authority

(1) This section applies if—

(a) before the commencement, the chief executive published, under former section 598A(2), a notice in the gazette of a proposed change in the composition of the board of a water authority; and

(b) immediately before the commencement, the chief executive had not published, under former section 598A(4), a notice in the gazette relating to the notice mentioned in paragraph (a).

(2) Despite the *Acts Interpretation Act 1954*, section 20, the following requirements under former section 598A(4) do not apply—

(a) the requirement to consider each properly made submission about the proposed change;

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(b) the requirement to publish a notice in the gazette amending the notice published under former section 598.

Part 13 Transitional provision for Queensland Future Fund (Titles Registry) Act 2021

1301 Approved forms continue

(1) This section applies to a form approved by the chief executive under section 1013 as in force before the commencement if the form is in force immediately before the commencement.

(2) From the commencement, the form is taken to be—

(a) if the form was approved for use other than in relation to the water allocations register—a form approved by the chief executive under new section 1013(1); or

(b) if the form was approved for use in relation to the water allocations register—a form approved by the registrar under new section 1013(2).

(3) In this section—

new, for a provision of this Act, means the provision as in force from the commencement.

Part 14 Transitional and validation provisions for Water Legislation Amendment Act 2022

Division 1 Transitional provisions

1302 Definitions for division

In this division—

former, for a provision of this Act, means the provision as in force from time to time before the commencement of the provision in which the term is used.

introduction day means the day the Bill for the *Water Legislation Amendment Act 2022* was introduced into the Legislative Assembly.

new, for a provision of this Act, means the provision as in force from the commencement of the provision in which the term is used.

transition period means the period—

(a) starting on the introduction day; and

(b) ending on the day before the day of the commencement.

1303 Continued application of former s 112 to particular applications for water licences and dealings with water licences

(1) This section applies in relation to an application for a water licence, or a dealing with a water licence, if—

(a) the application was made, but not decided, before the commencement; and

(b) for an application for a dealing with a water licence—former section 112 applied to the application under former section 130; and

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(c) before the commencement, the chief executive gave the applicant a notice under former section 112(3); and

(d) immediately before the commencement, the applicant had not complied with the notice.

(2) Former section 112 continues to apply in relation to the application as if the *Water Legislation Amendment Act 2022* had not been enacted.

1304 Application of new s 113 to particular applications for water licences and dealings with water licences

(1) This section applies in relation to an application for a water licence if the application was made, but not decided, before the commencement.

(2) Also, this section applies in relation to an application for a dealing with a water licence if—

(a) the application was made, but not decided, before the commencement; and

(b) former section 113 applied in relation to the application under former section 130.

(3) From the commencement, former section 113 does not apply, and new section 113 applies, for deciding the application.

(4) This section is subject to section 1305.

1305 Application of new s 130 to particular applications for dealings with water licences

(1) This section applies in relation to an application for a dealing with a water licence if—

(a) the proposed dealing is an amendment to add, remove or change a condition of the licence; and

(b) the application was made during the transition period.

(2) The chief executive must not decide the application during the transition period.

(3) The application is taken to be made on the day of the commencement.

(4) New section 130 applies in relation to the application.

(5) If the application was purportedly decided before the commencement, the purported decision is of no effect.

1306 Modified application of s 1250D

From the commencement, section 1250D, as in force from the commencement, is taken to apply to an application for an associated water licence as if the reference in section 1250D(5) to section 112(1) and (3) were a reference to new section 112(1), (3) and (4).

1307 Modified application of s 1250L

(1) From the commencement, section 1250L, as in force from the commencement, is taken to also apply to a proposed dealing for an associated water licence that is—

(a) an amendment to add, remove or change a condition of the licence; or

(b) the renewal or reinstatement of the licence.

(2) This section does not limit the application of section 1250L to a proposed dealing for an associated water licence mentioned in section 1250L(a) to (d).

1308 Application of s 1250L to particular applications for dealings with associated water licences

(1) This section applies in relation to an application for a dealing with an associated water licence if—

(a) the proposed dealing is an amendment to add, remove or change a condition of the licence; and

(b) the application was made during the transition period.

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(2) The chief executive must not decide the application during the transition period.

(3) The application is taken to be made on the day of the commencement.

(4) Section 1250L, as in force from the commencement and applied under section 1307, applies in relation to the application.

(5) If the application was purportedly decided before the commencement, the purported decision is of no effect.

1309 Modified application of s 1293

Section 1293, as in force from the commencement, applies, and is taken to always have applied, as if the reference in that section to former section 598(1) were a reference to section 598(1), or section 598A(2), as in force from time to time before 24 May 2019.

1309A Application of s 385A

Section 385A applies from the commencement in relation to an approved underground water impact report, whether the report was approved before, or is approved after, the commencement.

1309B Existing metering contractors

An appointment of a person as a metering contractor under former section 973 in effect immediately before the commencement continues as an appointment of a measurement contractor under section 973.

Division 2 Validation provisions

1310 Validation of postponement of expiry of particular water resource plans

(1) This section applies in relation to a decision, purportedly made under former section 52B(6), to postpone the expiry of a delayed water resource plan within the meaning of section 1236.

(2) The decision is, and is taken to always have been, as valid as it would have been if section 1236(2) had not applied despite former section 52A(3).

(3) Anything done under the postponed water resource plan is, and is taken to always have been, as valid and lawful as it would have been if section 1236(2) had not applied despite former section 52A(3).

(4) This section applies despite section 1236(2).

