



Queensland

# **South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

**Act No. 20 of 2010**





Queensland

# South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	22
2	Commencement . . . . .	22
<b>Part 2</b>	<b>Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</b>	
3	Act amended . . . . .	23
4	Amendment of s 4 (Achievement of purposes) . . . . .	23
5	Amendment of s 11 (Functions) . . . . .	23
6	Insertion of new s 17A . . . . .	24
	17A Information Privacy Act 2009 . . . . .	24
7	Insertion of new s 18A . . . . .	24
	18A Penalties and Sentences Act 1992. . . . .	24
8	Amendment of s 53 (Delegation) . . . . .	24
9	Insertion of new chs 2A–2C . . . . .	26
	Chapter 2A General provisions for distributor-retailers as service providers	
	Part 1 Provisions for distributor-retailers to become service providers	
	Division 1 General provisions	
	53AA Distributor-retailers become service providers . . . . .	26
	53AB Participating local governments cease being service providers. . . . .	27
	53AC Notice to regulator not required for transfer under transition document . . . . .	27
	53AD Existing customers . . . . .	27

Contents

---

53AE	Provision for market rules. . . . .	27
Division 2	Existing trade waste approvals	
53AF	Existing trade waste approvals. . . . .	27
53AG	Power to amend existing trade waste approvals for particular purposes. . . . .	28
53AH	Requirements for making consistency amendment . .	28
Division 3	Provision of information	
53AI	Authorised exchange of information . . . . .	29
Part 2	Application of particular Water Supply Act provisions to distributor-retailers	
Division 1	Preliminary	
53AJ	Purpose of pt 2. . . . .	30
53AK	Application of pt 2. . . . .	30
Division 2	Application of provisions	
53AL	Provision about plans under the Water Supply Act—generally . . . . .	30
53AM	Provision about strategic asset management plan. . .	31
53AN	Provision about system leakage management plan. . .	31
53AO	Provision about drinking water service. . . . .	32
53AP	Provision about service areas—before water netserv plan is in effect . . . . .	33
53AQ	Provision about service areas—after water netserv plan is in effect . . . . .	33
53AR	Provision about recycled water management plan. . .	34
Part 3	Charges for water services and wastewater services	
53AS	Application of pt 3. . . . .	34
53AT	Interest . . . . .	35
53AU	Overdue charge is owing by any owner of the premises . . . . .	35
53AV	Charge on premises for overdue charge, CPI indexation and costs ordered . . . . .	35
53AW	Quarterly CPI indexation for distributor-retailer's charge . . . . .	36
53AX	Registration of charge and effect of registration. . . . .	37
Part 4	Miscellaneous provisions	
53AY	Authority to acquire land. . . . .	37
53AZ	Code supersedes customer service standards . . . . .	38

53BA	Ownership of water infrastructure that becomes part of land . . . . .	38
Chapter 2B	Water infrastructure provisions for distributor-retailers	
Part 1	Preliminary	
53BB	What is water infrastructure and water infrastructure work . . . . .	39
53BC	What is a public entity . . . . .	39
53BD	Publicly-controlled places and their public entities . . .	40
53BE	What is a road and a State-controlled road . . . . .	41
53BF	What are road works . . . . .	41
53BG	Meaning of location on a road . . . . .	42
Part 2	Carrying out water infrastructure work on publicly-controlled places	
Division 1	When work may be carried out	
53BH	Right to carry out work on publicly-controlled place . .	42
53BI	Requirements for carrying out work . . . . .	43
53BJ	Obtaining public entity's approval . . . . .	43
53BK	Conditions of approval . . . . .	44
Division 2	Obligations in carrying out work	
53BL	Application of div 2 . . . . .	44
53BM	Guarding. . . . .	44
53BN	Warning signs on roads . . . . .	45
53BO	General obligations in carrying out work . . . . .	45
53BP	Maintenance. . . . .	46
Division 3	Work directions	
53BQ	Power to give work direction. . . . .	46
53BR	Compliance with work direction . . . . .	47
53BS	Costs of carrying out directed work . . . . .	47
Part 3	Public entity work	
53BT	Application of pt 3. . . . .	48
53BU	Requirement to consult if water infrastructure affected . . . . .	48
53BV	Power to require consequential work . . . . .	48
53BW	Compliance with consequential work requirement . . .	49
53BX	Costs of carrying out required consequential work . .	49
Part 4	Water infrastructure interfering with publicly-controlled place	

Contents

---

53BY	Application of pt 4. . . . .	50
53BZ	Remedial action by public entity in emergency . . . . .	50
53CA	Power to require remedial action . . . . .	50
53CB	Compliance with remedial action requirement . . . . .	50
53CC	Costs of taking required remedial action . . . . .	50
Part 5	Water infrastructure work and roads	
53CD	Application of pt 5. . . . .	51
53CE	Record obligation . . . . .	51
53CF	Obligation to give public entity information . . . . .	51
53CG	Exclusion of liability for particular damage by public entity to water infrastructure. . . . .	51
53CH	Liability for additional public entity road work expenses . . . . .	52
53CI	Distributor-retailer and public entity may share costs. . . . .	53
Part 6	Miscellaneous provision	
53CJ	Compensation . . . . .	54
Chapter 2C	Trade waste provisions for distributor-retailers	
Part 1	General provisions about trade waste officers	
53CK	Appointment and other provisions . . . . .	54
53CL	Functions . . . . .	55
Part 2	Powers of trade waste officers	
Division 1	General powers for entering places	
53CM	General powers of entry. . . . .	56
Division 2	Entry to take trade waste compliance action	
53CN	Power to enter . . . . .	56
Division 3	Approved inspection programs	
53CO	Power to enter place subject to approved inspection program . . . . .	57
53CP	Approving an inspection program. . . . .	57
53CQ	Content of public notice and access requirements. . . . .	58
Division 4	Obtaining warrants	
53CR	Application for warrant . . . . .	59
53CS	Issue of warrant . . . . .	60
53CT	Application by electronic communication and duplicate warrant . . . . .	61
53CU	Defect in relation to a warrant. . . . .	63
Division 5	Procedure for entries	

	53CV	Entry with consent . . . . .	63
	53CW	Entry under warrant . . . . .	64
	53CX	Other entries. . . . .	65
	Division 6	Powers after entry	
	53CY	Application of div 6 . . . . .	66
	53CZ	General powers after entry. . . . .	66
	53DA	Failure to help trade waste officer . . . . .	67
	Division 7	Power to require name and address in connection with trade waste	
	53DB	Application of div 7 . . . . .	67
	53DC	Power to require name and address . . . . .	68
	53DD	Power to require evidence of name or address . . . . .	68
	53DE	Exception if trade waste offence not proved. . . . .	68
	Division 8	Safeguards	
	53DF	Duty to avoid damage. . . . .	68
	53DG	Notice of damage . . . . .	69
	53DH	Content of notice of damage . . . . .	69
	53DI	Compensation from distributor-retailer to owner or occupier . . . . .	70
	Part 3	Trade waste compliance notices	
	53DJ	Who may give a trade waste compliance notice. . . . .	70
	53DK	Requirements for trade waste compliance notice. . . . .	71
	53DL	Offence to contravene trade waste compliance notice . . . . .	72
	53DM	Action distributor-retailer may take if trade waste compliance notice contravened . . . . .	72
	53DN	Recovery of costs of trade waste compliance action . . . . .	73
10		Omission of s 55 (Period of transfer schemes). . . . .	73
11		Amendment of s 56 (Particular matters scheme may provide for)	73
12		Insertion of new s 56A . . . . .	74
	56A	Period of transfer schemes. . . . .	74
13		Amendment of s 58 (Requirements for certification statement) . . . . .	74
14		Amendment of s 69 (Disclosure and use for transition of information) . . . . .	75
15		Amendment of s 73 (Acquisitions interrupted by transfer scheme or notice) . . . . .	75
16		Replacement of ch 3, pt 3, div 2, sdiv 3 (Development approvals and infrastructure agreements) . . . . .	75

Contents

---

	Subdivision 3	Infrastructure agreements	
	77	Application of sdiv 3 . . . . .	76
	77A	Novation for unbundled agreements. . . . .	76
	77B	Bundled agreements—terms relating solely to water aspects . . . . .	77
	77C	Bundled agreement—mixed rights . . . . .	77
	77D	Bundled agreement—mixed liabilities . . . . .	78
	77E	Negotiation about mixed rights and liabilities . . . . .	79
	77F	Other necessary changes to be made for transition. . . . .	80
	77G	Other party's rights and liabilities not affected . . . . .	80
	77H	Provision for things done under agreement before the transfer . . . . .	80
	Subdivision 3A	Other matters under Acts about planning	
	77I	Application of sdiv 3A . . . . .	81
	77J	Transfer of liability in particular circumstance. . . . .	82
	77K	Provisions for sharing benefit of liability not solely for water infrastructure. . . . .	82
	77L	Changes in references under relevant action. . . . .	83
17		Insertion of new ch 3, pt 3, div 2, sdiv 5 . . . . .	83
	Subdivision 5	Planning schemes and declared master planned areas	
	78A	Application of planning schemes for development in SEQ region. . . . .	83
	78B	Distributor-retailer is participating agency . . . . .	83
18		Amendment of s 93 (Minister's power to make code). . . . .	85
19		Amendment of s 94 (Particular matters code may provide for) . . . . .	85
20		Insertion of new s 94A . . . . .	85
	94A	Obligation to comply with code. . . . .	85
21		Insertion of new ch 4, pt 4 and new chs 4A and 4B. . . . .	86
	Part 4	Interim customer service provisions	
	Division 1	General provisions about standards of customer service	
	99AA	Application of pt 4. . . . .	86
	99AB	Interim application of relevant service standards for each constituent area. . . . .	86
	99AC	Application of complaints standard. . . . .	87
	99AD	Customer service charter. . . . .	87
	99AE	Access to customer service charter. . . . .	88

99AF	Obligation to comply with part .....	88
Division 2	Meters	
Subdivision 1	General provisions	
99AG	Meters must be read annually .....	88
99AH	Methods of charging .....	89
99AI	Special meter readings .....	89
Subdivision 2	Meter tests	
99AJ	Meter accuracy test at customer's request .....	89
99AK	When meter taken to register accurately .....	90
99AL	Extent of inaccuracy .....	90
99AM	Notice of test results .....	90
99AN	Refund and adjustment if inaccuracy .....	91
99AO	Using testing instruments .....	91
Division 3	Security and charges	
Subdivision 1	Restrictions on requesting security	
99AP	Security may only be requested if subdivision complied with .....	91
99AQ	Residential customers .....	92
99AR	Non-residential customers .....	92
99AS	Maximum security that may be requested .....	93
Subdivision 2	Restricting water supply	
99AT	Restricting water supply for not paying charges or giving security .....	93
Division 4	Accounts	
99AU	Application of div 4 .....	94
99AV	Matters required to be stated in account .....	94
99AW	Requirements for accounts included in rates notice ..	95
Division 5	Miscellaneous provision	
99AX	New owner's obligation to notify distributor-retailer ..	96
Chapter 4A	SEQ design and construction code	
Part 1	General provisions about code	
99AY	What is the SEQ design and construction code .....	97
99AZ	Requirement to have code .....	97
99BA	Particular matters for code .....	97
Part 2	Process for making or amending code	
99BB	Public notice about availability of draft code .....	98

Contents

	99BC	Preparing final code . . . . .	99
	99BD	Adopting code . . . . .	99
	99BE	When code has effect. . . . .	99
	99BF	Amendment of code . . . . .	99
	Part 3	Minister's powers in relation to code	
	99BG	Power of Minister to direct distributor-retailer to take action about code. . . . .	100
	99BH	Power of Minister if distributor-retailer does not comply with direction . . . . .	101
	Part 4	Miscellaneous	
	99BI	Commission to keep copies of code available for inspection . . . . .	101
	Chapter 4B	Water netserv plans	
	Part 1	General provisions	
	99BJ	Requirement for distributor-retailer to have plan . . . .	102
	99BK	Plan to be consistent with SEQ regional plan and planning assumptions. . . . .	102
	99BL	Requirement for distributor-retailer to review plan . . .	102
	Part 2	Purposes, form and content of plan	
	99BM	Purposes of plan . . . . .	103
	99BN	Form of plan . . . . .	104
	99BO	Content of part A of plan . . . . .	104
	99BP	Content of part B of plan . . . . .	106
	Part 3	Particular provisions about plans	
	99BQ	Matters distributor-retailer must have regard to in making plan . . . . .	108
	Part 4	Process for making or amending plans	
	99BR	Process for making or amending plan . . . . .	109
	99BS	Content of regulation for making or amending plan . .	109
22		Insertion of new ch 5, pt 1 and pt 2 hdg . . . . .	110
	Part 1	Public access to information	
	99BT	Meaning of available for inspection and purchase . . .	111
	99BU	Keeping particular documents available for inspection and purchase . . . . .	111
	99BV	Distributor-retailer may charge for copies of documents . . . . .	112
23		Insertion of new ss 100A–100F . . . . .	113

	100A	Trade waste management plans and plans for managing wastewater services . . . . .	113
	100B	Distributor-retailer to prepare statement about capital works . . . . .	114
	100C	Commission may make guidelines . . . . .	114
	100D	Application of Water Supply Act internal and external review provisions for decisions under Act. . . . .	115
	100E	Offences against Act are summary . . . . .	116
	100F	Application of Water Supply Act enforcement provisions for particular offences . . . . .	116
24		Amendment of s 102 (Regulation-making power) . . . . .	117
25		Insertion of new ch 6, pt 1 hdg . . . . .	117
26		Omission of s 105 (Application of customer service standards until code commences) . . . . .	118
27		Insertion of new ch 6, pt 2 . . . . .	118
	Part 2	Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010	
	108	Public entity approvals taken to be given for existing water infrastructure work . . . . .	118
	109	Deferral of distributor-retailer's liability for additional public entity road work expenses . . . . .	119
	110	Existing authorised persons . . . . .	119
28		Amendment of schedule (Dictionary) . . . . .	120
	<b>Part 3</b>	<b>Amendment of Community Ambulance Cover Act 2003</b>	
29		Act amended . . . . .	126
30		Insertion of new s 371A . . . . .	126
	371A	SEQ water distributor-retailer exemption . . . . .	126
31		Insertion of new s 50A . . . . .	126
	50A	SEQ water distributor-retailer exemption . . . . .	126
32		Insertion of new s 62A . . . . .	127
	62A	SEQ water distributor-retailer exemption . . . . .	127
33		Amendment of schedule (Dictionary) . . . . .	127
	<b>Part 4</b>	<b>Amendment of Environmental Protection Act 1994</b>	
34		Act amended . . . . .	127
35		Amendment of s 310C (Requirements for application). . . . .	127
36		Amendment of s 310D (Environmental management plan) . . . . .	128

Contents

---

37	Amendment of s 310U (Requirements for amendment application) . . . . .	129
38	Amendment of s 312E (Other amendments) . . . . .	130
39	Insertion of new s 316A . . . . .	130
	316A Particular requirement for annual return for CSG environmental authority . . . . .	130
40	Insertion of new ch 13, pt 15 . . . . .	131
	Part 15 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010	
	660 Definitions for pt 15. . . . .	131
	661 Temporary prohibition on constructing CSG evaporation dams under existing CSG authority . . . . .	131
	662 Revised (CSG) EM plan required for existing CSG authority . . . . .	132
	663 First annual return for existing CSG authority . . . . .	133
41	Amendment of sch 4 (Dictionary) . . . . .	133
	<b>Part 4A Amendment of Nature Conservation Act 1992</b>	
41A	Act amended . . . . .	133
41B	Amendment of s 27 (Prohibition on mining and GHG storage activities) . . . . .	133
	<b>Part 5 Amendment of Plumbing and Drainage Act 2002</b>	
42	Act amended . . . . .	134
43	Amendment of s 83 (Compliance permit required for certain regulated work or any on-site sewerage work) . . . . .	134
44	Amendment of s 84 (Regulated work or on-site sewerage work by a public sector entity) . . . . .	134
45	Amendment of s 85 (Process for assessing plans) . . . . .	135
46	Insertion of new s 85A . . . . .	136
	85A Participating local government to give documents or information to distributor-retailer. . . . .	136
47	Amendment of s 85B (Restrictions on giving compliance permit for greywater use facility in a seweraged area) . . . . .	136
48	Amendment of s 86 (General process for assessing regulated work and on-site sewerage work) . . . . .	137
49	Insertion of new s 86AA . . . . .	138
	86AA Participating local government to give documents or information to distributor-retailer. . . . .	138
50	Amendment of s 86C (Conditions of compliance certificate) . . . . .	139

51	Amendment of s 87 (Minor work) . . . . .	139
52	Amendment of s 126 (Restriction on building or installing greywater use facility) . . . . .	140
53	Amendment of s 128G (Owner's obligation to maintain plumbing and drainage and on-site sewerage facility) . . . . .	140
54	Amendment of s 128PA (Offence about using greywater) . . . . .	140
55	Amendment of s 143B (Local government's monitoring obligations for greywater use facilities in seweraged areas) . . . . .	140
56	Omission of s 143D (Local government advice to regulator about greywater treatment plant) . . . . .	141
57	Insertion of new pt 10, div 7 . . . . .	141
	Division 7 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010	
	Subdivision 1 Provisions for greywater treatment plants at particular hospitals	
184	Chief executive approval of particular greywater treatment plant . . . . .	141
185	Relevant compliance certificate conditions for particular regulated work . . . . .	141
	Subdivision 2 Other provisions	
186	Policies about installation and location of meters. . . . .	142
187	Amendment of regulation does not affect power of Governor in Council . . . . .	143
58	Amendment of schedule (Dictionary) . . . . .	143
<b>Part 6</b>	<b>Amendment of Public Service Act 2008</b>	
59	Act amended . . . . .	144
60	Amendment of sch 1 (Public service offices and their heads) . . . . .	144
<b>Part 7</b>	<b>Amendment of Standard Plumbing and Drainage Regulation 2003</b>	
61	Regulation amended . . . . .	145
62	Amendment of s 14C (Additional requirements for plans for greywater use facilities not in a seweraged area) . . . . .	145
63	Amendment of s 14D (Additional requirements for plans for on-site sewerage facilities) . . . . .	145
<b>Part 8</b>	<b>Amendment of Sustainable Planning Act 2009</b>	
64	Act amended . . . . .	146
65	Amendment of s 120 (When planning scheme, temporary local planning instrument and amendments have effect) . . . . .	146

Contents

---

66	Amendment of s 249 (When assessment manager also has jurisdiction as concurrence agency) . . . . .	146
67	Amendment of s 628 (Local government must review its priority infrastructure plan every 5 years) . . . . .	146
68	Replacement of s 677 (Representations about notice) . . . . .	147
	677 Representations about notice . . . . .	147
69	Insertion of ch 9, pt 7A . . . . .	147
	Part 7A Provisions for distributor-retailers	
	Division 1 Preliminary	
	755A Definitions for pt 7A . . . . .	147
	755B Purpose of pt 7A . . . . .	148
	755C Application of pt 7A . . . . .	149
	Division 2 Dealing with development applications—generally	
	755D Application of particular assessment rules . . . . .	149
	Division 3 Dealing with development applications (distributor-retailer)	
	755E Decision notice or negotiated decision notice for development application (distributor-retailer) . . . . .	149
	755F Local government to give notices to distributor-retailer . . . . .	150
	Division 4 Compliance assessment	
	755G Compliance assessment—local government as compliance assessor . . . . .	150
	755H Compliance assessment—nominated entity as compliance assessor . . . . .	152
	755I Notice about compliance permits and compliance certificates . . . . .	153
	Division 5 Infrastructure funding and planning for distributor-retailers	
	Subdivision 1 Conditions about non-trunk infrastructure and funding trunk infrastructure—general	
	755J Conditions about non-trunk infrastructure . . . . .	154
	755K Funding trunk infrastructure . . . . .	154
	755L Agreements about, and alternatives to, paying infrastructure charge . . . . .	156
	755M Agreements about, and alternatives to, paying regulated infrastructure charge . . . . .	157
	755N Distributor-retailer may supply different trunk infrastructure from that identified in a priority infrastructure plan. . . . .	158

	Subdivision 2	Application of particular provisions of ch 8	
	755O	Application of particular provisions—generally. . . . .	158
	755P	Application of ss 636 and 646 . . . . .	158
	755Q	Application of s 649 . . . . .	159
	755R	Application of s 650 . . . . .	159
	755S	Application of s 651 . . . . .	160
	Subdivision 3	Amending SEQ infrastructure charges schedule	
	755T	Amending SEQ infrastructure charges schedule . . . .	160
	Division 6	Provisions about appeals	
	755U	Appeals for development application (distributor-retailer) . . . . .	162
	755V	Appeals about requests for compliance assessment .	162
	755W	Appeals about infrastructure charge or regulated infrastructure charge . . . . .	163
70		Amendment of sch 3 (Dictionary) . . . . .	163
<b>Part 9</b>		<b>Amendment of Sustainable Planning Regulation 2009</b>	
71		Regulation amended . . . . .	164
72		Amendment of sch 7 (Referral agencies and their jurisdictions) .	164
73		Amendment of sch 19 (Compliance assessment of subdivision plans) . . . . .	165
74		Amendment of sch 26 (Dictionary) . . . . .	166
<b>Part 10</b>		<b>Amendment of Transport Infrastructure Act 1994</b>	
75		Act amended . . . . .	166
76		Amendment of s 77 (Application of div 3) . . . . .	166
<b>Part 11</b>		<b>Amendment of Water Act 2000</b>	
77		Act amended . . . . .	166
78		Amendment of s 25F (Regulation about water supply emergency) . . . . .	167
79		Amendment of s 105 (General provision for amending resource operations plan) . . . . .	167
80		Amendment of s 105A (Amendment to provide for deferred aspect) . . . . .	168
81		Amendment of s 106 (Minor or stated amendments of resource operations plan) . . . . .	168
82		Insertion of new ch 2, pt 4, div 2, sdiv 3 . . . . .	168
	Subdivision 3	Continuation of resource operations plans	

Contents

---

	106A	Continuation of resource operations plan for new water resource plan . . . . .	168
83		Insertion of new ch 2A, pt 2, div 4A . . . . .	169
	Division 4A	Chief executive officer	
	357	Appointment . . . . .	169
	358	Conditions of appointment . . . . .	170
	359	Functions . . . . .	170
	360	Provisions for performance of functions . . . . .	170
	360A	Conflicts of interest . . . . .	170
	360AA	Delegation by commission CEO . . . . .	171
	360AB	Resignation . . . . .	171
	360AC	Ending of appointment . . . . .	171
	360AD	Acting commission CEO . . . . .	171
	360AE	Preservation of rights as public service officer . . . . .	172
	360AF	Superannuation if previously a public service officer . . . . .	172
84		Replacement of s 360B (Commission's staff) . . . . .	172
	360B	Commission's staff . . . . .	172
85		Replacement of s 360I (Advice to Minister on options) . . . . .	173
	360I	Advice to Minister about options . . . . .	173
86		Amendment of s 360T (Information may be required from water service providers) . . . . .	173
87		Amendment of s 360Z (Amendment of plan) . . . . .	174
88		Insertion of new s 360ZCAD . . . . .	174
	360ZCAD	Definition for div 3. . . . .	174
89		Amendment of s 360ZCA (Purpose and application of division) . . . . .	174
90		Amendment of s 360ZCB (When water efficiency management plan may be required) . . . . .	175
91		Replacement of s 360ZCC (Content of water efficiency management plan) . . . . .	176
	360ZCC	Guidelines and content requirements for water efficiency management plans . . . . .	176
92		Amendment of s 360ZCD (Approving water efficiency management plan) . . . . .	177
93		Amendment of s 360ZCF (Reporting under water efficiency management plan) . . . . .	177
94		Amendment of 360ZCG (Amending or replacing water efficiency management plan by commission direction) . . . . .	178
95		Amendment of s 360ZCH (Amending or replacing water efficiency management plan by water service provider direction) . . . . .	178

96	Amendment of s 360ZCI (Amending or replacing water efficiency management plan by request) . . . . .	178
97	Amendment of s 360ZCJ (Notice to comply with water efficiency management plan) . . . . .	179
98	Amendment of s 360ZCK (Reviewing water efficiency management plans) . . . . .	179
99	Insertion of new ss 360ZCKA–360ZCKC . . . . .	179
	360ZCKA Applying for cancellation of approved water efficiency management plan. . . . .	180
	360ZCKB Administration fee. . . . .	180
	360ZCKC Delegation by commission of functions for water efficiency management plans. . . . .	181
100	Amendment of s 360ZCY (Content of market rules) . . . . .	181
101	Replacement of ch 2A, pt 5A, div 3, sdiv 2 (Grid contract documents and registered grid participants) . . . . .	182
	Subdivision 2 Default grid contract	
	360ZDD Minister may make default grid contract. . . . .	183
	360ZDDA Access to default grid contract . . . . .	183
	360ZDDB Effect of default grid contract . . . . .	184
	Subdivision 2A Negotiated grid contracts	
	360ZDDC Power to negotiate grid contract. . . . .	185
	360ZDDD Consultation required with other affected grid service providers. . . . .	185
	360ZDDE Effect of negotiated grid contract on contracts of other affected grid service providers . . . . .	187
	360ZDDF Negotiated contract prevails over non-market contracts between same parties. . . . .	187
	360ZDDG Notice of negotiated grid contracts to rules administrator . . . . .	187
	360ZDDH Register of negotiated grid contracts . . . . .	188
	Subdivision 2B Contract required for supply of declared water services	
	360ZDDI Grid service providers . . . . .	189
	360ZDDJ Grid customers. . . . .	189
102	Amendment of s 360ZDI (Limited liability of grid participant). . . . .	189
103	Amendment of s 360ZE (Notice of commission water restriction must be given) . . . . .	190
104	Amendment of s 360ZG (Delegation of particular functions for commission water restrictions) . . . . .	191

Contents

105	Amendment of s 692 (Public notice of proposed amalgamation or dissolution) . . . . .	192
106	Insertion of new s 706 . . . . .	192
	706 Non-liability for State taxes . . . . .	192
107	Amendment of s 739 (Appointment and qualifications of authorised officers) . . . . .	193
108	Amendment of s 740 (Functions and powers of authorised officers) . . . . .	193
109	Amendment of s 741 (Conditions of appointment of authorised officers) . . . . .	194
110	Amendment of s 742 (Authorised officer's identity card) . . . . .	194
111	Amendment of s 743 (Failure to return identity card) . . . . .	194
112	Insertion of new s 748A . . . . .	194
	748A Power of entry for monitoring commission water restrictions and water efficiency management plans . . . . .	194
113	Amendment of s 749 (Power to enter places for other purposes) . . . . .	195
114	Amendment of s 932 (Who may bring proceedings for offences) . . . . .	195
115	Amendment of s 1014 (Regulation-making power) . . . . .	196
116	Omission of s 1141 (Existing regional water supply strategies) . . . . .	196
117	Insertion of new ch 9, pt 5, div 15 . . . . .	196
	Division 15 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010	
	Subdivision 1 Provisions for water efficiency management plans	
	1173 Definitions for sdiv 1 . . . . .	197
	1174 Application of s 360ZCB . . . . .	197
	1175 Particular notices to prepare water efficiency management plans . . . . .	197
	1176 Approved water efficiency management plans for water service providers in SEQ region . . . . .	198
	Subdivision 2 Other provisions	
	1177 First commission CEO . . . . .	198
	1178 Grid contract documents become negotiated grid contracts . . . . .	199
118	Amendment of sch 4 (Dictionary) . . . . .	199
<b>Part 12</b>	<b>Amendment of Water Supply (Safety and Reliability) Act 2008</b>	
119	Act amended . . . . .	200

120	Amendment of s 41 (Restricting water supply) . . . . .	201
121	Amendment of s 54 (Approving water efficiency management plan) . . . . .	201
122	Amendment of s 95 (Preparing drinking water quality management plan) . . . . .	201
123	Replacement of ch 2, pt 4, div 3, sdiv 3, hdg (Miscellaneous) . . . . .	201
124	Replacement of s 102 (Notice of particular matter) . . . . .	202
	102AA Application of sdiv 3 . . . . .	202
	102 Notice of noncompliance with water quality criteria . . . . .	202
	102A Notice of prescribed incident . . . . .	203
	102B Self-incrimination not a reasonable excuse for sdiv 3 . . . . .	203
125	Amendment of s 123 (Preparing drought management plans) . . . . .	204
126	Replacement of s 125 (Submitting drought management plan for registration) . . . . .	204
	125 Submitting drought management plan for registration . . . . .	204
127	Omission of s 131 (Tabling in Legislative Assembly) . . . . .	204
128	Amendment of s 138 (Guidelines for rate notice or account for supply of water to residential premises) . . . . .	205
129	Amendment of s 142 (Contents of annual report) . . . . .	205
130	Amendment of s 167 (Owner may ask for connection to service provider's infrastructure) . . . . .	205
131	Amendment of s 180 (Trade waste approvals) . . . . .	205
132	Amendment of s 181 (Approval may be conditional) . . . . .	206
133	Amendment of s 182 (Criteria for suspending or cancelling trade waste approval) . . . . .	206
134	Amendment of s 183 (Suspending or cancelling trade waste approval) . . . . .	207
135	Amendment of s 184 (Immediate suspension or cancellation) . . . . .	207
136	Amendment of s 185 (Amending trade waste approval) . . . . .	207
137	Amendment of s 193 (Discharging particular materials) . . . . .	208
138	Amendment of s 201 (Preparing particular plans) . . . . .	208
139	Amendment of s 206 (Notice of decision) . . . . .	208
140	Amendment of s 250 (Application for exemption) . . . . .	209
141	Replacement of ss 270–272. . . . .	210
	Division 1 Reporting requirements	
	270AA Application of div 1 . . . . .	210
	270 Notice of noncompliance with water quality criteria . . . . .	210
	271 Notice of prescribed incidents . . . . .	211

Contents

	272	Self-incrimination not a reasonable excuse for div 1 .	212
		Division 2 Annual reports	
	273	Annual reporting requirement . . . . .	213
	274	Sections 274–299 not used . . . . .	214
142		Amendment of s 301 (Making declaration). . . . .	214
143		Amendment of s 304 (Notice of declaration) . . . . .	214
144		Amendment of s 330 (Notice to local government) . . . . .	214
145		Amendment of s 331 (Report about compliance with notice). . . . .	215
146		Replacement of s 333 (Sections 333–339 not used) . . . . .	215
	333	Requirement for certain entities to give information to scheme manager . . . . .	216
	334	Sections 334–339 not used . . . . .	216
147		Replacement of s 340 (Definition for pt 1) . . . . .	216
	340	Ch 4 does not apply to particular dams . . . . .	216
148		Amendment of s 341 (What is a referable dam). . . . .	217
149		Amendment of s 343 (When dam must be failure impact assessed) . . . . .	217
150		Amendment of s 344 (Process for failure impact assessment) . . . . .	218
151		Amendment of s 345 (Requirement for other failure impact assessments) . . . . .	219
152		Amendment of s 348 (Cost of failure impact assessment) . . . . .	219
153		Amendment of s 350 (Notice accepting failure impact assessment) . . . . .	219
154		Amendment of s 355 (Process after deciding safety conditions) . . . . .	220
155		Insertion of new s 357A . . . . .	220
	357A	Chief executive may engage person to provide information . . . . .	221
156		Insertion of new ch 4, pt 1, div 4, sdiv 1 hdg . . . . .	221
157		Amendment of s 358 (Application of div 4). . . . .	221
158		Insertion of new ch 4, pt 1, div 4, sdiv 2 hdg . . . . .	222
		Subdivision 2 Chief executive may give direction or take action about failure of dam’.	
159		Amendment of s 359 (Direction to owner of emergency part of land) . . . . .	222
160		Insertion of new s 359A, and ch 4, pt 1, div 4, sdiv 3 hdg . . . . .	222
	359A	Taking immediate action about failure of dam . . . . .	222
161		Replacement of s 360 (Failure to comply with notice) . . . . .	224
	360	Notice for recovering expenses . . . . .	224

162	Amendment of s 361 (Notice in relation to land other than leases State land) . . . . .	225
163	Amendment of s 362 (Notice in relation to leased State land) . . .	225
164	Insertion of new ch 4, pt 1, div 4, sdiv 4 hdg . . . . .	225
165	Amendment of s 363 (Emergency powers if imminent danger of dam failure). . . . .	226
166	Replacement of s 365 (Sections 365-369 not used) . . . . .	226
	365 Cancellation of development permit for decommissioned dam . . . . .	226
	366 Sections 366-369 not used. . . . .	226
167	Amendment of s 510 (Who is an interested person) . . . . .	227
168	Amendment of s 512 (Who may apply for review) . . . . .	227
169	Amendment of s 514 (Review decision) . . . . .	227
170	Amendment of s 561 (Development applications for referable dams) . . . . .	227
171	Amendment of s 571 (Regulator may make guidelines). . . . .	227
172	Amendment of s 572 (Chief executive may make guidelines) . . .	228
173	Amendment of s 576 (Documents recycled water provider must keep available for inspection and purchase) . . . . .	228
174	Amendment of s 579 (Regulator may share particular information) . . . . .	229
175	Insertion of new s 579A . . . . .	230
	579A Chief executive may share particular information. . . .	230
176	Amendment of s 580 (Non-disclosure of commercially sensitive information) . . . . .	230
177	Amendment of s 631 (Application of particular provisions—existing schemes) . . . . .	231
178	Amendment of s 632 (Application of particular provisions—schemes supplying recycled water for particular purposes) . . . . .	231
179	Amendment of s 633 (Application of particular provisions—other schemes) . . . . .	231
180	Replacement of ch 10 hdg (Transitional provision for Sustainable Planning Act 2009) . . . . .	232
	Chapter 10 Other transitional provisions	
181	Replacement of ch 10A hdg (Transitional provision for South-East Queensland Water (Distribution and Retail Restructuring) Act 2009)	232
182	Insertion of new ch 10, pt 3 . . . . .	232
	Part 3 Transitional provisions for South-East Queensland Water (Distribution and Retail	

Contents

---

		Restructuring) and Other Legislation Amendment Act 2010	
	638	Provision for carrying out particular failure impact assessments . . . . .	233
	639	Service provider water restrictions . . . . .	234
183		Amendment of sch 3 (Dictionary) . . . . .	234



## Queensland

### **South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

#### **Act No. 20 of 2010**

---

**An Act to amend the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, Community Ambulance Cover Act 2003, Environmental Protection Act 1994, Nature Conservation Act 1992, Plumbing and Drainage Act 2002, Public Service Act 2008, Standard Plumbing and Drainage Regulation 2003, Sustainable Planning Act 2009, Sustainable Planning Regulation 2009, Transport Infrastructure Act 1994, Water Act 2000 and the Water Supply (Safety and Reliability) Act 2008 for particular purposes**

**[Assented to 23 May 2010]**

## The Parliament of Queensland enacts—

# Part 1 Preliminary

## 1 Short title

This Act may be cited as the *South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010*.

