Electricity and Other Legislation Amendment Bill 2014

Explanatory Notes

Short title

The short title of the Bill is the *Electricity and Other Legislation Amendment Bill 2014*.

Policy objectives

Solar Bonus Scheme

The Queensland Solar Bonus Scheme (the Scheme) is legislated under sections 44A and 55DB of the *Electricity Act 1994* (the Electricity Act), which provide for eligible participants to be paid a prescribed credit amount (feed-in tariff) for the surplus electricity generated by solar photovoltaic (PV) systems and supplied into the electricity network. The Scheme currently operates with two feed-in tariff amounts: 44 cents per kilowatt hour (c/kWh), which is legislated to end on 1 July 2028; and 8 c/kWh expiring 30 June 2014 for applications lodged from 10 July 2012.

On 6 March 2014, the Government announced changes to the Scheme to ensure, after the 8 c/kWh feed-in tariff expires on 30 June 2014, that:

- small customers of Ergon Energy Queensland and Queensland Special Approval Customers in the Essential Energy network (collectively referred to as 'regional Queensland customers') continue to receive a mandatory feed-in tariff payment for electricity produced by a small PV generator installed at the premises and exported to the supply network; and
- the cost of funding the mandatory feed-in tariff payment to these small customers is not borne by Queensland electricity consumers.

The Bill seeks to amend the Electricity Act to deliver these policy objectives.

Coal Seam Gas Water

The Bill seeks to repeal the provisions of the *Water Supply (Safety and Reliability) Act 2008* (Water Supply Act) that treat coal seam gas (CSG) water as recycled water to remove regulatory duplication and encourage the use of CSG water as a resource.

Australian Energy Market Commission payment

The objective is recovering Queensland's portion of the cost of funding the Australian Energy Market Commission (AEMC) through the imposition of a levy on electricity transmission and gas pipeline licence holders that are regulated under the national energy laws.

Reasons for the Policy Objectives

Solar Bonus Scheme

The Government has decided to continue mandating a feed-in tariff payment for small customers with solar PV in regional Queensland because these customers do not have access to voluntary feed-in tariff payments in the retail electricity market. Without regulatory intervention, these regional Queensland customers are likely to receive no payment for their exported electricity once the 8 c/kWh feed-in tariff expires, disadvantaging them over other Queensland small customers with solar PV and other electricity generators.

The Government has decided not to mandate new feed-in tariff arrangements for small customers in south east Queensland (connected to the Energex supply network) when the 8 c/kWh feed-in tariff expires. Instead, the Government will allow competition in the retail electricity market to determine the feed-in tariff rates available to these small customers. The Government has made this decision on the basis that retail competition already delivers voluntary feed-in tariffs in this area, outside of the regulated Scheme.

Currently under the Electricity Act, the feed-in tariff is decided by the Government and feed-in tariff payments are funded by electricity distributors. The costs are then passed through to the electricity bills of all Queensland electricity consumers via higher electricity prices. This policy outcome aligns poorly with the Government's commitment to reduce cost of living pressures for Queenslanders. Accordingly, one of the key policy objectives of the amendments is to ensure that the new mandatory feed-in tariff arrangement is designed so that it does not add costs to Queensland electricity customers via higher electricity prices.

Coal Seam Gas Water

Under the Water Supply Act, CSG water is regulated as recycled water where it may enter a drinking water supply. Entities that supply CSG water into a watercourse or aquifer are required to have a recycled water management plan unless they can demonstrate that the supply of CSG water will not have a 'material impact' on a source of drinking water.

The Queensland Competition Authority (QCA) conducted a comprehensive review of the State's regulation of the CSG industry. That review found that CSG water is treated differently to other sources of water by the Water Supply Act and, in doing so, it duplicates the objectives of *Environmental Protection Act 1994* (Environmental Protection Act).

This is the only case where the Water Supply Act seeks to regulate the quality of water entering the environment because of potential impacts on a source of drinking water. The Water Supply Act provisions impose substantial costs on the CSG industry and, because of this regulatory hurdle, reduce the opportunity for beneficial reuse of CSG water. The QCA's

Final Report recommended the repeal of the CSG water provisions in the Water Supply Act so that CSG water is regulated solely by environmental protection legislation.

Australian Energy Market Commission payment

The 2012 Department of Energy and Water Supply (DEWS) Cabinet Budget Review Committee (CBRC) Agency outcomes removed DEWS' budget funding for the State's contribution to the AEMC after 2012-13. In 2013, CBRC reinstated the funding for 2013-14, tasking DEWS with exploring options for future industry funding. On 6 February 2014, CBRC approved the recovery of Queensland's AEMC contribution via industry levies (Decision No. 320). On 17 February 2014, Cabinet gave the authority to prepare the necessary legislative amendments (Decision No. 833).

