

# Water Reform and Other Legislation Amendment Bill 2014

Amendments during consideration in detail to be moved by  
The Honourable the Minister for Natural Resources and Mines

## 1 **Clause 2 (Commencement)**

Page 28, lines 7 and 8—

*omit, insert—*

- (1) The following provisions commence on assent—
  - parts 3A, 6A and 6B
  - sections 208A to 208E
  - section 210, other than to the extent it inserts new section 303
  - part 9, division 1A
  - part 9, division 3, other than section 217
  - section 231A
  - section 234, other than to the extent it inserts new section 990
  - section 235(3)
- (2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

## 2 **After clause 8—**

Page 35, after line 6—

*insert—*

## **Part 3A**

# **Amendment of Mineral and Energy Resources (Common Provisions) Act 2014**

### **8A Act amended**

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

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

After section 142—

*insert—*

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

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

- (b) the end of 11 years after the giving of the advance notice, less the period between the giving of the advance notice and the giving of the petroleum production notice.
- (3) This section does not limit—
  - (a) the petroleum resource authority holder in relation to giving an exceptional circumstances notice under section 127; or
  - (b) the ML (coal) holder in relation to giving an acceleration notice under section 128; or
  - (c) the requirement under section 130 for a joint development plan to be in place within 12 months after the giving of the advance notice.

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

Chapter 7, part 4—

*insert—*

### **Division 4A Undecided ML (coal) and PL applications**

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

- (1) This section applies if—
  - (a) before the commencement—
    - (i) an application was made under the pre-amended Mineral Resources Act for the grant of an ML (coal); and

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

years have ended—at least 5 years after the 6 years have ended, unless the PL holder and the coal resource authority holder otherwise agree.

- (7) This section applies despite divisions 3 and 4.

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

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

(2)(a) is taken to be a reference to ‘undiluted incidental coal seam gas offered to a petroleum resource authority holder under subsection (2)’.

*Editor’s note—*

Legislation ultimately amended—

- *Mineral Resources Act 1989*

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

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

*omit.*

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

*insert—*

***adjoining land***—

(a) means private land that adjoins—

(i) the subject land; or

(ii) a lot, within the meaning of the *Land Act 1994* or the *Land Title Act 1994*, that contains any part of the subject land; and

(b) includes land that would adjoin land mentioned in paragraph (a)(i) or (ii) if it were not separated by a road, watercourse, railway, stock route, reserve or drainage or other easement; and

(c) does not include land only because it adjoins land necessary for—

(i) access to the subject land; or

(ii) transporting things to the subject land.

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

*Editor's note—*

Legislation ultimately amended—

- *Mineral Resources Act 1989*

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

Section 463, inserted section 832—

*omit, insert—*

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

- (1) This section applies if—
  - (a) a mining lease was granted before the commencement, or was granted after the commencement having been applied for before the commencement, over a part of the area for which the mining lease was sought; and
  - (b) because of the absence of consent under the pre-amended Act, s 238(1), the mining lease was not granted over the surface of relevant land.
- (2) The holder of the mining lease may apply under section 275, as in force after the commencement, for the surface of the relevant land, or part of the relevant land, to be included in the mining lease.
- (3) Section 245(1)(h)(ii), (i) and (l) does not apply to an application under subsection (2).
- (4) Section 279, whether as in force before or after the commencement, does not apply to the application.

- (5) If the application is granted, a person must not enter the relevant land to carry out an authorised activity for the mining lease unless the owner for the relevant land has given written consent to the mining lease holder to carry out the activity.
- (6) The consent may be given on conditions.
- (7) The conditions of the consent are taken to be conditions of the mining lease.
- (8) The consent can not be withdrawn during the period stated in the consent as the period during which the holder may enter the relevant land.
- (9) In this section—

*commencement* means the commencement of this section.

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

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

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

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

- (1) This section applies if—
  - (a) before the commencement, a person made an application for a mining lease under the pre-amended Act; and
  - (b) the proposed lease area for the lease included relevant land; and



- (c) the application was not decided before the commencement; and
  - (d) before the commencement, no consent had been given under the pre-amended Act, section 238 for the mining lease to be granted over the surface of the relevant land.
- (2) This section applies—
  - (a) whether or not, before the commencement, the applicant had, for the application, been given a certificate of application under the pre-amended Act, section 252; and
  - (b) if the applicant had been given a certificate of application—whether or not the applicant had, for the application, been given a certificate of public notice under the pre-amended Act, section 252A.
- (3) Section 279, whether as in force before or after the commencement, does not apply to the grant of the mining lease over the surface of the relevant land.
- (4) If the mining lease is granted, and the applicant agrees, the lease may be granted over the surface of the relevant land.
- (5) However, if subsection (4) is to be applied, and before the commencement, the applicant had, for the application, been given a certificate of application under the pre-amended Act, section 252—
  - (a) a replacement certificate of application for the application must be given to the applicant; and
  - (b) the provisions applying under the pre-amended Act to an application for, and granting of, a mining lease, starting

with pre-amended Act, section 252, must be complied with as if none of the provisions had previously been complied with in relation to the application.