## 2 Commencement

(1) The following provisions of this Act commence on 1 July 2010—

- (a) section 9, to the extent it inserts the following—
  - (i) chapter 2A, part 1, division 2;
  - (ii) chapter 2A, parts 3 and 4;
  - (iii) chapters 2B and 2C;
- (b) sections 16 to 20, 22, 23, 25 to 27 and 78;
- (c) section 21, other than to the extent it inserts sections 99AD and 99AE;
- (d) parts 3 and 7 to 10.

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

- (a) part 4;
- (b) sections 101 and 102;
- (c) section 117, to the extent it inserts section 1178;
- (d) section 118, to the extent it inserts the definitions *default grid contract*, *mandatory term*, *negotiated grid contract*, *non-market contract* and *rules administrator*.



- (g) anything else likely to complement or enhance a function mentioned in paragraphs (a) to (f).’.

## **6 Insertion of new s 17A**

After section 17—

*insert—*

### **‘17A Information Privacy Act 2009**

‘A distributor-retailer is taken to be an agency under the *Information Privacy Act 2009*.’.

## **7 Insertion of new s 18A**

After section 18—

*insert—*

### **‘18A Penalties and Sentences Act 1992**

‘A distributor-retailer is taken to be a corporation for the *Penalties and Sentences Act 1992*.’.

## **8 Amendment of s 53 (Delegation)**

- (1) Section 53(4), after ‘functions’—

*insert—*

‘, including a function delegated to the chief executive officer.’.

- (2) Section 53(5)—

*renumber* as section 53(11).

- (3) Section 53—

*insert—*

- ‘(5) Without limiting subsection (1)—

- (a) a distributor-retailer must, for the period ending 30 June 2013, delegate—

- (i) its functions as a concurrence agency for a development application to its relevant participating local government; and
    - (ii) its functions under the Planning Act, chapter 9, part 7A, division 4 to its relevant participating local government; and
  - (b) a distributor-retailer may delegate its functions under the Planning Act, chapter 9, part 7A, division 5 to its relevant participating local governments; and
  - (c) a distributor-retailer may delegate to its participating local governments its functions as a service provider under the Water Supply Act relating to approving connections to, disconnections from or changes to connections to, its water infrastructure.
- ‘(6) A relevant participating local government may subdelegate a function delegated to it under subsection (5) to an appropriately qualified officer or employee of the local government.
- ‘(7) A delegation under subsection (5)(a) can not be revoked, in whole or in part, by the distributor-retailer.
- ‘(8) A function delegated under subsection (5)(a) can not be performed or exercised by the distributor-retailer.
- ‘(9) Subsection (8) does not stop the distributor-retailer giving advice to a participating local government about the performance or exercise of a function delegated under subsection (5)(a).
- ‘(10) Subject to subsections (7) and (8), the *Acts Interpretation Act 1954*, section 27A applies to a delegation under subsection (5)(a).’.
- (4) Section 53(11), as renumbered under this section, definition *appropriately qualified*—  
*omit.*
- (5) Section 53(11), as renumbered under this section—  
*insert—*

*‘concurrency agency* see the Planning Act, section 251.

*relevant participating local government*, for a function of a distributor-retailer, means the distributor-retailer’s participating local government for the local government area in relation to which the function is performed or exercised.’.

## **9 Insertion of new chs 2A–2C**

After chapter 2—

*insert—*

### **‘Chapter 2A General provisions for distributor-retailers as service providers**

#### **‘Part 1 Provisions for distributor-retailers to become service providers**

##### **‘Division 1 General provisions**

###### **‘53AA Distributor-retailers become service providers**

- ‘(1) On and from 1 July 2010 all distributor-retailers become service providers for their geographic area functions.
- ‘(2) The Water Supply Act, section 20 does not apply to a distributor-retailer.
- ‘(3) A distributor-retailer continues to be a service provider from 1 July 2010 and subject to the Water Supply Act.
- ‘(4) A distributor-retailer must give the regulator the information mentioned in the Water Supply Act, section 12 about the distributor-retailer as a service provider as soon as practicable after 1 July 2010.

**‘53AB Participating local governments cease being service providers**

‘On 1 July 2010, each distributor-retailer’s participating local governments cease to be a service provider.

**‘53AC Notice to regulator not required for transfer under transition document**

‘The Water Supply Act, sections 24 and 25 do not apply to a transfer under a transition document.

**‘53AD Existing customers**

- ‘(1) This section applies to a person who, immediately before 1 July 2010, was a customer of any of a distributor-retailer’s participating local governments.
- ‘(2) On 1 July 2010 the person becomes a customer of the distributor-retailer.

**‘53AE Provision for market rules**

‘On and from 1 July 2010, a distributor-retailer is taken to be a registered grid participant in the grid customer and distribution service provider categories under the market rules under the Water Act.

**‘Division 2 Existing trade waste approvals**

**‘53AF Existing trade waste approvals**

- ‘(1) On and from July 2010 all trade waste approvals given by a distributor-retailer’s participating local governments are taken to have been given by the distributor-retailer.
- ‘(2) If before 1 July 2010—

- (a) a local government was required under the Water Supply Act, section 185(2) to give an approval holder a notice amending the holder's trade waste approval; and
  - (b) the local government has not given that notice;
- the distributor must give the notice as soon as practicable after it becomes aware of the requirement.

### **'53AG Power to amend existing trade waste approvals for particular purposes**

- '(1) This section applies for a trade waste approval that under section 53AF(1) is taken to have been given by a distributor-retailer (each an *existing trade waste approval*).
- '(2) Subject to section 53AH, the distributor-retailer may amend the trade waste approval to ensure the consistency of all trade waste approvals given for its geographic area (a *consistency amendment*).
- '(3) However, a consistency amendment can not be made after 30 June 2012.
- '(4) The distributor-retailer may, by notice, also amend the trade waste approval to make any change necessary to reflect the change from the approval being given by it instead of a participating local government.

### **'53AH Requirements for making consistency amendment**

- '(1) Before a distributor-retailer makes a consistency amendment of a trade waste approval, it must give the approval holder a show cause notice about the proposed amendment.
- '(2) If, after considering any properly made submissions by the approval holder, the distributor-retailer is still satisfied the amendment should be made, it may make the amendment by notice to the approval holder.
- '(3) Within 30 business days after making a decision under subsection (2), the distributor-retailer must give the approval holder an information notice about the decision.

- ‘(4) If, after considering any properly made submissions by the approval holder, the distributor-retailer is not satisfied the amendment should be made, it must give the approval holder a notice about the decision.
- ‘(5) A decision under subsection (2), takes effect on the later of the following—
- (a) the day the information notice is received by the approval holder;
  - (b) the day stated in the notice.
- ‘(6) In this section—
- show cause notice* means a notice that complies with the Water Supply Act, section 463.

## ‘Division 3                    Provision of information

### ‘53AI    Authorised exchange of information

- ‘(1) A distributor-retailer and its participating local governments may exchange information with each other if the exchange is necessary or desirable for the distributor-retailer to perform its geographic area functions.
- ‘(2) However, information can not be exchanged under subsection (1) after 1 July 2013.
- ‘(3) This section is subject to the *Information Privacy Act 2009* and the *Right to Information Act 2009*.

## **‘Part 2                      Application of particular Water Supply Act provisions to distributor-retailers**

### **‘Division 1                      Preliminary**

#### **‘53AJ Purpose of pt 2**

‘The purpose of this part is to provide for matters about the application of particular provisions of the Water Supply Act in relation to the carrying on of a water service or wastewater service by a distributor-retailer after 1 July 2010.

#### **‘53AK Application of pt 2**

‘This part does not limit or otherwise affect the application of the Water Supply Act to a distributor-retailer other than to the extent stated in division 2.

### **‘Division 2                      Application of provisions**

#### **‘53AL Provision about plans under the Water Supply Act—generally**

- ‘(1) On and from 1 July 2010, the following provisions of the Water Supply Act do not apply to a distributor-retailer—
- (a) sections 106 to 109, other than to the extent the sections provide for any matter about the distributor-retailer’s drinking water quality management plan under that Act;
  - (b) chapter 2, part 4, division 6.
- ‘(2) The following provisions of the Water Supply Act do not apply to a distributor-retailer that has a water netserv plan—
- (a) chapter 2, part 4, divisions 1 and 2;

- (b) chapter 2, part 4, division 4, other than to the extent the division provides for any matter about the distributor-retailer's drinking water quality management plan under that Act.

### **'53AM Provision about strategic asset management plan**

- '(1) This section applies to a distributor-retailer—
  - (a) on 1 July 2010; and
  - (b) until the day the distributor-retailer has a water netserv plan.
- '(2) For the Water Supply Act, chapter 2, part 4, division 1, the existing strategic asset management plans for the registered services of a participating local government for the distributor-retailer are taken to be the distributor-retailer's approved strategic asset management plans.
- '(3) The Water Supply Act, sections 73 and 74 do not apply to the distributor-retailer.
- '(4) In this section—
  - approved strategic asset management plan* means an approved strategic asset management plan under the Water Supply Act.
  - existing strategic asset management plan*, for a registered service of a participating local government, means an approved strategic asset management plan of the local government in effect immediately before 1 July 2010.

### **'53AN Provision about system leakage management plan**

- '(1) This section applies to a distributor-retailer—
  - (a) on 1 July 2010; and
  - (b) until the day the distributor-retailer has a water netserv plan.

‘(2) For the Water Supply Act, chapter 2, part 4, division 2, the existing system leakage management plan for the water service of a participating local government for the distributor-retailer is taken to be the distributor-retailer’s approved system leakage management plan.

‘(3) The Water Supply Act, sections 82 and 87 do not apply to the distributor-retailer.

‘(4) In this section—

*approved system leakage management plan* means an approved system leakage management plan under the Water Supply Act.

*existing system leakage management plan*, for a water service of a participating local government, means the approved system leakage management plan of the local government in effect immediately before 1 July 2010.

### **‘53AO Provision about drinking water service**

‘(1) This section applies to a distributor-retailer—

(a) on 1 July 2010; and

(b) until the earlier of the following—

(i) 1 July 2011;

(ii) the day the distributor-retailer has an approved drinking water quality management plan.

‘(2) For the Water Supply Act, chapter 2, part 4, division 3, subdivision 1, the existing drinking water plan for a drinking water service of a participating local government for the distributor-retailer is taken to be the distributor-retailer’s approved drinking water quality management plan.

‘(3) In this section—

*approved drinking water quality management plan* means an approved drinking water quality management plan under the Water Supply Act.

*existing drinking water plan*, for a drinking water service of a participating local government, means the approved drinking water quality management plan of the local government in effect immediately before 1 July 2010.

**‘53AP Provision about service areas—before water netserv plan is in effect**

- ‘(1) This section applies to a distributor-retailer until the day the distributor-retailer has a water netserv plan.
- ‘(2) On 1 July 2010, the service area for a distributor-retailer as a service provider under the Water Supply Act, chapter 2, part 5, consists of the existing service areas of its participating local governments.
- ‘(3) The distributor-retailer may amend the service area by adding an area to, or removing an area from, the service area.
- ‘(4) If the distributor-retailer amends the service area, the distributor-retailer must publish a notice of the amendment in a newspaper circulating generally throughout its geographic area.
- ‘(5) In this section—  
*existing service area*, of a participating local government, means the local government’s service areas under the Water Supply Act immediately before 1 July 2010 that relate to the distributor-retailer’s water service or wastewater service.

**‘53AQ Provision about service areas—after water netserv plan is in effect**

- ‘(1) This section applies to a distributor-retailer on and from the day the distributor-retailer has a water netserv plan.
- ‘(2) The Water Supply Act, chapter 2, part 5, division 2 does not apply to the distributor-retailer.
- ‘(3) For applying the Water Supply Act, chapter 2, part 5, divisions 3 to 5, a reference in the divisions to a service area

is, for a distributor-retailer, taken to be a reference to a connection area of the distributor-retailer.

### **‘53AR Provision about recycled water management plan**

- ‘(1) This section applies to a distributor-retailer on 1 July 2010.
- ‘(2) For the Water Supply Act, chapter 3, part 2, the existing recycled water management plan for a recycled water scheme of a participating local government for the distributor-retailer is taken to be the distributor-retailer’s approved recycled water management plan under that Act.
- ‘(3) In this section—

*approved recycled water management plan* means an approved recycled water management plan under the Water Supply Act.

*existing recycled water management plan*, for a recycled water scheme of a participating local government, means the approved recycled water management plan of the local government in effect immediately before 1 July 2010.

## **‘Part 3 Charges for water services and wastewater services**

### **‘53AS Application of pt 3**

- ‘(1) This part applies if a distributor-retailer is owed all or any for the following for premises—
  - (a) a charge for water services or wastewater services provided by a distributor-retailer to the premises;
  - (b) costs the distributor-retailer may recover for the premises under the Water Supply Act, section 165.

*Editor's note—*

Water Supply Act, section 165 (Recovering cost of giving access to registered service)

- ‘(2) The amount owed for a matter mentioned in subsection (1) is the *overdue charge*.

### **‘53AT Interest**

- ‘(1) The distributor-retailer may charge interest on the overdue charge.
- ‘(2) The rate of the interest can not be more than the rate of interest local governments may charge for late payment of rates.
- ‘(3) The interest must be calculated—
- (a) on daily rests, and as compound interest; or
  - (b) in another way that the local government decides, if an equal or lower amount will be obtained.

### **‘53AU Overdue charge is owing by any owner of the premises**

- ‘(1) The overdue charge is payable by anyone who from time to time owns the premises.
- ‘(2) Subsection (1) applies whether or not the owner received the benefit of the services.
- ‘(3) Subsection (1) does not apply to any interest on the overdue charge.

### **‘53AV Charge on premises for overdue charge, CPI indexation and costs ordered**

- ‘(1) The total of the following is a charge on the premises (the *distributor-retailer's charge*)—
- (a) the overdue charge, as CPI indexed under section 53AW;

- (b) if, in a proceeding to recover the overdue charges, the court orders costs to be paid to distributor-retailer from the owner of the premises—the costs.
- ‘(2) The distributor-retailer’s charge does not include a power to sell the premises.
- ‘(3) The distributor-retailer’s charge does not secure any interest imposed under section 53AT.
- ‘(4) This section does not limit any other remedy the distributor-retailer has to recover the amount.

#### **‘53AW Quarterly CPI indexation for distributor-retailer’s charge**

- ‘(1) For section 53AV the overdue charge is taken to be CPI indexed for all quarters during which all or any part of the overdue charge continues to be owing.
- ‘(2) However, if the amount provided for under subsection (1) is an amount that is or includes a fraction of a dollar, the amount is taken to be the amount that is the nearest dollar, rounded up.
- ‘(3) For subsection (1), payments relating to the overdue charge are taken to be made first in reduction of the overdue charge before any interest on it.

- ‘(4) In this section—

***CPI*** means—

- (a) the all groups index for Brisbane published by the Australian Bureau of Statistics; or
- (b) if the index ceases to be published, another similar index prescribed under a regulation.

***CPI indexed***, for a quarter (the ***relevant quarter***), means the addition of any amount that equates to any percentage increase in the CPI between the following quarters—

- (a) the relevant quarter;
- (b) the quarter immediately before the relevant quarter.

**quarter** means a whole period of 3 months ending at the end of 31 March, 30 June, 30 September or 31 December.

### **‘53AX Registration of charge and effect of registration**

- ‘(1) The distributor-retailer may register the distributor-retailer’s charge by lodging the following documents with the registrar—
- (a) a request to register the charge, in the appropriate form;
  - (b) a certificate signed by the chief executive officer that states the distributor-retailer’s charge exists over the premises.
- ‘(2) After the charge is registered over the premises, the charge has priority over any other encumbrances over the premises, other than encumbrances in favour of—
- (a) the State; or
  - (b) a public entity.
- ‘(3) If the amount that the charge secures is paid, the distributor-retailer must lodge the following documents with the registrar—
- (a) a request to release the charge over the premises, in the appropriate form;
  - (b) a certificate signed by the chief executive officer stating the amount has been paid.

## **‘Part 4 Miscellaneous provisions**

### **‘53AY Authority to acquire land**

- ‘(1) The Acquisition of Land Act applies to a distributor-retailer as if—
- (a) it were a constructing authority; and

- (b) land mentioned in that Act included land held from the State for a lesser interest than freehold, other than a lease under the Land Act; and
  - (c) the purposes for which land may be taken for the distributor-retailer are purposes relating to the provision of water services and wastewater services to customers in the distributor-retailer's geographic area.
- ‘(2) For a lease under the Land Act, section 218 of that Act applies to a distributor-retailer as if it were a constructing authority.
- ‘(3) A regulation may make provision about the acquisition of land by a distributor-retailer.

#### **‘53AZ Code supersedes customer service standards**

‘From the later of the following, the Water Supply Act, chapter 2, part 4, division 5 does not apply to a distributor-retailer as a service provider—

- (a) the first making of the code;
- (b) 30 June 2011.

*Note—*

For what happens in the interim, see section 99AB (Interim application of relevant service standards for each constituent area).

#### **‘53BA Ownership of water infrastructure that becomes part of land**

- ‘(1) Water infrastructure owned by a distributor-retailer remains its personal property despite—
- (a) it becoming part of any land; or
  - (b) the sale or other disposal of the land of which it becomes a part.
- ‘(2) This section applies despite—
- (a) an Act or law of a State; or

- (b) a contract, covenant or claim of right under a law of a State.

## **‘Chapter 2B Water infrastructure provisions for distributor-retailers**

### **‘Part 1 Preliminary**

#### **‘53BB What is *water infrastructure* and *water infrastructure work***

- ‘(1) *Water infrastructure* is infrastructure for a water service or wastewater service.
- ‘(2) *Water infrastructure work* is the installation, operation, maintenance, repair, alteration or removal of water infrastructure.

#### **‘53BC What is a *public entity***

- ‘(1) A *public entity* is—
- (a) a local government; or
  - (b) a government company or part of a government company; or
  - (c) a State instrumentality, agency, authority or entity or a division, branch or other part of a State instrumentality, agency, authority or entity; or
  - (d) a department or a division, branch or other part of a department; or

- (e) a GOC Act entity; or
- (f) a government entity prescribed under a regulation under the GOC Act, section 4.

‘(2) In this section—

**government company** means a corporation incorporated under the Corporations Act all the stock or shares in the capital of which is or are beneficially owned by the State.

**GOC Act** means the *Government Owned Corporations Act 1993*.

**GOC Act entity** means an entity established under a regulation under the GOC Act.

### ‘53BD **Publicly-controlled places and their public entities**

‘(1) A **publicly-controlled place** is—

- (a) a State-controlled road; or
- (b) a place for which a public entity is responsible that—
  - (i) the public is entitled to use; or
  - (ii) is open to members of the public; or
  - (iii) is used by the public, whether or not on payment of money.

*Example for paragraph (b)—*

a road

‘(2) However, **publicly-controlled place** does not include any of the following under the Transport Infrastructure Act—

- (a) busway land;
- (b) light rail land;
- (c) a railway;
- (d) rail corridor land.

*Note—*

For provisions relevant to water infrastructure work for places mentioned in subsection (2), see the Transport Infrastructure Act, chapter 6 (Road transport infrastructure), chapter 9, part 4, divisions 4 (Public utility plant) and 5 (Use of busway or busway transport infrastructure) and chapter 10, part 4, divisions 3 (Public utility plant) and 4 (Use of light rail or light rail transport infrastructure).

- ‘(3) The **public entity** for a publicly-controlled place is the public entity immediately and primarily responsible for the place.

**‘53BE What is a road and a State-controlled road**

- ‘(1) A **road** is any of the following other than to the extent it is, or includes, a public thoroughfare easement—
- (a) an area of land dedicated to public use as a road;
  - (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles;
  - (c) a bridge, culvert, ferry, ford, tunnel or viaduct;
  - (d) a pedestrian or bicycle path;
  - (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).
- ‘(2) A **State-controlled road** is a road or land, or part of a road or land, declared under the Transport Infrastructure Act, section 24 to be a State-controlled road.

**‘53BF What are road works**

- ‘(1) **Road works** are—
- (a) works done for—
    - (i) constructing roads or things associated with roads; or
    - (ii) maintaining roads or things associated with roads (other than public utility plant); or

(iii) facilitating the operation of infrastructure relating to roads; or

(b) works declared under a regulation under the Transport Infrastructure Act to be road works.

‘(2) In this section—

*plant* includes any of the following—

- (a) a conduit or cable;
- (b) an electrical installation under the *Electricity Act 1994*;
- (c) an overhead conveyor.

*public utility plant* means plant permitted under an Act or a Commonwealth Act to be on a road.

*works* includes activities.

### ‘53BG Meaning of *location* on a road

‘The *location* of water infrastructure on a road includes the line, level and boundary of the water infrastructure in or on the road.

## ‘Part 2                      **Carrying out water infrastructure work on publicly-controlled places**

### ‘Division 1                **When work may be carried out**

#### ‘53BH Right to carry out work on publicly-controlled place

‘Subject to sections 53BI and 53BR and division 2, a distributor-retailer may carry out water infrastructure work on

a publicly-controlled place if the carrying out of the work is relevant to the performance of its geographic area functions.

### **‘53BI Requirements for carrying out work**

- ‘(1) A distributor-retailer may carry out water infrastructure work on a publicly-controlled place only if—
- (a) the public entity has given its written approval for the carrying out of the work (a *public entity approval*); or
- Note—*
- See also section 108 (Public entity approvals taken to be given for existing water infrastructure work).
- (b) the carrying out of the work is necessary because of an emergency.
- ‘(2) If the work is carried out because of an emergency, the distributor-retailer must, as soon as practicable, give the entity notice of the work.

### **‘53BJ Obtaining public entity’s approval**

- ‘(1) The distributor-retailer may, in writing, apply to the public entity for a public entity approval for water infrastructure work.
- ‘(2) The application must—
- (a) describe the work and how it is proposed to be carried out; and
  - (b) give particulars of the location of the proposed work; and
  - (c) be supported by other relevant information, reasonably required by the entity, to enable it to consider the application.

- ‘(3) The entity must, within 20 business days after receiving the information mentioned in subsection (2)(c), decide to grant or refuse the approval.
- ‘(4) The entity must not unreasonably refuse to grant the approval.

### **‘53BK Conditions of approval**

- ‘(1) The public entity may impose conditions on the approval it considers are reasonable.

*Example of a possible condition—*

a condition that, to minimise interference with public access to the place, the work may be carried out only on stated days or at stated times

- ‘(2) However, a condition about an alignment for water infrastructure on, or proposed to be built on, a road must ensure the alignment is—
  - (a) located to ensure reasonable protection for the infrastructure; and
  - (b) if practicable, on the footpath or verge of the road.

## **‘Division 2                    Obligations in carrying out work**

### **‘53BL Application of div 2**

‘This division applies if a distributor-retailer is carrying out water infrastructure work on a publicly-controlled place.

### **‘53BM Guarding**

- ‘(1) This section applies if the distributor-retailer has opened or broken up (the *interference*) the place, or any part of the place.
- ‘(2) The distributor-retailer must, at all times while the interference continues, ensure—
  - (a) the interference is barricaded and guarded; and

- (b) signs and lights sufficient to warn and guide the public are set up and maintained against or near the interference.
- ‘(3) If required by the public entity, the distributor-retailer must also set up and maintain against or near the interference additional warning or protection devices to safeguard the public while the interference continues.
- ‘(4) The requirement may be made—
  - (a) before or during the carrying out of the work; and
  - (b) as well as any condition imposed under section 53BK.

#### **‘53BN Warning signs on roads**

‘If the work is carried out on a road, lights and signs set up or maintained to safeguard the public must be the appropriate official traffic signs under the *Transport Operations (Road Use Management) Act 1995*.

#### **‘53BO General obligations in carrying out work**

- ‘(1) The distributor-retailer must—
  - (a) complete the work as soon as practicable; and
  - (b) restore, as nearly as practicable, the relevant part of the place to the condition it was in before the work started; and
  - (c) remove any rubbish or surplus earth caused by the work; and
  - (d) comply with—
    - (i) the conditions of any relevant public entity approval; and
    - (ii) any relevant provisions of the Water Supply Act and any other relevant law.

- ‘(2) If, in carrying out the work, the distributor-retailer causes damage to the place, the distributor-retailer must fix the damage as soon as practicable.

### **‘53BP Maintenance**

- ‘(1) This section applies if the distributor-retailer has opened or broken up the place or any part of it and has, under section 53BO, restored the place or part.
- ‘(2) The distributor-retailer must carry out maintenance to ensure the place or part of it is kept in good repair until the later of the following periods to end—
- (a) the period that ends 3 months after the restoration was finished;
  - (b) if, because of the carrying out of the work or the restoration, the ground at the place or part subsides within the 3 months, the period that ends on the earlier of the following—
    - (i) the day the subsidence ends;
    - (ii) the first anniversary of the day the restoration was finished.
- ‘(3) The maintenance must be carried out in the way agreed between the public entity and the distributor-retailer.

## **‘Division 3 Work directions**

### **‘53BQ Power to give work direction**

- ‘(1) This section applies if—
- (a) a distributor-retailer is carrying out, or has carried out, water infrastructure work on a publicly-controlled place; and
  - (b) the public entity reasonably considers work should be, or should have been, carried out to ensure compliance

with a condition imposed under section 53BK or an obligation under division 2.

- ‘(2) The entity may give the distributor-retailer a notice (a *work direction*) directing the distributor-retailer to carry out stated work to comply with the condition or obligation within a stated reasonable period.
- ‘(3) The work direction must—
  - (a) identify the condition or obligation; and
  - (b) include, or be accompanied by, an information notice about the decision to give the direction.

#### **‘53BR Compliance with work direction**

- ‘(1) A distributor-retailer to whom a work direction has been given must comply with the direction to the reasonable satisfaction of the public entity that gave the direction.
- ‘(2) If the distributor-retailer does not comply with subsection (1), the entity may carry out the relevant work.
- ‘(3) In carrying out the work, the entity must comply with any relevant provisions of the Water Supply Act and any other relevant law.

