

Queensland



ANNO VICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

No. 41 of 1973

An Act to amend the Land Act 1962–1971 and other Acts
in certain particulars

[ASSENTED TO 26TH APRIL, 1973]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Land Act and Other Acts Amendment Act 1973*.

2. Arrangement of Act. This Act is divided into Parts as follows:—

PART I—PRELIMINARY;

PART II—AMENDMENT OF LAND ACT 1962–1971;

PART III—AMENDMENT OF FORESTRY ACT 1959–1971;

PART IV—AMENDMENT OF MINING ACT 1968–1971.

PART II—AMENDMENT OF LAND ACT 1962–1971

3. **Citation.** (1) The *Land Act* 1962–1971 is in this Part referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Land Act* 1962–1973.

4. **Amendment of s. 5.** Section 5 of the Principal Act is amended by, in the definition “public purposes”, inserting beneath the reference “Electrical works” the reference “Environmental parks”.

5. **Amendment of s. 334.** Section 334 is amended by adding the following subsection:—

“(5) In this section the expression “public purpose” does not include the purpose “environmental park”.”.

6. **New s. 334A.** The Principal Act is amended by inserting after section 334 the following section:—

“334A. **Reservations for environmental parks.** (1) The Governor in Council may from time to time by Order in Council reserve and set apart as environmental park any Crown land.

(2) Before the matter of the reservation and setting apart of land as environmental park is submitted to the Governor in Council the same shall be submitted to the Minister for Mines or other Minister of the Crown for the time being charged with the administration of the *Mining Act* 1968–1973 and his approval of the proposal shall be sought.

The recommendation of the Minister to whom the matter is so submitted (whether it be an approval of the proposal or not) shall be presented to the Governor in Council at the time when the matter of the reservation and setting apart of the land is submitted to him.

(3) The Minister shall cause notice of the reservation and setting apart of land as environmental park to be published at least once in at least one newspaper that circulates in the locality of the land so reserved.

(4) Land that is reserved and set apart as environmental park may, by Order in Council, be placed under the control of the Local Authority having jurisdiction in the Area within which the land is situated as trustee or under the control of some other trustee or trustees approved by the Governor in Council on the recommendation of the Minister.”.

7. **New s. 334B.** The Principal Act is amended by inserting after section 334A the following section:—

“334B. **Revocation of reservation of environmental park.** (1) The reservation and setting apart of an environmental park shall not be revoked in whole or in part save in accordance with a provision of this section.

(2) The Governor in Council may, on the recommendation of the Minister, by Order in Council exclude from an environmental park land that is required to be opened as a road for public use.

Any land so excluded shall become and be Crown land and may be dealt with as prescribed by law accordingly.

(3) Where the Governor in Council is satisfied that in the public interest land is required to be excluded from an environmental park for a purpose of any Act that is consistent with the preservation or improvement of the natural environment of the park or of the locality in which the park is situated, he may, on the recommendation of the Minister, by Order in Council exclude that land from the park.

Any land so excluded shall become and be Crown land and may be dealt with as prescribed by law in the manner that in the opinion of the Governor in Council is best calculated to achieve the purpose for which it was excluded from the park.

(4) The Minister may cause to be laid before the Legislative Assembly notice of a proposal that the reservation and setting apart of an environmental park be revoked in whole or in part.

Such a notice shall specify the extent of the proposed revocation and the purpose or purposes to which the land in question is to be put.

If the Legislative Assembly approves of the proposal by resolution on a motion of which not less than fourteen days' notice has been given the Governor in Council may by Order in Council revoke the reservation and setting apart of the environmental park to the extent specified in the proposal approved.

The land affected by such revocation shall become and be Crown land and may be dealt with as prescribed by law for the purpose or purposes specified in the proposal approved.”

8. Amendment of s. 338. Section 338 of the Principal Act is amended by adding the following subsection:—

“(3) **Notice boards.** It shall be the duty of the trustee or trustees of land reserved and set apart as environmental park to cause to be erected on suitable sites on or close to the boundaries of the reserve notices that indicate the existence of the park.