(5) In this section—

former section 52A(3) means section 52A(3) as in force from time to time before 6 December 2016.

former section 52B means section 52B as in force from time to time before 6 December 2016.

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Schedule 4 Dictionary

section 4

Aboriginal party see section 95(2).

accepted development means development categorised as accepted development under a regulation made under the Planning Act.

acknowledgement notice see section 155(6).

acquisition Act, for chapter 4A, see section 718.

administrator means a person appointed under section 955(2) to operate a service provider's infrastructure.

ADR see section 426(2)(b).

ADR election notice see section 426(2)(b).

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.

agreement amendment, for chapter 2A, part 3, see section 360H(2).

Alcan agreement Act, for chapter 8, part 3C, division 2—see section 992K.

allocation notice—

(a) for removal of quarry material—means an allocation notice under chapter 2, part 5; or

(b) for chapter 4, part 7—see section 696(1)(c).

alternative institutional structure includes—

(a) a cooperative; and

(b) a corporation; and

(c) a trust; and

(d) an institutional structure consisting of all the parties to a closed water activity agreement.

amending Act, for chapter 9, part 5, division 17, see section 1182.

annual report means a water authority's annual report under the *Financial Accountability Act 2009*.

appointor, of an authorised officer, see section 739(1).

appropriately qualified, for a person to whom a power may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

approved baseline assessment plan, for the area of a petroleum tenure, means a baseline assessment plan for the area that is approved under section 399.

approved final report means a final report that is approved under section 385.

approved form means a form approved under section 1013.

approved nominee, for chapter 2, part 3, division 5, subdivision 1, see section 177(2)(c).

approved payment method, for a fee, see section 1013C.

approved recycled water management plan see the Water Supply Act, schedule 3.

approved underground water impact report means an underground water impact report that is approved under section 385.

approved water supply emergency response means a water supply emergency response approved by the Minister under section 25I.

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.

arbitration election notice see section 433A(2).

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artesian bore includes a shaft, well, gallery, spear or excavation, and any works constructed in connection with the shaft, well, gallery, spear or excavation, that taps an aquifer and the water flows, or has flowed, naturally to the surface.

artesian water, for chapter 8, part 3C, means water that occurs naturally in, or is introduced artificially into, an aquifer, which if tapped by a bore, would flow naturally to the surface.

assessable development means development categorised as assessable development under a regulation made under the Planning Act.

authorised officer means a person appointed as an authorised officer under section 739.

authorised use or purpose, of water, for chapter 3, see section 362.

authority area, for a water authority, see section 548(1).

available for inspection and purchase see section 1009.

bar, in a watercourse, means a temporary accumulation of sediment—

(a) that is within the bed of the watercourse; and

(b) to which the following characteristics can generally be expected to apply—

(i) it is formed during the recession of flows in the watercourse when sediment is deposited in the bed of the watercourse;

(ii) it is a dynamic feature, being changed by flow events in the watercourse;

(iii) because of its dynamic nature as mentioned in subparagraph (ii), its covering vegetation is immature, and not woody;

(iv) it is made up of coarse materials, in particular, sand and gravel.

baseline assessment, for chapter 3, see section 362.

baseline assessment plan, for the area of a petroleum tenure, means a baseline assessment plan that complies with section 397(4).

bed and banks, of a lake, means the land that is normally covered by the water of the lake, whether permanently or intermittently, regardless of frequency, but does not include adjoining land from time to time covered in flood events.

bench, in a watercourse, means a storage of sediment—

(a) that is within the channel of the watercourse; and

(b) to which the following characteristics can generally be expected to apply—

(i) it is higher than the bed of the watercourse and bars in the watercourse, but lower than the level of either outer bank of the watercourse;

(ii) it is formed through sediment deposition during flow events in the watercourse that are at or near the level of either outer bank;

(iii) it is a reasonably flat sediment deposit, reasonably straight or gently curved as viewed from above, and at least partly consolidated by riparian vegetation;

(iv) it may be distinguished from a floodplain because the deposits making up a floodplain are finer and more layered.

board see section 597.

bore assessment, of a water bore, see section 411.

bore owner, of a water bore, for chapter 3, see section 362.

bore trigger threshold, for an aquifer, for chapter 3, see section 362.

bulk services see section 360C.

bulk water customer see section 360C.

bulk water party see section 360C.

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bulk water service means the supply of large quantities of water other than as an irrigation service.

bulk water supply agreement see section 360G(1).

bulk water supply authority means the Queensland Bulk Water Supply Authority established under the *South East Queensland Water (Restructuring) Act 2007*, section 6.

bulk water supply code see section 360M(1).

capital structure, for a water authority, means the authority's level of debt compared to its level of equity.

category 1 water authority means—

(a) the Gladstone Area Water Board; or

(b) the Mount Isa Water Board.

category 2 water authority means a water authority other than a category 1 water authority.

CEWH means the Commonwealth Environmental Water Holder established under the *Water Act 2007* (Cwlth).

change application means a change application under the Planning Act.

chief executive's notice see section 36(2).

closed water activity agreement see section 695A(1)(b).

closing CMA tenure, for chapter 3, see section 362.

CMA tenure, for chapter 3, see section 362.

code-regulated entity, for chapter 2A, part 3, see section 360C.