- (6) If the application is granted, a person must not enter the relevant land to carry out an authorised activity for the mining lease unless the owner for the relevant land has given written consent to the mining lease holder to carry out the activity.
- (7) The consent may be given on conditions.
- (8) The conditions of the consent are taken to be conditions of the mining lease.
- (9) The consent can not be withdrawn during the period stated in the consent as the period during which the holder may enter the relevant land.
- (10) In this section—

***commencement*** means the commencement of this section.

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

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

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

*Editor's note—*

Legislation ultimately amended—

- *Mineral Resources Act 1989*

**3 Clause 15 (Insertion of new s 186)**

Page 53, lines 30 to 32—

*omit, insert—*

subsection (2) to the chief executive.

**4 Clause 22 (Insertion of new s 2A)**

Page 56, line 29, '(1)(a) to (d)'—

*omit, insert—*

(1)(a) to (e)

**5 Clause 24 (Amendment of s 5 (Membership of trust))**

Page 59, lines 7 to 35—

*omit, insert—*

are appointed by the Governor in Council and who—

(a) must include 1 or more councillors, as stated in the regulation, of each constituent local government for the trust, nominated by the constituent local government; and

(b) may include—

(i) persons nominated by other entities stated in the regulation as being entities entitled to nominate members for the trust; and

(ii) persons nominated by the Minister.

(1B) The regulation establishing a trust as a trust under subsection (1A)—

(a) may provide that the members of the trust are to be known as directors or another term stated in the regulation; and

- (b) if there are 2 or more constituent local governments for the trust—is not required to state the same number of councillors for nomination by each local government.

**6 Clause 24 (Amendment of s 5 (Membership of trust))**

Page 60, before line 1—

*insert—*

- (1A) Section 5(2), after ‘for a trust’—

*insert—*

established under subsection (1)

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

Page 60, lines 18 to 22—

*omit, insert—*

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

**8 After clause 25—**

Page 60, before line 23—

*insert—*

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

Section 5C—

*insert—*

- (3) Further, a person is not eligible to be appointed as a member of a trust by the

Governor in Council under section 5(1A)(a) if the person's term of office as a councillor of the constituent local government that nominated the person has ended or the office has otherwise become vacant.

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

Page 61, line 27, '5(1A)(b)'—

*omit, insert—*

5(1A)(b)(ii)

**10 Clause 35 (Replacement of s 7 (Trusts are bodies corporate))**

Page 64, lines 20 and 21—

*omit, insert—*

(b) may sue and be sued in its corporate name.

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

Page 76, lines 20 to 26—

*omit, insert—*

(5) Section 14(3) to (6)—

*omit.*

**12 Clause 51 (Amendment of sch 1 (Dictionary))**

Page 80, after line 23—

*insert—*

(2A) Schedule 1, definition *councillor*, after 'schedule 4'—

*insert—*

or the *City of Brisbane Act 2010*, schedule 1

**13 Clause 65 (Insertion of new s 6)**

Page 89, lines 14 to 17—

*omit, insert—*

subsection (2)—

- (a) a different size for the garden;
- (b) a volume of water sufficient to water a different size garden.

**14 Clause 68 (Insertion of new ch 2)**

Page 93, lines 13 and 14 ‘(the *first notice*)’—

*omit.*

**15 Clause 68 (Insertion of new ch 2)**

Page 93, lines 26 to 31 and page 94, lines 1 to 4—

*omit, insert—*

- (4) The notice remains in force for the period of not more than one year stated in the notice.
- (5) Nothing prevents the Minister from acting under this section a second or subsequent time.
- (6) The notice is subordinate legislation.
- (7) A person must not take or interfere with water in contravention of the notice.

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

**16 Clause 68 (Insertion of new ch 2)**

Page 94, lines 13 to 26—

*omit, insert—*

may, by publishing a notice do the following—

- (a) limit the water that may be taken under a water entitlement, water permit or seasonal water assignment notice;
- (b) limit the water that may be taken under part 3, division 1, subdivision 2.

**17 Clause 68 (Insertion of new ch 2)**

Page 95, lines 1 to 8—

*omit, insert—*

- (3) The notice remains in force for the period of not more than one year stated in the notice.
- (4) Nothing prevents the chief executive from acting under this section a second or subsequent time.
- (5) A person must not take water in contravention of the notice.

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

**18 Clause 68 (Insertion of new ch 2)**

Page 118, lines 15 to 18—

*omit, insert—*

- (d) anything else the chief executive considers necessary for implementing the water plan.

**19 Clause 68 (Insertion of new ch 2)**

Page 122, line 11, ‘existing water entitlement holders’—

*omit, insert—*

proposed water allocation holders

**20 Clause 68 (Insertion of new ch 2)**

Page 135, lines 8 and 9, ‘or regulation’—

*omit.*

**21 Clause 68 (Insertion of new ch 2)**

Page 135, lines 22 and 23—

*omit, insert—*

contaminated agricultural run-off.