#### **‘53BS Costs of carrying out directed work**

- ‘(1) A distributor-retailer to whom a work direction has been given must bear the costs of complying with the direction.
- ‘(2) If, under section 53BR(2), the public entity has carried out the relevant work, it may recover from the distributor-retailer as a debt the amount of its reasonable costs of carrying out the work.



(ii) carrying out other work relating to the water infrastructure.

‘(2) The entity may, by notice (a *consequential work requirement*), require the distributor-retailer to do the consequential work within a stated reasonable period.

### **‘53BW Compliance with consequential work requirement**

- ‘(1) A distributor-retailer of whom a consequential work requirement has been made must comply with the requirement to the reasonable satisfaction of the public entity that made the requirement.
- ‘(2) If the distributor-retailer does not comply with subsection (1), the entity may carry out the relevant consequential work.
- ‘(3) In carrying out the work, the entity must comply with any relevant provisions of the Water Supply Act and any relevant law.

### **‘53BX Costs of carrying out required consequential work**

- ‘(1) A public entity must bear the costs of complying with any consequential work requirement it makes.
- ‘(2) If the relevant distributor-retailer has complied with section 53BW(1), the distributor-retailer may recover from the entity as a debt the amount of the distributor-retailer’s reasonable costs of carrying out the work.



- ‘(2) If, under section 53CB(2), the public entity takes the remedial action, it may recover from the distributor-retailer as a debt the amount of the entity’s reasonable costs of taking the action.

## ‘Part 5                      Water infrastructure work and roads

### ‘53CD Application of pt 5

‘This part applies for particular water infrastructure that a distributor-retailer has or constructs, augments, alters or maintains on a road.

### ‘53CE Record obligation

‘The distributor-retailer must prepare records that adequately define the location of the water infrastructure on the road.

### ‘53CF Obligation to give public entity information

- ‘(1) If the public entity for the road asks, the distributor-retailer must, within a reasonable period, give the public entity information that adequately defines the location of the water infrastructure on a stated part of the road.
- ‘(2) A request under subsection (1) is an *information request*.

### ‘53CG Exclusion of liability for particular damage by public entity to water infrastructure

- ‘(1) This section applies if—
- (a) the public entity for the road causes damage to the water infrastructure and has not agreed to be liable for the damage; and

- (b) before the damage happened the public entity made an information request to the distributor-retailer.
- ‘(2) The public entity is not liable for the damage if—
- (a) either—
    - (i) the request was not complied with within a reasonable period before the damage happened; or
    - (ii) information given in response to the request did not adequately define the location of the water infrastructure; and
  - (b) the damage would not have happened had the request been complied with or had the information given adequately defined the location.

### **‘53CH Liability for additional public entity road work expenses**

- ‘(1) This section applies if—
- (a) the public entity for the road carries out road works in or on the road; and
  - (b) it made an information request of the distributor-retailer before carrying out the road works.

*Note—*

See however section 109 (Deferral of distributor-retailer’s liability for additional public entity road work expenses).

- ‘(2) The distributor-retailer is liable to pay the public entity any additional expense the public entity incurred in carrying out the road works because of the location of the water infrastructure if—
- (a) either—
    - (i) the request was not complied with within a reasonable period before the road works were carried out; or
    - (ii) information given in response to the request did not adequately define the location; and

- (b) the additional expense would not have been incurred had the request been complied with or had the information given adequately defined the location.
- ‘(3) However, subsection (2) does not apply if—
- (a) the road works were not provided for in a plan by the public entity given to the distributor-retailer within a reasonable period before the road works were carried out; and
  - (b) the public entity gave a public entity approval for all water infrastructure work for the water infrastructure; and
  - (c) the distributor-retailer has not contravened any condition of the approval.

*Note—*

See also section 108 (Public entity approvals taken to be given for existing water infrastructure work).

### **‘53CI Distributor-retailer and public entity may share costs**

- ‘(1) The distributor-retailer may arrange with the public entity for the road to share the cost of all or any of—
- (a) acquisition of land associated with the water infrastructure; or
  - (b) construction, augmentation, alteration or maintenance of the water infrastructure; or
  - (c) construction of road works affected by the water infrastructure.
- ‘(2) The arrangement may include all necessary preliminary costs associated with the acquisition, construction, augmentation, alteration or road maintenance.



person may be appointed only if the person complies with the requirements.

- ‘(4) The Water Supply Act, sections 45 to 48 apply for the appointment as a trade waste officer and the trade waste officer’s office as if—
- (a) a reference in the sections to an authorised person were a reference to a trade waste officer; and
  - (b) the reference in section 48 to exercising a power under the Water Supply Act included a reference to exercising a power under this part; and
  - (c) with other necessary changes.
- ‘(5) The service provider may issue the appointee 1 identity card for both appointments.

### **‘53CL Functions**

‘A trade waste officer’s functions are to help the distributor-retailer to do the following as a sewerage service provider—

- (a) consider and decide trade waste approval applications;
- (b) monitor and enforce compliance with the following provisions of the Water Supply Act—
  - (i) chapter 2, part 6;
  - (ii) chapter 2, part 7, to the extent that part relates to trade waste and the distributor-retailer’s infrastructure as a sewerage service provider;
- (c) take trade waste compliance action.

## **‘Part 2                      Powers of trade waste officers**

### **‘Division 1                      General powers for entering places**

#### **‘53CM General powers of entry**

- ‘(1) A trade waste officer may enter a place to perform the officer’s functions if—
- (a) it is a place of business the subject of a trade waste approval and the place is—
    - (i) open for carrying on the business; or
    - (ii) otherwise open for entry; or
  - (b) an occupier of the place consents to the entry; or
  - (c) it is a public place and the entry is made when it is open to the public; or
  - (d) the entry is authorised by a warrant.
- ‘(2) For section (1)(a), a place of business does not include a part of the place where a person resides.
- ‘(3) To remove any doubt, it is declared that this section does not limit or otherwise affect a trade waste officer’s powers as an authorised person.
- ‘(4) In this section—
- trade waste approval* includes a trade waste approval the subject of suspension under the Water Supply Act.

### **‘Division 2                      Entry to take trade waste compliance action**

#### **‘53CN Power to enter**

- ‘(1) This section applies if a distributor-retailer may take trade waste compliance action.

*Note—*

See section 53DM (Action distributor-retailer may take if trade waste compliance notice contravened).

- ‘(2) A trade waste officer may enter the place the subject of the relevant trade waste approval at any reasonable time to take the action for the distributor-retailer.
- ‘(3) However, the trade waste officer can not under subsection (2) enter any part of the place where a person resides.

### **‘Division 3                      Approved inspection programs**

#### **‘53CO Power to enter place subject to approved inspection program**

- ‘(1) A trade waste officer may, under an approved inspection program, enter a place at any reasonable time of the day or night without the consent of the occupier of the place.
- ‘(2) However, a trade waste officer can not under an approved inspection program enter any part of a place where a person resides.
- ‘(3) To remove any doubt, it is declared that—
  - (a) the power under subsection (1) does not limit or otherwise affect any other power under this chapter; and
  - (b) a trade waste officer may inspect places other than as provided for under the program.

#### **‘53CP Approving an inspection program**

- ‘(1) A distributor-retailer may, by a board resolution, approve a program under which a trade waste officer may enter and inspect places in the distributor-retailer’s geographic area to perform a trade waste officer’s functions.
- ‘(2) An approved inspection program may—

- (a) allow a trade waste officer to enter and inspect all places, or all places of a particular type, in the distributor-retailer's geographic area (a *systematic inspection program*); or
  - (b) allow a trade waste officer to enter and inspect those places in the distributor-retailer's geographic area that have been selected in accordance with objective criteria stated in the resolution (a *selective inspection program*).
- ‘(3) The resolution must state the following for the program—
- (a) its purpose;
  - (b) when it starts;
  - (c) for a systematic inspection program that allows a type of place to be entered and inspected, a description of the type of place;
  - (d) for a selective inspection program, objective criteria for selecting the places to be entered and inspected;
  - (e) the period (the *program period*) over which it is to be carried out.
- ‘(4) The program period can not be more than 6 months or another period prescribed under a regulation.
- ‘(5) The distributor-retailer must give public notice of the approval of an inspection program in the way required under section 53CQ.
- ‘(6) The public notice must be given for a period at least 14 days, but no more than 28 days, before the program starts.

### ‘53CQ Content of public notice and access requirements

- ‘(1) The notice required under section 53CP(5) must be published—
- (a) in a newspaper circulating in all of the distributor-retailer's geographic area; and
  - (b) on the distributor-retailer's website.

- ‘(2) The notice must state the following—
- (a) the distributor-retailer’s name;
  - (b) the purpose and scope of the approved inspection program, in general terms;
  - (c) when the program starts;
  - (d) the program period;
  - (e) that the public may inspect a copy of the resolution that approved the program at the distributor-retailer’s public office until the end of the program;
  - (f) that a copy of the resolution that approved the program may be purchased at the distributor-retailer’s public office until the end of the program;
  - (g) the price (the *stated price*) of a copy of the resolution.
- ‘(3) The stated price can not be more than the cost to the distributor-retailer of making the copy available for purchase.
- ‘(4) From when the notice is published until the program ends—
- (a) the public may inspect a copy of the resolution at the distributor-retailer’s public office; and
  - (b) copies of the resolution must be available for purchase at the distributor-retailer’s public office at the stated price.

## ‘Division 4                      Obtaining warrants

### ‘53CR Application for warrant

- ‘(1) A trade waste officer may apply to a magistrate for a warrant for a place.
- ‘(2) The trade waste officer must prepare a written application that states the grounds on which the warrant is sought.
- ‘(3) The written application must be sworn.

- ‘(4) The magistrate may refuse to consider the application until the trade waste 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 written application to be given by statutory declaration.

### ‘53CS Issue of warrant

- ‘(1) The magistrate may issue the warrant for the place 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 a trade waste 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) the place to which the warrant applies; and
  - (b) that a stated trade waste 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 trade waste officer’s powers under this chapter; and
  - (c) particulars of the offence that the magistrate considers appropriate in the circumstances; and
  - (d) the name of the person suspected of having committed the offence, unless the name is unknown or the magistrate considers it inappropriate to state the name; and
  - (e) the evidence that may be seized under the warrant; and
  - (f) the hours of the day or night when the place may be entered; and

- (g) the extent of re-entry permitted; and
  - (h) 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.

### **‘53CT Application by electronic communication and duplicate warrant**

- ‘(1) An application under section 53CR may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the trade waste officer reasonably considers it necessary because of—
- (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the trade waste officer's remote location.
- ‘(2) The application—
- (a) may not be made before the trade waste officer prepares the written application under section 53CR(2); but
  - (b) may be made before the written application is sworn.
- ‘(3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
- (a) it was necessary to make the application under subsection (1); and
  - (b) the way the application was made under subsection (1) was appropriate.
- ‘(4) After the magistrate issues the original warrant—
- (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the trade waste officer, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the officer; or

- (b) otherwise—
  - (i) the magistrate must tell the trade waste officer the date and time the warrant is issued and the other terms of the warrant; and
  - (ii) the trade waste officer must complete a form of warrant, including by writing on it—
    - (A) the magistrate’s name; and
    - (B) the date and time the magistrate issued the warrant; and
    - (C) the other terms of the warrant.
- ‘(5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- ‘(6) The trade waste officer must, at the first reasonable opportunity, send to the magistrate—
  - (a) the written application complying with section 53CR(2) and (3); and
  - (b) if the trade waste officer completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- ‘(7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
  - (a) attach the documents to the original warrant; and
  - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- ‘(8) Despite subsection (5), if—
  - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
  - (b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

‘(9) This section does not limit section 53CR.

‘(10) In this section—

*relevant magistrates court*, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

### ‘53CU Defect in relation to a warrant

‘(1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 53CR, 53CS or 53CT, unless the defect affects the substance of the warrant in a material particular.

‘(2) In this section—

*warrant* includes a duplicate warrant mentioned in section 53CT(5).

## ‘Division 5 Procedure for entries

### ‘53CV Entry with consent

‘(1) This section applies if a trade waste officer intends to ask an occupier of a place to consent to the officer or another trade waste officer entering the place under section 53CM(1)(b).

‘(2) For the purpose of asking an occupier of a place for consent to enter, a trade waste 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 trade waste officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

- ‘(3) Before asking for the consent, the trade waste officer must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- ‘(4) If the consent is given, the trade waste officer may ask the occupier to sign an acknowledgment of the consent.
- ‘(5) The acknowledgment 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 trade waste officer consent to enter the place and exercise powers under this part; and
  - (d) the time and date the consent was given.
- ‘(6) If the occupier signs the acknowledgment, the trade waste officer must immediately give a copy to the occupier.
- ‘(7) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgment complying with subsection (5) for the entry is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

### **‘53CW Entry under warrant**

- ‘(1) This section applies if a trade waste officer named in a warrant issued under this part for a place is intending to enter the place under the warrant.
- ‘(2) Before entering the place, the trade waste 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 a copy of the trade waste officer's identity card or other document evidencing the officer's appointment;
  - (b) give the person a copy of the warrant;
  - (c) tell the person the trade waste officer is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the trade waste officer immediate entry to the place without using force.
- '(3) However, the trade waste officer need not comply with subsection (2) if the officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.
- '(4) In this section—  
*warrant* includes a duplicate warrant mentioned in section 53CT(5).

### **'53CX Other entries**

- '(1) This section applies if a trade waste officer proposes to enter a place other than with consent of its occupier or by a warrant.
- '(2) Before entering the place, the trade waste officer must do or make a reasonable attempt to do the following things—
  - (a) comply with the Water Supply Act, section 48, as applied under section 53CK(4), for any occupier of the place who is present at the place;  
*Editor's note—*  
Water Supply Act, section 48 (Producing and displaying identity card)
  - (b) tell the occupier the purpose of the entry;
  - (c) tell the occupier the officer is permitted under this Act to enter the place without the occupier's consent.

- ‘(3) Also, if the entry is under an approved inspection program, the trade waste officer must give the occupier details of the program.

## **‘Division 6 Powers after entry**

### **‘53CY Application of div 6**

- ‘(1) This division applies to a trade waste officer who enters a place under this part.
- ‘(2) However, if a trade waste officer enters a place to get the occupier’s consent to enter the place, this division applies to the officer only if the consent is given or the entry is otherwise authorised.

### **‘53CZ General powers after entry**

- ‘(1) The trade waste officer may do all or any of the following—
- (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 or take the document to another place to copy it;
  - (e) take into or onto the place any person, equipment and materials the trade waste officer reasonably requires for the exercise of a power under this part;
  - (f) require a person at the place to give the trade waste officer reasonable help to exercise the officer’s powers under paragraphs (a) to (e);
  - (g) require a person at the place to give the trade waste officer information to help the officer find out whether

this Act and the Water Supply Act is being or has been complied with.

- ‘(2) When making a requirement under subsection (1)(f), the trade waste officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- ‘(3) If a trade waste officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.

#### **‘53DA Failure to help trade waste officer**

- ‘(1) A person required to give reasonable help under section 53CZ(1)(f) must comply with the requirement unless the person has a reasonable excuse.  
Maximum penalty—200 penalty units.
- ‘(2) If the person is an individual, it is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

### **‘Division 7                    Power to require name and address in connection with trade waste**

#### **‘53DB Application of div 7**

‘This division applies if a trade waste officer—

- (a) finds a person committing a trade waste offence; or
- (b) finds a person in circumstances that lead the officer to suspect, on reasonable grounds, that the person has just committed a trade waste offence; or
- (c) has information that leads the officer to suspect, on reasonable grounds, that a person has just committed a trade waste offence.

### **‘53DC Power to require name and address**

- ‘(1) The trade waste officer may require the person to state the person’s name and address.
- ‘(2) If the trade waste officer does so, the officer must also warn the person that it is an offence to fail to state the person’s name and address, unless the person has a reasonable excuse.
- ‘(3) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—35 penalty units.

### **‘53DD Power to require evidence of name or address**

- ‘(1) The trade waste officer may require the person to give evidence of the person’s name or address if the officer suspects, on reasonable grounds, that the person has given a false name or address.
- ‘(2) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—35 penalty units.

### **‘53DE Exception if trade waste offence not proved**

‘The person does not commit an offence under this division if the person is not proved to have committed the trade waste offence.

## **‘Division 8                      Safeguards**

### **‘53DF Duty to avoid damage**

‘In performing a function or exercising a power under this part, a trade waste officer must take all reasonable steps to ensure the officer causes as little inconvenience, and does as little damage, as is practicable.

### **‘53DG Notice of damage**

- ‘(1) This section applies if—
  - (a) a trade waste officer damages property when exercising or purporting to exercise a power under this part; or
  - (b) a person (the *other person*) acting under the direction or authority of a trade waste officer damages property.
- ‘(2) The trade waste officer must immediately give notice of particulars of the damage to a person who appears to the officer to be an owner of the property.
- ‘(3) If the trade waste officer believes the damage was caused by a latent defect in the property or circumstances beyond the officer’s or other person’s control, the officer may state the belief in the notice.
- ‘(4) If, for any reason, it is impracticable to comply with subsection (2), the trade waste officer must leave the notice where the damage happened in a conspicuous position and in a reasonably secure way.
- ‘(5) This section does not apply to damage the trade waste officer reasonably believes is trivial.
- ‘(6) In this section—  
*owner*, of property, includes a person in possession or control of it.

### **‘53DH Content of notice of damage**

- ‘(1) A notice of damage under section 53DG must state—
  - (a) particulars of the damage; and
  - (b) that the person who suffered the damage may claim compensation under section 53DI.
- ‘(2) If the trade waste officer believes the damage was caused by a latent defect in the thing or circumstances beyond the officer’s or other person’s control, the officer may state the belief in the notice.

### **‘53DI Compensation from distributor-retailer to owner or occupier**

- ‘(1) If a person incurs loss or expense caused directly by the exercise or purported exercise of a power under this part, the person may claim compensation from the distributor-retailer.
- ‘(2) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- ‘(3) 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.

## **‘Part 3 Trade waste compliance notices**

### **‘53DJ Who may give a trade waste compliance notice**

- ‘(1) This section applies if a trade waste officer reasonably believes—
  - (a) the approval holder—
    - (i) is contravening the holder’s trade waste approval; or
    - (ii) has contravened the holder’s trade waste approval 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 approval holder an opportunity to rectify the matter.
- ‘(2) The trade waste officer may give the approval holder a notice (a *trade waste compliance notice*) requiring the holder to remedy the contravention.

### **‘53DK Requirements for trade waste compliance notice**

- ‘(1) A trade waste compliance notice must state the following—
- (a) that the trade waste officer reasonably believes the approval holder—
    - (i) is contravening a provision of the holder’s trade waste approval; or
    - (ii) has contravened the holder’s trade waste approval in circumstances that make it likely the contravention will continue or be repeated;
  - (b) the provision the trade waste officer believes is being, or has been, contravened;
  - (c) briefly, how it is believed the provision is being, or has been, contravened;
  - (d) that the approval holder must remedy the contravention within a stated reasonable period;
  - (e) that it is an offence to fail to comply with the notice unless the approval holder has a reasonable excuse;
  - (f) that, within 30 business days after the notice is given, the person may apply for an internal review of the decision to give the notice;
  - (g) how the person may apply for the review.
- ‘(2) A trade waste compliance notice may also state—
- (a) the reasonable steps that the trade waste officer is satisfied are necessary to remedy the contravention, or avoid further contravention, of the provision; or
  - (b) performance outcomes to show that the contravention has been remedied or the further contravention will be avoided.
- ‘(3) If a trade waste compliance notice requires the approval holder to do an act involving the carrying out of work, it also must give details of the work involved.

- ‘(4) If a trade waste compliance notice requires the approval holder to refrain from doing an act, it also must state—
  - (a) a period for which the requirement applies; or
  - (b) that the requirement applies until further notice.
- ‘(5) A trade waste compliance notice may be accompanied by, or included in, any of the following under the Water Supply Act given for the approval holder’s trade waste approval—
  - (a) a show cause notice mentioned in section 183(1);
  - (b) an information notice mentioned in section 184(3).

#### **‘53DL Offence to contravene trade waste compliance notice**

- ‘(1) An approval holder to whom a trade waste compliance notice is given must comply with the notice unless the holder has a reasonable excuse.

Maximum penalty—100 penalty units.

*Note—*

See also section 100F (Application of Water Supply Act enforcement provisions for particular offences).

- ‘(2) A proceeding for an offence against subsection (1) does not prevent or limit the cancellation, suspension or amendment of the approval holder’s trade waste approval under the Water Supply Act, sections 183 to 185.

#### **‘53DM Action distributor-retailer may take if trade waste compliance notice contravened**

- ‘(1) This section applies if an approval holder contravenes a trade waste compliance notice by not doing something.
- ‘(2) The distributor-retailer may do the thing or take any other action (*trade waste compliance action*) it reasonably believes is necessary to prevent or minimise the impact of the contravention.

### **‘53DN Recovery of costs of trade waste compliance action**

- ‘(1) If a distributor-retailer incurs expense because of the taking of trade waste compliance action, it may give the approval holder a notice stating the amount of the expense incurred.
- ‘(2) Any reasonable expenses incurred by the distributor-retailer in taking the trade waste compliance action may be recovered by the distributor-retailer from the approval holder as a debt.
- ‘(3) In this section—  
*expenses*, incurred by the distributor-retailer, includes the cost of services that the distributor-retailer provides for itself.’.

### **10 Omission of s 55 (Period of transfer schemes)**

Section 55—

*omit.*

### **11 Amendment of s 56 (Particular matters scheme may provide for)**

Section 56(1)(e)—

*omit, insert—*

- ‘(e) the application or transfer of an instrument to a distributor-retailer, including—
  - (i) whether a distributor-retailer 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, a distributor-retailer; and
  - (iii) whether a reference to an entity in an instrument is a reference to a distributor-retailer; and
  - (iv) whether, under an instrument, an amount is or may become payable to or by a distributor-retailer or

other property is, or may be, transferred to a distributor-retailer; and

- (v) whether a right or entitlement under an instrument is held by a distributor-retailer;’.

## **12 Insertion of new s 56A**

Chapter 3, part 1, division 1—

*insert—*

### **‘56A Period of transfer schemes**

- ‘(1) A transfer scheme can not take effect after 30 September 2010.
- ‘(2) However, a transfer scheme may take effect for a matter mentioned in section 56(1)(f) before 1 July 2012.
- ‘(3) This section does not affect the giving of effect to a transfer scheme or anything done under a transfer scheme before or after the dates mentioned in subsection (1) or (2).’.

## **13 Amendment of s 58 (Requirements for certification statement)**

Section 58(1)—

*insert—*

- ‘(f) that the local governments have given third parties notice of the following by a notice published in a newspaper circulating in all of the SEQ region—
  - (i) that the local governments and the distributor-retailer propose to ask the Minister for approval of the transfer scheme to allow the distributor-retailer to provide water services and wastewater services;
  - (ii) how third parties may obtain information about the transfer scheme from the local governments, other than private or confidential information concerning others; and

- (g) that the local governments have, since the publication of the notice, made information mentioned in paragraph (f)(ii) available to third parties who have asked for it.’.

**14 Amendment of s 69 (Disclosure and use for transition of information)**

- (1) Section 69(1), after ‘its distributor-retailer’—

*insert—*

‘, or for the distributor-retailer to perform its geographic area functions,’.

- (2) Section 69(1)—

*insert—*

‘(c) another participating local government of the distributor-retailer.’.

- (3) Section 69—

*insert—*

- ‘(6) This section is subject to the *Information Privacy Act 2009* and the *Right to Information Act 2009*.’.

**15 Amendment of s 73 (Acquisitions interrupted by transfer scheme or notice)**

Section 73(1)(b)—

*omit, insert—*

‘(b) the purpose of the proposed resumption relates to the distributor-retailer’s geographic area functions.’.

**16 Replacement of ch 3, pt 3, div 2, sdiv 3 (Development approvals and infrastructure agreements)**

Chapter 3, part 3, division 2, subdivision 3—

*omit, insert—*

### **‘Subdivision 3      Infrastructure agreements**

#### **‘77      Application of sdiv 3**

- ‘(1) This subdivision applies if—
- (a) a participating local government of a distributor-retailer is a party to an infrastructure agreement; and
  - (b) either of the following apply—
    - (i) a transition document transfers to the distributor-retailer water infrastructure subject to the infrastructure agreement;
    - (ii) the infrastructure agreement provides for water infrastructure in the distributor-retailer’s geographic area.
- ‘(2) This subdivision applies subject to any transition document relating to the distributor-retailer.
- ‘(3) If the infrastructure agreement relates to both the water infrastructure and another type of infrastructure, the agreement is a ***bundled agreement***.

#### **‘77A      Novation for unbundled agreements**

- ‘(1) This section applies if the agreement relates only to the water infrastructure and not to any other type of infrastructure.
- ‘(2) The distributor-retailer—
- (a) is taken to be a party to the agreement instead of the local government; and
  - (b) assumes all of the local government’s rights and liabilities under the agreement.
- ‘(3) The agreement may be enforced by the distributor-retailer as if it were the local government.
- ‘(4) The local government ceases to be bound by the agreement and is discharged from any further liability under it.

**‘77B Bundled agreements—terms relating solely to water aspects**

- ‘(1) This section applies if—
- (a) the agreement is a bundled agreement; and
  - (b) a term of the agreement solely relates to either or both of the following (each a *water aspect*)—
    - (i) the water infrastructure;
    - (ii) the carrying out of water infrastructure work.
- ‘(2) The distributor-retailer assumes the following under the term—
- (a) the local government’s rights against another party to the agreement (each an *assumed right*);
  - (b) the local government’s liabilities to another party to the agreement (each an *assumed liability*).
- ‘(3) An assumed right—
- (a) may be discharged only by the discharging of it to the distributor-retailer; and
  - (b) may only be enforced by the distributor-retailer.
- ‘(4) An assumed liability—
- (a) may be discharged only by the discharging of it by the distributor-retailer; and
  - (b) may be enforced only against the distributor-retailer.

**‘77C Bundled agreement—mixed rights**

- ‘(1) This section applies if—
- (a) the agreement is a bundled agreement; and
  - (b) a term of the agreement gives a right to the local government; and
  - (c) the right relates, or may relate, to—
    - (i) a water aspect; and

(ii) another matter.

‘(2) The right may be discharged only by the discharging of it to the local government.

*Example—*

The term requires another party to the agreement to give the local government security for the general performance of that party’s liabilities under the agreement. The term does not provide for any particular amount for water aspects. The security must be given to the local government.

‘(3) Only the local government may enforce the right.

*Example—*

The term requires another party to the agreement to construct infrastructure to a particular standard. The standard is capable of applying to the water infrastructure and to other types of infrastructure. Only the local government may enforce the requirement.

‘(4) However, the local government must, at the distributor-retailer’s request, enforce the right to the extent it relates to water aspects.

‘(5) For any enforcement by the local government under subsection (3), any cost, damage or loss of the distributor-retailer relating to water aspects is taken to be a cost, damage or loss of the local government.

### **‘77D Bundled agreement—mixed liabilities**

‘(1) This section applies if—

- (a) the agreement is a bundled agreement; and
- (b) a term of the agreement imposes a liability on the local government; and
- (c) the liability relates, or may relate, to—
  - (i) a water aspect; and
  - (ii) another matter.

‘(2) The liability—

- (a) may be discharged only by the discharging of it by the local government; and
  - (b) may be enforced only against the local government.
- ‘(3) For the enforcement of a liability against the local government under subsection (2), any interest or right of the distributor-retailer relating to water assets is taken to be an interest or right of the local government.

### **‘77E Negotiation about mixed rights and liabilities**

- ‘(1) The local government and the distributor-retailer (each a *negotiation party*) must negotiate in good faith about the extent to which each of them are to share the following—
- (a) rights to which section 77C applies;
  - (b) liabilities to which section 77D applies;
  - (c) costs incurred because of enforcement mentioned in section 77C;
  - (d) any costs, damage, liability or loss the local government incurs because of section 77D(2).
- ‘(2) If, after the negotiation, the negotiation parties are in dispute about a matter mentioned in subsection (1), either negotiation party may refer the dispute to the Minister.
- ‘(3) The Minister may resolve the dispute in any way the Minister considers appropriate that affords natural justice to the negotiation parties.
- ‘(4) The Minister’s decision on the resolution of the dispute binds the negotiation parties.
- ‘(5) The Minister may delegate the Minister’s functions and powers under subsection (3) to an appropriately qualified public service officer.

**‘77F Other necessary changes to be made for transition**

- ‘(1) This section applies subject to the other provisions of this subdivision.
- ‘(2) References in the agreement to the local government are taken to be changed to reflect any necessary changes for the transition from the local government to the distributor-retailer.

**‘77G Other party’s rights and liabilities not affected**

‘To remove any doubt, it is declared that this subdivision does not create any greater right for, or impose any greater liability on, a party to the agreement other than the local government or the distributor-retailer.

*Note—*

See also section 68 (Effect on legal relationships).

**‘77H Provision for things done under agreement before the transfer**

‘The transfer of the water infrastructure under the transition document does not affect the validity of any of the following done before the transfer—

- (a) an infrastructure charge or cost levied by the local government under the Planning Act, chapter 8, part 1 or the repealed *Integrated Planning Act 1997 (repealed IPA)*, chapter 5, part 1;
- (b) a condition imposed by the local government under the Planning Act, chapter 8, part 1 or section 848 or repealed IPA, chapter 5, part 1 or section 6.1.31;
- (c) any other decision, charge, condition, contribution or agreement made, levied or imposed by the local government under the Planning Act or repealed IPA.

## **‘Subdivision 3A Other matters under Acts about planning**

### **‘771 Application of sdiv 3A**

- ‘(1) This subdivision applies for a relevant action by a participating local government of a distributor-retailer if—
- (a) under the relevant action a liability to the local government has accrued to it, or may at any time accrue to it; and
  - (b) all or part of the liability is for—
    - (i) water infrastructure constructed or to be constructed in the distributor-retailer’s geographic area; or
    - (ii) a charge for the provision of water services or wastewater services.
- ‘(2) This subdivision applies subject to any transition document relating to the distributor-retailer.
- ‘(3) In this section—
- relevant action*** means any of the following—
- (a) a compliance permit, development approval, decision, charge, condition or contribution under the Planning Act decided, made, levied or imposed before 1 July 2010;
  - (b) a development approval under the Planning Act decided after 1 July 2010 if the relevant development application was made before 1 July 2010;
  - (c) a compliance permit under the Planning Act decided after 1 July 2010, if the relevant request for compliance assessment under that Act was made before 1 July 2010;
  - (d) an approval of a plan under the repealed *Integrated Planning Act 1997*, chapter 3, part 7, as continued in force under the Planning Act, section 815.