Comalco agreement Act, for chapter 8, part 3C, division 2—see section 992K.

commencement—

(a) for chapter 9, part 5, division 16, see section 1179; or

(b) for chapter 9, part 5, division 17 see section 1182.

commercialisation see section 637.

community service obligations, of a category 1 water authority, means the obligations to do anything the authority is satisfied—

(a) are not in the authority's commercial interests to perform; and

(b) arise because of—

(i) a direction by the Minister; or

(ii) notice by the Minister of a public sector policy that is to apply to the authority; and

(c) do not arise because of the application of the following key commercialisation principles and their elements—

(i) principle 3—accountability for performance;

(ii) principle 4—competitive neutrality.

compliance notice means a notice given under section 780.

conference election notice see section 426(2)(a).

connection means a property service that supplies either water supply services or sewerage services, or both, to a premises.

consolidated aquifer, for chapter 3, see section 362.

constructing authority see the *Acquisition of Land Act 1967*, section 2.

consultation day, for a proposed underground water impact report or final report, for chapter 3, see section 362.

convicted includes a finding of guilty, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

coordinated project has the meaning given in the *State Development and Public Works Organisation Act 1971*.

corporate plan, for a water authority, means the authority's corporate plan agreed to by the Minister under section 649, or taken to be agreed to by the Minister under section 650(2).

corporatised entity, means the commercialised business unit, previously within the department and known as State Water

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Projects, corporatised under the *Government Owned Corporations Act 1993*.

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

cultural outcome means a beneficial consequence to an Aboriginal party or Torres Strait Islander party relating to aquifers, drainage basins, catchments, subcatchments or watercourses.

cumulative management area, for chapter 3, see section 362.

current infrastructure owner, for chapter 2, part 3, division 5, subdivision 3, see section 187(2).

customer—

1 Generally, *customer*—

(a) of a service provider that is a local government, means—

(i) a ratepayer of the local government who enjoys registered services supplied by the local government; or

(ii) a person who occupies non-residential premises that enjoy registered services supplied by the local government; or

(b) of a service provider other than a local government, means—

(i) a person who purchases registered services supplied by the service provider; or

(ii) a person who occupies non-residential premises that enjoy registered services supplied by the service provider.

2 In chapter 4 and section 851, *customer* means a person, other than a ratepayer, for whom a water authority carries out water activities.

dam—

1 *Dam* means—

(a) works that include a barrier, whether permanent or temporary, that does or could or would impound water; and

(b) the storage area created by the works.

2 The term includes an embankment or other structure that controls the flow of water and is incidental to works mentioned in item (1)(a).

3 The term does not include the following—

(a) a rainwater tank;

(b) a water tank constructed of steel or concrete or a combination of steel and concrete;

(c) a water tank constructed of fibreglass, plastic or similar material;

(d) a levee.

dealing, with a water licence, means a dealing mentioned in section 120.

declared channel scheme, for chapter 4A, see section 720.

declared project, for chapter 4A, see section 719.

demand management, for water, includes—

(a) reducing demand for water; and

(b) increasing the efficiency of water supply works; and

(c) increasing the efficiency of the use of water by end users; and

(d) substituting a process that does not use a water resource for one that does use a water resource; and

(e) substituting one water resource for another.

depositional feature, in relation to a watercourse, means a deposit of clay, sand or silt that is carried during flows of water in the watercourse.

Examples—

- mud deposited in cracks in rocks
- sand deposits behind rocks

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designated region means a region designated under section 342.

designated water security entity see section 349.

desired level of service objectives, for water security, means the desired levels of service objectives for water security prescribed under section 344.

destruction, of vegetation, means the removing, clearing, killing, cutting down, felling, ringbarking, digging up, pushing over, pulling over or poisoning of the vegetation.

development has the meaning given by the Planning Act, schedule 2.

development application means an application for a development approval.

development approval means a development approval as defined under the Planning Act.

development permit means a development permit as defined under the Planning Act.

director, for a water authority, means a person appointed as a director of the authority's board under section 600.

dispute notice means a notice given under section 891(2).

distribution operations licence means a distribution operations licence granted under chapter 2, part 3, division 5.

distribution system means the infrastructure for—

(a) the transmission of water; or

(b) the reticulation of water; or

(c) water treatment or recycling.

dividend, for chapter 4, includes an amount in the nature of a dividend.

document certification requirement see section 760(5).

document production requirement see section 760(6).

domestic purposes see section 6.

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.

duly qualified person see section 217B.

ecosystem means a dynamic combination of plant, animal and micro-organism species and communities and their non-living environment and the ecological processes between them interacting as a functional unit.

element of a water allocation see section 143.

emergency plan, for chapter 2A, part 3, see section 360C.

employee register, for a declared channel scheme, for chapter 4A, see section 737.

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environment see the *Environmental Protection Act 1994*, section 8.

environmental authority see the *Environmental Protection Act 1994*, schedule 4.

environmental flow objective means a flow objective stated in a water plan to protect the share of water available to the environment.

environmental impact statement, for chapter 8, part 3C, division 1, see section 992G.

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 proposal, for a water authority, means the proposal, notice of which was given under section 552(1), to establish the authority.

