

Queensland



# MARINE PARKS ACT 1982

**Reprinted as in force on 26 September 1996  
(includes amendments up to Act No. 58 of 1995)**

**Reprint No. 1A \***

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\* Minor differences in style between this reprint and another reprint with the same number are due to the conversion to another software program. The content has not changed.

# Information about this reprint

This Act is reprinted as at 26 September 1996. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

# Queensland



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# MARINE PARKS ACT 1982

[as amended by all amendments that commenced on or before 26 September 1996]

## **An Act to provide for the setting apart of tidal lands and tidal waters as marine parks and for related purposes**

### **1 Short title**

This Act may be cited as the *Marine Parks Act 1982*.

### **2 Commencement**

(1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as is provided in subsection (1), the several provisions of this Act shall commence on the day or days appointed by proclamation in respect of the provision or provisions specified therein.

### **9 Definitions**

(1) In this Act—

“**animals**” includes—

- (a) spat, spawn, eggs and parts of eggs; and
- (b) the skin, feathers, shell or other part of an animal.

“**chief executive**” means the chief executive of the department.

“**fee**” includes tax.

“**inspector**” means a person appointed as an inspector for the purposes of this Act.

“**marine park**” means an area set apart and declared under this Act as a marine park.

“**marine products**” includes oyster, pearl oyster, trochus, green snail, coral, coral limestone, shell-grit and star sand and—

- (a) all forms of indigenous plants and animals; and
- (b) aboriginal remains, artefacts or handicraft or traces thereof; and
- (c) wrecks, relics or traces thereof; and
- (d) all other material of which tidal land in a marine park consists.

“**plants**” includes fungi, seeds and parts of plants.

“**public authority**” means any department of the Government, any local government and any body or person constituted by or under an Act.

“**public notice**” means a notice published—

- (a) in the Gazette; and
- (b) in a newspaper that circulates throughout Queensland.

“**take**” means, in relation to marine products, remove, gather, catch, capture, kill, destroy, dredge for, raise, carry away, bring ashore, land from a vessel or otherwise or remove from a natural environment and attempt or permit any such act.

“**tidal land**” means land that is submerged at any time by tidal waters.

“**tidal waters**” means Queensland waters that are subject to tidal influence.

## **10 Operation of Act**

This Act binds the Crown.

## **11 Functions of chief executive**

(1) The functions of the chief executive under this Act are—

- (a) to assess the suitability of tidal waters and tidal land for setting apart and declaration as marine park under this Act; and
- (b) to recommend to the Minister with respect to—
  - (i) areas that should be set apart and declared as marine park;
  - (ii) marine parks that have been set apart and declared, whether under this Act or the *Fisheries Act 1994*, and their management and control;

- (iii) regulations that should be made under this Act in relation to marine parks or any of them; and
- (c) to prepare proposals for submission to the Minister with respect to the setting apart and declaration of marine parks or with respect to the revocation of the setting apart and declaration of any marine park; and
- (d) to prepare a zoning plan in respect of each area set apart and declared as a marine park; and
- (e) to undertake or to arrange for the undertaking of the management and control of marine parks; and
- (f) to do any act or thing that is incidental to the discharge of any of the foregoing functions or that is calculated to aid the proper discharge of any of those functions.

(2) In the discharge of the chief executive's functions under this Act the chief executive shall comply with the provisions of this Act and of relevant regulations made under this Act.

## **12 Definition of areas of interest**

(1) The Minister may define an area of interest for declaration as a marine park and, by public notice, publish particulars of the area so defined and invite submissions from members of the public or of interested groups concerning—

- (a) the suitability of the area for the purposes of a marine park; and
- (b) the desirability of declaring a marine park in respect of the area; and
- (c) the appropriate boundaries of any marine park declared in respect of the area; and
- (d) the zoning requirements appropriate to any marine park declared in respect of the area; and
- (e) the appropriate provisions for management of any marine park declared in respect of the area and of any zones of that park.

(2) All submissions offered in response to a public notice shall be made to the chief executive and shall be made within the time limited by the public notice that invites them.

### **13 Consideration of public submissions**

(1) The chief executive shall consider every submission duly made in response to a public notice published under section 12 and shall report thereon to the Minister.

