



Queensland

Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Bill 2012



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2012

A Bill

for

An Act to amend the *Electricity Act 1994*, the *Water Act 2000*, the *Water Supply (Safety and Reliability) Act 2008* and the *Water Supply (Safety and Reliability) Regulation 2011* for particular purposes

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012*. 4
5
6

Clause 2 Commencement 7

Part 2 commences on a day to be fixed by proclamation. 8

Part 2 Amendment of Electricity Act 1994 9
10

Clause 3 Act amended 11

This part amends the *Electricity Act 1994*. 12

Clause 4 Replacement of s 44A (Additional condition to allow credit for electricity produced by small photovoltaic generators) 13
14
15

Section 44A— 16

omit, insert— 17

‘44A Additional condition to allow credit for electricity produced by small photovoltaic generators 18
19

‘(1) It is also a condition of a distribution authority that the distribution entity— 20
21

-
- (a) allow, as far as technically and economically practicable, a small customer for a premises to connect a qualifying generator at the premises to its supply network; and
- (b) credit against the charges payable by a small customer, for customer connection services provided to the small customer in a relevant supply period, the amount for each kilowatt hour prescribed under a regulation (a ***prescribed credit amount***) for electricity that is, at any instant in the relevant supply period—
- (i) being produced by the qualifying generator when connected to the distribution authority’s supply network; and
- (ii) being supplied to the network; and
- (iii) in excess of the amount of electricity being used by the small customer, not including electricity supplied through a circuit controlled by the distribution entity; and
- Example of a circuit controlled by the distribution entity—*
- a remotely switched circuit used for off-peak supply of hot water
- (c) give the regulator a report, for each prescribed credit amount, within 28 days after 30 June and 31 December each year, stating the following—
- (i) the number of small customers who have connected a qualifying generator to the network under paragraph (a) in the previous 6 months;
- (ii) the number of small customers who, at the end of the previous 6 months, had a qualifying generator connected to the network;
- (iii) the number of small customers who stopped being credited with a prescribed credit amount under paragraph (b) in the previous 6 months;
- (iv) the number of small customers who, at the end of the previous 6 months, had stopped being credited

[s 5]

	with a prescribed credit amount under paragraph (b);	1 2
	(v) for each retail entity—the total amount of credit given by the distribution entity to the retail entity in relation to small customers receiving credit under paragraph (b) in the previous 6 months;	3 4 5 6
	(vi) the amount of electricity supplied to the network in the previous 6 months for which credit was given under paragraph (b);	7 8 9
	(vii) the total generation capacity of all qualifying generators connected to the network.	10 11
‘(2)	A regulation may prescribe—	12
	(a) the circumstances in which a category of small customer is entitled, or stops being entitled, to be credited with a prescribed credit amount under subsection (1)(b) for the category of small customer; and	13 14 15 16
	(b) the day, not later than 1 July 2028, at the end of which subsection (1)(b) stops applying, in any event, for a particular category of small customer.	17 18 19
‘(3)	If a category of small customer becomes entitled to be credited with a prescribed credit amount under subsection (2)(a), the distribution authority is subject to the condition mentioned in subsection (1)(b).	20 21 22 23
‘(4)	If a category of small customer stops being entitled to be credited with a prescribed credit amount under subsection (2)(a), the condition, under subsection (1)(b), of the distribution authority about crediting a prescribed credit amount also stops to the extent the prescribed credit amount is for the category.	24 25 26 27 28 29
‘(5)	This section expires on 1 July 2028.’.	30
Clause 5	Amendment of s 55DB (Additional condition about electricity produced by small photovoltaic generators)	31 32
(1)	Section 55DB(1)(d), after ‘report,’—	33

insert— 1

‘for each prescribed credit amount.’. 2

(2) Section 55DB(2)— 3

omit. 4

(3) Section 55DB(3)— 5

renumber as section 55DB(2). 6

Clause 6 Amendment of s 328 (Qualifying generators connected, or about to be connected, to supply network) 7
8

Section 328— 9

insert— 10

‘(4) This section is subject to section 335.’. 11

Clause 7 Insertion of new ch 14, pt 14 12

Chapter 14— 13

insert— 14

‘Part 14 Transitional provision for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012 15
16
17
18
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‘335 When s 328 stops applying or does not apply to qualifying generators as previously defined 20
21

‘(1) Section 328 stops applying to a small customer’s qualifying generator mentioned in section 328(1)(a) or (b) that is connected at the small customer’s premises to a distribution entity’s supply network if the name on an electricity account for the premises is changed to another person. 22
23
24
25
26

Example of when the name on an electricity account may be changed—

The premises are sold or rented out.

‘(2) Subsection (1) does not apply if the name on the electricity account is changed to a person whose spouse was a small customer for the premises immediately before the person became a small customer for the premises.

‘(3) Section 328 does not apply to a small customer’s qualifying generator mentioned in section 328(1)(b) that is connected at the small customer’s premises to a distribution entity’s supply network if—

(a) the qualifying generator has not been connected at the premises to the network by the end of 30 June 2013; or

(b) the qualifying generator has not been ready to be connected at the premises to the supply network by the end of 30 June 2013.

‘(4) Subsection (5) applies if, under this section, section 328 stops applying, or does not apply, to a small customer’s qualifying generator that is a small photovoltaic generator.

‘(5) It is a condition of the distribution entity’s distribution authority that, until a day (not later than 1 July 2028) prescribed under a regulation, the distribution entity credit against the charges payable by a small customer for the premises, for customer connection services provided to the small customer in a relevant supply period, the prescribed credit amount for electricity mentioned in section 44A(1)(b).

‘(6) In this section—

qualifying generator has the same meaning as that term has under section 328(2).’.

Clause 8 Amendment of sch 5 (Dictionary)

Schedule 5—

insert—

‘*prescribed credit amount* see section 44A(1)(b).’.

Part 3	Amendment of Water Act 2000	1
Clause 9	Act amended	2
	This part amends the <i>Water Act 2000</i> .	3
Clause 10	Replacement of ch 2, pt 2, div 4 hdg	4
	Chapter 2, part 2, division 4, heading—	5
	<i>omit, insert—</i>	6
‘Division 4	Effect of declaration of temporary	7
	full supply levels on relevant dams’.	8
Clause 11	Amendment of s 31 (Application of, and definitions for, div 4)	9
	(1) Section 31(1)(b), ‘part 2’—	10
	<i>omit, insert—</i>	11
	‘part 2, division 3’.	12
	(2) Section 31(1)—	13
	<i>insert—</i>	14
	‘(c) a temporary full supply level is declared for the dam	15
	under the Water Supply Act, chapter 4, part 3.’.	16
Clause 12	Omission of ss 32–34A	17
	Sections 32 to 34A—	18
	<i>omit.</i>	19
Clause 13	Amendment of s 34B (Effect of temporary full supply level on resource operations plan)	20
	Section 34B, from ‘If a’ to ‘declared and’—	21
	<i>omit, insert—</i>	22
		23
		24

‘While the declaration of the temporary full supply level for
the relevant dam’.

		1
		2
Clause 14	Amendment of s 34C (Obligations of operator if temporary full supply level declared)	3
		4
(1)	Section 34C, heading, ‘if temporary full supply level declared’—	5
		6
	<i>omit.</i>	7
(2)	Section 34C(1), from ‘a relevant dam’ to ‘because of the temporary full supply level’—	8
		9
	<i>omit, insert—</i>	10
	‘the relevant dam if—	11
	(a) because of the temporary full supply level for the dam’.	12
(3)	Section 34C(1)(c)—	13
	<i>renumber</i> as section 34C(1)(b).	14
Clause 15	Omission of s 34D (Chief executive must review safety requirements)	15
		16
	Section 34D—	17
	<i>omit.</i>	18
Clause 16	Renumbering of ss 34B–34E	19
	Sections 34B to 34E—	20
	<i>renumber</i> as sections 32 to 34.	21
Clause 17	Amendment of s 345 (Main functions of commission)	22
(1)	Section 345(b)—	23
	<i>omit.</i>	24
(2)	Section 345(c)—	25
	<i>renumber</i> as section 345(b).	26