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.

external review, for a decision, means a review of the decision by QCAT under the QCAT Act.

faulty, in relation to a measurement device or measurement system, for chapter 2, part 3A, see section 217B.

fill, for chapter 2, part 4 and definition *levee*, paragraph 3, means any kind of material in solid form (whether or not naturally occurring) capable of being deposited at a place.

final report, for a resource tenure, for chapter 3, see section 362.

floodplain means an area of reasonably flat land adjacent to a watercourse that—

(a) is covered from time to time by floodwater overflowing from the watercourse; and

(b) does not, other than in an upper valley reach, confine floodwater to generally follow the path of the watercourse; and

(c) has finer sediment deposits than the sediment deposits of any bench, bar or in-stream island in the watercourse.

floodwater, in relation to a watercourse or lake, means water that has overflowed the outer banks of the watercourse, or the bed and banks of the lake, because of a flood event affecting the watercourse or lake, and is on land near the watercourse or lake.

flow conditions, for a water entitlement or a moratorium notice, means—

(a) the rate of flow of water in a watercourse, lake or spring or overland; or

(b) the level of water in a watercourse, lake, spring, aquifer, dam or weir.

former water area means a drainage area or water supply area established under the repealed Act.

former water board means a drainage board, water board or water supply board established under the—

(a) the repealed GAWB Act; or

(b) part 10 of the repealed Act.

full cost pricing, for a category 1 water authority, is charging for goods or services taking into account the full cost of providing the goods or services, including amounts equivalent to—

(a) government taxes that are not otherwise payable to the Commonwealth, State or local government; and

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(b) debt guarantee fees for State guarantees.

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.

government entity see the *Public Service Act 2008*, section 24.

graded jump up means an inclined section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels.

Groundwater Impact Assessment Fund means the Groundwater Impact Assessment Fund established under section 478.

hazardous waste means—

(a) a substance, whether liquid, solid or gaseous, derived by, or resulting from, the processing of minerals that tends to destroy life or impair or endanger health; or

(b) ash resulting from the process of power generation.

holder, of a water allocation, means—

(a) the person whose details are stated on the water allocations register as the person who holds the water allocation; or

(b) if a lease of the water allocation is registered on the water allocations register—the lessee of the lease.

immediately affected area see section 387.

immediately affected area bore, for chapter 3, part 5, see section 408.

impact considerations, for chapter 3, see section 362.

impaired capacity, of a water bore, see section 412.

incoming owner, for chapter 2, part 3, division 5, subdivision 3, see section 188(1)(b).

indirect financial or personal interest, for a director, includes a financial or personal interest of the director's spouse,

relative or person with whom the director lives in a domestic relationship.

industrial instrument see the *Industrial Relations Act 2016*, schedule 5.

information notice, about a decision under this Act, means a notice—

(a) stating the following—

(i) the decision;

(ii) the reasons for the decision;

(iii) the name and address of any other person who was given the notice;

(iv) that any person given the notice may apply for an internal review of the decision within 30 business days after the day the notice is given; and

(b) including a copy of the relevant internal review provisions of this Act.

in-stream island, in a watercourse, is a storage of sediment—

(a) that is within the channel of the watercourse; and

(b) to which the following characteristics can generally be expected to apply—

(i) it is formed by processes within the watercourse;

(ii) its crest is not higher than either outer bank of the watercourse;

(iii) it is a dynamic feature, being changed by flow events in the watercourse;

(iv) it is made up of coarse materials, in particular sand and gravel.

interested person see section 851.

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;

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(b) by diversion, for example, by works such as a diversion channel that—

(i) divert the course of water in a watercourse outside of its bed and banks; and

(ii) may rejoin a watercourse downstream.

interim enforcement order see section 784(1).

intermittent, in relation to the flow of water in a watercourse or the collection of water in a lake, includes variable, having regard to seasonal variations, and to year by year variability of seasons.

internal review see section 862(1).

interstate distribution operations licence means a licence that is granted under an interstate law and authorises the licence holder to operate infrastructure to distribute water.

interstate law means a law of another State, including a repealed law, regulating the taking or using of water or the drilling of a water bore.

interstate resource operations licence means a licence that is granted under an interstate law and authorises the licence holder to manage the taking or using of water by other licensees.

irrigation entity, for chapter 4A, see section 721.

irrigation infrastructure means water infrastructure or other infrastructure constructed, erected or installed for the supply of water or the storage and distribution of water for the irrigation of crops or pastures.

Examples of irrigation infrastructure—

a supply channel, head ditch or tailwater drain

irrigation service means the supply of water or drainage services for irrigation of crops or pastures for commercial gain.

jump up means a vertical section of pipe joining 2 drains, or a sewer and a sanitary drain or property sewer, at different levels.

key commercialisation principles see section 638.

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—

(i) includes a lagoon, swamp or other natural collection of water, whether permanent or intermittent, and the bed, banks and any other element confining or containing the water; but

(ii) does not include a lake within which the high spring tide ordinarily flows and reflows or a drainage feature.

large service provider means—

(a) a service provider primarily providing bulk water services; or

(b) for a retail water service or sewerage service—a service provider with more than 25,000 connections to a registered service; or

(c) for an irrigation service—a service provider with—

(i) more than 500 users; and

(ii) a volume throughput, in any of the last 5 financial years, of more than 10,000ML.

lateral limits, in relation to a watercourse, see section 5(5).

levee—

1 A ***levee*** is an artificial embankment or structure which prevents or reduces the flow of overland flow water onto or from land.