**‘77J Transfer of liability in particular circumstance**

‘If all of the liability is for water infrastructure or for the charge for water services or wastewater services, the liability is taken to be a liability to the distributor-retailer instead of the local government.

**‘77K Provisions for sharing benefit of liability not solely for water infrastructure**

- ‘(1) This section applies if—
- (a) the liability is for the water infrastructure; and
  - (b) under the relevant action there is also a liability for infrastructure other than water infrastructure; and
  - (c) the terms of the relevant action do not attribute a specific part of the liability to the water infrastructure.
- ‘(2) The local government and the distributor-retailer (each a *negotiation party*) must negotiate in good faith about the extent to which each of them is to share the benefit of the liability.
- ‘(3) If, after the negotiation, the negotiation parties are in dispute about how to share the liability, either negotiation party may refer the dispute to the Minister.
- ‘(4) The Minister may resolve the dispute in any way the Minister considers appropriate that affords natural justice to the negotiation parties.
- ‘(5) The Minister’s decision on the resolution of the dispute binds the negotiation parties.
- ‘(6) The Minister may delegate the Minister’s functions and powers under this section to an appropriately qualified public service officer.

**‘77L Changes in references under relevant action**

- ‘(1) A reference in the relevant action to the carrying out of water infrastructure work by the local government is taken to be a reference to the distributor-retailer carrying out the work.
- ‘(2) A reference in the relevant action to the person who bears the liability to do something relating to the local government concerning the water infrastructure is taken to be a reference to the person doing that thing relating to the distributor-retailer.
- ‘(3) Other references in the relevant action to the local government are taken to be changed to reflect any necessary changes for the transition from the local government to the distributor-retailer.’

**17 Insertion of new ch 3, pt 3, div 2, sdiv 5**

Chapter 3, part 3, division 2—

*insert—*

**‘Subdivision 5 Planning schemes and declared master planned areas**

**‘78A Application of planning schemes for development in SEQ region**

- ‘(1) This section applies if under a regulation made under section 102(2)(f) a stated provision of a stated planning scheme is declared not to have effect for the assessment of a development application for development in the SEQ region.
- ‘(2) Despite the Planning Act, for the assessment of the development application under that Act the stated provision has no effect.

**‘78B Distributor-retailer is participating agency**

- ‘(1) This section applies for a declared master planned area that—

- (a) is in the SEQ region; and
  - (b) immediately before 1 July 2010, is identified in a master planned area declaration under the Planning Act.
- ‘(2) The distributor-retailer for the geographic area in which the declared master planned area is located is, on 1 July 2010, taken to be a participating agency for the structure plan for the declared master planned area.
- ‘(3) The distributor-retailer’s jurisdiction as a participating agency under IDAS for the structure plan is the effects of development on a water service or wastewater service of a distributor-retailer.
- ‘(4) The distributor-retailer may be identified in the structure plan as a participating agency for a master plan application for a master plan required to be assessed by the State.
- ‘(5) For assessing a master plan application, the Planning Act, section 173 applies as if section 173(1)(b) included a reference to the following—
- (a) an infrastructure agreement entered into by the distributor-retailer for its water service or wastewater service;
  - (b) the distributor-retailer’s water netserv plan;
  - (c) the SEQ design and construction code.
- ‘(6) This section applies despite the Planning Act, section 133 and schedule 3, definition *participating agency*.
- ‘(7) In this section—

***declared master planned area*** see the Planning Act, section 132(4).

***IDAS*** is the system detailed in the Planning Act, chapter 6, for integrating State and local government assessment and approval processes for development.

***master plan*** see the Planning Act, section 151.

*master plan application* see the Planning Act, section 159.

*structure plan* see the Planning Act, section 137.’.

**18 Amendment of s 93 (Minister’s power to make code)**

Section 93(1), ‘customer water and wastewater code’—

*omit, insert—*

‘code (a *customer water and wastewater code*)’.

**19 Amendment of s 94 (Particular matters code may provide for)**

(1) Section 94(1)(c)—

*omit, insert—*

‘(c) compensation for failure to comply with the service standards and—

(i) the amount of the compensation or how it is to be worked out; and

(ii) how the compensation may be recovered, including, for example, by an action for a breach of statutory duty because of the contravention;’.

(2) Section 94(2)—

*omit.*

**20 Insertion of new s 94A**

Chapter 4, part 1—

*insert—*

**‘94A Obligation to comply with code**

‘(1) A distributor-retailer must not, without reasonable excuse, contravene the code.

Maximum penalty—1665 penalty units.

*Note—*

See also section 100F (Application of Water Supply Act enforcement provisions for particular offences).

- ‘(2) A proceeding for an offence under subsection (1) may be started even though the code provides for the payment of compensation because of the contravention.

*Note—*

See also the *Acts Interpretation Act 1954*, section 43 (Appropriation of penalties).’.

## **21 Insertion of new ch 4, pt 4 and new chs 4A and 4B**

Chapter 4—

*insert—*

### **‘Part 4 Interim customer service provisions**

#### **‘Division 1 General provisions about standards of customer service**

##### **‘99AA Application of pt 4**

‘This part applies until the later of the following—

- (a) the first making of the code;
- (b) 30 June 2011.

##### **‘99AB Interim application of relevant service standards for each constituent area**

- ‘(1) On and from 1 July 2010, the Water Supply Act, sections 115 and 120 do not apply to a distributor-retailer.
- ‘(2) For the Water Supply Act, section 117 (*section 117*) a distributor-retailer’s customer service standard is taken to be the relevant service standards for each of its constituent areas.

*Note—*

After this section ceases to apply, the code will apply to distributor-retailers. See section 53AZ (Code supersedes customer service standards).

‘(3) However, section 117 does not apply to any provisions of the relevant service standards concerning the handling of complaints by its customers.

‘(4) Also, section 117 applies subject to the other provisions of this part.

‘(5) In this section—

*constituent areas*, for the distributor-retailer, means each local government area of each of the participating local governments that make up the distributor-retailer’s geographic area.

*relevant service standard*, for a constituent area, means the customer service standards under the Water Supply Act of the participating local government for that area in force immediately before 1 July 2010.

### ‘99AC Application of complaints standard

‘(1) The complaints standard applies to a distributor-retailer for the handling of complaints by its customers.

‘(2) In this section—

*complaints standard* means AS ISO 10002—2006 Customer satisfaction—Guidelines for complaints handling in organizations (ISO 10002:2004, MOD).

### ‘99AD Customer service charter

‘(1) Each distributor-retailer must make a customer service charter that—

- (a) summarises its customers’ rights and obligations under this part; and
- (b) states the distributor-retailer’s policies about—

- (i) customer hardship because of inability to pay accounts; and
  - (ii) the payment of accounts by instalments.
- ‘(2) The customer service charter must be written in plain English.

### **‘99AE Access to customer service charter**

‘Before 1 July 2010, each distributor-retailer must—

- (a) publish its customer service charter made under section 99AD on its website; and
- (b) if a customer asks, give the customer a copy, free of charge.

### **‘99AF Obligation to comply with part**

‘A distributor-retailer must not, without reasonable excuse, contravene a provision of this part.

Maximum penalty—1665 penalty units.

## **‘Division 2 Meters**

### **‘Subdivision 1 General provisions**

#### **‘99AG Meters must be read annually**

‘Each distributor-retailer must take reasonable steps to ensure each meter recording each of its customers’ water consumption is read at least once each year.

*Note—*

For the power of a distributor-retailer to install and read meters, see the Water Supply Act, sections 35 and 37.

### **‘99AH Methods of charging**

‘A distributor-retailer may use methods of charging for water supplied or sold by it to its customers the distributor-retailer considers appropriate, including, for example—

- (a) giving an account based on meter readings; and
- (b) giving an estimated account.

### **‘99AI Special meter readings**

- ‘(1) A customer of a distributor-retailer may ask it for a reading of the meter for the customer’s premises to work out the amount of water consumed at the premises since the last meter reading for the premises.
- ‘(2) The distributor-retailer may require a fee for the reading.
- ‘(3) The fee must be no more than the actual cost of the reading.
- ‘(4) Subject to any payment required under subsection (2), the distributor-retailer must cause the reading to be carried out.

## **‘Subdivision 2 Meter tests**

### **‘99AJ Meter accuracy test at customer’s request**

- ‘(1) A customer of a distributor-retailer may ask the distributor-retailer to test the accuracy of the distributor-retailer’s meter installed on the customer’s premises—
  - (a) by a test carried out for the distributor-retailer (a *distributor-retailer test*); or
  - (b) to refer the meter for testing to an independent person (the *independent tester*) accredited by the National Association of Testing Authorities (an *independent test*).
- ‘(2) The distributor-retailer or independent tester may require the customer to pay the following before carrying out the test—

- (a) for a distributor-retailer test—a charge for water or another amount owing by the customer to the distributor-retailer for water services or wastewater services; and
  - (b) the fee for testing each meter to be tested.
- ‘(3) The fee must be the reasonable, but no more than the actual, cost of each test.
- ‘(4) Subject to any payment required under subsection (2), the distributor-retailer or independent tester must cause the test to be carried out.
- ‘(5) The distributor-retailer or independent tester must tell the customer when and where the test is to be carried out.
- ‘(6) The customer, or customer’s nominee, may be present during the test.

#### **‘99AK When meter taken to register accurately**

- ‘(1) A meter registers incorrectly only if it registers outside the prescribed margin of the correct amount of water supplied, whether greater or less.
- ‘(2) The prescribed margin is 5%.

#### **‘99AL Extent of inaccuracy**

‘If a properly conducted test shows a meter registers incorrectly, it is taken to be registering incorrectly only to the extent to which the registration falls outside the prescribed margin.

#### **‘99AM Notice of test results**

- ‘(1) If a distributor-retailer test or independent test is carried out, the person who carried out the test must give the customer who requested the test notice of the test results as soon as practicable.

- ‘(2) If the test shows the meter is registering incorrectly, the notice must state the extent to which the registration falls outside the prescribed margin.

### **‘99AN Refund and adjustment if inaccuracy**

- ‘(1) If a distributor-retailer test or independent test shows the meter tested is registering incorrectly, it must—
- (a) refund the customer who requested the test any test fee paid by the customer for the test; and
  - (b) adjust the customer’s previous relevant accounts to reflect the actual or a reasonable estimation of the water supplied to the customer.
- ‘(2) However, subsection (1)(b) does not apply for accounts issued for more than 1 year.

### **‘99AO Using testing instruments**

- ‘(1) A distributor-retailer or independent tester who uses a testing instrument for a test under this division must ensure it is—
- (a) appropriate for the test; and
  - (b) accurate and in proper working order.
- ‘(2) The distributor-retailer or independent tester must keep a record of each test under subsection (1)(b) for at least 2 years.

## **‘Division 3 Security and charges**

### **‘Subdivision 1 Restrictions on requesting security**

#### **‘99AP Security may only be requested if subdivision complied with**

‘A distributor-retailer may ask a customer for security for the payment of accounts from it to the customer only if this

subdivision is complied with to the extent it is relevant to the distributor-retailer.

### **'99AQ Residential customers**

- '(1) A distributor-retailer may ask a residential customer of the distributor-retailer to give security only if it reasonably considers the customer has an unsatisfactory credit history.
- '(2) For subsection (1) a customer is a residential customer only if—
  - (a) the customer is a customer of the distributor-retailer for the water services and wastewater services; and
  - (b) the services are provided to premises at which someone lives (the *resident*); and
  - (c) no-one other than the resident is a customer of the distributor-retailer for water services and wastewater services provided to the premises.

### **'99AR Non-residential customers**

- '(1) A distributor-retailer may ask a non-residential customer of the distributor-retailer to give security only if the distributor-retailer reasonably considers the customer does not have—
  - (a) a satisfactory credit rating; or
  - (b) a satisfactory water services payment history.
- '(2) For subsection (1) a customer is a non-residential customer only if—
  - (a) the customer is a customer of the distributor-retailer for the water services and wastewater services; and
  - (b) the customer is not, under section 99AQ(2), a residential customer of the distributor-retailer for the water services and wastewater services; and

- (c) no-one else is a customer of the distributor-retailer for water services and wastewater services provided to the premises.
- ‘(3) For section (1)(b), a non-residential customer’s water services payment history is taken to be unsatisfactory if the distributor-retailer has evidence that the customer has not paid an account for water services within the past year.
- ‘(4) Subsection (3) applies no matter who the account was from.

### **‘99AS Maximum security that may be requested**

‘The distributor-retailer can not ask for security that is more than—

- (a) if the customer is billed monthly—2.5 times the customer’s actual or estimated quarterly bills used to work out the security; or
- (b) otherwise—1.5 times the customer’s actual or estimated quarterly bills used to work out the security.

## **‘Subdivision 2 Restricting water supply**

### **‘99AT Restricting water supply for not paying charges or giving security**

- ‘(1) This section applies if—
  - (a) premises are connected to a distributor-retailer’s water service; and
  - (b) a following customer of the distributor-retailer does not pay a charge for the service or give security for the service requested under subdivision 1—
    - (i) a residential customer under section 99AQ;
    - (ii) a non-residential customer under section 99AR;

- (c) the distributor-retailer has given the customer at least 1 month's notice to pay the charge or give the security; and
  - (d) the customer continues not to pay the charge or give the security.
- ‘(2) The distributor-retailer may reduce the water supply to the premises to the minimum level necessary for the customer's health and sanitation purposes.
- ‘(3) However, the distributor-retailer must not completely shut off the water supply to the premises.
- ‘(4) This section applies to a distributor-retailer instead of the Water Supply Act, section 169.

*Editor's note—*

Water Supply Act, section 169 (Restricting domestic water supply in particular circumstances)

## **‘Division 4                      Accounts**

### **‘99AU Application of div 4**

‘This section applies for any account from a distributor-retailer to a customer for water services and wastewater services.

### **‘99AV Matters required to be stated in account**

- ‘(1) The account must state all of the following—
- (a) the customer's name and the customer's premises at which the water services and wastewater services were provided;
  - (b) the period of the account;
  - (c) the bulk water component;
  - (d) an entry called ‘distribution and retail’;

- (e) an enquires telephone number;
  - (f) the total charge;
  - (g) the methods by which the account may be paid;
  - (h) whether a security deposit is held by the distributor-retailer;
  - (i) the charge under the most recent account from the distributor-retailer to the customer;
  - (j) any concessions, discounts or rebates applied in working out the amount charged under the account;
  - (k) any interest to be charged under section 53AT for late payment of the account;
  - (l) a comparison with the consumption of other customers;
  - (m) a comparison with the last meter read for the customer in relation to the premises.
- ‘(2) The entry called ‘distribution and retail’ must include the amount charged for—
- (a) water services and wastewater services; and
  - (b) being able to be provided with the service (called a ‘fixed access charge’).
- ‘(3) In this section—
- bulk water component* means the component of the account that represents the amount of any charge for bulk water services under the Water Supply Act passed on to the customer in the account.

### **‘99AW Requirements for accounts included in rates notice**

- ‘(1) If the account is included in a rates notice to the customer, the account must—
- (a) be on a separate page; and
  - (b) be clearly identified as an account to the customer from the distributor-retailer.

‘(2) In this section—

*rates notice* means an account or other notice from a participating local government requiring the payment of rates under the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

## ‘Division 5                      Miscellaneous provision

### ‘99AX New owner’s obligation to notify distributor-retailer

‘(1) This section applies if, after a transfer of premises, a person starts to receive a supply of water from a water service or the benefit of a wastewater service from a distributor-retailer.

‘(2) The person must, as soon as practicable, tell the distributor-retailer, or give the distributor-retailer notice, that the person has become the owner of the premises, unless the person has a reasonable excuse.

Maximum penalty—1 penalty unit.

‘(3) However, the person is not required to comply with subsection (2) if the following are given to the registrar—

- (a) an application for registration of the transfer;
- (b) a properly completed property transfer information form.

‘(4) If a property transfer information form is given under subsection (3), the distributor-retailer may be given the same information from the form that, under the *Local Government Act*, can be given to a local government.

‘(5) In this section—

*Local Government Act* means the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

*property transfer information form* means a form that—

- (a) gives information about a change of ownership required under another Act; and

(b) may be given to the registrar.

*transfer* includes transmission.

## **‘Chapter 4A SEQ design and construction code**

### **‘Part 1 General provisions about code**

#### **‘99AY What is the *SEQ design and construction code***

‘The *SEQ design and construction code* is an instrument—

- (a) made jointly by all the distributor-retailers; and
- (b) that provides for technical standards relating to the design and construction of water infrastructure in the SEQ region.

#### **‘99AZ Requirement to have code**

‘The distributor-retailers must, on and from 1 July 2013, have an SEQ design and construction code.

#### **‘99BA Particular matters for code**

- ‘(1) The SEQ design and construction code may provide for design and construction standards for water infrastructure and water infrastructure works, including, for example, standards about any of the following—
- (a) meters and connections to water infrastructure;
  - (b) gravity and pressure pipelines;
  - (c) demand and peaking factors for flow of water and wastewater;



- ‘(3) The final submission day must not be earlier than 28 days after the day the notice is published.
- ‘(4) Each distributor-retailer must, from the publication of the notice to the final submission day, cause the draft to be published on its website.

#### **‘99BC Preparing final code**

‘In preparing the final SEQ design and construction code to be adopted, the distributor-retailers must consider all submissions about the draft code made under section 99BB(2).

#### **‘99BD Adopting code**

‘The final SEQ design and construction code must be adopted by the board of each distributor-retailer.

#### **‘99BE When code has effect**

- ‘(1) As soon as practicable after the SEQ design and construction code is adopted by the distributor-retailers, the Minister must, by gazette notice, notify the adoption of the code.
- ‘(2) The code has effect on and from the day its adoption is notified in the gazette.

#### **‘99BF Amendment of code**

- ‘(1) The distributor-retailers may amend the SEQ design and construction code.
- ‘(2) Sections 99BB and 99BC apply to the amendment as if a reference in the sections to the code were a reference to the amending code.
- ‘(3) However, the sections do not apply if—
  - (a) the amending code is only to—
    - (i) correct a minor error in the code; or





## **‘Chapter 4B Water netserv plans**

### **‘Part 1 General provisions**

#### **‘99BJ Requirement for distributor-retailer to have plan**

‘A distributor-retailer must, from 1 July 2013, have a plan (a *water netserv plan*) about its water and wastewater networks and providing its water service and wastewater service.

#### **‘99BK Plan to be consistent with SEQ regional plan and planning assumptions**

‘A distributor-retailer must ensure its water netserv plan is consistent with—

- (a) the SEQ regional plan; and
- (b) the planning assumptions for the distributor-retailer’s geographic area.

#### **‘99BL Requirement for distributor-retailer to review plan**

‘(1) A regulation may prescribe circumstances under which a water netserv plan must be reviewed to ensure the plan—

- (a) is consistent with—
  - (i) the SEQ regional plan; and
  - (ii) the planning assumptions for the distributor-retailer’s geographic area; and
- (b) achieves the purposes of the plan under section 99BM.

‘(2) If a distributor-retailer’s water netserv plan does not meet the criteria stated in subsection (1)(a) or (b) because of circumstances prescribed under a regulation, the distributor-retailer must review its plan to ensure it meets the criteria.

- ‘(3) A distributor-retailer must, before the end of each 5 year period after 1 July 2013, review its water netserv plan to ensure the plan meets the criteria stated in subsection (1)(a) and (b).
- ‘(4) However, if a distributor-retailer reviews its water netserv plan under subsection (2), subsection (3) applies to the distributor-retailer as if the reference in that subsection to each 5 year period after 1 July 2013 were a reference to each 5 year period after the day the plan was last reviewed.
- ‘(5) Without limiting subsections (2) to (4), a distributor-retailer must review, annually, the connection areas under its water netserv plan.

## **‘Part 2                      Purposes, form and content of plan**

### **‘99BM Purposes of plan**

‘The purposes of a distributor-retailer’s water netserv plan for its geographic area are as follows—

- (a) to provide for strategic planning for the operation of the distributor-retailer’s business;
- (b) to provide planning for the delivery of infrastructure for supplying the distributor-retailer’s water services and wastewater services for at least 20 years;
- (c) to ensure the provision of safe, reliable and secure water services and wastewater services by distributor-retailers;
- (d) to integrate land use planning and planning for infrastructure for the distributor-retailer’s water services and wastewater services;
- (e) to provide for the management of the distributor-retailer’s water services and wastewater

services in a way that seeks to achieve ecological sustainability.

### **‘99BN Form of plan**

‘Each water netserv plan must include—

- (a) a separate part (*part A*) containing the matters mentioned in section 99BO(1); and
- (b) a separate part (*part B*) containing the matters mentioned in section 99BP(1).

### **‘99BO Content of part A of plan**

‘(1) Part A of a distributor-retailer’s water netserv plan must—

- (a) state, for the distributor-retailer’s geographic area, the planning assumptions on which the plan is based; and
- (b) include information outlining the distributor-retailer’s infrastructure networks for its water service and wastewater service, including information about the capacity of each network to service existing and proposed customers; and
- (c) include information outlining any proposed increases in the capacity of the infrastructure networks, including information about the areas into which the networks are to be extended and time frames for increasing the capacity; and
- (d) state the desired standard of service for infrastructure used to provide the distributor-retailer’s water service and wastewater service; and

*Examples for paragraph (d)—*

- standards about water supply pressure and volume for particular areas
  - rates of removal of sewage for particular areas
- (e) include information outlining the distributor-retailer’s strategy for demand management for water; and

- (f) state the distributor-retailer's policy for connections to its infrastructure networks for its water service and wastewater service (the ***connections policy***), including—
- (i) the areas (each a ***connection area***) in which the distributor-retailer guarantees to provide connection to its water service or wastewater service; and
  - (ii) the circumstances in which the distributor-retailer may approve connection outside a connection area; and
  - (iii) the distributor-retailer's criteria for providing connection, with or without conditions, to its water service or wastewater service; and

*Example of a condition for subparagraph (iii)—*

Connecting a new housing development to a water service or wastewater service might be subject to the construction of specific infrastructure by the proponent of the development.

- (g) include a schedule (a ***charges schedule***) containing details of—
- (i) charges to connect customers to the distributor-retailer's water service and wastewater service; and
  - (ii) charges for a customer's use of the services; and
  - (iii) charges relating to providing infrastructure for the services; and
- (h) indicate how the distributor-retailer proposes to achieve effective outcomes for the provision of water services and wastewater services in—
- (i) its geographic area; and
  - (ii) the SEQ region; and
- (i) include any other matters prescribed under a regulation.

- ‘(2) The areas, mentioned in subsection (1)(c), into which infrastructure networks are to be extended must be consistent with the priority infrastructure areas of the participating local governments for the distributor-retailer.
- ‘(3) Subsection (1) does not limit the matters the water netserv plan may contain.
- ‘(4) In this section—
  - demand management*, for water, see the Water Supply Act, schedule 3.
  - priority infrastructure area*, for a local government, see the Planning Act, schedule 3.

#### ‘99BP Content of part B of plan

- ‘(1) Part B of a distributor-retailer’s water netserv plan must—
  - (a) include information outlining the distributor-retailer’s existing and proposed infrastructure for providing its services, indicating how the distributor-retailer proposes—
    - (i) to meet performance targets and service standards for assets relating to the operation, maintenance and replacement of existing infrastructure; and
    - (ii) to provide new infrastructure to meet expected future development and future growth in its geographic area; and
  - (b) indicate the measures proposed to minimise—
    - (i) water losses caused by leakage from infrastructure for supplying the distributor-retailer’s water service; and
    - (ii) sewerage overflows; and
  - (c) include information outlining the drinking water quality management measures the distributor-retailer will take to protect public health; and

- (d) include information about how the plan provides for total water cycle management for water and wastewater in the geographic area; and

*Examples of information for paragraph (d)—*

- details of the collection, treatment and recycling of wastewater and other water sources
- information about the integration of water use
- information for each of its wastewater treatment plants about effluent management, wastewater recycling, sewerage system overflows and biosolid management

- (e) indicate how the distributor-retailer seeks to achieve ecological sustainability in undertaking its functions; and

- (f) include information about the management of trade waste entering the distributor-retailer's wastewater service; and

*Examples of information for paragraph (f)—*

- requirements for waste prevention, treatment and recycling before trade waste can be discharged to a sewer
- impacts of trade waste on the infrastructure, the receiving environment and the health and safety of persons working on the wastewater service
- regular reviews of trade waste

- (g) include information about the management of recycled water by the distributor-retailer under a recycled water scheme; and

*Examples of information for paragraph (g)—*

- information about infrastructure to produce or supply recycled water from any recycled water scheme
- information about risks to the quality of recycled water and measures to address the risks
- information about monitoring programs

- (h) include any other matters prescribed under a regulation, including, for example, matters included in a plan

prepared by a service provider under the Water Supply Act.

- ‘(2) Subsection (1) does not limit the matters the water netserv plan may contain.

## ‘Part 3 Particular provisions about plans

### ‘99BQ Matters distributor-retailer must have regard to in making plan

- ‘(1) In making its water netserv plan, a distributor-retailer must have regard to the following—
- (a) documents that—
    - (i) are relevant to the provision of water services and wastewater services in the SEQ region; and
    - (ii) the chief executive has advised the distributor-retailer in writing are documents relevant to the making of its plan;

*Examples of documents—*

- SEQ water strategy made under the SEQ regional plan
  - SEQ infrastructure plan and program under the SEQ regional plan
  - SEQ regional water security program, for the SEQ region, under the *Water Act 2000*
  - sub-regional total water cycle management plans under the SEQ regional plan
- (b) the most efficient cost asset cycle planning for the distributor-retailer’s business;
  - (c) the total water cycle management plans of each participating local government for the distributor-retailer;



- (c) the proposed plan to be endorsed by the Planning Minister as being consistent with the SEQ regional plan;
  - (d) the proposed plan to be endorsed by each participating local government for the distributor-retailer as being consistent with the planning assumptions for the part of the distributor-retailer's geographic area that is the local government area of the participating local government;
  - (e) adoption of the proposed plan by the distributor-retailer;
  - (f) notification of adoption of the plan by gazette notice.
- ‘(2) Also, the regulation may make provision for—
- (a) stated components of the plan to be approved by a stated public sector entity; and
  - (b) certification by an appropriately qualified person of stated components of the plan as being appropriate for the distributor-retailer's infrastructure and services.
- ‘(3) Subsections (1) and (2) do not limit the matters for which the regulation may provide.
- ‘(4) In this section—
- public sector entity* means—
- (a) a department or part of a department; or
  - (b) an agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose; or
  - (c) a government owned corporation.’.

## 22 Insertion of new ch 5, pt 1 and pt 2 hdg

Chapter 5, before section 100—

*insert—*



- (a) the real property description of land to which the charge applies;
  - (b) the schedule under which the charge was levied;
  - (c) the amount of the charge levied;
  - (d) the amount of the charge unpaid;
  - (e) the number of units of demand charged for;
  - (f) if the charge was levied as a result of a development approval or compliance permit under the Planning Act—the approval or permit reference number and the day the approval or permit will lapse;
  - (g) if infrastructure was to be provided instead of paying the charge—details of any infrastructure still to be provided.
- ‘(4) Also, the infrastructure charges register must include—
- (a) the charge rate, stated in the charges schedule, for each charge levied;
  - (b) if the charge has been adjusted for inflation—details of how it was adjusted and the adjusted charge rate.
- ‘(5) If a document is available for inspection and purchase, a person may—
- (a) inspect the document free of charge at any time the office in which the document is held is open for business; and
  - (b) obtain a copy of the document, or part of the document, from the distributor-retailer.

*Note—*

The *Copyright Act 1968* (Cwlth) overrides this Act and may limit the copying of material subject to copyright.

### **‘99BV Distributor-retailer may charge for copies of documents**

- ‘(1) The distributor-retailer may charge a person for supplying a copy of a document or part of a document.

- ‘(2) The charge must not be more than the cost to the distributor-retailer of—
- (a) making the copy available to the person; and
  - (b) if the person asks for the material to be posted—the postage.

## ‘Part 2 Other matters’.

### **23 Insertion of new ss 100A–100F**

After section 100—

*insert—*

#### **‘100A Trade waste management plans and plans for managing wastewater services**

- ‘(1) Subsections (2) and (3) apply to a distributor-retailer—
- (a) on 1 July 2010; and
  - (b) until the day the distributor-retailer has a water netserv plan.
- ‘(2) The existing trade waste management plan of a participating local government for a distributor-retailer is taken to be the distributor-retailer’s trade waste management plan under the Water Policy, section 22.
- ‘(3) In managing its wastewater service, the distributor-retailer must have regard to the provisions about the matters that, under the Water Policy, section 20, are included in the existing total water cycle management plans of its participating local governments.
- ‘(4) On and from the day a distributor-retailer has a water netserv plan, the Water Policy, section 22 does not apply to the distributor-retailer as a sewerage service provider.

‘(5) On and from 1 July 2010, the Water Policy, section 20, does not apply to a participating local government.

‘(6) In this section—

*existing*, for a trade waste management plan or total water cycle management plan of a participating local government, means the local government’s environmental plan about trade waste management or total water cycle management plan developed under the Water Policy and in effect immediately before 1 July 2010.

*Water Policy* means the *Environmental Protection (Water) Policy 2009*.

#### **‘100B Distributor-retailer to prepare statement about capital works**

‘(1) A distributor-retailer must, for each financial year starting on 1 July 2013 and before the start of the financial year, prepare an annual capital works program for the financial year.

‘(2) In this section—

*annual capital works program*, for a financial year, means a program outlining the distributor-retailer’s proposed program for—

- (a) constructing or acquiring plant and equipment; and
- (b) adding to or replacing its existing plant and equipment.

#### **‘100C Commission may make guidelines**

‘The commission may make guidelines to provide guidance to distributor-retailers about—

- (a) preparing a water netserv plan; or
- (b) matters appropriate for inclusion in a water netserv plan, including, for example, matters required to be included in a plan a service provider must have under the Water Supply Act.