Clause 18	Insertion of new ch 9, pt 5, div 18	1
	Chapter 9, part 5—	2
	<i>insert—</i>	3
‘Division 18	Transitional provision for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012	4 5 6 7
‘1209	Continuation of existing temporary full supply level	8
‘(1)	This section applies to a temporary full supply level (an <i>existing temporary full supply level</i>) declared for a dam under pre-amended section 34A and in force immediately before the commencement.	9 10 11 12
‘(2)	The existing temporary full supply level continues in force until it ceases to have effect or the declaration is revoked.	13 14
‘(3)	Pre-amended sections 34A(3), 34B, 34C and 34E apply in relation to the dam and the existing temporary full supply level as if the sections had not been amended by the amending Act.	15 16 17 18
‘(4)	Subject to subsection (5), the Water Supply Act, chapter 4, part 3, division 4 applies to the existing temporary full supply level as if a reference in the division to a temporary full supply level were a reference to the existing temporary full supply level.	19 20 21 22 23
‘(5)	The Water Supply Act, section 396, applies in relation to the dam only if the existing temporary full supply level has been declared for the dam for no longer than 1 month.	24 25 26
‘(6)	In this section—	27
	<i>amending Act</i> means the <i>Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012</i> .	28 29 30
	<i>commencement</i> means the commencement of this section.	31

pre-amended, in relation to a provision, means the provision
as in force immediately before the commencement.’. 1
2

Clause 19	Amendment of sch 4 (Dictionary)	3
(1)	Schedule 4, definitions <i>temporary full supply level</i> and <i>water security</i> —	4
	<i>omit.</i>	5
	<i>omit.</i>	6
(2)	Schedule 4—	7
	<i>insert</i> —	8
	‘ <i>temporary full supply level</i> , for a dam, means the temporary full supply level declared for the dam under the Water Supply Act, chapter 4, part 3.	9 10 11
	<i>water security</i> includes the reliability of water supply.’.	12

Part 4	Amendment of Water Supply (Safety and Reliability) Act 2008	13 14
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Clause 20	Act amended	15
	This part amends the <i>Water Supply (Safety and Reliability) Act 2008</i> .	16 17
Clause 21	Amendment of s 70 (Requirement for strategic asset management plan)	18 19
	Section 70, ‘service provider must’—	20
	<i>omit, insert</i> —	21
	‘service provider, other than a small service provider (non-urban), must’.	22 23

Clause 22	Replacement of s 78 (Application of div 2)	1
	Section 78—	2
	<i>omit, insert—</i>	3
'78	Application of div 2	4
	'This division applies to a water service provider other than—	5
	(a) a water service provider who supplies only drainage services; or	6 7
	(b) a small service provider (non-urban).'	8
Clause 23	Amendment of s 122 (Application of div 6)	9
	Section 122—	10
	<i>insert—</i>	11
	'(c) a small service provider (non-urban).'	12
Clause 24	Amendment of s 123 (Preparing drought management plans)	13 14
	Section 123(5), definition <i>resource operations plan—</i>	15
	<i>omit.</i>	16
Clause 25	Amendment of s 133 (Particular water service providers to have outdoor water use conservation plans)	17 18
	Section 133(5)—	19
	<i>omit.</i>	20
Clause 26	Amendment of ch 4 hdg (Referable dams and flood mitigation)	21 22
	Chapter 4, heading, after 'flood'—	23
	<i>insert—</i>	24
	'and drought'.	25

Clause 27	Amendment of s 343 (When dam must be failure impact assessed)	1
		2
	(1) Section 343(1), ‘8m’—	3
	<i>omit, insert—</i>	4
	‘10m’.	5
	(2) Section 343(1)(a), ‘500ML’—	6
	<i>omit, insert—</i>	7
	‘1500ML’.	8
	(3) Section 343(1)(b), ‘250ML’—	9
	<i>omit, insert—</i>	10
	‘750ML’.	11
Clause 28	Insertion of new ch 4, pt 1, div 2A	12
	Chapter 4, part 1—	13
	<i>insert—</i>	14
‘Division 2A	Emergency action planning and reporting	15
		16
‘Subdivision 1	Preliminary	17
‘352A	Definitions for div 2A	18
	‘In this division—	19
	<i>approval period</i> see section 352K(2).	20
	<i>approved emergency action plan</i> means an emergency action plan that is approved under section 352I(1)(a) or taken to be an approved emergency action plan under section 352Q(2).	21
		22
		23
	<i>chairperson</i> , of a relevant disaster management group, means—	24
		25

-
- (a) for a district group—the chairperson of the group under the Disaster Management Act; or 1
2
- (b) for a local group—the chairperson of the group under the Disaster Management Act. 3
4
- dam failure hazard*** see section 352B. 5
- disaster district*** see the Disaster Management Act, schedule. 6
- disaster management plan*** means— 7
- (a) for a relevant district group—the district disaster management plan for the disaster district for which the district group is established under the Disaster Management Act; or 8
9
10
11
- (b) for a relevant local group—the local disaster management plan for the local disaster area for which the local group is established under the Disaster Management Act. 12
13
14
15
- disaster management review report*** see section 352G(3). 16
- disaster management review response*** see section 352G(4). 17
- district group*** means a district group established under the Disaster Management Act, section 22. 18
19
- downstream release hazard*** see section 352C. 20
- emergency action plan*** means a plan that complies with section 352H. 21
22
- emergency condition***, for a dam, means— 23
- (a) a dam failure hazard; or 24
- (b) a downstream release hazard; or 25
- (c) a circumstance that potentially indicates an increase in the likelihood of a dam failure hazard or downstream release hazard happening. 26
27
28
- Example for paragraph (c)—* 29
- an unusual amount of seepage from the dam 30
- emergency event*** means a dam failure hazard or downstream release hazard that has happened. 31
32
-

<i>emergency event interim report</i> see section 352U(2)(a).	1
<i>emergency event report</i> see section 352T(2).	2
<i>emergency management chief executive</i> means the chief executive of the department in which the Disaster Management Act is administered.	3 4 5
<i>local disaster area</i> , of a local group, means the area of the local group under the Disaster Management Act.	6 7
<i>local disaster management plan</i> see the Disaster Management Act, section 57(1).	8 9
<i>local group</i> means a local group established under the Disaster Management Act, section 29.	10 11
<i>relevant disaster management group</i> , for an emergency action plan, see section 352D.	12 13
<i>relevant district group</i> see section 352D(b).	14
<i>relevant local group</i> see section 352D(a).	15
‘352B What is a <i>dam failure hazard</i>	16
‘A <i>dam failure hazard</i> , in relation to a dam, is a reasonably foreseeable hazard that has the potential to cause or contribute to the failure of the dam.	17 18 19
<i>Example—</i>	20
significant flooding in the catchment area of the dam	21
‘352C What is a <i>downstream release hazard</i>	22
‘A <i>downstream release hazard</i> , in relation to a dam, is a reasonably foreseeable hazard to the safety of persons or property that could potentially be caused or aggravated by—	23 24 25
(a) a release of water from the dam’s spillway; or	26
(b) a controlled release of the water from the dam.	27
<i>Example—</i>	28
flooding of downstream properties and transport infrastructure caused by a release of water	29 30

‘352D What is the <i>relevant disaster management group</i> for an emergency action plan	1 2
‘The <i>relevant disaster management group</i> , for an emergency action plan, is—	3 4
(a) if only 1 local disaster area could potentially be affected by an emergency condition identified in the plan—the local group for the area (a <i>relevant local group</i>); or	5 6 7
(b) otherwise—the district group (a <i>relevant district group</i>) for the disaster district that could potentially be affected by an emergency condition identified in the plan.	8 9 10
‘Subdivision 2 Requirements for emergency action plans	11 12
‘352E Requirement for approved emergency action plan	13
‘The owner of a referable dam must have an approved emergency action plan for the dam.	14 15
‘352F Requirement to prepare emergency action plan	16
‘The owner of a referable dam must, unless the owner has a reasonable excuse, prepare an emergency action plan for the dam under subdivision 3 and give it to the chief executive for approval—	17 18 19 20
(a) if construction of the dam is not finished when the chief executive accepts a failure impact assessment for the dam under section 349—	21 22 23
(i) within 3 months after the construction is finished; or	24 25
(ii) if the chief executive gives the owner of the dam a notice requiring the emergency action plan before the construction is finished—within the period of at least 30 business days stated in the notice; or	26 27 28 29

- (b) if construction of the dam has finished when the chief executive accepts a failure impact assessment for the dam—within 4 months after the chief executive accepts the failure impact assessment. 1
2
3
4

Maximum penalty—1665 penalty units. 5

Note— 6

For the obligation of the owner of an existing dam to prepare and submit an emergency action plan, see also section 645. 7
8