2 A ***levee*** includes levee-related infrastructure.

3 However, the following are not levees—

(a) prescribed farming activities;

(b) fill that is—

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(i) deposited at a place for gardens or landscaping, including, for example, landscaping for the purposes of visual amenity or acoustic screening; and

(ii) less than the volume of material prescribed under a regulation;

(c) infrastructure used to safeguard life and property from the threat of coastal hazards;

(d) a structure regulated under another Act including, for example, the following—

(i) a levee constructed as emergency work under the Planning Act, section 166;

(ii) a structure constructed under an approved plan under the *Soil Conservation Act 1986*;

(iii) a structure whose design takes into account the impacts of flooding or flood mitigation but which is not primarily designed for flood mitigation;

Example—

a public road within the meaning of the *Transport Infrastructure Act 1994*

(iv) a structure constructed within the bed, or across a bank, of a watercourse, including, for example, a weir or barrage, the construction of which was carried out under this Act and for which a development permit under the Planning Act was given;

(v) an embankment or other structure constructed for long-term storage of water under the Water Supply Act;

Examples—

a ring tank or dam

(e) irrigation infrastructure that is not levee-related infrastructure.

levee-related infrastructure, for a levee, means infrastructure, including irrigation infrastructure, that is—

(a) connected with the construction or modification of the levee; or

(b) used in the operation of the levee to prevent or reduce the flow of overland flow water onto or from land.

Examples of infrastructure for paragraph (b)—

a channel, drain, outfall or pipe

lodge means lodge with the registrar for registration or recording on the water allocations register.

long-term affected area see section 387.

make good agreement, for a water bore, see section 420.

make good measure, for a water bore, see section 421.

make good obligations, of a petroleum tenure holder for a water bore, for chapter 3, see section 362.

manager means the manager of the office.

mandatory term, for chapter 2A, part 3, see section 360G(2)(a).

maximum rate, for chapter 2, part 3, division 4, see section 144.

measurement contractor means a person appointed as a measurement contractor under section 973.

measurement device—

(a) means a meter or other device used in connection with calculating or measuring water taken, or interfered with, under this Act; and

(b) includes equipment related to the meter or device for calculating or measuring, or recording, or transmitting or otherwise reporting, information about—

(i) the taking of, or interfering with, water; or

(ii) the quality of water.

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Example of a measurement device—

a telemetry device

measurement requirements means measurement requirements under chapter 2, part 3A, division 2.

measurement system means a system—

(a) used in connection with calculating or measuring water taken under an authorisation to take water under this Act; and

(b) comprising 2 or more components that may include—

(i) a measurement device; and

(ii) information, measures or methodologies for identifying and calculating or measuring water taken.

medium service provider means—

(a) for a retail water service or sewerage service—a service provider with more than 1,000 but not more than 25,000 connections to a registered service; or

(b) for an irrigation service—a service provider with—

(i) more than 100 but not more than 500 users; and

(ii) a volume throughput, in any of the last 5 financial years, of more than 10,000ML.

megalitre means 1 million litres.

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.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

ML means megalitre.

monitoring equipment—

(a) means equipment for reading rainfall, water flow or water levels or for assessing the effects of taking of, or interfering with, water or water use on land and water; and

(b) includes a measurement device.

moratorium notice see section 30(1).

nominal volume means—

(a) for a water allocation managed under a resource operations licence—the number used to calculate the allocation's share of the water available to be taken by holders of water allocations in the same priority group; and

(b) for a water allocation not managed under a resource operations licence—the number used to calculate the allocation's share of the water available to be taken by holders of water allocations in all water allocation groups in a water plan area.

nominated water service provider see section 343.

nominator, for chapter 2, part 3, division 5, see section 178(1).

nominee, for chapter 2, part 3, division 5, see section 178(1).

non-Act water means water, including recycled and desalinated water, from any source, other than water included in the definition of water, item 1, in this schedule.

non-residential customer means a customer who uses water on non-residential premises.

non-residential premises means premises that are not used for residential purposes, including, for example, tourist accommodation, nursing homes, hostels, hospitals, caravan parks, convents, nurseries, market gardens, turf farms, farms, conference centres and the common property of a community title scheme under the *Body Corporate and Community Management Act 1997* or under the *Building Units and Group Titles Act 1980*.

notice means written notice.

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notice of closure means a notice of closure given under section 372 or 373.

occupier, of land, means the person in actual occupation of the land or, if there is no person in actual occupation, the person entitled to possession of the land.

office means the Office of Groundwater Impact Assessment.

Office of Groundwater Impact Assessment means the Office of Groundwater Impact Assessment established under section 455.

officer, of a water authority, means—

(a) a director of the authority; or

(b) the authority's chief executive officer; or

(c) another person who is concerned, or takes part, in the authority's management.

official, for chapter 2, part 3, division 5A, see section 203A(1).

old, for chapter 9, part 5, division 17, in relation to a provision of this Act, see section 1182.

operational work see the Planning Act, schedule 2.

operations manual see section 197(1).

original decision see section 851(4).

other resources means quarry material and vegetation in a watercourse, lake or spring.

outer bank see section 5A.

overdue charge see section 574(3).

overdue rate see section 574(3).

overland flow water—

1 *Overland flow water* means water, including floodwater, that is urban stormwater or is other water flowing over land, otherwise than in a watercourse or lake—

(a) after having fallen as rain or in any other way; or

(b) after rising to the surface naturally from underground.

2 *Overland flow water* includes particular underground water declared to be overland flow water under section 1006A.