*Examples of plans—*

- strategic asset management plan
- system leakage management plan

**‘100D Application of Water Supply Act internal and external review provisions for decisions under Act**

- ‘(1) This section applies for a decision to—
- (a) give a work direction; or
  - (b) give a trade waste compliance notice; or
  - (c) make a consistency amendment of a trade waste approval.
- ‘(2) The Water Supply Act, chapter 7 (other than part 4), applies—
- (a) as if the decision were an original decision under that Act; and
  - (b) as if the affected entity had been given an information notice mentioned in section 510(1)(c) of that Act; and
  - (c) as if the affected entity were the interested person for the original decision; and
  - (d) as if a reference in the chapter to the reviewer were a reference to the relevant chief executive; and
  - (e) with other necessary changes.
- ‘(3) For the Water Supply Act, section 517(1), as applied under subsection (1), the right of appeal against, or to apply for an external review of, the review decision is to QCAT.
- ‘(4) In this section—
- affected entity*** means—
- (a) if the decision is to give a work direction—the distributor-retailer to whom the direction was given; or
  - (b) if the decision is to give a trade waste compliance notice or make a consistency amendment—the approval holder.

*relevant chief executive* means—

- (a) if the decision is to give a work direction—the chief executive of the public entity that gave the direction; or
- (b) if the decision is to give a trade waste compliance notice or make a consistency amendment—the chief executive officer of the distributor-retailer.

### **‘100E Offences against Act are summary**

‘An offence against this Act is a summary offence.

### **‘100F Application of Water Supply Act enforcement provisions for particular offences**

- ‘(1) This section applies for the following provisions—
  - (a) section 53DL;
  - (b) section 94A;
  - (c) a provision, prescribed under a regulation, of a regulation that creates an offence.
- ‘(2) The Water Supply Act, chapter 5, part 9 applies—
  - (a) as if a reference to the commission of an offence against that Act were a reference to an offence against the provision; and
  - (b) with other necessary changes.
- ‘(3) For the Water Supply Act, section 475(2) and (3), as applied under subsection (2), a proceeding for an enforcement order in relation to an offence against the provision may be started only by—
  - (a) for an offence against section 53DL—the distributor-retailer for whom the notice was issued; or
  - (b) for section 94A—the commission; or
  - (c) for a provision prescribed under subsection (1)(c)—the entity prescribed under a regulation.’.

**24 Amendment of s 102 (Regulation-making power)**

- (1) Section 102(2)(c), ‘code’—  
*omit, insert—*  
‘customer water and wastewater code’.
- (2) Section 102(2)—  
*insert—*
- ‘(d) provide for a right to compensation for a contravention of any of the following and how the compensation may be recovered—
- (i) a provision applied under paragraph (a);
  - (ii) a matter provided for under paragraph (b); and
- (e) provide for any matter connected with charges for water services and wastewater services, including, for example—
- (i) concessions; and
  - (ii) the process for recovering overdue charges for water services and wastewater services; and
- (f) declare that a stated provision of a stated planning scheme has no effect for the assessment of a development application for development in the SEQ region, if the matters to which the provision relates are matters provided for under a water netserv plan.’.

**25 Insertion of new ch 6, pt 1 hdg**

Chapter 6, after heading—

*insert—*

**‘Part 1 Transitional provisions for Act No. 46 of 2009’.**

**26 Omission of s 105 (Application of customer service standards until code commences)**

Section 105—

*omit.*

**27 Insertion of new ch 6, pt 2**

After section 107—

*insert—*

**‘Part 2 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

**‘108 Public entity approvals taken to be given for existing water infrastructure work**

- ‘(1) This section applies to water infrastructure of a participating local government for a distributor-retailer that—
- (a) existed before the commencement of this section; and
  - (b) under a transfer document, becomes the distributor-retailer’s property; and
  - (c) is on a publicly-controlled place.
- ‘(2) Any of the following granted, imposed or done before the commencement are taken to be a public entity approval (a *relevant approval*) by the public entity for the publicly-controlled place for water infrastructure work for the water infrastructure—
- (a) an approval (however called) under another Act by the public entity to carry out the work if all conditions of the approval have been complied with;

- (b) requirements imposed by the public entity under the Transport Infrastructure Act or another Act on the carrying out of the work;
  - (c) for a road that is not a State-controlled road—the carrying out of the infrastructure work by a local government.
- ‘(3) Also, if requirements mentioned in subsection (2)(b) were not imposed before the commencement, the public entity is taken to have given the relevant approval.’

**‘109 Deferral of distributor-retailer’s liability for additional public entity road work expenses**

- ‘(1) Section 53CH does not apply to a distributor-retailer until 1 July 2015.
- ‘(2) In this section—
- existing water infrastructure* means water infrastructure in the distributor-retailer’s geographic area the construction of which was finished before 1 July 2010.

**‘110 Existing authorised persons**

‘If—

- (a) immediately before 1 July 2010, a person held an appointment as an authorised person from a participating local government of a distributor-retailer; and
- (b) under a transition document, the person becomes an employee of a distributor-retailer on 1 July 2010;

on 1 July 2010, the person is taken to be appointed as an authorised person of the distributor-retailer.’

## 28 Amendment of schedule (Dictionary)

(1) Schedule, definitions *code*, *customer* and *instrument*—  
*omit.*

(2) Schedule—  
*insert—*

*‘appropriately qualified*, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

*approval holder*—

- (a) generally—means the holder of a trade waste approval;  
or
- (b) for a provision about a particular trade waste approval—means the holder of that approval; or
- (b) for a provision about a trade waste compliance notice—means the holder of the trade waste approval to whom the notice was, or is to be, given.

*approved inspection program* means an inspection program approved under section 53CP of which notice has been given as required under that section.

*authorised person* means an authorised person under the Water Supply Act.

*available for inspection and purchase* see section 99BT.

*bundled agreement*, for chapter 3, part 3, division 2, subdivision 3, see section 77(3).

*charges schedule* see section 99BO(1)(g).

*code* means—

- (a) for chapter 4A—the SEQ design and construction code;  
or
- (b) otherwise—the customer water and wastewater code.

**commission** means the Queensland Water Commission under the Water Act.

**connection area** see section 99BO(1)(f)(i).

**connections policy** see section 99BO(1)(f).

**consequential work** see section 53BV(1)(b).

**consequential work requirement** see section 53BV(2).

**consistency amendment**, of a trade waste approval, see section 53AG(2).

**customer** see the Water Supply Act, schedule 3.

**customer water and wastewater code** see section 93(1).

**development application** see the Planning Act, schedule 3.

**distributor-retailer's charge**, for chapter 2A, part 3, see section 53AV(1).

**distributor-retailer test** see section 99AJ(1)(a).

**ecological sustainability** means ecological sustainability within the meaning of the Planning Act.

**independent test** see section 99AJ(1)(b).

**independent tester** see section 99AJ(1)(b).

**information notice**, for a decision, 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 the person to whom the notice is given may apply for an internal review of the decision, within 30 business days after the notice is given;
  - (v) how to apply for the internal review; and
- (b) including a copy of the relevant internal review provisions of the Water Supply Act.

**information request** see section 53CF(2).

**infrastructure agreement** means any of the following—

- (a) an infrastructure agreement under the Planning Act, schedule 3;
- (b) an infrastructure agreement under the repealed *Integrated Planning Act 1997* mentioned in the Planning Act, section 840;
- (c) an infrastructure agreement under the repealed *Local Government Planning and Environment Act 1990* to which the Planning Act, section 855 applies;
- (d) an agreement to which the Planning Act, section 856 applies.

*Editor's note—*

Planning Act, section 856 (Rezoning agreements under previous Acts).

**instrument**—

- 1 An *instrument* is a document of any type or an oral agreement.

*Example—*

an infrastructure agreement

- 2 A reference to an instrument includes a reference to any part of the instrument.

**location**, of water infrastructure on a road, see section 53BG.

**meter** means a device, including equipment related to the device, for measuring the volume of water supplied to premises and installed on infrastructure that supplies a water service at the premises.

**overdue charge**, for chapter 2A, part 3, see section 53AS(2).

**part A**, of a water netserv plan, see section 99BN(a).

**part B**, of a water netserv plan, see section 99BN(b).

**Planning Act** means the *Sustainable Planning Act 2009*.

***planning assumptions***, for a distributor-retailer's geographic area, means—

- (a) the assumptions about the type, scale, location and timing of future development and future growth for any part of the area stated in the distributor-retailer's participating local governments' priority infrastructure plans under the Planning Act; or
- (b) if the distributor-retailer, a participating local government and the Planning Minister agree that assumptions about a matter mentioned in paragraph (a) and stated in a proposed priority infrastructure plan for the local government are appropriate for preparing or reviewing a water netserv plan—the agreed assumptions.

***Planning Minister*** means the Minister administering the Planning Act.

***planning scheme*** see the Planning Act, section 79.

***premises*** means—

- (a) a lot as defined under the Planning Act, section 10(1); 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.

***prescribed margin***, for a meter test, means the prescribed margin under section 99AK(2).

***program period***, for a provision about an approved inspection program, see section 53CP(3)(e).

***public entity***—

- (a) generally—see section 53BC; and
- (b) for a publicly-controlled place—see section 53BD(3).

***public entity approval*** see section 53BI(1)(a).

***public entity work*** see section 53BT.

***publicly-controlled place*** see section 53BD.

**public thoroughfare easement** means a public thoroughfare easement under either of the following provisions, if the easement is in favour of the State—

- (a) the Land Act, chapter 6, part 4, division 8;
- (b) the Land Title Act, part 6, division 4.

**reasonably believes** means believes on grounds that are reasonable in the circumstances.

**recycled water scheme** see the Water Supply Act, schedule 3.

**regulator** see the Water Supply Act, section 10.

**relevant action**, for chapter 2, part 3, division 2, subdivision 3A, see section 77I(3).

**remedial action** see section 53BZ.

**remedial action requirement** see section 53CA.

**road** see section 53BE(1).

**road works** see section 53BF.

**SEQ design and construction code** see section 99AY.

**SEQ regional plan** means the regional plan for the SEQ region under the Planning Act.

**sewerage service provider** see the Water Supply Act, schedule 3.

**State-controlled road** see section 53BE(2).

**trade waste** means water-borne waste from business, trade or manufacturing premises, other than—

- (a) waste that is a prohibited substance under the Water Supply Act, schedule 1; or
- (b) human waste; or
- (c) stormwater.

**trade waste approval** means a trade waste approval under the Water Supply Act, section 180(1) and includes a condition of a trade waste approval.

**trade waste compliance action** see section 53DM(2).

**trade waste compliance notice**—

- (a) generally—see section 53DJ(2); and
- (b) for a provision about an approval holder means the approval holder to whom the trade waste compliance notice was given.

**trade waste offence** means an offence against—

- (a) section 53DL; or
- (b) the Water Supply Act, chapter 2, part 6; or
- (c) the Water Supply Act, chapter 2, part 7, to the extent that part relates to trade waste and a distributor-retailer's infrastructure as a sewerage service provider.

**trade waste officer** means—

- (a) generally—a person who holds appointment as a trade waste officer under section 53CK; and
- (b) for a provision about a distributor-retailer—a trade waste officer appointed by the distributor-retailer.

**Transport Infrastructure Act** means the *Transport Infrastructure Act 1994*.

**water aspect**, for chapter 3, part 3, division 2, subdivision 3, see section 77B(1)(b).

**water infrastructure** see section 53BB(1).

**water infrastructure work** see section 53BB(2).

**water netserv plan** see section 99BJ.

**work direction** see section 53BQ(2).'

- (3) Schedule, definition *distributor-retailer*—

*insert*—

- '(c) for a provision about a trade waste officer—means the distributor-retailer that appointed the officer; and



**32 Insertion of new s 62A**

After section 62—

*insert—*

**‘62A SEQ water distributor-retailer exemption**

‘An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used by a SEQ water distributor-retailer only for performing its geographic area functions.’.

**33 Amendment of schedule (Dictionary)**

Schedule—

*insert—*

‘*geographic area functions*, for a SEQ water distributor-retailer, see the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 11.

‘*SEQ water distributor-retailer* means a distributor-retailer under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.’.

**Part 4 Amendment of Environmental Protection Act 1994**

**34 Act amended**

This part amends the *Environmental Protection Act 1994*.

**35 Amendment of s 310C (Requirements for application)**

Section 310C(d)(i), ‘310D(2)’—

*omit, insert—*

‘310D’.

### **36 Amendment of s 310D (Environmental management plan)**

Section 310D—

*insert—*

- ‘(5) If the application is for a coal seam gas environmental authority, the environmental management plan must also state the following—
- (a) the quantity of coal seam gas water the applicant reasonably expects will be generated in connection with carrying out each relevant CSG activity;
  - (b) the flow rate at which the applicant reasonably expects the water will be generated;
  - (c) the quality of the water, including changes in the water quality that the applicant reasonably expects will happen while each relevant CSG activity is carried out;
  - (d) the proposed management of the water including the use, treatment, storage or disposal of the water;
  - (e) the measurable criteria (the *management criteria*) against which the applicant will monitor and assess the effectiveness of the management of the water including criteria for each of the following—
    - (i) the quantity and quality of the water used, treated, stored or disposed of;
    - (ii) protection of the environmental values affected by each relevant CSG activity;
    - (iii) the disposal of waste, including, for example, salt, generated from the management of the water;
  - (f) the action that is proposed to be taken, if any of the management criteria are not satisfied, to ensure the criteria will be able to be satisfied in the future.
- ‘(6) For subsection (5)(d), the environmental management plan must not provide for using a CSG evaporation dam in connection with carrying out a relevant CSG activity unless—
- (a) the plan includes an evaluation of—

- (i) best practice environmental management for managing the coal seam gas water; and
- (ii) alternative ways for managing the water; and
- (b) the evaluation shows there is no feasible alternative to a CSG evaporation dam for managing the water.

‘(7) In this section—

*coal seam gas* means petroleum (in any state) occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.

*coal seam gas environmental authority* means an environmental authority (chapter 5A activities) for a level 1 chapter 5A activity involving exploring for or producing coal seam gas.

*coal seam gas water* means underground water brought to the surface of the earth or moved underground in connection with exploring for or producing coal seam gas.

*CSG evaporation dam* means an impoundment, enclosure or structure that is designed to be used to hold coal seam gas water for evaporation.

*relevant CSG activity* means a relevant chapter 5A activity involving exploring for or producing coal seam gas.’

### **37 Amendment of s 310U (Requirements for amendment application)**

Section 310U—

*insert—*

- ‘(2) Also, if the application relates to a coal seam gas environmental authority, it must be accompanied by an environmental management plan (a *revised (CSG) EM plan*) that—
- (a) states the matters mentioned in section 310D(5)(a) to (f); and
  - (b) complies with section 310D(6).’

### **38 Amendment of s 312E (Other amendments)**

- (1) Section 312E(2)(o)—  
*renumber* as section 312E(2)(p).
- (2) Section 312E(2)—  
*insert*—  
'(o) a revised (CSG) EM plan;'
- (3) Section 312E—  
*insert*—  
'(4) Despite subsections (1)(a) and (2)(o), the administering authority may amend a coal seam gas environmental authority because of a revised (CSG) EM plan only if the amendment directly relates to a matter in the plan that is new or has changed from the previous environmental management plan for the authority.'

### **39 Insertion of new s 316A**

After section 316—

*insert*—

#### **'316A Particular requirement for annual return for CSG environmental authority**

- '(1) This section applies if the holder of a coal seam gas environmental authority is required to lodge an annual return under section 316(3)(a).
- '(2) The annual return must include an evaluation of the effectiveness of the management of coal seam gas water under the criteria mentioned in section 310D(5)(e) for carrying out each relevant CSG activity.
- '(3) Without limiting subsection (2), the evaluation must state—
  - (a) whether or not the coal seam gas water has been effectively managed having regard to the criteria; and
  - (b) if the water has not been effectively managed—

- (i) the action that will be taken to ensure the water will in the future be effectively managed having regard to the criteria; and
- (ii) when the action will be taken.’

#### 40 Insertion of new ch 13, pt 15

After section 659—

*insert—*

### ‘Part 15 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010

#### ‘660 Definitions for pt 15

‘In this part—

*commencement day* means the day this section commences.

*CSG amendment*, to an existing CSG authority, means an amendment relating to managing coal seam gas water generated in connection with carrying out a relevant CSG activity.

*existing CSG authority* means a coal seam gas environmental authority that was in force immediately before the commencement day.

#### ‘661 Temporary prohibition on constructing CSG evaporation dams under existing CSG authority

- ‘(1) While this section applies, an existing CSG authority does not authorise the construction of a CSG evaporation dam in connection with carrying out a relevant CSG activity.

*Note—*

See section 426A (Environmental authority required for chapter 5A activity).

- ‘(2) However, subsection (1) does not apply if the construction of the dam has substantially commenced before the commencement day.
- ‘(3) This section stops applying when—
  - (a) a CSG amendment is made to the authority; or
  - (b) the holder of the authority gives the administering authority a revised (CSG) EM plan for the authority and the administering authority gives the holder a written notice approving construction of the dam.

#### **‘662 Revised (CSG) EM plan required for existing CSG authority**

- ‘(1) The holder of an existing CSG authority must within 1 year after the commencement day give the administering authority a revised (CSG) EM plan for the existing CSG authority.
- ‘(2) Even if the authority holder does not give a revised (CSG) EM plan within 1 year after the commencement day, the obligation under subsection (1) continues until—
  - (a) the holder gives the administering authority a revised (CSG) EM plan; or
  - (b) a CSG amendment is made to the existing CSG authority.

*Note—*

Under section 312E(1) the administering authority may amend an environmental authority (chapter 5A activities) if it considers the amendment is necessary or desirable because of a matter mentioned in section 312E(2), including (under section 312E(2)(a)) a contravention of this Act by the holder.

**‘663 First annual return for existing CSG authority**

‘Section 316A does not apply to the first annual return that the holder of an existing CSG authority is required to lodge after the commencement day unless the holder has given the administering authority a revised (CSG) EM plan for the existing CSG authority.’

**41 Amendment of sch 4 (Dictionary)**

Schedule 4—

*insert—*

*‘coal seam gas* see section 310D(7).

*coal seam gas environmental authority* see section 310D(7).

*coal seam gas water* see section 310D(7).

*CSG evaporation dam* see section 310D(7).

*relevant CSG activity* see section 310D(7).

*revised (CSG) EM plan* see section 310U(2).’.

**Part 4A                      Amendment of Nature  
Conservation Act 1992**

**41A Act amended**

This part amends the *Nature Conservation Act 1992*.

**41B Amendment of s 27 (Prohibition on mining and GHG storage activities)**

Section 27(2)(b)—

*omit, insert—*

‘(b) an authority under section 34, 35, 42AD or 42AE has been granted, made, issued or given for the licence.’



- (a) the local government; and
- (b) if the permit or certificate is for work to which subsection (4) applies—the distributor-retailer for the part of the SEQ region.’.

#### **45 Amendment of s 85 (Process for assessing plans)**

(1) Section 85(2)—

*insert—*

‘(d) if the request is about a plan for regulated work in a part of the SEQ region that involves connecting to, disconnecting from or changing a connection to a distributor-retailer’s water infrastructure—accompanied by a document or information to show the connection, disconnection or change has been approved by or for the distributor-retailer.

*Examples of a document for paragraph (d)—*

- a development approval
- a Water Supply Act connection approval’.

(2) Section 85—

*insert—*

‘(7A) A participating local government for a distributor-retailer can not give a compliance permit for a plan for regulated work that involves connecting to, disconnecting from or changing a connection to the distributor-retailer’s water infrastructure unless—

- (a) the proposed connection, disconnection or change has been approved by or for the distributor-retailer; or

*Examples of an approval for paragraph (a)—*

- a development approval
- a Water Supply Act connection approval

- (b) the local government has been advised by the distributor-retailer in writing that a compliance permit

for the type of regulated work under the plan may be given without the distributor-retailer's approval.

'(7B) A distributor-retailer may give a participating local government a written advice for subsection (7A)(b) for stated types of connections, disconnections or changes to connections for the distributor-retailer's water infrastructure.'

(3) Section 85(8)(c)—

*omit.*

#### **46 Insertion of new s 85A**

After section 85—

*insert—*

#### **'85A Participating local government to give documents or information to distributor-retailer**

'(1) A distributor-retailer may, by notice in writing to a participating local government for the distributor-retailer, advise the local government that it must give the distributor-retailer—

(a) a copy of a stated type of compliance permit for regulated work given by the local government; or

(b) a copy of a stated type of compliance certificate, including plans of the assessed work for the certificate, for regulated work assessed by the local government.

'(2) If a distributor-retailer gives a participating local government a notice under subsection (1), the local government must comply with the notice.'

#### **47 Amendment of s 85B (Restrictions on giving compliance permit for greywater use facility in a sewered area)**

(1) Section 85B(2)(b) to (ca)—

*omit, insert—*

- ‘(a) the premises at which the facility is proposed to be installed generates greywater of more than 3kL a day; and
- (b) either—
- (i) the facility’s greywater treatment plant has a chief executive approval; or
- (ii) the facility’s greywater diversion device has plumbing code authorisation and certification; and’.
- (2) Section 85B(2)(g)—  
*omit.*
- (3) Section 85B(2)(d) to (f)—  
*renumber* as section 85B(2)(c) to (e).

**48 Amendment of s 86 (General process for assessing regulated work and on-site sewerage work)**

- (1) Section 86(2)—  
*insert—*
- ‘(d) if the request is about regulated work in a part of the SEQ region that involves connecting to, disconnecting from or changing a connection to a distributor-retailer’s water infrastructure—accompanied by either of the following—
- (i) a document or information to show the connection, disconnection or change has been approved by or for the distributor-retailer;
- Examples of a document for paragraph (d)(i)—*
- a development approval
  - a Water Supply Act connection approval
- (ii) information to show the approval mentioned in subparagraph (i) accompanied the request for compliance assessment of the plan for the regulated work.’.

(2) Section 86—

*insert—*

‘(9A) A participating local government for a distributor-retailer can not give a compliance certificate for regulated work that involves connecting to, disconnecting from or changing a connection to the distributor-retailer’s water infrastructure unless—

(a) the proposed connection, disconnection or change has been approved by or for the distributor-retailer; or

*Examples of an approval for paragraph (a)—*

- a development approval
- a Water Supply Act connection approval

(b) the local government has been advised by the distributor-retailer in writing that a compliance certificate for the type of regulated work may be given without the distributor-retailer’s approval.

‘(9B) A distributor-retailer may give a participating local government a written advice for subsection (9A)(b) for stated types of connections, disconnections or changes to connections for the distributor-retailer’s water infrastructure.’.

(3) Section 86(10)(c)—

*omit.*

## **49 Insertion of new s 86AA**

After section 86—

*insert—*

### **‘86AA Participating local government to give documents or information to distributor-retailer**

‘(1) A distributor-retailer may, by notice in writing to a participating local government for the distributor-retailer, advise the local government that it must give the distributor-retailer—

- (a) a copy of a stated type of compliance certificate for regulated work given by the local government; or
  - (b) a copy of a stated type of compliance certificate, including plans of the assessed work for the certificate, for regulated work assessed by the local government; or
  - (c) stated information about water meters installed on premises.
- ‘(2) If a distributor-retailer gives a participating local government a notice under subsection (1), the local government must comply with the notice.’

**50 Amendment of s 86C (Conditions of compliance certificate)**

Section 86C(2A) and example—

*omit.*

**51 Amendment of s 87 (Minor work)**

Section 87—

*insert—*

- ‘(7) Subsection (8) applies if the work is emergency work carried out in the SEQ region that involves connecting to, disconnecting from or changing a connection to a distributor-retailer’s water infrastructure.
- ‘(8) When the relevant entity or person gives the notice to the local government, the entity or person must also give the relevant distributor-retailer for the work a copy of the notice.
- ‘(9) In this section—  
***emergency work*** means plumbing work or drainage work that must, because of a failure in plumbing or drainage, be performed to stop a continuing risk to health and safety or damage to property.

*relevant distributor-retailer*, for work, means the distributor-retailer for the part of the SEQ region in which the work is carried out.’.

**52 Amendment of s 126 (Restriction on building or installing greywater use facility)**

Section 126(a), ‘facility, other than a large greywater treatment plant’—

*omit, insert*—

‘facility’.

**53 Amendment of s 128G (Owner’s obligation to maintain plumbing and drainage and on-site sewerage facility)**

Section 128G(3)—

*omit*.

**54 Amendment of s 128PA (Offence about using greywater)**

(1) Section 128PA(2)(a)—

*insert*—

‘(v) supply to a closed loop laundry system; or’.

(2) Section 128PA(4)—

*omit*.

**55 Amendment of s 143B (Local government’s monitoring obligations for greywater use facilities in sewered areas)**

Section 143B(b)—

*omit, insert*—

‘(b) they are not adversely affecting public health, amenity or the environment.’.

**56 Omission of s 143D (Local government advice to regulator about greywater treatment plant)**

Section 143D—

*omit.*

**57 Insertion of new pt 10, div 7**

Part 10—

*insert—*

**‘Division 7 Transitional provisions for South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010**

**‘Subdivision 1 Provisions for greywater treatment plants at particular hospitals**

**‘184 Chief executive approval of particular greywater treatment plant**

‘(1) A greywater treatment plant that is an ‘AquaRecycle Laundry Water Recycling System’ is taken to have a chief executive approval.

‘(2) Despite section 96, the approval lasts until 4 June 2014.

‘(3) However, section 97 applies for the approval as if it were a chief executive approval.

**‘185 Relevant compliance certificate conditions for particular regulated work**

‘(1) This section provides for the application of section 143B to the following greywater use facilities—

- (a) the greywater treatment plant located at Prince Charles Hospital Campus, 490 Hamilton Road, Chermside, Queensland (the *Prince Charles Hospital facility*);
  - (b) the greywater treatment plant located at Princess Alexandra Hospital Campus, building 55, Ipswich Road, Woolloongabba, Queensland (the *Princess Alexandra Hospital facility*).
- ‘(2) The relevant compliance certificate conditions for the Prince Charles Hospital facility are the conditions that applied, before the commencement of this section, to the exemption granted to the Prince Charles Hospital, Metropolitan Linen Service, Greywater Recycling Scheme under the Water Supply Act, section 253, other than a condition about preparing an annual report or giving the annual report to the regulator.
- ‘(3) The relevant compliance certificate conditions for the Princess Alexandra Hospital facility are the conditions that applied, before the commencement of this section, to the exemption granted to the Princess Alexandra Hospital, Metropolitan Linen Service, Greywater Recycling Scheme under the Water Supply Act, section 253, other than a condition about preparing an annual report or giving the annual report to the regulator.
- ‘(4) A reference to the regulator in a condition mentioned in subsection (2) or (3) is taken to be a reference to the Brisbane City Council.
- ‘(5) The regulator must, as soon as practicable, give the Brisbane City Council a copy of the conditions mentioned in subsections (2) and (3).

## ‘Subdivision 2      Other provisions

### ‘186      Policies about installation and location of meters

- ‘(1) This section applies if, immediately before 1 July 2010, a participating local government for a distributor-retailer has a

policy for dealing with matters, under the Queensland Plumbing and Wastewater Code, about the installation and location of meters for premises.

- ‘(2) On 1 July 2010, the policy is taken to be the distributor-retailer’s policy for dealing with matters, under the Queensland Plumbing and Wastewater Code, about the installation and location of meters for premises in the distributor-retailer’s geographic area.

**‘187 Amendment of regulation does not affect power of Governor in Council**

- ‘(1) The amendment of a regulation by the 2010 Amendment Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

- ‘(2) In this section—

*2010 Amendment Act* means the *South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010*.’

**58 Amendment of schedule (Dictionary)**

- (1) Schedule, definitions *large greywater treatment plant* and *regulator*—

*omit.*

- (2) Schedule—

*insert—*

*‘development approval* means a development approval under the *Sustainable Planning Act 2009*.

*distributor-retailer* means a distributor-retailer established under the SEQ Water Act, section 8.

*participating local government*, for a distributor-retailer, means a participating local government under the SEQ Water Act for the distributor-retailer.

*SEQ region* see the *Water Act 2000*, section 341.







- (2) Section 628(3), after ‘agencies’—  
*insert—*  
‘or the distributor-retailer’.

## **68 Replacement of s 677 (Representations about notice)**

Section 677—

*omit, insert—*

### **‘677 Representations about notice**

‘The person may make representations about the notice to the entity that gave the notice.’.

## **69 Insertion of ch 9, pt 7A**

Chapter 9—

*insert—*

# **‘Part 7A Provisions for distributor-retailers**

## **‘Division 1 Preliminary**

### **‘755A Definitions for pt 7A**

‘In this part—

*development application (distributor-retailer)* means a development application—

- (a) made on or after 1 July 2010 but before 1 July 2013; and
- (b) for which a participating local government exercises concurrence agency jurisdiction for a distributor-retailer, to the extent the exercise of the jurisdiction involves—
  - (i) approving all or part of the application subject to conditions; or

- (ii) refusing the application; or
- (iii) giving a preliminary approval, other than a preliminary approval to which section 242 applies, even though the applicant sought a development approval.

***distributor-retailer*** means a distributor-retailer established under the SEQ Water Act.

***participating local government*** means a participating local government for a distributor-retailer under the SEQ Water Act.

***SEQ design and construction code*** means the SEQ design and construction code under the SEQ Water Act.

***SEQ infrastructure charges schedule***—

1 An *SEQ infrastructure charges schedule* means—

- (a) an infrastructure charges schedule; or
- (b) the part of a planning scheme policy to which section 847 applies that provides for infrastructure contributions for a development infrastructure network, if the policy is in effect.

2 An *SEQ infrastructure charges schedule* includes a schedule or part of a planning scheme policy mentioned in paragraph 1 as amended from time to time under division 5, subdivision 3.

***water infrastructure***, of a distributor-retailer, see the SEQ Water Act, section 53BB(1).

***water service or wastewater service***, in relation to a distributor-retailer, means a water service or a wastewater service under the SEQ Water Act.

## **‘755B Purpose of pt 7A**

‘The purpose of this part is to provide for matters relevant to the transfer to distributor-retailers on 1 July 2010, under the SEQ Water Act, of infrastructure and functions of local

---

governments relating to a water service or wastewater service of a distributor-retailer.

### **‘755C Application of pt 7A**

‘This part does not limit or otherwise affect the application of this Act, including to a development application (distributor-retailer), other than to the extent stated in the part.

## **‘Division 2 Dealing with development applications—generally**

### **‘755D Application of particular assessment rules**

- ‘(1) This section applies if the SEQ design and construction code is in effect.
- ‘(2) For assessing a development application—
  - (a) sections 313(2) and 314(2) apply to the assessment manager as if the subsections included a reference to the SEQ design and construction code; and
  - (b) to the extent a provision of the SEQ design and construction code is inconsistent with a planning scheme, the code prevails to the extent of the inconsistency.