‘Subdivision 3 Preparation of emergency action plans 9 10

‘352G Disaster management review of plan 11

- ‘(1) Before giving an emergency action plan for a dam to the chief executive, the owner of a dam must give a copy of the plan to the chairperson of the relevant disaster management group for the plan. 12
13
14
15
- ‘(2) The chairperson may review the plan to assess its consistency with the disaster management plan for the group. 16
17
- ‘(3) If the chairperson reviews the emergency action plan under subsection (2), the chairperson must give the owner of the dam a report (a *disaster management review report*) of the review within 10 business days after receiving the plan. 18
19
20
21
- ‘(4) If the chairperson gives the owner of the dam a disaster management review report under subsection (3), the owner of the dam may prepare a written response (a *disaster management review response*) and attach it to the report. 22
23
24
25

‘352H Content of plan 26

- ‘(1) The emergency action plan must— 27
- (a) identify each emergency condition for the dam; and 28
- (b) for each emergency condition— 29

-
- (i) identify the area likely to be affected by an emergency event that may happen because of the emergency condition, including, for example, by attaching to the plan maps showing areas expected to be flooded; and
- (ii) state when and how the owner of the dam must notify the relevant entities of the emergency condition, if it happens, including the order of priority in which the relevant entities are to be notified; and
- (iii) state the actions the owner of the dam must take in response to the emergency condition, if it happens; and
- (c) if the owner of the dam has been given a disaster management review report for the plan under section 352G(3)—be accompanied by the report; and
- (d) include any other relevant matter prescribed under a regulation.
- ‘(2) In this section—
- relevant entities***, for an emergency condition under an emergency action plan, means each of the following—
- (a) the relevant disaster management group for the plan;
- (b) the persons whose safety or property may be threatened by the emergency condition;
- Examples for paragraph (b)—*
- the owners of parcels of farm land adjacent to the dam
 - the residents of a township
- (c) each local government whose local government area may be affected by the emergency condition;
- (d) the chief executive;
- (e) another entity the owner of the dam considers appropriate to notify of the condition.
- Example for paragraph (e)—*
-

the Queensland Police Service	1
‘Subdivision 4 Approving emergency action plans	2
‘352I Chief executive to consider plan	3
‘(1) The chief executive must consider an emergency action plan given to the chief executive for approval and decide to—	4 5
(a) approve it; or	6
(b) refuse to approve it.	7
‘(2) In considering the emergency action plan, the chief executive must have regard to any disaster management review report or disaster management review response accompanying the plan.	8 9 10
‘(3) For deciding whether to approve or refuse to approve the emergency action plan, the chief executive may get advice from—	11 12 13
(a) the emergency management chief executive; or	14
(b) an advisory council.	15
‘352J Criteria for approving plan	16
‘The chief executive may approve the emergency action plan only if satisfied it—	17 18
(a) complies with section 352H; and	19
(b) effectively deals with each emergency condition for the dam.	20 21
‘352K Approval of plan	22
‘(1) If the chief executive approves the emergency action plan, the chief executive must—	23 24
(a) give notice of the approval to the owner of the dam; and	25
(b) give a copy of the approved plan to the emergency management chief executive; and	26 27

(c)	publish the approved plan in the register of approved emergency action plans under section 352M.	1 2
‘(2)	The approval must be for a period of no more than 5 years (the <i>approval period</i>) stated in the approved plan.	3 4
‘352L	Refusal to approve plan	5
‘(1)	If the chief executive decides to refuse to approve the emergency action plan, the chief executive must give the owner of the dam—	6 7 8
(a)	an information notice about the decision; and	9
(b)	a notice directing the owner of the dam to prepare a new emergency action plan under subdivision 3 and give it to the chief executive within a stated period of at least 30 business days.	10 11 12 13
‘(2)	The owner of the dam must comply with the notice unless the owner has a reasonable excuse.	14 15
	Maximum penalty—500 penalty units.	16
‘Subdivision 5	Keeping and publishing emergency action plans	17 18
‘352M	Register of approved emergency action plans	19
‘(1)	The chief executive must keep a register of approved emergency action plans.	20 21
‘(2)	The register may be kept in the form, including electronic form, the chief executive considers appropriate.	22 23
‘(3)	The chief executive must make information in the register available to the public on the department’s website.	24 25
‘(4)	However, the publicly available part of the register must not include the name, address and contact details of an individual.	26 27

‘352N Dam owner must ensure particular individuals have access to plan	1 2
‘The owner of a referable dam must—	3
(a) keep a copy of the approved emergency action plan for the dam; and	4 5
(b) make it available to an individual—	6
(i) who has a function under the plan; or	7
(ii) who, under the plan, is named and required to be personally notified of an emergency condition.	8 9
Maximum penalty—500 penalty units.	10
‘Subdivision 6 Reviewing emergency action plans	11
‘352O Review by chief executive and direction to prepare and submit new plan	12 13
‘(1) This section applies if the chief executive, at any time, considers an approved emergency action plan for a dam no longer deals effectively with an emergency condition the chief executive reasonably considers has the potential to affect the safe operation of the dam.	14 15 16 17 18
<i>Examples—</i>	19
1 An emergency event report recommends a change to the plan.	20
2 The chairperson of the relevant disaster management group for the plan advises that the plan is not consistent with the disaster management plan for the group.	21 22 23
‘(2) The chief executive must give the owner of the dam a notice stating—	24 25
(a) the chief executive considers the approved emergency action plan no longer effectively deals with the emergency condition; and	26 27 28
(b) the reasons the chief executive considers the plan no longer effectively deals with the emergency condition; and	29 30 31

(c) the owner of the dam must—	1
(i) prepare a new emergency action plan, under subdivision 3, that effectively deals with the emergency condition; and	2 3 4
(ii) give it to the chief executive within a stated period of at least 30 business days.	5 6
‘(3) The owner of the dam must comply with the notice unless the owner has a reasonable excuse.	7 8
Maximum penalty—500 penalty units.	9
‘352P Review by dam owner	10
‘The owner of a referable dam must, before 1 October each year—	11 12
(a) review the approved emergency action plan for the dam; and	13 14
(b) give the chief executive—	15
(i) a notice stating whether or not the owner proposes an amendment of the plan because of the review; and	16 17 18
(ii) if the owner proposes an amendment—a copy of the plan including the proposed amendment.	19 20
Maximum penalty—500 penalty units.	21
‘Subdivision 7 Amending emergency action plans	22
‘352Q Amending plan by agreement	23
‘(1) This section applies if—	24
(a) the owner of a referable dam—	25
(i) proposes an amendment of the approved emergency action plan for the dam to—	26 27
(A) correct a minor error; or	28

- (B) make another change that is not a change of substance; and 1
2
 - (ii) gives the chief executive a copy of the plan including the proposed amendment; and 3
4
 - (b) the chief executive agrees with the amendment and gives the owner notice of the agreement. 5
6
- ‘(2) The emergency action plan as amended is taken to be the approved emergency action plan for the dam. 7
8

‘352R Substantive amendment of plan 9

- ‘(1) This section applies if— 10
 - (a) the owner of a referable dam— 11
 - (i) proposes an amendment of the emergency action plan for the dam; and 12
13
 - (ii) gives the chief executive a copy of the plan including the proposed amendment; and 14
15
 - (b) the chief executive considers the proposed amendment is a change of substance. 16
17
- ‘(2) The chief executive must give the owner of the dam a notice stating— 18
19
 - (a) the chief executive considers the proposed amendment is a change of substance; and 20
21
 - (b) the reasons the chief executive considers the proposed amendment is a change of substance; and 22
23
 - (c) that, if the owner proposes to include the amendment in the emergency action plan, the owner must prepare a new emergency action plan including the amendment under subdivision 3 and give it to the chief executive. 24
25
26
27

‘Subdivision 8	Renewing emergency action plans	1
‘352S	Renewal of plan	2
‘(1)	This section applies if an approved emergency action plan for a referable dam is in force.	3 4
‘(2)	The owner of the dam must, unless the owner has a reasonable excuse, at least 1 month before the end of the approval period for the plan—	5 6 7
(a)	prepare a new emergency action plan for the dam under subdivision 3; and	8 9
(b)	give it to the chief executive for approval.	10
	Maximum penalty—500 penalty units.	11
‘Subdivision 9	Emergency event reporting	12
‘352T	Preparation and submission of emergency event report	13
‘(1)	This section applies to the owner of a referable dam if an emergency event relating to the dam happens.	14 15
‘(2)	The owner of the dam must, unless the owner has a reasonable excuse, prepare a report (an <i>emergency event report</i>) under this subdivision and give it to the chief executive within—	16 17 18
(a)	30 business days after the end of the emergency event; or	19 20
(b)	if a further period is agreed in writing by the chief executive and the owner of the dam—the further period.	21 22
	Maximum penalty—1665 penalty units.	23
	<i>Note—</i>	24
	For the obligation of the owner of an existing dam to prepare and submit an emergency event report, see also section 646.	25 26
‘(3)	In this section—	27
	<i>end</i> , of an emergency event, means—	28

- (a) if the event is a dam failure hazard that has happened—when the owner of the dam reasonably considers the hazard no longer poses a risk to the dam; or
- (b) if the event is a downstream release hazard that has happened—when the owner of the dam reasonably considers the hazard no longer poses a risk to the safety of persons or property.