3 *Overland flow water* does not include—

(a) water that has naturally infiltrated the soil in normal farming operations, including infiltration that has occurred in farming activity such as clearing, replanting and broadacre ploughing; or

(b) tailwater from irrigation if the tailwater recycling meets best practice requirements; or

(c) water collected from roofs for rainwater tanks.

owner—

(a) of land, other than for chapter 2, part 3, division 2, means any of the following, and includes the occupier of the land—

(i) the registered proprietor of the land;

(ii) the lessee, sublessee or licensee under the *Land Act 1994* of the land;

(iii) the holder of a mineral development licence or mining lease over the land under the Mineral Resources Act;

(iv) the plantation licensee of a plantation licence under the *Forestry Act 1959*;

(v) the person or body of persons who, for the time being, has lawful control of the land, on trust or otherwise;

(v) the holder of a geothermal tenure under the *Geothermal Energy Act 2010* relating to the land;

(vi) the person who is entitled to receive the rents and profits of the land;

(vi) the holder of a GHG tenure under the *Greenhouse Gas Storage Act 2009* relating to the land;

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(vii) the holder of a 1923 Act petroleum tenure under the *Petroleum Act 1923* relating to the land;

(viii) the holder of a petroleum tenure under the Petroleum and Gas Act relating to the land; or

(b) for chapter 2, part 3, division 2, see section 104.

owner's notice see section 36(2).

performance indicator, for a water plan, means a measure that can be calculated and is stated in the plan to assess the impact of an allocation and management decision or proposal on water entitlements and natural ecosystems.

performance plan, for a water authority, means the authority's performance plan agreed to by the Minister under section 656, or taken to be agreed to by the Minister under section 657.

Petroleum and Gas Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

petroleum tenure—

(a) generally, means—

(i) a 1923 Act petroleum tenure under the *Petroleum Act 1923*; or

(ii) a petroleum tenure under the Petroleum and Gas Act; and

(b) for chapter 3, part 2, divisions 3 and 4—includes a part of a petroleum tenure.

petroleum tenure holder means a person who holds a petroleum tenure.

placing of fill in a watercourse, lake or spring includes doing something that, in conjunction with other acts (regardless of who does those acts) or happenings (regardless of who, if anyone, causes those happenings) is likely to result in the depositing of fill in the watercourse, lake or spring.

plan area, for any plan under this Act, means the part of Queensland to which the plan applies.

plan area, for a water plan, means the area of Queensland to which the plan applies.

Planning Act means the *Planning Act 2016*.

Planning Act offence means an offence against the Planning Act, section 162, 163(1), 164, 165 or 168(5) to the extent the section relates to the taking of, or interfering with, water.

premises means—

(a) a lot as defined under the Planning Act, schedule 2; or

(b) for a lot under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980*—the common property for the lot.

premises group means the land comprised in 2 or more premises all the owners of which have mutual rights and obligations under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980* for their respective ownerships, and includes the common property forming part of—

(a) if the premises are lots included in a community titles scheme under the *Body Corporate and Community Management Act 1997*—the scheme land under that Act for the scheme; or

(b) if the premises are lots under the *Building Units and Group Titles Act 1980*—the parcel of which the premises form part.

prescribed farming activities means—

(a) cultivating soil; or

Examples—

clearing, replanting and broadacre ploughing

(b) disturbing soil to establish non-indigenous grasses, legumes or forage cultivars; or

(c) using land for horticulture or viticulture; or

(d) laser levelling or contouring soil.

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prescribed offence means an offence against this Act for which the maximum penalty of imprisonment is 2 or more years.

principles of ecologically sustainable development see section 7.

priority group, for water allocations managed under a resource operations licence, means the allocations that have the same water allocation security objective.

private water supply agreement see section 1000.

process—

(a) for sections 39(b), 40(2) and (3), 43(2)(f), 67(a), 116 and 147—includes selling or dealing with water entitlements, interim resource operations licences or resource operations licences by public auction, public ballot, fixed price sale, grant for a particular purpose 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.

production testing, for chapter 3, see section 362.

project direction, for chapter 4A, see section 724(1).

properly made submission means a submission that—

(a) is made by an entity invited to make the submission; and

(b) is in writing and signed by each entity that made the submission; and

(c) is received on or before the last day for the making of the submission; and

(d) states the name and address of each entity that made the submission; and

(e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and

(f) is received by the person stated in the notice inviting the submission.

property service means—

(a) for a water service—the pipes and fittings installed for connecting premises to a service provider's infrastructure; or

(b) for a sewerage service—a junction, bend, pipe, jump up or graded jump up required to connect a sanitary drain or property sewer to a service provider's infrastructure.

property sewer means a sewer for a premises or a premises group.

proposed desired level of service objectives see section 345(2)(a).

proposed plan area—

(a) for a draft water plan—means the part of Queensland to which a water plan, if approved, will apply; or

(b) for a draft resource operations plan—means the part of the plan area for a water plan to which a resource operations plan, if approved, will apply.

publish, in relation to a notice or other document to which section 1009A applies, means publish in accordance with that section.

quarry material—

1 *Quarry material* means material, other than a mineral within the meaning of any Act relating to mining, in a watercourse or lake.

2 *Quarry material* includes stone, gravel, sand, rock, clay, earth and soil unless it is removed from the watercourse or lake as waste material.

Queensland Government website means a website with a URL that contains 'qld.gov.au', other than a website of a local government.

ratepayer, of a water authority that has an authority area, means an owner of land within that authority area.

reasonably believes means believes on grounds that are reasonable in the circumstances.

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referable dam see the Water Supply Act, section 341.

registered owner, of land, means—

(a) the registered owner of the land under the *Land Title Act 1994*; or

(b) the lessee or licensee of the land under the *Land Act 1994*.

registered proprietor, of land, see the *Land Title Act 1994*, schedule 2.

registered service, for a service provider, means a water or sewerage service for which the service provider is registered.

registrar means the registrar appointed under section 167.