(2) The chief executive shall, as soon as practicable—

- (a) prepare a proposal for a marine park to be declared in respect of the area to which the public notice relates; or
- (b) recommend to the Minister that a marine park be not declared in respect of the area to which the public notice relates.

### **14 Proposal for marine park**

(1) A proposal by the chief executive that a marine park should be declared shall include—

- (a) the name, number or other identifying designation proposed to be assigned to the park;
- (b) particulars of the proposed external boundaries of the park defined by means of a map or an appropriate description;
- (c) the reasons on which the proposal is based.

(2) In preparing a proposal the chief executive shall have regard to the needs of conservation of, research in and reasonable use and enjoyment by persons of the area to which the proposal relates.

### **15 Constituents of marine parks**

Where an area is set apart and declared by regulation under this Act as a marine park—

- (a) tidal waters within the area; and
- (b) tidal land within the area; and
- (c) the subsoil beneath such tidal land, to a depth below the surface as specified in the regulation; and
- (d) the airspace above the area, to a height above the surface as specified in the regulation; and
- (e) all marine products within the area;



shall be taken to be in the marine park and, for the purposes of this Act, part of the area.

## **16 Declaration of marine parks**

The Governor in Council may, by regulation, set apart and declare an area of tidal waters or tidal land to be a marine park.

## **17 Zoning plans**

(1) A zoning plan made by the chief executive for a marine park—

- (a) may provide that the park shall consist of a single zone or shall be divided into 2 or more zones;
- (b) where the park is to be divided into 2 or more zones, shall define each zone by means of a map or an appropriate description;
- (c) shall assign a name or other identifying designation to the single zone or to each of the zones of which the park consists;
- (d) shall provide for the purpose or purposes for which each zone of the park shall be entered or used or may be entered or used.

(2) Provision that a zoning plan may make with respect to a marine park or any zone thereof includes—

- (a) provision by way of regulation;
- (b) provision by way of prohibition;
- (c) provision by way of a penalty for any contravention of or failure to comply with any provision of the plan not exceeding 100 penalty units and, in addition, where the offence is a continuing one, a daily penalty not exceeding 20 penalty units;
- (d) provision for the seizure and forfeiture of any thing taken or had in possession or used in connection with taking or having in possession any thing or in connection with entering any area in contravention of any provision of the plan.

(3) Any contravention of or failure to comply with a provision of a zoning plan that is for the time being approved by the Governor in Council under this Act shall constitute an offence against this Act.

(4) A zoning plan is subordinate legislation and does not have effect until it is approved by the Governor in Council.

## **20 Public authorities to observe zoning plans**

(1) Where a zoning plan for the time being in force in respect of an area set apart and declared as a marine park prohibits or regulates the doing or any act that may be done by a public authority in discharge of its functions or in the exercise of its powers that act shall not be done by or on behalf of the public authority within or in respect of that area except—

- (a) in the case of prohibition—with the approval of the Minister first had and obtained and in accordance with the conditions (if any) to which the Minister’s approval is subject; or
- (b) in the case of regulation—in accordance with the provisions of the zoning plan.

## **21 Amalgamation and naming of marine parks**

The Governor in Council—

- (a) by the regulation setting apart and declaring an area as marine park may amalgamate that park and any existing marine park;
- (b) by regulation—
  - (i) may amalgamate contiguous marine parks; or
  - (ii) may amalgamate marine parks even though they are not contiguous; or
  - (iii) may assign to a marine park a name and vary an assigned name or assign another name in lieu thereof.

## **22 Revocation of marine parks**

(1). The Governor in Council may, by regulation, revoke the setting apart and declaration of a marine park in whole or part.

(2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 14 sitting days’ notice has been given, passed a resolution requesting the Governor in Council to make the revocation.

## **23 Chief executive’s powers re marine parks**

(1) The chief executive may—

- (a) undertake or cause to be undertaken within a marine park, such works as the chief executive considers necessary or desirable,

having regard to the relevant zoning plan, for the conservation, proper management or, as the case may be, public enjoyment of the park or of any zone thereof; and

- (b) make arrangements for anything that the chief executive is required or authorised by this Act to do to be done by any officer of or person employed by a department of the Government, any local government, any body or person constituted by or under any Act, any police officers or other persons nominated by the chief executive; and
- (c) accept gifts, devises and bequests of property to be applied for the purposes of marine park, whether in existence at the material time or not; and
- (d) do any thing incidental to the proper discharge of the chief executive's functions under this Act.