Achievement of policy objectives

Solar Bonus Scheme

The Bill achieves the equity and cost objectives described above by amending the Electricity Act to:

- insert a new head of power requiring the responsible Minister to direct the QCA to decide the 'feed-in tariff', for electricity produced by a small PV system and exported to the supply network, on terms set by the Minister;

- require the QCA in deciding the feed-in tariff to have regard to any effect on competition in the Queensland retail electricity market;

- insert new provisions that require only those electricity retailers or special approval holders prescribed under a Regulation to pay the feed-in tariff (rather than electricity distributors);

  It is proposed to progress supporting amendments to the *Electricity Regulation 2006* (the Electricity Regulation) to prescribe the retail entities required to pay the feed-in tariff as Ergon Energy Queensland and the holder of Special Approval No. SA02/11 (Origin Energy Electricity Limited).

  Origin Energy Electricity Limited (Origin Energy) provides retail services to approximately 5700 Queensland non-market customers on New South Wales distributor Essential Energy's network in southern Queensland under the terms of Special Approval No. SA02/11, which commenced in 2011 and expires on 30 June 2020.

- insert new provisions that restrict feed-in tariff payments to small customers of a prescribed electricity retailer, who are not otherwise entitled to receive the prescribed credit amount of 44 cents per kilowatt hour; and

- clarify how the new mandatory feed-in tariff arrangements interact with the following provisions in the Act:

- restrictions on Ergon Energy and its subsidiaries at section 55G in relation to the provision of 'customer retail services';
- a direction under section 91A to charge non-market customers the notified price for customer retail services; and
- special approval provisions where the special approval holder is a prescribed retail entity required to pay the feed-in tariff.

Coal Seam Gas Water

The Bill repeals the CSG water provisions from the Water Supply Act to remove regulatory duplication and encourage the use of CSG water as a resource rather than a waste. The discharge of CSG water to water sources or the beneficial use of CSG water will be regulated by the Environmental Protection Act and the *Waste Reduction and Recycling Act 2011* (Waste Reduction Act) respectively.

The Environmental Protection Act regulates water quality to ensure public health is protected, as an environmental value of that Act. An environmental authority for a CSG activity imposes conditions to manage any identified risks to the environmental value of a water source for drinking, and so operates to protect public health. The Waste Reduction Act regulates the beneficial reuse of CSG water. A beneficial use approval is given recognising that CSG water is a resource with a beneficial use and conditions are imposed on the approval holder to ensure the water is used safely.

The Water Supply Act will no longer regulate CSG water which is discharged into the environment as recycled water. However, drinking water at the tap will continue to be protected by the Water Supply Act in the same way that it is protected from any other potential contaminates in the source water. That is, through the drinking water quality provisions in the Water Supply Act.

Transitional provisions will apply to July 2015 to allow for a deliberate and considered approach to conditioning environmental authorities and specific beneficial use approvals to protect public health. This will ensure public health continues to be protected. The Government's expectation is that the transitional arrangements for CSG entities will be finalised within six months of the Bill's assent.

Australian Energy Market Commission payment

A levy on regulated electricity transmission entities and covered gas pipelines (that is those providing services to the broader community) is considered the most appropriate method of recovering Queensland's AEMC payment from industry, as these bodies are subject to the National Electricity Rules and National Gas Rules, and therefore benefit from the functions of the AEMC. They also have the widest reach of customers that benefit from the work of the AEMC and are administratively the simplest point at which to implement a levy (all market gas and electricity passes through a small number of transmission systems).

The approach is reasonable and appropriate as it will only recover the cost of the AEMC's national regulation functions and does not represent a revenue raising exercise.

Alternative ways of achieving policy objectives

Solar Bonus Scheme

There are no non-legislative methods by which the policy objectives can be achieved. As the Scheme is administered under the Electricity Act and the Electricity Regulation, changes to the Scheme can only be achieved through legislative amendment. The only way to require the relevant electricity retailers to pay the feed-in tariff is via a legislated obligation.

Coal Seam Gas Water

As the CSG water regulatory provisions are applied through the Water Supply Act, the policy objective can only be achieved through legislative amendments.

Australian Energy Market Commission payment

The Department of Energy and Water Supply assessed alternative forms of an industry levy. A short description of the options and reason for rejection are included in the table below.

OPTIONS ANALYSIS	
Option	Reason for Rejection
Amending the *Government-Owned Corporation* (GOC) *Act 1993* to mandate the payment of the levy from a GOC as a dividend	Based on Crown Law advice received, amendment of the *GOC Act 1993* was rejected as the levy would be inactivated in the event that Powerlink was privatised.
Levying just electricity transmission companies the full amount of the annual AEMC funding	A levy on just electricity transmission companies was rejected as the work of the AEMC covers both National Electricity and National Gas Rules; therefore levying one section of the energy industry would create an unequal burden on electricity transmission companies.
Levying multiple levels of market participants	Levying multiple market participants was rejected in favour of levying just transmission participants for administrative simplicity and to avoid over-recoupment through duplication.
A coordinated national approach to cost recovery	Industry funding of the AEMC and Australian Energy Regulator was initially considered by the Ministerial Council on Energy (MCE) as part of the establishment of these bodies in 2005. The MCE considered a number of options but agreement could not be reached on the format of industry cost recovery. Since then, South Australia, New South Wales, Tasmania and the Australian Capital Territory have implemented industry cost recovery models. Those models were reviewed during the development of the preferred model for Queensland.