‘352U Preparation and submission of emergency event interim report

- ‘(1) This section applies if—
 - (a) an emergency event relating to a referable dam happens; and
 - (b) the chief executive considers the emergency event is likely to continue for at least 1 month.
 - ‘(2) The chief executive may give the owner of the dam a notice requiring the owner to—
 - (a) prepare a report (an *emergency event interim report*) under this subdivision; and
 - (b) give it to the chief executive within 10 business days after receiving the notice.
 - ‘(3) If the chief executive gives the owner of the dam a notice under subsection (2), the owner must comply with the notice unless the owner has a reasonable excuse.
- Maximum penalty—1665 penalty units.

‘352V Content of report

- ‘(1) An emergency event report or emergency event interim report for a referable dam must—
 - (a) describe the emergency event to which the report relates; and

-
- (b) describe the implementation of the approved emergency action plan for the dam in relation to the emergency event, including relevant details of—
- (i) communications made and actions taken in response to the emergency event; and
 - (ii) monitoring of the dam and the area affected or potentially affected by the emergency event; and
- (c) describe any damage to the dam, including by reference to photographs of the damage; and
- (d) state whether and to what extent any damage to the dam has been caused or contributed to by the emergency event; and
- (e) include an assessment of whether and to what extent the approved emergency action plan effectively dealt with the emergency event; and
- (f) recommend any changes to the approved emergency action plan that would allow the plan to deal with a similar emergency event more effectively; and
- (g) include details of any other matter that is relevant to the emergency event or how it was dealt with under the emergency action plan; and
- (h) include any other relevant matter prescribed under a regulation.
- ‘(2) Subsection (1) does not prevent an emergency event report or emergency event interim report from dealing with 2 or more emergency events if—
- (a) the emergency events are related; and
Examples of related emergency events—
 - an emergency event that has been caused or contributed to by another emergency event
 - 2 emergency events that happen at the same time
 - (b) the chief executive has agreed to the report dealing with the emergency events.’.
-

Clause 29	Replacement of ch 4, pt 2 hdg and ss 370 and 371	1
	Chapter 4, part 2, heading and sections 370 and 371—	2
	<i>omit, insert—</i>	3
‘Part 2	Flood mitigation manuals and reporting	4
		5
‘Division 1	Preliminary	6
‘370	Definitions for pt 2	7
	‘In this part—	8
	<i>alternative procedure</i> see section 378(b)(ii).	9
	<i>annual preparedness report</i> see section 375(a).	10
	<i>approval period</i> see section 371G(2)).	11
	<i>approved flood mitigation manual</i> means a flood mitigation manual approved under section 371E(1)(a) or 372(3).	12
		13
	<i>authorisation request information</i> see section 379(1).	14
	<i>authorised alternative procedure</i> see sections 380(2) and 381(2).	15
		16
	<i>existing procedure</i> see section 378(b)(i).	17
	<i>flood event</i> see section 371.	18
	<i>flood event interim report</i> see section 384(2)(a).	19
	<i>flood event report</i> see section 383(2).	20
	<i>flood mitigation manual</i> , for a dam, means a manual of the operational procedures for flood mitigation for the dam that complies with section 371D.	21
		22
		23
	<i>forecast system</i> , for a dam, see section 371D(e).	24
	<i>responsible person</i> , under a flood mitigation manual, see section 371D(d)(i).	25
		26

‘371	What is a <i>flood event</i>	1
	‘A <i>flood event</i> , for a dam, is a circumstance in relation to which—	2 3
	(a) there is a reasonable likelihood that the level of the water surface of the dam may exceed its full supply level; and	4 5 6
	(b) if the level of the water surface were to exceed the full supply level, it would be reasonable to release the excess water only by opening the gates of the dam.	7 8 9
‘371A	Application of pt 2	10
	‘(1) This part applies to a referable dam prescribed under a regulation for this section.	11 12
	‘(2) A referable dam may be prescribed under subsection (1) only if the Minister, having regard to the following, considers the dam requires a flood mitigation manual—	13 14 15
	(a) whether the dam has significant water storage capacity exceeding the full supply level of the dam;	16 17
	(b) whether the dam can be safely and effectively operated under a flood mitigation manual to—	18 19
	(i) moderate the rate of outflow from the dam; and	20
	(ii) avoid significant damage to property caused by outflow from the dam.	21 22
	<i>Note—</i>	23
	For the application of this section to a dam for which there is an existing flood mitigation manual, see section 649.	24 25

‘Division 2	Preparation of flood mitigation manuals	1 2
‘371B Requirement for approved flood mitigation manual		3
‘The owner of a referable dam to which this part applies must have an approved flood mitigation manual for the dam.		4 5
‘371C Requirement to prepare flood mitigation manual		6
‘The owner of the dam must prepare a flood mitigation manual for the dam under this division and give it to the Minister for approval within 6 months after the dam is prescribed under section 371A(1).		7 8 9 10
Maximum penalty—1665 penalty units.		11
‘371D Content of manual		12
‘The flood mitigation manual must—		13
(a) state the objectives for flood mitigation for the dam and their importance relative to each other; and		14 15
(b) state—		16
(i) the operational strategies required to achieve the objectives for flood mitigation for the dam; and		17 18
(ii) how the operational strategies achieve an appropriate balance in relation to the matters mentioned in section 371F(c); and		19 20 21
(c) state the operational procedures required to achieve the operational strategies for flood mitigation for the dam including—		22 23 24
(i) the operational procedures for releasing water from the dam in response to a flood event; and		25 26
(ii) variations to the operational procedures under subparagraph (i) to deal with urgent circumstances; and		27 28 29

<i>Example—</i>	1
operational procedures to be followed if communications	2
among any of the responsible persons are disrupted during	3
a flood event	4
(iii) the operational procedures for releasing water from	5
the dam in response to the declaration of a	6
temporary full supply level for the dam; and	7
(d) state—	8
(i) the role and responsibilities of each person (a	9
<i>responsible person</i>) who is required to carry out	10
operational procedures for flood mitigation under	11
the manual; and	12
(ii) the qualifications and experience each responsible	13
person must have; and	14
(iii) the training each responsible person must	15
complete; and	16
(iv) the procedures that are required to be carried out	17
by or for the owner of the dam to verify the	18
qualifications, experience and training for each	19
responsible person; and	20
(e) provide for a system (the <i>forecast system</i>) to forecast—	21
(i) the amount of rainfall in, or affecting, the	22
catchment area of the dam; and	23
(ii) the amount of inflow to the dam; and	24
(iii) the amount of outflow from the dam required	25
under the manual; and	26
(iv) the level of the water surface of the dam required	27
under the manual; and	28
(f) state any other relevant matter prescribed under a	29
regulation.	30

‘Division 3	Approving flood mitigation manuals	1
‘371E	Minister to consider manual	2
‘(1)	The Minister must consider a flood mitigation manual given to the Minister for approval and decide to—	3 4
(a)	approve it; or	5
(b)	refuse to approve it.	6
‘(2)	The Minister may get advice from an advisory council for deciding whether or not to approve the manual.	7 8
‘371F	Criteria for approving manual	9
	‘The Minister may approve the flood mitigation manual only if satisfied—	10 11
(a)	the manual complies with section 371D; and	12
(b)	the carrying out of the operational strategies and operational procedures under the manual would minimise risk to human life and safety; and	13 14 15
(c)	the manual achieves an appropriate balance in relation to each of the following—	16 17
(i)	preventing failure of the dam, including, for example, by protecting the structural integrity of the dam;	18 19 20
(ii)	minimising risk to property;	21
(iii)	minimising disruption to transport;	22
(iv)	maintaining the full supply level for the dam after a flood event;	23 24
(v)	minimising environmental impacts on the stability of banks of watercourses and on riparian flora and fauna.	25 26 27