(2) Where works such as are referred to in subsection (1)(a) are undertaken, by the chief executive or any other person by arrangement with chief executive, the chief executive shall ensure that they are undertaken and carried out in such a manner as will least disturb or mar the natural condition of the marine park concerned.

(3) Where arrangements such as are referred to in subsection (1)(b) are made an officer or other person referred to in that paragraph authorised by the chief executive is authorised to enter upon an area set apart and declared as a marine park and do therein or in respect thereof anything to which the arrangements relate.

## **24 Unlawful use of expression “marine park”**

(1) A person—

- (a) shall not publish a statement or advertisement, oral or written; or
- (b) shall not in Queensland do any act or take any step to cause the publication outside Queensland of a statement or advertisement;

which statement or advertisement—

- (c) is calculated to promote the use of or a transaction concerning any land or waters in or adjacent to Queensland; and
- (d) includes the expression ‘marine park’ used in relation to such land or waters or part thereof either alone or in combination with any other expression;

unless such land, waters or, as the case may be, part in relation to which the expression is used is or are part of a marine park.

(2) Where a statement or advertisement purports to have been published by a particular person, that person shall be taken to have published the statement or advertisement until the contrary is proved.

(3) It is a defence to a charge of an offence that consists partly of the doing of an act or taking a step referred to in subsection (1)(b) to prove that the statement or advertisement was not published.

(4) For the purposes of this section a statement or advertisement shall be taken to be published if—

- (a) it is printed in a newspaper, magazine or other publication; or
- (b) it is publicly exhibited—
  - (i) in, on, over or under a vehicle, vessel, building, land or other place of any kind; or
  - (ii) in the air so as to be seen by any person who may be in or on any public place; or
- (c) it is contained in a document gratuitously sent or given to any person or thrown into or left upon premises occupied by any person; or
- (d) it is publicly announced or displayed by means of transmission of sound or light; or
- (e) being an oral statement, it is made by one person to another.

(5) This section shall not be construed to render liable for an offence defined in subsection (1) any person who publishes the statement or advertisement in question by reason only of the fact that—

- (a) the person is editor, printer or other person responsible for publishing a newspaper, magazine or similar publication or printing a document referred to in subsection (4)(c); or
- (b) the person is a person in charge of a means of transmission whereby the statement or advertisement was published.

## **25 Delegation**

(1) The Minister may delegate the Minister's powers under this Act to any person.

(2) The chief executive may delegate the chief executive's powers under this Act to any person.

## **26 General offence provision**

(1) A person who contravenes or fails to comply with a provision of this Act commits an offence against this Act.

(2) A person who—

- (a) fails to do that which the person is directed or required to do; or
- (b) does that which the person is forbidden to do;

by a person acting under the authority of this Act commits an offence against this Act.

(3) A person who commits an offence against this Act is liable, except where a specific penalty is otherwise provided—

- (a) in the case of an offence occurring within a marine park or in relation to anything within a marine park—to a penalty of 100 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 20 penalty units; or
- (b) in any other case, to a penalty of 50 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 10 penalty units.

(4) An offence against this Act is a summary offence.

(5) A proceeding for an offence under this Act may be started within—

- (a) 1 year after the offence is committed; or
- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

(6) A complaint alleging a continuing offence against this Act may allege the commission of the offence over a period of time specified in the complaint.

(7) Where a person is convicted of an offence against this Act the penalty to which the person is liable shall be in addition to any forfeiture that the person may have thereby incurred or that may be ordered in respect thereof under this Act.

## **27 Evidentiary provisions**

(1) This section applies to a proceeding for an offence against this Act.

(2) The appointment or power of an inspector must be presumed unless a party, by reasonable notice, requires proof of—

- (a) the appointment; or
- (b) the power to do anything under this Act.

(3) A signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the chief executive or an inspector and stating any of the following matters is evidence of the matters—

- (a) that a specified act or omission happened in a marine park;
- (b) anything else prescribed by regulation.