Such notices—

- (a) shall notify that entry on the park is subject to the provisions of the *Land Act* 1962–1973 (as amended from time to time) and to the by-laws or ordinances made in relation to the park, or as the case may require;
- (b) shall notify that persons who cause defacement of the park, or who interfere with flora, fauna or natural features of the park will be prosecuted;
- (c) shall be erected at the expense of the trustee or trustees save where the Minister directs to the contrary in which case the Minister is authorized to bear the whole or part of the expense as he thinks fit.”

9. New s. 339A. The Principal Act is amended by inserting after section 339 the following section:—

“**339A. Supervision of works in environmental parks.** Notwithstanding that land reserved and set apart as environmental park is placed under the control of a Local Authority as trustee or any other trustee, it shall be a condition of the trust affecting

the reserve that the trustee shall not perform or cause or permit to be performed within the park any work that would reasonably be considered to be defacement of the park unless his proposal so to do has first been submitted to the Minister and the Minister has approved in writing of the proposal.”

10. Amendment of s. 343. Section 343 of the Principal Act is amended by omitting subsection (1) and inserting in its stead the following subsection:—

“(1) The trustees of a reserve that is an environmental park have no power to lease or agree to lease the whole or any part of the reserve.

The trustees of land granted in trust or of a reserve other than one that is an environmental park shall not lease or agree to lease the whole or any part of the land under their control without the approval in writing of the Minister first had and obtained.”.

11. Amendment of s. 344. Section 344 of the Principal Act is amended by, in the general words at the commencement of the section, inserting after the words “every lease” the words “, granted by the trustees thereof,”.

12. Repeal of and new s. 350. The Principal Act is amended by repealing section 350 and inserting in its stead the following section:—

“**350. Occupation or use contrary to trust prohibited.** The trustees of land granted in trust or of a reserve—

- (a) shall not permit any person to occupy or use the whole or part of the land so granted or reserved for any purpose that is contrary to or inconsistent with the purpose for which the land was so granted or reserved;
- (b) shall not, without the prior consent in writing of the Minister, permit any person to occupy the whole or part of the land so granted or reserved for a period longer than one month, whether continuously or intermittently, save in either case, where the land is reserved and set apart as environmental park, when the occupation or use is authorized by a lease duly granted under this Act.”.

13. New Division IIA. The Principal Act is amended by inserting after section 351 the following heading and sections:—

“**DIVISION IIA—LAND RESERVED AS ENVIRONMENTAL PARK**

351A. Power to lease land in environmental park. (1) The power conferred by section 198 or 203 to issue a special lease includes power to issue such a lease of land reserved and set apart as environmental park if—

- (a) the proposed use of the land by the lessee is directed towards the enjoyment of the park by visitors; and
 - (b) the Minister is satisfied that the objects of the reservation would not thereby be prejudiced,
- and the purpose of such a lease, duly granted, shall not be taken to be inconsistent with the reservation of that land.

(2) A lease of land within an environmental park shall not include land in excess of the area that is necessary to accommodate the buildings or structures that are permitted under the lease to be erected and, where necessary, to provide a curtilage thereto.

(3) In no case shall a tenure other than special lease tenure be available in respect of land within an environmental park.

351B. Environmental Park Fund. (1) There shall be established and maintained at the Treasury a fund (hereinafter in this section referred to as "the fund") under the name "Environmental Park Fund".

(2) There shall be paid into and form part of the fund—

- (a) all moneys paid to the Crown as rent under a lease of land within an environmental park;
- (b) all moneys for which the Crown is recouped on account of expenditure incurred in connexion with environmental parks;
- (c) all moneys appropriated by Parliament for environmental park uses;
- (d) all moneys recovered as penalty upon the prosecution of offences committed in respect of environmental parks or any vegetation, animal or thing therein;
- (e) all moneys received by the Crown from the disposal of materials and things seized under section 351I.

(3) There shall be paid from the fund such amounts as the Minister approves to be paid on account of expenditure incurred by the Crown or by trustees of land in an environmental park in—

- (a) surveying, identifying, preserving or improving environmental parks;
- (b) performing work required by law to be done in respect of environmental parks;
- (c) erecting or maintaining improvements erected on land in an environmental park;
- (d) demolishing or removing buildings or structures erected or things deposited or found within environmental parks;
- (e) prosecuting persons who commit in connexion with environmental parks offences defined by any Act, or by-laws of trustees applicable to environmental parks."