‘371G Approval of manual	1
‘(1) If the Minister approves the flood mitigation manual, the Minister must notify the approval by gazette notice.	2 3
‘(2) The approval must be for a period of no more than 5 years (the <i>approval period</i>) stated in the gazette notice.	4 5
‘371H Refusal to approve manual	6
‘(1) If the Minister decides to refuse to approve the flood mitigation manual, the Minister must give the owner of the dam a notice directing the owner to prepare a new flood mitigation manual and give it to the Minister within a stated period of at least 30 business days after receiving the notice.	7 8 9 10 11
‘(2) The owner of the dam must comply with the notice. Maximum penalty—1665 penalty units.	12 13
‘Division 4 Amending and reviewing flood mitigation manuals’.	14 15
Clause 30 Amendment of s 372 (Amending flood mitigation manual)	16
Section 372, ‘chief executive’—	17
<i>omit, insert</i> —	18
‘Minister’.	19
Clause 31 Amendment of s 373 (Regular reviews of flood mitigation manual)	20 21
Section 373(b)—	22
<i>omit, insert</i> —	23
‘(b) give the Minister a copy of it for the Minister’s approval under division 3.’.	24 25

Clause 32	Replacement of ss 374 and 375	1	
	Sections 374 and 375—	2	
	<i>omit, insert—</i>	3	
	‘Division 5	Renewing flood mitigation manuals	4
	‘374	Preparation and submission of new manual	5
	‘(1)	This section applies if an approved flood mitigation manual for a dam is in force.	6 7
	‘(2)	The owner of the dam must prepare a new flood mitigation manual for the dam and give it to the Minister for approval under division 3 at least 1 month before the end of the approval period for the manual.	8 9 10 11
		Maximum penalty—1665 penalty units.	12
	‘Division 6	Annual preparedness reports	13
	‘375	Dam owner must prepare and submit report	14
		‘The owner of a referable dam to which this part applies must after 1 August and before 1 September each year—	15 16
		(a) prepare a report (an <i>annual preparedness report</i>) under this division about the level of preparedness of the dam for a flood event under its flood mitigation manual; and	17 18 19
		(b) give the report to the chief executive.	20
		Maximum penalty—1665 penalty units.	21
	‘376	Content of report	22
	‘(1)	The annual preparedness report must—	23
		(a) state the names, contact details and current qualifications and experience of, and training completed by each person—	24 25 26

-
- (i) who was a responsible person under the flood mitigation manual in the reporting period; and 1
2
- (ii) whom the owner of the dam expects will be a responsible person under the manual before the next annual preparedness report for the dam is prepared; and 3
4
5
6
- (b) be accompanied by documents evidencing the current qualifications, experience and training; and 7
8
- Example—* 9
- a current certificate of registration as a registered professional engineer under the *Professional Engineers Act 2002* 10
11
- (c) describe the training given to each responsible person for carrying out his or her role and responsibilities under the manual in the reporting period, including the following— 12
13
14
15
- (i) who gave the training and to whom it was given; 16
- (ii) the type of training given; 17
- (iii) when the training was given and its duration; and 18
- (d) include an assessment of the suitability of communication equipment for use by the responsible persons for carrying out their roles and responsibilities under the manual; and 19
20
21
22
- Examples of communication equipment—* 23
- computer equipment for sending email, CB or other two-way radio, mobile telephone, satellite telephone 24
25
- (e) include an assessment of the following— 26
- (i) the current adequacy of the forecast system for the dam and the supporting network for the forecast system; 27
28
29
- (ii) the demonstrated adequacy of the forecast system and supporting network in the reporting period. 30
31
- ‘(2) In this section— 32
- demonstrated adequacy*, of a forecast system, includes— 33
-

- (a) the reliability of the system that has been demonstrated generally and under flood conditions, if relevant, in the reporting period; and
- (b) the accuracy of forecasts of inflow using the system compared to measured rainfall and inflow in the reporting period; and
- (c) the accuracy of forecasts of the required outflow and the water surface level of the dam using the system compared to the measured outflow and water surface level in the reporting period.

reporting period means—

- (a) for the first annual preparedness report after a flood mitigation manual is approved for the dam—the period since the approval; or
- (b) otherwise—the period since the last annual preparedness report for the dam was given to the chief executive.

Note—

See also section 650.

supporting network, for a forecast system for a dam, means the infrastructure that enables the forecast system to be used effectively under the dam’s flood mitigation manual.

Example—

a gauging station at which rainfall or water level can be measured

‘Division 7 Qualifications, experience and training for responsible persons

‘377 Chief executive may require dam owner to ensure responsible person has qualifications etc.

- ‘(1) This section applies if the chief executive considers it appropriate that a responsible person under a flood mitigation manual for a dam has particular qualifications or experience

or has completed particular training for the safe and effective operation of the dam.	1 2
‘(2) The chief executive may, by notice given to the owner of the dam, require the owner to ensure that the responsible person has the qualifications or experience, or has completed the training, stated in the notice.	3 4 5 6
‘(3) The notice may identify a responsible person by reference to the person’s position or title.	7 8
‘(4) If the chief executive gives the owner of the dam a notice under subsection (2), the owner must comply with the notice. Maximum penalty—1665 penalty units.	9 10 11
‘(5) In this section— <i>responsible person</i> includes a class of responsible persons.	12 13
‘Division 8 Authorising alternative operational procedures	14 15
‘378 Application of div 8	16
‘This division applies if a flood event for a dam happens and the owner of the dam reasonably considers that—	17 18
(a) an operational strategy under the flood mitigation manual for the dam does not provide or does not adequately provide for the flood event or an aspect of the flood event; and	19 20 21 22
(b) to achieve an objective under the flood mitigation manual and respond effectively to the flood event it is necessary to—	23 24 25
(i) disregard an operational procedure under the manual (the <i>existing procedure</i>) that would, other than for this division, apply under the manual; and	26 27 28
(ii) observe a different operational procedure (the <i>alternative procedure</i>).	29 30

‘379	Dam owner must seek authorisation for alternative procedure	1 2
‘(1)	The owner of the dam must, as soon as practicable, give the chief executive the following information (the <i>authorisation request information</i>)—	3 4 5
(a)	the grounds for considering the matters mentioned in section 378;	6 7
(b)	the facts and circumstances that are the basis for the grounds;	8 9
(c)	information to identify the existing procedure;	10
(d)	details of the alternative procedure;	11
(e)	other information to enable the chief executive to decide whether or not to authorise the owner of the dam to disregard the existing procedure and observe the alternative procedure.	12 13 14 15
‘(2)	The owner of the dam may give the chief executive the authorisation request information orally.	16 17
‘(3)	However, the owner of the dam must record the authorisation request information in writing as soon as practicable after giving the chief executive the information orally.	18 19 20
‘(4)	Subsection (1) applies subject to section 381.	21
‘380	Chief executive must decide whether or not to authorise alternative procedure	22 23
‘(1)	The chief executive must, as soon as practicable after receiving the authorisation request information—	24 25
(a)	decide whether or not to authorise the owner of the dam to disregard the existing procedure and observe the alternative procedure; and	26 27 28
(b)	advise the owner of the dam of the decision.	29
‘(2)	If the chief executive decides to authorise the owner of the dam to observe the alternative procedure, the alternative procedure is an <i>authorised alternative procedure</i> .	30 31 32

‘(3)	The chief executive may orally advise the owner of the dam of the decision.	1 2
‘(4)	However, the chief executive must, as soon as practicable, give the owner of the dam a notice of the decision including—	3 4
(a)	a summary of the authorisation request information given to the chief executive; and	5 6
(b)	the reasons for the decision, having regard to the authorisation request information.	7 8
‘381	Authorisation to observe alternative procedure if chief executive can not be contacted	9 10
‘(1)	This section applies if the owner of the dam—	11
(a)	makes reasonable efforts to contact the chief executive to give the chief executive the authorisation request information for the alternative procedure; and	12 13 14
(b)	can not contact the chief executive within a reasonable time to respond effectively to the flood event.	15 16
‘(2)	The alternative procedure is also an <i>authorised alternative procedure</i> .	17 18
‘(3)	However, the owner of the dam must, as soon as practicable after failing to contact the chief executive—	19 20
(a)	record the authorisation request information in writing; and	21 22
(b)	give the information to the chief executive.	23
‘382	End of authorisation of alternative procedure	24
	‘The authorisation to carry out an authorised alternative procedure ends when the flood event to which the procedure relates has ended.	25 26 27