## **29 Protection from liability**

(1). In this section—

“**official**” means—

- (a) the chief executive; or
- (b) an officer or employee of the department; or
- (c) an inspector; or
- (d) a person helping an inspector at the inspector’s direction.

(2) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

## **30 Regulations**

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made for or about the following—

- (a) the preparation, implementation and enforcement of zoning plans;

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- (b) the preparation and implementation of management plans and programs of works for marine parks;
- (c) the manner in which any function, duty or power shall be discharged, performed or exercised for the purposes of this Act, pursuant to a delegation or otherwise;
- (d) the appointment of inspectors and honorary protectors for the purposes of this Act and their functions, duties and powers;
- (e) the conduct of persons within or in respect of marine parks;
- (f) the control of the taking of marine products from marine parks and, where such taking is permitted, the number and size thereof that may be taken;
- (g) the marking of boundaries of marine parks and of zones therein;
- (h) penalties in respect of any contravention of or failure to comply with the regulations or any direction given or requisition made under the regulations, not exceeding in any case an amount of 100 penalty units;
- (i) services and facilities in, or in connection with, marine parks;
- (j) the protection and preservation of marine parks and property and things therein;
- (k) the removal from marine parks of persons unlawfully therein or committing offences against this Act therein;
- (l) the safety of persons in marine parks;
- (m) the carrying on of any trade or commerce in marine parks;
- (n) fees and charges to be imposed upon persons using services or facilities provided in or in connection with marine parks;
- (o) the taking of animals or plants into or out of marine parks;
- (p) the taking into marine parks, and the use in marine parks, of weapons, traps, nets, snares, fishing apparatus and other devices;
- (q) the laying of baits and the use of explosives, poisons and other noxious substances in marine parks;
- (r) the collection of specimens and the pursuit of research in marine parks for scientific purposes;
- (s) the issue of licences, permits and authorities, the conditions subject to which, and the person or persons by whom, they are

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issued and the charging of fees in respect of such licences, permits and authorities.

(2) The power to make regulations does not extend to the making of regulations to control traffic in or over the waters of marine parks.

(3) To the extent that there is any inconsistency between a regulation made under this Act and the *Petroleum (Submerged Lands) Act 1982*, the *Petroleum (Submerged Lands) Act 1982* shall prevail.



## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 26 September 1996. Future amendments of the Marine Parks Act 1982 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 37 of 1994	31 March 1995

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Marine Parks Act 1982 No. 7**

date of assent 20 April 1982

ss 1–2 commenced on date of assent

remaining provisions commenced 29 May 1982 (proc pubd gaz 29 May 1982 p 874)

as amended by—

### **Marine Parks Act Amendment Act 1988 No. 14**

date of assent 7 April 1988

commenced on date of assent

### **Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 2**

date of assent 14 November 1990

commenced on date of assent

### **Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2**

date of assent 17 December 1991

commenced on date of assent

### **Nature Conservation Act 1992 No. 20 ss 1–2, 159 sch 2**

date of assent 22 May 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 December 1994 (1994 SL No. 472)

**Fisheries Act 1994 No. 37 ss 1–2, 244 sch 2**

date of assent 8 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 27 January 1995 (1995 SL No. 9)

**Environmental Legislation Amendment Act 1995 No. 40 pts 1, 3**

date of assent 27 October 1995

commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

## 7 List of annotations

**Long title** amd R1 (see RA s 39)**Repeals**

s 3 om R1 (see RA s 40)

**Amendments**

s 4 om R1 (see RA s 40)

**Continuation of existing marine parks**

s 5 om 1994 No. 37 s 244 sch 2

**Continuation of existing permits**

s 6 amd 1991 No. 97 s 3 sch 2

om 1994 No. 37 s 244 sch 2

**Revocation of permission or permit under Fisheries Act**

s 7 om 1994 No. 37 s 244 sch 2

**Continued application of existing law to existing marine parks**

s 8 om 1994 No. 37 s 244 sch 2

**Definitions**

prov hdg sub 1994 No. 37 s 244 sch 2

s 9 amd 1994 No. 37 s 244 sch 2

def “**chief executive**” ins 1992 No. 20 s 159 sch 2def “**coastal waters of Queensland**” om 1994 No. 37 s 244 sch 2def “**Director**” ins 1988 No. 14 s 2(a)