## **‘Division 3 Dealing with development applications (distributor-retailer)**

### **‘755E Decision notice or negotiated decision notice for development application (distributor-retailer)**

‘A decision notice or negotiated decision notice given for a development application (distributor-retailer) must—

- (a) if the application is approved subject to conditions, identify the conditions imposed because of the exercise

of the concurrence agency jurisdiction for the distributor-retailer; or

- (b) if the application is refused, identify any reasons for the refusal that relate to the exercise of the concurrence agency jurisdiction for the distributor-retailer.

#### **‘755F Local government to give notices to distributor-retailer**

‘The local government as assessment manager for a development application (distributor-retailer) must—

- (a) give a copy of the decision notice to the distributor-retailer within 5 business days after deciding the application; and
- (b) give a copy of any negotiated decision notice for the application to the distributor-retailer within the period stated in section 363(4)(a); and
- (c) if the local government receives a deemed approval notice for the application and does not give the applicant a decision notice or negotiated decision notice for the application—give a copy of the deemed approval notice to the distributor-retailer.

### **‘Division 4 Compliance assessment**

#### **‘755G Compliance assessment—local government as compliance assessor**

- ‘(1) This section applies if—
  - (a) a local government is the compliance assessor for development, a document or work that under this Act requires compliance assessment; and
  - (b) either—

- 
- (i) the development, document or work involves or is about connecting to or constructing water infrastructure of a distributor-retailer; or
  - (ii) the development or work, or matters to which the document relates, may affect the safety or efficiency of the water infrastructure.
- ‘(2) For a request for compliance assessment for the development, document or work made on or after 1 July 2010 but before 1 July 2013, the distributor-retailer must, before a compliance permit or compliance certificate is given for the development, document or work, assess the development, document or work against—
- (a) the matters or things that—
    - (i) are mentioned in section 403; and
    - (ii) relate to the connecting to or construction of the distributor-retailer’s water infrastructure, or its safety or efficiency; and
  - (b) if the SEQ design and construction code is in effect—that code.
- ‘(3) For the assessment, the distributor-retailer may tell the compliance assessor—
- (a) the conditions that must attach to a compliance permit or compliance certificate for the development, document or work; or
  - (b) that the distributor-retailer is satisfied the development, document or work does not achieve compliance, including the reasons for the noncompliance and the actions required to achieve compliance; or
  - (c) that it has no requirements relating to the request.
- ‘(4) For subsection (2), to the extent the SEQ design and construction code is inconsistent with a local planning instrument, the code prevails.

*Note—*

Under the SEQ Water Act, section 53, the functions of a distributor-retailer under this division must be delegated to its relevant participating local government.

**‘755H Compliance assessment—nominated entity as compliance assessor**

- ‘(1) This section applies if—
- (a) a nominated entity of a local government is the compliance assessor for development, a document or work that under this Act requires compliance assessment; and
  - (b) either—
    - (i) the development, document or work involves or is about connecting to or constructing water infrastructure of a distributor-retailer; or
    - (ii) the development or work, or matters to which the document relates, may affect the safety or efficiency of the water infrastructure.
- ‘(2) The nominated entity must, under section 402, refer to the local government any request for compliance assessment of the development, document or work made on or after 1 July 2010 but before 1 July 2013.
- ‘(3) The distributor-retailer must, before the local government gives its response to the nominated entity under section 402, assess the development, document or work against—
- (a) the matters or things that—
    - (i) are mentioned in section 403; and
    - (ii) relate to the connecting to or construction of the distributor-retailer’s water infrastructure, or its safety or efficiency; and
  - (b) if the SEQ design and construction code is in effect—that code.
- ‘(4) For the assessment, the distributor-retailer may tell the local government—

- 
- (a) the conditions that must attach to a compliance permit or compliance certificate for the development, document or work; or
  - (b) that the distributor-retailer is satisfied the development, document or work does not achieve compliance, including the reasons for the noncompliance and the actions required to achieve compliance; or
  - (c) that it has no requirements relating to the request.
- ‘(5) For subsection (3), to the extent the SEQ design and construction code is inconsistent with a local planning instrument, the code prevails.

**‘7551 Notice about compliance permits and compliance certificates**

- ‘(1) A participating local government for a distributor-retailer must give the distributor-retailer a copy of each compliance permit or compliance certificate given by the local government after 1 July 2010 and before 1 July 2013.
- ‘(2) The local government must act under subsection (1) within 5 business days after giving the compliance permit or compliance certificate.
- ‘(3) If a participating local government for a distributor-retailer is given a copy of a compliance permit or compliance certificate under section 408(4), the local government must, within 5 business days after receiving the copy, give the distributor-retailer a copy of the permit or certificate.
- ‘(4) In this section—
- compliance permit or compliance certificate*** means a compliance permit or compliance certificate given for development, a document or work if—
- (a) the development, document or work involves or is about connecting to or constructing water infrastructure of a distributor-retailer; or

- (b) the development or work, or matters to which the document relates, may affect the safety or efficiency of the water infrastructure.

## **‘Division 5                    Infrastructure funding and planning for distributor-retailers**

### **‘Subdivision 1            Conditions about non-trunk infrastructure and funding trunk infrastructure—general**

#### **‘755J Conditions about non-trunk infrastructure**

‘A local government may impose, under section 626, a condition about non-trunk infrastructure for a distributor-retailer’s water service or wastewater service.

*Note—*

Under the SEQ Water Act, section 53, a distributor-retailer’s functions as a concurrence agency must be delegated to its relevant participating local government.

#### **‘755K Funding trunk infrastructure**

- ‘(1) For this Act, a distributor-retailer may levy a charge—
  - (a) for supplying trunk infrastructure in relation to its water service or wastewater service under either of the following—
    - (i) an SEQ infrastructure charges schedule that is an infrastructure charges schedule;
    - (ii) a regulated infrastructure charges schedule; or
  - (b) for supplying infrastructure in relation to its water service or wastewater service under an SEQ infrastructure charges schedule that is a part of a planning scheme policy to which section 847 applies.

- 
- ‘(2) For subsection (1), a distributor-retailer may give a person—
- (a) an infrastructure charges notice under section 633(1); or
  - (b) a regulated infrastructure charges notice under section 643(1).
- ‘(3) However, if the notice is for a charge levied under a part of a planning scheme policy to which section 847 applies—
- (a) section 633(1)(e) to (i) does not apply to the notice; and
  - (b) a local government can not, under section 848(2)(c), impose a condition on a development approval requiring a contribution towards the cost of supplying infrastructure in relation to the distributor-retailer’s water service or wastewater service.
- ‘(4) If an infrastructure charges notice or regulated infrastructure charges notice is given as a result of a development approval or compliance permit, the distributor-retailer must give the notice to the applicant or the person who requested compliance assessment—
- (a) within 10 business days after the distributor-retailer receives a copy of the approval or permit; or
  - (b) for a deemed approval for which a decision notice has not been given—within 20 business days after receiving a copy of the deemed approval notice.
- ‘(5) If an infrastructure charges notice is not given as a result of a development approval or compliance permit, the distributor-retailer must give the notice to the owner of the land.
- ‘(6) Sections 633(4) and 643(3) apply to a charge mentioned in subsection (1).
- ‘(7) Sections 633(5) and 643(4) apply to an infrastructure charges notice or regulated infrastructure charges notice mentioned in subsection (2).
- ‘(8) If a negotiated decision notice is given for a development application (distributor-retailer) and section 364(1) applies in

relation to the negotiated decision notice, the distributor-retailer may give the applicant—

- (a) a new infrastructure charges notice under section 633(1), or section 633(1) as applied under subsection (3), to replace the original notice; or
- (b) a regulated infrastructure charges notice under section 643(1) to replace the original notice.

**755L Agreements about, and alternatives to, paying infrastructure charge**

- ‘(1) Despite section 755K and sections 633 and 634 as applied under that section, a person to whom an infrastructure charges notice or a negotiated infrastructure charges notice has been given and the distributor-retailer may enter into a written agreement about 1 or more of the following—
  - (a) whether the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments;
  - (b) whether infrastructure may be supplied instead of paying all or part of the charge;
  - (c) whether infrastructure that delivers the same standard of service as that identified in the priority infrastructure plan for the land to which the charge applies may be supplied instead of the infrastructure identified in the infrastructure charges schedule;
  - (d) if section 755K(4) applies for the charge and the infrastructure is land owned by the applicant or the person who requested compliance assessment—whether land in fee simple may be given instead of paying the charge or part of the charge.
- ‘(2) For development infrastructure that is land, the distributor-retailer may give the applicant or the person who requested compliance assessment a notice, in addition to, or instead of, the notice given under section 633, requiring the person to—

- 
- (a) give the distributor-retailer, in fee simple, part of the land the subject of the development application or request for compliance assessment; or
  - (b) give the distributor-retailer—
    - (i) in fee simple, part of the land the subject of the development application or request for compliance assessment; and
    - (ii) an infrastructure charge.
- ‘(3) If the applicant or person who requested compliance assessment is required to give land under subsection (2)(a), or a combination of land and a charge under subsection (2)(b), the total value of the contribution must not be more than the amount of the charge mentioned in section 633(1).
- ‘(4) The applicant or person who requested compliance assessment must comply with the notice as soon as practicable.
- ‘(5) For this Act, an agreement, as amended from time to time, mentioned in subsection (1) is an infrastructure agreement.

**‘755M Agreements about, and alternatives to, paying regulated infrastructure charge**

- ‘(1) Despite section 755K and sections 633 and 634 as applied under that section, a person to whom a regulated infrastructure charges notice or a negotiated regulated infrastructure charges notice has been given and the distributor-retailer may enter into a written agreement about 1 or more of the following—
- (a) whether the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments;
  - (b) whether infrastructure may be supplied instead of paying all or part of the charge.
- ‘(2) For this Act, an agreement, as amended from time to time, mentioned in subsection (1) is an infrastructure agreement.

**‘755N Distributor-retailer may supply different trunk infrastructure from that identified in a priority infrastructure plan**

‘A distributor-retailer may supply different trunk infrastructure from the infrastructure identified in the priority infrastructure plan for the land to which the charge applies if the infrastructure supplied delivers the same desired standard of service identified in the priority infrastructure plan for the relevant network.

**‘Subdivision 2 Application of particular provisions of ch 8**

**‘755O Application of particular provisions—generally**

- ‘(1) Subject to this subdivision, the following provisions of this Act also apply to matters about infrastructure funding and planning for a distributor-retailer—
- (a) section 634;
  - (b) section 635(1);
  - (c) section 636(2);
  - (d) sections 644 to 646;
  - (e) sections 649 to 652;
  - (f) chapter 8, part 4.
- ‘(2) If there is an inconsistency between this subdivision and a provision mentioned in subsection (1), this subdivision prevails to the extent of the inconsistency.

**‘755P Application of ss 636 and 646**

‘Sections 636(2) and 646 apply as if a reference in the sections to a local government were a reference to a distributor-retailer for a water service or wastewater service.

---

### **‘755Q Application of s 649**

- ‘(1) A local government may, under section 649(2), require different trunk infrastructure (*relevant different trunk infrastructure*) for a distributor retailer’s water service or wastewater service.
- ‘(2) A local government may, under section 649(3), impose a condition about trunk infrastructure, including relevant different trunk infrastructure, for a distributor retailer’s water service or wastewater service.
- ‘(3) Section 649(5) and (6) applies—
  - (a) as if a reference in the subsections to trunk infrastructure mentioned in section 649(3) included a reference to relevant different trunk infrastructure; and
  - (b) as if the reference in section 649(6)(b) to the infrastructure provider were a reference to the distributor-retailer for the water service or wastewater service.

*Note—*

Under the SEQ Water Act, section 53, a distributor-retailer’s functions as a concurrence agency must be delegated to its relevant participating local government.

### **‘755R Application of s 650**

- ‘(1) A local government may, under section 650(1), impose a condition about additional trunk infrastructure costs for a distributor retailer’s water service or wastewater service.
- ‘(2) Section 650(1) and (3) applies as if a reference in the subsections to the infrastructure provider were a reference to the distributor-retailer for the water service or wastewater service.
- ‘(3) Section 650(5) applies as if a reference in the subsection to the local government were a reference to the distributor-retailer for the water service or wastewater service.

- ‘(4) Section 650(8) applies as if the reference in the subsection to a local government were a reference to a distributor-retailer for a water service or wastewater service.

### **‘755S Application of s 651**

‘Section 651(2) applies as if a reference in the subsection to the infrastructure provider were a reference to the distributor-retailer for the water service or wastewater service.

## **‘Subdivision 3 Amending SEQ infrastructure charges schedule**

### **‘755T Amending SEQ infrastructure charges schedule**

- ‘(1) This section applies to an SEQ infrastructure charges schedule under which a distributor-retailer may, under this division, levy a charge for supplying trunk infrastructure in relation to its water service or wastewater service.
- ‘(2) The distributor-retailer may, for the purpose of levying the charge and with the approval of the Minister, amend the SEQ infrastructure charges schedule.
- ‘(3) Before seeking the Minister’s approval, the distributor-retailer must—
- (a) notify the distributor-retailer’s intention to make the amendment in a newspaper circulating generally in the distributor-retailer’s geographic area; and
  - (b) consider any submissions given to the distributor-retailer under subsection (4).
- ‘(4) The notification mentioned in subsection (3) must state the following—
- (a) that the proposed amendment is available for inspection;
  - (b) where copies of the amendment may be inspected;

- 
- (c) that written submissions about any aspect of the proposed amendment may be given by any person to the distributor-retailer;
  - (d) the period, of at least 20 business days after the notification is published, during which the submissions may be made.
- ‘(5) The distributor-retailer must keep a copy of the proposed amendment available for inspection—
- (a) at the distributor-retailer’s head office; and
  - (b) on the distributor-retailer’s website.
- ‘(6) However, subsections (3) and (5) do not apply to an amendment of a charge that would result in less than a 5% increase in the charge in any 1 year.
- ‘(7) In working out the percentage increase in a charge for subsection (6), an increase in the charge that is an amount representing the increase in the consumer price index for the year must be disregarded.
- ‘(8) For approving the amendment, the Minister may seek—
- (a) advice or comment from the Queensland Competition Authority about—
    - (i) the consideration of State interests; or
    - (ii) another matter relating to the SEQ infrastructure charges schedule; or
  - (b) further information about the proposed amendment from the distributor-retailer.
- ‘(9) If the SEQ infrastructure charges schedule is amended under this section, the distributor-retailer must notify the amendment in a newspaper circulating generally in the distributor-retailer’s geographic area.
- ‘(10) The amendment of the SEQ infrastructure charges schedule has effect on and from—
- (a) the day the making of the amendment is first notified as mentioned in subsection (9); or

- (b) if a later day for the commencement of the amendment is stated in the amendment—the later day.
- ‘(11) Section 630 does not apply in relation to an amendment of the SEQ infrastructure charges schedule.
- ‘(12) If a distributor-retailer amends an infrastructure charges schedule under this section, section 631 applies for the infrastructure charges schedule as if the reference in section 631(1)(e) to the local government were a reference to the distributor-retailer.
- ‘(13) In this subsection—
- consumer price index* means the all groups consumer price index for Brisbane published by the Australian Statistician.

## ‘Division 6 Provisions about appeals

### ‘755U Appeals for development application (distributor-retailer)

- ‘(1) This section applies if the assessment manager for a development application (distributor-retailer) receives a notice of appeal under section 482 for the application.
- ‘(2) The assessment manager must, within 5 business days after receiving the notice of appeal, give a copy of it to the distributor-retailer for whom the assessment manager is exercising concurrence agency jurisdiction.
- ‘(3) A distributor-retailer mentioned in subsection (2) may, within 10 business days after the copy is given to the distributor-retailer, elect to be a co-respondent to the appeal by following the rules of court for the election.
- ‘(4) Subsection (3) applies despite any other provision of this Act.

### ‘755V Appeals about requests for compliance assessment

- ‘(1) This section applies if a local government is given notice of an appeal under section 483 about a request for compliance

assessment for which a distributor-retailer must, under section 755G or 755H, assess development, a document or work to which the request related.

- ‘(2) The local government must, within 5 business days after receiving the notice of appeal, give a copy of it to the distributor-retailer.
- ‘(3) The distributor-retailer may, within 10 business days after the copy is given to the distributor-retailer, elect to be a co-respondent to the appeal by following the rules of court for the election.
- ‘(4) Subsection (3) applies despite any other provision of this Act.

#### **‘755W Appeals about infrastructure charge or regulated infrastructure charge**

‘Section 478 applies, for an appeal about an infrastructure charges notice or regulated infrastructure charges notice given by a distributor-retailer, as if the reference in section 478(4)(a) to a relevant local government were a reference to a relevant distributor-retailer.’.

### **70 Amendment of sch 3 (Dictionary)**

- (1) Schedule 3—

*insert—*

*‘development application (distributor-retailer)*, for chapter 9, part 7A, see section 755A.

*distributor-retailer* see section 755A.

*participating local government* see section 755A.

*SEQ design and construction code*, for chapter 9, part 7A, see section 755A.

*SEQ infrastructure charges schedule*, for chapter 9, part 7A, see section 755A.

*SEQ Water Act* means the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

[s 71]

*water infrastructure*, for chapter 9, part 7A, see section 755A.  
*water service or wastewater service* see section 755A.’.

- (2) Schedule 3, definition *public sector entity*, paragraph 2, after ‘corporation’—

*insert—*

‘and a distributor-retailer under the SEQ Water Act’.

## Part 9 Amendment of Sustainable Planning Regulation 2009

### 71 Regulation amended

This part amends the *Sustainable Planning Regulation 2009*.

### 72 Amendment of sch 7 (Referral agencies and their jurisdictions)

- (1) Schedule 7, table 2—

*insert—*

‘Land in distributor-retailer’s geographic area		
47	Reconfiguring a lot made assessable under schedule 3, part 1, table 3, item 1, or operational work for reconfiguring a lot made assessable under schedule 3, part 1, table 4, item 2, if—	The distributor-retailer for which the local government is a participating local government—as a concurrence agency
(a)	the land is in the area of a local government that, under the SEQ Water Act, is a participating local government for a distributor-retailer; and	<i>Note—</i> Under the SEQ Water Act, this jurisdiction is delegated to the local government
(b)	the participating local government is the assessment manager; and	
(c)	the development application is made before 1 July 2013	
		The effects of the development on a water service or wastewater service of a distributor-retailer’.

(2) Schedule 7, table 3—

*insert—*

‘Development in distributor-retailer’s geographic area		
26	Development in the area of a local government that, under the SEQ Water Act, is a participating local government for a distributor-retailer, if the development application is made before 1 July 2013	<p>The distributor-retailer for which the local government is a participating local government—as a concurrence agency</p> <p><i>Note—</i></p> <p>Under the SEQ Water Act, this jurisdiction is delegated to the local government</p>
		The effects of the development on a water service or wastewater service of a distributor-retailer’.

### 73 Amendment of sch 19 (Compliance assessment of subdivision plans)

(1) Schedule 19, table 1, item 2, column 2, item 1(a)—

*insert—*

‘(v) there are no outstanding charges levied by a distributor-retailer under the Act or the SEQ Water Act; or’.

(2) Schedule 19, table 1, item 2, column 2, item 2(a)—

*insert—*

‘(iv) there are no outstanding charges levied by a distributor-retailer under the Act or the SEQ Water Act; or’.

(3) Schedule 19, table 1, item 2, column 2, item 3(b), ‘under any Act’—

*omit, insert—*

‘under any Act; and

(c) there are no outstanding charges levied by a distributor-retailer under the Act or the SEQ Water Act’.

**74 Amendment of sch 26 (Dictionary)**

Schedule 26—

*insert—*

‘*distributor-retailer* means a distributor-retailer established under the SEQ Water Act, section 8.’.

**Part 10 Amendment of Transport Infrastructure Act 1994**

**75 Act amended**

This part amends the *Transport Infrastructure Act 1994*.

**76 Amendment of s 77 (Application of div 3)**

Section 77—

*insert—*

‘(c) water infrastructure, or the carrying out of water infrastructure work, under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.’.

**Part 11 Amendment of Water Act 2000**

**77 Act amended**

This part amends the *Water Act 2000*.

**78 Amendment of s 25F (Regulation about water supply emergency)**

- (1) Section 25F(2)(d)(vi)—  
*renumber* as section 25F(2)(d)(vii).
- (2) Section 25F(2)(d)—  
*insert*—  
‘(vi) for the SEQ region—any measures that are to be carried out by the commission; and’.

**79 Amendment of s 105 (General provision for amending resource operations plan)**

- (1) Section 105(3), (4) and (5)—  
*renumber* as section 105(4), (5) and (6).
- (2) Section 105(2)—  
*omit, insert*—
- ‘(2) Subsection (3) applies if a resource operations plan is inconsistent with—
  - (a) an existing water resource plan for which it has effect because of an amendment to the existing plan; or
  - (b) a new water resource plan that—
    - (i) is approved under section 50(2); and
    - (ii) replaces the water resource plan for which the resource operations plan has effect.
- ‘(3) The chief executive must amend the resource operations plan to ensure it is not inconsistent with—
  - (a) if subsection (2)(a) applies—the existing water resource plan; or
  - (b) otherwise—the new water resource plan.’.

[s 80]

---

- (3) Section 105(5), as renumbered under this section, ‘or (2)’—  
*omit, insert*—  
‘or (3)’.

**80 Amendment of s 105A (Amendment to provide for deferred aspect)**

Section 105A(2), ‘section 105(3)’—  
*omit, insert*—  
‘section 105(4)’.

**81 Amendment of s 106 (Minor or stated amendments of resource operations plan)**

Section 106, ‘section 105(3)’—  
*omit, insert*—  
‘section 105(4)’.

**82 Insertion of new ch 2, pt 4, div 2, sdiv 3**

Chapter 2, part 4, division 2—  
*insert*—

**‘Subdivision 3 Continuation of resource operations plans**

**‘106A Continuation of resource operations plan for new water resource plan**

- ‘(1) This section applies if a new water resource plan that replaces an existing water resource plan is approved under section 50(2).
- ‘(2) The resource operations plan that implements the existing water resource plan—

- 
- (a) continues to have effect for the plan area for the new water resource plan; and
  - (b) is the resource operations plan for the new water resource plan.
- ‘(3) Unless, and to the extent, the new water resource plan expressly provides otherwise, the resource operations plan continues to have effect for the plan area for the new water resource plan despite any inconsistency between the resource operations plan and the new water resource plan.
- ‘(4) This section does not limit or otherwise affect section 105(3).’

### **83 Insertion of new ch 2A, pt 2, div 4A**

Chapter 2A, part 2—

*insert—*

#### **‘Division 4A Chief executive officer**

##### **‘357 Appointment**

- ‘(1) There is to be a chief executive officer of the commission (the *commission CEO*).
- ‘(2) The commission CEO is to be appointed by the Governor in Council.
- ‘(3) The commission CEO is appointed for the term stated in the instrument of appointment.
- ‘(4) The stated term must not be more than 3 years.
- ‘(5) However, the instrument of appointment may give the commission CEO an option, exercisable before the stated term ends, to continue to hold the new office for a further period of no more than 2 years.
- ‘(6) The *Public Service Act 2008* does not apply to the appointment of the commission CEO.

### **‘358 Conditions of appointment**

- ‘(1) The commission CEO is to be paid the remuneration and allowances decided by the Governor in Council.
- ‘(2) The commission CEO holds office on terms, not provided for by this Act, decided by the Governor in Council.

### **‘359 Functions**

‘Subject to direction by the commission, the commission CEO is to control the office and is responsible for its efficient and effective administration and operation.

### **‘360 Provisions for performance of functions**

‘In performing the commission CEO’s functions and exercising the commission CEO’s powers, the commission CEO—

- (a) must act independently, impartially and in the public interest; and
- (b) is not subject to direction by the Minister.

### **‘360A Conflicts of interest**

- ‘(1) This section applies if—
  - (a) the commission CEO has a direct or indirect pecuniary interest in a matter the subject of a function of the commission CEO; and
  - (b) the commission CEO is performing or is proposing to perform the function; and
  - (c) the interest could conflict with the proper performance of the function.
- ‘(2) The commission CEO—
  - (a) must, as soon as practicable, disclose the interest to the commissioner; and
  - (b) must not perform or continue to perform the function.

---

‘(3) In this section—  
*function* includes power.

### **‘360AA Delegation by commission CEO**

‘The commission CEO may delegate the commission CEO’s functions to an appropriately qualified commission officer.

### **‘360AB Resignation**

‘The commission CEO may resign by signed notice given to the Minister.

### **‘360AC Ending of appointment**

‘The Governor in Council may end the appointment of the commission CEO if the commission CEO—

- (a) is convicted of an indictable offence; or
- (b) is guilty of misconduct that could warrant dismissal from the public service if the commission CEO were a public service officer; or
- (c) is guilty of neglect of duty or incompetence; or
- (d) becomes incapable of satisfactorily performing the commission CEO’s functions.

### **‘360AD Acting commission CEO**

‘The commissioner may appoint a person to act as the commission CEO—

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the commission CEO is absent from duty or can not, for another reason, perform the functions of that office.

### **‘360AE Preservation of rights as public service officer**

- ‘(1) This section applies if a public service officer is appointed as the commission CEO.
- ‘(2) The person retains all rights that have accrued to the person because of 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 commission CEO were a continuation of service as a public service officer.
- ‘(3) If the person stops being the commission CEO and again becomes a public service officer, the person’s service as commission CEO 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.

### **‘360AF Superannuation if previously a public service officer**

‘If—

- (a) a person who is a public service officer is appointed as the commission CEO; and
- (b) immediately before the appointment the person was a member of the State Public Sector Superannuation Scheme under the *Superannuation (State Public Sector) Act 1990*;

the person continues to be eligible to be, and to be, a member of the scheme.’.

## **84 Replacement of s 360B (Commission’s staff)**

Section 360B—

*omit, insert—*

### **‘360B Commission’s staff**

- ‘(1) The commission’s staff are to be employed under the *Public Service Act 2008*.
- ‘(2) The commission CEO may arrange with the chief executive of a department, or with another unit of public administration,

for the services of officers or employees of the department or other unit to be made available to the commission.

- ‘(3) In this section—  
*commission’s staff* does not include the commission CEO.’.

## **85 Replacement of s 360I (Advice to Minister on options)**

Section 360I—

*omit, insert—*

### **‘360I Advice to Minister about options**

- ‘(1) The commission must make and give the Minister advice about its regional water security options for the region.
- ‘(2) If, under section 360D(1)(b), the Minister has required the options to be updated or revised, the commission must give the Minister advice about the proposed update or revision.
- ‘(3) Advice under subsection (1) or (2) must be given within any period required under section 360D(2).
- ‘(4) The commission may, without any requirement under section 360D(1)(b), give the Minister advice about updating or revising the options.’.

## **86 Amendment of s 360T (Information may be required from water service providers)**

Section 360T(1)—

*omit, insert—*

- ‘(1) The commission may give a water service provider a notice asking for information the commission reasonably requires to enable the commission—
- (a) to perform its functions under this chapter, including its function of collecting, collating, analysing and reporting on water information for the SEQ region or a designated region; and

- (b) without limiting paragraph (a), to implement and monitor compliance with divisions 2 and 3 and part 6.’.

**87 Amendment of s 360Z (Amendment of plan)**

- (1) Section 360Z(1)(a), after ‘system operating plan’, first mention—

*insert—*

‘(a *relevant WRP*)’.

- (2) Section 360Z(5)—

*omit, insert—*

- ‘(5) The commission may also amend the plan in another way it considers appropriate that is consistent with any other relevant WRP.’.

**88 Insertion of new s 360ZCAD**

Chapter 2A, part 5, division 3, before section 360ZCA—

*insert—*

**‘360ZCAD Definition for div 3**

‘In this division—

*relevant entity*, for a water efficiency management plan, means the entity who gives under section 360ZCB a customer, or type of customer, a notice requiring the preparation of the plan.’.

**89 Amendment of s 360ZCA (Purpose and application of division)**

Section 360ZCA(4)—

*omit, insert—*

- ‘(4) Also, if a customer to whom this division applies is a customer of more than 1 water service provider in the region, the water service provider who provides the customer with the

---

most water is the water service provider for the customer for this division.’.

**90 Amendment of s 360ZCB (When water efficiency management plan may be required)**

- (1) Section 360ZCB(1), ‘service provider to give’—  
*omit, insert*—  
‘service provider in a designated region to give’.
- (2) Section 360ZCB, ‘customer’—  
*omit, insert*—  
‘relevant customer’.
- (3) Section 360ZCB(3), ‘service provider may’—  
*omit, insert*—  
‘service provider in a designated region may’.
- (4) Section 360ZCB(5) and (6)—  
*renumber* as section 360ZCB(6) and (7).
- (5) Section 360ZCB(4)—  
*omit, insert*—  
‘(4) The commission may give a relevant customer, or type of relevant customer, of a water service provider for the SEQ region a written notice—
  - (a) to prepare a plan (also a ***water efficiency management plan***); and
  - (b) to give it to the commission within the reasonable time stated by the commission.’
- ‘(5) The relevant customer must comply with a notice given under subsection (1), (3) or (4).’.

- (6) Section 360ZCB(7), as renumbered, ‘subsection (1), (3) or (5)’—

*omit, insert—*

‘subsection (1), (3), (4) or (6)’.

- (7) Section 360ZCB—

*insert—*

- ‘(8) In this section—

*relevant customer* means a customer whose water use is for a purpose, and of a quantity for the purpose, prescribed under a regulation for this definition.’.

## **91 Replacement of s 360ZCC (Content of water efficiency management plan)**

Section 360ZCC—

*omit, insert—*

### **‘360ZCC Guidelines and content requirements for water efficiency management plans**

- ‘(1) The commission may make guidelines—
- (a) about the content of water efficiency management plans; and
  - (b) to provide guidance to persons about how to comply with a water efficiency management plan obligation under this part.
- ‘(2) A water efficiency management plan must comply with any guidelines about the content of water efficiency management plans made by the commission under subsection (1)(a), and must state the following—
- (a) the name of the customer and the location where the plan applies;
  - (b) an outline of the customer’s current water use at the location and the source of the water used;

- (c) the water savings and efficiencies that will be achieved by implementing the plan;
- (d) the time frames for implementing the plan.’

**92 Amendment of s 360ZCD (Approving water efficiency management plan)**

- (1) Section 360ZCD, ‘water service provider’—  
*omit, insert—*  
‘relevant entity’.
- (2) Section 360ZCD(7)(a) and (b), ‘a local government’—  
*omit, insert—*  
‘the chief executive’.