‘Division 9	Flood event reporting	1
‘383	Preparation and submission of flood event report	2
‘(1)	This section applies to the owner of a referable dam to which this part applies if a flood event relating to the dam happens.	3 4
‘(2)	The owner of the dam must, unless the owner has a reasonable excuse, prepare a report (a <i>flood event report</i>) under this division and give it to the chief executive within—	5 6 7
	(a) 30 business days after the end of the flood event; or	8
	(b) if a further period is agreed in writing by the chief executive and the owner of the dam—the further period.	9 10
	Maximum penalty—1665 penalty units.	11
‘(3)	In this section—	12
	<i>end</i> , of a flood event, means 24 hours after the last occasion that water is released from the dam in response to the flood event.	13 14 15
‘384	Preparation and submission of flood event interim report	16
‘(1)	This section applies if—	17
	(a) a flood event relating to a referable dam to which this part applies happens; and	18 19
	(b) the chief executive considers the flood event is likely to continue for at least 1 month.	20 21
‘(2)	The chief executive may give the owner of the dam a notice requiring the owner to—	22 23
	(a) prepare a report (a <i>flood event interim report</i>) under this division; and	24 25
	(b) give it to the chief executive within 10 business days after receiving the notice.	26 27

-
- ‘(3) If the chief executive gives the owner of the dam a notice under subsection (2), the owner must comply with the notice unless the owner has a reasonable excuse. 1
2
3
Maximum penalty—1665 units. 4

‘385 Content of report 5

- ‘(1) A flood event report or a flood event interim report must— 6
- (a) describe the flood event to which it relates; and 7
 - (b) describe the implementation of the flood mitigation manual for the dam in relation to the flood event, including relevant details of— 8
9
10
 - (i) communications made, strategies used and actions taken in response to the flood event; and 11
12
 - (ii) the reasons for the use of the strategies; and 13
 - (c) state the amount of the following that was forecast when the flood event started and measured during the flood event— 14
15
16
 - (i) rainfall in, or affecting, the catchment area of the dam; 17
18
 - (ii) inflow to the dam; and 19
 - (d) state the level of the water surface of the dam that was forecast when the flood event started and the levels measured during the flood event; and 20
21
22
 - (e) state the amount of the outflow from the dam that was— 23
 - (i) forecast under the flood mitigation manual when the flood event started; and 24
25
 - (ii) measured during and after the flood event; and 26
 - (f) include an assessment of the adequacy of the forecast system for the dam; and 27
28
 - (g) describe any damage to the dam caused by the flood event, including by attaching photographs of the damage; and 29
30
31

- (h) state whether and to what extent any damage to the dam has been caused or contributed to by the flood event; and
 - (i) include an assessment of whether and to what extent the flood mitigation manual effectively dealt with the flood event; and
 - (i) recommend any changes to the flood mitigation manual and forecast system that would allow the manual to deal with a similar flood event more effectively; and
 - (j) include details of any other matter that is relevant to how the flood event was dealt with under the flood mitigation manual; and
 - (k) include any other relevant matter prescribed under a regulation.
- ‘(2) If the owner of the dam carried out or purported to carry out an authorised alternative procedure in relation to the flood event, the flood event report or the flood event interim report must also include the authorisation request information for the procedure.
- ‘(3) Subsection (1) does not prevent a flood event report from dealing with 2 or more flood events if—
- (a) the flood events are related; and
 - (b) the chief executive has agreed to the report dealing with the flood events.

‘Division 10 General matters 25

‘386 Protection from liability under pt 2 26

- ‘(1) Each of the following persons does not incur civil liability for an act done, or omission made, honestly and without negligence under this part—
- (a) the Minister;
 - (b) the chief executive;

-
- (c) a member of an advisory council from which the Minister has sought advice under section 371E(2) or 372(5). 1
2
3
- ‘(2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the State. 4
5
- ‘387 Protection from liability for complying with flood mitigation manual 6
7**
- ‘(1) Subsection (2) applies to an owner of a dam who observes— 8
- (a) subject to paragraph (b), the operational procedures in the approved flood mitigation manual for the dam; and 9
10
- (b) if an alternative procedure is authorised for the dam under division 8—the authorised alternative procedure. 11
12
- ‘(2) The owner of the dam does not incur civil liability for an act done, or omission made, honestly and without negligence in observing the procedures. 13
14
15
- ‘(3) If subsection (2) prevents civil liability attaching to a person, the liability attaches instead to the State. 16
17
- ‘(4) In this section— 18
- owner*, of a dam, includes— 19
- (a) the operator of the dam; and 20
- (b) a director of the owner or operator of the dam; and 21
- (c) an employee of the owner or operator of the dam; and 22
- (d) an agent of the owner or operator of the dam. 23

‘Part 3	Declaring temporary full supply levels to mitigate flood or drought	1 2 3
‘Division 1	Preliminary	4
‘388	Definitions for pt 3	5
	‘In this part—	6
	<i>feasibility advice</i> see section 393(1).	7
	<i>impact information</i> see section 390(3).	8
	<i>impact information notice</i> see section 391(1).	9
	<i>proposed temporary full supply level</i> see section 390(1).	10
	<i>safety requirements</i> see section 396(2).	11
	<i>temporary full supply level</i> , for a dam, means the temporary full supply level declared for the dam under section 395(1).	12 13
	<i>water security</i> , of a dam, includes the reliability of water supply having regard to the availability of water stored in, and the cost of supplying water from, the dam.	14 15 16
‘389	Application of pt 3	17
	‘This part applies to a dam for which an approved flood mitigation manual is in force.	18 19
‘Division 2	Obtaining information and advising Minister	20 21
‘390	Minister must require information about impacts of proposed temporary full supply level	22 23
	‘(1) This section applies if the Minister considers the declaration of a new full supply level (a <i>proposed temporary full supply</i>	24 25

<i>level</i>) for the dam may mitigate the impacts of a potential flood or drought.	1 2
‘(2) In considering whether a proposed temporary full supply level may mitigate the impacts of a potential flood or drought, the Minister may have regard to any matter the Minister considers appropriate, including, for example—	3 4 5 6
(a) meteorological forecasts; and	7
(b) the public interest.	8
‘(3) The Minister must ask the chief executive to require the owner of the dam to provide information (the <i>impact information</i>) about how a proposed temporary full supply level may impact—	9 10 11 12
(a) the safety of the dam; and	13
(b) how the dam operates.	14
‘(4) In this section—	15
<i>new full supply level</i> , for a dam, means a full supply level that is different from the full supply level stated in the resource operations plan under which the dam operates.	16 17 18
‘391 Chief executive must issue notice for information about impacts of proposed temporary full supply level	19 20
‘(1) The chief executive must comply with the Minister’s request for the impact information by giving the owner of the dam a notice (an <i>impact information notice</i>) requiring the owner to give the information to the chief executive.	21 22 23 24
‘(2) The impact information notice must—	25
(a) state a reasonable period by which the impact information must be given; and	26 27
(b) include a warning that it is an offence to fail to comply with the notice unless the owner of the dam has a reasonable excuse.	28 29 30

‘(3) The owner of the dam must comply with the impact information notice unless the owner has a reasonable excuse.	1 2
Maximum penalty—200 penalty units.	3
‘392 Chief executive must consult with dam owner	4
‘As soon as practicable after giving the owner of the dam the impact information notice, the chief executive must consult the owner and the operator of the dam about—	5 6 7
(a) the extent to which the proposed temporary full supply level is likely to mitigate the impacts of a potential flood or drought; and	8 9 10
(b) the impacts of the proposed temporary full supply level on the water security of the dam.	11 12
‘393 Chief executive must give feasibility advice to Minister	13
‘(1) As soon as practicable after consulting with the owner and operator of the dam under section 392, the chief executive must give the Minister advice (<i>feasibility advice</i>) about whether declaring the proposed temporary full supply level for the dam is likely to mitigate the impacts of a potential flood or drought.	14 15 16 17 18 19
‘(2) In giving the feasibility advice, the chief executive must have regard to the following—	20 21
(a) the impact information given in compliance with the impact information notice;	22 23
(b) the extent to which the proposed temporary full supply level is likely to mitigate the impacts of a potential flood or drought;	24 25 26
(c) the impacts of the proposed temporary full supply level on the water security of the dam;	27 28
(d) whether the proposed temporary full supply level will affect the safety of the dam;	29 30