om 1992 No. 20 s 159 sch 2

def “**fee**” ins 1995 No. 40 s 11def “**Local Authority**” om R1 (see RA s 39)def “**marine park**” ins 1994 No. 37 s 244 sch 2def “**marine products**” amd 1994 No. 37 s 244 sch 2def “**Minister**” amd 1988 No. 14 s 2(b)

om 1991 No. 97 s 3 sch 2

def “**Queensland waters**” om 1994 No. 37 s 244 sch 2def “**The Co-ordinator-General**” om 1988 No. 14 s 2(c)

**Functions of chief executive****prov hdg** amd 1988 No. 14 s 3(a); 1992 No. 20 s 159 sch 2**s 11** amd 1988 No. 14 s 3(b)–(c); 1992 No. 20 s 159 sch 2; 1994 No. 37 s 244 sch 2**Definition of areas of interest****s 12** amd 1988 No. 14 s 4; 1992 No. 20 s 159 sch 2**Consideration of public submissions****s 13** amd 1988 No. 14 s 5; 1992 No. 20 s 159 sch 2**Proposal for marine park****s 14** amd 1988 No. 14 s 6; 1992 No. 20 s 159 sch 2**Constituents of marine parks****s 15** sub 1988 No. 14 s 7

amd 1994 No. 37 s 244 sch 2; 1995 No. 58 s 4 sch 1

**Declaration of marine parks****s 16** amd 1988 No. 14 s 8; 1992 No. 20 s 159 sch 2

sub 1994 No. 37 s 244 sch 2

**Zoning plans****s 17** sub 1988 No. 14 s 9

amd 1994 No. 37 s 244 sch 2

**Amendment etc. of zoning plans****s 18** sub 1988 No. 14 s 9

amd 1992 No. 20 s 159 sch 2

om 1994 No. 37 s 244 sch 2

**Approval of zoning plans etc.****s 19** sub 1988 No. 14 s 9

amd 1992 No. 20 s 159 sch 2

om 1994 No. 37 s 244 sch 2

**Public authorities to observe zoning plans****s 20** amd 1994 No. 37 s 244 sch 2**Amalgamation and naming of marine parks****s 21** amd 1994 No. 37 s 244 sch 2**Revocation of marine parks****s 22** sub 1994 No. 37 s 244 sch 2**Chief executive's powers re marine parks****prov hdg** amd 1988 No. 14 s 10(a); 1992 No. 20 s 159 sch 2**s 23** amd 1988 No. 14 s 10(b)–(d); 1992 No. 20 s 159 sch 2; 1994 No. 37 s 244 sch 2**Unlawful use of expression “marine park”****s 24** amd 1994 No. 37 s 244 sch 2**Delegation****s 25** sub 1988 No. 14 s 11

amd 1992 No. 20 s 159 sch 2

sub 1994 No. 37 s 244 sch 2

**Chief executive subject to direction of Minister**

- s 25A** ins 1988 No. 14 s 12  
amd 1992 No. 20 s 159 sch 2  
om 1994 No. 37 s 244 sch 2

**General offence provision**

- s 26** amd 1988 No. 14 s 13; 1994 No. 37 s 244 sch 2

**Evidentiary provisions**

- s 27** amd 1988 No. 14 s 14; 1992 No. 20 s 159 sch 2  
sub 1994 No. 37 s 244 sch 2

**Service of documents**

- s 28** om 1994 No. 37 s 244 sch 2

**Protection from liability**

- s 29** amd 1988 No. 14 s 15  
sub 1994 No. 37 s 244 sch 2

**Regulations**

- s 30** amd 1988 No. 14 s 16; 1990 No. 80 s 3 sch 2; 1992 No. 20 s 159 sch 2; 1994  
No. 37 s 244 sch 2; 1995 No. 58 s 4 sch 1

**Marine parks declared under Fisheries Act 1976**

- s 31** ins 1994 No. 37 s 244 sch 2  
exp 27 January 1995 (see s 31(2))

**SCHEDULE 1**

- om 1994 No. 37 s 244 sch 2

**SCHEDULE 2**

- om R1 (see RA s 40)