**22 Clause 68 (Insertion of new ch 2)**

Page 136, lines 4 to 6—

*omit, insert—*

Commonwealth to collect monitoring data.

**23 Clause 68 (Insertion of new ch 2)**

Page 137, lines 3 to 14—

*omit, insert—*

**96 Land owners may take water for stock or domestic purposes**

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



(4) In this section—

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

**24 Clause 68 (Insertion of new ch 2)**

Page 138, lines 3 and 4—

*omit, insert—*

environmental authority or development permit;  
and

(b) the environmental authority or development permit was granted

**25 Clause 68 (Insertion of new ch 2)**

Page 140, line 11, ‘limited’—

*omit, insert—*

**altered or limited**

**26 Clause 68 (Insertion of new ch 2)**

Page 140, line 13, ‘A person’—

*omit, insert—*

(1) A person

**27 Clause 68 (Insertion of new ch 2)**

Page 140, line 24—

*omit, insert—*

watercourse or lake;

(e) take or interfere with water from a designated watercourse.

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

**28 Clause 68 (Insertion of new ch 2)**

Page 141, lines 22 to 31 and page 142, lines 1 to 9—

*omit, insert—*

An owner of land may take water from a

**29 Clause 68 (Insertion of new ch 2)**

Page 143, lines 20 and 21—

*omit, insert—*

- (j) the holder of, or applicant for, a pipeline licence or petroleum facility licence under the Petroleum and Gas Act;

**30 Clause 68 (Insertion of new ch 2)**

Page 144, line 18, ‘licences’—

*omit, insert—*

licence

**31 Clause 68 (Insertion of new ch 2)**

Page 150, line 34, ‘granting’—

*omit, insert—*

deciding

**32 Clause 68 (Insertion of new ch 2)**

Page 159, lines 2 and 3, ‘mentioned in section 121(3)(a)’—

*omit, insert—*

for a seasonal water assignment of a licence

**33 Clause 68 (Insertion of new ch 2)**

Page 173, line 19, ‘the allocation’—

*omit, insert—*

a water allocation

**34 Clause 68 (Insertion of new ch 2)**

Page 173, lines 24 to 28—

*omit, insert—*

- (2) The chief executive must—
  - (a) amend the water allocation in accordance with the plan or the change; and
  - (b) within 30 days from the day the amendment takes effect, give the allocation holder a notice about the amendment.

**35 Clause 68 (Insertion of new ch 2)**

Page 175, lines 12 to 23—

*omit, insert—*

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

- (ii) the flow conditions under which water under the allocation may be taken.

**36 Clause 68 (Insertion of new ch 2)**

Page 182, line 26, after 'licence'—

*insert—*

which may be given with or without conditions

**37 Clause 68 (Insertion of new ch 2)**

Page 183, lines 4 and 5—

*omit, insert—*

- (4) However, the chief executive's liability for fees under subsection (3) is limited to fees that arise from holding the allocation after surrender and does not include exit or termination fees.
- (5) If a water allocation is surrendered, the chief executive may, subject to any conditions under subsection (2)—

**38 Clause 68 (Insertion of new ch 2)**

Page 213, after line 31—

*insert—*

- (3) For subsection (2)(b), the holder does not submit sufficient information unless the information includes—
  - (a) if a resource operations licence holder is preparing the operations manual and there is a related distribution operations licence—details of the impact on the distribution operations licence holder; or
  - (b) if a distribution operations licence holder is preparing the operations manual and there is a related resource operations

licence—details of the impact on the resource operations licence holder.

**39 Clause 68 (Insertion of new ch 2)**

Page 215, line 3, after ‘panel’—

insert—

together with the information provided to the chief executive under section 197(2)(b)

**40 Clause 68 (Insertion of new ch 2)**

Page 227, lines 14 to 20—

*omit.*

**41 Clause 68 (Insertion of new ch 2)**

Page 227, line 21, ‘(i)’—

*omit, insert—*

(h)

**42 Clause 68 (Insertion of new ch 2)**

Page 227, line 26, ‘(j)’—

*omit, insert—*

(i)

**43 Clause 68 (Insertion of new ch 2)**

Page 233, lines 24 to 28—

*omit.*

**44 Clause 68 (Insertion of new ch 2)**

Page 235, lines 3 to 18—

*omit, insert—*

- (2) Subsection (1) does not stop the chief executive from considering other matters relevant to the removal of the quarry material.

**45 Clause 81 (Insertion of new ss 370A and 370B)**

Page 253, line 19, after ‘chief executive’—

*insert—*

within 10 business days

**46 Clause 171 (Amendment of s 808 (Unauthorised taking, supplying or interfering with water))**

Page 293, after line 2—

*insert—*

- (3) Section 808(2)(a)—

*omit, insert—*

- (a) under this or another Act; or

*Note—*

See also the Mineral Resources Act, section 334ZR (Authorisation for Water Act) and the Petroleum and Gas (Production and Safety) Act 2004, sections 188 and 196 (Authorisation for Water Act).