14. New ss. 351C, 351D, 351E. The Principal Act is amended by inserting after section 351B the following sections:—

"**351C. Public entry to parks.** Members of the public are entitled to be upon an environmental park subject always to the provisions of this Act and of by-laws applicable to the park made by the trustees of the park.

351D. Interference with parks prohibited. (1) A person shall not interfere with or remove any vegetation growing within an environmental park.

Penalty: \$500.

(2) A person shall not—

- (i) interfere with or remove any animal or thing found within an environmental park;
- (ii) use or be in possession of within an environmental park any firearm, air-gun, spring-gun, bow, catapult, sling, trap, snare or explosive of any description.

Penalty: \$500.

(3) It is a defence to a charge of an offence against provision

(i) of subsection (2) if—

- (a) upon a charge that concerns an animal, other than one for whom the park is its natural habitat, the interference or removal is done in the exercise of an honest claim of right and without intent to defraud;
- (b) upon a charge that concerns a thing, that thing was brought into the park by the defendant or by some other person, and the defendant, upon the occasion to which the charge relates, was in the course of removing it from the park in the exercise of an honest claim of right and without intent to defraud.

(4) The provisions of subsections (1) and (2) do not apply to—

- (a) a Commissioner or any officer of the Department acting in the execution of this Act; or
- (b) a person acting under the authority of a licence, permit, or entitlement duly granted under any Act or duly granted by the trustees of the environmental park concerned;
- (c) a person duly exercising powers conferred on him by section 351I or 351J, or pursuant to section 351F.

351E. Receiving products of environmental parks. A person who receives from another any vegetation, animal, or thing the removal of which from an environmental park by that other is an offence, knowing the same to have been got by means of such an offence, commits an offence against this Act.

Penalty: \$500.”

15. New ss. 351F, 351G, 351H. The Principal Act is amended by inserting after section 351E the following sections:—

“351F. Works in environmental parks. The Minister may undertake and do, or approve that the trustees of the park concerned undertake or do within an environmental park all such works and acts as he considers to be necessary or desirable for the preservation, proper management, or public enjoyment of the park, or for the welfare of animals whose natural habitat is within the park.

351G. Authority of permit. A permit issued by the Minister, or by the trustees of an environmental park with the approval of the Minister, shall confer on the permittee (subject to such conditions as are expressed in the permit) authority to enter the environmental park to which the permit relates together with such agents, assistants, plant, vehicles, animals, and

equipment as are necessary for the purpose for which the permit is granted, and to carry out therein all operations necessary for the purpose for which the permit is granted.

The authority conferred by a permit includes such rights of ingress, egress and regress into, over and out of the land within the park to which the permit relates as may be necessary to fulfil the purpose for which the permit is granted.

351H. Suspension and cancellation of permit. Every permit granted in relation to an environmental park shall, by virtue of this section, be subject to the condition that the Minister may, by writing signed by him and given to the permittee or sent to his place of abode last known to the Minister, suspend the permit for a period specified by the Minister or cancel the permit if the Minister is satisfied that the permittee or any of his agents or servants has contravened any provision of this Act or of the by-laws made by the trustees of the environmental park to which the permit relates and applicable to that park, other than such a provision that is inconsistent with an express provision of the permit or with the purpose for which the permit is granted.

During a period of its suspension and upon its cancellation a permit shall cease to be of any authority whatever in respect of the environmental park to which it relates.”

16. New ss. 351I, 351J. The Principal Act is amended by inserting after section 351H the following sections:—

“ **351I. Unauthorized obstructions in environmental parks.** (1)

A person shall not erect any building or structure, or deposit any thing within an environmental park.

Penalty: \$500.

(2) A person shall not be guilty of an offence against subsection (1) if he shows that the building or structure was erected or the thing was deposited under the authority of this Act, or of a lease or permit granted under this Act, or of a permit duly granted by the trustees of the park in question.