(e)	generally, any other positive or negative impacts the proposed temporary full supply level may have;	1 2
	<i>Examples of impacts—</i>	3
	• impacts on public safety	4
	• environmental, social and economic impacts downstream of the dam	5 6
(f)	any other matter the chief executive considers appropriate.	7 8
‘(3)	The feasibility advice must include—	9
(a)	details of the matters mentioned in subsection (2); and	10
(b)	the likely implications of declaring the proposed temporary full supply level on the water security and safety of the dam;	11 12 13
(c)	a recommendation about whether the proposed temporary full supply level should be declared.	14 15
‘394	Chief executive may give later feasibility advice	16
‘(1)	This section applies if—	17
(a)	the chief executive gives the Minister the feasibility advice under section 393(1) about declaring a proposed temporary full supply level for a dam; and	18 19 20
(b)	at any time within 6 months after giving the feasibility advice, the chief executive considers there has been a material change to a matter mentioned in section 393(2) that is relevant to the advice.	21 22 23 24
	<i>Example—</i>	25
	There is a significant difference between forecasts of rainfall on which a proposed temporary full supply level is based and actual rainfall.	26 27 28
‘(2)	The chief executive may, within the 6 months, give the Minister another feasibility advice about a proposed temporary full supply level for the dam dealing with the change.	29 30 31 32

‘(3) If the chief executive gives a feasibility advice under subsection (2), the chief executive is not required to comply with section 391 or 392 for giving the advice.	1 2 3
‘Division 3 Declaring temporary full supply level	4 5
‘395 Minister may declare temporary full supply level	6
‘(1) On receiving the feasibility advice for a dam under section 393(1) or 394(2), the Minister may, by gazette notice, declare a temporary full supply level for the dam.	7 8 9
‘(2) In deciding whether to declare a temporary full supply level, the Minister must have regard to—	10 11
(a) the feasibility advice; and	12
(b) the public interest.	13
‘(3) If the Minister declares a temporary full supply level for the dam, the temporary full supply level—	14 15
(a) takes effect on the day stated in the declaration; and	16
(b) ceases to have effect—	17
(i) on the day that is 6 months after the declaration is made, or an earlier day stated in the declaration; or	18 19
(ii) if the declaration is sooner revoked—on the day the declaration is revoked.	20 21
‘(4) The Minister may declare a temporary full supply level under this division more than once for a particular dam.	22 23
<i>Note—</i>	24
For the effect of the declaration of a temporary full supply level on the resource operations plan under which the dam operates and particular obligations of the owner of the dam, see the Water Act, chapter 2, part 2, division 4.	25 26 27 28

‘Division 4	Reviewing safety requirements for temporary full supply level	1 2
‘396	Chief executive must review safety requirements	3
‘(1)	This section applies if a temporary full supply level declared for a dam exceeds the full supply level stated in the resource operations plan under which the dam operates.	4 5 6
‘(2)	The chief executive must review any requirements about safety (the <i>safety requirements</i>) applying to the dam under the safety conditions or flood mitigation manual for the dam.	7 8 9
‘(3)	The review must be conducted within—	10
(a)	1 month after the temporary full supply level is declared; or	11 12
(b)	if the Minister requires a shorter period in writing—the shorter period.	13 14
‘397	Changing safety conditions in response to review	15
	‘If the chief executive—	16
(a)	reviews the safety requirements applying under the safety conditions for the dam; and	17 18
(b)	having regard to the temporary full supply level, considers an amendment of the safety requirements is necessary;	19 20 21
	the chief executive must arrange for the amendment to be made under section 356.	22 23
‘398	Amending flood mitigation manual in response to review	24
‘(1)	If the chief executive—	25
(a)	reviews the safety requirements applying under the flood mitigation manual for the dam; and	26 27

(b) having regard to the temporary full supply level, 1
considers an amendment of the safety requirements is 2
necessary; 3

the chief executive must advise the Minister of the proposed 4
amendment. 5

‘(2) On receiving advice of an amendment, the Minister may 6
arrange for the amendment to be made under section 372. 7

‘Division 5 Miscellaneous provision 8

‘399 No compensation payable 9

‘No compensation is payable to any person because of the 10
operation of this part.’. 11

Clause 33 Amendment of s 538 (Sections 538–559 not used) 12

Section 538, heading, ‘559’— 13

omit, insert— 14

‘558’. 15

Clause 34 Insertion of new s 559 16

Chapter 8, part 2— 17

insert— 18

‘559 Definition for pt 2 19

‘In this part— 20

relevant operational work means operational work under the 21
Planning Act, section 10(1) that is the construction of a dam 22
or that is carried out in relation to a dam if, because of the 23
work, the dam must be failure impact assessed.’. 24

Clause 35	Amendment of s 561 (Development applications for referable dams)	1 2
	(1) Section 561, heading—	3
	<i>omit, insert—</i>	4
'561	Development applications for relevant operational work'.	5
	(2) Section 561(1)—	6
	<i>omit, insert—</i>	7
	'(1) This section applies if a person makes a development application under the Planning Act for relevant operational work.'	8 9 10
Clause 36	Amendment of s 562 (When applicant may appeal to Land Court)	11 12
	Section 562(1)(a)—	13
	<i>omit, insert—</i>	14
	'(a) an applicant makes a development application for relevant operational work; and'	15 16
Clause 37	Amendment of s 633 (Application of particular provisions—other schemes)	17 18
	(1) Section 633(2)(b), '1 July 2013'—	19
	<i>omit, insert—</i>	20
	'1 July 2014'.	21
	(2) Section 633(3)(b)—	22
	<i>omit, insert—</i>	23
	'(b) otherwise, the later of the following—	24
	(i) 1 July 2014;	25
	(ii) the day that is 1 year after the day recycled water is first supplied under the scheme.'	26 27

Clause 38	Insertion of new ch 10, pt 5	1
	Chapter 10—	2
	<i>insert</i> —	3
‘Part 5	Transitional provisions for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012	4 5 6 7 8 9
‘644	Definitions for pt 5	10
	‘In this part—	11
	<i>commencement</i> means the commencement of this section.	12
	<i>existing approval period</i> see section 648(2)(b).	13
	<i>existing dam</i> see section 645(1).	14
	<i>existing flood mitigation manual</i> see section 648(1).	15
‘645	Owner of existing dam must prepare and submit emergency action plan	16 17
	‘(1) This section applies to the owner of a dam (an <i>existing dam</i>) that—	18 19
	(a) immediately before the commencement was a referable dam; and	20 21
	(b) is a referable dam under section 341 on and after the commencement.	22 23
	‘(2) The owner of the dam must, unless the owner has a reasonable excuse, prepare an emergency action plan for the dam under chapter 4, part 1, division 2A, subdivision 3 and give it to the chief executive for approval before 1 October 2013.	24 25 26 27
	Maximum penalty—1665 penalty units.	28

-
- ‘(3) Section 352E does not apply to the owner of the dam until— 1
- (a) if the owner gives the chief executive an emergency 2
action plan under subsection (2)—the chief executive 3
approves the plan or gives the owner a notice under 4
section 352L(1)(b); or 5
 - (b) otherwise—1 October 2013. 6
- ‘646 Emergency event reporting for owner of existing dam 7**
- ‘(1) Chapter 4, part 1, division 2A, subdivision 9 applies to the 8
owner of an existing dam from the first of the following— 9
- (a) the day an emergency action plan is approved for the 10
dam; 11
 - (b) 1 October 2013. 12
- ‘(2) This section applies despite chapter 4, part 1, division 2A, 13
subdivision 9. 14
- ‘647 Particular safety conditions and development conditions 15
taken to have been complied with 16**
- ‘(1) Subsection (2) applies if— 17
- (a) an equivalent plan preparation condition applies to an 18
existing dam; and 19
 - (b) the owner of the dam complies with the obligation to 20
prepare and submit an emergency action plan under 21
chapter 4, part 1, division 2A. 22
- ‘(2) The owner of the dam is taken to have complied with the 23
equivalent plan preparation condition for the preparation and 24
submission of the emergency action plan. 25
- ‘(3) Subsection (4) applies if— 26
- (a) an equivalent plan review condition applies to an 27
existing dam; and 28
 - (b) the owner of the dam complies with the obligation to 29
review an emergency action plan under section 352P. 30