**47 Clause 181 (Amendment of s 992G (Definitions for pt 3C))**

Page 306, line 26, ‘IQATLAS.QLD\_GENPUR\_DR’—

*omit, insert—*

IQ\_QLD\_DRNBASIN\_100K

**48 Clause 188 (Replacement of s 1009 (Public inspection and purchase of documents))**

Page 314, after line 29—

*insert—*

- (la) each water development option;

**49 Clause 193 (Amendment of s 1014 (Regulation-making power))**

Page 319, lines 10 and 11—

*omit, insert—*

Section 1014(2)(ga), (gb), (gc) and (h)—

*omit, insert—*

- (f) prescribe processes for dealings with water licences; and
- (g) state the effect of land dealings, or acquisition of land, on water licences; and

**50 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 321, lines 17 to 24—

*omit, insert—*

- (a) the Minister has published a notice about a draft or amending water resource plan for public consultation; or
- (b) the chief executive has published a notice about a draft or amending resource operations plan for public consultation.

**51 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 326, after line 6—

*insert—*

**1256A Deciding application for water licence under section 113**

- (1) Subsection (2) applies if—
  - (a) the chief executive is deciding an application for a water licence under section 113; and

(b) a water resource plan continued in force under section 1256(2) and (3) would apply to any water licence granted.

(2) The reference to the water plan in section 113(a) is taken to include a reference to the water resource plan continued in force.

**52 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 327, line 2, after ‘or are included in,’—

*insert—*

**or to be read and construed with,**

**53 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 327, lines 20 to 33—

*omit, insert—*

(e) if section 1264 applies—cease to have effect for the resource operations plan but are taken to have effect for the purposes of the water plan (previously the water resources plan) the provisions were implementing and, for those purposes, are to be read and construed with the water plan, with necessary changes; or

(f) if they are not taken to be an operations manual mentioned in paragraph (b) or taken to be included in a document mentioned in paragraphs (a), (c) or (d) or otherwise provided for under paragraph (e) and, under the amended Act, the provisions of the plan deal with a matter that is relevant to the usual content of a water management protocol—are taken to be omitted from the



plan and to be a water management protocol; or

- (g) if they are not taken to be, or not taken to be included in, a document mentioned in paragraphs (a) to (d) or (f) or otherwise provided for under paragraph (e)—cease to have effect.

**54 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 328, line 12, ‘amending or replacement’—

*omit, insert—*

or amending

**55 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 328, line 19, after ‘draft’—

*insert—*

or amending

**56 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 328, after line 35—

*insert—*

- (7) Subsection (2)(e) continues to apply for the purposes of a water plan until the plan is amended to include provisions of the kind mentioned in section 1264.
- (8) An amendment of a water plan as mentioned in subsection (7) must include a declaration that it is made for the subsection.
- (9) On amendment of the water plan as mentioned in subsection (7)—

- (a) the provisions of the resource operations plan mentioned in section 1264 are taken to be omitted from the resource operations plan; and
  - (b) subsection (2)(e) ceases to have effect for the purposes of the water plan.
- (10) Section 51(1) does not apply to an amendment of a water plan under subsection (7).

**57 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 329, line 30, after 'licence'—

*insert—*

, other than the responsibilities of the holder under provisions mentioned in section 1261

**58 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 330, lines 4 and 5—

*omit, insert—*

provisions that are relevant to a water licence to take or interfere with water, including—

**59 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 330, lines 14 to 16—

*omit, insert—*

- (a) resource operations plan zones, including water management area zones and water supply scheme zones; or
- (b) water management areas, subcatchment areas or subartesian areas; or

**60 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 336, after line 29—

*insert—*

**1273A Application for reinstatement or replacement of particular water licences that expired under old ss 221 or 229 as previously in force or under the repealed Act**

- (1) This section applies in relation to the following licences (each an *expired licence*) if the licence expired (its *initial expiry*) without the holder of the licence being notified, in writing, by the chief executive of its impending expiry or within a reasonable time after its expiry—
  - (a) a water licence that expired before 1 July 2013 for which no application to renew or reinstate the licence was made under old section 220 or 221;
  - (b) a water licence that expired under section 229 as in force immediately before 24 November 2011;
  - (c) a licence that ceased to exist under the repealed Act, section 49.
- (2) An owner of land to which the expired licence attached may apply to the chief executive—
  - (a) for an expired licence mentioned in subsection (1)(a)—to reinstate the licence and make a validating declaration; or
  - (b) for an expired licence mentioned in subsection (1)(b) or (c)—to replace the licence and make a validating declaration.