The preferred model, a levy on regulated electricity transmission entities and covered gas pipelines, is considered the most appropriate method of recovering Queensland's AEMC payment from industry.

Estimated cost for government implementation

The amendments in the Bill will be implemented by the Government from within existing resources.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*. The Bill is consistent with the fundamental legislative principles.

Consultation

Solar Bonus Scheme

The Department of the Premier and Cabinet, Queensland Treasury and Trade and the Department of State Development, Infrastructure and Planning were consulted.

There has been consultation on the Government's policy objectives with electricity retailer Ergon Energy Queensland and the QCA.

Coal Seam Gas Water

The Department of the Premier and Cabinet, Queensland Treasury and Trade, the Department of State Development, Infrastructure and Planning, the Department of Health, and the Department of Environment and Heritage Protection have been consulted.

The QCA consulted Government, industry and community groups as part of its review of the CSG industry regulation. This included consideration of submissions on a public issues paper and a draft report before the final report was published, which recommended the repeal of the CSG water provisions in the Water Supply Act.

Australian Energy Market Commission payment

The Department of the Premier and Cabinet, Queensland Treasury and Trade and the Department of Natural Resources and Mines have been consulted.

Community groups have not been consulted given the minor financial impost on households. Powerlink Queensland and the three effected natural gas pipeline licence holders have been notified in writing of the new levy for national energy market regulation. The three natural gas pipeline licence holders are:

- APT Petroleum Pty Ltd
- Roverton Pty Ltd
- Westside CSG A Pty Ltd

Consistency with legislation of other jurisdictions

The Bill is not part of national scheme legislation.

Solar Bonus Scheme

The introduction of new legislation for a mandatory retailer funded feed-in tariff is in line with legislative amendments South Australia and Victoria have applied to regulate retailer funded feed-in tariffs within their Solar Bonus Schemes.

Coal Seam Gas Water

There are no equivalent provisions treating CSG water as recycled water in the legislation of other jurisdictions.

Australian Energy Market Commission payment

The introduction of new legislation in Queensland will align with the majority of other jurisdictions (South Australia (SA), New South Wales, Tasmania and the Australian Capital Territory). SA recovers their AEMC payment via licence fees, while the other jurisdictions apply a levy to specifically recover the cost of national regulation.

Notes on provisions

Part 1 Preliminary

1 Short title

Clause 1 cites the short title of the Act as the *Electricity and Other Legislation Amendment Act 2014*.

2 Commencement

Clause 2 provides for commencement on a day to be fixed by proclamation.

Part 2 Amendment of Electricity Act 1994

3 Act amended

Clause 3 cites the Act amended by Part 2 *as the Electricity Act 1994*.

4 Amendment of s 31 (Conditions of transmission authority)

Clause 4 creates an obligation for regulated transmission system operators to pay a fee as a proportion of the State's funding commitment to the Australian Energy Market Commission (AEMC). While there is currently only a single regulated transmission authority holder with physical assets, the clause is written to apply when other entities build assets regulated under the National Electricity Rules and to ensure transmission entities that do not operate regulated transmission assets are not subject to the fee.

5 Insertion of new ch 2, pt 6, div 1, hdg

Clause 5 inserts a new heading of 'Division 1 Preliminary' into chapter 2, part 6 of the Electricity Act to address an oversight in drafting when divisions were previously added to that part.

6 Amendment of s 55D (Conditions of retail authority)

Clause 6 inserts a reference to '55DBA' after '55DB' in section 55D(f) to reference that new section 55DBA is a condition of a retail authority.

7 Amendment of s 55DB (Additional condition about electricity produced by small photovoltaic generators)

Clause 7 replaces the words 'small photovoltaic generator' in the heading of section 55DB with the words 'qualifying generator'. This amendment seeks to clarify that section 55DB applies additional conditions on a retail entity in relation to electricity produced by a

qualifying generator. The purpose of this amendment is to differentiate section 55DB from section 55DBA, which applies separate conditions on a prescribed retail entity in relation to electricity produced by a 'small photovoltaic generator'.

8 Insertion of new s 55DBA

Clause 8 inserts a new section 55DBA after section 55DB setting out the requirement to pay the feed-in tariff, the conditions under which the feed-in tariff is payable, and the manner in which it must be paid.