(3) Where any building or structure is erected or any thing is deposited within an environmental park without the authority referred to in subsection (2) it is lawful for a prescribed person—

(a) to seize such building, structure or thing; and

(b) to demolish and remove from the park such building, structure or thing,

on behalf of the Crown or on behalf of the trustees of the park.

All materials and things seized pursuant to this subsection shall thereby become and be the property of the Crown and shall be disposed of in such manner as the Minister directs.

(4) The amount of costs and expenses incurred in demolishing, removing and disposing of materials or things removed from an environmental park pursuant to subsection (3) shall be a debt due and owing—

(a) to the Crown, where the removal was effected on behalf of the Crown;

(b) to the trustees of the park, where the removal was effected on behalf of the trustees,

by the person who caused the structure or building to be erected or the thing to be deposited in the park and such amount may be recovered by the Minister on behalf of the Crown or by the trustees, as the case may be, by action for debt in a court of competent jurisdiction or by way of complaint under *The Justices Acts 1886 to 1968*.

(5) In this section the expression "prescribed person" means a Commissioner or officer of the Department or a person acting under the authority of the Minister or the Commission, or a person acting under the authority of the trustees of the environmental park in question.

351J. Animals unlawfully on environmental parks. (1) Any animal, other than an indigenous animal, found at large or depasturing within an environmental park, save where its presence is authorized under a permit granted under this Act, may be seized and taken possession of on behalf of the Crown or of the trustees of the park by a person who is a prescribed person as defined in section 351I or by an honorary ranger duly appointed for the park, and may be impounded and otherwise dealt with in accordance with section 42B of the *Local Government Act 1936-1971* and the provisions of that section and of section 42C of that Act shall be taken to apply to the park in question and shall apply to the seizure and further dealing with the animal concerned.

(2) In applying the prescribed provisions of the *Local Government Act 1936-1971* to a seizure and further dealing with the animal concerned pursuant to subsection (1) a reference therein to a Local Authority shall be read as a reference to—

- (a) the Land Administration Commission, where the seizure was made on behalf of the Crown;
- (b) the trustees of the environmental park in question, where the seizure was made on behalf of the trustees."

17. New ss. 351K, 351L, 351M, 351N. The Principal Act is amended by inserting after section 351J the following sections:—

"**351K. Honorary rangers.** (1) The Minister may, by writing signed by him, appoint for an environmental park such one or more honorary rangers as he considers necessary.

(2) Every appointee as honorary ranger shall hold the appointment at the pleasure of the Minister and shall have such powers, functions and authorities as are prescribed.

351L. Prevention of breach of Act or by-law. A person who is a prescribed person as defined by section 351I or an honorary ranger duly appointed for the environmental park in question may, without further authority than this section,—

- (a) intervene to prevent the commission or further commission of a contravention of this Act or of the by-laws applicable to the park made by the trustees of the park;
- (b) eject the suspect person or offender, as the case may be, from the park,

and for those purposes may use and authorize the use of such force as is reasonable.

351M. Apprehension and questioning of offenders. (1) Without prejudice to the use of any other procedure available in respect of an offender, a person who is—

- (a) found committing within an environmental park a contravention of this Act or of the by-laws applicable to the park made by the trustees of the park; or
- (b) found within an environmental park in such circumstances that the person who finds him is satisfied that he has committed such a contravention,

may be arrested, without further warrant than this subsection, by any person who is a prescribed person as defined by section 351I or an honorary ranger or by a member of the Police Force of Queensland on a charge of the offence that consists in that contravention.

A person arrested pursuant to this subsection shall be taken to a police station or watch-house and dealt with according to law.

(2) A person who is found as specified in paragraph (a) or (b) of subsection (1) shall, on being required to state his name and address by a person who is a prescribed person as defined by section 351I, an honorary ranger, or a member of the Police Force of Queensland, state his correct name and place of residence.

A person who fails to comply with this subsection commits an offence against this Act, may be arrested by a person referred to in the preceding paragraph on a charge of that offence, and thereupon shall be taken to a police station or watch-house and dealt with according to law.