- (3) If there is more than 1 owner of the land, or any part of the land, to which the expired licence attached, the owners may jointly apply to the chief executive to reinstate or replace the licence and make a validating declaration.
- (4) However, if there is more than 1 owner of the land, or any part of the land, to which the expired licence attached, an owner can not apply to the chief executive to reinstate or replace the licence unless the owner gives each other owner of the land or part of the land who is not a party to the application a copy of the application to reinstate or replace the licence and make a validating declaration.
- (5) An owner who is given a copy of the application under subsection (4) who wishes to join in the application to reinstate or replace the expired licence and make a validating declaration must apply to the chief executive to do so within 20 business days after receiving the copy of the application.
- (6) An application under this section must be—
  - (a) made to the chief executive in the approved form; and
  - (b) accompanied by the fee prescribed by regulation for an application for a dealing under section 122.
- (7) In deciding whether to grant or refuse the application, the chief executive must consider the application and the following—
  - (a) any water plan that would apply to the reinstated or replaced licence;
  - (b) the terms and conditions of the expired licence.

- (8) Section 114 applies to the chief executive's decision.
- (9) The chief executive may reinstate or replace the expired licence and make a validating declaration if—
  - (a) the chief executive is satisfied that it is appropriate to do so having regard to all of the circumstances surrounding its expiry; and
  - (b) the applicant pays any fees and charges, or part of any fee or charge, that would otherwise have been payable in relation to the licence from the day of its initial expiry until its reinstatement or replacement that are decided by the chief executive having regard to all of the circumstances.
- (10) If the chief executive makes a validating declaration, the reinstated water licence or the water licence replacing the expired licence is taken, for all purposes, to have been reinstated or replaced on the expiry of the expired licence.
- (11) To remove any doubt, it is declared that the chief executive may reinstate or replace the expired licence without making a validating declaration.
- (12) Chapter 2, part 3, division 2 does not apply to an application under this section except to the extent provided by this section.
- (13) In this section—  
***validating declaration***, for an expired licence, means a declaration having the effect mentioned in subsection (10).

**1273B Particular water licences taken to be in force from day of initial expiry**

- (1) This section applies to a water licence (*expired licence*) that, before the commencement—
  - (a) expired (its *initial expiry*) without the holder of the licence being notified, in writing, by the chief executive of its impending expiry or within a reasonable time after its initial expiry; and
  - (b) was later reinstated or replaced by another water licence (*new licence*) on application by the holder of the licence.
- (2) The holder of the new licence may request the chief executive to make a validating declaration in relation to the licence.
- (3) The chief executive may make the validating declaration if—
  - (a) the chief executive is satisfied that it is appropriate to do so having regard to all of the circumstances surrounding the initial expiry of the expired licence and the consequences of a failure to make the declaration on the applicant; and
  - (b) the applicant pays any fees and charges, or part of any fee or charge, that would have been payable in relation to the expired licence from its initial expiry until the grant of the new licence that are decided by the chief executive having regard to all of the circumstances.
- (4) If the chief executive makes the validating declaration, the new licence is taken, for all

purposes, to have been granted on the initial expiry of the expired licence.

(5) The chief executive must advise the holder of the chief executive's decision within 30 business days after making the decision.

(6) In this section—

*validating declaration*, for a new licence, means a declaration having the effect mentioned in subsection (4).

**61 Clause 201 (Amendment of ch 9 (Transitional provisions and repeals))**

Page 343, after line 24—

*insert—*

**1280A When reporting and monitoring requirements prescribed both by regulation and water planning instrument**

(1) Subsection (2) applies if, after the commencement—

(a) a regulation is made prescribing either of the following—

(i) the matters that must be included in the report prepared by the Minister about each water plan under section 49;

(ii) the requirements for the holders of resource operations licences and distribution operation licences in collecting and providing information to the chief executive; and

(b) there are provisions in a water planning instrument dealing with the same subject matter that are inconsistent

with the matters prescribed by the regulation.

- (2) The provisions of the water planning instrument prevail over the regulation to the extent of the inconsistency.

## **62 After clause 208**

Page 365, after line 21—

*insert—*

### **208A Replacement of s 149 (Return of things that have been seized)**

Section 149—

*omit, insert—*

#### **149 Return of seized things**

- (1) This section applies if a seized thing has some intrinsic value and is not forfeited.
- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply to the chief inspector for its return.
- (3) Within 30 days after receiving the application, the chief inspector must—
  - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner written notice of the decision, including the grounds for retaining the thing; or
  - (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.



- (5) Without limiting subsections (3) and (4), there are reasonable grounds for retaining the thing if—
- (a) the thing is being, or is likely to be, examined; or
  - (b) the thing is needed, or may be needed, for the purposes of—
    - (i) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that is likely to be started; or
    - (ii) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that has been started but not completed; or
    - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
  - (c) it is not lawful for the owner to possess the thing.

- (6) In this section—

*examine* includes analyse, test, measure, weigh, grade, gauge and identify.

*owner*, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.