- ‘(4) The owner of the dam is taken to have complied with the equivalent plan review condition for the review of the emergency action plan. 1
2
3
- ‘(5) Subsection (6) applies if— 4
- (a) an equivalent reporting condition applies to an existing dam; and 5
6
- (b) the owner of the dam complies with the obligation to prepare and submit an emergency event report under chapter 4, part 1, division 2A, subdivision 9. 7
8
9
- ‘(6) The owner of the dam is taken to have complied with the equivalent reporting condition for the preparation and submission of the emergency event report. 10
11
12
- ‘(7) In this section— 13
- equivalent plan preparation condition* means a safety condition or development condition that is equivalent to an obligation to prepare or submit an emergency action plan under chapter 4, part 1, division 2A. 14
15
16
17
- equivalent plan review condition* means a safety condition or development condition that is equivalent to the obligation to review an emergency action plan under section 352P. 18
19
20
- equivalent reporting condition* means a safety condition or development condition that is equivalent to the obligation to prepare and submit an emergency event report under chapter 4, part 1, division 2A, subdivision 9. 21
22
23
24
- ‘648 Continuation of existing flood mitigation manuals 25**
- ‘(1) This section applies to a flood mitigation manual (an *existing flood mitigation manual*) for a dam that was approved under pre-amended section 371 and in force immediately before the commencement. 26
27
28
29
- ‘(2) The existing flood mitigation manual— 30
- (a) is taken to be an approved flood mitigation manual; and 31

(b)	continues in force for the balance of the period for which it was approved under pre-amended section 371 (the <i>existing approval period</i>).	1 2 3
‘(3)	In this section— <i>pre-amended</i> , in relation to a provision, means the provision as it was in force immediately before the commencement.	4 5 6
‘649	Application of particular provisions to dam with existing flood mitigation manual	7 8
‘(1)	This section applies to a dam for which an existing flood mitigation manual was in force immediately before the commencement.	9 10 11
‘(2)	Section 371A(2) does not apply to the dam until after it is first prescribed under a regulation under section 371A(1).	12 13
‘(3)	Section 374 applies to the owner of the dam as if the reference in the section to the approval period were a reference to the existing approval period.	14 15 16
‘(4)	To remove any doubt, it is declared that the application of section 373 to the existing flood mitigation manual does not limit the operation of section 371D, 371E or 371F in relation to the preparation or approval of a flood mitigation manual.	17 18 19 20
‘(5)	This section applies despite sections 371A and 374.	21
‘650	Reporting period for first annual preparedness report for dam with existing flood mitigation manual	22 23
‘(1)	This section applies to the first annual preparedness report required to be prepared after the commencement by the owner of a dam for which an existing flood mitigation manual was in force immediately before the commencement.	24 25 26 27
‘(2)	The reporting period for the annual preparedness report is the period since the commencement.	28 29
‘(3)	This section applies despite section 376.	30

‘651	Effect of regulation amendment	1
	‘The amendment of the <i>Water Supply (Safety and Reliability) Regulation 2011</i> under the <i>Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012</i> does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.	2 3 4 5 6 7
Clause 39	Amendment of sch 3 (Dictionary)	8
(1)	Schedule 3, definitions <i>commencement</i> and <i>flood mitigation manual</i> —	9 10
	<i>omit</i> .	11
(2)	Schedule 3—	12
	<i>insert</i> —	13
	‘ <i>alternative procedure</i> , for chapter 4, part 2, see section 378(b)(ii).	14 15
	<i>annual preparedness report</i> see section 375(a).	16
	<i>approval period</i> —	17
(a)	for chapter 4, part 1, division 2A—see section 352K(2);	18
	or	19
(b)	for chapter 4, part 2—see section 371G(2).	20
	<i>approved emergency action plan</i> , for chapter 4, part 1, division 2A, see section 352A.	21 22
	<i>approved flood mitigation manual</i> see section 370.	23
	<i>authorisation request information</i> , for chapter 4, part 2, see section 379(1).	24 25
	<i>authorised alternative procedure</i> , for chapter 4, part 2, see sections 380(2) and 381(2).	26 27
	<i>chairperson</i> , for chapter 4, part 1, division 2A, see section 352A.	28 29
	<i>commencement</i> —	30

(a) for chapter 10, part 4, see section 640; or	1
(b) for chapter 10, part 5, see section 644.	2
<i>dam failure hazard</i> , for chapter 4, part 1, division 2A, see section 352B.	3 4
<i>department's website</i> means the department's website on the internet.	5 6
<i>disaster district</i> , for chapter 4, part 1, division 2A, see section 352A.	7 8
<i>Disaster Management Act</i> means the <i>Disaster Management Act 2003</i> .	9 10
<i>disaster management plan</i> , for chapter 4, part 1, division 2A, see section 352A.	11 12
<i>disaster management review report</i> , for chapter 4, part 1, division 2A, see section 352G(3).	13 14
<i>disaster management review response</i> , for chapter 4, part 1, division 2A, see section 352G(4).	15 16
<i>district group</i> , for chapter 4, part 1, division 2A, see section 352A.	17 18
<i>downstream release hazard</i> , for chapter 4, part 1, division 2A, see section 352C.	19 20
<i>emergency action plan</i> see section 352A.	21
<i>emergency condition</i> , for chapter 4, part 1, division 2A, see section 352A.	22 23
<i>emergency event</i> , for chapter 4, part 1, division 2A, see section 352A.	24 25
<i>emergency event interim report</i> , for chapter 4, part 1, division 2A, see section 352U(2)(a).	26 27
<i>emergency event report</i> , for chapter 4, part 1, division 2A, see section 352T(2).	28 29
<i>emergency management chief executive</i> , for chapter 4, part 1, division 2A, see section 352A.	30 31

<i>existing approval period</i> , for chapter 10, part 5, see section 648(2)(b).	1 2
<i>existing dam</i> , for chapter 10, part 5, see section 645(1).	3
<i>existing flood mitigation manual</i> see section 648(1).	4
<i>existing procedure</i> , for chapter 4, part 2, see section 378(b)(ii)(A).	5 6
<i>feasibility advice</i> , for chapter 4, part 3, see section 393(1).	7
<i>flood event</i> , for chapter 4, part 2, see section 371.	8
<i>flood event interim report</i> , for chapter 4, part 2, see section 384(2)(a).	9 10
<i>flood event report</i> , for chapter 4, part 2, see section 383(2).	11
<i>flood mitigation manual</i> , for a dam, see section 370.	12
<i>forecast system</i> , for chapter 4, part 2, see section 371D(e).	13
<i>impact information</i> , for chapter 4, part 3, see section 390(3).	14
<i>impact information notice</i> , for chapter 4, part 3, see section 391(1).	15 16
<i>local disaster area</i> , for chapter 4, part 1, division 2A, see section 352A.	17 18
<i>local disaster management plan</i> , for chapter 4, part 1, division 2A, see the Disaster Management Act, section 57(1).	19 20
<i>local group</i> , for chapter 4, part 1, division 2A, see the Disaster Management Act, section 29.	21 22
<i>proposed temporary full supply level</i> , for chapter 4, part 3, see section 390(1).	23 24
<i>relevant disaster management group</i> , for chapter 4, part 1, division 2A, see section 352D.	25 26
<i>relevant district group</i> , for chapter 4, part 1, division 2A, see section 352D(b).	27 28
<i>relevant local group</i> , for chapter 4, part 1, division 2A, see section 352D(a).	29 30

<i>relevant operational work</i> , for chapter 8, part 2, see section 559.	1 2
<i>resource operations plan</i> see the Water Act, schedule 4.	3
<i>responsible person</i> , for chapter 4, part 2, see section 371D(d)(i).	4 5
<i>safety requirements</i> , for chapter 4, part 3, see section 396(2).	6
<i>small service provider (non-urban)</i> means a service provider who is a small service provider under the definition <i>small service provider</i> , paragraph (c) or (d).	7 8 9
<i>temporary full supply level</i> , for a dam, see section 388.	10
<i>water security</i> includes—	11
(a) generally—the reliability of water supply; and	12
(b) for chapter 4, part 3—see section 388.’.	13

Part 5	Amendment of Water Supply (Safety and Reliability) Regulation 2011	14 15 16
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Clause 40	Regulation amended	17
	This part amends the <i>Water Supply (Safety and Reliability) Regulation 2011</i> .	18 19
Clause 41	Renumber of s 2 (Prescribed CSG environmental authorities)	20 21
	Section 2—	22
	<i>renumber</i> as section 3.	23
Clause 42	Insertion of new s 2	24
	After section 1—	25

insert—

1

**'2 Prescribed dams for submitting flood mitigation manuals
and flood event reports—Act, s 371A**

2

3

'For section 371A(1) of the Act, each of the following dams is
prescribed—

4

5

(a) North Pine Dam;

6

(b) Somerset Dam;

7

(c) Wivenhoe Dam.'

8

**Clause 43 Amendment of schedule (Prescribed CSG environmental
authorities)**

9

10

Schedule, heading, 'section 2'—

11

omit, insert—

12

'section 3'.

13