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

regular audit means an audit conducted under section 417.

regulator means the regulator under the Water Supply Act.

relevant authorisation, in relation to a measurement requirement, see section 217B.

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.

relevant entity, for chapter 2, part 3, division 5A, see section 203A(2).

relevant underground water rights, for chapter 3, see section 362.

relocate, a water licence, see section 126(4).

repealed Act means the *Water Resources Act 1989*.

repealed Acts means the—

(a) repealed GAWB Act; or

(b) repealed Act.

repealed GAWB Act means the *Gladstone Area Water Board Act 1984*.

report obligation, for chapter 3, see section 362.

residential complex see the *Environmental Protection Act 1994*, schedule 4.

residential premises means premises used for a residential purpose.

resource operations licence means a resource operations licence granted under chapter 2, part 3, division 5.

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.

responsible entity, for chapter 3, see section 362.

responsible tenure holder, for chapter 3, see section 362.

retail water service—

1 *Retail water service* means a reticulated water service in a service area for a water service.

2 The term does not include—

(a) an irrigation service or a bulk water service in any area; or

(b) the supply of recycled water in any area.

review decision see section 864(2).

reviewer see section 862(1).

review notice see section 864(3).

riverine protection permit see section 218(1).

sanitary drain means a drain (not including a pipe that is a part of common effluent drainage) that is immediately

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connected to, and used to carry discharges from, a soil or waste pipe for an individual premises.

scour mark, in relation to a watercourse, means—

(a) a mark made on a bank of the watercourse by the sweeping action of suspended sediments in water during flows in the watercourse; or

(b) a mark that can be identified by weathering stains, or the absence of lichens, on erosion-resistant surfaces of a bank of the watercourse.

Example of an erosion-resistant surface—

rock

seasonal water assignment means—

(a) for each of the following instruments—assignment by the holder of the instrument of the benefit under the instrument, for a water year, or shorter period prescribed by a water management protocol, of all or part of the water that may be taken under the instrument—

(i) a water allocation;

(ii) a seasonal water assignment notice for a water allocation; or

(b) for each of the following instruments—assignment by the holder of the instrument of the benefit under the instrument, for a water year, of all or part of the water that may be taken under the instrument—

(i) a water licence;

(ii) a seasonal water assignment notice for a water licence.

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.

seasonal water assignment rules means the rules stated in a regulation, water management protocol or operations manual that allow seasonal water assignments or approval of applications for proposed seasonal water assignments.

SEQ bulk supplier see section 360C.

SEQ region see section 341.

SEQ service provider see the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, schedule.

Seqwater means Queensland Bulk Water Supply Authority established under the *South East Queensland Water (Restructuring) Act 2007*.

SEQ Water means South East Queensland Water Corporation Limited ABN 14 088 729 766.

service provider means—

(a) a water service provider; or

(b) a sewerage service provider under the Water Supply Act.

service provider water restriction see the Water Supply Act, section 41.

sewerage means a sewer, access chamber, vent, engine, pump, structure, machinery, outfall or other work used to receive, store, transport or treat sewage.

sewerage service means—

(a) sewage treatment; or

(b) the collection and transmission of sewage through infrastructure; or

(c) the disposal of sewage or effluent.

show cause notice means a notice that complies with section 779.

special agreement means a special agreement Act or an agreement contained in a special agreement Act.

special agreement Act means—

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(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.

spent conviction means a conviction—

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

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

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.

spring impact management strategy means a spring impact management strategy that complies with section 379.

start day, for a petroleum tenure, for chapter 3, see section 362.

State quarry material means—

(a) quarry material that is the property of the State under section 226; and

(b) if quarry material not mentioned in paragraph (a) is reserved under the *Land Act 1994*, section 22, and is in a watercourse or lake—the quarry material.

statutory authorisation to take or interfere with water means an authorisation to take or interfere with water under chapter 2, part 3, division 1.

stock purposes, in relation to taking or interfering with water, means—

(a) watering stock of a number that would normally be depastured on the land on which the water is, or is to be, used; or

(b) watering travelling stock on a stock route.

stock route see the *Stock Route Management Act 2002*, schedule 3.

stormwater drainage means a drain, channel, pipe, chamber, structure, outfall or other work used to receive, store, transport or treat stormwater.

strategic water infrastructure reserve means unallocated water held as—

(a) a strategic water infrastructure reserve under a water plan; or

(b) a strategic reserve, that is not set aside for Indigenous purposes, under a water plan.

subartesian bore includes a shaft, well, gallery, spear or excavation, and any works constructed in connection with the shaft, well, gallery, spear or excavation, that taps an aquifer and the water does not flow and never has flowed naturally to the surface.

subartesian water means water that occurs naturally in, or is introduced artificially into, an aquifer, which if tapped by a bore, would not flow naturally to the surface.

submissions summary see section 383(1)(b).

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submitter means an entity who made a properly made submission under this Act.

submitter notice see section 863(3).

subsidiary company, of an entity, means that under the Corporations Act, section 9 the company is a subsidiary of the entity.

SunWater means SunWater Limited ACN 131 034 985.

supply contract means a contract for the storage and supply of water under a water entitlement, a water supply emergency declaration or a water supply emergency regulation.

taking, for water, includes diverting water.

temporary full supply level, for a dam, means the temporary full supply level declared for the dam under the Water Supply Act, chapter 4, part 3.

test hole means a hole made for the purpose of obtaining information about—

(a) the water production capacity, water production quality or hydraulic properties of a geological structure or formation; or

(b) the suitability of a geological structure or formation to be tapped by a water bore.

titles registry fee, for a matter mentioned in a provision of this Act, means the fee payable for the matter under section 1013CB.

titles registry operator means the operator under the *Queensland Future Fund (Titles Registry) Act 2021*.