351N. General powers of prescribed persons and rangers. (1) A person who is a prescribed person as defined by section 351I or an honorary ranger may—

- (a) call to his aid any member of the Police Force of Queensland to assist him in the exercise of his powers or the execution of his duties under this Act or under the by-laws applicable to an environmental park made by the trustees of the park, whereupon it shall be the duty of members of the Police Force to assist him as required and in accordance with this Act or, as the case may be, the by-laws and the member so assisting shall have the same powers as are conferred on the prescribed person or honorary ranger by this Division;
- (b) in any inspection or inquiry made by him, be accompanied by such person or persons as he considers competent to assist him and every such person shall have the same powers as are conferred on the prescribed person or honorary ranger by this Division;
- (c) require the production of any lease, permit, or authority granted or conferred under this Act or under the by-laws applicable to an environmental park made by trustees of the park;
- (d) at any time search and examine all vehicles, vessels, or containers used or reasonably suspected by him to be used for the carrying of vegetation, animals, or things (the product of an environmental park), and for the purpose of such search and examination

may require the person in charge thereof to open such vehicle, vessel, or container and expose its contents to view;

- (e) subject to subsection (3), between sunrise and sunset enter any place wherein he reasonably suspects there is any vegetation, animal, or thing (the product of an environmental park) obtained in contravention of this Act or of by-laws applicable to an environmental park made by the trustees of the park or that he reasonably suspects to have been so obtained and search such place and seize, take away and detain any such vegetation, animal, or thing found in or about such place and any vehicle, vessel or container wherein it is found, and any equipment or gear that he reasonably suspects to have been used in obtaining such vegetation, animal or thing, and secure all such items seized pending court proceedings;
- (f) require any person using or in possession of a firearm, air-gun, spring-gun, bow, catapult, sling, trap, snare or explosive of any description within an environmental park—
 - (i) to remove the same from and leave the same outside the park; or
 - (ii) to surrender the same to him to be retained by him until the person concerned departs the park.

(2) An honorary ranger may exercise the powers conferred on him by subsection (1) only in respect of an environmental park for which he is appointed ranger.

(3) Before entry is made under subsection (1) to any part of a place, which place is used exclusively as a dwelling-house at the time entry is to be made, the person seeking entry shall, save where he has the permission of the occupier to his entry, obtain from a justice a warrant to enter.

A justice who is satisfied on the complaint of a person on whom power is conferred by subsection (1) that there is reasonable cause to suspect—

- (a) that there is in any place any vegetation, animal, or thing; and
- (b) that such vegetation, animal, or thing has been obtained in contravention of this Division or by-laws applicable to an environmental park made by the trustees of the park,

may issue his warrant directed to the complainant to enter the place specified in the warrant for the purpose of exercising therein the powers conferred on him by subsection (1).

A warrant shall be for a period of one month from the date of its issue sufficient authority for the person to whom it is directed and for all persons acting in aid of him—

- (a) to enter the place specified in the warrant; and
- (b) to exercise therein the powers conferred on the complainant by subsection (1).

In this subsection premises that are used as a dwelling-house do not include the curtilage of those premises.

(4) A person who fails to comply with a requisition directed to him in the exercise of a power conferred by this section commits an offence against this Act.

18. New ss. 351O, 351P, 351Q. The Principal Act is amended by inserting after section 351N the following sections:—

“ 351O. Identification of persons tending environmental parks. Any person, being a prescribed person as defined by section 351I or an honorary ranger, shall, before he takes up duty or exercises or performs any power, function, or duty with respect to environmental parks, be furnished by the Minister or other authority that appointed or engaged him with a certificate of his appointment or engagement that constitutes him a prescribed person or honorary ranger.

A person furnished with a certificate pursuant to this section shall for the purpose of his identification carry the certificate with him while he is engaged in matters connected with the execution of this Act or of by-laws applicable to an environmental park made by the trustees of the park and shall, on request, produce the certificate as evidence of his authority to exercise or perform the power, function, or duty in question.

351P. Evidentiary provisions. (1) If any person is found within or in the vicinity of an environmental park having in his possession any vegetation, animal, or thing of a type found in that park, and when required by a prescribed person as defined by section 351I or an honorary ranger to give an account of the manner whereby he became possessed thereof, fails to give an account to the satisfaction of such prescribed person or honorary ranger, he shall be deemed to have interfered with the same in that park and, as the case may be, to have removed the same from that park unless he proves to the contrary.