55DBA Additional conditions about electricity produced by small photovoltaic generator

New subsection 55DBA(1) sets out the conditions under which new subsection 55DBA(2) applies. Section 55DBA(2) applies when a relevant small customer is receiving customer retail services from a prescribed retail entity. This limits the application of the feed-in tariff amount at subsection 55DBA(2) to only those small customers who are relevant small customers receiving customer retail services from a prescribed retail entity at the premises. . This amendment prevents a relevant small customer from receiving the feed-in tariff from a prescribed retail entity and customer retail services from a separate retail entity, at the same premise.

New subsection 55DBA(1)(b) prevents a relevant small customer already receiving the 44 cent per kilowatt hour credit amount under s44A at a premise from also receiving the feed-in tariff at the same premises. The note to new section 55DBA(1)(b) clarifies that this subsection may apply to customers receiving an entitlement that is continued in force under section 328.

New section 55DBA(2) provides an additional condition on a prescribed retail entity's retail authority that the retail entity reduce the charges on an eligible customers electricity bill by the feed-in tariff amount defined in 55DBA(3).

New subsections 55DBA(2)(b) and (c) mirror the payment and billing arrangements that apply to retail entities for the 44 cents per kilowatt hour prescribed credit amount under section 55DB of the Electricity Act. The aim is to ensure that an unused 'feed-in tariff amount' is applied to a small customer's electricity bill under new provisions in the same way an 'owed credit amount is applied under s55DB, and that the information provided to the customer in relation to the respective payments is the same.

New subsection 55DBA(3) defines 'feed-in tariff amount' for this section. This definition distinguishes a 'feed-in tariff amount' payable by a prescribed retail entity from a 'prescribed credit amount' payable by a distribution entity under section 44A(1)(b) of the Electricity Act.

Read together with new section 55DBA(2), this definition limits the requirement to pay the feed-in tariff to electricity supplied to the network that is produced by photovoltaic systems with a total rated inverter capacity of up to 5 kilowatts, unless otherwise prescribed in a regulation. It also limits payment of the feed-in tariff to where one small photovoltaic generator is connected to the supply network at the premises.

Unlike for a 'qualifying generator', the Schedule 5 definition of 'small photovoltaic generator' does not limit the way in which the generator must supply electricity to a supply network. The policy intent in using the term 'small photovoltaic generator' instead of 'qualifying generator' is to allow a prescribed retail entity to pay the feed-in tariff amount for electricity supplied to the network in either a net or gross metered arrangement.

Insertion of new section 55DBA is consistent with key findings from the QCA Final Report 'Estimating a Fair and Reasonable Solar Feed-in Tariff for Queensland' that:

- any future feed-in tariffs should be funded by electricity retailers, rather than regulated network businesses, to avoid cross subsidies and the inequitable recovery of associated costs from those customers least able to afford them; and
- that regulated minimum feed-in tariffs should be established for customers on Ergon Energy's National Electricity Market connected distribution network.

9 Amendment of s 55G (Restriction on Ergon Energy and its subsidiaries)

Clause 9 clarifies that section 55G conditions in relation to the provision of customer retail services (the sale of electricity to the premises) do not prevent Ergon Energy Queensland from complying with new section 55DBA, or from entering into a separate arrangement to buy electricity exported from the premises of its small customers outside of section 55DBA requirements.

10 Amendment s 61B (Additional condition for electricity produced by photovoltaic generators)

Clause 10 inserts a new subsection 61B(3) to clarify that, where prescribed in a Regulation as a retail entity for the purpose of section 55DBA, it is a condition of a special approval holder's special approval that the holder must comply with section 55DBA.

11 Insertion of new s 64A

Clause 11 inserts a new section 64A in chapter 2, part 8 to provide for review of the feed-in tariff provisions at section 55DBA and chapter 4, part 2A, within 5 years of commencement.

12 Amendment of s 91A (Retail entity must comply with notification or direction)

Clause 12 renumbers subsection 91A(5) as 91A(6) and inserts a new section 91A(5).

New subsection 91A(5) clarifies that a retail entity does not contravene this section by reducing the charges payable by a non-market customer for customer retail services, by a credit for electricity produced at the premises of a non-market customer and supplied to the supply network. This includes where, under section 55DBA, a prescribed retail entity reduces the electricity charges payable by a small customer who is a non-market customer, by the feed-in tariff amount.

13 Insertion of new chapter 4, part 2A

Clause 13 inserts a new part 2A in chapter 4 to set out the circumstances for deciding the feed-in tariff to be paid by prescribed retail entities.

Part 2A Feed-in tariff

92 Definitions for pt 2A

New section 92 inserts definitions for part 2A. 'Feed-in tariff' is defined as the rate used to determine the amount a prescribed retail entity must credit a relevant small customer for each kilowatt hour of electricity produced by one small photovoltaic generator and supplied to the supply network.