**208B Amendment of pt 14, div 2, hdg (Appeals against chief inspector’s directives and review decisions)**

Part 14, division 2, heading, ‘review’—

*omit, insert—*

particular

**208C Amendment of s 243 (Who may appeal)**

- (1) Section 243(a) and (b)—  
*renumber* as section 243(b) and (c).
- (2) Section 243—  
*insert*—
  - (a) a decision of the chief inspector under section 149(3)(a) to retain a seized thing;

**208D Amendment of s 244 (How to start appeal)**

- (1) Section 244(2)(a) and (b)—  
*renumber* as section 244(2)(b) and (c).
- (2) Section 244(2)—  
*insert*—
  - (a) if the appeal is from a decision under section 149(3)(a) to retain a seized thing—the day the appellant receives the notice of the decision; or

**208E Amendment of s 248 (Powers of court on appeal)**

Section 248(1), ‘review’—  
*omit.*

**63 Clause 210 (Insertion of new pt 20, div 4)**

Page 366, line 14, ‘provision’—

*omit, insert*—

**and validation provisions**

**64 Clause 210 (Insertion of new pt 20, div 4)**

Page 367, after line 19—

*insert—*

### **304 Return of seized things**

- (1) New section 149 applies in relation to a thing seized under part 9 before the commencement that, on the commencement, is still seized.
- (2) If, at any time before the commencement, a thing seized under part 9 was not returned to its owner within the time required under old section 149—
  - (a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 149; and
  - (b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the thing in contravention of old section 149.
- (3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.
- (4) In this section—

*new section 149* means section 149 as in force from the commencement.

*old section 149* means section 149 as in force from time to time before the commencement.

### **65 After clause 212**

Page 369, after line 10—

*insert—*

## **Division 1A    Amendment of Explosives Act 1999**

### **212A Act amended**

This division amends the *Explosives Act 1999*.

### **212B Replacement of s 95 (Return of seized things)**

Section 95—

*omit, insert—*

#### **95 Return of seized things**

- (1) This section applies to a thing that—
  - (a) has been seized under this part, other than in the course of dealing with a dangerous situation; and
  - (b) has some intrinsic value; and
  - (c) is not forfeited to the State.
- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply to the chief inspector for its return.
- (3) Within 30 days after receiving the application, the chief inspector must—
  - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner an information notice for the decision; or
  - (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.

- (5) Without limiting subsections (3) and (4), there are reasonable grounds for retaining the thing if—
- (a) the thing is being, or is likely to be, examined; or
  - (b) the thing is needed, or may be needed, for the purposes of—
    - (i) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that is likely to be started; or
    - (ii) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that has been started but not completed; or
    - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
  - (c) it is not lawful for the owner to possess the thing.
- (6) In this section—
- examine* includes analyse, test, measure, weigh, grade, gauge and identify.
- owner*, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.

**212C Amendment of s 111 (Application for external review)**

Section 111—

*insert—*

- (5) An owner of a seized thing who is given an information notice under section 95(3)(a)

for a decision to retain the thing may apply, as provided under the QCAT Act, for an external review of the decision.

## **212D Insertion of new pt 10, div 4**

Part 10—

*insert—*

### **Division 4      Transitional and validation provision for Water Reform and Other Legislation Amendment Act 2014**

#### **146 Return of seized things**

- (1) New section 95 applies in relation to a thing seized under part 6 before the commencement that, on the commencement, is still seized.
- (2) If, at any time before the commencement, a thing seized under part 6 was not returned to its owner within the time required under old section 95—
  - (a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 95; and
  - (b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the thing in contravention of old section 95.
- (3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.
- (4) In this section—

*new section 95* means section 95 as in force from the commencement.

*old section 95* means section 95 as in force from time to time before the commencement.

**66 Clause 215 (Amendment of s 175 (Application of div 4))**

Page 369, line 22—

*omit, insert—*

Section 175—

**67 After clause 216**

Page 370, after line 9—

*insert—*

**216A Replacement of s 146 (Return of things that have been seized)**

Section 146—

*omit, insert—*

**146 Return of seized things**

- (1) This section applies if a seized thing has some intrinsic value and is not forfeited.
- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner may apply to the chief inspector for its return.
- (3) Within 30 days after receiving the application, the chief inspector must—
  - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner written notice of the decision, including the grounds for retaining the thing; or

- (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.
- (5) Without limiting subsections (2) and (3), there are reasonable grounds for retaining the thing if—
  - (a) the thing is being, or is likely to be, examined; or
  - (b) the thing is needed, or may be needed, for the purposes of—
    - (i) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that is likely to be started; or
    - (ii) an investigation, board of inquiry, coroner’s inquest or proceeding for an offence against this Act that has been started but not completed; or
    - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
  - (c) it is not lawful for the owner to possess the thing.
- (6) In this section—

***examine*** includes analyse, test, measure, weigh, grade, gauge and identify.

***owner***, of a seized thing, includes a person who would be entitled to possession of the thing had it not been seized.



**216B Amendment of pt 13, div 2, hdg (Appeals against chief inspector's directives and review decisions)**

Part 13, division 2, heading, 'review'—

*omit, insert*—

particular

**216C Amendment of s 223 (Who may appeal)**

(1) Section 223(a) and (b)—

*renumber* as section 223(b) and (c).