**93 Amendment of s 360ZCF (Reporting under water efficiency management plan)**

- (1) Section 360ZCF(1), ‘water service provider’—  
*omit, insert—*  
‘relevant entity’.
- (2) Section 360ZCF(2), ‘10 business’—  
*omit, insert—*  
‘20 business’.
- (3) Section 360ZCF(3), from ‘The commission’ to ‘a water’—  
*omit, insert—*  
‘If the relevant entity for a water efficiency management plan is a water service provider, the commission may at any time ask the water’.

**94 Amendment of 360ZCG (Amending or replacing water efficiency management plan by commission direction)**

- (1) Section 360ZCG(4) and (5)—  
*renumber* as section 360ZCG(5) and (6).
- (2) Section 360ZCG—  
*insert*—
- ‘(4) The commission may give a customer, or type of customer, of a water service provider in the SEQ region a written notice requiring the customer to—
  - (a) amend an approved water efficiency management plan and give it to the commission within the reasonable time stated in the notice; or
  - (b) prepare a new water efficiency management plan and give it to the commission within the reasonable time stated in the notice.’.
- (3) Section 360ZCG(5), as renumbered, ‘subsection (2)’—  
*omit, insert*—  
‘subsection (2) or (4)’.

**95 Amendment of s 360ZCH (Amending or replacing water efficiency management plan by water service provider direction)**

- Section 360ZCH(1), after ‘water service provider’—  
*insert*—  
‘in a designated region’.

**96 Amendment of s 360ZCI (Amending or replacing water efficiency management plan by request)**

- (1) Section 360ZCI(2), ‘If the water service provider approves the request’—  
*omit, insert*—

‘If the relevant entity for the plan approves the request.’

- (2) Section 360ZCI(2)(a) and (b), ‘water service provider’—  
*omit, insert—*  
‘relevant entity’.

**97 Amendment of s 360ZCJ (Notice to comply with water efficiency management plan)**

- (1) Section 360ZCJ(1), from ‘water service provider’ to ‘management plan’—

*omit, insert—*

‘relevant entity for an approved water efficiency management plan is satisfied or reasonably believes a customer to whom the plan’.

- (2) Section 360ZCJ(2), ‘water service provider’—  
*omit, insert—*  
‘relevant entity’.

**98 Amendment of s 360ZCK (Reviewing water efficiency management plans)**

- (1) Section 360ZCK(1)—

*omit, insert—*

‘(1) The relevant entity for an approved water efficiency management plan must ensure a customer to whom the plan applies reviews the plan when the relevant entity considers it appropriate.’.

- (2) Section 360ZCK(2), ‘water service provider’—  
*omit, insert—*  
‘relevant entity’.

**99 Insertion of new ss 360ZCKA–360ZCKC**

Part 5, after section 360ZCK—

*insert—*

**‘360ZCKA Applying for cancellation of approved water efficiency management plan**

- ‘(1) A customer may apply to the relevant entity for an approved water efficiency management plan to have the plan cancelled if—
- (a) the customer stops being a relevant customer under section 360ZCB; and
  - (b) the customer satisfies any requirements for cancellation of the plan that are prescribed under a regulation.
- ‘(2) The application must be—
- (a) made in the approved form; and
  - (b) supported by sufficient information to enable the relevant entity to decide the application.
- ‘(3) The relevant entity may require—
- (a) the applicant to give additional information about the application; or
  - (b) the information included in the application, or the additional information required under paragraph (a), to be verified by statutory declaration.
- ‘(4) If the relevant entity is satisfied the customer has complied with subsections (1), (2) and (3), the commission must—
- (a) cancel the customer’s approved water efficiency management plan; and
  - (b) give the customer notice of the cancellation under paragraph (a).

**‘360ZCKB Administration fee**

- ‘(1) The relevant entity for an approved water efficiency management plan may require a customer to whom the plan applies to pay an annual administration fee for the plan.

- 
- ‘(2) The amount of the fee must be no more than the amount prescribed under a regulation for this section.
  - ‘(3) If the customer does not pay the fee as required by the relevant entity, the relevant entity may recover from the customer the amount of the fee as a debt.

### **‘360ZCKC Delegation by commission of functions for water efficiency management plans**

- ‘(1) The commission may delegate any of its functions under this division to the following—
  - (a) a water service provider;
  - (b) another entity prescribed under a regulation, if the commission considers the entity has appropriately qualified staff who have the expertise and experience to perform the functions.
- ‘(2) A function delegated under subsection (1) is subject to any conditions imposed on the delegate that are prescribed under a regulation.
- ‘(3) Subject to subsection (2), the *Acts Interpretation Act 1954*, section 27A, applies to a delegation under subsection (1).
- ‘(4) In this section—  
*function* includes power.’.

### **100 Amendment of s 360ZCY (Content of market rules)**

- (1) Section 360ZCY(a)(vii), after ‘grid service provider’—  
*insert*—  
‘and who may decide the prices’.
- (2) Section 360ZCY(b)(ii)—  
*renumber* as section 360ZCY(b)(iii).
- (3) Section 360ZCY(b)—  
*insert*—

‘(ii) include the terms of contracts between the water grid manager and grid customers, other than terms provided for under the default grid contract or a negotiated grid contract; or’.

(4) Section 360ZCY(b)(iii), as renumbered, after ‘market’—

*insert—*

‘, including, for example, provisions about negotiated grid contracts’.

(5) Section 360ZCY—

*insert—*

‘(2) If—

(a) the market rules provide for a term (a *market rules term*) of a contract for—

(i) the supply, by grid service providers, of declared water services to the water grid manager; or

(ii) the supply, by the water grid manager, of water supplied by declared water services to grid customers; and

(b) the market rules term is inconsistent with a term of the default grid contract or a negotiated grid contract;

the market rules term prevails to the extent of the inconsistency.’.

**101 Replacement of ch 2A, pt 5A, div 3, sdiv 2 (Grid contract documents and registered grid participants)**

Chapter 2A, part 5A, division 3, subdivision 2—

*omit, insert—*

---

## **‘Subdivision 2     Default grid contract**

### **‘360ZDD Minister may make default grid contract**

- ‘(1) The Minister may make an instrument (the *default grid contract*) providing for—
- (a) the supply, by a grid service provider, of a declared water service to the water grid manager; or
  - (b) the supply, by the water grid manager, of water supplied by a declared water service to a grid customer.
- ‘(2) The default grid contract may provide that a stated term is mandatory (a *mandatory term*) for a supply mentioned in subsection (1).

*Note—*

For the effect of a mandatory term, see section 360ZDDC(2).

- ‘(3) A default grid contract is a statutory instrument but is not subordinate legislation.
- ‘(4) The default grid contract does not take effect until the Minister gives notice of its making.
- ‘(5) The notice is subordinate legislation.
- ‘(6) The default grid contract takes effect on the day stated in the notice.
- ‘(7) The stated day must be at least 7 days after the notice is gazetted.

### **‘360ZDDA Access to default grid contract**

- ‘(1) This section applies if—
- (a) under section 360ZDD notice of the making or amendment of the default grid contract is gazetted; and
  - (b) the default grid contract or amendment is not part of, or attached to, the notice.

- ‘(2) The Minister must, within 14 sitting days, table in the Legislative Assembly a copy of the default grid contract as made or amended.
- ‘(3) For an amendment, other than a replacement, of the default grid contract, the copy must show the text of the contract before and after the amendment.
- ‘(4) The Minister must cause the default grid contract, as in force from time to time, to be published on the commission’s website.
- ‘(5) A failure to comply with this section does not invalidate or otherwise affect the default grid contract as made or amended.

### ‘360ZDDB Effect of default grid contract

- ‘(1) This section applies if there is no negotiated grid contract for—
  - (a) the supply, by a grid service provider, of a declared water service to the water grid manager; or
  - (b) the supply, by the water grid manager, of water supplied by a stated declared water service to a grid customer.
- ‘(2) The default grid contract has effect as a contract between the grid service provider, or grid customer, and the water grid manager (the *contract parties*).
- ‘(3) To remove any doubt, it is declared that the contract parties are not required to execute the default grid contract as parties to the contract.
- ‘(4) Subsection (2) ceases to apply if the contract parties enter into a negotiated grid contract for the supply.
- ‘(5) Subsection (4) is subject to section 360ZDDC(2).
- ‘(6) If a non-market contract is inconsistent with the default grid contract, the default grid contract prevails to the extent of the inconsistency.

---

## **‘Subdivision 2A Negotiated grid contracts**

### **‘360ZDDC Power to negotiate grid contract**

- ‘(1) The water grid manager may enter into a written contract (a *negotiated grid contract*) for—
- (a) the supply, by a grid service provider, of a declared water service to the water grid manager; or
  - (b) the supply, by the water grid manager, of water supplied by a declared water service to a grid customer.
- ‘(2) However, if the default grid contract provides that a particular term for the supply is a mandatory term—
- (a) the mandatory term is taken to be included as a term of the negotiated grid contract; and
  - (b) if another term of the negotiated grid contract is inconsistent with the mandatory term, the mandatory term prevails to the extent of the inconsistency.
- ‘(3) Also, subsection (1) is subject to section 360ZDDD.
- ‘(4) A negotiated grid contract does not take effect until it is given to the rules administrator under section 360ZDDG.

### **‘360ZDDD Consultation required with other affected grid service providers**

- ‘(1) This section applies if—
- (a) the water grid manager proposes to enter into or amend a negotiated grid contract (the *proposal*); and
  - (b) there is another grid service provider, or a grid customer, (an *affected entity*) whose rights or obligations under an existing contract with the water grid manager may be materially affected by the proposal if it is given effect.
- ‘(2) The water grid manager may proceed with the proposal only if—

- (a) the water grid manager has given the affected entity a notice of proposal (a **proposal notice**) within the period stated in the notice; and
  - (b) the affected entity has not objected in writing to the proposal within the stated period.
- ‘(3) The stated period must be at least 7 days after the proposed notice is given.
- ‘(4) The proposal notice must—
- (a) include a copy of the proposal; and
  - (b) state that the affected entity may, within the stated period, give the water grid manager a notice (an **objection notice**) objecting to the proposal on reasonable grounds.
- ‘(5) If, within the stated period, the affected entity gives the water grid manager an objection notice—
- (a) the objection notice is taken to be a dispute under the market rules; and
  - (b) the provisions of the market rules about the resolving of disputes on an urgent basis apply, with any necessary changes, for resolving the dispute.
- ‘(6) If the dispute is resolved under the market rules and the terms of the resolution permit the water grid manager to give effect to the proposal on particular terms, the water grid manager may give effect to the proposal on the particular terms.
- ‘(7) Subsection (6) applies whether the terms are the same as or different from the terms under the proposal.
- ‘(8) In this section—
- give effect**, to the proposal, means—
- (a) for a negotiated grid contract—to enter into the contract; or
  - (b) for an amendment of a negotiated grid contract—to amend the contract.

---

**‘360ZDDE Effect of negotiated grid contract on contracts of other affected grid service providers**

- ‘(1) This section applies if—
- (a) a negotiated grid contract has been made or amended (the *relevant contract*); and
  - (b) there is an affected entity mentioned in section 360ZDDD(1)(b) relating to the relevant contract; and
  - (c) section 360ZDDD has been complied with for the making or amendment of the relevant contract; and
  - (d) the affected entity’s existing contract with the water grid manager is inconsistent with the relevant contract; and
  - (e) the water grid manager and the affected entity (the *parties*) have not amended the affected entity’s existing contract in a way that removes the inconsistency.
- ‘(2) For subsection (1)(d), there is an inconsistency between the existing contract and the relevant contract if the relevant contract hinders the performance of the existing contract.
- ‘(3) The parties must amend the affected entity’s existing contract to remove the inconsistency.

**‘360ZDDF Negotiated contract prevails over non-market contracts between same parties**

‘If—

- (a) the parties to a negotiated grid contract are the same parties as the parties to a non-market contract; and
  - (b) the contracts are inconsistent;
- the negotiated grid contract prevails to the extent of the inconsistency.

**‘360ZDDG Notice of negotiated grid contracts to rules administrator**

- ‘(1) This section applies if a negotiated grid contract is made or amended.

- ‘(2) Each party to the contract must ensure the rules administrator is given a copy of the contract, or the contract as amended, within 7 business days after the making or amendment of the contract.

Maximum penalty—200 penalty units.

- ‘(3) If, after receiving the copy, the rules administrator considers there is an inconsistency of a type mentioned in section 360ZDDE(1)(d) relating to the contract it may give each party a notice (a *rectification notice*)—

- (a) stating what the inconsistency is; and
- (b) requiring the parties, within a stated reasonable period—
- (i) to amend the contract to remove the inconsistency; and
- (ii) to comply with subsection (2) for the amendment.

- ‘(4) A party to the contract who is given a rectification notice must comply with the notice unless the party has a reasonable excuse.

Maximum penalty—200 penalty units.

### ‘360ZDDH Register of negotiated grid contracts

- ‘(1) The rules administrator must keep a register of negotiated grid contracts or amendments of negotiated grid contracts of which it has received copies under section 360ZDDG.
- ‘(2) In registering a negotiated grid contract or amendment under subsection (1), the rules administrator need not make any inquiry about whether section 360ZDDD has been complied with.
- ‘(3) The rules administrator must include in the register a copy of any rectification notice given under section 360ZDDG for a negotiated grid contract.
- ‘(4) Registration of a negotiated grid contract under subsection (1) does not of itself give the contract any more effect or validity

than it would have had other than for the requirement under section 360ZDDC for it to be registered to take effect.

- (5) The rules administrator may share any document, or part of a document, kept in the register with any other regulatory agency or unit of public administration for that entity's lawful purposes.

## **'Subdivision 2B Contract required for supply of declared water services**

### **'360ZDDI Grid service providers**

'A grid service provider must supply its declared water service only to the water grid manager and only in accordance with—

- (a) if there is a negotiated grid contract for the service—that contract; or
- (b) otherwise—the default grid contract.

Maximum penalty—1665 penalty units.'

### **'360ZDDJ Grid customers**

'A grid customer must be supplied with water from a declared water service only from the water grid manager and only in accordance with—

- (a) if there is a negotiated grid contract for the service—that contract; or
- (b) otherwise—the default grid contract.

Maximum penalty—1665 penalty units.'

## **102 Amendment of s 360ZDI (Limited liability of grid participant)**

- (1) Section 360ZDI(3), 'contract'—

*omit, insert—*

- ‘negotiated grid contract’.
- (2) Section 360ZDI(4), ‘contract mentioned in subsection (3)’—  
*omit, insert—*  
‘default grid contract’.
- (3) Section 360ZDI(5), definition *obligations*, paragraph (b), ‘grid contract document’—  
*omit, insert—*  
‘negotiated grid contract’.
- (4) Section 360ZDI(5), definition *obligations*, paragraph (c)—  
*renumber* as paragraph (d).
- (5) Section 360ZDI(5), definition *obligations—*  
*insert—*  
‘(c) if, under section 360ZDDB, the default grid contract applies to the grid participant—that contract;’.

**103 Amendment of s 360ZE (Notice of commission water restriction must be given)**

- (1) Section 360ZE, heading—  
*omit, insert—*  
**‘Consultation and giving notice of commission water restriction’.**
- (2) Section 360ZE(2A), from ‘water service’ to ‘subject of’—  
*omit, insert—*  
‘anyone the commission considers will be affected by’.
- (3) Section 360ZE(3)—  
*omit, insert—*
- ‘(3) The commission water restriction has effect—  
(a) on the day after the notice is given; or

- (b) if a later day is stated in the notice as the day the restriction has effect—on the later day.’.

**104 Amendment of s 360ZG (Delegation of particular functions for commission water restrictions)**

- (1) Section 360ZG(2) and (3)—

*renumber* as section 360ZG(6) and (7).

- (2) Section 360ZG(1)—

*omit, insert*—

- ‘(1) The commission may delegate to an entity mentioned in subsection (2) (a *relevant entity*), the following functions—

- (a) giving notices under section 360ZE about commission water restrictions;
- (b) monitoring compliance with commission water restrictions.

- ‘(2) For subsection (1), a relevant entity is—

- (a) a water service provider; or
- (b) another entity prescribed under a regulation if the commission considers the entity has appropriately qualified staff who have the expertise and experience to perform the functions.

- ‘(3) Also, the commission may delegate to a water service provider in a designated region its function of enforcing compliance with commission water restrictions.

- ‘(4) A function delegated under subsection (1) or (3) is subject to any conditions imposed on the delegate that are prescribed under a regulation.

- ‘(5) Subject to subsection (4), the *Acts Interpretation Act 1954*, section 27A, applies to a delegation under subsection (1) or (3).’.

- (3) Section 360ZG(6), as renumbered, after ‘water service provider’—

*insert—*

‘or other entity’.

- (4) Section 360ZG(7), as renumbered, definition *relevant service provider—*

*omit.*

## **105 Amendment of s 692 (Public notice of proposed amalgamation or dissolution)**

- (1) Section 692(2)—

*renumber* as section 692(3).

- (2) Section 692—

*insert—*

- ‘(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.’.

## **106 Insertion of new s 706**

Chapter 4, part 7—

*insert—*

### **‘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.
- ‘(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.’.

**107 Amendment of s 739 (Appointment and qualifications of authorised officers)**

- (1) Section 739(1)—  
*omit, insert—*
- ‘(1) The chief executive or the commission (each an *appointor*) may appoint a person as an authorised officer.’.
- (2) Section 739(2), ‘chief executive’—  
*omit, insert—*  
‘appointor’.
- (3) Section 739(2), ‘chief executive’s’—  
*omit, insert—*  
‘appointor’s’.

**108 Amendment of s 740 (Functions and powers of authorised officers)**

Section 740(3) and (4)(c), ‘chief executive’—

*omit, insert—*

‘appointor’.

**109 Amendment of s 741 (Conditions of appointment of authorised officers)**

Section 741(2)(b), ‘chief executive’—

*omit, insert—*

‘appointor’.

**110 Amendment of s 742 (Authorised officer’s identity card)**

Section 742(1), ‘chief executive’—

*omit, insert—*

‘appointor’.

**111 Amendment of s 743 (Failure to return identity card)**

Section 743, ‘chief executive’—

*omit, insert—*

‘appointor’.

**112 Insertion of new s 748A**

After section 748—

*insert—*

**‘748A Power of entry for monitoring commission water restrictions and water efficiency management plans**

‘(1) This section applies to an authorised person appointed by the commission, if the authorised person—

(a) reasonably suspects a commission water restriction is being, or has been, contravened at any place; or

(b) reasonably considers it is necessary to enter non-residential premises to conduct an audit or

inspection to monitor compliance with a commission water restriction or water efficiency management plan.

- ‘(2) Subject to subsections (3) and (5), the authorised person may enter the place or premises for the purpose of monitoring compliance with the commission water restriction or water efficiency management plan at any reasonable time of the day or night.
- ‘(3) Before entering, the authorised person must do, or make a reasonable attempt to do, the following things—
  - (a) identify himself or herself to an occupier, by complying with section 744;
  - (b) tell the occupier the purpose of the entry.
- ‘(4) Subsection (3) does not require the authorised person to take a step the authorised person reasonably believes may frustrate or otherwise hinder the purposes of the entry.
- ‘(5) For subsection (1)(a), a place does not include a building or other structure, or the part of a building or other structure, used for residential purposes.’.

**113 Amendment of s 749 (Power to enter places for other purposes)**

Section 749(1), ‘or 748’—

*omit, insert—*

‘, 748 or 748A’.

**114 Amendment of s 932 (Who may bring proceedings for offences)**

- (1) Section 932(1)(b)(ii), after ‘a service provider’—

*insert—*

‘or other entity’.

- (2) Section 932(1)(c)—

*insert—*

‘(iii) another entity to whom the commission has delegated the function of bringing the proceeding; or’.

**115 Amendment of s 1014 (Regulation-making power)**

Section 1014(2)—

*insert—*

‘(1) make provision about any matter necessary or convenient to give effect to the following—

- (i) a requirement about water efficiency management plans under chapter 2A, part 5, division 3;
- (ii) a commission water restriction under chapter 2A, part 6.’.

**116 Omission of s 1141 (Existing regional water supply strategies)**

Section 1141—

*omit.*

**117 Insertion of new ch 9, pt 5, div 15**

Chapter 9, part 5—

*insert—*

---

**‘Division 15                    Transitional provisions for  
South-East Queensland Water  
(Distribution and Retail  
Restructuring) and Other  
Legislation Amendment Act 2010**

**‘Subdivision 1                Provisions for water efficiency  
management plans**

**‘1173 Definitions for sdiv 1**

‘In this subdivision—

*commencement* means the day this section commences.

*previous*, for a stated provision that includes a number, means the provision of this Act that included that number as in force immediately before the commencement.

**‘1174 Application of s 360ZCB**

‘Until a regulation prescribes water use and quantities for section 360ZCB(8)—

- (a) subsection 360ZCB(8) does not apply; and
- (b) a reference in section 360ZCB to a relevant customer, or type of relevant customer, of a water service provider is taken to be a reference to any customer, or type of customer, of the provider.

**‘1175 Particular notices to prepare water efficiency  
management plans**

‘(1) This section applies if—

- (a) immediately before the commencement, a water service provider in the SEQ region has, under previous section 360ZCB(1) or (3), given a customer, or type of

customer, a written notice requiring the customer to prepare a water efficiency management plan; and

(b) on the commencement, the customer has not complied with the notice.

‘(2) From the commencement, the notice is taken to be a notice given by the commission under section 360ZCB(4).

### ‘1176 Approved water efficiency management plans for water service providers in SEQ region

‘(1) This section applies if, immediately before the commencement, a customer to whom an approved water efficiency management plan applies was a customer of a water service provider in the SEQ region.

‘(2) From the commencement, the relevant entity for the plan is the commission.

## ‘Subdivision 2 Other provisions

### ‘1177 First commission CEO

‘(1) This section applies on the date of assent to the person who, immediately before that date, held office as the commission’s executive director (the *old office*).

‘(2) The old office ends.

‘(3) The person is taken to have been appointed as the commission CEO (the *new office*).

‘(4) The person—

(a) holds the new office for a term of 3 years from when the person was most recently appointed to the old office; and

(b) has an option, exercisable before the 3 years ends, to continue to hold the new office for a further 2 years.

- 
- ‘(5) The person’s conditions of employment for the new office are the conditions of employment of the old office immediately before the date of assent.
- ‘(6) Subsections (5) applies subject to subsection (4) and to any necessary changes from the old office to the new office.
- ‘(7) Subject to subsections (4) to (6), chapter 2A, part 2, division 4A applies for the person’s holding of the new office.
- ‘(8) In this section—
- conditions of employment* includes allowances for variations to remuneration.
- date of assent* means the date of assent of the *South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010*.

#### **‘1178 Grid contract documents become negotiated grid contracts**

- ‘(1) This section applies for a grid contract document under this Act as in force immediately before the commencement of this section.
- ‘(2) From the commencement, the grid contract document becomes a negotiated grid contract between the parties named in the grid contract document.
- ‘(3) Subject to section 360ZDDC, the parties may change the terms of the negotiated grid contract.’.

#### **118 Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definitions *authorised person* and *grid contract document*—
- omit*.
- (2) Schedule 4—
- insert*—
- ‘*appointor*, of an authorised officer, see section 739(1).

*commission CEO*, see section 357.

*default grid contract* see section 360ZDD(1).

*mandatory term*, of a default grid contract, see section 360ZDD(2).

*negotiated grid contract* see section 360ZDDC(1).

*non-market contract* means a contract entered into between a grid service provider, or grid customer, and the water grid manager other than for—

- (a) the supply of declared water services to the water grid manager; or
- (b) the sale by the water grid manager of water supplied by the declared water services.

*rules administrator* see section 360ZCY(1)(a)(x).

*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/government/assets/part-b-report-brokering-balance.pdf](http://www.premiers.qld.gov.au/government/assets/part-b-report-brokering-balance.pdf)>.’.

## Part 12 **Amendment of Water Supply (Safety and Reliability) Act 2008**

### 119 **Act amended**

This part amends the *Water Supply (Safety and Reliability) Act 2008*.

**120 Amendment of s 41 (Restricting water supply)**

(1) Section 41, heading, after ‘supply’—

*insert—*

**‘outside the SEQ region’.**

(2) Section 41(1), after ‘If a water service provider’—

*insert—*

**‘other than a water service provider in the SEQ region’.**

**121 Amendment of s 54 (Approving water efficiency management plan)**

(1) Section 54(7)—

*omit.*

(2) Section 54(8)—

*renumber* as section 54(7).

**122 Amendment of s 95 (Preparing drinking water quality management plan)**

Section 95(3)(b)(vi), ‘plan to the extent the plan requires the provider to maintain water quality in accordance with the’—

*omit, insert—*

**‘plan and the’.**

**123 Replacement of ch 2, pt 4, div 3, sdiv 3, hdg (Miscellaneous)**

Chapter 2, part 4, division 3, subdivision 3, heading—

*omit, insert—*

**‘Subdivision 3 Reporting requirements’.**

## **124 Replacement of s 102 (Notice of particular matter)**

Section 102—

*omit, insert—*

### **‘102AA Application of sdiv 3**

‘This subdivision applies to a drinking water service provider carrying out a drinking water service if there is an approved drinking water quality management plan for the drinking water service.

### **‘102 Notice of noncompliance with water quality criteria**

‘(1) This section applies if the drinking water service provider becomes aware that the quality of water supplied from the provider’s drinking water service does not comply with the water quality criteria relating to the service.

‘(2) The drinking water service provider must, unless the provider has a reasonable excuse, immediately inform the regulator of the noncompliance and the circumstances that gave rise to the noncompliance.

Maximum penalty—1665 penalty units.

‘(3) The drinking water service provider must, unless the provider has a reasonable excuse, give the regulator notice of the following in the approved form as soon as practicable—

- (a) the noncompliance and the circumstances that gave rise to the noncompliance;
- (b) any action taken, or to be taken, by the provider to correct the noncompliance;
- (c) the measures the provider will take to prevent the noncompliance in the future.

Maximum penalty for subsection (3)—200 penalty units.

---

### **‘102A Notice of prescribed incident**

‘(1) This section applies if a drinking water service provider becomes aware a prescribed incident has happened in relation to the provider or the provider’s service.

‘(2) The drinking water service provider must, unless the provider has a reasonable excuse, immediately inform the regulator of the prescribed incident.

Maximum penalty—1665 penalty units.

‘(3) The drinking water service provider must, unless the provider has a reasonable excuse, give the regulator notice of the following in the approved form as soon as practicable—

(a) the prescribed incident and the circumstances that gave rise to the incident;

(b) any action taken, or to be taken, by the provider relating to the prescribed incident;

(c) the measures the provider will take to prevent the prescribed incident happening again in the future.

Maximum penalty—200 penalty units.

‘(4) In this section—

*prescribed incident* means an incident prescribed under a regulation.

### **‘102B Self-incrimination not a reasonable excuse for sdiv 3**

‘(1) It is not a reasonable excuse, under section 102 or 102A, for a drinking water service provider to fail to give the relevant information that giving the information might tend to incriminate the provider.

‘(2) If the drinking water service provider is an individual, evidence of, or evidence directly or indirectly derived from, the relevant information that might tend to incriminate the provider is not admissible in evidence against the provider in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.

‘(3) In this section—

*relevant information* means information given to the regulator under section 102 or 102A.

## ‘Subdivision 4 Miscellaneous’.

### **125 Amendment of s 123 (Preparing drought management plans)**

Section 123(1), note—

*omit.*

### **126 Replacement of s 125 (Submitting drought management plan for registration)**

Section 125—

*omit, insert—*

### **‘125 Submitting drought management plan for registration**

‘(1) A water service provider, other than a water service provider granted an exemption under section 126, must—

- (a) prepare a drought management plan for the service; and
- (b) give a copy of the plan to the regulator for registration.

Maximum penalty—200 penalty units.

‘(2) However, subsection (1) does not apply to a water service provider until 1 year after the day the service provider is registered for a water service.’.

### **127 Omission of s 131 (Tabling in Legislative Assembly)**

Section 131—

*omit.*

---

**128 Amendment of s 138 (Guidelines for rate notice or account for supply of water to residential premises)**

Section 138(1)(a), ‘the SEQ region or’—

*omit.*

**129 Amendment of s 142 (Contents of annual report)**

(1) Section 142(2)(d) to (f), ‘contain a summary’—

*omit, insert—*

‘include details’.

(2) Section 142(2)(e), ‘section 102’—

*omit, insert—*

‘sections 102 and 102A’.

(3) Section 142(2)(e), editor’s note—

*omit.*

(4) Section 142(2)(f), ‘the plan in relation to’—

*omit.*

(5) Section 142(2)(g), ‘a summary’—

*omit, insert—*

‘include details’.

**130 Amendment of s 167 (Owner may ask for connection to service provider’s infrastructure)**

Section 167(3), after ‘work’—

*insert—*

‘(including complying with any conditions for carrying out the work)’.

**131 Amendment of s 180 (Trade waste approvals)**

(1) Section 180(1), ‘local government that is a’—

*omit.*

- (2) Section 180(1), ‘local government’s’—

*omit, insert—*

‘sewerage service provider’s’.

- (3) Section 180(2) to (4), ‘local government’—

*omit, insert—*

‘sewerage service provider’.

- (4) Section 180(4), ‘trade waste compliance notice’—

*omit, insert—*

‘regulator notice’.

### **132 Amendment of s 181 (Approval may be conditional)**

- (1) Section 181, ‘local government’—

*omit, insert—*

‘sewerage service provider’.

- (2) Section 181(1)(d), ‘local government’s’—

*omit, insert—*

‘sewerage service provider’s’.

- (3) Section 181(2), ‘trade waste compliance notice’—

*omit, insert—*

‘regulator notice’.

### **133 Amendment of s 182 (Criteria for suspending or cancelling trade waste approval)**

- (1) Section 182, ‘local government’—

*omit, insert—*

‘sewerage service provider’.

- (2) Section 182(d), ‘local government’s’—

---

*omit, insert—*

‘sewerage service provider’s’.

**134 Amendment of s 183 (Suspending or cancelling trade waste approval)**

Section 183, ‘local government’—

*omit, insert—*

‘sewerage service provider’.

**135 Amendment of s 184 (Immediate suspension or cancellation)**

(1) Section 184, ‘local government’—

*omit, insert—*

‘sewerage service provider’.

(2) Section 184(1)(c), ‘local government’s’—

*omit, insert—*

‘sewerage service provider’s’.