New section 92 defines a 'prescribed retail entity' as a retail entity or special approval holder prescribed by regulation. It is proposed to prescribe in supporting amendments to the Electricity Regulation the retail entities required to pay the feed-in tariff as Ergon Energy Queensland and the holder of Special Approval No. SA02/11 (Origin Energy Electricity Limited). The conditions set out in section 55DBA are not intended to apply to electricity retailers other than those prescribed in the Electricity Regulation.

New section 92 also sets out the conditions for a small customer to be a 'relevant small customer' of a prescribed retail entity, for the purpose of the feed-in tariff.

93 Minister to direct QCA to decide feed-in tariff

New section 93(1)(a) requires the Minister to direct the QCA to decide the feed-in tariff for each tariff year. The *Queensland Competition Authority Act 1997* gives the QCA related electricity price setting functions and in this context, it is appropriate that the QCA is directed to undertake the function of deciding the feed-in tariff that prescribed retailers must pay under new section 55DBA.. To clarify, where the QCA has decided the feed-in tariff for the 2014-15 tariff year, it is intended that this feed-in tariff is to apply in the 2014-15 tariff year.

There is an established process and timeframe under the Electricity Act for the QCA to determine the notified prices, where delegated to do so by the Minister. Section 93(1)(a) aligns the timing of the QCA feed-in tariff decision with the annual notified pricing determination for each tariff year, coordinating these matters for affected electricity customers and enabling process efficiencies for the QCA and the Minister.

Under subsection 93(1)(b) the Minister may direct the QCA to decide the feed-in at any time, other than in relation to a tariff year. The intention is to provide flexibility for the Minister to direct the QCA to decide the feed-in tariff for another period other than a tariff year. For example, the Minister may direct the QCA to decide a new feed-in tariff within a tariff year if the feed-in tariff requires updating in response to changes in the electricity market or its regulation.

New subsection 93(2) sets out the general terms that a Minister's direction under this section may include and allows the Minister to specify in a direction the matters the QCA must consider when deciding the feed-in tariff.

Section 93(3) explicitly requires that the QCA consider the effect on competition in the Queensland electricity market when deciding the feed-in tariff. The policy intent is that the feed-in tariff rate decided by the QCA should not adversely impact the development of retail competition in regional Queensland. Section 93(3)(b) explicitly requires the QCA to also consider any other matter stated in the Minister's direction.

94 QCA to publish feed-in tariff

New section 94 sets out the process and timeframes the QCA must meet in announcing and publishing the feed-in tariff. This section clarifies that the feed-in tariff is to apply on the first day of a tariff year unless otherwise specified in a gazette notice published under this section. The aim of these provisions is to further align the QCA's functions in this section with its

delegated function to determine the notified prices under chapter 4, part 2 of the Electricity Act. The policy intent is, wherever possible, to coordinate the publishing of information about the feed-in tariff with the publishing of information about regulated tariffs for customer retail services. It is also intended, where possible, to coordinate when the regulated tariffs (notified prices) and the feed-in tariff are to apply.

New subsection 94(5) provides that the feed-in tariff remains valid in circumstances where the requirements for announcement and gazettal of the feed-in tariff may not be met.

95 When feed-in tariff continues to apply

New section 95 aims to ensure relevant small customers can continue to receive the prevailing feed-in tariff where a new feed-in tariff is not decided in accordance with sections 93 and 94.

14 Amendment of s 335 (When s 328 stops applying or does not apply to qualifying generators as previously defined)

Clause 14 inserts a note to clarify the conditions at subsection (5)..

Subsections 335(4) and 335(5) set out the consequences for when section 328 stops applying, or does not apply, to a small customer's qualifying generator that is a small photovoltaic generator. The provisions require a distribution entity to pay a prescribed credit amount until a prescribed day, in circumstances where a small customer with a qualifying generator receiving the 44 cents per kilowatt hour credit amount is affected by section 335. The note inserted explains that subsection (5) no longer applies after 30 June 2014, which is prescribed in the Electricity Regulation as the day until which a distribution entity must comply with requirements to pay the 8 cents per kilowatt hour prescribed credit amount.

15 Insertion of new chapter 14, part 16

Clause 15 inserts a new part 16 in chapter 14 to provide transitional provisions for the feed-in tariff decision.

Part 16 Transitional provision for Electricity and Other Legislation Amendment Act 2014

351 First feed-in tariff decision

New Section 351 provides for the first feed-in tariff to be announced and published a minimum of two weeks before the feed-in tariff is to apply. Subject to the deliberations of Parliament, a Proclamation will be prepared for commencement of the amendments on 1 July 2014, which is the day after the 30 June 2014 expiry date of the 8 cents per kilowatt hour credit amount prescribed under section 30AB of the Electricity Regulation.