(2) Section 223—

*insert*—

- (a) a decision of the chief inspector under section 146(3)(a) to retain a seized thing;

**216D Amendment of s 224 (How to start appeal)**

(1) Section 224(2)(a) and (b)—

*renumber* as section 224(2)(b) and (c).

(2) Section 224(2)—

*insert*—

- (a) if the appeal is from a decision under section 146(3)(a) to retain a seized thing—the day the appellant receives the notice of the decision; or

**216E Amendment of s 226 (Hearing procedures)**

Section 226(2), 'review'—

*omit.*

**216F Amendment of s 228 (Powers of court on appeal)**

Section 228(1), 'review'—

*omit.*

**68 After clause 217**

Page 370, after line 26—

*insert—*

**217A Insertion of new pt 20, div 3**

Part 20—

*insert—*

**Division 3 Transitional and validation provision for Water Reform and Other Legislation Amendment Act 2014**

**280 Return of seized things**

- (1) New section 146 applies in relation to a thing seized under part 9 before the commencement that, on the commencement, is still seized.
- (2) If, at any time before the commencement, a thing seized under part 9 was not returned to its owner within the time required under old section 146—
  - (a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 146; and
  - (b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the

thing in contravention of old section 146.

(3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.

(4) In this section—

*new section 146* means section 146 as in force from the commencement.

*old section 146* means section 146 as in force from time to time before the commencement.

**69 After clause 217**

Page 370, after line 26—

*insert—*

**Division 3A      Amendment of Petroleum  
Act 1923**

**217B Act amended**

This division amends the *Petroleum Act 1923*.

**217C Amendment of s 2 (Definitions)**

Section 2, definition *safety management plan*,  
'plan'—

*omit, insert—*

*system*

**217D Amendment of s 76R (Restriction)**

Section 76R(1)(a)—

*omit, insert—*

- (a) the mining lease holder has agreed in writing to the carrying out of the activity and to the joint interaction management plan developed by the site senior executive and the authority holder; and

**217E Amendment of s 76V (Content requirements for CSG statement)**

- (1) Section 76V(1)(b) and (2), ‘safety management plan’—

*omit, insert—*

safety management system

- (2) Section 76V(2), ‘sections 388 and 675’—

*omit, insert—*

sections 675 and 705C

**217F Amendment of s 76W (Applicant’s obligations)**

Section 76W(1)(b) and (d), ‘safety management plan’—

*omit, insert—*

safety management system

**217G Amendment of s 77 (Submissions by coal or oil shale exploration tenement holder)**

Section 77(3)(d), ‘safety management plan’—

*omit, insert—*

safety management system

**217H Amendment of s 77T (Requirements for making application)**

Section 77T(2), ‘safety management plan’—

*omit, insert—*

safety management system

**217I Amendment of s 78CI (Statement about interests of overlapping tenure holder)**

(1) Section 78CI(b), ‘safety management plan’—

*omit, insert—*

safety management system

(2) Section 78CI(c), ‘plans’—

*omit, insert—*

plan or system

**217J Amendment of pt 6FA, div 4, sdiv 1, hdg**

Part 6FA, division 4, subdivision 1, heading, ‘safety management plans’—

*omit, insert—*

**safety management systems**

**217K Amendment of s 78CK (Requirements for consultation with particular overlapping tenure holders)**

Section 78CK(4), (5), (7) and (8), ‘plan’—

*omit, insert—*

system

**217L Amendment of s 78CL (Application of 2004 Act provisions for resolving disputes about reasonableness of proposed provision)**

- (1) Section 78CL(1), ‘safety management plan’—  
*omit, insert—*  
safety management system
- (2) Section 78CL(2) and editor’s note—  
*omit, insert—*
  - (2) Either party to the dispute may refer it to the chief inspector to decide whether the proposed provision is reasonable.
  - (3) The referral must be written and be lodged.
  - (4) Before deciding the dispute, the chief inspector must give each party a reasonable opportunity to lodge submissions about the dispute.
  - (5) The chief inspector’s decision binds each party to the dispute.
  - (6) The chief inspector must give each party an information notice about the decision.
  - (7) The chief inspector’s decision is not, of itself, evidence that a safety management system, or purported safety management system, for an operating plant complies with the 2004 Act, section 675.
  - (8) In this section—  
*chief inspector* means the person who, under the 2004 Act, section 735, holds appointment as the chief inspector, petroleum and gas.

**217M Amendment of s 177 (Obligation of lessee to give access to MDL holder)**

Section 177(2)(b)(ii), ‘safety management plan’—

*omit, insert—*

safety management system

**217N Amendment of schedule (Decisions subject to appeal)**

Schedule, under Common provisions—

*insert—*

78CL decision about whether proposed provision for safety management system is reasonable

**70 After clause 230**

Page 383, after line 15—

*insert—*

**230A Amendment of s 732 (Increase in maximum penalties in circumstances of aggravation)**

Section 732(1), ‘part 2, 4 or 6’—

*omit, insert—*

this chapter

**71 After clause 231**

Page 384, after line 4—

*insert—*

**231A Replacement of s 772 (Return of seized things)**

Section 772—

*omit, insert—*

**772 Return of seized things**

- (1) This section applies if a seized thing has some intrinsic value and is not forfeited.
- (2) If the thing is not returned to its owner within 1 year after it was seized, the owner

may apply to the chief inspector for its return.