(3) Section 184(2), ‘trade waste compliance notice’—

*omit, insert—*

‘regulator notice’.

**136 Amendment of s 185 (Amending trade waste approval)**

(1) Section 185, ‘local government’—

*omit, insert—*

‘sewerage service provider’.

(2) Section 185(1)(a), ‘trade waste compliance notice’—

*omit, insert—*

‘regulator notice’.

**137 Amendment of s 193 (Discharging particular materials)**

- (1) Section 193(1) to (3)—

*omit, insert—*

- ‘(1) A person must not discharge trade waste into a sewerage service provider’s infrastructure without the sewerage service provider’s approval under section 180.

Maximum penalty—1665 penalty units.’.

- (2) Section 193(4) and (5)—

*renumber* as section 193(2) and (3).

**138 Amendment of s 201 (Preparing particular plans)**

- (1) Section 201(5)(c) to (g)—

*renumber* as section 201(5)(d) to (h).

- (2) Section 201(5)—

*insert—*

‘(c) include the water quality criteria for recycled water for the plan; and’.

- (3) Section 201(5)(g), as renumbered, ‘plan to the extent the plan requires water quality to be maintained in accordance with the’—

*omit, insert—*

‘plan and the’.

- (4) Section 201(5)(h), as renumbered, ‘laundries’—

*omit, insert—*

‘washing machines’.

**139 Amendment of s 206 (Notice of decision)**

- (1) Section 206(3), ‘(2)(b)’—

*omit, insert—*

- 
- ‘(2)(b) or (c)’.
- (2) Section 206(3)(a), after ‘if’—  
*insert*—  
‘any part of’.
- (3) Section 206(3)(a), ‘3 years’—  
*omit, insert*—  
‘1 year’.
- (4) Section 206(3)(b), ‘5 years’—  
*omit, insert*—  
‘2 years’.
- (5) Section 206(4)—  
*omit*.
- (6) Section 206(5)—  
*renumber* as section 206(4).

#### **140 Amendment of s 250 (Application for exemption)**

- (1) Section 250(2)—  
*renumber* as section 250(3).
- (2) Section 250(1)—  
*omit, insert*—
- ‘(1) The recycled water provider for a recycled water scheme may apply to the regulator for an exemption from having an approved recycled water management plan for the scheme.
- ‘(2) Subsection (1) does not apply to a recycled water provider for a recycled water scheme if—
- (a) the recycled water scheme is a critical recycled water scheme; or
- (b) recycled water is supplied under the scheme to premises by way of a reticulation system used only to provide

recycled water for outdoor use or for use in flushing toilets or in washing machines.’.

## **141 Replacement of ss 270–272**

Sections 270 to 272—

*omit, insert—*

### **‘Division 1 Reporting requirements**

#### **‘270AA Application of div 1**

‘This division applies to a scheme manager, a recycled water provider or other declared entity, for a recycled water scheme if—

- (a) an approved recycled water management plan has been approved for the scheme; or
- (b) an exemption has been granted for the scheme.

#### **‘270 Notice of noncompliance with water quality criteria**

‘(1) This section applies if a scheme manager, a recycled water provider or other declared entity, for a recycled water scheme (the *alerting entity*) becomes aware that the quality of recycled water produced or supplied under the recycled water scheme for the entity does not comply with the water quality criteria for the recycled water relevant to the scheme.

‘(2) The alerting entity must, unless the entity has a reasonable excuse, immediately inform each of the following of the noncompliance and the circumstances that gave rise to the noncompliance—

- (a) the regulator;
- (b) if another entity is the responsible entity for the noncompliance—the responsible entity.

Maximum penalty—1665 penalty units.

‘(3) Subsection (4) applies—

- 
- (a) if the alerting entity is also the responsible entity for the noncompliance—as soon as practicable after the noncompliance; or
  - (b) otherwise—as soon as practicable after the alerting entity informs the responsible entity under subsection (2).
- ‘(4) The responsible entity for the noncompliance must, unless the entity has a reasonable excuse, give the regulator notice of the following in the approved form—
- (a) the noncompliance and the circumstances that gave rise to the noncompliance;
  - (b) any action taken, or to be taken, by the entity to correct the noncompliance;
  - (c) the measures the entity will take to prevent the noncompliance in the future.

Maximum penalty—200 penalty units.

- ‘(5) In this section—

*responsible entity*, for a noncompliance, means the scheme manager, recycled water provider or other declared entity, for a recycled water scheme that is responsible for taking any action to correct the noncompliance.

## ‘271 Notice of prescribed incidents

- ‘(1) This section applies if a scheme manager, a recycled water provider or other declared entity, for a recycled water scheme (the *alerting entity*) becomes aware a prescribed incident has happened in relation to the alerting entity or the scheme.
- ‘(2) The alerting entity must, unless the entity has a reasonable excuse, immediately inform each of the following of the prescribed incident—
- (a) the regulator;
  - (b) if another entity is the responsible entity for prescribed incident—the responsible entity.

Maximum penalty—1665 penalty units.

- ‘(3) Subsection (4) applies—
- (a) if the alerting entity is also the responsible entity for the prescribed incident—as soon as practicable after the prescribed incident; or
  - (b) otherwise—as soon as practicable after the alerting entity informs the responsible entity under subsection (2).
- ‘(4) The responsible entity must, unless the entity has a reasonable excuse, give the regulator notice of the following in the approved form—
- (a) the prescribed incident and the circumstances that gave rise to the prescribed incident;
  - (b) any action taken, or to be taken, by the entity relating to the prescribed incident;
  - (c) the measures the entity will take to prevent the prescribed incident happening again in the future.

Maximum penalty—200 penalty units.

- ‘(5) In this section—
- prescribed incident* means an incident prescribed under a regulation.
- responsible entity*, for a prescribed incident, means the scheme manager, recycled water provider or other declared entity, for a recycled water scheme that is responsible for taking action relating to the prescribed incident.

## ‘272 Self-incrimination not a reasonable excuse for div 1

- ‘(1) It is not a reasonable excuse, under section 270 or 271, for an entity to fail to give the relevant information that giving the information might tend to incriminate the entity.
- ‘(2) However, if the entity is an individual, evidence of, or evidence directly or indirectly derived from, the relevant information that might tend to incriminate the entity is not

---

admissible in evidence against the entity in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.

‘(3) In this section—

*relevant information* means information given to the regulator under section 270 or 271.

## ‘Division 2                    Annual reports

### ‘273    Annual reporting requirement

‘(1) The relevant entity for a recycled water scheme must prepare an annual report for each financial year after a recycled water management plan for the scheme has been approved or an exemption for the scheme has been granted.

‘(2) The annual report must—

- (a) be prepared in accordance with the guidelines, if any, made by the regulator about the preparation of annual reports; and
- (b) if the annual report is for a recycled water scheme for which there is an approved recycled water management plan—
  - (i) state the outcome of any review of the recycled water management plan in the financial year to which the annual report relates, and how the matters raised in the review have been addressed; and
  - (ii) contain details of the findings of, and any recommendations stated in, an audit report given to the regulator in the financial year; and
  - (iii) contain details of the information given to the regulator under section 270 or 271 in the financial year; and

- (c) if the annual report is for a recycled water scheme for which an exemption has been granted—contain details of the information given to the regulator under section 270 or 271 in the financial year.
- ‘(3) The relevant entity must give a copy of the annual report to the regulator within 120 business days after the end of the financial year.
- Maximum penalty—500 penalty units.
- ‘(4) If a relevant entity is a recycled water provider for a single entity recycled water scheme, the annual report may be combined with a report given to the regulator under section 141.

**‘274 Sections 274–299 not used**

‘See editor’s note for section 1.’.

**142 Amendment of s 301 (Making declaration)**

Section 301(2)(b), ‘laundries’—

*omit, insert—*

‘washing machines’.

**143 Amendment of s 304 (Notice of declaration)**

Section 304(2)(b), ‘infrastructure that is’—

*insert—*

‘infrastructure and any proposed infrastructure that is or will be’.

**144 Amendment of s 330 (Notice to local government)**

(1) Section 330, heading, ‘local government’—

*omit, insert—*

‘sewerage service provider’.

- 
- (2) Section 330(1), ‘a local government that is’—  
*omit.*
  - (3) Section 330(2), ‘*trade waste compliance notice*’—  
*omit, insert—*  
*‘regulator notice’.*
  - (4) Section 330(2), (3) and (5), ‘local government’—  
*omit, insert—*  
*‘sewerage service provider’.*

**145 Amendment of s 331 (Report about compliance with notice)**

- (1) Section 331(1), ‘a local government that is’—  
*omit.*
- (2) Section 331(1), ‘the local government’—  
*omit, insert—*  
*‘the sewerage service provider’.*
- (3) Section 331(1), ‘trade waste compliance notice’—  
*omit, insert—*  
*‘regulator notice’.*
- (4) Section 331(2), ‘local government’—  
*omit, insert—*  
*‘sewerage service provider’.*

**146 Replacement of s 333 (Sections 333–339 not used)**

Section 333—  
*omit, insert—*

**‘333 Requirement for certain entities to give information to scheme manager**

- ‘(1) This section applies for a multiple-entity recycled water scheme.
- ‘(2) The scheme manager may, by notice, require a recycled water provider or other declared entity for the scheme to give the scheme manager, within a stated reasonable period, information the scheme manager reasonably requires to comply with the scheme manager’s obligations under this Act.
- ‘(3) When making the requirement, the scheme manager must warn the recycled water provider or other declared entity it is an offence to fail to comply with the requirement unless the provider or entity has a reasonable excuse.
- ‘(4) The recycled water provider, or the other declared entity, must comply with the requirement unless the provider or entity has a reasonable excuse.

Maximum penalty—200 penalty units.

- ‘(5) If the recycled water provider, or the other declared entity, is an individual, it is a reasonable excuse for failing to comply with the requirement that giving the information might tend to incriminate the provider or entity.

**‘334 Sections 334–339 not used**

‘See editor’s note for section 1.’.

**147 Replacement of s 340 (Definition for pt 1)**

Section 340—

*omit, insert—*

**‘340 Ch 4 does not apply to particular dams**

‘This chapter does not apply to—

- (a) a hazardous waste dam; or
- (b) weir that does not have a variable flow control structure on the crest of the weir.’.

---

**148 Amendment of s 341 (What is a referable dam)**

- (1) Section 341(2)(a)—

*omit, insert—*

‘(a) a hazardous waste dam;’.

- (2) Section 341(3)—

*omit, insert—*

*Note—*

For particular dams that are taken to be referable dams under this section, see section 611.’.

**149 Amendment of s 343 (When dam must be failure impact assessed)**

- (1) Section 343(1), from ‘will be’ to ‘level.’—

*omit, insert—*

‘will be—

- (a) more than 8m in height and have a storage capacity of more than 500ML; or
- (b) more than 8m in height and have 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) Section 343—

*insert—*

‘(1A) The owner of a dam that is not a referable dam must have the dam failure impact assessed if, because of any works proposed to be carried out in relation to the dam, the dam will meet the criteria stated in subsection (1)(a) or (b) after the works are carried out.

Maximum penalty—1665 penalty units.

‘(1B) The owner of a dam that is not a referable dam but meets the criteria stated in subsection (1)(a) or (b) must have the dam failure impact assessed if, because of any works proposed to

be carried out in relation to the dam, the storage capacity of the dam will increase by more than 10% after the works are carried out.

Maximum penalty—1665 penalty units.

- ‘(1C) The owner of a dam that is a referable dam must have the dam failure impact assessed if, because of any works proposed to be carried out in relation to the dam, the storage capacity of the dam will increase by more than 10% after the works are carried out.

Maximum penalty—1665 penalty units.’

- (3) Section 343(2), from ‘an existing’ to ‘constructed,’—

*omit, insert—*

‘any existing dam or any dam being constructed (whether or not the dam meets or will meet the criteria stated in subsection (1)(a) or (b))’.

- (4) Section 343(1A) to (4)—

*renumber* as section 343(2) to (7).

## **150 Amendment of s 344 (Process for failure impact assessment)**

- (1) Section 344(1), ‘section 343(1)’—

*omit, insert—*

‘section 343(1), (2), (3) or (4)’.

- (2) Section 344(1), ‘construction of the dam’—

*omit, insert—*

‘construction of the dam or the carrying out of the works’.

- (3) Section 344(2), ‘section 343(2)’—

*omit, insert—*

‘section 343(5)’.

---

**151 Amendment of s 345 (Requirement for other failure impact assessments)**

- (1) Section 345(2), from ‘within’ to ‘executive’—  
*omit, insert—*  
‘within the period stated in the notice given to the owner under section 350’.
- (2) Section 345(3)—  
*omit.*

**152 Amendment of s 348 (Cost of failure impact assessment)**

- (1) Section 348(1), ‘section 343(1)’—  
*omit, insert—*  
‘section 343(1), (2), (3) or (4)’.
- (2) Section 348(2)—  
*omit, insert—*
- ‘(2) For a failure impact assessment required under section 343(5)—
- (a) the chief executive must pay the reasonable cost of preparing and certifying the assessment if—
- (i) the chief executive accepts the assessment; and
- (ii) the dam, or the proposed dam, is assessed as not having a category 1 or category 2 failure impact rating; and
- (iii) the dam, or the proposed dam, does not meet the criteria stated in section 343(1)(a) or (b); or
- (b) otherwise, the owner of the dam must pay the cost of preparing and certifying the assessment.’.

**153 Amendment of s 350 (Notice accepting failure impact assessment)**

Section 350—

*insert—*

- ‘(2) The notice must also state the period, of at least 5 years from the day the chief executive accepted the assessment, within which the owner must ensure another failure impact assessment of the dam is completed and given to the chief executive.
- ‘(3) However, the chief executive can not state a period for a further failure impact assessment of—
  - (a) a dam given a category 2 failure impact rating under the failure impact assessment accepted under subsection (1); or
  - (b) a dam that—
    - (i) does not meet the criteria stated in section 343(1)(a) or (b); and
    - (ii) was not given a category 1 or category 2 failure impact rating under the failure impact assessment accepted under subsection (1).
- ‘(4) In deciding the period for subsection (2), the chief executive must have regard to—
  - (a) the failure impact assessment accepted by the chief executive under subsection (1); and
  - (b) the nature and location of the dam.’.

#### **154 Amendment of s 355 (Process after deciding safety conditions)**

Section 355—

*insert—*

- ‘(4) An information notice about the safety conditions need not include reasons for each safety condition.’.

#### **155 Insertion of new s 357A**

Chapter 4, part 1, division 3, after section 357—

*insert—*

**‘357A Chief executive may engage person to provide information**

- ‘(1) This section applies if the chief executive believes a person has not complied with a notice given to the person under section 353(2) or 356(3) requiring information about a dam, including, for example, a comprehensive report by a registered professional engineer on the design and operation of the dam.
- ‘(2) The chief executive may engage a person with suitable qualifications, experience or expertise to investigate the dam and give the chief executive the information requested.
- ‘(3) If the chief executive incurs expense in engaging the person under subsection (2), 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 engaging the person under subsection (2) may be recovered by the chief executive as a debt.
- ‘(5) A debt under subsection (4) bears interest at the rate stated in a regulation.’.

**156 Insertion of new ch 4, pt 1, div 4, sdiv 1 hdg**

Chapter 4, part 1, division 4, before section 358—

*insert—*

**‘Subdivision 1 Preliminary’.**

**157 Amendment of s 358 (Application of div 4)**

Section 358(a)(ii)—

*omit, insert—*

- ‘(ii) another dam (whether or not a failure impact assessment has been carried out for the dam), if the chief executive reasonably believes the dam would have a category 1 or category 2 failure impact

rating if an assessment or another assessment were carried out for the dam; and’.

**158 Insertion of new ch 4, pt 1, div 4, sdiv 2 hdg**

Chapter 4, part 1, division 4, before section 359—

*insert—*

**‘Subdivision 2 Chief executive may give direction or take action about failure of dam’.**

**159 Amendment of s 359 (Direction to owner of emergency part of land)**

(1) Section 359(2)(b)—

*omit.*

(2) Section 359(2)(c) and (d)—

*renumber* as section 359(2)(b) and (c).

(3) Section 359(2)(b), as renumbered under this section, ‘paragraph (d)’—

*omit, insert—*

‘paragraph (c)’.

(4) Section 359(3), ‘subsection (2)(c)’—

*omit, insert—*

‘subsection (2)(b)’.

**160 Insertion of new s 359A, and ch 4, pt 1, div 4, sdiv 3 hdg**

After section 359—

*insert—*

**‘359A Taking immediate action about failure of dam**

‘(1) This section applies if the chief executive is satisfied or reasonably believes—

- (a) there is danger of the failure of a dam; and
  - (b) the failure is likely to pose a risk to safety or health of the public or an individual; and
  - (c) immediate action is necessary to prevent or minimise the impact of the failure.
- ‘(2) The chief executive may take reasonable steps or authorise an authorised officer to take reasonable steps to prevent or minimise the impact of the failure.
- ‘(3) Subsection (2) applies even if the chief executive has given a notice under section 359 about the failure.
- ‘(4) If the chief executive decides to take the reasonable steps, or authorise an authorised officer to take the reasonable steps, the chief executive or officer may—
- (a) without a warrant, enter any place, other than premises or a part of premises where a person resides, to take the steps; and
  - (b) in taking the steps, exercise any powers of an authorised officer under chapter 5, part 2, 3 or 4.
- ‘(5) Before entering the place—
- (a) the chief executive must do or make a reasonable attempt to—
    - (i) tell the occupier of the place the chief executive is permitted under this Act to enter the place; and
    - (ii) give the occupier an opportunity to allow the chief executive immediate entry to the place without using force; or
  - (b) the authorised officer must do or make a reasonable attempt to—
    - (i) comply with section 405(1); and
    - (ii) tell the occupier of the place the officer is permitted under this Act to enter the place; and

- (iii) give the occupier an opportunity to allow the officer immediate entry to the place without using force.
- ‘(6) The chief executive or authorised officer may exercise the powers mentioned in subsection (4) at the time, with the help, and using the force, that is necessary and reasonable in the circumstances.
- ‘(7) In exercising or attempting to exercise the powers relating to a place, the chief executive or authorised officer must take all reasonable steps to ensure the chief executive or officer causes as little inconvenience to any person at the place, and does as little damage, as is practicable in the circumstances.
- ‘(8) Any reasonable expenses incurred by the chief executive or an authorised officer in doing anything under subsection (4) may be recovered by the chief executive as a debt.
- ‘(9) A debt under subsection (8) bears interest at the rate stated in a regulation.

### **‘Subdivision 3 Chief executive may recover expenses’.**

#### **161 Replacement of s 360 (Failure to comply with notice)**

Section 360—

*omit, insert—*

#### **‘360 Notice for recovering expenses**

- ‘(1) This section applies if—
  - (a) a person to whom a notice under section 359 is given does not comply, or does not fully comply, with the notice and the chief executive incurs an expense under section 467(1) or (3) relating to the notice; or
  - (b) the chief executive or an authorised officer incurs expense in acting under section 359A.

- ‘(2) The chief executive may give the owner of the land for which the expenses were incurred a notice stating—
- (a) for action taken under section 467(1) or (3)—the action taken; and
  - (b) for reasonable steps taken under section 359A—the steps taken; and
  - (c) the amount of the expense incurred (the *relevant debt*).
- ‘(3) A notice under subsection (2) is a *debt notice*.’

**162 Amendment of s 361 (Notice in relation to land other than leases State land)**

Section 361(1), ‘land mentioned in section 359(2)(c)’—

*omit, insert—*

‘land that is not leased from the State under the *Land Act 1994*’.

**163 Amendment of s 362 (Notice in relation to leased State land)**

Section 362, ‘land mentioned in section 359(2)(d)’—

*omit, insert—*

‘land leased from the State under the *Land Act 1994*’.

**164 Insertion of new ch 4, pt 1, div 4, sdiv 4 hdg**

Chapter 4, part 1, division 4, before section 363—

*insert—*

**‘Subdivision 4 Miscellaneous’.**

**165 Amendment of s 363 (Emergency powers if imminent danger of dam failure)**

Section 363, heading, ‘Emergency powers’—

*omit, insert—*

‘**Form of notice**’.

**166 Replacement of s 365 (Sections 365-369 not used)**

Section 365—

*omit, insert—*

**‘365 Cancellation of development permit for decommissioned dam**

‘(1) This section applies if a dam is—

- (a) decommissioned from use in accordance with a safety condition applying to the dam; or
- (b) decommissioned from use or removed in compliance with a notice under section 359(1); or
- (c) removed under section 359(4); or
- (d) decommissioned from use or removed because of steps taken to prevent or minimise the impact of the failure of the dam under section 359A.

‘(2) For this Act and the Planning Act, the development permit for the dam is taken to be cancelled and of no effect on and from the day the dam is decommissioned from use or removed.

‘(3) The chief executive must, as soon as practicable after the dam is decommissioned from use or removed, give the local government for the area in which the dam is located notice of the decommissioning or removal.

**‘366 Sections 366-369 not used**

‘See editor’s note for section 1.’.

**167 Amendment of s 510 (Who is an *interested person*)**

Section 510(1)(c), ‘local government’—

*omit, insert—*

‘service provider’.

**168 Amendment of s 512 (Who may apply for review)**

Section 512(2)(c), ‘local government’—

*omit, insert—*

‘service provider’.

**169 Amendment of s 514 (Review decision)**

Section 514—

*insert—*

‘(3A) For an application about a safety condition or a development condition applying to a referable dam and for which a notice has been given under subsection (2), the reviewer may, before the extended period under that subsection expires and with the agreement of the applicant, further extend the period for deciding the application.’.

**170 Amendment of s 561 (Development applications for referable dams)**

Section 561(1)—

*insert—*

‘(c) that is carried out in relation to a dam that will be, after the work is completed, a referable dam.’.

**171 Amendment of s 571 (Regulator may make guidelines)**

(1) Section 571(1)(l), ‘271’—

*omit, insert—*

‘273’.

- (2) Section 571(1)(o)—

*renumber* as section 571(1)(q).

- (3) Section 571(1)—

*insert*—

‘(o) conducting a review of a recycled water management plan or drinking water quality management plan;

(p) for schedule 3, definition *supply*, paragraph (b)—who is a related entity of a person who produces recycled water;’.

**172 Amendment of s 572 (Chief executive may make guidelines)**

- (1) Section 572(d)—

*renumber* as section 572(f).

- (2) Section 572—

*insert*—

‘(d) managing a referable dam;

(e) flood capacity of dams;’.

**173 Amendment of s 576 (Documents recycled water provider must keep available for inspection and purchase)**

- (1) Section 576, heading, ‘must’—

*omit, insert*—

‘**and scheme managers must**’.

- (2) Section 576(2) to (4)—

*renumber* as section 576(3) to (5).

- (3) Section 576(1)—

*omit, insert*—

- 
- ‘(1) This section applies to a recycled water provider or scheme manager (each a *responsible entity*) that must—
- (a) arrange for a regular audit report prepared under section 261;
  - (b) prepare an annual report under section 273.
- ‘(2) The responsible entity must keep a copy of each report mentioned in subsection (1) available for inspection by the public during office hours on business days at the office of the responsible entity.’.
- (4) Section 576(3), (4) and (5), as renumbered, ‘recycled water provider’—  
*omit, insert—*  
‘responsible entity’.
- (5) Section 576(3), as renumbered, ‘provider considers’—  
*omit, insert—*  
‘entity considers’.

**174 Amendment of s 579 (Regulator may share particular information)**

- (1) Section 579(2)—  
*renumber* as section 579(3).
- (2) Section 579—  
*insert—*
- ‘(2) The regulator may give information about water quality to—
- (a) a distribution service provider under the Water Act; or
  - (b) a grid service provider under the Water Act; or
  - (c) a service provider; or
  - (d) the SEQ Water Grid Manager; or
  - (e) an employee of the health department.’.

## 175 Insertion of new s 579A

After section 579—

*insert—*

### **‘579A Chief executive may share particular information**

‘(1) The chief executive may give relevant information to a local government or a prescribed entity for the purpose of helping the local government or entity deal with an emergency situation or respond to a matter affecting public health or safety.

‘(2) In this section—

***prescribed entity*** means an entity the functions of which include managing, or carrying out activities in response to, emergency situations in the State.

*Examples of a prescribed entity—*

- the Queensland Police Service
- a disaster management group or the State Emergency Service under the *Disaster Management Act 2003*

***relevant information*** means information in the chief executive’s possession about a dam in the State, including, for example—

- (a) the name of the owner of the dam; and
- (b) the dam’s location and storage capacity; and
- (c) the location and contact details of persons at risk if the dam were to fail.’.

## 176 Amendment of s 580 (Non-disclosure of commercially sensitive information)

(1) Section 580(2)(a), after ‘department’—

*insert—*

‘or the health department’.

(2) Section 580(2)(b), ‘department in which the Public Health Act is administered’—

*omit, insert—*

‘health department’.

(3) Section 580(2)—

*insert—*

‘(c) an investigator for the purpose of an investigation; or

(d) the Minister, the chief executive or the regulator.’.

(4) Section 580(4)—

*insert—*

‘*investigator* means a person—

(a) engaged by the regulator under section 468; or

(b) appointed under an Act for the purpose of monitoring or enforcing that Act or another law.’.

**177 Amendment of s 631 (Application of particular provisions—existing schemes)**

Section 631(1)(a), ‘laundries’—

*omit, insert—*

‘washing machines’.

**178 Amendment of s 632 (Application of particular provisions—schemes supplying recycled water for particular purposes)**

Section 632(1)(b)(i) and (3)(b)(i), ‘laundries’—

*omit, insert—*

‘washing machines’.

**179 Amendment of s 633 (Application of particular provisions—other schemes)**

(1) Section 633(1)(c)—

*omit.*

- (2) Section 633(3), ‘after 1 July’—  
*omit, insert*—  
‘on or after 1 July’.

**180 Replacement of ch 10 hdg (Transitional provision for Sustainable Planning Act 2009)**

Chapter 10, heading—

*omit, insert*—

**‘Chapter 10 Other transitional provisions**

**‘Part 1 Transitional provision for Sustainable Planning Act 2009’.**

**181 Replacement of ch 10A hdg (Transitional provision for South-East Queensland Water (Distribution and Retail Restructuring) Act 2009)**

Chapter 10A, heading—

*omit, insert*—

**‘Part 2 Transitional provision for South-East Queensland Water (Distribution and Retail Restructuring) Act 2009’.**

**182 Insertion of new ch 10, pt 3**

After section 637—

*insert*—



*commencement* means the day this section commences.

*former section 345* means that section as in force immediately before the commencement.

*new section 350* means section 350 as in force after the commencement.

### **‘639 Service provider water restrictions**

‘(1) This section applies if, immediately before the commencement of this section, a service provider water restriction is in force in the SEQ region.

‘(2) From the commencement, the service provider water restriction is taken to be a commission water restriction made by the commission under the Water Act.’.

### **183 Amendment of sch 3 (Dictionary)**

(1) Schedule 3, definitions *greywater* and *trade waste compliance notice*—

*omit.*

(2) Schedule 3—

*insert—*

*‘animal husbandry activities* means the breeding, keeping or raising of animals, or caring for animals, for commercial purposes if the animals are kept in an enclosure, pond or other confined area.

*distributor-retailer* means a distributor-retailer established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

*hazardous waste dam*—

1 *Hazardous waste dam* means a dam containing, or that after its construction will contain—

(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.

2 The term includes a dam that is used, or after its construction will be used, to prevent contamination of the environment by storing waste or a contaminant within the meaning of the *Environmental Protection Act 1994*.

**health department** means the department in which the Public Health Act is administered.

**regulator notice** see section 330(2).

**weir** means a barrier constructed across a watercourse below the banks of the watercourse that hinders or obstructs the flow of water in the watercourse.’.

- (3) Schedule 3, definition *annual report*, paragraph (b), ‘271’—  
*omit, insert—*  
‘273’.
- (4) Schedule 3, definition *customer*, paragraph 1(b), after ‘local government’—  
*insert—*  
‘or a service provider that is a distributor-retailer’.
- (5) Schedule 3, definition *customer*, paragraph 1(b)—  
*renumber* as paragraph 1(c).
- (6) Schedule 3, definition *customer*, paragraph 1(c), as renumbered, ‘by a service provider’—  
*omit, insert—*  
‘by a service provider (**relevant premises**)’.
- (7) Schedule 3, definition *customer*, paragraph 1—  
*insert—*  
‘(b) of a service provider that is a distributor-retailer, means any of the following—

- (i) a person who purchases registered services or services relating to trade waste supplied by the distributor-retailer;
  - (ii) a person on relevant premises to whom both of the following apply—
    - (A) the person wants to receive registered services or services relating to trade waste from the distributor-retailer;
    - (B) the services are, or can reasonably be made, available to the premises, whether or not they are connected to the service;
  - (iii) a person to whom registered services are available, whether or not—
    - (A) the person wants to receive the services; or
    - (B) the relevant premises are connected to the service.’.
- (8) Schedule 3, definition *information notice*, ‘local government’—  
*omit, insert—*  
‘service provider’.
- (9) Schedule 3, definition *multiple-entity recycled water scheme*, ‘includes’—  
*omit, insert—*  
‘is made up of’.
- (10) Schedule 3, definition *owner*, paragraph 2, ‘referable’—  
*omit.*
- (11) Schedule 3, definition *recycled water*, paragraphs (b) and (c)—  
*omit, insert—*  
‘(b) wastewater, other than water mentioned in paragraph (a).’.

- 
- (12) Schedule 3, definition *safety condition*, ‘section 353’—  
*omit, insert*—  
‘section 356’.
- (13) Schedule 3, definition *supply*, paragraph (a), ‘greywater,’—  
*omit*.
- (14) Schedule 3, definition *supply*, paragraph (b), ‘prescribed under a regulation as’—  
*omit, insert*—  
‘that, under a guideline made by the regulator and prescribed under a regulation, is’.
- (15) Schedule 3, definition *wastewater*, ‘prescribed under a regulation’—  
*omit*.
- (16) Schedule 3, definition *water quality criteria*, paragraph (a)(ii), ‘water; and’—  
*omit, insert*—  
‘water;  
(iii) the criteria for the quality of drinking water stated in a condition applying to a drinking water quality management plan; and’.
- (17) Schedule 3, definition *water quality criteria*, paragraph (b)(ii)(B)—  
*insert*—  
‘*Note*—  
A recycled water scheme may have more than 1 water quality criteria relevant to the scheme depending on the number of different purposes for which water is supplied.’.