A transitional provision is required because ordinarily, section 94 requires the QCA to announce and publish a feed-in tariff decision one month before the tariff year. However, the timeframes associated with passage of the Bill may preclude the QCA from complying with

the timeframes set out in section 94 for announcing and gazetting the feed-in tariff for the 2014-15 tariff year. This transitional provision is to allow the QCA to announce and publish the feed-in for 2014-15 without breaching section 94 requirements.

16 Amendment of schedule 5 (Dictionary)

Clause 16 amends the dictionary to cross-reference the terms 'feed-in tariff', 'relevant small customer' and 'prescribed retail entity' as used in section 92.

'Regional system control' is defined in section 7 of the Act and used in section 36A. Clause 16 amends Schedule 5 to signpost this definition consistent with current drafting practice.

Part 3 Amendment of Petroleum and Gas (Production and Safety) Act 2004

17 Act amended

Clause 17 provides that this part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

18 Replacement of s 423 (Annual Licence Fee)

Clause 18 replaces and expands an existing section of the Act to mandate collection of a fee from covered pipeline licence holders to pay a proportion of the State's funding commitment to the AEMC.

19 Amendment of s 424 (Civil penalty for nonpayment of annual licence fee)

Clause 19 expands the civil penalties for non-payment to include all fees mentioned in section 423.

Part 4 Amendment of Water Supply (Safety and Reliability) Act 2008

20 Act Amended

Clause 20 provides that this part amends the *Water Supply (Safety and Reliability) Act 2008*

21 Amendment of s 20 (Who must apply for registration as a service provider)

Clause 21 amends section 20 to remove reference to recycled water schemes that supply CSG water. CSG water will not be regulated as recycled water and, therefore, the production or supply of CSG water will not impact on whether a person who operates a recycled water scheme must apply for registration as a service provider.

22 Amendment of s 196AA (Requirement to seek registration)

Clause 22 amends section 196AA to remove reference to a CSG recycled water scheme. CSG recycled water schemes were exempted from the requirement to seek registration. With the repeal of the CSG water provisions, the exemption for CSG recycled water schemes from the requirement to register is no longer needed.

23 Amendment of s 196 (Offence about supplying recycled water without approved recycled water management plan)

Clause 23 amends section 196 to remove reference to a CSG recycled water scheme. With the repeal of the CSG water provisions, it is no longer an offence to supply CSG water without an approved recycled water management plan. This means that entities which release CSG water to a watercourse or aquifer are not required to apply for approval of a recycled water management plan or an exclusion decision from the recycled water provisions.

While CSG water will no longer be regulated as recycled water under the Water Supply Act, the release of CSG water into the environment will continue to be regulated under the Environmental Protection Act and the beneficial use of CSG water will continue to be regulated by the Waste Reduction Act. The Environmental Protection Act requires CSG water to be managed under an environmental authority, which are conditioned to manage the potential impacts of a CSG activity on environmental values. The Waste Reduction Act manages the use of CSG water under general and specific beneficial use approvals, which are conditioned to ensure the water is used safely.

New chapter 10, part 8 provides transitional arrangements for entities that had an approved recycled water management plan or an exclusion decision for a CSG recycled water scheme prior to commencement of the Bill.

The subsections are consequently renumbered.

24 Omission of ss 198–199

Clause 24 omits section 198 and section 199.

Section 198 provided that it was an offence to fail to comply with a post supply obligation. That is, an obligation imposed as a condition on an approved plan that continued to apply after the scheme had stopped supplying CSG water. Section 199 provided that it was an offence to fail to comply with the conditions of an exclusion decision. With the repeal of the CSG water provisions, and the removal of post supply obligations and exclusion decisions from the Water Supply Act, these offence provisions are no longer applicable.

New chapter 10, part 8 provides transitional arrangements for entities that had an approved recycled water management plan or an exclusion decision for a CSG recycled water scheme prior to commencement of the Bill.

25 Amendment of s 201 (Content of particular plans)

Clause 25 amends section 201 to remove the requirement for recycled water management plans to contain content relevant to CSG recycled water schemes. The exception under subsection (4) that applied to an interim recycled water management plan for a CSG recycled water scheme is also removed.

26 Omission of s 201A (Additional requirements for plans for CSG recycled water schemes)

Clause 26 omits section 201A which applied additional requirements to recycled water management plans for CSG recycled water schemes. With the repeal of the CSG water provisions, the additional requirements are no longer needed.

27 Amendment of s 202 (Application for approval of recycled water management plan)

Clause 27 amends section 202 to remove reference to CSG water. This reference was used to differentiate between recycled water and CSG water that was defined to be recycled water. With the repeal of the CSG water provisions, CSG water will not be defined to be recycled water and the reference is no longer needed.

28 Amendment of s 205 (Consideration of application)

Clause 28 amends section 205 to remove reference to CSG water.

29 Amendment of s 206 (Notice of decision)

Clause 29 amends section 206 to remove the ability to apply post supply obligations on CSG (aquifer) recycled water schemes.