- (3) Within 30 days after receiving the application, the chief inspector must—
  - (a) if the chief inspector is satisfied there are reasonable grounds for retaining the thing and decides to retain it—give the owner an information notice for the decision; or
  - (b) otherwise—return the thing to the owner.
- (4) If, at any time after the thing was seized, the chief inspector stops being satisfied there are reasonable grounds for retaining it, the chief inspector must return it to its owner.
- (5) Without limiting subsections (3) and (4), there are reasonable grounds for retaining the thing if—
  - (a) the thing is being, or is likely to be, examined; or
  - (b) the thing is needed, or may be needed, for the purposes of—
    - (i) an investigation, board of inquiry, coroner's inquest or proceeding for an offence against this Act that is likely to be started; or
    - (ii) an investigation, board of inquiry, coroner's inquest or proceeding for an offence against this Act that has been started but not completed; or
    - (iii) an appeal from a decision in a proceeding for an offence against this Act; or
  - (c) it is not lawful for the owner to possess the thing.



- (6) In this section—  
*examine* includes analyse, test, measure, weigh, grade, gauge and identify.

**72 Amendment of clause 233 (Amendment of s 837 (Offences under Act are summary))**

Page 384, line 23, ‘8 or 9’—

*omit, insert*—

8, 9 or 10

**73 Clause 234 (Insertion of new ch 15, pt 19)**

Page 385, line 8, ‘provision’—

*omit, insert*—

**and validation provisions**

**74 Clause 234 (Insertion of new ch 15, pt 19)**

Page 386, after line 16—

*insert*—

**991 Return of seized things**

- (1) New section 772 applies in relation to a thing seized under chapter 10, part 1 before the commencement that, on the commencement, is still seized.
- (2) If, at any time before the commencement, a thing seized under chapter 10, part 1 was not returned to its owner within the time required under old section 772—
  - (a) the retention of the thing is taken to have been as lawful as it would have been apart from the non-compliance with old section 772; and

- (b) the State is not liable to pay compensation, and does not incur any other liability, for the retention of the thing in contravention of old section 772.
- (3) Subsection (2) applies for all purposes including a legal proceeding started before the commencement.
- (4) In this section—  
*new section 772* means section 772 as in force from the commencement.  
*old section 772* means section 772 as in force from time to time before the commencement.

**75 Clause 235 (Amendment of sch 1 (Reviews and appeals))**

Page 386, before line 22—

*insert—*

- (3) Schedule 1, table 1, entry for section 772(1)(c)—  
*omit, insert—*

772(3)(a) Decision to retain a seized thing

**76 Schedule 1 (Minor or consequential amendments of particular legislation)**

Page 404, after line 13—

*insert—*

**Survey and Mapping  
Infrastructure Act 2003**

- 1 Section 70(2), ‘declared under the Water Act 2000, section 1006(1)’—**

*omit, insert—*

identified on the watercourse identification map under the *Water Act 2000*

**77 Schedule 1 (Minor or consequential amendments of particular legislation)**

Page 412, line 10, ‘grated’—

*omit, insert—*

granted

**78 Schedule 1 (Minor or consequential amendments of particular legislation)**

Page 413, after line 17—

*insert—*

**3A Schedule 3, part 2, table 4, item (1)(a)(i), ‘part 2, division 1A’—**

*omit, insert—*

part 3, division 1

**79 Schedule 2 (Amendment of Water Resource Plans)**

Page 417, after line 3—

*insert—*

**2 Section 41—**

*omit, insert—*

**41 Taking water for stock or domestic purposes**

- (1) For section 20A(5) of the Act, an owner of land may take water from a watercourse, lake or spring in the plan area—
  - (a) if the taking is from a watercourse within the Barker Barambah, Boyne River and Tarong, Bundaberg, Three Moon Creek or Upper Burnett Water

Supply Schemes—only by using existing stock or domestic works; or

(b) if paragraph (a) does not apply—in any way.

(2) In subsection (1)—

*existing stock or domestic works*, in relation to an owner of land, means works that are in place at the commencement of this section and had been used by the owner, before the commencement, to take water from a watercourse within the Barker Barambah, Boyne River and Tarong, Bundaberg, Three Moon Creek or Upper Burnett Water Supply Schemes for stock or domestic purposes on the owner's land.

## 80 Long title

Long title, from 'the *Mineral and Energy Resources (Common Provisions) Act 2014*' to 'the *River Improvement Trust Act 1940*'—

*omit, insert—*

***the Explosives Act 1999, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral Resources Act 1989, the Mineral Resources Regulation 2013, the Mining and Quarrying Safety and Health Act 1999, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the River Improvement Trust Act 1940, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the Sustainable Planning Act 2009***

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