(2) In any proceeding under or for the purposes of this Division or under or for the purposes of by-laws applicable to an environmental park made by the trustees of the park—

- (a) it shall not be necessary to prove the appointment or engagement of any Commissioner, officer of the Department, a servant or agent of the Minister or the Commission or the trustees of the park, or the appointment of an honorary ranger;
- (b) it shall not be necessary to prove the limits of any environmental park or that any particular place is within those limits;
- (c) a document purporting to be a duplicate or copy of a lease, permit, or other authority granted or conferred under this Act or under by-laws applicable to an environmental park made by the trustees of the park shall be accepted as evidence of the existence according to its tenor of the lease, permit, or other authority;
- (d) a document purporting to be a certificate of the Minister—
 - (i) that at a time specified therein there was or was not in existence a lease or permit granted under this Act in relation to the environmental park referred to therein; or

- (ii) that, such a lease or permit being in existence, it was at the specified time subject to the conditions specified therein,

shall be evidence of the matters contained therein and, in the absence of evidence to the contrary, conclusive evidence thereof and in like manner shall a document purporting to be a certificate of the trustees of an environmental park or, where the trustees are a Local Authority, of the chairman or mayor of that Authority as to the existence or otherwise of a permit granted by the trustees or as to the conditions of such a permit be evidence of the matters contained therein and in the absence of evidence to the contrary, conclusive evidence thereof.

351Q. Protection of officers. The protection provided by subsection (10) of section 24 is hereby extended to the trustees of an environmental park, and to any person acting with the authority of such trustees, an honorary ranger and a member of the Police Force of Queensland in respect of any matter or thing done in good faith and without negligence for the purpose of executing this Division or in the execution of their or his powers, authorities, or functions or the discharge of their or his duties under this Division.”.

PART III—AMENDMENT OF FORESTRY ACT 1959–1971

19. Citation. (1) The *Forestry Act 1959–1971* is in this Part referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Forestry Act 1959–1973*.

20. Amendment of s. 5. Section 5 of the Principal Act is amended by—

(a) inserting after the definition “destroy” the following definition:—
““Environmental Park”—Land reserved and set apart as an Environmental Park under the *Land Act 1962–1973*;”;

(b) in the definition “Forest products”,

(i) omitting the words “or National Park” and inserting in their stead the words “, National Park or Environmental Park”;

(ii) inserting after the words “a National Park” the words “or an Environmental Park”.

21. Amendment of s. 46. Section 46 of the Principal Act is amended by, in subsection (1), adding at the end of the first paragraph the words “or on Environmental Parks”.

22. Amendment of s. 48. Section 48 of the Principal Act is amended by inserting after the words “of the Crown,” the words “other than forest products situate on an Environmental Park,”.

23. Amendment of s. 55. Section 55 of the Principal Act is amended by, in subsection (1), adding to subparagraph (iii), after the brackets, the words “other than land reserved and set apart as an Environmental Park”.

24. Amendment of Part VII. The Principal Act is amended by—

(a) in the heading to Part VII, omitting the words “and National Parks” and inserting in their stead the words “National Parks and Environmental Parks”;

(b) in Part VII, omitting the words “or National Park” wherever those words occur and inserting in their stead in each case the words “, National Park or Environmental Park”.

PART IV—AMENDMENT OF MINING ACT 1968–1971

25. Citation. (1) The *Mining Act 1968–1971* is in this Part referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Mining Act 1968–1973*.

26. Amendment of s. 44. Section 44 of the Principal Act is amended by, in subsection (1), inserting within the brackets, after the words “*Forestry Act 1959–1968*” the words “and an Environmental Park reserved and set apart under the *Land Act 1962–1973*”.

27. Amendment of s. 45. Section 45 of the Principal Act is amended by, in subsection (1), inserting within the brackets, after the words “*Forestry Act 1959–1968*” the words “and an Environmental Park reserved and set apart under the *Land Act 1962–1973*”.