Post supply obligations were unique to CSG recycled water schemes that released CSG water into an underground aquifer. With the repeal of the CSG water provisions, approved recycled water management plans will no longer be conditioned with post supply obligations.

New chapter 10, part 8 provides transitional arrangements for entities that had an approved recycled water management plan or an exclusion decision for a CSG recycled water scheme prior to commencement of the Bill.

30 Amendment of s 207 (When regulator must not approve recycled water management plan)

Clause 30 amends section 207 to remove reference to CSG water.

Section 207 is also amended to remove the obligation on the regulator to not approve a recycled water management plan that involves the direct supply of CSG water to a drinking water service (the treatment, transmission or reticulation of the water for drinking), unless there is an approved drinking water quality management plan for the service. CSG water will no longer be treated as recycled water for which a recycled water management plan must be approved, and this obligation to not approve a plan is no longer applicable.

31 Amendment of s 235 (Application of pt 4)

Clause 31 amends section 235 to remove reference CSG water.

32 Amendment of s 274 (Public reporting requirement)

Clause 32 amends section 274 to remove the requirement for entities that supply CSG water to publish a quarterly public report under the Water Supply Act.

The subsections are consequently renumbered.

33 Amendment of s 301 (Making declaration)

Clause 33 amends section 301 to remove reference to CSG water.

Section 301 is also amended to remove the obligation on the regulator to declare a scheme that supplies CSG water a 'critical recycled water scheme'. CSG water will not be regulated as recycled water nor regulated under the critical provisions of the Water Supply Act.

The subsections are consequently renumbered.

34 Amendment of s 316 (Application of pt 9)

Clause 34 amends section 316 to remove reference to a scheme under which recycled water that is CSG water is produced or supplied.

35 Omission of ch 3, pt 9A (Coal seam gas water)

Clause 35 omits chapter 3, part 9A from the Water Supply Act. Chapter 3, part 9A of the Water Supply Act supported the framework for regulating CSG water as recycled water. This included provisions for:

- exclusion decisions
- interim recycled water management plans
- emergency releases of CSG water
- post supply obligations.

CSG water will no longer be regulated as recycled water and these provisions which supported the framework for regulating CSG water as recycled water are no longer needed.

36 Amendment of s 410 (Power to enter land to monitor compliance)

Clause 36 amends section 410 to remove the power to enter land to monitor if the following are being complied with:

- the conditions of an exclusion decision
- a notice issued under section 329C(2)
- a notice issued under section 643(2).

These provisions are repealed by the Bill and the power to enter land to monitor compliance in relation to these provisions is no longer needed.

37 Amendment of s 435 (Application of pt 5)

Clause 37 amends section 435 to remove the application of the enforcement provisions under the Water Supply Act to the CSG water provisions, which are repealed by the Bill, for:

- post supply obligations
- notices issued under section 329C
- notices issues under section 643
- conditions of an exclusion decision.

38 Amendment of s 441 (Definitions for div 3)

Clause 38 amends the definition of 'event' under section 441. The definition was expanded to included events that happen after the supply of recycled water has stopped to accommodate post supply obligations. With the repeal of the CSG water provisions, these references are removed by the Bill.

39 Amendment of s 487A (Executive officer may be taken to have committed offence)

Clause 39 amends section 487 to remove section 198(2) from the definition of 'deemed executive liability provision'. Section 198(2) provided that a responsible entity must comply with a post supply obligation. This offence has been removed by the Bill, and consequently is removed as a deemed executive liability provision.

40 Amendment of s 571 (Regulator may make guidelines)

Clause 40 amends section 571 to remove subsection (1)(d), which provided that the regulator may make guidelines about applying for or making exclusion decisions.

41 Amendment of s 579 (Regulator may share particular information)

Clause 41 amends section 579 to remove provision for the regulator to share information about water quality with a 'responsible entity' for a CSG recycled water scheme. With the repeal of the CSG water provisions, this power is no longer needed.

42 Amendment of s 628 (Application of particular provision)

Clause 42 amends section 628 to remove reference to CSG water. Subsection (5) clarified that transitional provisions for drinking water service providers did not apply in certain circumstances, including where the service provided is:

- water collection in a water storage if the water in the storage includes recycled water, other than CSG water
- the treatment, transmission or reticulation of recycled water that is CSG water delivered to the drinking water service provider by another entity.

With the repeal of the CSG water provisions, these exceptions to the application of transitional provisions are no longer needed. In practice, the inclusion of CSG water in a water storage, or the treatment, transmission or reticulation of CSG water will have no effect on transitional provisions for drinking water service providers.

43 Insertion of new ch 10, pt 8

Clause 43 inserts a chapter 10, part 8 into the Water Supply Act, which provides transitional provisions for the *Electricity and Other Legislation Amendment Act 2014*.

Part 8 Transitional provision for Electricity and Other Legislation Amendment Act 2014

667 Definitions for pt 8

New section 667 provides definitions for the new chapter 10, part 8.