Torres Strait Islander party see section 95(2).

transfer, of a resource operations licence, an interim resource operations licence or a water allocation, means the passing of the legal or beneficial interest in the licence or allocation.

transferable employee, for chapter 4A, see section 738.

transfer day, for a declared channel scheme, for chapter 4A, see section 718.

transferee, for chapter 2, part 3, division 5, subdivision 3, see section 187(1).

transfer notice, for chapter 4A, see section 723(1).

travelling stock see the *Stock Route Management Act 2002*, schedule 3.

unallocated State land see the *Land Act 1994*, schedule 6.

unconsolidated aquifer, for chapter 3, see section 362.

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 obligation, of a resource tenure holder, 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).

urban area means an area identified as an area intended specifically for urban purposes, including future urban purposes (but not rural residential or future rural residential purposes) on a map in a planning scheme under the Planning Act that—

(a) identifies the areas using cadastral boundaries; and

(b) is used exclusively or primarily to assess development applications under that Act.

Example—

a zoning map

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urban stormwater means water flowing over land, or in drainage pipes, in an urban area.

urban water service means a drinking water service under the Water Supply Act or a retail water service.

vegetation means native plants including trees, shrubs, bushes, seedlings, saplings and reshoots.

volumetric limit, for chapter 2, part 3, division 4, see section 145.

water—

1 Generally, *water* means all or any of the following—

(a) water in a watercourse, lake or spring;

(b) underground water;

(c) overland flow water;

(d) water that has been collected in a dam.

2 In chapter 2A and section 1163, *water* also includes recycled and desalinated water, from any source.

water activity, for a water authority, includes an activity for the following—

(a) water conservation;

(b) water supply;

(c) irrigation;

(d) drainage, including stormwater drainage;

(e) flood prevention;

(f) floodwater control;

(g) underground water supply improvement or replenishment;

(h) sewerage;

(i) anything else dealing with water management.

water allocation means an authority granted under section 146 or 147 to take water.

water allocation dealing see section 156.

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.

water allocations register means the register kept under section 168.

water authority means a water authority established under this Act.

water bore means an artesian bore or a subartesian bore.

water bore drilling activity means any of the following activities—

(a) drilling, deepening, enlarging or casing a water bore or test hole;

(b) removing, replacing, altering or repairing the lining or screen of a water bore or test hole;

(c) removing, replacing, altering or repairing the casing of a water bore (other than a subartesian bore casing less than 1.2m below the surface) or test hole;

(d) decommissioning a water bore or test hole.

watercourse see section 5.

watercourse identification map see section 5AA.

water entitlement means a water allocation, interim water allocation or water licence.

water entitlement notice see section 70.

water in a watercourse or lake includes water collected in a dam across the watercourse or lake.

water infrastructure means works operated by the State or the holder of an interim resource operations licence, resource operations licence or other authorisation that is relevant to the management of water entitlements.

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water infrastructure owner, for a provision about a licence or a proposed licence, means the owner of the water infrastructure to which the licence or proposed licence applies or will apply.

water level, of an aquifer, for chapter 3, see section 362.

water licence means a licence granted under chapter 2, part 3, division 2.

water management area means—

(a) an area of the State declared under a regulation to be a water management area; or

(b) an area identified in a water plan or a water management protocol as a water management area.

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 monitoring bore see section 362.

water monitoring strategy means a water monitoring strategy that complies with section 378.

water permit means a permit granted under chapter 2, part 3, division 3.

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 quality issue, for chapter 2, part 3, division 5A, see section 203A(2).

water security includes the reliability of water supply.

water security program means a program that complies with section 353.

water service means—

(a) water harvesting or collection, including, for example, water storages, groundwater extraction or replenishment and river water extraction; or

(b) the transmission of water; or

(c) the reticulation of water; or

(d) drainage, other than stormwater drainage; or

(e) water treatment or recycling.

water service provider means a person registered under the Water Supply Act, chapter 2, part 3 as a service provider for a water service.

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 that apply to the water entitlement or other authorisation that are 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 that apply to the water licence or other authorisation that are prescribed by regulation.

Water Supply Act means the *Water Supply (Safety and Reliability) Act 2008*.

water supply emergency see section 25A.

water supply emergency declaration means a declaration made under section 25B.

water supply emergency regulation see section 25F.

water supply emergency response see section 25C.

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water supply scheme means a water supply scheme for which a resource operations licence or interim resource operations licence has been issued.

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

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.

Webbe-Weller review means the document dated March 2009 and called 'Brokering balance: A public interest map for Queensland Government bodies—An independent review of Queensland Government boards, committees and statutory authorities—Part B report'.

Editor's note—

A copy of the report is available for inspection at www.premiers.qld.gov.au/publications/categories/reviews/boards-committees/part-b-report.aspx.

weir means a barrier constructed across a watercourse below the outer banks of the watercourse that hinders or obstructs the flow of water in the watercourse.

Wenlock Basin, for chapter 8, part 3C, division 1, see section 992G.

work performance arrangement means an arrangement under which an employee of a government entity performs work for another government entity.

works means—

(a) operations of any kind and all things constructed, erected or installed for the purposes of this Act; and

(b) any land used for the operations.

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