668 Continuation of recycled water management plan and exclusion decision

New section 668 provides transitional arrangements for recycled water management plans, which relate to the supply of CSG water, and exclusion decisions in effect immediately before the commencement of the *Electricity and Other Legislation Amendment Act 2014*.

On and from commencement, these plans and exclusion decisions continue in effect under the pre-amended Water Supply Act, and the recycled water provider must comply with:

- the plan; the conditions of the plan, or the exclusion decision conditions; and
- the provisions of the pre-amended Water Supply Act,

until the earlier of the following:

- the relevant CSG environmental authority or specific beneficial use approval, to which the plan or exclusion decision relates, are amended to include public health conditions that are consistent with the plan or exclusion decision; or
- 1 July 2015.

To be clear, in amending an environmental authority or specific beneficial use approval, the conditions applied do not need to directly replicate the conditions of the recycled water management plan or exclusion decision. Rather, the intent is that the new conditions will provide consistent public health protection.

New section 668 initially preserves the CSG water provisions and the effect of approvals under the Water Supply Act. However, this transitional period is necessary to allow time for environmental authorities and specific beneficial approvals to be amended. It also ensures that the regulators powers under the pre-amended Water Supply Act continue to apply to the existing plans and exclusion decisions.

The intent is to amend the appropriate approvals as quickly as possible to complete the transition to a single regulatory framework. The 1 July 2015 deadline aligns with the end of the financial year, and acts as a safety net to provide certainty to the industry.

669 Continuation of interim recycled water management plan

New section 669 provides transitional arrangements for interim recycled water management plans in effect immediately before the commencement of the *Electricity and Other Legislation Amendment Act 2014*.

Subsection (2) provides that on and from commencement, the interim plans continue in effect under the pre-amended Water Supply Act, and the recycled water provider must comply with:

- the interim plan and the conditions of the plan; and
- the provisions of the pre-amended Water Supply Act,

until the earlier of the following:

- the relevant CSG environmental authority or specific beneficial use approval, to which the interim plan relates, is amended to include public health conditions that are consistent with the plan; or
- 1 July 2015.

To be clear, in amending an environmental authority or specific beneficial use approval, the conditions applied do not need to directly replicate the conditions of the interim recycled water management plan. Rather, the intent is that the new conditions will provide consistent public health protection.

Subsection (3) provides that despite section 329G of the pre-amended Water Supply Act, the approval of the interim recycled water management plan continues in effect until the interim plan ceases to have effect under subsection (2).

670 Amending CSG environmental authority related to particular plan or decision

New section 670 provides for circumstances in which the administering authority under the Environmental Protection Act may amend a CSG environmental authority.

If a recycled water management plan, interim recycled water management plan, or exclusion decision continues in effect under new sections 668 and 669, then, despite section 215 of the Environmental Protection Act, the administering authority may amend the relevant CSG environmental authority to include appropriate conditions that protect human health.

To be clear, in amending an environmental authority, the conditions applied do not need to directly replicate the conditions of the recycled water management plan or exclusion decision. Rather, the intent is that the new conditions will provide consistent public health protection.

However, subsection (3) provides that the amendment may only be made:

- if the administering authority considers the amendment is necessary or desirable; and
- if the procedure under the Environmental Protection Act chapter 5, part 6, division 2 is followed; and
- while the plan, interim plan or exclusion decision is in effect.

Subsection (4) provides that this section does not limit any power of the administering authority under the Environmental Protection Act in relation a CSG environmental authority. For example, an environmental authority can be amended at any time under section 215 of

the Environmental Protection Act if the holder of the authority has agreed in writing to the amendment.

671 Amending other CSG environmental authorities

New section 671 provides that the administering authority under the Environmental Protection Act may also amend a CSG environmental authority that is not mentioned in new section 670 of the Water Supply Act.

If there is no relevant recycled water management plan, interim plan or exclusion decision that continues in effect under new sections 668 and 669, then, despite section 215 of the Environmental Protection Act, the administering authority may amend the relevant CSG environmental authority to include conditions relevant to the Environmental Protection Act to protect public health. This provides for situations where an environmental authority had been approved but the release of CSG water had not commenced and, therefore, a recycled water management plan had not been approved or exclusion decision made.

However, subsection (3) provides that the amendment may only be made:

- if the administering authority considers the amendment is necessary or desirable; and
- if the procedure under the Environmental Protection Act chapter 5, part 6, division 2 is followed; and
- before 1 July 2015.

Subsection (4) provides that this section does not limit any power of the administering authority under the Environmental Protection Act in relation a CSG environmental authority.

44 Amendment of sch 3 (Dictionary)

Clause 44 amends schedule 3 (Dictionary) of the Water Supply Act to omit, insert, and amend definitions to facilitate the repeal of the CSG water provisions.